2003

HOUSE FINANCE

COMMITTEE MINUTES

House Committee on Finance

Minutes
February 27, 2003

The House Committee on Finance met on Thursday, February 27, 2003, at 8:30 A.M. in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Allen, Howard, Luebke, McComas, Miner and Wainwright; Vice-Chairs Alexander, Gibson and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Dusty Rhoades, Bill Freeman and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Mary Shuping, and Martha Walston; and Committee Assistant Nancy Brantley. The Agenda and Visitor Registration Sheet are attached and incorporated into the minutes as Attachments 1 and 2.

Chairman Allen opened the meeting and welcomed Pages Jordon Cline from Davie County, sponsored by Representative Howard, and Kyle Hensley from Madison County, sponsored by Representative Rapp.

Chairman Allen greeted the new members on the Finance Committee and had each member, old and new, introduce him/herself.

State Revenue Sources. Richard Bostic, Fiscal Analyst in the Fiscal Research Division, made a power point presentation on State Revenue Sources (see Attachment 3) and answered questions posed by the members.

2002 Tax Law Changes. Cindy Avrette, staff attorney in the Research Division, then made a presentation on the 2002 Tax Law Changes and the Revenue Laws Study Committee Report to the 2003 General Assembly (see Attachments 4 and 5). Because of the time constraints, Ms. Avrette was asked to return to the next meeting of the Committee to continue her presentation and answer questions from the Committee members.

Chairman Allen adjourned the meeting at 9:50 A.M.

Respectfully submitted,

Representative Gordon P. Allen
Presiding Chair

Nancy G. Brantley
Committee Assistant

Attachments:
Visitor Registration Sheet
Agenda
Handouts

AGENDA

House Finance Committee

February 27, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

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1. **OPENING REMARKS**

2. **INTRODUCTION OF COMMITTEE MEMBERS**

3. **INTRODUCTION OF STAFF**

   - Martha Walston, Staff Attorney, Fiscal Research
   - Trina Griffin, Staff Attorney, Research Division
   - Cindy Avrette, Staff Attorney, Research Division
   - Richard Bostic, Fiscal Analyst, Fiscal Research
   - David Crotts, Fiscal Analyst, Fiscal Research
   - Martha Harris, Staff Attorney, Bill Drafting
   - Canaan Huie, Staff Attorney, Bill Drafting
   - Linda Millsaps, Fiscal Analyst, Fiscal Research
   - Mary Shuping, Legislative Analyst, Research Division

4. **INTRODUCTION OF CLERK & SERGEANT-AT-ARMS**

5. **INTRODUCTION OF PAGES**

6. **PRESENTATION ON STATE REVENUE SOURCES** – Richard Bostic

7. **PRESENTATION ON 2002 TAX LAW CHANGES** – Cindy Avrette

8. **ADJOURNMENT**

Attachment 2

VISITOR REGISTRATION SHEET

Finance
Name of Committee

2-27-03
Date

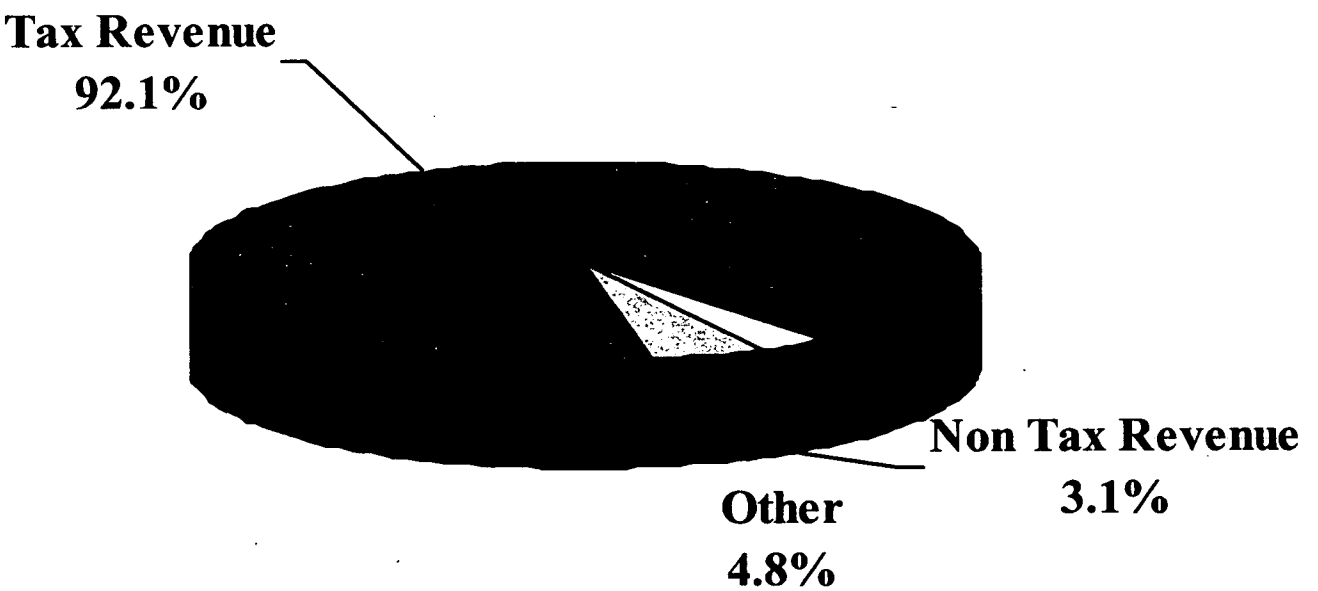
VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Camille Stell	Kennedy Covington
[illegible]	NCRA
Chris Nichols	Hunton + Williams
Marcus Davis	NCAE
Michael Houser	NCAE
HUGH TILSON	NCHA
John McHugh	GOV OFFICE
Katherine Joyce	Electric Cooperatives
ANDY LORE	DUHS
[illegible]	
Gordon McKinnon	N.C. Consumer Network
Paul Stoel	NC Bankers Assn.
Andy Ellen	NC Retail Merchants
Tom Sri	NC Retail Merchants
Bill Rowe	NC Justice Center
DAVID BARNES	Payne + Spruill LLP
Ken Melton	Alley Associates, Inc.
John Rustin	NCFPC
Paul Dudley	NCATL
James Ramquist	NCATR
Betty Turner	Bank of America
KEVIN LEONARD	NCDOL
S. Henri McClees	McClees Consulting, Inc.

Richard Bostic

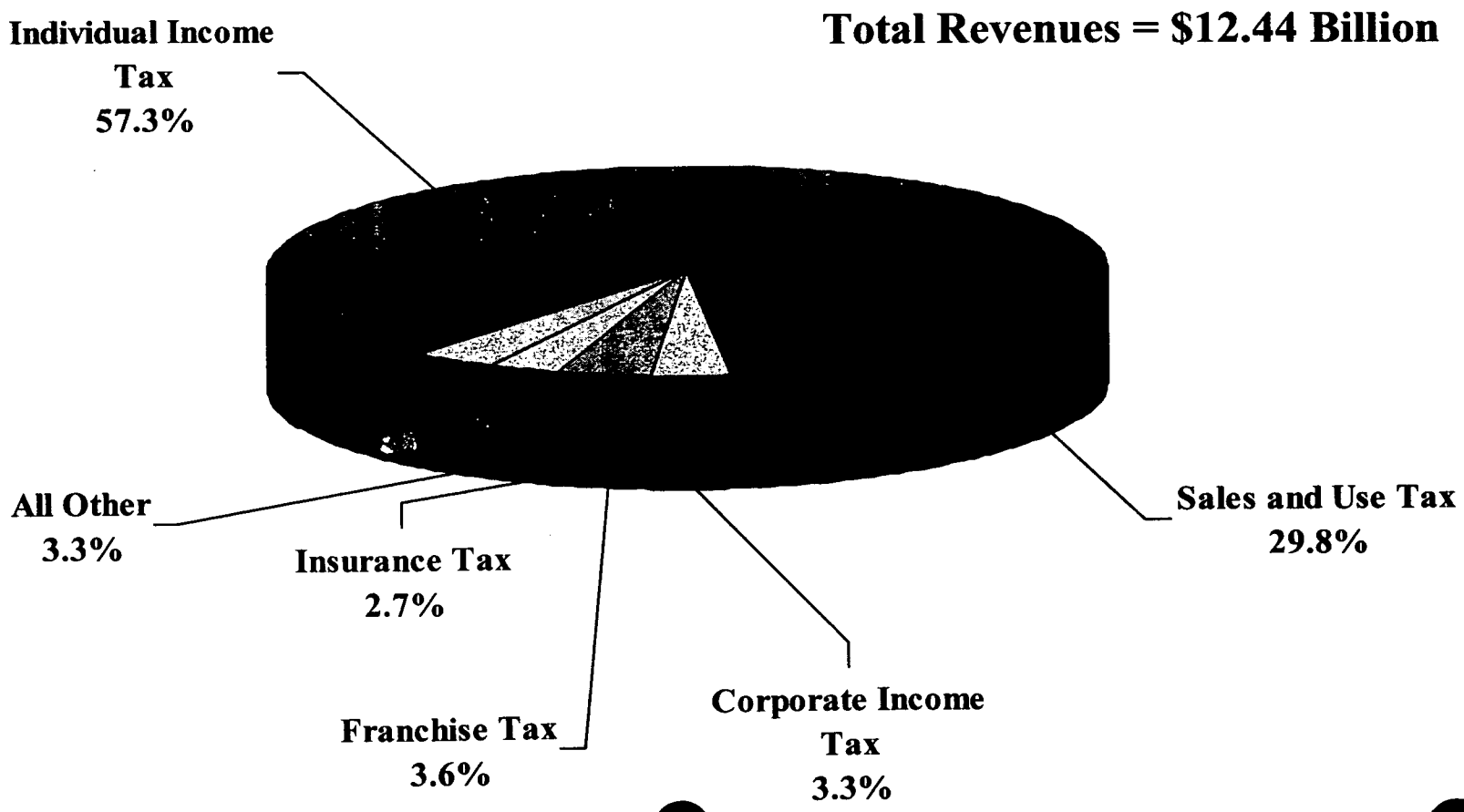
General Fund Revenue Categories (FY 2001-02)

Total Revenues = $13.51 Billion

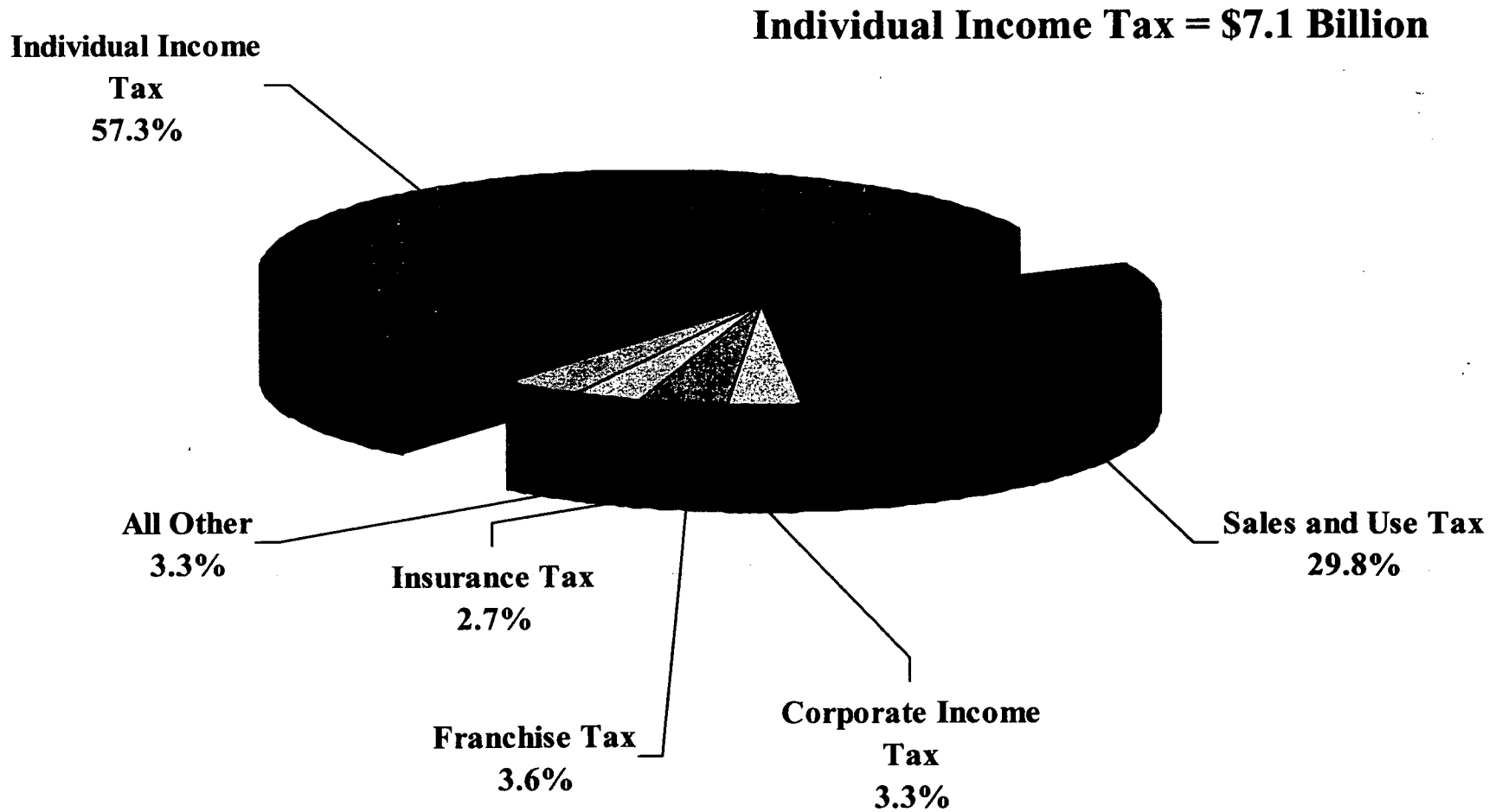


Attachment 3

General Fund Revenue
Major Tax Sources (FY 2001-02)



General Fund Revenue Major Tax Sources (FY 2001-02)



Individual Income Tax

- Imposed since 1921 (state administered)
- Basis of tax is federal taxable income (since 1989)
- Reference to Internal Revenue Code updated annually (current to May 1, 2002)
- No indexing of standard deduction and personal exemption

Individual Income Tax

	Tax Year 2002	
Standard Deduction	**State**	**Federal**
Single	$3,000	$4,700
Head of Household	4,400	6,900
Married Filing Jointly*	5,000	7,850
Married Filing Separately	2,500	3,925
Dependent	500	750
Personal Exemption	2,500	3,000
>7.75% Tax Rate	2,000	3,000

*State rate scheduled to increase to $5,500 in 2003 and to $6,000 in 2004

Individual Income Tax

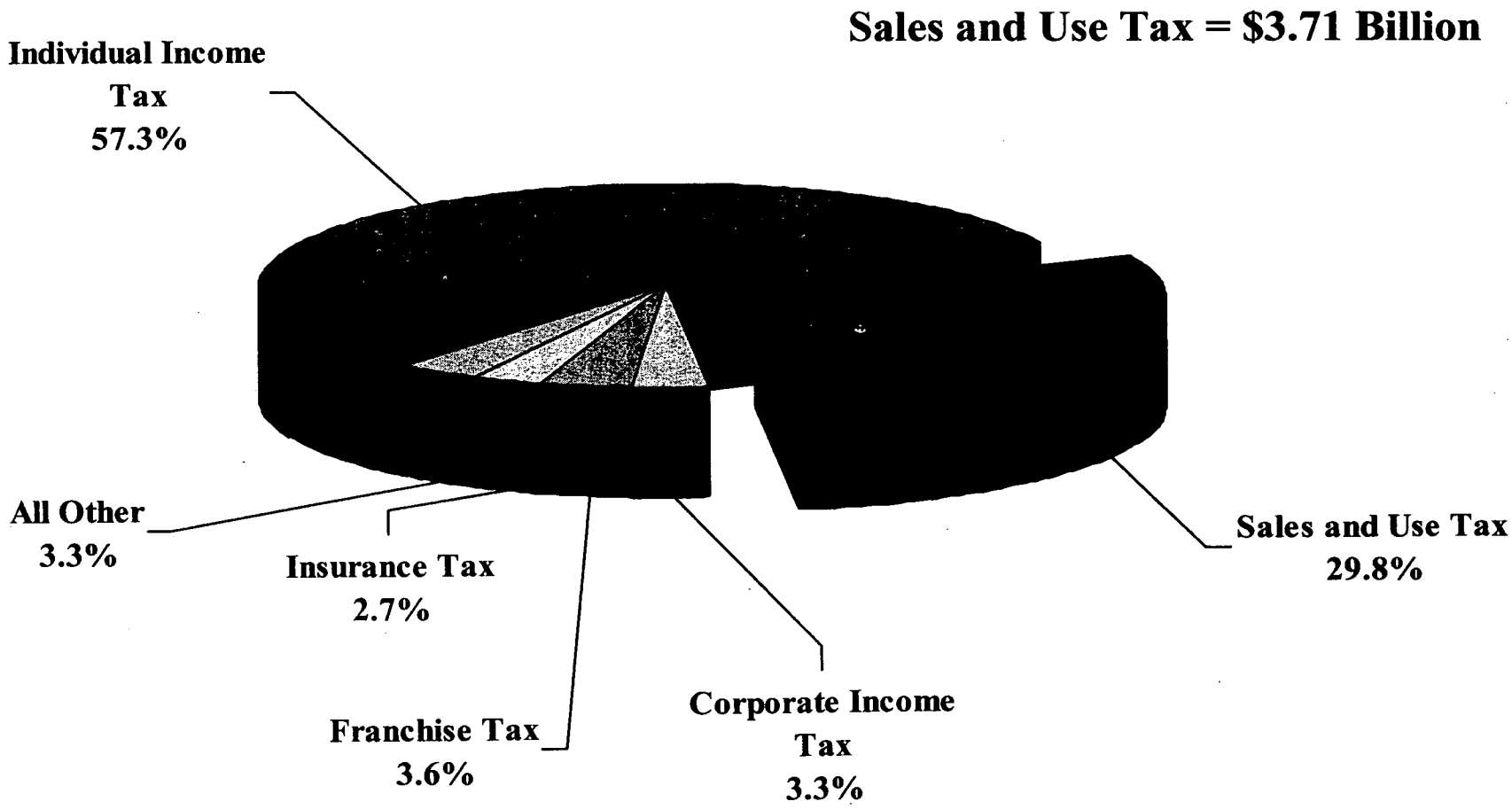
Tax Rates	**Taxable Income**			
	6%	**7%**	**7.75%**	**8.25%***
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

Individual Income Tax
Tax Year 2000

Tax Returns	Taxable Return	Non Taxable Return	Total
Single	1,193,754	222,846	1,416,600
Married Filing Jointly	1,324,491	147,250	1,471,741
Married Filing Separately	103,771	13,048	116,819
Head of Household	465,629	130,033	595,662
	3,087,645	513,177	3,600,822

General Fund Revenue
Major Tax Sources (FY 2001-02)



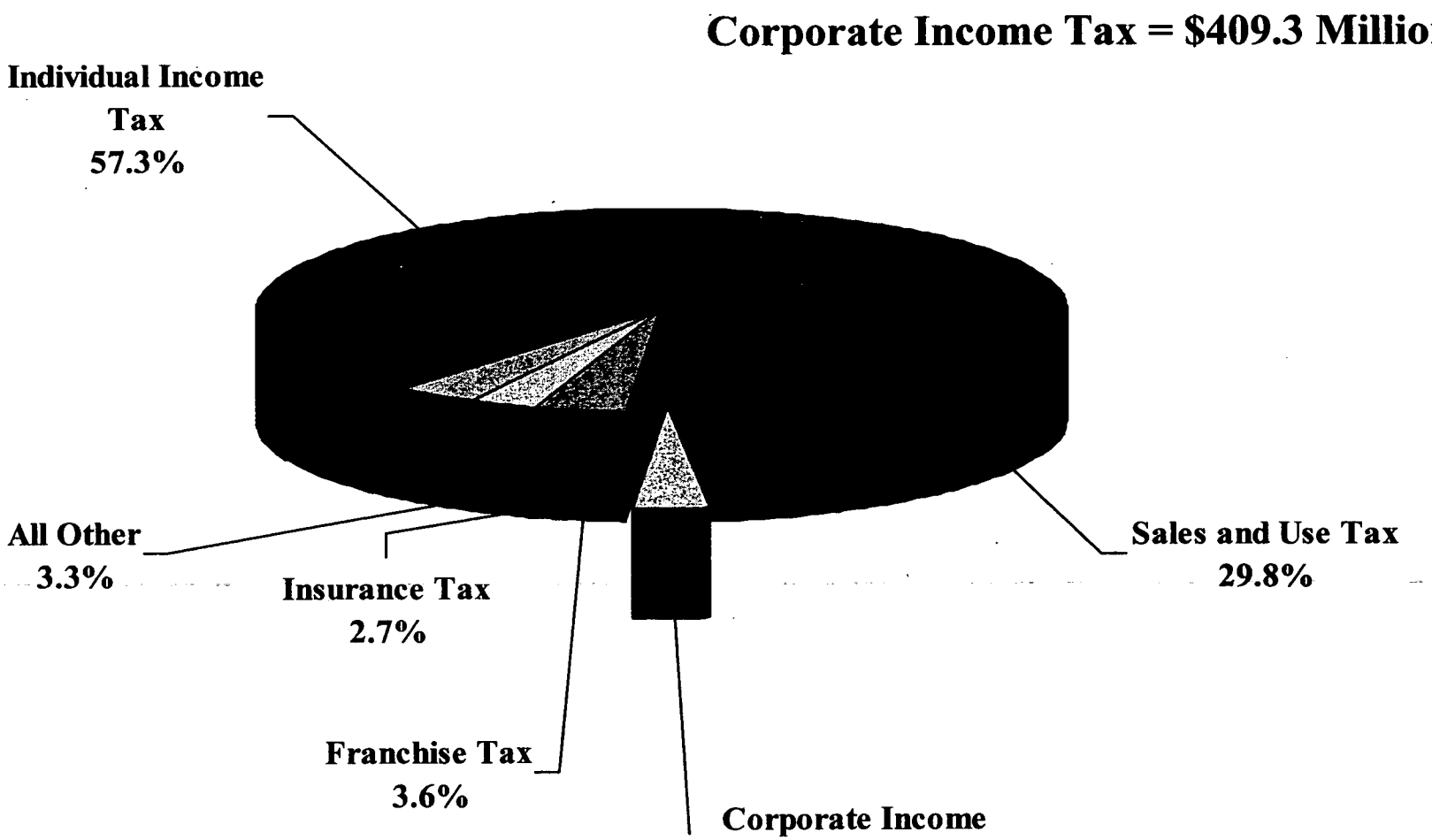
Sales and Use Tax

- Imposed since 1933
- Base state rate is 4.5% (4% after July 1, 2003); local rate is 3% in Meck., 2.5% in 87 counties, and 2% in 12 counties (6 more go to 2.5% on 7/1/03)
- Tax levied on purchases of tangible commodities, room and cottage rentals, and laundry and cleaning services
- Aircraft, boats, railroad cars or locomotives taxed at 3%, $1,500 maximum
- Motor vehicles taxed under Highway Use Tax

Sales and Use Tax (continued)

- Manufactured homes taxed at 2%, $300 maximum
- 1% tax, $80 cap on machinery and equipment
- 6.0% tax on all telecommunications; prepaid phone cards taxed at point of sale
- 2.83% tax on electricity to farmers and dry cleaners; rate based on megawatts used for manufacturers (.17% to 2.25%)
- Refund tax to nonprofits; schools, local govts
- Exemption of food for home consumption - 2%

General Fund Revenue
Major Tax Sources (FY 2001-02)



Corporate Income Tax

- Imposed since 1921
- All domestic and foreign corporations doing business in North Carolina are subject to the tax
- Doing business in North Carolina
  - Maintenance of office or place of business
  - Maintenance of inventory of merchandise for sale, distribution or manufacture
  - Selling of merchandise to customers in North Carolina from company owned vehicle

Corporate Income Tax (continued)

- Rendering of service to clients by agents or employees of a foreign corporation
- Owning, renting or operating business or income producing property

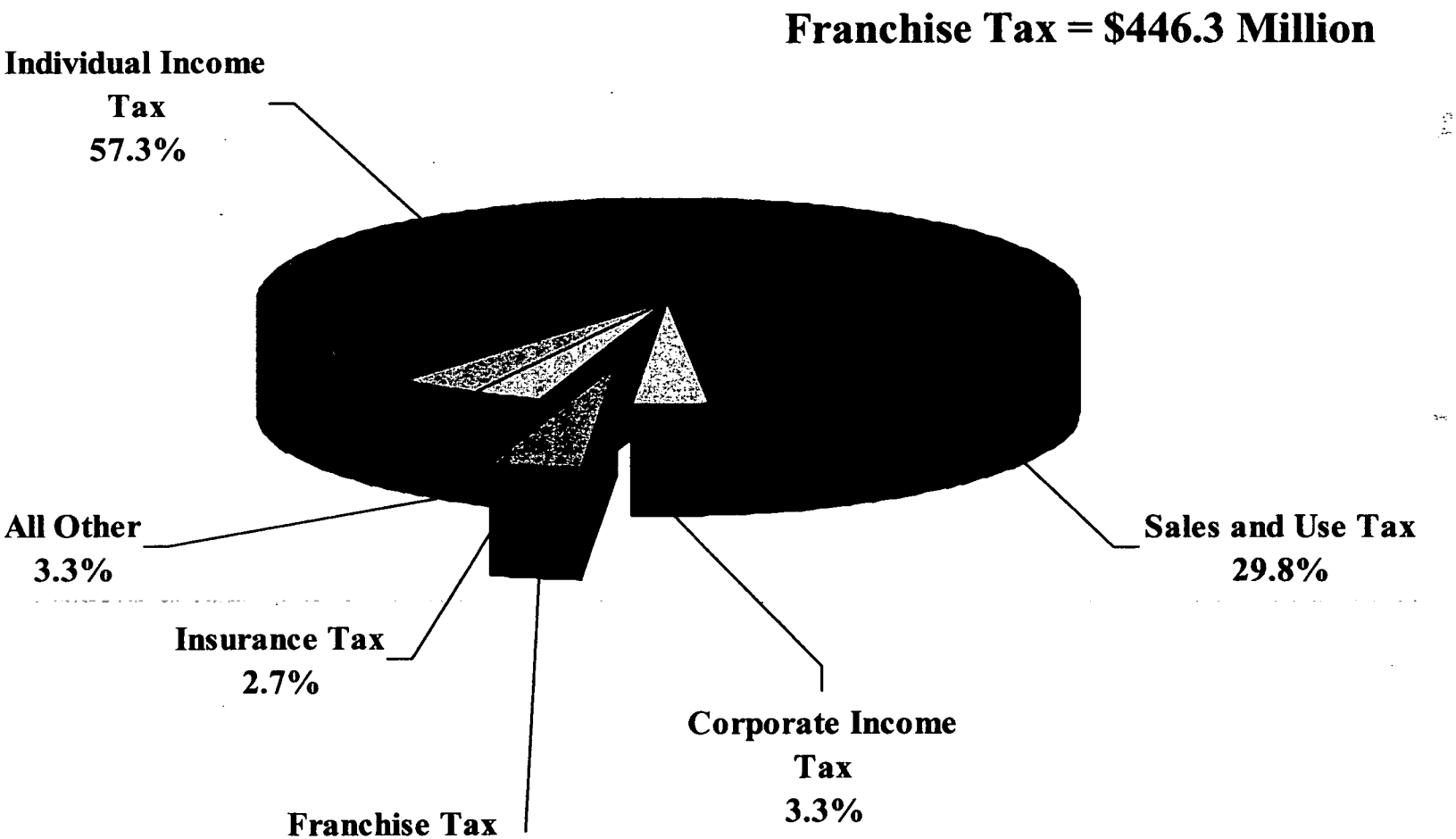
•Exempt -

- S corporations
- Insurance Companies (subject to gross premium tax)
- Telephone and electric membership corporations
- Cooperative board without capital stocks
- Nonprofits

Corporate Income Tax (continued)

- Tax on state net income = federal taxable income
- Tax rate 6.9%
- Tax credits include low income housing, state port usage, Bill Lee Act tax incentives for new and expanding businesses, and cigarette manufacturing for export
- Apportionment formula - property plus payroll plus twice the sales divided by four
- New corporate incentive in 2003 is job development investment grants based on percentage of personal income tax withholdings of employees hired in new facility

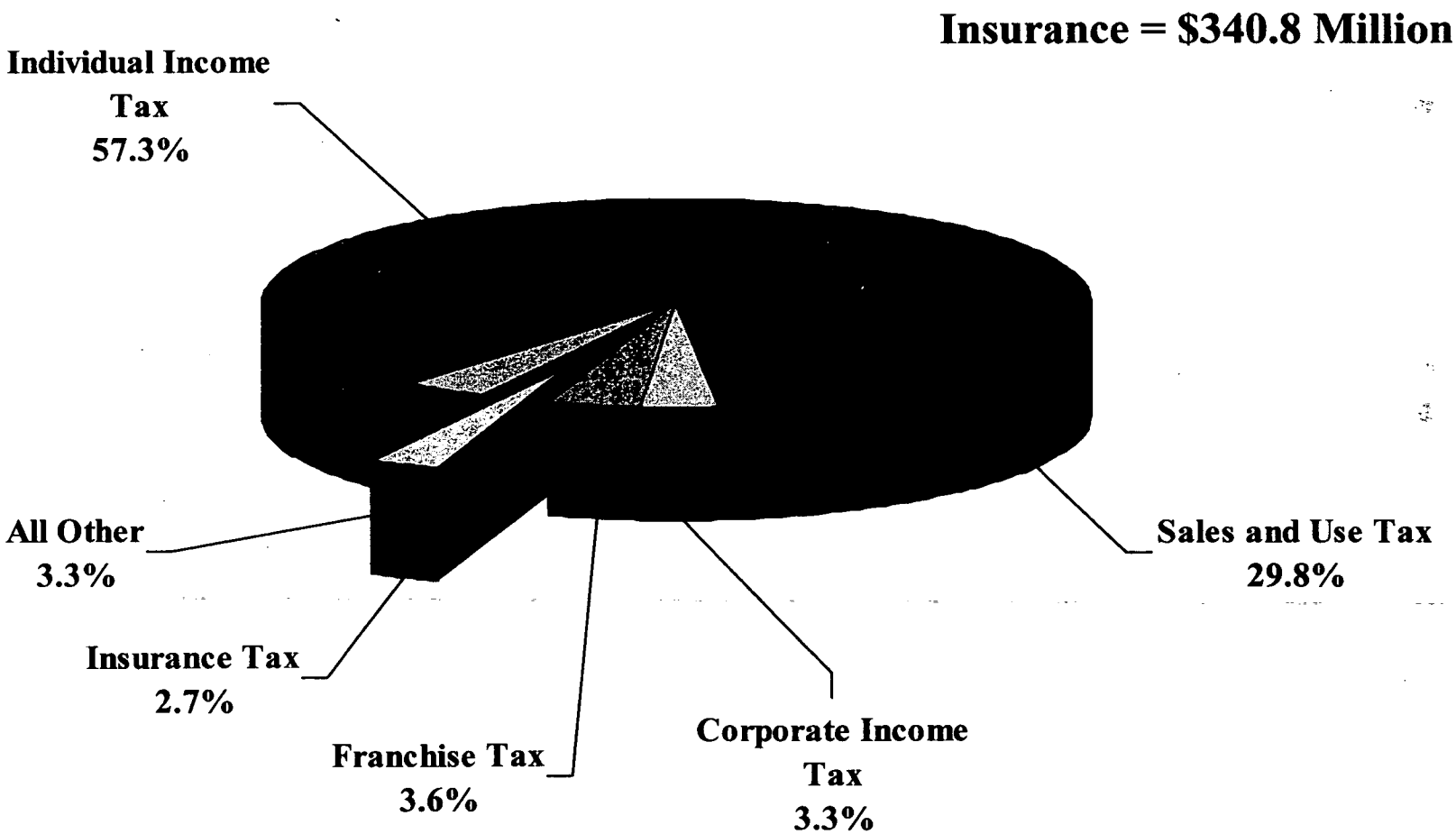
General Fund Revenue
Major Tax Sources (FY 2001-02)



Franchise Tax

- Privilege or excise tax imposed on domestic and foreign corporations for the privilege of doing business and existing as a corporation under North Carolina law
- The franchise tax is measured by whichever of the following bases is greatest in amount:
  - (1) capital stock, surplus and undivided profits allocated to North Carolina
  - (2) 55% of the appraised value of real and tangible property or
  - (3) investment in tangible property in North Carolina
- Tax is $1.50 per $1,000; Minimum tax is $35
- Closed loophole in 2001 and 2002 on the transfer of corporate assets to wholly owned LLC subsidiaries

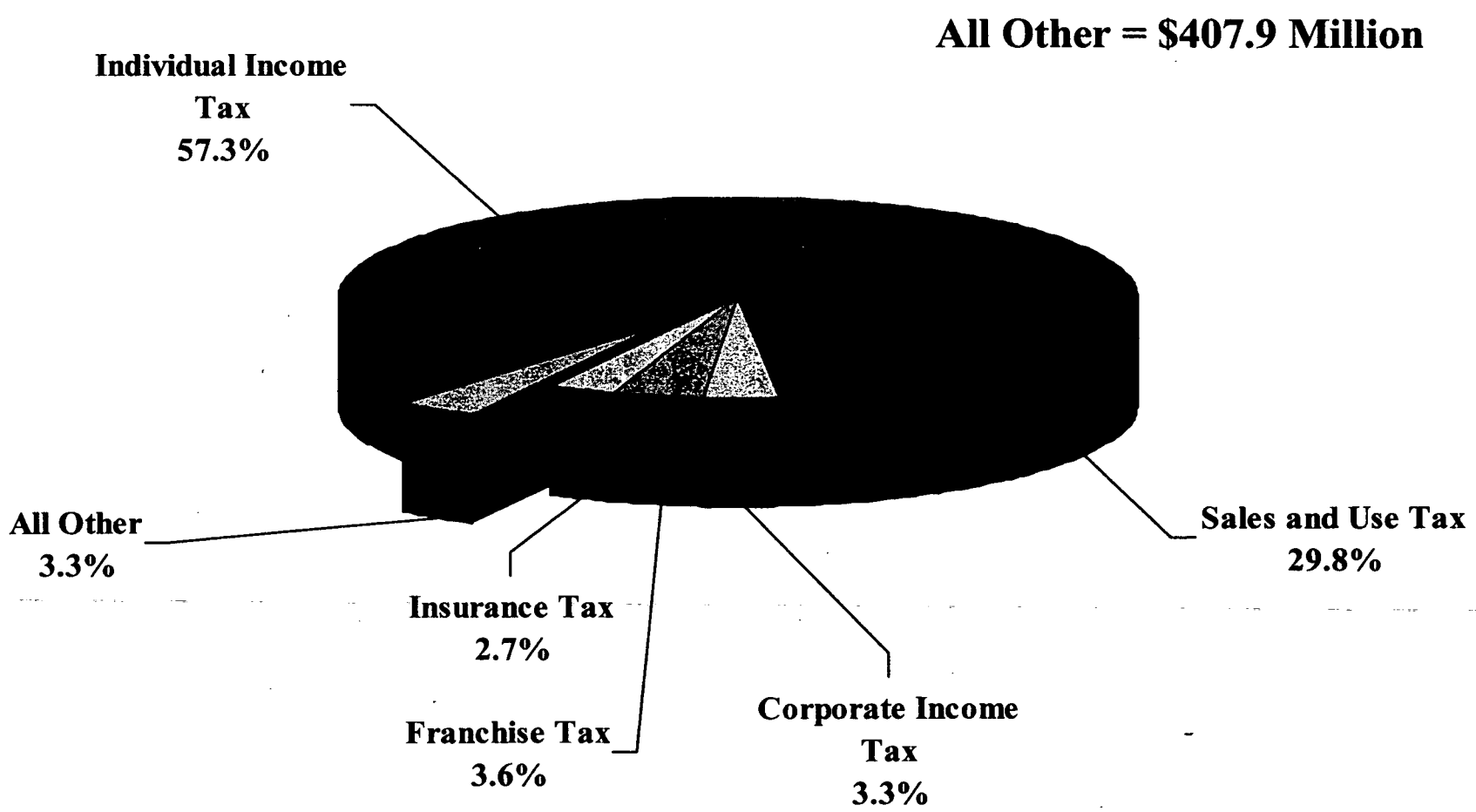
General Fund Revenue
Major Tax Sources (FY 2001-02)



Insurance Premiums Tax

- Tax on gross premiums of life insurance policies covering North Carolina residents and gross premiums of other insurance policies covering risks in North Carolina
- 2.5% tax rate on Workers' Compensation insurance
- 1% Blue Cross Blue Shield and Delta Dental
- 1.9% on annuities and all other insurance contracts
- Additional 1.33% on fire and lightning coverage (except marine and auto)

General Fund Revenue
Major Tax Sources (FY 2001-02)



Gift Tax

- Spouse is exempt
- Three classes of rates

A = Lineal (child, stepchild, adopted child)	1% to 12%
B = Brother, Sister, Aunt, Uncle	4% to 16%
C = All Others	8% to 17%

- $11,000 exclusion annually (indexed to federal)
- $100,000 per donor lifetime exemption
- $13.4 million in FY 2001-02

Alcoholic Beverage Tax

• Spirituous liquors*	25% of retail price
• Malt beverage	53.177¢ per gallon
• Fortified wines	24¢ per liter
• Unfortified wines	21¢ per liter
• $174.6 million in FY 2001-02	

*Effective December 1, 2001, also pay 6% state sales tax

Cigarette and Tobacco Products Tax

- 5¢ per package of 20 (2 1/2 mills per cigarette)
- Third lowest tax rate behind Virginia (2.5¢) and Kentucky (3¢)
- Other tobacco products = 2% of cost price of products
- $41.5 million in FY 2001-02

Realty Transfer Tax

- $1 is levied on each $500 of property conveyed to another person
- Exemptions for transfers (1) by operation of law, (2) by lease for a term of years, (3) by will, (4) by intestacy, (5) by gift, (6) by merger, conversion, or consolidation, (7) by instruments securing indebtedness, (8) by governmental unit, or (9) where no consideration in property or money is due or paid by transferee to transferor
- $35.3 million in FY 2001-02 (75% to Parks and Recreation Trust Fund and 25% to Natural Heritage Trust Fund)

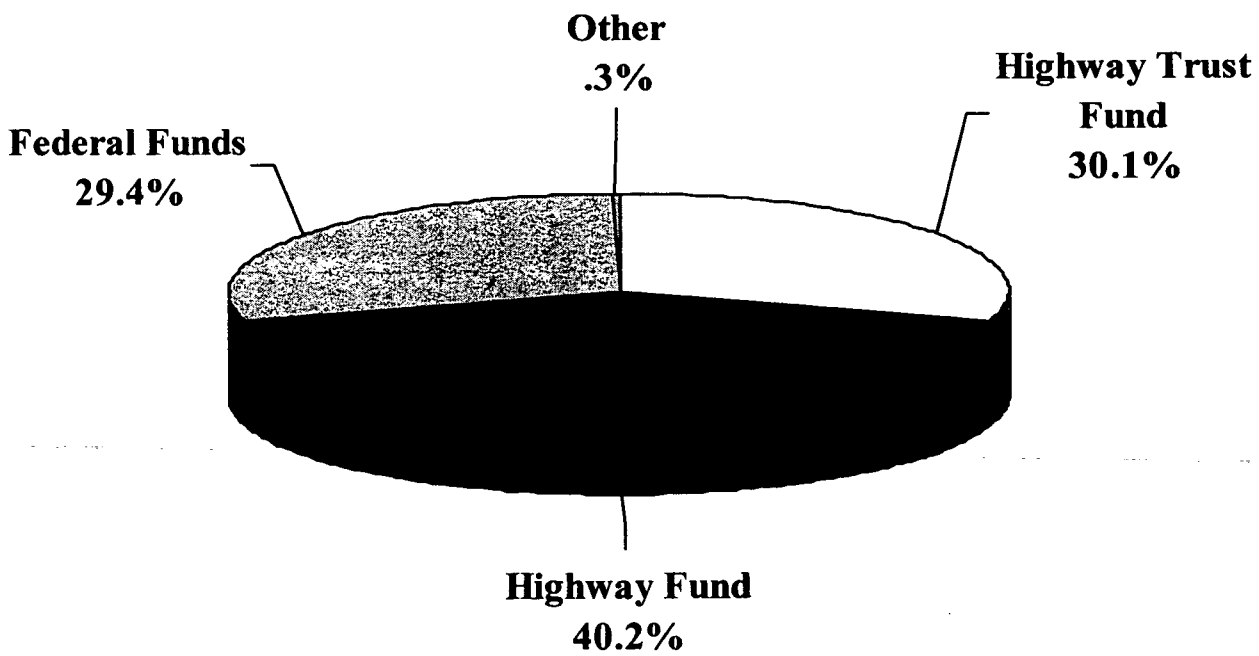
Inheritance (Estate Tax) ← pick-up tax

- Repealed effective January 1, 1999
- Estate tax imposed in amount equal to federal state death tax credit
- In 2002, conformed to federal exemption limits but not federal phase out of the tax until January 1, 2004
- $104.8 million in FY 2001-02

need to make decision this yr. on this - feds. phasing out.

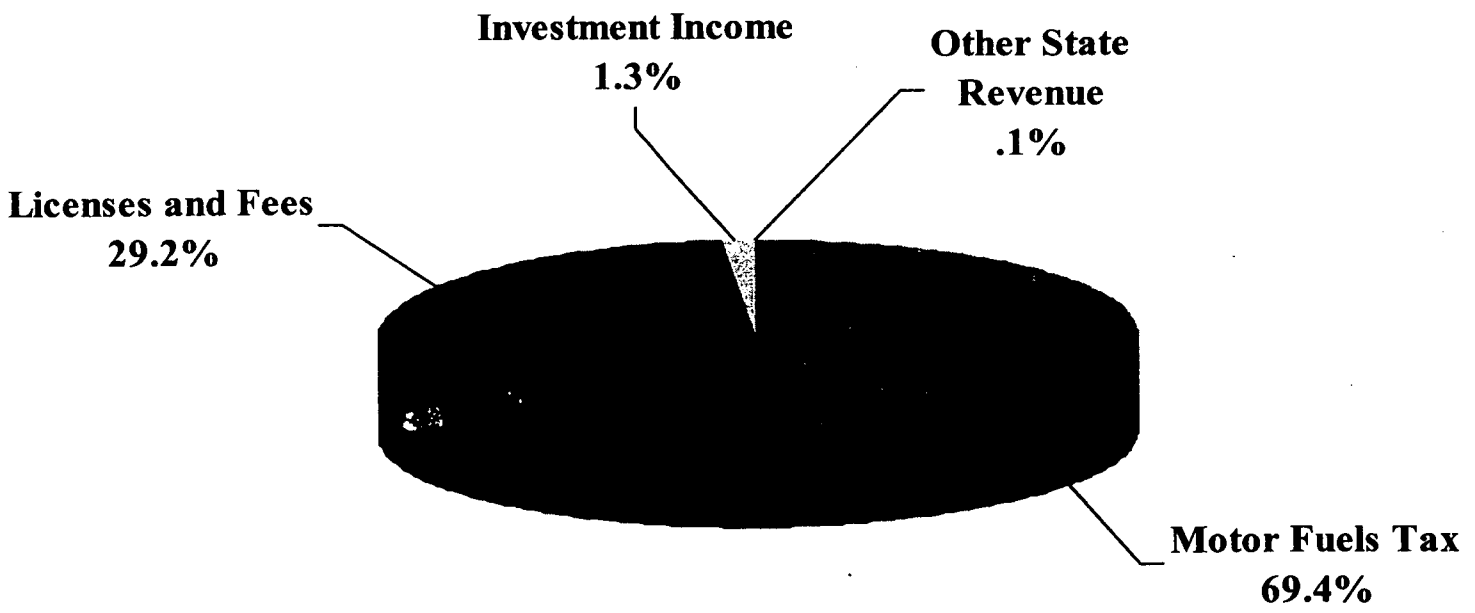
Transportation Funds Categories (FY 2001-02)

$3.2 Billion



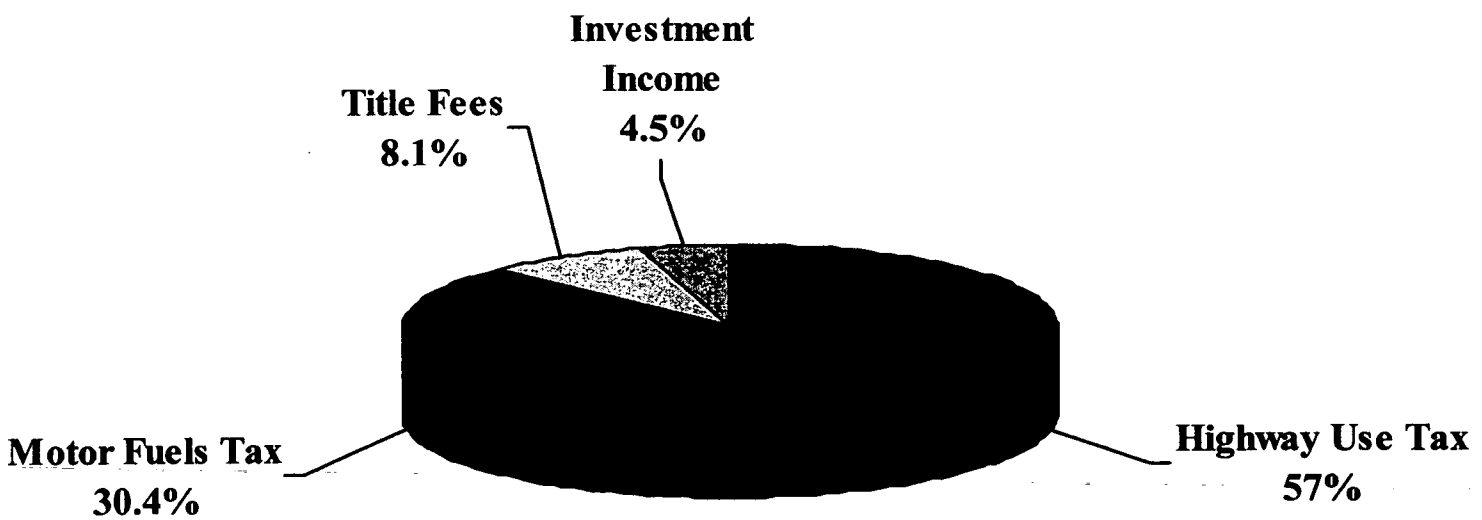
Highway Fund Sources (FY 2001-02)

$1.3 Billion



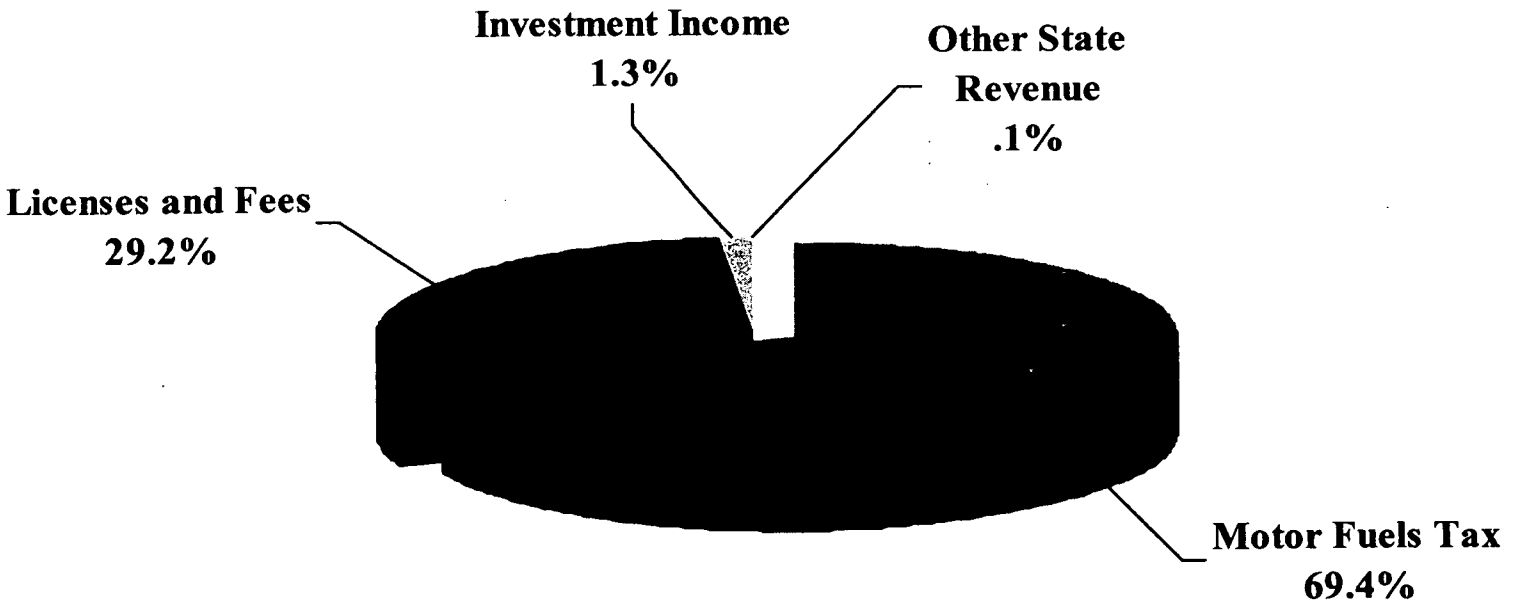
Highway Trust Fund Sources (FY 2001-02)

$974.1 Million



Highway Fund Sources (FY 2001-02)

Motor Fuels Tax = $901 Million

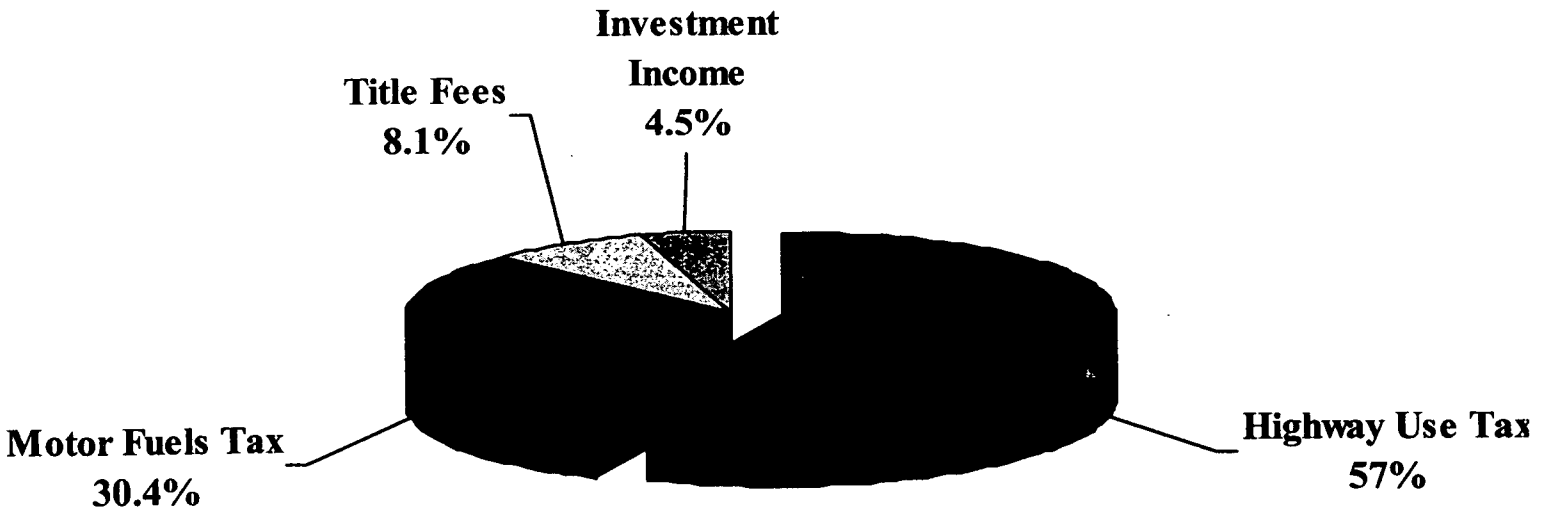


Motor Fuel Excise Tax

- Imposed on gasoline, kerosene, diesel, ethanol
- Taxed at the oil terminal rack
- 17.5¢/gallon plus the greater of 7% of the average wholesale price of motor fuel or 3.5¢/gallon
- Current tax rate is 23.4¢
- 1 3/4 cents goes to cities (Powell Bill)
- Three-fourths of tax goes to Highway Fund and one-fourth to Highway Trust Fund

Highway Trust Fund Sources (FY 2001-02)

Highway Use Tax = $555.3 Million



Highway Use Tax

- 1989 - replaced 2% sales tax on vehicle
- 3% of the retail value of a motor vehicle
- $1,000 cap on Class A and B commercial vehicles
- $1,500 cap on recreational vehicles
- Paid when vehicle is purchased or titled in North Carolina
- $170 million transferred each year to the General Fund (additional $205 million transferred in FY 02-03)

Attachment 4

2002

TAX LAW CHANGES

PREPARED BY:
Cindy Avrette, Staff Attorney
Trina Griffin, Staff Attorney
Martha H. Harris, Staff Attorney
Canaan Huie, Staff Attorney
Mary Shuping, Legislative Analyst
Martha Walston, Staff Attorney

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SL 2002-087	SB 1416	Housing Tax Credit Chngs/Estate Tax Chngs	Sen. Kerr	10
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Appendix C - Table of Contents Sorted by Short Title

Appendix D - Table of Contents Sorted by Sponsor

2002 Tax Law Changes

Remove Scrap Tire Tax Sunset

Session Law	Bill #	Sponsor
S.L. 2002-10	HB 1578	Representative Gibson

AN ACT TO REMOVE THE SUNSET ON THE SCRAP TIRE DISPOSAL TAX.

OVERVIEW: This act removes the sunset on a 1993 provision that increased the scrap tire disposal tax from 1% to 2% for tires for car, vans, and pick-up trucks, as recommended by the Environmental Review Commission.

FISCAL IMPACT: Because none of the tax proceeds goes to the General Fund, this act has no impact on the General Fund. Removing the sunset is expected to generate about $5.35 million annually that would have otherwise been eliminated by the sunset on the higher tax rate. The tax proceeds are distributed among the Scrap Tire Disposal Account, the Solid Waste Management Trust Account, and counties.

EFFECTIVE DATE: June 27, 2002.

ANALYSIS: The scrap tire disposal tax was enacted in 1989. It applies to tires sold at retail and to tires sold for placement on vehicles to be sold or leased at retail. In 1993, the tax rate on tires with a bead diameter of less than 20 inches was increased from 1% to 2%. Bead diameter is the width of the inside opening of the tire. Tires for cars, vans, and pick-up trucks have a bead diameter of less than 20 inches.

The increase in the tax rate for these smaller tires was set to sunset on June 30, 2002, which would have reduced the rate back to 1%. This act deleted the sunset so the tax rate will remain at 2% on tires with a bead width of less than 20 inches.

The net proceeds of the scrap tire disposal tax are distributed as follows: 27% to the Scrap Tire Disposal Account[1], 5% to the Solid Waste Management Trust Fund, and 68% to the counties on a per capita basis. Counties may use the proceeds of the scrap tire disposal tax distributed to them only for the disposal of scrap tires or for the abatement of nuisance tire collection sites. The Department of Environment and Natural Resources may use up to 50% of the revenue in the Scrap Tire Disposal Account for grants to local governments to assist in the disposal of scrap tires and may use up to 40% of the amount in the Account for grants to encourage the use of processed scrap tire materials. The remaining funds in the Account

[1] Section 2.2(j) of the Current Operations and Capital Improvement Appropriations Act of 2001 provided that the net proceeds of the Scrap Tire Disposal tax collected in 2001-02 would be credited to the General Fund instead of the Scrap Tire Disposal Account.

may be used for assistance to local governments in managing scrap tire programs, and to clean up nuisance scrap tire collection sites if no other funds are available for that purpose. The Department of Environment and Natural Resources must report to the Environmental Review Commission each year on the balances in the Account and the use of the money in the Account. The money in the Solid Waste Management Trust Fund is used to fund activities of the Department of Environment and Natural Resources to promote waste reduction and recycling, to fund research on the solid waste stream in North Carolina, to fund activities related to the development of secondary materials markets, to fund demonstration projects, and to fund research by in-State colleges and universities.

Conform Mobile Telecommunications Sourcing

Session Law:	*Bill #*	*Sponsor*
S.L. 2002-16	HB 1521	Representative Allen

AN ACT TO CONFORM SOURCING OF MOBILE TELECOMMUNICATIONS SERVICES TO THE FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT AND TO CODIFY THE SOURCING PRINCIPLES FOR OTHER TELECOMMUNICATIONS SERVICES.

OVERVIEW: This act conforms State sales tax law to the federal Mobile Telecommunications Sourcing Act and codifies the sourcing rules for other types of telecommunications, as recommended by the Revenue Laws Study Committee.

FISCAL IMPACT: While this legislation may redistribute tax revenue between jurisdictions because of changes in sourcing, the total amount available to local governments will not change.

EFFECTIVE DATE: Most of the act became effective for taxable services reflected on bills dated on or after August 1, 2002. This effective date corresponds with the effective date of the federal Mobile Telecommunications Sourcing Act. Two provisions are delayed until January 1, 2004: a new sourcing principle for private lines and a requirement that postpaid calling service be sourced based on the origination point of the signal.

ANALYSIS:

Prior Law: In 2001, the General Assembly simplified the taxation of telecommunications services by providing one tax at one rate for all telecommunication services, including interstate telecommunications service. Under the law, mobile telecommunications service is considered to be taxable in this State if the customer's service address is in this State and the call originates or terminates in this State. However, under the federal Mobile Telecommunications Act, mobile telecommunications service is taxable by the state of the customer's place of primary use, regardless of whether or not the call originates or terminates in the state. A mobile customer's service address and place of primary use are the same: the residential street address or the primary business street

address of the customer that is within the licensed service area of the service provider. Therefore, it is the requirement that the call originate or terminate in the State that must be changed to conform to the federal mobile telecommunications sourcing rules.

Background. "Sourcing" is the determination of the jurisdiction within which a transaction is considered to take place for tax purposes. Jurisdictions that tax interstate and international telecommunications generally follow the "*Goldberg* Rule", which is based on an Illinois tax that was upheld by the U.S. Supreme court in *Goldberg v Sweet*, 488 U.S. 252 (1989). Under the *Goldberg* Rule a jurisdiction may tax a telephone call if the call meets one of the following two criteria:

- It both originates and terminates in that jurisdiction.
- It originates *or* terminates in that jurisdiction *and* is charged to a service address in that jurisdiction.

Because of the complexity of identifying the source of mobile telecommunications, federal legislation was enacted effective August 1, 2002, that sources mobile telecommunications transactions at the place of primary use, which is the same as the service address – the residential address or business premises of the purchaser.

Under the federal legislation, states may furnish service providers with a database[2] matching street addresses with taxing jurisdictions.[3] Service providers would be held harmless for any errors resulting from their use of the database. If a database is not provided for a state, then the service provider may determine the appropriate taxing jurisdiction by using an enhanced zip code[4] to assign each street address to a specific taxing jurisdiction in that state. Service providers would be held harmless from any tax liability that otherwise would be incurred solely as a result of an assignment of a street address to an incorrect taxing jurisdiction under this method. The accuracy of the method used is important to protect the tax base of local taxing jurisdictions. The hold harmless provision is important to service providers who provide service in a state with multiple taxing jurisdictions.

The Streamlined Sales Tax Project is working with the telecommunications industry on uniform provisions for sourcing as well as refund limitation provisions based upon the hold harmless provisions in the federal Mobile Telecommunications Sourcing Act. The Streamlined Sales Tax Project and the implementing states[5] have adopted principles for sourcing. The principles do not differ from North Carolina's current sourcing principles. This act codifies those principles. The Streamlined Sales Tax Project has not yet completed its work on the refund limitation provisions. Since North Carolina does not have multiple

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[2] The Multi-State Tax Commission and the Federation of Tax Administrators are currently involved in a project to specify the format of the database.

[3] Some states allow local governments to impose a tax on telecommunications services, resulting in multiple taxing jurisdictions within a state.

[4] The level of accuracy for the nine-digit zip code ranges from 85% to 99%. A more accurate system may be developed using a geographic mapping system. The federal law gives each state the ability to develop a more accurate system if it so chooses.

[5] There are 27 states that have enacted legislation based on either the Uniform Sales and Use Tax Administration Act or the Simplified Sales and Use Tax Administration Act: AR, FL, IL, IN, KY, LA, ME, MD, MI, MN, NE, NV, NJ, NC, ND, OH, OK, RI, SD, TN, TX, UT, WA, WI, WV, WY, and the District of Columbia.

taxing jurisdictions[6], it does not currently need these provisions. Therefore, this act does not include any provisions on this issue.

SECTION-BY-SECTION ANALYSIS: This act conforms North Carolina's sourcing of mobile telecommunications to the federal Mobile Telecommunications Sourcing Act and codifies the sourcing principles adopted by the Streamlined Sales Tax Project and the 27 implementing states, as follows:

Sections 1, 3, and 15: Replace the term "service address" and "billing address" with the term "place of primary use" because that is the terminology used in the federal Mobile Telecommunications Sourcing Act.

Sections 2, 8, 12, and 13: Change the term "prepaid telephone calling arrangement" to the term "prepaid telephone calling service" so that the terminology is consistent with the other forms of telecommunication services.

Sections 4 and 5: Prepaid telephone calling services are taxed as tangible personal property, not as a telecommunications service. Section 4 removes the sourcing language from the statute that sets the sales tax rates and Section 5 modifies the sourcing principles that apply to tangible personal property to accommodate the taxation of prepaid telephone calling services.

Section 6: Deletes the sentence that sources mobile telecommunications based on the call originating or terminating in this State because it conflicts with the sourcing principle in the federal Mobile Telecommunications Sourcing Act. It also specifies that mobile telecommunications services are taxed in accordance with federal law. This reference alerts the reader that there is applicable federal law on this issue.

Sections 7 and 11: Under the federal Mobile Telecommunications Sourcing Act and the Streamlined Sales Tax Project, telecommunications service is sourced based on the type of service provided rather than the type of call. These sections define the different types of services and repeal the terms associated with the types of calls.

Sections 9 and 10: Set forth the mobile telecommunications sourcing principle in the federal Mobile Telecommunications Sourcing Act, and codify the principles currently used by the State to source other telecommunications services. Section 10 rewrites the sourcing principles for private telecommunications service in a more understandable format and adds a sourcing principle that is not currently applicable to private lines in the State, but may be

[6] North Carolina distributes a portion of the State-imposed telecommunications tax to the cities.

applicable in the future. The principles codified are the same principles adopted by the Streamlined Sales Tax Project and the implementing states in March of 2002. Under the act, at the request of the telecommunications industry, the new sourcing principle applicable to private telecommunications service does not become effective until January 1, 2004.

Sections 9 and 14: Under the Streamlined Sales Tax Project, postpaid calling service will be sourced based on the origination point of the telecommunications signal as first identified by the seller's telecommunications system. However, not every company in the telecommunications industry has the capability to determine the origination point of the signal. The act gives the seller two options to source postpaid calling service until 2004; beginning in 2004, the seller must source based on the origination point of the telecommunications signal.

Certain Counties Delinquent Taxes

Session Law	Bill #	Sponsor(s)
S.L. 2002-51	HB 1533	Representative Hunter

AN ACT TO AUTHORIZE CERTAIN COUNTIES TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY AND TO MODIFY THE TIMETABLE FOR STOKES COUNTY OR ANY OF ITS MUNICIPALITIES TO ADOPT A SCHEDULE OF DISCOUNTS FOR PREPAYMENT OF PROPERTY TAXES.

OVERVIEW: S.L. 2002-51 authorizes the county commissioners in Bertie, Clay, Durham, Henderson, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania Counties to require the register of deeds to refuse to register a deed unless the county tax collector has certified that no delinquent taxes are due on the property. In addition, this act allows the governing body of Stokes County or any of its municipalities to provide a schedule of discounts for property taxes paid prior to November 1, 2002.

FISCAL IMPACT: This act has no impact on the General Fund.

EFFECTIVE DATE: This act became effective when it became law, July 30, 2002.

ANALYSIS: Since 1963, the General Assembly has prohibited the register of deeds in several counties and municipalities from recording deeds unless the tax collector certifies that no delinquent taxes are due: Avery County (1963); Mitchell County (1987); Ashe County (1993); the Towns of Newland and Spruce Pine and Alleghany County (1997); the Town of Banner Elk (1998); and the Town of Bakersville (1999).

In 2001, the General Assembly gave the county commissioners in 35 counties the authority to adopt a resolution requiring the county tax collector to certify that no delinquent taxes the collector is charged to collect are due on the property before a deed transferring the property can be recorded. S.L. 2001-464 gave this authority to the following 25 counties: Alleghany, Anson, Beaufort, Cabarrus, Camden, Cherokee, Chowan, Currituck, Forsyth, Graham, Granville, Harnett, Haywood, Jackson, Lee, Madison, Montgomery, Pasquotank, Perquimans, Pitt, Stanley, Swain, Vance, Warren, and Yadkin Counties. S.L. 2001-513 gave this authority to the following 10 counties: Carteret, Cleveland, Davidson, Gaston, Iredell, Martin, Person, Rockingham, Rowan, and Washington Counties. Unlike the previous local acts, the authority given by these two 2001 acts is permissive. To use this collection tool, the board of county commissioners must adopt a resolution on the matter. The resolution may describe the form the certification must take.

S.L. 2002-51 extends to the following 10 counties the permissive authority given to the 35 counties in 2001: Bertie, Clay, Durham, Henderson, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania Counties.

In addition, S.L. 2002-51 allows Stokes County and it municipalities to institute, without the approval of the Department of Revenue, a schedule of discounts to be applied to property taxes paid prior to November 1, 2002. The governing body that adopts the resolution must submit a certified copy to the Department of Revenue and must publish the discount schedule at least once in a newspaper of general circulation in the taxing unit. In general, under G.S. 105-360(c), a county or municipality that levies a property tax may adopt a resolution or ordinance to establish a schedule of discounts for taxes paid prior to the due date. In order to exercise this authority, the county or municipality must 1) adopt the resolution or ordinance specifying the schedule of discounts prior to May 1, 2) submit the resolution or ordinance to the Department of Revenue for approval, and 3) upon approval of the resolution or ordinance, publish the discount schedule at least once in a newspaper of general circulation in the taxing unit.

Revenue Laws Technical Changes

Session Law	Bill #	Sponsor
S.L. 2002-72	SB 1160	Senator Hartsell

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO PROVIDE A ONE-TIME EXTENSION TO THE TIME PERIOD IN WHICH A TAXPAYER MAY SIGN A LETTER OF COMMITMENT WITH THE DEPARTMENT OF COMMERCE TO QUALIFY FOR A LOWER TIER DESIGNATION.

OVERVIEW: Senate Bill 1160 makes numerous technical and clarifying changes to the revenue laws and related statutes. It also makes one substantive change. The original bill was a recommendation of the Revenue Laws Study Committee.

FISCAL IMPACT: Section 1 of this act, which allows a one-time exception to the requirement that a letter of commitment be signed before year's end, has an annual cost to the General Fund of $725,000 through the 2006-2007 fiscal year and an annual cost of $25,000 for three years thereafter. The remainder of this act has no fiscal impact.

EFFECTIVE DATE: Except for Section 9 of the bill, which conforms the payment date for the insurance regulatory charge on HMOs to the date they file their premium tax returns and which becomes effective for taxable years beginning on or after January 1, 2003, this act became effective when it became law on August 12, 2002.

ANALYSIS:

SUBSTANTIVE CHANGE: Section 1 of the bill was introduced by Senator Soles as Senate Bill 1344. It allows a taxpayer that signed a letter of commitment with the Department of Commerce on or before February 28, 2002, to calculate its Bill Lee jobs creation tax credit and machinery and equipment investment tax credit based on the location's enterprise tier and development zone designation for 2001 rather than 2002. This change would benefit taxpayers creating jobs or making eligible investments in areas whose tier designations increased for the calendar year 2002.

Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. The Department of Commerce must designate the counties' tier designations for the following year on or before December 31 of each year, based on the most recent data available. The Department of Commerce did not make the counties' tier designations for the 2002 calendar year until April 2002. It appears some taxpayers signed letters of commitment by February 28, 2002, under the belief they would be able to calculate the credit for which they qualified based on the location's enterprise tier designation for 2001. However, this was not possible under then existing law for locations whose tier designation changed for 2002.

Section 1 of this bill allows a taxpayer that signed a letter of commitment with the Department of Commerce during January or February 2002 for future planned expansion to calculate its Bill Lee jobs creation tax credit and investment tax credit based on the location's enterprise tier designation for 2001 rather than 2002. Because this section is permissive, its effect is to benefit taxpayers creating jobs or making eligible investments in areas whose designations increased for the calendar year 2002. The Department of Commerce reports that it has eight letters of commitment signed on or before February 28, 2002, in counties whose tier designations increased from 2001 to 2002.[7] The following chart shows the counties that will be affected by this section and the difference the section will make in the credit amounts the taxpayers qualify for:

[7] Although the bill also applies to areas designated as a development zone, it has no practical application for development zones because there were no letters of commitment signed with the Department of Commerce for a project in a development zone on or before February 28, 2002.

COUNTY[8]	# LETTERS OF COMMITMENT SIGNED BY 2/28/02	2001 TIER DESIGNATION *The credit and threshold amounts the taxpayer will receive under this section.*	2002 TIER DESIGNATION *The credit and threshold amounts the taxpayer would have received if this act had not been enacted.*
Columbus	3	Tier 1: Jobs tax credit = $12,500 Threshold amount = $0	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000
Richmond	1	Tier 1: Jobs tax credit = $12,500 Threshold amount = $0	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000
Montgomery	1	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000	Tier 3: Jobs tax credit = $3,000 Threshold amount = $200,000
Cumberland	1	Tier 3: Jobs tax credit = $3,000 Threshold amount = $200,000	Tier 4: Jobs tax credit = $1,000 Threshold amount = $500,000
Franklin	2	Tier 4: Jobs tax credit = $1,000 Threshold amount = $500,000	Tier 5: Jobs tax credit = $500 Threshold amount = $1,000,000

TECHNICAL CHANGES: the Revenue Laws Study Committee recommended The Revenue Laws Technical Changes bill. The following table provides a section-by-section analysis of the technical changes.

SECTION	G.S./S.L.	EXPLANATION
2	S.L. 1967-1096, as amended by S.L. 2001-414	Corrects a grammatical error.
3	S.L. 2001-264	Clarifies S.L. 2001-264, An Act To Provide Uniform Penalties For Local Meals Taxes. That act made all local meals tax penalties uniform by applying the existing State sales and use tax penalties to meals taxes. The act was intended to improve tax administration by making uniform the tax penalties for each local meals tax. After the act became law, staff noticed that its language might not be sufficiently clear to assure that the penalties will be uniform in each jurisdiction. This section adds language to clarify that additional or higher local penalties are repealed.
4	S.L. 2001-414	Corrects an incorrect cross-reference.
5	S.L. 2001-472	Corrects a typographical error. Although Section 3(a) of S.L. 2001-427 purports to amend just subsection (a) of G.S. 105-472, it actually amends the entire statute. This section conforms the law to accurately state that it amends the entire statute.
6	G.S. 20-10.1	Updates a cross-reference to a definition.

[8] Onslow County moved from a Tier 2 county designation in 2001 to a Tier 3 county designation in 2002. However, it is not affected by this act because there were no letters of commitment signed with the Department of Commerce for a project located in that county on or before February 28, 2002.

SECTION	G.S./S.L.	EXPLANATION
7	G.S. 20-17.4	Adds a missing phrase.
8	G.S. 20-87	Restores language intended to be enacted in 2001 but omitted due to a redlining error.
9	G.S. 58-6-25	Conforms the payment date of the insurance regulatory charge on HMOs to the date they file their premiums tax return. This has no substantive effect because the dates are the same in current law.
10	105-116	Deletes an obsolete cross-reference to a tax credit that is no longer allowed against franchise tax.
11	G.S. 105-127	Repeals two obsolete subsections. These subsections exempt certain stock from property tax. All stock is now exempt from property tax under G.S. 105-275(31).
12	G.S. 105-129.4	Corrects an incorrect word.
13	G.S. 105-129.12A	Conforms terminology to a change in procedure that was enacted in 2001.
14	G.S. 105-130.5	Clarifies that the corporate income tax deduction for 911 charges applies only if the taxpayer included the charges in federal taxable income. Without this correction, there could be an unintended double deduction for these charges.
15	G.S. 105-130.34 and G.S. 105-151.12	Clarifies that the credit for conservation donations applies only if the interest in real property is donated in perpetuity. This conforms the statute to interpretations by DOR and DENR[9]. Comparable federal law requires that a donation be (1) the entire interest of the donor, (2) a remainder interest, or (3) a restriction in perpetuity. This provision was introduced as Sections 1 and 2 of Senate Bill 1252, recommended by the Environmental Review Commission.
16	G.S. 105-163.7	Repeals an obsolete subsection. The Industrial Commission receives the same information from another source now and no longer wants to get it from the Department of Revenue
17	G.S. 105-164.23	Conforms and updates language.
18	G.S. 105-164.27A	Deletes extra language intended to be deleted in 2001 but retained due to a redlining error.
19	G.S. 105-187.1, 20-4.01, 20-116, & 20-305.2	Conforms the definition of "recreational vehicle" in the highway use tax to the definition in the motor vehicles law, and eliminates inconsistent usage of the term. Also, clarifies and reorganizes the statute governing vehicle length.
20	G.S. 105-269.14	Conforms the use tax distribution percentage to reflect past and future rate changes.
21	G.S. 159I-1	Conforms the statutory short title in G.S. 159I-1 to match the title of G.S. Chapter 159I, which was amended in 2001.

[9] Under 15A NCAC 1F .0001 through .0006, DENR will certify donated property for the credit only if it provides a perpetual public benefit.

Housing Tax Credit Chngs/Estate Tax Chngs

Session Law	Bill #	Sponsor
S.L. 2002-87	SB 1416	Senator Kerr

AN ACT TO IMPROVE THE LOW-INCOME HOUSING TAX CREDIT BY MAKING IT SIMPLER AND LESS COSTLY WHILE PROVIDING THE SAME LEVEL OF INCENTIVES FOR THE CONSTRUCTION OF LOW-INCOME HOUSING AND TO MODIFY THE FORMULA FOR CALCULATING NORTH CAROLINA ESTATE TAX ON ESTATES WITH PROPERTY IN MORE THAN ONE STATE.

OVERVIEW: This act modifies the low-income housing tax credit to make it simpler and more efficient and modifies the formula for calculating estate tax on estates with property in more than one state.

FISCAL IMPACT:
The projected revenue impact of the housing tax credit changes are as follows:

FY 2004-05	- $8 million
FY 2005-06	- $9.8 million
FY 2006-07	$2.9 million
FY 2007-08	$24.5 million

The other sections of the act are assumed to have little or no impact on the General Fund.

EFFECTIVE DATE: The low-income housing tax credit changes became effective beginning with the 2002 tax year for the existing credit and in 2003 for buildings that are awarded a federal credit allocation on or after January 1, 2003. The estate tax change became effective for the estates of decedents dying on or after January 1, 2002.

ANALYSIS:
LOW-INCOME HOUSING TAX CREDIT: Congress enacted the Low Income Housing Tax Credit in 1986 to fund housing for low- and moderate-income households. Each state receives a limited amount of credit each year. The IRS allocates the per capita low-income housing tax credit to state housing agencies, such as the North Carolina Housing Financing Agency, who in turn allocate the credit to project developers who agree to lower project rents for low-income tenants. In 1999, North Carolina authorized a State income tax credit equal to a percentage of the developer's federal tax credit for low income housing constructed in North Carolina. A project developer sells the tax credits to receive funds to finance the project. Developers indicate that the State tax credit sells for no more than 45 cents on the dollar.

During the 2002 session, the General Assembly became aware of several concerns with the low-income housing tax credit:

- The sale of a dollar tax credit for less than 45 cents is an inefficient use of State tax expenditures.

- The process of selling the tax credits is complex. It involves finding investors, negotiating prices, and completing legal documents.
- The pool of investors interested in purchasing the credit is limited and is diminishing.

This act addresses these concerns in two ways:

- To address the short-term problem of utilizing the tax credits allocated to developers, the act reduces the tax basis required of a purchaser from 100% to 40%.
- To address the long-term problem of the complexity and inefficiency of the credit, the act converts the State credit, which is sold to investors, to a refundable credit, received directly by the owner and invested directly in the project.

New, Refundable Credit for Housing with Federal Allocations beginning 1/1/03: A taxpayer who is allocated a federal low-income housing tax credit is allowed a credit equal to a percentage of the development's eligible basis. Unlike the existing credit that must be taken over five years, the new refundable credit is taken in one year. The existing State credit is a percentage of the federal credit and the percentage varies depending on the tier designation of the county. The new refundable credit is a percentage of the basis for which a federal credit is allowed and the percentage varies depending on the type of development. The eligibility of a development is based upon two factors:

- Income designation of the county or city in which it is located. – The designation of a county or city as "low income", "moderate income", or "high income" is made by the North Carolina Housing Finance Agency ("HFA") in accordance with the Qualified Allocation Plan in effect as of the time the federal credit is allocated. The Qualified Allocation Plan is adopted annually. The Governor must approve it after a public hearing and publication in the North Carolina Register. A change in the income designation does not affect the developer's eligible basis for which a credit is allowed.

- Affordability requirements. – The affordability requirements are set in the statute and apply for the duration of the federal tax credit compliance period. If in any year a taxpayer fails to meet these affordability requirements, the credit is forfeited.

The chart below sets out the percentage of the developer's eligible basis for which a credit is allowed:

Type of Development	Percentage of Basis for which Credit is Allowed
• Units are in a "low income" county or city • 40% of the qualified residential units are affordable to households whose income is 50% or less of area median income	30%
• Units are in a Moderate Income county or city • 50% of the qualified residential units are affordable to households whose income is 50% or less of the area median income	20%

Type of Development	Percentage of Basis for which Credit is Allowed
• Units are in a High Income county or city • 50% of the qualified residential units are affordable to households whose income is 40% or less of the area median income	10%
• Units are in a High Income county or city • 25% of the qualified residential units are affordable to households whose income is 30% or less of the area median income	10%

Credit Election: A taxpayer entitled to the new, refundable low-income housing tax credit may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the HFA. Neither a direct tax refund nor a loan received as a result of the transfer of the credit is considered taxable income by the State. The IRS would consider a direct tax refund taxable. A letter ruling will be submitted to the IRS to clarify whether the loan proceeds would be taxable. The initial indication is that the proceeds would not be taxable.

If a taxpayer chooses the loan method for receiving the credit, the Secretary must transfer to the HFA the amount of credit allowed the taxpayer. The HFA must loan the amount of the credit to the taxpayer on terms consistent with the Qualified Allocation Plan. The HFA is not required to make the loan until the Secretary transfers the credit amount to it.

If a taxpayer chooses the direct tax refund method for receiving the credit, the Secretary must transfer to the HFA the refundable excess of the credit allowed the taxpayer. The HFA holds the refund in escrow, with no interest accruing to the taxpayer during the escrow period. The HFA must release the refund to the taxpayer upon the occurrence of the earlier of the following:

- The HFA determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least 50% of the activities included in the development's eligible basis.
- The expiration of 30 days after the development's placed in service date.

Forfeiture: If a taxpayer fails to meet the State's affordability requirements for the duration of the federal tax credit compliance period, the State credit is forfeited. If the taxpayer is required to recapture all or part of the federal credit with respect to a qualified North Carolina low-income development, the State credit is also forfeited. A taxpayer that forfeits all or part of the State credit is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest. This amount is payable 30 days after the date the credit is forfeited. The interest is computed from the date the Secretary transferred the credit amount to the HFA.

A taxpayer that is required to recapture all or part of the federal credit with respect to a qualified North Carolina low-income development does not forfeit the corresponding State credit amount in the following circumstances:

- The recapture is the result of an event that occurs in the sixth or subsequent calendar year after the calendar year in which the development was awarded a federal credit allocation.
- The taxpayer elected to transfer the State credit amount to the HFA and received a loan from the HFA for that amount.

Report: The Department of Revenue must report to the Revenue Laws Study Committee and the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- The number of taxpayers that claimed the low-income housing credit.
- The location of each qualified North Carolina low-income building or housing development for which a credit was claimed.
- The total cost to the General Fund of the credits claimed.

Sunset: Like the existing low-income housing tax credit, this new refundable credit is repealed effective January 1, 2006.

Modifications for Existing Credit for Housing with Federal Allocations before 1/1/03: Often the investment group financing a low-income housing project is a pass-through entity. In 2001, the General Assembly provided that the low-income housing credit could be allocated among any of the entity's owners, in the entity's discretion, as long as the amount of credit allocated did not exceed the owner's adjusted basis in the pass-through entity. This tax basis requirement means the investor must invest $1 into the project for each $1 of the State credit received. However, the General Assembly determined in 2002 that the market rate for the credit was about 45 cents for each $1 of State credit. The pool of investors willing and able to meet the tax basis requirement was smaller than the need for investment. Without a change in the tax basis requirement, many developers with projects underway may have lost money on those projects. To encourage more investment immediately, the act reduced the tax basis required of a purchaser from 100% to 40%.

The act also addresses the issue of forfeiture of the existing credit by providing that the taxpayer does not forfeit the State credit if a recapture of the federal credit occurs after the State five-year credit period has expired. The federal credit is taken over a 10-year period.

ESTATE TAX CHANGES: Section 9 of the act incorporates a proposal from the Estate Tax Section of the North Carolina Bar Association.[10] It changes the calculation of estate tax due when property is located in more than one state from a net value ratio to a gross value ratio. Before this act became law, North Carolina was one of only three states that prorated based on the net value of the federal taxable estate. At least 36 states prorate based on gross values, including the neighboring states of South Carolina and Virginia.

For estates with property only in North Carolina, the North Carolina estate tax equals the credit for state death taxes allowed on the federal estate tax return.[11] If an estate has property in more than one state, the federal credit must be prorated between North Carolina and the other states in which the estate has property. Under prior law, the percentage of the

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[10] Representative Haire introduced a bill on this issue in 2001, House Bill 276.

[11] The credit for state death taxes allowed on the federal estate tax return is being phased out over the next four years. As a result of legislation enacted in 2002 (S.L. 2002-126), North Carolina does not conform to the phase-out of this credit for 2002 and 2003.

federal credit allocated to North Carolina was determined by dividing the net value of the property in North Carolina by the total net value of the property in the estate.

Net value equals the gross value of the property less any debts associated with the property, such as a mortgage. The prior law was attempting to allocate the credit based on the value of the property that was includible in the taxable estate for federal purposes. The federal estate tax is calculated on the taxable estate, which is the gross estate less allowable deductions such as debts.

The Estate Tax Section of the North Carolina Bar Association asserted that a state's share of federal estate tax is more appropriately based on the gross property located in a state whether or not the property generates any federal estate tax. It proposed that this approach is fair because each state has a responsibility for protecting and supervising the distribution of property regardless of whether it generates federal tax. Also, the use of a net value calculation sometimes results in a North Carolina resident paying more tax than 100% of the amount of the credit.[12] In other instances it may result in a loss of revenue to North Carolina[13]; this may be particularly true in estates in which property qualifies for the marital deduction.

Extend Qualified Business Venture Tax Credit

Session Law	Bill #	Sponsor
S.L. 2002-99	HB 1520	Representative Allen

AN ACT TO EXTEND THE SUNSET ON TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS, TO AMEND THE DEFINITION OF QUALIFIED GRANTEE BUSINESS, TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT, AND TO CLARIFY AND AMEND THE NORTH CAROLINA STATE PORTS AUTHORITY'S FEE-SETTING AUTHORITY.

OVERVIEW: This act extends the tax credit on qualified business investments and the State ports tax credit from January 1, 2003 to January 1, 2004, and revises the definition of "qualified grantee business" to alleviate a constitutional concern by replacing specific named entities with general descriptions of entities. The act also clarifies that the North Carolina State Ports Authority has fee-setting authority for its rates and tariffs, gives the Authority guidelines to use in setting those fees, requires the Authority to report to the Joint Legislative Commission on Governmental Operations no later than 30 days after it establishes or

[12] A Charlotte resident has a gross estate worth $10,000,000, including a $2,000,000 home in South Carolina with a $1,000,000 mortgage. The South Carolina portion of the credit is 20% because South Carolina uses a gross value calculation: 2,000,000 divided by 10,000,000. The North Carolina portion of the credit is 88%: 8,000,000 divided by 9,000,000.

[13] A Charlotte resident has a gross estate worth $10,000,000, including a $2,000,000 home in South Carolina. The North Carolina property has a $1,000,000 mortgage. The South Carolina portion of the credit continues to be 20%. However, the North Carolina portion of the credit is reduced to 77%: 7,000,000 divided by 9,000,000.

increases a fee, and exempts the Authority's fee-setting from the rule-making portion of the Administrative Procedure Act.

FISCAL IMPACT: The amount of the tax credit on qualified business investments that is given each year is capped at $6 million. Because requests for credits have exceeded this cap for four out of the last five years, it is likely that the $6 million annual cost of the program will continue until its sunset in 2004. The General Fund impact due to the extension of this tax credit will occur in the 2003-2004 fiscal year because the investments made in 2003 will be awarded credits on returns filed in the spring of 2004. The extension of the State Ports Authority tax credit is estimated to cost the General Fund $650,000 in the 2003-2004 fiscal year. The changes to the State Ports Authority fee-setting power have no fiscal impact.

EFFECTIVE DATE: The change to the definition of "qualified grantee business" is effective January 1, 2003. The remainder of this act became effective August 29, 2002.

ANALYSIS:

QUALIFIED BUSINESS INVESTMENT TAX CREDIT: The qualified business investment tax credit was enacted in August 1987 to promote economic development for North Carolina businesses. The initial credits applied to both corporations and individual taxpayers, and there was a $12 million cap on the total amount of all tax credits. In response to a 1996 United States Supreme Court decision in Fulton Corp. v. Faulkner, the General Assembly reduced the $12 million cap to $6 million, limited the credit to individuals and small pass-through entities, and removed the requirement that the qualified businesses be headquartered or operating in North Carolina. The credit was to expire for investments made on or after January 1, 1999. In 1998, as part of the appropriations bill, the credit was extended for four additional years until January 1, 2003. This act extends the sunset for one additional year until January 1, 2004.

Explanation of the credit: The qualified business investment tax credit is allowed for an individual taxpayer who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. The credit may not be taken in the year the investment is made. Instead, the credit is taken in the year following the calendar year in which the investment was made, but only if the taxpayer filed an application with the Secretary of State. The unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed with the Secretary of State. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $6 million in tax credits in proportion to the size of the credit claimed by each taxpayer. In general, a taxpayer forfeits the credit if the taxpayer

transfers the securities within one year or the qualified business redeems the securities purchased by the taxpayer within five years after the investment was made.[14]

Impact of Fulton Corp. v. Faulkner: Under the 1996 Fulton case, the original credit provisions clearly violated the interstate commerce clause of the federal constitution because they reduced a taxpayer's tax liability by an amount equal to 25% of the cost of purchasing stock in either a North Carolina business or an investment company whose purpose is to invest in North Carolina businesses, while no tax reduction was allowed for purchasing similar stock in out-of-state businesses or investment companies whose purpose is to invest in businesses that may not be North Carolina businesses. In response to the Fulton case, the Revenue Laws Study Committee discussed this credit, along with several others, at great length. The original proposal of the Committee was to repeal all qualified business investment credits, effective January 1, 1997. In response to appeals to the Committee and to the General Assembly, the credit was expanded to include investments in businesses located both inside and outside North Carolina. However the credit was no longer allowed for investments in investment companies and was limited to investments made by individuals and small pass-through entities under the theory that these investors are not likely to invest outside a 50-mile radius of their homes.

Amendment to definition of "qualified grantee business": In order to be a business in which investments are eligible for a credit, the business must be either a "qualified business venture" or a "qualified grantee business." Both types of businesses must be registered with the Secretary of State. The definition of "qualified business venture" includes several general requirements related to the line of business, gross revenues of the business, and the organization date of the business. Prior to this act, the definition of "qualified grantee business" included a requirement that the business have received a grant or other funding in at least one of the three previous years from one of several named entities. Arguably, this definition violated the rule of uniformity since a credit is allowed only for investments in businesses that have received a grant from one of several specifically named entities, and not for investments in similar businesses that have received grants from similar entities. To address this constitutional issue, the act amends the definition of "qualified grantee business" by replacing the named entities with descriptions that would encompass the following previously named entities: the North Carolina Biotechnology Center, MCNC, and the Kenan Institute for Engineering, Technology, and Science. The only previously named entity that these descriptions do not encompass is the Technological Development Authority. It is unknown if any other entity qualifies under these descriptions.

STATE PORTS TAX CREDIT: This act extends the sunset on the tax credit for North Carolina State Ports Authority wharfage, handling, and throughput charges for one year, from January 1, 2003 to January 1, 2004. When first enacted, this credit was effective for taxable years beginning on or after March 1, 1992, and ending on or before February 28, 1996. The sunset has been extended four times.

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[14] There are two exceptions to this forfeiture provision. First, if the transfer occurs as a result of the death of the taxpayer, the liquidation of the taxpayer, or certain reorganizations of the qualified business, within the one-year period, the transfer does not require forfeiture. Second, the 1998 legislation created an exception to this forfeiture provision for projects in the film industry, since it is unusual for a project in that industry in which a person might invest to last for more than five years.

Explanation of the credit: The State Ports Authority tax credit is allowed to a taxpayer who loads or unloads waterborne cargo from an ocean carrier at the State-owned port terminal at Wilmington or Morehead City. The credit is allowed against the taxpayer's income tax. The taxpayer may be either an individual (G.S. 105-151.22) or a corporation (G.S. 105-130.41). The amount of the tax credit is equal to the amount of wharfage, handling, and throughput charges paid to the North Carolina State Ports Authority in the taxable year that exceeds the average amount of charges paid to the Authority for the current tax year and the two previous tax years. The credit is limited to 50% of the tax imposed on the taxpayer for the taxable year. Any excess credit may be carried forward and applied to the taxpayer's income tax liability for the next five years. The maximum cumulative credit that one taxpayer may claim is $2 million.

In 1992 the General Assembly enacted the State Ports income tax credit to encourage exporters to use the two State-owned port terminals in Wilmington and Morehead City. When enacted, the credit applied to amounts paid by a taxpayer on any cargo exported at either port. In 1994, the General Assembly expanded the credit to include all amounts assessed on exported cargo, regardless of who paid the shipping costs. In 1995, the General Assembly expanded the credit to include some imports by allowing a credit for break-bulk cargo and container cargo imported at either Wilmington or Morehead City and for bulk cargo imported at Morehead City. It did not allow a credit for bulk cargo imported at Wilmington. In addition, the credit for bulk exports was then limited to bulk exports at only the Morehead City terminal. In 1996, the General Assembly expanded the State ports income tax credit to include the importing and exporting at either terminal of one specific type of bulk cargo: forest products. All imports and exports of bulk cargo at the Morehead City terminal were already covered, so the effect of this change was to allow a credit for forest product imports and exports at the Wilmington terminal. In 1997, the General Assembly extended the sunset of the State ports income tax credit from February 28, 1998 to the taxable year ending on or before February 28, 2001, and increased the maximum cumulative credit from $1 million to $2 million per taxpayer. In 2001, the General Assembly extended the sunset to January 1, 2003.

Although not defined by the relevant statutes, the various types of cargo differ as follows:

- Bulk cargo is a type of commodity that is loose and usually stockpiled. Examples of this type of commodity include coal, grain, salt, and wood chips.
- Break-bulk cargo consists of commodities that are packaged and stored on pallets or in cases that must be handled and stacked onto a ship by hand, crane, etc. Break-bulk cargo also includes machinery.
- Container cargo consists of commodities that are packaged in a metal trailer box that can be locked onto a tractor-trailer chassis and then detached and put on a ship without any other handling.

NORTH CAROLINA STATE PORTS AUTHORITY: This act clarifies and amends the fee-setting power of the North Carolina State Ports Authority in the following ways:

- Clarifies that the Authority has fee-setting authority for its services.
- Sets out statutory guidelines that the Authority must consider in setting fees for its services. These guidelines include the cost of providing service, revenue

requirements, the cost of similar services at other seaports in the South Atlantic region, and any other factors the Authority considers relevant.

- Requires the Authority to report to the Joint Legislative Commission on Governmental Operations no later than 30 days after the Authority establishes or increases a fee.[15]
- Exempts the Authority's fee-setting power from the rulemaking portion of the Administrative Procedure Act.

Amend Pollution Abatement Tax Exclusion

Session Law	Bill #	Sponsor
S.L. 2002-104	SB 1253	Senator Odom

AN ACT TO PROVIDE THAT CERTAIN ANIMAL WASTE MANAGEMENT SYSTEMS SHALL NOT QUALIFY FOR SPECIAL PROPERTY CLASSIFICATION AND EXCLUSION FROM THE TAX BASE PURSUANT TO G.S. 105-275(8) AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY ISSUES RELATED TO THE TAX EXCLUSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

OVERVIEW: This act provides that an animal waste management system may not qualify for property tax exclusion as a pollution control device unless it eliminates or substantially eliminates certain discharges, emissions, and contamination. The act also requires the Revenue Laws Study Committee to study property tax exemptions for pollution control equipment. The act was recommended by the Environmental Review Commission.

FISCAL IMPACT: The State General Fund is not affected. The legislation will affect revenue from the property tax base in each county. There are currently no exclusions that have been granted to facilities, thus there are no changes in current county revenues. However, had the legislation not been enacted, potential revenue losses would have been split among counties based on the number of animal waste management systems maintained in each county. Potential losses were estimated using the total property value of the swine, poultry, and turkey facilities in a county. The potential property tax revenue losses statewide could have totaled approximately $9.9 million per fiscal year.

EFFECTIVE DATE: Property tax years beginning on or after July 1, 2002.

ANALYSIS: Since 1955, North Carolina has excluded from property taxes property used exclusively for pollution control or waste disposal. The statute specifies waste lagoons as one

[15] In S.L. 2001-427, the General Assembly increased its oversight of agency setting and raising of fees by requiring an agency that wishes to establish or increase any fee to have either express authorization from the General Assembly for the amount of the fee or general authorization and to consult the Joint Legislative Commission on Governmental Operations **prior** to putting the new fee into effect. S.L. 2002-99 allows the State Ports Authority to report to Governmental Operations **after** increasing or establishing a fee.

type of property that may qualify for property tax exclusion. Before property could qualify for exclusion, the law as of 2001 required that the Environmental Management Commission (EMC) certify that the property complies with all EMC requirements, is operated in accordance with its permit, and has as its primary purpose the reduction of pollution.

As the entity responsible for certifying property for the tax exclusion, the EMC approached the Environmental Review Commission requesting clarification of the policy conflict between the potential property tax exclusion for swine waste lagoons and spray fields and the moratorium the General Assembly has placed on constructing swine waste lagoons and spray fields unless they comply with strict environmental standards. The Environmental Review Commission recommended that the General Assembly act on this issue in 2002.

To evaluate the issue, the General Assembly sought input from the EMC, individual taxpayers, the Attorney General's Office, the Department of Revenue, and other interested parties. There was testimony from experts that in the 1950s when the statute was enacted, there was much less use of animal waste lagoons and spray fields than there is today, indicating that the policy established in the 1950s may no longer be appropriate. The Department of Revenue noted that spray fields are not used exclusively for waste disposal and thus appear to be ineligible for the property tax exclusion. The Southern Environmental Law Center commented that, because waste lagoons do not reduce pollution and in fact accelerate air pollution, they do not meet the statutory requirement for exclusion that their primary purpose is the reduction of pollution. The EMC pointed out that since 1997 the General Assembly has maintained a moratorium on the construction of swine waste lagoons and spray fields with an exception only for swine waste management systems that meet the following environmental performance standards:

1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. Substantially eliminate atmospheric emissions of ammonia.
3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.

The General Assembly resolved the conflict between the moratorium and the tax exclusion by providing in this act that an animal waste management system may not qualify for the property tax exclusion unless the EMC determines that it meets the same five standards listed above. This requirement will ensure that the property tax exclusion is allowed only for animal waste management systems that meet strict environmental performance standards. This change becomes effective beginning with the 2002 property tax year.

The act also directs the Revenue Laws Study Committee to study the property tax exclusions for various types of property used for environmental reasons, in consultation with representatives of cities and counties. The Committee is directed to report the results of its study to the 2003 General Assembly.

Revenue Law Enforcement Enhancements

Session Law	Bill #	Sponsor
S.L. 2002-106	SB 1218	Senator Dalton

AN ACT TO IMPROVE THE ENFORCEMENT OF TAX LAWS BY CRIMINALIZING OR INCREASING THE PENALTY FOR CERTAIN FORMS OF TAX FRAUD AND BY ALLOWING THE DEPARTMENT OF REVENUE TO DISCLOSE CERTAIN INFORMATION TO LAW ENFORCEMENT AGENCIES.

OVERVIEW: This act improves the enforcement of tax laws by allowing for enhanced punishment when an income tax return preparer aids or assists in the filing of false or fraudulent documents with the Department of Revenue, by creating an offense for fleecing taxpayers, and by allowing the Department of Revenue to share information concerning the commission of any offense with appropriate state or federal law enforcement agencies. This act was a recommendation of the Revenue Laws Study Committee.

FISCAL IMPACT: The cost of additional court trials and prison beds due to the increased felonies is as follows:

FISCAL YEAR	COST
2002-2003	$ 9,035
2003-2004	$ 94,395
2004-2005	$204,839
2005-2006	$294,200
2006-2007	$388,752

EFFECTIVE DATE: The sections allowing for enhanced punishment and creating a new offense become effective December 1, 2002, and apply to actions committed on or after that date. The section allowing disclosure between the Department of Revenue and appropriate State or federal law enforcement agencies became effective September 6, 2002.

ANALYSIS: Under sections 1 through 3 of this act, beginning December 1, 2002, an income tax return preparer who aids or assists in the filing of false or fraudulent documents will be guilty of a Class F felony, if the amount of tax fraudulently avoided in one taxable year on all returns is less than $100,000. If the total amount of tax fraudulently avoided in one taxable year on all returns equals or exceeds $100,000, the income tax return preparer will be guilty of a Class C felony. These punishments are the same as the punishments for embezzlement under Article 18 of Chapter 14 of the General Statutes. The act incorporates the definition of "income tax return preparer" used under the Internal Revenue Code, and makes a conforming change in G.S. 105-159.1(e) to incorporate this definition.

Under the law in effect until December 1, 2002, it is a Class H felony to aid, assist, procure, counsel, or advise the preparation, presentation, or filing of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter. The Department of Revenue requested the enhanced punishment because of the increasing number of

fraudulent return cases involving an income tax return preparer. According to the Department, these cases generally involve income tax return preparers that intentionally inflate the itemized deductions claimed on a return or include fictitious business losses on the return. This fraud is carried out in order to reduce taxable income, thereby reducing tax liability. The Department has also noticed an increase in the number of fictitious returns. These are returns that are based on fictitious wage and tax statements.

Under section 4 of this act, beginning December 1, 2002, it will be a Class F felony for a person to receive money from a taxpayer with the understanding that the person would remit the money to the Secretary of Revenue for application on a tax liability and then willfully fail to remit the money to the Secretary. The Department reported that several times a year it will have a situation where an accountant receives money from a taxpayer to satisfy a sales or withholding tax liability. The accountant then files a fraudulent return showing reduced or zero tax due and then pockets the taxpayer's money. Although the Department can and does bring charges against the accountant for filing a fraudulent return, the taxpayer still owes the money that he or she has lost. The taxpayer must then get the local district attorney to file embezzlement charges. The district attorneys have indicated that they prefer that the Department handle this situation since it involves taxes and since the Department is already involved. By creating the offense for fleecing taxpayers, this act places the remedy with the Department. The penalty is the same as for embezzlement totaling less than $100,000.

Section 5 of this act allows the Department of Revenue to share information it discovers during a criminal investigation of a taxpayer with appropriate State or federal law enforcement agencies. Under prior law, the Department could only provide information concerning a tax imposed by Article 2A, 2C, or 2D of the revenue laws to law enforcement agencies. These Articles deal with the tobacco products tax, alcoholic beverage license and excise taxes, and unauthorized substance taxes. However, the Criminal Investigation Division of the Department occasionally discovers evidence of criminal activity unrelated to the taxes imposed in these Articles. Under prior law, the Department was not allowed to disclose that information to law enforcement. This act alleviates this prohibition.

Contracts to Reimburse Fuel Tax/Fuel Tax Chg.

Session Law	Bill #	Sponsor
S.L. 2002-108	SB 1407	Senator Kerr

AN ACT TO ESTABLISH A CONTRACT RIGHT REGARDING THE TIMING OF PAYMENTS UNDER CONTRACTS REQUIRING REIMBURSEMENT OF FEDERAL FUEL EXCISE TAXES AND TO MAKE VARIOUS MOTOR FUEL EXCISE TAX CHANGES.

OVERVIEW: This act gives local distributors a contract right to delay reimbursing federal fuel tax to the supplier until one day before the supplier is required to remit the tax to the federal government. The act also converts the local government fuel tax refund to an exemption and makes several other changes to the motor fuel tax laws.

FISCAL IMPACT: The only provision with a fiscal impact is the one converting the local government fuel tax refund to an exemption. The exemption will be slightly revenue positive for local governments because of the interest earned on funds that once went to fuel tax payments before being refunded. Based on refund amounts for past years, Fiscal Research estimates the annual float gain for locals would have been $227,030 for fiscal year 2000-01 and $252,860 for fiscal year 1999-00.

EFFECTIVE DATE: The contract right provision became effective September 1, 2002. The motor fuel tax provisions become effective January 1, 2003.

ANALYSIS:

Contract Rights Regarding Tax Reimbursements

The State and federal motor fuel excise taxes are payable by the distributor, but collected and remitted to the respective tax collection agencies by the supplier. G.S. 105-449.91 gives the distributor the right to defer the remittance of any state tax to the supplier until the date the supplier, as trustee, must pay the tax to this State or to another state. This allows the distributor to retain the interest on the state tax monies until they are due for payment. Federal law does not address the distributor's right to defer the remittance of any federal tax due. The distributor's right as to the timing of the remittance of the federal tax due to the supplier is subject to the terms of the contract between the distributor and the supplier.

Section 1 of this act provides that a contract subject to North Carolina law must afford the distributor the same election for the timing of federal tax remittance that the distributor has for state tax remittance. It provides that the distributor may elect to remit the federal tax due to the supplier one day before the tax is due to the federal Internal Revenue Service. Exercising this option allows the distributor to receive the benefit of any float associated with the federal tax monies. To exercise this right, the distributor must notify the supplier in writing of the intent to make this election and the effective date of the election. The effective date cannot be earlier than the beginning of the next federal tax quarter or 30 days after the notice of intent is received, whichever is later. To secure the receipt of the tax monies, the supplier can require security for the payment of the taxes in proportion to the amount the taxes represent compared to the security required on the contract as a whole.

In practice, this change in the law will not affect contracts between suppliers and distributors for branded fuel[16] when the contract names another state as the controlling state law. Currently, Georgia, Alabama, Mississippi, and Tennessee[17] have similar statutes. If no particular state's law is designated as controlling in the contract, then this State's law will control. If a supplier offers unbranded fuel[18] at a North Carolina terminal and a distributor lifts from that terminal rack, North Carolina law will control because the contract for the fuel is accepted in North Carolina.

This section of the act became effective September 1, 2002, and applies to contracts entered into or renewed on or after that date and to all continuing contracts that are in effect on that

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[16] Branded fuel is fuel supplied to a distributor pursuant to a contract.

[17] Tennessee collects federal and state excise tax at the rack like North Carolina.

[18] Unbranded fuel is fuel offered by a supplier at the terminal rack to any distributor who wishes to purchase it.

date and have no expiration date. It does not apply to a contract in effect on September 1, 2002 that, by its terms, will terminate on a later date; nor does it impair the obligation arising under any contract executed before September 1, 2002. Because the act did not become law until September 6, the constitutional prohibition against impairing contracts would prevent it from applying to contracts executed between September 1 and September 6 that have an expiration date.

Motor Fuel Enforcement Tax Changes

Section 2 of this act repeals the Class 1 misdemeanor for willfully and knowingly making a false statement for the purposes of obtaining or assisting someone else to obtain a credit, refund, or reduction of motor fuel tax liability. Repeal of this statute means that the general penalties in G.S. 105-236 will apply. It is a Class H felony under G.S. 105-236(7) to attempt to willfully evade a tax and it is a Class H felony under G.S. 105-236(9a) to willfully help someone else evade a tax.

A motor carrier subject to the International Fuel Tax Agreement must register with the carrier's base state and a motor carrier not subject to that Agreement must register with the Secretary of Revenue. It is unlawful for a motor carrier to operate motor vehicles in the State unless the motor carrier is registered. To indicate to enforcement officers that the carrier is properly registered, the vehicles must display identification markers, or decals. Section 3 of this act requires a motor carrier to keep records of the decals issued to it and to be able to account for those decals. Section 4 of this act establishes a civil penalty for unaccounted for decals and for decals unlawfully obtained. The penalty for being unable to account for decals is $100 per decal. The penalty for displaying a decal unlawfully obtained is $1,000 per decal. The motor carrier whose vehicles display the decal and the motor carrier who obtained the decals are jointly and severally liable for the penalty.

Section 15 of this act simplifies the penalty for transporting motor fuel without a shipping document or with a false or an incomplete shipping document and the penalty for delivering motor fuel to a destination state other than the one shown on the shipping document. Under prior law, the amount of the penalty depended on whether the person against whom the penalty is assessed had previously been assessed a penalty under this statute. If the answer is "no", the amount of the penalty was $1,500. If the answer is "yes", the amount of the penalty was $7,500. To determine whether the person has previously been assessed a penalty under this statute required the enforcement officer to obtain detailed information, which the officer forwarded to the Motor Fuels Tax Division so that the Division could check its records and then assess the correct penalty. The penalty was seldom imposed because the enforcement officers could not enforce the penalty at the time the offense occurred. This section enables the enforcement officer to immediately assess the penalty by providing a flat penalty amount of $5,000.

Section 16 of this act will enable the Motor Fuels Tax Division to be able to track motor fuel transported by a tank wagon after the fuel has left the terminal. A tank wagon is a truck that has a compartment designed or used to carry at least 1,000 gallons of motor fuel.[19] Under

[19] Section 6 amends the term "tank wagon" to require that it be used to carry at least 1,000 gallons of motor fuel. This modification exempts trucks carrying less than that amount from the requirements imposed by this Section 16.

this section, a person may not transport motor fuel by tank wagon unless the person has an invoice, bill of sale, or shipping document that contains the following information: the name and address of the person from whom the motor fuel was received, the date the fuel was loaded, the type of fuel, and the gross number of gallons loaded. The person must carry this documentation when transporting the fuel and show the documentation upon request. These requirements are similar to, but less onerous than, the requirements for motor fuel transported by a railroad tank car or transport truck.[20] A violation of this statute would be grounds for a civil penalty in the amount of $1,000.

Section 17 simplifies the penalty for dispensing, or allowing to be dispensed, non-tax-paid fuel into a highway vehicle. Currently, the amount of the penalty varies depending upon the number of gallons dispensed. However, it is often impossible to know how many gallons have been dispensed. This section simplifies the penalty by providing a fixed penalty amount of $250 per occurrence.

Biodiesel and Fuel Alcohol Tax Law Changes

Before this act went into effect, North Carolina's motor fuel tax laws addressed fuel alcohol, but not biodiesel. Both types of fuel are special fuels that may be used to operate a motor vehicle. Biodiesel fuel is a mixture of fuels derived in whole or in part from agricultural products or animal fats or wastes from these products or fats. The General Assembly became aware of a person planning to produce biodiesel fuel in North Carolina using, among other fats, discarded french fry grease from fast food restaurants. Sections 6 and 7 make existing fuel tax provisions applicable to biodiesel, and also provide that small providers of biodiesel and fuel alcohol are not subject to the bonding requirements applicable to refiners.

Under existing law, a person who produces fuel that can be used to operate a motor vehicle is considered a refiner and is subject to a $2 million bonding requirement. There are no refiners in North Carolina. However, it was anticipated that this definition and the large bonding requirement might become applicable to providers of fuel alcohol and biodiesel because it is possible that a vehicle can be operated with biodiesel alone or with fuel alcohol alone. To avoid subjecting small producers of biodiesel and fuel alcohol to the large surety bond requirements for refiners, this act provides a smaller surety bond requirement for smaller producers of biodiesel and fuel alcohol. To accomplish this, Section 6 defines a biodiesel provider and a fuel alcohol provider as a person who produces an average of no more than 500,000 gallons of biodiesel or fuel alcohol a month during a calendar year. It also excludes from the definition of "refiner" these biodiesel providers and fuel alcohol providers. Under Section 7, biodiesel providers and fuel alcohol providers are subject to a bonding requirement of no less than $2,000 and no more than $250,000. The amount of the bond is determined by the provider's average expected monthly tax liability.

Section 6 adds biodiesel to the definition of diesel fuel and adds biodiesel providers to the definition of supplier. These changes bring biodiesel within the scope of the existing fuel tax laws.

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[20] Tank wagons would not be required to be registered, to have a tax responsibility statement, to have a machine-printed shipping document, or to have a destination state. Also, the penalty imposed on a tank wagon for failure to have the proper documentation is $1,000 as opposed to $5,000.

Special Mobile Equipment

Special mobile equipment is a vehicle that has a permanently attached crane, mill, ditch-digging apparatus, or similar attachment. The vehicle is driven on the highway only to get to and from a non-highway job. It is not designed or used primarily for the transportation of persons or property. Under prior State law, special mobile equipment was allowed to use dyed (untaxed) diesel fuel. However, federal law prohibited special mobile equipment from using dyed diesel fuel. This contradiction caused confusion and, as a result, operators of special mobile equipment were sometimes assessed federal penalties. Section 10 conforms North Carolina law to the federal law. Special mobile equipment will continue to be entitled to a quarterly refund of motor fuel tax paid to operate the equipment off-highway.[21]

Diverted Fuel

A person may not transport motor fuel by railroad tank car or by truck unless the person has a shipping document indicating, among other things, the destination state of the motor fuel. The tax on the motor fuel is collected at the rack based on the motor fuel tax rate of the state named on the shipping document as the destination state. The person transporting the motor fuel must deliver it to the state printed on the shipping document.

If the fuel is diverted to another state, the person transporting the fuel must notify the Secretary of Revenue of the diversion and receive a confirmation number authorizing the diversion. The state tax is owed on the fuel changes when the fuel is diverted to a different state. Under prior law, the distributor would notify the supplier of the diversion and the supplier would make the correction based on its business practices. The diversion could be accounted for in several different ways on one of four different motor fuel tax forms. The supplier's responsibility for making the correction was inconsistent with the fact that the supplier is not the party responsible for paying the tax; the supplier's tax collection obligations ended once the fuel left the terminal.

Section 10 clarifies that North Carolina motor fuel excise tax is due on motor fuel that is diverted to this State. It also specifies that the person who authorizes the fuel to be diverted to a different state is liable for the tax owed to that state; likewise the person is entitled to a refund of the North Carolina tax paid on the fuel. The diversion corrections must be made on the backup tax form.

Motor Fuel Tax Exemption for Local Governments

Under prior law, counties and municipalities were entitled to a quarterly refund of motor fuel excise taxes paid by them during the preceding quarter. The refund was calculated at the rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund was claimed, less one-cent per gallon. This act gives counties and cities an exemption in lieu of a refund. Section 11 removes counties and municipalities from the list of entities entitled to a refund and Section 13 adds them to the list of entities exempted from the motor fuel excise tax. Other entities exempted from the

[21] G.S. 105-449.106(c).

tax include the federal government, the State government, local boards of education, charter schools, and community colleges.

Administrative and Technical Changes

A refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, and a distributor must file a bond with the Secretary in order to be licensed. The bond is conditioned upon compliance with the motor fuel tax laws. Whenever a license holder changes bonding companies or decides to go out of business, the license holder must notify the Secretary. After determining that all taxes and penalties due under the motor fuel tax laws have been paid, the Secretary must return the previously filed bond and notify both the bonding company and the license holder that the person is released from liability on the bond. The Motor Fuels Tax Division often receives returned mail on the notice sent to the license holder because the license holders have moved. Section 8 relieves the Division from the requirement that it notify the license holder; it need only return the previously filed bond and the notice of release from liability to the bondholder.

The Motor Fuels Tax Division must keep a record of all the license holders under the fuel tax statutes and it must send this list to all the license holders along with a monthly update. Many license holders have expressed a desire not to receive the list this often. Section 9 relieves the Division of the necessity of sending the monthly updates to all license holders. Under this section, the Division must send an annual list to each license holder of all the license holders. Thereafter, the Division need send a monthly update only to each licensed refiner or licensed supplier and to any other license holder that requests a copy of the list.

Section 6 includes within the definition of "motor fuel transporter" a person who transports motor fuel by pipeline. Sections 12 and 14 correct incorrect terminology.

Secure Local Revenues

Session Law	*Bill #*	*Sponsor*
S.L. 2002-120, as amended by Section 65 of S.L. 2002-159	HB 1490	Representative Gibson

AN ACT TO PROVIDE THAT LOCAL REVENUES MAY NOT BE WITHHELD OR IMPOUNDED BY THE GOVERNOR AND TO CLARIFY THE FRANCHISE TAX ON ELECTRIC POWER COMPANIES.

OVERVIEW: This act provides that certain shared tax revenues are local revenues and may not be withheld or reduced by the Governor and that funds otherwise committed to local governments may not be reduced unless all other revenue sources, including treasury surplus, have been exhausted. The act also clarifies that an electric power company that pays the annual franchise or privilege tax is not subject to an additional franchise or privilege tax imposed by a city or county.

FISCAL IMPACT: No estimate available. This legislation has no direct impact on the budget passed by the General Assembly, as these shared revenues have not been used in the legislative process for state expenditures. However, the legislation could limit the options available to the Governor in future years.

EFFECTIVE DATE: This act became effective September 24, 2002. It applies prospectively only and does not apply to pending litigation or claims that accrued prior to September 24, 2002.

BACKGROUND: For the last two years, the Governor has withheld reimbursement funds from local governments, and he recommended suspending additional reimbursement funds for fiscal year 2002-03 as well. Specifically, in fiscal year 2000-2001 the Governor placed in escrow $95 million of inventory tax reimbursement funds, representing one-half of the total annual payment, in anticipation of a budget shortfall. These funds were later released, however, to local governments. In fiscal year 2001-2002, the Governor again withheld $95 million in inventory tax reimbursement funds plus $114 million in state-shared taxes and the homestead reimbursement in order to balance the budget as of June 30, 2002.

By withholding these funds despite the statutory directive to distribute the funds to local governments, the Governor has invoked his constitutional authority pursuant to Section 5(3) of Article III of the North Carolina Constitution to balance the budget. Section 5(3) of Article III of the North Carolina Constitution sets out the Governor's budgetary duties. Specifically, it directs the Governor to prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. Furthermore, it provides that the State may not operate at a deficit during the fiscal period covered by a budget. To ensure that the State does not incur a deficit, the Constitution requires the Governor to continually survey the collection of revenue. If, as a result of his surveys, he determines that actual receipts for the fiscal period, when added to the surplus remaining in the State Treasury, will not be sufficient to pay budgeted expenditures, the Governor must effect the necessary economies in State expenditures to keep the deficit from occurring. Arguably, the distribution of monies to local governments is a "State expenditure," and the Governor's constitutional obligation to maintain a balanced budget overrides the statutory directive to distribute the funds.

Based on the current information available, it is unclear whether this legislation will be effective in preventing the Governor from withholding these funds from local governments. If the Governor withholds the funds despite the enactment of this legislation, enforcement of this limitation on the Governor's authority may have to be resolved by a court. As of October 2002, several counties and municipalities have initiated or are considering initiating lawsuits challenging the Governor's withholding of funds.[22]

ANALYSIS: Sections 1 through 7 of this act limit the Governor's budgetary authority to withhold or reduce local revenues and to reduce certain State expenditures as follows:

Tax-Sharing Statutes

Sections 1 through 6 of this act amend the tax-sharing statutes by characterizing the portion of the revenue distributed to cities and counties as distributions of "local revenue" rather

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[22] As of November 2002, one of the pending cases is *Cabarrus County, et al. v Tolson*, Wake County Superior Court Case No. 02 CVS 12518.

than "State expenditures" for purposes of interpreting Section 5(3) of Article III of the North Carolina Constitution. Section 5(3) of Article III of the North Carolina Constitution sets out the Governor's duties and the scope of authority with regard to balancing the budget. Arguably, since the Constitution authorizes the Governor to reduce only "State expenditures," the classification of these shared tax revenues as "local revenues" prohibits the Governor from reducing or withholding the distributions. Moreover, each of the tax-sharing statutes has been amended to expressly state that the Governor may not reduce or withhold these distributions.

Tax-sharing statutes are a source of "financial aid" for local governments. Under these tax-sharing statutes, cities or counties, or both, receive a portion of certain taxes levied by the State. The shared tax revenues are derived from the levy of the following taxes:

- Beer and wine taxes[23]
- Franchise gross receipts tax[24]
- Piped natural gas tax[25]
- Sales tax on telecommunications[26]
- Powell bill funds[27]

Funds Appropriated or Otherwise Committed to Local Governments

Section 7 of the act limits the Governor's authority to reduce funds that the General Assembly has "appropriated or otherwise committed to local governments" by amending the Executive Budget Act to require that the Governor exhaust all other sources of revenue first, including any surplus in the treasury at the beginning of the fiscal period. This section takes a different approach than the sections dealing with the tax-sharing statutes. Under this section, the Governor is required when balancing the budget to prioritize the reduction of certain State expenditures by reducing the funds distributed to local governments only as a last resort. Under the previous sections, the General Assembly removed the local portion of

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[23] Cities and counties in which beer and wine may be sold receive a portion of the State excise tax levied on beer and wine. They receive a percentage of the net amount of excise taxes collected, and the percentage depends on the type of beverage sold: 23 ¾% for beer, 62% for unfortified wine, and 22% for fortified wine. The local governments that share in the proceeds do so on a per capita basis, with counties receiving credit for their nonmunicipal population only.

[24] The State levies a gross receipts tax on electric power companies at a rate of 3.22%. From these proceeds, each city or town is entitled to an amount equal to 3.09% of gross receipts arising from sales within that city or town. Most cities receive their share of franchise tax revenue under G.S. 105-116.1. However, there are approximately 51 cities that own their own electric generation and distribution systems. These cities pay tax and receive their distribution under a separate statute - G.S. 159B-27 - but at the same rate as other cities.

[25] The State levies an excise tax on piped natural gas, and the rate is based on the monthly volume of natural gas received by the final user. The rate decreases as the amount of therms of piped gas consumed in a month increases. Cities receive 50% of the proceeds of the tax attributable to that city.

[26] The State imposes a 6% sales tax on telecommunications. The cities receive 18.26% of the net proceeds of the taxes collected minus a "freeze deduction" amount totaling $2,620,948.

[27] North Carolina's state gasoline tax is 17 ½ cents per gallon, plus the greater of 7% of the average wholesale price or 3.5 cents per gallon. Of this, an amount equal to the proceeds of 1.75 cents per gallon plus an additional 6.5% of the net proceeds of the North Carolina Highway Trust Fund is distributed among North Carolina's cities and towns. The legislation that first established this distribution system is known as the *Powell Bill*, after its principal sponsor, and the monies distributed to the cities and towns are generally known as Powell Bill funds. The use of these funds by municipalities is restricted to maintaining, repairing, constructing, reconstructing or widening streets, sidewalks, bridges, curbs and gutters, bikeways, and other necessary appurtenances within the corporate limits of the municipality.

shared tax revenues from the scope of the Governor's budgetary authority by stating they are not "State expenditures," and thus not capable of being reduced by the Governor under any circumstances.

Section 7 of this act was primarily intended to restrict the Governor's ability to withhold reimbursement money. State reimbursements are amounts distributed to local units to compensate them for revenue lost as the result of the removal by the General Assembly of property from the local sales and use tax base, the property tax base, or the intangibles tax base. The reimbursement programs include reimbursements for the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the homestead exemption from property tax, and the repeal of local sales and use taxes on food purchased with food stamps. However, Section 30A.1 of The Current Operations, Capital Improvements, and Finance Act of 2002. (S.L. 2002-126) repeals all of the State reimbursement payments to local governments, effective July 1, 2002. Nevertheless, funds "appropriated or otherwise committed to local governments" would also include:

- Low wealth school money.
- Earmarking of corporate income tax money for Public School Building Capital Fund.
- Scrap tire disposal tax.
- White goods disposal tax proceeds.
- Aid to public libraries.
- Certain grant monies.

Clarify Taxation of Electric Power Companies

Section 8 of this act clarifies that an electric power company that has collected and remitted to the State the annual franchise gross receipts tax may not be subject to any additional franchise or privilege tax imposed upon it by any city or county.

This clarification was primarily the result of responses by some cities to the seizure by the Governor of funds that would have otherwise been distributed to the cities as shared tax revenues. In response to the seizure, some cities enacted ordinances imposing their own franchise or privilege tax on electric power companies to recapture their lost revenue. This provision is intended to prevent the electric power companies from being taxed by both the State and the municipalities.

Local Sales Tax Acceleration

Session Law	Bill #	Sponsor
S.L. 2002-123	SB 1292	Senator Kerr

AN ACT TO ACCELERATE THE ADDITIONAL ONE-HALF CENT LOCAL OPTION SALES AND USE TAX AND TO MAKE CONFORMING AND TECHNICAL CHANGES.

OVERVIEW: This act accelerates the effective date of the third half-cent local option sales tax from July 1, 2003, to December 1, 2002.

FISCAL IMPACT: There is no General Fund impact. The total estimated potential revenue available to local governments from this additional half-cent if all 100 counties were to enact the tax in December 2002 is approximately $188.1 million. After deductions for administration by the Department of Revenue, the amount is reduced to $187.8 million. However, since the act is permissive and counties can decide to enact the tax at any time, no exact fiscal estimate is possible.

EFFECTIVE DATE: The act became effective September 26, 2002, but local units cannot levy the sales tax itself until December 1, 2002.

ANALYSIS: In 2001, the General Assembly authorized counties to levy additional local sales taxes of ½%, effective July 1, 2003. Under this act, the tax may become effective as early as December 1, 2002. To accomplish the sales tax acceleration, the act provides for the following:

- It allows the counties to enact the tax for the first two months (December 2002 and January 2003) with a shortened notice to the Department of Revenue. Under general law, a county must give the Secretary of Revenue at least 90 days' advance notice of a new tax levy or tax rate change; and a new tax levy or a tax rate change may become effective only on January 1 or July 1. This act provides for an expedited levy. If the county enacts the tax to become effective on or before January 1, 2003, the county must give the Secretary only 30 days' advance notice of the tax levy. Thereafter, the current law requirements of 90 days' notice and a January 1 or July 1 effective date are reinstated.
- It authorizes the Department of Revenue to withhold up to $275,000 for 2002-2003 to cover its excess nonrecurring costs for implementing the new sales tax on short notice.
- It exempts the Department of Revenue from the public contract bidding requirements for the procurement of supplies, materials, equipment, and contractual services related to the provision of notice and the development of computer software necessitated by the expedited provisions of the act.
- It provides that a retailer is not liable for the additional ½% tax levied by counties effective December 1, 2002, that it fails to collect from purchasers due to an inadvertent error during the month of December 2002 if the retailer can demonstrate to the Secretary the reason for the inadvertent error.

The act does not make the following changes to the law:

- It does not accelerate the State ½% sales tax repeal that is effective July 1, 2003. Therefore, there may be a 7% sales and use tax rate in counties that impose the additional ½% sales tax rate from December 1, 2002, until July 1, 2003.
- It does not accelerate the local sales tax distributions from quarterly to monthly. Under current law, counties are authorized to levy up to 2% local sales and use taxes[28]. All counties levy the maximum rate. The State collects the tax and distributes it quarterly to the counties and municipalities. In 2001, the General Assembly provided that local sales taxes must be distributed monthly rather than quarterly, effective July 1, 2003.
- This act does not provide a local government hold-harmless provision. Section 30A.1 of The Current Operations, Capital Improvements, and Finance Act of 2002. (S.L. 2002-126) repealed all of the State's reimbursement payments to local governments, effective

[28] Mecklenburg County is authorized to levy up to 2 ½% local sales and use taxes.

beginning with the 2002-2003 fiscal year.[29] The 2001 legislation provided local governments "hold harmless" payments beginning in 2003-2004 if the amount they could potentially realize from the levy of the half-cent sales tax was less than the amount they would lose from the reimbursements. This act neither accelerates the hold harmless provision nor provides another.

Current Operations, Capital Improvements, and Finance Act of 2002

Session Law	Bill #	Sponsor
S.L. 2002-126	SB 1115	Senator Plyler

AN ACT TO MODIFY THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2001 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

OVERVIEW, DESCRIPTION, EFFECTIVE DATES, AND FISCAL IMPACT:

Section #	Description and Effective Dates	Fiscal Impact
30A.1	**Local Government Revenues** Accelerates the repeal of the tax reimbursements from July 1, 2003, to July 1, 2002. Also authorizes local governments to raise or lower property taxes between July 1 and the following January 1 to account for unanticipated revenue increases or decreases.	This will produce a General Fund revenue gain of $333.4 million per year beginning in FY 2002-03.
30B.1	**Delay 2001 Tax Break: Elimination of Marriage Penalty for Standard Deduction** Delays the enactment by one year of the tax break enacted in 2001 eliminating the marriage penalty in the standard deduction, originally effective beginning with the 2002 tax year. Now, the standard deduction for married filing jointly taxpayers will increase from $5,000 to $5,500 in tax year 2003, and then to $6,000 in tax year 2004.	The net gain to the General Fund as the result of delaying the first $500 increase is $31.9 million for FY 2002-03. For the $6,000 standard deduction delayed until 2004, the General Fund will gain $12.6 million that year.
30B.2	**Delay 2001 Tax Break: Increase of Tax Credit for Children**	The delay will eliminate the $19.8 million General Fund

[29] The Appropriations Act of 2001 (S.L. 2001-424, Section 34.15) provided that the reimbursements would be repealed effective for the 2003-04 fiscal year. The Current Operations, Capital Improvements, and Finance Act of 2002 (S.L. 2002-126, Section 30A.1) accelerated that repeal.

Section #	Description and Effective Dates	Fiscal Impact
	Delays the enactment by one year of the increased tax credit for children enacted in 2001. Beginning with tax year 2003, the tax credit for children is increased from $60 to $75 per child and then to $100 in tax year 2004.	loss originally projected for FY 2002-03 and result in a General Fund revenue gain of an equal amount. There will be a revenue gain of $34.9 million in FY 2003-04.
30C.1	**Update IRC Reference** Updates the Internal Revenue Code reference from January 1, 2001 to May 1, 2002, with exceptions for accelerated depreciation and the estate tax credit. This update conforms North Carolina law to federal law with regard to recent pension tax changes, education initiatives, the increased estate tax exemption limitations, and the extension of the carryback period for net operating losses for tax years ending 2001 and 2002.	The following General Fund revenue loss is expected[30]: FY2002-03 $16.9 million FY2003-04 $25.5 million FY2004-05 $49.7 million FY2005-06 $76.9 million FY2006-07 $77.3 million
30C.2	**Accelerated Depreciation Provisions** Decouples North Carolina law from federal law by requiring taxpayers to add back to federal taxable income a percentage of the additional 30% accelerated depreciation allowed under federal law, effective for taxable years beginning on or after January 1, 2002. Taxpayers will continue to be able to deduct the same amount of an asset's basis under both federal and State law, but the timing of the deduction will differ.	The impact of the changes is essentially revenue neutral over the long-term since the conformity deals with an acceleration of depreciation, not the total amount of the deduction over the life of an asset. Thus, there will be substantial revenue losses starting in FY 2006-07. The General Fund impact is estimated as follows: FY2002-03 $38.2 million FY2003-04 $8.6 million FY2004-05 -$60.8 million FY2005-06 - 0 - FY2006-07 - 0 -
30C.3	**Estate Death Tax Credit Provision** Decouples North Carolina law from the phase-out of the state death tax credit under federal law, effective for estates of decedents dying on or after January 1, 2002. This provision sunsets for decedents dying on or after January 1, 2004.	Although decoupling from the phase-out of the state death tax credit avoids the loss of revenue from full conformity to the federal phase-out of the credit for state death taxes, there is an overall net loss because the act conforms

[30] These estimates do not reflect conformity to the increased estate tax exemption limitations. See summary for Section 30C.3 of S.L. 2002-126 for fiscal impact of the estate tax law changes.

Section #	Description and Effective Dates	Fiscal Impact
		North Carolina estate tax law to the increased federal estate tax exemptions: FY2002-03 $5.5 million FY2003-04 $7.3 million FY2004-05 $3.8 million FY2005-06 $0
30C.5	**Federal Gift Tax Annual Exclusion** Conforms the North Carolina gift tax exclusion to the federal inflation-adjusted gift tax exclusion used by the federal government, effective January 1, 2002.	The General Fund revenue loss is estimated as follows: FY2002-03 $0.2 million FY2003-04 $0.2 million FY2004-05 $0.2 million FY2005-06 $0.4 million FY2006-07 $0.4 million
30D.	**Unauthorized Substance Tax Expenses** Provides that local governments will bear 70% of the State's expenses in collecting the unauthorized substance tax, effective June 30, 2002. The expenses are drawn from local sales tax distributions. This section does not, however, change the amounts that are distributed to local law enforcement agencies.	The General Fund will be reimbursed for 70% of the Unauthorized Substance Tax Division's operating expenses resulting in an annual gain of $900,000.
30E.	**Insurance Regulatory Charge** Sets the insurance regulatory charge, which is assessed on the premiums tax paid by insurers, at 6.5% for the 2002 calendar year. The revenue generated by this charge is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the industry.	The charge is expected to generate $25 million for FY 2002-03.
30F.	**Regulatory Fee for Utilities Commission** Sets the public utility regulatory fee at 0.1% for FY 2002-03. It also sets the electric membership corporation regulatory fee at $200,000 for FY2002-03. These are the same as the 2001 rates.	This fee, which funds the operations of the Utilities Commission and the Public Staff, is expected to produce $11,700,238 for FY 2002-03.
30G.1	**Close Corporate Tax Loophole: Broaden Definition of Business Income** Broadens the definition of "business income" to include all income that states can apportion for corporate income tax	The General Fund revenue gain is estimated as follows: FY2002-03 $70.0 million FY2003-04 $50.0 million FY2004-05 $53.7 million FY2005-06 $56.7 million

Section #	Description and Effective Date	Fiscal Impact
	purposes under the U.S. Constitution, effective with taxable years beginning on or after January 1, 2002.	FY2006-07 $59.5 million
30G.2	**Close Corporate Tax Loophole: Equalize Franchise Tax on Corporate-Affiliated LLCs** Tightens 2001 legislation intended to close a loophole that allows corporations to escape franchise tax by transferring assets to a controlled LLC, effective beginning with payments due in March 2003.	The General Fund revenue gain is estimated as follows: FY2002-03 $20.0 million FY2003-04 $21.2 million FY2004-05 $22.5 million FY2005-06 $23.8 million FY2006-07 $25.2 million
30H.	**Housing Tax Credit** Enlarges the class of taxpayers eligible for an enhanced credit for investing in low-income housing in a county that sustained severe or moderate damage from a hurricane in 1999 by backdating the effective date for eligibility from 2001 to 2000.	Assuming the project investors use 100% of the available tax credit, the annual General Fund loss is $2.15 million for Fiscal Years 2002-03 to 2006-07.
30I.	**No Estimated Income Tax Penalty for 2002 Tax Year** Provides that no estimated income tax penalty applies for the 2002 tax year to the extent the underpayment was created or increased by a provision of this act	

ANALYSIS:

LOCAL GOVERNMENT REVENUES

In 2001, the General Assembly repealed all of the State's reimbursement payments to local governments, effective beginning with the 2003-2004 fiscal year. Part 30A accelerates the repeal, effective July 1, 2002.

State reimbursements are amounts distributed to local units to compensate them for revenue lost as a result of the removal by the General Assembly of property from the local sales and use tax base, the local property tax base, or the intangibles tax base. State reimbursements consist of reimbursements for the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the "homestead exclusion" from property tax, and the repeal of local sales and use taxes on food purchased with food stamps. This act does not repeal or reduce the distribution of local government tax-sharing revenues: excise tax on beer and wine, franchise tax on electricity, gross receipts tax on piped natural gas, sales tax on telecommunications service, and the Powell bill revenues.

Part 30A also allows counties and cities to amend their budget ordinances between July 1st and the following January 1st to increase or reduce their property tax levy to account for unanticipated revenue increases or decreases.

DELAY 2001 TAX BREAKS

Last session, the General Assembly enacted two income tax breaks to become effective for the 2002 tax year[31]: elimination of the marriage tax penalty in the standard deduction[32] and an increased tax credit for children. Part 30B of this act delays the enactment of these tax benefits.

Delay Elimination of Marriage Tax Penalty for the Standard Deduction: Last session, the General Assembly reduced North Carolina income taxes on married couples that claim the standard deduction[33] by increasing the amount of the standard deduction for married filers so that it would be twice that of a single taxpayer. Since 1989, the basic standard deduction for a single person in North Carolina has been $3,000 while that for a married couple filing jointly has been $5,000. The increase in the deduction enacted in 2001 was to be phased in over the 2002 and 2003 tax years. The standard deduction for married persons filing separately is one-half that for a married couple filing jointly, so the 2001 act also phased it up from $2,500 to $3,000 over the 2002 and 2003 tax years. Part 30B of this act delays by one year the phase-in of the increased deduction, so that it will occur over the 2003 and 2004 tax years.

Delay Increase in Tax Credit for Children: In 2001, the General Assembly increased the $60 tax credit per child to $75 for the 2002 tax year and to $100 for the 2003 tax year. Part 30B of this act delays the phase-in of the credit increase until the 2003 and 2004 tax years. The 1995 General Assembly enacted the tax credit of $60 per child for taxpayers who have dependent children and have family adjusted gross income below $100,000 for a married couple and $80,000 for a head of household. Neither the 2001 act nor this act changes the income thresholds. The credit is in addition to the federal and state tax credits or exclusions for child care expenses. The credit is allowed for each dependent child for whom the eligible taxpayer could take a federal personal exemption under section 151(c)(1)(B) of the Internal Revenue Code. That Code section allows an exemption for each dependent child who either is less than 19 years old at the end of the taxable year or is a student and is less than 24 years old at the end of the taxable year. A child is a son, stepson, daughter, or stepdaughter. A dependent child is a child over half of whose support is provided by the taxpayer.

UPDATE IRC REFERENCE

North Carolina's tax law tracks many provisions of the federal Internal Revenue Code, by reference to the Code.[34] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[35] Updating the Internal Revenue Code reference

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[31] S.L. 2001-424, as amended by S.L. 2001-476, 2001-497, and 2001-489.

[32] The so-called married tax penalty is the result of a tax system that recognizes that a married couple's living expenses are less than the expenses of two single people living separately but more than the expenses of one single person. In addition, if one spouse is not employed full-time, a married couple's income would be less than that of two comparable single people who work full-time, but more than that of one single person. The tax law addresses these situations through the tax brackets, the personal exemptions, and the standard deduction. The result of these tax provisions is that a married couple with only one spouse working experiences a tax reduction when they marry, a married couple where one spouse earns substantially more than the other experiences no tax reduction or increase when they marry, and a married couple with both spouses earning roughly the same amount experience a tax increase when they marry.

[33] Roughly 70% of North Carolina taxpayers claim the standard deduction.

[34] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[35] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of

makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made.

Congress enacted two bills that have changed the Code significantly since January 1, 2001:

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), enacted on June 7, 2001, includes numerous changes to the taxation of pension benefits, accounts, distributions, and rollovers; of education initiatives; and of estates. All of the provisions of EGTRRA will expire on December 31, 2010, unless the provisions are renewed or modified by Congressional action.[36]

The federal Job Creation and Worker Assistance Act of 2002, enacted March 9, 2002, includes an accelerated 30% bonus depreciation allowance for certain assets placed in service after September 10, 2001, and before September 11, 2004, and an extension of the carryback period for net operating losses occurring in tax years ending in 2001 and 2002 from two years to five years.

Both of these acts will substantially affect a taxpayer's federal taxable income. Since North Carolina begins its corporate and individual income tax calculations with federal taxable income, these acts also have a substantial impact on North Carolina's tax revenues to the extent the State chooses to conform to those changes.

Part 30C of this act rewrites the definition of the Code to change the reference date from January 1, 2001, to May 1, 2002. It then provides that a taxpayer must add to federal taxable income the amount allowed as an accelerated depreciation deduction under section 168(k) or 1400L of the Code and that a taxpayer's estate tax liability is determined without regard to the phase-out of the state death tax credit. In effect, Part 30C would do the following:

- Conform to all of the pension tax changes in the Code.
- Conform to all of the education initiatives in the Code.
- Conform to the increased estate tax exemption limitations.
- Not conform to the phase-out of the state death tax credit.
- Conform to the extension of the carryback period for net operating losses occurring in tax years ending in 2001 and 2002.
- Delay the accelerated 30% bonus depreciation allowance.

Pension Tax Provisions: Part 30C conforms North Carolina's tax treatment of pension benefits and distributions to federal law. EGTRRA made the following notable changes to the pension laws:

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taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[36]The Congressional Budget Act of 1974 mandates this sunset provision.

- It allows taxpayers to contribute more to their tax-deferred retirement accounts. It gradually increases the amount that may be contributed to a 401(k), 403(b), and 457 accounts between 2002 and 2006. The contribution limit will increase to $15,000 in 2006. Starting in 2007, the limit will be indexed for inflation in $500 increments. It also allows persons who are 50 or older to make an additional catch-up contribution to their tax-deferred retirement accounts.
- It increases the amounts that may be contributed to both traditional IRAs and Roth IRAs from $2,000 in 2001 to $3,000 in 2002. This amount gradually increases to $5,000 for 2008. After 2008, this amount will be indexed annually for inflation. It also allows people over the age of 50 to make catch-up contributions to an IRA.
- It modifies the distribution rules for governmental 457 plan participants so that their deferred compensation funds will be taxed when they receive the distribution, not when it is made available to them.
- It repeals the coordination of deferrals between 457 and other elective deferral plans. Under former law, the maximum deferral amount for a 457 plan was reduced dollar for dollar by any contribution made to other types of retirement plans. The tax law change means that a person may defer the maximum annual contribution limit to a 457 plan as well as the maximum amount in a 401(k) or 403(b) plan.
- It expands the types of eligible tax-free rollover distributions to include distributions from qualified plans, 403(b) annuities, and 457 plans to other such plans and distributions from IRAs to qualified plans, 403(b) annuities, and 457 plans.
- It allows a surviving spouse to roll over distributions from a deceased spouse's plan to his or her own plan. Prior to this change, the tax-free rollover had to be made to an IRA.

Education Tax Provisions: Part 30C conforms North Carolina tax law on education incentives to the federal changes enacted last year. The more notable tax changes affecting education incentives include:

- It increases the annual maximum contribution limit to an Education IRA from $500 to $2,000 per beneficiary.
- It allows education IRA dollars to be used to cover expenses of students in grade, middle, and high schools.
- It eases the restrictions and limitations when using an Education IRA with other education initiatives, such as the Hope or Lifetime Learning tax credit.
- It moves the annual contribution deadline for Education IRAs from December 31 to April 15 of the following year.
- It provides that distributions from Section 529 Plans will be income-tax free up to the amount that is used to pay qualified higher education expenses.[37] Under former law, participants enjoyed only the benefit of tax-deferred contributions and investment growth.
- It allows a person to transfer 529 plan credits from one program to another for the benefit of the same beneficiary without incurring a taxable event.
- It extends the deduction for employer-paid college expenses to include graduate courses.

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[37] North Carolina currently allows tax-free distributions for North Carolina plans. Section 30C.4 of this act repeals the State deduction.

Estate Tax Provisions: North Carolina repealed its inheritance tax in 1998, effective for deaths occurring on or after January 1, 1999. It replaced its inheritance tax with an estate tax that is equivalent to the federal state death tax credit allowed on a federal estate tax return. This type of state estate tax is known as a "pick-up" tax because it picks up for the state the amount of federal estate tax that would otherwise be paid to the federal government.[38] EGTRRA made two changes that affect the estate tax:

- It phases out the estate tax over the next eight years by increasing the exclusion amount from $675,000 in 2001 to $1 million in 2002-03, $1.5 million in 2004-05, $2 million in 2006-08, and $3.5 million in 2009. There is no need for an exemption amount after 2009 since the tax is repealed in 2010. However, the tax is scheduled to reapply in 2011 unless a future Congress makes the repeal permanent. If the tax were reinstated in 2011, the exclusion amount would be $1 million. This act conforms North Carolina's exemption limits to the federal exemption limits to ensure that estates in North Carolina do not have to pay State tax if there is no federal tax due.
- It phases out the state death tax credit over the next four years by reducing it 25% in 2002, 50% in 2003, and 75% in 2004, and by repealing it entirely in 2005. This act does NOT conform to the phase out of the state death tax credit for two years.[39] Therefore, under this act an estate of a decedent dying on or after January 1, 2002, and before January 1, 2004, would owe North Carolina estate tax to the same extent that it would be owed without regard to the phase-out of the credit. The January 1, 2004, sunset ensures that the State will have to revisit this issue next year.

Because North Carolina's estate tax is based upon the federal credit for state death taxes, the repeal of the state death tax credit in 2005 and the ultimate repeal of the federal estate tax in 2010 will mean that the State must decide whether to replace or repeal its estate tax in the future.

Accelerated Depreciation Provisions: Under the Job Creation and Worker Assistance Act of 2002, a taxpayer is allowed an accelerated 30% bonus depreciation allowance for certain assets placed in service after September 11, 2001, and before September 11, 2004. The taxpayer is still entitled to the normal first-year depreciation on the remaining basis of the asset after reducing the basis by the bonus depreciation. This provision affects both corporate and individual income taxpayers.

The change in federal law results in a taxpayer recovering the basis in the asset sooner than under former law; however, over the life of the asset the taxpayer still receives the same benefit. This act does not conform State law to the accelerated depreciation schedule allowed under federal law.[40] However, under this act a taxpayer will continue to be able to

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[38] As of July 1, 2002, 37 other states, plus the District of Columbia, impose only the "pick-up tax".

[39] As of October 2, 2002 the following 10 states, in addition to North Carolina, have acted to decouple from the phase-out of the state death tax credit: Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, Pennsylvania, Rhode Island, Vermont, and Wisconsin. The following 5 states, plus the District of Columbia, will remain decoupled automatically under their current law unless they take legislative action: Kansas, New York, Oregon, Virginia, and Washington.

[40] As of September 26, 2002, the following 23 states, plus the District of Columbia, which previously followed federal depreciation rules, are now decoupled as the result of explicit legislative action: Arizona, Connecticut, Georgia, Hawaii, Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, Mississippi (per ruling of state tax commissioner), Missouri (for one year), Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont (for corporate income tax filers only), Virginia, and Wisconsin. In

deduct the same amount of an asset's basis under both federal and State law; it is just that the timing of the deduction will differ. To accomplish this decoupling from the federal accelerated bonus depreciation, the act does two things:

- For the first three years of the federal accelerated depreciation, it provides that a taxpayer must add back to federal taxable income a percentage of the additional 30% accelerated depreciation in the year the accelerated depreciation is claimed for federal purposes.[41] The percentage is 100% for the 2001 and 2002 taxable years and 80% for the 2003 taxable year. There is no add-back for the 2004 taxable year. The add-back for the first three years of the accelerated depreciation means that for State tax purposes, a taxpayer would deduct less in tax years 2001-2003 than the taxpayer would have deducted if the State conformed to the accelerated depreciation law. The amount of the deduction will be the normal first year depreciation on the remaining basis of the asset after reducing the basis by the bonus depreciation amount allowed under federal law plus 30% of the bonus depreciation in 2003. In 2004, the State will have in effect conformed to the federal law and the entire bonus depreciation may be deducted.

- In tax years beginning on or after January 1, 2005, it provides that the taxpayer may deduct from federal taxable income the total amount of the add-backs required in earlier years, divided into five equal installments. This means that for State tax purposes, a taxpayer would be allowed to deduct a greater depreciation amount in the outlying tax years – the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back. The purpose of this recovery provision is to enable the taxpayer to have the same basis in assets for federal and State purposes. Without this deduction provision, a taxpayer would have a different basis in the depreciable asset for State and federal purposes and would have to keep separate books and records for State and federal purposes until the disposal of the asset. In effect, the add-back and subsequent deduction will affect the timing of the impact of bonus depreciation on the State but it will not increase or decrease the total amount of revenue the State receives over the affected years.

Gift Tax Change: North Carolina imposes a gift tax on property transferred during the life of a donor. Gifts to a spouse are exempt from tax. The gift tax law allows an annual exclusion of $10,000.

The federal gift tax annual exclusion is more complex. Since 1998, the $10,000 federal gift tax annual exclusion has been subject to an inflation adjustment. The adjustment happens only in increments of $1,000 however. From 1998 until 2001, inflation had not grown enough to reach the first $1,000 increment. In 2002, that threshold was reached and the federal annual exclusion increased to $11,000. This amount won't increase to $12,000 until the cumulative inflation adjustment is at least 20%.

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addition, New York City has decoupled from the bonus depreciation allowance. Six other states are decoupled automatically under pre-existing tax law: Arkansas, Idaho, Kentucky, New Hampshire, South Dakota, and Texas.

[41] For tax years beginning before January 1, 2002, the add-back must be taken in the first taxable year beginning on or after January 1, 2002, so that the taxpayer will not recognize any retroactive tax increase.

Part 30C amends North Carolina's gift tax annual exclusion to piggyback the federal amount, effective January 1, 2002.

UNAUTHORIZED SUBSTANCE TAX EXPENSES

Part 30D of this act allocates to local governments 70% of the State's expenses in collecting the unauthorized substance tax. The expenses would be drawn from local sales tax revenues. Under existing law, the following expenses are deducted from local sales tax distributions: costs of the Property Tax Division within the Department of Revenue, costs of the Property Tax Commission, the costs of the Institute of Government in operating a training program in property tax appraisal and assessment, and the costs of the Local Government Commission.

The General Assembly first imposed the unauthorized substances tax in 1989 to generate revenue for State and local law enforcement agencies and for the General Fund. Seventy-five percent of the tax collected is distributed to the State or local law enforcement agency that conducted the investigation that led to the tax assessment. The remaining 25% is credited to the General Fund. This act does not change this revenue allocation.

INSURANCE REGULATORY CHARGE[42]

Part 30E of this act sets the insurance regulatory charge at the same rate as last year's rate: 6.5% for the 2002 calendar year. The insurance regulatory charge is a fee that was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's premiums tax liability. The insurance regulatory charge is imposed on insurance companies, health maintenance organizations, and medical service corporations. For health maintenance organizations and medical service corporations, the fee is levied on each company's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The hypothetical calculation is necessary because medical service corporations and health maintenance organizations pay premiums tax at a lower rate.

REGULATORY FEE FOR UTILITIES COMMISSION

Part 30F of this act sets the tax rate for the public utility regulatory fee for the 2002-2003 tax year at the same rate as last year's rate: 0.1%. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is revenue derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair, and equitable

[42] See the summary for S.L. 2002-144 for additional changes made to the insurance regulatory charge.

rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 30F also sets at $200,000 for the 2002-2003 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale. This is the same rate that was in effect for the 2001-2002 fiscal year. The North Carolina Electric Membership Corporation is the only electric membership corporation that fits this description. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, the 1999 legislation levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale, as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Corporation will be passed on to its member electric membership corporations.

CLOSE CORPORATE TAX LOOPHOLES

This Part closes two corporate tax loopholes that allow some corporate profits to escape taxation and give corporate tax planners an opportunity to avoid existing taxes on corporate income and assets. The first loophole is caused by the definition of business income used in the corporate income tax law; the second loophole is caused by the different franchise tax treatment of corporations and limited liability companies.

Definition of Business Income: The first section of this Part amends the definition of "business income" to include all income that is apportionable under the U.S. Constitution, effective for taxable years beginning on or after January 1, 2002.

Corporations that do business in more than one state divide up their income among those states for income-tax purposes. Business income is apportioned based on a formula that takes into account how much sales, property, and payroll the corporation has in each state. Nonbusiness income is allocated to a state based on its connection with that state. In the most basic terms, nonbusiness income could be described as income that is earned in an unrelated sideline activity of the corporation.

As an analogy, each interstate corporation's income is in two "pies" – a business income pie that is divided up among the states in which it does business, and a nonbusiness income pie that is given entirely to the state it is connected to.

In an ideal system, all states would follow the same rules for dividing up interstate corporations' income for tax purposes, so that no more and no less than 100% of every corporation's net income would be subjected to state income tax. However, different states have different laws and even when the laws are the same, they may be interpreted differently. In theory, this can result in the taxation of more than 100%, as well as less than 100%, of a corporation's net income. In practice, corporate tax planners take the opportunity to create "nowhere" income – income that no state can tax. Instead of each state receiving its piece of the business income pie, some pieces are thrown away. Thus, although a corporation may do substantial business in North Carolina, much of its otherwise taxable business income may be characterized as nonbusiness, so that North Carolina gets no piece of it.

These tax avoidance schemes are possible not only because different states have different laws, but also because states have laws that are vague or too narrow. In North Carolina, before this act, income was defined as business income if it related to the regular trade or business of the taxpayer. This definition is vague and narrower than what is allowed under the United States Constitution. If North Carolina was entitled to tax a significant percentage of a corporation's business income, the corporation could try to shift much of its income into the nonbusiness pie, which North Carolina does not share in. This could be true even though the corporation had deducted as a business expense the same items that it later claimed were not business items when the time came to pay tax on profits. Court decisions in North Carolina upheld this tax avoidance technique under the law prior to this act. Examples of the types of business income that corporations most often recharacterize are rents, royalties, gain or loss from the sale of property, interest, and dividends.

This Part changes the definition of business income to include any income that the United States Constitution allows a state to treat as business income. This change eliminates the prior statute's vagueness and narrowness, which allowed it to be used by corporations to create "nowhere" income that should otherwise be taxable in North Carolina. One effect of this change is to include income from extraordinary events, such as a liquidation of a division, in apportionable income. This effect is consistent with the Department of Revenue's historical position, as illustrated by its administrative rules, before the North Carolina Supreme Court's decision in *Lenox v Tolson*.[43] A corporation's income earned out of state from unrelated business activity that makes up a discrete business enterprise will continue to be nonbusiness income that cannot be apportioned – it would continue to be allocated to the state to which it is connected.

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[43] 353 N.C. 659, 548 S.E.2d 513 (S.Ct. 2001). In this case, Lenox, a New Jersey-based corporation, disposed of a subsidiary, ArtCarved, by selling all of its assets. Lenox did not retain any of the liquidation proceeds for use in its ongoing operations but distributed all of those proceeds to its sole shareholder. Lenox classified the gain from the sale as "nonbusiness income" on its North Carolina tax return and therefore did not pay taxes on the gain. The NC Department of Revenue reclassified the gain as business income and assessed corporate income tax. Lenox paid the tax under protest and sought a refund. Of the two tests used to determine business income, only the "functional test" applied to this transaction. The functional test focuses on income from property if the acquisition, management, and/or disposition of the property was an integral part of the corporation's regular business operations. The Court concluded that, under this test, a liquidation was an extraordinary event and not a recurring transaction made in the regular course of business. The Court further held that when a transaction involves a complete or partial liquidation and cessation of a company's particular line of business, and the proceeds are distributed to shareholders rather than reinvested in the company, any gain or loss generated from that transaction is nonbusiness income. In so holding, the Court expressly disavowed statements by the Court three years earlier in *Polaroid v Offerman* with regard to its interpretation of the functional test.

Before this act, North Carolina was one of 26 states that used the vague, unnecessarily narrow definition of business income. Eighteen states have a broader definition of business income. Five other states have the same law as enacted by this Part (define business income as all that the U.S. Constitution allows state to apportion). Thirteen states apportion all corporate income. A state using this approach receives less revenue than if it used the approach taken by this Part, because it relinquishes the right to tax true nonbusiness income of businesses headquartered in the state. The 13 states include Georgia, South Carolina, and Virginia.

LLC Franchise Tax: In 2001, the General Assembly enacted S.L. 2001-327 to close a loophole that allowed corporations to avoid franchise tax on their assets by transferring their assets to a controlled limited liability company (LLC). Corporations pay franchise tax on their assets but LLCs do not pay franchise tax on their assets. Tax planners helped many corporations avoid most of the franchise tax they would otherwise owe by setting up an LLC for the purpose of holding the assets on behalf of the corporation. Although the corporation's business continued in the same way, the corporation eliminated most of its franchise tax through this paper transaction.

The 2001 legislation tried to address this problem by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned[44] at least 70% of the LLC's assets. Unfortunately, tax planners found that the tax could still be avoided by using an additional paper transaction. If the corporation interposed a partnership between itself and the LLC holding its assets, then technically the 2001 legislation would not apply and the assets would continue to escape franchise tax.

The second section of this Part broadens the approach of the 2001 legislation to include "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. This section is effective beginning with payments due in March 2003. "Related members" is a defined term and includes shareholders, partnerships, etc.

If a corporation and its related members together indirectly own at least 70% of an LLC's assets, this Part provides that each corporation pays franchise tax on its relative share of the LLC's assets. The relative share is calculated after excluding those related members who are not corporations. Thus, the entire assets are subject to franchise tax, with the tax burden shared proportionally by the corporations that are involved in the ownership scheme.

Here is an example:

A parent corporation, its subsidiary, and a major shareholder of the parent form a partnership to own an LLC that will own assets on behalf of the parent and subsidiary. The LLC's documents provide that upon dissolution its assets are distributed as follows:

Parent Corporation:	20%
Subsidiary Corporation:	45%
Shareholder:	35%

Under prior law, the assets would remain free of franchise tax. Under the changes in this Part, the parent corporation will pay franchise tax on 31% of the assets and the subsidiary

[44] Indirect ownership of an LLC's assets is determined based on who is entitled to receive those assets upon dissolution of the LLC.

corporation will pay franchise tax on 69% of the assets. Those are their relative shares of the total once you exclude the non-corporate owner.

The approach taken by this Part is much broader than the 2001 legislation and is intended to anticipate the creative paper relationships tax planners may devise to try and avoid the franchise tax. The breadth of the provision is such that it could apply to a "legitimate" situation, such as an individual who is the sole shareholder of a corporation and who later forms an LLC with an associate. Under this Part, the corporation would pay tax on the LLC's assets. Unfortunately, there does not appear to be a way to distinguish this type of situation from one in which the corporation is manipulating relationships to avoid its franchise tax. With different tax treatment of similar entities, tax planners can try to manipulate relationships to fall into the untaxed category. Because corporations and LLCs are similar, there may not be a strong policy reason to treat them differently for franchise tax purposes.

HOUSING TAX CREDIT EFFECTIVE DATE CHANGE[45]

Part 30H of this act enlarges the class of taxpayers eligible for an enhanced credit for investing in low-income housing in a county that sustained severe or moderate damage from a hurricane in 1999. In 1999, the General Assembly enacted a new tax credit for rehabilitating or constructing low-income housing. The credit is equal to a percentage of the amount of the taxpayer's federal credit for low-income housing with respect to eligible North Carolina low-income housing. The credit is 75% for buildings located in tier one or two counties and 25% for buildings located in other tiers. In 2000, the General Assembly enacted legislation providing that the 75% credit is also allowed for buildings located in one of 26 counties that sustained severe or moderate damage from a hurricane in 1999. This increase in the amount of the credit was made effective for buildings that are allocated a federal credit on or after January 1, 2001. The federal tax credits are allocated in December of each year. Thus, those taxpayers who made investments in hurricane counties and were allocated federal credits in December 2000 are not eligible for the enhanced State credit. This act backdates the effective date for eligibility for the enhanced State credit from 2001 to 2000, thereby including those who were allocated federal credits for investments in hurricane counties during 2000.

Subsidiary Dividend Changes

Session Law	Bill #	Sponsor(s)
S.L. 2002-136	HB 1670	Representative Luebke

AN ACT TO CLARIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS AND TO PROVIDE LIMITS ON THE POTENTIAL TAX LIABILITY.

OVERVIEW: This act provides certainty and clarity to the expense attribution law as it applies to deductible dividends and provides limits on the potential tax liability.

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[45] See the summary for S.L. 2002-87 for a more complete explanation of the substantive changes made to the housing tax credit.

FISCAL IMPACT: The act assures the State of the revenues relied upon in its budget availability estimates for 2001 and 2002. Under the act, the State may expect to receive approximately $57 million a year for 2001, 2002, and 2003 from the taxation of subsidiary dividends. Of this amount, the State expects to receive approximately $80 million in availability for the 2002-03 budget.

EFFECTIVE DATE: The act becomes effective for taxable years beginning on or after January 1, 2001.

BACKGROUND: The 2001 General Assembly enacted legislation conforming State law to the federal rules for the deduction of dividends received. This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction. Eliminating the adjustments also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income. As a result, expenses related to deductible dividends must be netted from those dividends.[46] The law did not provide guidelines for calculating the amount of expenses that are related to deductible dividends.

Without knowing exactly how to determine the amount of related expenses, taxpayers were faced with uncertainty and potentially greater liability than they had anticipated when the legislation was debated. The new law was expected to have an especially significant impact on bank holding companies and electric power holding companies, because federal law requires them to have multiple subsidiaries.

ANALYSIS: The act provides clarity to the expense attribution law as it applies to deductible dividends and provides limits on the additional tax liability. These limits were calculated so that the act should yield revenue at least equal to what had been included in budget availability estimates based on the 2001 law.[47] The act states the intent of the General Assembly that it will be effective during 2001 and 2002 but will be studied and may be revised effective beginning with the 2003 tax year. However, the act does not sunset.

In summary, the act limits tax liability as follows:

- There are caps on the amount of related expenses that must be netted from deductible dividends as follows:
    - Most companies: 15% of dividends
    - Bank holding companies: 20% of dividends
    - Electric power holding companies: 15% of total interest expenses

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[46] North Carolina has an exception to its general law where federal and State laws differ regarding the taxability of an income item. Prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with deductible dividends earned from subsidiaries. The 2001 tax law change effectively eliminated the deduction of expenses associated with subsidiary dividends.

[47] After many discussions with the Department of Revenue and the interested parties about the impact of the expense attribution rules, it became clear that the 2001 estimate of $32.8 million understated the impact of the indirect change in the expense attribution rules. The reason for the under-estimate is that the Department of Revenue's analysis of the 2001 legislation, which used confidential tax returns for the 1994 tax year and an update of the 1994 data, did not include financial institutions. The budget enacted by the 2002 General Assembly included $50 million in additional budget availability from a re-estimate of the 2001 legislation.

- The additional tax that a bank holding company and its related companies must pay as a result of the expense netting is subject to a maximum of $11 million per corporate family.
- Bank holding company corporate families also receive a credit beginning in 2003. For bank corporate families that reach the $11 million maximum, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.
- Electric power holding companies receive a credit equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If the electric power company makes this election, then the credit is spread out over four tax years, beginning in 2003.

SECTION-BY-SECTION ANALYSIS:

Section 1:	For federal tax purposes, dividends are deductible with no adjustment for related expenses. For State tax purposes, no deduction is allowed for expenses related to nontaxable income. Therefore, for State tax purposes, an adjustment must be made to federal taxable income to add-back any related expenses that were included in the federal deduction. This section provides that not all of the expenses must be added back by establishing a different adjustment for expenses related to dividends received that are not taxed.
Section 2:	This section establishes the adjustment for expenses related to dividends received that are not taxed, by providing a cap on the amount of tax payable: 15% of nontax dividends for most companies; 20% of nontax dividends for bank holding companies; and 15% of total expenses for electric power holding companies. The act also provides a credit for bank holding companies and electric power companies. Any unused portion of the credit may be carried forward to succeeding taxable years.
Section 3:	A conforming change to ensure that related expenses are deducted only once when calculating a corporation's net economic loss.
Section 4:	A conforming change that provides the same tax treatment for foreign source dividends as domestic source dividends.
Section 5:	States the intent of the General Assembly to address the issues raised by this act during the 2003 Regular Session. The Revenue Laws Study Committee is to study the treatment of expenses related to dividends received and other income not taxed, and the taxation of affiliated corporations, of holding companies, and of financial institutions under current law. The Committee must report its recommendations to the 2003 General Assembly.
Section 6:	Provides that a taxpayer will not be subject to additional tax or to penalties for underpayment of a tax to the extent the underpayment was created or increased by Section 3 of S.L. 2001-327 if the taxpayer pays all

	tax due that was created or increased by Section 3 of S.L. 2001-327 within 15 days after the date this act became law, October 3, 2002.

Insurance Regulatory Fund Changes

Session Law	Bill #	Sponsor
S.L. 2002-144	HB 1105	Representative Hurley

AN ACT TO FUND THE OPERATIONS OF THE DEPARTMENT OF INSURANCE FOR THE FISCAL YEAR 2002-2003 THROUGH THE INSURANCE REGULATORY FUND BY EXPANDING THE PURPOSES FOR WHICH THE FUND MAY BE USED AND BY CREDITING VARIOUS FEES COLLECTED BY THE DEPARTMENT AND OTHER AGENCIES UNDER THE DEPARTMENT INTO THE FUND FOR FISCAL YEAR 2002-2003, AND TO RESTORE THE 2002-2003 BUDGET REDUCTIONS SUSTAINED BY THE DEPARTMENT OF INSURANCE.

OVERVIEW: This act makes two changes relating to the Department of Insurance:

- It restores the $1.8 million budget cut the Department sustained for the 2002-2003 fiscal year in the Current Operations, Capital Improvements, and Finance Act of 2002. The increased appropriation from the General Fund will be reimbursed from the Insurance Regulatory Fund, which has a sufficient surplus.
- It provides that for the 2002-2003 fiscal year, certain fees collected by the Department of Insurance will no longer be retained as part of the Department's budget but will be credited to the Insurance Regulatory Fund and used to reimburse the General Fund for the Department of Insurance's expenses. The act was intended to appropriate to the Department for 2002-2003 the amount by which the fee changes reduce its budget, $3.2 million, but the appropriation was omitted by oversight. The Department is expected to receive these funds, however, through authorization from the legislative leadership.

FISCAL IMPACT: See Overview.

EFFECTIVE DATE: The act is effective for the 2002-2003 fiscal year only.

ANALYSIS: The two changes made by this act are not related, although both affect the Department of Insurance. Sections 9 and 10 of the act restore the $1.8 million budget cut the Department sustained for the 2002-2003 fiscal year in the Current Operations, Capital Improvements, and Finance Act of 2002. This restoration does not affect the General Fund. Although the Department of Insurance's budget is appropriated from the General Fund, the Insurance Regulatory Fund reimburses the General Fund for the appropriation. The additional $1.8 million is available as a surplus in the Insurance Regulatory Fund to

reimburse the General Fund for the additional appropriation. Thus, neither the cut nor its restoration affected the General Fund.

The Department of Insurance regulates the insurance industry and other industries. Insurance companies pay an annual insurance regulatory charge that is measured as a percentage of each company's gross premiums tax. The proceeds of the charge are credited to the Insurance Regulatory Fund. Other industries regulated by the Department of Insurance also pay fees that are credited to the Insurance Regulatory Fund. The Fund is used to pay for the part of the Department's budget that goes to regulating the insurance industry and other industries. The funds are not paid to the Department of Insurance directly from the Insurance Regulatory Fund. Instead, the Department's budget is appropriated from the General Fund, and the Insurance Regulatory Fund reimburses the General Fund for the Department's costs of regulating the industries whose fees are credited to the Insurance Regulatory Fund.

In addition to regulating industries, the Department of Insurance has other functions relating to various State boards and commissions: the North Carolina Manufactured Housing Board, the State Fire and Rescue Commission, the Building Code Council, the North Carolina Code Officials Qualification Board, the Public Officers and Employees Liability Insurance commission, the North Carolina Home Inspector Licensure Board and the Volunteer Safety Workers Compensation Board. The Department's budget for these activities is supported by fees. The fees are collected and retained by the Department and used to cover these costs – there is no General Fund appropriation for these costs.

Sections 1 through 8 of this act change the way this part of the Department's budget is handled for the 2002-2003 fiscal year. Instead of retaining the fees, the Department of Insurance will deposit the fees in the Insurance Regulatory Fund. This eliminates the fee proceeds that would have been available to the Department to support these activities. The act was intended to appropriate additional funds from the General Fund to the Department of Insurance to support these activities. The additional appropriation would have been reimbursed to the General Fund from the Insurance Regulatory Fund, so there would have been no net fiscal impact, just an accounting change. Due to an oversight, the act failed to appropriate the additional funds to the Department of Insurance. The Department is expected to receive these funds, however, through authorization from the legislative leadership.

The act amends the Insurance Regulatory Fund statute to expand the purposes for which the Fund can be used for the 2002-2003 fiscal year, to cover not just regulating the insurance industry and other industries, but also carrying out other functions relating to boards and commissions. The insurance regulatory charge and the other fees paid into the Fund are not segregated from one another. Thus, a fee paid by one industry may end up being used for a function of the Department that relates to another industry. This pooling of the fees calls into question whether they can continue to be characterized legally as fees.

The issue of whether the insurance regulatory charge is a fee or a tax was raised in a recent case, *State Farm Mut. Auto. Ins. Co. v. Long*, 129 N.C.App. 164, 497 S.E.2d 451 (1998), aff'd 350 N.C. 84, 511 S.E.2d 303 (1999). In this case, the court evaluated the insurance regulatory charge under a three-part test used to distinguish a tax from a fee: (1) is it imposed by a

legislative body or an administrative body; (2) is it imposed on a broad class or a narrow class of citizens; and (3) is it used for general public purposes, or used for the regulation or benefit of the parties upon whom the assessment is imposed. The court found that under the first two factors, the insurance regulatory charge could be either a fee or a tax. It held that the third factor was dispositive: the charge was a fee because it was credited to a segregated account and used only to regulate the insurance industry. Because this act broadens the purposes for which the charge may be used to include activities of the Department of Insurance that are not related to regulating the insurance industry, if the issue is raised in subsequent litigation, a court may find that the act changed the nature of the charge from a fee to a tax.

If the charge were ruled to be a tax rather than a fee, it would reduce the amount of revenue North Carolina receives as a result of the retaliatory premiums tax. The retaliatory premiums tax is imposed on foreign insurance companies doing business in North Carolina and is equal to the amount by which the NC premiums tax imposed on the company is less than the amount of premiums tax the company's home state would impose on an equivalent NC company doing business there. Because the insurance regulatory charge is considered a fee and not a tax, it is not added to the amount of NC tax used to calculate the retaliatory tax due. The lower the NC tax, the more retaliatory tax due.

Interstate Air Couriers - Bill Lee

Session Law	Bill #	Sponsor
S.L. 2002-146	HB 1665	Representative Gray

AN ACT TO AMEND TAX LAWS RELATED TO INTERSTATE AIR COURIERS AND TO AMEND THE WAGE STANDARD UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT TO ACCOUNT FOR THE VALUE OF HEALTH INSURANCE TO PART-TIME JOBS.

OVERVIEW: This act rewrites the wage standard under the William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) to allow part-time jobs for which the taxpayer provides health insurance to be counted as having wages at least equal to the standard multiplied by the applicable average weekly wage for the county in which the jobs will be located. The act also makes the following changes to the Bill Lee Act as it applies to air courier hubs:

- Rewrites the definition of interstate air courier hub to conform to industry practice.
- Extends the Bill Lee Act sunset of January 1, 2006, to January 1, 2010, for an interstate air courier that enters into a major real estate lease on or before January 1, 2006, with an airport authority.
- Allows an interstate air courier that has, or is constructing, a hub in North Carolina to qualify for enhanced incentives if the courier makes an investment of $150 million or more within a seven-year period.

- Extends the sunset on the Piedmont Triad Airport Authority's exemption from the bidding laws from January 1, 2008, to January 1, 2010.

FISCAL IMPACT: The initial estimates of the impact of the Fed Ex incentives in 1998 have not changed with the delay in the project. The 1998 estimates indicated that the lower sales tax rate on handling and storage equipment would amount to $.4 million for the first two years that the project is getting started and $.1 million per year thereafter. The impact of the sales tax exemption for lubricants and repair parts comes into play after the facility is up and running. The estimate for this incentive is $.2 million a year. The uncertainty surrounding the timing of the project means that it is impossible to predict which year the impacts begin. Under current scheduling, the first year of the handling and storage equipment incentive could be 2005-06. The costs of the sales tax incentives will not occur until at least 2005-06.

In addition, the extension of the Bill Lee Act's sunset from 2006 to 2010 for interstate air couriers will allow Fed Ex and other eligible taxpayers to take tax credits under the Act during the 2006-09 period. Data from the State's 1998 offer of financial benefits to Fed Ex indicated that Bill Lee Act credits of $2 million would be taken over a four-year period.

EFFECTIVE DATE: The air courier hub definition rewrite became effective October 1, 2002, and applies to sales made on or after that date. The bidding law exemption effective date change became effective when the act became law, October 7, 2002. The remaining provisions in the act are effective for tax years beginning on or after January 1, 2002.

BACKGROUND: The Bill Lee Act was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. Counties are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth of the county. For many of the credits, the lower the tier of a county, the more favorable the incentive. The Act requires the Department of Commerce and the Department of Revenue to report periodically on the credits allowed by the Act.

Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the Bill Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. In 1997, the General Assembly amended the Bill Lee Act to make interstate air couriers[48] an eligible business under the Act. In 1999, the General Assembly extended the 2002 sunset to 2006.

To be eligible for the credits under the Bill Lee Act, jobs must meet the applicable wage standard. There is no wage standard for jobs located in tiers one and two.[49] The wage

[48] An air courier is an air carrier that delivers individually addressed letters, parcels, and packages. Examples of air couriers include UPS and Federal Express.

[49] S.L. 2002-172 eliminated the wage standard in tiers one and two.

standard for tiers three through five is 110% of the applicable average weekly wage for the county. For the credit for worker training or the credit for creating new jobs, the average wage of the jobs for which a credit is claimed and the average wage of all jobs at the location are required to meet the applicable wage standard. For the credit for investing in machinery and equipment, the credit for research and development, and the credit for investing in central office and aircraft facility property, the average wage of all jobs at the location with respect to which a credit is claimed are required to meet the applicable wage standard.

In 1998, the General Assembly provided sales tax and property tax reductions for interstate air couriers in order to encourage the development of air courier hubs in North Carolina. Effective January 1, 2001, sales to an interstate air courier of equipment for handling and storing materials at its hub became subject to a reduced sales tax of 1%, capped at $80 per item. In addition, interstate air couriers enjoy a sales tax exemption for purchases of aircraft lubricants, aircraft repair parts, and aircraft accessories for use at the air courier's hub in this State. Effective beginning with the 2001 property tax year, there is a property tax exemption for aircraft owned by an air courier and apportioned for property tax purposes to the courier's hub in this State.

ANALYSIS: Section 1 of this act amends the definition of "hub" for interstate air couriers and recodifies the definition of "interstate air couriers" for sales tax purposes. The amendment to the definition of "hub" was needed because the prior definition did not accurately describe hubs. The prior definition stated, in part, that a hub is the airport in the State where the air courier has allocated at least 60% of its aircraft value apportioned to this State. Aircraft value is apportioned based on revenues generated and on the amount of time the aircraft is on the ground. In the case of air couriers, revenue is generated at the customer site, not at the hub. Additionally, aircraft spend very little time on the ground at the hub. For these two reasons, the definition of an air courier hub formerly in the statutes did not fit the factual situation. This act defines a hub as the primary airport in the State for sorting and distributing packages from which the air courier has, or expects to have, at least 150 departures a month. This definition is similar to the definition of "hub" under South Carolina law, but is a more stringent test as South Carolina requires only 25 departures a month.

The definition of "interstate air courier" is not substantively amended. Currently, for sales tax purposes, the definition of interstate air courier refers to the definition used in the Bill Lee Act. In this act, the definition of "interstate air courier" for sales tax purposes is made a stand-alone definition. There is no substantive change to the definition.

Section 2 of this act extends the sunset date on the Bill Lee Act until January 1, 2010, for certain interstate air couriers and Sections 4 through 7 of the act increase various time frames in the act from two years to seven years. The interstate air courier industry, and the construction of a hub in particular, face many regulatory, administrative, and legal hurdles not generally faced by other industries. Due to these extra burdens, time frames in this industry are generally longer than in other industries. There is generally a longer period between the time that a project is announced and a location is selected and the time the facility is placed in service. Due to these longer time frames, it was argued that an extension of the sunset and extensions of various time frames are needed to accommodate these projects.

Section 3 of this act amends the wage standards under the Bill Lee Act for all taxpayers. Currently, in order to be eligible for any of the credits under the Bill Lee Act, the average wage of all jobs at the location must meet or exceed the wage standard for the county in which the jobs are located.[50] Included in this calculation are part-time jobs, converted to a full-time equivalency. Some interested parties argued that because part-time jobs are not eligible for a credit for job creation, they should not be considered in this calculation. The inclusion of part-time jobs can disqualify a project since part-time jobs generally pay less than full-time jobs.

This act takes a middle ground. All part-time jobs must still be considered when the wage calculation is made. However, any part-time job for which the taxpayer provides health insurance will be considered to have a wage that at least meets the applicable average weekly wage. If a part-time job with health insurance has a wage that is less than the applicable average weekly wage, the applicable average weekly wage will be used in making the calculation. If a part-time job with health insurance has a wage that is greater than the applicable average weekly wage, the actual wage of the job will be used in making the calculation.

Section 8 of this act provides an extension of the bidding law exemption for the Piedmont Triad Airport Authority. When the General Assembly enacted certain tax incentives for interstate air couriers in 1998, one provision of that act granted a bidding law exemption for the Piedmont Triad Airport Authority. The exemption became effective beginning January 1, 1999, and applies to design and construction of an air freight distribution facility on airport property, and related supplies, equipment, and services. S.L. 2001-476 (Senate Bill 748) provided an extension of this exemption from January 1, 2004, to January 1, 2008. Upon the request of Fed Ex, this act extends the exemption to January 1, 2010. With this extension, the bidding law exemption would sunset at the same time as the Bill Lee Act for certain interstate air couriers.

Amend Property Tax Laws

Session Law	Bill #	Sponsor
S.L. 2002-156	HB 1523	Representative Hill

AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

OVERVIEW: This act is a recommendation of the Revenue Laws Study Committee based on proposals by the North Carolina Association of Assessing Officers and the Department of Revenue. It makes the following changes to the property tax law:

- Increases the minimum penalty for a worthless check from $1 to $25 and provides that the tax collector may waive or reduce the penalty. This change became affective when the act became law, October 9, 2002.

[50] As mentioned above, for the credits for job creation and for worker training, the average wage of the particular jobs for which the credit is claimed must also meet or exceed the applicable average weekly wage.

- Provides a uniform procedure for appeals regarding taxation of personal property and authorizes the board of equalization and review to meet year round to hear these appeals. These changes are effective beginning with the 2003 property tax year.
- Delays from 2002 until 2003 the effective date of a 2001 law that defined certain single-section manufactured homes as real property for tax purposes.
- Adds an additional collection assistance fee of $15 to debts owed to local governments and collected by the Department of Revenue through tax refund setoff, effective January 1, 2003. The fee will be used to pay local governments' costs of submitting debts for collection by setoff.

FISCAL IMPACT: Two provisions of the act are likely to have a fiscal impact. Increasing the minimum charge for a returned check will likely increase local fee revenues. However, granting the assessor the authority to waive the fee will offset some of the increase. The exact amount of this revenue change is unknown. The second potential impact relates to the debt setoff program. The act will reduce the cost of debt collection for local governments and will likely increase program usage. However, no firm estimate is available on the total financial impact for local governments.

EFFECTIVE DATE: See Overview.

ANALYSIS: This act makes a number of changes to the property tax laws. First, it modifies the penalty for giving a worthless check. It increases the minimum penalty from $1 to $25. The penalty is 10% of the amount of the check, subject to the minimum and to a maximum of $1,000. It also authorizes the tax collector to waive the worthless check penalty. Tax collectors do not have the general authority to waive property tax penalties. By comparison, the Secretary of Revenue has general authority to waive tax penalties.

Second, the act provides a uniform procedure and timetable for appeals relating to personal property, effective beginning with the 2003 property tax year. Under prior law, the statutes specified the procedure and timetable for real property appeals but not for personal property appeals; as a result, different counties had adopted different procedures and timetables. This act provides a uniform system: the taxpayer may appeal value, situs, or taxability within 30 days after receiving notice of value. The notice must inform the taxpayer of the 30-day period. The assessor is required to respond to each appeal and the taxpayer has 30 days to appeal the assessor's final decision to the board of equalization and review or the board of county commissioners. The act authorizes boards of equalization and review to sit year-round to hear personal property appeals. In 2001, the General Assembly authorized boards of equalization in review to sit year-round to hear appeals relating to discovered property, motor vehicle taxation, and annual audits of whether property qualifies for special tax treatment.

Third, the act delays from 2002 to 2003 the effective date of 2001 legislation that changed the way manufactured homes are classified for property tax purposes. A manufactured home is defined in G.S. 143-143.9 as:

> A structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent

chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Since 1987, North Carolina law had provided that a manufactured home was considered real property for property tax purposes if it (i) consisted of two or more sections; (ii) had its hitch, wheels, and axles removed; and (iii) was placed upon a permanent foundation on land owned by the owner of the manufactured home. In 2001, the General Assembly removed the requirement that the home consist of two or more sections, effective beginning with the 2002 tax year. After the 2001 act became law, county assessors realized they would not have time to review all the manufactured homes in each county to determine which ones should be reclassified as real property for the 2002 tax year. The assessors had requested an extension until the 2004 tax year, but this act delays the change only until the 2003 tax year.

Fourth, the act imposes an additional collection assistance fee of $15 on debts owed to local governments and collected by the Department of Revenue through tax refund setoff. Under the Setoff Debt Collection Act, the Department of Revenue diverts the income tax refund of an individual who owes money to a State or local agency to pay the debt owed to that agency. The debt the individual owes the agency is set off against the individual's income tax refund. Under existing law, a collection assistance fee of no more than $15 is imposed on debts (other than child support debts) collected by setoff, to reimburse the State for its costs of operating the setoff debt collection program. This act adds an additional collection fee of $15 for debts (other than child support debts) owed to local governments and collected by setoff, effective January 1, 2003. The Department of Revenue will collect the fee as part of the setoff process and remit the fee to the clearinghouse that submits local debts on behalf of local governments. The purpose of the fee is to recover the cost to local governments of submitting debts for collection by setoff. The clearinghouse that submits debts on behalf of local governments was created through a joint agreement between cities and counties; the local governments have also contracted with a third party to process and compile local debts for setoff.

NC Economic Stimulus and Job Creation Act

Session Law	Bill #	Sponsor
S.L. 2002-172	HB 1734	Representative Owens

AN ACT TO ESTABLISH AND MODIFY VARIOUS ECONOMIC INCENTIVE PROGRAMS FOR BUSINESS AND INDUSTRY; TO AMEND PROVISIONS RELATING TO INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING; TO AUTHORIZE PLANNING AND DEVELOPMENT FOR A BIOPHARMACEUTICAL TRAINING CENTER AND A CANCER REHABILITATION TREATMENT CENTER; AND TO MAKE TECHNICAL AND CONFORMING CHANGES.

OVERVIEW: There are six parts to this act. Part 1 of this act amends the Bill Lee Act by scaling back the credit for machinery and equipment in tiers three, four, and five, by eliminating the wage standard in tiers one and two and in development zones, and by eliminating the wage standard for the credit for worker training. Part 2 of the act creates the Jobs Development Investment Grant Program, a discretionary program that awards grants to businesses based on a percentage of employee withholdings over a number of years. Part 3 of the act requires production companies to spend at least $1 million in North Carolina to be eligible for a grant from the Film Industry Development Account. Part 4 of the act makes a technical change to the North Carolina Railroad's condemnation authority. Part 5 of the act eases the public hearing requirements for Industrial Development Bonds to facilitate bonds for smaller manufacturers. Part 6 of the act provides authorization to initiate planning and development of a new biopharmaceutical training center and a cancer rehabilitation treatment center.

FISCAL IMPACT: The Bill Lee Act changes will generate approximately $3.45 million for fiscal year 2003-04, $7 million for fiscal year 2004-05, and $10.56 million for fiscal year 2005-06. No fiscal impact is expected from the changes to the film industry incentives. The Jobs Development Investment Grant Program represents a significant change from the structure of the Bill Lee Act incentives. It is impossible to determine the exact dollar cost of the Program. However, the Program is limited to 15 projects per year and $10 million in grants per year, and it sunsets on January 1, 2005. Thus the maximum grant amount that may be awarded during the 13 years the Program is in effect is $240 million.

EFFECTIVE DATE: See Analysis.

ANALYSIS: There are six main components to this act: changes to the William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act)[51], the establishment of a new economic development grant program for new and expanding businesses, changes to film industry incentives, changes to the condemnation authority of a railroad company, changes to industrial and pollution control facilities financing law, and authorization to initiate planning and development of a new biopharmaceutical training center and a cancer rehabilitation treatment center.

Part 1. Bill Lee Act: Part 1 makes the following substantive changes to the Bill Lee Act:
Machinery and Equipment. A taxpayer is allowed a credit for the cost of machinery and equipment placed into service during a taxable year that exceeds the applicable threshold based on the location where the machinery and equipment are placed into service. Under prior law, the amount of the credit was equal to 7% of the cost of the machinery and equipment in excess of the applicable threshold. Section 1.1 of this act makes two changes to this credit. First, the amount of the credit is reduced in enterprise tiers three, four, and five. In those areas, the amount of the credit is reduced to 6%, 5%, and 4%, respectively, of the cost of the machinery and equipment in excess of the applicable threshold. Second, the amount of the threshold is increased in enterprise tiers four and five. In enterprise tier four, the threshold is increased from $500,000 to $1,000,000. In enterprise tier five, the threshold is increased from $1,000,000 to $2,000,000. This section is effective for taxable years

[51] For background on the Bill Lee Act, see the summary for S.L. 2002-146.

beginning on or after January 1, 2003, and applies to business activities that occur on or after that date, but does not apply to business activities that occur on or after January 1, 2003, that are subject to a letter of commitment signed before January 1, 2003.

Overdue Tax Debts. If the Secretary of Revenue discovers that any tax is due from a taxpayer, the Secretary must notify the taxpayer in writing of the Secretary's intent to assess the taxpayer for the tax. The notice must describe the basis for the assessment, the amount of tax to be assessed and any interest and penalties due. If the taxpayer disagrees with the assessment, the taxpayer has 30 days to request a hearing before the Secretary. The Secretary must then schedule a hearing to occur within 90 days of the request. Within 90 days after the hearing, the Secretary must issue a decision on the hearing. If the taxpayer does not request a hearing within the 30 days allowed, or if the Secretary finds that the tax is due after the hearing, the proposed assessment becomes a final assessment. If a taxpayer disagrees with a final assessment, the taxpayer may appeal the decision to the Tax Review Board, and then on to superior court, the Court of Appeals, and the Supreme Court. A tax debt is a final assessment after all possibilities for appeal have been exhausted. An overdue tax debt is any part of a tax remaining after 90 days. Section 1.2 would make a taxpayer ineligible for a credit under the Bill Lee Act if the taxpayer had any overdue tax debts. Section 1.5 defines an overdue tax debt. These two sections are effective for taxable years beginning on or after January 1, 2003.

Wage Standard. A taxpayer is eligible for a credit under the Bill Lee Act only if the jobs provided by the taxpayer meet a wage standard. Under prior law, the wage standard was 110% (100% in an enterprise tier one area or a development zone) of the applicable average weekly wage. The jobs that are included in calculating the wage standard vary depending on the particular credit.

Section 1.3 of this act makes three substantive changes to the wage standard. The changes are effective for taxable years beginning on or after January 1, 2003. First, this section eliminates the wage standard in enterprise tier one and two areas. Since the wage standard for a business located in a development zone is the same as for tier one counties, this section also eliminates the wage standard for a development zone area.

Second, this section eliminates the wage standard for the credit for worker training. In order to be eligible for the credit for worker training, the employee who is being retrained must either (i) occupy a job for which the taxpayer is eligible to claim a credit for creating jobs, or (ii) be trained to operate machinery and equipment for which a taxpayer is eligible to claim a credit for investing in machinery and equipment. Thus, the jobs for which the credit for worker training may be claimed have already been included in a larger group of jobs that has met the wage standard. Often the specific jobs for which worker training is required are lower-paying jobs that could not themselves meet the wage standard. This change allows the credit for worker training to be taken by more taxpayers.

Third, this section makes an allowance for a taxpayer that has a taxable year other than a calendar year. To perform the wage standard test, the taxpayer compares the average weekly wage of certain jobs to the wage standard determined on an annual basis. The test is performed for the calendar year that jobs are created or for which worker training is provided. However, performing a wage standard test based on a calendar year is not feasible because many companies have taxable years that do not coincide with the calendar year. Consequently, the taxpayer can engage in activity that qualifies for a credit during a taxable

year that spans two calendar years. If the taxpayer creates jobs in different calendar years, it must compute the combined average weekly wage of the jobs created during its taxable year and compare this average to the county wage standard to determine if it qualifies for a tax credit. It cannot, however, compute this average "for the calendar year the jobs are created" as required by the prior law because the jobs are created over the course of two calendar years. Under this act, the wage standard test is based on the taxpayer's taxable year and not the calendar year. When a taxable year spans two calendar years, the applicable wage standard is that of the earlier calendar year. In addition to correcting a practical problem, this change generally will be favorable for taxpayers because county wage standards generally trend upward.

Development Zones. In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone are designed to target only these relatively small, economically distressed areas.

A development zone is defined as an area that meets all of the following conditions: (1) it consists of one or more contiguous census tracts, block groups, or both, (2) it has a population of 1,000 or more, at least 20% of whom are below the poverty level, (3) it is located at least partly in a city with a population over 5,000, (4) every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of the city, (5) every census tract and census block group in the zone has more than 10% of its population below the poverty level, or is immediately adjacent to a tract or group that has more than 20% of its population below the poverty level, and (6) none of the census tracts or census block groups is located in another development zone.

This act expands this definition of development zone to include all of a parcel of land that is located partially within the zone if all of the following conditions are met:

- At least 50% of the parcel is located within the zone.
- The parcel was in existence and under common ownership prior to the previous decennial federal census.
- The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary.

The following enhanced incentives apply in development zones: If a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional $4,000 per job on its jobs tax credit, and the credit for investing in machinery and equipment is calculated as if the zone were in a tier one county. In addition, a business located in a development zone does not have to meet a wage standard to be eligible for the credits. This section is effective for taxable years beginning on or after January 1, 2003.

Part 2. Job Development Investment Grant Program. Part 2 of this act creates a new economic development tool for new and expanding businesses in North Carolina. This tool would be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses. This part became effective October 31, 2002.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard, as amended by this act. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

Unlike under the Bill Lee Act, there are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State.
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[52]. The members appointed by the General Assembly serve two-year terms. The Committee may act only upon a decision of at least three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are

[52] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at that other location.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related businesses involved in a project may submit a joint application for a grant under this program.

Any application for a grant must be accompanied by a fee in the amount of $5,000. This fee will be allocated by the Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management among their agencies.

The Committee will evaluate applications to determine which businesses will receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee is required to develop criteria for evaluating applications. These criteria must take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is required to be somewhat selective in choosing projects to receive a grant. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term

of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[53].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement must include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in setting the percentage that determines the amount of a grant under an agreement. The Committee must develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant cannot exceed 12 years.
- The percentage used to determine the amount of the grant must be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.
- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in additional years during the term of the agreement, the amount of the grant is calculated based only on eligible positions created during the base years (the first two years) of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholding of eligible positions.
- The amount of a grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.

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[53] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant fund by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[54] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[55] Funds in the Utility Account may be used to assist local governments in tiers one, two, and three in constructing or improving utility lines or equipment, including telecommunications and high-speed, broadband lines and equipment.[56]

Terms of agreement. The Committee has a great deal of flexibility in negotiating agreements. However, the legislation does require the agreements to include certain provisions, such as information on the new jobs created and a method to verify the positions, reporting requirements, and the reasons for which an agreement may be amended or terminated and the benefits recaptured. In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Followup on grantee businesses. This act provides for monitoring of grantee businesses in several ways and requires the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

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[54] Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

[55] The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

[56] Part 2 of this act amended the law regarding the Industrial Development Fund and the Utility Account.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for two consecutive years, the Committee must terminate the agreement. In addition, the Committee must include a provision in each agreement describing the conditions that will lead to recapture of a grant made in an earlier year.

As with the Bill Lee Act, as amended by this act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The act requires the Committee to report quarterly and annually.[57] The annual report must include information on the agreements entered into during the year as well as an update on the status of projects for which an agreement was entered into in the past. Additionally, the reports must provide information on the number of jobs created and the tax benefit derived from those positions, the types of jobs created, and the geographic distribution of the grants.

The authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This sunset will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

Miscellaneous changes associated with the program. Section 2.2 of this act makes two significant changes to the Industrial Development Fund and to the Utility Account, which is part of that Fund. The Industrial Development Fund provides assistance to local governments for improvements to infrastructure to enable the locality to attract new businesses. Usually, this assistance is provided to make general improvements, such as improvements to or development of industrial parks, and is not tied to luring a specific project.

First, the purposes for which funds in both the Fund and the Account may be used are expanded to allow expenditures for telecommunications and high-speed broadband lines and equipment. Currently, funds under both the Fund and the Account may be used for construction of and improvements to water, sewer, gas, and electricity lines and equipment. This change recognizes the growing importance to industry of telecommunications and high-speed broadband.

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[57] The Committee must report by April 30th of each year.

Second, under current law, funds in the Utility Account may be used to assist local governments located in enterprise tiers one and two only. This act would expand the focus of the Account to allow funds in the Account to be used to assist local governments in enterprise tier three as well.

Section 2.3 allows an exemption from the confidentiality requirements of the Department of Revenue. Generally, the Department of Revenue must keep confidential all information it receives in the course of administering the tax laws. There are numerous, specific exceptions to this requirement. This act would allow the Department of Revenue to share information with the Economic Investment Committee relating to businesses that are applying for a grant or that are subject to an agreement.

Section 2.4 of this act corrects a statutory reference in two laws dealing with the purposes for which a local government may levy a property tax.

Section 2.5 prohibits a member of the General Assembly from serving on the Economic Investment Committee. Under the constitutional doctrine of separation of powers, legislators cannot serve on executive boards exercising executive functions.

Section 2.6 of this act exempts the Economic Investment Committee from the rule-making process under the Administrative Procedure Act. However, Section 2.1, in G.S. 143B-437.48(d) as enacted by this act, requires the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to persons who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

Section 2.7 of this act requires the Revenue Laws Study Committee to study the use, the effectiveness, and the cost versus benefit of the Job Development Investment Grant Program, the Bill Lee Act, and the Industrial Recruitment Competitive Fund. Given that the Job Development Investment Grant Program is just starting up, the time frame for the study is longer than usual. Revenue Laws may report to the 2004 Regular Session of the General Assembly and a final report is due by March 15, 2005, to the 2005 General Assembly.

Part 3. Film Industry Incentives. Part 3 of this act amends the Film Industry Development Account to require a minimum expenditure in North Carolina before a project may be eligible for a grant from the Account. The Film Industry Development Account was established in 2000 with the intent of providing economic incentives to production companies for operations in North Carolina. Under the account, a production company is eligible for a grant based on expenditures made in the State. The grant may not exceed fifteen percent of those expenditures. The grant is not available for political or issue advertising or for any production that is considered obscene under G.S. 14-190.1. The amount of the grant may not exceed $200,000. This section adds an additional requirement that the production company have expenditures of at least $1 million in the State. This more narrowly targets this incentive to large productions.

Section 3.2 directs the Revenue Laws Study Committee to study other incentives for the film industry and to report to the 2003 General Assembly. This part became effective October 31, 2002.

Part 4. North Carolina Railroad Condemnation Authority. Part 4 of this act makes a technical correction to the condemnation authority of a railroad. In 1998, State

responsibility for railroad regulation was moved from the Utilities Commission to the Department of Transportation. At that time, G.S. 62-232 was repealed. This section deletes a cross-reference to that statute. This does not appear to have any substantive effect on the power of a railroad to condemn property. This part became effective October 31, 2002.

Part 5. Industrial and Pollution Control Facilities Financing. The Department of Commerce hopes to reinstate a program begun in the late 1980's that would permit small companies to take advantage of industrial development bond financing by grouping several small loans into a single bond issue. In order to make that program workable, the process needs to be as streamlined as much as possible. As currently written, bonds issued under Article 1 of Chapter 159D (for industrial projects) require a public hearing at the local level - that is, by the county commissioners of the county in which the facility will be located. In addition, for those bonds the federal tax exemption rules require a hearing at the state level by the agency, with the result that there would be two public hearings. Bonds issued under Article 2 of Chapter 159D (which are special purpose projects and educational facilities) require a public hearing by the North Carolina Capital Facilities Finance Agency (NCCFFA), with notice to the governing bodies of the localities in which the facilities will be located.

Part 5 of this act modifies Article 1 of Chapter 159D so that the public hearing for a bond issue dealing with multiple projects would take place at a location determined by the NCCFFA – most likely at its headquarters in Raleigh. This change simply removes the requirement of multiple public hearings throughout the State for one bond issue. The local government would still have to approve the project in its jurisdiction under a different section of the statute. This change would not affect bond issues involving a single project.

This part also makes a conforming change to Article 1 of Chapter 159D. In both Chapter 159C (relating to industrial development bonds through local authorities) and Chapter 159D, Article 2 (relating to special purpose projects and educational facilities) the Local Government Commission is permitted to take into consideration credit enhancement when determining whether a project is feasible. That language was omitted from Article 1 of Chapter 159D. There appears to be no reason to treat an industrial development project differently when it comes through a local authority rather than the NCCFFA. Part 5 of this act becomes effective January 1, 2003.

Part 6. Capital Planning Costs for Biopharmaceutical Training Center and Cancer Rehabilitation Treatment Center. Part 6 of the act authorizes the initial planning and development of two capital projects, effective October 31, 2002. It authorizes the State Board of Community Colleges, the Board of Governors of the University of North Carolina, and the North Carolina Biotechnology Center to initiate planning and development of a new biopharmaceutical/bioprocess manufacturing training center to be centrally located and of related training facilities to be located at various community colleges. The State has invested greatly through the North Carolina Biotechnology Center to bring close to 150 biotechnology companies to the State over the past 15 years. The biopharmaceutical and bioprocessing industry anticipates the need for 3,000 to 5,000 new employees each year for the foreseeable future. These workers will require training and education at a variety of levels in biotechnology, bioprocessing, and biomanufacturing. An Alliance Council, representing the universities, community colleges, and biomanufacturing companies, will develop a comprehensive training and education program capable of training 3,000 to 5,000 people for the industry annually through a combination of large-scale equipment training

and academic programs at a Central Training Center and programs at the Regional Training Centers.

It also authorizes the Board of Directors of the University of North Carolina Health Care System to initiate planning and development of a new cancer rehabilitation and treatment center to be located at the University of North Carolina Hospitals at Chapel Hill. The UNC Health Care System provides services for patients with cancer in the Gravely Building, a building that opened in 1953 as a tuberculosis sanitarium. This nearly 50-year-old facility has been remodeled to its fullest extent, and can no longer meet the needs of modern-day programs and services required to treat patients with cancer. The Gravely Building is also inadequate for the support of UNC's clinical research mission for clinical trials and for testing new medications that are essential for enhancing treatment options and increasing the knowledge base for new treatment opportunities. The UNC Health Care System proposes a replacement to the North Carolina Clinical Cancer Center to address these deficiencies and to provide a more appropriate environment for patients with cancer.

Amend Use Value Statutes and Other Tax Laws

Session Law	Bill #	Sponsor
S.L. 2002-184	SB 1161	Senator Hartsell

AN ACT TO AMEND THE PRESENT-USE VALUE STATUTES, TO CREATE A PROPERTY TAX SUBCOMMITTEE OF THE REVENUE LAWS STUDY COMMITTEE, TO CLARIFY THE SALES AND USE TAX EXEMPTION REGARDING CERTAIN AGRICULTURAL SUBSTANCES, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

OVERVIEW: Sections 1 through 7 of this act amend the present-use value law to provide an updated method for calculating the value of farmland in its present use, to clarify the sound management requirement for qualifying for use value taxation, to allow land subject to a conservation easement to continue to qualify for use value taxation, and to make numerous clarifying and procedural changes. Most of the changes to the use value law were recommended by the Revenue Laws Study Committee.

Section 8 of the act establishes a property tax subcommittee of the Revenue Laws Study Committee.

Sections 9 through 12 of the act make changes to the administration of various sales tax laws. These changes were recommended by the Revenue Laws Study Committee.

FISCAL IMPACT: The provision related to the sales taxes on plant inhibitor equipment is likely to create a small but undefined revenue gain. The change in sales tax payment dates will result in a small revenue loss due to the loss of the float, but no exact estimate is possible. The use value changes will affect local governments, but data are not available to

calculate the amount of the impact. The remaining items will all result in a slight but undefined loss or no loss to the General Fund.

EFFECTIVE DATE: The changes to the present-use value law are effective beginning with the 2003 property tax year. The remaining changes became effective in October 2002.

ANALYSIS:

Use Value Changes. This act provides for more accurate determination of the present use value of farmland. Since 1973, the General Assembly has provided that farmland (agricultural land, horticultural land, and forestland) may be appraised, assessed, and taxed at its present-use value, as opposed to its fair market value. The present-use value classification helps preserve farmland by insulating it from the rising property tax values caused by competing market pressures to develop farmland for commercial and residential purposes.

The difference between the taxes due based on the present use value and the taxes that would have been payable based on market value, together with any interest, penalties, or costs, are a lien on the property. This difference in taxes is carried forward in the records of the taxing unit as deferred taxes. The deferred taxes for the preceding three years become payable whenever the property loses its eligibility for the benefit of the special use value law.

In 1985, the General Assembly enacted the most recent methodology for calculating present-use value: The value was required to be based on capitalization of net income at the rate of 9%; for agricultural land, the net income was to be based on average corn and soybean yields. The Department of Revenue was required to prepare and distribute annually to each tax assessor a present-use value manual to assist in appraising and assessing farmland. A four-member Use-Value Advisory Board, under the supervision of the Agricultural Extension Service of North Carolina State University, would submit a recommended manual to the Department each year. The present-use value manual is advisory only, and each county remains free to develop its own present-use value schedules. Until several years ago, all counties used the manual. By 2002, an increasing number of counties were not using the manual because the present-use values in the manual could not be supported by credible market evidence. For example, corn and soybeans, which are used to determine net income for agricultural land, no longer represent the typical crops grown in the State and are not the major money crops. Using a method that did not result in realistic values was eroding the intent to foster uniformity and creating equity problems between similar types of properties.

This act updates the method of determining the present-use value of farmland in several ways. First, it changes the capitalization rate used to capitalize net income into value for agricultural and horticultural land. Instead of 9%, the rate to be used will be set by the Use-Value Advisory Board at a level between 6% and 7%. The Board will also recommend annually to the General Assembly whether this range should be changed. The capitalization rate for forestland will stay at 9%.

Second, the act changes the method the Board will use to set the net income for farmland. Instead of corn and soybean yields for agricultural land and horticultural product yields for horticultural land, the Board is required to use estimated cash rental rates for various classes of soil or for geographic areas. The Department of Revenue is given the responsibility of

conducting studies of cash rents for agricultural land on a regional basis and providing this information to the Board. For forestland, the Board is required to use ranges furnished by the NC Cooperative Extension Service based on up to six classes of land within each region designated by the federal Soil Conservation Service. This requirement reflects the current practice of the Board with respect to forestland.

Third, the act caps the value the Board may establish for the best agricultural land at a maximum of $1,200 per acre. The Board will recommend annually to the General Assembly whether this maximum should be changed.

Fourth, the act adds five new members to the Use-Value Advisory Board. Under existing law, there were four members: The director of the Agricultural Extension Service at NCSU, a Department of Agriculture representative, a Forest Resources Division representative, and a representative of the Agricultural Extensions Service at N.C.A.&T. This act adds the director of the Property Tax Division of the Department of Revenue and one representative of each of the following four groups: the Farm Bureau, the Association of Assessing Officers, the Association of County Commissioners, and the Forestry Association.

To qualify for use value taxation, farmland must be in active commercial production under a sound management program, which is defined as a program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. The act makes two changes relating to sound management. First, it provides that woodland that is part of agricultural or horticultural land is not required to be under a sound management program if it meets either of the following conditions:

1. It is less than 20 acres.
2. Its best use is as a barrier to wind erosion, a natural water purifier, or a buffer for hog or poultry operations.

Second, it specifies factors any one of which is sufficient to demonstrate that farmland is under a sound management program. For agricultural or horticultural land, these factors include compliance with an agency-administered management program, with a set of best management practices, or a minimum gross income test; evidence of net income from farming or that farming is the operator's principal source of income; and certification by a recognized local agency. For forestland, compliance with a written sound forest management plan for production and sale of forest products is sufficient.

In order to qualify for use value taxation, in addition to being in active production, the land must meet minimum income requirements and must satisfy certain conditions regarding ownership. This act creates an exception to these requirements and conditions for property that was being taxed at its present use value as farmland and then becomes subject to a conservation easement that dedicates it for conservation purposes in the hands of the State, a local government, or a nonprofit conservation organization.

The remaining changes the act makes relating to use value are procedural and technical.

County assessors are required to annually review 1/8 of the county's use value parcels to verify that they continue to qualify for use value taxation. This act clarifies that the 1/8 is a minimum – an assessor may review more than 1/8 in a year. This act also authorizes the

assessor to request assistance in carrying out the review, clarifies the information that the assessor may require the owner to submit and the information that the assessor must consider as part of the review, and clarifies that the review is based on data for a three-year period. In addition, this act authorizes the county to assign county agencies or contract with federal agencies for any duties relating to use value accounts.

In order to qualify for use value taxation, the farmland must be owned by certain qualifying individuals, family business entities, or trusts. This act clarifies that the farmland may qualify if it is owned jointly by any of these owners as tenants in common. The act also clarifies an exception to the ownership requirements. Individual owners must live on the land or have owned the land in their family for four years. There is an exception if use value land is transferred to a person who continues to use it as farmland and meets the other conditions for use value treatment. This act clarifies that the deferred taxes that accrued while the land was owned by the first owner continue as a lien on the property in the hands of the new owner. In addition, the new owner must file an application for use value treatment within 60 days after acquiring the land, certifying that the present use will continue and that the new owner will be liable for the deferred taxes if the land is later disqualified. The act makes technical and conforming changes relating to the application for use value treatment.

To qualify for use value treatment, farmland must be part of a farm unit. This act defines the term "unit" to include one or more tracts under common ownership. If the tracts are in separate counties, they must share the same type of classification or the same equipment or labor force, and must be within 50 miles of a tract that meets the minimum size and income requirements for use value treatment.

Property Tax Subcommittee. Section 8 of the act creates a property tax subcommittee of the Revenue Laws Study Committee. The subcommittee will have six members and will study use value taxation and existing and potential tax incentives for farm use, conservation, and environmental protection of land.

Administrative Changes. The remaining sections of this act are administrative changes to the sales tax law. These changes were originally introduced in House Bill 1509 as a recommendation of the Revenue Laws Study Committee.

Section 9 of the act clarifies the sales and use tax exemption for certain agricultural substances. Included among the agricultural group of sales and use tax exemptions is an exemption for plant growth inhibitors, regulators, or stimulators when purchased for use on plants held or produced for commercial purposes. In a recent case, *American Ripener Company, Inc. v. Secretary of Revenue*,[58] the court ruled that the exemption for these substances could extend to generators used to control the release of the substance. The Department requested that the statute be clarified because the exemption was not intended to include any hardware or machinery, such as generators, used to apply the exempted substances. Section 9 clarifies that the exemption does not apply to any equipment or devices used to dispense the substances listed in the exemption.

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[58] 147 N.C. App. 142 (2001), cert. denied, 355 N.C. 210 (2002)

Section 10 of this act changes the due date for quarterly sales tax returns from the 15th of a month to the end of a month. In 2001, the General Assembly lowered the threshold for monthly payments of withheld taxes from $500 to $250. Monthly withholding returns are due on the 15th of the month, the same day as monthly and quarterly sales and use tax returns. The withholding tax threshold change moved approximately 25,000 employers from a quarterly to a monthly filing status. As a result, the Department was receiving 25,000 additional returns in eight of the twelve months of the year. This act's change of the sales tax due date from the 15th to the end of the month will enable the Department to spread its work more evenly throughout the month. As of 2002, there were 91,000 quarterly sales tax filers. The change also makes the due date for quarterly sales tax returns consistent with the due date for quarterly withholding tax returns. This change went into effect October 1, 2002; it does not affect the timing of local sales and use tax distributions, nor does it shift any funds from one fiscal year to the next.

Section 11 of the act amends the method for calculating the underpayment penalty for semimonthly sales taxpayers, to conform to the requirements of the Streamlined Sales Tax Project. A taxpayer who is consistently liable for at least $10,000 a month in State and local sales and use taxes must pay the tax twice a month and file a return on a monthly basis. A payment is required for each semimonthly period. The first semimonthly payment covers the period from the first day of the month through the 15th day of the month, and the second semimonthly payment covers the period from the 16th day of the month through the last day of the month. The monthly return covers both semimonthly payment periods including any additional amount due and must be filed by the 20th day of the following month. Under prior law, a taxpayer was not subject to interest or penalties for an underpayment for a semimonthly payment period if the taxpayer timely paid at least 95% of the amount due for that payment period and included the underpayment with the monthly return for both payment periods.

A requirement of the Streamlined Sales Tax Project, in which North Carolina has participated since 2000, is that if the State requires more than one remittance per return, the amount of the additional remittance must be determined through a calculation method rather than actual collections. Effective October 1, 2002, Section 11 brings the underpayment penalty calculation for semimonthly sales taxpayers in line with the Project by providing an additional method of calculating the estimated tax liability: neither interest nor penalties will apply to the underpayment of sales tax remitted on a semimonthly basis if the taxpayer timely pays at least 95% of the lesser of (i) the amount due for the semimonthly payment period; or (ii) the average semimonthly payment for the prior calendar year. Just as under the prior law, the taxpayer must also include the underpayment with the monthly return for those semimonthly payment periods.

Section 12 of the act codifies a longstanding practice of the Department of Revenue which requires that a purchaser of tangible personal property that is exempt from sales tax or subject to a preferential rate of sales tax must obtain an exemption certificate from the Department in order to receive the exemption or preferential rate. The Department of Revenue administers many of the sales and use tax exemptions and preferential rates targeted at certain industries, such as farming and manufacturing, through the use of an exemption certificate. Prior to this change, the statutes did not address exemption certificates, except in the penalty provisions in G.S. 105-236(5a), which authorize the

Secretary to assess a penalty for the misuse of an exemption certificate. The Department recommended that the practice of using exemption certificates be incorporated into the statutes to avoid any questions about the ability of taxpayers to claim exemptions through this method.

APPENDICES

Appendix A:	*Final Disposition of Bills Recommended by the Revenue Laws Study Committee - 2002*
Appendix B:	*Table of Contents Sorted by Bill #*
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FINAL DISPOSITION OF BILLS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE - 2002 REGULAR SESSION

SHORT TITLE	SENATE SPONSORS	HOUSE SPONSORS	BILL #	FINAL STATUS*
Revenue Laws Technical Changes	Hartsell		S1160	Enacted* SL 2002-72
Conform Mobile Telecommunications Sourcing		Allen	H1521	Enacted SL 2002-16
Revenue Administrative Changes		Holliman	H1509	Original bill not enacted. The provisions were put into SB 1161, which was enacted, SL 2002-184
Revenue Laws Enforcement Enhancements	Clodfelter		S1218	Enacted SL 2002-106
Amend Property Tax Laws		Hill	H1523	Enacted* SL 2002-156
Amend Use Value Statutes	Hartsell		SB 1161	Enacted* SL 2002-184
Disclose Social Security # to Tax Collector				The proposal was not introduced as a bill.
Extend Qualified Business Venture Tax Credit	Hoyle	Allen	SB 1223 HB 1520	Enacted SL 2002-99

* Bills were modified prior to enactment.

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SL 2002-120 as amended by § 65 of SL 2002-159	HB 1490	Secure Local Revenues	Rep. Gibson	26
SL 2002-099	HB 1520	Extend Qualified Business Venture Tax Credit	Rep. Allen	14
SL 2002-016	HB 1521	Conform Mobile Telecommunications Sourcing	Rep. Allen	2
SL 2002-156	HB 1523	Amend Property Tax Laws	Rep. Hill	52
SL 2002-051	HB 1533	Certain Counties Delinquent Taxes	Rep. Hunter	5
SL 2002-010	HB 1578	Remove Scrap Tire Tax Sunset	Rep. Gibson	1
SL 2002-146	HB 1665	Interstate Air Couriers - Bill Lee	Rep. Gray	49
SL 2002-136	HB 1670	Subsidiary Dividend Changes	Rep. Luebke	44
SL 2002-172	HB 1734	NC Economic Stimulus & Job Creation Act	Rep. Owens	54
SL 2002-126	SB 1115	Modify Appropriations Act of 2001-1	Sen. Plyler	31
SL 2002-072	SB 1160	Revenue Laws Technical Changes	Sen. Hartsell	6
SL 2002-184	SB 1161	Amend Use Value Statutes & Other Tax Laws	Sen. Hartsell	65
SL 2002-106	SB 1218	Revenue Law Enforcement Enhancements	Sen. Dalton	20
SL 2002-104	SB 1253	Amend Pollution Abatement Tax Exclusion	Sen. Odom	18
SL 2002-123	SB 1292	Local Sales Tax Acceleration	Sen. Kerr	29
SL 2002-108	SB 1407	Contracts to Reimburse Fuel Tax/Fuel Tax Chg	Sen. Kerr	21
SL 2002-087	SB 1416	Housing Tax Credit Chngs/Estate Tax Chngs	Sen. Kerr	10
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T.S.I.

An Investigation of Selected Tax Legislation Enacted During 2001 and 2002

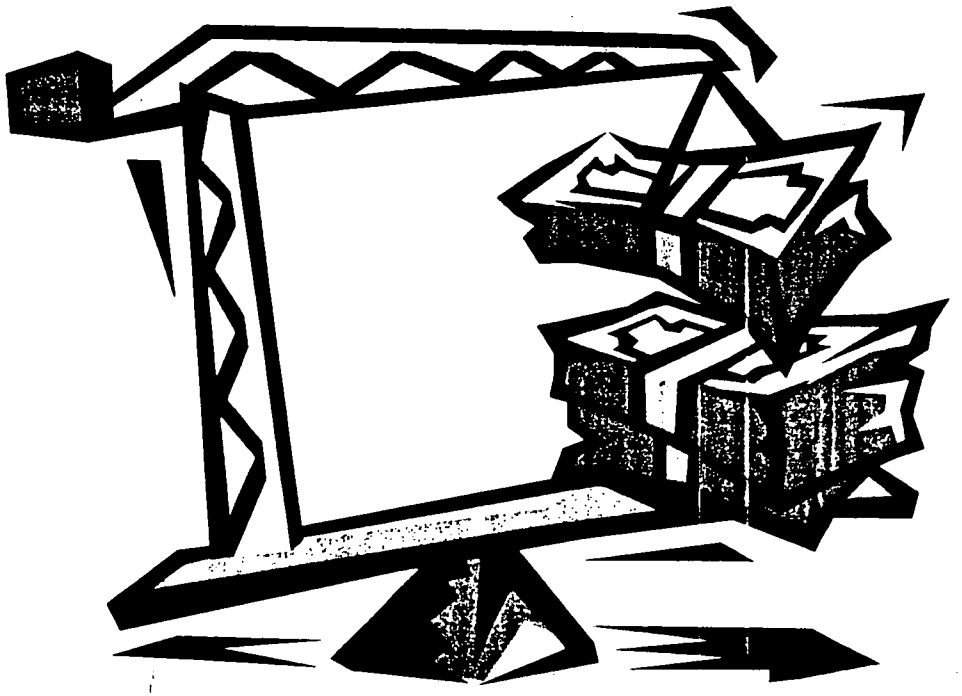
By: Cindy Avrette

February 25, 2003

Attachment 5

Selected Legislation

- Closure of Tax Loopholes
- Sales Tax Changes
- Income Tax Changes
- Collection Enhancements



Closure of Tax Loopholes

- **Royalty Reporting Options**
  S.L. 2001-327
- **Equalize Franchise Tax on Corporate Affiliated LLCs**
  S.L. 2001-327 and S.L. 2002-12
- **Subsidiary Dividend Deduction Changes**
  S.L. 2001-327 and S.L. 2002-13

Royalty Reporting Option

- **Clarifies that income from using trademarks in NC is taxable to NC**
- **Gives taxpayers an option on how to file returns involving royalty income**

Franchise Tax on Corporate Affiliated LLCs

Problem: LLCs are not subject to franchise tax. Some corporations avoid a significant portion of their franchise tax by transferring assets into a wholly owned LLC subsidiary.

2001 Session

Provided that franchise tax applies equally to corporate assets held by a LLC if corporation owns at least 70% of LLC assets

2002 Session

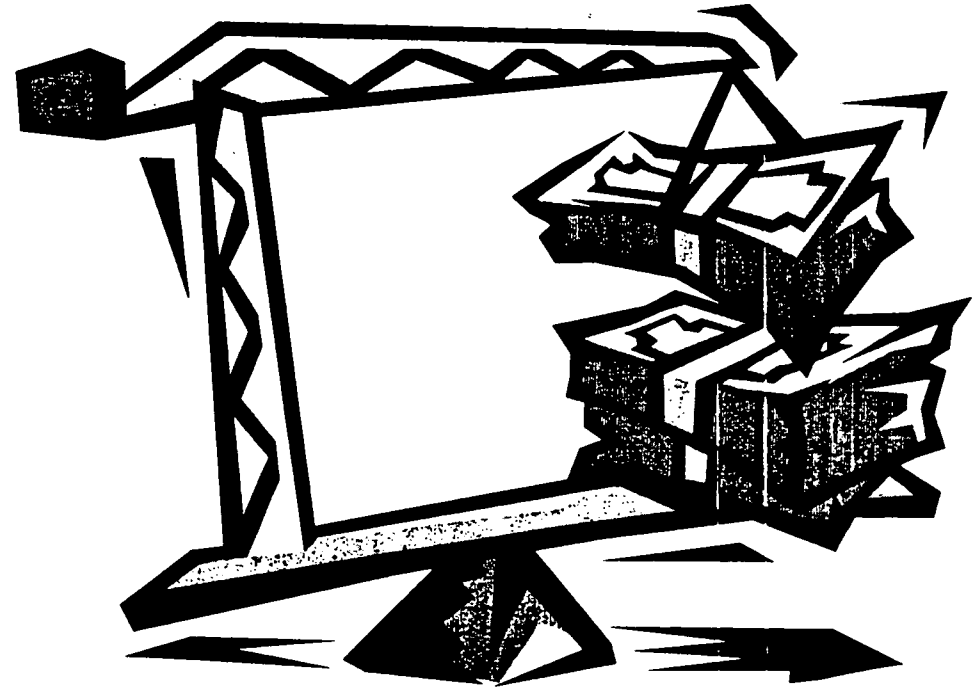
Provided that franchise tax applies equally to corporate assets held by a LLC if related members own at least 70% of LLC assets

Subsidiary Dividend Deduction Changes

- In 2001, conformed State law to the federal rules for the deduction of dividends received.
- This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction.
- It also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income.
- In 2002, enacted legislation limiting the additional tax liability.

Selected Legislation

- *Closure of Tax Loopholes*
- **Sales Tax Changes**
- *Income Tax Changes*
- *Collection Enhancements*



Sales Tax Rate Changes
2001

Increased State sales tax ½% for the period October 16, 2001, to July 1, 2003

Authorized an additional ½% local sales tax, effective July 1, 2003

Repealed the State reimbursements to local governments, effective July 1, 2003

Provided hold harmless to those local governments whose gain from a ½% local sales tax increase less than 100% of their loss from the repealed State tax reimbursements

Sales Tax Rate Changes
2002

Increased State sales tax ½% for the period October 16, 2001, to July 1, 2003

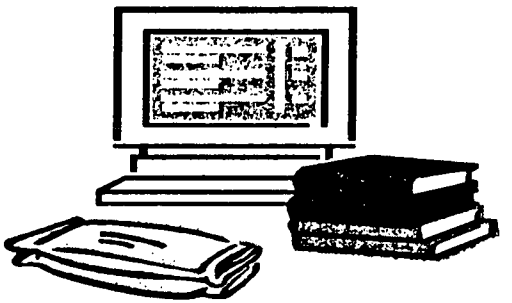
Authorized an additional ½% local sales tax, effective *December 1, 2002*

Repealed the State reimbursements to local governments, effective *July 1, 2002*

Hold harmless NOT accelerated. First hold harmless payments will be received in 2003-04.

Streamlined Sales and Use Tax Agreement
S.L. 2001-347

Enables NC to enter into the Streamlined Sales and Use Tax Agreement



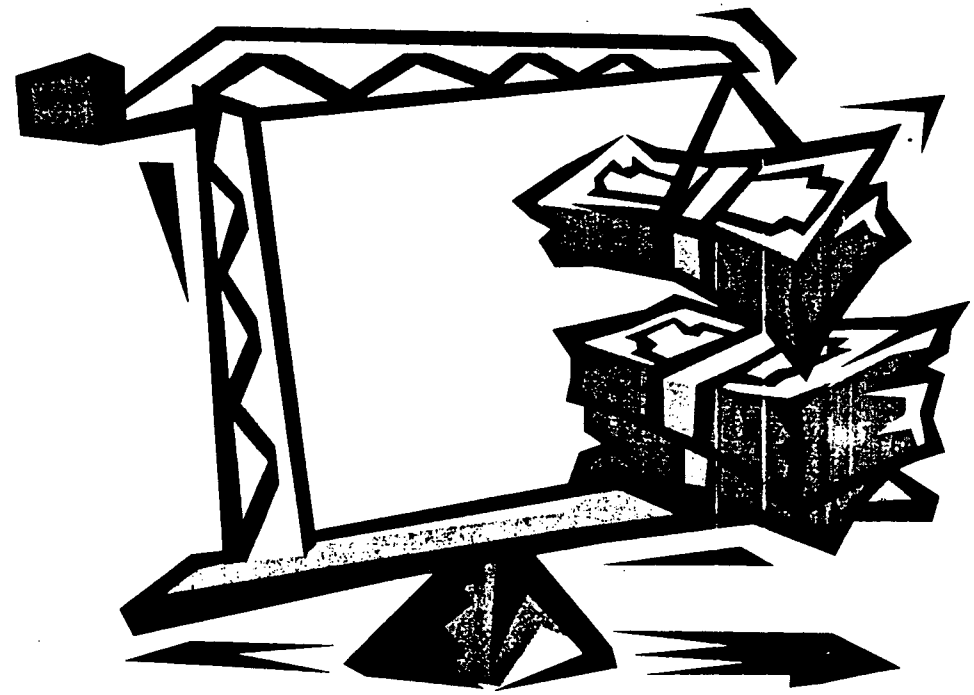
Simplifies the sales and use tax laws

Helps equalize the playing field between remote vendors and Main Street merchants

35 implementing states

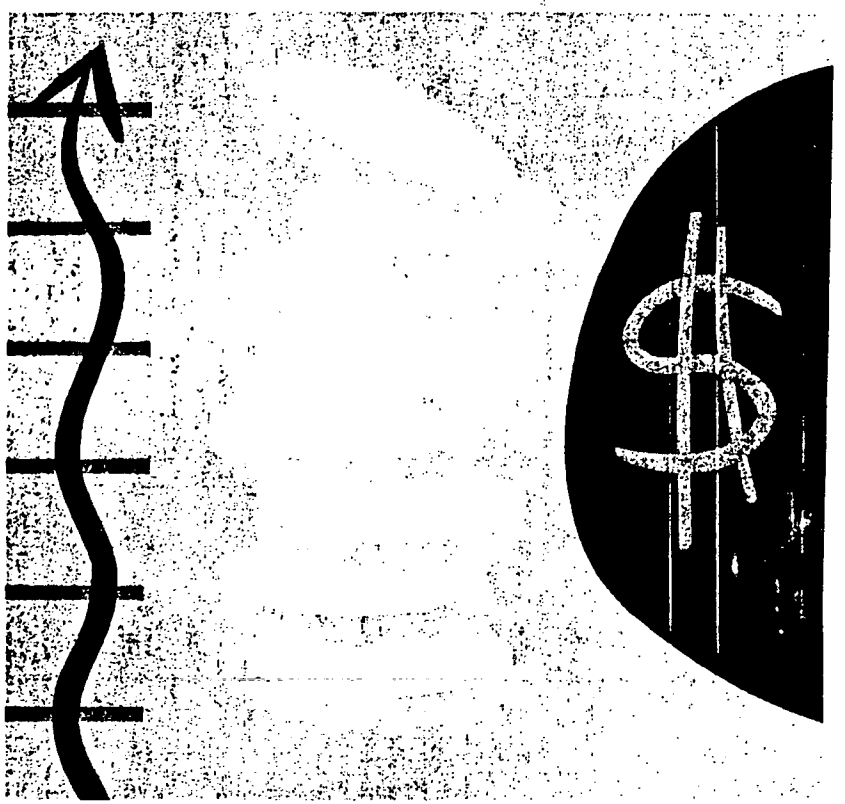
Selected Legislation

- *Closure of Tax Loopholes*
- *Sales Tax Changes*
- **Income Tax Changes**
- *Collection Enhancements*



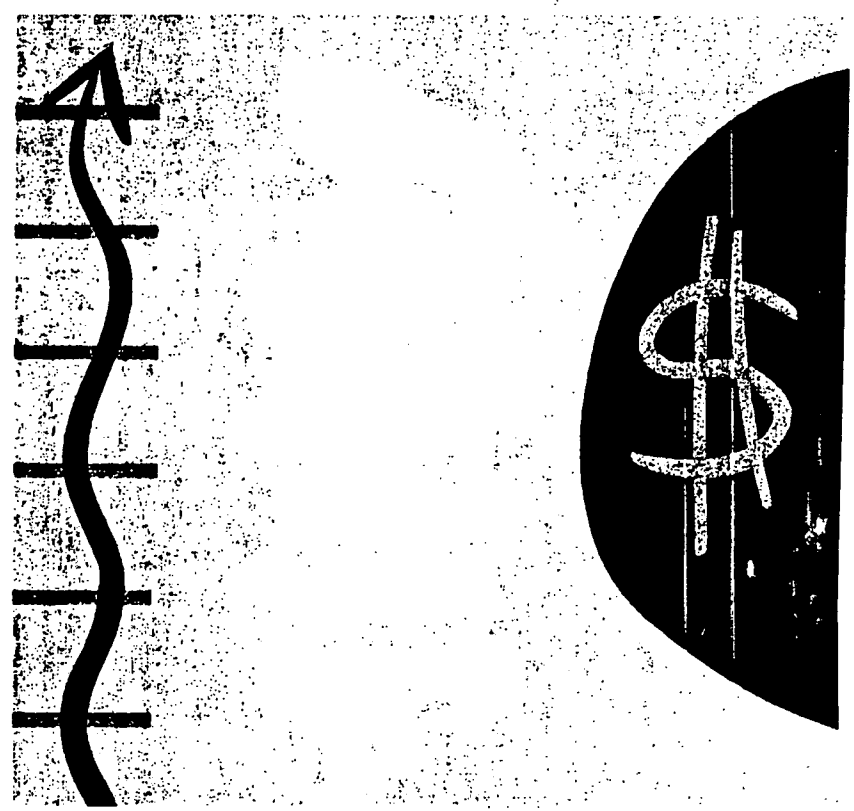
Income Tax Changes 2001

- **Added a new tax bracket of 8.25% on taxable income over $200,000 for 2001, 2002, and 2003**
- **Eliminated the Marriage Tax Penalty over 2002-03**
- **Increased Child Tax Credit over 2002-03**



Income Tax Changes 2002

- **Added a new tax bracket of 8.25% on taxable income over $200,000 for 2001, 2002, and 2003**
- **Eliminated the Marriage Tax Penalty over 2003-04**
- **Increased Child Tax Credit over 2003-04**



Conformity to Federal Law
S.L. 2002-125

- Updates State tax law to conform to federal changes in EGTRRA and Job Creation and Worker Assistance Act
- Conforms to gift tax annual exclusion amount
- Decouples from accelerated depreciation provisions
- Decouples from federal tax credit provision

Federal "Pick-Up" Tax Credit

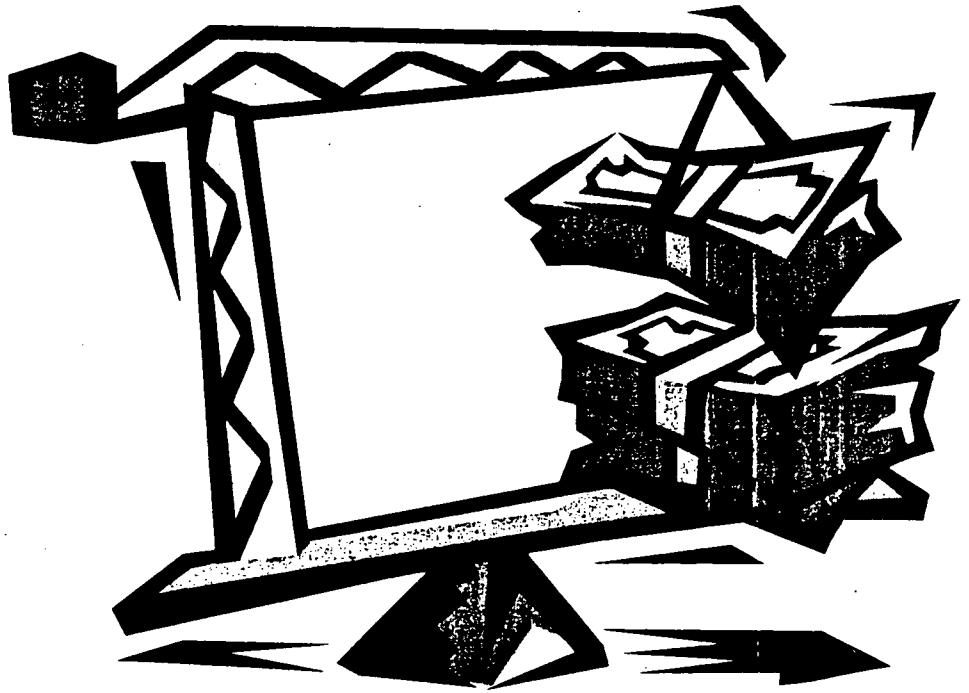
- Estate tax being phased-out
- NC conforms to the increased exemption amounts
- Federal "pick-up" tax credit being phased-out
- **NC does not conform to the phase out of the federal credit for 2002 and 2003 – Amount of the credit remains the amount as it existed in 2001**
- ***General Assembly will have to re-visit the issue again in 2003***

Estate Tax Options

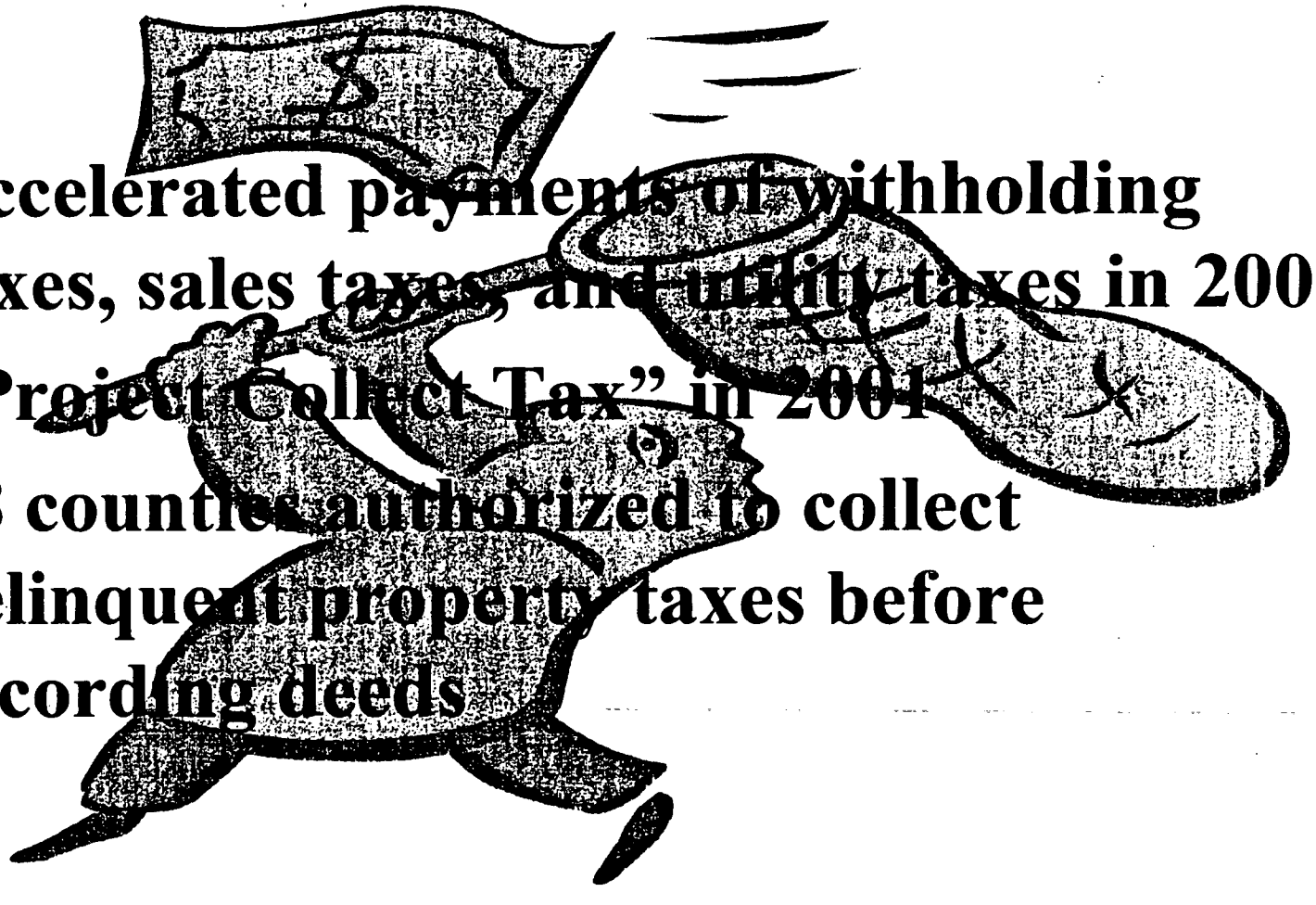
- **Extend or remove sunset on the decoupling of the phase-out of the federal credit**
- **Take no action**
- **Establish a stand-alone estate tax**
- **Fully conform to federal changes**
- **Repeal the estate tax**

Selected Legislation

- *Closure of Tax Loopholes*
- *Sales Tax Changes*
- *Income Tax Changes*
- **Collection Enhancements**



Collection Enhancements



- Accelerated payments of withholding taxes, sales taxes, and utility taxes in 2001
- "Project Collect Tax" in 2001
- 48 counties authorized to collect delinquent property taxes before recording deeds

That Concludes
our ...

T.S.I. For 2001-02

House Committee on Finance

Minutes
March 6, 2003

The House Committee on Finance met on Thursday, March 6, 2003, at 8:30 A.M. in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Gibson and Hill, and Representatives Blackwood, Bordsen, Capps, Carney, Cunningham, Ellis, Glazier, Holliman, Lewis, McGee, Munford, Rayfield, Ross, Weiss and Womble. Also present were Sergeants-at-Arms Bob Fowler, Bill Freeman, Dusty Rhoades and Walter Spell. Staff persons present were Richard Bostic, Trina Griffin, Martha Walston and Evan Rodewald.

Rep. Luebke, Presiding Chair, called the meeting to order by determining a final seating arrangement for committee members and by introducing the page from Mitchell County, Angelina Keath, sponsored by Rep. Phillip Frye.

The agenda did not include any bills for consideration, but staff members, David Crotts, Martha Walston and Trina Griffin, made presentations as follows:

REPORT OF FEBRUARY REVENUES – David Crotts (see attachments)

PRESENTATION ON FISCAL CONDITIONS IN OTHER STATES AND TYPES OF FEDERAL ASSISTANCE REQUESTED BY GOVERNORS AND LEGISLATORS

THE ESTATE TAX QUESTION

STAFF RESPONSE TO MEMBER QUESTIONS - Martha Walston (see attachments)

- **Tax treatment of agriculture**
- **Highway Trust Fund court case**
- **Estate tax issue and impact on General Fund for FY 03-04**
- **Corporate income tax as a percentage of General Fund revenue**

Trina Griffin also presented an update on the Goldston Case.

The meeting adjourned at 9:50 a.m. to reconvene on Tuesday, March 11, at 8:30 a.m.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Joyce T. Harris
Committee Assistant

ATTACHMENTS:

Agenda
Visitor Registration Page
Staff Presentations

AGENDA

House Finance Committee

March 6, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Report on February revenues
David Crotts

Presentation on fiscal conditions in other states and types of federal assistance requested by governors and legislators
David Crotts

Staff response to member questions
Martha Walston, Trina Griffin, and David Crotts

- *Corporate income tax as a percentage of General Fund revenue*
- *Estate tax issue and impact on General Fund for FY 03-04*
- *Highway Trust Fund court case*
- *Tax treatment of agriculture*

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 6 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCRP
Duke Chew	Intern
Warren Plonk	OSBM
John McAt	COU OFFICE
Michelle Frazier	NC Bar Ass'n
Paul Zigi	OSBM
Dean Plunkett	NC Beer & Wine
Kevin Leonard	NCDOL
Dan Kane	NCO
Benny Scarb	NCHC
Mark Beason	Capitol Group

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 6 2003

Name of Committee — **Date**

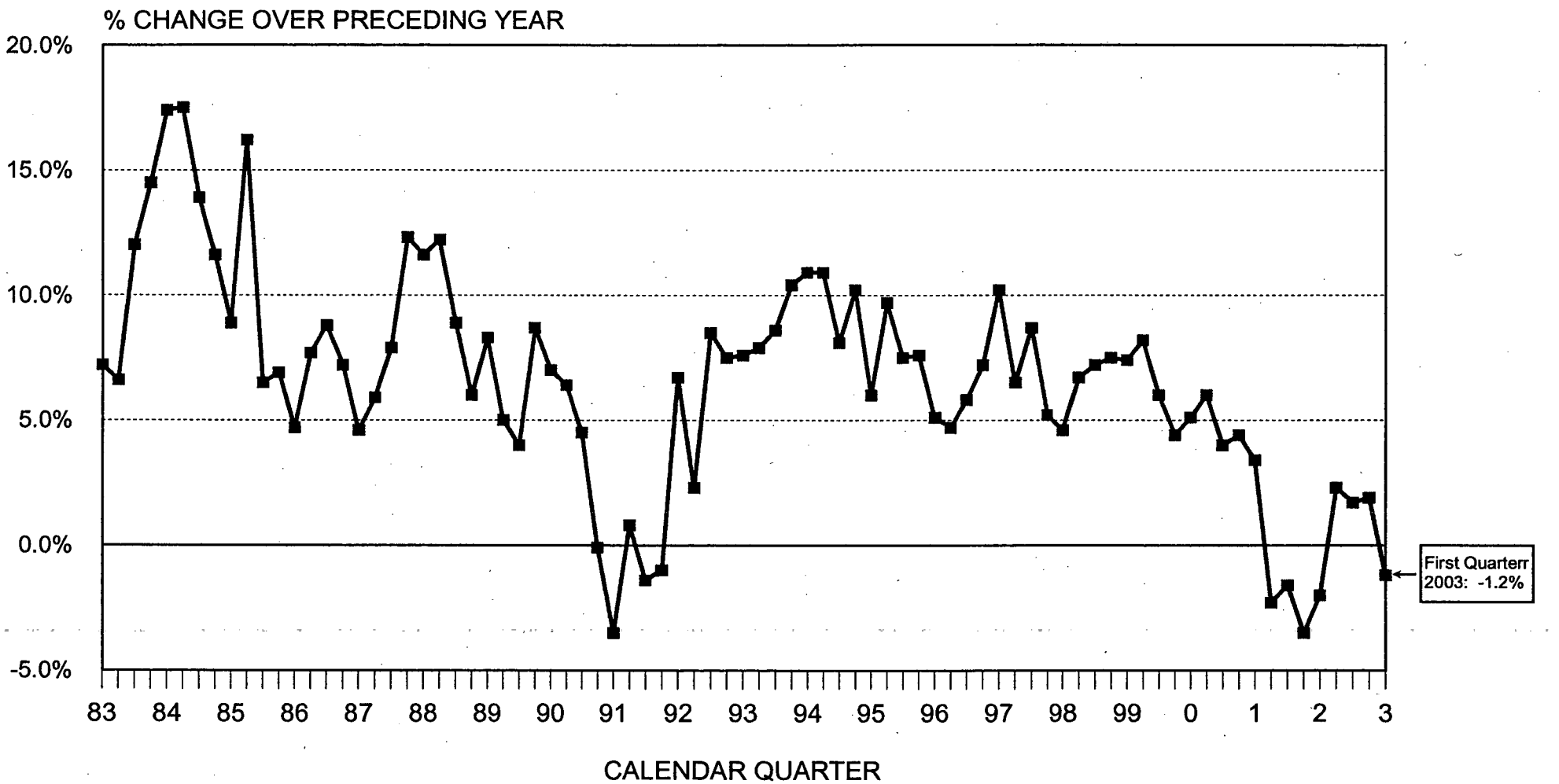
VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marcos Arellano	Intern for Rep. Luebke
Ron Aycock	County Comm. Assoc
Betty Turner	Bank of America
[illegible]	NCCCS
Lauren Harper	SEANC
[illegible]	CCNC
Gary Harris	NCPMA
Doug Howey	NCPMA

MISCELLANEOUS FISCAL INFORMATION

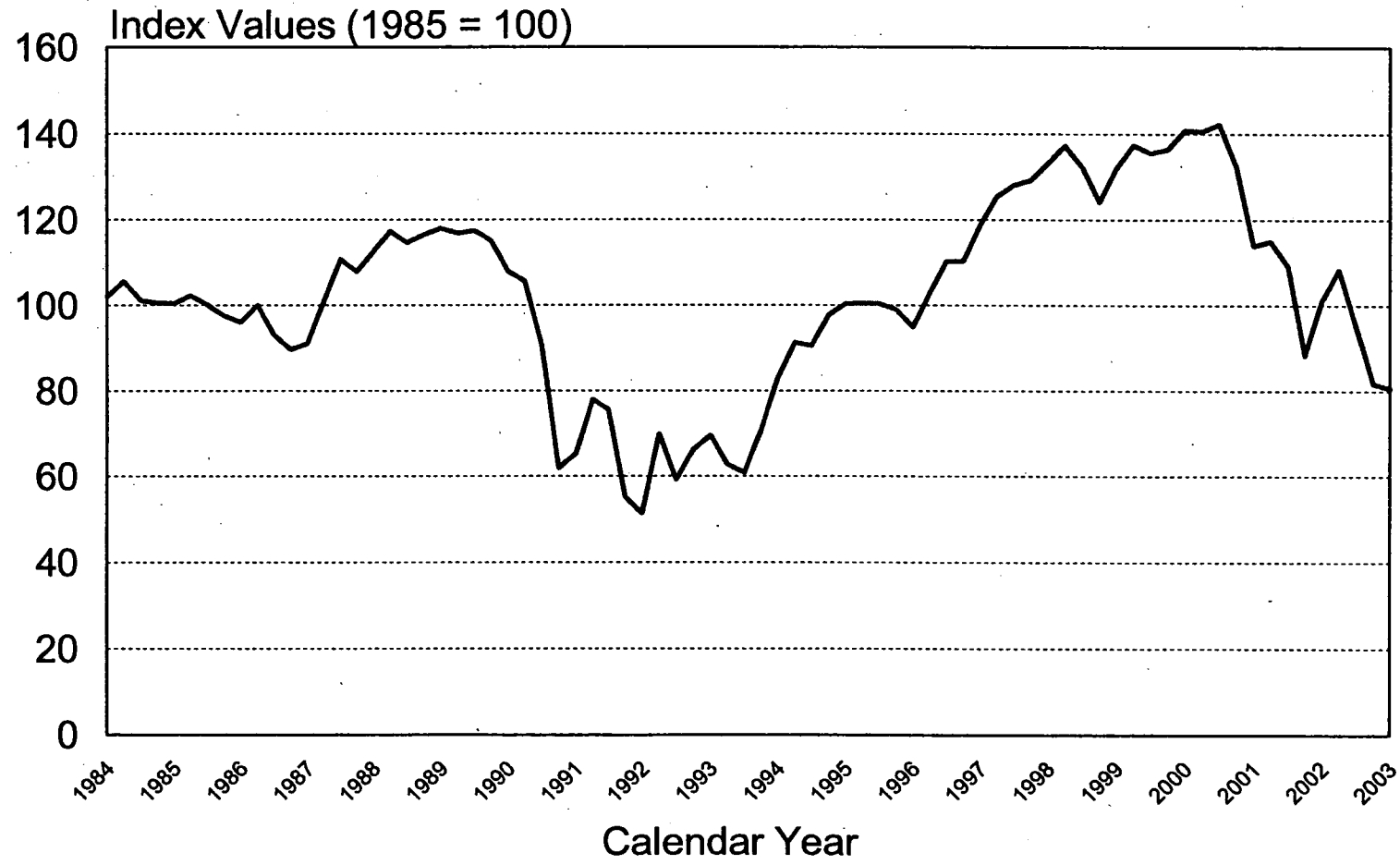
Fiscal Research Division
March 6, 2003

THE MODEST RECOVERY IN STATE AND LOCAL SALES TAX REVENUES IS BEING SHORT-CIRCUITED BY PRE-WAR JITTERS



NOTE: Data has been adjusted for tax law changes. Data for the current quarter is based on January and February only.

Consumer Confidence



Source: Conference Board

How Does North Carolina's Plight Compare to Other States?

- ✓ Many states adopted 02-03 budget prior to bad April and June numbers last year and used revenue growth rates of 3-6% (versus 1.09% in North Carolina). Thus, North Carolina is one of 10 states that does not have a revenue shortfall of spending overrun (Medicaid) for the current year.
- ✓ Some states still have budget reserves to use.
- ✓ Our FY 04 budget gap of 10-15% of the budget is about average.
- ✓ Some states will consider revenue-raising measures already used by North Carolina in 2001 and 2002.
- ✓ Our economy went into a recession sooner but may be recovering more quickly than most other states. In general, the high-tech states crashed later but are still mired in a recession. Military deployment could place an additional burden on North Carolina in the short-run.

North Carolina Has Not Been Alone in Using One-Time Budget Fixes

- Governors and legislative leaders of both parties do not want to hurt classroom.
- Advocacy groups resist human services cuts.
- Medicaid cuts are difficult to achieve (services to elderly, payments to providers)
- Competitive politics rules out broad-based tax hikes in many states.
- These constraints have forced states to be creative in uncovering one-time resources to "plug" the budget hole on a temporary basis. In many cases, states are mortgaging many future years. This contrasts with the use of more permanent solutions back in 1991.

Examples of One-Time Fixes Being Used by States

- ✓Securitize tobacco settlement funds
- ✓Issue bonds to fund capital needs
- ✓Issue bonds to fund pension responsibilities
- ✓Divert highway monies
- ✓Hold local revenue sharing funds
- ✓Divert pension contributions
- ✓Move special fund balances into General Fund
- ✓Move June 30 paydate
- ✓Roll payment of bills into following year
- ✓Divert tobacco settlement funds

Examples of One-Time Fixes Being Used by States
(continued)

- ✓Accelerate tax payments
- ✓Divert disaster relief funds
- ✓ Draw down rainy-day fund
- ✓Delete programmed capital funding
- ✓Sell physical assets
- ✓Adopt tax amnesty programs

State Concerns about Federal Budget Actions

- ✓ Delays in getting federal terrorism funding assistance
- ✓ Need for additional help in Medicaid (federal mandates)
- ✓ Concerns about nature of federal tax cuts (conformity issue)
  - 2001 income tax actions (IRA's, 401-K's, education incentives)
  - 2001 estate tax actions
  - 2002 stimulus package (bonus depreciation)
  - 2003 proposed package (dividend exclusion, capital expensing rules)
- ✓ E-commerce taxation
- ✓ Fiscal squeeze on discretionary portion of federal budget (includes state and local aid) due to higher defense spending and federal tax cuts

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March 6, 2003

MEMORANDUM

TO: Members of House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

SUBJECT: Estate Tax Question

During last week's state revenue sources briefing, a question was raised concerning the reduction in state General Fund revenue if the 2003 General Assembly takes no action on the 2004 sunset on the proposal to temporarily fix to the estate tax conformity issue. A brief explanation of the issue may help.

In 1998, North Carolina followed the earlier lead of most other states by repealing the regular death tax (estate or inheritance tax) and replacing it with an "estate tax" that is equal to the amount of the federal credit for state death taxes. The reason for keeping a "pickup tax" is that if a state does not levy a tax in an amount equal to the federal credit, the credit remains unused on the federal estate tax return and the dollars go to Washington instead of the state capital.

In a surprise move in March 2002, the Congress phased out the state death tax credit over four years, beginning January 1, 2002, in order to finance other parts of the federal stimulus package. The action was a surprise because it had not been discussed in the stimulus packages debated soon after the events of September 11.

Due to difficult budget outlooks and concerns about how states were being treated under federal budget decisions, many states chose not to conform to the federal changes and continued levying the pickup tax on the prior federal base. North Carolina's compromise solution was to decouple from the federal phase-out to the death tax credit for two years (January 1, 2002 - January 1, 2004) but to adjust the North Carolina tax to account for the higher federal estate tax exemptions that were being

(over)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

phased in. This "partial conformity" solution sunsets on January 1, 2004. If no action is taken on the issue by the 2003 General Assembly, the North Carolina tax reverts to the phase-out schedule that was part of the 2002 federal tax package.

The impact on the General Fund from the various proposals is shown below:

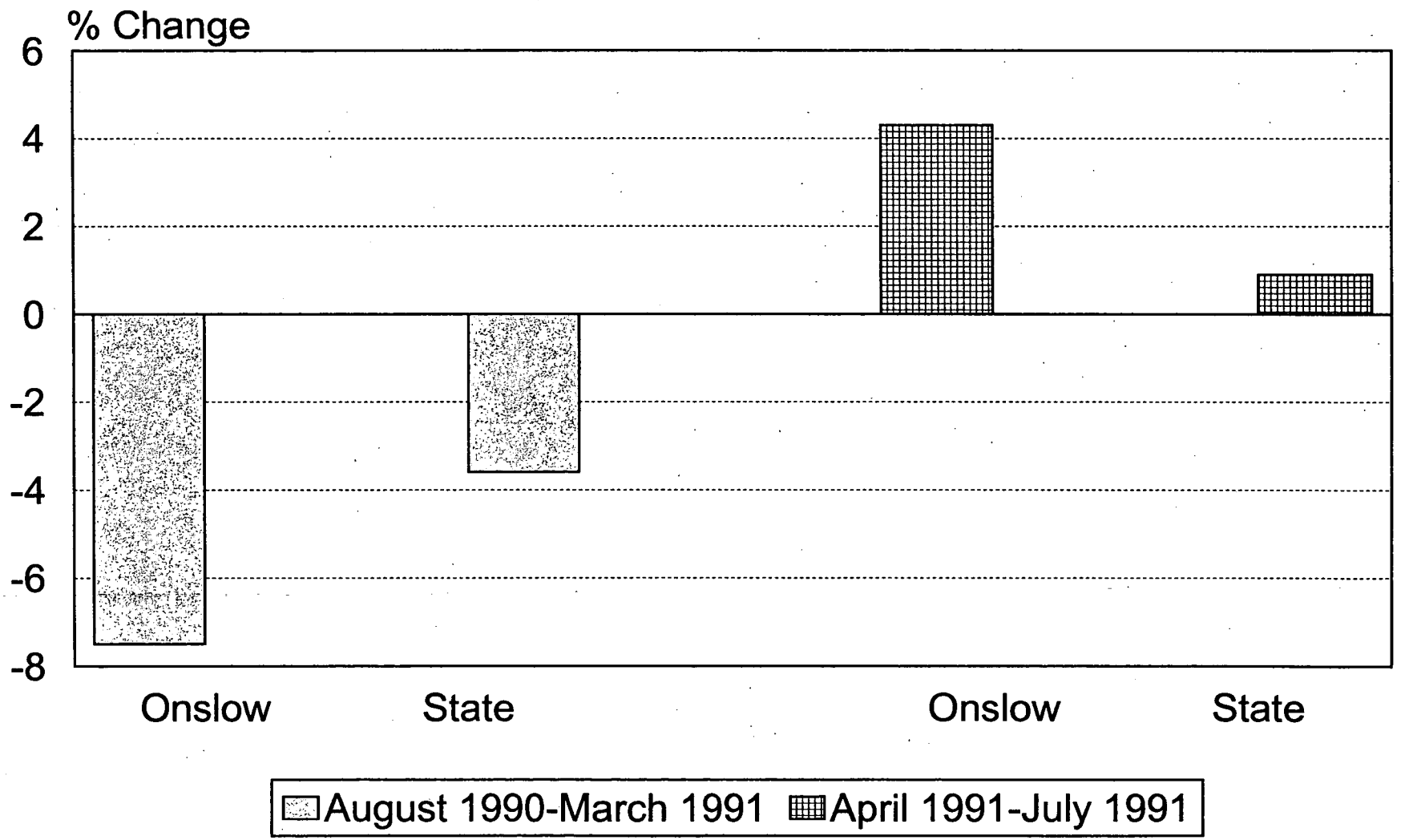
General Fund Revenue Loss ($mil)			
State Fiscal Year	**Original Full Conformity Option**	**2002 Partial Conformity Solution***	**No Action Scenario****
2002-03	-31.3	-5.5	-
2003-04	-68.2	-7.3	-
2004-05	-96.1	-3.8	-92.3
2005-06	-111.9	-	-111.9
2006-07	-143.8	-	-143.8

*A two-year package that conforms North Carolina estate tax to phase-up of higher federal estate tax exemptions, but not the phase-out of the state death credit.

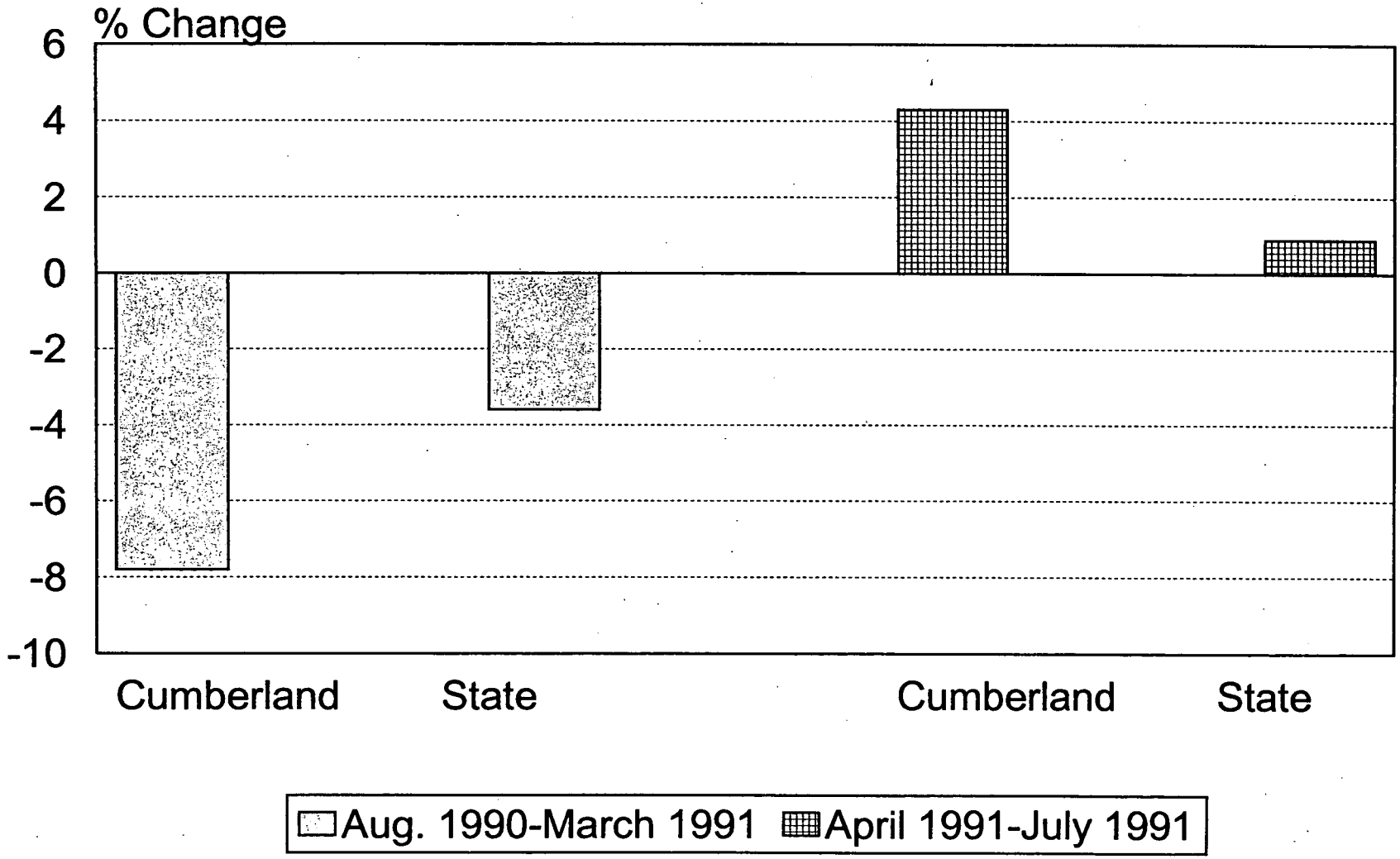
**If no 2003 session action occurs, the North Carolina tax would revert to conformity to phase-out of federal credit for state death taxes.

For the most recent 12-month period, a total of 2,575 estate tax returns were filed in North Carolina

State Sales Tax Collections
Onslow County vs. State Average



State Sales Tax Collections
Cumberland County vs. State Average



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TAX TREATMENT OF AGRICULTURE
Prepared by Martha Walston, staff attorney to House Finance
March 6, 2003

Sales Tax preferential rates (G.S. 105-164.4)
The following sales are subject to a sales tax rate lower than the general rate of 4 ½ %):[1]

- The rate of 1% applies to the sales price of the following articles:
    1. horses or mules
    2. semen used for the artificial insemination of animals
    3. sales of fuel, other than electricity, to farmers for any farm use other than preparing food, heating dwellings, and other household purposes.
- The rate of 1%, subject to a maximum of $80 per article, is imposed on the sales price of the following:
    1. farm machinery, parts, and accessories[2] for the machinery for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops, or in the production of dairy products, eggs, or animals.
    2. bulk tobacco barns and racks, parts, and accessories sold to farmers for the curing and drying of any farm produce.
    3. grain, feed or soybean storage facilities and accessories sold to farmers.
    4. containers sold to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when the containers do not go with and become part of the product sold at wholesale or retail.
- The rate of 2.83% applies to the sales price of electricity sold to farmers for any farm use other than preparing food, heating dwelling, or other household purposes. (G.S. 105-164.4(a)(1f)a.)[3]

Sales Tax exemptions (G.S. 105-164.13)
The following agricultural products are exempted from the State sales and use tax:

- Commercial fertilizer, lime, land plaster, and seeds sold to a farmer for agricultural purposes.
- Any of the following substances when purchased for use on animals or plants held or produced for commercial purposes:[4]

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[1] The general State sales and use tax rate of 4 ½ % is effective until July 1, 2003. After this date, the general rate returns to 4%).
[2] The term "accessories" does not include electricity. (G.S. 105-164.4(a)(1d)).
[3] A rate of 2.83% is also imposed on the following: (a) sales of electricity to commercial laundries and dry-cleaning establishments and (b) sales of electricity to manufacturing industries and plants for use in the operation of the industry or plant, if the industry or plant received 900,000 or less megawatt hours of qualified electricity during the proceeding year. A rate of .17% is imposed on the sales price of electricity sold to manufacturing industries and plants for use in the operation of the industry or plant, if the industry or plant received more than 900,000 megawatt hours of qualified electricity during the previous year. "Qualified electricity is electricity that is measured by a separate meter or another separate measuring device and is sold to a manufacturing industry or manufacturing plant for use in the operation of the industry or plant. The rates change effective July 1, 2005.
[4] This exemption does not apply to any equipment or devices used to dispense the substances listed in this exemption

1. remedies, vaccines, medications, litter materials, and feeds for animals
2. rodenticides, insecticides, herbicides, fungicides, and pesticides
3. defoliants for use on cotton or other groups
4. plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

- Products of forests and mines in their original or unmanufactured state when such sales are made by the producer in the capacity of producer.
- Cotton, tobacco, peanuts, or other farm products sold to manufacturers for further manufacturing or processing.
- Baby chicks and poults sold for commercial poultry or egg production.
- Products of a farm sold in their original state by the producer if that producer is not primarily a retail merchant.
- Ice used to preserve agriculture, aquaculture, and commercial fishery products until the products are sold at retail.
- Commercially manufactured facilities, equipment, parts and accessories, building materials, supplies and fixtures used for the commercial housing, raising, or feeding of animals, or related equipment.
- The lease or rental of tobacco sheets used in handling and transporting tobacco.

Income tax credits

The following income tax credits are available to both individual and corporate taxpayers unless otherwise noted:

- Credit for conservation tillage equipment – equal to 25% of the cost of conservation tillage equipment purchased by a taxpayer for use in a farming business, including tree farming. The credit may not exceed $2,500 for any taxable year, may be carried forward for five years, and is claimable only by the first purchaser.(G.S. 105-130.36 and G.S. 105-151.13)[5]
- Credit for gleaned crops - equal to 10% of the market price of the quantity of gleaned corps. Gleaned crops are those harvested and donated to a nonprofit organization for distribution to individuals or other nonprofit organizations. The credit may be carried forward for the next five years. (G.S. 105-130.37 and G.S. 105-151.14)[6]
- Credit for construction of a poultry composting facility - equal to 25% of the construction cost of a poultry composting facility constructed by a taxpayer for the composting of whole, unprocessed poultry carcasses from commercial operations in which poultry is raised or produced.[7] The credit may not exceed $1,000 for any single installation. (G.S. 105-130.44 and G.S. 105-151.25).

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[5] "Conservation tillage equipment" means a planter (commonly known as a "no-till" planter) designed to minimize disturbance of the soil in planting crops or trees or designed to minimize disturbance of the soil in reforestation site preparation.

[6] The credit for gleaned crops may not be claimed unless the taxpayer adds the market price of the gleaned crop to taxable income.

[7] "Poultry composting facility" means a structure in which whole, unprocessed poultry carcasses are decomposed by a natural process into an organic, biologically safe by-product that can be used for plant food. (G.S. 106-549.51)

- Credit for property taxes paid on farm machinery – credit allowed for local property taxes paid on farm machinery and attachments and repair parts, up to a maximum of $1,000. This credit is allowed only to individual income taxpayers and an individual shareholder of an S Corporation engaged in the business of farming. (G.S. 105-151.21)

Corporate Income Tax Exemption
The following organizations are exempt from income tax (G.S. 105-130.11(8)):

- Farmers', fruit growers', or like organizations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less necessary selling expenses, on the basis of the quantity of product furnished by them.
- Agricultural cooperative and marketing associations.

Motor fuel tax refunds
A person who purchases and uses motor fuel in the following vehicles may receive an annual refund for the motor fuel excise tax paid on the fuel. The amount of the refund allowed is 33 1/3% of the following: the sum of the flat cents-per gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the sales and use tax due:

- A bulk feed vehicle that delivers feed to poultry or livestock and used a power takeoff to unload the feed.
- A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
- A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.

Property tax preferential treatment
The following deduction is allowed for property tax purposes (G.S. 105-277):

- Indebtedness owed by the taxpayer for the purchase of fertilizer may be deducted from the total value of the fertilizer if held by the taxpayer for his own used in agriculture during the current year.

The following property is taxed at its present use as opposed to its fair market value

- Agricultural land that is part of a farm unit, actively engaged in commercial production under a sound management plan, and individually owned.
- Horticultural land that is part of a horticultural unit, actively engaged in commercial production under a sound management plan, and individually owned.
- Forestland that is part of a forest unit, actively engaged in commercial production under a sound management plan, and individually owned.

Property tax exemptions
The following property is exempt from property taxes (G.S. 105-275):

- Property used exclusively for pollution control or waste disposal. This exemption includes an animal waste management system if the EMC determines it meets certain environmental performance standards.

- Poultry and livestock and feed used in the production of poultry and livestock.
- Standing timber, pulpwood, seedlings, saplings, and other forest growth (Purpose of this classification is to encourage property forest management practices and to develop and maintain the forest resources of the state.)
- Inventories owned by wholesale and retail merchants (Inventories includes crops and other agricultural or horticultural products held for sale, whether in process or ready for sale.)

HIGHWAY TRUST FUND
(Prepared March 5, 2003)*

The Highway Trust Fund was established in 1989 for the purpose of funding highway construction. The 2001 General Assembly permitted the use of $680 million of Trust Fund cash balances over three fiscal years for additional purposes, primarily maintenance. The Trust Fund's primary revenue sources are ¼ of the motor fuel tax, a 3% Highway Use Tax, title fees and various registration fees, and interest earned on cash balances. The law has required that $170 million be transferred each year from the Highway Trust Fund to the General Fund. As a result of a change in the law in 2001, this statutory transfer in FY 2002-03 is $172.4 million and will grow over time. In addition to this statutory transfer, the Governor transferred $80 million in FY 2001-02, and the Budget for FY 2002-03 transfers $205 million to the General Fund. The $205 million, and an additional $80 million to be transferred in FY 2003-04, are to be paid back to the Highway Trust Fund starting in FY 2004-05.

At the end of January 2003, the cash balance in the Highway Trust Fund was $213 million (down by $372.8 million from one year ago). The balance in the Highway Fund was $385.5 million (up by $117.5 million from one year ago). The total was $598.5 million (down by $255.3 million from one year ago).

Attached are the following:

- Copy of G.S. 136-176. This statute creates the Highway Trust Fund, sets out its revenue sources, and how the revenue is spent.
- Chart comparing the Highway Fund and the Highway Trust Fund.
- Highway Trust Fund Budget for 2002-03

*Fiscal Analysts Evan Rodewald and Bob Weiss provided information for this handout

§ 136-176. (For contingent repeal see editor's note) Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

(1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

(2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

(3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.

(4) Repealed by Session Laws 2001-424, s. 27.1.

(5) Interest and income earned by the Fund.

(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

(1) For primary route pavement preservation. – One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:

a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or

b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.

(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty-five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.

(5) For small urban construction projects. – Seven million dollars ($7,000,000) in fiscal year 2002-2003.

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No

transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.

(c) If funds are received under 23 U.S.C. Chapter 1, Federal-Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143-28.1 only for the two bienniums following the year in which the contract is let. (1989, c. 692, s. 1.1; c. 770, ss. 68.2, 74.6; 1989 (Reg. Sess., 1990), c. 1024, s. 46(a), (b); 1991, c. 193, s. 9; c. 280, s. 1; c. 689, s. 62; 1995, c. 390, s. 27; 1995 (Reg. Sess., 1996), c. 590, s. 6; 1996, 2nd Ex. Sess., c. 18, s. 19.4(a); 1998-212, s. 27.2; 1999-237, s. 27.1; 2000-140, s. 31; 2001-424, ss. 27.1, 27.23(d), 27.23(e), 27.23(f); 2002-126, ss. 26.4(a), 26.4(b), 26.9(b); 2002-133, s. 3; 2002-159, s. 41.5.)

	Highway Fund	Highway Trust Fund
Budget FY02-03	$1.3 billion	$975 million
Major Funding Sources	Motor Fuel Tax $875 million Licenses and Fees $390	Motor Fuel Tax $300 million Highway Use Tax $580 Title Fees $93
Major Uses	Maintenance $595 Construction $135 State Highway Patrol $133 DMV $111 Powell Bill $87 Public Transportation $75	Construction $531 Transfer to Gen. Fund $377* **(Up from $172 in FY01-02)* Powell Bill $34 Administration $32
Status of FY02-03 Revenues	On budget	Within 2% of budget
Method of Allocation	Appropriation; some by statutory formula	Statutory formulas; individual projects by Board

Highway Trust Fund Budget for 2002-03

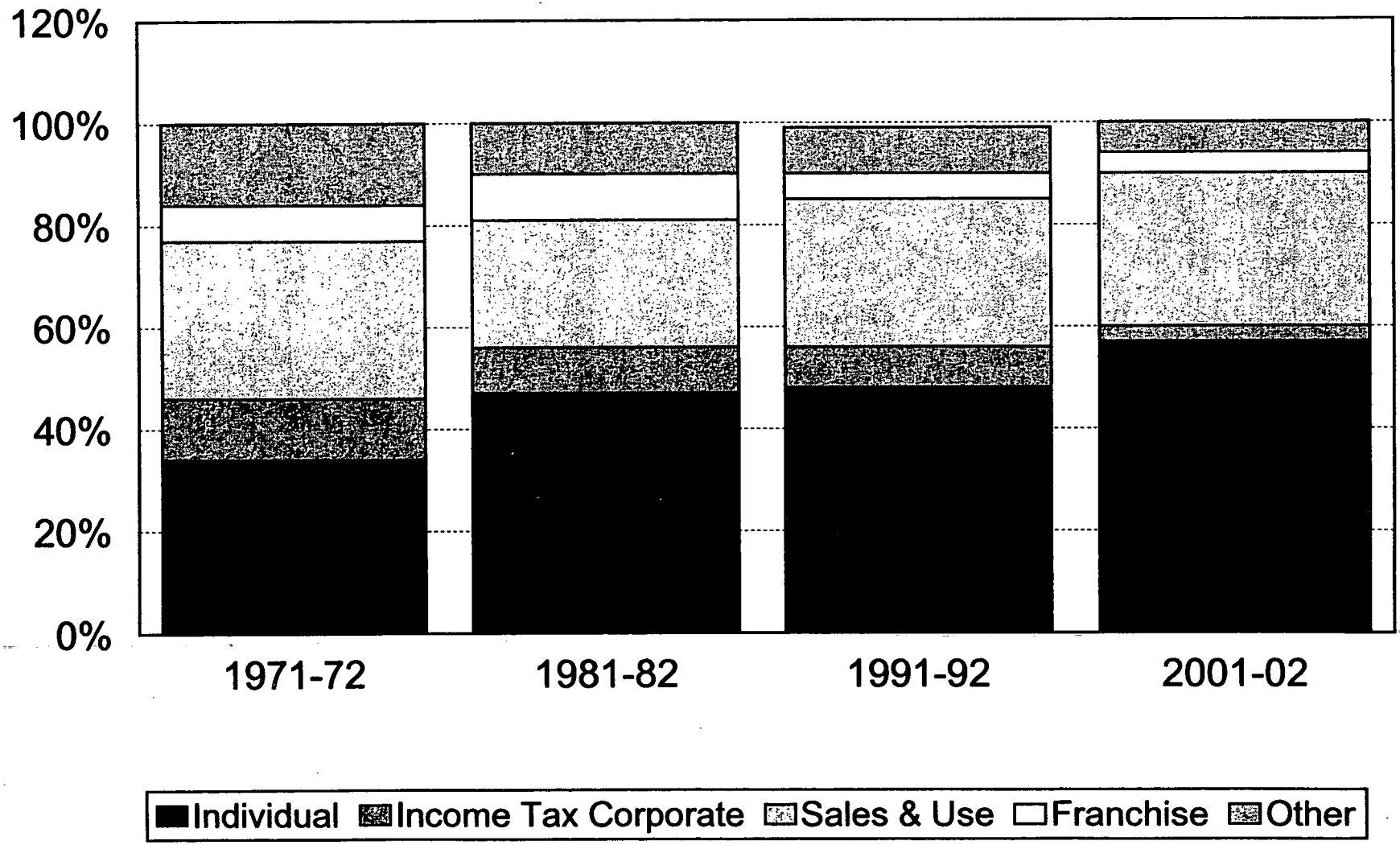
	Budget 2002-2003
Revenue	
Highway Trust Fund Revenue	974,830,000
Statutory Transfer to General Fund	(172,400,000)
Additional Recurring Transfer (through 2003-04)	(80,000,000)
Additional Nonrecurring Transfer	(125,000,000)
Revenue Available for Transportation	**597,430,000**
Appropriations	
Intrastate System (State network of four-lane highways. Eligible projects specified in G.S. 136-179)	328,765,110
Secondary Roads	69,230,843
Urban Loops (Projects specified in G.S. 136-180)	132,938,918
Aid to Municipalities/Powell Bill	34,495,129
Program Administration	32,000,000
Grand Total/Highway Trust Fund Appropriations	**597,430,000**

6-Sep-02

Question: Are sales taxes paid on materials and supplies for manufactured homes?

Answer: Under G.S. 105-164.13(8), sales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured is exempt from sales and use tax. Example: If a manufacturer of a manufactured home sells the finished product to a customer, the manufacturer does not pay sales and use tax on the materials and supplies that go into the manufactured home. However, if a person acts as a contractor to construct a manufactured home for another person, then the contractor is generally liable for sales and use tax on the materials and supplies that go into the construction of the home.

Actual Tax Revenue Collected by Major Schedules



House Finance Committee
March 6, 2003

Update on the *Goldston* Case

The Case

On November 14, 2002, former state Transportation Secretary James E. Harrington and former state Senator William Goldston, who were both instrumental in developing the Highway Trust Fund[1], filed suit in Wake County Superior Court against Governor Mike Easley and the General Assembly, claiming that the Governor and the Legislature violated the North Carolina Constitution by diverting approximately $205 million[2] from the Highway Trust Fund to the General Fund last year in order to balance the budget.

Plaintiffs' Request for Preliminary Injunction

The State Budget Office has been transferring the funds in quarterly installments. In January of 2003, after two payments had been made, the plaintiffs sought a preliminary injunction to prohibit the State Budget Office from making the remaining two payments. Retired Wake County Superior Court Judge Robert Farmer, who has been assigned to the case, denied the request for a preliminary injunction and the decision was not appealed.

Current Status

At the present time, there is one more payment to be made. The parties are in the process of trying to stipulate all factual issues, and hearings on dispositive motions may be scheduled as early as April 2003. The main issue to be resolved in the case is whether the scope of the Governor's constitutional authority to balance the budget included authority to transfer funds from the Highway Trust Fund to the General Fund.[3] The plaintiffs assert that the Governor's authority is limited to adjusting expenditures. A secondary issue is whether the Governor violated the constitutional provision stating that a tax shall not be applied for any other purpose than that for which it was levied.[4]

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[1] The Highway Trust Fund was created by the General Assembly in 1989 and is funded by the highway use tax, the motor fuels tax, and title and registration fees. The Fund was designed to build a system of intrastate highways and seven urban loops, provide assistance to cities, and accelerate secondary road paving.

[2] Traditionally, the Department of Transportation transfers approximately $172 million a year from the Highway Trust Fund to the General Fund. Last year, the budget called for an additional $205 million to be transferred from the Highway Trust Fund, of which $125 million is characterized as a loan required to be repaid to the General Fund at a later date.

[3] The Governor's authority to balance the budget is derived, in part, from Section 5 of Article III of the N.C. Constitution which states: "To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures."

[4] N.C. CONST. art. V, sec. 5.

North Carolina General Assembly

House Committee on Finance

Minutes

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March 13, 2003

The House Committee on Finance met on Thursday, March 13, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, and Hill; Representatives Blackwood, Bordsen, Carney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Ross, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:35 am and recognized the two (2) pages present: (1) Jennifer Gold of Cleveland County, sponsored by Representative Moore, and (2) Joanna Izguierdo of Wake County, sponsored by Representative Weiss.

The first order of business was the continuation from the previous meeting of the overview of the Jobs Development Investment Grant Program by Canaan Huie (see attachment 3). After one hour, due to time constraints on Carol Shaw, Mr. Huie was asked to continue his overview at the next meeting

Chairman Miner then called upon Carol Shaw to give a brief overview of the Medicaid program (see attachment 4).

As there was no other business before the Committee at that time, Chairman Miner adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Susan D. Phillips
Clerk, House Committee on Finance

Attachments:
1. Agenda

2. Visitor Registration Sheet
3. Overview of the Jobs Development Grant Program
4. Overview of Medicaid

North Carolina General Assembly

House Committee on Finance

Minutes

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AGENDA

House Finance Committee

March 13, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Continuation of the Overview of the Jobs Development Investment Grant Program
Canaan Huie

Overview of Medicaid
Carol Shaw

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 13, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DON HOBART	DOC
Duke Ch	Intern
T Jum	NCRA
Elizabeth Jordan	Budget & Tax Center
Mark Brown	Capitol Group
Warren Glomb	OSBM
Paul Lyzin	OSBM
Ron Aycock	County Comm. Assoc
Leon Killian	Moore + Van Allen
Ken Melton	Alley Associates
Sandy Sash	WCSR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 13, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McKay	GOV OFFICE
Kevin Leonard	NCDOL
Brian Lewis	Planned Parenthood Health Sys.
Laura Harper	SEANC lharper@seanc.org
[signature]	NCAEC
[signature]	NCMS
[signature]	
Barbara Crawley	
Stacy Ramsey	NCHCFA
Scott Herman	Cabarrus County SWCD Vice Chairman
Paula L. Hoyt	Covenant w/ NC's Children

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

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2002 Tier Designations

TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
ALLEGHANY	ANSON	ALEXANDER	BRUNSWICK	ALAMANCE
ASHE	BLADEN	AVERY	BURKE	BUNCOMBE
BEAUFORT	COLUMBUS	CASWELL	CALDWELL	CABARRUS
BERTIE	DUPLIN	CHOWAN	CARTERET	CATAWBA
CAMDEN	GREENE	CLEVELAND	CRAVEN	CHATHAM
CHEROKEE	HOKE	CURRITUCK	CUMBERLAND	DAVIDSON
CLAY	LENOIR	DARE	GRANVILLE	DURHAM
EDGECOMBE	MADISON	DAVIE	HARNETT	FORSYTH
GRAHAM	MITCHELL	GASTON	LEE	FRANKLIN
HALIFAX	PAMLICO	GATES	LINCOLN	GUILFORD
HERTFORD	PASQUOTANK	HAYWOOD	PITT	HENDERSON
HYDE	RICHMOND	JACKSON	ROWAN	IREDELL
JONES	ROBESON	MACON	SAMPSON	JOHNSTON
MARTIN	ROCKINGHAM	MCDOWELL	STOKES	MECKLENBURG
NORTHAMPTON	RUTHERFORD	MONTGOMERY	SURRY	MOORE
PERQUIMANS		NASH	WILKES	NEW HANOVER
SCOTLAND		ONSLOW	YADKIN	ORANGE
SWAIN		PENDER		RANDOLPH
TYRRELL		PERSON		UNION
VANCE		POLK		WAKE
WARREN		STANLY		
WASHINGTON		TRANSYLVANIA		
YANCEY		WATAUGA		
		WAYNE		
		WILSON		

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NC Department of Commerce
301 North Wilmington Street
Raleigh, NC 27601 (919) 733-4151
4301 Mail Service Center
Raleigh, NC - 27699-4301

DEPARTMENT OF HEALTH & HUMAN SERVICES

MEDICAID PROGRAM OVERVIEW

FISCAL RESEARCH DIVISION
February 2003

Medicaid Program Overview

- Purpose of Medicaid
- Impact of Medicaid
  - On the State Economy
  - On State Government
  - On the State Budget
  - On Local Government
- Medicaid Services
- Medicaid Recipients
- Policy Changes Since 1990
- Cost Containment Efforts

Medicaid Program

THREE PROGRAMS IN ONE

- HEALTH INSURANCE
- LONG TERM CARE FOR THE ELDERLY
- SERVICES FOR PEOPLE WITH DISABILITIES

Medicaid Program

MEDICAID VS. MEDICARE

Medicaid is health care for certain groups of poor persons, including single parent families, persons over age 65 and the disabled. Coverage is based on a person falling into one of the target groups and passing income and resources tests. Medicaid is administered by states and counties and financed with federal, state and county funds.

Medicare is health care for persons over age 65 and for the disabled who receive Social Security payments. Medicare is administered by the Health Care Financing Administration and financed by employer/employee contributions to the Social Security Trust Fund.

Medicaid Program

ENTITLEMENT STATUS

Medicaid is a federal entitlement program. Entitlement means that any individual who is found eligible for Medicaid has a legal right to receive services under the Medicaid Program and cannot be denied coverage.

Implications for State Government

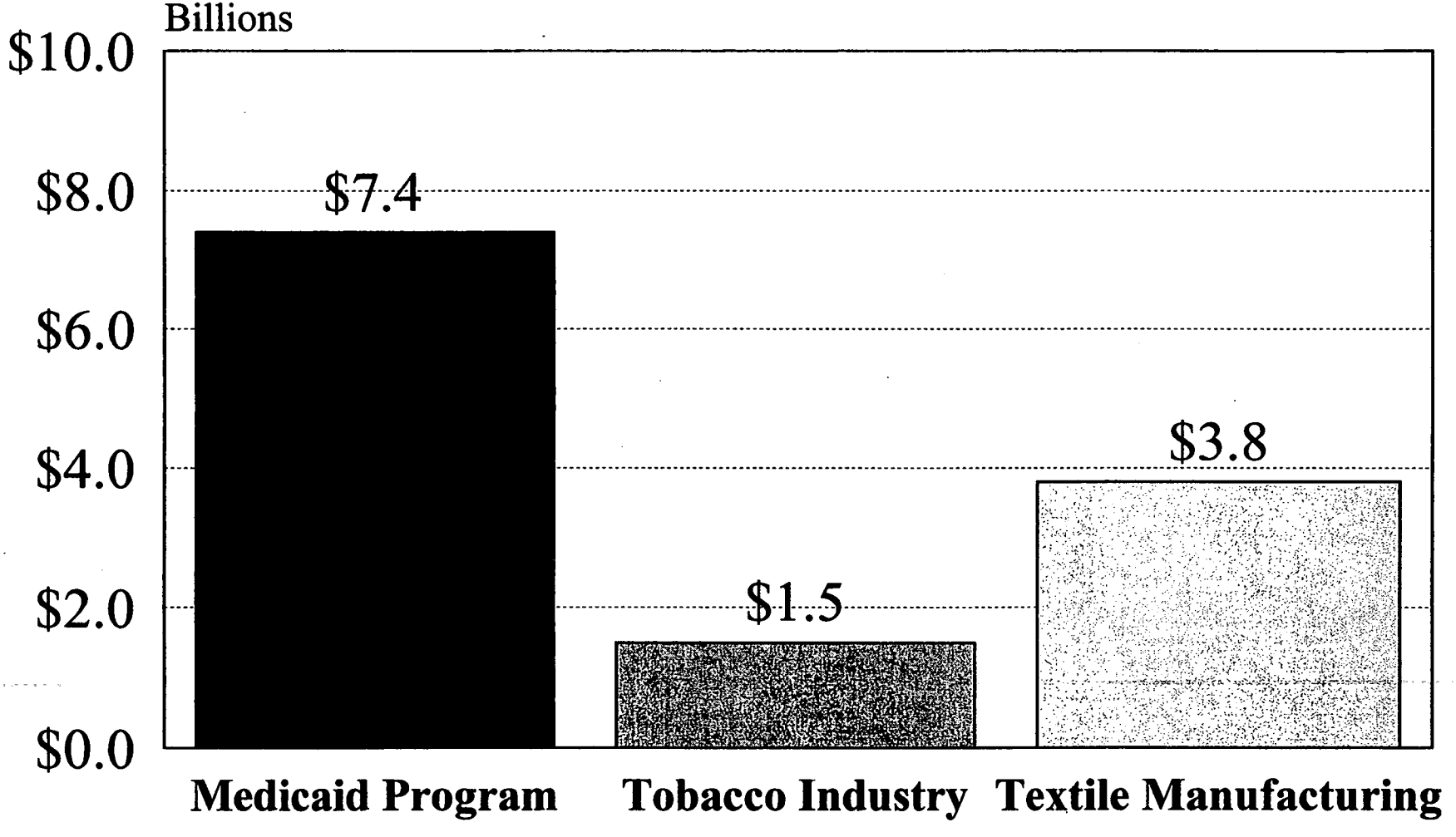
- ✓ **All eligible persons who apply for Medicaid must be served.**
- ✓ **The medical bills for Medicaid eligibles must be paid.**
- ✓ **If the appropriations for the Medicaid Program are inadequate, eligible persons must be served even if the funding must come from other areas of State government.**

IMPACT OF MEDICAID

- ✓ On the State Economy
- ✓ On State Government
- ✓ On the State Budget
- ✓ On Local Government

Medicaid Program

ROLE IN STATE ECONOMY



NOTE: Tobacco Industry includes the value of the 2002 crop and the estimated 2002 salaries and wages for tobacco manufacturing. Textile Manufacturing includes the estimated salaries and wages for the industry for 2002.

Medicaid Program

OTHER COMPARISONS

- The SFY 2002 Medicaid Program expenditures are equal to the estimated total income of the citizens of Cumberland County for 2000.

- Assuming an average private sector salary of $31,621 for 2002, SFY 2002 Medicaid expenditures would pay the salary of 232,950 employees in the private sector.

Medicaid Program

N. C. MEDICAID SNAPSHOTS

- Covered 1.4 Million state residents in SFY 2002 -- 17% of N.C.'s population
- Covered over 800,000 children during SFY 2002 - 57.7% of Medicaid eligibles
- Covers 45% of the babies born each year
- 30.8 % of recipients consume 71.1% of resources -- includes aged, blind, and disabled

Medicaid Program

N. C. MEDICAID SNAPSHOTS

- Inpatient care consumes 36.8% of expenditures for services -- includes hospitals, nursing homes, and mental retardation centers.

- Expenditures for drugs began to exceeded $1 Billion in SFY 2002.

- 66.5% of the state's 40,000 nursing home beds are funded through Medicaid.

- 14% of N. C. hospital charges are paid by Medicaid -- 49% are paid by Medicare.

Medicaid Program

IMPACT ON STATE AND LOCAL AGENCIES

- The Medicaid Program supplies significant support to State and Local agencies that provide medical services to Medicaid recipients.

- The following State and Local Agencies receive reimbursement from Medicaid: Mental Retardation Centers, State Psychiatric Hospitals, Special Care Center, UNC Hospitals, Area Mental Health Agencies, Alcohol and Drug Treatment Centers, Public Health Departments, Social Services Departments, County Owned Home Health Agencies, County Owned Ambulance Services and Local Education Agencies.

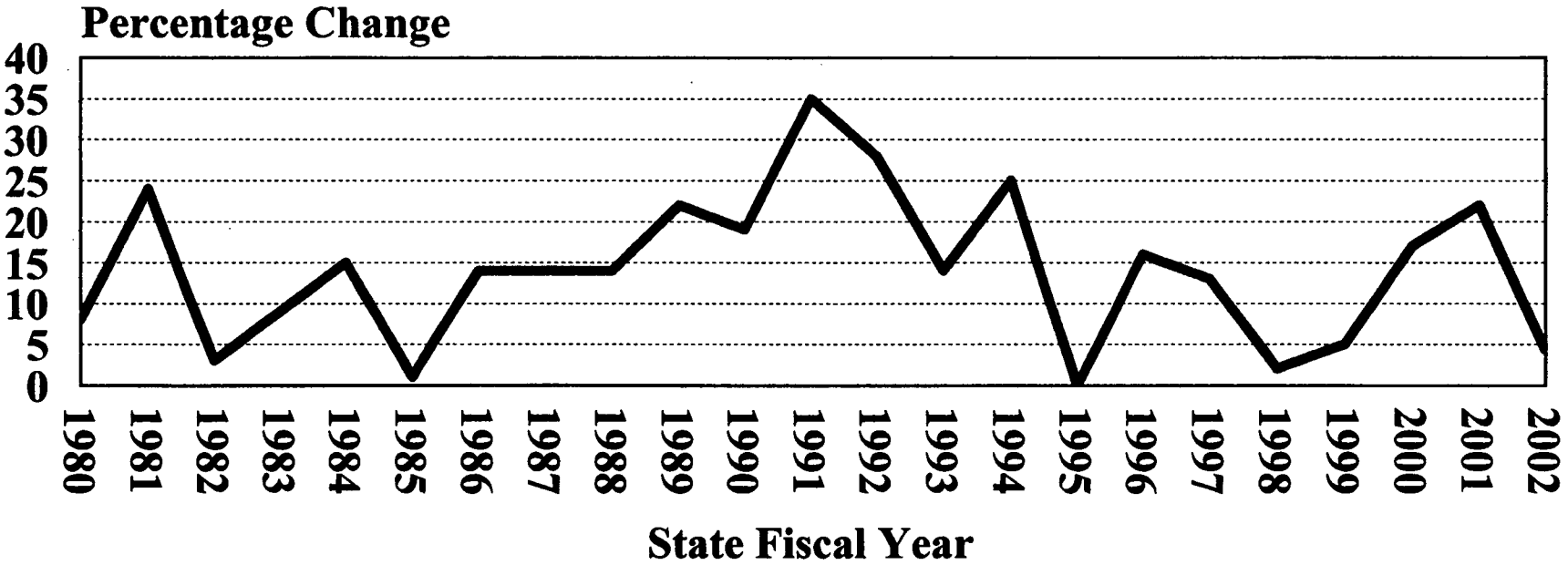
Medicaid Program

HISTORY OF TOTAL EXPENDITURES

STATE FISCAL YEAR	TOTAL EXPENDITURES
1979-80	$410,053,625
1989-90	$1,427,672,567
1999-00	$5,789,133,085
2001-02	$7,366,129,429

Medicaid Program

RATE OF GROWTH

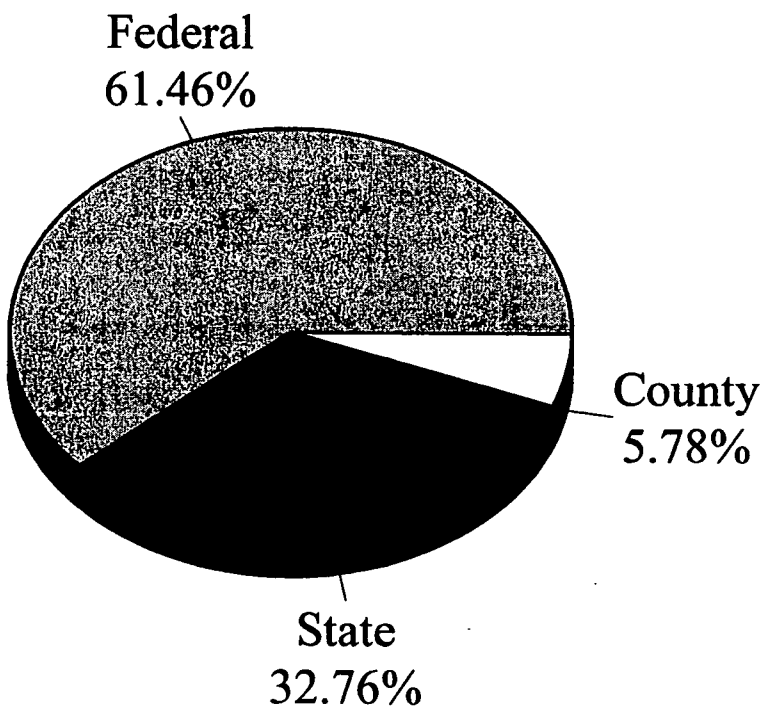


- ✓ During the past twenty years, the rate of growth for Medicaid expenditures has varied considerably - ranging from 0% to 35%.
- ✓ Higher rates of growth have occurred during years of economic distress or when major Medicaid expansions have been authorized.
- ✓ Lower rates of growth have occurred during years when the Medicaid population has been stable or declining.

Medicaid Program

FEDERAL FINANCIAL PARTICIPATION

Medical Benefits



SFY 2002

Other Matching Rates

Family Planning

Federal	90%
State	8.5%
County	1.5%

Administration - Skilled Medical Personnel & MMIS

Federal	75%
NonFederal	25%

Administration - All Other

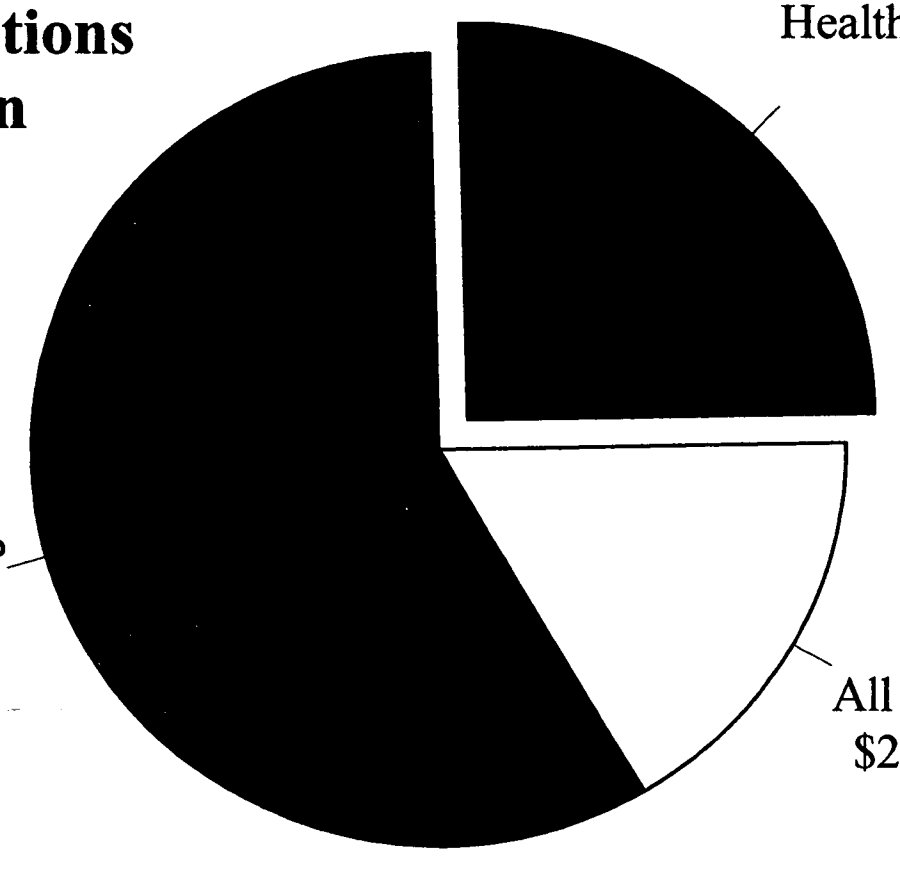
Federal	50%
NonFederal	50%

Medicaid Program

HHS SHARE OF GENERAL FUND APPROPRIATIONS

SFY 2003

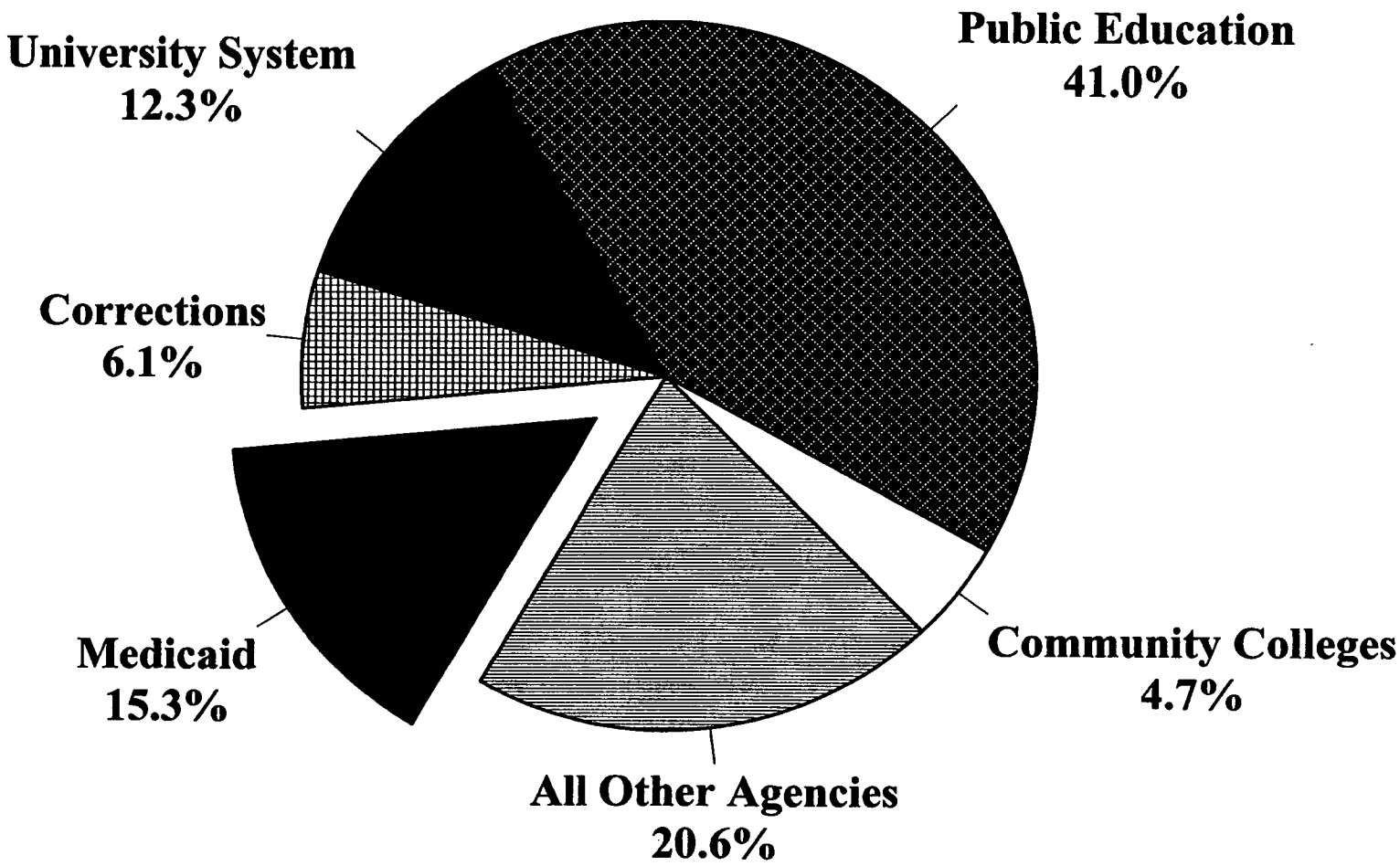
Total Appropriations
$14.35 Billion



Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

GENERAL FUND APPROPRIATIONS BY MAJOR PROGRAM AREA
SFY 2003



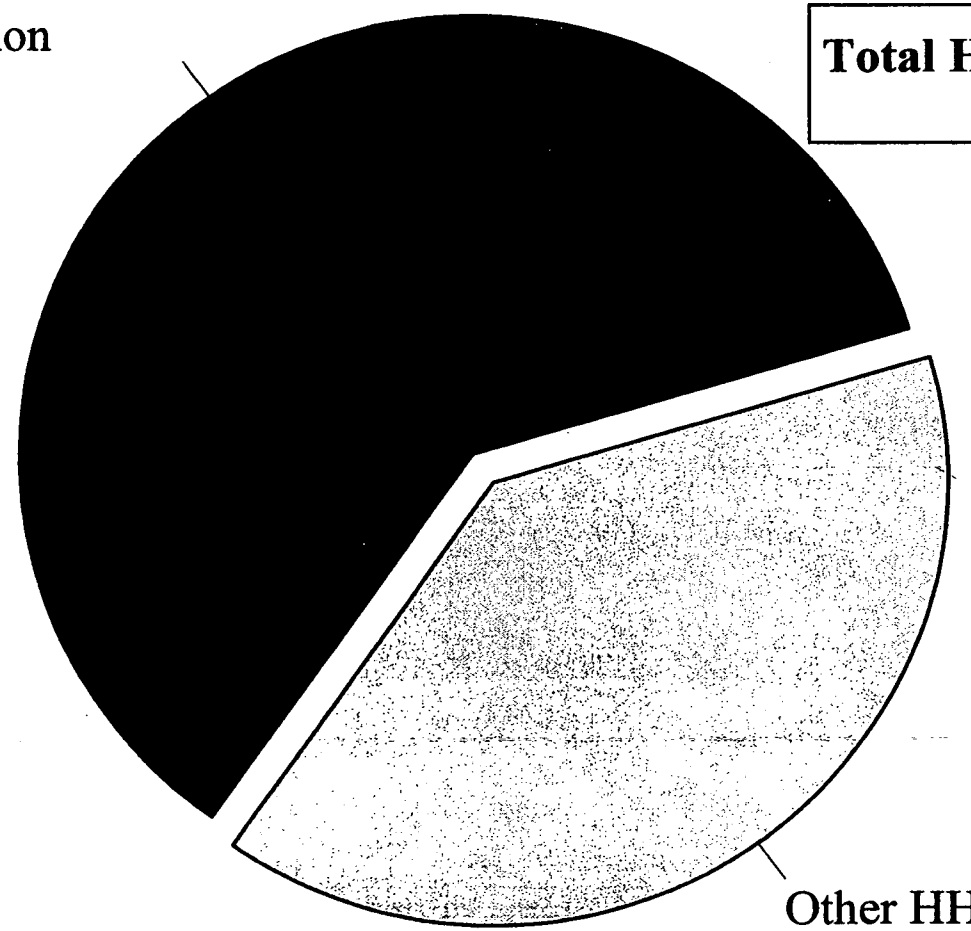
Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

MEDICAID'S SHARE OF HHS GENERAL FUND APPROPRIATIONS FOR SFY 2003

Medicaid Program 60.8%
$2.19 Billion

Total HHS Appropriations
$3.6 Billion

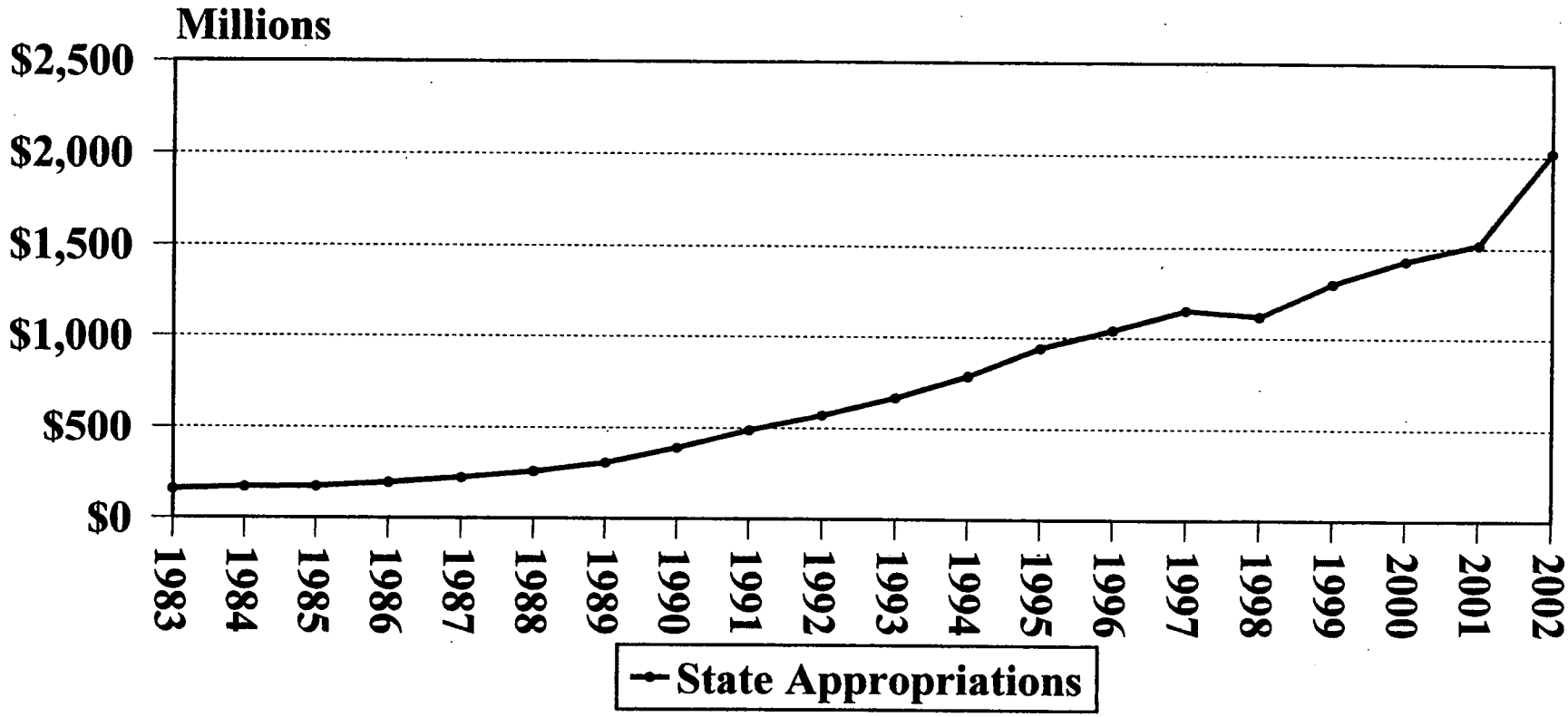


Other HHS Programs 39.2%
$1.41 Billion

Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

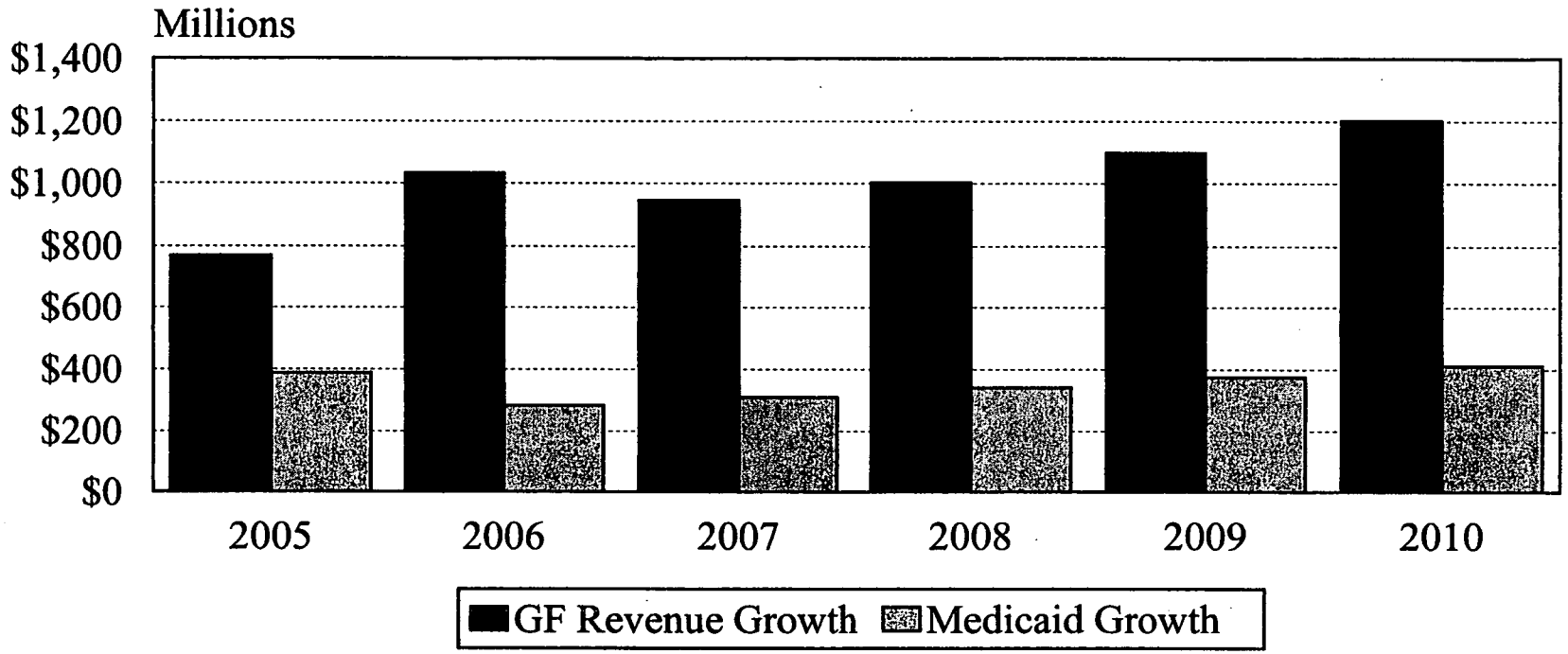
HISTORY OF STATE APPROPRIATIONS



- ✓ 10 years ago, Medicaid was 8.2% of the General Fund operating budget; today it is 15.3%.
- ✓ A 1% increase in the Medicaid Budget equals an $22 Million increase in General Fund requirements.

Medicaid Program

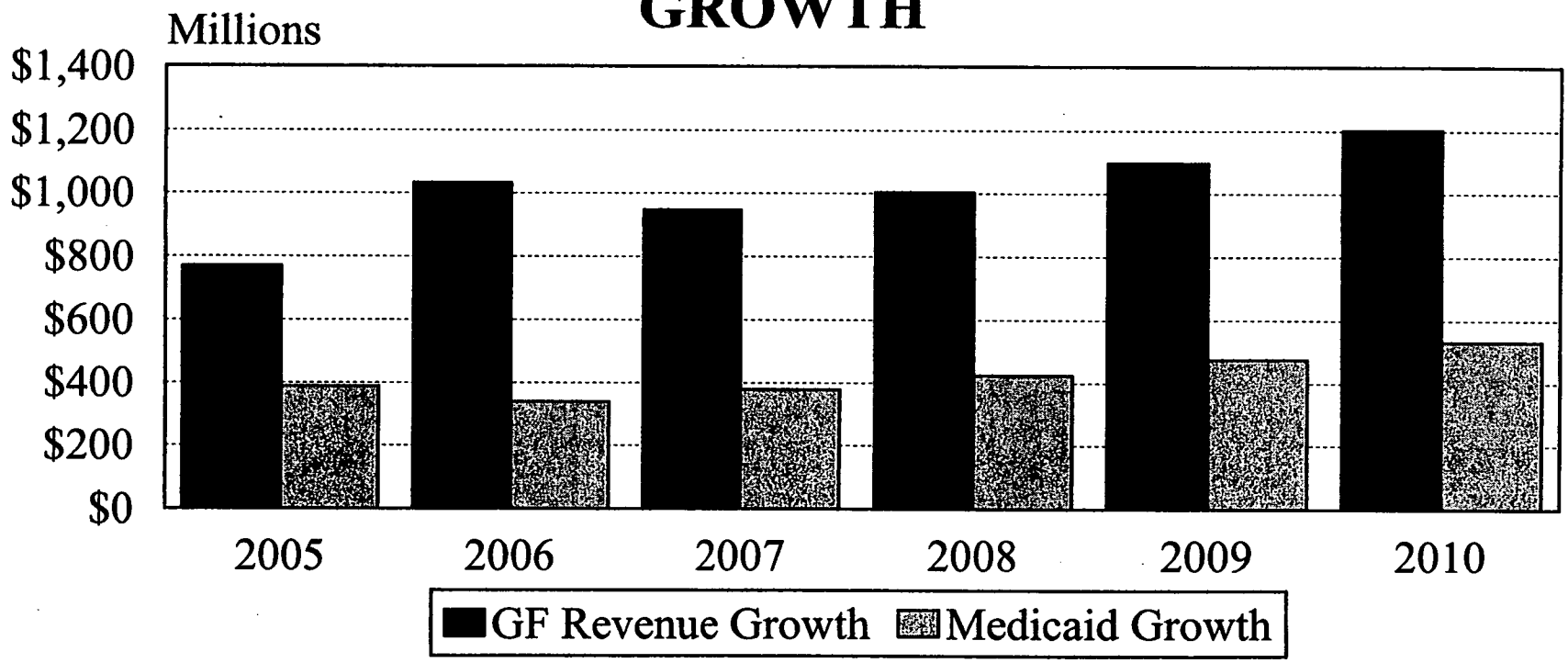
MEDICAID GROWTH VS. GENERAL FUND REVENUE GROWTH



If Medicaid expenditures increase 10% annually, growth in General Fund expenditures for Medicaid will consume 34% of new General Fund revenues by SFY 2010.

Medicaid Program

MEDICAID GROWTH VS. GENERAL FUND REVENUE GROWTH



If Medicaid expenditures increase 12% annually, growth in General Fund expenditures for Medicaid will consume over 44% of new General Fund revenues by SFY 2010.

Medicaid Program

IMPACT ON COUNTIES

- State law requires counties to pay 15% of the nonfederal share of Medicaid Services and 100% of the nonfederal share for County Medicaid Administration.

- For SFY 2003, counties are projected to pay $388 million for Medicaid Services or 5.66% of the expenditures for Medicaid Services.

- For SFY 2003, counties are also projected to pay $63 million for County Medicaid Administration or 50% of the expenditures for County Medicaid Administration.

Medicaid Program

COUNTY PARTICIPATION IN OTHER STATES

Nineteen states require county financial participation for paying the administrative and/or service cost of their Medicaid Programs.

- ✓ Three states require county financial participation for paying for the cost of Medicaid administration: Colorado, Indiana, and Wisconsin.
- ✓ Four states require county financial participation for paying for the cost of Medicaid services: Arizona, Florida, Iowa, and Michigan.
- ✓ Eleven states require county financial participation for paying for the cost of Medicaid administration and services: Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Virginia, and Washington.

MEDICAID SERVICES

Medicaid Program

Mandatory Services and Eligibles

Under federal law, all states operating a Medicaid Program are required to provide certain services and serve specific categories of eligibles. The services and eligibles are **mandatory** and must be included in order to receive federal reimbursement.

Medicaid Program

Mandatory Services

- Health Check Services (ESPDT)
- Family Planning Services
- Federally Qualified Health Centers
- Hearing Aids (children)
- Home Health Services (includes Durable Medical Equipment)
- Inpatient Hospital Services
- Outpatient Hospital Services
- Physicians
- Laboratory & X-Ray Services
- Nurse Midwives
- Nurse Practitioners
- Nursing Facilities
- Prenatal Care
- Rural Health Clinics
- Specialty Hospitals
- Transportation
- Vaccines for Children

Medicaid Program

Optional Services and Eligibles

- Current federal law also will provide federal reimbursement for other services and eligibles that are discretionary, but are allowed under federal law. Each state is allowed to choose which optional services it wants to provide and optional categories of eligibles it wants to serve.

- The North Carolina Medicaid Program covers 28 of the 34 optional Medicaid services.

Medicaid Program

Optional Services

- Ambulance Transportation
- Case Management Services
- Chiropractors
- Clinic Services
- Community Alternatives Programs (CAP)
- Dental Care Services (Dentures)
- Diagnostic, Screening, Preventative Services
- Emergency Hospital Services
- Eyeglasses
- Hospice
- Intermediate Care Facilities for the Mentally Retarded (ICF-MR)
- Mental Hospitals (Age 65 and over)
- Impatient Psychiatric Care (Under age 21)
- Occupational, Physical, and Speech Therapies
- Optometrists
- Personal Care Services
- Podiatrists
- Prescription Drugs
- Prosthetics (children)
- Private Duty Nursing Services
- Rehab. Services (Mental Health)

Medicaid Program

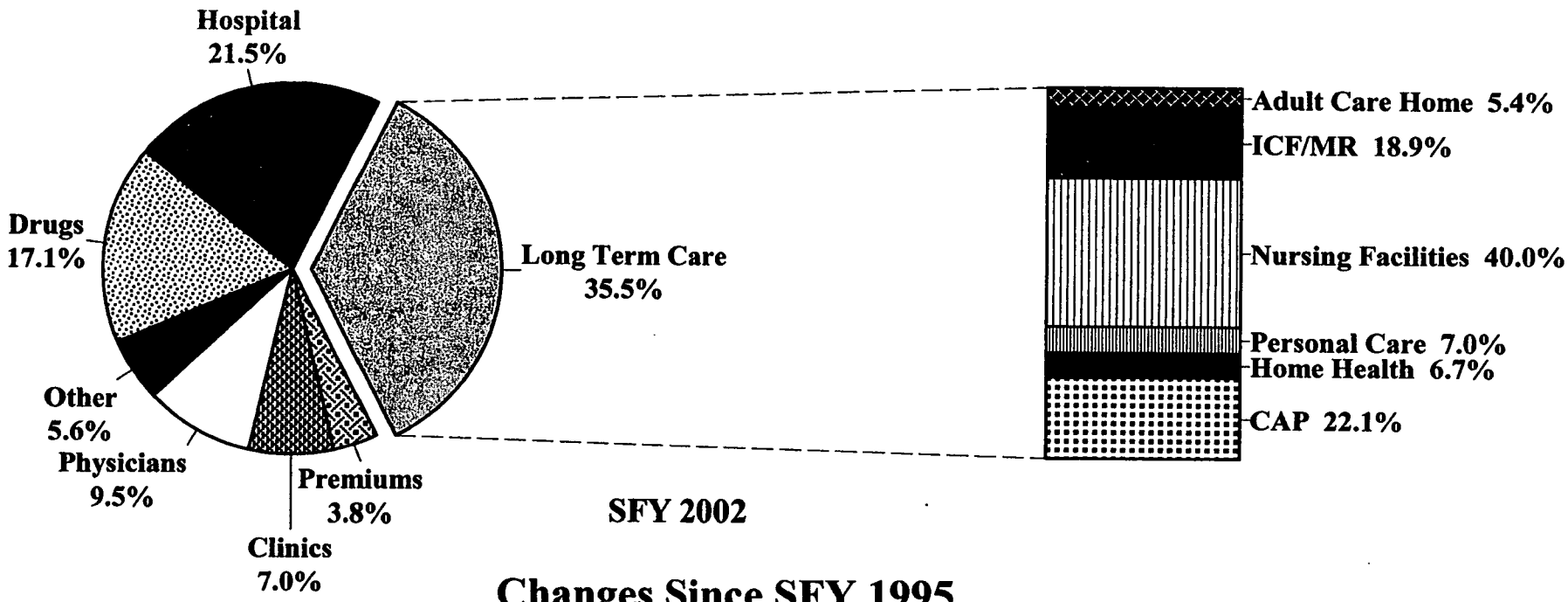
EXPENDITURES FOR SERVICES

- Total expenditures for services and premiums was $6.2 Billion for SFY 2002.

- 96.2% of expenditures for services paid for direct medical services while the remaining 3.6% paid for Medicare and HMO premiums.

Medicaid Program

EXPENDITURES FOR SERVICES

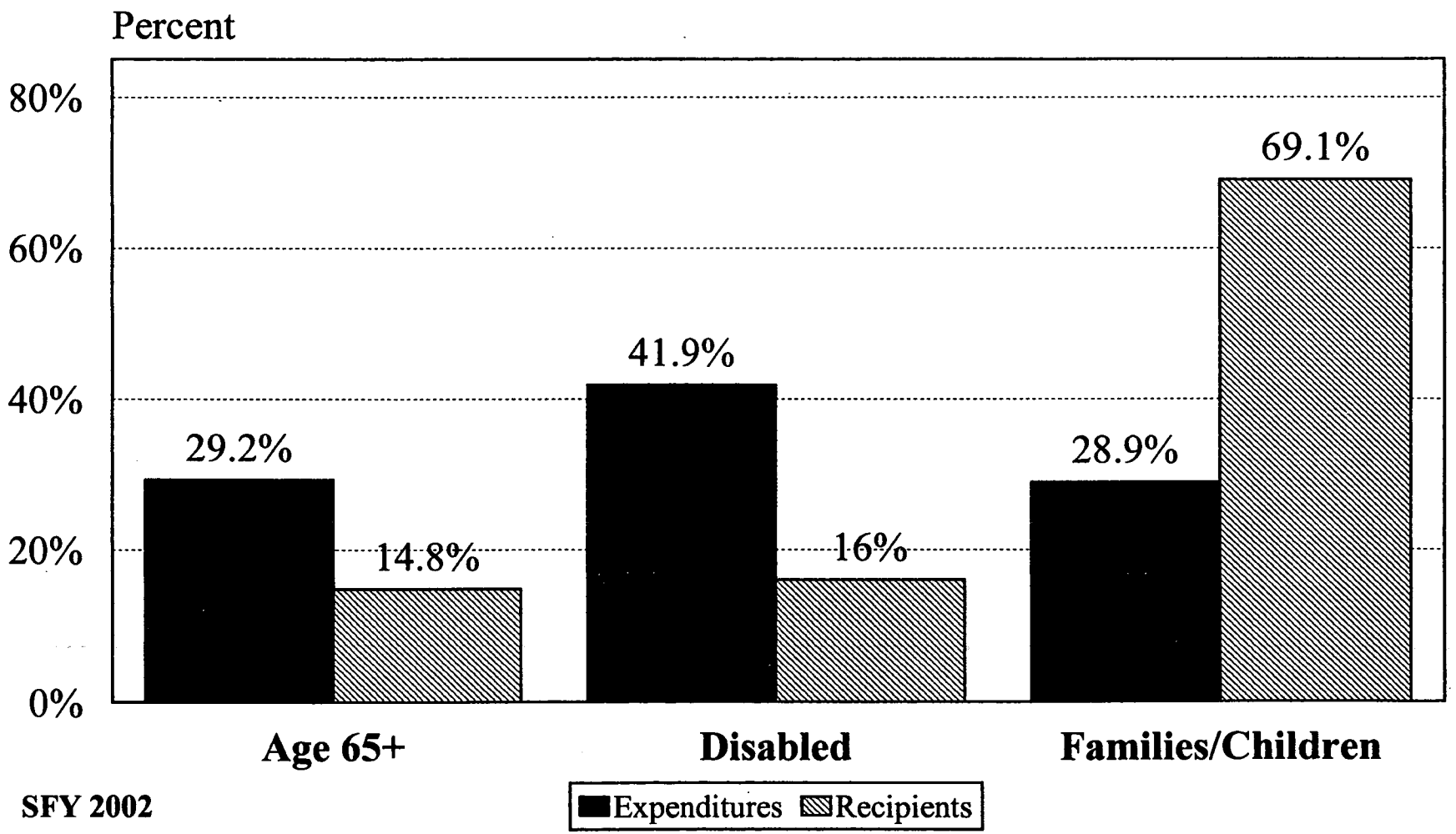


Changes Since SFY 1995

- ✓ **Long-Term Care expenditures continue to decline - 40.4% to 35..5%.**
- ✓ **In-Home Services are an increasing share of Long-Term Care expenditures - 18.5% to 35.8%**
- ✓ **Hospital expenditures have also declined - 26.9% to 21.5 %.**
- ✓ **Drug expenditures have doubled - 8.2% to 17%.**

Medicaid Program

EXPENDITURES AND RECIPIENTS



SFY 2002

Medicaid Program

EXPENDITURES AND RECIPIENTS

SFY 2002

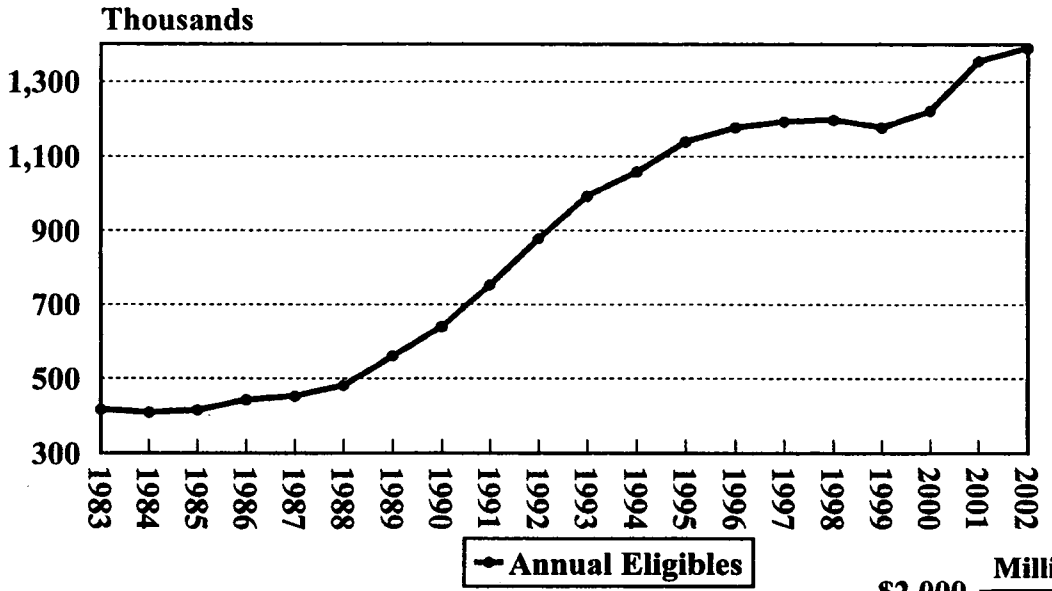
Eligibility Category	Number of Recipients	Expenditures	Annual Cost Per Recipient
Elderly	208,109	$1,804,543,711	$8,687
Aged	160,845	$1,783,081,503	$10,799
Medicare-Aid	47,264	$21,462,207	$473
Disabled	223,225	$2,590,740,655	$10,645
Families & Children	954,340	$1,753,986,603	$1,639

NOTE: The Aged and Medicare-Aid categories are subsets of the Elderly category.

MEDICAID RECIPIENTS

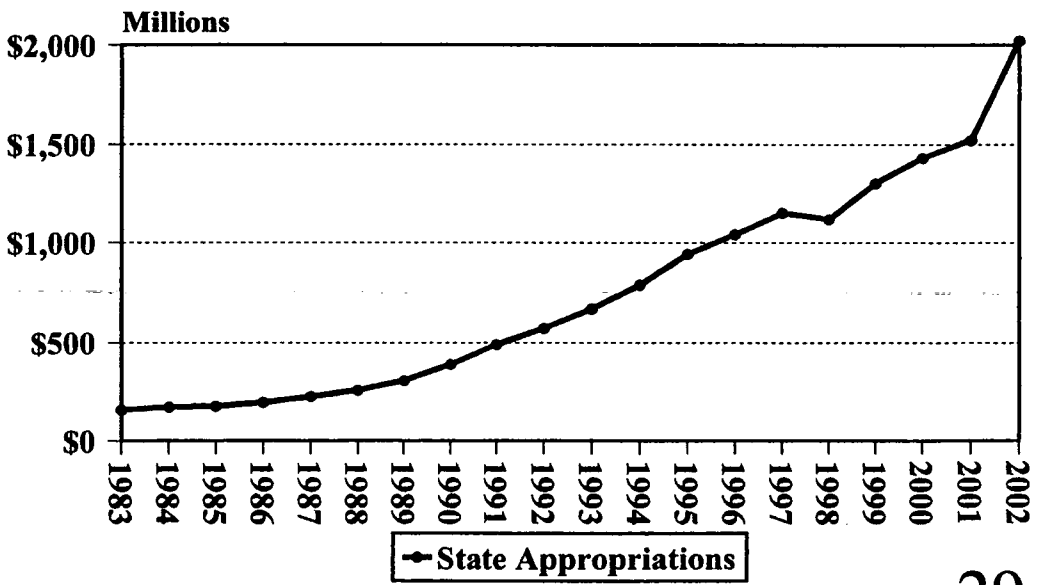
Medicaid Program

GROWTH IN ELIGIBLES AND EXPENDITURES



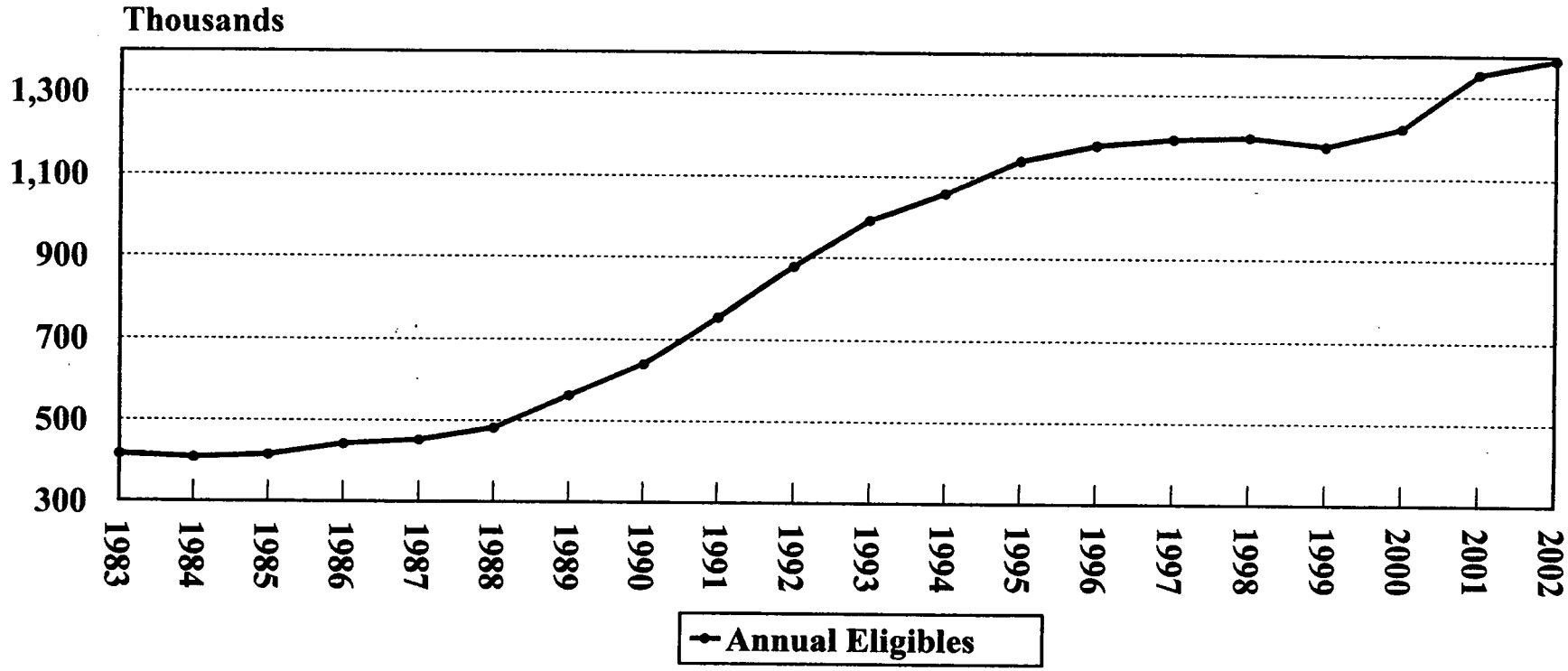
During the early 1980s, the number of eligibles did not grow significantly, and the rate of growth in expenditures for Medicaid was moderate.

Beginning in 1987, a series of mandated and optional eligibility expansions occurred and expenditures for Medicaid began to grow rapidly.



Medicaid Program

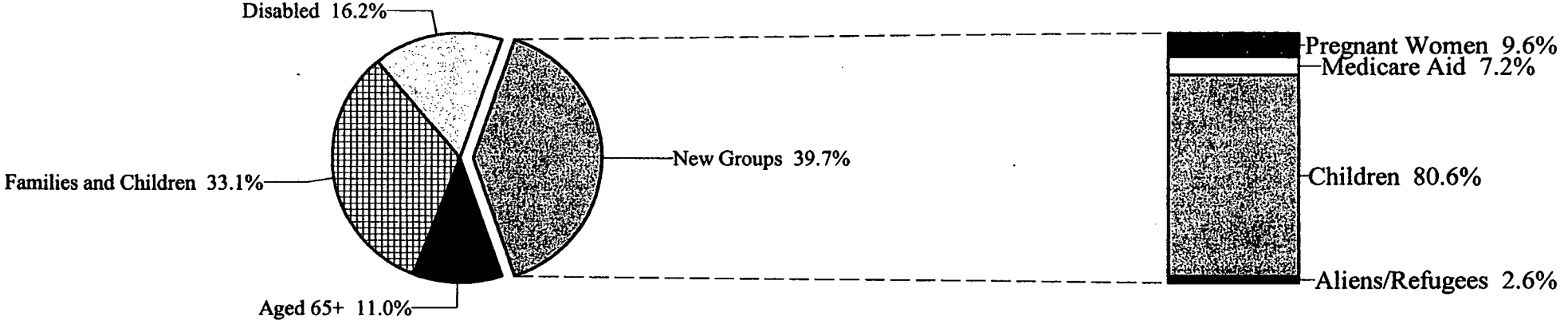
HISTORY OF ANNUAL ELIGIBLES



Growth in the number of annual eligibles began to plateau in SFY 1996 as welfare caseloads began to significantly decline and actually decreased in SFY 1999. The number of annual eligibles grew 11% in SFY 2001 because the decline in welfare caseloads slowed and other eligibility groups continued to grow. Growth in SFY 2002 slowed to 2.6%

Medicaid Program

NEW GROUPS SINCE 1987



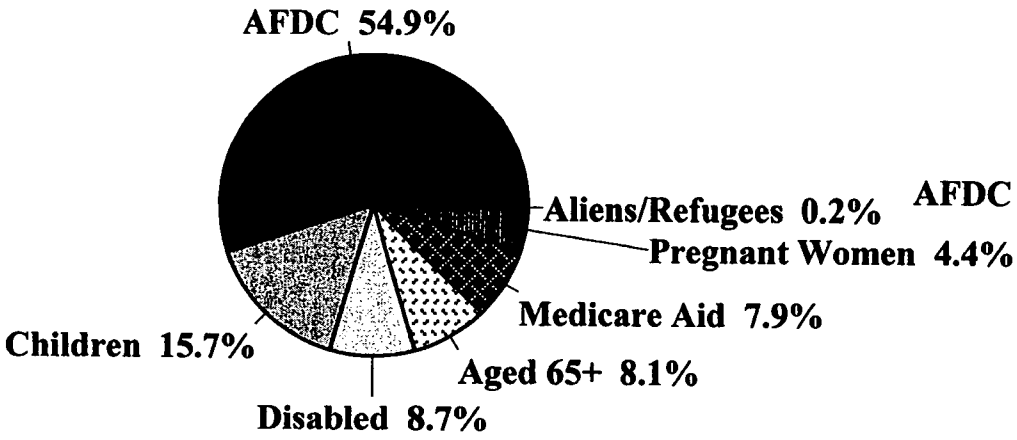
SFY 2002

When Medicaid began, the program focused on providing medical care for the disabled, aged, and families receiving welfare. Since 1987, Medicaid eligibility has been expanded to cover children, pregnant women, qualified Medicare beneficiaries, and aliens/refugees.

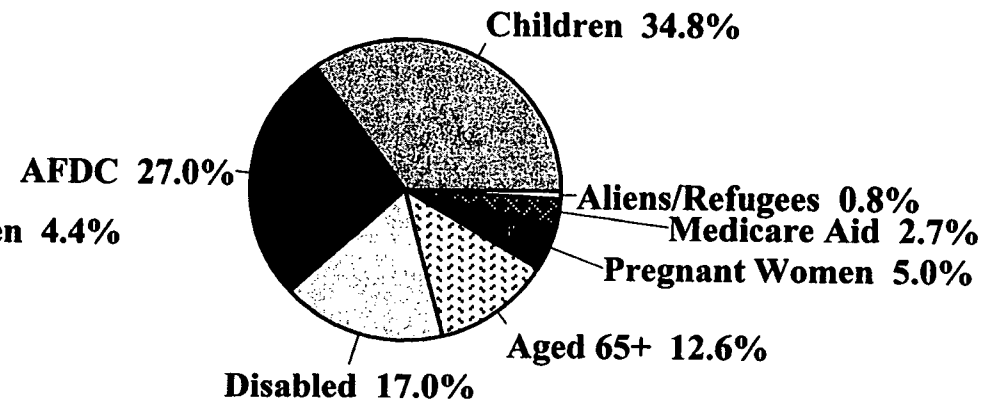
Medicaid Program

MEDICAID ELIGIBLES

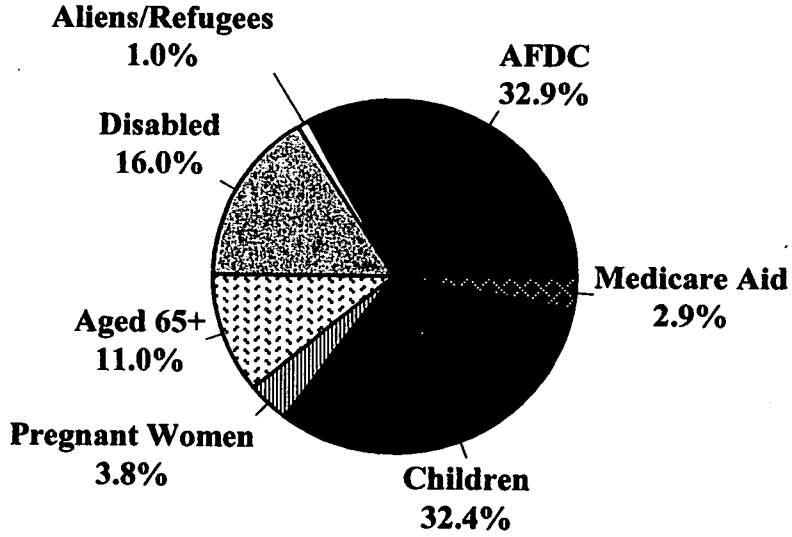
SFY 1994



SFY 2000



SFY 2002



Medicaid Program

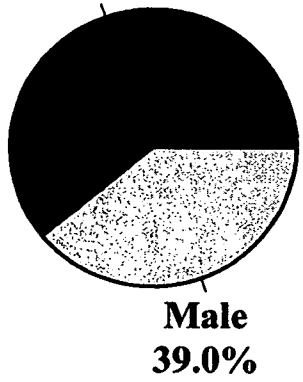
CHANGING MEDICAID ELIGIBLES

- ✓ In SFY 1994, the welfare caseload reached 581,000 people and welfare recipients were the largest group of eligibles.
- ✓ In SFY 2000, welfare reform reduced the welfare caseload to 330,000 people and children became the largest group of eligibles.
- ✓ In SFY 2002, welfare recipients are again the largest group of eligibles due to the poor economy and the expansion of Transitional Medicaid.
- ✓ In SFY 2000, the 1998 expansion of Medicaid to aged, blind, and disabled persons with incomes up to a 100% of the federal poverty level doubled the number of aged, blind and disabled eligibles.
- ✓ In SFY 2002, the number of aged, blind, and disabled eligibles has stabilized.

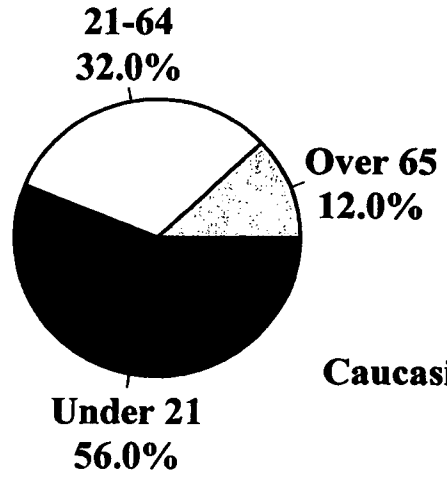
Medicaid Program

RECIPIENT INFORMATION

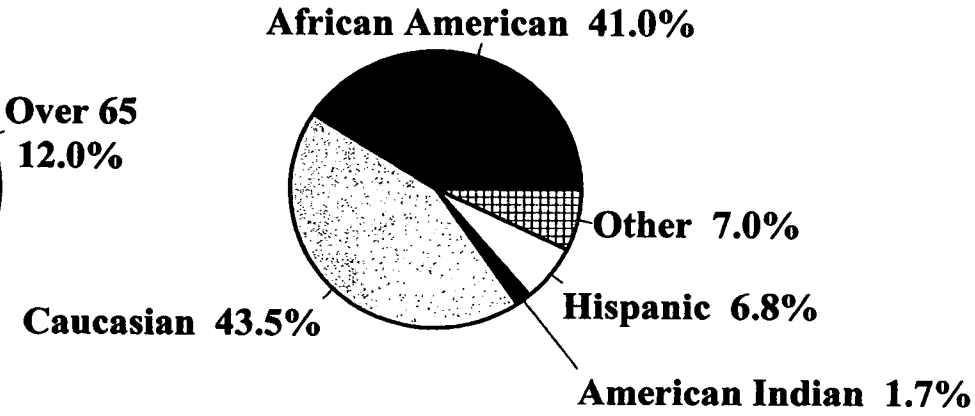
BY GENDER



BY AGE



BY RACE



SFY 2002

Medicaid Program

MANDATORY ELIGIBILITY GROUPS

- Low Income Families and Children (Based on the AFDC State Plan as of July 16, 1996)
- Aged, Blind, and Disabled SSI Recipients
- Infants born to Medicaid eligible women (to 150% of FPL)
- Children under age 6 (to 133% of FPL)
- Pregnant Women (to 150% of FPL)
- All Children born after 9/30/83 (to 100% of FPL)
- Recipients of Adoption Assistance and Foster Care
- Certain Medicare Recipients
  - Dual Eligibles
  - Qualified Medicare Beneficiaries
  - Specified Low-Income Medicare beneficiaries
  - Qualified Disabled and Working Individuals

Note: FPL is the Federal Poverty Level

Medicaid Program
OPTIONAL ELIGIBILITY GROUPS

- Infants born to Medicaid eligible women (150% to 185% of FPL)
- Pregnant Women (150% to 185% of FPL)
- Children age 18, 19, and 20 meeting AFDC income standards
- Special Needs Adoptive Children
- Recipients of State/County Special Assistance
- Recipients of State Assistance to the Blind
- Persons receiving care under home and community-based waivers
- Aged, Blind, and Disabled persons presumed eligible for but not receiving SSI
- Aged, Blind, and Disabled persons with non-SSI income (to 100% of the FPL)
- Medically Needy Persons
- Transitional Medicaid (Additional 12 months of coverage)
- Women with Breast and Cervical Cancer (to 185% of FPL)

Note: FPL is the Federal Poverty Level

PROGRAM CHANGES SINCE 1990

Medicaid Program

PROGRAM CHANGES SINCE 1990

Eligibility Expansions

- **Mandated**

  - ✓ Increase children ages 11 to 19 coverage to 100% of FPL - Effective 7/1/94
  - ✓ Increase children ages 1 to 6 coverage to 133% of FPL - Effective 10/1/90

- **Optional**

  - ✓ Increase pregnant women and infant coverage to 150% of FPL - Effective 1/1/90
  - ✓ Increase pregnant women and infant coverage to 185% of FPL - Effective 10/1/90
  - ✓ Add adoptive children with special rehabilitative needs - Effective 10/1/94
  - ✓ Automatic coverage of SSI eligible aged, blind and disabled persons - Effective 1/1/95
  - ✓ Add non-SSI eligible aged, blind, and disabled persons to 100% of FPL - Effective 1/1/99
  - ✓ Increase transitional TANF coverage from 12 to 24 months - Effective 10/1/99
  - ✓ Add women with breast and cervical cancer coverage to 185% of FPL -Effective 10/1/01

Note: FPL is the Federal Poverty Level

Medicaid Program

PROGRAM CHANGES SINCE 1990

Managed Care Initiatives

- ✓ Carolina ACCESS began implementation - Effective 4//91
- ✓ Carolina Alternatives was implemented - Effective 1/94
- ✓ Health Care Connections was implemented in Meclenburg County -Effective 6/96
- ✓ ACCESS II and ACCESS III demonstration was implemented - Effective 7/98
- ✓ Carolina ACCESS implemented statewide - Effective 12/98
- ✓ Carolina Alternatives terminated - Effective 6/99
- ✓ Health Care Connections terminated and replaced with Carolina ACCESS II - Effective 10/01
- ✓ Carolina ACCESS II and III demonstration expansion began and is ongoing - Effective 11/02

Medicaid Program

PROGRAM CHANGES SINCE 1990

Federal Revenue Maximization Efforts

- ✓ Intermediate Care Facilities for the Mentally Retarded
- ✓ Thomas S program (lawsuit)
- ✓ Willie M program (lawsuit)
- ✓ Adult Care Home Personal Care Services
- ✓ DSH Payments
- ✓ Health Departments & Area Mental Health Programs
- ✓ Health Related Services In Schools

Medicaid Program

COST CONTAINMENT EFFORTS 2001 AND 2002

- **Prescription Drugs**
  - ✓ Prior Authorization Program
  - ✓ State "Maximum Allowable Cost" Drug List
  - ✓ Limit most drugs to a 34-day supply
  - ✓ Increase use of generic drugs
  - ✓ Voluntary Preferred Drug List
  - ✓ Increase copayments for brand name drugs ($1 to $3)
  - ✓ Reduce dispensing fees for brand name drugs ($5.60 to $4.00)

- **Provider Rates**
  - ✓ Reduce Physician rates from 100% of Medicare rates to 95%.
  - ✓ Eliminate inflationary increases for SFY 2003
  - ✓ Reduce rates by 5% for the following providers: private duty nursing, home infusion therapy, home health supplies, durable medical equipment, optical service, ambulatory surgical centers, and high risk intervention
  - ✓ Reduce hospital payments by .5 %
  - ✓ Limit Medicare crossover claims to Medicaid rates
  - ✓ Apply Medicaid medical policy to Medicare crossover claims

Medicaid Program
COST CONTAINMENT EFFORTS 2001 AND 2002

- **Recipients**
  - ✓ Apply federal transfer of asset policies to real property excluded as "income producing" under Title XIX.
  - ✓ Apply transfer of asset policies to persons receiving personal care services while residing in their homes
  - ✓ Adopt the SSI method for considering equity value in income-producing property for aged, blind and disabled persons
  - ✓ Modify policy for determining eligibility for pregnant women coverage for minors by counting parental income

- **Services**
  - ✓ Reduce monthly limit for Personal Care Services from 80 hours to 60 hours
  - ✓ Limit Personal Care Services to 3.5 hours per day
  - ✓ Eliminate optional circumcision procedures except in cases of medical necessity
  - ✓ Reduce case management services for adults and children by reducing rates, streamlining services, and eliminating duplicated services

- **Managed Care**
  - ✓ Expand Carolina ACCESS II/III activities including reducing hospital admissions, reducing ER visits, using best prescribing practices, increasing generic prescribing, implementing polypharmacy review, reducing therapy visits, and better management of high risk/high cost patients.

House Committee on Finance

Minutes

March 11, 2003

The House Committee on Finance met on March 11, 2003 at 8:30 AM in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Howard, Luebke, McComas, Miner and Wainwright; Vice-Chairs Alexander, Decker, and Hill; Representatives Blackwood, Bordsen, Capps, Carney Glazier, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson, Womble, and Wood and Cunningham. Staff persons present included Cindy Avrette, David Crotts, Trina Griffin, Canaan Huie and Martha Walston. The Sargent at Arms staff included Dusty Rhodes, Bob Fowler, Walter Spell and Bill Freeman. The agenda and visitor registration sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:32 AM. He then recognized the pages for the meeting. Two pages were in attendance; Crystal Hammond from Harnett County and Adrienne Farmer from Person County.

The Chairman announced that we had two bills on the agenda and then Mr. Canaan Huie would do overviews of the William S. Lee Act and the Jobs Development Investment Grant Program (JDIG).

As the first bill on the agenda, the Chair recognized Representative Nye to explain House Bill 29 – BLADENBORO SATELLITE ANNEXATION (see attachment 3). Without objection, Representative Glazier moved for adoption. Representative Nye explained that this bill allowed the Town of Bladenboro to voluntarily annex an area and the bill is needed because we have guidelines on what you can annex and this goes beyond the guidelines. Representative Hill then moved for adoption and a favorable report. Representative Luebke than asked for Representative Nye to explain which exception was involved necessitating a special bill. Representative Nye stated that he thought a city was allowed to go 10% of their property outside the city limits and this goes beyond that and takes in more than 10%. A member of staff indicated that this was correct. Representative Luebke then asked Representative Nye if there were any local objections to this bill. Representative Nye reiterated that this was voluntary and that the corporation people are asking for it. The Chair hearing no further questions called for a vote and the motion carried.

The next item on the agenda was House Bill 135 – ROANOKE RAPIDS ANNEXATION (see attachment 4). The Chair called on Representatives Allen and Hall to explain the bill. Representative Lucy Allen stated she is happy to offer this bill because Roanoke Rapids is doing an outstanding job in planning for future growth and in

sound economic development. The annexation request is voluntary but the area is not developed in an urban manner so it has to come before the legislature. The area is 318 acres, 314 of which are in the hands of one owner who wishes to develop the state certified site. The other occupants of the property, a church, one occupied house and one unoccupied house, are also in favor of the annexation. There are no objections. Growth and economic development in this area will provide the jobs the North Carolinians there need. This requested annexation is in the primary growth corridor where there is a great deal of development in the works. It is contiguous to the city limits and will allow the city to grow in a sensible manner and also develop the local economy. The Chair asked if the main thrust of this bill was for economic development and to make it easier to install the infrastructure for industrial sites. Representative Allen stated that this was so. Representative Howard then moved for a favorable report.

Representative Luebke stated that he supported this bill but had questions. He asked why an industrial prospect would want to come to a place where they would have to pay city and county taxes. Representative Allen stated there is not a specific prospect for the property but it is the owner of the property who wants this and the city intends to market and offer incentives for the area so will be acting as an economic developer for the property owner and will have an offsetting rate structure, the in town rates for water, that will make a difference as far as the taxes go. The economic development arm of Halifax Co. will be in partnership with any prospect that comes. Representative Rayfield than asked if the subject property was in the sanitary district. Representative Allen stated that the sanitary district provides the services for the city. Representative Rayfield asked if Roanoke Rapids was in a position to offer the incentives /infrastructure that this property would require. Representative Allen was not sure.

Chairman McComas than called on Mr. Andy Romenet, General Counsel of the League of Municipalities. He stated he did not have all the specifics about this particular property. He stated that the League has had many situations in the past where the property owner wants the property to be in the city limits for development and other purposes and he could see a joint city/county operation for the City of Roanoke Rapids and for Roanoke Rapids to participate if they want the property in the city limits. Mr. Romenet had heard of no opposition from anyone.

The Chair recognized Representative Capps who had questions for Martha Walston. He asked if this bill would be a modification of Chapter 168. Ms. Walston stated it was not really a modification because the annexation did not meet the statutory requirement because the property has been developed for urban purposes. They are going before the General Assembly to get the annexation. This is the usual way of doing this when you don't meet the statutory requirements. Representative Capps then asked if this was a local bill. Ms. Walston stated that it is.

Representative Howard moved for a favorable report. Hearing no further questions, the vote was taken and the bill passed.

Chair McComas stated that the next item on the agenda was an overview on the William S. Lee Act (see attachment 5). He called on Mr. Canaan Huie who referred members to two documents in their folders on the presentations he was going to give. This included two summaries, one of the Bill Lee Act and one of the Job Development Investment Grant Program (JDIG). The summaries are rather long and detailed but Mr Huie gave the broad strokes of the two programs. The folder also contained the county tier designations for 2002 (see attachment 7).

Mr. Huie began with discussion of the Bill Lee Act and indicated he would be willing to take questions at any time.

Representative Luebke then asked about the Governor's Walk Around money or the One North Carolina Fund. Mr. Huie stated that he had not planned on touching on that. Representative Luebke asked Mr. Huie to prepare something on the One North Carolina/Walk Around Fund. Chair McComas also asked for information on the situation on the Film Incentive Grants, the half-million dollars in the pending lawsuit. The Chairman stated that he put in a bill for that money last year and was fortunate to see it come to fruition.

Mr. Huie stated that the Bill Lee Act is a collection of tax credits dealing primarily with job creation, worker training, research and development expenditures and investment in real property and machinery and equipment. The Act was created in 1996. Up until that time North Carolina had not had much of a problem in attracting new and expanding industry but it was felt that a new economic development tool was needed to remain competitive in attracting those industries. For most taxpayers the Bill Lee Act will sunset as of January 1, 2006. There is one exception. During the last Session, the General Assembly enacted an exception to that sunset for certain interstate air couriers that had already taken a number of steps towards the completion of a project.

Mr. Huie stated that he would discuss the general administration of the Act, the focus of the basic eligibility requirements of the Act and a brief overview of the credits

Following Mr. Huie's presentation, Representative Blackwood inquired as to the effectiveness this Act had been in getting new jobs, etc. Mr. Huie indicated that the Department of Commerce is required to commission a study every two years on the Bill Lee Act. That report is due April 1st, 2003. The report will look at the use of the Bill Lee Act in recruiting new and expanding businesses and also whether there should be changes to the Act and issues of tax equity. Representative Blackwood then asked if, going back to the last report, is the Bill Lee Act working and have there been new jobs.

Chair McComas announced that Secretary Fain was here and welcomed him to shed some more light for the benefit of the newcomers.

Mr. Fain stated that the last study done of the Bill Lee Act and its impact indicated that the Act was performing well in some areas and the results in other areas needed more study. Based on the study, the General Assembly made some changes in

the Act last year that will make it more efficient. One misconception is that it does not assist existing companies and the study shows clearly that the majority of credits taken for investment in machinery and equipment were taken by existing companies and that those were taken in heavy measure in traditional industries which indicated they were investing in modernization which is one of the purposes of the Act. In that regard it has been very successful. One can also infer from the data that the tiering system has induced more investment proportionately in Tier 1 which is the less prosperous group of counties than one would expect in the absence of the Act. The study also showed a preponderance of the credits, particularly for machinery and equipment, were taken in more prosperous counties. That is to be expected because that is where the existing businesses are. Some of challenges are taking tax data, which is confidential, from the Department of Revenue and limited, therefore, in terms of how far we can "drill down" to make meaningful conclusions about who is taking the credits and what the real impact is. The Department of Commerce continually works with the Department of Revenue and their consultants to better glean meaningful data so realistic conclusions can be made.

Chair McComas recognized Representative Blackwood who asked specifically how many jobs have been created. Mr. Fain believes the credits were instrumental in many cases in not only creating new jobs and through the modernization program sustaining some companies and their ability to employ. Mr. Fain did not have the figures but he promised to send the study that shows the number of jobs created and correlations can be made from the report.

Representative Lewis asked Mr. Fain to describe Gross Premiums Tax. Mr. Fain stated that it was a tax placed on insurance companies instead of an income tax.

The Chair then recognized Representative Jones for a question of Mr. Fain. He asked whether the Department was able to isolate the 20% of the individuals or families below the poverty level to determine whether their status improved under this program. Mr. Fain stated the data does not lend itself to making that determination. The Department has talked with members of the General Assembly to determine how to reshape the developments and credits in a way that better encourages employment of people who live in development zones.

The Chair next recognized Representative Decker who asked if the report Secretary Fain had referred to was the "Lugar Report." Secretary Fain stated that the report required by the General Assembly is contracted to Professor Lugar in the Office of Economic Development at UNC, Chapel Hill. At the same time there were several other reports done, including one by the Department of Commerce and one done by the Department of Revenue that drew various conclusions.

Mr. Huie stated this concluded his presentation on the Bill Lee Act and volunteered to take any questions.

The Chair recognized Representative Holliman who had a question for Secretary Fain. He stated that his county, Davidson, had many losses of jobs in furniture and

textiles and that the county continued be ranked in a Tier 5 category. Mr. Fain said that this was a perennial challenge as we try to figure out the factors that best judge the situation in each county. Professor Lugar is currently doing a study that would evaluate the effectiveness of the current system.

Representative Jones had a question regarding Professor Lugar's study. He asked whether Secretary Fain's department can identify the 20% low income individuals or geographical areas to determine whether there has been a measurable economic impact in a positive way on that category of people. Mr. Fain stated that that is outside the scope of the study. He indicated that other studies could be done to see what correlations could be established. Representative Jones suggested identifing the geographical areas and then find a way to get new employees as a result of the programs.

Representative Howard referred to a discussion last year regarding eliminating the wage standards in Tiers 1 and 2 and her understanding that there was going to be a detailed report to show either a negative impact or a positive impact. She questioned why we would eliminate those wage standards in the two lowest tiers in the State. Secretary Fain stated he did not remember the specifics but indicated that any data we have can be used to make a determination. Representative Howard requested that a report be given soon.

Representative Glazier then asked if there was a new due date when the data report could be expected. Mr. Huie said the data report is due from the Department of Revenue rather than the Department of Commerce. The report was due March 1st. Mr. Huie indicated he would follow-up on the report and see when it might be available.

Representative Decker inquired as to the total amount of tax credit taken under the Bill Lee Act and the most recent year we have that data. Mr. Huie believes the total amount of Business Incentives totals about $175 million per year. That includes not only the Bill Lee Act credits but some of the credits that have been associated with him over the years.

Representative Ross asked how much of the $175,000,000 had been taken in Economic Development Zones. Mr. said a total credit for the 03-04 fiscal including the original Bill Lee Act from 1996 as well as the additional credits is anticipated at $202.9 million. About 60% of those are the traditional Bill Lee Act credits from 1996. All of these numbers are subject to change once the Lugar Report comes out.

The Chairman recognized Mr. Huie to overview the Job Development Investment Program (JDIG) (see attachment 6). The JDIG Program was created in 2002. There are very significant differences between this program and the Bill Lee Act. This program is not a tax credit or tax incentive; it is based in part on personal income tax withholdings. This is a discretionary grant program. The grants are awarded based on a percentage of the personal income tax withholdings of employees of the business. The program was designed as a tool of last resort. There must be an explicit finding by the Economic Investment Committee that a business would not be locating or expanding in North Carolina without the incentive provided by this program. The authority to enter into

agreements under this program began January 1, 2003 and sunsets January 1, 2005. No agreements have been entered into and the committee has not received any applications.

Mr. Huie then reviewed the basic eligibility requirements for the program, limitations, the program structure and the follow-up requirements. Each of the aforementioned topics are noted in detail on the attached summary.

Chairman McComas noted that there were about three more minutes left of meeting time. Representative Luebke suggested that Mr. Huie should not rush through the completion of his overview of the program as it was so controversial and he recommended that the discussion be continued at the next regularly scheduled meeting of the Finance Committee. The Chair agreed and noted this was an appropriate time to adjourn

The Chairman announced that there would be a joint meeting with the Senate Finance Committee at 12:30 in Room 544. It is a presentation of Streamline Sales Tax by Andy Sobel at the Department of Revenue. There will also be a report on Modernization of State Finances.

The Chair adjourned the meeting at 9:56 AM.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Judy Lowe
Finance Committee Clerk

Attachments:
1. Agenda
2. Visitor Registration Sheet
3. House Bill 29 (and related materials)
4. House Bill 135 (and related materials)
5. Summary of the William S. Lee Quality Jobs and Business Expansion Act
6. Summary of the Job Development Investment Grant Program (JDIG)
7. 2002 Tier Designations

AGENDA

House Finance Committee

March 11, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills

▪ **HB 29**	**Bladenboro Satellite Annexations**	*Rep. Nye*
▪ **HB 135**	**Roanoke Rapids Annexation**	*Reps. L. Allen and Hall*

Overview of the William S. Lee Act
Canaan Huie

Overview of the Jobs Development Investment Grant Program
Canaan Huie

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Mark	SMC
Elizabeth Jordan	Budget & Tax Center Raleigh
DON HOBART	NC DOC
DAVID BARNES	Poyner + Spruill LLP
Mark Benton	Capitol Group
Duke Chen	Intern
Warren Plonk	OSBM
Paul Gwin	OSBM
Andy Romanet	OSBM
Jim Fain	NCDOC
Ken McMinn	Allen Associates

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stephanie Simpson	NCAR
Melissa Board	NCSS
Dan Lee	NCO
Paul Stock	NC Bankers Assn.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 29
PROPOSED COMMITTEE SUBSTITUTE H29-PCS80095-LA-1

Short Title: Bladenboro Satellite Annexations. (Local)

Sponsors:

Referred to:

February 17, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF BLADENBORO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Swansboro, and Warsaw."

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

HOUSE BILL 29:
Bladenboro Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Nye
Date:	March 11, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***House Bill 29 adds the Town of Bladenboro to the list of cities and towns that do not have to meet one of the statutory standards required for voluntary satellite annexation in G.S. 160A-58.1(b). The Town of Bladenboro would not have to meet the standard that limits the size of the area within the satellite corporate limits. The original bill added Bladenboro to the 2002 Session Law that exempted certain towns and cities from the statutory standard. Since the list of exempt towns and cities includes 10 or more cities and towns, the list was codified in G.S. 160A-58.1(b). The proposed committee substitute amends this statute (instead of the 2002 Session Law) to add Bladenboro to the list of exempt towns and cities.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a city of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

Claremont, Concord, Conover, Newton, Sanford, Southport, Maiden, Midland, Swansboro, and Warsaw were exempted from the 5th standard in S.L. 2002-121. Marion, Oxford Rockingham, Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville were exempted from the 5th standard in S.L. 2001-38.

BILL ANALYSIS: The proposed committee substitute for House Bill 29 amends G.S. 160A-58.1(b) by adding the Town of Bladenboro to the list of cities and towns that do not have to meet the 5th statutory standard required for voluntary satellite annexation. This means that the noncontiguous property to be annexed does not have to be within the statutory size limit.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 29

Short Title:	Bladenboro Satellite Annexations.	(Local)
Sponsors:	Representative Nye.	
Referred to:	Finance.	

February 17, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF BLADENBORO.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2002-121 reads as rewritten:

"**SECTION 1.** G.S. 160A-58.1(b)(5) does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, and Southport, and the Towns of Bladenboro, Maiden, Midland, Swansboro, and Warsaw."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

HOUSE BILL 135*

Short Title:	Roanoke Rapids Annexation.	(Local)
Sponsors:	Representatives L. Allen and Hall (Primary Sponsors).	
Referred to:	Finance.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Roanoke Rapids are extended to include the following described area:

"That certain tract or parcel of land lying and being situate in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows: Beginning at a point on the eastern edge of the right-of-way for N. C. Highway 125 and at the southwest corner of Lot No.4 Chockoyotte Professional Park Subdivision, (See Plat Cabinet 5, Slide 129, Halifax Public Registry); thence from said point of beginning and along the lines of Lot No.4, N. 56-02-10 E. 244.73 feet and N. 28-33-40 W. 266.56 feet to a point at the southeast corner of Lot No.3, the same being the southwest corner of Lot No.2, Chockoyotte Professional Park Subdivision; thence along the south line of Lot No.3, N. 62-56-55 E. 241.51 feet to a point on the west side of a 50 foot right-of-way for Gregory Drive; thence crossing the right-of-way for Gregory Drive, N. 61-35-23 E. 50.00 feet; thence, along the eastern right-of-way line for Gregory Drive, N. 28-14-41 W. 17.30 feet and N. 28-05-32 W. 19.22 feet to a point in the eastern right-of-way line and at the southwest corner of Lot No.1, Chockoyotte Professional Park Subdivision; thence with the south line of Lot No.1, N. 56-02-14 E. 457.96 feet to a point in the centerline run of Chockoyotte Creek, at a point in the western boundary line of lands belonging to Halifax Regional Medical Center; thence with and along the centerline run of Chockoyotte Creek and the western line of Halifax Regional Medical Center the following courses and distances: S. 00-20-37 E. 237.36 feet, S. 49-24-11 E. 60.74 feet, S. 00-19-41 E. 164.22 feet, S. 62-29-49 E. 238.91 feet, S. 21-23-44 E. 325.11 feet, S. 39-05-52 E. 269.31 feet, S. 57-59-24 E. 225.40 feet, S. 33-00-24 E. 228.39 feet, S. 42-50-33 E. 147.61 feet, S. 24-27-36 E. 135.61 feet, S. 22-48-10 E. 113.15 feet, S. 52-24-35 E. 126.25 feet, S. 32-27-16 E. 431.17 feet, S. 43-05-55 E. 361.65 feet to the northwestern side of the right-of-way for Old Farm Road Extension,

thence continuing across the right-of-way for Old Farm Road Extension, S. 43-05-55 E. 164.56 feet, and S. 25-53-13 E. 42.90 feet to a point in the southeastern side of the right-of-way for Old Farm Road Extension, thence continuing and along the centerline run of Chockoyotte Creek, which is also the western boundary lines of properties standing in the name of Roanoke Valley Rentals and Roanoke Meadowbrook LLC, the following courses and distances: S. 25-53-13 E. 351.36 feet, S. 46-01-36 E. 145.57 feet, S. 52-28-32 E. 404.56 feet, S. 26-47-11 E. 220.22 feet, S. 08-53-56 W. 161.79 feet, and S. 22-19-21 E. 157.68 feet to the northeastern corner of lands standing in the name of Blackwell B. Pierce, a point in the centerline run of Chockoyotte Creek and in the western line of lands standing in the name of Roanoke Meadowbrook LLC; thence leaving Chockoyotte Creek with and along the northern boundary of lands of Blackwell B. Pierce, S. 83-25-53 W. 1553.94 feet to a point in the southeastern right-of-way line of Old Farm Road Extension; thence turning in a southerly direction along the southeastern right-of-way of Old Farm Road Extension and along the line of Blackwell B. Pierce, S. 21-57-39 W. 668.90 feet, and S. 20-36-16 W. 319.77 feet to a point in the southeastern right-of-way line of N. C. Highway 125 (where it merges with Old Farm Road Extension), thence turning across the right-of-way for N. C. Highway 125, N. 71-44-18 W. 60.00 feet to a point on the northwestern edge of the right-of-way for N. C. Highway 125, thence turning along the northwestern edge of the right-of-way for N. C. Highway 125 the following courses and distances: N. 18-15-42 E. 207.03 feet, N. 14-37-29 E. 124.75 feet, and N. 06-00-45 E. 169.13 feet to a point at the northeast corner of properties now or formerly belonging to the June Long Estate, and turning from said point and on a common boundary with those lands now or formerly belonging to the June Long Estate, with and along the main run of a swamp, the following courses and distances: S. 63-00-00 W. 119.58 feet, N. 85-00-00 W. 182.00 feet, S. 51-00-00 W. 257.00 feet, S. 50-00-00 W. 238.00 feet, S. 46-30-00 W. 184.00 feet, S. 65-00-00 W. 156.00 feet, S. 58-30-00 W. 226.00 feet, S. 38-30-00 W. 169.00 feet, S. 24-30-00 W. 179.00 feet, and S. 39-15-00 W. 312.00 feet to the southwest corner of the June Long Estate property the same being the northeast corner of property now or formerly belonging to Eddie Jones on the main run of the swamp and at the southwest corner of the tract herein described; thence, with and along the northeast boundary of the Eddie Jones land, the J. R. Crew Estate lands, and the Alonzo Pierce lands, N. 45-00-00 W. 164.00 feet, N. 46-21-23 W. 727.63 feet, N. 25-15-00 W. 432.00 feet, N. 23-00-00 W. 389.00 feet, and N. 25-15-00 W. 103.50 feet to the southwest corner of a lot belonging to Howard Owen Andleton and wife, as described in Deed Book 1452, Page 33, Halifax Public Registry, said point also being located at the center of a farm path; thence with and along the Andleton property boundary, N. 50-19-49 E. 200.00 feet, N. 25-15-00 W. 435.60 feet, and S. 50-13-00 W. 200.10 feet to the line of property now or formerly belonging to Benjamin Adams and at the northwest corner of the Andleton lot; thence, continuing with and along the common line with Benjamin Adams and the J. R. Crew Estate lands in a northwesterly direction, N. 25-15-00 W. 688.31 feet, N. 25-15-00 W. 479.00 feet, and N. 76-45-00 W. 56.00 feet to a corner in the line of lands now or formerly belonging to Jesse H. Powell Sutton; thence, with and along the property line of the Sutton land and the lands now or formerly belonging to R. L. Powell, the

following courses and distances: N. 58-15-00 E. 664.00 feet, N. 27-45-00 E. 250.00 feet, N. 33-15-00 E. 100.00 feet, N. 22-15-00 E. 82.00 feet, N. 00-30-00 W. 240.00 feet, N. 42-30-00 W. 241.00 feet, N. 62-45-00 W. 341.00 feet, and N. 55-15-00 W. 550.92 feet to a point on the south side of a 60 foot right-of-way for N. C. State Road 1686 (Smith Church Road), and at the northeast corner of the R. L. Powell lands; thence, in an easterly direction with and along the southern right-of-way of N. C. State Road 1686, N. 70-30-52 E. 511.34 feet to a point at the centerline of the old road; thence, leaving N. C. State Road 1686 and continuing in an easterly direction with the centerline of the old road, N. 76-30-00 E. 320.00 feet to the northwestern corner of that certain 25.61 acre tract of land conveyed to Charles M. Edwards by Wiley N. Gregory, et al, under deeds of record at Deed Book 650, Page 3, and Deed Book 650, Page 4, Halifax Public Registry, said corner being at the center of the old road; thence, with and along the lines of the 25.61 acre Edwards tract, S. 07-55-01 E. 663.22 feet, S. 62-34-00 E. 390.10 feet, N. 63-54-00 E. 752.20 feet, and N. 41-31-00 E. 359.65 feet to the southwest side of the 60 foot right-of-way for N. C. Highway 125 and at the southeast corner of the 25.61 acre Edwards tract; thence, turning along the southwestern edge of N. C. Highway 125, N. 33-34-05 W. 133.46 feet and N. 30-17-04 W. 69.45 feet, thence turning across the right-of-way for N. C. Highway 125, N. 70-54-14 E. 61.16 feet to the point of beginning, containing 318.31 acres, more or less, and as shown on that certain plat entitled "Annexation Plat - Lands Along N. C. 125 South - City of Roanoke Rapids, North Carolina" done by Burr & Associates, P. A., and dated May 16, 2000, and revised December 13, 2002."

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

HOUSE BILL 135:
Roanoke Rapids Annexation

BILL ANALYSIS

Committee: House Finance
Date: March 11, 2003
Version: 1st Edition

Sponsor: Rep. L. Allen and Hall
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 135 authorizes the annexation of certain described property to the corporate limits of the City of Roanoke Rapids without the City having to meet the statutory requirements for annexation. SB 106, introduced by Senator Holloman, is a companion bill. The act is effective when it becomes law.

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary. A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 135 would annex 318.31 acres to the corporate limits of the City of Roanoke Rapids without the City having to meet the statutory requirements for annexation. The Town Manager has indicated that the area does not qualify for involuntary annexation because it does not meet the statutory requirement that it be developed for urban purposes. Approximately 314 of the 318 acres to be annexed consist of vacant property. The owner of the 314 acres has requested the annexation. Included within the 314 acres are 200 acres that have been certified by the North Carolina Department of Commerce as an industrial site. The remaining property to be annexed is occupied by a church and two residential houses, one of

which is vacant. None of the owners object to the annexation. The owner of the 314 acres is in the process of marketing the industrial site to industries. The city plans to help with the marketing and development and to offer incentives for new industries. The area to be annexed is located in the City's primary growth quarter and is contiguous to the city limits.

Summary of the William S. Lee Quality Jobs and Business Expansion Act (Bill Lee Act).

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Corrected Copy. - Current as of February 24, 2003

The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. Counties are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth of the county. For many of the credits, the lower the tier of a county, the more favorable the incentive. The Act requires the Department of Commerce and the Department of Revenue to report periodically on the credits allowed by the Act.

Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the Bill Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. In 2000, the General Assembly extended the sunset on the act until January 1, 2006.[1]

General Administration.

By December 31 of each year, the Department of Commerce is required to assign a tier designation to each of the 100 counties in the State. In order to make these assignments, the Department of Commerce must rank all 100 counties based on the following three factors: the rank of the county in a ranking of counties by average rate of unemployment over the preceding three years from lowest to highest, the rank of the county in a ranking of counties by average per capita income over the proceeding three years from highest to lowest, and the rank of the county in a ranking of counties by percentage growth in population from highest to lowest. Each of these factors is given equal weight. The Secretary of Commerce is required to use the latest data available in making these calculations. Counties with one of the 10 highest rankings are designated enterprise tier one, the next 15 counties are enterprise tier two, the next 25 counties are enterprise tier 3, the next 25 counties are enterprise tier 4, and the remaining counties are enterprise tier 5. There are numerous exceptions to this formula. A county designated as enterprise tier one or two may not be designated a higher tier until it has been at its current tier for at

[1] Interstate air couriers are eligible to claim the credits for business activity that occurs on or before January 1, 2010, provided that the interstate air courier entered into a real estate lease on or before January 1, 2006 with an airport authority that provides for the lease of at least 100 acres of land for a term of at least 15 years.

least two consecutive years. There are also exceptions for certain lower-population counties which could result in those counties receiving a lower designation.

The Department of Commerce is also responsible for designating development zones. Development zones are areas of higher poverty within urban centers. In order to be designated as a development zone, the area must satisfy all of the following conditions: every census tract or block group in the zone is located in a city with a population of at least 5,000, the zone has a population of at least 1,000, more than 20% of the population of the zone is below the poverty level, every census track or block group in the zone has more than 10% of its population below the poverty level or is immediately adjacent to a census tract or block group that has more than 20% of its population below the poverty level, and no census tract or block group in the zone is located in another development zone. Designation as a development zone is effective for two years. Location in a development leads to more favorable treatment for the taxpayer with regards to the wage standard, the credit for creating new jobs, the credit for investing in machinery and equipment, and the credit for worker training.

All of the credits are allowed against either the franchise tax levied in Article 3 of Chapter 105, the income taxes levied in Article 4 of Chapter 105, or the gross premiums tax levied in Article 8B of Chapter 105. In general, a taxpayer may take a credit against only one of these taxes.[2] The taxpayer must elect against which tax the credit will apply when filing the return on which the first installment of the credit is claimed. Once this election has been made it is irrevocable. Any carryforwards of a credit must also be claimed against the same tax.

The total amount of credits allowed under the act may not exceed 50% of the tax against which they are claimed reduced by the sum of all other credits for the taxable year. This cap applies to the cumulative amount of credits for the current year and carryforwards of credits from previous years.

In general any unused credit may be carried forward for the succeeding five years. There are numerous exceptions to this. Credits with respect to large investments may be carried forward for 15 years and credits with respect to other significant investments may be carried forward for 10 years.[3] Additionally, several of the specific credits have longer carry forward periods.

When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit, the taxpayer must submit a fee of $500 for each credit the taxpayer intends to claim up to a maximum of $1500. However, this fee is not

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[2] For the technology commercialization credit allowed under G.S. 105-129.9A, the taxpayer may split the credit between any of the three taxes.

[3] A "large investment" is one in which the Secretary of Commerce makes a written determination that the taxpayer will invest at least $150 million in the project within a two-year period. Though not defined as "other significant development", a taxpayer is eligible for the 10-year carryforward period if the Secretary of Commerce makes a written determination that the taxpayer will invest at least $50 million in the project within a two-year period. For interstate air couriers, the relevant time periods are seven years rather than two years.

due if the activity for which the taxpayer is claiming a credit occurred in a development zone. The fee is to be divided between the Department of Revenue and the Department of Commerce and is to be used to offset the costs of administering the Bill Lee Act.

Each taxpayer claiming a credit under the Bill Lee Act must provide any information required by the Secretary of Revenue to evaluate the eligibility of the taxpayer for the credit claimed.

The Department of Revenue and the Department of Commerce are required to make several reports on the Bill Lee Act. By each March 1, the Department of Revenue must publish information itemized by credit and by taxpayer relating to the amount and enterprise tier of new jobs, new real property, new machinery and equipment, new worker training, and new research and development. The Department of Commerce is required to make biennial reports on tax equity and the impact of the Bill Lee Act.

Bill Lee Act credits cannot be taken more than six months after the deadline for filing the tax return (including extensions) on which they are claimed. This is more restrictive than is generally the case under North Carolina law. In general, an overpayment may be refunded only if the discovery is made or the written request for a refund made within 3 years of the date set by statutes for filing the return or within 6 months of the date of the overpayment, whichever is later.

Basic Eligibility

Type of Business. In order to be eligible for a credit under the Bill Lee Act, a taxpayer must meet the eligibility requirements with regard to type of business. Business-type eligibility depends of several factors including the primary business of the taxpayer as a whole, the primary business of the particular establishment[4], the location of the establishment, and the number of new jobs created. The following types of business are eligible under the Bill Lee Act:

- Air courier services, if the primary business of the taxpayer is air courier services.
- Data processing, if the primary business of the taxpayer is data processing.
- Manufacturing, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is manufacturing.
- Warehousing, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is warehousing, or if the primary activity of an establishment is warehousing, the establishment is located in an enterprise tier 1-3 area, and the establishment serves 25 or more establishments of the taxpayer.
- Wholesale trade, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is wholesale trade.

[4] An "establishment" is defined by NAICS (North American Industry Classification System) as the smallest operating entity for which records provide information on the cost of resources – materials, labor, and capital – employed to produce the units of output. In the United States, an establishment is generally a single physical location; although there are many exceptions to this generality.

- Computer services, if the primary activity of the establishment is computer services.
- Electronic mail order house, if the primary activity of the establishment is an electronic mail order house and the electronic mail order house is located in an enterprise tier 1-3 area and creates at least 250 new jobs.
- Customer service center, if the primary business of the taxpayer is financial services or telecommunications, the primary activity of the establishment is a customer service center, and the center is located in an enterprise tier 1-3 area.

Wage Standard. A taxpayer is eligible for a credit under the Bill Lee Act only if the jobs provided by the taxpayer meet a wage standard. Legislation in 2002 eliminated the wage standard in enterprise tier one and two areas. Since the wage standard for a business located in a development zone is the same as for tier one counties, that legislation also eliminated the wage standard for a development zone area. For enterprise tier areas three through five, the jobs provided by the taxpayer must pay at least 110% of the applicable average weekly wage. The applicable average weekly wage of the county is the lowest of the following: the average weekly wage for all insured private employers in the county, the average weekly wage for all insured private employers in the State, and the average weekly wage for all insured private employers in the county multiplied by the county income/wage adjustment factor.[5]

For the credit for job creation, the average weekly wage of the jobs for which the credit is claimed and the average weekly wage of all jobs at the location with respect to which the credit is claimed must meet the relevant wage standard. For the other credits, the average weekly wage of all jobs at the location with respect to which the credit is claimed must meet the relevant wage standard. There is no independent wage standard test for the credit for worker training. By definition, the taxpayer may only claim a credit for worker training if the taxpayer is eligible for the credit for creating jobs or the credit for investing in machinery and equipment.

All jobs, including part-jobs, must be included in the wage standard calculation. However, part-time jobs that also provide health insurance are considered to have an average weekly wage at least equal to the relevant wage standard. For the purpose of calculating the wage standard, the weekly wage of a part-time job is converted to a full-time equivalency. All jobs that were filled for at least 1600 hours during the year in which the taxpayer engaged in the activity for which a credit is claimed must be included in the wage standard calculation even if those jobs are not filled at the time the taxpayer claims the credit.

Health insurance. A taxpayer must provide health insurance for all full-time jobs associated with the project in order to be eligible for a credit under the Bill Lee Act. The taxpayer must, for all full-time employees at the location with respect to which is claimed, pay at least 50% of the premiums for health insurance that meets at least the

[5] The county income/wage adjustment factor is county income/wage ratio divided by the State income/wage ratio. The income/wage ratio is determined by dividing the average per capita income in the relevant jurisdiction by the annualized average wage for all insured private employers in the jurisdiction.

minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. Each year that a taxpayer claims an installment or carryforward of a credit, the taxpayer must provide certification that it continues to provide health insurance for all full-time employees. If the taxpayer ceases to provide health insurance, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

Environmental Impact. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any pending administrative, civil, or criminal enforcement action based on alleged significant violation of any program implement by an agency of the Department of Environment and Natural Resources or if the taxpayer has had any final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources in the last five years. The Secretary of Environment and Natural Resources must notify the Department of Revenue of all persons who currently have any of these pending actions or who have had any of these final determinations in the past three years.

Safety and Health Programs. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any outstanding violations under the Occupational Safety and Health Act that have become a final order for "willful serious" or "failure to abate serious" violations within the past three years. The Department of Labor must notify the Department of Revenue of all employers who have had these citations become final orders in the past three years.

Overdue Tax Debts. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any overdue tax debts. An overdue tax debt is any part of a tax remaining after 90 days. A tax debt is a final assessment after all possibilities for appeal have been exhausted.

If the Secretary of Revenue discovers that any tax is due from a taxpayer, the Secretary must notify the taxpayer in writing of the Secretary's intent to assess the taxpayer for the tax. The notice must describe the basis for the assessment, the amount of tax to be assessed and any interest and penalties due. If the taxpayer disagrees with the assessment, the taxpayer has 30 days to request a hearing before the Secretary. The Secretary must then schedule a hearing to occur within 90 days of the request. Within 90 days after the hearing, the Secretary must issue a decision on the hearing. If the taxpayer does not request a hearing within the 30 days allowed, or if the Secretary finds that the tax is due after the hearing, the proposed assessment becomes a final assessment. If a taxpayer disagrees with a final assessment, the taxpayer may appeal the decision to the Tax Review Board, and then on to superior court, the Court of Appeals, and the Supreme Court.

Expiration. Generally, if a credit expires, the taxpayer may not continue to take installments of the credit, but may continue to take carryforwards of installments that

accrued in previous years[6]. Credits may expire under the act for several reasons. If the taxpayer is no longer engaged in an eligible type of business or if the number of jobs of an eligible business falls below the minimum number required, the credit expires. The credit for creating jobs and the credit for investing in machinery and equipment expire if the jobs or machinery and equipment are no longer filled or used in an eligible business. The credit does not expire if the enterprise tier designation of an eligible taxpayer changes after the credit is first claimed.

Forfeiture. A taxpayer forfeits a credit if the taxpayer was not eligible for the credit in the year in which the taxpayer engaged in the activity for which the credit was claimed. A taxpayer forfeits a credit for technology commercialization or for substantial investment in other property if the taxpayer does not make the required level of investment in the relevant time period. Similarly, a taxpayer forfeits the large investment enhancement of a tax credit if the taxpayer does not make the required level of investment in the relevant time period. A taxpayer that forfeits a credit is liable for all past taxes avoided as a result of the credit plus interest. The past taxes and interest are due 30 days after the date the credit is forfeited. If a taxpayer forfeits a credit for creating jobs, a credit for investing in machinery and equipment, or a technology commercialization credit, any corresponding credit for worker training is also forfeited.

Specific Credits.

Credit for creating jobs, G.S. 105-129.8. A taxpayer is allowed a credit for creating new jobs. In order to be eligible for this credit, the taxpayer must have five or more full-time employees in the State and hire an additional full-employee. The amount of the credit varies depending on the enterprise tier designation of the area in which the job is located. A job is located in an area if 50% or more of the employee's duties are performed in the area. The full amount of the credit may not be taken in the first year, but must instead be taken in four equal installments beginning with the taxable year following the year in which the employee was hired. Jobs transferred from one part of the State to another do not qualify for the credit. For a job that is located in a development zone the amount of the credit is increased by $4,000. The amount of the credit is equal to the amounts in the following table based on the enterprise tier area in which the job is located:

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

If in one of the four years in which the installment of a credit accrues, the jobs with respect to which the credit was taken are unfilled, the credit expires and the taxpayer may not take any remaining installments of the credit. If, in one of the four years in which an installment of the credit accrues, a job that qualified for the credit is subsequently

[6] Expiration of a credit because the taxpayer ceases to provide health insurance is an exception to this general rule. In that case, the taxpayer may not claim installments or carryforwards after the credit expires.

transferred to another area, the remaining installments of the credit must be calculated as if the job had been initially located in the later area.

A taxpayer that will create at least 20 new jobs in a specific area within two years[7] may sign a letter of commitment with the Department of Commerce in order to lock-in the current year's enterprise tier and development zone designations for the purposes of this credit. If the taxpayer creates the jobs within the two-year period, the taxpayer may compute the amount of the credit based on the designations in effect in either the year in which the letter of commitment was signed or the year in which the jobs were created. If the taxpayer does not create the jobs in the two-year period, the taxpayer may still claim a credit under the existing tier designation if the jobs are later created.

Credit for investing in machinery and equipment, G.S. 105-129.9. A taxpayer is allowed a credit for the cost of the eligible investment amount of machinery and equipment placed into service during a taxable year that exceeds the applicable threshold based on the location where the machinery and equipment are placed into service. The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the net increase in eligible machinery and equipment over the base year (the year of the preceding three years in which the taxpayer had the largest amount of machinery and equipment in service in the State). The credit must be taken in seven equal installments, beginning the year after the equipment is placed in service. The amount of the credit is equal to a percentage of the eligible investment amount of the machinery and equipment in excess of the applicable threshold. If the taxpayer places eligible machinery and equipment into service in more than establishment during a year, the threshold applies separately to each establishment. If a taxpayer places eligible machinery and equipment in service at an establishment over a two-year period, the amount of the threshold for the second year is reduced by the eligible investment amount for the previous taxable year. The following table sets out the relevant percentage and threshold for each enterprise tier area:

Enterprise Tier	Threshold	Credit Percentage
Tier One	$ -0-	7%
Tier Two	100,000	7%
Tier Three	200,000	6%
Tier Four	1,000,000	5%
Tier Five	2,000,000	4%

If in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was taken are disposed of, moved out of State, or taken out of service, the credit expires and the taxpayer may not take any remaining installments of the credit unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in machinery and equipment. If eligible machinery and equipment that qualifies for a credit is subsequently transferred to another area, the remaining installments of the credit must be calculated as if the machinery and equipment had been initially located in the later area

[7] In the case of an interstate air courier the relevant time period is seven years rather than two years.

A taxpayer that will place specific machinery and equipment in service at a specific location within two years[8] may sign a letter of commitment with the Department of Commerce in order to lock-in the current year's enterprise tier and development zone designations for the purposes of this credit. If the taxpayer places the eligible machinery and equipment in service within the two-year period, the taxpayer may compute the amount of the credit based on the designations in effect in either the year in which the letter of commitment was signed or the year in which the machinery and equipment were placed in service. If the taxpayer does not place the machinery and equipment in service in the two-year period, the taxpayer may still claim a credit under the existing tier designation if the equipment and machinery is later placed in service.

Technology commercialization credit, G.S. 105-129.9A. This credit is an alternative to the credit for investing in machinery and equipment. The technology commercialization credit applies only to investments in machinery and equipment used in production based on technology licensed from a research university. In addition, to qualify, the machinery and equipment must be located in a tier one, two, or three enterprise area. Finally, the taxpayer's investment must equal at least $10 million during the taxable year, and must total at least $100 million over a five-year period. If the investment totals between $100 million and $150 million over five years, the technology commercialization credit is equal to 15% of the amount invested. If the investment equals or exceeds $150 million over five years, the technology commercialization credit is equal to 20% of the amount invested. The technology commercialization credit remains available for 10 years of investments at a single location. The taxpayer's eligibility for the technology commercialization credit is based on the Secretary of Commerce's determination that the taxpayer will invest either $100 or $150 million over five years. If the taxpayer does not achieve the certified level of investment, the credit is forfeited.

The technology commercialization credit is more generous than the credit for investing in machinery and equipment in the following ways:

- The technology commercialization credit may be taken in the year the investment is placed in service. The credit for investing in machinery and equipment must be taken in seven annual installments.
- The technology commercialization credit is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, this new investment tax credit is not required to be offset by machinery and equipment the taxpayer takes out of service if it was in service at a separate location and was used in a business that is not competitive with the technology commercialization business.
- The technology commercialization credit may be taken against income tax, gross premiums tax, and franchise tax. The taxpayer must determine what percentage of the credit will be taken against each tax, and must maintain the same percentage for the purpose of carryforwards. If new investment is made in a second or subsequent tax year, the taxpayer may elect a different percentage with respect to the credit for each tax year. The election is binding.

[8] In the case of an interstate air courier the relevant time period is seven years rather than two years.

- The technology commercialization credit may be carried forward for 20 years.

Credit for research and development, G.S. 105-129.10. The research and development tax credit uses the federal credit as its starting point. The credit is equal to 5% of the State's apportioned share of the taxpayer's expenditures for increasing research and development. The credit is based on the federal credit as of January 1, 1999. In the past, the federal credit had expired and then been renewed retroactively, creating uncertainty for taxpayers. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications. This credit has a carryforward period of 15 years rather than the standard 5-year period.

Credit for worker training, G.S. 105-129.11. A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the employee during the training. Wages paid to an employee for performing his or her job while being trained are not eligible for the credit. The maximum amount of the credit is $1,000 per employee trained in an enterprise tier one area and $500 per employee trained in an enterprise tier two through five area. As with the credit for creating jobs, an employee is located in an area if more than 50% of his or her duties are performed in that area. In order to be eligible for the credit, the employee must be in a full-time position not exempt under the Fair Labor Standards Act and must be either (i) in a position for the taxpayer qualifies for the credit for creating jobs or (ii) being trained to operate machinery and equipment for which the taxpayer qualifies for a credit for investing in machinery and equipment.

Credit for investing in central office or aircraft facility property, G.S. 105-129.12. A taxpayer who purchases or leases real property to be used as central administrative office or aircraft facility property, is eligible for a credit under the Bill Lee Act. The amount of the credit is equal to 7% of the eligible investment amount. The eligible investment is the lesser of: (1) the cost of the property or (2) the cost of the taxpayer's total North Carolina property used as central administrative offices or aircraft facilities on the last day of the taxable year minus the cost of the taxpayer's total North Carolina property used as central administrative offices or aircraft facilities on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property as central administrative offices or aircraft facilities in this State. For leased property, the cost of the property equals the lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office or aircraft facility if the expenditures are not reimbursed or credited by the lessor. The tax credit for investing in central administrative office or aircraft facility property may not exceed $500,000, and is taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office or aircraft facility. If the property ceases to be used as a central administrative office or aircraft facility during the seven-year period, then the credit expires and the taxpayer may not take any remaining installment of the credit.

Credit for substantial investment in other property, G.S. 105-129.12A. This credit is modeled upon the credit for investment in central office or aircraft facility property. There are, however, some notable differences between the two credits. In order for the taxpayer to claim the credit for substantial investment in other property, the Secretary of Commerce must make a written determination that the taxpayer is expected to invest at least $10 million in real property at a location within a three-year period and that the location will create at least 200 new jobs within two years of the time that the property is first used in an eligible business. The taxpayer may begin to claim the credit once the property is first used in an eligible business. The amount of the credit for substantial investment in other property is equal to 30% of the eligible investment amount and must be taken in installments over a seven-year period. There is no ceiling on the amount of the credit. The credit for substantial investment in other property expires if the number of people employed at the location falls below 200. The carryforward period for the credit for substantial investment in other property is 20 years, rather than the standard five-year carryforward period. A taxpayer may not claim both the credit for substantial investment in other property and the credit for investing in central office or aircraft facility property with respect to the same property.

Credit for development zone projects, G.S. 105-129.13. A taxpayer is allowed a credit for contributions of cash or property to certain nonprofit agencies to be used for an improvement project in a development zone. An improvement project is a project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. The credit allowed is 25% of the amount contributed by the taxpayer. The total amount of credits that may be allowed in a taxable year is capped at $4 million. Taxpayers are required to apply to the Secretary of Revenue for these credits. If the total amount applied for in a year exceeds $4 million, the Secretary will reduce each applicant's credit proportionally.

The credit is allowed for contributions to a development zone agency, defined as a community action agency, a community-based development organization, a community development corporation, a community development financial institution, a community housing development organization, or a local housing authority. To qualify for the credit, all of the following conditions must be met:

- The agency must contract in writing to use the contribution for an improvement project in a development zone and to repay the taxpayer with interest if the contribution is not so used.
- The Department of Commerce must certify that the agency will undertake an improvement project in a development zone.[9] To support this certification, the agency must provide the Department documentation establishing the identity of the agency, the nature of the project, and that the project is for a community development purpose in a development zone.
- The taxpayer must be unrelated to the agency and must not control, be controlled by, or be under common control with the agency.

[9] The Secretary of Commerce may not certify a development zone agency if it, any of its officers or directors, or any partner of the agency has ever used part of an improvement project contribution for any purpose other than the improvement project.

- The taxpayer must not receive anything of value for the contribution.

A taxpayer forfeits the tax credit for a contribution to the extent the development zone agency uses the contribution for anything other than an improvement project in a zone. Development zone agencies are required to file with the Department of Commerce annual, audited financial statements. If the Department of Commerce finds that any part of a contribution was used for a purpose other than an improvement project, it must notify the Department of Revenue of the resulting forfeiture.

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
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Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

2002 Tier Designations

TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
ALLEGHANY	ANSON	ALEXANDER	BRUNSWICK	ALAMANCE
ASHE	BLADEN	AVERY	BURKE	BUNCOMBE
BEAUFORT	COLUMBUS	CASWELL	CALDWELL	CABARRUS
BERTIE	DUPLIN	CHOWAN	CARTERET	CATAWBA
CAMDEN	GREENE	CLEVELAND	CRAVEN	CHATHAM
CHEROKEE	HOKE	CURRITUCK	CUMBERLAND	DAVIDSON
CLAY	LENOIR	DARE	GRANVILLE	DURHAM
EDGECOMBE	MADISON	DAVIE	HARNETT	FORSYTH
GRAHAM	MITCHELL	GASTON	LEE	FRANKLIN
HALIFAX	PAMLICO	GATES	LINCOLN	GUILFORD
HERTFORD	PASQUOTANK	HAYWOOD	PITT	HENDERSON
HYDE	RICHMOND	JACKSON	ROWAN	IREDELL
JONES	ROBESON	MACON	SAMPSON	JOHNSTON
MARTIN	ROCKINGHAM	MCDOWELL	STOKES	MECKLENBURG
NORTHAMPTON	RUTHERFORD	MONTGOMERY	SURRY	MOORE
PERQUIMANS		NASH	WILKES	NEW HANOVER
SCOTLAND		ONSLOW	YADKIN	ORANGE
SWAIN		PENDER		RANDOLPH
TYRRELL		PERSON		UNION
VANCE		POLK		WAKE
WARREN		STANLY		
WASHINGTON		TRANSYLVANIA		
YANCEY		WATAUGA		
		WAYNE		
		WILSON		

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MINUTES

HOUSE COMMITTEE ON FINANCE
March 18, 2003

The House Committee on Finance met at 8:30 a.m. on Tuesday, March 18, 2003 in Room 544 of the Legislative Office Building. Members present were: Chairmen Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, Womble and Wood. Staff persons present included: Trina Griffin, Canaan Huie, Linda Millsaps, Martha Walston, and Committee Assistants Nancy Brantley, Blinda Edwards, Judy Lowe, Mary Marchman, and Susan Phillips. Sergeants-at-Arms included Dusty Rhodes, Walter Spell, Bob Fowler, and Bill Freeman. The Agenda and Visitor Registration Sheet are incorporated into the minutes as **Attachments 1 and 2.**

Representative Wainwright called the meeting to order. He welcomed the Pages, Eric McCombs of Wake County, and Will Lane of Nash County. The Committee considered the following bills.

SENATE BILL 235- A BILL TO BE ENTITLED AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES. This bill would allow a retailer who leases motor vehicles to begin paying the highway use tax on the gross receipts derived from leasing the vehicles even though the retailer had previously paid the 3% highway use tax on these vehicles. The Chair recognized Representative Cole to explain the bill. Linda Millsap of Fiscal Research stated that the bill would have no impact on the Highway Trust Fund or the General Fund. Representative Allen made a motion for a favorable report of the bill. The motion carried and the bill was given a favorable report. **The Bill, Bill Analysis, Fiscal Note, and Committee Report are included in Attachment 3.**

HOUSE BILL 320-A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS. This bill was a recommendation of the Revenue Laws Study Committee. The Chair recognized Representative Luebke to explain the bill. Representative Luebke asked staff person, Trina Griffin, to comment on the bill. Mrs. Griffin explained that the legislation originated as an effort to head off a constitutional challenge to the clergy housing exclusion in a case before the Ninth Circuit Court of Appeals, Warren v. Commissioner of Internal Revenue 282 F.3d 1119, (9th Cir. 2002). Congress passed the Clergy Housing Allowance Clarification Act of 2002 in an effort to preserve the law exempting the provision of residential housing for clergy from federal income tax. Under current federal law, the rental allowance is

excluded to the extent that is it used to rent or provide a home for the minister and to the extent that it does not exceed the fair market rental value of the home. Representative Luebke made a motion to give the bill a favorable. The motion carried and the bill was given a favorable report. **The Bill, Bill Analysis, Fiscal Note, and Committee Report are included in Attachment 4.**

Canaan Huie of Bill Drafting was recognized to continue his discussion of the Job Development Investment Grant Program (JDIG). His comments were on the structure of the program, including the application process, use of the funds and terms of the agreement. He stated that no business had been selected for the program and that the committee was considering one application. His comments are included in **Attachment 5.**

Martha Walston of Fiscal Research was recognized to give an overview of the One NC Fund. She stated that the Industrial Recruitment Competitive Fund (aka One NC Fund) was enacted in Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424). The purpose of the fund was to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that were making significant efforts to establish or expand in North Carolina. The committee had requested a listing of the amount appropriated to different industries. That information was not complete, and would be provided tat a later date. Her comments are included in **Attachment 6.**

Mr. Don Hobart and Secretary Jim Fain of the Department of Commerce were recognized to address the committee. Mr. Hobart stated that money in the fund was available for modernization and expansion of existing facilities. He further stated that the guidelines are extensive and are on the Department's website. The assessment process has a number of factors. The size of the funds has changed over the years. There was a carry forward of about $18 million from last year. A portion of those funds is committed funds. The Department administers and treats the funds as performance base funds, which means that funds are not disbursed until the projects have created jobs. As a result, there are funds that are held and are identified for particular projects and particular counties that are waiting for the completion of the performance criteria to be distributed. There are also funds reserved for projects that the State is attempting to bring to North Carolina. Secretary Fain stated that the appropriation that was allotted to the One NC Fund in 2001 allowed the Department to allure new jobs and to retain old jobs. Secretary Fain stated that the names of companies and the amounts allotted to them could be made available on the Department's website. The law requires that the General Assembly receive a quarterly report. If the project is active, the name is not disclosed, and remains nameless. He presented a document that had the names of the companies who were participating in the fund. That document is attached as **Attachment 7.**

Trina Griffin was recognized to give an overview of the Film Industry Development Account. She stated that S. L. 2000-153 created the Film Industry

Development Account within the Department of Commerce, Division of Travel and Tourism. The program provides annual grants to production companies that engage in production activities in this State. A lawsuit had been filed by Edward Jones of Wake County and the Wake County Taxpayers' Association against the North Carolina Department of Commerce, Secretary James Fain, and Lyn Minges, Executive Director of the Division of Tourism, Film, and Sports Development. The complaint alleged that the program violated the "public purpose" clause of the North Carolina Constitution, and asked that the statute be declared unconstitutional. The Department is preparing a response to the complaint. Please refer to **Attachment 8** for further information regarding this issue.

The Chair announced that the joint meeting of the House and Senate Finance Committee was cancelled for the House members, and the Finance committee would not meet on Wednesday, March 19, 2003. He adjourned the meeting at 9:35 a.m.

Respectfully submitted,

Blinda Edwards, Committee Assistant

Representative William Wainwright

ATTACHMENT 1

AGENDA

House Finance Committee

March 18, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills

- **HB 320** **IRC Update** — *Reps. McComas, G. Allen, Hill, Holliman, Luebke, and Wainwright*
- **SB 235** **One-Time Rental Car Tax Election Exception** — *Sen. Hoyle*

Continuation of Discussion on the Jobs Development Investment Grant Program (JDIG)
Canaan Huie

Overview of the One NC Fund
Martha Walston

Overview of the Film Industry Development Account
Trina Griffin

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sandy Sands	WCSR
Dave Powell	NCDOR
Eddie Zinch	NCDOR
Elizabeth Jordan	NC Budget & Tax Center
LYMAN COOPER	C.S.X CORP.
Marcos Arellano	NCGA intern for Rep. Luebke
Duke Chen	Intern
Andy Sobul	NCDOR
MAX NICHOLSON	GOODYEAR SPRING HOPE
KATIE DEREN	GOODYEAR STATESVILLE
Grant McKinnon	Kelly Springfield Tire - Fayetteville

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jo B. Andrews	Goodyear-Asheboro wire plant
Trinna Ware	Goodyear - Spring Hope plant
Richard Evans	Goodyear (Kelly-Springfield) Fayetteville
Warren Cobb	OSBM
DAVID BARNES	Poyner + Spruill LLP
Matt Beason	Capitol Group

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 235

Short Title:	One-Time Rental Car Tax Election Exception.	(Public)
Sponsors:	Senators Hoyle and Berger.	
Referred to:	Finance.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 105-187.5 to the contrary, a retailer that leases or rents motor vehicles and that has paid the tax on the motor vehicles imposed pursuant to G.S. 105-187.3 may elect to pay the tax imposed pursuant to G.S. 105-187.5 in addition to the taxes previously paid. This election must be submitted to the Division of Motor Vehicles and Secretary of Revenue in writing and must specifically identify the motor vehicles to which the election applies, the date upon which the retailer will begin to collect the additional taxes, and any additional information needed to collect the tax. An election made under this act is irrevocable and does not relieve the taxpayer of liability for a tax previously imposed. An election under this act must be made prior to July 1, 2003.

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

SENATE BILL 235:
One-Time Rental Car Tax Election Exception

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hoyle
Date:	March 18, 2003	**Summary by:**	Martha Walston
Version:	1st Edition		Committee Counsel*

SUMMARY: ***Senate Bill 235 would allow a retailer who leases motor vehicles to begin paying the highway use tax on the gross receipts derived from leasing the vehicles even though the retailer has previously paid the 3% highway use tax on these vehicles. The retailer's election to begin paying the gross receipts tax must be made by July 1, 2003, and once made it is irrevocable. The election does not relieve the retailer of liability from a tax previously imposed. The bill becomes effective when it becomes law. House Bill 168 is a companion bill and has also been referred to House Finance.***

CURRENT LAW: ***In 1989, the General Assembly enacted the highway use tax to provide a major source of revenue for the Highway Trust Fund.[1] The tax rate is 3% of the retail value of a motor vehicle for which a certificate of title is issued. The Division of Motor Vehicles collects this tax. A retailer that leases or rents motor vehicles may elect not to pay the highway use tax. Instead, the retailer may pay an 8% tax on the gross receipts of the short-term lease or rental or a 3% tax on the gross receipts of long-term rentals.[2] Although the gross receipts tax is imposed on the retailer, it is added to the lease or rental price of the vehicle and thereby paid by the person who leases or rents the vehicle. The Department of Revenue collects the gross receipt tax. The tax levied at 3% is credited to the Highway Trust Fund and the tax levied at 8% is credited to the General Fund.[3]***

BILL ANALYSIS: Senate Bill 235 would allow a retailer who leases motor vehicles and who elected to pay the highway use tax on the retail value of the vehicles at the time the retailer obtained a certificate of title for them to begin collecting the alternate gross receipts tax on the vehicles. In order to begin collecting the gross receipts tax on these vehicles, a retailer would have to submit a written request to do so to the Division of Motor Vehicles and the Department of Revenue by July 1, 2003. The request must specifically identify the vehicles to which the election applies, the date upon which the retailer will begin to collect the additional taxes, and any information needed to collect the tax. An election to begin paying the gross receipts tax made under this act is irrevocable and does not relieve the taxpayer of liability for a tax previously imposed.

*Staff attorney, Cindy Avrette, contributed substantially to this summary.

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[1] The General Assembly created the Highway Trust Fund as a source of revenue to build a system of intrastate highways and seven urban loops, provide assistance to cities, and accelerate secondary road paving.

[2] A long-term lease or rental is one made under a written agreement to the same person for a period of at least 365 continuous days.

[3] Prior to 1989, NC levied a sales tax on motor vehicles and credited the revenue to the General Fund. To offset the loss of revenue to the General Fund, the Highway Trust Fund must transfer $170,000,000 annually to the General Fund. In 2001, the General Assembly provided for a small annual adjustment in this amount. Last session, the General Assembly increased this amount by $80,000,000 for 2002-03 and for 2003-04. It also transferred $125,000,000 from the Trust Fund to the General Fund, but this amount is to be paid back over a 5-year period, beginning 2004-05, with interest.

BACKGROUND: The norm in the rental car industry is to pay the highway use tax on the gross receipts of the rentals and the norm among states that tax the leasing of vehicles is to impose a gross receipts tax. However, there is at least one rental car retailer that has elected to pay the highway use tax at the time the retailer obtained the certificates of title for its fleet. To be consistent with other companies in the industry and to be consistent among the various states in which the retailer leases its motor vehicles, this retailer would like to begin collecting the gross receipts tax on its rentals. Although there are other methods besides the one proposed in this bill to accomplish this purpose, this method is the least cumbersome, both financially and administratively, to the retailer and it provides some additional revenue to the General Fund for this fiscal year.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 235 (1st Edition)

SHORT TITLE: One-Time Rental Car Tax Election Exception

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Trust Fund	*** No Fiscal Impact ***				
General Fund	*** See Assumptions and Methodology ***				

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

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Under current law retailers who lease motor vehicles can choose to pay either a 3% highway use tax on the purchase of a vehicle at acquisition or an 8% tax on the gross receipts generated from the lease of that vehicle. The retailer must choose which tax they elect to pay when they purchase the vehicle. That election is irrevocable for the life of the vehicle. The bill allows a retailer who has paid the 3% use tax to also pay the 8% gross receipts tax. The decision to also pay the 8% gross receipts tax must be made by July 1, 2003 and does not relieve that retailer of their liability for the tax previously imposed.

ASSUMPTIONS AND METHODOLOGY: Because the bill will not change the payment of highway use taxes, there is no impact on the Highway Trust Fund. Because taxes would potentially be paid on more vehicles – those that are currently not paying into the General Fund because they paid the highway use tax – there could be a General Fund increase. The Department of Revenue is only aware of one retailer that is interested in paying the additional tax. This retailer acquired another retailer that paid the 3% tax up front, while the parent company pays the 8% gross receipts tax, creating some administrative issues for the company as a whole. It is not anticipated that a significant number of retailers would be interested in changing their tax designation as is contemplated by the bill, as it effectively means they would be voluntarily offering to pay taxes twice on the same vehicle. These factors, combined with the July 1, 2003 sunset on the bill, suggest the revenue increase to the General Fund would be small.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **REPRESENTATIVES ALLEN, HOWARD, LUEBKE, MCCOMAS, MINER, AND WAINWRIGHT** (Chair/Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 235 A BILL TO BE ENTITLED AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES.

☑ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

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☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

3/06/03

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps, Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: March 5, 2003

ATTACHMENT 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 320*

Short Title:	IRC Update.	(Public)
Sponsors:	Representatives McComas, G. Allen, Hill, Holliman, Luebke, Wainwright; and Alexander.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2002,~~January 1, 2003, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 2002 that increase North Carolina taxable income for the 2002 taxable year become effective for taxable years beginning on or after January 1, 2003.

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

HOUSE BILL 320: IRC Update

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. McComas, G. Allen, Hill, Holliman, Luebke, Wainwright
Date:	March 18, 2003		
Version:	1st Edition	**Summary by:**	Trina Griffin* Committee Counsel

SUMMARY: ***House Bill 320, which is a recommendation of the Revenue Laws Study Committee, updates to January 1, 2003 the reference to the Internal Revenue Code used in defining and determining certain state tax provisions. This bill is effective when it becomes law.***

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code, by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Under current law, the reference date to the Code is May 1, 2002.

BILL ANALYSIS: This bill would update the reference to the Code to January 1, 2003. Congress enacted one bill between May 1, 2002, and January 1, 2003 that would affect State tax provisions. The Clergy Housing Allowance Clarification Act of 2002, P.L. 107-181, enacted on May 20, 2002, clarifies the amount that may be excluded from gross income by a minister for a rental allowance paid to the minister as part of the minister's compensation. Under previous federal law, the rental allowance was excluded to the extent that the allowance was used to rent or provide a home for the minister.[3] Under current federal law, the rental allowance is excluded to the extent that it is used to rent or provide a home for the minister and to the extent that it does not exceed the fair market rental value of the home.

This change could have the effect of increasing taxable income for some taxpayers and is therefore required to be roll-called on separate days pursuant to Section 23 of Article II of the North Carolina Constitution.

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[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[3] Specifically, the housing allowance exclusion was limited to the smaller of the actual housing expenses or the amount designated by the church board. In 1971, the IRS issued a Revenue Ruling adding one additional limitation based on the fair market rental value of the home.

The federal change became effective for taxable years beginning on or after January 1, 2002. Since this change could have the effect of increasing taxable income for some taxpayers, it could not become effective for taxable years that have already ended. Section 2 of this bill ensures that this change will not increase North Carolina taxable income for any person for the 2002 taxable year.

BACKGROUND: This legislation originated as an effort to head off a constitutional challenge to the clergy housing exclusion in a case before the Ninth Circuit Court of Appeals, Warren v. Commissioner of Internal Revenue, 282 F.3d 1119, (9th Cir. 2002). In this case, Reverend Rick Warren had purchased a home and for three years excluded a portion of his compensation from his church on the basis of the exclusion in section 107(2) of the tax code. The IRS determined that, pursuant to a 1971 Revenue Ruling, the amount excluded should have been limited to the fair market rental value of his home and assessed a deficiency. Rev. Warren contested the deficiency. In May 2000, the United States Tax Court ruled that the IRS erred in finding that Rev. Warren's housing allowance exclusion was limited to the fair market rental value of his home. The government appealed the Tax Court decision to the Ninth Circuit Court of Appeals. Although neither party raised a constitutional issue on appeal, the Ninth Circuit, on its own, queried whether section 107 of the Code violated the Establishment Clause of the United States Constitution and requested the parties to submit briefs on that issue. This prompted the introduction of the Clergy Housing Allowance Clarification Act of 2002 as an effort by Congress to preserve the 81-year-old law exempting the provision of residential housing for clergy from federal income tax. The legislation moved swiftly through Congress, and two days after the President signed the measure, both parties in the case requested a dismissal of the appeal. The Ninth Circuit panel dismissed the case three months later in August 2002.

*Canaan Huie, Staff Attorney, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 320 (1st Edition)

SHORT TITLE: **IRC Update**

SPONSOR(S): **Rep. McComas**

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		Gain of < $30,000 each year			
EXPENDITURES					

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

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: This bill updates the statutory reference to the Internal Revenue Code used in defining and determining certain state income tax provisions. The referenced date is changed from May 1, 2002 to January 1, 2003.

BACKGROUND: Ordained ministers, rabbis, and cantors do not pay income tax on housing allowances received as part of their compensation for ministerial duties. However, the housing allowance is subject to Social Security and Medicare taxes under the Self-Employment Contributions Act. To remain tax free, the housing allowance must be used to pay rent, to make a down payment on a house, to pay mortgage installments, or to pay utilities, interest, tax, and house repair expenses. The church or local congregation must designate the part of the minister's compensation that is a housing allowance. This designation of the allowance amount must be made in advance of any payments.

The housing allowance is also given to ministers working as teachers or administrators for a parochial school, college, or theological seminary, to retired ministers if furnished in recognition of past services, and to traveling evangelists to maintain a permanent home. Ordained ministers that work as executives of nonreligious organizations are generally barred from using the allowance. Non-ordained church officers such as minister of music and minister of education do not qualify for a housing allowance.

ASSUMPTIONS AND METHODOLOGY: The effect of this bill is to conform to a change approved by Congress on May 20, 2002 in the Clergy Housing Allowance Act of 2002 (PL 107-181). This law clarified that the clergy housing allowance is excluded from income tax to the extent that it does not exceed the fair market value of the housing unit. For those that had been claiming housing allowances greater than the fair market value for their property, their taxable income will increase in 2003. The Bureau of Labor Statistics in the US Department of Labor reports 450 clergy in North Carolina making an average salary of $36,640 and 100 directors of religious activities and education making an average salary of $27,910. However, there is no data on housing allowances claimed by North Carolina clergy.

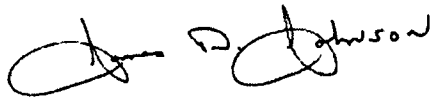
The Congressional Joint Committee on Taxation estimated that clergy nationwide would pay an additional $1million in federal income tax each year beginning in 2004 due to the law change. The amount of additional tax would increase to $2 million in 2006, $3 million in 2007, and $4 million in 2008. Since North Carolina taxable income is based on the federal taxable income, North Carolina will gain a small amount of revenue from this change. State income tax collections divided by national tax collections equals approximately .723%. Using this percentage times the national estimate for the tax change equals the following North Carolina General Fund revenue increase:

FY 2003-04	$7,230
FY 2004-05	$7,230
FY 2005-06	$14,460
FY 2006-07	$21,690
FY 2007-08	$28,920

SOURCES OF DATA: Congressional Joint Committee on Taxation; Bureau of Labor Statistics

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic, Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division



DATE: March 17, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **REPRESENTATIVES ALLEN, HOWARD, LUEBKE, MCCOMAS, MINER, AND WAINWRIGHT** (Chair/Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 320 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

☑ With a favorable report.

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

☐ With a favorable report, as amended.

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

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☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

3/06/03

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

House Finance Committee
March 18, 2003

Overview of the Industrial Recruitment Competitive Fund (aka One NC Fund)

In Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424) the following provision for the Industrial Recruitment Competitive Fund was enacted:

"**SECTION 20.3.(a)** Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Moneys allocated from the Fund shall be used for the following purposes:

1. Installation or purchase of equipment;
2. Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
3. Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 20.3.(b) The Department of Commerce shall report on or before January 1, 2002, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund."

History of Appropriations

FY 1993-94	$5,000,000	
FY 1994-95	$7,000,000	
FY 1995-96	$2,000,000	
FY 1996-97	$1,000,000	
FY 1997-98	$1,000,000	
FY 1998-99	$1,000,000	*plus $2M appropriated for Wisconsin Tissue deal that fell through; $1,285,000 to IDF Utility Account, $715,000 used for other recruitment purposes
FY 1999-00	$2,000,000	
FY 2000-01	$2,000,000	
FY 2001-02	$15,000,000	

Attachment 7

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
11991	1/10/2000	Morrison Mgmt Spec.	Mecklenburg	C	2/10/2000	T5-No		1,3	N	$ 5,600,000	40	$40,000.00
2512	3/27/2000	Broyhill Furniture Ind.	Rutherford	AW	3/30/2000	T3-Yes		1	N	$ 14,300,000	520	$75,000.00
2051	5/7/1999	Sara Lee Bakery(amended 10/26/99)	Edgecombe	GT	5/26/2000	T1-Yes-DZ		1	E	$ 20,000,000	200	$125,000.00
3732	5/23/2000	Rampage Yachts(balance due)	Brunswick	SE	5/26/2000	T3-Yes		3	N	$ 10,000,000	300	$16,550.00
3354	5/25/2000	Commonwealth Aluminum	Cleveland	C	6/6/2000	T3-Yes		1,2,3	N	$ 4,525,000	40	$40,000.00
2439	5/9/2000	Southeastern Materials (balance due)	Columbus	SE	6/23/2000	T1		1,2	E	$ 4,000,000	70	$32,000.00
31181	7/20/2000	Poppies International	Nash	GT	8/4/2000	T4-No		1	N	$ 10,000,000	60	$50,000.00
2542	8/16/2000	Impressions Mktg Group(bal. due)	Beaufort	NE	9/5/2000	T1-Yes-DZ		1	N	$ 5,000,000	150	$30,500.00
5122	6/26/2000	Bindley Western Ind., Inc.	Cleveland	C	9/5/2000	T3		1	E	$ 3,300,000	33	$33,000.00
3732	11/23/1999	Davis Boat Works, Inc.	Dare	NE	10/2/2000	T4-No		1,2	E	$ 2,100,000	110	$50,000.00
3083	10/9/2000	UPM-Raflatac, Inc.	Henderson	AW	10/11/2000	T5-No		1	E	$ 45,000,000	120	$50,000.00
2675	10/19/2000	Pactiv Corp.(balance due)	Pitt	GT	10/23/2000	T4		1,2	E	$ 1,650,000	31	$12,000.00
2254	11/6/2000	Gildan Activewear, Inc.	Rockingham	P	11/8/2000	T3		1,2	N	$ 8,500,000	236	$75,000.00
2879	11/13/2000	Syngenta(Novartis Crop Prot. Inc.)	Guilford	P	11/15/2000	T5		1,2	E	$ 2,000,000	110	$350,000.00
3357	11/28/2000	Times Fiber Communications	Randolph	P	12/1/2000	T5		1	N	$ 14,500,000	100	$50,000.00
315211	11/16/2000	MFS, Inc.	Northampton	NE	12/1/2000	T1		2	N	$ 500,000	52	$10,000.00
3624	1/16/2001	H-Power	Union	C	1/23/2001	T5		1,2	N	$ 5,000,000	50	$50,000.00
2611	6/6/2000	Buckeye Lumberton, Inc.	Robeson	SE	1/31/2001	T2		1	E	$ 9,900,000	40	$40,000.00
2521	2/20/2001	Crown Mfg(Bladen Industries)(bal. due)	Bladen	SE	3/2/2001	T2		1	N	$ 2,075,000	50	$7,000.00
3452	1/22/2001	NVR, Inc.	Cleveland	C	3/6/2001	T3		1	N	$ 7,000,000	200	$75,000.00
2834	3/15/2001	Econ Pharma, LLC	Wilson	GT	4/5/2001	T3		3	N	$ 25,500,000	135	$75,000.00
4222	1/16/2001	Atlantic Cold Storage	Davie	P	5/25/2001	T5		3	N	$ 11,000,000	60	$50,000.00
3643	6/4/2001	The Pantry	Lee	RT	6/28/2001	T5		1,2	E	$ 950,000	100	$45,000.00
3316	6/28/2001	Carolina Aluminum(balance due)	Robeson	SE	7/12/2001	T2/$433	$435.76	1	N	$ 1,500,000	25	$2,000.00
5122	12/3/2001	LEK Services, Inc.	New Hanover	SE	12/12/2001	T5/$565	$2,800.00	1	N	$ 120,000	12	$12,000.00
325228	9/21/2001	BSH Home Appliances Corp.	Craven	GT	12/12/2001	T4-DZ/$470	$550.40	1	E	$ 93,758,000	650	$400,000.00
5099	5/29/2001	Lowe's Corporation	Northampton	NE	12/19/2001	T1/$411	$460.00	1	N	$ 60,000,000	300	$125,000.00
2759	12/13/2001	Flower City Printing, Inc.	Forsyth	P	12/19/2001	T5/$636	$636.00	1,2	N	$ 3,200,000	30	$30,000.00
35631	9/21/2001	Ingersoll-Rand	Davie	P	2/5/2002	T5/$498	$638.40	1,2,3	E	$ 6,250,000	60	$50,000.00
3363	11/4/2001	B/E Aerospace	Forsyth	P	2/5/2002	T5/$636	$2,280.00	1,2	E	$ 1,133,500	37	$150,000.00
3699	12/14/2001	Flextronics	Franklin	RT	2/12/2002	T4/$528	$620.00	1,2,3	N	$ 20,000,000	1500	$500,000.00
2844	1/14/2002	Del Laboratories	Pender	SE	3/7/2002	T4/$406	$418.80	1,2	E	$ 14,000,000	484	$325,000.00
511210	2/19/2002	ENI-NET, Inc.	Chowan	NE	3/7/2002	T3/$452	$560.00	1	N	$ 5,250,000	25	$25,000.00
2034	1/7/2002	Unilever Bestfoods (balance)	Randolph	P	3/7/2002	T5/$540	$596.00	1,2	E	$ 6,000,000	55	$12,500.00
2834	12/19/2001	Abbott Labs	Nash	GT	3/22/2002	T4-DZ/$513	$584.00	1,2,3	E	$ 16,000,000	50	$50,000.00

3/18/2003

Source: Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2281	6/5/2002	Parkdale Mills(balance)	Rutherford	AW	7/22/2002	T2/$518	$520.93	1,2,3	N	$ 2,750,900	160	$175,000.00
3713	12/20/2001	Thomas Built Buses	Randolph/ Guilford	P	7/22/2002	T5/$540	$684.40	1,3	N	$ 68,000,000	178	$1,500,000.00
2221	3/28/2002	Cedar Creek Fibers(balance)	Cumberland	SE	7/22/2002	T4/$502	$692.30	1,3	N	$ 4,000,000	170	$204,705.98
3323	4/19/2002	Millennium Mfg	Caldwell	AW	6/17/2002	T4/$535	$553.59	2	E	$ 2,800,000	60	$60,000.00
2241	7/11/2002	Elastic Fabrics, LLC	Cleveland	C	8/28/2002	T3/$540	$540.00	1,2	N	$ 4,550,000	110	$100,000.00
49311	5/17/2002	Ford Motor Company	Alamance	P	8/28/2002	T5/$583	$760.00	1,3	N	$ 9,500,000	70	$250,000.00
3594	8/15/2002	Frisby Aerospace, Inc.	Forsyth	P	9/5/2002	T5/$659	$680.00	2	E	$ 9,000,000	90	$200,000.00
3089	10/24/2001	The Ullman Company	Pender	SE	9/5/2002	T3/$428	$480.00	1,2	N	$ 3,000,000	125	$175,000.00
3732	3/18/2002	HC Composites LLC (balance)	Edgecombe	GT	9/6/2002	T1/$344	$580.00	2	N	$ 2,600,000	46	$3,260.80
3089	8/15/2002	Liquidlogic, LLC	Henderson	AW	10/21/2002	T5/$580	$670.00	3	N	$ 2,950,000	25	$25,000.00
32541	8/15/2002	Embrex, Inc.	Scotland	SE	10/24/2002	T1/$458	$781.20	1,2	N	$ 13,000,000	13	$40,000.00
2499	7/30/2002	Fraternal Composite Specialties, Inc.	Jackson	AW	11/1/2002	T3/$436	$447.60	1	N	$ 5,000,000	110	$125,000.00
3568	1/31/2002	Borg-Warner Cooling	Henderson	AW	12/2/2002	T5/$574	$593.00	1	E	$ 4,673,000	50	$125,000.00
2399	9/21/2001	DSM High Perf. Fib.	Pitt	GT	12/2/2002	T4/$487	$540.00	1	N	$ 47,500,000	75	$80,000.00
3732	11/15/2002	Tracker Marine	Rutherford	AW	12/2/2002	T2/$518	$13.10	1,2,3	N	$ 1,500,000	300	$300,000.00
2844	6/3/2002	Natural Care Labs, LLC	Rockingham	P	12/2/2002	T2/$490	$490.00	1,2,3	N	$ 3,000,000	46	$300,000.00
363	1/31/2002	Prettl	Beaufort	GT	12/10/2002	T4-DZ/$470	$520.00	1	N	$ 8,000,000	77	$450,000.00
3524	12/3/2002	Honda Power Equipment Mfg., Inc.	Alamance	P	1/6/2003	T5/$583	$669.00	1,3	E	$ 25,617,000	199	$250,000.00
3089	3/1/2002	Wirthwein AG (Johnson)	Craven	GT	Gov Ltr	T4/$517	$550.00	1	N	$ 11,000,000	70	$450,000.00
313311	8/28/2002	Edenton Dyeing & Finishing, LLC(bal)	Chowan	NE	1/13/2003	T3/$455	$460.00	1,2,3	N	$ 5,000,000	150	$5,000.00
551114	11/19/2002	Blue Rhino	Forsyth	P	1/13/2003	T5/$659	$1,375.00	1,3	E	$ 9,000,000	100	$200,000.00
2033	8/15/2002	Yankee Commodity Foods of Seagrove	Randolph	P	1/13/2003	T5/T5/552	$552.00	3	E	$ 2,200,000	94	$150,000.00
2295	4/11/2002	Sandusky/Athol Intern	Granville	RT	3/4/2003	T4/$$530	$591.11	3	E	$ 6,000,000	200	$100,000.00
33121	**4/23/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$428**	**$430.00**		**N**	**$ 100,000**	**50**	**$50,000.00**
311999	**4/23/2002**	**Confidential**	**Hyde**	**NE**	**P2001-2002**	**T1/$294**	**$300.00**		**N**	**$ 55,000,000**	**105**	**$105,000.00**
311911	**5/24/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$426**	**$430.00**		**E**	**$ 2,000,000**	**40**	**$40,000.00**
493120	**5/17/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$426**	**$440.00**		**N**	**$ 5,000,000**	**50**	**$50,000.00**
3231	**5/20/2002**	**Confidential**	**Pasquotank**	**NE**	**P2001-2002**	**T2DZ/$413**	**$440.00**		**N**	**$ 6,300,000**	**200**	**$200,000.00**
226	**8/6/2002**	**Confidential**	**Gaston**	**C**	**P2002-2003**	**T3/$584**			**N**	**$ 33,000,000**	**226**	**$190,000.00**
2253	**8/15/2002**	**Confidential**	**Rutherford**	**AW**	**P2002-2003**	**T2/$518**	**$524.00**		**N**	**$ 22,200,000**	**600**	**$500,000.00**
2493	**8/15/2002**	**Confidential**	**Nash**	**GT**	**P2002-2003**	**T3/$601**	**$680.00**		**N**	**$ 35,000,000**	**170**	**$250,000.00**
3089	**8/15/2002**	**Confidential**	**Halifax, etc.**	**NE**	**P2002-2003**				**N**	**$ 15,000,000**	**100**	**$100,000.00**
332510	**8/28/2002**	**Confidential**	**Bertie**	**NE**	**P2002-2003**	**T1/$371**	**$372.00**		**E**	**$ 750,000**	**40**	**$40,000.00**
	9/11/2002	**Confidential**	**Lenoir**	**GT**	**P2002-2003**	**T2DZ/$467**	**$600.00**		**N**	**$ 5,000,000**	**100**	**$100,000.00**

3/18/2003

Source: NC Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2834	11/6/2002	Confidential	Transylvania	AW	P2002-2003	T3DZ/4573	$769.20		E	$ 528,000	27	$54,000.00
3344	1/17/2003	Confidential	Wake	RT	P2002-2003	T5/$659	$1,634.00		N	$ 5,480,000	335	$30,000.00
3714	11/25/2002	Confidential	Catawba	C	P2002-2003	T5/$596	$720.00	1,3	E	$ 74,800,000	84	$76,000.00
3621	12/9/2002	Confidential	Bladen	SE	P2002-2003	T2/$457	$720.00		N	$ 10,000,000	47	$100,000.00
	12/17/2002	Confidential	Wake	RT	P2002-2003	T5/$659	$659.00		N	$ 85,000,000	400	$500,000.00
	1/30/2003	Confidential	Wilson	GT	P2002-2003	T3DZ/$553			N	$ 14,000,000	300	$300,000.00
	1/30/2003	Confidential	Lenoir	GT	P2002-2003	T2/$513					100	$100,000.00
325211	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$594.22		N	$ 20,000,000	75	$75,000.00
32521	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$680.00		E	$ 130,000,000	50	$100,000.00
		Confidential	Lenoir		P2002-2003	T2/$513						$250,000.00
										Total		$11,540,516.78
										Budget 2002-2003		*$18,900,000.00*
										Disbursements from 2002-2003		*$664,773.22*
										Encumbered		*$11,540,516.78*
										Balance		*$6,694,710.00*

3/18/2003

Source: Department of Commerce

Attachment 8

Overview of the Film Industry Development Account

S.L. 2000-153 created the Film Industry Development Account within the Department of Commerce, Division of Travel and Tourism. The purpose of the Account is to provide annual grants to production companies that engage in production activities in the State. The grant may not exceed 15% of the amount the production company spends for goods and services in the State during a calendar year, and the grant may not exceed $200,000 per production. In 2002, the General Assembly amended the act to require that a production company have at least $1,000,000 in expenditures in this State before it can be eligible for a grant from this account.

There was no funding for this program until last year when $500,000 was appropriated to the Department of Commerce to fund the Account. However, the program has been inactive since its creation and, to date, no grant applications have been filed, nor have any grants been awarded.

On February 20, 2003, Edward Jones, a citizen of Wake County, and the Wake County Taxpayers' Association filed a lawsuit against the North Carolina Department of Commerce, Secretary of Commerce James Fain, and Lynn Minges, Executive Director of the Division of Tourism, Film, and Sports Development, seeking to have the statute authorizing the program declared unconstitutional. The complaint alleges that the program violates the "public purpose" clause of the North Carolina Constitution.

The public purpose doctrine restricts the power of the General Assembly and local governmental units to raise revenue through taxes and to appropriate tax and nontax revenues of the State or governmental unit. In accordance with this doctrine, taxes may be levied only for a public purpose and funds may be appropriated only for a public purpose. The public purpose doctrine is found, in part, in Article V, Section 2(1) of the North Carolina Constitution, which states "The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away." Judicial interpretations of this provision supply additional guidance on the limitation. However, neither the United States Supreme Court nor the North Carolina Supreme Court has formulated a definition of public purpose. Instead, the determination is made on a case-by-case basis.

The Department is currently working on its response to the complaint, which is not due until next week.

143B-434.3. Film Industry Development Account.

(a) Creation and Purpose of Account. - There is created in the Department of Commerce, Division of Tourism, Film, and Sports Development, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Tourism, Film, and Sports Development shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State with expenditures in this State of at least one million dollars ($1,000,000). A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars ($200,000) per production.

(b) Production Company Defined. - As used in this section, the term "production company" has the meaning provided in G.S. 105-164.3.

(c) Limitation on eligibility. - No production company shall be eligible for a grant under this section if an original motion picture, television, or radio image for theatrical, commercial, advertising, or educational purposes made by that company contains material that is considered obscene, as defined by G.S. 14-190.1(b).

(d) Reports. - The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts. (2000-140, s. 79(c); 2000-153, ss. 1, 6; 2002-172, s. 3.1.)

House Committee on Finance

Minutes
March 25, 2003

The House Committee on Finance met on Tuesday, March 25, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander and Hill; and Representatives Blackwood, Bordsen, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Presiding Chairman Gordon Allen called the meeting to order at 8:40 am and then introduced Pages Johnathan Stowe and Phillip Ingram, both from Forsyth County, sponsored by Representative Earline Parmon. Chairman Allen also introduced the new Committee Assistant to the House Finance Committee, Jason Cannon and a new Staff Research Assistant in Fiscal Research, Alexei Pavlichev.

As the first order of business, the Chair recognized the Bill Sponsor, Representative Cole, to explain HB 237: Nurses' Special Registration Plate (see attachment 3). This bill acknowledges the celebration of the nation's first Nursing Association by providing for the issuance of a specialized vehicle license plate. A motion was then made by Representative Howard to adopt the Proposed Committee Substitute (PCS) of HB 237 for discussion. The motion carried without dissent. Having no discussion, Representative Weiss then promptly moved for a favorable report on the Proposed Committee Substitute. The motion carried. Copies of the PCS, Bill, Bill Summary, and Fiscal Note are attached as part of these minutes.

Next, the Chair recognized Representative Adams, sponsor of HB 482: Alpha Kappa Alpha License Plate, to offer an explanation (see attachment 4). This bill, similar to HB 237 (above), provides for the issuance of a special vehicle license plate to include the Alpha Kappa Alpha Sorority's greek-letter symbol. The plate would honor the 50-year anniversary celebration of the North Carolina Chapter of the all-black Alpha Kappa Alpha Sorority. Representative Howard then moved that the Proposed Committee Substitute (PCS) of HB 482 be adopted for discussion. The motion carried. Short discussion ensued followed by a motion by Representative Womble for a favorable report on the PCS (secondary motions by Representatives Wainwright, Luebke, and Ross). The motion carried. Copies of the PCS, Bill, Bill Summary, and Fiscal Note are attached as part of these minutes.

Chairman Allen then recognized Martha Walston to continue her informational discussion of the One NC Fund. The Fund involves the appropriation of monies by the Department of Commerce for the creation of industry and jobs in various areas throughout the state. (Please see attachments 5 and 6.) Department of Commerce spokesman Don Hobart and Staffperson Martha Walston then fielded questions for the Committee members.

The Chair next recognized Linda Millsaps for an informational Power Point Presentation on a summary of the North Carolina sales tax (see attachments 7, 8, and 9). Overall, the presentation focused on a comparison of North Carolina to other state's tax coverage as well as a breakdown of the current and historical tax rates in North Carolina. During the presentation, the Chair, for a question in regard to the Governor's Tax Commission, recognized Representative Luebke who further commented that he was on a "hunt" for revenues for the state. Chairman Allen, a member of the Commission, explained that the intent of the Commission was to broaden the tax on services as a means to lower state sales taxes.

When continuing her presentation, Ms. Millsaps received a request from Representative Jones for staff to provide further information on the use of the property tax in North Carolina prior to 1933 (when the sales tax was initially implemented). The conclusion of the presentation discussed possible tax revenues from Internet and catalog orders. Chairman Allen added that North Carolina loses approximately $450 million annually due to lost taxes on such orders.

The Chair then announced that the remainder of the agenda, specifically Cindy Avrette's presentation on the Streamlined Sales Tax Project would be discussed at a later meeting date. (The handout for this presentation, although not discussed, is included in these minutes as attachment 10.) As a reminder to Committee members, Chairman Allen then noted the next Committee meeting date to be held on Wednesday, March 26, 2003 at 8:30 am in Room 544 when the State Treasurer, Richard Moore, will visit the Committee to discuss the State's fiscal situation.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 10:04 am.

Respectfully submitted,

Representative Gordon P. Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1.	Visitor Registration Sheet
2.	Agenda
3.	House Bill 237 (and related materials)
4.	House Bill 482 (and related materials)
5 & 6.	Handouts on One NC Fund
7, 8, & 9.	Handouts on Overview of State Sales Tax
10.	Handouts on Streamlined Sales Tax Project (not discussed)

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Chairman Allen then recognized Martha Walston to continue her informational discussion of the One NC Fund. The Fund involves the appropriation of monies by the Department of Commerce for the creation of industry and jobs in various areas throughout the state. (Please see attachments 5 and 6.) Department of Commerce spokesman Don Hobart and Staffperson Martha Walston then fielded questions for the Committee members.

The Chair next recognized Linda Millsaps for an informational Power Point Presentation on a summary of the North Carolina sales tax (see attachments 7, 8, and 9). Overall, the presentation focused on a comparison of North Carolina to other state's tax coverage as well as a breakdown of the current and historical tax rates in North Carolina. During the presentation, the Chair, for a question in regard to the Governor's Tax Commission, recognized Representative Luebke who further commented that he was on a "hunt" for revenues for the state. Chairman Allen, a member of the Commission, explained that the intent of the Commission was to broaden the tax on services as a means to lower state sales taxes.

When continuing her presentation, Ms. Millsaps received a request from Representative Jones for staff to provide further information on the use of the property tax in North Carolina prior to 1933 (when the sales tax was initially implemented). The conclusion of the presentation discussed possible tax revenues from Internet and catalog orders. Chairman Allen added that North Carolina loses approximately $450 million annually due to lost taxes on such orders.

The Chair then announced that the remainder of the agenda, specifically Cindy Avrette's presentation on the Streamlined Sales Tax Project would be discussed at a later meeting date. (The handout for this presentation, although not discussed, is included in these minutes as attachment 10.) As a reminder to Committee members, Chairman Allen then noted the next Committee meeting date to be held on Wednesday, March 26, 2003 at 8:30 am in Room 544 when the State Treasurer, Richard Moore, will visit the Committee to discuss the State's fiscal situation.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 10:04 am.

Respectfully submitted,

Representative Gordon P. Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1.	Visitor Registration Sheet
2.	Agenda
3.	House Bill 237 (and related materials)
4.	House Bill 482 (and related materials)
5 & 6.	Handouts on One NC Fund
7, 8, & 9.	Handouts on Overview of State Sales Tax
10.	Handouts on Streamlined Sales Tax Project (not discussed)

AGENDA

House Finance Committee

March 25, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills

- **HB 237** **Nurses' Special Registration Plate** *Rep. Cole*
- **HB 482** **Alpha Kappa Alpha License Plate** *Rep. Adams*

Continuation of Discussion on the One NC Fund
Martha Walston

Overview of Sales Tax and Streamlined Sales Tax Project
Cindy Avrette and Linda Millsaps

Adjournment

Next Meeting: Tomorrow, Wednesday, March 26 at 8:30 am
Briefing from the Treasurer's Office

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joanne Stevens	nursing
Joan Spencer	Alpha Kappa Alpha Sorority, Inc.
Jim Blackburn	NC Association of County Commissioners
Anna Pope	NC Dept of Revenue
Brian Lewis	Planned Parenthood Health Systems
Paige Johnson	Planned Parenthood Central North Carolina
Tim Minton	NC Home Builders Associated
[illegible]	OSBM
[illegible]	DOC
Patricia Camp	ACLU
[illegible]	ACLU
Sharon Matthews	DOT - DMV

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken McHon	Alley Associates, Inc.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 237*
PROPOSED COMMITTEE SUBSTITUTE H237-CSLAf-2 [v.2]

3/23/2003 12:22:38 PM

Short Title: Nurses' Special Registration Plate. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28g) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "First in Nursing" and a representation relating to nursing."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
Nurses	$25.00

Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0

Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
Nurses	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b24) Nurses. – The Division must receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually."

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 237:
Nurses' Special Registration Plate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Cole
Date:	March 25, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: House Bill 237 authorizes the Division of Motor Vehicles to issue a special plate to the owner of a motor vehicle that bears the phrase "First in Nursing" and a representation relating to nursing. There will be a $25 fee in addition to the regular $20 registration fee. Of the $25 additional fee, $10 will go into the Special Registration Plate Account, and $15 will go into the NC Foundation for Nursing for nursing scholarships for North Carolina citizens to be awarded annually. 300 applications must be received before the plate can be issued. SB 295 is a companion bill.

CURRENT LAW: G.S. 20-79.4 through G.S. 20-81.12 deal with special registration plates. For most of these plates, there is an additional charge of $10 for the plate that is credited to the Special Registration Plate Account (SRPA). Some of the special plates carry an additional charge that is applied to the Collegiate and Cultural Attraction Plate Account (CCAPA) or the Natural Heritage Trust Fund (NHTF). The money in the CCAPA is transferred quarterly to a fund or account for the benefit of the particular activity or cause. The money in the NHTF may be used to acquire land that represents the ecological diversity of North Carolina, land that is added to the system of State parks, and land that contributes to the development of a State program of historic properties.

Funds in the Special Registration Plate Account may be used only for the following purposes:

- After the deduction for costs associated with the plates, such as issuance, handling, and advertising, the sum of $525,000 is annually appropriated from the SRPA to provide operating assistance for the following seven Visitor Centers:
  a. on U.S. Highway 17 in Camden County ($75.000)
  b. on U.S. Highway 17 in Brunswick County ($75,000)
  c. on U.S. Highway 441 in Macon County ($75,000)
  d. in the Town of Boone, Watauga County ($75,000)
  e. on U.S. Highway 29 in Caswell County ($75,000)
  f. on U.S. Highway 70 in Carteret County ($75,000)
  g. on U.S. Highway 64 in Tyrrell County $75,000)

- The remaining revenue in the SRPA is transferred quarterly as follows:
  a. 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
  b. 50% to DOT for beautification of highways other than those designated as interstate.
  c. 17% to the account of DHHS to promote travel accessibility for disabled persons

Free special registration plates: One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of War.

Special registration plates exempt from additional fee: Active Member of the National Guard, Legion of Valor, Purple Heart Recipient, or Silver Star Recipient.

BILL ANALYSIS: House Bill 237 authorizes the DMV to issue a specialized "First in Nursing" license plate if there are 300 applications. The recipient of the plate must pay the regular registration fee plus an additional $25 fee. The additional fee will be distributed as follows:

- $10 to the Special Registration Plate Account (SRPA)
- $15 to the Collegiate and Cultural Attraction Plate Account (CCAPA) to be transferred quarterly to the NC Foundation for Nursing for nursing scholarships for North Carolian citizens. The scholarships will be awarded annually.

The proposed committee substitute adds language that the plate will bear a representation related to nursing in addition to the phrase "First in Nursing".

This year North Carolina is celebrating the first 100 years of nursing. In 1903, Governor Charles Aycock signed the first Nursing Practice Act in the country into law. Currently there are 114,000 nurses in the State.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 237 (1st Edition)

SHORT TITLE: **Nureses' Special Registration Plate**

SPONSOR(S): **Representative Nelson Cole**

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Highway Fund	* No Highway Fund Impact *				
Special Plate Fund	**$3,000**	**$3,000**	**$3,000**	**$3,000**	**$3,000**
Collegiate & Cultural Fund	**$4,500**	**$4,500**	**$4,500**	**$4,500**	**$4,500**
EXPENDITURES					
Special Plate Fund	**$1,000**				

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

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles to issue special registration plate for nurses. Those requesting the plate will be charged an additional $25, with part of the processes going to the special plate account, and the balance going to the NC Foundation for Nursing to provide nursing scholarships.

ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000.

The bills require an additional payment of $25, with the proceeds flowing to both the special registration plate account ($10) and the collegiate and cultural attraction plate account ($15). The proceeds in to the collegiate and cultural attractions plate account derived from the nurses plate will be transferred to the NC Foundation for Nursing for nursing scholarships.

SOURCES OF DATA: NC Department of Transportation.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 237*

Short Title:	Nurses' Special Registration Plate.	(Public)
Sponsors:	Representatives Cole; Alexander, Allred, Bordsen, England, Fox, Gillespie, Goforth, Insko, McLawhorn, Munford, Pate, Setzer, Sutton, and A. Williams.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28c) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12(b24). The plate shall bear the phrase "First in Nursing"."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00

Nurses	$25.00
Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0

In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
Nurses	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b24) Nurses. – The Division shall receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually."

SECTION 5. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative **G. Allen, Howard, Luebke, McComas, Miner, Wainwright** (Chair) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 237 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

JBLIC BILL
ROLL CALL
= S295

H.B. 0237

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

Introduced by Representative(s): Cole Allred

Verla Insko | Gillespie | Alice L Bordsen | Louis Pate
DON MUNFORD | Stan Fox | Sutton | Setzer
Bruce Ayroth | Arthur Williams | Alexander
McLawhorn
Bob Emlen

Principal Clerk's Use Only

ED 1st READING
MAR 6 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 482
PROPOSED COMMITTEE SUBSTITUTE H482-CSLAf-3 [v.1]

3/23/2003 12:21:03 PM

Short Title: Alpha Kappa Alpha License Plate. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1c) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's symbol and name. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

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

HOUSE BILL 482:
Alpha Kappa Alpha License Plate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Adams
Date:	March 25, 2003	**Analysis by:**	Martha Walston Committee Counsel
Version:	Proposed Committee Substitute		

SUMMARY: House Bill 482 authorizes the Division of Motor Vehicles to issue a special plate to the owner of a motor vehicle that bears the symbol and name of the Alpha Kappa Alpha Sorority. There will be a $10 fee in addition to the regular $20 registration fee. The $10 fee will go into the Special Registration Plate Account. 300 applications must be received before the plate can be issued. Senate Bill 397 is a companion bill.

CURRENT LAW: G.S. 20-79.4 through G.S. 20-81.12 deal with special registration plates. For most of these plates, there is an additional charge of $10 for the plate that is credited to the Special Registration Plate Account (SRPA). Some of the special plates carry an additional charge that is applied to the Collegiate and Cultural Attraction Plate Account (CCAPA) or the Natural Heritage Trust Fund (NHTF). The money in the CCAPA is transferred quarterly to a fund or account for the benefit of the particular activity or cause. The money in the NHTF may be used to acquire land that represents the ecological diversity of North Carolina, land that is added to the system of State parks, and land that contributes to the development of a State program of historic properties.

Funds in the Special Registration Plate Account may be used only for the following purposes:

- After the deduction for costs associated with the plates, such as issuance, handling, and advertising, the sum of $525,000 is annually appropriated from the SRPA to provide operating assistance for the following seven Visitor Centers:
  a. on U.S. Highway 17 in Camden County ($75.000)
  b. on U.S. Highway 17 in Brunswick County ($75,000)
  c. on U.S. Highway 441 in Macon County ($75,000)
  d. in the Town of Boone, Watauga County ($75,000)
  e. on U.S. Highway 29 in Caswell County ($75,000)
  f. on U.S. Highway 70 in Carteret County ($75,000)
  g. on U.S. Highway 64 in Tyrrell County $75,000)
- The remaining revenue in the SRPA is transferred quarterly as follows:
  a. 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
  b. 50% to DOT for beautification of highways other than those designated as interstate.
  c. 17% to the account of DHHS to promote travel accessibility for disabled persons

Free special registration plates: One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of War.

Special registration plates exempt from additional fee are: Active Member of the National Guard, Legion of Valor, Purple Heart Recipient, or Silver Star Recipient.

If the statute does not set out an additional registration fee or it specifically exempts the special plate from a fee, then the additional fee is $10. This $10 fee goes into the SRPA.

BILL ANALYSIS: House Bill 482 authorizes the DMV to issue a specialized license plate that bears the symbol and name of the Alpha Kappa Alpha Sorority if there are at least 300 applications. The recipient of the special plate must pay the regular registration fee plus an additional $10 fee. The $10 fee will go into the SRPA.

Under current law only one other special plate has been authorized for a fraternity or sorority. The proposed committee substitute conforms to the language of this plate by authorizing the plate to bear the sorority's symbol in addition to the sorority's name.

BACKGROUND: In 1908, Alpha Kappa Alpha Sorority became America's first Greek-letter organization established by Black college women. In 2002, AKA built and dedicated nine additional schools in South Africa and contributed $25,000 to the National Council of Negro Women's Mortgage Liquidation Fund. In 2001, the Sorority contributed over $25,000 for Sickle Cell Anemia. Currently there are North Carolina chapters in the following locations: Winston-Salem, Rocky Mount, Durham, Raleigh, Charlotte, Wilmington, Greensboro, Wilson, Asheville, Salisbury, Goldsboro, Elisabeth City, Gastonia, Kinston, Fayetteville, High Point, New Bern, Greenville, Garysburg, Williamston, Chapel Hill, Creedmoor, Ahoskie, Hickory, Lexington, Southern Pines, Burlington, Norlina, Clinton, Fairmont, Roxboro, Cary, Jacksonville, Washington, Cullowhee, Elon College, Boone, and Maxton.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 482 (1st Edition)

SHORT TITLE: Alpha Kappa Alpha License Plate

SPONSOR(S): Representative Adams

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Highway Fund	* No Highway Fund Impact *				
Special Plate Acct.	**$3,000**				
EXPENDITURES					
Special Plate Acct.	**$1,000**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles to issue an Alpha Kappa Alpha sorority special registration plate.

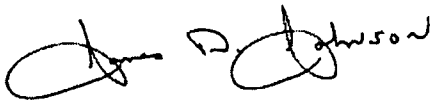
ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000. Under current statutes, all special plate registrations are charged an additional $10. Assuming 300 plates, the bill raises $3,000 for the special plate account.

SOURCES OF DATA: NC Department of Transportation.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: March 21, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 482

Short Title:	Alpha Kappa Alpha License Plate.	(Public)
Sponsors:	Representatives Adams; Parmon and Wainwright.	
Referred to:	Finance.	

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1a) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words 'Alpha Kappa Alpha'. The Division must receive 300 or more applications for the plate before it may be developed."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By SRepresentatives **G. Allen, Howard, Luebke, McComas, Miner, Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 482 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

BLIC BILL

ROLL CALL

ICI= S397

H.B. 0482

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

Introduced by Representative(s): Adams and Parmon.

Wainwright			

Principal Clerk's Use Only

RECEIVED 1st READING
MAR 13 2003
AND REFERRED TO COMMITTEE
ON Finance

House Finance Committee
March 18, 2003

Overview of the Industrial Recruitment Competitive Fund (aka One NC Fund)

In Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424) the following provision for the Industrial Recruitment Competitive Fund was enacted:

"**SECTION 20.3.(a)** Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Moneys allocated from the Fund shall be used for the following purposes:

1. Installation or purchase of equipment;
2. Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
3. Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 20.3.(b) The Department of Commerce shall report on or before January 1, 2002, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund."

History of Appropriations

FY 1993-94	$5,000,000	
FY 1994-95	$7,000,000	
FY 1995-96	$2,000,000	
FY 1996-97	$1,000,000	
FY 1997-98	$1,000,000	
FY 1998-99	$1,000,000	*plus $2M appropriated for Wisconsin Tissue deal that fell through; $1,285,000 to IDF Utility Account, $715,000 used for other recruitment purposes
FY 1999-00	$2,000,000	
FY 2000-01	$2,000,000	
FY 2001-02	$15,000,000	

Explanation of One NC Fund Spreadsheet

Column 5: "Region"

- C = Carolina's Partnership (Charlotte)
- AW = Advantage West (Western)
- GT = Global TransPark (Eastern)
- SE = Southeastern
- NE = Northeast
- RT = Research Triangle
- P = Piedmont Triad

Column 7: "County Rank/Wage"

- T1-T5 = Tiers 1-5
- "No" = County not considered economically distressed (Tier 4 or 5)
- "Yes" = County is considered economically distressed (Tier 1, 2, or 3)
- DZ = Development Zone
- $XXX = number represents the weekly wage figure needed to meet the "wage test"

Column 8: "Company Wages"

- Represents the weekly wages paid by the company.

Column 9: "Use"

- 1 = Installation or purchase of new equipment.
- 2 = Structural repairs, improvements or renovation of existing buildings to be used for expansion.
- 3 = construction of or improvement to new or existing water, sewer, gas or electric utility distribution lines or equipment for existing buildings and/or new buildings.

Column 10: "New/Exp."

- Exp. = Expansion

One North Carolina Fund/Ind[redacted]ial Recruitment Competitive Fund
Pending [redacted]r Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	New/ Use*	Exp.	Current Investment	Jobs	$ Committed from Fund
11991	1/10/2000	Morrison Mgmt Spec.	Mecklenburg	C	2/10/2000	T5-No		1,3	N	$ 5,600,000	40	$40,000.00
2512	3/27/2000	Broyhill Furniture Ind.	Rutherford	AW	3/30/2000	T3-Yes		1	N	$ 14,300,000	520	$75,000.00
2051	5/7/1999	Sara Lee Bakery(amended 10/26/99)	Edgecombe	GT	5/26/2000	T1-Yes-DZ		1	E	$ 20,000,000	200	$125,000.00
3732	5/23/2000	Rampage Yachts(balance due)	Brunswick	SE	5/26/2000	T3-Yes		3	N	$ 10,000,000	300	$16,550.00
3354	5/25/2000	Commonwealth Aluminum	Cleveland	C	6/6/2000	T3-Yes		1,2,3	N	$ 4,525,000	40	$40,000.00
2439	5/9/2000	Southeastern Materials (balance due)	Columbus	SE	6/23/2000	T1		1,2	E	$ 4,000,000	70	$32,000.00
31181	7/20/2000	Poppies International	Nash	GT	8/4/2000	T4-No		1	N	$ 10,000,000	60	$50,000.00
2542	8/16/2000	Impressions Mktg Group(bal. due)	Beaufort	NE	9/5/2000	T1-Yes-DZ		1	N	$ 5,000,000	150	$30,500.00
5122	6/26/2000	Bindley Western Ind., Inc.	Cleveland	C	9/5/2000	T3		1	E	$ 3,300,000	33	$33,000.00
3732	11/23/1999	Davis Boat Works, Inc.	Dare	NE	10/2/2000	T4-No		1,2	E	$ 2,100,000	110	$50,000.00
3083	10/9/2000	UPM-Raflatac, Inc.	Henderson	AW	10/11/2000	T5-No		1	E	$ 45,000,000	120	$50,000.00
2675	10/19/2000	Pactiv Corp.(balance due)	Pitt	GT	10/23/2000	T4		1,2	E	$ 1,650,000	31	$12,000.00
2254	11/6/2000	Gildan Activewear, Inc.	Rockingham	P	11/8/2000	T3		1,2	N	$ 8,500,000	236	$75,000.00
2879	11/13/2000	Syngenta(Novartis Crop Prot. Inc.)	Guilford	P	11/15/2000	T5		1,2	E	$ 2,000,000	110	$350,000.00
3357	11/28/2000	Times Fiber Communications	Randolph	P	12/1/2000	T5		1	N	$ 14,500,000	100	$50,000.00
315211	11/16/2000	MFS, Inc.	Northampton	NE	12/1/2000	T1		2	N	$ 500,000	52	$10,000.00
3624	1/16/2001	H-Power	Union	C	1/23/2001	T5		1,2	N	$ 5,000,000	50	$50,000.00
2611	6/6/2000	Buckeye Lumberton, Inc.	Robeson	SE	1/31/2001	T2		1	E	$ 9,900,000	40	$40,000.00
2521	2/20/2001	Crown Mfg(Bladen Industries)(bal. due)	Bladen	SE	3/2/2001	T2		1	N	$ 2,075,000	50	$7,000.00
3452	1/22/2001	NVR, Inc.	Cleveland	C	3/6/2001	T3		1	N	$ 7,000,000	200	$75,000.00
2834	3/15/2001	Econ Pharma, LLC	Wilson	GT	4/5/2001	T3		3	N	$ 25,500,000	135	$75,000.00
4222	1/16/2001	Atlantic Cold Storage	Davie	P	5/25/2001	T5		3	N	$ 11,000,000	60	$50,000.00
3643	6/4/2001	The Pantry	Lee	RT	6/28/2001	T5		1,2	E	$ 950,000	100	$45,000.00
3316	6/28/2001	Carolina Aluminum(balance due)	Robeson	SE	7/12/2001	T2/$433	$435.76	1	N	$ 1,500,000	25	$2,000.00
5122	12/3/2001	LEK Services, Inc.	New Hanover	SE	12/12/2001	T5/$565	$2,800.00	1	N	$ 120,000	12	$12,000.00
325228	9/21/2001	BSH Home Appliances Corp.	Craven	GT	12/12/2001	T4-DZ/$470	$550.40	1	E	$ 93,758,000	650	$400,000.00
5099	5/29/2001	Lowe's Corporation	Northampton	NE	12/19/2001	T1/$411	$460.00	1	N	$ 60,000,000	300	$125,000.00
2759	12/13/2001	Flower City Printing, Inc.	Forsyth	P	12/19/2001	T5/$636	$636.00	1,2	N	$ 3,200,000	30	$30,000.00
35631	9/21/2001	Ingersoll-Rand	Davie	P	2/5/2002	T5/$498	$638.40	1,2,3	E	$ 6,250,000	60	$50,000.00
3363	11/4/2001	B/E Aerospace	Forsyth	P	2/5/2002	T5/$636	$2,280.00	1,2	E	$ 1,133,500	37	$150,000.00
3699	12/14/2001	Flextronics	Franklin	RT	2/12/2002	T4/$528	$620.00	1,2,3	N	$ 20,000,000	1500	$500,000.00
2844	1/14/2002	Del Laboratories	Pender	SE	3/7/2002	T4/$406	$418.80	1,2	E	$ 14,000,000	484	$325,000.00
511210	2/19/2002	ENI-NET, Inc.	Chowan	NE	3/7/2002	T3/$452	$560.00	1	N	$ 5,250,000	25	$25,000.00
2034	1/7/2002	Unilever Bestfoods (balance)	Randolph	P	3/7/2002	T5/$540	$596.00	1,2	E	$ 6,000,000	55	$12,500.00
2834	12/19/2001	Abbott Labs	Nash	GT	3/22/2002	T4-DZ/$513	$584.00	1,2,3	E	$ 16,000,000	50	$50,000.00

3/12/2003

Source: NC Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2281	6/5/2002	Parkdale Mills(balance)	Rutherford	AW	7/22/2002	T2/$518	$520.93	1,2,3	N	$ 2,750,900	160	$175,000.00
3713	12/20/2001	Thomas Built Buses	Randolph/ Guilford	P	7/22/2002	T5/$540	$684.40	1,3	N	$ 68,000,000	178	$1,500,000.00
2221	3/28/2002	Cedar Creek Fibers(balance)	Cumberland	SE	7/22/2002	T4/$502	$692.30	1,3	N	$ 4,000,000	170	$204,705.98
3323	4/19/2002	Millennium Mfg	Caldwell	AW	6/17/2002	T4/$535	$553.59	2	E	$ 2,800,000	60	$60,000.00
2241	7/11/2002	Elastic Fabrics, LLC	Cleveland	C	8/28/2002	T3/$540	$540.00	1,2	N	$ 4,550,000	110	$100,000.00
49311	5/17/2002	Ford Motor Company	Alamance	P	8/28/2002	T5/$583	$760.00	1,3	N	$ 9,500,000	70	$250,000.00
3594	8/15/2002	Frisby Aerospace, Inc.	Forsyth	P	9/5/2002	T5/$659	$680.00	2	E	$ 9,000,000	90	$200,000.00
3089	10/24/2001	The Ullman Company	Pender	SE	9/5/2002	T3/$428	$480.00	1,2	N	$ 3,000,000	125	$175,000.00
3732	3/18/2002	HC Composites LLC (balance)	Edgecombe	GT	9/6/2002	T1/$344	$580.00	2	N	$ 2,600,000	46	$3,260.80
3089	8/15/2002	Liquidlogic, LLC	Henderson	AW	10/21/2002	T5/$580	$670.00	3	N	$ 2,950,000	25	$25,000.00
32541	8/15/2002	Embrex, Inc.	Scotland	SE	10/24/2002	T1/$458	$781.20	1,2	N	$ 13,000,000	13	$40,000.00
2499	7/30/2002	Fraternal Composite Specialties, Inc.	Jackson	AW	11/1/2002	T3/$436	$447.60	1	N	$ 5,000,000	110	$125,000.00
3568	1/31/2002	Borg-Warner Cooling	Henderson	AW	12/2/2002	T5/$574	$593.00	1	E	$ 4,673,000	50	$125,000.00
2399	9/21/2001	DSM High Perf. Fib.	Pitt	GT	12/2/2002	T4/$487	$540.00	1	N	$ 47,500,000	75	$80,000.00
3732	11/15/2002	Tracker Marine	Rutherford	AW	12/2/2002	T2/$518	$13.10	1,2,3	N	$ 1,500,000	300	$300,000.00
2844	6/3/2002	Natural Care Labs, LLC	Rockingham	P	12/2/2002	T2/$490	$490.00	1,2,3	N	$ 3,000,000	46	$300,000.00
363	1/31/2002	Prettl	Beaufort	GT	12/10/2002	T4-DZ/$470	$520.00	1	N	$ 8,000,000	77	$450,000.00
3524	12/3/2002	Honda Power Equipment Mfg., Inc.	Alamance	P	1/6/2003	T5/$583	$669.00	1,3	E	$ 25,617,000	199	$250,000.00
3089	3/1/2002	Wirthwein AG (Johnson)	Craven	GT	Gov Ltr	T4/$517	$550.00	1	N	$ 11,000,000	70	$450,000.00
313311	8/28/2002	Edenton Dyeing & Finishing, LLC(bal)	Chowan	NE	1/13/2003	T3/$455	$460.00	1,2,3	N	$ 5,000,000	150	$5,000.00
551114	11/19/2002	Blue Rhino	Forsyth	P	1/13/2003	T5/$659	$1,375.00	1,3	E	$ 9,000,000	100	$200,000.00
2033	8/15/2002	Yankee Commodity Foods of Seagrove	Randolph	P	1/13/2003	T5/T5/552	$552.00	3	E	$ 2,200,000	94	$150,000.00
2295	4/11/2002	Sandusky/Athol Intern	Granville	RT	3/4/2003	T4/$$530	$591.11	3	E	$ 6,000,000	200	$100,000.00
33121	4/23/2002	Confidential	Martin	NE	P2001-2002	T1/$428	$430.00		N	$ 100,000	50	$50,000.00
311999	4/23/2002	Confidential	Hyde	NE	P2001-2002	T1/$294	$300.00		N	$ 55,000,000	105	$105,000.00
311911	5/24/2002	Confidential	Martin	NE	P2001-2002	T1/$426	$430.00		E	$ 2,000,000	40	$40,000.00
493120	5/17/2002	Confidential	Martin	NE	P2001-2002	T1/$426	$440.00		N	$ 5,000,000	50	$50,000.00
3231	5/20/2002	Confidential	Pasquotank	NE	P2001-2002	T2DZ/$413	$440.00		N	$ 6,300,000	200	$200,000.00
226	8/6/2002	Confidential	Gaston	C	P2002-2003	T3/$584			N	$ 33,000,000	226	$190,000.00
2253	8/15/2002	Confidential	Rutherford	AW	P2002-2003	T2/$518	$524.00		N	$ 22,200,000	600	$500,000.00
2493	8/15/2002	Confidential	Nash	GT	P2002-2003	T3/$601	$680.00		N	$ 35,000,000	170	$250,000.00
3089	8/15/2002	Confidential	Halifax, etc.	NE	P2002-2003				N	$ 15,000,000	100	$100,000.00
332510	8/28/2002	Confidential	Bertie	NE	P2002-2003	T1/$371	$372.00		E	$ 750,000	40	$40,000.00
	9/11/2002	Confidential	Lenoir	GT	P2002-2003	T2DZ/$467	$600.00		N	$ 5,000,000	100	$100,000.00

3/12/2003

Sou[redacted] NC Department of Commerce

One North Carolina Fund/Ind[redacted]al Recruitment Competitive Fund
Pending [redacted]r Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2834	11/6/2002	Confidential	Transylvania	AW	P2002-2003	T3DZ/4573	$769.20		E	$ 528,000	27	$54,000.00
3344	1/17/2003	Confidential	Wake	RT	P2002-2003	T5/$659	$1,634.00		N	$ 5,480,000	335	$30,000.00
3714	11/25/2002	Confidential	Catawba	C	P2002-2003	T5/$596	$720.00	1,3	E	$ 74,800,000	84	$76,000.00
3621	12/9/2002	Confidential	Bladen	SE	P2002-2003	T2/$457	$720.00		N	$ 10,000,000	47	$100,000.00
	12/17/2002	Confidential	Wake	RT	P2002-2003	T5/$659	$659.00		N	$ 85,000,000	400	$500,000.00
	1/30/2003	Confidential	Wilson	GT	P2002-2003	T3DZ/$553			N	$ 14,000,000	300	$300,000.00
	1/30/2003	Confidential	Lenoir	GT	P2002-2003	T2/$513					100	$100,000.00
325211	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$594.22		N	$ 20,000,000	75	$75,000.00
32521	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$680.00		E	$ 130,000,000	50	$100,000.00
		Confidential	Lenoir		P2002-2003	T2/$513						$250,000.00
										Total		$11,540,516.78
										Budget 2002-2003		*$18,900,000.00*
										Disbursements from 2002-2003		*$664,773.22*
										Encumbered		*$11,540,516.78*
										Balance		*$6,694,710.00*

3/12/2003

Source: NC Department of Commerce

GUIDELINES AND PROCEDURES

FOR COMMITMENT OF FUNDS FROM

THE ONE NORTH CAROLINA FUND

1.0 GENERAL ADMINISTRATION

1.1 Authority

The guidelines, criteria and procedures set forth herein are established pursuant to N.C. Sess. Laws 2001-424, Section 20.3 ("the Act") ("The Governor shall adopt guidelines and procedures for the commitment of moneys from the [Industrial Recruitment Competitive] Fund.").

1.2 Popular Name

The Fund formally designated in the Act as the "Industrial Recruitment Competitive Fund" will be known publicly and referred to for clarity and ease of reference as the "One North Carolina Fund."

All references in these guidelines, criteria and procedures to the "One North Carolina Fund" are intended to be references to the "Industrial Recruitment Competitive Fund."

1.3 Scope and Purpose of Guidelines

These guidelines, criteria and procedures apply to funds appropriated or otherwise deposited, granted or allocated to the Industrial Recruitment Competitive Fund.

They are designed to provide internal direction and guidance to state officials responsible for administering the Fund and negotiating the financial terms and arrangements under which moneys may be allocated from it.

1.4 Amendments

The Governor, in his discretion, may change these guidelines, criteria and procedures from time to time as the size and nature of the fund or the economic circumstances and condition of the State may warrant.

1.5 Administration

The Secretary of Commerce administers the One North Carolina Fund on behalf of the Governor. Administrative support for the Fund will be provided by the Commerce Finance Center ("CFC") or any successor division performing a comparable function.

2.0 FUND MISSION AND GUIDING PRINCIPLES

2.1 Purpose of Fund

The State of North Carolina seeks to grow economically, to achieve uniformly regional prosperity throughout the state, and to differentiate itself in economic development by recruiting and expanding quality jobs in high value-added, knowledge-driven industries. The Industrial Recruitment Competitive Fund (One North Carolina Fund) plays a key role in that effort.

Pursuant to the terms of the Act, the One North Carolina Fund shall be used to "provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina."

"Moneys allocated from the Fund shall be used for the following purposes:

(1) Installation or purchase of equipment;

(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and

(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

"Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations."

The Fund currently consists of nonrecurring appropriations made by the General Assembly and intended to be immediately available to the Governor for use on an "as needed" basis. It is intended to provide the State of North Carolina with a flexible and discretionary tool that can be used in situations in which North Carolina must respond quickly to enable job creation and growth and expansion of economic infrastructure with its borders. It is intended to enable the state to respond quickly and effectively to the dynamic forces of the state's economy and to the competitive nature of industrial recruitment and retention among the various states.

In performing this function, the Fund seeks to encourage and attract sustainable investments and new jobs to North Carolina communities, to stimulate state and local economies, and to provide resources to enable North Carolina communities to improve their economic development infrastructure, expand their tax base, and improve their general economic health and welfare.

Moneys allocated from this Fund are the result of negotiation and agreement between state and local governments and private businesses or industries. These guidelines and criteria are intended to provide direction to those responsible for administering the fund in negotiating the financial arrangements under which moneys will be disbursed.

2.2 Recipients of Moneys Allocated from Fund

Moneys from the One North Carolina Fund will be allocated to local units of government for use in connection with efforts to secure commitments from and to enable businesses and industries to undertake new expansion or locate new operations in the state.

2.3 Entities in Default Barred From Receiving Funds

Pursuant to the specific terms of N.C. Gen. Stat. Section 143B-431.2, the Department of Commerce may not make a loan nor award a grant to any individual, organization, or governmental unit that is currently in default on any loan or grant previously made by the Department.

2.4 New and Existing Industry Projects to be Treated the Same

For purposes of allocating moneys from the Fund, projects involving businesses or industries with an existing presence in North Carolina that seek to expand operations or locate new operations in the state (existing businesses and industries) will be eligible for consideration and funding in the same manner and under the same criteria as projects involving businesses or industries with no existing presence in North Carolina (new businesses and industries).

2.5 Form of Financial Assistance Provided From Fund

Financial assistance provided by the One North Carolina Fund will take the form of negotiated challenge grants, reflecting the long-standing practice of the Fund and the general needs of the economic development community.

The Governor and the Secretary of Commerce reserve the right to structure other forms of financial assistance from the fund in the future should circumstances and conditions warrant them.

2.6 Local Government Match Requirement

Moneys will be allocated from the One North Carolina Fund to those local units of government that match the grants allocated to them. Local governments will be required to document their match. A local government's match must equal the value of the grant from the Fund and may take a variety of different forms, including

1. Cash,
2. Fee waivers,
3. In-kind services,
4. Donation of land, buildings or other assets,
5. Provision of infrastructure.

A combination of the preceding different forms may be used to achieve a local match.

Local funds used to match other non-CFC sources of funding may also be used to match funds from the One North Carolina Fund. Funds used to match other programs of the Commerce Finance Center, however, may not be used to match grants from the One North Carolina Fund.

Guidelines for the local match requirement may be set out in more detail in the Local Government Application.

2.7 Provisions to Ensure Performance and Recapture Funds

It is the intent of this program to ensure accountability for funds disbursed under it. To that end, local units of government and businesses or industries associated with the program are to allow the State of North Carolina and the Department of Commerce, or its agents, access to all records necessary to confirm compliance with program guidelines and with terms of agreements negotiated and executed under them. Such agreements are to include provisions adequate to protect the state's interests in the funds and to require return of funds in cases of failure to comply with performance standards agreed to between the parties.

2.8 Relationship of Funding to Environmental Obligations

The fact that the Department of Commerce may approve or endorse funding for an application for a particular project has no bearing on and in no way mitigates the obligation of the business or industry associated with that project to comply with existing state environmental statutes and regulations.

Release of grant funds is contingent on the company receiving all of its required environmental permits.

2.9 Overdue Tax Debts

Companies with overdue tax debts to the State of North Carolina, as defined in N.C.G.S. 105-243.1, are not eligible for grants until the debts are paid.

3.0 PROCEDURE FOR COMMITMENT, AWARD AND DISBURSEMENT OF FUNDS

3.1 Assignment of Business & Industry Division Personnel

Projects appropriate for funding may be brought to the attention of the Governor and the Department of Commerce in a variety of different ways. As a general rule, when a project is first identified, it will be assigned to an economic developer with the Department's Business & Industry Division. That person will typically be responsible for coordinating negotiations and ensuring that the various steps in the application process are followed by the parties involved.

3.2 Step One: Pre-Application Form

At the time a project has been identified as one for which funding may be appropriate, a pre-application form may be filled out. This form will solicit a variety of different types of information regarding the project. It is designed to assist the Secretary in making a preliminary determination as to whether a portion of the Fund should be reserved for the project in question.

The ability of the Secretary of reserve funds under such circumstances is essential for proper administration and management of the Fund.

Approval of an amount and reservation of funds at this stage does not represent a binding commitment to grant funds. Evaluation of the project and negotiation of terms under which grants may be issued may continue after the initial approval and reservation are made.

Should it be determined that a project will not proceed to the formal application stage, the reserved funds for that project will become generally available for allocation to other projects.

3.3 Step Two: Formal Application

Local units of government seeking moneys from the One North Carolina Fund are required to submit a formal application to the Commerce Finance Center. The application will consist of a cover sheet and three primary components: a local government application, a company application, and a Department of Commerce Developer Form. The application is designed to aid the Secretary of Commerce in making an assessment of whether a project involves a business or industry vital to a healthy and growing State economy, whether the business or industry intends to undertake a significant effort to establish or expand in North Carolina. whether the project is one for which a grant would be necessary to enhance the competitiveness of North Carolina's business and industrial recruitment and retention efforts and needed to enable the project to go forward in the state, and whether the project is consistent with Fund guidelines. It is designed to aid in the evaluation and negotiation of financial arrangements under which moneys from the Fund may be allocated.

The local government application will solicit information regarding the project from the local unit of government. It will solicit, among other things, information necessary to confirm the local match and information concerning incentives offered by other states competing for the project.

The business or industry associated with the project will provide a Company Application to be submitted to the Department of Commerce as part of the formal application. The Company Application will seek detailed information relating to the project, including, among other things: investment amounts, timing and numbers of new full time jobs to be created, average wages for all full time jobs at the facility, health insurance to be provided, the financial condition of the business or industry associated with the project, and other states competing for the project and incentives offered.

The economic developer with the Department's Business & Industry Division who is responsible for monitoring the project should also submit a DOC Developer Form and Cover Sheet. These portions of the application provide information regarding the progress of the application, as well as any information the developer possesses regarding the impact of the project, local government involvement, and other states or countries competing for the project and any incentives they may have offered.

The forms that make up the application are to be submitted to the Department of Commerce at least 30 days prior to the date by which a decision on the grant request is needed. A full and complete application, including all necessary

supporting documentation, must be submitted and approved prior to a formal project announcement.

Applications not submitted in the proper timeframe and applications not properly completed may be denied for that reason by the Department of Commerce. The Department of Commerce reserves the right to reject any application associated with a project that issues a formal announcement prior to the date on which a final decision is made concerning the award of moneys from the One North Carolina Fund.

3.4 Step Three: Governor's Letter

If the application received from the local government is approved, a letter will be prepared for the Governor's signature announcing that the local government is eligible for an award of a specified dollar amount. The award of any grant funds, however, will be contingent upon the local unit of government and the business or industry entering into a satisfactory, negotiated Company Performance Agreement, the local unit of government entering into a satisfactory Local Government Grant Agreement with the Department of Commerce, and the ultimate performance of the business or industry under the terms of these agreements. Disbursement of any funds to the local government will be in increments over time and contingent upon submission of proper documentation of the necessary performance.

In the Governor's absence and at the direction of his Office, the Secretary of Commerce may prepare and send the letter in question.

3.5 Step Four: Execution of Appropriate Contracts

The local unit of government and the business or industry must enter into a satisfactory, negotiated Company Performance Agreement that includes the performance criteria necessary for funds to be released. The local unit of government must also enter into a satisfactory Local Government Grant Agreement with the Department of Commerce.

3.6 Step Five: Submission of Proof of Performance

Funds should ordinarily be disbursed from the One North Carolina Fund in 25% increments based on incremental progress toward the specified performance criteria. For the funds to be disbursed, the local unit of government must submit proof to the Commerce Finance Center that the performance criteria for a particular installment of funds have been met, including documentation that the required jobs have been created. The local unit of government must also provide a statement from any entity that will receive and apply the funds verifying the uses to which the funds will be put and attesting that those uses are consistent with those purposes for which funds may be granted under these

Guidelines and the Act. If the appropriate performance criteria have been met, a check will be issued for the installment.

3.7 Step Six: Confirmation of Receipt, Deposit and Disbursement

When funds are actually applied by the local government, the local government must then submit proof of receipt, deposit, and proper disbursement of the funds.

3.8 Procedures to be Applied Consistently

The general procedure outlined in these Guidelines is intended to be applied consistently to all projects. Significant deviations in procedure should occur only when, in the exercise of discretion and considering the particular and unusual circumstances, it is concluded that the best interests of the State and the purposes of the Fund will be advanced. Such deviations should be noted when they occur.

4.0 INFORMATION REQUESTED FOR ALLOCATION DECISIONS

4.1 Information to be Collected

The information to collected in the process of application for grants from the One North Carolina Fund may include:

1. The weighted hourly average wage for the group of new full time jobs being created.
2. The weighted hourly average wage for the full time jobs at the entire facility.
3. Confirmation that any jobs used as a basis for computing the allocation of moneys from the Fund are in fact net new jobs to the business or industry's operations in the state and are not jobs or positions transferred from operations in one part of the state to another.
4. Timing of new jobs to be created.
5. Confirmation and details of health insurance provided for employees at the facility.
6. Nature of business activity associated with the project.
7. Types, amounts, and timing of the business or industry's financial investment in the project.
8. Details relating to job transfer and plant closings. If the business or industry has previously announced the closing of a facility that is still in operation at the time of the agreement, but scheduled to close in the near future, details regarding how the facility and expansion are related must be provided.

9. Information necessary to assess the economic strength, capacity and sustainability of the business or industry associated with the project.
10. Information relating to the environmental record and practices of the business or industry associated with the project.
11. Information regarding local incentives offered.
12. Information regarding incentives offered by any other states or countries competing for the project.
13. Additional information needed to evaluate the criteria for allocating funds to particular projects set out in Section 6.0.
14. Such other information as the Governor and/or the Secretary may deem necessary.

4.2 Ability to Request Additional Information

The Governor or the Secretary may require additional information to be provided from a local unit of government or from a business or industry beyond that which may be contained in the application forms.

4.3 Failure to Provide Information

Failure to provide information requested, as well as failure to provide requested information in sufficient detail, may serve as grounds for rejecting an application.

5.0 ALLOCATION DECISIONS

5.1 Review Procedure

The Department of Commerce will review a formal application and make a recommendation on funding to the Governor. The review in question will be conducted by the Secretary of Commerce, who may draw upon the expertise and assistance of the Assistant Secretary of Economic Development, the Director of the Commerce Finance Center and the Assistant Secretary of Administration. The Secretary may also consult such other members of his staff as he deems necessary to develop recommendations. The Secretary will make his recommendation to the Governor who renders the final decision on allocation prior to sending the Governor's Letter.

6.0 CRITERIA FOR ALLOCATING FUNDS TO PROJECTS

6.1 Threshold Statutory Criteria For Awarding Funds

Moneys from the Fund shall be awarded to local governments for those economic development projects that involve businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that agree to make a significant effort to establish or expand in North Carolina.

Consistent with the Fund's statutory name, moneys from the Fund shall be used in connection with projects for which participation by the state government is needed for the project to go forward in the state and for which it is necessary to enhance the competitiveness of North Carolina's industrial recruitment and retention efforts. Projects eligible for moneys from the Fund may include those described under N.C. Gen. Stat. 105-129.4(e).

6.2 Wage Test and Health Benefits

For a project to be eligible for a grant from the Fund, wages for the project should meet the wage test set out in the William S. Lee Act (or any successor program performing a similar function) at the time of application and should provide the level of health insurance benefits required for the William S. Lee Act (or any successor program performing a similar function) at the time of application.

The projected wages and health insurance for the project should meet the appropriate wage and health insurance standard at the time of application, and the actual jobs should meet that wage and health insurance standard when finally created.

Exceptions to this criterion may be approved only by the Governor and only in exceptional cases involving factors such as an unusually strong benefits package, unusually severe economic hardship, and/or unusual circumstances of local or regional distress.

6.3 Net New Jobs

For a project to be eligible to receive and retain a grant from the Fund, the new jobs used as the basis for this application should be net new positions to the company's operations in the state and not jobs transferred from any existing North Carolina operations of the company or a related entity.

6.4 Factors to be Considered in Allocation and Award Decisions

In exercising the discretion required to negotiate, award and allocate grants from the One North Carolina Fund, the following criteria may be considered:

1. Economic Impact of Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Impact on gross regional product and gross state product.
b. Costs and benefits of the project to the state, including the expected return on investment made in the project by the state.
c. Number of direct jobs that will be created by the project, the wages of those jobs, and the total payroll for the project.
d. Number of induced, short-term, project-related jobs expected to be generated by the project as well as the number of long-term permanent jobs expected to be created indirectly in the economy as a result of the project.
e. Dollar value of the investment, including the size of investment in real versus personal property and expected depreciation rates.
f. Economic circumstances of the county and region, including the extent to which the project will serve to mitigate unemployment.
g. To the extent not otherwise addressed in other factors, the expected time frame during which the project is expected to payback in state tax revenues the amount of any grants paid out under the One North Carolina Fund.
h. To the extent not otherwise addressed in other factors, the economic demands the project is expected to place upon the community or communities in which it will locate.
i. Whether the project is located in a development zone and the degree to which the project is likely to draw employees from a development zone.

Projects in which total benefits provided through the Commerce Finance Center exceed $1,000,000 should be accompanied by a completed economic impact analysis.

2. Strategic Importance of the Project to the State, Region or Locality

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of business activity associated with the project.
b. Extent to which the project builds or enhances a business or industrial cluster.
c. Extent to which project falls within a classification of business and industry that the Department of Commerce regards as a target for growth and expansion in the state.
d. Ability of the project to attract follow-on investment in the state by suppliers and vendors.
e. Extent to which the project serves to maintain and grow jobs in the state in a business undergoing an internal restructuring or "rationalization" process.
f. Extent to which the project mitigates unemployment in distressed areas.
g. Extent to which the project can be expected to contribute significantly to and support the local community.
h. Degree to which project can be identified as at risk of being developed or located in another state and degree to which use of moneys from the Fund plays a role in any final decision to develop or locate the project in North Carolina.

3. Quality of Jobs

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Wage level and status of the jobs to be created.
b. Quality and value of benefits offered by the company (e.g., child care benefits, health and dental benefits, 401(k) plans, defined benefit plans, etc.)
c. Potential for employee advancement.
d. The extent of training programs offered by the company.
e. Sustainability of the jobs in future.

4. Quality of Industry and Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of the project and project's relationship to the larger business of the company.
b. Nature of the industrial classification of the project and of the company undertaking it.
c. Long-term prospects for growth at the project site or sites.
d. Long-term prospects for growth of company and industry within the United States.

e. Financial stability of company associated with the project.

5. Environmental Impact of Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of business to be conducted at site.
b. Ability of project to satisfy state, federal and local environmental laws and regulations.

Special consideration may be given to companies that locate or expand in rural areas or areas that have experienced sudden and severe economic disruptions, projects that will create an unusually large number of jobs, companies that have agreed to negotiate special hiring arrangements for lower income persons in connection with a project; projects that bring an exceptional new technology to the state, and projects involving company a that is a recognized national or international leader in its industry.

A Bergman Evaluation System Form should be completed for each project. It should be included with materials to be considered when making a recommendation and considered as part of a final decision to award funds.

7.0 TERMS TO BE INCLUDED IN CONTRACTUAL ARRANGEMENTS

7.1 Company Performance Agreement

The basic form of the Company Performance Agreement between a local unit of government and a business or industry associated with a particular project will be prescribed by the Department of Commerce and will include, among other terms, the following:

1. A commitment to create the agreed-upon level of jobs and any required investment at the agreed-upon location in North Carolina within the specified time period.
2. The conditions with which the business or industry must comply to receive the benefits of grants made to local units of government under the Fund.
3. The terms under which a business or industry will be deemed to have met or failed to meet the terms of a commitment.

4. The procedure by which any previously disbursed funds may be recaptured by the unit of local government or the State under circumstances in which the business or industry has ultimately failed to meet its commitments.
5. The number of jobs that must be sustained beyond the initial period of time in which they must be created and the lengths of time those jobs must be sustained to avoid an obligation to reimburse the Fund.
6. An obligation to provide proof of new jobs created and new investment made.
7. A right on the part of the State or local unit of government to inspect all records that may be used to confirm compliance with terms of any agreements.
8. An acknowledgement that participation by the State is necessary to enable the project to go forward in North Carolina.
9. An agreement that the funds received may be used only to offset statutorily authorized expenses.

Ordinarily, a business or industry that creates jobs or makes investments as part of this program must do so within a three year period and maintain at least 90% of the jobs for a period of two years following the time at which the grant is closed out by the Department.

7.2 Local Government Grant Agreement

The form of the Local Government Grant Agreement between the local unit of government and the Department of Commerce will be prescribed by the Department of Commerce and will include, among other terms, the following:

1. An agreement to comply with the terms of the local unit of government's application.
2. An agreement to take all steps necessary to ensure and establish to the Department that required levels of jobs and investments are made and that no grant funds are further disbursed by the local unit of government until necessary performance criteria have been met.
3. An agreement to recapture all disbursed funds to which the local unit of government has the right to be reimbursed.
4. An agreement to otherwise reimburse the Department for any funds improperly disbursed.
5. An agreement to permit the Department to offset other state funds due to the local governments to recover any funds improperly disbursed and not reimbursed.
6. An agreement to permit the Department access to all records necessary to evaluate compliance with the program guidelines and all agreements executed under them.

8.0 DISBURSEMENT OF FUNDS

8.1 Quarterly Dispersal

Ordinarily, local units of government that receive grants from the One North Carolina Fund will receive those funds over a period of three years following the date of the Governor's Letter in four increments as each quarter (25%) of the total number of required new jobs for which funds were allocated are created.

Deviations in this schedule should occur only when, in the exercise of discretion and considering the particular and unusual circumstances, it is concluded that the best interests of the State and the purposes of the Fund will be advanced. Any such deviation should be reflected in the necessary agreements.

8.2 Proof of Required Job Creation

Before funds are disbursed, the Department of Commerce must be provided with proof that the required jobs have been created.

This proof should take two forms.

First, the business or industry must attest that the jobs created are net new positions for the company's operations in the state and are not jobs transferred from any existing North Carolina operations of the company.

Second, the business or industry must provide documentary proof that it has experienced a net increase in jobs.

8.3 Forms of Documentary Proof

For funding to be released for projects involving a business or industry with a *single facility* in North Carolina, a copy of that business or industry's Employer's Quarterly Tax and Wage Report (Form NCUI 101 filed with the N.C. Employment Security Commission) must be submitted to the Department of Commerce. If this form is discontinued or modified, a successor form performing a comparable function must be submitted.

For funding to be released for projects involving a business or industry with *multiple facilities* in North Carolina, a copy of that business or industry's Multiple Worksite Report (Form BLS 3020 filed with the N.C. Employment Security Commission) must be submitted to the Department of Commerce. If this form is discontinued or modified, a successor form performing a comparable function must be submitted.

Where funding is provided for a project involving a business or industry that is *expanding* existing North Carolina operations, a copy of the business or industry's most recent relevant report to the N.C. Employment Security Commission *prior to the expansion* must be submitted to the Department of Commerce, in addition the quarterly reports required thereafter.

The Department of Commerce may request further proof of performance in a particular case when, in the exercise of its judgment, such proof is needed to confirm performance.

8.4 Proof of Required Job Creation to Precede Disbursement by Department

The preceding documentation must be received before each installment of funding will be disbursed to the local unit of government.

8.5 Local Government's Responsibilities in Disbursement

The local unit of government is responsible for any further disbursement of the funds, in a timely fashion and consistent with the Local Government Budget and Fiscal Control Act. The unit of government must account to the Department of Commerce for its receipt, deposit and disbursement of the funds in question.

NC State Sales Tax: History, Exemptions, and Issues

Linda Struyk Millsaps
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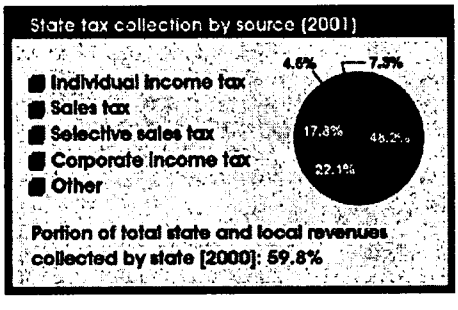
March 25, 2003

State Sales Tax

- Outlined in G.S. 105-164
- Purpose of the Tax:
  - "... provide revenue for the support of the public school system of this State and for other necessary uses and purposes of the government and State of North Carolina." G.S. 105-164.2
  - "generate revenue for the state ... a tax imposed upon the retail merchant as a privilege tax for the right to engage in that business ... designed to be passed on to the consumer ... equalize the tax burden on all State residents" In re Assessment of Additional N.C. & Orange County Use Taxes (1985)
  - Generally levied on the sale of tangible personal property.

Sales Tax as Revenue Source



Sales Taxes and Other States

- Levied in 46 states (45 at state level, one at local only).
- 30 states allow local option sales tax.
- Combined rates vary from a high of 9.75% to 4.0%.
- 27 states exempt food.
- All but Illinois exempt prescription drugs.

State Sales Tax Rates

- 4.5% - General Rate, when in effect, local tax applies.
- 2%, $300 cap – Manufactured Homes.
- 3%, $1,500 cap – Aircraft, boats, railway cars, or locomotives; mobile classroom or office.
- 1% - Horses, mules, animal semen, sales to freezer locker plants, and fuel (other than electricity) sold to farmers, manufacturers, laundries, and dry cleaners.
- 1%, $80 cap – Farm machinery, mill machinery, telephone company property, other machinery and equipment.

State Sales Tax Rates

- 2.83% - Electricity sold to farmers, dry cleaners, and manufacturers that use 900,000 megawatt hours or less a year.
- 0.17% - Electricity sold to manufacturers that use over 900,000 megawatt hours per year.
- 3% - Electricity not taxed at a lower rate.
- 6% - Telecommunications and liquor.
- 5% - Satellite television.

History

1933
Sales tax created.
- Certain staples were exempted as they were deemed essential articles of food.

Manny special rates included for farmers and manufacturers.

Gross receipts tax levied at 3% on amusements.

1935
Food tax exemption repealed.

1937
Food exemption reinstated and expanded.

1939
Use tax created.

History

1957
Extensive rewrite of the sales tax laws including:
- Exemptions for school food, sales by blind merchants, newspapers, vending, some advertising, some machinery sales not already exempt, eyeglasses, and false teeth.

1961
- Exemption for food eliminated.
- Several refunds were authorized including those for non-profit hospitals, educational institutions, and churches.
- Printed advertising became taxable.

History

1971
- 1% local tax authorized, made the combined rate 4%.

1983
- Additional ½ cent local authorized, combined rate to 4.5%. Some revenue earmarked.

1986
- Additional ½ cent local authorized, combined rate to 5%.

1991
- State sales tax increased 1%, combined rate at 6%.

1996
- State begins eliminate of the tax on food, 1% a year.

History

1998
- Eliminate the remaining 2% on food.
- Refunds granted to public schools.
- Create a new excise tax for piped gas, eliminate other taxes.

2000
- NC begins participation in the Streamlined Sales Tax Project.

2001
- State sales tax increases ½%, combined rate 6.5%. Local sales tax swap authorized.

2002
- Sales tax "swap" accelerated, combined rate 7.0% until 7/2003.

Issue: Services

- North Carolina levies a sales tax on three services:
  1. *Dry cleaning – Revenue goes to specific fund for clean-up.*
  2. *6% Gross receipts tax on all telecommunication services.*
  3. *Temporary lodging.*
- 11 states do not tax any services.
- 3 states tax almost all services.
- 1986 Florida enacted sweeping sales tax on services. Repealed within a year.
- Currently several states exploring imposing tax on services.
- Recommended by Governor's Commission to Modernize State Finances.

Issue: Internet and Catalog Sales

- Becoming one of the "hot" issues in taxation policy.
- Studies based on work at Univ. of Tennessee suggest $200-$300 million of state revenue loss.
- NCACC estimates local loss of $148 million in 2003.
- Recently several major remote retailers have voluntarily begun to collect sales tax for North Carolina.

•Streamlined Sales Tax Project designed to address this area of state and local revenue loss.

States' Sales Tax Treatment of Services

North Carolina only has three taxes on services: 1) sales tax on the gross receipts from services rendered by any business in the industry of dry cleaning, pressing, or hat-blocking; 2) a uniform tax rate of 6% on gross receipts from all telecommunications services; and 3) temporary lodging, with local government authority. Rentals of tangible personal property (i.e. formal ware and videos) are considered a sale in North Carolina, therefore taxable.

Total number of states where services are not taxed - 11

Possible options for taxation on services from other states, broken down by category:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)
- Alterations / repairs on furniture (4 states: AR, CN, IA, MS)
- Alterations / repairs on electrical appliances, including radio and television (4 states: AR, CN, IA, MS)

Transportation

- Transportation services (5 states: GA, HI, ID, MO, WY)
- Transportation / delivery of money, armored car services (5 states: AR, CN, IA, MD, MN)
- Private car lines / limousine services (4 states: AZ, IA, OK, WI)
- Motor vehicle parking, other than metered space, in a lot having 30 or more spaces (significant exclusions) (4 states: CN, LA, SD, TX)
- Rental or lease of an automobile; an alternative highway use tax may apply (3 states: ME, SD, WI)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Communications

- Telecommunications services; some cellular services (12 states: LA, ME, MD, NC, NY, SC, SD, TN, TX, VT, WI, WY)
- Prepaid calling arrangements (3 states: ME, MD, WI)

Recreation

- Admissions to amusements; 1% or 3% gross receipts tax may apply (6 states: LA, SD, TX, UT, VT, WI)
- Cable television services (5 states: ME, MS, SD, TX, WI)
- Dues or fees to clubs (4 states: KS, OK, SD, WI)
- Golf, county clubs, commercial recreation, bowling/billiards (3 states: IA, KS, MS)
- Bingo rights (2 states: AR, WI)

- Pay-per-view television services (2 states: IA, MD)
- Campgrounds (2 states: IA, SD)
- Subscriber radio and television services (2 states: KS, MS)
- Professional sporting events (2 states: WA, WI)
- Rental of video tapes and video equipment (2 states: ME, **NC**)
- Dance schools and studios (1 state: IA)
- Film developing (1 state: MS)
- Internet access service (1 state: TX)

General Professional Services

- Laundry, cleaning, pressing and dyeing services (16 states: IA, KS, LA, MD, MI, MN, MS, **NC**, NY, OH, PA, SC, SD, TN, UT, WI)
- Hotel, other overnight stay rental accommodations (11 states: LA, ME, **NC?**, SC, TN, SD, UT, VA, WA, WI, WY)
- Paging and telephone answering (8 states: AR, CN, IA, KS, MD, MS, TX, WI)
- Computer and data processing, stenographic services, secretarial services (6 states: CN, ME, MS, OH, PA, TX)
- Printing services (6 states: LA, NY, OH, PA, SD, WI)
- Lease or rental of tangible personal property (6 states: CN, IA, KS, **NC**, NY, SD)
- Employment agencies (4 states: CN, IA, OH, PA)
- Fabrication services (4 states: ME, MD, OH, WI)
- Business analysis, management consulting, public relations, and lobbying (3 states: CN, PA, SD)
- Engineering (3 states: NY, SD, WI)
- Advertising agency (2 states: CN, DE)
- Real estate broker (2 states: DE, SD)
- Taxidermy services (2 states: IA, WI)
- Collection agencies (2 states: DE, SD)
- Hospital charges for patient care services (1 state: CN)
- Auctioneer, commercial leaser, broker (1 state: DE)
- Test laboratories (1 state: IA)
- Service charges of all financial institutions (1 state: IA)
- Funeral services and crematories, with a cap of $1500 (1 state: SD)
- Appraiser services (1 state: SD)
- Accounting (1 state: SD)
- Legal services (1 state: SD)

Labor Services

- Lawn care and landscaping services (10 states: AR, CN, IA, MN, MS, OH, PA, SD, WA, WI)
- Cleaning of a commercial or industrial building (10 states: AR, CN, IA, MD, MN, OH, PA, SD, UT, WA)
- Parking lot or garage operators (8 states: DE, IA, MS, NY, OK, TN, WA, WI)
- Extermination services (7 states: CN, FL, IA, MN, MS, PA, SD)
- Distribution, generation or transmission of electricity is considered tangible personal property subject to tax (6 states: CN, ME, MS, SC, SD, WY)
- Construction, welding, well-drilling, tin and sheet metal repair (4 states: IA, MS, SD, WA)
- Transportation for the transmission, distribution, or delivery of electricity or natural gas (4 states: MD, MS, SD, WY)

- Storage of household goods, mini-storage (3 states: IA, MS, PA)
- Plumbing services (2 states: IA, MS)
- Moving services (2 states: DE, IA)
- Wrecking services, towing (2 states: IA, WA)
- Locksmith services (1 state: CN)
- Window cleaning services (1 state: CN)
- Water conditioning and softening (1 state: IA)
- Electrical services (1 state: MS)
- Cold storage space (1 state: LA)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)
- Health spas, fitness clubs (4 states: AR, MN, OH, WA)
- Massage salons (except services provided by licensed massage therapists) (3 states: CN, IA, MN)
- Photographer (3 states: DE, SD, WI)
- Indoor tanning (3 states: AR, IA, WA)
- Swimming pool cleaning and servicing (3 states: AR, CN, IA)
- Dating and escort services (2 states: IA, WA)
- Storing personal property in and renting safe deposit boxes (2 states: NJ, NY)
- Barber and beauty services (2 states: IA, SD)
- Painting, interior decorating (2 states: IA, NY)
- Investment counseling (1 state: IA)
- Rental of furniture (1 state: ME)

General

- Performance of services for consideration in the state are taxed (1 state: NM)
- All services except professional or personal services and those furnished by corporations subject to the Public Service commission (1 state: WV)
- Sales and use tax apply to any services that are a part of a sale (1 state: KY)

Those items taxed by more than five (5) states:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)

Transportation

- Transportation services (5 states: GA, HI, ID, MO, WY)
- Transportation / delivery of money, armored car services (5 states: AR, CN, IA, MD, MN)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Communications

- Telecommunications services; some cellular services (12 states: LA, ME, MD, **NC**, NY, SC, SD, TN, TX, VT, WI, WY)

Recreation

- Admissions to amusements; 1% or 3% gross receipts tax may apply (6 states: LA, SD, TX, UT, VT, WI)
- Cable television services (5 states: ME, MS, SD, TX, WI)

General Professional Services

- Laundry, cleaning, pressing and dyeing services (16 states: IA, KS, LA, MD, MI, MN, MS, **NC**, NY, OH, PA, SC, SD, TN, UT, WI)
- Hotel, other overnight stay rental accommodations (11 states: LA, ME, **NC?**, SC, TN, SD, UT, VA, WA, WI, WY)
- Paging and telephone answering (8 states: AR, CN, IA, KS, MD, MS, TX, WI)
- Computer and data processing, stenographic services, secretarial services (6 states: CN, ME, MS, OH, PA, TX)
- Printing services (6 states: LA, NY, OH, PA, SD, WI)
- Lease or rental of tangible personal property (6 states: CN, IA, KS, **NC**, NY, SD)

Labor Services

- Lawn care and landscaping services (10 states: AR, CN, IA, MN, MS, OH, PA, SD, WA, WI)
- Cleaning of a commercial or industrial building (10 states: AR, CN, IA, MD, MN, OH, PA, SD, UT, WA)
- Parking lot or garage operators (8 states: DE, IA, MS, NY, OK, TN, WA, WI)
- Extermination services (7 states: CN, FL, IA, MN, MS, PA, SD)
- Distribution, generation or transmission of electricity is considered tangible personal property subject to tax (6 states: CN, ME, MS, SC, SD, WY)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)

Repairs, security, luxury services:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)
- Alterations / repairs on furniture (4 states: AR, CN, IA, MS)
- Alterations / repairs on electrical appliances, including radio and television (4 states: AR, CN, IA, MS)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)
- Health spas, fitness clubs (4 states: AR, MN, OH, WA)
- Massage salons (except services provided by licensed massage therapists) (3 states: CN, IA, MN)
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- Investment counseling (1 state: IA)
- Rental of furniture (1 state: ME)

NC TAX PREFERENCES ($ MILLION)				
GS 105	**Description**	**Current Law**	**Options**	**Fiscal Effect**
	SALES & USE TAX - Rates			
164.4(a)(1a)	Manufactured homes; each section of a home transported separately to a site is an article to be taxed	2%,$300 limit per article	2%, no limit 3%, no limit 4%, no limit	13.8 30.4 46.9
164.4(a)(1b)	Boats, aircraft,railway cars, locomotives	3%, $1,500 limit	4%, no limit	5.9
164.4(a)(1c)	a. Horses or mules b. Animal semen for artificial insemination c. Sale of fuel for farm purposes d. Sale of fuel to manufacturers e. Sale of fuel to commercial laundries f. Sale of supplies to freezer locker plants	1%	4%	NA
164.4(a)(1d) & 164.4A (1, 3-11)	Farm machinery, telephone company property, laundry machinery, tobacco equipment, broadcasting machinery, farm containers, farm storage facilities, freezer plant machinery, recycling facility equipment, and air courier equipment.	1%, $80 limit	1%, $280 limit 1%, $700 limit 1%, no limit 2%, $240 limit 3%, no limit 4%, no limit	2.1 5.5 21.0 39.4 132.0 178.5
164.4(a)(1e)	Mobile office or mobile classroom sold at retail	3%, $1,500 limit per article	3%, no limit 4% no limit	NA NA
164.4(a)(1f)	Electricity to farmers and commercial laundries and cleaners	2.83%	4%	NA
164.4(a)(1g)	Electricity to manufacturers	2.83% 900,000 megawatts or less .17% over 900,000 megawatts (additional rates in 2005)	4%	NA
164.4(a)(4c)	Telecommunications service	6% on gross receipts (shared with local)	6.5% (= to combined sales tax rate)	
164.4(a)(6)	Direct to home satellite service	5% on gross receipts - state only	6.5% (share with local)	
164.4(a)(7)	Spirituous liquor other than mixed beverages	6% on gross receipts - state only	6.5% (share with local)	
164.13(5a) & 164.4A (2)	Manufacturing machinery	1%, $80 limit	Becomes excise tax on January 1, 2006	
164.4A(12)	Passenger air carriers & air couriers - flight crew training simulators at hub	1%, $80 limit	4%	0.4
	SALES & USE TAX - Exemptions			
164.3(16)(b)	Finance charges, service charges, or interest from credit extended under conditional sales contracts or other conditional contracts providing for deferred payments of the purchase price	Exempt from sales price	Include in price	NA
164.4(a)(4)	Receipts from coin-operated washing machines	Exempt	4%	2.3

ATTACHMENT 9

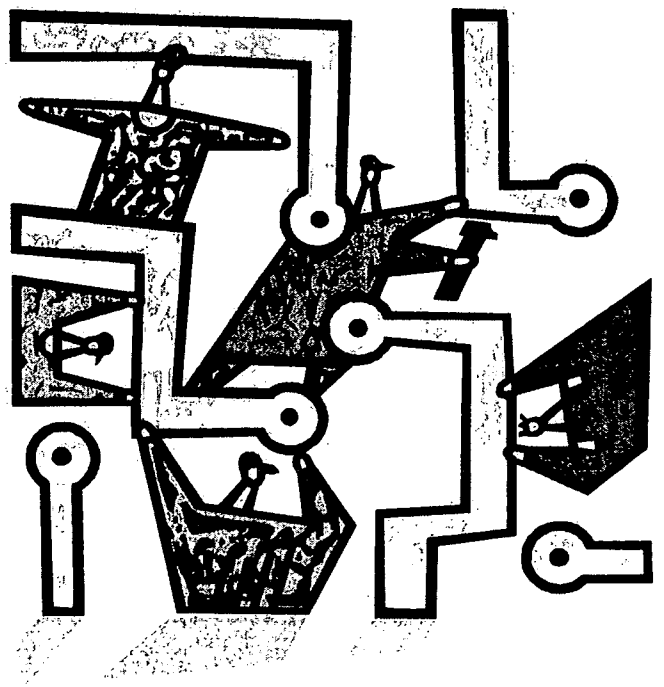
GS 105	Description	Current Law	Options	Fiscal Effect
	Agricultural Group			
164.13 (1)	Commercial fertilizer, lime, land plaster, and seeds sold to a farmer for agricultural purposes.	Exempt	4%	6.8
164.13 (2a)	Vaccines, feed, insecticides	Exempt	4%	NA
164.13 (3)	Forest, mining products sold by original producer	Exempt	4%	NA
164.13(4)	Cotton, tobacco, peanuts or other farm products sold to manufacturers for further manufacturing or processing	Exempt	4%	NA
164.13(4a)	Baby chicks and poults for commercial poultry or egg production	Exempt	4%	NA
164.13(4b)	Farm products sold by farmer	Exempt	4%	0.9
164.13(4c)	Swine, livestock, poultry production equipment	Exempt	4%	2.2
164.13(4d)	Tobacco sheets	Exempt	4%	NA
	Industrial Group			
164.13(5)	Manufactured products produced and sold to other manufacturers for the purpose of resale	Exempt	4%	NA
164.13(7)	Seafood sold in original unmanufactured condition	Exempt	4%	2.5
164.13(8)	Tangible personal property sold to manufacturer and becomes component of manufactured product.	Exempt	4%	NA
164.13(8a)	Sale of fuel to small power production facility	Exempt	4%	NA
164.13(9)	Boats and fishing supplies sold to commercial fishermen	Exempt	4%	NA
164.13(10)	Laundry and dry cleaning supplies sold to commercial laundries	Exempt	4%	0.3
	Motor Fuels Group			
164.13(10a)	Sales of lubricants, materials, parts and supplies to major recycling facility	Exempt	4%	NA
164.13(10b)	Sales of electricity to major recycling facility	Exempt	4%	0.07
164.13(11)	Motor fuel and alternative fuel	Exempt, but subject to motor fuels tax		
164.13(11a)	Sale of diesel fuel to railroad companies for use in rolling stock	Exempt	4%	NA
	Medical Group			
164.13(12 & 13)	Prescription medicine and medical devices	Exempt	4%	64.3
	Printed Materials Group			
164.13(14)	Public school books	Exempt	4%	10.9
164.13(33a)	Printed materials sold out-of-state	Exempt	4%	0.8
	Transactions Group			
164.13(15)	Items that are taxed, then considered worthless and charged off against income tax.	Exempt	4%	NA
164.13(16)	Items repossessed by vendor if tax paid on sales price of article	Exempt	4%	NA
	Exempt Status Group			
164.13(17)	Sales prohibited from taxation by the state or US constitutions.	Exempt	Exemption cannot be changed by legislative act.	
	Unclassified Group			
164.13(18)	Funeral expenses	First $1500 is exempt	Repeal exemption	8.0
164.13(20)	Blind merchant sales	Exempt	4%	0.2
164.13(21)	Lease of films for exhibition	Exempt	4%	2.3

GS 105	Description	Current Law	Options	Fiscal Effect
164.13(22)	Lease of films to radio and television stations	Exempt	4%	Insignificant
164.13(22a)	Audiovisual masters	Exempt	4%	1.7
164.13(23)	Packaging materials	Exempt	4%	NA
164.13(24)	Fuel to ocean vessels	Exempt	4%	0.2
164.13(25)	Sales by merchants on the Cherokee Indian Reservation	Exempt	4%	NA
164.13(26)	Public school breakfasts & lunches	Exempt	4%	5.0
164.13(26a)	Food sold by school to child care center that participates in DPI food program	Exempt	4%	NA
164.13(27)	College dining room food	Exempt	4%	3.2
164.13(28)	Newspapers and magazines sold by street vendors, door-to-door, and vending machines	Exempt	4%	4.4
164.13(29)	N.C. Museum of Art purchases from donated funds	Exempt	4%	Insignificant
164.13(30)	Sales from vending machines with items valued at 1 cent per sale	Exempt	4%	Insignificant
164.13(31)	Meals-on-Wheels meals	Exempt	4%	NA
164.13(31a)	Food sales by nonprofit religious groups when proceeds used for religious purposes	Exempt	4%	Insignificant
164.13(32)	Motor vehicle body mounted on chassis that is not titled	Exempt	4%	NA
164.13(33)	Export sales	Exempt	4%	0.2
164.13(33a)	Tangible personal property sold in NC for delivery by US Postal Service or common carrier to out of state destination and not used in state.	Exempt	4%	NA
164.13(34)	Nonprofit sales to benefit the state or state agencies	Exempt	4%	NA
164.13(35)	Sales during annual fundraising drives by nonprofit groups	Exempt	4%	NA
164.13(36)	Newspaper advertising inserts	Exempt	4%	1.1
164.13(38)	Food purchased with food stamps	Exempt	4%	30.0
164.13(40)	Sales to the Department of Transportation	Exempt, but DOT pays $13.6 million to General Fund in lieu of tax		
164.13(41)	Sales of mobile classrooms to local school boards	Exempt	4%	NA
164.13(42)	Inventory donated to nonprofit organization or government entity	Exempt	4%	0.6
164.13(43)	Custom computer software	Exempt	4%	5.2
164.13(44)	Piped natural gas	Exempt, but excise tax imposed under Article 5E		
164.13(45)	Passenger air carriers, aircraft lubricants, parts, and accessories for use at an air courier hub	Exempt	4%	1.2
164.13(46)	Sales of electricity by a city whose only wholesale supplier of electric power is a federal agency and is required by that agency to make payments in lieu of taxes.	Exempt from sales price	4%	NA
164.13(47)	Amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which are refundable or creditable to vendors	Exempt from sales price	4%	NA

GS 105	Description	Current Law	Options	Fiscal Effect
164.13(48)	Deposits on aeronautic, automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees.	Exempt from sales price	4%	0.8
164.13(49)	Installation charges when the charges are stated separately.	Exempt from sales price	4%	NA
164.13(50)	Vending machines	Currently sales tax on sales made through vending machine are reduced by 50% (except closed container soft drinks and tobacco products)	4%	6.0 (Loophole Commission)
164.13A	Service charges on food, beverages, and meals	Exempt tips that do not exceed 20% of the sales price of food, beverages, and meals; are stated separately on bill; and turned over directly to personnel.	4%	0.4
164.13B	Food for home consumption	Exempt (still subject to 2% local sales tax)	4%	392.4
164.13C	Sales Tax Holiday	Three day weekend in August that exempts clothes and school supplies under $100, sports equipment under $50 and computers under $3,500	Abolish holiday	8.4
164.4	Cable TV	Exempt (up to 5% local franchise tax)	4%	15.1
164.4	Services: Professional Nonprofessional	 Exempt Exempt	 4% 4%	 201.5 86.4
	SALES & USE TAX - Refunds			
164.14(a)	Interstate carriers - fuel, lubricants, repair parts, and accessories purchased in the state for motor vehicles, locomotives and airplanes but used in other states.	Refund	4%	NA
164.14(b)(1-3)	Nonprofit educational institutions, churches, hospitals, charities	Refund	4%	136.9
164.14(b)(4)	Nonprofit retirement homes	Refund	4%	5.1
164.14(c)(1)	Counties	Refund	4%	18.0
164.14(c)(2)	Municipalities	Refund	4%	20.7
164.14(c)(2a)	Consolidated city-county government	Refund	4%	NA
164.14(c)(2b)	Local school administrative unit	Refund	4%	22.2
164.14(c)(3-20,22)	Other governmental entities	Refund	4%	10.9
164.14(c)(21)	N.C. Memorial Hospital	Refund	4%	1.9
164.14(g)	Major recycling facility - building materials, supplies, and fixtures	Refund	4%	1.33 (one-time)
164.14(h)	Machinery & equipment for firms in Tier 1 and 2 counties	Refund	4%	0.1
164.14(i)	Nonprofit insurance companies - materials, supplies, fixtures, and computer equipment	Refund expires 1/1/2008	4%	1.2
Sales and Use Tax Total Impact				**Range = $1,107.3 to $1,316.8**
	INDIVIDUAL INCOME TAX			

Streamlined Sales Tax Project

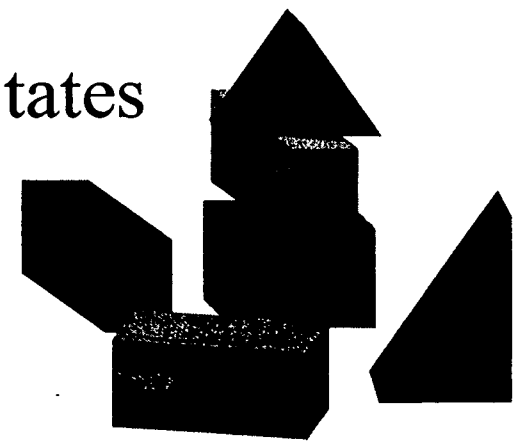
- Modernize & simplify sales and use tax laws
- Encourage sellers to voluntarily collect use tax
- Lead Congress to grant states the authority to require collection



ATTACHMENT 10

History of Use Tax Collection

- 1967: National Bellas Hess case
- 1992: Quill Corporation case
- 1998: Internet Tax Freedom Act
- 2000: SSTP organized
- 2000: Draft Act and Agreement
- 2001: Meeting of Implementing States
- 2002: Agreement Finalized
- 2003: Moratorium Expires



Principles of SSTP

- Uniformity in major tax base definitions
- Uniformity in State and local tax bases
- Simplification in State and local tax rates
- State level administration of taxes
- Protection of consumer privacy
- Central, electronic registration system
- Uniform sourcing rules
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances
- Preservation of individual state taxing authority

How will it work?

- Participation by vendors is voluntary
- Central, online registration system
- Limited amnesty provisions
- Methods of remittance
  - MODEL 1: Select a CSP to collect & remit tax
  - MODEL 2: Select a CAS to use to calculate tax
  - MODEL 3: Use own certified CAS

Requirements to Participate

- State level administration
- ***Common local tax base***
- Online registration system
- Notice of State tax changes
- Notice of local rate changes
- Develop address-based system for assigning taxing juris
- Relieve participating sellers from liability relying on CSP or CAS

Requirements to Participate

- ***No multiple State rates after 12/31/ 2005***
- One local rate
- Uniform sourcing rule
- Uniform telecommunications sourcing rule
- ***Uniform definitions***
- Uniform tax returns
- Uniform rules for remittances of funds
- Uniform rules for recovery of bad debts
- ***No caps or thresholds after 12/31/2005***
- Direct pay certificates

2003 Required Changes

- Uniform local tax base: Food must either be subject to the tax or exempt
- Modifications to the taxation of candy, soft drinks, and prepared food
- Change due date on a monthly return
- Amnesty for a seller who voluntarily registers to collect tax for period prior to registration

2003 Required Changes

- 120-day notification of local tax changes
- Modifications to definitions
- Sales tax holiday exemptions need to be amended before the August 2004 holiday

Effective Date of Agreement

- Minimum number of states = 10
- Percent of the "sales tax" population = 20%
- 7 states enacted legislation
- 20 states have pending legislation

House Committee on Finance

Minutes

~

March 26, 2003

The House Committee on Finance met on Wednesday, March 26, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Weiss, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Presiding Chairman Julia Howard called the meeting to order at 8:30 am and then introduced Pages Phillip Ingram and Johnathan Stowe, both from Forsyth County, sponsored by Representative Earline Parmon.

As the first order of business, Chairman Howard recognized Rep. George Holmes to explain **HB 326: Jonesville Annexation** (see attachment 3). This bill involved the voluntary annexation of property located just outside the corporate limits of Jonesville. All parties involved have consented to this action per the expiration of a 10-year agreement amongst those parties. Jonesville seeks this annexation in an effort to begin to collect taxes for city services from the property owned by the Phillips-Van Heusen Corporation. Having no discussion, the Chairwoman Howard recognized Representative Holliman who then moved for a favorable report. The motion carried with no known dissention.

Chairwoman Howard then moved to the next matter on the agenda and recognized the State Treasurer, the Honorable Richard Moore for an informational presentation; however, the Chair was promptly informed that the Treasurer would not be present until approximately 8:45 am. The Chair then left the Committee members "at ease" for approximately ten (10) minutes until the Treasurer's arrival.

Following the short break, State Treasurer Richard Moore did arrive in the Committee Room. Chairwoman Howard then recalled the meeting to order and welcomed the Treasurer for his presentation. The Treasurer's presentation was focused on a one and one-half year project – a Debt Affordability Study, which is a comprehensive look at the debt status of the state. Overall, the presentation provided a "snapshot" of the state's debt/investment status and plans for the future (see attachments 4 & 5). Several pertinent facts provided in the presentation are provided below:

- ❖ Most of North Carolina's outstanding debt is at 4% interest or less.
- ❖ The Treasurer's Office has accumulated a savings of over $100 million in state revenues through refinancing efforts, more accountability on the issuance of debt, etc...
- ❖ The Treasurer has recommended that new legislation be put into place for the creation of two new committees: (1) a committee, composed of General Assembly members, formed to decide what are the best debt investments for the state; and (2) a committee composed of business and other professionals who can best pinpoint the critical financial issues of the state and present them before the General Assembly.

Following Treasurer Moore's presentation, the Chair recognized members for questions. Several questions arose as to the current status of the State Retirement System. In response to questions from Representatives Luebke and Weiss, Treasurer Moore stated that the retirement system is actuarially sound despite low returns from the market and weak state contributions to the plan. He also stated that, with the support of state employees on retirement committees, a 1% increase from the Legislature seems to be acceptable currently, so long as Legislators are prepared to repay the funds borrowed from the Retirement Fund and to strengthen future investments. He also noted that the Retirement Fund and the state's outstanding debts are separate financial matters.

Having no further questions, Chairwoman Howard thanked Treasurer Moore for his presentation and promptly adjourned the meeting at 9:45 a.m.

Respectfully submitted,

Representative Julia C. Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments: 1. Agenda
2. Visitor Registration Sheet
3. House Bill 326 (and related materials)
4 & 5. Handouts on State Treasurer's Fiscal Presentation

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Minutes

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Respectfully submitted,

Representative Julia C. Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments: 1. Agenda
2. Visitor Registration Sheet
3. House Bill 326 (and related materials)
4 & 5. Handouts on State Treasurer's Fiscal Presentation

ATTACHMENT 1

AGENDA

House Finance Committee

March 26, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Julia Howard

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 326 Jonesville Annexation *Rep. Holmes*

Briefing from the Treasurer's Office
Treasurer Moore and Staff

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 3-26-2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Ouzts	NCPIRG
Rob Dickson	NC StateWatch, Inc
Paul Zepin	OSBM
Ken Melton	Alley Associates, Inc.
Tim Minton	NC Home Builders Association
Duke Cher	Intern
John Bowdish	AstraZeneca
Angie McMillan	TNC
Janice Burke	NC Dept of State Treasurer
David Knight	TPL
John McLawhorn	Dept of State Treas.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 3-26-2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rob McBright	Intern (Rep. Hackney)
Marcos Arellano	Intern (Rep. Luebke
MIKE WATERS	NCRPS
Estherine Davis	Electri Cities
Don Holm	CUMTF
Laura DeVino	DENR
Steve Wall	Conservation Council
Susan Valen	Nationwide

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 326*

Short Title:	Jonesville Annexation.	(Local)
Sponsors:	Representative Holmes.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF JONESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Jonesville:

BEGINNING at a concrete monument located in the eastern right-of-way line of Interstate Highway 77, said concrete monument having North Carolina grid coordinates Y=908249.375 and X=1464613.800; thence, from said point and place of BEGINNING North 48° 54' 32" East 184.82 feet to a concrete monument; thence, North 21° 23' 24" East 321.90 feet to a concrete monument; thence, North 54° 34' 21" East 293.27 feet to a concrete monument; thence North 00° 39' 00" 171.55" to a concrete monument; thence, North 55° 50' 25" East 148.30 feet to a concrete monument; thence, North 83° 39' 53" East 94.81 feet to a point in the western line of a proposed 60-foot right-of-way; thence, crossing said proposed 60-foot right-of-way North 83° 39' 53" East 60.38 feet to a point located in the eastern line of said proposed right-of-way; thence, on a new line North 83° 39' 53" East 336.42 feet to a concrete monument; thence, South 85° 13' 43" East 334.44 feet to a concrete monument; thence, North 79° 08' 26" East 208.13 feet to a concrete monument; thence, South 05° 19' 10" West 143.00 feet to a point; thence, South 04° 46' 41" West 907.32 feet to a concrete monument; thence, South 04° 46' 41" West 195.75 feet to an iron pin; thence, South 04° 32' 35" West 892.20 feet to an iron pin; thence, South 68° 43' 39" West 769.81 feet to an iron pin; thence, North 55° 25' 55" West 155.98 feet to an iron pin; thence, North 73° 32' 19" East 160.44 feet to an iron pin; thence, North 36° 02' 14" West 182.55 feet to an iron pin; thence, North 16° 51' 10" West 155.88 feet to an iron pin; thence, South 41° 27' 04" West 86.59 feet to an iron pin; thence, North 24° 30' 31" West 204.34 feet to an iron pin; thence, North 01° 14' 31" East 223.49 feet to an iron pin; thence, North 31° 41' 43" West 253.16 feet to an iron pin; thence, South 78° 08' 29" West 78.52 feet to an iron pin; thence, North 16° 49' 27" West 171.70 feet to an iron pin; thence, South 83° 45' 41" West 119.10 feet to an iron

pin; thence, North 13° 30' 46" West 115.54 feet to a concrete monument; thence, South 78° 52' 11" West 20.65 feet to a concrete monument; thence, North 13° 34' 19" West 272.00 feet to a concrete monument; THE POINT AND PLACE OF BEGINNING, and containing 61.614 acres more or less as shown on the survey of the property for PHILLIPS-VAN HEUSEN CORPORATION prepared by Foothills Forestry and Surveying, dated November 18, 1992, and updated December 7, 1992, Job No. 92-2223, reference to which is hereby made for a more particular description.

SECTION 2. This act becomes effective June 30, 2003.

HOUSE BILL 326:
Jonesville Annexation

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Holmes
Date:	March 26, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 326 authorizes the satellite annexation of certain described property to the corporate limits of the Town of Jonesville without the Town having to meet the statutory requirements of annexation. The act becomes effective June 30, 2003. SB 328 is a companion bill.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a city of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: House bill 326 annexes 61.614 acres more or less to the corporate limits of the Town of Jonesville. This property is owned by Phillips-Van Heusen Corporation and contains a warehouse and distribution center. The property is located approximately 825 feet outside the city limits. According to the Town Manager of Jonesville, this property meets the above five statutory standards, except that Phillips-Van Heusen has not signed a petition to annex the property.

On May 3, 1993, Yadkin County, the Town of Jonesville, the Town of Arlington, and Phillips-Van Heusen entered into an Agreement for Economic Development Assistance.[1] Under the terms of this Agreement, Phillips-Van Heusen agreed to construct the warehouse and distribution center and to provide on average 125 positions for employment for 10 years. In

[1] The Towns of Jonesville and Arlington merged in 2001. (See S.L. 2001-16)

return, the Towns of Jonesville and Arlington agreed (1) that they would not involuntarily annex the property for a period of ten years from the date of the Agreement and (2) that they would not discuss a voluntary annexation with Phillips-Van Heusen for a period of eight years from the date of the Agreement. Other incentives provided to Phillips-Van Heusen were:

- Yadkin County and the Yadkin County Economic Development District agreed to finance a portion of the infrastructure and site improvements to the property.
- Jonesville agreed to finance the design and construction of water and sanitary sewer lines from Jonesville to the property.
- Jonesville agreed to provide free police and fire protection to the property.

The Town of Jonesville has requested annexation of the Phillips-Van Heusen property effective ten years from the date the Agreement was signed. Currently the company does not pay taxes on the property but continues to receive free fire and police protection. The Town pays $6,000 a year on funds it borrowed to furnish water and sewer to the property.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 326 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF JONESVILLE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

State of North Carolina

Debt Affordability Study

March 2003

The Honorable Richard H. Moore
State Treasurer

Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385
Phone: 919-508-5176
www.treasurer.state.nc.us

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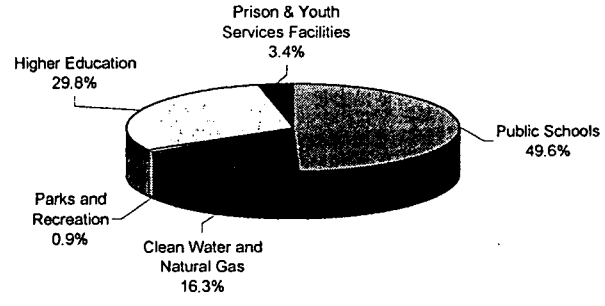
EXECUTIVE SUMMARY

The North Carolina Department of State Treasurer hereby presents the first State of North Carolina (the "State") Debt Affordability Study. This Study has been prepared for the purpose of creating a management tool available to the people of North Carolina and their representatives for analyzing and managing debt capacity. The Study contains an evaluation of the State's current and projected debt burden, using indicators such as tax-supported debt to personal income, debt per capita, debt service to tax revenue and rapidity of principal repayment ratios, and several recommendations based on the results of the Study.

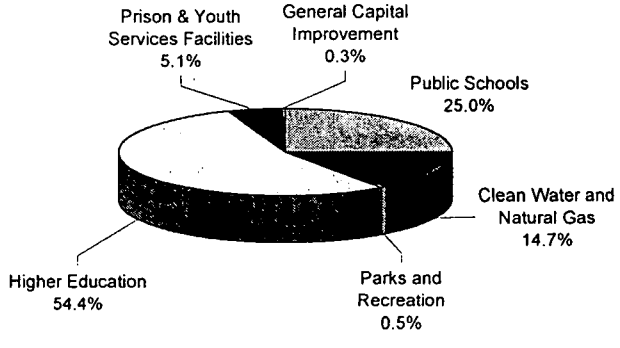
Currently, all of the State's debt ratios are below median levels both for all fifty states, as compiled by Moody's Investors Service, and for a peer group of eight states rated triple-AAA by all three credit rating agencies. Thus, North Carolina's debt is considered low and is manageable at the current level. Expected future debt issuances over the next four years total $3.3 billion, with $2.55 billion or 77% issued for Higher Education purposes. The chart below on the left depicts the State's outstanding debt by programmatic use while the chart on the right shows the breakdown of the State's outstanding debt plus expected issuances by programmatic use.

Figure 1

State of North Carolina Outstanding Debt by Program



State of North Carolina Debt by Program Outstanding plus Unissued Debt



Due to the projected issuance of $3.3 billion of tax-supported debt over the next 4 years, all the State's debt ratios are expected to increase over this period. The debt service to tax revenue ratio is projected to rise from 2.3% at the end of Fiscal Year 2002 to 3.8% at the end of Fiscal Year 2006 and the ratio of debt to personal income is projected to rise from 1.4% at the end of Fiscal Year 2002 to 2.2% by Fiscal Year 2006, while the debt per capita ratio is projected to rise from $395 to $641 by Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher than national medians, debt to personal income is projected to be below the national median in Fiscal Year 2006. The State's debt ratios are also projected to be below the median level for the peer group of eight triple-AAA rated states.

Establishing guidelines for future debt issuance is a critical part of prudent debt management and can keep the debt burden from becoming excessive. The following guidelines for the State's debt ratios are recommended.

- For net tax-supported debt to personal income, a target level of 2.5% with a ceiling of 3.0% is recommended.
- For debt service to revenues, a target of 4.0% and a ceiling of 4.75% are recommended.
- For the ten-year payout ratio, a target of 55% and a floor of 50% are recommended.
- In addition, as the State rebuilds its reserve funds from their current levels, a target unreserved general fund balance of 8% is recommended, with a floor of 6%.
- The State should establish the upper limits of the debt to personal income level and the debt service ratio -- 3.0% and 4.75% respectively -- as levels that would be changed only in extraordinary circumstances.

Assuming a net tax-supported debt to personal income target of 2.5%, the State is projected to have an additional $745 million in debt capacity in Fiscal Year 2006. Assuming the debt service to revenues target of 4.0%, the State is projected to have an additional $350 million in debt capacity in Fiscal Year 2006. Although the debt to personal income ceiling of 3.0% suggests that $2.0 billion in debt capacity is available in Fiscal Year 2006, fiscal prudence suggests a more conservative debt capacity estimate of $1.35 billion based upon the debt service to revenues ceiling of 4.75%. If this entire capacity were to be utilized in Fiscal Year 2006, the debt service to revenues ratio would be 4.75% compared to 2.3% in Fiscal Year 2002, while the debt to personal income ratio would be 2.7% compared to 1.4% in Fiscal Year 2002. These projections are summarized in the table below.

Figure 2

	Current Ratio	Projected by the end of FY 2006	Projected Debt Ratio After Issuance of Additional $350 Million	Additional $745 Million	Additional $1.35 Billion	Additional $2.0 Billion
Debt to Personal Income	1.4%	2.2%	2.3%	2.5%*	2.7%	3.0%**
Debt Service to Revenues	2.3%	3.8%	4.0%*	4.3%	4.75%**	5.2%

* Suggested Target Ratio ** Suggested Ceiling Ratio

Our guidelines must strike the proper balance. Guidelines that are too low or restrictive do not provide enough debt capacity to finance needed infrastructure, while imposing no limit on debt issuance could reduce future budgetary flexibility by creating an excessive debt service burden and lead to a deteriorating credit position.

If tax revenues decline and new borrowing programs are added, debt ratios will further increase, both on an absolute and relative basis. If these ratios reach a level considered excessive, it could have an adverse effect on the State's bond ratings. In these circumstances, the State may reduce or delay its capital program, increase the use of "pay-as-you-go" funding or raise revenues. On the other hand, should our revenue picture improve and North Carolina continues to experience rapid growth, we must have guidelines flexible enough to prudently service the needs of our people.

As we look to the future and the need to prioritize capital projects, the State may want to consider either of the approaches that the states of Minnesota and Nebraska have developed and implemented. Minnesota has developed criteria to prioritize capital projects on a statewide basis while Nebraska uses its criteria guidelines specifically for its higher education capital projects.

Either approach can provide an additional tool to assist the State in the decision-making process for capital projects. Furthermore, the State may want to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

It would be considered a "best practice" for the State to annually update this debt study. A Debt Affordability Study undertaken regularly allows the State to continually evaluate its fiscal health and credit quality and compare itself to other highly rated states. The State should also consider establishing a debt affordability advisory committee, such as the states of Maryland and Virginia --both triple-AAA-- have done, to assist in the preparation of the study. The committee could assist in determining when circumstances indicate a change in the limits on the key ratios, as discussed above, should be made.

INTRODUCTION

The North Carolina Department of State Treasurer has developed this Debt Affordability Study to provide a methodology for measuring, monitoring and managing the State's debt capacity. Debt capacity is a limited and scarce resource. It should be used only after evaluating the expected results and foregone opportunities. The Debt Affordability Study will enable the State to structure its future debt issuances within existing and future resource constraints by providing a comparison of its current debt position to relevant industry standards and by evaluating the impact of new debt issuances as well as changes in the economic climate on the State's debt position. The Debt Affordability Study thereby can be used to help develop and implement the State's capital budget. The study is premised on the concept that resources as well as needs should drive the State's debt issuance program.

A Debt Affordability Study can further serve as a vehicle to evaluate the effect of such debt issuances on its credit standing. The study, together with stated policy goals, can help the State protect its credit ratings of AAA/Aa1/AAA since debt is one of four main factors, along with economy, administration/management and, most importantly, financial condition, which rating agencies analyze in assigning credit ratings. A Debt Affordability Study is considered a positive factor by the rating agencies when they evaluate issuers and assign credit ratings. As evidence, Standard and Poor's stated in a June 2002 report, "Capital planning and, more recently, debt affordability models or guidelines that evaluate capital requirements and funding sources and assess the future impact of current bond programs are strong management tools."

The process of analyzing the State's debt position also helps integrate debt management practices (an Executive Branch function) with capital spending decisions (a Legislative Branch function). The information produced by the Debt Affordability Study and annual updates can be used by policymakers to evaluate the long-term impact of financing decisions and assist in prioritizing capital spending.

The results of the study can be used by the State to establish priorities during the capital planning process. State policymakers will have current information available when making critical decisions regarding borrowing. In addition, as the State considers new financing initiatives, the long-term financial impact of any proposal on debt capacity can be evaluated upon request. The information generated by this analysis is important for policymakers to consider because their decisions on additional borrowing can affect the fiscal health of the State.

The key debt ratios of net tax-supported debt to personal income and debt service to general fund revenues, along with reserve fund levels, have an impact on bond ratings, which in turn affect the cost of borrowing. In addition, the level of financial resources is a critical credit consideration. Establishing an acceptable range for the selected ratios will allow the State to monitor periodically its financial and debt positions and provide a framework for calculating theoretical debt capacity, assisting in the capital budgeting process, prioritizing capital spending and evaluating the impact of each debt issue. Thus, in conjunction with the Debt Affordability Study, the State should develop debt and financial policies that establish prudent financial ratios.

REVIEW OF CREDIT RATINGS

Credit ratings are the rating agencies' assessment of a governmental entity's ability and willingness to repay debt on a timely basis. Credit ratings are an important factor in the public credit markets and can influence interest rates a borrower must pay. Each of the rating agencies believes that debt management generally and the Debt Affordability Study in particular are

positive factors in assigning credit ratings. There are several factors which rating agencies analyze in assigning credit ratings: financial factors, economic factors, debt factors, and administrative / management factors.

Weakness in one area may well be offset by strength in another. However, significant variations in any single factor, such as the economy, can influence a bond rating. North Carolina's economy was challenged by the combined impact of a slowing national economy followed by the terrorist attacks on September 11, 2001. General Fund revenues decreased by $46.0 million, or 0.2%, from Fiscal Year 2001 to 2002. Moreover, spending needs have increased due to rising enrollment in the public schools and higher education systems and increased health and human services. General Fund expenditures increased by $366.4 million, or 1.7%, from Fiscal Year 2001 to 2002. The combination of these events caused Moody's to downgrade the State's rating in August 2002 from Aaa to Aa1. However, the outlook for the State's credit rating is stable. Factors contributing to North Carolina's stable rating outlook are low debt levels and strong financial management.

Figure 3

State of North Carolina Credit Ratings as of December 31, 2002		
	Rating	Outlook
Fitch Ratings	AAA	Not Applicable
Moody's Investors Service	Aa1	Stable
Standard & Poor's Ratings Services	AAA	Stable

The State's general obligation bonds are rated AAA by Fitch Ratings ("Fitch"), Aa1 with a "stable" outlook by Moody's Investors Service ("Moody's") and AAA with a "stable" outlook by Standard & Poor's Ratings Services ("S&P"). All three agencies base their prime ratings on the State's strong, diverse economic base, its sound financial management and low debt levels. They also place emphasis on consistently maintaining adequate fund balances and overcoming the fiscal challenge posed by the current national recession and local spending pressures.

STATE DEBT OUTSTANDING

To calculate net tax-supported debt, credit analysts take into account all debt supported by general tax revenues. This debt position shows the amount of indebtedness serviced from an issuer's General Fund; that is, it reflects the debt service payments made directly from tax revenues and is known as net tax-supported debt. Although a consensus appears to exist among credit analysts as to the appropriateness of using net tax-supported debt as the standard for determining an issuer's debt position, there is less unanimity about the precise calculation. The inclusion of indirect obligations in a net tax-supported debt measure depends to some degree on the judgment of each credit analyst. The State's net tax-supported debt position as of June 30, 2002 is shown in the table on the following page.

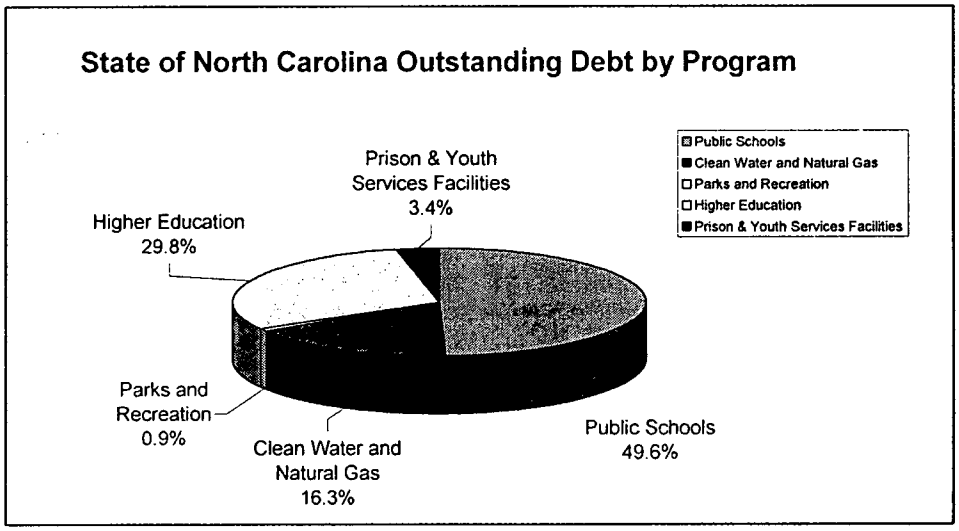
The State had total general obligation debt outstanding of approximately $3.47 billion at June 30, 2002 including highway construction debt of $183.3 million that is supported by separate taxes. Although S&P and Fitch include highway construction bonds in their calculation of the State's debt position, Moody's does not. We have followed Moody's approach because the debt is self-supporting and its inclusion does not have a material impact in calculating debt ratios.

Figure 4

State of North Carolina Net Tax-Supported Debt As of June 30, 2002 ($ in thousands)	
General Obligation Bonds	
Payable from General Fund Revenues	$3,274,944,986
Payable from Highway Trust Fund Revenues	183,300,000
Notes Payable	11,753,000
Gross Tax-Supported Debt	$3,469,997,986
Less: Self-Supporting Debt	(183,300,000)
Net Tax-Supported Debt	$3,286,697,986

The chart below illustrates the State's outstanding debt broken down by use of proceeds. The largest investment financed with bonds is for public school facilities with $1.6 billion or approximately 50% of total debt outstanding devoted to public school infrastructure.

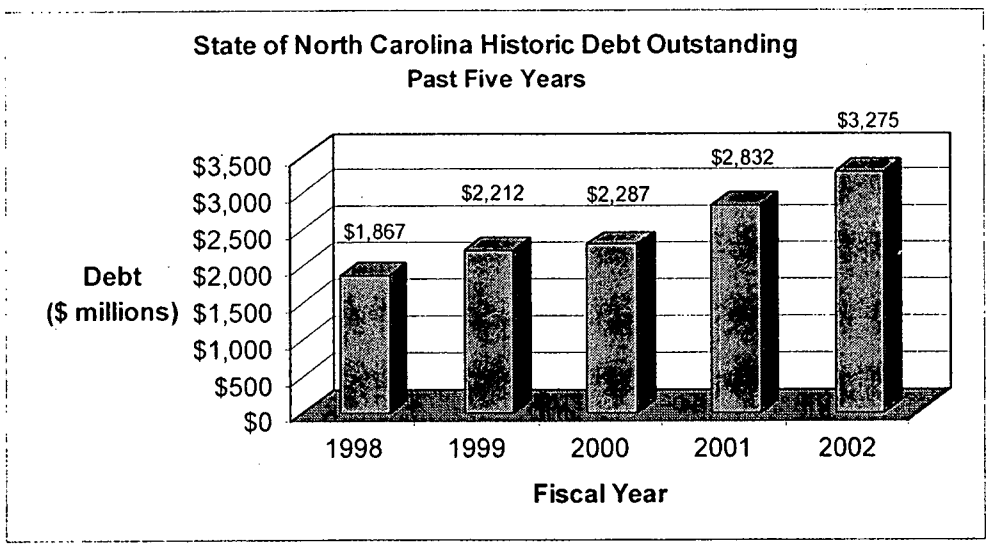
Figure 5



GROWTH IN STATE DEBT

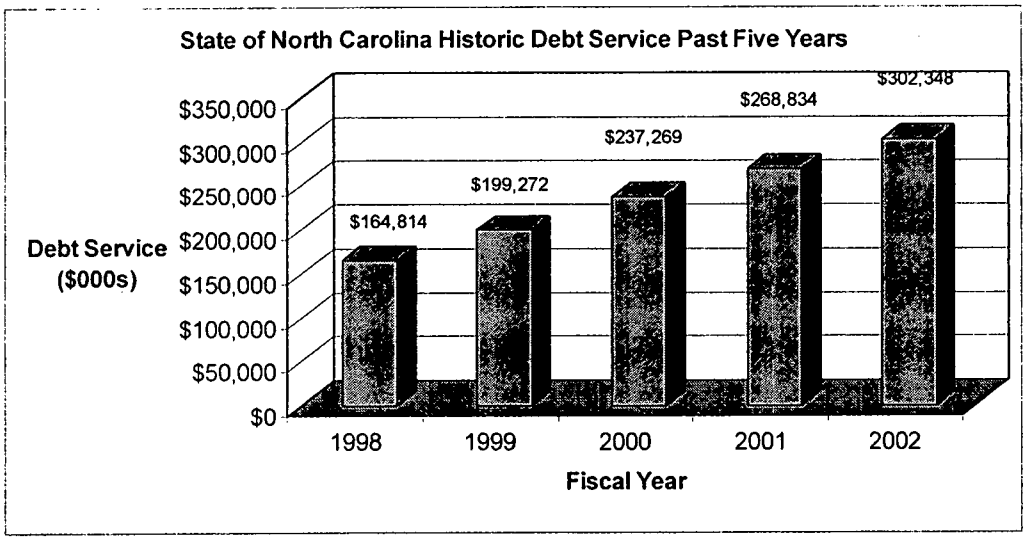
Trends in debt are an integral part of evaluating the State's debt levels. The State has made a substantial investment in infrastructure over the years, addressing the requirements of a growing population for education and other capital needs. Total general fund supported debt grew 75.4% during the last five years, increasing by $1.4 billion from approximately $1.87 billion on June 30, 1998 to approximately $3.29 billion on June 30, 2002, at an average annual growth rate of 17.0%. Included in the total is $355 million of variable rate debt, approximately 11% of total outstanding debt. The chart on the following page graphically illustrates the growth in total State net tax-supported debt outstanding over the last five years.

Figure 6



Growth in annual debt service mirrors the growth in debt outstanding. The chart below depicts the increase in annual debt service payments over the last five years.

Figure 7



The State's annual debt service payments have doubled over the last five years, rising from $165 million in 1998 to approximately $302 million in 2002 at an average annual growth rate of 16.4%. This measure is important from a credit perspective because it indicates how much of the State's budget is devoted to the fixed burden of debt service and thus the degree of flexibility in the State's budget.

STATE DEBT RATIOS

In addition to examining an issuer's total debt position, credit analysts review its debt ratios and their change over time. Credit analysts use the following key ratios to assess the financial burden of outstanding debt on a state: (i) debt as a percentage of personal income, (ii)

debt per capita and (iii) debt service as a percentage of General Fund revenues. Debt to personal income indicates the burden a state's debt places on the income tax base, the main source of revenue for most state-level general obligation issuers. Debt per capita assesses the relative magnitude of an entity's debt position compared to other issuers. The level of debt service to General Fund revenues is an important ratio because it indicates the amount of flexibility that the issuer has in its budget. Rating analysts also consider the rapidity with which an entity repays its debt obligations. Payment of 25% in five years and 50% in 10 years is considered average for general obligation issuers.

Below is a presentation of the State's indebtedness and debt ratios as of June 30, 2002, compared to June 30, 1998. As can be seen, the State's net debt outstanding increased by $1.4 billion or 75.0% from 1998 to 2002. The State's debt ratios also rose during this period as resources did not increase as rapidly as debt did. Debt to personal income increased 40% from 1.0% to 1.4%, while debt per capita increased by $114, from $281 to $395, and debt service to revenues rose 54% from 1.5% to 2.3%.

Figure 8

State of North Carolina
Fiscal Year 2002 versus Fiscal Year 1998 Debt Ratios

	Debt Outstanding (000's)	Net Tax-Supported Debt to Personal Income	Net Tax-Supported Debt Per Capita	Debt Service to General Fund Tax Revenue
FY 1998	$1,878,110	1.0%	$248	1.5%
FY 2002	$3,286,698	1.4%	$395	2.3%

As previously mentioned, credit analysts also examine the rapidity of debt repayment ratio. At the end of FY 2002, the State's general obligation debt had a rapidity of repayment ratio of 28.8% in five years and 57.4% in ten years, indicating that debt is being paid more quickly than the general obligation issuer average of 50% in 10 years. The State's repayment ratio is above average and is also a positive consideration.

COMPARISON OF DEBT RATIOS TO SELECTED MEDIANS

A comparison to national and peer group medians are helpful because absolute values are more useful with a basis for comparison. In May 2002, Moody's published the "2002 State Debt Medians" report with its annual analysis of state debt medians. As shown in the table on the following page, the State's net tax-supported debt to personal income ratio, the net tax-supported debt per capita ratio, the debt service to revenues ratio and the rapidity of repayment are all significantly better than the Moody's median levels.

Figure 9

Comparison with Moody's 2002 Median Ratios for States and Other Benchmarks
State of North Carolina Ratios as of June 30, 2002

Net Tax-Supported Debt to Personal Income			Debt Service as a % of Tax Revenues		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Median	Ratio of the State to Median
1.4%	2.3%	0.61x	2.3%	3.5%*	0.66x
Net Tax-Supported Debt Per Capita			**Principal Payout Percentage in 10 Years**		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Benchmark Average	Ratio of the State to Benchmark
$395	$573	0.69x	57.4%	50.0%**	1.15x

* Last published in 1996
** Rule of Thumb

The table below details the peer group comparison for the three debt ratios evaluated. The peer group, states rated triple-A by all three credit rating agencies, include the states of Delaware, Georgia, Maryland, Minnesota, Missouri, South Carolina, Utah and Virginia. The debt to personal income and debt per capita ratios are taken from Moody's "2002 State Debt Medians" report while the debt service ratio has been calculated from the most recent Comprehensive Annual Financial Report available for each state. As seen below, North Carolina has the lowest debt service ratio of any of the peer group and the second lowest debt per capita and debt to personal income ratios while all debt ratios are below the median levels. Thus, the State's debt ratios compare very favorably to the highest rated states.

Figure 10

North Carolina Debt Ratios
versus Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

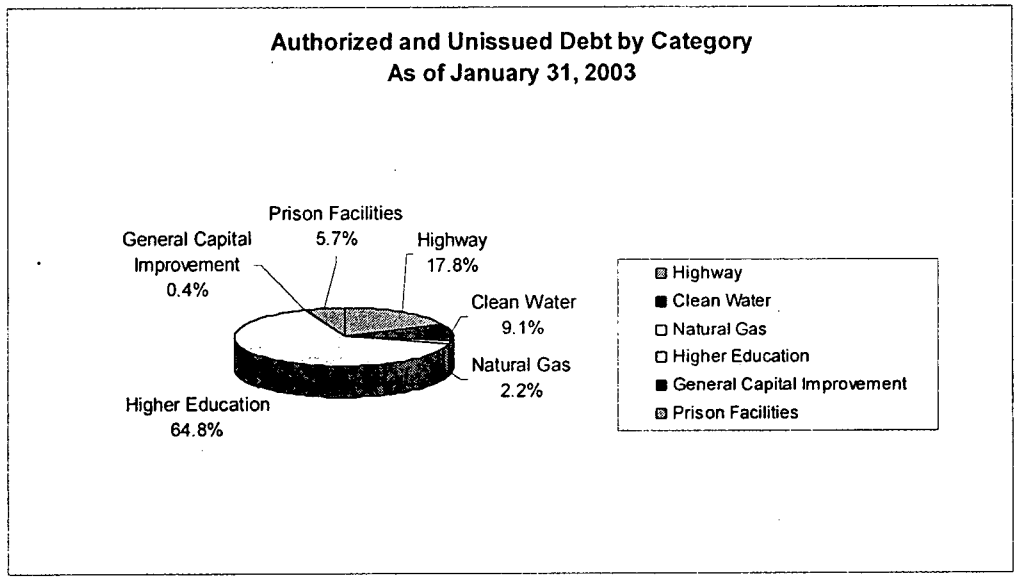
* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

PROJECTED DEBT ISSUANCE

As of the end of Fiscal Year 2002, the amount of authorized but unissued bonds totaled $3.8 billion, including $2.5 billion Higher Education Bonds, $380 million Clean Water Bonds, $135 million Natural Gas Bonds and $700 Highway Construction Bonds. $225 million of certificates of participation to fund prison facilities and $17.5 million of certificates of participation to fund wildlife conservation facilities have also been authorized. The increase in projected debt issuance over the next four years is primarily due to higher education bonds, with $2.55 billion, or approximately 65% of projected debt issuance, to be issued for these programs. The State plans to issue all of the authorized capacity by the end of Fiscal Year 2006.

Figure 11



The table below represents the projected debt issuance over the next four years for each of the State's currently authorized bonding programs backed by general fund revenues, excluding Highway debt.

Figure 12

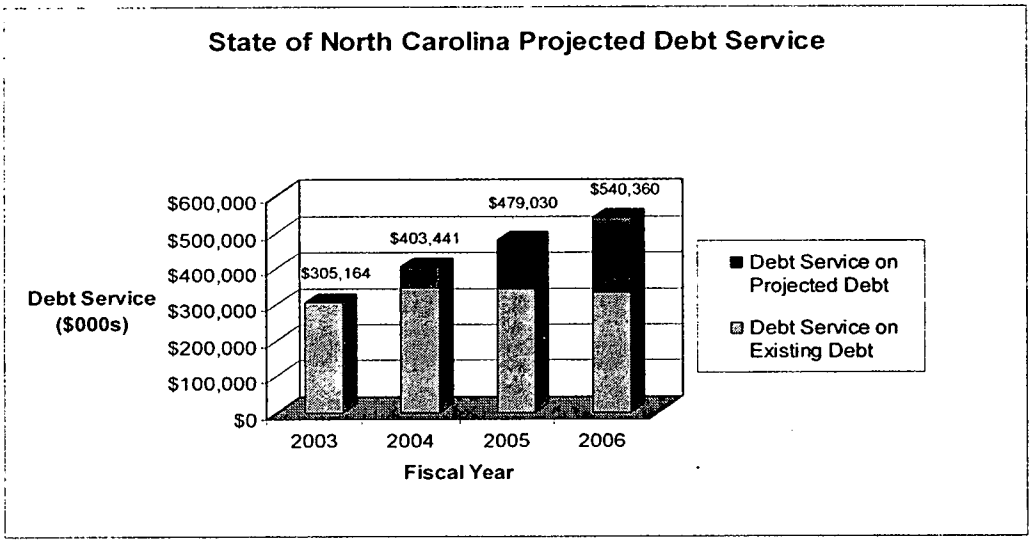
State of North Carolina Proposed Net Tax-Supported Debt Issuance Next Four Years

	Fiscal Year 2003 (est)	Fiscal Year 2004 (est)	Fiscal Year 2005 (est)	Fiscal Year 2006 (est)	Total 2003-2006
Clean Water & Natural Gas Bonds	$145,755,000	$146,550,000	$52,700,000	$169,995,000	$515,000,000
University & Community College Bonds	600,000,000	600,000,000	700,000,000	650,000,000	2,550,000,000
Certificates of Participation	17,500,000	225,000,000	-	-	242,500,000
	$763,255,000	$971,550,000	$752,700,000	$819,995,000	$3,307,500,000

PROJECTED DEBT SERVICE

Annual debt service excluding Highway debt service is estimated to grow to $540.4 million by Fiscal Year 2006 assuming projected bond issuance of $3.3 billion. The chart below shows projected debt service over the next four years, including debt service on outstanding and projected debt.

Figure 13



RESOURCES EXPECTED TO BE AVAILABLE TO MEET FUTURE DEBT OBLIGATIONS

Capacity to support debt obligations is increased by demographic and economic growth to the extent that new resources can be captured through higher tax revenues. Because any projection is uncertain, it is important in planning for future debt capacity to make prudent assumptions about future growth in resources and to develop sensitivity analyses about other assumptions to ensure that an excessive level of obligations is not created.

Another source from which the State obtains debt capacity is the retirement of outstanding debt. As the State retires debt, this amount becomes a resource for new debt issuance without adding to the State's existing debt position. Shown in the table on the following page are scheduled retirements on the State's net direct tax-supported debt as of December 31, 2002, indicating that the State will free up $911 million in debt capacity between FY 2003 and FY 2006 from retirements of existing obligations.

Figure 14

State of North Carolina
Retirement of Net Tax-Supported Debt
($ in thousands)

Fiscal Year	General Obligation Bonds
2003	$150,176
2004	219,496
2005	258,977
2006	282,248
Total	$910,898

Another consideration that affects future debt service capacity is the use of "pay-as-you-go" ("PAYGO") funding of capital projects. By using current revenues to fund a portion of a capital plan, the State can reduce future debt service and retain debt capacity. For example, if the State funded a capital project with $50 million as PAYGO rather than financing it through a $50 million 20 year bond issue, the State would save approximately $20.9 million in total interest payments over the life of the issue assuming current market conditions. Although rating agencies do not set specific guidelines for determining an acceptable level of PAYGO, the consensus is that the use of current revenues for capital projects reduces future debt obligations and is therefore a positive credit factor.

EFFECT OF NEW DEBT - BASE SCENARIO

In order to fund its capital needs, the State plans to issue $3.3 billion net tax-supported debt backed by general fund revenues from Fiscal Years 2003 to 2006, as indicated above. This level of issuance, after taking into account $911 million of retirements of currently outstanding and of projected long-term net tax-supported debt, increases outstanding net tax-supported debt by $2.4 billion, or 73%, at the end of 2006. The table on the following page reflects issuances and retirements for this period. The following assumptions were used in the Base Scenario:

- Average interest rate of 3.50%, which approximates the current triple-A rate scale plus 30 basis points, for fixed rate debt to be issued through March 2003, 4.00% for debt issued by the end of calendar 2003 and 5.50% for 2004 through 2006
- Interest rate of 4.0% for variable rate debt.
- 20-year amortization for all issues including Higher Education Bonds, except for Natural Gas Bonds (five year amortization), with overall level principal as projected by the State.
- Outstanding and projected Highway Debt not included.

Figure 15

State of North Carolina
Projected Changes in Net Tax-Supported Debt
As of December 31, 2002
($ in thousands)

	FY 2003	FY 2004	FY 2005	FY 2006	Total Change in Debt FY 2003-2006
Debt at Beginning	$3,286,698	$3,899,777	$4,651,830	$5,151,003	
Planned Issuances	763,255	971,550	752,700	819,995	$3,307,500*
Retirements	(150,176)	(219,496)	(258,977)	(282,248)	(910,898)
Debt at End	$3,899,777	$4,651,830	$5,145,553	$5,683,300	$2,396,602

* Includes $21.7 million Clean Water Bonds and $50 million Natural Gas Bonds issued so far in Fiscal Year 2003

The effect on the State's debt ratios of issuing $3.3 billion of new debt over the next four years has also been analyzed by reviewing the resources projected to be available, as shown below. In addition to the assumptions for future bond issuances outlined previously, the following assumptions were used in this Base Scenario:

- No growth in tax revenue projected in Fiscal Year 2003, with 3.0% annual growth beginning in Fiscal Year 2004
- Projected annual personal income growth of 3.0%
- Annual population growth of 1.57%

Using the Base Scenario assumptions listed above, the table below outlines projected debt ratios from FY 2003 to FY 2006. The ratio of net tax-supported debt to personal income is projected to increase from 1.4% in FY 2002 to 2.2% in FY 2006. The ratio of net tax-supported debt per capita is projected to rise from $395 in FY 2002 to $641 in FY 2006. The ratio of debt service to revenues is projected to increase from 2.3% in FY 2002 to 3.8% in FY 2006, but the rate of principal payout falls from 57.4% to 54.1% by FY 2006.

Figure 16

State of North Carolina
Effect of the New Debt Issuance on Debt Ratios – Base Scenario

	Median	Fiscal Year 2002	Projected End of Fiscal Year 2003	2004	2005	2006	Ratio of the State to Median
Net Tax-Supported Debt to Personal Income	2.3%	1.4%	1.7%	1.9%	2.1%	2.2%	0.96x
Net Tax-Supported Debt Per Capita	$573	$395	$461	$542	$590	$641	1.12x
GO Debt Service to Revenues	3.5%	2.3%	2.3%	3.0%	3.4%	3.8%	1.09x
Principal Payout in 10 Years	50.0%	57.4%	56.1%	54.8%	53.7%	54.1%	1.08x

As can be seen, the Base Scenario results in ratios higher than Fiscal Year 2002 levels in Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher than the medians, debt to personal income is projected to be below the median in Fiscal Year 2006. In addition, as seen in the table on the following page, the State's debt ratios are projected to be lower than the current median for the peer group of triple-AAA rated states.

Figure 17

Projected North Carolina Debt Ratios for 2006
versus Actual Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina Projections for 2006	**AAA/AAA/Aa1**	**2.2%**	**$641**	**3.8%**
	Ratio to Median	0.88 x	0.97 x	0.81 x

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

The projected ratios for the State, in our opinion, indicate that this level of debt issuance over the next four years is manageable and should not impair the State's high bond ratings, particularly since the debt to personal income ratio remains below the median. We do recommend, however, that the State continue to control its debt as in the past, annually publish a Debt Affordability Study and take corrective action by raising revenues or delaying debt issuance if an economic slowdown or some other outside factor causes the debt ratios to exceed the targeted levels.

TARGET DEBT RATIOS

Although the State's currently contemplated level of issuance over the next four fiscal years is manageable, establishing guidelines for future debt issuance and financial performance is a critical part of prudent debt management and can keep the debt burden from becoming excessive. An excessive debt burden reduces the State's budget flexibility and impairs its credit position. Debt and financial management policies create a framework for ensuring that the issuance of additional debt will not harm the State's financial position. While the State currently has several legal constraints on the amount of debt that can be issued, it should consider establishing policy guidelines for debt issuance in terms of the effect of such issuance on debt ratios. Firm guidelines as to the issuance of future debt would help protect and perhaps enhance the State's credit ratings, particularly in view of recent revenue weakness. Care must be taken, however, to achieve a balance between fiscal flexibility and infrastructure investment. Guidelines that are too low or restrictive do not provide enough debt capacity to finance needed infrastructure while relaxing the constraints to impose no limit on debt issuance could reduce future budgetary flexibility by creating an excessive debt service burden and lead to a deteriorating credit position.

Debt policies could establish maximum debt ratios (ceilings or floors) and target debt ratios over a period of time to demonstrate that there is a limit above which the State does not expect to issue additional debt in order to control its debt service burden. By setting maximum debt ratios, the State will be committing to either decrease capital spending or to find other funding sources rather than create an excessive debt burden on future budgets. While these guidelines should be placed at a level that will enable North Carolina to fund vital capital

projects, they should be kept in place over a reasonable period of time to show stability of debt management. The debt and financial management policies should be developed for net overall tax-supported debt, as rating agencies compare states and calculate debt medians on the basis of overall debt. We must note, however, that debt is only one of four factors considered by rating analysts, others factors being financial condition, economic base and management factors. Debt ratios are a tool used to measure the debt factor and are applied as part of the overall analysis in arriving at an issuer's bond ratings.

The following ratios should be considered in establishing debt management policies:

- *Net Tax-Supported Debt to Personal Income*. This ratio is important because it measures debt levels against the taxpayer base that generates the tax revenues that are the main source of debt repayment. The State's debt to personal income ratio is projected to increase from 1.4% in Fiscal Year 2002 to 2.2% in Fiscal Year 2006, just below the median of 2.3% for this indicator. A target level of 2.5% is suggested, with a ceiling of 3.0%. The debt capacity available within the target of 2.5% debt to personal income ratio at the end of Fiscal Year 2006 is projected to be $745 million. The debt capacity available within the ceiling of 3.0% debt to personal income ratio at the end of Fiscal Year 2006 is projected to be $2.0 billion.

- *Debt service to revenues ratio*. This is a ratio where policymakers control both variables affecting it. By measuring what portion of the State's resources is consumed by long-term fixed cost, this ratio reflects the State's budgetary flexibility to change spending and respond to economic downturns. Over time, the State can both change its tax levies to adjust its tax revenue and modify debt issuance plans in order to adjust debt service. The State's current ratio of 2.3% is projected to increase to 3.8% by FY 2006 as a result of expected debt issuances for capital improvement purposes.

  A target level of 4.0% and a ceiling of 4.75% is recommended for this ratio so as to provide the State with adequate capital funding while maintaining budget stability. The debt capacity available at the end of Fiscal Year 2006 within the target of 4.0% is projected to be approximately $350 million. The debt capacity available at the end of Fiscal Year 2006 within the 4.75% ceiling is projected to be approximately $1.35 billion.

  It would be considered a "best practice" for the State to maintain a balanced use of PAYGO funding and debt financing within the parameters discussed here. If the debt service ratio rises sharply as a result of an economic slowdown or other outside factor, the State should act to raise revenues or reduce debt issuance to ensure the debt service burden does not become excessive and threaten the State's high bond ratings.

- *Ten-year payout ratio*. A faster payout is considered to be a positive credit attribute. The State's level on June 30, 2002 was 57.4%. The State should maintain a floor for its ten-year payment of 50% and set a target of 55%.

We recommend taking into account two measures in setting debt guidelines -- debt to personal income and the ratio of debt service to revenues. With regard to the ratio of debt to personal income, we recommend a ceiling level of 3.0% that would not be breached without the approval of the Legislature. With regard to the debt service ratio, a ceiling of 4.75% is recommended that will not be exceeded without the approval of the Legislature. If either of the State's debt ratios approaches those levels, the State should take action to maintain the ratios under the ceiling. Specifically, the State should reduce its capital program, increase PAYGO funding, raise revenues or take a combination of these actions.

LEVEL OF RESERVES

As previously mentioned, the State's credit ratings are based on a variety of factors, with indebtedness only one of the items examined by credit analysts. A very important consideration is stability of financial operations as measured by the unreserved General Fund balance since these funds serve as a source of flexibility in times of economic and fiscal stress. A contingency or "rainy day" fund plus undesignated fund balance comprising 5.0% of revenues was previously used by analysts as a standard for the appropriate minimum level of contingency, but many entities concluded that this level was inadequate to carry them through the recession of the early 1990s. Many issuers have therefore set a target to protect financial stability based on the levels needed to weather a severe economic downturn without completely depleting balances and thus incurring a deficit.

Because of the importance of financial condition to the rating agencies, the study also includes an analysis of General Fund balances and reserves. Available reserves indicate financial stability, flexibility and the capacity to meet financial obligations, especially debt service payments, in a timely manner. The ratio commonly used to measure available reserves is unreserved General Fund balance as a percentage of General Fund revenues or expenditures. The State's unreserved General Fund balance at the end of FY 2002 was ($576.3) million. Historic General Fund Balances and Unreserved Fund Balance as a percentage of tax revenues for the past five years are shown in the following two charts.

Figure 18

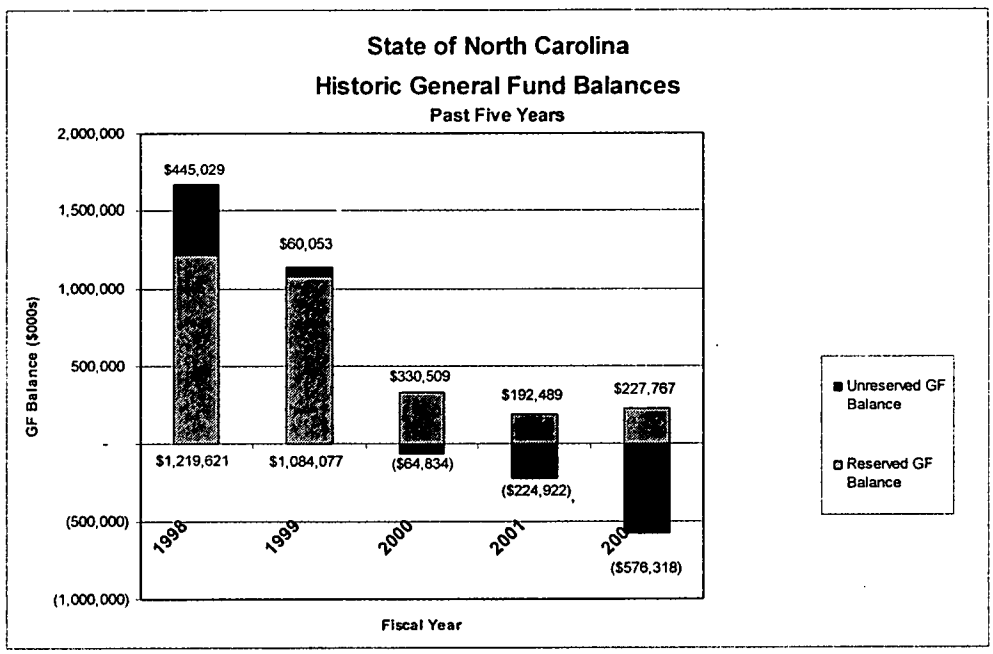
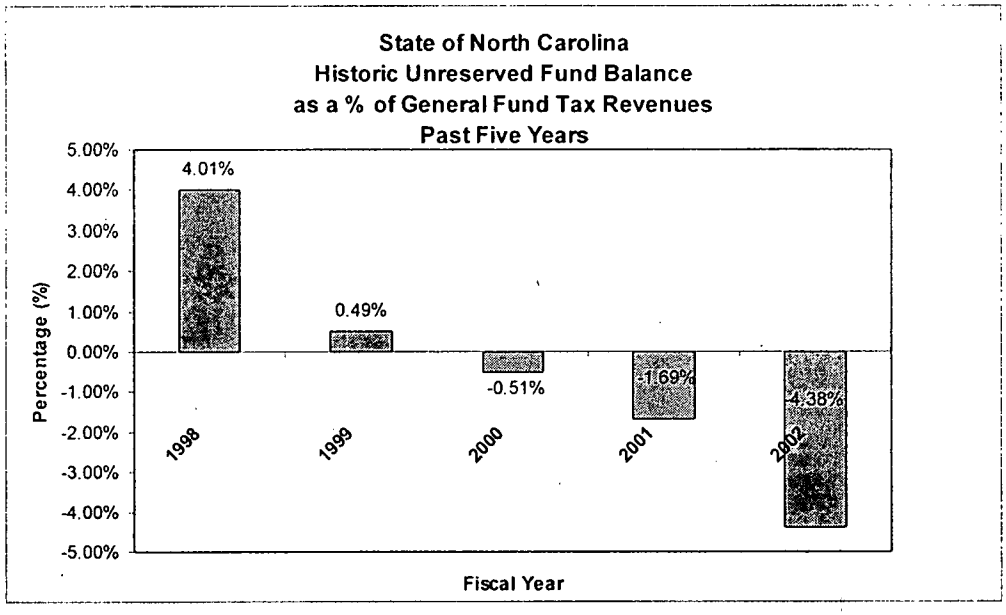


Figure 19



Reserves were drawn down during Fiscal Year 2002, reducing the General Fund balance to ($348.6) million at fiscal year-end. General Fund balances were used to mitigate the impact of budget cuts due to revenue shortfalls projected for the current fiscal year. Moreover, the State's Savings Reserve Account was used to balance the Fiscal Year 2002, resulting in a zero balance at the end of Fiscal Year 2002. Under the Governor's Executive Order, a $215.6 million Reserve Fund has been established to help manage any budget shortfall in Fiscal Year 2003.

The reversal of the General Fund balance from a positive $445 million in Fiscal Year 1998 to a negative $576.3 million in Fiscal Year 2002 was specifically cited by Moody's as a key factor in their decision to downgrade the State from Aaa to Aa1 in August 2002. Therefore, in addition to the suggested targets for the State's debt ratios, the State should consider evaluating the General Fund reserve policy in view of its importance as to its credit standing.

- *Unreserved General Fund balance*. The suggested target level of unreserved General Fund Balance to General Fund Revenues is 8% and the floor is 6%. The target would allow for a cushion in the event of future economic downturns in excess of one month's average receipts. The floor of 6% is roughly equivalent to the decline in reserves that the State has experienced in the current recession.

CAPITAL PROJECT PRIORITIZATION

The process of prioritizing proposed capital projects varies widely among states. The states listed below have some method of prioritizing capital projects. Two of these two states, Minnesota and Nebraska, have developed detailed criteria and a point system to determine which capital projects will be funded. A summary of their approaches and criteria used can be found on the following pages.

Figure 20

States that Prioritize Capital Projects

▪ Delaware	▪ Nebraska
▪ Illinois	▪ Oklahoma
▪ Michigan	▪ Texas
▪ Minnesota	▪ Wyoming

State of Minnesota: Minnesota has developed a scoring system to assist the Governor and Legislature determine which capital projects will be funded. The capital projects are evaluated based on two criteria categories (described below): (i) *critical criteria,* with capital projects in this category evaluated based on their urgency in the current legislative session; and (ii) *strategic criteria*, with capital projects within this category evaluated based on their strategic need and value. A capital project could receive a maximum of 700 points each based on the two criteria categories. The criteria categories are described in more detail below.

Critical Criteria: The criteria Minnesota uses to determine if a capital project requires immediate funding are as follows:

Critical Life Safety Emergency: If a project requires immediate attention such as a roof has deteriorated to the point of collapse, it would qualify under this criterion and would receive 700 points.

Critical Legal Liability: If the project has an existing and documented legal liability, such as citations by building or fire inspectors, it would qualify under this criterion, with qualified projects receiving 700 points.

Prior Binding Commitment: If a project has no other funding alternative and a previous legislative action created a binding commitment, such as construction project that has already been partially funded and is under construction, the project would qualify under this criterion, with qualified projects receiving 700 points.

Strategic Criteria: The criteria Minnesota uses to evaluate each project's strategic need and value are set out below. Projects may receive from 0 to 700 points depending on how closely each capital project meets the following criteria.

Strategic Linkage: A project is evaluated using this criterion based on how closely the project is connected to a particular agencies strategic plan, state statutes or other identifiable state policy; projects are evaluated on a low, medium and high basis and may receive 0, 40, 80 or 120 points.

Safety Concerns: A project is evaluated using this criterion based on how safety issues are addressed. These safety issues are not necessarily as urgently needed as those discussed in the critical criteria category. An example would be clean up of a closed landfill or security improvements at a correctional facility. Projects are evaluated on a low, medium and high basis and may receive 0, 35, 70 or 105 points.

Customer Services and Statewide Significance: A project is evaluated based upon how it improves service for all citizens of the state. Projects with statewide impact and which provide customer service to the greatest number of people receive the most points. Projects with regional significance or which provide modest level of customer service receive medium points. Projects with local significance and modest customer service improvements receive the fewest. Projects will receive 0, 35, 70 or 105 points.

Agency Priority: This criterion measures how important a project is for a particular agency. Points are based on the ranking of the project on the agency's overall priority project list. The total number of requests for each agency are divided by four to establish agency quartiles in order to award the following points: 25, 50, 75 or 100.

User or Non-State Financing: 0 to 100 points are awarded to projects depending on the percentage of user financing, non-state funding, private contributions or matching funds that can be used to fund project costs.

Asset Maintenance: Requests for funding for the maintenance and repair of the state's land, facilities and equipment are evaluated on a low, medium or high basis and awarded 0, 20, 40 or 60 points.

Operating Savings or Efficiencies: 0, 20, 40 or 60 points are awarded to projects which produce operating savings or improve operating efficiencies.

Projects Contained in Six-Year Plan: If a project has been included either in a previous state agency six-year strategic plan or obtained previous state funding, it would receive 25 points. If both are applicable, the project may receive 50 points. Projects that have received past state funding but were not part of an agency's priority list may receive only 25 points.

State of Nebraska: Nebraska through its Coordinating Commission (the "Commission") for Post-Secondary Education is statutorily responsible for recommending to the Governor and Legislature a prioritized list of approved capital projects that should receive funding for higher education projects. The Commission's prioritization process involves the use of ten individual criteria, weighted using a 100-point system to assist it qualify capital projects and determine the order of funding and are described below.

Statewide Facilities Category Ranking: The Commission rank the type of facility based on overall statewide needs according to 11 different categories. For example, the Commission places a high priority on the safety of building occupants and maintaining the state's assets and, therefore, projects that are safety related receive a maximum of 30 points while a project such as land acquisition for future expansion of a project would receive a maximum of 3 points. Projects that combine two or more of the 11 categories are weighted to attain a point total.

Sector Initiatives: This criterion addresses how well the proposed capital project addresses a specific strategic or programmatic initiative with a maximum of 10 points awarded. An example of a sector initiative is the designation of a specific academic program or service offered by one or more institutions.

Strategic and Long-Term Planning: This criterion measures the degree to which a capital construction request addresses long-term planning efforts with a maximum of 10 points awarded.

Immediacy of Needs: This criterion measures the degree of urgency for the project. Projects intended to meet existing needs are given higher priority than long range needs. A maximum of 10 points are awarded depending on the degree of the need for the project.

Quality of Facility: This criterion measures how the capital project will improve an existing facility. A maximum of 5 points are awarded, depending on the facility condition.

Avoid Unnecessary Duplication: A maximum of 10 points is awarded for this criterion depending upon the degree to which the project minimizes unnecessary duplication.

Appropriate Quality of Space: This criterion measures the degree to which the project effectively uses space, a maximum of 5 points is awarded.

Statewide Role and Mission: The Commission considers the project from a statewide perspective based upon four subcategories: undergraduate instructional and student space; graduate or professional instructional and research space; public service and applied research space; and administrative or operational support space. Projects that include combinations of two or more of the four subcategories are weighted to attain a point total.

Building Maintenance Expenditures: This measures the cost of maintaining a facility based on dollars expended for maintenance per square foot compared to similar projects. A maximum of 5 points is awarded.

Ongoing Costs: This criterion measures the degree to which the project will reduce the incremental increase of state funding for its operation and maintenance. A maximum of five points are awarded.

Summary: Two different examples of the ways in which states use criteria for prioritizing capital projects have been presented. The state of Minnesota attempts to define basic evaluation criteria to be used statewide in order to address competing capital requests while the state of Nebraska has developed detailed criteria for a specific category of capital, its higher education projects. Our research indicates that the scores for Minnesota capital projects do not produce automatic funding decisions but rather are designed as a tool, much like a debt affordability study, to assist in the decision making process with regard to capital projects. The State of North Carolina may wish to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

CONCLUSION

Currently, all of the State's debt ratios are below median levels both for all fifty states and for a group of eight states with comparable credit standing. Thus, North Carolina's debt is considered low and is manageable at the current level. Expected future debt issuances over the next four years total $3.3 billion, with $2.55 billion, or 77%, issued for Higher Education purposes. Due to this projected issuance, all the State's debt ratios are expected to increase over the next four years. The debt service to tax revenue ratio is projected to rise from 2.3% at the end of Fiscal Year 2002 to 3.8% at the end of Fiscal Year 2006 and the ratio of debt to personal

income is projected to rise from 1.4% at the end of Fiscal Year 2002 to 2.2% by Fiscal Year 2006, while the debt per capita ratio is projected to rise from $395 to $641 by Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher in Fiscal Year 2006 than the current medians for all fifty states, debt to personal income is projected to be below the national median in Fiscal Year 2006. The State's projected debt ratios are also lower than current medians for the peer group of triple-AAA rated states.

The State may want to consider developing and implementing a formal capital project prioritization process comparable to the procedures in place in the states of Minnesota and Nebraska. Furthermore, the State may want to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

It would be considered a "best practice" for the State to annually update this debt affordability study along with a review of other highly rated states. A Debt Affordability Study undertaken regularly would allow the State to continually evaluate its fiscal health and credit quality. The State should also consider establishing a debt affordability advisory committee, such as the states of Maryland and Virginia have done, to assist in the preparation of the study.

State of North Carolina

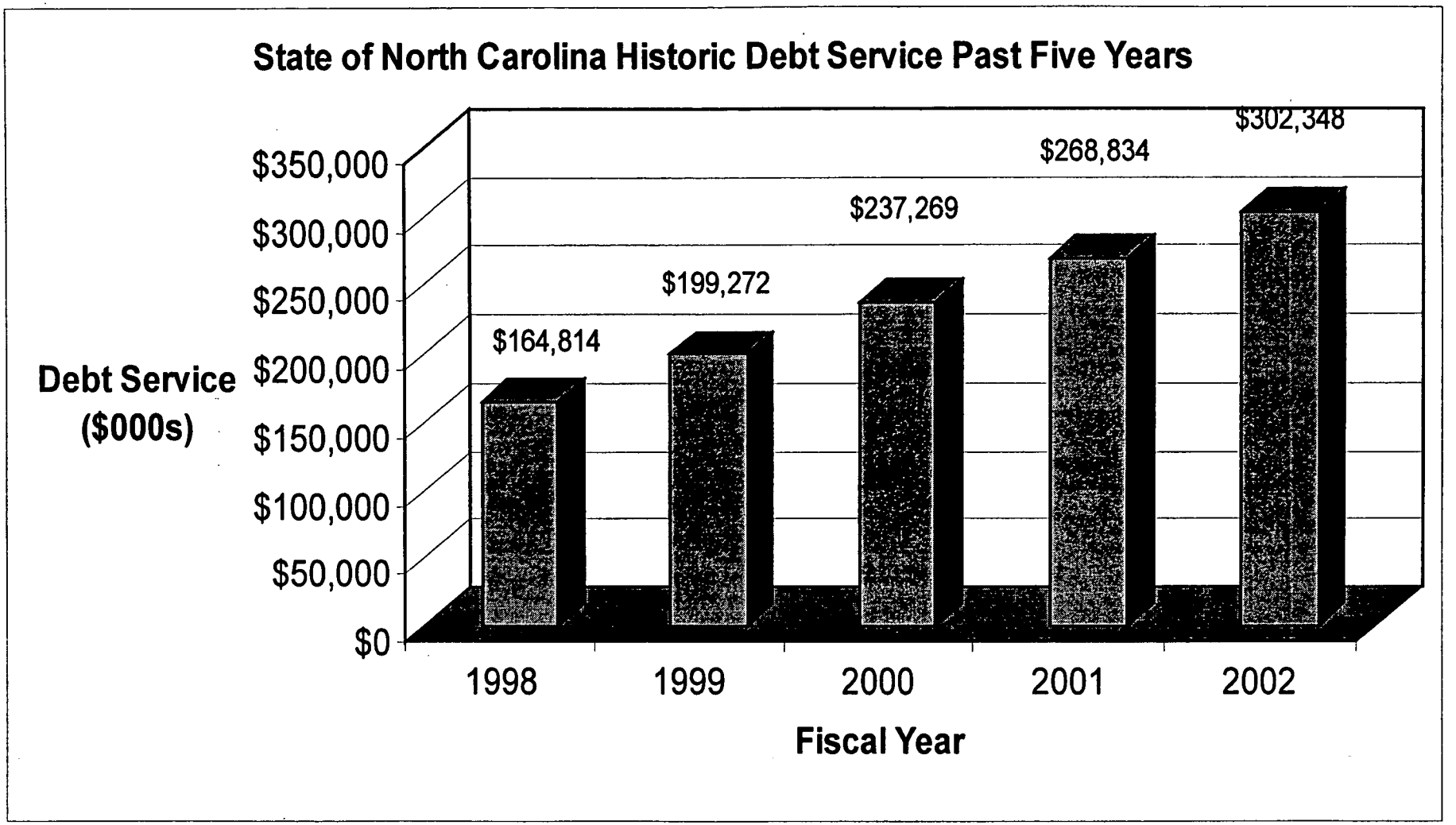
Debt Affordability Study

Selected Charts and Graphs

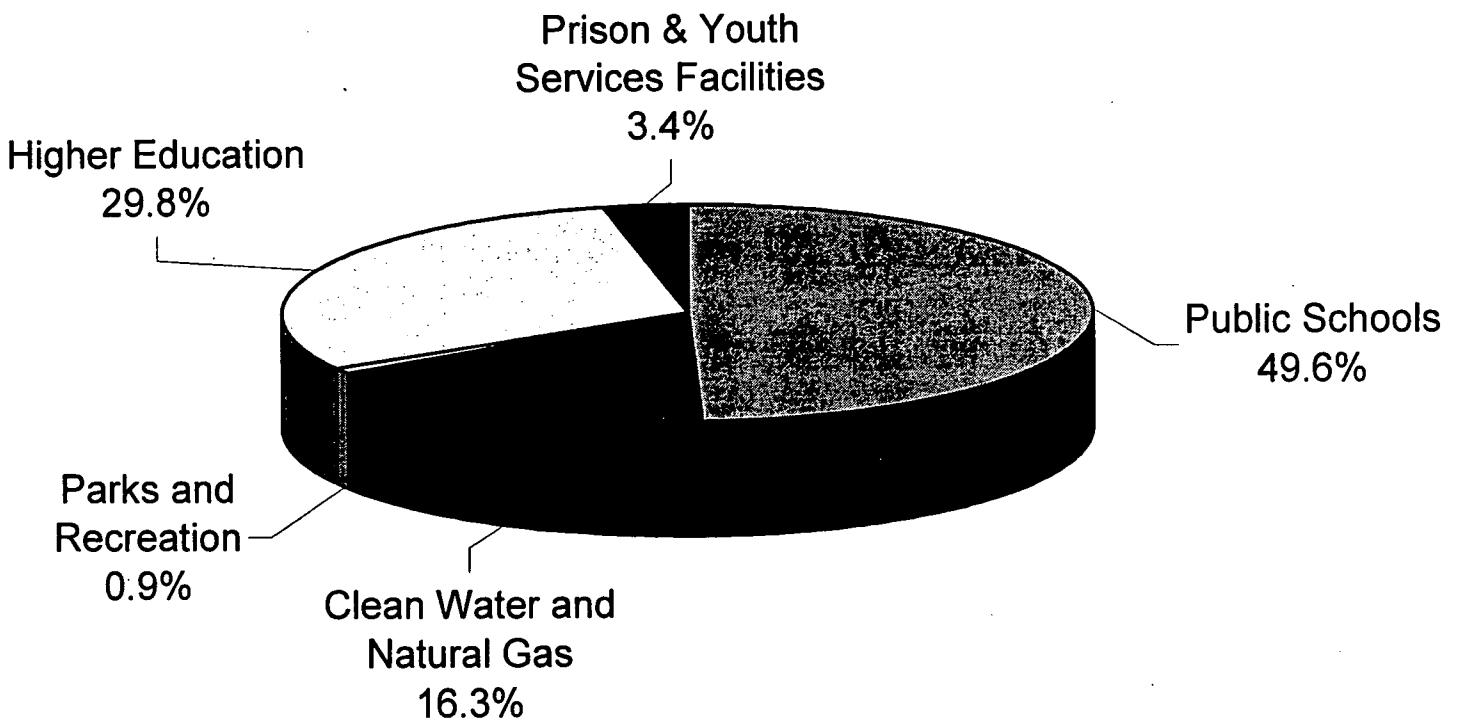
The Honorable Richard H. Moore
State Treasurer

ATTACHMENT 5

State of North Carolina Net Tax-Supported Debt As of June 30, 2002 ($ in thousands)	
General Obligation Bonds	
Payable from General Fund Revenues	$3,274,944,986
Payable from Highway Trust Fund Revenues	183,300,000
Notes Payable	11,753,000
Gross Tax-Supported Debt	$3,469,997,986
Less: Self –Supporting Debt	(183,300,000)
Net Tax-Supported Debt	$3,286,697,986


State of North Carolina Historic Debt Service Past Five Years
Debt Service ($000s)
$350,000
$300,000
$250,000
$200,000
$150,000
$100,000
$50,000
$0
$164,814
$199,272
$237,269
$268,834
$302,348
1998
1999
2000
2001
2002
Fiscal Year

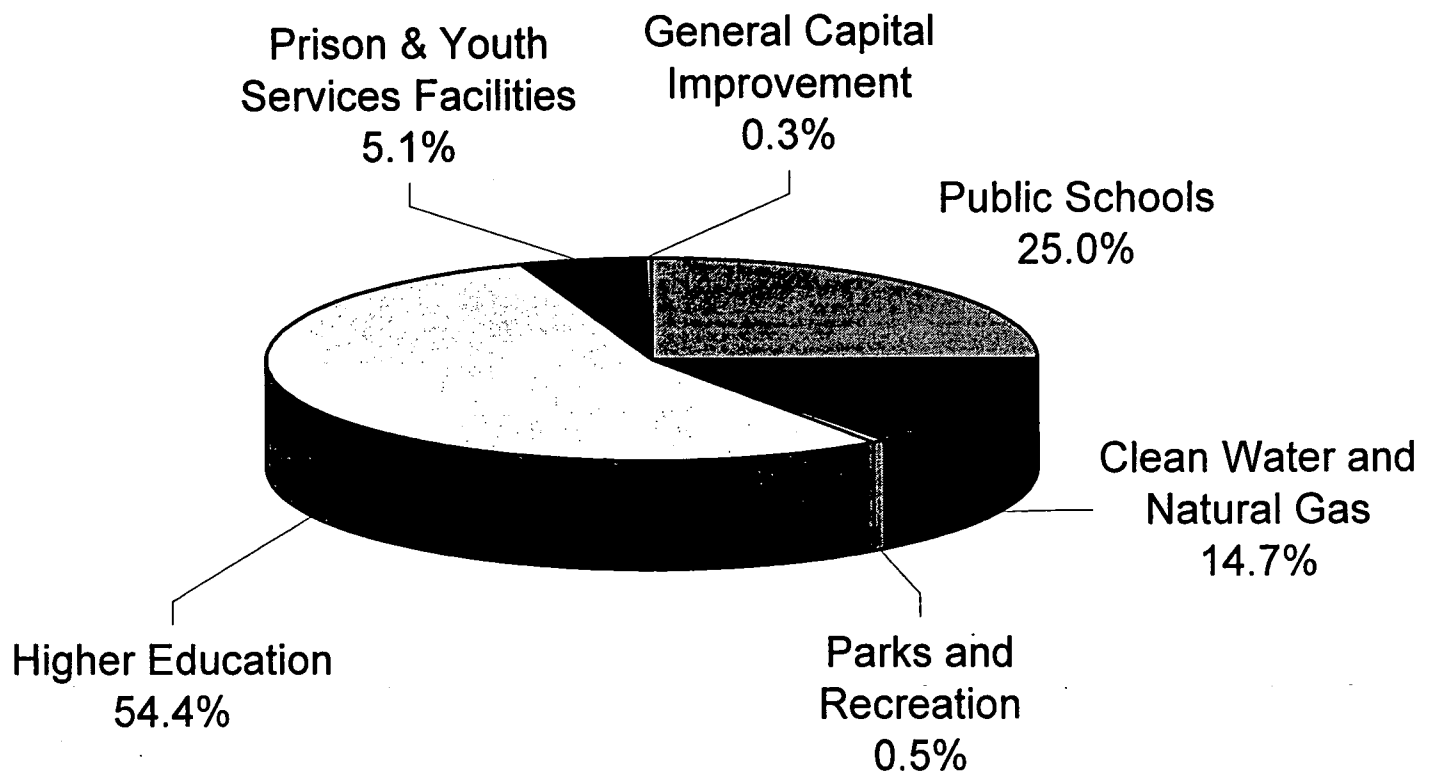
State of North Carolina Outstanding Debt by Program



State of North Carolina Proposed Net Tax-Supported Debt Issuance Next Four Years

	Fiscal Year 2003 (est)	Fiscal Year 2004 (est)	Fiscal Year 2005 (est)	Fiscal Year 2006 (est)	Total 2003-2006
Clean Water & Natural Gas Bonds	$145,755,000	$146,550,000	$52,700,000	$169,995,000	$515,000,000
University & Community College Bonds	600,000,000	600,000,000	700,000,000	650,000,000	2,550,000,000
Certificates of Participation	17,500,000	225,000,000	-	-	242,500,000
	$763,255,000	$971,550,000	$752,700,000	$819,995,000	$3,307,500,000

State of North Carolina Debt by Program
Outstanding plus Unissued Debt



State of North Carolina
Projected Changes in Net Tax-Supported Debt
As of December 31, 2002
($ in thousands)

	FY 2003	FY 2004	FY 2005	FY 2006	Total Change in Debt FY 2003-2006
Debt at Beginning	$3,286,698	$3,899,777	$4,651,830	$5,151,003	
Planned Issuances	763,255	971,550	752,700	819,995	$3,307,500*
Retirements	(150,176)	(219,496)	(258,977)	(282,248)	(910,898)
Debt at End	$3,899,777	$4,651,830	$5,145,553	$5,683,300	$2,396,602

* Includes $21.7 million Clean Water Bonds and $50 million Natural Gas Bonds issued so far in Fiscal Year 2003

North Carolina Debt Ratios versus Ratios for Other Highly Rated States				
	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

State of North Carolina
Effect of the New Debt Issuance on Debt Ratios – Base Scenario

	Median	Fiscal Year 2002	Projected End of Fiscal Year 2003	2004	2005	2006	Ratio of the State to Median
Net Tax-Supported Debt to Personal Income	2.3%	1.4%	1.7%	1.9%	2.1%	2.2%	0.96x
Net Tax-Supported Debt Per Capita	$573	$395	$461	$542	$590	$641	1.12x
GO Debt Service to Revenues	3.5%	2.3%	2.3%	3.0%	3.4%	3.8%	1.09x
Principal Payout in 10 Years	50.0%	57.4%	56.1%	54.8%	53.7%	54.1%	1.08x

Projected North Carolina Debt Ratios for 2006 versus Actual Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
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Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina Projections for 2006	**AAA/AAA/Aa1**	**2.2%**	**$641**	**3.8%**
	Ratio to Median	0.88 x	0.97 x	0.81 x

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

	Current Ratio	Projected by the end of FY 2006	Projected Debt Ratio After Issuance of			
			Additional $350 Million	Additional $745 Million	Additional $1.35 Billion	Additional $2.0 Billion
Debt to Personal Income	1.4%	2.2%	2.3%	2.5%*	2.7%	3.0%**
Debt Service to Revenues	2.3%	3.8%	4.0%*	4.3%	4.75%**	5.2%

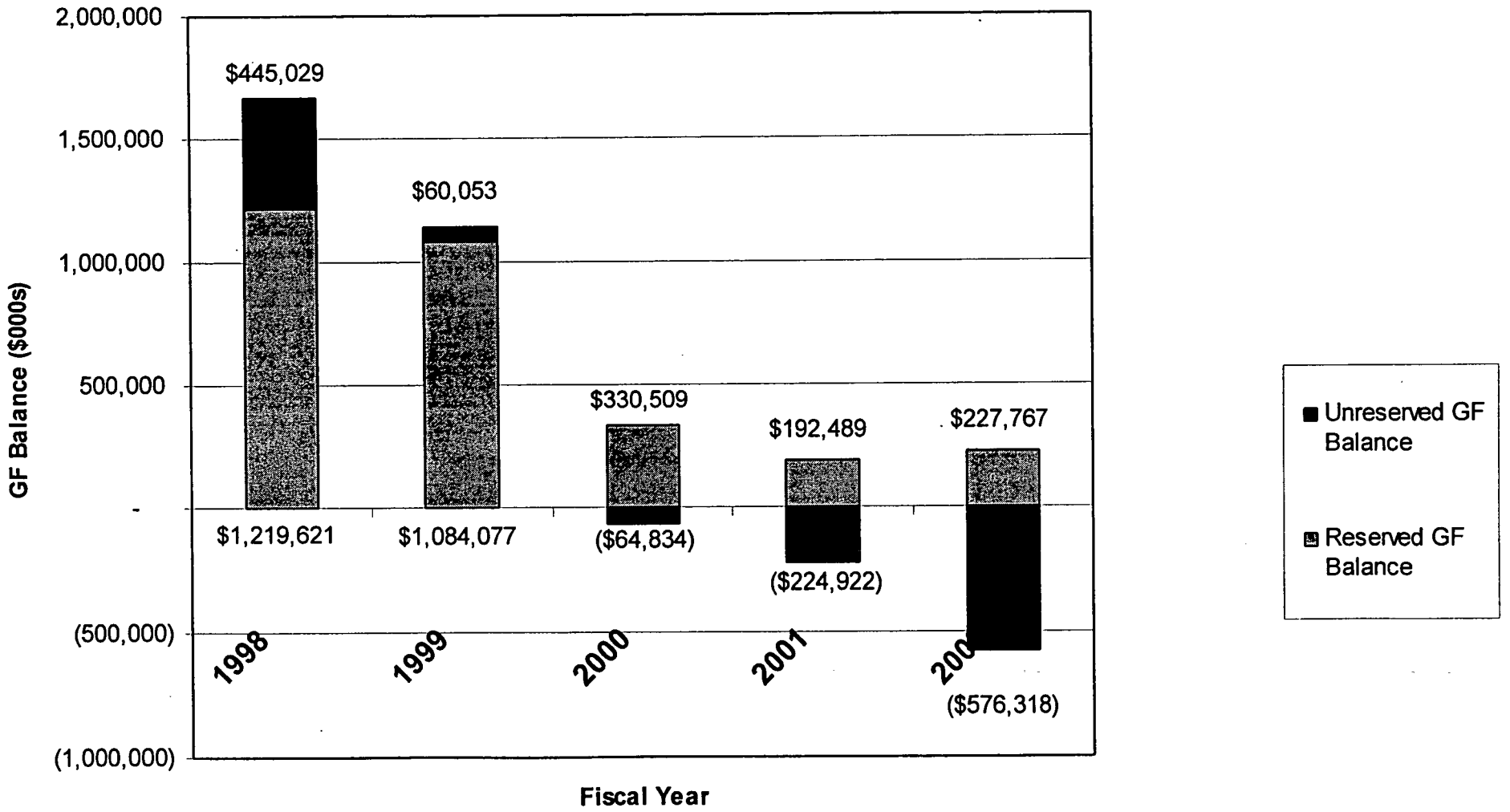
* Suggested Target Ratio

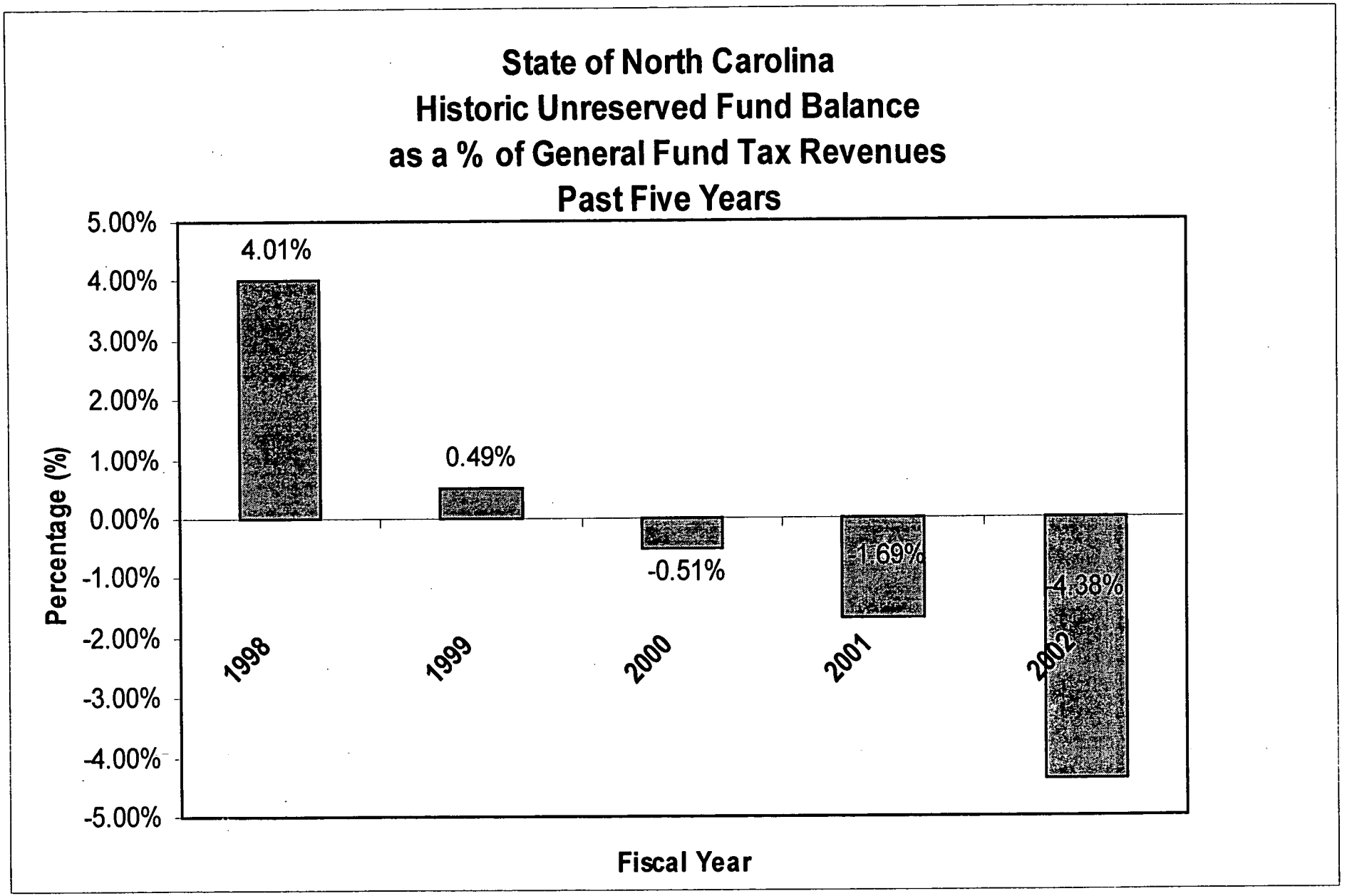
** Suggested Ceiling Ratio

State of North Carolina

Historic General Fund Balances

Past Five Years




State of North Carolina
Historic Unreserved Fund Balance
as a % of General Fund Tax Revenues
Past Five Years
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
-1.00%
-2.00%
-3.00%
-4.00%
-5.00%
Percentage (%)
4.01%
0.49%
-0.51%
-1.69%
-4.38%
1998
1999
2000
2001
2002
Fiscal Year

House Committee on Finance

Minutes

~

April 1, 2003

The House Committee on Finance met on Tuesday, April 1, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, and Weiss. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 8:35 a.m. and welcomed the members and staff. He then recognized the Pages for the meeting. There were two young ladies present: Ms. Sarah Robertson of Stokes County, sponsored by Representative Rex Baker and Ms. Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Chairman Luebke also announced the formation of the annual Subcommittee on the Occupancy Tax and announced the appointed members to the subcommittee, those being Representatives Alexander (Chair), Munford, and McGee.

The Chair then recognized staffperson Cindy Avrette who offered an updated presentation of the Streamlined Sales Tax Project to the committee members (see attachment 3). The presentation, shown on PowerPoint, included a discussion of the state losing tax dollars from Internet orders and to provide for a uniformity of tax rates (to some degree) among all states. It also overviewed the progress of the project in North Carolina and nationwide since year 2000. Ms. Avrette noted that North Carolina must make several changes in 2003 in order to continue to participate in the project. Two of these changes include:

1. The State must develop a uniform local tax base. For instance, food must either be subject to tax or exempt. It cannot be at a lower rate than other items as it is presently.
2. Modification of candy, soft drinks, and prepared food is necessary. North Carolina must make a decision whether or not to continue to exempt these foods from tax.

Ms. Avrette also informed members that presently, under a Supreme Court ruling, companies without a physical location in North Carolina are not required to collect sales tax for the State [i.e. Barnes and Noble.com (website) vs. Barnes and Noble Stores (physical location)]. The legislature must decide now whether to implement such a tax on Internet companies.

The Chair then recognized Representative Howard for a question to Ms. Avrette on whether the Department of Revenue was prepared to collect these additional tax dollars without huge expense in developing methods of collection. Ms. Avrette stated that it would be the responsibility of the merchants to develop these methods, thus the costs would not be levied on the state.

Overall, a great deal of discussion ensued about what items will or will not be taxed and the decisions, which must be made soon in that regard in order for North Carolina to continue its' participation in the Streamlined Sales Tax Project. Discussion of how taxes collected would be distributed was also in depth. There was a question from Representative Hackney concerning whether taxpayers making orders in their home areas would be required to provide their zip codes and four-digit zip extensions (i.e. 27601-1092) or list their county of residence so that collected tax dollars can be reallocated to the appropriate areas locally. The Represenative was informed that currently, the plan is for a "zip plus four" system. For status of the Project nationwide, information is available via the World Wide Web at http://www.elaonline.com/govtrelations/state/streamometer

Chairman Luebke then thanked Ms. Avrette for her presentation and next recognized staffperson Richard Bostic for a presentation on the North Carolina Individual Income Tax. He presented a slide show (see attachment 4) that outlined the history of the income tax in North Carolina from 1850 to present. Due to time, however, the Chair stopped Mr. Bostic's presentation and asked that he continue at the Committee's next meeting on Thursday. He also stated that David Crotts' presentation on the North Carolina Corporate Income Tax would commence on Thursday as well.

The Chair then recognized members for a few short questions and adjourned the meeting at 9:50 a.m., reminding members that the Committee would next meet on Thursday of the week, March 3, 2003, at 8:30 am in the same location.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Handouts on Streamlined Sales Tax Project
4. Handout on North Carolina Individual Income Tax
5. Handout on North Carolina Wireless 911 Board (not discussed)
6. Spreadsheet Handout entitled "Value of Property Exempted from County Tax Base (2001-02)" (not discussed)
7. Report on Bill Lee Act from Department of Revenue (not discussed)

House Committee on Finance

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ATTACHMENT 1

AGENDA

House Finance Committee

April 1, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Paul Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Update on Streamlined Sales Tax Project
Cindy Avrette

Overview of the NC Individual Income Tax
Richard Bostic

Overview of the NC Corporate Income Tax
David Crotts

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roz Sawitt	NC Child Care Coalition
Mike Watson	NCRPS
Barbara Cansler	MFSS
[illegible]	Bank Coalition Strategy
Katherine Daing	Electric Cities
Henry Hutaps	N.C.S.D.A.
Butch Gunnells	NCSDA
Ed Regan	N.C.A.C.C.
Andy Sasol	NCDOR
Louise Fisher	Wake AMI. + MHANC
Dick Carlton	Carlton + Alexander

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Warren Plonk	OSBM
Paul Zepin	OSBM
Marcos Arellano	Intern (Rep Luebke)
Ron Aycock	County Com.
[illegible]	NCRA
Paul Meyer	NCACC
Ken Melton	Alley Associates
Don Hubbert	DOC
Roger Bone	Bone + Assoc
Amy Gardner	N+O
Doug Carter	NCSTA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NC Retail Merchants
Andy Romanet	NCLM
Duke Chen	Intern
Steve Wall	Conservation Council
Mark Beason	Capitol Group
VLM McBride	NCTA
Steve Woodson	NCFB
Fran Preston	NCRMA
[illegible]	EGHS
Rob Ducablon	NC State Water
Sharon Matthews	DOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

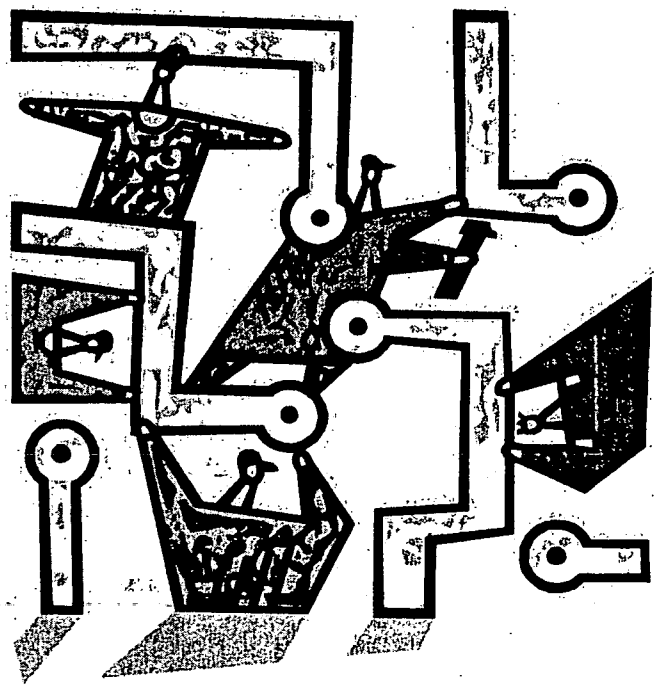
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Thompson	MCIC
Cam Cree	BPMHL

Streamlined Sales Tax Project

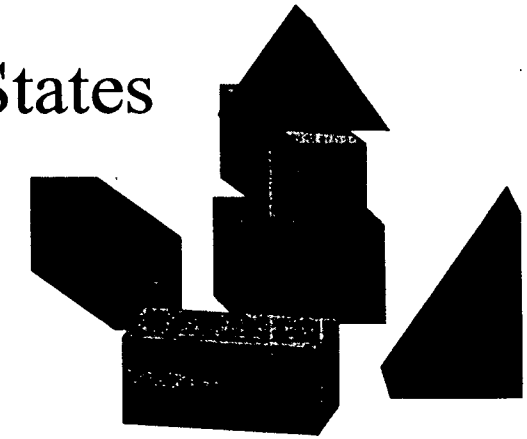
- Modernize & simplify sales and use tax laws
- Encourage sellers to voluntarily collect use tax
- Lead Congress to grant states the authority to require collection



ATTACHMENT 3

History of Use Tax Collection

- 1967: National Bellas Hess case
- 1992: Quill Corporation case
- 1998: Internet Tax Freedom Act
- 2000: SSTP organized
- 2000: Draft Act and Agreement
- 2001: Meeting of Implementing States
- 2002: Agreement Finalized
- 2003: Moratorium Expires



Principles of SSTP

- Uniformity in major tax base definitions
- Uniformity in State and local tax bases
- Simplification in State and local tax rates
- State level administration of taxes
- Protection of consumer privacy
- Central, electronic registration system
- Uniform sourcing rules
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances
- Preservation of individual state taxing authority

How will it work?

- Participation by vendors is voluntary
- Central, online registration system
- Limited amnesty provisions
- Methods of remittance
  - MODEL 1: Select a CSP to collect & remit tax
  - MODEL 2: Select a CAS to use to calculate tax
  - MODEL 3: Use own certified CAS

Requirements to Participate

- State level administration
- ***Common local tax base***
- Online registration system
- Notice of State tax changes
- Notice of local rate changes
- Develop address-based system for assigning taxing juris
- Relieve participating sellers from liability relying on CSP or CAS

Requirements to Participate

- ***No multiple State rates after 12/31/ 2005***
- One local rate
- Uniform sourcing rule
- Uniform telecommunications sourcing rule
- ***Uniform definitions***
- Uniform tax returns
- Uniform rules for remittances of funds
- Uniform rules for recovery of bad debts
- ***No caps or thresholds after 12/31/2005***
- Direct pay certificates

Effective Date of Agreement

- Minimum number of states = 10
- Percent of the "sales tax" population = 20%
- 7 states enacted legislation
- 20 states have pending legislation

2003 Required Changes

- Uniform local tax base: Food must either be subject to the tax or exempt
- Modifications to the taxation of candy, soft drinks, and prepared food
- Change due date on a monthly return
- Amnesty for a seller who voluntarily registers to collect tax for period prior to registration

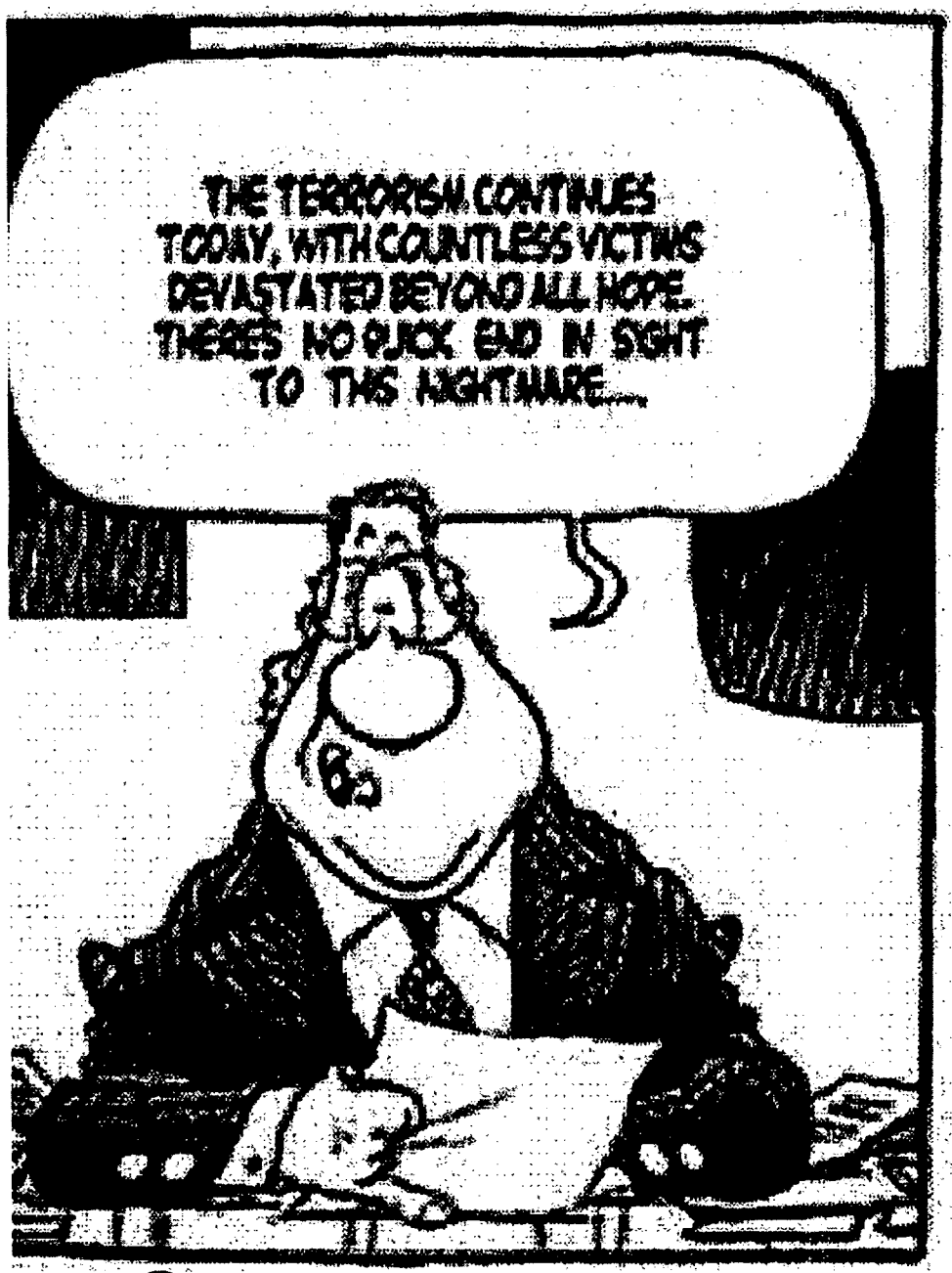
2003 Required Changes

- 120-day notification of local tax changes
- Modifications to definitions
- Sales tax holiday exemptions need to be amended before the August 2004 holiday

North Carolina Individual Income Tax

Fiscal Research Division

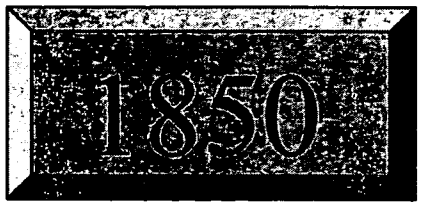
ATTACHMENT 4


THE TERRORISM CONTINUES TODAY, WITH COUNTLESS VICTIMS DEVASTATED BEYOND ALL HOPE. THERE'S NO QUICK END IN SIGHT TO THIS NIGHTMARE...

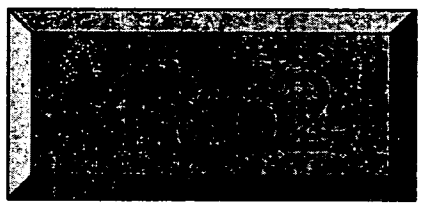
GORRELL
BUT ENOUGH ABOUT THE IRS!
APRIL 15

JEFF PARKER
DIST. BY
Y'KNOW I USED TO THINK THAT DEATH AND TAXES THING WAS JUST A JOKE...
POINK POINK POINK
TAX DEADLINE
IRAQ

- Established income tax
- 3¢ per dollar of interest and profit from slave trade, shipping and stocks/corporate shares
- $3 on salaries over $500
- Physicians, dentists, lawyers exempt for first 5 years of practice
- Sheriff collects taxes



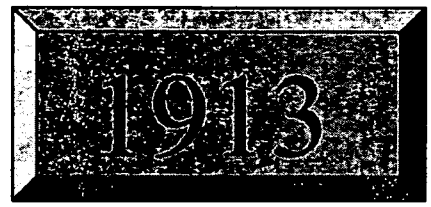
- Amended so that $3 on first $500 in salaries and $2 for every additional $500



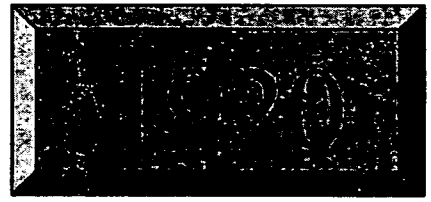
- U.S. approves income tax to support Civil War effort

WORK SHOP
ALL BUSINESS
AT A STANDSTILL
MONEY-MANIAC
BY CONGRESS.
TWEED-IZATION,
BY NOT PAYING
OUR DEBTS,
OUR CREDIT
DOWN WITH
CAPITAL
UP WITH
TAXES.
MODERN
THE SLAVE OF LIBERTY
HARPWEEK

MILLIONAIRE
BUSINESS MAN
WAGE EARNER
PROPOSED INCOME TAX
· NIL · FISHER ·



- Constitutional amendment failed – Amendment to end statewide property tax and switch to alternative taxes (income, inheritance, etc.)



- Constitutional amendment approved-Permit taxation of all income, including income from property

- General Assembly enacted state administered income tax
- Rates were 1% on first $2500 of net taxable income up to 3% on excess over $10,000

  (5 rate brackets)

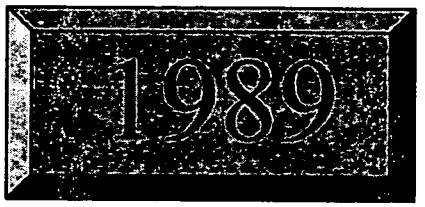
- Increased tax rates
- 3% on net income up to $2,000

  4% on next $2,000

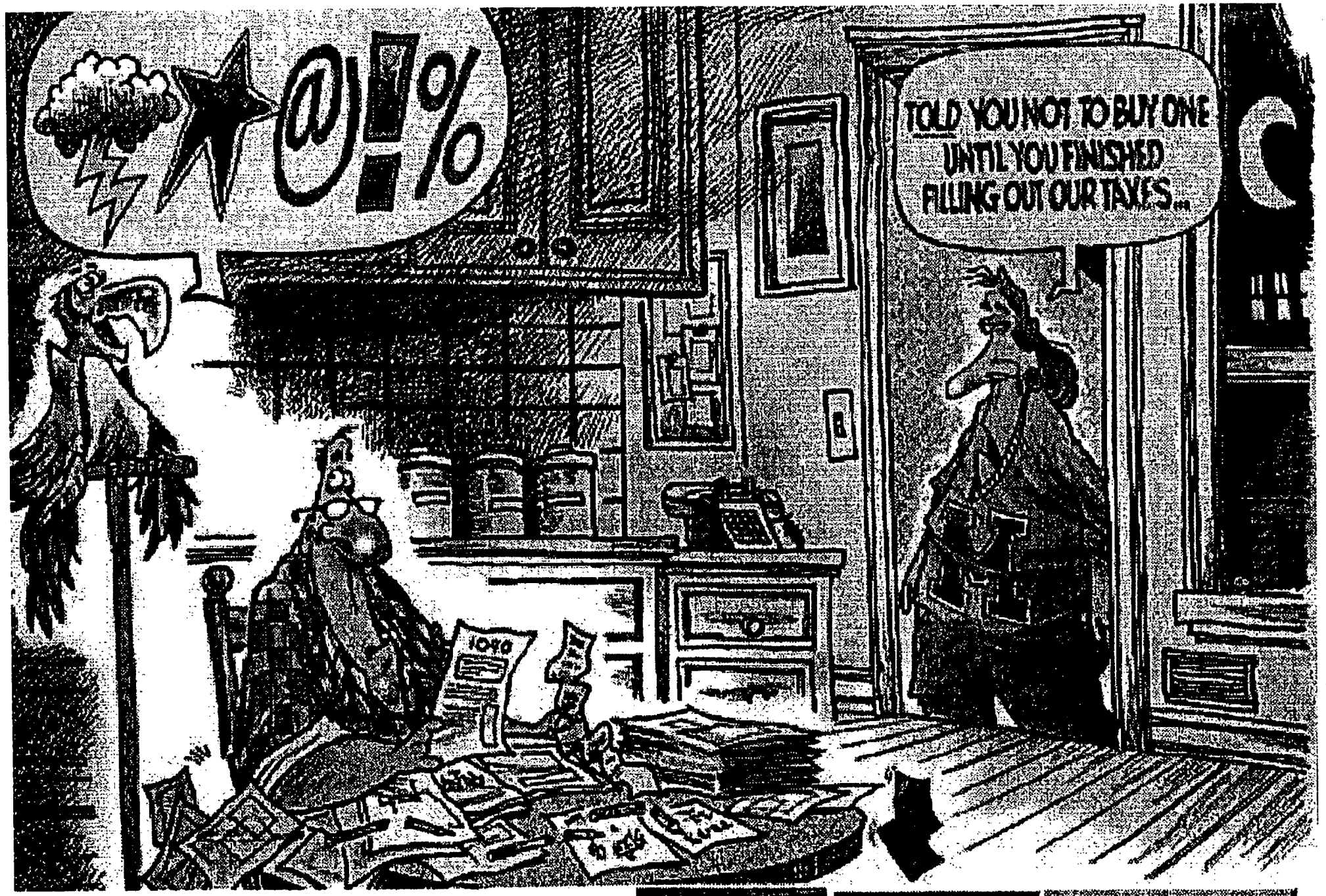
  5% on next $2,000

  6% on next $4,000

  7% on amount greater than $10,000

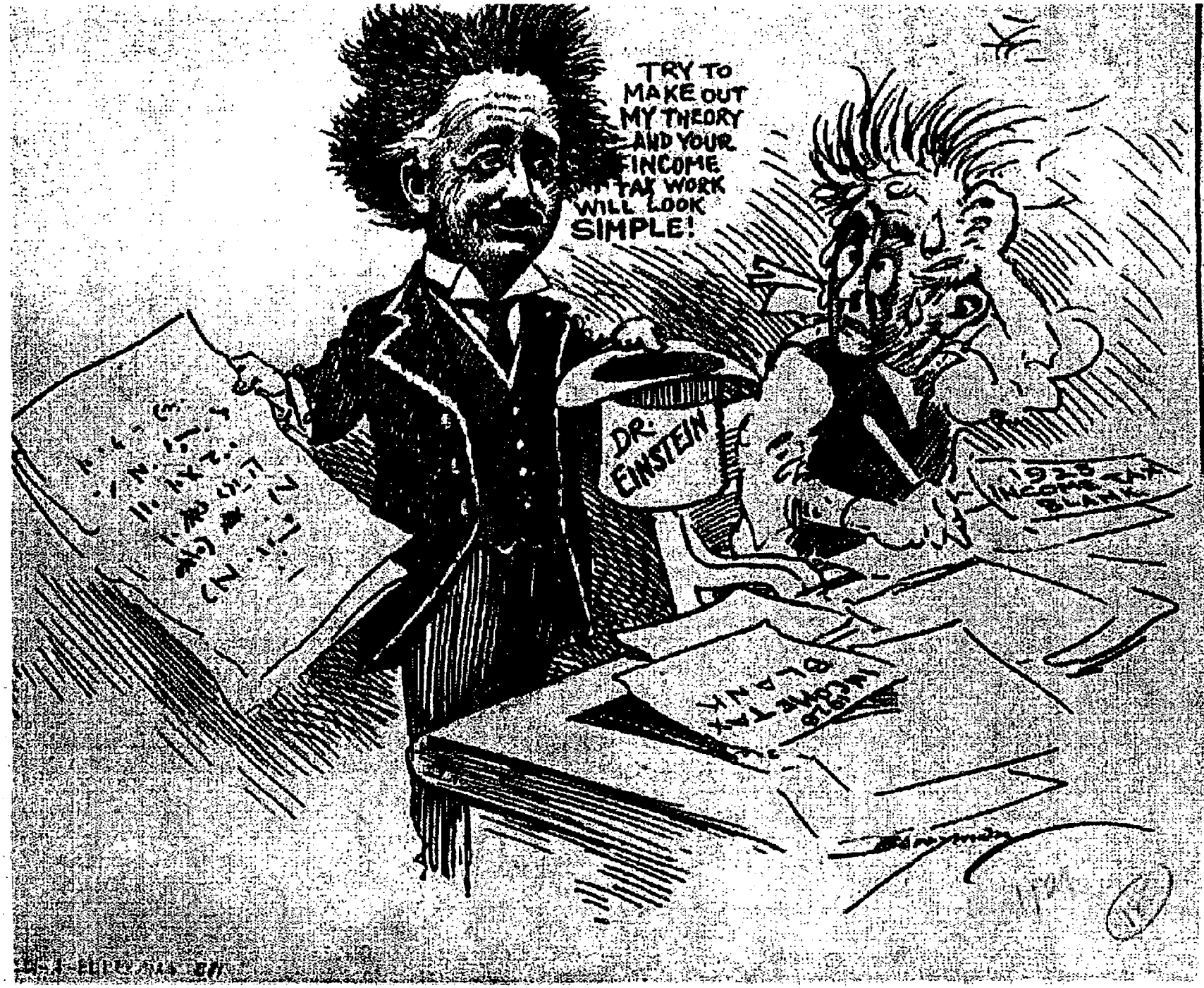


- Tax Fairness Act approved
- Adopted the federal definition of taxable income as the base for state income tax
- Allowed married couple to file a joint return for the first time.
- New tax rates of 6% and 7%
- Exemption $2,000 standard deduction $5,000 (married filing jointly)



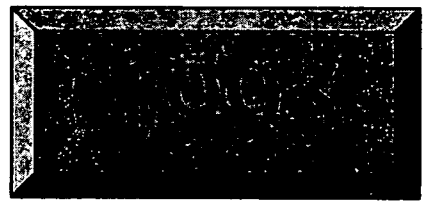
Mike Thompson, Detroit, Michigan, The [redacted] 03/28/03 Get Image

OF COURSE YOU CAN'T READ IT... WHY DO YOU THINK THEY CALL IT A CODE?
TAXES
A to 9.62
Vol. B
VOL. 114b

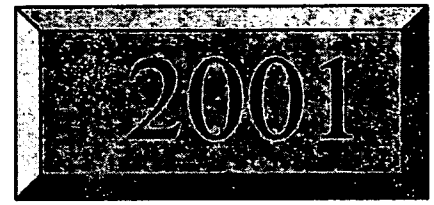


"Try to Make Out My Theory and Your Income Tax Work Will Look Simple!"

- Added 7.75% tax rate



- Increase personal exemption to $2,500
  (keep at $2,000 for high income tax payers)



- Added 8.25% tax rate (temporary)
- Increase standard deduction for married filing jointly to $6,000 in 2003

John Trever, New Mexico, The Albuquerque Journal

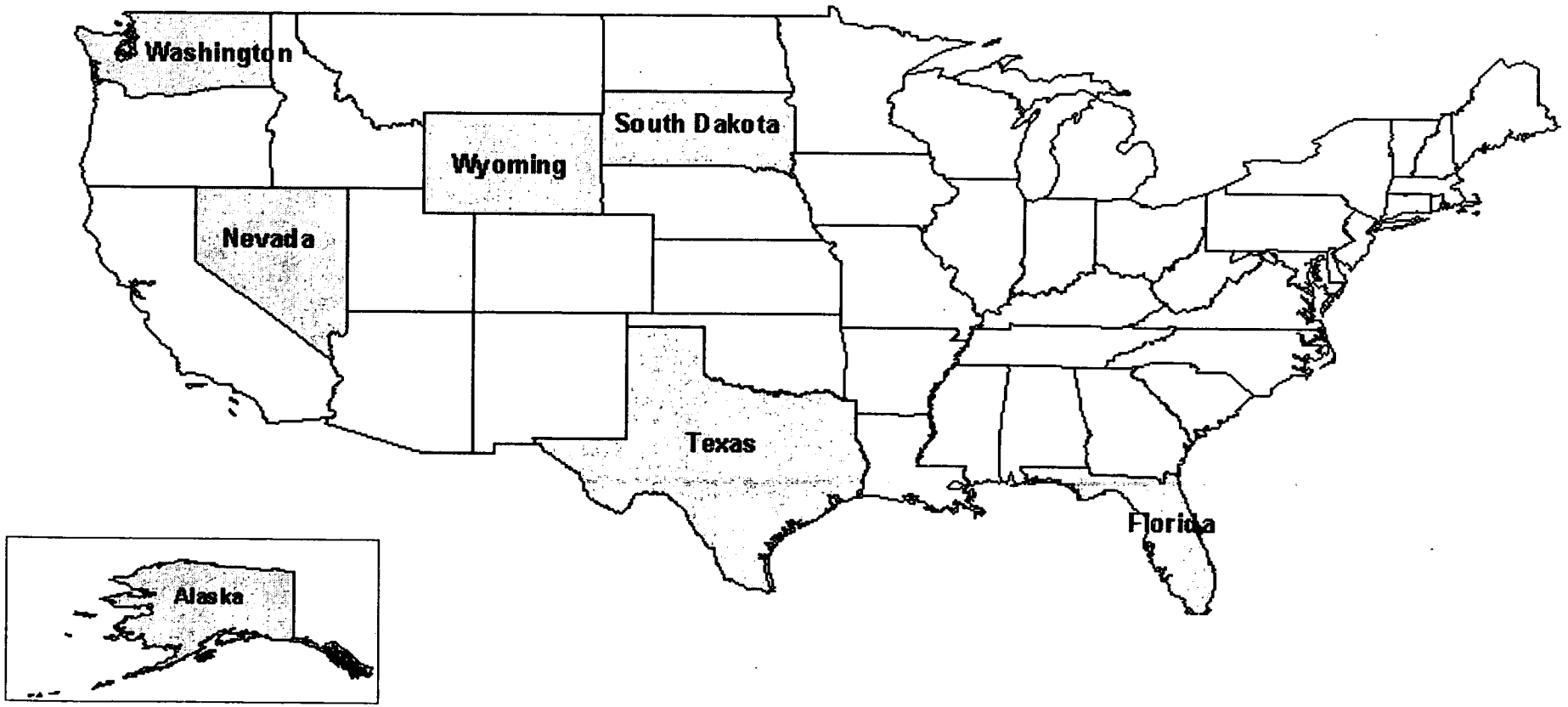
03/28/03

Individual Income Tax Rates

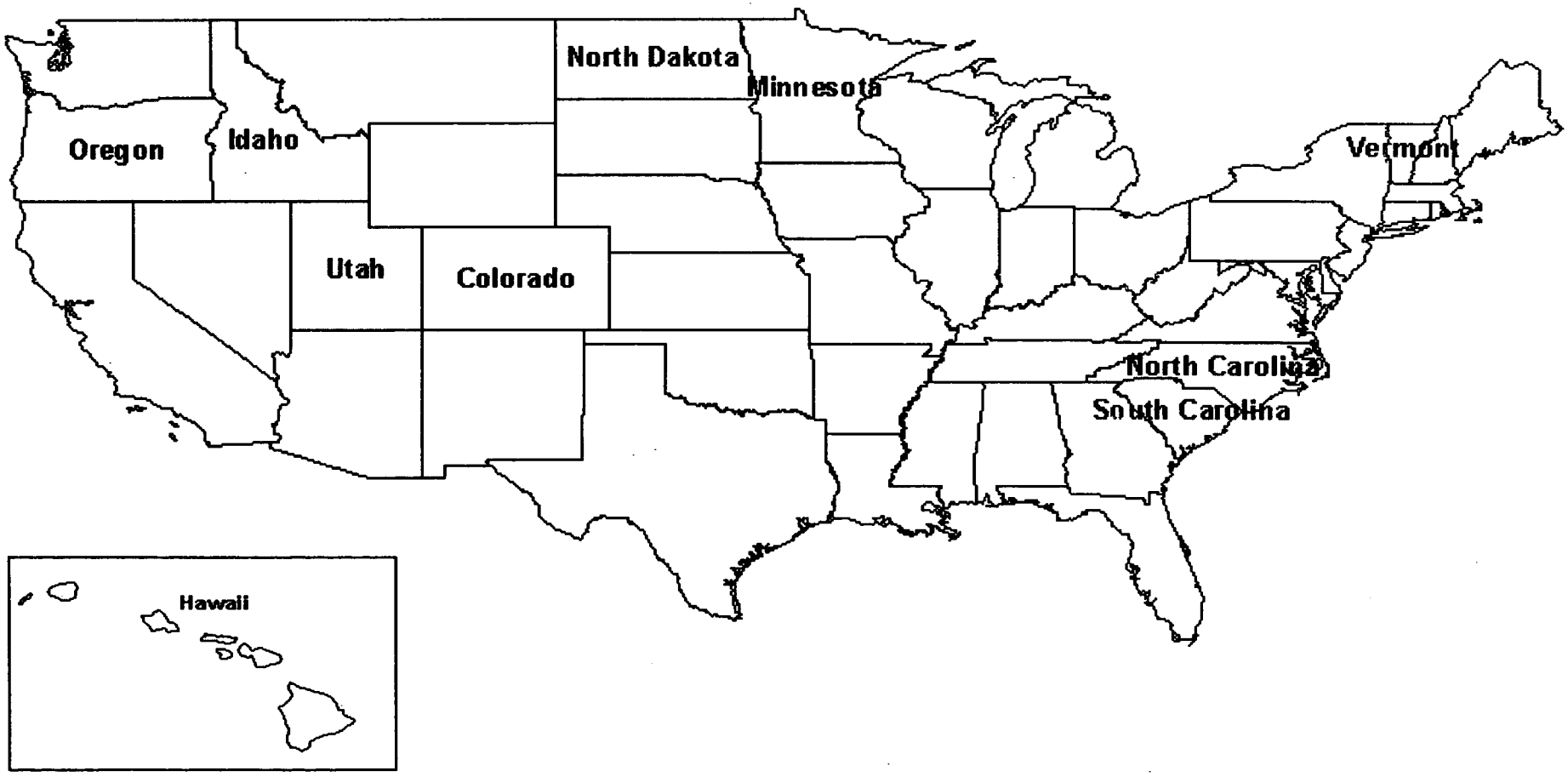
Tax Rates	**Taxable Income**			
	6%	**7%**	**7.75%**	**8.25%***
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

States with No Income Tax

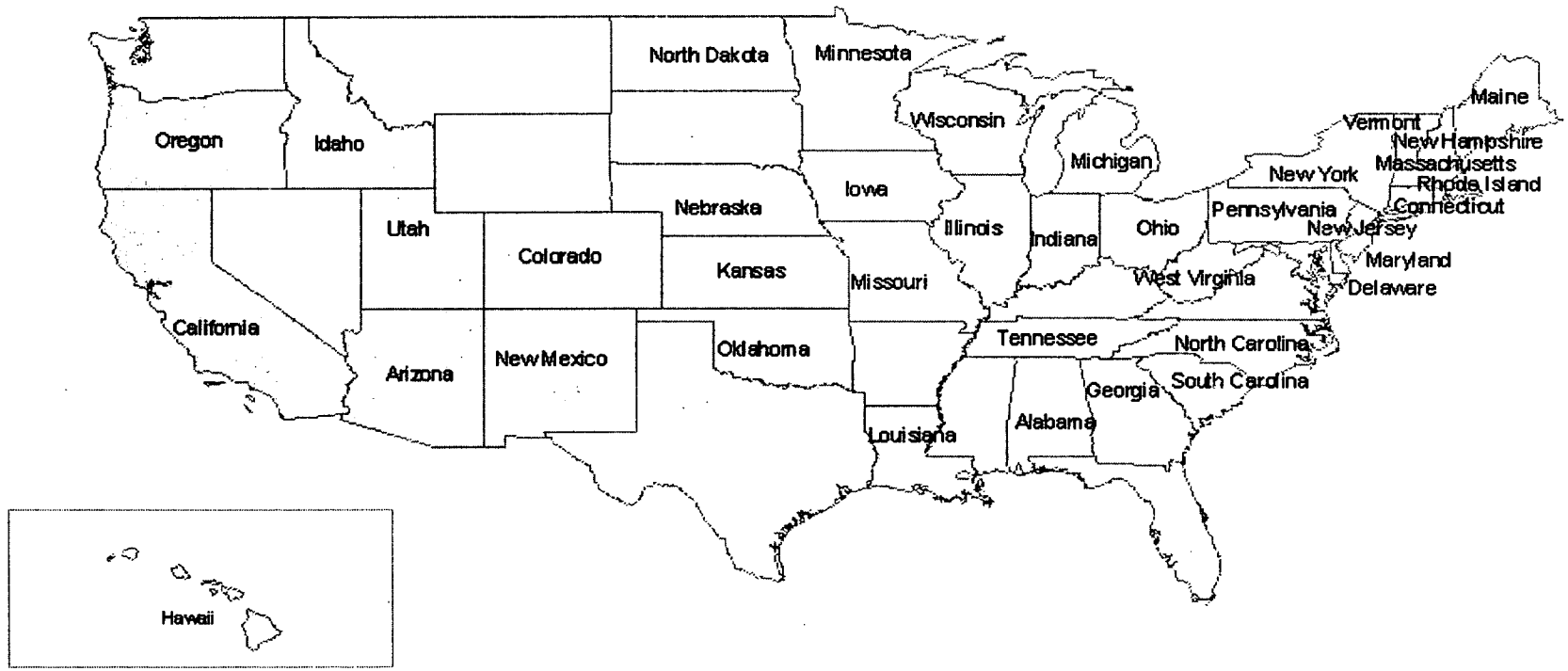


Starting Point = Taxable Income



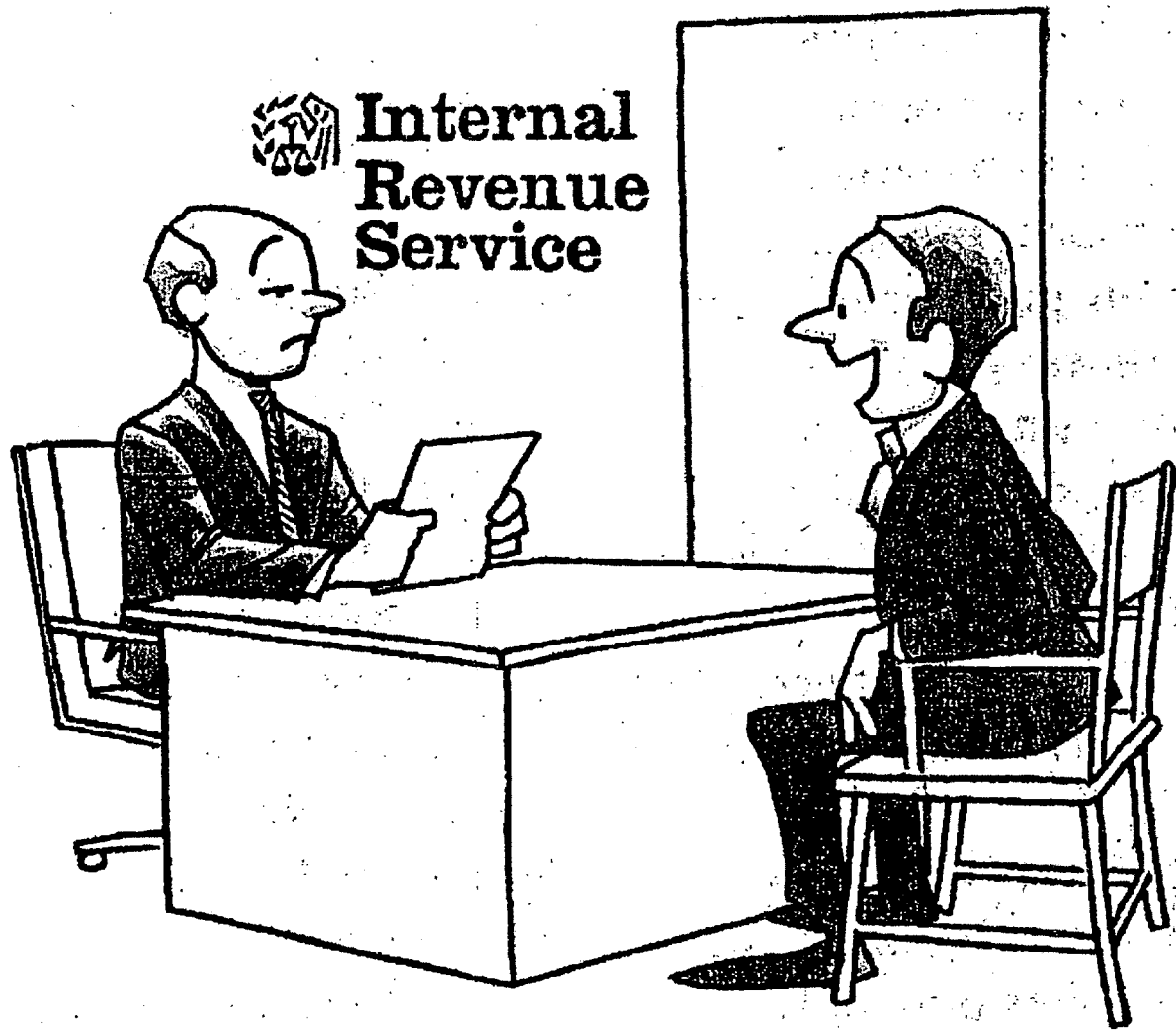
Starting Point = Federal AGI

Joint Filing for Married Couples



Exemptions/Exclusions

- Social Security
- Retirement income = $4,000 for public retirees and $2,000 for private retirees
- Retirement income = 100% exclusion for those vested in local, state and federal retirement system by August 12, 1989.
- Up to $35,000 in severance pay

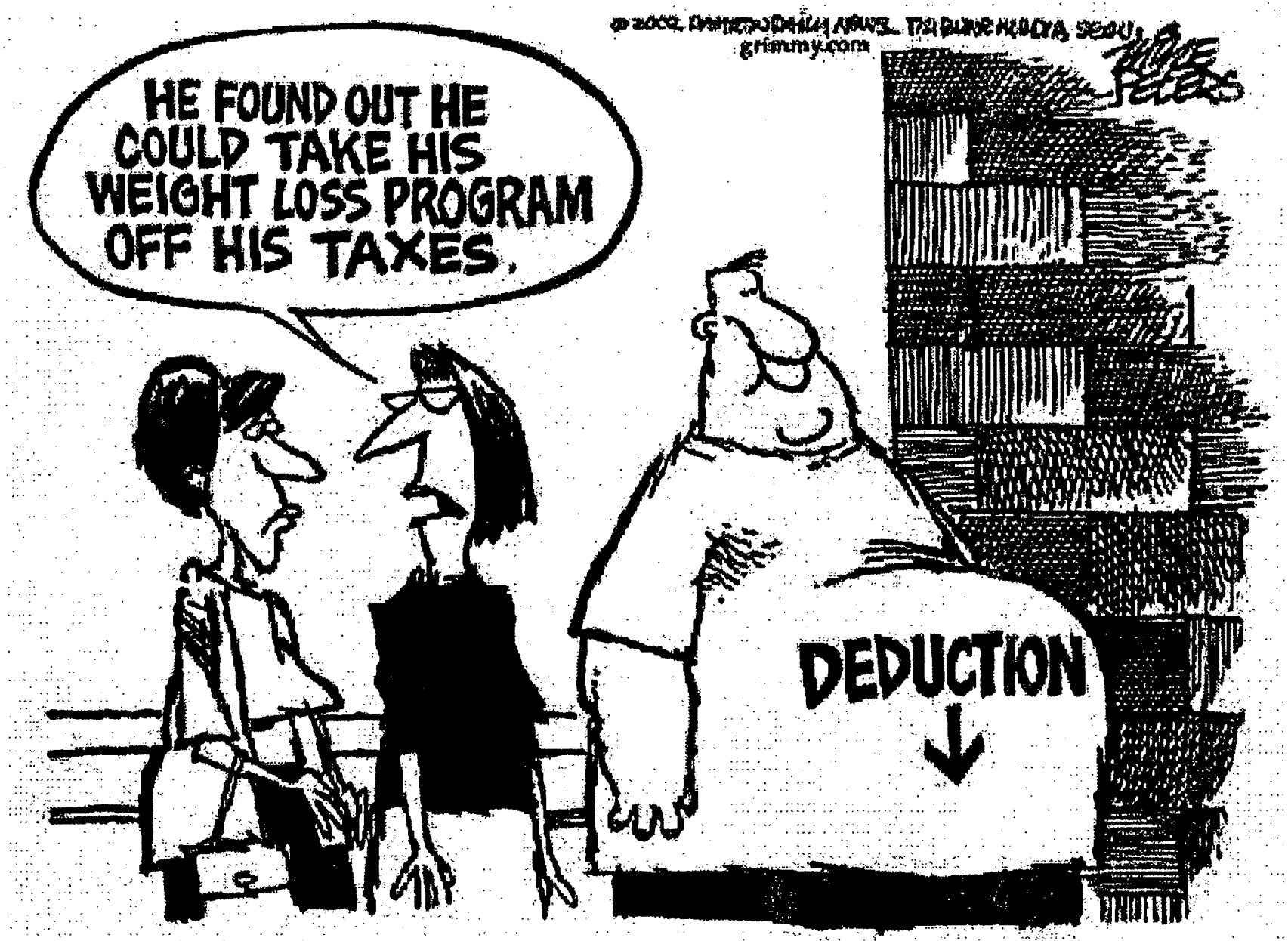


"I work religiously, so I thought my income was tax-exempt."

Deductions

- Interest income from U.S. and state obligations
- Local, state, or foreign tax refunds included in gross income
- Income earned on federally recognized Indian reservation
- Hurricane Floyd relief payments
- Distributions from Parental Savings Trust Fund (529 Plan)

MIKE PETERS **4/6/02**



Credits

- Child care and employment related expenses
- Dependent child = $60
- Disabled taxpayer = 1/3 of federal
- Long term care insurance
- Non-itemized charitable contributions
- Taxes paid to other states or countries

Credits - Housing

- Handicapped dwelling units
- Historic structure rehabilitation
- Low income housing

Credits - Agriculture

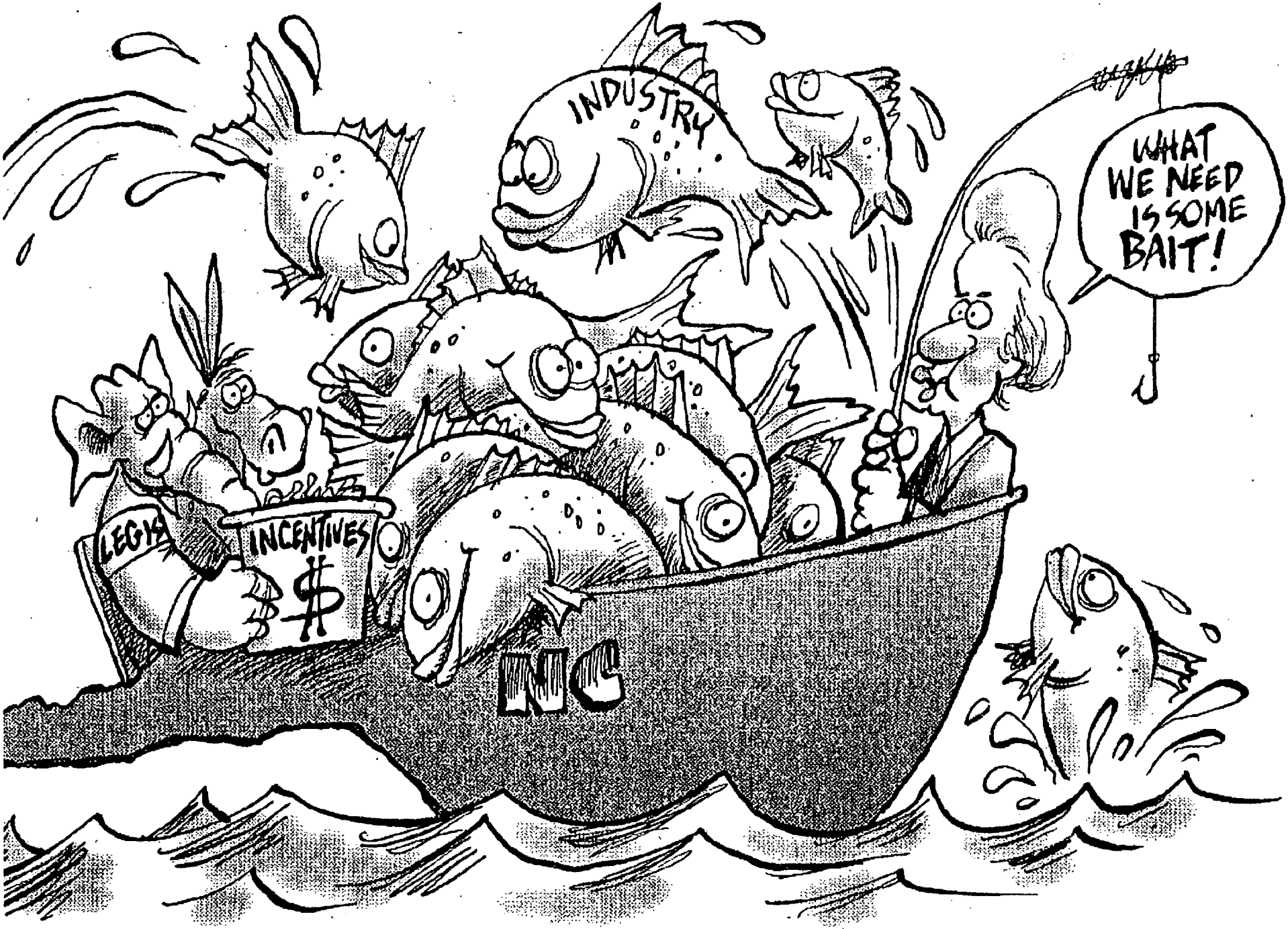
- Conservation tillage equipment
- Gleaned crops
- Property tax paid on farm machinery
- Poultry composting facility

Credits - Environment

- Renewable energy property
- Non-hazardous dry cleaning equipment
- Large or major recycling facility
- Certain real property donations

Credits – Economic Development

- Job creation
- Machinery and equipment
- Technology commercialization
- Research and development
- Worker training
- Central administrative office or aircraft facility property
- Purchase or lease of real property
- Development zone projects
- Recycling facility transport expenses
- State ports wharf fees
- Qualified business investments


INDUSTRY
WHAT WE NEED IS SOME BAIT!
LEGIS
INCENTIVES
$
NC

Individual Income Tax as % of State Tax Collections - 2001

North Carolina	48.2%
Georgia	48.2%
South Carolina	34.6%
Tennessee	2.5%
Virginia	55.2%
United States	37.1%

North Carolina
WIRELESS 911 BOARD

George Bakolia, Chair

Carolyn H. Carter, Vice Chair

March 24, 2003

To: Linda Milsaps, Fiscal Analyst

From: Richard Taylor, Executive Director

Subject: Interim Executive Summary

At the request of the Fiscal Research Division of the General Assembly, this Interim Executive Summary is being submitted regarding the activity of the North Carolina Wireless 911 Board during calendar year 2002.

Background

On September 25, 1998, the 1998 Session of the General Assembly of North Carolina approved Senate Bill 1242, G.S. 62a, Enhanced 911 Wireless Fund. The objectives of the act include providing for a Enhanced Wireless 911 System for the use of wireless telephone customers. The act provides for a service charge of $ .80 per month on each commercial mobile radio service (CMRS) connection. These funds are disbursed as provided by statute to CMRS providers and public safety answering points (PSAPs) in North Carolina.

The Board is staffed by an Executive Director and an accountant within the Office of Information Technology Services. The Board consists of 13 members and meets monthly, or as required, to identify, discuss and act upon those issues concerning the Enhanced Wireless 911 Fund.

Calendar year 2002 Financial Data

Total revenue collected by the CMRS providers was $ 35,649,090.91.

Total expenditures were:

Administration	$	155,244.34
CMRS Providers	$	12,045,284.33
PSAPs	$	13,283,619.80
Total Expenditures	$	25,484,148.47

The fund balance as of December 31, 2002, including interest, was $ 49,828,726.84

www.wireless911.its.state.nc.us
PO Box 17209 • Raleigh, North Carolina 27619-7209
Tel: (252) 672-7580 • Fax: (252) 672-7582 • State Courier 51-01-11
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In April of 2002, the Office of State Budget and Management, under the authority of Governor Easley, transferred $ 2,500,000 from the Enhanced Wireless 911 Fund to assist the State in its current budget crisis. These funds were paid from the CMRS portion of the fund balance.

As of December 31, 2002, 123 PSAPs have been certified as being capable of receiving and utilizing Phase I (call back number and cellsite) data from the CMRS providers. The state has a 76% Phase I coverage deployed by the wireless carriers.

Fourteen counties were not receiving any Phase I data in 2002. Yancey County does not have enhanced wireline 911 and does not receive funding from the Enhanced Wireless 911 fund. Northampton and Hertford Counties were upgrading their 911 equipment and were expected to be receiving Phase I data by the first quarter of 2003. The remaining eleven counties, Anson, Cherokee, Clay, Graham, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, and Union were in the process of resolving connectivity issues with their respective Local Exchange Carriers (LEC) with anticipated resolution by the end of the first quarter of 2003.

As of December 31, 2002, 30 PSAPs have requested Phase II (actual location identification) service from the CMRS providers. Only one carrier, Sprint PCS, had deployed Phase II technology in one county (Johnston County) by the end of the 2002 calendar year.

Of the eleven wireless carriers operating in North Carolina, three have submitted initial Phase II cost elements. For the next three years, Phase II deployment costs for these three carriers will exceed $47,000,000. Cost for the remaining eight carriers are expected to be submitted by the second quarter of 2003.

Please note that on March 11, 2003, the ITS CFO sent to Michele Nelson of Fiscal Research a five-page document in response to her inquiry regarding the Enhanced Wireless 911 Fund. I have sent you a copy of this report via e-mail.

If you have any questions, or need additional information, please contact me.

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Scotland	13,460,040	10,733,830	11,467,211	18,231,863	600,140	-	177,220	214,216,564
Stanly	-	224,773,605	24,653,407	8,287,071	1,980,667	-	123,217	492,330,928
Stokes	-	-	-	-	-	-	-	-
Surry	-	160,508,366	31,465,411	1,492,923	2,720,806	-	-	551,144,529
Swain	-	-	-	-	-	-	-	13,901,380
Transylvania	-	37,592,010	7,506,930	5,723,440	252,470	-	-	202,799,360
Tyrrell	-	3,590,368	2,418,729	-	367,448	-	51,017	71,259,604
Union	-	273,443,329	23,485,660	2,354,950	-	-	-	881,815,399
Vance	-	45,753,310	19,877,980	5,790	967,620	-	-	350,033,605
Wake	-	1,238,717,336	36,276,777	698,970	20,060,660	31,992,285	3,352,902	8,525,185,590
Warren	-	23,977,098	6,966,393	38,331	300,026	-	206,100	144,205,077
Washington	-	27,359,360	6,146,317	958,819	890,630	-	-	91,055,866
Watauga	-	-	-	-	-	-	-	-
Wayne	-	77,805,610	22,615,958	-	-	-	380,000	497,934,848
Wilkes	-	82,523,196	34,452,745	242,100	4,694,498	-	10,193,021	431,324,213
Wilson	-	-	-	-	-	-	-	-
Yadkin	-	-	-	-	747,700	-	-	93,442,000
Yancey	-	26,620,042	13,169,583	-	-	-	-	165,014,015
								-
TOTAL	**251,607,466**	**10,260,792,240**	**1,703,125,039**	**1,098,914,549**	**271,809,768**	**104,835,820**	**319,120,136**	**62,695,729,328**

-

TOTAL VALUE EXEMPT **62,695,729,328**

County tax forgone at statewide average rate **426,330,959**

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Lincoln	2,294,810	144,127,734	15,681,292	1,416,837	4,874,085	-	-	400,197,939
Macon	-	116,237,210	12,317,620	5,000	786,210	-	-	348,437,590
Madison	-	23,096,000	13,479,862	-	32,900	-	-	64,373,362
Martin	632,930	149,770,937	16,074,686	-	-	-	-	284,153,529
McDowell	-	-	22,576,445	-	-	-	-	165,470,635
Mecklenburg	95,581,220	236,614,720	45,817,535	126,021,597	16,037,110	-	-	5,812,938,698
Mitchell	-	-	-	-	-	-	-	-
Montgomery	-	10,372,400	6,544,610	962,900	626,200	-	76,000	188,501,710
Moore	-	118,221,720	14,805,337	1,047,690	7,891,310	50,000,000	29,244,580	485,353,317
Nash	-	234,003,838	19,626,503	26,928,236	14,451,967	-	748,650	754,365,365
New Hanover	9,584,514	86,504,689	29,605,507	-	11,997,569	-	1,260,668	1,355,335,162
Northampton	-	47,523,739	15,864,377	-	1,090,279	1,350,706	-	198,177,934
Onslow	-	55,609,182	16,683,532	7,509,657	5,432,419	-	292,000	536,592,495
Orange	-	409,954,857	22,325,870	27,271	12,570,372	-	-	3,472,387,566
Pamlico	-	36,996,253	7,135,732	-	874,255	-	2,170,438	97,603,145
Pasquotank	-	111,838,600	8,486,260	2,042,548	2,642,000	-	1,751,900	388,158,008
Pender	-	92,294,870	13,097,111	-	706,944	-	3,467,339	222,785,330
Perquimans	-	35,281,828	4,463,073	361,200	493,700	510,100	2,708,100	94,434,141
Person	16,240	101,961,298	10,290,943	15,436,845	1,337,180	-	-	292,855,496
Pitt	14,077,695	249,396,728	20,701,940	19,770,189	3,228,810	-	115,960,109	1,396,296,048
Polk	-	68,142,507	6,145,364	-	1,573,641	6,360,129	-	206,139,353
Randolph	6,262,110	176,129,317	34,862,538	185,530	7,889,242	-	-	569,982,613
Richmond	-	26,257,385	25,112,009	30,405,212	2,176,614	-	-	243,658,108
Robeson	-	-	-	-	-	-	-	-
Rockingham	-	127,489,564	45,405,424	2,122,355	9,657,994	-	624,419	479,089,647
Rowan	-	-	-	-	-	-	-	-
Rutherford	-	40,693,300	26,329,930	9,847,690	1,179,200	-	2,583,920	443,812,350
Sampson	-	103,992,696	18,134,072	-	2,576,218	-	690,423	272,161,675

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Dare	-	311,400	5,182,210	-	1,640,300	-	30,624,900	832,565,310
Davidson	-	347,561,160	46,130,031	-	-	-	-	950,102,801
Davie	-	288,170,370	11,255,817	1,640,226	1,711,520	-	-	451,090,025
Duplin	-	-	20,376,410	-	1,769,992	-	-	205,875,518
Durham	14,674,507	-	72,436,612	-	6,724,896	-	1,020,094	2,485,976,390
Edgecombe	-	81,735,071	15,059,712	-	1,702,023	-	-	338,175,982
Forsyth	54,845,220	196,379,740	55,830,620	27,638,300	12,610,300	-	31,431,018	3,003,359,228
Franklin	-	221,036,473	15,201,204	18,889,064	966,085	-	498,734	406,183,854
Gaston	16,612,650	109,455,737	104,074,874	22,805,160	6,545,610	-	33,120	892,258,748
Gates	-	30,474,867	4,264,941	45,262	412,275	-	522,716	67,495,615
Graham	-	4,326,152	5,206,113	884,958	-	-	-	127,391,963
Granville	-	73,477,378	11,354,588	-	465,599	-	-	362,763,248
Greene	-	57,487,750	7,817,805	-	-	-	-	65,305,555
Guilford	-	260,766,800	76,000	9,799,730	24,723,200	-	-	3,395,704,450
Halifax	-	61,654,649	33,911,183	39,709,783	1,382,830	-	275,230	351,538,705
Harnett	-	214,446,320	32,172,239	-	1,412,900	-	-	319,809,469
Haywood	-	115,098,457	17,816,395	-	-	-	-	744,247,307
Henderson	2,969,500	128,261,600	14,659,215	3,133,314	4,045,800	-	-	495,364,498
Hertford	-	43,593,273	13,517,847	447,468,830	997,994	-	3,127,437	618,251,182
Hoke	-	58,323,439	9,411,816	1,858,348	280,770	-	-	132,719,363
Hyde	-	1,820,068	4,349,510	53,695	340,896	-	-	252,891,643
Iredell	-	397,552,010	26,844,808	1,923,540	3,570,470	-	1,986,100	842,053,408
Jackson	-	137,046,200	10,552,212	-	-	-	-	513,623,212
Johnston	-	165,571,180	37,416,712	3,000,000	-	-	-	490,015,902
Jones	-	32,261,258	5,614,776	-	451,126	-	103,811	98,573,576
Lee	-	58,557,200	13,229,992	4,494,900	3,071,100	-	2,738,500	277,696,692
Lenoir	-	181,299,548	-	1,240,668	3,280,249	-	-	479,102,023

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Alamance	-	-	-	-	-	-	-	-
Alexander	-	54,869,900	8,411,750	56,300	747,600	-	-	146,953,950
Alleghany	-	62,704,802	7,628,330	-	364,400	-	-	164,879,154
Anson	-	-	-	-	-	-	-	-
Ashe	-	-	-	-	-	-	-	-
Avery	-	19,837,500	1,064,300	-	-	-	-	216,552,927
Beaufort	-	57,769,414	11,555,379	114,481,892	2,030,752	-	1,270,973	422,353,072
Bertie	-	88,863,573	14,644,861	-	311,944	-	-	166,893,909
Bladen	-	-	24,200,890	-	-	-	-	130,130,779
Brunswick	-	-	-	-	-	-	-	-
Buncombe	2,252,500	230,544,700	61,653,679	8,710,200	5,520,500	9,622,600	12,909,900	883,215,679
Burke	18,343,530	56,289,284	29,372,844	2,740,046	5,091,725	-	2,368,862	767,216,043
Cabarrus	-	285,702,730	34,760,760	59,266,095	3,096,850	-	-	1,287,427,467
Caldwell	-	41,737,100	28,043,830	29,272,666	1,044,500	-	-	367,522,796
Camden	-	47,024,878	2,496,489	-	738,964	-	-	72,671,745
Carteret	-	49,262,990	17,299,405	-	8,244,530	-	32,806,792	605,334,919
Caswell	-	-	-	-	-	-	-	-
Catawba	-	107,354,800	25,296,864	-	-	-	-	963,528,864
Chatham	-	351,364,590	11,159,340	1,598,663	661,099	5,000,000	8,672,057	636,670,818
Cherokee	-	-	-	-	-	-	-	-
Chowan	-	47,742,406	5,870,428	-	1,211,825	-	-	133,159,909
Clay	-	26,803,941	3,900,120	-	426,100	-	-	59,133,161
Cleveland	-	155,451,914	18,872,061	2,723,615	3,436,971	-	136,601	557,257,102
Columbus	-	78,920,500	34,427,740	-	999,000	-	-	277,759,690
Craven	-	39,049,680	16,515,063	866,450	7,979,440	-	10,674,310	2,769,731,452
Cumberland	-	156,920,606	40,116,591	12,487,830	8,088,749	-	1,856,958	1,368,276,031
Currituck	-	-	-	-	-	-	-	-

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Scotland	87,641,840	325,620	-	29,337,160	24,944,520	146,290	15,345,460	561,890	469,090	774,390
Stanly	110,223,280	9,825,715	-	80,508,468	9,438,193	7,079,861	6,152,884	8,741,556	-	543,004
Stokes	-	-	-	-	-	-	-	-	-	-
Surry	194,911,823	-	-	102,246,292	29,905,712	2,806,002	531,572	11,069,253	8,577,508	4,908,861
Swain	11,966,190	-	-	-	1,935,190	-	-	-	-	-
Transylvania	59,108,210	-	12,803,280	42,510,970	6,105,530	-	3,482,790	1,146,720	327,840	26,239,170
Tyrrell	59,813,247	-	-	3,993,274	-	-	-	-	-	1,025,521
Union	189,455,480	168,463,830	-	154,152,630	44,183,060	-	-	25,644,410	-	632,050
Vance	181,113,540	5,124,000	-	66,404,165	28,845,000	-	-	725,470	-	1,216,730
Wake	5,427,293,283	226,075,339	748,645	684,727,064	431,257,888	66,232,719	2,166,589	43,632,521	-	311,952,612
Warren	47,271,191	24,188,511	5,164,082	19,596,722	-	1,513,586	3,738,548	3,747,630	385,115	7,111,744
Washington	38,754,150	218,100	-	15,328,040	118,800	-	567,100	476,800	237,750	-
Watauga	-	-	-	-	-	-	-	-	-	-
Wayne	145,760,340	139,462,990	-	74,078,810	20,144,800	-	-	6,225,450	-	11,460,890
Wilkes	196,909,637	168,100	285,800	88,807,213	8,782,314	441,480	1,876,085	662,334	1,285,690	-
Wilson	-	-	-	-	-	-	-	-	-	-
Yadkin	22,267,800	20,838,500	997,300	37,789,300	3,342,100	573,900	332,200	778,400	-	5,774,800
Yancey	85,056,870	605,090	-	31,428,090	-	-	3,824,790	1,262,420	259,760	2,787,370
TOTAL	**29,136,684,822**	**2,898,461,437**	**255,727,658**	**8,595,674,157**	**3,905,226,973**	**286,483,111**	**600,903,556**	**767,089,971**	**66,628,527**	**2,172,644,098**

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Lincoln	130,723,050	-	-	80,528,466	15,065,617	-	807,178	1,994,843	-	2,684,027
Macon	89,093,730	4,978,860	1,900,000	62,400,480	37,710,100	1,419,100	1,694,130	16,083,300	3,811,850	-
Madison	17,767,000	-	598,900	5,023,400	-	-	-	-	-	4,375,300
Martin	83,019,046	-	-	31,471,890	-	-	-	-	831,030	2,353,010
McDowell	57,604,670	18,952,780	-	47,646,660	13,360,510	-	-	-	-	5,329,570
Mecklenburg	3,068,892,850	181,379,310	48,136,580	1,217,303,700	535,056,966	8,233,720	30,250,810	196,497,880	4,941,250	2,173,450
Mitchell	-	-	-	-	-	-	-	-	-	-
Montgomery	121,483,500	982,500	-	32,010,200	4,938,100	600,500	2,384,900	372,000	-	7,147,900
Moore	115,874,750	788,750	416,430	55,575,720	70,598,840	18,690,670	232,970	995,710	336,510	632,330
Nash	310,171,266	7,500,856	23,772,064	116,716,679	-	-	-	-	-	445,306
New Hanover	835,985,621	8,063,413	3,607,487	227,563,844	536,413	450,597	12,680,710	21,578,265	-	105,915,865
Northampton	69,144,884	594,928	29,560,995	22,355,135	-	1,731,699	6,358,584	-	-	2,602,608
Onslow	234,030,182	25,975,458	-	86,496,211	-	4,060,156	7,380,088	5,931,957	-	87,191,653
Orange	2,287,866,869	2,766,610	1,817,185	94,834,035	481,727,262	-	150,229,896	-	8,267,339	-
Pamlico	17,862,916	3,950,171	-	11,687,962	-	122,805	-	16,802,613	-	-
Pasquotank	211,908,600	9,326,500	1,247,100	30,038,400	-	3,616,600	662,400	4,157,400	384,200	55,500
Pender	80,801,410	1,835,461	285,699	28,851,519	164,339	-	132,585	-	-	1,148,053
Perquimans	32,071,400	-	-	13,099,840	-	1,396,900	3,459,000	562,700	-	26,300
Person	33,611,691	66,579,230	848,962	42,232,275	5,098,547	3,456,392	8,520,464	-	-	3,465,429
Pitt	596,513,853	-	-	157,746,706	172,904,808	-	31,544,650	14,287,220	-	163,340
Polk	72,031,252	2,313,920	-	29,547,792	12,183,246	-	3,812,728	3,330,675	133,791	564,308
Randolph	184,859,656	3,537,010	91,180	117,119,210	26,515,880	1,407,140	7,489,740	2,523,200	755,010	355,850
Richmond	97,066,817	357,488	-	48,322,624	247,914	-	12,531,252	515,365	122,865	542,563
Robeson	-	-	-	-	-	-	-	-	-	-
Rockingham	169,895,450	-	-	94,922,256	21,384,949	-	2,355,583	3,611,148	-	1,620,505
Rowan	-	-	-	-	-	-	-	-	-	-
Rutherford	138,617,750	1,813,000	994,200	165,230,510	35,598,400	708,900	9,103,100	4,159,760	191,100	6,761,590
Sampson	34,387,538	39,599,899	-	49,026,940	12,307,144	232,512	5,808,176	4,090,329	-	1,315,728

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Dare	755,996,600	-	-	31,019,700	1,424,100	-	1,529,300	4,836,800	-	-
Davidson	237,333,970	13,846,130	-	213,500,660	3,962,540	-	-	14,739,270	-	73,029,040
Davie	68,935,350	-	-	58,185,660	8,360,802	2,692,470	1,381,650	2,989,970	-	5,766,190
Duplin	78,106,493	33,935,545	-	51,212,781	14,804,352	316,600	2,151,900	1,402,155	-	1,799,290
Durham	1,048,795,305	420,395,540	2,141,908	567,751,512	4,779,083	-	2,698,802	15,186,067	5,619,329	323,752,735
Edgecombe	139,178,833	2,175,234	-	60,975,312	30,061,980	-	2,671,211	532,506	-	4,084,100
Forsyth	563,197,330	492,376,730	9,575,100	355,498,460	1,057,080,510	12,573,560	21,141,100	94,223,900	17,020,440	1,936,900
Franklin	86,097,313	-	18,931,439	36,306,832	-	-	2,725,274	5,144,990	26,616	359,830
Gaston	324,390,075	3,712,158	47,155,110	186,599,869	43,646,219	2,252,840	2,559,378	5,166,865	676,370	16,572,713
Gates	21,731,516	-	-	9,475,434	-	-	147,210	337,574	-	83,820
Graham	103,087,990	7,786,140	-	1,116,810	-	-	-	-	-	4,983,800
Granville	235,787,865	-	-	32,460,613	-	-	-	-	-	9,217,205
Greene	-	-	-	-	-	-	-	-	-	-
Guilford	1,917,017,800	137,910,600	4,495,200	507,635,970	234,122,000	74,091,700	30,252,300	43,399,350	-	151,413,800
Halifax	138,640,870	-	-	51,337,570	662,070	-	-	22,807,130	1,157,390	-
Harnett	41,591,370	4,998,480	219,430	17,525,830	808,940	10,000	1,226,130	353,590	-	5,044,240
Haywood	-	-	-	-	-	-	-	-	-	611,332,455
Henderson	170,271,600	1,517,300	75,600	121,487,569	13,314,100	-	12,844,200	6,046,300	168,100	16,570,300
Hertford	43,068,104	23,330,407	-	20,620,091	13,405,499	-	5,523,162	426,961	-	3,171,577
Hoke	38,966,940	37,680	527,670	18,623,920	-	289,210	2,026,790	2,060,810	165,750	146,220
Hyde	239,020,180	228,880	-	4,382,375	-	-	536,285	581,160	1,578,594	-
Iredell	198,839,110	6,137,890	-	148,802,970	36,171,970	398,910	2,459,890	11,766,150	875,110	4,724,480
Jackson	250,024,000	669,700	-	34,216,200	2,661,700	9,295,200	-	-	-	69,158,000
Johnston	142,733,620	13,040,370	-	99,658,660	-	-	-	6,964,430	-	21,630,930
Jones	49,606,500	-	-	10,112,579	-	-	-	146,221	251,505	25,800
Lee	133,678,400	-	855,100	44,317,000	-	-	13,638,100	3,065,700	-	50,700
Lenoir	215,451,314	10,433,950	179,829	37,616,163	20,338,401	6,344,500	453,276	2,464,125	-	-

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Alamance	-	-	-	-	-	-	-	-	-	-
Alexander	35,188,100	-	-	42,555,200	3,452,200	-	1,402,300	270,600	-	-
Alleghany	52,667,090	-	-	11,296,000	4,738,600	-	1,234,100	3,721,340	-	20,524,492
Anson	-	-	-	-	-	-	-	-	-	-
Ashe	-	-	-	-	-	-	-	-	-	-
Avery	50,886,807	47,904,100	-	47,904,100	-	-	-	18,922,700	-	30,033,420
Beaufort	164,314,387	-	968,818	51,633,364	-	-	6,233,069	10,623,765	-	1,471,259
Bertie	33,695,870	1,537,232	-	21,732,423	238,177	63,338	4,133,298	-	-	1,673,193
Bladen	40,060,900	21,083,000	-	28,613,099	10,600,900	-	-	-	-	5,571,990
Brunswick	-	-	-	-	-	-	-	-	-	-
Buncombe	188,500,600	1,717,800	5,481,100	68,807,100	98,450,000	12,440,600	80,603,900	19,929,600	3,672,400	72,398,500
Burke	302,572,059	125,946,474	-	150,365,599	35,147,190	16,175,494	10,170,346	8,674,104	-	3,958,486
Cabarrus	451,568,540	19,651,120	-	248,822,722	153,090,330	3,367,970	5,586,240	22,397,790	116,320	-
Caldwell	122,751,300	-	3,095,500	102,012,500	16,304,500	4,175,500	9,269,600	-	-	9,815,800
Camden	6,962,852	7,575,946	-	6,693,883	-	-	-	-	-	1,178,733
Carteret	425,618,016	194,772	-	71,737,735	-	-	-	170,679	-	-
Caswell	-	-	-	-	-	-	-	-	-	-
Catawba	223,363,300	279,130,600	-	255,803,600	-	-	-	-	-	72,579,700
Chatham	180,989,378	23,101,882	-	42,234,066	2,856,397	2,179,630	769,210	4,741,116	1,341,878	1,012
Cherokee	-	-	-	-	-	-	-	-	-	-
Chowan	54,192,569	62,665	-	17,309,554	-	-	3,528,370	-	-	3,241,992
Clay	13,381,100	-	-	8,762,900	-	1,364,000	-	1,270,000	358,600	2,866,400
Cleveland	100,147,970	90,028,356	24,094,810	113,138,893	7,455,096	5,862,162	12,373,230	18,265,830	-	5,269,593
Columbus	65,381,000	11,460,200	729,500	47,030,300	29,591,400	-	2,312,400	5,799,350	70,700	1,037,600
Craven	2,666,703,499	-	174,190	22,689,410	-	2,430,310	510,530	1,203,830	622,000	312,740
Cumberland	767,357,305	119,942,617	3,751,465	217,430,517	3,295,775	5,237,588	21,354,043	4,288,024	1,589,727	4,557,736
Currituck	-	-	-	-	-	-	-	-	-	-

ATTACHMENT 7

North Carolina Department of Revenue

Michael F. Easley
Governor

E. Norris Tolson
Secretary

March 3, 2003

Mr. James Johnson
Director
Fiscal Research Division
North Carolina General Assembly
Raleigh, NC 27601

Dear Mr. Johnson:

This letter transmits the report on William S. Lee Act Article 3A credits that the Department of Revenue is required to publish by March 1 of each year under G.S. 105-129.6(b).

As required, the report includes information on all 3A credit-eligible returns processed during the 12-month period ending December 31, 2003. It should be noted that the information provided reflects the amounts shown by taxpayers on their tax forms and has not been audited to eliminate returns for which credits were erroneously claimed. As such, the actual amounts of credits generated and claimed by taxpayers during this period may eventually be lower than the amounts shown in this report after the returns are subjected to the standard audit process.

All of the returns included in this report were received and processed during calendar year 2002. It should be noted that some of the returns were submitted for the 2001 tax year, while others were submitted for previous tax years. Summary tables are included in the report showing how much of the total credits claimed are attributable to each tax year. In addition to the summary tables, the following detailed tables are included:

(1) An itemized listing by taxpayer and enterprise tier of the new jobs for which credits were generated.
(2) An itemized listing by taxpayer and enterprise tier of the cost of machinery and equipment for which credits were generated.
(3) An itemized listing by taxpayer of the number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
(4) An itemized listing by taxpayer and enterprise tier of the amount of worker training expenditures for which credits were generated.

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(5) An itemized listing by taxpayer and enterprise tier of the amount of new research and development expenditures for which credits were generated.
(6) An itemized listing by taxpayer and enterprise tier of the cost of real property investment for which credits were generated.
(7) An itemized listing for each taxpayer of the amount of credits claimed by type of credit.

The report does not provide any itemized listing of credits claimed by enterprise tier because this information is not available from the tax credit forms submitted by taxpayers. When the Department developed the reporting forms for the Lee Act credits during the 1990's, there was no requirement that the Department provide information about the number and amount of credits claimed by tier. In developing the forms for claiming Lee Act credits, the Department chose to ease the reporting burden on taxpayers by allowing all claims for each type of credit to be reported on a single form. This form does not require the taxpayer to indicate what portion of the credits claimed is attributable to activities in each tier. As such, we are not able to provide information on credits claimed by enterprise tier.

If you should have any questions regarding this report, please contact Karl Knapp, Director of the Tax Research Division, at 733-7722.

Sincerely,

E. Norris Tolson
Secretary of Revenue

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Generated
Processed in Calendar Year 2002

Creating Jobs

Number of Taxpayers Generating Credit	Total Amount Generated
483	61,824,387.00

Machinery and Equipment

Number of Taxpayers Generating Credit	Total Amount Generated
866	610,488,800.00

Research and Development

Number of Taxpayers Generating Credit	Total Amount Generated
496	$88,949,054.00

Worker Training

Number of Taxpayers Generating Credit	Total Amount Generated
322	14,420,602.00

Central Office / Aircraft Facility

Number of Taxpayers Generating Credit	Total Amount Generated
41	$9,113,123.00

Technology Commercialization

Number of Taxpayers Generating Credit	Total Amount Generated
31	$22,492.00

Development Zone Projects

Number of Taxpayers Generating Credit	Total Amount Generated
0	$0.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002
By Tax Year That Credit Was Taken

Tax Year Beginning CY 2001	Creating Jobs	Machinery & Equipment	Research & Development	Worker Training	Central Office/ Aircraft Facility
Amount Claimed	$9,539,423	$30,412,710	$5,160,469	$1,744,359	$799,934
Number Claiming Credit	579	793	203	35	57
Tax Year Beginning CY 2000					
Amount Claimed	$ 3,749,737	$ 6,663,806	$ 1,016,269	$ 490,211	$ 216,151
Number Claiming Credit	173	201	60	28	43
Tax Year Beginning CY 1999					
Amount Claimed	$ 2,608,594	$ 9,643,763	$ 951,906	$ 367,557	$ 831,790
Number Claiming Credit	46	73	17	11	8
Tax Year Beginning CY 1998					
Amount Claimed	$ -	$ 22	$ -	$ -	$ -
Number Claiming Credit	0	1	0	0	0
Totals					
Amount Claimed	$15,897,754	$46,720,301	$7,128,644	$2,602,127	$1,847,875
Number Claiming Credit	798	1,068	280	74	108

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002

Creating Jobs

Number of Taxpayers Claiming Credit	Total Amount Claimed
798	15,897,754.00

Machinery and Equipment

Number of Taxpayers Claiming Credit	Total Amount Claimed
1068	$46,720,301.00

Research and Development

Number of Taxpayers Claiming Credit	Total Amount Claimed
280	$7,128,644.00

Worker Training

Number of Taxpayers Claiming Credit	Total Amount Claimed
74	$2,602,127.00

Central Office / Aircraft Facility

Number of Taxpayers Claiming Credit	Total Amount Claimed
108	$1,847,875.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002

Creating Jobs

Number of Taxpayers Claiming Credit	Total Amount Claimed
798	15,897,754.00

Machinery and Equipment

Number of Taxpayers Claiming Credit	Total Amount Claimed
1068	$46,720,301.00

Research and Development

Number of Taxpayers Claiming Credit	Total Amount Claimed
280	$7,128,644.00

Worker Training

Number of Taxpayers Claiming Credit	Total Amount Claimed
74	$2,602,127.00

Central Office / Aircraft Facility

Number of Taxpayers Claiming Credit	Total Amount Claimed
108	$1,847,875.00

Technology Commercialization

Number of Taxpayers Claiming Credit	Total Amount Claimed
21	$84,651.00

Development Zone Projects

Number of Taxpayers Claiming Credit	Total Amount Claimed
1	$9,234.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Generated
Processed in Calendar Year 2002

Creating Jobs

Number of Taxpayers Generating Credit	Total Amount Generated
483	61,824,387.00

Machinery and Equipment

Number of Taxpayers Generating Credit	Total Amount Generated
866	610,488,800.00

Research and Development

Number of Taxpayers Generating Credit	Total Amount Generated
496	$88,949,054.00

Worker Training

Number of Taxpayers Generating Credit	Total Amount Generated
322	14,420,602.00

Central Office / Aircraft Facility

Number of Taxpayers Generating Credit	Total Amount Generated
41	$9,113,123.00

William S. Lee Tax Credits

Creating Jobs

North Carolina Department of Revenue

William S. Lee Tax Credits
Creating Jobs
Processed in Calendar Year 2002

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
0			
	GRAPHIC PRINTING SERVICES, IN	0	0
	PARKER SALES & SERVICE, INC.	0	0
	HUFFMAN TECHNOLOGY, INC.	0	0
	MEASURMENT INCORPORATED PAYRO	0	0
	LEVITON MANUFACTURING CO., IN	0	0
	EMGRAN HOLDING CO., INC,	0	0
	BATTEN & COMPANY	0	0
	GGS, INC.	0	0
	S & W READY MIX CONCRETE COMP	56	144500
	GEO. G. SCOTT & CO.	0	0
	PATY LUMBER COMPANY	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0
	STEPHENS-L&E LLC	0	0
	MJ SOFFE CO INC	0	0
	JAMES L. TAYLOR MFG. CO.	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	JIMMY WARD HARDWOODS, INC.	0	0
	KING BROTHERS ELECTRIC COMPAN	0	0
	BUILDING BLOCKS CHILD CARE DE	0	0
	ANCHOR INDUSTRIAL SALES, INC.	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0
	TILSON MACHINE, INC.	0	0
	BROYHILL TRANSPORT, INC.	0	0
	CHOICE U.S.A. BEVERAGE, INC.	0	0
	ULTRA-MEK, INC.	0	0
	AMERITECH DIE & MOLD, INC.	0	0
	PEPCOM INDUSTRIES, INC.	0	0
	ROGER B. BERNHOLZ, P.A.	0	0
	THE TRANSCRIPTION CENTER, INC	0	0
	MORRIS HEATING & AIR CONDITIO	0	0
	ALDERON BIOSCIENCES, INC.	0	0
	KEYSTONE POWDERED METAL COMPA	0	0
	BARR-MULLIN, INC.	0	0
	SOUTHERN CONTAINER CORP.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	A & B FLORIST SUPPLY COMPANY	0	0
	HAMPTON INDUSTRIES, INC.	0	0
	PURCHASE FINANCE, INC.	0	0
	D & G UNIFORMS, INC.	0	0
	LIPS, INC.	0	0
	AKG OF AMERICA, INC.	0	0
	CHAMPION HOME BUILDERS CO.	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0
	J. CHRISTOPHER KIBLER, D.D.S.	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0
	TRINITY MANUFACTURING, INC.	0	0
	CONFLANDEY INC.	0	0
	PROBITY PRODUCTS	0	0
	HONEYWELL INTERNATIONAL INC.	0	0
	REMINGTON ARMS COMPANY, INC.	0	0
	HICKORY SCRAP IRON & METAL CO	0	0
	LAKESIDE BEACH, INC.	0	0
	THE CATO CORPORATION	0	0
	W. L. MITCHELL & SONS, INC.	0	0
	ROBERT S HUDGINS CO INC	0	0
	SEVERN PEANUT COMPANY, INC.	0	0
	HUFFMAN OIL COMPANY, INCORPOR	0	0
	LYLE E. FARVER & SON, INC.	0	0
	CATOSOUTH, LLC.	0	0
	UNITED STEEL PRODUCTS CO	0	0
	SOUTHERN CONCRETE	0	0
	ALCOA EXTRUSIONS, INC.	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0
	WILSON-COOK MEDICAL INC.	0	0
	R. L. STOWE MILLS, INC.	0	0
	TRILUX TECHNOLOGIES, INC.	0	0
	THE ROWBOAT COMPANY, INC.	0	0
	ZAGAROLI AND COMPANY	0	0
	LEX MAR, INC.	0	0
	JOE BROWN, INC.	0	0
	ROANE OBSTETRICS & GYNECOLOGY	0	0
	TECHNIMARK, INC.	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0
	MID ATLANTIC PRINTERS LTD	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	LARRY W. POOLE & ASSOCIATES,	0	0
	THE MCAULAY COMPANY, INC.	0	0
	PIONEER ECLIPSE CORPORATION	0	0
	DOMNICK HUNTER INC	0	0
	NEIL ALLEN INDUSTRIES, INC.	0	0
	GGS, INC.	0	0
	GREEN & MCCLURE FURNITURE COM	0	0
	MOSS-FISHER, INC.	0	0
	COCA-COLA BOTTLING CO. AFFILI	0	0
	VUNCANNON PLUMBING & MECHANIC	0	0
	MOVIEMAX, INC.	0	0
	TECHNICAL PRECISION PLASTICS,	0	0
	EVERETT BRYANT SALES, INC.	0	0
	PIEDMONT PACKAGING, INCORPORA	0	0
	DIAMOND ELECTRIC SUPPLY CO.,	0	0
	MONOLITH CORPORATION	0	0
	GENEVA CORPORATION	0	0
	BRAXTON AUTO PARTS CORPORATIO	0	0
	THOMAS BUILT BUSES, INC.	0	0
	EURO-MATIC PLASTICS, INC.	0	0
	ASHLEY ELECTRIC, INC.	0	0
	GETRAG CORPORATION	0	0
	CAROLINA STEEL CORPORATION	1	4500
	COOPER LEASING, INC.	0	0
	BREWER EQUIPMENT CO.	0	0
	NIVEK CORPORATION	0	0
	TATE LANNING & ASSOCIATES, P.	0	0
	ALBANI, BAYEUX INC.	0	0
	COOPER KENWORTH, INC.	0	0
	RALEIGH MEDICAL GROUP, P.A.	0	0
	BLUE RIDGE TIRE SERVICE, INC.	0	0
	FARMERS BURLEY WAREHOUSE, INC	0	0
	COPE EQUIPMENT COMPANY	0	0
	MT. AIRY OB-GYN CENTER, INC.	0	0
	BARNEY'S HOSIERY, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	TAR HEEL INSPECTION SERVICES,	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	H & H OF RALEIGH, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	ROBERT C. HICKMAN INSURANCE A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	VICTAULIC COMPANY OF AMERICA	0	0
	CLARKE AMERICAN CHECKS, INC.	0	0
	BAUMGARTNER INC.	0	0
	DELTA GYPSUM, INC.	0	0
	TERRY'S FLOOR FASHIONS, INC.	0	0
	BOYD & HASSELL, INC.	0	0
	RALEIGH PLASTIC SURGERY CENTE	0	0
	OUTDOOR LIGHTING, INC.	0	0
	TROXLER ELECTRONIC LABORATORI	0	0
	IMPLUS FOOTCARE, LLC	0	0
	H.R.W., INC.	0	0
	DILLARD'S, INC.	0	0
	BESTSWEET INC.	0	0
	MCGEE CORPORATION	0	0
	S T E R, ENTERPRISES, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	THE G.L.G. CORPORATION	0	0
	JACK CROSS HEATING & AIR COND	0	0
	LEXCOM TELEPHONE COMPANY	0	0
	ROGER DAVIS COMPANY, INC.	0	0
	TEXEL USA INC.	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	CARPENTER INDUSTRIES, INC.	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	CONTEMPORARY FURNITURE DESIGN	0	0
	THE TOOL & GAGE HOUSE COMPANY	0	0
	MSS CLEAN TECHNOLOGY INC.	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0
	TEXTILE CLEANER SERVICE CORPO	0	0
	CONSOLIDATED LAUNDRY EQUIPMEN	0	0
	INTELLI-MARK TECHNOLOGIES, IN	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALPHIN BROTHERS, INC.	0	0
	LUSTAR DYEING AND FINISHING,	0	0
	NEWTON INSTRUMENT CO INC	0	0
	SYZYGY LIVING & LEARNING CENT	0	0
	COMPONENT CONCEPTS, INC.	0	0
	R & J SERVICE COMPANY, INC.	0	0
	CULP, INC.	0	0
	WIGGINS-NORTH STATE MONUMENT	0	0
	HICKORY CARPET & FLOOR COVERI	0	0
	WESLEY HALL FURNITURE, INC.	0	0
	SOUTHERN FABRICATORS, INC.	0	0
	G. S. TUCKER & CO. OF WILSON,	0	0
	CONSOLIDATED METCO, INC.	0	0
	CLINTON MEDICAL CLINIC INC	0	0
	CLINTON MEDICAL CLINIC INC	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	BOYD & HASSELL, INC.	0	0
	RICHARD GAYLORD HOMES, INC.	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0
	BEAR CREEK HOSIERY, INC.	0	0
	MODACAD INC	0	0
	AMERITECH DIE & MOLD, INC.	0	0
	GLCO MARKETING, INC.	0	0
	PRECISION DECORATING CENTER,	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	PRINTPACK INC	0	0
	TURNAMICS, INC.	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	CHALLENGER INDUSTRIES, INC.	0	0
	MEDICAL CYBERNETICS, INC.	0	0
	ROYAL PARK UNIFORMS, INC.	2	6000
	LARRY WILLIAMS PLUMBING & HEA	0	0
	CONSOLIDATED METCO, INC.	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	SYZYGY LIVING & LEARNING CENT	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ENGINEERED POLYMER SOLUTIONS,	0	0
	UNICON CONCRETE, LLC	0	0
	LADD FURNITURE, INC.	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	BOLTON CORP.	0	0
	SWIFT-ECKRICH, INC.	0	0
	ANASTASIA FURS, INC.	0	0
	ALEXVALE FURNITURE, INC.	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0
	PRINCE BROTHERS FURNITURE CO.	0	0
	WB GROUP PROPERTIES, LLC	0	0
	CONFLANDEY INC.	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	HIGHLAND FABRICATORS, INC.	0	0
	PRINTPACK INC	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0
	GOLD STAR COATINGS - ASHEVILL	0	0
	LADD FURNITURE, INC.	0	0
	LADD FURNITURE, INC.	0	0
	LENOIR PAD AND PAPER COMPANY	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	SPENCER YACHTS, INC.	0	0
	HIGHLAND FABRICATORS, INC.	0	0
	PRIDGEN BROS. CONTRACTORS, IN	0	0
	BAKER & TAYLOR, INC.	0	0
	FINELINE INDUSTRIES EAST, INC	0	0
	LIN PAC, INC.	0	0
	MULLIS MOTORSPORTS, INC.	0	0
	HAFELE AMERICA CO.	0	0
	ATHEY PRODUCTS CORPORATION	0	0
	BLANKET FACTORY, INC.	0	0
	GENTRY MILLS, INC.	0	0
	LARRY WILLIAMS PLUMBING & HEA	0	0
	NORTHWEST RADIOLOGICAL & ASSO	0	0
	TRIANGLE BUILDING SERVICES, I	0	0
	PETERSON DEVELOPMENT CORPORAT	0	0
	SOUTHERN STEEL AND WIRE, INCO	0	0
	MCLAWHORN LIVESTOCK FARM, INC	0	0
	E BEN WARD JR PA	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	JOURNIGAN'S TIRE & BATTERY SA	0	0
	BENTEX MILLS, INC.	0	0
	MICKEY TRUCK BODIES INC.	0	0
	TENN-TEX PLASTICS, INC.	0	0
	B & A CONCRETE CONSTRUCTION,	0	0
	INDUTER U.S.A. INC	0	0
	REMPAC FOAM CORP	0	0
	YORK TAPE & LABEL, INC.	0	0
	RBC CENTURA BANK	0	0
	SPECTRUM DYED YARNS, INC.	0	0
	FULLER REAL ESTATE MANAGEMENT	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	MILLENNIUM MANUFACTURING STRU	0	0
	CAN AMERICAN UTILITY CONTRACT	0	0
	AB AUTOMOTIVE, INC.	0	0
	KCS INTERNATIONAL INC.	0	0
	GEORGIA-PACIFIC CORPORATION	0	0
	MCMAN, INC.	0	0
	P.A.M.A. FURNITURE, INC.	0	0
	ALLTEL INFORMATION SERVICES,	0	0
	PIEDMONT TRAILER RENTALS, INC	0	0
	KINCAID FURNITURE COMPANY, IN	0	0
	FOCKE & CO., INC.	0	0
	ASSOCIATED POSTERS, INCORPORA	0	0
	CROWN CRAFTS, INC.	0	0
	ASHLEY ELECTRIC, INC.	0	0
	BLAST, INC.	0	0
	KINARD BATTLEGROUND DRUGS, IN	0	0
	GENE INMAN TRUCKING, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	LEE BRICK & TILE COMPANY	0	0
	THE MOORE COUNTY HOUNDS, INC.	0	0
	MILLRIDGE INVESTMENTS, INC.	0	0
	SOUTHERN PARTS OF HILLSBOROUG	0	0
	CAROLINA SUNROCK CORPORATION	0	0
	WEVA CORPORATION	0	0
	CENTRO, INC.	0	0
	GEORGIA-CAROLINA QUARRIES, IN	0	0
	FOOTHILLS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALLEN-BECK INDUSTRIES, INC.	0	0
	WILLIAM S. KELLY, M. D., P. A	0	0
	TURNAMICS, INC.	0	0
	MARLOWE-VAN LOAN CORPORATION	0	0
	STOCKYARD & CO., INC.	0	0
	PUROLATOR PRODUCTS NA, INC.	0	0
	GREEN'S GRAINS, INC.	0	0
	MILKCO, INC.	0	0
	BOLTON CORP.	0	0
	FOOTHILLS, INC.	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0
	MANNING FABRICS, INC.	0	0
	BAUMANN SPRINGS USA, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	THE HAZEL COMPANY	0	0
	MEDICAL CYBERNETICS, INC.	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	BERNARDS, INC.	0	0
	FUCHS SYSTEMS, INC.	0	0
	GLOSSON REFRIGERATION & ELECT	0	0
	CHAPEL HILL PEDIATRIC PSYCHOL	0	0
	BRESTL, INC.	0	0
	A. M. CASTLE & CO.	0	0
	CARVER REALTY, INC.	0	0
	MCFARLAND & COMPANY, INC., PU	0	0
	MAYFLOWER GLASS	0	0
	SUIZA DAIRY	0	0
	CROSS CREEK EMERGENCY PHYSICI	0	0
	OAKWOOD ACCEPTANCE CORP	0	0
	SOUTH TECH PLASTICS, INC.	0	0
	ASKEW CHEVROLET, INC.	0	0
	JOWAT CORPORATION	0	0
	JESSCO, INC.	0	0
	TEKTONE SOUND AND SIGNAL MFG.	0	0
	GRANT TOURS, INC.	0	0
	DISCOUNT DRAPERY, INC.	0	0
	WWGP BROADCASTING CORPORATION	0	0
	SUNLINE USA GROUP, INC.	0	0
	CUSTOM ENGRAVING AND TROPHY,	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	RALEIGH GOLF ASSOCIATION, INC	0	0
	LEE BUILDER MART, INC.	0	0
	FAB-TECH INDUSTRIES, INC.	0	0
	ABCO AUTOMATION, INC.	0	0
	SOFTEX FIN	0	0
	MID-ATLANTIC DRAINAGE, INC.	0	0
	E-Z SERVE CONVENIENCE STORES,	0	0
	SWIMOUT OVERFLOW COMPONENTS,	0	0
	PEARCE BROTHERS ROOFING CO.,	0	0
	HUNTER INDUSTRIES INCORPORATE	0	0
	SAT INTERNATIONAL, INC.	0	0
	KLINGSPOR ABRASIVES, INC.	0	0
	MATERIAL HANDLING TECHNOLOGIE	0	0
	JIMMY'S PLUMBING & REPAIR, IN	0	0
	SMITH-TOMLINSON CORPORATION	0	0
	POLYCHEM ALLOY, INC.	0	0
	MEC-TRIC CONTROL COMPANY	0	0
	ENERGY SYSTEMS ANALYSTS, INC.	0	0
	DIRECT CALL, INC.	0	0
	JOEL W. WALKER, D.D.S., P.A.	0	0
	AMERICAN OFFSET PRINTING INK	0	0
	BURLAN CORPORATION	0	0
	BEFCO, INC.	0	0
	THE QUANTU GROUP INC	0	0
	ENVIRON PRODUCTS INC.	0	0
	INTERSTATE APPAREL GROUP	0	0
	PRESTON-HILL, INC.	0	0
	CARPENTER CONTRACTORS OF AMER	13	104000
	JOHN WIELAND HOMES AND NEIGHB	0	0
	POLAR PLASTICS (NC) INC	0	0
	PIEDMONT METALS OF BURLINGTON	0	0
	INTERFACE TECHNOLOGIES, INC.	0	0
	REXAM RELEASE	0	0
	WOMEN'S WELLNESS CENTER, P.A.	0	0
	J. S. MANN'S OF WHITEVILLE, I	0	0
	RECREATIONAL EQUIPMENT, INC.	0	0
	ABOVE THE GRADE CLEARING & G	0	0
	FLEETWASH SYSTEMS OF CAROLINA	0	0
	HOMES BY GEORGE STEELE, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CAROLINA WHOLESALE OFFICE MAC	0	0
	ALLEN BRADLEY D	0	0
	ALLEN JOSEPH G	0	0
	BAKER JAMES C	0	0
	BEEKER GEORGE M	0	0
	BELL JOHN M	0	0
	BELL THOMAS F	0	0
	BIRCHETTE GEORGE A	0	0
	BLACK WILLIAM H	0	0
	CAPELL JOHN H	0	0
	CAPELL KERRY L	0	0
	CARTER RUSSELL M	0	0
	CLINE JULIUS D	0	0
	COHEN LEIPOLD I	0	0
	CONNOR WILTON M	0	0
	CONNOR WILTON M	0	0
	CORNS BILLY R	0	0
	CROWDER TODD L	0	0
	CULHANE P E	0	0
	D'ARENBERG PIERRE	0	0
	D'ARENBERG PIERRE	0	0
	DEAL EDWARD M	0	0
	DEAL RONALD E	0	0
	DUBOSE CHARLES H	0	0
	DUNLOW ERNEST M	0	0
	ERVIN JOHN W	0	0
	EVANS KEVIN W	0	0
	FALLS THOMAS N	0	0
	FANCOURT NEAL S	0	0
	FIELDS GEORGE B	0	0
	FORD TIMOTHY L	0	0
	HARRAWOOD DAVID A	0	0
	HOLT AMANDA M	0	0
	HOLT ASHLEY E	0	0
	HOLT CHARLES D	0	0
	HOLT JOHN A	0	0
	HOLT JOHN A	0	0
	HOLT MARGUERITE E	0	0
	HOLT MICHAEL M	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT SAMUEL T	0	0
	HOLT SARAH M	0	0
	HOLTON JAMES R	0	0
	HUGHES JOSEPH K	0	0
	HUGHES JOSEPH K	0	0
	HUGHES WILLIAM C	0	0
	HUGHES JR G J	0	0
	HUNTER CHARLES M	0	0
	JOHNSON PHILIP H	0	0
	KELLY JAMES F	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	LANE LANDON B	0	0
	LANNING HOY S	0	0
	LAUGHLIN DAVID E	0	0
	LEE EDWARD L	0	0
	LONDON WILLIAM L	0	0
	MANCOSH DOUGLAS G	0	0
	MANESS JOHN M	0	0
	MARSH JAMES P	0	0
	MCCARTHY CHARLES E	0	0
	MCLEOD JOHN A	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MCMICHAEL DALTON L	0	0
	MINGES LOUISE T	0	0
	NEWSOME TIMOTHY E	0	0
	OLDHAM FRANK P	0	0
	PARKER GEORGE W	0	0
	PEGRAM TERRY L	0	0
	PERKINS GEORGE R	0	0
	PERKINS GEORGE R	0	0
	PERKINS JOHN E	0	0
	PERKINS JOHN E	0	0
	PERRY CHARLES R	0	0
	PERRY DON W	0	0
	PERRY FRANK G	0	0
	PERRY FRANK G	0	0
	PERRY HAL C	0	0
	PERRY HUGH P	0	0
	POAG JAMES C	0	0
	PROPST ALEX A	0	0
	RATTZ JAMES M	0	0
	RAWALD KURT R	0	0
	REID LEWIS G	0	0
	RICHARDSON JOHN M	0	0
	RICHARDSON MORGAN L	0	0
	RIHANI FUAD A	0	0
	RUSHING GUY F	0	0
	SCHOLD ERIC W	0	0
	SHERMAN MICHAEL M	0	0
	SHORT RALPH H	0	0
	SKINNER ERIKA D	0	0
	SKINNER JEFFERY M	0	0
	SMITH JEFFREY D	0	0
	SMITH JERRY N	0	0
	SOFIELD HALEY D	0	0
	SOFIELD HEATHER	0	0
	SOFIELD ROBERT T	0	0
	STEELE DAVID S	0	0
	STEPHENS ALISON	0	0
	SWARTZ EDWIN H	0	0
	SWARTZ MICHAEL L	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	SWARTZ WILLIAM K	0	0
	THOMAS WILLIAM H	0	0
	TURBYFLL ROGER C	0	0
	WEIBEL MARCUS F	0	0
	WICKER DONALD M	0	0
	WILEY CHRISTOPHE J	0	0
	WILKINSON WILLIAM A	0	0
	WILSON WINFRED G	0	0
	WORNOM III SAMUEL J	0	0
	WRENN GUY W	0	0
	WRENN JACKSON K	0	0
	Total for Tier: 0	72	259000
1			
	PCH, LLC	0	0
	IDEAL ACCESSORIES CORPORATION	0	0
	TAR HEEL GENERATOR, LLC	0	0
	STANLEY FURNITURE COMPANY, IN	0	0
	MCNUTT SERVICE GROUP, INC.	0	0
	DEAL'S LAWN SERVICE, INC.	0	0
	WHITE OIL COMPANY	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	WELDON STEEL CORP	4	50000
	GALEY & LORD INDUSTRIES, INC.	0	0
	CHALLENGER INDUSTRIES, INC.	0	0
	HOME LIFE CARE, INC.	13	162500
	THE GATES CORPORATION	30	375000
	COCA-COLA BOTTLING CO CONSOLI	0	0
	GLENOIT CORPORATION	0	0
	SMITHKLINE BEECHAM CORPORATIO	732	366000
	ARCHITECTU	9	112500
	TOP TOBACCO L P	28	350000
	ACTION PERFORMANCE COMPANIES,	0	0
	THE MITCHELL GOLD CO.	0	0
	GILES CHEMICAL CORP	0	0
	WIREWAY/HUSKY CORP.	0	0
	MICRO AUDIOMETRICS CORPORATIO	2	25000
	ASMO APPALACHIAN CORPORATION	0	0
	ETHAN ALLEN INC.	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	STEPHEN MEEHAN COMMUNICATIONS	0	0
	UCO FABRICS, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	DATAMARK GRAPHICS, INC.	0	0
	KEEBLER COMPANY	0	0
	NEW BREED, INC.	0	0
	AMERICAN OFFSET PRINTING INK	0	0
	W. E. BAILEY AND SON, INC.	0	0
	W. E. BAILEY AND SON, INC.	0	0
	FIT-ALL SPORTSWEAR, INC.	0	0
	CORNING INCORPORATED	0	0
	SAFELITE GLASS CORP	0	0
	KORDSA USA	0	0
	THE PANTRY, INC.	0	0
	WESTPOINT STEVENS INC.	0	0
	KEIHIN CAROLINA SYSTEM TECHNO	0	0
	ALADDIN MANUFACTURING CORP	0	0
	RESER'S FINE FOODS INC	71	887500
	PRECISION ALLOYS INC	0	0
	HALCORE GROUP, INC.	28	350000
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	CONE MILLS CORPORATION	0	0
	PHOENIX LUMBER CO	20	250000
	SOUTHERN CONCRETE MATERIALS,	1	12500
	MACHINE & WELDING SUPPLY	2	33000
	BERTELSMANN MUSIC GROUP, INC.	0	0
	OLDHAM SAW CO., INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	CONCRETE SUPPLY CO.	0	0
	MOEN INCORPORATED	0	0
	SOUTHERN CONCRETE MATERIALS,	4	50000
	TNS MILLS, INC.	0	0
	CHATSWORTH PRODUCTS, INC.	0	0
	CF GROUP, INC.	0	0
	CF GROUP, INC.	0	0
	HAMPTON INDUSTRIES, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	TRIPATH IMAGING, INC.	0	0
	RAILLINC CORPORATION	0	0
	SOUTHERN CONCRETE MATERIALS,	12	94000
	HEARTHSTONE ENTERPRISES, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	CUSTOM GLASS PRODUCTS OF CARO	0	0
	TAR HEEL INSPECTION SERVICES,	0	0
	PMW PRODUCTS, INC.	0	0
	CAROLINA MILLWORK OF ROCKINGH	0	0
	MICRO AUDIOMETRICS CORPORATIO	0	0
	NARRICOT INDUSTRIES, INC.	0	0
	C T SPECIALTIES CORP.	0	0
	BYRD TRACTOR AND EQUIPMENT CO	0	0
	CHAMPION PRODUCTS INC.	0	0
	NEW BREED CORPORATE SERVICES,	0	0
	S & N COMMUNICATIONS, INC.	0	0
	DAN RIVER INC.	0	0
	HARDWARE SUPPLIERS OF AMERICA	0	0
	THE TIMKEN COMPANY	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	UNIMIN CORPORATION	0	0
	CASCADES MOULDED PULP, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	BROWN BROTHERS PLUMBING & HEA	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	M & M ELECTRIC SERVICE, INC.	0	0
	DATA SPECTRUM CORPORATION	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	CURRIN'S AUTO SUPPLY, INC.	0	0
	SUPERIOR DRY CLEANERS AND LAU	0	0
	ATLANTIC CORPORATION OF WILMI	8	100000
	FINELINE INDUSTRIES EAST, INC	50	625000
	BURKE MILLS, INC.	0	0
	KENGO, INC.	0	0
	MADDUX SUPPLY COMPANY	0	0
	OWENS-ILLINOIS CLOSURE INC.	33	544500
	CHAMBERS FABRICS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	BURLINGTON INDUSTRIES, INC.	68	850000
	HOFFMAN & HOFFMAN, INC.	0	0
	MAGNOLIA MFG CO	26	325000
	NOBLE OIL SERVICES, INC.	0	0
	SPARTA PLANT, INC.	0	0
	CASCADES TISSUE GROUP - NORTH	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0
	RAILROAD FRICTION PRODUCTS CO	0	0
	SYZYGY LIVING & LEARNING CENT	0	0
	RAILROAD FRICTION PRODUCTS CO	14	231000
	RAILROAD FRICTION PRODUCTS CO	0	0
	CAROLINA T	0	0
	LADD FURNITURE, INC.	0	0
	NEWTON INSTRUMENT CO INC	0	0
	ALDREDGE JR EMMETT C	1	16500
	ALDREDGE JR EMMETT C	1	16500
	AUSTIN LAWRENCE A	0	0
	BARRINGER BRENT D	0	0
	BELL THOMAS F	0	0
	BELL THOMAS F	0	0
	BOND JAMES O	0	0
	BOND JAMES O	0	0
	CARLSON STEPHEN C	0	0
	D'ARENBERG PIERRE	0	0
	DICKINSON CHARLES F	0	0
	ECHOLS THOMAS E	0	0
	FISHER THOMAS G	0	0
	GERBER ERIC T	0	0
	GOODING DAVID R	0	0
	HARRAWOOD DAVID A	0	0
	HARRELL WAYNE M	0	0
	HOARD JOSEPH S	17	212500
	HUGHES JOSEPH K	0	0
	HUNTLEY MAX M	0	13830
	LANE CURK T	0	0
	MADDISON LAURENCE B	0	0
	PERKINS JOHN E	0	0
	PERRY FRANK G	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ROTH GARY W	0	0
	SHOJI HIDETOSHI	0	0
	SMITH THOMAS D	0	0
	TAFT THOMAS F	0	0
	THOMAS GERALD P	0	0
	WATSON TED R	0	0
	WILLIAMS STEVEN G	0	0
	WISE CHRISTOPHE C	0	0
	WORNOM III SAMUEL J	0	0
	WRENN JAMES H	0	0
	YARBORO THOMAS R	6	1
	YARBORO THOMAS R	0	0
	YARBORO THOMAS R	1111	1
	Total for Tier: 1	2291	6052832
2			
	EAGERTON PLUMBING CO. INC.	46	184000
	TRIANGLE BRICK COMPANY	15	60000
	WILLAMETTE INDUSTRIES, INC.	5	40000
	VEEDER ROOT OF NC	54	216000
	BURLINGTON INDUSTRIES, INC.	0	0
	TURN BULL LUMBER CO	0	0
	CONE MILLS CORPORATION	0	0
	ETHAN ALLEN INC.	0	0
	BRODER BROS CO	25	100000
	COCA-COLA ENTERPRISES INC.	0	0
	CONOPCO, INC.	30	120000
	PUROLATOR PRODUCTS AIR FILTRA	7	28000
	CAROLINA T	0	0
	CRESTLINE HOMES, INC.	0	0
	CRESTLINE HOMES, INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	DYNAPAR CORP	0	0
	CMH MANUFACTURING, INC.	0	0
	ABBOTT LABORATORIES, INC.	65	520000
	SPRINGS INDUSTRIES, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	HYDRAULIC VALVE DIV	42	336000
	HOMANIT USA, INC.	111	444000
	LOUISIANA-PACIFIC CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	REDMAN HOMES, INC.	41	164000
	INTERIOR WOOD SPECIALTIES, IN	6	24000
	HICKORY SPRINGS MANUFACTURING	0	0
	OLDHAM SAW CO INC	67	268000
	GAYLORD, INC.	3	12000
	D. B. TEXTILES, INC.	2	8000
	WESTPOINT STEVENS INC.	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0
	WESTPOINT STEVENS INC.	0	0
	INTERIOR WOOD SPECIALTIES, IN	0	0
	BUCKEYE LUMBERTON INC.	6	24000
	CMH MANUFACTURING, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0
	INDIAN HEAD INDUSTRIES, INC.	0	0
	GAYLORD INC	4	16000
	HALSO ESCOTT	0	0
	MARSH JAMES P	0	0
	MARSH MILLICENT M	0	0
	TAFT EDMUND H	0	0
	TAFT THOMAS F	0	0
	Total for Tier: 2	529	2564000
3			
	SARA LEE CORPORATION	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	BORDEN CHEMICAL, INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	3000
	CMH MANUFACTURING, INC.	0	0
	BRANCH BANKING AND TRUST COMP	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0
	DRAKE ENTERPRISES, LTD.	0	0
	ADVANCED DRAINAGE SYSTEMS, IN	0	0
	AMERICAN & EFIRD, INC.	0	0
	RED VALVE COMPANY, INC.	9	63000
	RELIANCE ELECTRIC INDUSTRIAL	42	126000
	CAROLINA PAPER CONVERTERS	0	3000
	UCHIYAMA AMERICA, INCORPORATE	0	0
	CATERPILLAR INC.	0	0
	KIDDE TECHNOLOGIES INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	LOWE'S COMPANIES, INC.	157	471000
	HEARTHSTONE ENTERPRISES, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	ARMADA, INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	ANVIL KNITWEAR INC.	0	0
	AMERICAN & EFIRD, INC.	30	90000
	KCS INTERNATIONAL INC.	167	501000
	MILLER BREWING COMPANY	0	0
	PATE-DAWSON COMPANY	10	42000
	CONITEX- SONOCO U.S.A., INC.	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	MOTOR PRODUCTS INC	10	70000
	WENTWORTH CORPORATION	0	0
	MASTERBRAND CABINETS, INC.	43	301000
	COCA-COLA BOTTLING COMPANY OF	0	0
	CAROLINA COMMERCIAL HEAT TREA	0	0
	ARMADA, INC.	16	48000
	HOMES BY OAKWOOD, INC.	0	0
	WENTWORTH CORPORATION	0	0
	BURLAN CORPORATION	0	0
	SOUTHCO DISTRIBUTING CO	9	63000
	SOUTHCO DISTRIBUTING CO	10	70000
	MOUNT OLIVE PICKLE COMPANY, I	0	0
	GKN AUTOMOTIVE, INC.	0	0
	MEDIBEG USA, INC.	0	0
	REXAM RELEASE	0	0
	LOWE'S COMPANIES, INC.	195	585000
	FAYETTEVILLE PUBLISHING COMPA	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0
	JELD-WEN, INC.	0	0
	PASS & SEYMOUR, INC.	0	0
	GULF STATES PAPER CORPORATION	22	74000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CONCRETE SUPPLY CO.	1	7000
	FRONTIER, INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	AMERICAN FIBER & FINISHING, I	0	0
	DELLINGER ENTERPRISES, LTD.	0	0
	THE TIMKEN COMPANY	4	12000
	ROYAL PARK UNIFORMS, INC.	0	0
	ADVANCED INTERNET TECHNOLOGIE	20	60000
	JACKSON PAPER MANUFACTURING C	1	3000
	Fiber Composites	4	12000
	PREFORMED LINE PRODUCTS COMPA	0	0
	THE SOUTHERN FINISHING COMPAN	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	COPELAND CORPORATION	51	153000
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	EATON AEROQUIP INC.	0	0
	FIBER COMPOSITES LLC	4	12000
	MERCK & CO., INC.	41	123000
	EATON AEROQUIP INC.	3	9000
	RELIANCE ELECTRIC INDUSTRIAL	120	360000
	COLUMBIA FOREST PRODUCTS	0	0
	BARMET ALUMINUM CORP	0	0
	FIBER INDUSTRIES, INC.	0	0
	IMPULSE NC, INC.	0	0
	THE TORRINGTON COMPANY	53	159000
	RELEASE INTERNATIONAL, INC.	0	0
	DOPACO, INC.	0	0
	WESTERN FORGE CORPORATION	196	784000
	OAKWOOD MOBILE HOMES, INC.	0	0
	MAGNUM MANUF	7	21000
	RELEASE INTERNATIONAL, INC.	0	0
	DSM DESOTE	11	33000
	GALEY & LORD INDUSTRIES, INC.	14	42000
	MOEN INCORPORATED	0	0
	ALADDIN MANUFACTURING CORP	0	0
	MOEN INCORPORATED	0	0
	VICTAULIC COMPANY OF AMERICA	7	21000
	THE MOORE COMPANY	0	0
	COTT BEVERAGE S USA INC	45	135000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	COPELAND CORPORATION	0	0
	ULTIMATE TEXTILE, INC.	0	0
	LOWE'S COMPANIES, INC.	205	615000
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	PINE HALL BRICK CO., INC.	0	0
	EON LABS MANUFACTURING, INC.	45	135000
	CMH MANUFACTURING, INC.	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	ROYAL PARK UNIFORMS, INC.	2	6000
	GENTRY MILLS, INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2	6000
	NEXANS INC.	0	0
	NEXANS INC.	0	0
	MOUNT OLIVE PICKLE COMPANY, I	4	12000
	INDUSTRIAL FABRICATORS, INC.	1	3000
	BLUE RIDGE PAPER PRODUCTS	0	0
	BOEHME-FILATEX, INC.	0	0
	DESIGN WOR	92	276000
	BUCKEYE LUMBERTON INC.	37	111000
	BURLAN CORPORATION	14	42000
	ALDREDGE JR EMMETT C	0	0
	DELLA SANTA ERALDO	0	0
	DELLA SANTA MASSIMO	0	0
	GUARRIELLO ANTHONY R	0	0
	HOOD CLIFTON R	0	0
	HOOVER STEPHEN J	0	0
	MAXWELL OWEN M	0	0
	ROYAL HAROLD J	3	9000
	ROYAL WILLIAM K	3	9000
	Total for Tier: 3	1711	5680000
4			
	BSH HOME APPLIANCES CORPORATI	46	210000
	GKN AUTOMOTIVE, INC.	0	0
	HOF TEXTILES, INC.	5	5000
	THE TIMKEN COMPANY	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	B. R. LEE INDUSTRIES, INC.	0	0
	THE LUNDY PACKING COMPANY	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALADDIN MANUFACTURING CORP	0	0
	VICTAULIC HOLDING COMPANY, LL	1	1000
	R. L. STOWE MILLS, INC.	0	0
	ASMO APPALACHIAN CORPORATION	0	0
	HICKORY SPRINGS MANUFACTURING	0	0
	CMH MANUFACTURING, INC.	0	0
	WESTPOINT STEVENS INC.	1	1000
	COX NORTH CAROLINA	19	95000
	DSM PHARMACEUTICALS, INC.	0	0
	TRION, INC.	0	0
	COATINGS AND ADHESIVES CO	7	7000
	COATINGS AND ADHESIVES CO	5	5000
	CAROLINA T	0	0
	REGIONAL STORAGE & TRANSPORT,	0	0
	REVLON CONSUMER PRODUCTS CORP	915	915000
	AMERICAN & EFIRD, INC.	0	0
	JULIUS BLUM INC.	85	85000
	SANTA FE NATURAL TOBACCO CO	4	20000
	CAROLINA'S CHOICE BY WILLIAMS	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	CARLTON GROUP, INC.	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BSH HOME APPLIANCES CORP	103	515000
	THE MITCHELL GOLD CO.	61	61000
	COCA-COLA BOTTLING CO. CONSOL	0	0
	ASMO GREENVILLE OF NORTH CARO	0	0
	PACKAGING CORPORATION OF AMER	4	4000
	DYNAYARN USA, LLC	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	CAROLINA STEEL CORPORATION	0	0
	NORTH CAROLINA ASAHI, INC.	0	0
	ABBOTT LABORATORIES, INC.	74	370000
	NACCO MATERIALS HANDLING GROU	0	0
	VICTAULIC HOLDING COMPANY, LL	1	1000
	SANMINA CORPORATION	0	0
	DYNAYARN USA, LLC	0	0
	AMERESCOSOLUTIONS, INC.	0	0
	COMPONENT CONCEPTS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MACHINE & WELDING SUPPLY	1	5000
	COATINGS AND ADHESIVES CO	7	7000
	LVD CORP.	0	0
	CAROLINA'S CHOICE BY WILLIAMS	9	9000
	AMERICAN & EFIRD, INC.	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0
	ALBA-WALDENSIAN, INC.	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	AMERICAN & EFIRD, INC.	0	0
	THE LUNDY PACKING COMPANY	0	0
	CMH MANUFACTURING, INC.	0	0
	LA-Z-BOY INCORPORATED	0	0
	ATHOL MANUFACTURING CORP	0	0
	SEALED AIR CORPORATION (US)	7	35000
	COXE-LEWIS CORPORATION	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	ACCUCOPY OF GREENVILLE	9	45000
	EATON AEROQUIP INC.	0	0
	CARAUSTAR MILL GROUP, INC.	0	0
	PHARMAGRAPHICS, INC.	0	0
	LEE BUILDER MART, INC.	0	0
	M & M ELECTRIC SERVICE, INC.	0	0
	VALDESE WEAVERS, INC.	0	0
	ADAMS WHOLESALE COMPANY	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0
	ETHAN ALLEN INC.	0	0
	THOMAS MFG. COMPANY, INC. OF	0	0
	METRICS, INC.	7	7000
	MCLANE/CAROLINA,INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	1000
	SAFT AMERICA INC	0	0
	LVD CORP.	193	965000
	AMERICAN & EFIRD, INC.	0	0
	CONCRETE SUPPLY CO.	2	2000
	AYLWARD ENTERPRISES	0	0
	THE GILLETTE COMPANY	0	0
	CAROLINA CONVERTING INC	0	0
	SHADOWLINE, INCORPORATED	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FUJI SILYSIA CHEMICAL USA, LT	0	0
	REFRIGERATED BOXES, INC	7	7000
	CERTAINTEED CORPORATION	0	0
	FREIGHTLIN	0	0
	PHILLIPS-VAN HEUSEN CORPORATI	5	5000
	JULIUS BLUM INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	AMERICAN ROLLER BEARING AND M	0	0
	MADDUX SUPPLY COMPANY	1	1000
	GREGORY POOLE EQUIPMENT COMPA	0	0
	UNIFI MANUFACTURING, INC.	272	272000
	BORDEN CHEMICAL, INC.	0	0
	NYPRO CAROLINA INC.	123	123000
	MOEN INCORPORATED	0	0
	OWENS-BROCKWAY PLASTIC PRODUC	4	16000
	BURLINGTON INDUSTRIES, INC.	0	0
	GULF STATES PAPER CORPORATION	0	0
	HOMES BY OAKWOOD, INC.	0	0
	CONCRETE SUPPLY CO.	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0
	NEWTON INSTRUMENT CO	98	98000
	NOVOZYMES NORTH AMERICA, INC.	6	6000
	AMERICAN LAFRANCE CORPORATION	60	60000
	VICTAULIC COMPANY OF AMERICA	2	0
	WHEATSTONE CORPORATION	10	10000
	HOMES BY OAKWOOD, INC.	0	0
	COMMSCOPE, INC. OF NORTH CARO	0	0
	NEUVILLE INDUSTRIES, INC.	0	0
	AMERICAN ROLLER BEARING COMPA	0	0
	GATE CONCRETE PRODUCTS CO.	26	26000
	PHILLIPS-VAN HEUSEN CORPORATI	0	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	APEX ARIDYNE CORP.	0	0
	THE HON COMPANY	1	1000
	NEWTON INSTRUMENT CO	42	42000
	INTERSTATE BRANDS CORPORATION	0	0
	MADDUX SUPPLY COMPANY	0	0
	MONSANTO COMPANY	0	0
	INTERSTATE BRANDS CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	WINTERVILLE MACHINE WORKS, IN	5	5000
	GULF STATES PAPER CORPORATION	17	17000
	CATERPILLAR INC.	0	0
	THE HON COMPANY	0	0
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	1	5000
	ALDREDGE JR EMMETT C	0	0
	BARWICK BOYCE B	0	0
	BARWICK CARROLL B	0	0
	COXE THOMAS C	0	0
	DARCH LEE A	0	0
	D'ARENBERG PIERRE	2	2000
	ERWIN CHARLES B	0	0
	EWERT BRIAN C	0	0
	GODWIN JAMES P	2	10000
	HARRELL WAYNE M	0	0
	LEWIS HARVEY R	0	0
	MCDOUGALD ALBERT G	0	0
	MCDOUGALD AMANDA M	0	0
	MCDOUGALD IAN E	0	0
	PASIN RICHARD	7	7000
	PORTER DARRELL R	0	0
	ROBLING BRENT D	0	0
	TILGHMAN WILLIAM A	0	0
	TILGHMAN WILLIAM A	7	7000
	Total for Tier: 4	2265	4091000
5			
	OAKWOOD MOBILE HOMES, INC.	0	0
	THE CONCORD	12	6000
	PEOPLECLICK.COM, INC.	89	400500
	AJINOMOTO USA INC	5	2500
	NYPRO CAROLINA INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	PYA/MONARCH, INC.	0	0
	EISAI INC.	21	10500
	THE OHIO MATTRESS COMPANY LIC	2	1000
	PUROLATOR FACET, INC.	6	3000
	JOHNSON CONTROLS BATTERY GROU	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	WANDEL & GOLTERMANN A.T.E. SY	0	0
	CONCRETE SUPPLY CO.	5	22500
	CONCRETE SUPPLY CO.	2	9000
	CONCRETE SUPPLY CO.	1	4500
	CONCRETE SUPPLY CO.	12	6000
	CAROLINA T	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0
	SOUTHTECH ORTHOPEDICS INC	6	3000
	ALADDIN MANUFACTURING CORP	0	0
	BLUEPHOENIX SOLUTIONS USA	43	21500
	STRATEGIC TECHNOLOGIES, INC.	0	0
	OFFICE DEPOT INC	0	0
	RELIANCE ELECTRIC INDUSTRIAL	4	2000
	WANDEL & GOLTERMANN INC	0	0
	NORTH CAROLINA SERVICES CORPO	22	11000
	WIREWAY/HUSKY CORP.	0	0
	STRATEGIC TECHNOLOGIES, INC.	38	19000
	GREENFIELD INDUSTRIES INC	0	0
	FIRST CHARTER NATIONAL BANK	50	177000
	VITAFOAM INC	0	0
	DEERE & COMPANY	0	0
	ALADDIN MANUFACTURING CORP	0	0
	FRISBY AEROSPACE, INC.	51	25500
	SAS INSTITUTE INC.	195	97500
	TLV CORPORATION	1	500
	NATIONAL TEXTILES LLC	21	10500
	HOMES BY OAKWOOD, INC.	0	0
	SEALY INC	12	6000
	BROOKS EQUIPMENT CO	11	5500
	VERITAS SO	10	45000
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	DEERE & COMPANY	76	38000
	INTERSTATE BRANDS CORPORATION	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	JOHN DEERE TURF CARE, INC.	10	5000
	MILKCO, INC.	13	58500
	SUIZA DAIRY	8	0
	HAHT SOFTWARE, INC.	63	31500
	OAKWOOD ACCEPTANCE CORP	11	5500

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FRONTIER, INC.	0	0
	KYRUS CORP	0	0
	KYRUS CORP	0	0
	CROSS SALES AND ENGINEERING C	0	0
	BECTON, DICKINSON AND COMPANY	0	0
	CREE, INC.	264	132000
	BRAYTON INTERNATIONAL, INC.	0	0
	US CONEC LTD.	55	27500
	SOLECTRON TECHNOLOGY, INC.	0	0
	MAYFLOWER GLASS	11	5500
	NOMACORC LLC	38	19000
	THE PANTRY, INC.	61	134500
	FAMILY DOLLAR, INC.	58	29000
	VF JEANSWEAR, INC.	0	0
	MACHINE & WELDING SUPPLY	4	18000
	J & L AMERICA, INC.	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	RENE COMPOSITE MATERIALS CORP	0	0
	ARVINMERITOR, INC.	0	0
	ANALOG DEVICES, INC.	117	58500
	PINNACLE FILMS, INC.	8	0
	MORRIS COMMUNICATION CORP	1	4500
	EVEREADY BATTERY COMPANY, INC	0	0
	SQUARE D CO	9	4500
	EVEREADY BATTERY COMPANY, INC	0	0
	ANALOG DEVICES, INC.	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0
	BAYER CORP	0	0
	SARA LEE CORPORATION	10	5000
	COCA-COLA BOTTLING COMPANY OF	0	0
	SIEMENS WESTINGHOUSE POWER CO	126	63000
	WANDEL & GOLTERMANN A.T.E. SY	0	0
	ORNAMENTAL MOULDINGS INC	3	1500
	CISCO SYSTEMS SALES & SERVICE	235	117500
	COMPASS GROUP USA, INC.	110	55000
	DUPLICATE TRANS ID#	0	0
	LEMANS CORPORATION	10	5000
	MYLAN PHARMACEUTICALS INC.	7	28000
	COCA-COLA BOTTLING COMPANY OF	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MYLAN PHARMACEUTICALS INC.	7	31500
	STEELCASE INC.	71	35500
	COCA-COLA BOTTLING COMPANY OF	0	0
	BRUNZL DISTRIBUTION MIDCENTRA	0	0
	SOLECTRON TECHNOLOGY, INC.	512	256000
	BECTON, DICKINSON AND COMPANY	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	JOHN DEERE TURF CARE, INC.	65	56500
	CREE, INC.	0	0
	WESTLAKE PRESS, INC.	0	0
	HENDERSON MACHINERY, INC.	0	0
	FAMILY DOLLAR, INC.	42	21000
	MADDUX SUPPLY COMPANY	0	0
	MADDUX SUPPLY COMPANY	0	0
	SOUTHERN CONCRETE MATERIALS,	7	31500
	MADDUX SUPPLY COMPANY	0	0
	JUKI AUTOMATION SYSTEMS, INC.	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	US AIRWAYS, INC.	0	0
	BANK OF AMERICA NA	0	0
	L & E PACKAGING, LLC	0	0
	TRIANGLE BRICK COMPANY	0	0
	TRIANGLE BRICK COMPANY	0	0
	PHILIP MORRIS INCORPORATED	64	32000
	LVL7 SYSTEMS, INC.	24	12000
	NATUZZI AMERICAS, INC.	11	49500
	DENERGY, INC.	0	0
	WILTON CONNOR, LLC	0	0
	CAROLINA POWER & LIGHT COMPAN	0	0
	FFNC, INC.	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0
	VF PLAYWEAR, INC.	0	0
	ABB AUTOMATION INC.	25	12500
	CYCLE GROUP INC.	15	7500
	BRANCH BANKING AND TRUST COMP	90	125000
	SCIQUEST, INC.	0	0
	OLIVER RUBBER COMPANY	0	0
	WACHOVIA CORPORATION	0	0
	WACHOVIA CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CHIRON AMERICA, INC.	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	0	0
	LORILLARD TOBACCO COMPANY	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	8	0
	SYNAPSE TECHNOLOGY, INC.	0	0
	CHIRON AMERICA, INC.	0	0
	PINE HALL BRICK CO., INC.	0	0
	KRISPY KREME DOUGHNUT CORPORA	23	103500
	DANA CORPORATION	0	0
	R.H. DONNELLEY INC.	0	0
	SYNGENTA CROP PROTECTION, INC	135	67500
	NOVO NORDISK PHARMACEUTICAL I	100	50000
	KYRUS CORP	0	0
	KYRUS CORP	0	0
	INDUSTRIAL MICROWAVE SYSTEMS,	0	0
	BIC USA, INC. (BIC CONSUMER P	11	5500
	SPICER MANUFACTURING, INC.	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	15	7500
	THE VANGUARD GROUP, INC.	0	0
	SAS INSTITUTE INC.	125	62500
	R. J. REYNOLDS TOBACCO COMPAN	197	686500
	WESTPOINT STEVENS INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0
	MASTER FORM, INC.	0	0
	NITRONEX CORPORATION	21	10500
	MERIX BIOSCIENCE, INC.	16	8000
	ELECTROLUX HOME PRODUCTS, INC	12	6000
	KRISPY KREME DOUGHNUT CORPORA	14	63000
	KRISPY KREME DOUGHNUT CORPORA	30	135000
	THE STANDARD REGISTER COMPANY	0	0
	PLYMOUTH PRINTING CO. INC.	20	10000
	EDWARD VOGT VALVE CO	0	0
	NETOCTAVE, INC.	36	18000
	INTEK, INC.	0	0
	MICELL TECHNOLOGIES, INC.	0	0
	LENDINGTREE, INC.	43	21500
	ASMO NORTH CAROLINA, INC.	0	0
	STATIC CONTROL COMPONENTS, IN	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALCATEL USA LP, INC.	0	0
	TRIVIRIX INTERNATIONAL, INC.	2	1000
	NOVARTIS ANIMAL HEALTH US, IN	9	4500
	CROSSLOGIC CORPORATION	5	22500
	VF CORP	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0
	SCHAEFER SYSTEMS INTERNATIONA	10	5000
	TEKELEC	70	35000
	GENERAL PARTS, INC.	28	14000
	EPIC ENTERPRISES, INC.	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	NORTH STATE TELEPHONE COMPANY	0	0
	MU RO, INC.	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	INSPIRE PHARMACEUTICALS, INC.	16	8000
	QUINTILES TRANSNATIONAL CORP.	21	10500
	CAROLINA STEEL CORPORATION	15	67500
	REMCO SUPPLY, INC.	0	0
	CHESAPEAKE DISPLAY AND PACKAG	0	0
	NORTH CAROLINA SERVICES CORPO	0	0
	MEDTEC, INC.	8	4000
	JELD-WEN, INC.	0	0
	RENAISSANCE WORLDWIDE IT CONS	0	0
	STRUCTURAL STEEL PRODUCTS COR	17	8500
	WINSTON PRINTING COMPANY	19	85500
	CAROLINA STEEL CORPORATION	10	5000
	CAROLINA STEEL CORPORATION	0	0
	KAYDON CORP	0	0
	CROSSLOGIC CORPORATION	7	31500
	CROSSLOGIC CORPORATION	7	31500
	LUTRADUR CORPORATION	0	0
	MICROBAN PRODUCTS COMPANY	0	0
	S & D COFFEE INC	0	0
	WAKE STONE CORPORATION	0	0
	BILL DAVIS RACING, INCORPORAT	8	36000
	BIOGEN INC	126	63000
	CURTIS SCREW CO., INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	HEXTEK TECHNOLOGIES, INC.	0	0
	CHARLES & COLVARD, LTD.	0	0
	THE TIMKEN COMPANY	0	0
	OWENS & MINOR MEDICAL, INC.	8	36000
	LUTRABOND COMPANY	0	0
	ARJOBEX AMERICA	0	0
	HEALTH DECISIONS, INC.	0	0
	APPLIED MEDICAL TECHNOLOGIES,	0	0
	ELUMENS CORPORATION	0	0
	ACCUMA CORPORATION	0	0
	SMART ONLINE, INC.	1	500
	GRAYBAR ELECTRIC COMPANY, INC	7	31500
	HAYWARD POOL PRODUCTS, INC.	108	54000
	ULTIMUS, INC.	8	4000
	FLOW SCIENCES, INC.	1	500
	FIRST CHARTER NATIONAL BANK	96	48000
	EXCEL CARGO SERVICES, INC.	0	0
	CLARKE AMERICAN CHECKS, INC.	96	48000
	DEERE-HITACHI CONSTRUCTION MA	0	0
	LUTRADUR CORPORATION	25	12500
	CORNING CABLE SYSTEMS INTERNA	0	0
	BORGWARNER TURBO SYSTEMS INC.	31	15500
	SLICKEDIT INC.	9	4500
	BIOMERIEUX, INC.	6	3000
	BONSET AMERICA CORPORATION	0	0
	EATON AEROQUIP INC.	0	0
	CARRIER CORPORATION	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	STRATEGIC RESOURCE SOLUTIONS	0	0
	UNITIVE ELECTRONICS, INC.	23	11500
	MDEVERYWHERE, INC.	0	0
	BLUE RIDGE METALS CORPORATION	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	VISIONAIR, INC.	0	0
	TUBE SPECIALTIES CO., INC.	20	90000
	CTC INTERNET SERVICES, INC.	0	0
	CLOSURE MEDICAL CORPORATION	12	6000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALCATEL NA CABLE SYSTEMS, INC	0	0
	BUEHLER MOTOR, INC.	0	0
	BUEHLER MOTOR, INC.	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	FIRST UNION NATIONAL BANK	257	1156500
	MARMON/KEYSTONE CORPORATION	0	0
	APBI INC.	70	35000
	VF SERVICES, INC.	0	0
	HATTERAS NETWORKS, INC.	26	13000
	DUKE PROJECT SERVICES, INC.	0	0
	PEOPLECLICK.COM, INC.	42	21000
	PERFORMAWORKS, INC.	0	0
	P P G INDUSTRIES, INC.	12	6000
	RAFLATAC, INC.	116	58000
	FIRST UNION NATIONAL BANK	0	0
	PRESTIGE FABRICATORS, INC.	0	0
	HEARST COMMUNICATIONS, INC.	8	32000
	BANK OF AMERICA TECHNOLOGY AN	11	5500
	MCLANE FOODSERVICE, INC.	0	0
	TECSTAR ELECTRO SYSTEMS, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	ACTION PERFORMANCE COMPANIES,	0	0
	BUEHLER MOTOR, INC.	0	0
	GOULSTON TECHNOLOGIES, INC.	0	0
	LEE BUILDER MART, INC.	0	0
	WANDEL & GOLTERMANN INC	0	0
	VF PLAYWEAR INC	40	20000
	PAMA FURNITURE INC	3	13500
	FRAMATOME ANP DE&S, INC.	0	0
	AVX CORPORATION	0	0
	LAMBDA TECHNOLOGIES, INC.	0	0
	SPEIZMAN INDUSTRIES	0	0
	SEALY MATTRESS MANUFACTURING	0	0
	CLARKE AME	48	24000
	EDWARD VOGT VALVE COMPANY	0	0
	CLARK AME	94	47000
	EDWARD VOGT VALVE CO	12	54000
	NEWTON INSTRUMENT CO	73	73000
	TLV CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FIRST UNION NATIONAL BANK	0	0
	PERGO, INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	PERGO, INC.	0	0
	TOGETHERSOFT CORPORATION	29	130500
	SAPONA MANUFACTURING COMPANY,	0	0
	BE AEROSPACE, INC.	0	0
	PEPSI-COLA BOTTLING COMPANY O	5	2500
	BUNZL RICHMOND INC	0	0
	INJECTRONICS, INC.	0	0
	BOX-BOARD PRODUCTS, INC.	0	0
	ELECTRONIC DATA MAGNETICS, IN	14	63000
	ACCUMA CORPORATION	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	RF MICRO DEVICES, INC.	246	123000
	MEDIA EVOLVED, LLC	23	103500
	DIGITAL OPTICS CORPORATION	0	0
	DART CONTAINER CORP OF GEORGI	0	0
	OPTICAL EXPERTS MANUFACTURING	19	9500
	CONCRETE SUPPLY CO.	0	0
	CONCRETE SUPPLY CO.	0	0
	WESTLAKE INDUSTRIES, INC.	0	0
	CONCRETE SUPPLY CO.	0	0
	ALCATEL USA SOURCING, L.P.	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0
	RAILLINC CORPORATION	0	0
	LEGACY CLASSIC FURNITURE, INC	27	13500
	NOEL VENTURES, LLC	38	12055
	CONFULENCE HOLDINGS CORP	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	ETRIALS, INC.	19	9500
	CATERPILLAR INC.	97	436500
	CATERPILLAR INC.	57	28500
	COMMSCOPE, INC. OF NORTH CARO	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0
	UNICON CONCRETE, LLC	0	0
	CORNING INCORPORATED	1105	552500
	ARMACELL UNITED STATES HOLDIN	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	SIEBEL SYSTEMS, INC.	0	0
	CORNING INCORPORATED	482	241000
	CORNING INCORPORATED	0	0
	CORNING INCORPORATED	0	0
	HASCO MOLD BASES - ASHEVILLE,	0	0
	TOMSED CORPORATION	8	4000
	LBSS,INC.	0	0
	BANNER PHARMACAPS INC.	55	27500
	ALCATEL USA GP, INC.	0	0
	CORNING INCORPORATED	0	0
	GKN AUTOMOTIVE, INC.	0	0
	CORNING INCORPORATED	0	0
	LONESOURCE.COM, INC.	13	6500
	GKN AUTOMOTIVE, INC.	0	0
	THE STEEL NETWORK, INC.	7	3500
	CISCO SYSTEMS SALES & SERVICE	0	0
	GKN AUTOMOTIVE, INC.	0	0
	GKN AUTOMOTIVE, INC.	0	0
	DUKE ENERGY CORPORATION	42	189000
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	0	0
	AUERBACH HOWARD D	20	10000
	BODILY ROBERT	0	0
	CARPENTER JONATHAN S	0	0
	CRARY EDWARD M	0	0
	DAVIS MARTIN A	0	0
	EASON DOUGLAS	0	0
	ENGLERT JOHN A	0	0
	ENGLERT SCOTT T	0	0
	FLYNN GARY B	0	0
	GOODNIGHT JAMES H	0	0
	HORTON PAUL W	0	0
	JENKINSINTEGRATED SOFTWARE SOLUTIONS	0	0
	KURZ PETER	0	0
	KURZ PETER	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	KURZ WALTER	0	0
	KURZ WALTER	0	0
	LAUER EDWARD	38	19000
	LITTLE ROBERT D	0	0
	MAIER JAMES W	0	0
	MARSH GEORGE M	0	0
	MARSH GILBERT R	0	0
	MONCURE JAMES A	0	0
	MORRIS KEITH A	0	0
	MOSELY PHILLIP G	0	0
	PAUL ERIC A	8	4000
	PEARCE PETER A	0	0
	PERRY DWAYNE M	0	0
	RAYLE GLENN D	0	0
	REES J M	0	0
	RICKS WALTER G	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER ROBERT A	0	0
	SALL JOHN P	0	0
	SHEKHAR MRIGANK	0	0
	SHEKHAR SWETANK	0	0
	STEPHENS FRANK M	0	0
	THORE GLENN W	0	0
	WARD ALLEN K	0	0
	WARD ALLEN K	0	0
	WARD MURIEL C	0	0
	WARD MURIEL C	0	0
	WILLIAMS STEVEN G	0	0
	WRAY PHILLIP C	0	0
	Total for Tier: 5	7663	8025555
	Grand TOTAL:	14531	26672387

William S. Lee Tax Credits

Machinery and Equipment

North Carolina Department of Revenue

William S. Lee Tax Credits
Machinery and Equipment
Processed in Calendar Year 2002

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
0			
	TECHNIBILT, LTD.	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0
	VERMONT AMERICAN CORPORATION	9582145	670750
	EANES OIL COMPANY	0	0
	LAWN PRO., INC.	135603	9492
	RENFRO FL, INC.	0	0
	ABB AUTOMATION INC.	0	0
	RAM TRUST NO. 3	0	0
	ARARAT ROCK PRODUCTS COMPANY	0	707267
	PEOPLECLICK.COM, INC.	1666602	116662
	CHAMPION HOME BUILDERS CO.	0	0
	SOUTHERN FABRICATORS, INC.	0	0
	PEPCOM INDUSTRIES, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	ARROW INTERNATIONAL, INC.	0	0
	RAM TRUST NO. 4	0	0
	WATTS REGULATOR CO.	0	0
	RON LONG SALES, INC.	987	69
	LORILLARD TOBACCO COMPANY	20860614	1460243
	CORNUCOPIA CHEESES, INC.	0	0
	GRASS AMERICA, INC.	0	0
	ORDIWAY ENTERPRISES, INC.	0	0
	VOLVO CONSTRUCTION EQUIPMENT	0	0
	INGERSOLL-RAND COMPANY	0	0
	HABCO, INC.	0	0
	H & J WAREHOUSES, LL	0	0
	BURLAN CORPORATION	0	0
	CORNUCOPIA CHEESES, INC.	0	0
	OVERHEAD HANDLING SYSTEMS INC	0	0
	CHANNEL MASTER, INC.	0	0
	CORTEK, INC.	0	0
	HICKORY PRINTING GROUP, INC.	0	0
	VODAFONE AMERICAS INC.	0	0
	BUSICK BROTHERS MACHINE, INC.	0	0
	MOHICAN MILLS INC	0	0
	BRIDGESTONE/FIRESTONE, INC.	0	0
	SELEE CORPORATION	0	0
	TECHNIMARK, INC.	0	0
	GKN AUTOMOTIVE, INC.	3282604	229782

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PEPSI-COLA BOTTLING COMPANY O	0	0
	GKN AUTOMOTIVE, INC.	0	0
	STACKHOUSE PLUMBING COMPANY,	0	0
	VAUGHN RUE PRODUCE CO., INC.	0	0
	CAROLINA STEEL CORPORATION	103114	7218
	AMILON, LLC	0	0
	COASTAL LUMBER COMPANY	0	0
	LEDBETTER TIMBER AND PULPWOOD	0	0
	BLAST, INC.	0	0
	NATIONAL SERVICE INDUSTRIES	2049342	143454
	HI-TEX, INC.	1426041	99823
	RAM TRUST NO. 6	0	0
	ALLFAB SOLUTIONS INCORPORATED	0	0
	SPECTRUM DYED YARNS, INC.	0	0
	SWIFT TEXTILES, INC.	0	0
	LISY CORPORATION	95302	6671
	HUFFMAN OIL COMPANY, INCORPOR	0	0
	VULCAN MATERIALS COMPANY - CH	0	0
	AMERICAN DISTILLATION, INC.	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	BRIDGESTONE/FIRESTONE AMERICA	0	0
	GOODRICH CORPORATION	0	0
	BURTON INC	0	0
	AIRTOUCH PAGING	0	0
	MORRISETTE PAPER COMPANY, INC	0	0
	RAM TRUST NO. 5	0	0
	THE MITCHELL GOLD CO.	0	0
	MINDENHILL FARMS, INC.	0	0
	HOLT SUBLIMATION PRINTING & P	0	0
	BABB & ASSOCIATES, P. A.	0	0
	ECMD, INC.	0	0
	BURLAN CORPORATION	572788	40095
	BERTELSMANN MUSIC GROUP, INC.	3671469	257003
	JACKSON TUBE SERVICE, INC.	0	0
	ARJOBEX AMERICA	0	0
	KLINGSPOR ABRASIVES, INC.	0	0
	KENNEDY DIECASTING, INC.	0	0
	ACCUMA CORPORATION	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0
	HONEYWELL INTERNATIONAL INC.	0	0
	SHOTO, INC.	0	0
	EMGRAN HOLDING CO., INC,	0	0
	EMGRAN HOLDING CO., INC,	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GALEY & LORD INDUSTRIES, INC.	0	0
	STEPHENS-L&E LLC	0	0
	BEVERLY KNITS, INC.	0	0
	FOARD SYSTEMS DESIGN, INC.	0	0
	BEFCO, INC.	0	0
	GRAPHIC PRINTING SERVICES, IN	0	0
	CENTRO, INC.	0	0
	S & W READY MIX CONCRETE COMP	0	0
	D. S. DUGGINS WELDING, INC.	24220	1695
	FINELINE INDUSTRIES EAST, INC	0	0
	RAM TRUST NO. 1	0	0
	KIP CARR ASSOCIATES, INC.	0	0
	ENVIRONMENTAL MANAGEMENT SERV	0	0
	GENE TIERNEY COMPANY, INC.	0	0
	PLASTIC TECHNOLOGY, INC.	0	0
	LOFTIS CONSTRUCTION CORP.	0	0
	CONFULENCE HOLDINGS CORP	0	0
	PRESTIGE SEWING COMPANY	0	0
	HEATON, FULGHUM & WILLIAMS, M	0	0
	SHUFORD MILLS, INC.	0	0
	JPW, INC.	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	F. J. RAGAZ, M.D., P.A.	0	0
	SGL CARBON CORPORATION	0	0
	HOLT SUBLIMATION PRINTING & P	0	0
	MIDSTATE MILLS, INC.	0	0
	NEWTON INSTRUMENT CO INC	0	0
	DYNAYARN USA, LLC	0	0
	SOUTHEAST LIBRARY BINDERY, IN	0	0
	SONOPRESS, INC.	5475466	383283
	GENEVA CORPORATION	0	0
	MAYFLOWER GLASS INC.	0	0
	JOHNSTON CASUALS FURNITURE, I	0	0
	CHAMPION INTERNATIONAL CORPOR	0	0
	MICHIGAN PACKAGING COMPANY	3170231	221916
	THOMAS BUILT BUSES, INC.	0	0
	LISY CORPORATION	0	0
	TILLMAN ENTERPRISES, INC.	0	0
	GAYLORD INC	127058	8894
	ASSOCIATED ASPHALT, INC.	0	0
	S & W READY MIX CONCRETE COMP	277541	19428
	SR-71 GAME SCOTING, INC.	0	0
	J. D. CLARK COMPANY	0	0
	PROTRONICS, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	RAM TRUST NO. 2	0	0
	MEASURMENT INCORPORATED PAYRO	0	0
	KCBC FOODS, INC.	0	0
	A. M. CASTLE & CO.	0	0
	AMILON HOLDING, INC.	0	0
	NOVATION FABRICS, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	TRAVIS KNITS, INC.	0	0
	SOUTHEASTERN CONTAINER, INC.	0	0
	NOVATION FABRICS, INC.	0	0
	DELLINGER WRECKER SERVICE, IN	0	0
	A&M TOOL M DIVISION, INC.	0	0
	JOHNSON CONCRETE COMPANY	0	0
	SMOKY MOUNTAIN WATERPROOFING,	0	0
	ACUCOTE, INC.	0	0
	KONICA MANUFACTURING U.S.A.,	0	0
	WB GROUP PROPERTIES, LLC	0	0
	SEVERN PEANUT COMPANY, INC.	0	0
	TEE-LOK CO	352989	24709
	NORTHEASTERN DERMATOLOGY	1965	138
	OPTIMUM FILTRATION CO	16492	1154
	PUROLATOR PRODUCTS NA, INC.	0	0
	SCOTT DUPRE-CUSTOM BUILDER, I	0	0
	ALTEC INDUSTRIES, INC.	0	0
	GENE TIERNEY COMPANY, INC.	0	0
	GAIA HERBS, INC.	0	0
	SHOWLINE AUTOMOTIVE	190071	13305
	PYROTECH SERVICES, INC.	0	0
	STRATFORD	0	0
	RAM TRUST NO. 8	0	0
	L & J ELECTRONICS INC	0	0
	SHOWLINE AUTOMOTIVE PRODUCTS,	245558	17189
	CLAYTON-MARCUS COMPANY, INC.	0	0
	VALDESE TEXTILES, INC.	0	0
	RAM TRUST NO. 29	0	0
	AIRTOUCH PCS HOLDING, INC.	0	0
	AMERITEX YARN, LLC	0	0
	NJB AUTO GROUP, INC.	0	0
	TUSCARORA YARNS, INC.	0	0
	CONFLANDEY INC.	0	0
	PRESTIGE FABRICATORS, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	SWIFT TEXTILES, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	WHEATSTONE CORPORATION	0	0
	FOOTHILLS, INC.	0	0
	CECIL AND SPRY FARM	8700	609
	ROCKY MOUNT DERMATOLOGY	10454	732
	VICTAULIC COMPANY OF AMERICA	0	0
	DOLOROSA FARMS, LTD.	0	0
	RAM TRUST NO. 10	0	0
	BEIERSDORF-JOBST, INC.	0	0
	LAMARR JOHNSON & ASSOCIATES,	0	0
	RAM TRUST NO. 9	0	0
	TAYLOR CRISP PAC	5026	352
	CULP, INC.	45470	3183
	STANADYNE CORPORATION	0	0
	CENTER FOR MARTIAL ARTS I	898	63
	PHARMAGRAPHICS, INC.	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	THE COPELAND OFFICE INC.	0	0
	SENTINEL AUTOMOTIVE DISTRIBUT	0	0
	MAYFLOWER GLASS INC.	0	0
	LEXCOM TELEPHONE COMPANY	0	0
	BRODER BROS CO	0	0
	LEE-MOORE OIL COMPANY	0	0
	UNIFI MANUFACTURING, INC.	3705418	259379
	LEXCOM CABLE SERVICES, INC.	0	0
	FIELDCREST CANNON INC	0	0
	NORMAN BECK INVESTME	0	0
	ROCKY MOUNT DERMATOLOGY	0	0
	FAST CHART, INC.	0	0
	TEXEL USA INC.	0	0
	FOARD SYSTEMS DESIGN, INC.	0	0
	R & R MACHINE COMPANY, INC.	0	0
	TRAVIS KNITS	0	0
	BECTON, DICKINSON AND COMPANY	3704695	259329
	MERCHANTS DISTRIBUTORS, INC.	0	0
	ALCOA INC.	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0
	GAYLORD, INC.	0	0
	JG3 INC	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	AMERITRUCK REAL ESTATE HOLDIN	0	0
	JG3 INC	0	0
	TTC TIMBER	0	0
	TIMVEST GP	0	0
	TIMVEST GP	0	0
	STRATFORD	0	0
	STRATFORD	0	0
	BURLINGTON CHEMICAL CO., INC.	0	0
	STRATFORD	0	0
	GONYEA TV	0	0
	RBC CENTURA BANK	0	0
	CLARK AME	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	EDWARD VOGT VALVE CO	797590	55831
	SHURTAPE TECHNOLOGIES, INC.	1219221	85345
	SHURTAPE TECHNOLOGIES, INC.	1910060	133704
	SHURTAPE TECHNOLOGIES, INC.	0	0
	FLP TRUST	0	0
	JERRY WILLIAMS & SONS	0	0
	STRATFORD	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0
	LITTLE DAVID'S CARPET OUTLET,	0	0
	R. L. STOWE MILLS, INC.	0	0
	VULCAN GUF AGGREGATES	0	84
	SOUTHERN HARDWOODS, INC.	0	0
	TTC TIMBER	0	0
	FLP TRUST	0	0
	LEDBETTER TIMBER AND PULPWOOD	0	0
	CAROLINA MILLS, INCORPORATED	0	0
	FLP TRUST	0	0
	PIONEER ECLIPSE CORPORATION	0	0
	STRATFORD	0	0
	MASONRY REINFORCING CORP OF A	0	0
	APPALACHIAN INN, INC.	0	0
	RAM TRUST NO. 7	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0
	LKF, INC.	0	0
	CO-SUB INC	1219	85
	THE RENTAL MART	287050	20094
	ITS	3722	261
	BAUMANN SPRINGS USA, INC.	0	0
	KINCAID FURNITURE COMPANY, IN	0	0
	BONEY WILSON & SONS INC	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GARRETT OPTOMETRIC CENTER, P.	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	CONFLANDEY INC.	0	0
	FLP TRUST	0	0
	POLAR PLASTICS (NC) INC	0	0
	FLP TRUST	0	0
	VULCAN AGGREGATES COMPANY,LLC	0	0
	FOCKE & CO., INC.	0	0
	MAYFLOWER GLASS	4650	325
	MAYFLOWER GLASS	0	0
	ALLEN BRADLEY D	0	0
	ALLEN JOSEPH G	0	0
	BAKER JAMES C	0	0
	BARNES ROCK A	0	0
	BEEKER GEORGE M	0	0
	BIRCHETTE GEORGE A	0	0
	BLACK WILLIAM H	352989	24709
	CAPELL JOHN H	0	0
	CAPELL KERRY L	0	0
	CARR III GEORGE W	1101	77
	CARTER RUSSELL M	0	0
	CHAMBLISS III NORMAN Y	0	0
	CLINE JULIUS D	0	0
	COHEN LEIPOLD I	0	0
	CORNS BILLY R	0	0
	COVINGTON EDWARD H	0	0
	CROWDER TODD L	0	0
	CROWELL GILES F	0	0
	CULHANE P E	0	0
	CULHANE P E	0	0
	D'ARENBERG PIERRE	0	0
	DELLA SANTA ERALDO	0	0
	DUBOSE CHARLES H	0	0
	ERVIN JOHN W	0	0
	FALLS THOMAS N	0	0
	FEARING TATNAL W	0	0
	FIELDS GEORGE B	0	0
	FORD TIMOTHY L	0	0
	GENTRY IRCIL N	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GONYEA DAVID W	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA III JOSEPH H	0	0
	GONYEA III JOSEPH H	0	0
	GORDON MARK A	0	0
	HARRAWOOD DAVID A	0	0
	HARVEY WILLIAM L	0	0
	HARVEY WILLIAM L	153580	10751
	HAUPRICHT BRIAN A	0	0
	HOLT AMANDA M	0	0
	HOLT ASHLEY E	0	0
	HOLT CHARLES D	0	0
	HOLT JOHN A	0	0
	HOLT JOHN A	0	0
	HOLT MARGUERITE E	0	0
	HOLT MICHAEL M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT SAMUEL T	0	0
	HOLT SARAH M	0	0
	HOLTON JAMES R	0	0
	HUGHES JOSEPH K	0	0
	HUGHES JOSEPH K	0	0
	HUGHES WILLIAM C	0	0
	HUGHES JR G J	0	0
	HUNT JANICE L	0	0
	HUNTER CHARLES M	0	0
	JACKSON TRAVIS H	0	0
	JOHNSON F J	0	0
	JOHNSON FRANCES H	0	0
	JOHNSON JUDITH H	0	0
	JOHNSON PHILIP H	0	0
	JONES J W	0	0
	JONES J W	0	0
	JONES J W	0	45782
	JONES J W	0	31589
	JONES J W	0	0
	JORDAN JOHN R	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	LAING BRENT P	0	0
	LANE CURK T	0	0
	LANE CURK T	175452	12282
	LANE CURK T	175452	12282
	LANNING HOY S	0	0
	LAUGHLIN DAVID E	0	0
	LONDON WILLIAM L	0	0
	LONG DANIEL J	0	0
	LONON LINDA M	0	0
	MANCOSH DOUGLAS G	0	0
	MANESS JOHN M	0	0
	MARSH JAMES P	0	0
	MCCARTHY CHARLES E	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCMICHAEL DALTON L	0	0
	MEARS ROBERT	0	0
	NEISLER CHARLES A	0	0
	NEISLER DAVID C	0	0
	NEISLER GEORGE S	0	0
	NEISLER HENRY P	0	0
	NEISLER HENRY P	0	0
	NEISLER HENRY P	0	0
	NEISLER WILLIAM H	0	0
	NEWSOME TIMOTHY E	0	0
	OLDHAM FRANK P	0	0
	O'MARA CHRISTOPHE	0	0
	O'MARA JOHN J	0	0
	O'MARA MEIGHAN	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	O'MARA TIMOTHY	0	0
	PARKER GEORGE W	0	0
	PEGRAM TERRY L	0	0
	PERKINS GEORGE R	0	0
	PERKINS GEORGE R	0	0
	PERKINS JOHN E	0	0
	PERKINS JOHN E	0	0
	PERRY CHARLES R	0	0
	PERRY DON W	0	0
	PERRY FRANK G	0	0
	PERRY FRANK G	0	0
	PERRY HAL C	0	0
	PERRY HUGH P	0	2723
	POAG JAMES C	0	0
	PROPST ALEX A	0	0
	RATTZ JAMES M	0	0
	RAWALD KURT R	0	0
	REID LEWIS G	0	0
	RICHARDSON CHARLES E	0	0
	RICHARDSON JOANN	0	0
	RICHARDSON JOE E	0	0
	RICHARDSON JOE E	0	0
	RICHARDSON JOHN M	0	0
	RICHARDSON MORGAN L	0	0
	ROBINSON RICHARD S	0	0
	SCHOLD ERIC W	0	0
	SHERMAN MICHAEL M	0	0
	SKINNER ERIKA D	0	0
	SKINNER JEFFERY M	0	0
	STEELE FLAKE F	0	0
	STEELE PRESTON M	0	0
	STEELE TYLER B	0	0
	STEELE WALTER M	0	0
	STEELE WILLIAM F	0	0
	STEELE WILLIAM P	0	0
	STEELE WILLIAM P	0	0
	STRICKLAND JOHN W	0	0
	SWARTZ EDWIN H	0	0
	SWARTZ MICHAEL L	0	0
	SWARTZ WILLIAM K	0	0
	TH JOHN W	25713	1800
	THOMAS WILLIAM H	0	0
	WEIBEL MARCUS F	0	0
	WEIMAN THOMAS M	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WILSON WINFRED G	0	0
	WORNOM III SAMUEL J	0	0
	Total for Tier: 0	65916662	5401611
1			
	HALIFAX	239064	16734
	HAMMILL FARMS, INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	TRINITY MANUFACTURING, INC.	417760	29243
	SPRINGS INDUSTRIES, INC.	28212	1975
	MCMURRAY FABRICS, INC.	0	0
	TREDEGAR FILM PRODUCTS (U.S.)	0	0
	ATLANTIC CORPORATION OF WILMI	396267	27739
	ATLANTIC CORPORATION OF WILMI	0	0
	ATLANTIC CORPORATION OF WILMI	0	0
	FASCO CONTROLS CORPORATION	4376098	306327
	SOUTHERN FILM EXTRUDERS, INC.	260851	18260
	NEW BERN AUTO SUPPLY, INC.	0	0
	ARNOLD FOODS COMPANY, INC.	0	0
	VERIZON SOUTH INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	STANADYNE CORPORATION	0	0
	MORFLEX, INC.	0	0
	KENNAMETAL INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	PLASTIC PACKAGING, INC.	0	0
	UCO FABRICS, INC.	0	0
	MOEN INCORPORATED	0	0
	M.D. COASTAL BILLING CENTER,	0	0
	WM T BURNETT OPERATING LIMITE	725665	50797
	WESTPOINT STEVENS INC.	0	0
	MAYO KNITTING MILL, INCORPORA	271858	19030
	NEW BREED, INC.	0	0
	STANADYNE CORPORATION	0	0
	ADAMS WHOLESALE COMPANY	0	0
	NOVATION FABRICS, INC.	0	0
	NSS, LLC	6250	438
	4118 INVESTORS CORPORATION	17347	1214
	PLASTIC PACKAGING, INC.	0	0
	AIR SYSTEM COMPONENTS LP	0	0
	LEVITON MANUFACTURING CO., IN	1400123	98009

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	AMERITEX YARN, LLC	0	0
	NOVATION FABRICS, INC.	0	0
	CANDLE CORPORATION OF AMERICA	5327215	372905
	THE MOORE COMPANY	0	0
	DSM PHARMACEUTICALS, INC.	0	0
	NEW BREED CORPORATE SERVICES,	0	0
	CHICOPEE, INC.	0	0
	BRANCH BANKING AND TRUST COMP	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	TAYLOR CONSTRUCTION COMPANY O	0	0
	GLENOIT CORPORATION	0	0
	MAOLA MILK AND ICE CREAM COMP	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	VULCAN CONSTRUCTION MATERIALS	367715	25740
	SOLECTRON TECHNOLOGY, INC.	0	0
	THE GATES CORPORATION	5515929	386115
	SOUTHERN STEEL AND WIRE, INCO	0	0
	VF JEANSWEAR, INC.	0	0
	AMERICAN FIBERS AND YARNS COM	0	0
	HEARST COMMUNICATIONS, INC.	3133330	219333
	NACCO MATERIALS HANDLING GROU	0	0
	PEE DEE EMC SERVICES, INC.	0	0
	CARDINAL STONE COMPANY	189913	13294
	NOVATION FABRICS, INC.	0	0
	THOMASVILLE FURNITURE INDUSTR	0	0
	SEABOARD GIN COMPANY	0	0
	MEDICAL SPECIALTIES INCORPORA	0	0
	POLAR PLASTICS (NC) INC	0	0
	G & G LUMBER	0	0
	TAR HEEL GENERATOR, LLC	0	0
	G & G LUMBER	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	G & G LUMBER	0	0
	JSP HILLSB	128600	9002
	G & G LUMBER	0	0
	SAFELITE GLASS CORP	2212526	154877
	G & G LUMBER	0	0
	G & G LUMBER	0	0
	G & G LUMBER	0	0
	RENFRO FL, INC.	0	0
	G & G LUMBER	0	0
	LITTLE DAVID'S CARPET OUTLET,	0	0
	MACHINE & WELDING SUPPLY	838632	58704
	TORE'S HOME, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	J. T. DAVENPORT & SONS, INC.	488302	34181
	CUMMINS ENGINE COMPANY, INC.	0	0
	J. T. DAVENPORT & SONS, INC.	515311	36072
	DAN RIVER INC.	0	0
	CASCADES TISSUE GROUP - NORTH	1455839	101909
	WESTPOINT STEVENS INC.	10689835	748288
	REMPAC FOAM CORP	12641	885
	NORDIC GROUP OF COMPANIES, LT	0	0
	COASTAL TUMBLEGYM, INC.	0	0
	COASTAL TUMBLEGYM, INC.	0	0
	OWENS-ILLINOIS CLOSURE INC.	2479591	173571
	COASTAL TUMBLEGYM, INC.	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	ATI ACQUISITION CORPORATION	0	0
	LEE-MOORE OIL COMPANY	1712254	119858
	CORNUCOPIA CHEESES, INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	27925	1955
	REVLON CONSUMER PRODUCTS CORP	4157271	291009
	THE TIMKEN COMPANY	0	0
	CONSOLIDATED METCO, INC.	3804806	266336
	HOF TEXTILES, INC.	0	0
	SPECIALTY MINERALS INC.	88178	6172
	WM T BURNETT MANAGEMENT, INC	7257	508
	ASMO GREENVILLE OF NORTH CARO	0	0
	CONTINENTAL TEVES, INC.	1287923	90155
	SPECIALTY MINERALS INC.	42657	2986
	SPECIALTY MINERALS INC.	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	J. C. STEELE AND SONS, INC.	857418	60019
	THE TIMKEN COMPANY	11679203	817544
	FIRST CHARTER NATIONAL BANK	10497519	734826
	HOFFMAN & HOFFMAN, INC.	0	0
	G & G LUMBER	0	0
	AIR SYSTEM COMPONENTS LP	6124505	428715
	KEIHIN CAROLINA SYSTEM TECHNO	2968050	207764
	AMERICAN LAFRANCE CORPORATION	0	0
	STANLEY FURNITURE COMPANY, IN	0	0
	HANCOR, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	LEE-MOORE OIL COMPANY	295783	20705
	DATAMARK GRAPHICS, INC.	0	0
	CONTINENTAL TICKING CORPORATI	0	0
	TUBE SPECIALTIES CO., INC.	0	0
	NARRICOT INDUSTRIES, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CASCADES MOULDED PULP, INC.	0	0
	L & J ELECTRONICS, INC.	0	0
	ALLEN CANNING COMPANY	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	COLORIT ENTERPRISES, INC.	0	0
	ABBOTT LABORATORIES, INC.	0	0
	DICEY MILLS, INC.	0	0
	THE NEWARK GROUP INC	148501	10395
	WM T BURNETT & CO INC F/K/A M	11103	777
	JOHN DEERE TURF CARE, INC.	0	0
	BIG ED, LLC	2010	141
	J W JONES LUMBER COMPANY	1505024	105352
	KERR GROUP, INC.	6938390	485687
	NORTH CAROLINA ASAHI, INC.	0	0
	RESINALL CORP	1268679	88808
	KEEL NETWORK LLC	6000	420
	ALBA-WALDENSIAN, INC.	0	0
	C T SPECIALTIES CORP.	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	OLDHAM SAW CO., INC.	1464965	102548
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	RAILLINC CORPORATION	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	MAGNOLIA MFG CO	16241998	1136940
	GOOD & RELIABLE LAWN CARE INC	49818	3487
	NORTH CAROLINA ASAHI, INC.	0	0
	INDIAN HEAD INDUSTRIES, INC.	1156967	80988
	NORDIC GROUP OF COMPANIES, LT	0	0
	FINELINE INDUSTRIES EAST, INC	1123126	78619
	GORDON RECYCLERS, INC.	392507	27475
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	SOUTHERN CONCRETE MATERIALS,	239901	16793
	CAVALIER SPECIATLY YARN COMPA	0	0
	CAVALIER SPECIATLY YARN COMPA	3521245	246487
	BURKE MILLS, INC.	0	0
	AT&T CORP.	0	0
	AT & T COMMU	0	0
	PEC THECHNOLOGIES SOUTH EASTE	63290	4430
	SOUTHEASTERN PROTEIN INC	183415	12839
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	HALCORE GROUP, INC.	84357	5905

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	KORDSA USA	0	0
	SUPERIOR TELECOMMUNICATIONS,	6482374	453766
	ALADDIN MANUFACTURING CORP	255600	17892
	PCS PHOSPHATE COMPANY, INC.	21343171	1494022
	WESTPOINT STEVENS INC.	0	0
	CURTISE WRIGHT FLIGHT SYSTEMS	809301	56651
	G & L CABINETS	112342	7864
	SARA LEE CORPORATION	24093725	1686561
	LITESPEC OPTICAL FIBER LLC	0	0
	PRECISION ALLOYS INC	160000	11200
	BISON INVE	219294	15351
	FUEL SYSTEM	1639845	114789
	RESER'S FINE FOODS INC	5878362	411485
	STX, INC.	3411	239
	PHOENIX LUMBER CO	310242	3102
	WRIGHT CORP	42523	2977
	ALDREDGE JR EMMETT C	838632	58704
	ALDREDGE JR EMMETT C	838632	58704
	BARRINGER BRENT D	0	0
	COEN EUGENE W	0	0
	DUNLOW ERNEST M	0	0
	DUNLOW ERNEST M	39321	2752
	FISHER THOMAS G	0	0
	GERBER ERIC T	260124	18209
	GOODING DAVID R	0	0
	GOODMAN JOHNNY W	0	0
	GOODMAN KENNETH L	0	0
	GOODMAN RAYMOND W	0	0
	GOODMAN RAYMOND W	0	0
	HORNE KENNETH W	0	0
	HUNTLEY MAX M	691146	48380
	JONES DONALD H	0	0
	MADDISON LAURENCE B	0	0
	MADDISON LAURENCE B	0	0
	NEISLER CHARLES A	0	0
	NEISLER CHARLES A	0	0
	NEWSOME ROBERT A	0	0
	NEWSOME ROBERT A	0	0
	NEWSOME ROBERT A	380146	26610
	NEWSOME TIMOTHY E	175452	12282
	NEWSOME TIMOTHY E	0	0
	PORTER DARRELL R	0	0
	PORTER DARRELL R	0	0
	ROTH GARY W	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	SHOJI HIDETOSHI		0	0
	SMITH THOMAS D		0	0
	THOMAS GERALD P		0	0
	WATSON TED R		0	0
	WORNOM III SAMUEL J		0	0
	Total for Tier:	1	184020562	12862825
2				
	VEEDER ROOT OF NC		314599	22022
	PEPSI BOTT		353757	24763
	CONOPCO, INC.		2742931	192005
	CLAYSON KNITTING COMPANY, INC		1214412	85009
	WEYERHAEUSER COMPANY		0	0
	GUILFORD MILLS, INC.		0	0
	CHARLES CRAFT, INC.		0	0
	WESTPOINT STEVENS INC.		13773347	964134
	GKN AUTOMOTIVE, INC.		17426575	1219860
	OLDHAM SAW CO INC		1204444	84311
	RAFLATAC, INC.		34571286	2419990
	HYDRAULIC VALVE DIV		993302	69531
	UNITIVE ELECTRONICS, INC.		4771599	334012
	GETRAG CORPORATION		17877613	1251433
	BUCKEYE LUMBERTON INC.		699128	48939
	INDEPENDENT BEVERAGE CORPORAT		0	0
	ARMACELL UNITED STATES HOLDIN		0	0
	LEXINGTON FURNITURE INDUSTRIE		0	0
	ASMO NORTH CAROLINA, INC.		0	0
	PEPSI BOTT		1708417	119589
	SCIQUEST, INC.		0	0
	KEEBLER COMPANY		899245	0
	KLAUSSNER FURNITURE INDUSTRIE		0	0
	SPRINGS INDUSTRIES, INC.		0	0
	HICKORY SPRINGS MANUFACTURING		0	0
	INGERSOLL-RAND COMPANY		0	0
	J. P. TAYLOR COMPANY, INCORPO		1551367	108596
	CARPENTER CONTRACTORS OF AMER		33499	2345
	ALAMAC KNIT FABRICS, INC.		0	0
	NEXANS INC.		0	0
	CRESTWOOD INTERNATIONAL, INC.		0	0
	KENNAMETAL INC.		0	0
	THE FELDSPAR CORPORATION		0	0
	ENGINEERED CONTROLS INTERNATI		0	0
	J W JONES LUMBER COMPANY		1038445	72691
	STOCKHAUSEN INC.		3487259	244108
	GUILFORD MILLS, INC.		0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PILKINGTON NORTH AMERICA, INC	0	0
	GRAPHIC PACKAGING CORPORATION	272287	19060
	DIGITAL OPTICS CORPORATION	9101685	637118
	ABBOTT LABORATORIES, INC.	0	0
	BROYHILL FURNITURE INDUSTRIES	701007	49070
	NITRONEX CORPORATION	859371	60156
	DYNAPAR CORP	716600	50162
	SAINT-GOBAIN CONTAINERS, INC.	333338	23334
	TURN BULL LUMBER CO	704769	49334
	CLAYSON KNITTING COMPANY, INC	45932	3215
	WELCH ALLYN INC	0	0
	GRAPHIC PACKAGING CORPORATION	0	0
	BUEHLER MOTOR, INC.	758787	53115
	BRODER BROS CO	24428	1710
	CATAWISSA LUMBER & SPECIALTY	0	0
	AMILON, LLC	601694	42119
	CHARLES CRAFT, INC.	0	0
	CHICOPEE, INC.	0	0
	DERINGER MFG. COMPANY	0	0
	CARDIOVASCULAR DIAGNOSTICS, I	1909119	133638
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BORGWARNER TURBO SYSTEMS INC.	5761385	403297
	INTERIOR WOOD SPECIALTIES, IN	4760	333
	BONSET AMERICA CORPORATION	0	0
	VISIONAIR, INC.	0	0
	CURTIS SCREW CO., INC.	0	0
	HALDEX HYDRAULICS CORPORATION	0	0
	MOEN INCORPORATED	0	0
	BUCKEYE LUMBERTON INC.	641282	44890
	BP AMERICA CHEMICALS COMPANY	614570	43020
	WILLAMETTE INDUSTRIES, INC.	2229976	156098
	HICKORY SPRINGS MANUFACTURING	0	0
	KAYSER-ROTH CORPORATION	0	0
	INTERIOR WOOD SPECIALTIES, IN	152647	10685
	MCMURRAY FABRICS, INC.	0	0
	SPECIALTY MINERALS INC.	0	0
	SPECIALTY MINERALS INC.	0	0
	WILSON-COOK MEDICAL INC.	0	0
	WESTERN FORGE CORPORATION	2165608	151593
	PARTON LUMBER COMPANY, INC.	795630	55694
	HALDEX HYDRAULICS CORPORATION	0	0
	J. P. TAYLOR COMPANY, INCORPO	0	0
	THE TIMKEN COMPANY	2122643	148585
	GKN AUTOMOTIVE, INC.	4853988	339779

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CYCLE GROUP INC.	0	0
	GKN AUTOMOTIVE, INC.	0	0
	TECHNIMARK, INC.	6211994	434840
	HARRIET & HENDERSON YARNS, IN	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0
	TRIANGLE BRICK COMPANY	0	0
	ETHAN ALLEN MANUFACTURING COR	0	0
	FFNC, INC.	0	0
	THIEMAN METAL TECHNOLOGIES, L	0	0
	PLASTIC PACKAGING, INC.	10048	703
	J. P. TAYLOR COMPANY, INCORPO	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0
	HOMANIT USA, INC.	80375466	5626283
	COX NORTH CAROLINA	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	1065913	74614
	WIREWAY/HUSKY CORP.	473009	33111
	GOULSTON TECHNOLOGIES, INC.	693523	48547
	CVEO CORPORATION	0	0
	VULCAN CONSTRUCTION MATERIALS	199728	13981
	HORNE CHARLES D	0	0
	LITTLE ROBERT D	0	0
	MARSH JAMES P	0	0
	MARSH MILLICENT M	0	0
	Total for Tier: 2	229062412	15971422
3			
	BUEHLER MOTOR, INC.	1558456	109092
	BUEHLER MOTOR, INC.	0	0
	PPG INDUSTRIES FIBER GLASS PR	4774145	334190
	LOUISIANA-PACIFIC CORPORATION	1620504	113435
	ARTEVA SPECIALTIES S.A.R.L.	5999198	419944
	SAINT-GOBAIN CONTAINERS, INC.	1379400	96558
	UNICON CONCRETE, LLC	0	0
	ARTEVA SPECIALTIES S.A.R.L.	5999198	419944
	FAYETTEVILLE PUBLISHING COMPA	0	0
	GKN AUTOMOTIVE, INC.	3417416	239219
	GENTRY MILLS, INC.	715876	50111
	BURLAN CORPORATION	747329	52313
	MILLER BREWING COMPANY	9439638	660775
	BUEHLER MOTOR, INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	0	0
	SPECTRUM TEXTURED YARNS, INC.	0	0
	AVDEL CHERRY TEXTRON INC.	26841	1879
	COOPER BUSSMANN, INC.	3066442	214651
	NEW FILCAS OF AMERICA, INC.	20964	1467

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	BRANCH BANKING AND TRUST COMP	440264	30818
	DRAKE ENTERPRISES, LTD.	0	0
	NEW FILCAS OF AMERICA, INC.	20964	1467
	ANVIL KNITWEAR INC.	0	0
	EATON CORPORATION	0	0
	EATON AEROQUIP INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	BUEHLER MOTOR, INC.	1558456	109092
	CONCRETE SUPPLY CO.	0	0
	EATON CORPORATION	0	0
	CONCRETE SUPPLY CO.	0	0
	EATON CORPORATION	0	0
	CONITEX- SONOCO U.S.A., INC.	0	0
	EATON CORPORATION	0	0
	TOBACCO PROCESSORS, INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2971456	208002
	K VA T FOOD STORES INC	0	0
	GENTRY MILLS, INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	CARNES-MILLER GEAR COMPANY, I	0	0
	LE BLEU CORPORATION	1255795	87906
	THE TIMKEN COMPANY	2384866	166941
	RELEASE INTERNATIONAL, INC.	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0
	BOEHME-FILATEX, INC.	1110987	77769
	TOBACCO PROCESSORS, INC.	1447491	101324
	DELLINGER ENTERPRISES, LTD.	224960	15747
	COPELAND CORPORATION	3153271	220729
	GEORGIA-PACIFIC RESINS, INC.	734886	51442
	SOUTH TECH PLASTICS, INC.	0	0
	VICTAULIC COMPANY OF AMERICA	707113	49498
	KIDDE TECHNOLOGIES INC.	308564	21599
	AMILON, LLC	0	0
	RELEASE INTERNATIONAL, INC.	0	0
	AVDEL CHERRY TEXTRON INC.	0	0
	SOUTHERN CONCRETE MATERIALS,	87478	6123
	MOUNT OLIVE PICKLE COMPANY, I	0	0
	MASTERBRAND CABINETS, INC.	1496011	104721
	AMERICAN & EFIRD, INC.	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0
	DICEY MILLS, INC.	456332	31943
	TUSCARORA YARNS, INC.	570870	39961
	RELIANCE ELECTRIC INDUSTRIAL	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ADVANCED DRAINAGE SYSTEMS, IN	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	MOUNT OLIVE PICKLE COMPANY, I	1302545	91178
	JELD-WEN, INC.	1119210	78345
	R. A. SERAFINI, INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	U. S. TEXTILE CORP.	277439	19421
	COLUMBIA PLYWOOD CORPORATION	0	0
	AMERICAN FIBER & FINISHING, I	0	0
	PASS & SEYMOUR, INC.	2765232	193566
	LENOX, INCORPORATED	1000265	70054
	ALADDIN MANUFACTURING CORP	1416459	99152
	PEPSI BOTT	213541	14948
	PEPSI BOTT	544757	38133
	CAVALIER SPECIATLY YARN COMPA	1462728	102391
	CAVALIER SPECIATLY YARN COMPA	1462728	102391
	TEXTURING SERVICES INC	491318	34392
	CAROLINA PAPER CONVERTERS	104021	7281
	FREIGHTLIN	10284350	719905
	KENNEDY DIECASTING, INC.	0	0
	PARKDALE A	0	0
	REXAM RELEASE	0	0
	UNIFI MANUFACTURING, INC.	16791101	1175377
	SONOCO PRODUCTS CO	313641	21955
	TOBACCO PROCESSORS, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	TENET HEALTH CARE SYSTEMS OF	308659	21606
	RELIANCE ELECTRIC INDUSTRIAL	4438242	310676
	SOUTHERN CONCRETE	79862	5590
	FREIGHTLIN	13499168	944942
	COTT BEVERAGE S USA INC	12326733	862871
	CAROLINA COMMERCIAL HEAT TREA	594594	41622
	YORKSHIRE AMERICAS INC	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	Fiber Composites	1791601	125412
	ARMADA, INC.	370428	25930
	GILES CHEMICAL CORP	486269	34039
	LOWE'S COMPANIES, INC.	51945246	3636167
	MOTOR PRODUCTS INC	1039138	72740
	FIBER COMPOSITES LLC	1791601	125412
	AMERICAN & EFIRD, INC.	5570987	389969
	MAGNUM MANUF	840394	58828
	GULF STATES PAPER CORPORATION	0	0
	VEEDER ROOT OF NC INC	162682	11388

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	THE CONCORD	0	0
	GULF STATES PAPER CORPORATION	12706931	889485
	DESIGN WOR	6252415	437669
	DSM DESOTE	20546495	1438255
	CAVALIER SPECIATLY YARN COMPA	2115368	134076
	RADICISPANDEX CORP	4067603	284732
	STEPHENSON MILLWORK COMPANY	0	0
	MORRISETTE PAPER COMPANY, INC	148123	10369
	WALLACE COMPUTER SERVICES, IN	1206865	84481
	COPELAND CORPORATION	3352325	234663
	PLATINUM PROTECTIVE PRODUCTS,	0	0
	MOEN INCORPORATED	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	FRONTIER, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2507017	175491
	AFA PRODUCTS, INC.	292250	20458
	FIBER INDUSTRIES, INC.	0	0
	DANA CORPORATION	486911	34084
	WOODLAND MILLS CORPORATION	19469174	1362842
	UCHIYAMA AMERICA, INCORPORATE	0	0
	ULTIMATE TEXTILE, INC.	107937	7556
	WEST PHARMACEUTICAL SERVICES,	1737544	121628
	MERCK & CO., INC.	12825942	897816
	NEXANS INC.	0	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	BROYHILL FURNITURE INDUSTRIES	1462908	102404
	BLUE RIDGE PAPER PRODUCTS	3562012	249341
	WEYERHAEUSER COMPANY	0	0
	MEDIBEG USA, INC.	0	0
	THE MOORE COMPANY	0	0
	TECHNIMARK, INC.	0	0
	LOWE'S COMPANIES, INC.	69882064	4891744
	PARKDALE MILLS, INCORPORATED	4203239	294227
	PARKDALE MILLS, INCORPORATED	0	0
	DOPACO, INC.	2222322	155563
	EASCO HAND TOOLS, INC.	719756	50383
	PINE HALL BRICK CO., INC.	265195	18564
	WEYERHAEUSER COMPANY	0	0
	THE TORRINGTON COMPANY	0	0
	EATON AEROQUIP INC.	1389985	97299
	COLLINS & AIKMAN PRODUCTS CO.	0	0
	LOWE'S COMPANIES, INC.	55399667	3877977
	BERNHARDT FURNITURE COMPANY	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	BERNHARDT FURNITURE COMPANY		0	0
	JACKSON PAPER MANUFACTURING C		213845	14969
	UNIMIN CORPORATION		0	0
	R. L. STOWE MILLS, INC.		0	0
	THE GOODYEAR TIRE & RUBBER CO		0	0
	PREFORMED LINE PRODUCTS COMPA		0	0
	KCS INTERNATIONAL INC.		5200866	364061
	ARMADA, INC.		0	0
	DELLA SANTA ERALDO		20964	1467
	DELLA SANTA MASSIMO		20964	1467
	DELLA SANTA MASSIMO		0	0
	GUARRIELLO ANTHONY R		107937	7556
	HOOVER STEPHEN J		0	0
	TILLMAN LINTON A		0	0
	Total for Tier:	3	424984734	29734968
4				
	AMERICAN & EFIRD, INC.		0	0
	AMERICAN & EFIRD, INC.		0	0
	AMERICAN & EFIRD, INC.		352575	24680
	AMERICAN & EFIRD, INC.		0	0
	HITACHI METALS NORTH CAROLINA		422156	29551
	TRION, INC.		0	0
	HOMES BY OAKWOOD, INC.		0	0
	JULIUS BLUM INC.		1541874	107931
	GUILFORD MILLS, INC.		0	0
	GULF STATES PAPER CORPORATION		12706931	889485
	BERNHARDT FURNITURE COMPANY		0	0
	WESTPOINT STEVENS INC.		430105	30107
	THE LUNDY PACKING COMPANY		0	0
	REXNORD CORPORATION		38683	2708
	ARTEVA SPECIALTIES S.A.R.L.		55614191	3892993
	GULF STATES PAPER CORPORATION		164102	11487
	GULF STATES PAPER CORPORATION		164102	11487
	SARA LEE SOCK COMPANY		5462460	382372
	CROMPTON MANUFACTURING COMPAN		0	0
	INTERSTATE BRANDS CORPORATION		0	0
	LA-Z-BOY INCORPORATED		0	0
	MOLDED FIBER GLASS COMPANY/NO		0	0
	GUILFORD MILLS, INC.		0	0
	UNIFI MANUFACTURING, INC.		0	0
	UNIFI MANUFACTURING, INC.		3972579	278081
	THE LUNDY PACKING COMPANY		500000	0
	CLAYTON-MARCUS COMPANY, INC.		0	0
	MEREDITH WEBB PRINTING CO.INC		250459	17532

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ABBOTT LABORATORIES, INC.	0	0
	COPLAND FABRICS, INC.	0	0
	GATE CONCRETE PRODUCTS CO.	855415	59879
	INTERSTATE BRANDS CORPORATION	0	0
	VICTAULIC HOLDING COMPANY, LL	3623540	253648
	LENOX, INCORPORATED	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	JULIUS BLUM INC.	8242717	576990
	THE LUNDY PACKING COMPANY	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	FLYNT FABRICS, INC.	0	0
	FLYNT FABRICS, INC.	0	0
	UNIVERSAL LEAF NORTH AMERICA	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	COX NORTH CAROLINA	310291	21720
	HOMES BY OAKWOOD, INC.	352434	24670
	LVD CORP.	0	0
	COPLAND FABRICS, INC.	3596348	251744
	R. L. STOWE MILLS, INC.	0	0
	ROCKY MOUNT RECYCLERS, INC.	0	0
	SARA LEE SOCK COMPANY	11282203	789754
	INTERSTATE BRANDS CORPORATION	0	0
	INTERSTATE BRANDS CORPORATION	1334246	93397
	DYNAYARN USA, LLC	0	0
	VICTAULIC COMPANY OF AMERICA	895987	62719
	SARA LEE CORPORATION	4165638	291595
	SARA LEE CORPORATION	597361	41815
	UNIVERSAL LEAF NORTH AMERICA	0	0
	PLASTIC PACKAGING, INC.	2454479	171814
	CAROLINA SUNROCK CORPORATION	135117	9458
	LVD CORP.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	NEPTCO, INCORPORATED	0	0
	CANDLE CORPORATION OF AMERICA	0	0
	STEEL TECHNOLOGIES, LLC	245395	17178
	NYPRO CAROLINA INC.	2463454	172442
	BUCKEYE LUMBERTON INC.	4380549	306638
	ILCO UNICAN CORP.	0	0
	HICKORY SPRINGS MANUFACTURING	0	0
	THE MITCHELL GOLD CO.	225238	15767
	DUBOSE STEEL, INC. OF NORTH C	0	0
	NEWTON INSTRUMENT CO INC	561439	39301

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	NACCO MATERIALS HANDLING GROU	0	0
	VICTAULIC HOLDING COMPANY, LL	0	0
	CHATHAM, INC.	2105005	147350
	CHATHAM, INC.	2847348	199314
	HOG SLAT INC.	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	0	0
	BAKER, KNAPP & TUBBS, INC.	0	0
	EATON AEROQUIP INC.	0	0
	LEVITON MANUFACTURING CO., IN	343014	24011
	THE HON COMPANY	216860	15180
	NACCO MATERIALS HANDLING GROU	823287	57630
	DANA CORPORATION	1921511	134506
	BUDGET PANELS INC.	0	0
	NOVOZYMES NORTH AMERICA, INC.	2191763	153423
	OWENS-BROCKWAY PLASTIC PRODUC	3193449	223541
	REFRIGERATED BOXES, INC	0	0
	BSH HOME APPLIANCES CORPORATI	2740233	191816
	ADAMS WHOLESALE COMPANY	0	0
	MCLANE/CAROLINA,INC.	28100	1967
	BORDEN CHEMICAL, INC.	0	0
	SAFT AMERICA INC	0	0
	KABA ILCO CORP.	0	0
	RACK ROOM SHOES, INC.	0	0
	FUJI SILYSIA CHEMICAL USA, LT	7862777	550394
	VALDESE WEAVERS, INC.	0	0
	BROYHILL FURNITURE INDUSTRIES	1633923	114375
	MONSANTO COMPANY	0	0
	WEYERHAEUSER COMPANY	0	0
	WEYERHAEUSER COMPANY	0	0
	R. L. STOWE MILLS, INC.	0	0
	COLLINS & AIKMAN PRODUCTS CO.	0	0
	NEUVILLE INDUSTRIES, INC.	0	0
	THE HON COMPANY	0	0
	CAROLINA PRECAST CONCRETE, IN	0	0
	SEALED AIR CORPORATION (US)	3170553	221939
	FREIGHTLIN	9968878	697821
	SANTA FE NATURAL TOBACCO CO	895319	62672
	PAXAR CORPORATION	0	0
	NORANDAL USA, INC.	0	0
	AYLWARD ENTERPRISES	82077	5745
	NATIONAL TEXTILES LLC	4294472	300613
	NATIONAL TEXTILES LLC	631300	44191
	WINTERVILLE MACHINE WORKS, IN	0	0
	BSH HOME APPLIANCES CORP	3097614	216833

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CROMPTON MANUFACTURING COMPAN	0	0
	LACE LASTICE CO INC	2269221	158845
	ALADDIN MANUFACTURING CORP	196000	13720
	PH GLATFELTER CO	0	0
	KINGS FARMING ENTERPRISES	84141	5890
	MORGANITE	2210159	154711
	CAROLINA T	0	0
	SUIZA DAIRY	0	0
	THE GILLETTE COMPANY	0	0
	METRICS, INC.	199502	13965
	WAKE STONE CORPORATION	0	0
	JOHNSON CONCRETE COMPANY	543602	38052
	NORTH STATE TELEPHONE COMPANY	0	0
	ARCHER-DANIELS-MIDLAND COMPAN	0	0
	AMITAL SPINNING CORP.	28921	2024
	CATERPILLAR INC.	2236907	156583
	ATHOL MANUFACTURING CORP	2890687	202348
	GREGORY POOLE EQUIPMENT COMPA	0	0
	DML INDUSTRIAL PRODUCTS, INC.	0	0
	CERTAINTEED CORPORATION	542507	37975
	CERTAINTEED CORPORATION	2247516	157326
	AMERICAN ROLLER BEARING COMPA	0	0
	THOMAS MFG. COMPANY, INC. OF	0	0
	AMERICAN ROLLER BEARING AND M	0	0
	EATON AEROQUIP INC.	0	0
	NEPTCO, INCORPORATED	1658275	116079
	NUWAY SPEAKER PRODUCTS, INC.	0	0
	CHATSWORTH PRODUCTS, INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	66190	4633
	LOUISIANA-PACIFIC CORPORATION	2130597	149142
	UNICON CONCRETE, LLC	0	0
	ABBOTT LABORATORIES, INC.	0	0
	CONCRETE SUPPLY CO.	127800	8946
	PACKAGING CORPORATION OF AMER	942724	65991
	ALDREDGE JR EMMETT C	0	0
	BARWICK CARROLL B	0	0
	COXE THOMAS C	0	0
	DARCH LEE A	0	0
	ERWIN CHARLES B	0	0
	EWERT BRIAN C	0	0
	GODWIN JAMES P	292903	20503
	LEWIS HARVEY R	0	0
	MCDOUGALD ALBERT G	0	0
	MCDOUGALD AMANDA M	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	MCDOUGALD IAN E	0	0
	TILGHMAN WILLIAM A	199502	13965
	Total for Tier: 4	194256705	13562962
5			
	CHESAPEAKE DISPLAY AND PACKAG	0	0
	MCLANE FOODSERVICE, INC.	0	0
	TEKELEC	9298095	650867
	QUINTILES, INC.	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	J. T. DAVENPORT & SONS, INC.	195454	13682
	GRASS AMERICA, INC.	0	0
	INTERSTATE BRANDS CORPORATION	1287376	90116
	JOHN DEERE TURF CARE, INC.	0	0
	FRISBY AEROSPACE, INC.	1157309	81012
	RAMTEX INC.	0	0
	UNIFI MANUFACTURING, INC.	0	0
	UNIFI MANUFACTURING, INC.	0	0
	TIPPER TIE, INC.	0	0
	THE CHALLENGE PRINTING CO. OF	69770	4884
	CHEMICAL SPECIALTIES, INC.	537003	37590
	RAMTEX INC.	0	0
	NEXTEL SOUTH CORP.	0	0
	KENNAMETAL INC.	1050393	73528
	BIOGEN INC	0	0
	TIEPET, INC.	0	0
	SAS INSTITUTE INC.	1754255	122798
	CTC LONG DISTANCE SERVICES, I	0	0
	DEERE & COMPANY	0	0
	GREEN PRINTING AND PACKAGING	175079	12256
	OKUMA AMERICA CORPORATION	0	0
	VF JEANSWEAR SALES, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	KURZ TRANSFER PRODUCTS, L.P.	125787	8805
	KURZ TRANSFER PRODUCTS, L.P.	320068	22405
	THOR.LO, INC.	0	0
	THOR.LO, INC.	219084	15336
	THE LANE COMPANY, INCORPORATE	0	0
	BARNHARDT MANUFACTURING COMPA	6806235	476436
	CONCRETE SUPPLY CO.	86493	6055
	BANKNOTE CORPORATION OF AMERI	0	0
	JELD-WEN, INC.	0	0
	ILCO UNICAN CORP.	196344	13744
	CAROLINA STEEL CORPORATION	134697	9429
	NORTH STATE TELEPHONE COMPANY	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	RAMTEX INC.	0	0
	KAYDON CORP	0	0
	CONCRETE SUPPLY CO.	609678	42677
	AJINOMOTO USA INC	3039096	212737
	STRATEGIC RESOURCE SOLUTIONS	0	0
	TRUSTEE FOR CAROLINA CONTAINE	422534	29577
	WINSTON PRINTING COMPANY	2354770	164834
	CELGARD, INC	2671777	187024
	CONCRETE SUPPLY CO.	58232	4076
	SARA LEE CORPORATION	1077603	75432
	CONCRETE SUPPLY CO.	26107	1828
	MU RO, INC.	0	0
	JOHNSON CONTROLS BATTERY GROU	0	0
	ALCATEL USA GP, INC.	0	0
	NORTH STATE TELEPHONE COMPANY	0	0
	ADM MILLING CO.	605950	42417
	GRASS AMERICA, INC.	3977081	278396
	SYDNEY BAG & PAPER COMPANY	0	0
	LANCE, INC.	0	0
	LUTRABOND COMPANY	3432270	240259
	EATON AEROQUIP INC.	0	0
	EISAI INC.	3941756	275923
	HASCO MOLD BASES - ASHEVILLE,	684520	47916
	BELK ADMINISTRATION COMPANY	0	0
	AMERESCOSOLUTIONS, INC.	0	0
	ATI ACQUISITION CORPORATION	138483	969381
	GUARANTEED SUPPLY COMPANY	0	0
	GUILFORD MILLS, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	CONCRETE SUPPLY CO.	0	0
	PYA/MONARCH, INC.	0	0
	FIRST CHARTER NATIONAL BANK	3241498	226905
	NOMACORC LLC	1104733	77331
	ELECTRONIC DATA MAGNETICS	705305	49371
	PEPSI BOTT	372644	26085
	PEPSI BOTT	2390676	167347
	PEPSI BOTT	425157	29761
	PEPSI BOTT	766196	53634
	PEPSI BOTT	139207	9732
	UNICON CONCRETE, LLC	605745	42402
	PEPSI BOTT	1444818	101137
	MAYFLOWER GLASS	0	0
	GUILFORD MILLS, INC.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	1864736	130532

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ARVINMERITOR, INC.	0	0
	SQUARE D CO	0	0
	ADVANCED TUBING TECHNOLOGY IN	296915	20784
	PEOPLECLICK.COM, INC.	325527	22787
	SUIZA DAIRY	750979	52569
	GOODMARK FOODS, INC.	2150600	150542
	GAIA HERBS, INC.	0	0
	MILKCO, INC.	2365226	165566
	BAYER CORP	0	0
	UNITED STATIONERS SUPPLY CO	3368465	235793
	SOUTHERN CONCRETE	176852	12380
	SOUTHERN CONCRETE	60235	4216
	SOUTHERN CONCRETE	422718	29590
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	CAROLINA T	0	0
	FIRST UNION NATIONAL BANK	0	0
	CELLO PARTNERSHIP	14423119	1009618
	FIRST UNION NATIONAL BANK	0	0
	ORNAMENTAL MOULDINGS INC	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	FREUDENBER	3432270	240259
	VITAFOAM INC	0	0
	JOHN DEERE TURF CARE, INC.	10952655	766686
	FOAMEX LP	943400	66038
	SONOCO PRODUCTS CO	0	0
	OFFICE DEPOT INC	74236252	5196538
	SEEGARS FENCE CO OF WAKE COUN	6870615	480943
	P P G INDUSTRIES, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	OAKWOOD ACCEPTANCE CORP	0	0
	AB AUTOMOTIVE, INC.	219084	15336
	TIEPET, INC.	0	0
	CCS HOLDINGS, INC.	0	0
	CATERPILLAR INC.	4002244	280157
	WESTLAKE INDUSTRIES, INC.	0	0
	MICHIGAN PACKAGING COMPANY	74925	5245
	APBI INC.	1410185	98713
	GREGORY POOLE EQUIPMENT COMPA	44748	3132
	SAS INSTITUTE INC.	1540767	107854
	R.H. DONNELLEY INC.	164716	11530
	CREE, INC.	28865966	2020617
	WESTLAKE PRESS, INC.	0	0
	PERGO, INC.	737095	51597
	WILLAMETTE INDUSTRIES, INC.	1426856	99880

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CUTLER-HAMMER INC.	0	0
	UNIVERSAL LEAF NORTH AMERICA	0	0
	CUTLER-HAMMER INC.	4320144	302410
	WIREWAY/HUSKY CORP.	1579700	110579
	SUMITOMO ELECTRIC LIGHTWAVE C	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	21291021	1490371
	GOODMARK FOODS, INC.	1092049	76443
	LOWE'S HOME CENTERS, INC.	0	0
	SOLECTRON TECHNOLOGY, INC.	37871075	2650975
	DUPLICATE TRANS ID#	0	0
	VF SERVICES, INC.	0	0
	FAMILY DOLLAR, INC.	4157893	291053
	THE CONCORD	14357695	1005039
	EDWARD VOGT VALVE CO	1086167	76032
	VF PLAYWEAR INC	46245	3237
	THE QUANTU GROUP INC	452118	31648
	CELLCO PARTNERSHIP	6163121	431418
	OPTICAL EXPERTS MANUFACTURING	8318799	582316
	G & G LUMBER	0	0
	PERGO, INC.	0	0
	SAPONA MANUFACTURING COMPANY,	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	SMITHKLINE BEECHAM CORPORATIO	34460512	2412236
	MICKEY TRUCK BODIES INC.	159483	11164
	DIOSYNTH RTP INC.	0	0
	DIOSYNTH RTP INC.	0	0
	AT&T CORP.	0	0
	OLIVER RUBBER COMPANY	0	0
	BECTON, DICKINSON AND COMPANY	4325735	302801
	LEE BRICK & TILE COMPANY	452886	31702
	BANK OF AMERICA NA	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	INTEK, INC.	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	MORRISETTE PAPER COMPANY, INC	17751	1243
	KRISPY KREME DOUGHNUT CORPORA	2707413	189519
	ACTION PERFORMANCE COMPANIES,	0	0
	ACTION PERFORMANCE COMPANIES,	0	0
	STATIC CONTROL COMPONENTS, IN	5043070	353015
	KRISPY KREME DOUGHNUT CORPORA	94125	6589
	L & E PACKAGING, LLC	0	0
	KRISPY KREME DOUGHNUT CORPORA	375907	26313
	UNIVERSAL LEAF NORTH AMERICA	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PLYMOUTH PRINTING CO. INC.	0	0
	INDEPENDENT BEVERAGE CORPORAT	3365414	235579
	SOUTHERN CONCRETE	105769	7404
	WACHOVIA BANK OF NORTH CAROLI	0	0
	NOEL VENTURES, LLC	1104733	49061
	CAROLINA POWER & LIGHT COMPAN	0	0
	AVX CORPORATION	5386081	377026
	H. B. FULLER COMPANY	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	NYPRO CAROLINA INC.	0	0
	ADHESION TECHNOLOGIES, INC.	2836901	198583
	NGK CERAMICS USA, INC.	5986620	419063
	SEALY INC	3113559	217949
	SCHAEFER SYSTEMS INTERNATIONA	342110	23948
	NATIONAL PIPE & PLASTICS, INC	0	0
	SIERRAPINE LIMITED	0	0
	OAKWOOD HOMES CORPORATION	0	0
	KEWAUNEE SCIENTIFIC CORPORATI	1484889	103942
	SOUTHERN CONTAINER CORP.	0	0
	MICHIGAN PACKAGING COMPANY	6937109	485598
	PHILIP MORRIS INCORPORATED	28993245	2029527
	CONSOLIDATED METCO, INC.	4003035	280212
	TRIANGLE BRICK COMPANY	0	0
	TRIANGLE BRICK COMPANY	0	0
	ARROW INTERNATIONAL, INC.	269871	18891
	EDWARD VOGT VALVE COMPANY	950031	66502
	ALCATEL USA LP, INC.	0	0
	COTY INC.	5308797	53088
	ALPHAGARY CORPORATION	235373	16476
	PEPSI-COLA BOTTLING COMPANY O	0	0
	BOX-BOARD PRODUCTS, INC.	179993	12600
	BRANCH BANKING AND TRUST COMP	99162	6941
	CORNING INCORPORATED	0	0
	BE AEROSPACE, INC.	5665536	396588
	CORNING INCORPORATED	0	0
	CORNING INCORPORATED	71406998	4998490
	CORNING INCORPORATED	86761130	6073279
	LENDINGTREE, INC.	0	0
	CORNING INCORPORATED	0	0
	ALCATEL USA SOURCING, L.P.	0	0
	RF MICRO DEVICES, INC.	99536685	6967568
	CISCO SYSTEMS SALES & SERVICE	7466664	522666
	BANNER PHARMACAPS INC.	1358080	95066

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	DART CONTAINER CORP OF GEORGI	2185955	153017
	ECLIPSE PACKAGING, INC.	532517	37276
	TOGETHERSOFT CORPORATION	749858	52490
	ANVIL KNITWEAR INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	63379	4437
	CORNING INCORPORATED	61912676	4333887
	THOMASVILLE FURNITURE INDUSTR	0	0
	WEYERHAEUSER COMPANY	0	0
	NOEL FAMILY TRUST	1104733	77331
	WIREWAY/HUSKY CORP.	1004114	70288
	NOEL FAMILY TRUST BO WENDY NO	1104733	77331
	WALTER KIDDE PORTABLE EQUIPME	164589	11521
	NOVO NORDISK PHARMACEUTICAL I	880298	61621
	KOBE COPPER PRODUCTS INC.	0	0
	NOEL FAMILY TRUST FBO MICHAEL	1104733	77331
	WESTPOINT STEVENS INC.	0	0
	MILKCO, INC.	2569408	179859
	MAGNETI MARELLI POWERTRAIN U.	851176	59582
	THOMASVILLE FURNITURE INDUSTR	0	0
	J. T. DAVENPORT & SONS, INC.	120032	8402
	SPICER MANUFACTURING, INC.	0	0
	RAILLINC CORPORATION	0	0
	LANE FURNITURE INDUSTRIES, IN	0	0
	R. J. REYNOLDS TOBACCO COMPAN	0	0
	KABA ILCO CORP.	0	0
	ACCUMA CORPORATION	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	THOMASVILLE FURNITURE INDUSTR	609439	42661
	SOLECTRON TECHNOLOGY, INC.	47504967	3325348
	DAY INTERNATIONAL, INC.	443922	31075
	LUTRADUR CORPORATION	3432270	240259
	CREE, INC.	41604758	2912333
	MICROFIBRES, INC.	1074081	75186
	SANDVIK, INC.	3652993	255710
	UNICON CONCRETE, LLC	0	0
	ELI LILLY AND COMPANY	4493823	314568
	S & D COFFEE INC	3379351	236555
	FAMILY DOLLAR, INC.	3733773	261364
	WAKE STONE CORPORATION	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0
	THE PANTRY, INC.	2439649	170775
	THOMAS CONCRETE OF CAROLINA,	0	0
	QUINTILES TRANSNATIONAL CORP.	0	0
	STEELCASE INC.	95090	6656

Name	Cost of M and E	Eligible Credit Amount Generated
HSMF, INC.	0	0
AMERICAN METAL TREATING, INC.	0	0
CARRIER CORPORATION	1850568	129540
LOUISIANA-PACIFIC CORPORATION	0	0
CULP, INC.	2141637	149915
CARY PRINTING COMPANY, INC.	0	0
BLUE RIDGE METALS CORPORATION	0	0
CHAMBERS FABRICS, INC.	1371022	95972
SOUTHERN CONCRETE MATERIALS,	150950	10567
CONTINENTAL TEVES, INC.	6512010	455841
SOUTHERN CONCRETE MATERIALS,	1473	103
CTC EXCHANGE SERVICES, INC.	0	0
PPG INDUSTRIES FIBER GLASS PR	8738707	611709
AMERICAN OFFSET PRINTING INK,	0	0
FIRST UNION NATIONAL BANK	0	0
CLARKE AMERICAN CHECKS, INC.	0	0
RMC CAROLINA MATERIALS, INC.	1134537	79418
BILL DAVIS RACING, INCORPORAT	774933	54245
PLIANT SYSTEMS, INC.	0	0
DEERE-HITACHI CONSTRUCTION MA	1730989	121169
ALCATEL NA CABLE SYSTEMS, INC	46985348	3288974
REXAM BEVERAGE CAN COMPANY	0	0
EVEREADY BATTERY COMPANY, INC	24429630	1710074
EVEREADY BATTERY COMPANY, INC	1950050	136504
CLOSURE MEDICAL CORPORATION	827637	57935
CISCO SYSTEMS SALES & SERVICE	47161905	3301333
SUIZA FLUID DAIRY GROUP HOLDI	496397	34748
EVEREADY BATTERY COMPANY, INC	0	0
COMMSCOPE, INC. OF NORTH CARO	17233542	1206348
PINNACLE FILMS, INC.	0	0
COMMSCOPE, INC. OF NORTH CARO	43244	3027
KLAUSSNER FURNITURE INDUSTRIE	0	0
US AIRWAYS, INC.	0	0
VF PLAYWEAR, INC.	0	0
CENTURY FURNITURE INDUSTRIES,	0	0
MYLAN PHARMACEUTICALS INC.	136390	9547
MYLAN PHARMACEUTICALS INC.	150383	10527
LANCE MFG. LLC	15056161	1053931
DELTA CONSOLIDATED INDUSTRIES	64308	4501
MEDIA EVOLVED, LLC	2029706	142079
DANA CORPORATION	0	0
WAKE STONE CORPORATION	0	0
RENE COMPOSITE MATERIALS CORP	1134846	79439
COMPASS GROUP USA, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CONTINENTAL TIRE NORTH AMERIC	13573641	950155
	LEMANS CORPORATION	2566398	2566398
	CTC INTERNET SERVICES, INC.	0	0
	VF CORP	0	0
	WACHOVIA CORPORATION	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0
	WACHOVIA CORPORATION	0	0
	ALDREDGE JR EMMETT C	0	0
	AUSTIN LAWRENCE A	532517	37276
	BRUNER JEFFREY W	452118	31648
	CARPENTER JONATHAN S	0	0
	CRARY EDWARD M	0	0
	DAVIS MARTIN A	0	0
	FLYNN GARY B	0	0
	HOLMAN DOUGLAS E	0	0
	HORTON PAUL W	0	0
	HOYLE KENNETH L	532517	37276
	KURZ PETER	62264	4358
	KURZ PETER	158433	11090
	KURZ WALTER	62264	4358
	KURZ WALTER	158433	11090
	LAUER EDWARD	1104733	77331
	LEWIS WILLIAM F	0	0
	MAIER JAMES W	0	0
	MARSH GEORGE M	0	0
	MARSH GILBERT R	0	0
	NOEL MARC J	1104733	77331
	PEARCE	0	0
	RAYLE GLENN D	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER ROBERT A	0	0
	RIEDLINGER ROBERT A	0	0
	SALL JOHN P	0	0
	SMYTH DOUGLAS E	0	0
	SPELL HARRY C	532517	37276
	SPELL THEADIE C	532517	37276
	THORE GLENN W	0	0
	WARD ALLEN K	0	0
	WARD MURIEL C	0	0
	WHITENER ROBERT L	532517	37276
	WHITENER ROBERT L	532517	37276
	WILLIAMS JOHNNY J	0	0
	WRAY PHILLIP C	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	Total for Tier:	5	1101403931	80097901
	Grand TOTAL:		2199645006	157631689

William S. Lee Tax Credits

New Jobs in Development Zones

North Carolina Department of Revenue

William S. Lee Tax Credits
New Jobs in Development Zones
Processed in Calendar Year 2002

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
0					
	GRAPHIC PRINTING SERVICES, IN	0	0	0	0
	PARKER SALES & SERVICE, INC.	0	0	0	0
	HUFFMAN TECHNOLOGY, INC.	0	0	0	0
	MEASURMENT INCORPORATED PAYRO	0	0	0	0
	LEVITON MANUFACTURING CO., IN	0	0	0	0
	EMGRAN HOLDING CO., INC,	0	0	0	0
	BATTEN & COMPANY	0	0	0	0
	GGS, INC.	0	0	0	0
	S & W READY MIX CONCRETE COMP	56	0	144500	0
	GEO. G. SCOTT & CO.	0	0	0	0
	PATY LUMBER COMPANY	0	0	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0	0	0
	STEPHENS-L&E LLC	0	0	0	0
	MJ SOFFE CO INC	0	0	0	0
	JAMES L. TAYLOR MFG. CO.	0	0	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0	0	0
	JIMMY WARD HARDWOODS, INC.	0	0	0	0
	KING BROTHERS ELECTRIC COMPAN	0	0	0	0
	BUILDING BLOCKS CHILD CARE DE	0	0	0	0
	ANCHOR INDUSTRIAL SALES, INC.	0	0	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0	0	0
	TILSON MACHINE, INC.	0	0	0	0
	BROYHILL TRANSPORT, INC.	0	0	0	0
	CHOICE U.S.A. BEVERAGE, INC.	0	0	0	0
	ULTRA-MEK, INC.	0	0	0	0
	AMERITECH DIE & MOLD, INC.	0	0	0	0
	PEPCOM INDUSTRIES, INC.	0	0	0	0
	ROGER B. BERNHOLZ, P.A.	0	0	0	0
	THE TRANSCRIPTION CENTER, INC	0	0	0	0
	MORRIS HEATING & AIR CONDITIO	0	0	0	0
	ALDERON BIOSCIENCES, INC.	0	0	0	0
	KEYSTONE POWDERED METAL COMPA	0	0	0	0
	BARR-MULLIN, INC.	0	0	0	0
	SOUTHERN CONTAINER CORP.	0	0	0	0
	A & B FLORIST SUPPLY COMPANY	0	0	0	0
	HAMPTON INDUSTRIES, INC.	0	0	0	0
	PURCHASE FINANCE, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	D & G UNIFORMS, INC.	0	0	0	0
	LIPS, INC.	0	0	0	[redacted]
	AKG OF AMERICA, INC.	0	0	0	0
	CHAMPION HOME BUILDERS CO.	0	0	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0
	J. CHRISTOPHER KIBLER, D.D.S.	0	0	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0	0	0
	TRINITY MANUFACTURING, INC.	0	0	0	0
	CONFLANDEY INC.	0	0	0	0
	PROBITY PRODUCTS	0	0	0	0
	HONEYWELL INTERNATIONAL INC.	0	0	0	0
	REMINGTON ARMS COMPANY, INC.	0	0	0	0
	HICKORY SCRAP IRON & METAL CO	0	0	0	0
	LAKESIDE BEACH, INC.	0	0	0	0
	THE CATO CORPORATION	0	0	0	0
	W. L. MITCHELL & SONS, INC.	0	0	0	0
	ROBERT S HUDGINS CO INC	0	0	0	0
	SEVERN PEANUT COMPANY, INC.	0	0	0	0
	HUFFMAN OIL COMPANY, INCORPOR	0	0	0	0
	LYLE E. FARVER & SON, INC.	0	0	0	0
	CATOSOUTH, LLC.	0	0	0	[redacted]
	UNITED STEEL PRODUCTS CO	0	0	0	0
	SOUTHERN CONCRETE	0	0	0	0
	ALCOA EXTRUSIONS, INC.	0	0	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0	0	0
	WILSON-COOK MEDICAL INC.	0	0	0	0
	R. L. STOWE MILLS, INC.	0	0	0	0
	TRILUX TECHNOLOGIES, INC.	0	0	0	0
	THE ROWBOAT COMPANY, INC.	0	0	0	0
	ZAGAROLI AND COMPANY	0	0	0	0
	LEX MAR, INC.	0	0	0	0
	JOE BROWN, INC.	0	0	0	0
	ROANE OBSTETRICS & GYNECOLOGY	0	0	0	0
	TECHNIMARK, INC.	0	0	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0	0	0
	MID ATLANTIC PRINTERS LTD	0	0	0	0
	LARRY W. POOLE & ASSOCIATES,	0	0	0	0
	THE MCAULAY COMPANY, INC.	0	0	0	0
	PIONEER ECLIPSE CORPORATION	0	0	0	0
	DOMNICK HUNTER INC	0	0	0	[redacted]
	NEIL ALLEN INDUSTRIES, INC.	0	0	0	[redacted]
	GGS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	GREEN & MCCLURE FURNITURE COM	0	0	0	0
	MOSS-FISHER, INC.	0	0	0	0
	COCA-COLA BOTTLING CO. AFFILI	0	0	0	0
	VUNCANNON PLUMBING & MECHANIC	0	0	0	0
	MOVIEMAX, INC.	0	0	0	0
	TECHNICAL PRECISION PLASTICS,	0	0	0	0
	EVERETT BRYANT SALES, INC.	0	0	0	0
	PIEDMONT PACKAGING, INCORPORA	0	0	0	0
	DIAMOND ELECTRIC SUPPLY CO.,	0	0	0	0
	MONOLITH CORPORATION	0	0	0	0
	GENEVA CORPORATION	0	0	0	0
	BRAXTON AUTO PARTS CORPORATIO	0	0	0	0
	THOMAS BUILT BUSES, INC.	0	0	0	0
	EURO-MATIC PLASTICS, INC.	0	0	0	0
	ASHLEY ELECTRIC, INC.	0	0	0	0
	GETRAG CORPORATION	0	0	0	0
	CAROLINA STEEL CORPORATION	1	0	4500	0
	COOPER LEASING, INC.	0	0	0	0
	BREWER EQUIPMENT CO.	0	0	0	0
	NIVEK CORPORATION	0	0	0	0
	TATE LANNING & ASSOCIATES, P.	0	0	0	0
	ALBANI, BAYEUX INC.	0	0	0	0
	COOPER KENWORTH, INC.	0	0	0	0
	RALEIGH MEDICAL GROUP, P.A.	0	0	0	0
	BLUE RIDGE TIRE SERVICE, INC.	0	0	0	0
	FARMERS BURLEY WAREHOUSE, INC	0	0	0	0
	COPE EQUIPMENT COMPANY	0	0	0	0
	MT. AIRY OB-GYN CENTER, INC.	0	0	0	0
	BARNEY'S HOSIERY, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	TAR HEEL INSPECTION SERVICES,	0	0	0	0
	H & H OF RALEIGH, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	ROBERT C. HICKMAN INSURANCE A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	VICTAULIC COMPANY OF AMERICA	0	0	0	0
	CLARKE AMERICAN CHECKS, INC.	0	0	0	0
	BAUMGARTNER INC.	0	0	0	0
	DELTA GYPSUM, INC.	0	0	0	0
	TERRY'S FLOOR FASHIONS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	BOYD & HASSELL, INC.	0	0	0	0
	RALEIGH PLASTIC SURGERY CENTE	0	0	0	[redacted]
	OUTDOOR LIGHTING, INC.	0	0	0	
	TROXLER ELECTRONIC LABORATORI	0	0	0	0
	IMPLUS FOOTCARE, LLC	0	0	0	0
	H.R.W., INC.	0	0	0	0
	DILLARD'S, INC.	0	0	0	0
	BESTSWEET INC.	0	0	0	0
	MCGEE CORPORATION	0	0	0	0
	S T E R, ENTERPRISES, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	THE G.L.G. CORPORATION	0	0	0	0
	JACK CROSS HEATING & AIR COND	0	0	0	0
	LEXCOM TELEPHONE COMPANY	0	0	0	0
	ROGER DAVIS COMPANY, INC.	0	0	0	0
	TEXEL USA INC.	0	0	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	CARPENTER INDUSTRIES, INC.	0	0	0	[redacted]
	K.L. BUTLER LOGGING, INC.	0	0	0	
	CONTEMPORARY FURNITURE DESIGN	0	0	0	0
	THE TOOL & GAGE HOUSE COMPANY	0	0	0	0
	MSS CLEAN TECHNOLOGY INC.	0	0	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0	0	0
	TEXTILE CLEANER SERVICE CORPO	0	0	0	0
	CONSOLIDATED LAUNDRY EQUIPMEN	0	0	0	0
	INTELLI-MARK TECHNOLOGIES, IN	0	0	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0	0	0
	ALPHIN BROTHERS, INC.	0	0	0	0
	LUSTAR DYEING AND FINISHING,	0	0	0	0
	NEWTON INSTRUMENT CO INC	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	COMPONENT CONCEPTS, INC.	0	0	0	0
	R & J SERVICE COMPANY, INC.	0	0	0	0
	CULP, INC.	0	0	0	0
	WIGGINS-NORTH STATE MONUMENT	0	0	0	0
	HICKORY CARPET & FLOOR COVERI	0	0	0	0
	WESLEY HALL FURNITURE, INC.	0	0	0	0
	SOUTHERN FABRICATORS, INC.	0	0	0	[redacted]
	G. S. TUCKER & CO. OF WILSON,	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CONSOLIDATED METCO, INC.	0	0	0	0
	CLINTON MEDICAL CLINIC INC	0	0	0	0
	CLINTON MEDICAL CLINIC INC	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	BOYD & HASSELL, INC.	0	0	0	0
	RICHARD GAYLORD HOMES, INC.	0	0	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0	0	0
	BEAR CREEK HOSIERY, INC.	0	0	0	0
	MODACAD INC	0	0	0	0
	AMERITECH DIE & MOLD, INC.	0	0	0	0
	GLCO MARKETING, INC.	0	0	0	0
	PRECISION DECORATING CENTER,	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0
	PRINTPACK INC	0	0	0	0
	TURNAMICS, INC.	0	0	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0	0	0
	CHALLENGER INDUSTRIES, INC.	0	0	0	0
	MEDICAL CYBERNETICS, INC.	0	0	0	0
	ROYAL PARK UNIFORMS, INC.	2	0	6000	0
	LARRY WILLIAMS PLUMBING & HEA	0	0	0	0
	CONSOLIDATED METCO, INC.	0	0	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0	0	0
	K.L. BUTLER LOGGING, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0	0	0
	UNICON CONCRETE, LLC	0	0	0	0
	LADD FURNITURE, INC.	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	BOLTON CORP.	0	0	0	0
	SWIFT-ECKRICH, INC.	0	0	0	0
	ANASTASIA FURS, INC.	0	0	0	0
	ALEXVALE FURNITURE, INC.	0	0	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0
	PRINCE BROTHERS FURNITURE CO.	0	0	0	0
	WB GROUP PROPERTIES, LLC	0	0	0	0
	CONFLANDEY INC.	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	HIGHLAND FABRICATORS, INC.	0	0	0	0
	PRINTPACK INC	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ENGINEERED POLYMER SOLUTIONS,	0	0	0	0
	GOLD STAR COATINGS - ASHEVILL	0	0	0	
	LADD FURNITURE, INC.	0	0	0	
	LADD FURNITURE, INC.	0	0	0	0
	LENOIR PAD AND PAPER COMPANY	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	SPENCER YACHTS, INC.	0	0	0	0
	HIGHLAND FABRICATORS, INC.	0	0	0	0
	PRIDGEN BROS. CONTRACTORS, IN	0	0	0	0
	BAKER & TAYLOR, INC.	0	0	0	0
	FINELINE INDUSTRIES EAST, INC	0	0	0	0
	LIN PAC, INC.	0	0	0	0
	MULLIS MOTORSPORTS, INC.	0	0	0	0
	HAFELE AMERICA CO.	0	0	0	0
	ATHEY PRODUCTS CORPORATION	0	0	0	0
	BLANKET FACTORY, INC.	0	0	0	0
	GENTRY MILLS, INC.	0	0	0	0
	LARRY WILLIAMS PLUMBING & HEA	0	0	0	0
	NORTHWEST RADIOLOGICAL & ASSO	0	0	0	0
	TRIANGLE BUILDING SERVICES, I	0	0	0	0
	PETERSON DEVELOPMENT CORPORAT	0	0	0	0
	SOUTHERN STEEL AND WIRE, INCO	0	0	0	
	MCLAWHORN LIVESTOCK FARM, INC	0	0	0	0
	E BEN WARD JR PA	0	0	0	0
	JOURNIGAN'S TIRE & BATTERY SA	0	0	0	0
	BENTEX MILLS, INC.	0	0	0	0
	MICKEY TRUCK BODIES INC.	0	0	0	0
	TENN-TEX PLASTICS, INC.	0	0	0	0
	B & A CONCRETE CONSTRUCTION,	0	0	0	0
	INDUTER U.S.A. INC	0	0	0	0
	REMPAC FOAM CORP	0	0	0	0
	YORK TAPE & LABEL, INC.	0	0	0	0
	RBC CENTURA BANK	0	0	0	0
	SPECTRUM DYED YARNS, INC.	0	0	0	0
	FULLER REAL ESTATE MANAGEMENT	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	MILLENNIUM MANUFACTURING STRU	0	0	0	0
	CAN AMERICAN UTILITY CONTRACT	0	0	0	0
	AB AUTOMOTIVE, INC.	0	0	0	0
	KCS INTERNATIONAL INC.	0	0	0	0
	GEORGIA-PACIFIC CORPORATION	0	0	0	
	MCMAN, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	P.A.M.A. FURNITURE, INC.	0	0	0	0
	ALLTEL INFORMATION SERVICES,	0	0	0	0
	PIEDMONT TRAILER RENTALS, INC	0	0	0	0
	KINCAID FURNITURE COMPANY, IN	0	0	0	0
	FOCKE & CO., INC.	0	0	0	0
	ASSOCIATED POSTERS, INCORPORA	0	0	0	0
	CROWN CRAFTS, INC.	0	0	0	0
	ASHLEY ELECTRIC, INC.	0	0	0	0
	BLAST, INC.	0	0	0	0
	KINARD BATTLEGROUND DRUGS, IN	0	0	0	0
	GENE INMAN TRUCKING, INC.	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	LEE BRICK & TILE COMPANY	0	0	0	0
	THE MOORE COUNTY HOUNDS, INC.	0	0	0	0
	MILLRIDGE INVESTMENTS, INC.	0	0	0	0
	SOUTHERN PARTS OF HILLSBOROUG	0	0	0	0
	CAROLINA SUNROCK CORPORATION	0	0	0	0
	WEVA CORPORATION	0	0	0	0
	CENTRO, INC.	0	0	0	0
	GEORGIA-CAROLINA QUARRIES, IN	0	0	0	0
	FOOTHILLS, INC.	0	0	0	0
	ALLEN-BECK INDUSTRIES, INC.	0	0	0	0
	WILLIAM S. KELLY, M. D., P. A	0	0	0	0
	TURNAMICS, INC.	0	0	0	0
	MARLOWE-VAN LOAN CORPORATION	0	0	0	0
	STOCKYARD & CO., INC.	0	0	0	0
	PUROLATOR PRODUCTS NA, INC.	0	0	0	0
	GREEN'S GRAINS, INC.	0	0	0	0
	MILKCO, INC.	0	0	0	0
	BOLTON CORP.	0	0	0	0
	FOOTHILLS, INC.	0	0	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0	0	0
	MANNING FABRICS, INC.	0	0	0	0
	BAUMANN SPRINGS USA, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	THE HAZEL COMPANY	0	0	0	0
	MEDICAL CYBERNETICS, INC.	0	0	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0	0	0
	BERNARDS, INC.	0	0	0	0
	FUCHS SYSTEMS, INC.	0	0	0	0
	GLOSSON REFRIGERATION & ELECT	0	0	0	0
	CHAPEL HILL PEDIATRIC PSYCHOL	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	BRESTL, INC.	0	0	0	0
	A. M. CASTLE & CO.	0	0	0	[redacted]
	CARVER REALTY, INC.	0	0	0	0
	MCFARLAND & COMPANY, INC., PU	0	0	0	0
	MAYFLOWER GLASS	0	0	0	0
	SUIZA DAIRY	0	0	0	0
	CROSS CREEK EMERGENCY PHYSICI	0	0	0	0
	OAKWOOD ACCEPTANCE CORP	0	0	0	0
	SOUTH TECH PLASTICS, INC.	0	0	0	0
	ASKEW CHEVROLET, INC.	0	0	0	0
	JOWAT CORPORATION	0	0	0	0
	JESSCO, INC.	0	0	0	0
	TEKTONE SOUND AND SIGNAL MFG.	0	0	0	0
	GRANT TOURS, INC.	0	0	0	0
	DISCOUNT DRAPERY, INC.	0	0	0	0
	WWGP BROADCASTING CORPORATION	0	0	0	0
	SUNLINE USA GROUP, INC.	0	0	0	0
	CUSTOM ENGRAVING AND TROPHY,	0	0	0	0
	RALEIGH GOLF ASSOCIATION, INC	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	FAB-TECH INDUSTRIES, INC.	0	0	0	[redacted]
	ABCO AUTOMATION, INC.	0	0	0	[redacted]
	SOFTEX FIN	0	0	0	0
	MID-ATLANTIC DRAINAGE, INC.	0	0	0	0
	E-Z SERVE CONVENIENCE STORES,	0	0	0	0
	SWIMOUT OVERFLOW COMPONENTS,	0	0	0	0
	PEARCE BROTHERS ROOFING CO.,	0	0	0	0
	HUNTER INDUSTRIES INCORPORATE	0	0	0	0
	SAT INTERNATIONAL, INC.	0	0	0	0
	KLINGSPOR ABRASIVES, INC.	0	0	0	0
	MATERIAL HANDLING TECHNOLOGIE	0	0	0	0
	JIMMY'S PLUMBING & REPAIR, IN	0	0	0	0
	SMITH-TOMLINSON CORPORATION	0	0	0	0
	POLYCHEM ALLOY, INC.	0	0	0	0
	MEC-TRIC CONTROL COMPANY	0	0	0	0
	ENERGY SYSTEMS ANALYSTS, INC.	0	0	0	0
	DIRECT CALL, INC.	0	0	0	0
	JOEL W. WALKER, D.D.S., P.A.	0	0	0	0
	AMERICAN OFFSET PRINTING INK	0	0	0	0
	BURLAN CORPORATION	0	0	0	[redacted]
	BEFCO, INC.	0	0	0	[redacted]
	THE QUANTU GROUP INC	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ENVIRON PRODUCTS INC.	0	0	0	0
	INTERSTATE APPAREL GROUP	0	0	0	0
	PRESTON-HILL, INC.	0	0	0	0
	CARPENTER CONTRACTORS OF AMER	13	0	104000	0
	JOHN WIELAND HOMES AND NEIGHB	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	PIEDMONT METALS OF BURLINGTON	0	0	0	0
	INTERFACE TECHNOLOGIES, INC.	0	0	0	0
	REXAM RELEASE	0	0	0	0
	WOMEN'S WELLNESS CENTER, P.A.	0	0	0	0
	J. S. MANN'S OF WHITEVILLE, I	0	0	0	0
	RECREATIONAL EQUIPMENT, INC.	0	0	0	0
	ABOVE THE GRADE CLEARING & G	0	0	0	0
	FLEETWASH SYSTEMS OF CAROLINA	0	0	0	0
	HOMES BY GEORGE STEELE, INC.	0	0	0	0
	CAROLINA WHOLESALE OFFICE MAC	0	0	0	0
	ALLEN BRADLEY D	0	0	0	0
	ALLEN JOSEPH G	0	0	0	0
	BAKER JAMES C	0	0	0	0
	BEEKER GEORGE M	0	0	0	0
	BELL JOHN M	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BIRCHETTE GEORGE A	0	0	0	0
	BLACK WILLIAM H	0	0	0	0
	CAPELL JOHN H	0	0	0	0
	CAPELL KERRY L	0	0	0	0
	CARTER RUSSELL M	0	0	0	0
	CLINE JULIUS D	0	0	0	0
	COHEN LEIPOLD I	0	0	0	0
	CONNOR WILTON M	0	0	0	0
	CONNOR WILTON M	0	0	0	0
	CORNS BILLY R	0	0	0	0
	CROWDER TODD L	0	0	0	0
	CULHANE P E	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	DEAL EDWARD M	0	0	0	0
	DEAL RONALD E	0	0	0	0
	DUBOSE CHARLES H	0	0	0	0
	DUNLOW ERNEST M	0	0	0	0
	ERVIN JOHN W	0	0	0	0
	EVANS KEVIN W	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	FALLS THOMAS N	0	0	0	0
	FANCOURT NEAL S	0	0	0	[redacted]
	FIELDS GEORGE B	0	0	0	0
	FORD TIMOTHY L	0	0	0	0
	HARRAWOOD DAVID A	0	0	0	0
	HOLT AMANDA M	0	0	0	0
	HOLT ASHLEY E	0	0	0	0
	HOLT CHARLES D	0	0	0	0
	HOLT JOHN A	0	0	0	0
	HOLT JOHN A	0	0	0	0
	HOLT MARGUERITE E	0	0	0	0
	HOLT MICHAEL M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT SAMUEL T	0	0	0	0
	HOLT SARAH M	0	0	0	0
	HOLTON JAMES R	0	0	0	0
	HUGHES JOSEPH K	0	0	0	0
	HUGHES JOSEPH K	0	0	0	0
	HUGHES WILLIAM C	0	0	0	[redacted]
	HUGHES JR G J	0	0	0	0
	HUNTER CHARLES M	0	0	0	0
	JOHNSON PHILIP H	0	0	0	0
	KELLY JAMES F	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	[redacted]
	KISER L R	0	0	0	
	LANE LANDON B	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	LANNING HOY S	0	0	0	0
	LAUGHLIN DAVID E	0	0	0	0
	LEE EDWARD L	0	0	0	0
	LONDON WILLIAM L	0	0	0	0
	MANCOSH DOUGLAS G	0	0	0	0
	MANESS JOHN M	0	0	0	0
	MARSH JAMES P	0	0	0	0
	MCCARTHY CHARLES E	0	0	0	0
	MCLEOD JOHN A	0	0	0	0
	MCMICHAEL DALTON L	0	0	0	0
	MINGES LOUISE T	0	0	0	0
	NEWSOME TIMOTHY E	0	0	0	0
	OLDHAM FRANK P	0	0	0	0
	PARKER GEORGE W	0	0	0	0
	PEGRAM TERRY L	0	0	0	0
	PERKINS GEORGE R	0	0	0	0
	PERKINS GEORGE R	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERRY CHARLES R	0	0	0	0
	PERRY DON W	0	0	0	0
	PERRY FRANK G	0	0	0	0
	PERRY FRANK G	0	0	0	0
	PERRY HAL C	0	0	0	0
	PERRY HUGH P	0	0	0	0
	POAG JAMES C	0	0	0	0
	PROPST ALEX A	0	0	0	0
	RATTZ JAMES M	0	0	0	0
	RAWALD KURT R	0	0	0	0
	REID LEWIS G	0	0	0	0
	RICHARDSON JOHN M	0	0	0	0
	RICHARDSON MORGAN L	0	0	0	0
	RIHANI FUAD A	0	0	0	0
	RUSHING GUY F	0	0	0	0
	SCHOLD ERIC W	0	0	0	0
	SHERMAN MICHAEL M	0	0	0	0
	SHORT RALPH H	0	0	0	0
	SKINNER ERIKA D	0	0	0	0
	SKINNER JEFFERY M	0	0	0	0
	SMITH JEFFREY D	0	0	0	0
	SMITH JERRY N	0	0	0	0
	SOFIELD HALEY D	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	SOFIELD HEATHER	0	0	0	0
	SOFIELD ROBERT T	0	0	0	[redacted]
	STEELE DAVID S	0	0	0	[redacted]
	STEPHENS ALISON	0	0	0	0
	SWARTZ EDWIN H	0	0	0	0
	SWARTZ MICHAEL L	0	0	0	0
	SWARTZ WILLIAM K	0	0	0	0
	THOMAS WILLIAM H	0	0	0	0
	TURBYFLL ROGER C	0	0	0	0
	WEIBEL MARCUS F	0	0	0	0
	WICKER DONALD M	0	0	0	0
	WILEY CHRISTOPHE J	0	0	0	0
	WILKINSON WILLIAM A	0	0	0	0
	WILSON WINFRED G	0	0	0	0
	WORNOM III SAMUEL J	0	0	0	0
	WRENN GUY W	0	0	0	0
	WRENN JACKSON K	0	0	0	0
	Total for Tier: 0	72	0	259000	0
1					
	PCH, LLC	0	0	0	0
	IDEAL ACCESSORIES CORPORATION	0	0	0	[redacted]
	TAR HEEL GENERATOR, LLC	0	0	0	[redacted]
	STANLEY FURNITURE COMPANY, IN	0	0	0	0
	MCNUTT SERVICE GROUP, INC.	0	0	0	0
	DEAL'S LAWN SERVICE, INC.	0	0	0	0
	WHITE OIL COMPANY	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	WELDON STEEL CORP	4	0	50000	0
	GALEY & LORD INDUSTRIES, INC.	0	0	0	0
	CHALLENGER INDUSTRIES, INC.	0	0	0	0
	HOME LIFE CARE, INC.	13	0	162500	0
	THE GATES CORPORATION	30	0	375000	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	GLENOIT CORPORATION	0	0	0	0
	SMITHKLINE BEECHAM CORPORATIO	732	0	366000	0
	ARCHITECTU	9	0	112500	0
	TOP TOBACCO L P	28	0	350000	0
	ACTION PERFORMANCE COMPANIES,	0	0	0	0
	THE MITCHELL GOLD CO.	0	0	0	0
	GILES CHEMICAL CORP	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	[redacted]
	MICRO AUDIOMETRICS CORPORATIO	2	0	25000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ASMO APPALACHIAN CORPORATION	0	0	0	0
	ETHAN ALLEN INC.	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	STEPHEN MEEHAN COMMUNICATIONS	0	0	0	0
	UCO FABRICS, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	DATAMARK GRAPHICS, INC.	0	0	0	0
	KEEBLER COMPANY	0	0	0	0
	NEW BREED, INC.	0	0	0	0
	AMERICAN OFFSET PRINTING INK	0	0	0	0
	W. E. BAILEY AND SON, INC.	0	0	0	0
	W. E. BAILEY AND SON, INC.	0	0	0	0
	FIT-ALL SPORTSWEAR, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	SAFELITE GLASS CORP	0	0	0	0
	KORDSA USA	0	0	0	0
	THE PANTRY, INC.	0	0	0	0
	WESTPOINT STEVENS INC.	0	0	0	0
	KEIHIN CAROLINA SYSTEM TECHNO	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	RESER'S FINE FOODS INC	71	0	887500	0
	PRECISION ALLOYS INC	0	0	0	0
	HALCORE GROUP, INC.	28	0	350000	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	CONE MILLS CORPORATION	0	0	0	0
	PHOENIX LUMBER CO	20	0	250000	0
	SOUTHERN CONCRETE MATERIALS,	1	1	12500	4000
	MACHINE & WELDING SUPPLY	2	0	33000	0
	BERTELSMANN MUSIC GROUP, INC.	0	0	0	0
	OLDHAM SAW CO., INC.	0	0	0	0
	NEW FILCAS OF AMERICA, INC.	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	MOEN INCORPORATED	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	4	0	50000	0
	TNS MILLS, INC.	0	0	0	0
	CHATSWORTH PRODUCTS, INC.	0	0	0	0
	CF GROUP, INC.	0	0	0	0
	CF GROUP, INC.	0	0	0	0
	HAMPTON INDUSTRIES, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	TRIPATH IMAGING, INC.	0	0	0	[redacted]
	RAILLINC CORPORATION	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	12	0	94000	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	CUSTOM GLASS PRODUCTS OF CARO	0	0	0	0
	TAR HEEL INSPECTION SERVICES,	0	0	0	0
	PMW PRODUCTS, INC.	0	0	0	0
	CAROLINA MILLWORK OF ROCKINGH	0	0	0	0
	MICRO AUDIOMETRICS CORPORATIO	0	0	0	0
	NARRICOT INDUSTRIES, INC.	0	0	0	0
	C T SPECIALTIES CORP.	0	0	0	0
	BYRD TRACTOR AND EQUIPMENT CO	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	NEW BREED CORPORATE SERVICES,	0	0	0	0
	S & N COMMUNICATIONS, INC.	0	0	0	0
	DAN RIVER INC.	0	0	0	0
	HARDWARE SUPPLIERS OF AMERICA	0	0	0	0
	THE TIMKEN COMPANY	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	[redacted]
	UNIMIN CORPORATION	0	0	0	[redacted]
	CASCADES MOULDED PULP, INC.	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	BROWN BROTHERS PLUMBING & HEA	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	M & M ELECTRIC SERVICE, INC.	0	0	0	0
	DATA SPECTRUM CORPORATION	0	0	0	0
	K.L. BUTLER LOGGING, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	CURRIN'S AUTO SUPPLY, INC.	0	0	0	0
	SUPERIOR DRY CLEANERS AND LAU	0	0	0	0
	ATLANTIC CORPORATION OF WILMI	8	0	100000	0
	FINELINE INDUSTRIES EAST, INC	50	0	625000	0
	BURKE MILLS, INC.	0	0	0	0
	KENGO, INC.	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	OWENS-ILLINOIS CLOSURE INC.	33	0	544500	0
	CHAMBERS FABRICS, INC.	0	0	0	0
	BURLINGTON INDUSTRIES, INC.	68	0	850000	[redacted]
	HOFFMAN & HOFFMAN, INC.	0	0	0	[redacted]
	MAGNOLIA MFG CO	26	0	325000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	NOBLE OIL SERVICES, INC.	0	0	0	0
	SPARTA PLANT, INC.	0	0	0	0
	CASCADES TISSUE GROUP - NORTH	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0	0	0
	RAILROAD FRICTION PRODUCTS CO	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	RAILROAD FRICTION PRODUCTS CO	14	0	231000	0
	RAILROAD FRICTION PRODUCTS CO	0	0	0	0
	CAROLINA T	0	0	0	0
	LADD FURNITURE, INC.	0	0	0	0
	NEWTON INSTRUMENT CO INC	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	16500	0
	ALDREDGE JR EMMETT C	1	0	16500	0
	AUSTIN LAWRENCE A	0	0	0	0
	BARRINGER BRENT D	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BOND JAMES O	0	0	0	0
	BOND JAMES O	0	0	0	0
	CARLSON STEPHEN C	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	DICKINSON CHARLES F	0	0	0	0
	ECHOLS THOMAS E	0	0	0	0
	FISHER THOMAS G	0	0	0	0
	GERBER ERIC T	0	0	0	0
	GOODING DAVID R	0	0	0	0
	HARRAWOOD DAVID A	0	0	0	0
	HARRELL WAYNE M	0	0	0	0
	HOARD JOSEPH S	17	0	212500	0
	HUGHES JOSEPH K	0	0	0	0
	HUNTLEY MAX M	0	0	13830	0
	LANE CURK T	0	0	0	0
	MADDISON LAURENCE B	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERRY FRANK G	0	0	0	0
	ROTH GARY W	0	0	0	0
	SHOJI HIDETOSHI	0	0	0	0
	SMITH THOMAS D	0	0	0	0
	TAFT THOMAS F	0	0	0	0
	THOMAS GERALD P	0	0	0	0
	WATSON TED R	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	WILLIAMS STEVEN G	0	0	0	0
	WISE CHRISTOPHE C	0	0	0	[redacted]
	WORNOM III SAMUEL J	0	0	0	0
	WRENN JAMES H	0	0	0	0
	YARBORO THOMAS R	6	0	1	0
	YARBORO THOMAS R	0	0	0	0
	YARBORO THOMAS R	1111	1	1	4000
	Total for Tier: 1	2291	2	6052832	8000
2					
	EAGERTON PLUMBING CO. INC.	46	0	184000	0
	TRIANGLE BRICK COMPANY	15	0	60000	0
	WILLAMETTE INDUSTRIES, INC.	5	0	40000	0
	VEEDER ROOT OF NC	54	0	216000	0
	BURLINGTON INDUSTRIES, INC.	0	0	0	0
	TURN BULL LUMBER CO	0	0	0	0
	CONE MILLS CORPORATION	0	0	0	0
	ETHAN ALLEN INC.	0	0	0	0
	BRODER BROS CO	25	0	100000	0
	COCA-COLA ENTERPRISES INC.	0	0	0	0
	CONOPCO, INC.	30	0	120000	0
	PUROLATOR PRODUCTS AIR FILTRA	7	0	28000	[redacted]
	CAROLINA T	0	0	0	
	CRESTLINE HOMES, INC.	0	0	0	0
	CRESTLINE HOMES, INC.	0	0	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	DYNAPAR CORP	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	ABBOTT LABORATORIES, INC.	65	0	520000	0
	SPRINGS INDUSTRIES, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	HYDRAULIC VALVE DIV	42	0	336000	0
	HOMANIT USA, INC.	111	0	444000	0
	LOUISIANA-PACIFIC CORPORATION	0	0	0	0
	REDMAN HOMES, INC.	41	0	164000	0
	INTERIOR WOOD SPECIALTIES, IN	6	0	24000	0
	HICKORY SPRINGS MANUFACTURING	0	0	0	0
	OLDHAM SAW CO INC	67	0	268000	0
	GAYLORD, INC.	3	0	12000	0
	D. B. TEXTILES, INC.	2	0	8000	0
	WESTPOINT STEVENS INC.	0	0	0	[redacted]
	FLEETWOOD HOMES OF NORTH CARO	0	0	0	
	WESTPOINT STEVENS INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	INTERIOR WOOD SPECIALTIES, IN	0	0	0	0
	BUCKEYE LUMBERTON INC.	6	0	24000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0	0	0
	INDIAN HEAD INDUSTRIES, INC.	0	0	0	0
	GAYLORD INC	4	0	16000	0
	HALSO ESCOTT	0	0	0	0
	MARSH JAMES P	0	0	0	0
	MARSH MILLICENT M	0	0	0	0
	TAFT EDMUND H	0	0	0	0
	TAFT THOMAS F	0	0	0	0
	Total for Tier: 2	529	0	2564000	0
3					
	SARA LEE CORPORATION	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	BORDEN CHEMICAL, INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	0	3000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	BRANCH BANKING AND TRUST COMP	0	0	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0	0	0
	DRAKE ENTERPRISES, LTD.	0	0	0	0
	ADVANCED DRAINAGE SYSTEMS, IN	0	0	0	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	RED VALVE COMPANY, INC.	9	0	63000	0
	RELIANCE ELECTRIC INDUSTRIAL	42	0	126000	0
	CAROLINA PAPER CONVERTERS	0	0	3000	0
	UCHIYAMA AMERICA, INCORPORATE	0	0	0	0
	CATERPILLAR INC.	0	0	0	0
	KIDDE TECHNOLOGIES INC.	0	0	0	0
	LOWE'S COMPANIES, INC.	157	0	471000	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	ARMADA, INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	STEPHENSON MILLWORK COMPANY	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	AMERICAN & EFIRD, INC.	30	0	90000	0
	KCS INTERNATIONAL INC.	167	0	501000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	MILLER BREWING COMPANY	0	0	0	0
	PATE-DAWSON COMPANY	10	0	42000	
	CONITEX- SONOCO U.S.A., INC.	0	0	0	
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	MOTOR PRODUCTS INC	10	0	70000	0
	WENTWORTH CORPORATION	0	0	0	0
	MASTERBRAND CABINETS, INC.	43	0	301000	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	CAROLINA COMMERCIAL HEAT TREA	0	0	0	0
	ARMADA, INC.	16	0	48000	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	WENTWORTH CORPORATION	0	0	0	0
	BURLAN CORPORATION	0	0	0	0
	SOUTHCO DISTRIBUTING CO	9	2	63000	8000
	SOUTHCO DISTRIBUTING CO	10	2	70000	8000
	MOUNT OLIVE PICKLE COMPANY, I	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	MEDIBEG USA, INC.	0	0	0	0
	REXAM RELEASE	0	0	0	0
	LOWE'S COMPANIES, INC.	195	0	585000	
	FAYETTEVILLE PUBLISHING COMPA	0	0	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0	0	0
	JELD-WEN, INC.	0	0	0	0
	PASS & SEYMOUR, INC.	0	0	0	0
	GULF STATES PAPER CORPORATION	22	0	74000	0
	CONCRETE SUPPLY CO.	1	0	7000	0
	FRONTIER, INC.	0	0	0	0
	NEW FILCAS OF AMERICA, INC.	0	0	0	0
	AMERICAN FIBER & FINISHING, I	0	0	0	0
	DELLINGER ENTERPRISES, LTD.	0	0	0	0
	THE TIMKEN COMPANY	4	0	12000	0
	ROYAL PARK UNIFORMS, INC.	0	0	0	0
	ADVANCED INTERNET TECHNOLOGIE	20	0	60000	0
	JACKSON PAPER MANUFACTURING C	1	0	3000	0
	Fiber Composites	4	0	12000	0
	PREFORMED LINE PRODUCTS COMPA	0	0	0	0
	THE SOUTHERN FINISHING COMPAN	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	COPELAND CORPORATION	51	0	153000	
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	EATON AEROQUIP INC.	0	0	0	0
	FIBER COMPOSITES LLC	4	4	12000	16000
	MERCK & CO., INC.	41	0	123000	0
	EATON AEROQUIP INC.	3	0	9000	0
	RELIANCE ELECTRIC INDUSTRIAL	120	0	360000	0
	COLUMBIA FOREST PRODUCTS	0	0	0	0
	BARMET ALUMINUM CORP	0	0	0	0
	FIBER INDUSTRIES, INC.	0	0	0	0
	IMPULSE NC, INC.	0	0	0	0
	THE TORRINGTON COMPANY	53	0	159000	0
	RELEASE INTERNATIONAL, INC.	0	0	0	0
	DOPACO, INC.	0	0	0	0
	WESTERN FORGE CORPORATION	196	0	784000	0
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	MAGNUM MANUF	7	0	21000	0
	RELEASE INTERNATIONAL, INC.	0	0	0	0
	DSM DESOTE	11	0	33000	0
	GALEY & LORD INDUSTRIES, INC.	14	0	42000	0
	MOEN INCORPORATED	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	MOEN INCORPORATED	0	0	0	0
	VICTAULIC COMPANY OF AMERICA	7	0	21000	0
	THE MOORE COMPANY	0	0	0	0
	COTT BEVERAGE S USA INC	45	0	135000	0
	COPELAND CORPORATION	0	0	0	0
	ULTIMATE TEXTILE, INC.	0	0	0	0
	LOWE'S COMPANIES, INC.	205	0	615000	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0	0	0
	PINE HALL BRICK CO., INC.	0	0	0	0
	EON LABS MANUFACTURING, INC.	45	0	135000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	STEPHENSON MILLWORK COMPANY	0	0	0	0
	ROYAL PARK UNIFORMS, INC.	2	0	6000	0
	GENTRY MILLS, INC.	0	0	0	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	INDUSTRIAL FABRICATORS, INC.	2	0	6000	0
	NEXANS INC.	0	0	0	0
	NEXANS INC.	0	0	0	0
	MOUNT OLIVE PICKLE COMPANY, I	4	0	12000	0
	INDUSTRIAL FABRICATORS, INC.	1	0	3000	0
	BLUE RIDGE PAPER PRODUCTS	0	0	0	0
	BOEHME-FILATEX, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	DESIGN WOR	92	0	276000	0
	BUCKEYE LUMBERTON INC.	37	0	111000	[redacted]
	BURLAN CORPORATION	14	0	42000	
	ALDREDGE JR EMMETT C	0	0	0	0
	DELLA SANTA ERALDO	0	0	0	0
	DELLA SANTA MASSIMO	0	0	0	0
	GUARRIELLO ANTHONY R	0	0	0	0
	HOOD CLIFTON R	0	0	0	0
	HOOVER STEPHEN J	0	0	0	0
	MAXWELL OWEN M	0	0	0	0
	ROYAL HAROLD J	3	0	9000	0
	ROYAL WILLIAM K	3	0	9000	0
	Total for Tier: 3	1711	8	5680000	32000
4					
	BSH HOME APPLIANCES CORPORATI	46	0	210000	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	HOF TEXTILES, INC.	5	0	5000	0
	THE TIMKEN COMPANY	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	B. R. LEE INDUSTRIES, INC.	0	0	0	0
	THE LUNDY PACKING COMPANY	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	[redacted]
	VICTAULIC HOLDING COMPANY, LL	1	0	1000	0
	R. L. STOWE MILLS, INC.	0	0	0	0
	ASMO APPALACHIAN CORPORATION	0	0	0	0
	HICKORY SPRINGS MANUFACTURING	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	WESTPOINT STEVENS INC.	1	0	1000	0
	COX NORTH CAROLINA	19	0	95000	0
	DSM PHARMACEUTICALS, INC.	0	0	0	0
	TRION, INC.	0	0	0	0
	COATINGS AND ADHESIVES CO	7	0	7000	0
	COATINGS AND ADHESIVES CO	5	5	5000	20000
	CAROLINA T	0	0	0	0
	REGIONAL STORAGE & TRANSPORT,	0	0	0	0
	REVLON CONSUMER PRODUCTS CORP	915	0	915000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	JULIUS BLUM INC.	85	0	85000	0
	SANTA FE NATURAL TOBACCO CO	4	0	20000	0
	CAROLINA'S CHOICE BY WILLIAMS	0	0	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	[redacted]
	CARLTON GROUP, INC.	0	0	0	

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	BSH HOME APPLIANCES CORP	103	0	515000	0
	THE MITCHELL GOLD CO.	61	0	61000	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	ASMO GREENVILLE OF NORTH CARO	0	0	0	0
	PACKAGING CORPORATION OF AMER	4	0	4000	0
	DYNAYARN USA, LLC	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	CAROLINA STEEL CORPORATION	0	0	0	0
	NORTH CAROLINA ASAHI, INC.	0	0	0	0
	ABBOTT LABORATORIES, INC.	74	0	370000	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	VICTAULIC HOLDING COMPANY, LL	1	0	1000	0
	SANMINA CORPORATION	0	0	0	0
	DYNAYARN USA, LLC	0	0	0	0
	AMERESCOSOLUTIONS, INC.	0	0	0	0
	COMPONENT CONCEPTS, INC.	0	0	0	0
	MACHINE & WELDING SUPPLY	1	0	5000	0
	COATINGS AND ADHESIVES CO	7	0	7000	0
	LVD CORP.	0	0	0	0
	CAROLINA'S CHOICE BY WILLIAMS	9	0	9000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0	0	0
	ALBA-WALDENSIAN, INC.	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	THE LUNDY PACKING COMPANY	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	LA-Z-BOY INCORPORATED	0	0	0	0
	ATHOL MANUFACTURING CORP	0	0	0	0
	SEALED AIR CORPORATION (US)	7	0	35000	0
	COXE-LEWIS CORPORATION	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	ACCUCOPY OF GREENVILLE	9	0	45000	0
	EATON AEROQUIP INC.	0	0	0	0
	CARAUSTAR MILL GROUP, INC.	0	0	0	0
	PHARMAGRAPHICS, INC.	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	M & M ELECTRIC SERVICE, INC.	0	0	0	0
	VALDESE WEAVERS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ADAMS WHOLESALE COMPANY	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	
	ETHAN ALLEN INC.	0	0	0	
	THOMAS MFG. COMPANY, INC. OF	0	0	0	0
	METRICS, INC.	7	0	7000	0
	MCLANE/CAROLINA,INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	0	1000	0
	SAFT AMERICA INC	0	0	0	0
	LVD CORP.	193	0	965000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	2	0	2000	0
	AYLWARD ENTERPRISES	0	0	0	0
	THE GILLETTE COMPANY	0	0	0	0
	CAROLINA CONVERTING INC	0	0	0	0
	SHADOWLINE, INCORPORATED	0	0	0	0
	FUJI SILYSIA CHEMICAL USA, LT	0	0	0	0
	REFRIGERATED BOXES, INC	7	0	7000	0
	CERTAINTEED CORPORATION	0	0	0	0
	FREIGHTLIN	0	0	0	0
	PHILLIPS-VAN HEUSEN CORPORATI	5	0	5000	0
	JULIUS BLUM INC.	0	0	0	
	OAKWOOD MOBILE HOMES, INC.	0	0	0	
	AMERICAN ROLLER BEARING AND M	0	0	0	0
	MADDUX SUPPLY COMPANY	1	0	1000	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	0
	UNIFI MANUFACTURING, INC.	272	0	272000	0
	BORDEN CHEMICAL, INC.	0	0	0	0
	NYPRO CAROLINA INC.	123	0	123000	0
	MOEN INCORPORATED	0	0	0	0
	OWENS-BROCKWAY PLASTIC PRODUC	4	0	16000	0
	BURLINGTON INDUSTRIES, INC.	0	0	0	0
	GULF STATES PAPER CORPORATION	0	0	0	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0	0	0
	NEWTON INSTRUMENT CO	98	0	98000	0
	NOVOZYMES NORTH AMERICA, INC.	6	0	6000	0
	AMERICAN LAFRANCE CORPORATION	60	0	60000	0
	VICTAULIC COMPANY OF AMERICA	2	0	0	0
	WHEATSTONE CORPORATION	10	0	10000	0
	HOMES BY OAKWOOD, INC.	0	0	0	
	COMMSCOPE, INC. OF NORTH CARO	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	NEUVILLE INDUSTRIES, INC.	0	0	0	0
	AMERICAN ROLLER BEARING COMPA	0	0	0	0
	GATE CONCRETE PRODUCTS CO.	26	0	26000	0
	PHILLIPS-VAN HEUSEN CORPORATI	0	0	0	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	APEX ARIDYNE CORP.	0	0	0	0
	THE HON COMPANY	1	0	1000	0
	NEWTON INSTRUMENT CO	42	0	42000	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	MONSANTO COMPANY	0	0	0	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	WINTERVILLE MACHINE WORKS, IN	5	0	5000	0
	GULF STATES PAPER CORPORATION	17	0	17000	0
	CATERPILLAR INC.	0	0	0	0
	THE HON COMPANY	0	0	0	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	5000	0
	ALDREDGE JR EMMETT C	0	0	0	0
	BARWICK BOYCE B	0	0	0	0
	BARWICK CARROLL B	0	0	0	0
	COXE THOMAS C	0	0	0	0
	DARCH LEE A	0	0	0	0
	D'ARENBERG PIERRE	2	0	2000	0
	ERWIN CHARLES B	0	0	0	0
	EWERT BRIAN C	0	0	0	0
	GODWIN JAMES P	2	2	10000	8000
	HARRELL WAYNE M	0	0	0	0
	LEWIS HARVEY R	0	0	0	0
	MCDOUGALD ALBERT G	0	0	0	0
	MCDOUGALD AMANDA M	0	0	0	0
	MCDOUGALD IAN E	0	0	0	0
	PASIN RICHARD	7	0	7000	0
	PORTER DARRELL R	0	0	0	0
	ROBLING BRENT D	0	0	0	0
	TILGHMAN WILLIAM A	0	0	0	0
	TILGHMAN WILLIAM A	7	0	7000	0
	Total for Tier: 4	2265	7	4091000	28000
5					
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	THE CONCORD	12	0	6000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	PEOPLECLICK.COM, INC.	89	0	400500	0
	AJINOMOTO USA INC	5	0	2500	
	NYPRO CAROLINA INC.	0	0	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0	0	0
	PYA/MONARCH, INC.	0	0	0	0
	EISAI INC.	21	0	10500	0
	THE OHIO MATTRESS COMPANY LIC	2	0	1000	0
	PUROLATOR FACET, INC.	6	0	3000	0
	JOHNSON CONTROLS BATTERY GROU	0	0	0	0
	WANDEL & GOLTERMANN A.T.E. SY	0	0	0	0
	CONCRETE SUPPLY CO.	5	0	22500	0
	CONCRETE SUPPLY CO.	2	0	9000	0
	CONCRETE SUPPLY CO.	1	0	4500	0
	CONCRETE SUPPLY CO.	12	0	6000	0
	CAROLINA T	0	0	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0	0	0
	SOUTHTECH ORTHOPEDICS INC	6	0	3000	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	BLUEPHOENIX SOLUTIONS USA	43	0	21500	0
	STRATEGIC TECHNOLOGIES, INC.	0	0	0	0
	OFFICE DEPOT INC	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	4	0	2000	0
	WANDEL & GOLTERMANN INC	0	0	0	0
	NORTH CAROLINA SERVICES CORPO	22	0	11000	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	STRATEGIC TECHNOLOGIES, INC.	38	0	19000	0
	GREENFIELD INDUSTRIES INC	0	0	0	0
	FIRST CHARTER NATIONAL BANK	50	0	177000	0
	VITAFOAM INC	0	0	0	0
	DEERE & COMPANY	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	FRISBY AEROSPACE, INC.	51	0	25500	0
	SAS INSTITUTE INC.	195	0	97500	0
	TLV CORPORATION	1	0	500	0
	NATIONAL TEXTILES LLC	21	0	10500	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	SEALY INC	12	0	6000	0
	BROOKS EQUIPMENT CO	11	0	5500	0
	VERITAS SO	10	10	45000	40000
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	DEERE & COMPANY	76	0	38000	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	JOHN DEERE TURF CARE, INC.	10	0	5000	0
	MILKCO, INC.	13	0	58500	0
	SUIZA DAIRY	8	0	0	0
	HAHT SOFTWARE, INC.	63	0	31500	0
	OAKWOOD ACCEPTANCE CORP	11	0	5500	0
	FRONTIER, INC.	0	0	0	0
	KYRUS CORP	0	0	0	0
	KYRUS CORP	0	0	0	0
	CROSS SALES AND ENGINEERING C	0	0	0	0
	BECTON, DICKINSON AND COMPANY	0	0	0	0
	CREE, INC.	264	0	132000	0
	BRAYTON INTERNATIONAL, INC.	0	0	0	0
	US CONEC LTD.	55	0	27500	0
	SOLECTRON TECHNOLOGY, INC.	0	0	0	0
	MAYFLOWER GLASS	11	0	5500	0
	NOMACORC LLC	38	0	19000	0
	THE PANTRY, INC.	61	0	134500	0
	FAMILY DOLLAR, INC.	58	0	29000	0
	VF JEANSWEAR, INC.	0	0	0	0
	MACHINE & WELDING SUPPLY	4	0	18000	0
	J & L AMERICA, INC.	0	0	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	RENE COMPOSITE MATERIALS CORP	0	0	0	0
	ARVINMERITOR, INC.	0	0	0	0
	ANALOG DEVICES, INC.	117	0	58500	0
	PINNACLE FILMS, INC.	8	0	0	0
	MORRIS COMMUNICATION CORP	1	1	4500	4000
	EVEREADY BATTERY COMPANY, INC	0	0	0	0
	SQUARE D CO	9	0	4500	0
	EVEREADY BATTERY COMPANY, INC	0	0	0	0
	ANALOG DEVICES, INC.	0	0	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0	0	0
	BAYER CORP	0	0	0	0
	SARA LEE CORPORATION	10	0	5000	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	SIEMENS WESTINGHOUSE POWER CO	126	0	63000	0
	WANDEL & GOLTERMANN A.T.E. SY	0	0	0	0
	ORNAMENTAL MOULDINGS INC	3	3	1500	12000
	CISCO SYSTEMS SALES & SERVICE	235	0	117500	0
	COMPASS GROUP USA, INC.	110	0	55000	0
	DUPLICATE TRANS ID#	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	LEMANS CORPORATION	10	0	5000	0
	MYLAN PHARMACEUTICALS INC.	7	7	28000	28(
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	MYLAN PHARMACEUTICALS INC.	7	7	31500	28000
	STEELCASE INC.	71	0	35500	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	BRUNZL DISTRIBUTION MIDCENTRA	0	0	0	0
	SOLECTRON TECHNOLOGY, INC.	512	0	256000	0
	BECTON, DICKINSON AND COMPANY	0	0	0	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	JOHN DEERE TURF CARE, INC.	65	0	56500	0
	CREE, INC.	0	0	0	0
	WESTLAKE PRESS, INC.	0	0	0	0
	HENDERSON MACHINERY, INC.	0	0	0	0
	FAMILY DOLLAR, INC.	42	0	21000	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	7	0	31500	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	JUKI AUTOMATION SYSTEMS, INC.	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	
	US AIRWAYS, INC.	0	0	0	
	BANK OF AMERICA NA	0	0	0	0
	L & E PACKAGING, LLC	0	0	0	0
	TRIANGLE BRICK COMPANY	0	0	0	0
	TRIANGLE BRICK COMPANY	0	0	0	0
	PHILIP MORRIS INCORPORATED	64	0	32000	0
	LVL7 SYSTEMS, INC.	24	0	12000	0
	NATUZZI AMERICAS, INC.	11	0	49500	0
	DENERGY, INC.	0	0	0	0
	WILTON CONNOR, LLC	0	0	0	0
	CAROLINA POWER & LIGHT COMPAN	0	0	0	0
	FFNC, INC.	0	0	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0	0	0
	VF PLAYWEAR, INC.	0	0	0	0
	ABB AUTOMATION INC.	25	0	12500	0
	CYCLE GROUP INC.	15	0	7500	0
	BRANCH BANKING AND TRUST COMP	90	0	125000	0
	SCIQUEST, INC.	0	0	0	0
	OLIVER RUBBER COMPANY	0	0	0	0
	WACHOVIA CORPORATION	0	0	0	
	WACHOVIA CORPORATION	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CHIRON AMERICA, INC.	0	0	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	0	0	0	0
	LORILLARD TOBACCO COMPANY	0	0	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	8	0	0	0
	SYNAPSE TECHNOLOGY, INC.	0	0	0	0
	CHIRON AMERICA, INC.	0	0	0	0
	PINE HALL BRICK CO., INC.	0	0	0	0
	KRISPY KREME DOUGHNUT CORPORA	23	0	103500	0
	DANA CORPORATION	0	0	0	0
	R.H. DONNELLEY INC.	0	0	0	0
	SYNGENTA CROP PROTECTION, INC	135	0	67500	0
	NOVO NORDISK PHARMACEUTICAL I	100	0	50000	0
	KYRUS CORP	0	0	0	0
	KYRUS CORP	0	0	0	0
	INDUSTRIAL MICROWAVE SYSTEMS,	0	0	0	0
	BIC USA, INC. (BIC CONSUMER P	11	0	5500	0
	SPICER MANUFACTURING, INC.	0	0	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	15	0	7500	0
	THE VANGUARD GROUP, INC.	0	0	0	0
	SAS INSTITUTE INC.	125	0	62500	0
	R. J. REYNOLDS TOBACCO COMPAN	197	0	686500	0
	WESTPOINT STEVENS INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	0
	MASTER FORM, INC.	0	0	0	0
	NITRONEX CORPORATION	21	0	10500	0
	MERIX BIOSCIENCE, INC.	16	0	8000	0
	ELECTROLUX HOME PRODUCTS, INC	12	0	6000	0
	KRISPY KREME DOUGHNUT CORPORA	14	0	63000	0
	KRISPY KREME DOUGHNUT CORPORA	30	0	135000	0
	THE STANDARD REGISTER COMPANY	0	0	0	0
	PLYMOUTH PRINTING CO. INC.	20	0	10000	0
	EDWARD VOGT VALVE CO	0	0	0	0
	NETOCTAVE, INC.	36	0	18000	0
	INTEK, INC.	0	0	0	0
	MICELL TECHNOLOGIES, INC.	0	0	0	0
	LENDINGTREE, INC.	43	0	21500	0
	ASMO NORTH CAROLINA, INC.	0	0	0	0
	STATIC CONTROL COMPONENTS, IN	0	0	0	0
	ALCATEL USA LP, INC.	0	0	0	0
	TRIVIRIX INTERNATIONAL, INC.	2	0	1000	0
	NOVARTIS ANIMAL HEALTH US, IN	9	0	4500	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CROSSLOGIC CORPORATION	5	0	22500	0
	VF CORP	0	0	0	
	KURZ TRANSFER PRODUCTS, L.P.	0	0	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0	0	0
	SCHAEFER SYSTEMS INTERNATIONA	10	0	5000	0
	TEKELEC	70	0	35000	0
	GENERAL PARTS, INC.	28	0	14000	0
	EPIC ENTERPRISES, INC.	0	0	0	0
	GUARANTEED SUPPLY COMPANY	0	0	0	0
	GUARANTEED SUPPLY COMPANY	0	0	0	0
	NORTH STATE TELEPHONE COMPANY	0	0	0	0
	MU RO, INC.	0	0	0	0
	HOFFMAN & HOFFMAN, INC.	0	0	0	0
	INSPIRE PHARMACEUTICALS, INC.	16	0	8000	0
	QUINTILES TRANSNATIONAL CORP.	21	0	10500	0
	CAROLINA STEEL CORPORATION	15	0	67500	0
	REMCO SUPPLY, INC.	0	0	0	0
	CHESAPEAKE DISPLAY AND PACKAG	0	0	0	0
	NORTH CAROLINA SERVICES CORPO	0	0	0	0
	MEDTEC, INC.	8	0	4000	0
	JELD-WEN, INC.	0	0	0	
	RENAISSANCE WORLDWIDE IT CONS	0	0	0	
	STRUCTURAL STEEL PRODUCTS COR	17	0	8500	0
	WINSTON PRINTING COMPANY	19	0	85500	0
	CAROLINA STEEL CORPORATION	10	0	5000	0
	CAROLINA STEEL CORPORATION	0	0	0	0
	KAYDON CORP	0	0	0	0
	CROSSLOGIC CORPORATION	7	0	31500	0
	CROSSLOGIC CORPORATION	7	0	31500	0
	LUTRADUR CORPORATION	0	0	0	0
	MICROBAN PRODUCTS COMPANY	0	0	0	0
	S & D COFFEE INC	0	0	0	0
	WAKE STONE CORPORATION	0	0	0	0
	BILL DAVIS RACING, INCORPORAT	8	0	36000	0
	BIOGEN INC	126	0	63000	0
	CURTIS SCREW CO., INC.	0	0	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0	0	0
	CHARLES & COLVARD, LTD.	0	0	0	0
	THE TIMKEN COMPANY	0	0	0	0
	OWENS & MINOR MEDICAL, INC.	8	0	36000	0
	LUTRABOND COMPANY	0	0	0	
	ARJOBEX AMERICA	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	HEALTH DECISIONS, INC.	0	0	0	0
	APPLIED MEDICAL TECHNOLOGIES,	0	0	0	0
	ELUMENS CORPORATION	0	0	0	0
	ACCUMA CORPORATION	0	0	0	0
	SMART ONLINE, INC.	1	0	500	0
	GRAYBAR ELECTRIC COMPANY, INC	7	0	31500	0
	HAYWARD POOL PRODUCTS, INC.	108	0	54000	0
	ULTIMUS, INC.	8	0	4000	0
	FLOW SCIENCES, INC.	1	0	500	0
	FIRST CHARTER NATIONAL BANK	96	0	48000	0
	EXCEL CARGO SERVICES, INC.	0	0	0	0
	CLARKE AMERICAN CHECKS, INC.	96	0	48000	0
	DEERE-HITACHI CONSTRUCTION MA	0	0	0	0
	LUTRADUR CORPORATION	25	0	12500	0
	CORNING CABLE SYSTEMS INTERNA	0	0	0	0
	BORGWARNER TURBO SYSTEMS INC.	31	0	15500	0
	SLICKEDIT INC.	9	0	4500	0
	BIOMERIEUX, INC.	6	0	3000	0
	BONSET AMERICA CORPORATION	0	0	0	0
	EATON AEROQUIP INC.	0	0	0	0
	CARRIER CORPORATION	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	STRATEGIC RESOURCE SOLUTIONS	0	0	0	0
	UNITIVE ELECTRONICS, INC.	23	0	11500	0
	MDEVERYWHERE, INC.	0	0	0	0
	BLUE RIDGE METALS CORPORATION	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	VISIONAIR, INC.	0	0	0	0
	TUBE SPECIALTIES CO., INC.	20	0	90000	0
	CTC INTERNET SERVICES, INC.	0	0	0	0
	CLOSURE MEDICAL CORPORATION	12	0	6000	0
	ALCATEL NA CABLE SYSTEMS, INC	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	FIRST UNION NATIONAL BANK	257	0	1156500	0
	MARMON/KEYSTONE CORPORATION	0	0	0	0
	APBI INC.	70	0	35000	0
	VF SERVICES, INC.	0	0	0	0
	HATTERAS NETWORKS, INC.	26	0	13000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	DUKE PROJECT SERVICES, INC.	0	0	0	0
	PEOPLECLICK.COM, INC.	42	0	21000	[redacted]
	PERFORMAWORKS, INC.	0	0	0	0
	P P G INDUSTRIES, INC.	12	0	6000	0
	RAFLATAC, INC.	116	0	58000	0
	FIRST UNION NATIONAL BANK	0	0	0	0
	PRESTIGE FABRICATORS, INC.	0	0	0	0
	HEARST COMMUNICATIONS, INC.	8	0	32000	0
	BANK OF AMERICA TECHNOLOGY AN	11	0	5500	0
	MCLANE FOODSERVICE, INC.	0	0	0	0
	TECSTAR ELECTRO SYSTEMS, INC.	0	0	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0	0	0
	ACTION PERFORMANCE COMPANIES,	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	GOULSTON TECHNOLOGIES, INC.	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	WANDEL & GOLTERMANN INC	0	0	0	0
	VF PLAYWEAR INC	40	0	20000	0
	PAMA FURNITURE INC	3	0	13500	0
	FRAMATOME ANP DE&S, INC.	0	0	0	0
	AVX CORPORATION	0	0	0	[redacted]
	LAMBDA TECHNOLOGIES, INC.	0	0	0	
	SPEIZMAN INDUSTRIES	0	0	0	0
	SEALY MATTRESS MANUFACTURING	0	0	0	0
	CLARKE AME	48	0	24000	0
	EDWARD VOGT VALVE COMPANY	0	0	0	0
	CLARK AME	94	0	47000	0
	EDWARD VOGT VALVE CO	12	0	54000	0
	NEWTON INSTRUMENT CO	73	0	73000	0
	TLV CORPORATION	0	0	0	0
	FIRST UNION NATIONAL BANK	0	0	0	0
	PERGO, INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	PERGO, INC.	0	0	0	0
	TOGETHERSOFT CORPORATION	29	0	130500	0
	SAPONA MANUFACTURING COMPANY,	0	0	0	0
	BE AEROSPACE, INC.	0	0	0	0
	PEPSI-COLA BOTTLING COMPANY O	5	0	2500	0
	BUNZL RICHMOND INC	0	0	0	[redacted]
	INJECTRONICS, INC.	0	0	0	
	BOX-BOARD PRODUCTS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ELECTRONIC DATA MAGNETICS, IN	14	0	63000	0
	ACCUMA CORPORATION	0	0	0	0
	THE CONCORD TELEPHONE COMPANY	0	0	0	0
	RF MICRO DEVICES, INC.	246	0	123000	0
	MEDIA EVOLVED, LLC	23	0	103500	0
	DIGITAL OPTICS CORPORATION	0	0	0	0
	DART CONTAINER CORP OF GEORGI	0	0	0	0
	OPTICAL EXPERTS MANUFACTURING	19	0	9500	0
	CONCRETE SUPPLY CO.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	WESTLAKE INDUSTRIES, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	ALCATEL USA SOURCING, L.P.	0	0	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0	0	0
	RAILLINC CORPORATION	0	0	0	0
	LEGACY CLASSIC FURNITURE, INC	27	0	13500	0
	NOEL VENTURES, LLC	38	0	12055	0
	CONFULENCE HOLDINGS CORP	0	0	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0	0	0
	ETRIALS, INC.	19	0	9500	0
	CATERPILLAR INC.	97	0	436500	0
	CATERPILLAR INC.	57	0	28500	0
	COMMSCOPE, INC. OF NORTH CARO	0	0	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0	0	0
	UNICON CONCRETE, LLC	0	0	0	0
	CORNING INCORPORATED	1105	0	552500	0
	ARMACELL UNITED STATES HOLDIN	0	0	0	0
	SIEBEL SYSTEMS, INC.	0	0	0	0
	CORNING INCORPORATED	482	0	241000	0
	CORNING INCORPORATED	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	HASCO MOLD BASES - ASHEVILLE,	0	0	0	0
	TOMSED CORPORATION	8	0	4000	0
	LBSS,INC.	0	0	0	0
	BANNER PHARMACAPS INC.	55	0	27500	0
	ALCATEL USA GP, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	LONESOURCE.COM, INC.	13	0	6500	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	THE STEEL NETWORK, INC.	7	0	3500	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CISCO SYSTEMS SALES & SERVICE	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	[redacted]
	GKN AUTOMOTIVE, INC.	0	0	0	
	DUKE ENERGY CORPORATION	42	0	189000	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	0	0	0	0
	AUERBACH HOWARD D	20	0	10000	0
	BODILY ROBERT	0	0	0	0
	CARPENTER JONATHAN S	0	0	0	0
	CRARY EDWARD M	0	0	0	0
	DAVIS MARTIN A	0	0	0	0
	EASON DOUGLAS	0	0	0	0
	ENGLERT JOHN A	0	0	0	0
	ENGLERT SCOTT T	0	0	0	0
	FLYNN GARY B	0	0	0	0
	GOODNIGHT JAMES H	0	0	0	0
	HORTON PAUL W	0	0	0	[redacted]
	JENKINSINTEGRATED SOFTWARE SOLUTIONS	0	0	0	
	KURZ PETER	0	0	0	0
	KURZ PETER	0	0	0	0
	KURZ WALTER	0	0	0	0
	KURZ WALTER	0	0	0	0
	LAUER EDWARD	38	0	19000	0
	LITTLE ROBERT D	0	0	0	0
	MAIER JAMES W	0	0	0	0
	MARSH GEORGE M	0	0	0	0
	MARSH GILBERT R	0	0	0	0
	MONCURE JAMES A	0	0	0	0
	MORRIS KEITH A	0	0	0	0
	MOSELY PHILLIP G	0	0	0	0
	PAUL ERIC A	8	0	4000	0
	PEARCE PETER A	0	0	0	0
	PERRY DWAYNE M	0	0	0	0
	RAYLE GLENN D	0	0	0	0
	REES J M	0	0	0	0
	RICKS WALTER G	0	0	0	0
	RIEDLINGER PAUL G	0	0	0	[redacted]
	RIEDLINGER ROBERT A	0	0	0	

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	SALL JOHN P	0	0	0	0
	SHEKHAR MRIGANK	0	0	0	0
	SHEKHAR SWETANK	0	0	0	0
	STEPHENS FRANK M	0	0	0	0
	THORE GLENN W	0	0	0	0
	WARD ALLEN K	0	0	0	0
	WARD ALLEN K	0	0	0	0
	WARD MURIEL C	0	0	0	0
	WARD MURIEL C	0	0	0	0
	WILLIAMS STEVEN G	0	0	0	0
	WRAY PHILLIP C	0	0	0	0
	Total for Tier: 5	7663	28	8025555	112000
	Grand TOTAL:	14531	45	26672387	180000

William S. Lee Tax Credits

Worker Training

North Carolina Department of Revenue

William S. Lee Tax Credits
Worker Training
Processed in Calendar Year 2002

Tier	Name		No. of Employees	Eligible Credit Amount Generated
0				
	UNIFI MANUFACTURING, INC.		543	195851
	CONFLANDEY INC.		0	0
	CENTRO, INC.		0	0
	MID-ATLANTIC BUILDING SYSTEMS		0	0
	THOMAS BUILT BUSES, INC.		0	0
	CONFLANDEY INC.		0	0
	MOUNT OLIVE PICKLE COMPANY, I		156	54757
	WARLICK ANDERSON D		0	0
	Total for Tier:	0	699	250608
1				
	GREGORY POOLE EQUIPMENT COMPA		222	121500
	ALBA-WALDENSIAN, INC.		0	0
	OWENS-ILLINOIS CLOSURE INC.		30	30000
	MAGNOLIA MFG CO		246	84676
	FINELINE INDUSTRIES EAST, INC		42	42000
	FINELINE INDUSTRIES EAST, INC		0	0
	HALCORE GROUP, INC.		28	7405
	SAFELITE GLASS CORP		331	22061
	ALADDIN MANUFACTURING CORP		22	9735
	CAVALIER SPECIATLY YARN COMPA		46	23000
	BAKER JAMES C		0	0
	DICKINSON CHARLES F		0	0
	HUNTLEY MAX M		1	0
	Total for Tier:	1	968	340377
2				
	THE FELDSPAR CORPORATION		0	0
	VEEDER ROOT OF NC		78	39000
	HOMANIT USA, INC.		90	43843
	LITTLE ROBERT D		0	0
	Total for Tier:	2	168	82843
3				
	EASCO HAND TOOLS, INC.		27	13500
	MERCK & CO., INC.		341	151227
	MOUNT OLIVE PICKLE COMPANY, I		132	49274

Tier	Name	No. of Employees	Eligible Credit Amount Generated
	SPECTRUM DYED YARNS, INC.	0	0
	PARKDALE MILLS, INCORPORATED	869	117964
	CONITEX- SONOCO U.S.A., INC.	0	0
	CAVALIER SPECIATLY YARN COMPA	16	8000
	KCS INTERNATIONAL INC.	131	61539
	RED VALVE COMPANY, INC.	9	3651
	EATON AEROQUIP INC.	50	24706
	EATON AEROQUIP INC.	45	4477
	ALADDIN MANUFACTURING CORP	47	23500
	THE TIMKEN COMPANY	58	21945
	PARKDALE A	869	117964
	Total for Tier: 3	2594	597747
4			
	SANTA FE NATURAL TOBACCO CO	5	5000
	ATHOL MANUFACTURING CORP	79	38473
	THE GILLETTE COMPANY	95	4086
	R. L. STOWE MILLS, INC.	0	0
	WOODLAND MILLS CORPORATION	203	101500
	BSH HOME APPLIANCES CORP	156	115440
	ABBOTT LABORATORIES, INC.	74	21419
	PACKAGING CORPORATION OF AMER	27	13500
	COMMSCOPE, INC. OF NORTH CARO	2052	707436
	R. L. STOWE MILLS, INC.	0	0
	SAFT AMERICA INC	0	0
	THE MITCHELL GOLD CO.	61	1755
	ALADDIN MANUFACTURING CORP	16	8000
	CATERPILLAR INC.	0	0
	REVLON CONSUMER PRODUCTS CORP	643	254744
	BSH HOME APPLIANCES CORPORATI	38	20863
	NACCO MATERIALS HANDLING GROU	178	6791
	NACCO MATERIALS HANDLING GROU	364	52665
	OWENS-BROCKWAY PLASTIC PRODUC	4	2000
	EATON AEROQUIP INC.	67	19833
	Total for Tier: 4	4062	1373505
5			
	AVX CORPORATION	57	28500
	RENE COMPOSITE MATERIALS CORP	0	0
	JOHN DEERE CONSUMER PRODUCTS,	250	125000
	MILKCO, INC.	147	68603

Tier	Name	No. of Employees	Eligible Credit Amount Generated
	CLARK AME	94	47000
	AJINOMOTO USA INC	5	2500
	DEERE AND COMPANY	77	38500
	UNIFI MANUFACTURING, INC.	0	0
	ALCATEL NA CABLE SYSTEMS, INC	547	192939
	JOHN DEERE TURF CARE, INC.	303	151500
	DUKE ENERGY CORPORATION	42	42000
	DEERE & COMPANY	76	38000
	DEERE & COMPANY	378	52252
	MILKCO, INC.	221	45076
	VF JEANSWEAR, INC.	26	10240
	SEEGARS FENCE CO OF WAKE COUN	22	1100
	JOHN DEERE TURF CARE, INC.	203	100066
	FRISBY AEROSPACE, INC.	47	14892
	ALCATEL USA SOURCING, L.P.	0	0
	STEPHENS-L&E LLC	0	0
	THE GOODYEAR TIRE & RUBBER CO	9	4500
	KRISPY KREME DOUGHNUT CORPORA	65	32640
	KRISPY KREME DOUGHNUT CORPORA	70	70000
	KRISPY KREME DOUGHNUT CORPORA	22	22000
	PLYMOUTH PRINTING CO. INC.	20	10000
	ALCATEL USA LP, INC.	0	0
	DEERE-HITACHI CONSTRUCTION MA	0	0
	CARRIER CORPORATION	279	54189
	CROSSLOGIC CORPORATION	5	2500
	VF SERVICES, INC.	0	0
	CROSSLOGIC CORPORATION	7	3500
	CUTLER-HAMMER INC.	100	4445
	WALTER KIDDE PORTABLE EQUIPME	16	8000
	CROSSLOGIC CORPORATION	7	3500
	COMMSCOPE, INC. OF NORTH CARO	204	204000
	LANCE MFG. LLC	0	0
	ALCATEL USA GP, INC.	0	0
	FIRST CHARTER NATIONAL BANK	43	5290
	CLARKE AMERICAN CHECKS, INC.	96	48000
	APBI INC.	130	34188
	NOVO NORDISK PHARMACEUTICAL I	37	7169
	CORNING CABLE SYSTEMS INTERNA	0	0
	HEALTH DECISIONS, INC.	60	30000

Tier	Name		No. of Employees	Eligible Credit Amount Generated
	R. J. REYNOLDS TOBACCO COMPAN		143	113500
	AUERBACH HOWARD D		20	10000
		Total for Tier: 5	3828	1625589
		Grand TOTAL:	12319	4270669

North Carolina Department of Revenue

William S. Lee Tax Credits
Research and Development
Processed in Calendar Year 2002

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
ARDENT PHARMACEUTICALS, IN	0	0	0	0
DAIMLERCHRYSLER CORP	8532	427	0	0
BIC USA, INC. (BIC CONSUMER P	230423	11521	0	0
L S STARRETT CO	31940	1597	0	0
METAGENIX, INC.	0	0	0	0
SPBL ACQUISITION CO LLC	11518	576	0	0
RE-SOURCE AMERICA, INC.	0	0	0	0
LIPS, INC.	0	0	0	0
AUTOMATION PARTNERS INC	7621	381	0	0
NETWORK ASSOCIATES, INC.	134501	6725	0	0
CHEMCODES, INC.	0	0	0	0
DAIMLERCHRYSLER CORP	0	0	0	0
NORTEL NETWORKS INC.	68191772	3409589	0	0
THOMASVILLE FURNITURE INDU	592541	29627	0	0
BROYHILL FURNITURE INDUSTRI	506944	25347	0	0
GLOBAL SOFTWARE, INC.	0	0	19957	4989
INTERSIL COMMUNICATIONS, IN	2198684	109934	0	0
\ CORP	1457911	72896	0	0
DA...LERCHRYSLER NORTH AME	0	0	0	0
DAIMLERCHRYSLER NORTH AME	0	0	0	0
POLYCHEM ALLOY, INC.	0	0	0	0
LAFEBER CO	0	0	0	0
HI-TEX, INC.	78942	3947	0	0
TEKTONE SOUND AND SIGNAL M	178817	8941	3550	888
TEE-LOK CO	762864	38143	0	0
SHURTAPE TECHNOLOGIES, INC.	0	0	0	0
V-SAB MEDICAL LABS, INC.	6575	329	0	0
L S STARRETT CO	0	0	0	0
BANK OF AMERICA TECHNOLOG	0	0	0	0
CENTOCOR INC	1710964	85548	0	0
IENTERTAINMENT NETWORK, IN	0	0	0	0
DT MAGNETICS INTERNATIONAL,	256266	12813	0	0
THOR.LO, INC.	0	0	0	0
LIVEWIRE LOGIC, INC.	0	0	0	0
TRIPATH IMAGING, INC.	0	0	0	0
SILVERBACK TECHNOLOGIES, IN	167202	8360	0	0
BETTINSOLI GINO A	0	0	0	0
F ... WILLIAM H	762864	38143	0	0
... .WORTH JEFFREY B	0	0	0	0

D'ARENBERG PIERRE	0	0	0	0
FUNKE ROBERT P	49404	2470	0	0
GUARINO RICHARD	0	0	0	0
GUARRIELLO ANTHONY R	0	0	0	0
HARRELL LOREN B	0	0	0	0
HARRELL LOREN B	0	0	0	0
LEVINSON JACK M	11445	572	0	0
MONAHAN OSCAR L	0	0	0	0
OLDHAM FRANK P	0	0	0	0
RICKS WALTER G	0	0	0	0
SHERMAN MICHAEL M	0	0	0	0
SMITH WILLIAM A	0	0	0	0
WILSON D S	0	0	0	0
Total of Tier: 0	77357730	3867886	23507	5877

Tier 1

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
SLICKEDIT INC.	277360	13868	0	0
STX, INC.	576	29	0	0
SHURTAPE TECHNOLOGIES, INC.	635800	31790	0	0
WM T BURNETT MANAGEMENT, I	1225	61	0	0
MEDICLICK, INC.	0	0	0	0
SCYNEXIS CHEMISTY & AUTOMA	0	0	0	0
WM T BURNETT & CO INC F/K/A	1874	94	0	0
MORFLEX, INC.	0	0	0	0
EATON CORPORATION	323084	16154	0	0
LEVITON MANUFACTURING CO.,	204914	10246	0	0
EATON CORPORATION	323084	16154	0	0
IQMAX, INC.	287517	14376	0	0
THE TIMKEN COMPANY	0	0	0	0
WM T BURNETT OPERATING LIMI	122533	5943	0	0
PREFERRED MEDICAL MARKETI	0	0	0	0
PREFERRED MEDICAL MARKETI	0	0	0	0
SURONGO AMERICA INC	0	845	0	0
RAILROAD FRICTION PRODUCTS	673601	33680	0	0
GIBBS LAWRENCE F	48564	2428	0	0
PETERSON HANS E	355217	17761	0	0
SHAH RUBIN T	0	0	0	0
SHAH TILAK M	0	0	0	0
SHAH TILAK M	0	0	0	0
Total of Tier: 1	3255349	163429	0	0

Tier 2

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
[illegible]AR CORP	0	0	0	0
[illegible]METTE INDUSTRIES, INC.	138994	6950	0	0
GRAPHIC PACKAGING CORPORA	16896	845	0	0
OLDHAM SAW CO INC	261937	13097	0	0
Total of Tier: 2	417827	20892	0	0

Tier 3

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
EATON CORPORATION	370694	18535	0	0
COOPER-STANDARD AUTOMOTI	0	0	0	0
COOPER-STANDARD AUTOMOTI	0	0	0	0
DANA CORPORATION	130199	6510	0	0
GOERLICH'S, INC.	1042330	52117	0	0
MERCK & CO., INC.	0	0	41549	10387
COLLINS & AIKMAN PRODUCTS C	8914913	445746	0	0
ADVANCED INTERNET TECHNOL	673216	33661	0	0
RED VALVE COMPANY, INC.	42948	2147	0	0
EATON CORPORATION	284145	14207	0	0
WHITE CONSOLIDATED INDUSTR	460136	23007	0	0
[illegible]NE CO.	602569	30128	0	0
[illegible]HAND TOOLS, INC.	35693	1785	0	0
MILLER BREWING COMPANY	3594	180	0	0
CUTLER-HAMMER INC.	143448	7172	0	0
KIDDE TECHNOLOGIES INC.	0	0	13563	3391
CT COMMUNICATIONS, INC.	1095103	54755	0	0
THE TIMKEN COMPANY	0	0	0	0
GASTON SYSTEMS INC	117446	5872	0	0
BARMET ALUMINUM CORP	319215	15961	0	0
PROIMOS EVANGELOS	562859	28143	0	0
Total of Tier: 3	14798508	739926	55112	13778

Tier 4

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
AYLWARD ENTERPRISES	746470	37324	0	0
COMMSCOPE, INC. OF NORTH CA	2460134	123007	0	0
ADAMS WHOLESALE COMPANY	0	0	0	0
ATHOL MANUFACTURING CORP	228318	11416	0	0
VALDESE WEAVERS, INC.	1981624	99081	0	0
ADAMS WHOLESALE COMPANY	104831	5242	0	0
[illegible]EM ALLOY, INC.	49430	2472	0	0
MORGANITE	513882	25694	0	0

BSH HOME APPLIANCES CORPOR	0	0	4104	1026
SAFT AMERICA INC	0	0	0	0
MOEN INCORPORATED	1839967	91998	0	0
TRION, INC.	0	0	0	0
NOVOZYMES NORTH AMERICA, I	1762627	88131	0	0
ABBOTT LABORATORIES, INC.	1282117	64106	0	0
P P G INDUSTRIES, INC.	1474674	73734	0	0
NOLAN JAMES D	89147	4457	0	0
NOLAN ROBERT	52187	2609	0	0
ROHLIK MICHAEL L	42988	2150	0	0
Total of Tier: 4	12628396	631421	4104	1026

Tier 5

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
THE STEEL NETWORK, INC.	213724	10686	0	0
VIRTA RALEIGH CORP	2293472	114674	0	0
CISCO SYSTEMS SALES & SERVIC	4200800	210040	0	0
BANNER PHARMACAPS INC.	179083	8954	0	0
SYNGENTA BIOTECHNOLOGY IN	0	0	985813	246453
NOMACORC LLC	86971	4349	0	0
THE QUANTU GROUP INC	279852	13993	0	0
INST TRANS EQUIP CORP	221603	11080	0	0
ALCATEL USA SOURCING, L.P.	17899514	894976	0	0
PEOPLECLICK.COM, INC.	2408235	120412	0	0
STOCKHAUSEN INC.	905256	45263	0	0
NOELFAMILY	86971	4349	0	0
NOEL FAMILY TRUST FBO MICHA	86971	4349	0	0
MORFLEX, INC.	779565	38978	0	0
CORNING INCORPORATED	6526546	326327	848451	212113
UNITIVE ELECTRONICS, INC.	0	0	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
SAFFRON TECHNOLOGY, INC.	0	0	0	0
TRIANGLE MICROSYSTEMS, INC.	107463	5373	0	0
PERFORMAWORKS, INC.	879390	43970	0	0
SMITHKLINE BEECHAM CORPOR	74246335	3712317	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
NOEL FAMILY TRUST BO WENDY	86971	4349	0	0
CORNING INCORPORATED	5673172	283659	737512	184378
CORNING INCORPORATED	728713	36436	94733	23683
CORNING INCORPORATED	0	0	0	0
GOULSTON TECHNOLOGIES, INC.	1134679	56734	0	0
BANK OF AMERICA TECHNOLOG	101636	5082	0	0
INTEGRATED SOFTWARE SOLUTI	405820	20291	0	0
SIEBEL SYSTEMS, INC.	1819769	90988	0	0

TRIANGLE PHARMACEUTICALS, I	15521961	776098	0	0
ETRIALS, INC.	192516	9626	0	0
STELLA NOVA TECHNOLOGIES	48564	2428	0	0
EL NA CABLE SYSTEMS, I	0	0	0	0
ERNATIONAL BUSINESS MAC	0	0	15252149	3813037
INTELLI-MARK TECHNOLOGIES, I	256122	12806	0	0
POLYZEN INC	65453	3273	0	0
FILTRATION GROUP, INC.	50803	2540	0	0
SOFTPRO CORP	59125	2956	0	0
MEDICLICK, INC.	0	0	0	0
ALCATEL USA GP, INC.	17899514	894976	0	0
MARKETECH SYSTEMS	490074	24504	0	0
SILICON SEMICONDUCTOR CORP	1866686	93334	0	0
FLEXCELL INTL CORP	335420	16771	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
CLOSURE MEDICAL CORPORATI	1798074	89904	0	0
VF SERVICES, INC.	0	0	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
UNICHEM INC	66554	3328	0	0
HATTERAS NETWORKS, INC.	2434494	121725	0	0
NOEL FAMILY TRUST	86971	4349	0	0
NOEL VENTURES, LLC	86971	2759	0	0
TAS SO	2051933	102597	0	0
ITA INC	88577	4429	0	0
HAYWARD INDUSTRIAL	289810	14491	0	0
CCS HOLDINGS, INC.	0	0	0	0
INDUSTRIAL MICROWAVE SYSTE	250407	12520	0	0
SCYNEXIS CHEMISTY & AUTOMA	463013	23151	0	0
STELLA NOVE TECHNOLOGIES	48564	2428	0	0
LANCE MFG. LLC	132833	6642	0	0
DELTA CONSOLIDATED INDUSTR	15646	782	0	0
IMPACT TECHNOLOGIES GROUP,	368876	18444	0	0
KLAUSSNER FURNITURE INDUST	1943976	97199	0	0
GENERAL DYNAMICS ADVANCE	0	0	2589	647
4PI ANALYSIS, INC.	137092	6855	0	0
BIOGEN INC	3031867	151593	0	0
TOGETHERSOFT CORPORATION	167282	8364	0	0
SCIQUEST, INC.	909328	45466	0	0
MICROBAN PRODUCTS COMPAN	0	0	0	0
ASCOM WIRELESS SOLUTIONS IN	278440	13922	0	0
TRIFOLIUM, INC.	67111	3356	0	0
ELUMENS CORPORATION	297782	14889	0	0
L B PLASTICS INC	38439	1922	0	0
OPTICS CORPORATION	3903155	195158	0	0
MOBIVERYWHERE, INC.	561058	28053	0	0

CORNING CABLE SYSTEMS INTE	7205550	360278	0	0
NITRONEX CORPORATION	1383897	69195	0	0
BIOMERIEUX, INC.	1124634	56232	0	0
ERICSSON INC.	32560225	1628011	0	0
CHARLES & COLVARD, LTD.	0	0	0	0
ULTIMUS, INC.	225079	11254	0	0
TROXLER ELECTRONIC LABORA	727579	36379	0	0
INSPIRE PHARMACEUTICALS, INC	6488577	324429	0	0
VENETICA CORPORATION	1132488	56624	0	0
INSECT BIOTECHNOLOGY, INC.	273533	13677	0	0
TEKELEC	20991013	1049551	0	0
NOBLE OIL SERVICES, INC.	295449	14772	0	0
FLOW SCIENCES, INC.	112055	5603	0	0
ABB AUTOMATION INC.	7846184	392309	0	0
NOVARTIS PHARMACEUTICALS C	0	0	848594	212149
SYNAPSE TECHNOLOGY, INC.	116030	5802	0	0
WILMORE ELECTRONIC COMPAN	171612	8581	0	0
PLIANT SYSTEMS, INC.	0	0	0	0
SMART ONLINE, INC.	0	0	0	0
VOLVO TRUCKS NORTH AMERIC	10723491	536175	0	0
WELCH ALLYN INC	217540	10877	0	0
MEDTEC, INC.	351903	17595	0	0
ELI LILLY AND COMPANY	18782779	939139	0	0
ALCATEL USA LP, INC.	17899514	894976	0	0
CARDIOVASCULAR DIAGNOSTIC	1291599	64580	0	0
UNION CARBIDE CORPORATION	1498252	74913	0	0
CUTLER-HAMMER INC.	1261432	63072	0	0
FIBER INDUSTRIES, INC.	3105182	155259	0	0
NETOCTAVE, INC.	597008	29850	0	0
MERIX BIOSCIENCE, INC.	2068180	103409	0	0
CHARLOTTE PIPE AND FOUNDRY	1069578	53479	0	0
RELATIVITY TECHNOLOGIES, INC	332250	16613	0	0
NOVARTIS ANIMAL HEALTH US, I	0	0	34500	8625
HAYWARD POOL PRODUCTS, INC	239360	11968	0	0
SAS INSTITUTE INC.	0	0	3553750	888438
FOREST2MARKET.COM	0	0	0	0
COVENTOR, INC.	66785	3339	0	0
WESTLAKE INDUSTRIES, INC.	0	0	0	0
DANA CORPORATION	467295	23365	0	0
MICROMASS COMMUNICATIONS,	400320	20016	0	0
VOLUMETRICS MEDICAL IMAGIN	0	0	0	0
INTEGRIAN, INC.	143500	7175	0	0
CENTURY FURNITURE INDUSTRI	0	0	0	0
ABB INC.	3974118	198706	0	0
OLIVER RUBBER COMPANY	963202	48160	0	0
PREFERRED MEDICAL MARKETI	142616	7131	0	0

HEALTH DECISIONS, INC.	1698054	84903	0	0
AVANT CORPORATION AND SUB	1799381	89969	0	0
WILSON-COOK MEDICAL INC.	688032	34402	0	0
[redacted]T NETWORKS, INC.	540033	27002	0	0
[redacted] SYSTEMS, INC.	1072584	53629	0	0
INTEGRIAN, INC.	73180	3659	0	0
SYNGENTA CROP PROTECTION, I	0	0	324247	81062
BATES E G	11445	572	0	0
BERENTHAL SAUL	0	0	0	0
BODILY ROBERT	405820	20291	0	0
BRUNER JEFFREY W	279852	13993	0	0
DEVCHOUDHURY RATHINDRA	48564	2428	0	0
EASON DOUGLAS	405820	20291	0	0
HENDERSON BARRY T	0	0	0	0
HORTONSTELLA NOVA TECHNOL	48564	2428	0	0
JENKINSINTEGRATED SOFTWARE	405820	20291	0	0
KUPFERMAN LINDSAY B	0	0	19957	4989
KUPFERMAN MATTHEW C	0	0	19957	4989
KUPFERMAN RONALD J	0	0	19957	4989
KUPFERMAN SPENCER T	0	0	0	0
LAUER EDWARD	86971	4349	0	0
LEVINSON STUART J	1040326	52016	0	0
LITTLE ROBERT D	0	5397	0	0
M [redacted]URE JAMES A	0	290	0	0
[redacted] KEITH A	0	0	0	0
NOEL MARC J	86971	4349	0	0
NORWOOD KIMBERLY D	24702	1235	0	0
PAUL ERIC A	351903	17595	0	0
PERRY DWAYNE M	107954	5398	0	0
RAO RAJESH	0	0	0	0
REES J M	0	1378	0	0
REITER PABLO	0	0	0	0
SHAH RUBIN T	65453	3273	0	0
SHAH TILAK M	65453	3273	0	0
SHAH TILAK M	65453	3273	0	0
SHEKHAR SWETANK	0	0	0	0
SINGH HARVINDER	0	0	0	0
WRENN JAMES H	42160	2108	0	0
Total of Tier: 5	335756226	16793299	22742209	5685552
Grand TOTAL:	444214036	22216853	22824932	5706233

William S. Lee Tax Credits

Real Property Investment

North Carolina Department of Revenue

William S. Lee Tax Credits
Real Property Investment
Processed in Calendar Year 2002

0

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
MEASURMENT INCORPORATED PAYRO	0	0
R & R MACHINE COMPANY, INC.	0	0
Total of Tier: 0	0	0

Tier 1

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
AMERESCOSOLUTIONS, INC.	0	0
AMERICAN LAFRANCE CORPORATION	0	0
BRANCH BANKING AND TRUST COMP	0	0
RAILLINC CORPORATION	0	0
SYNGENTA CROP PROTECTION, INC	27308	27308
Total of Tier: 1	27308	27308

Tier 2

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
IT USA, INC.	51351	51351
Total of Tier: 2	51351	51351

Tier 3

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
BRANCH BANKING AND TRUST COMP	0	0
Total of Tier: 3	0	0

Tier 4

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
NACCO MATERIALS HANDLING GROU	0	0
Total of Tier: 4	0	0

Tier 5

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
SALL JOHN P	0	0
W MS JOHNNY J	0	0
A SCOSOLUTIONS, INC.	0	0

APBI INC.	4309	0
ARMACELL UNITED STATES HOLDIN	0	0
BANK OF AMERICA NA	0	0
BIOMERIEUX, INC.	500000	500000
BRANCH BANKING AND TRUST COMP	500000	500000
CAROLINA POWER & LIGHT COMPAN	0	0
CATERPILLAR INC.	0	0
DUKE ENERGY CORPORATION	500000	500000
DUKE PROJECT SERVICES, INC.	0	0
ELECTROLUX HOME PRODUCTS, INC	0	0
FIRST CHARTER NATIONAL BANK	500000	500000
FIRST UNION NATIONAL BANK	0	0
FIRST UNION NATIONAL BANK	0	0
FRAMATOME ANP DE&S, INC.	0	0
GREGORY POOLE EQUIPMENT COMPA	6402	6402
NOVARTIS ANIMAL HEALTH US, IN	0	0
QUINTILES TRANSNATIONAL CORP.	0	0
RAILLINC CORPORATION	0	0
RAILLINC CORPORATION	0	0
SAS INSTITUTE INC.	0	0
SCIQUEST, INC.	0	0
SYNGENTA BIOTECHNOLOGY INC	0	0
SYNGENTA CROP PROTECTION, INC	122889	122889
THE CONCORD TELEPHONE COMPANY	0	0
THE VANGUARD GROUP, INC.	0	0
US AIRWAYS, INC.	0	0
VF CORP	0	0
VF PLAYWEAR INC	206675	29525
VF PLAYWEAR, INC.	0	0
WACHOVIA BANK OF NORTH CAROLI	0	0
Total of Tier: 5	2340275	2158816

Grand TOTAL:	2418934	2237475

William S. Lee Tax Credits

Detail of Credits Claimed

North Carolina D[illegible]rtment of Revenue

William S. [illegible]ee Tax Credits
Detail of Credits Claimed
Processed in Calendar Year 2002

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
	0	0	0	0	0	0	0
ADAMS ADAM F	0	0	0	0	0	0	0
ADAMS PETER W	0	43	0	0	0	0	0
AGNOFF CHARLES	0	0	0	0	0	0	0
ALDREDGE JR EMMETT C	0	0	0	0	0	0	0
ALDRIDGE JERRY K	0	38	0	0	0	0	0
ALLEN BRADLEY D	4	29	0	0	0	0	0
ALLEN CECIL O	0	984	0	0	0	0	0
ALLEN JOSEPH G	0	0	0	0	0	0	0
ALPHIN LEON C	0	0	0	0	0	0	0
AMBROSE COLIN M	0	0	0	0	0	0	0
ANDERSON DAVID W	0	0	31,600	0	0	0	0
ARNETT ANDREW	0	270	0	0	0	0	0
AUERBACH HOWARD D	4,125	0	0	2,963	0	0	0
AUSTIN DANIEL C	0	0	0	0	0	0	0
AUSTIN LAWRENCE A	0	0	0	0	0	0	0
AYLWARD JOHN	9,243	3,412	24,643	0	0	0	0
BAGGETT CARROLL M	329,821	0	0	0	0	0	0
BAKER JAMES C	50	2,004	0	0	0	0	0
BANNISTER TIM	0	219	0	0	0	0	0
BARBER ARTHUR II	68,100	2,903	0	0	0	0	0
BARBER BRANDON A	7,892	0	0	0	0	0	0
BARBER JAMIE R	8,141	0	0	0	0	0	0
BARNARD EARLE E	29	33	0	0	0	0	0
BARNES JERRY Q	0	0	0	0	0	0	0
BARNES ROCK A	0	1,997	0	0	0	0	0
BARNETTE BERTRAM A	0	57	0	0	0	0	0
BARRINGER BRENT D	5,135	255	0	0	0	0	0
BARTON ELMER P	0	0	0	0	0	0	0
BARWICK BOYCE B	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BARWICK CARROLL B	1,501	408	0	0	0	0	0
BATES E G	0	0	0	0	0	0	0
BAUCOM MICHAEL Y	0	0	0	0	0	0	0
BAXTER PATRICIA	0	0	0	0	0	0	0
BEARD LAWRENCE E	0	0	0	0	0	0	0
BECK PATRICIA Q	0	9	0	0	0	0	0
BEEKER GEORGE M	156	1,762	0	0	0	0	0
BELL JOHN M	907	0	0	0	0	0	0
BELL THOMAS F	19,186	0	0	0	0	0	0
BELL THOMAS F	907	0	0	0	0	0	0
BERENTHAL SAUL	0	0	6,788	0	0	0	0
BETTINSOLI GINO A	0	0	1,161	0	0	0	0
BETTS RICKY C	0	576	0	0	0	0	0
BETTS RONNIE L	0	578	0	0	0	0	0
BIRCHETTE GEORGE A	0	0	0	0	0	0	0
BISHOP ELBERT M	0	75	0	0	0	0	0
BLACK WILLIAM H	11,625	36,488	38,143	0	0	0	0
BODILY ROBERT	29	0	1,569	0	0	0	0
BOGGS ANDREW M	0	0	0	0	0	0	0
BOGGS NORRIS E	0	0	0	0	0	0	0
BOLEN CHARLES E	0	72	0	0	0	0	0
BOND JAMES O	83	0	0	0	0	0	0
BOND RICHARD R	337	3,639	0	0	0	0	0
BRADFORD ROBERT G	0	0	0	0	0	0	0
BRAY JOHN T	941	800	0	0	0	0	0
BREWER LELAND T	0	0	0	0	0	0	0
BRITTINGHAM SARAH W	0	10	0	0	0	0	0
BROADWELL DOHN B	0	3,110	0	0	0	0	0
BROADWELL RICHARD M	0	6,886	0	0	0	0	0
BROWDER KENNETH G	1,315	187	0	0	0	0	0
BRUNER JEFFREY W	0	4,467	13,993	0	0	0	0
BUCK PATTY C	0	42	0	0	0	0	0
BUCKNER CHARLES J	0	81	0	0	0	0	0
BULLA[redacted]MAN D	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BULLARD RICKY J	0	4,450	0	0	0	0	0
BURGESS DANIEL F	0	49	0	0	0	0	0
BURGESS JOSHUA A	0	0	0	0	0	0	0
BUTTAR RASHID A	0	0	2,175	0	0	0	0
BUTTAR RASHID A	0	0	329	0	0	0	0
BUTTERWORTH JEFFREY B	0	0	6,191	0	0	0	0
BYRNSIDE BENJAMIN	6,848	0	0	0	0	0	0
CALIHAN JOSEPH L	0	0	0	0	0	0	0
CAPELL JOHN H	19,209	813	0	0	0	0	0
CAPELL KERRY L	20,229	871	0	0	0	0	0
CARLSON STEPHEN C	24,903	0	0	0	0	0	0
CARPENTER JONATHAN S	0	0	0	0	0	0	0
CARR III GEORGE W	0	647	0	0	0	0	0
CARROLL GEORGE F	0	0	0	0	0	0	0
CARTER RUSSELL M	0	0	0	0	0	0	0
CARVER W G	400	4,378	0	0	0	0	0
CHAMBLISS III NORMAN Y	0	0	0	0	0	0	0
CHEWNING SAMUEL J	0	5	0	0	0	0	0
CLEMENT JAMES E	0	30	0	0	0	0	0
CLINE JULIUS D	167	50	0	0	0	0	0
COCHRAN JOHN P	0	0	0	0	0	0	0
COEN EUGENE W	0	0	0	0	0	0	0
COHEN LEIPOLD I	0	0	0	0	0	0	0
COLANTUONO THOMAS P	0	2,155	0	0	0	0	0
COLLINS PAUL M	0	0	2,149	0	0	0	0
CONNOR WILTON M	0	0	0	0	0	0	0
COOLEY THEODORE M	0	0	0	0	0	0	0
COOPER JAMES E	7	30	2	0	0	0	0
COPLAND JAMES R	0	97	0	0	0	0	0
COPLAND JASON C	0	0	0	0	0	0	0
COPLAND LILLIAN G	0	0	0	0	0	0	0
COPLAND RONALD G	0	0	0	0	0	0	0
COPLAND SPENCER T	0	0	0	0	0	0	0
CORNS BILLY R	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
COTTINGHAM GEORGE D	13	14	0	0	0	0	0
COVINGTON EDWARD H	0	0	0	0	0	0	0
COXE THOMAS C	2,382	8,191	0	0	0	0	0
CRARY EDWARD M	0	0	0	0	0	0	0
CRITZ ROBERT M	0	286	0	0	0	0	0
CROWDER TODD L	160	2,029	0	0	0	0	0
CROWELL GILES F	0	203	0	0	0	0	0
CULHANE P E	2,495	0	0	0	0	0	0
DANIEL LARRY	0	0	0	0	0	0	0
DARCH LEE A	29	33	0	0	0	0	0
D'ARENBERG PIERRE	0	0	0	0	0	0	0
DARNELL WILLIAM E	0	192	0	0	0	0	0
DAUGHETY CATHY N	0	102	0	0	0	0	0
DAUGHTRIDGE RAYMOND L	0	0	0	0	0	0	0
DAVIS BRIAN A	0	0	0	0	0	0	0
DAVIS JOSEPH M	0	0	9	0	0	0	0
DAVIS MARTIN A	0	0	0	0	0	0	0
DEAL EDWARD M	1,822	0	0	0	0	0	0
DEAL RONALD E	5,788	0	0	0	0	0	0
DEDMON RICHARD C	0	0	0	0	0	0	0
DEJOY DOMINICK	0	0	0	0	0	0	0
DELLA SANTA ERALDO	16,099	0	0	0	0	0	0
DELLA SANTA MASSIMO	18,251	0	0	0	0	0	0
DENNING JOSEPH M	0	94	0	0	0	0	0
DERRICK MICHAEL R	0	10	0	0	0	0	0
DEVCHOUDHURY RATHINDRA N	0	0	728	0	0	0	0
DICKINSON CHARLES F	2,249	0	0	1,802	0	0	0
DIRKS MARK K	0	0	5,076	0	0	0	0
DITTENHOEFER SUSAN J	858	4,906	0	0	0	0	0
DUBOSE CHARLES H	0	0	0	0	0	0	0
DUNLOW ERNEST M	502	0	0	0	0	0	0
DUNN SAMUEL W	0	0	0	0	0	0	0
DYSART CHRISTIAN E	5,311	14,743	0	0	0	0	0
EASO[redacted]AS	16	0	[redacted]	892	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ECHOLS THOMAS E	1,116	0	0	0	0	0	0
EDGERTON GLENN S	0	0	0	0	0	0	0
EDGERTON SYLVIA A	0	1,304	0	0	0	0	0
EDGERTON SYLVIA S	0	11,413	0	0	0	0	0
EDWARDS DANNY R	0	1,502	0	0	0	0	0
EDWARDS MERLE W	0	750	0	0	0	0	0
EGGERS PHILLIP A	0	33	0	0	0	0	0
ELLETT RUSSELL P	0	0	1	0	0	0	0
ELSTER JOHN R	0	0	0	0	0	0	0
ENGLERT JOHN A	0	0	0	0	0	0	0
ENGLERT SCOTT T	0	0	0	0	0	0	0
ENGLISH ANN L	0	0	0	0	601	0	0
ERVIN JOHN W	0	0	0	0	0	0	0
ERWIN CHARLES B	0	0	0	0	0	0	0
EURE LUTHER H	0	0	10	0	0	0	0
EVANS CLIFTON W	0	1,000	0	0	0	0	0
EVANS EDWARD P	0	0	0	0	0	0	0
EVANS EDWARD P	0	0	0	0	0	0	0
EVANS FREDERICK L	0	1,000	0	0	0	0	0
EVANS JAMIE R	0	1,000	0	0	0	0	0
EVANS KEVIN W	0	0	0	0	0	0	0
EWERT BRIAN C	0	0	0	0	0	0	0
FALLS THOMAS N	0	0	0	0	0	0	0
FANCOURT NEAL S	685	0	0	0	0	0	0
FANJOY THOMAS A	0	16,934	0	0	0	0	0
FEARING TATNAL W	0	643	0	0	0	0	0
FENDER DONALD P	0	301	0	0	0	0	0
FERGUSON CHARLES L	604	955	0	0	0	0	0
FERKI JOSEPH M	0	0	0	0	0	0	0
FIELDS GEORGE B	0	0	0	0	0	0	0
FINCH JOHN L	0	5,408	0	0	0	0	0
FINGER BRADLEY E	0	0	0	0	0	0	0
FINK ALEC A	0	0	2,261	0	0	0	0
FISHER THOMAS G	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
FITZHARRIS JAMES F	0	0	0	0	0	0	0
FLUHARTY JOSEPH R	0	0	0	0	62	0	0
FLYNN GARY B	184	1,145	0	0	0	0	0
FOGLEMAN BERNARD M	0	450	0	0	0	0	0
FOLEY LEONARD K	74	0	0	0	0	0	0
FORD TIMOTHY L	0	0	0	0	0	0	0
FOWLER LOIS P	0	84	0	0	0	0	0
FOX CHARLOTTE N	0	0	0	0	0	0	0
FOX GORDON C	0	0	0	0	0	0	0
FOX LAUREN C	0	50	0	0	0	0	0
FOX RICHARD L	0	0	0	0	0	0	0
FRYE EUGENE C	4,584	0	0	0	0	0	0
FULP THOMAS W	0	450	0	0	0	0	0
FUNKE ROBERT P	0	0	0	0	0	0	0
FUTRELL TRACY E	0	0	0	0	0	84,386	0
GARDNER DAVID E	5,647	0	0	0	0	0	0
GASKILL JOYCE G	126	0	0	0	0	0	0
GAYLORD ERIC L	7,228	137	11	0	0	0	0
GAYLORD JOHN F	17,669	336	28	0	0	0	0
GAYLORD ROBERT S	7,228	137	11	0	0	0	0
GENTRY IRCIL N	0	189	0	0	0	0	0
GERBER ERIC T	0	0	0	0	0	0	0
GIBBS LAWRENCE F	0	0	729	0	0	0	0
GILLELAND WILLIAM C	0	0	0	0	0	0	0
GIRARDIN WALTER E	0	38	0	0	0	0	0
GODWIN JAMES P	0	0	0	0	0	0	0
GOINS JESSE J	0	953	0	0	0	0	0
GONYEA DAVID W	0	0	0	0	0	0	0
GONYEA II JOSEPH H	0	0	0	0	0	0	0
GONYEA III JOSEPH H	0	0	0	0	0	0	0
GOODING DAVID R	1,389	107	0	0	0	0	0
GOODING DAVID R	1,389	107	0	0	0	0	0
GOODMAN JOHNNY W	0	336	0	0	0	0	0
GOODMAN 'ETH L	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
GOODMAN RAYMOND W	0	3,345	0	0	0	0	0
GOODMAN RAYMOND W	0	0	0	0	0	0	0
GOODNIGHT JAMES H	0	0	0	0	0	0	0
GORDON ALFRED A	0	78	0	0	0	0	0
GORDON BARRY S	0	1,055	0	0	0	0	0
GORDON CHARLES B	0	751	0	0	0	0	0
GORDON CHARLES B	0	1,028	0	0	0	0	0
GORDON CRAIG R	0	1,055	0	0	0	0	0
GORDON ERIC B	0	0	0	0	0	0	0
GORDON KALMAN S	0	78	0	0	0	0	0
GORDON LOUIS J	0	1,055	0	0	0	0	0
GORDON MARK A	0	1,055	0	0	0	0	0
GORDON MELVIN	0	78	0	0	0	0	0
GORDON RICHARD E	0	1,054	0	0	0	0	0
GORDON ROBERT L	0	1,054	0	0	0	0	0
GORDON SAUL	0	78	0	0	0	0	0
GORHAM ROBERT D	0	0	0	20	10	0	0
GOSLEN JUNIUS B	0	1,242	27	0	0	0	0
GREENE RODERICK M	0	428	0	0	0	0	0
GREENE RONALD B	55	0	0	0	0	0	0
GRIGGS WILBUR R	0	73	0	0	0	0	0
GRIGGS WILBUR R	0	5	0	0	0	0	0
GUARINO RICHARD	0	0	798	0	0	0	0
GUARRIELLO ANTHONY R	3,412	13,086	34	0	0	0	0
HAGAN EDWARD M	0	0	0	0	0	0	0
HAIGH MARSDEN D	23,561	0	0	0	0	0	0
HAIR STUART A	0	449	0	0	0	0	0
HALSO ESCOTT	0	0	0	0	0	0	0
HAMILTON JULIAN C	32	0	36	0	0	0	0
HANKINS STEVEN R	0	0	0	0	0	0	0
HARRAWOOD DAVID A	0	0	0	0	0	0	0
HARRELL LOREN B	0	0	0	0	0	0	0
HARRELL WAYNE M	0	0	0	0	0	0	0
HARRIS JAMES N	0	56	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
HARRIS RICHARD F	0	59	0	0	0	0	0
HARVEY WILLIAM L	0	0	0	0	0	0	0
HAUPRICHT BRIAN A	0	0	0	0	0	0	0
HAYNES DAVID B	0	173	0	0	0	0	0
HENDERSON BARRY T	53	0	2,763	0	0	0	0
HENDERSON JAMES W	166	-83	0	0	0	0	0
HENDERSON RONNIE L	0	0	0	0	0	0	0
HENDREN WILLIAM	0	0	0	0	0	0	0
HERRING APRIL N	2,610	0	0	0	0	0	0
HERRING KEVIN S	2,610	0	0	0	0	0	0
HERRING SHERWIN	25,230	0	0	0	0	0	0
HESTER ROBERT W	0	279	0	0	0	0	0
HILL JERRY L	12,194	0	0	0	0	0	0
HOARD JOSEPH S	12,434	0	0	0	0	0	0
HOARD JOSEPH S	9,896	0	0	0	0	0	0
HOARD JOSEPH S	12,434	0	0	0	0	0	0
HOARD KELLEY N	647	0	0	0	0	0	0
HODGES CHARLES S	0	164	0	0	0	0	0
HODGES WILLIAM P	2,719	2,311	0	0	0	0	0
HOFFNER ALAN L	0	0	0	0	0	0	0
HOLLAND HARROLD D	0	0	0	0	0	0	0
HOLLER RAYMOND A	0	0	0	0	0	0	0
HOLMAN DOUGLAS E	0	0	0	0	0	0	0
HOLT AMANDA M	0	0	0	0	0	0	0
HOLT ASHLEY E	0	0	0	0	0	0	0
HOLT CHARLES D	0	0	0	0	0	0	0
HOLT JOHN A	0	0	0	0	0	0	0
HOLT JOHN A	85	741	0	0	0	0	0
HOLT MARGUERITE E	0	0	0	0	0	0	0
HOLT MICHAEL M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT S[redacted]	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
HOLT SARAH M	0	0	0	0	0	0	0
HOLTON JAMES R	1,962	21,236	0	0	0	0	0
HOOD CLIFTON R	1,500	0	0	0	0	0	0
HOOVER STEPHEN J	0	0	0	0	0	0	0
HORNE CHARLES D	0	22,133	0	0	0	0	0
HORNE KENNETH W	0	17,416	0	0	0	0	0
HORTON PAUL W	0	0	0	0	0	0	0
HOWE HENRY T	0	0	0	0	0	0	0
HOYLE KENNETH L	0	5,093	0	0	0	0	0
HUDSON CHARLES W	0	0	0	0	0	0	0
HUFFMAN WILLIAM G	0	0	0	0	0	0	0
HUGHES JEFFREY L	937	0	0	0	0	0	0
HUGHES JOSEPH K	344	240	0	0	0	0	0
HUGHES JOSEPH K	0	0	0	0	0	0	0
HUGHES WILLIAM C	287	199	0	0	0	0	0
HUGHES JR G J	351	266	0	0	0	0	0
HUMPHREY DONALD M	0	614	0	0	0	0	0
HUNT JANICE L	0	68	0	0	0	0	0
HUNTER CHARLES M	12	107	0	0	0	0	0
HUNTLEY MAX M	3,981	3,946	0	1,441	0	0	0
INGRAM GARY L	0	311	0	0	0	0	0
JACKSON TRAVIS H	0	58	0	0	0	0	0
JASZEWSKI PAUL K	0	71	0	0	0	0	0
JENKINS KENNETH L	83	0	4,457	0	0	0	0
JENKINS PEMBROKE N	9,000	4,410	0	0	0	0	0
JO HUN-YONG	30,550	13,012	0	0	0	0	0
JO HWAYONG	30,290	12,902	0	0	0	0	0
JOHNSON ARTHUR H	0	0	0	0	0	0	0
JOHNSON F J	0	2,355	0	0	0	0	0
JOHNSON FRANCES H	0	0	0	0	0	0	0
JOHNSON JUDITH H	0	0	0	0	0	0	0
JOHNSON LARRY G	0	141	0	0	0	0	0
JOHNSON MARK A	0	6,019	0	0	0	0	0
JOHNSON PHILIP H	4	32	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
JOHNSON PHILLIP W	0	0	0	0	0	0	0
JOHNSTON KATHERINE M	0	0	0	0	667	0	0
JONES DAPHNE P	0	0	0	0	0	0	0
JONES DONALD H	0	0	0	0	0	0	0
JONES J R	0	0	0	0	91	0	0
JONES J W	0	4,546	0	0	0	0	0
JONES J W	0	0	0	0	0	0	0
JONES SEBY B	0	136	0	0	0	0	0
JONES STEPHEN L	0	0	0	0	0	0	0
JORDAN JACK P	0	2,495	0	0	0	0	0
JORDAN JOHN R	0	0	0	0	0	0	0
JORDAN ROBERT B	0	2,495	0	0	0	0	0
JOYNER DONALD L	0	0	0	0	0	0	0
JUNEAU KENNETH P	458	0	0	0	0	0	0
KELLY JAMES F	0	0	0	0	0	0	0
KIMBRELL WILLARD D	0	0	0	0	0	0	0
KINCHELOE JOHN B	0	20	0	0	0	0	0
KING LYNWOOD C	0	0	0	0	0	0	0
KIRBY MARGARET M	0	961	0	0	0	0	0
KISER AMELIA T	701	729	0	0	0	0	0
KISER AMELIA T	1,046	811	0	0	0	0	0
KISER AMELIA T	709	835	0	0	0	0	0
KISER J J	0	0	0	0	0	0	0
KISER J J	3	3	0	0	0	0	0
KISER J J	0	0	0	0	0	0	0
KISER L R	4	3	0	0	0	0	0
KISER L R	0	0	0	0	0	0	0
KISER L R	0	0	0	0	0	0	0
KITCHENS TRACEY B	0	39	0	0	0	0	0
KOONTZ TONY E	0	631	0	0	0	0	0
KUPFERMAN LINDSAY B	0	0	0	0	0	0	0
KUPFERMAN MATTHEW C	0	0	1,299	0	0	0	0
KUPFERMAN RONALD J	0	0	923	0	0	0	0
KUPFER[redacted]ENCER T	0	0	2,291	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	/Z rojects
KURZ PETER	8,312	13,033	0	0	0	0	0
KURZ WALTER	8,309	13,029	0	0	0	0	0
LAING BRENT P	0	0	0	0	0	0	0
LANE CURK T	2,798	0	0	0	0	0	0
LANE LANDON B	0	0	0	0	0	0	0
LANNING HOY S	16,501	665	0	0	0	0	0
LAUER EDWARD	310	1,260	70	0	0	0	0
LAUGHLIN DAVID E	0	0	0	0	0	0	0
LAUGHLIN WILLIAM H	0	0	0	0	0	0	0
LAWRENCE MCKINLEY A	26	0	0	0	0	0	0
LEE EDWARD L	0	0	0	0	0	0	0
LESTER JAMES D	0	2,014	0	0	0	0	0
LEVINSON GARY L	0	0	572	0	0	0	0
LEVINSON JACK M	0	0	572	0	0	0	0
LEVINSON STUART J	0	0	0	0	0	0	0
LEWIS HARVEY R	142	160	0	0	0	0	0
LEWIS JOHN W	0	0	951	0	0	0	0
LEWIS WILLIAM F	0	0	0	0	0	0	9,234
LITTLE ROBERT D	122	0	6,498	0	0	0	0
LITTLE THOMAS M	2,380	4,052	0	0	0	0	0
LONDON WILLIAM L	0	0	0	0	0	0	0
LONG DANIEL J	0	8	0	0	0	0	0
LONON LINDA M	0	0	0	0	0	0	0
LOVETT NORMAN	0	788	0	0	0	0	0
LUDLUM CURTIS D	0	0	0	0	1,647	0	0
LYLE ROBERT V	0	0	0	0	0	0	0
MABE ZARA D	0	22	0	0	0	0	0
MACCARONE JAMES V	0	0	0	0	74	0	0
MACK JOHN J	0	0	0	0	0	0	0
MADDEN MARK R	0	10,237	0	0	0	0	0
MADDISON LAURENCE B	0	0	0	0	0	0	0
MAIER JAMES W	0	0	0	0	0	0	0
MAINOR ETLAR L	0	0	0	0	0	0	0
MALONE ROBERT B	0	95	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MANCOSH DOUGLAS G	0	0	0	0	0	0	0
MANESS JOHN M	122	2,763	0	0	0	0	0
MARSH GEORGE M	0	0	0	0	0	0	0
MARSH GILBERT R	0	0	0	0	0	0	0
MARSH JAMES P	0	0	0	0	0	0	0
MARSH JAMES P	0	0	0	0	0	0	0
MARSH MILLICENT M	0	0	0	0	0	0	0
MARTIN KEITH R	0	0	0	0	0	0	0
MARTIN L W	0	0	0	0	0	0	0
MATHES GORDON L	0	47	0	0	0	0	0
MATTHEWS JAMES O	0	0	0	0	0	0	0
MATTHEWS JEFFREY S	323,055	0	0	0	0	0	0
MAURER JOSEPH C	0	0	0	0	0	0	0
MAXWELL II G	217	602	0	0	0	0	0
MAXWELL MARY A	2,655	7,371	0	0	0	0	0
MAXWELL OWEN M	22,500	0	0	0	0	0	0
MAXWELL III JAMES L	2,655	7,371	0	0	0	0	0
MAXWELL JR J	217	602	0	0	0	0	0
MAYO COLUMBUS W	0	0	0	0	0	0	0
MCCARTHY CHARLES E	16	437	0	0	0	0	0
MCCOY ROBERT G	0	270	0	0	0	0	0
MCDOUGALD ALBERT G	500	22	0	0	0	0	0
MCDOUGALD AMANDA M	70	0	0	0	0	0	0
MCDOUGALD IAN E	76	0	0	0	0	0	0
MCKEITHAN AVIS S	0	0	0	0	0	0	0
MCLEOD JOHN A	7,356	272	0	0	0	0	0
MCMICHAEL DALTON L	0	0	0	0	0	0	0
MEARS ROBERT	0	0	0	0	0	0	0
MEDLIN MAX R	0	0	0	0	0	0	0
MELLOTT CALVIN A	0	0	0	0	0	0	0
MERRELL LESLIE T	0	0	0	0	0	0	0
METZGER DONALD E	375	283	0	0	0	0	0
MEWBORN JOSHUA L	0	0	0	0	0	0	0
MILLER JE[illegible] E	0	0	0	0	42	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
MILLER PAUL F	0	1,800	0	0	0	0	0
MILLER TODD J	0	353	0	0	0	0	0
MILLWARD PAUL E	0	0	0	0	0	0	0
MINGES JOHN T	0	0	0	0	0	0	0
MINGES LOUISE T	312	0	0	0	0	0	0
MITCHELL ROBERT A	1,191	1,433	0	0	0	0	0
MONAHAN OSCAR L	0	0	798	0	0	0	0
MONCURE JAMES A	25	0	290	0	0	0	0
MONSEIN JEFFREY A	0	0	0	0	0	0	0
MONSEIN JEFFREY A	0	0	0	0	0	0	0
MOORE COLLICE C	0	0	0	0	0	0	0
MOORE JOHN O	0	359	0	0	0	0	0
MORGAN RAYMOND L	0	780	0	0	0	0	0
MORRIS KEITH A	91	0	4,876	0	0	0	0
MOSELY PHILLIP G	0	0	0	0	0	0	0
MULLANY BRAD M	0	0	0	0	0	0	0
MULLIS ALAN M	0	1	0	0	0	0	0
MUNDEN WILLIAM D	0	0	0	0	0	0	0
NAZZARO PAUL A	2,316	0	0	0	0	0	0
NEAL WILLIAM K	23,437	0	0	0	0	0	0
NEISLER CHARLES A	0	0	0	0	0	0	0
NEISLER DAVID C	0	0	0	0	0	0	0
NEISLER GEORGE S	0	0	0	0	0	0	0
NEISLER HENRY P	0	7,970	0	0	0	0	0
NEISLER HENRY P	0	0	0	0	0	0	0
NEISLER LEE S	0	0	0	0	0	0	0
NEISLER WILLIAM H	0	0	0	0	0	0	0
NELSON RANDALL H	0	0	0	0	0	0	0
NEWSOME ROBERT A	12,670	0	0	0	0	0	0
NEWSOME TIMOTHY E	7,346	0	0	0	0	0	0
NOEL MARC J	0	3,378	690	0	0	0	0
NOLAN JAMES D	0	0	0	0	0	0	0
NOLAN ROBERT	0	0	0	0	0	0	0
NORWOOD KIMBERLY D	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
OLANDER ROBERT G	0	1,731	0	0	0	0	0
OLDHAM FRANK P	15,596	347	483	0	0	0	0
O'MARA CHRISTOPHE	0	0	0	0	0	0	0
O'MARA JOHN J	0	19,592	0	0	0	0	0
O'MARA MEIGHAN	0	0	0	0	0	0	0
O'MARA TIMOTHY	0	0	0	0	0	0	0
OVERBY FRED L	0	0	0	0	0	0	0
PAKE SIGFRID L	0	1,054	0	0	0	0	0
PANARA JOEL A	0	0	0	0	0	0	0
PANTAS JAMES S	0	8	0	0	0	0	0
PARKER GEORGE W	763	7,388	0	0	0	0	0
PARKER RICHARD P	0	0	3,582	0	0	0	0
PASCHAL DAVID S	0	1,804	0	0	0	0	0
PASIN RICHARD	1,250	0	0	0	0	0	0
PAUL ERIC A	500	0	8,172	0	0	0	0
PAYNE GARY	5,020	0	0	0	0	0	0
PEARCE	0	1,529	0	0	0	0	0
PEARCE PETER A	0	0	0	0	0	0	0
PECCATELLO ALLAN J	0	0	0	0	0	0	0
PEGRAM TERRY L	0	0	0	0	0	0	0
PELLETIER III J	5,311	14,743	0	0	0	0	0
PERA ALBERT	0	271	0	0	0	0	0
PERKINS GEORGE R	44	508	0	0	0	0	0
PERKINS GEORGE R	2,368	23,254	0	0	0	0	0
PERKINS JOHN E	52	465	0	0	0	0	0
PERRY CHARLES R	0	0	0	0	0	0	0
PERRY DON W	0	0	0	0	0	0	0
PERRY DWAYNE M	79	0	4,207	0	0	0	0
PERRY FRANK G	0	0	0	0	0	0	0
PERRY FRANK G	0	0	0	0	0	0	0
PERRY GEORGE W	0	0	0	0	0	0	0
PERRY HAL C	0	0	0	0	0	0	0
PERRY HUGH P	721	7,820	0	0	0	0	0
PERRY PAUL	605	6,543	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
PERRY PAUL	706	7,632	0	0	0	0	0
PERRY PAUL S	337	3,639	0	0	0	0	0
PETERSON HANS E	0	0	5,920	0	0	0	0
PHILLIPS GARY	1,631	126	0	0	0	0	0
PHILLIPS GARY S	2,805	216	0	0	0	0	0
PIRIE JOHN	0	0	0	0	0	0	0
PITTARD RYAN C	0	0	0	0	0	0	0
POAG JAMES C	0	0	0	0	0	0	0
POPE JAMES A	9,590	0	0	0	0	0	0
POPE TIMOTHY S	0	0	0	0	240	0	0
PORTER DARRELL R	1,973	551	0	0	0	0	0
POWELL HUGH B	0	2,155	0	0	0	0	0
POWERS LESLIE E	0	0	0	0	120	0	0
PRICE MASON J	6,250	2,102	0	0	0	0	0
PROIMOS EVANGELOS	0	0	0	0	0	0	0
PROPST ALEX A	683	673	0	0	0	0	0
PRYTHERCH ALUN D	0	0	6,291	0	0	0	0
PUCZYLOWSKI JOHN A	0	294	0	0	0	0	0
PYATT EVERETT L	40	0	0	0	0	0	0
QUINN JEANNE W	0	40,299	0	32,815	0	0	0
QUINN MICHAEL J	0	32,264	0	26,273	0	0	0
RACKCLIFF DONALD S	0	671	0	0	0	0	0
RAO RAJESH	0	0	4,059	0	0	0	0
RAPP ROD J	712	0	1,378	0	0	0	0
RASCOE EDDIE W	0	0	0	0	0	0	0
RASH MICHAEL C	0	29	0	0	0	0	0
RATLEDGE JERRY F	0	0	0	0	0	0	0
RATTZ JAMES M	18,526	14,057	0	0	0	0	0
RAWALD KURT R	1,676	509	0	0	0	0	0
RAYLE GLENN D	0	0	0	0	0	0	0
REES J M	713	0	1,378	0	0	0	0
REID LEWIS G	81	25	0	0	0	0	0
REITER PABLO	0	0	0	0	0	0	0
REITZ DANIEL J	0	0	0	0	40	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
RICHARD ARCHIE W	0	0	0	0	0	0	0
RICHARDSON CHARLES E	0	3,298	0	0	0	0	0
RICHARDSON JOANN	0	2,412	0	0	0	0	0
RICHARDSON JOE E	0	2,062	0	0	0	0	0
RICHARDSON JOE E	0	2,062	0	0	0	0	0
RICHARDSON JOHN M	1,074	1,570	0	0	0	0	0
RICHARDSON MORGAN L	0	0	0	0	0	0	0
RICKS WALTER G	523	0	8,849	0	0	0	0
RIEDLINGER PAUL G	0	0	0	0	0	0	0
RIEDLINGER ROBERT A	0	0	0	0	0	0	0
RIHANI FUAD A	0	0	0	0	0	0	0
ROBERTS ROY L	18,250	0	0	0	0	0	0
ROBERTS TINA C	0	1	0	0	0	0	0
ROBINSON RICHARD S	0	0	0	0	0	0	0
ROBLING BRENT D	621	0	0	0	0	0	0
ROGERS JAMES G	0	114	0	0	0	0	0
ROGERS JAMES G	0	0	0	0	0	0	0
ROHLIK MICHAEL L	0	0	2,150	0	0	0	0
ROSEFIELD JEROME M	0	405	0	0	0	0	0
ROTH GARY W	898	44	0	0	0	0	0
ROUSSEAU WYMAN A	0	0	0	0	9	0	0
ROYAL HAROLD J	0	0	0	0	0	0	0
ROYAL WILLIAM K	563	0	0	0	0	0	0
RUSHING DAVID M	0	0	0	0	0	0	0
RUSHING GUY F	0	0	0	0	0	0	0
RUSSELL MAXINE M	0	0	0	0	1	0	0
SALL JOHN P	0	0	0	0	0	0	0
SCHILSKY RANDY M	0	879	0	0	0	0	0
SCHOLD ERIC W	0	0	0	0	0	0	0
SEARCY GEOFFREY B	1,871	1,413	0	0	0	0	0
SEYMOUR CHRISTOPHE N	0	0	0	0	0	0	0
SHAH NIKIN T	0	0	103	0	0	0	0
SHAH RUBIN T	0	0	104	0	0	0	0
SHAH TI[redacted]	0	0	1,868	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SHAH TILAK M	0	0	1,094	0	0	0	0
SHANKLE FLOYD C	0	0	0	0	0	0	0
SHARPE JOHN L	0	0	0	0	0	0	0
SHEKHAR MRIGANK	57	0	3,063	0	0	0	0
SHEKHAR SWETANK	85	0	4,458	0	0	0	0
SHERMAN MICHAEL M	25,198	587	138	0	0	0	0
SHOJI HIDETOSHI	1,608	80	0	0	0	0	0
SHOLAR DWIGHT H	0	575	0	0	0	0	0
SHOLAR JOSEPH C	0	0	0	0	0	0	0
SHORE JACK J	0	197	0	0	0	0	0
SHORT RALPH H	0	0	0	0	0	0	0
SIMON GEORGE S	0	3,745	0	0	0	0	0
SIMPSON MICHAEL G	0	65	0	0	0	0	0
SINGH HARVINDER	0	0	13,041	0	0	0	0
SKINNER ERIKA D	972	1,537	0	0	0	0	0
SKINNER JEFFERY M	64	60	0	0	0	0	0
SMITH CLAUDE D	0	0	0	0	0	0	0
SMITH CLAUDE M	0	0	0	0	0	0	0
SMITH DELMAS C	0	0	0	0	0	0	0
SMITH DENNIS A	0	0	0	0	0	0	0
SMITH DENNIS M	0	0	0	0	0	0	0
SMITH JAMES B	0	0	0	0	0	0	0
SMITH JEFFREY D	0	0	0	0	0	0	0
SMITH JERRY N	0	0	0	0	0	0	0
SMITH PATRICK C	0	0	0	0	0	0	0
SMITH THOMAS D	998	1,244	0	0	0	0	0
SMITH WILLIAM A	0	0	5,170	0	0	0	0
SMITH WILLIAM L	0	0	0	0	0	0	0
SMYTH DOUGLAS E	0	1,665	0	0	0	0	0
SNYDER JERE E	0	0	0	0	0	0	0
SOFIELD HALEY D	0	0	0	0	0	0	0
SOFIELD HEATHER	3,917	0	0	0	0	0	0
SOFIELD ROBERT T	3,411	0	0	0	0	0	0
SPAIN JOHN C	0	12	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SPELL HARRY C	0	9,386	0	0	0	0	0
SPELL THEADIE C	0	11,163	0	0	0	0	0
STANCIL KENNETH M	0	0	0	0	0	0	0
STANIOCH ROY H	1,406	1,691	0	0	0	0	0
STEELE DAVID S	0	5,570	0	0	0	0	0
STEELE DIANNE K	0	6,881	0	0	0	0	0
STEELE FLAKE F	0	0	0	0	0	0	0
STEELE HENRY	0	13,642	0	0	0	0	0
STEELE JACKSON N	0	4,705	0	0	0	0	0
STEELE JEFFREY B	0	5,791	0	0	0	0	0
STEELE JOHN S	0	8,857	0	0	0	0	0
STEELE MARIAN S	0	332	0	0	0	0	0
STEELE MARIANNA S	0	16,530	0	0	0	0	0
STEELE PRESTON M	0	0	0	0	0	0	0
STEELE RICHARD B	0	1,849	0	0	0	0	0
STEELE SETH M	0	332	0	0	0	0	0
STEELE TYLER B	0	0	0	0	0	0	0
STEELE WALKER	0	332	0	0	0	0	0
STEELE WALTER M	0	0	0	0	0	0	0
STEELE WILLIAM F	0	0	0	0	0	0	0
STEELE WILLIAM P	0	0	0	0	0	0	0
STEELE WILLIAM P	0	1,890	0	0	0	0	0
STENSVAD AARON	0	1,669	0	0	0	0	0
STEPHENS ALISON	0	0	0	0	0	0	0
STEPHENS CHARLES N	0	0	0	0	0	0	0
STEPHENS FRANK M	0	0	0	0	0	0	0
STEVENS THOMAS A	0	2,113	0	0	0	0	0
STEWART BARNEY	0	967	0	0	0	0	0
STEWART LARRY T	0	589	0	0	0	0	0
STOCKS LEWIS H	0	0	0	0	0	0	0
STRICKLAND JOHN W	0	0	0	0	0	0	0
SULLIVAN SAMUEL H	0	0	0	0	0	0	0
SWAN WILLIAM H	0	0	0	0	0	0	0
SWARTZ [redacted] H	32,695	24,807	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
SWARTZ MICHAEL L	18,605	14,115	0	0	0	0	0
SWARTZ WILLIAM K	0	0	0	0	0	0	0
SWICEGOOD NELSON D	0	45	0	0	0	0	0
TAFT EDMUND H	875	0	0	0	0	0	0
TAFT THOMAS F	0	0	0	0	0	0	0
TAYLOR GROVER C	0	0	0	0	0	0	0
TAYLOR T D	0	17	0	0	0	0	0
TAYLOR WILLIAM C	0	50	0	0	0	0	0
TEPLOW DAVID I	0	0	0	0	0	0	0
TH JOHN W	0	184	0	0	0	0	0
THOMAS GERALD P	925	46	0	0	0	0	0
THOMAS WILLIAM H	0	0	0	0	0	0	0
THOMPSON BLAKE A	0	799	0	0	0	0	0
THORE GLENN W	0	0	0	0	0	0	0
TILGHMAN WILLIAM A	0	0	0	0	0	0	0
TILLMAN LINTON A	0	0	0	0	0	0	0
TRACEY PETER	0	0	0	0	0	0	0
TRELEAVEN CARL W	0	0	0	0	0	0	0
TRIVETTE JOHN R	0	0	0	0	221	0	0
TRULLR LARRY W	0	0	0	0	0	0	0
TUCKER KENNETH T	0	0	0	0	0	0	0
TURBYFLL ROGER C	0	0	0	0	0	0	0
UNDERHILL THOMAS	0	222	0	0	0	0	0
VANNOY JAMES M	0	4,046	0	0	0	0	0
VANNOY TIMOTHY E	0	304	0	0	0	0	0
VANNOY WILLIAM E	0	4,046	0	0	0	0	0
WALL J S	0	0	0	0	420	0	0
WALL KATHRYN K	573	966	0	0	0	0	0
WALL KEMP B	420	707	0	0	0	0	0
WALL WARREN W	0	285	0	0	0	0	0
WALL WILLIAM B	5,119	8,624	0	0	0	0	0
WARD ALLEN K	0	0	0	0	0	0	0
WARD JOSEPH A	0	359	0	0	0	0	0
WARD MURIEL C	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WARLICK ANDERSON D	67,077	0	0	0	0	0	0
WARNER MELVIN J	0	0	0	0	0	0	0
WATFORD THOMAS F	0	590	0	0	0	0	0
WATSON TED R	1,380	68	0	0	0	0	0
WEAVER HARROLL H	2,655	7,371	0	0	0	0	0
WEBBER GILBERT E	281	555	0	0	0	0	0
WEIBEL MARCUS F	423	128	0	0	0	0	0
WEIMAN THOMAS M	0	19	0	0	0	0	0
WEISIGER ANNE M	20	164	0	0	0	0	0
WEISIGER EDWARD I	41,404	343,348	0	0	0	0	0
WEISIGER EDWARD I	4,234	35,113	0	0	0	0	0
WEISIGER ELIZABETH A	20	164	0	0	0	0	0
WEISIGER GRACE A	20	164	0	0	0	0	0
WENTZ BILLY M	4,607	7,762	0	0	0	0	0
WEST EDWARD C	0	0	0	0	0	0	0
WEST JACK L	1,779	0	0	0	0	0	0
WEST STEPHEN K	0	2,872	0	0	0	0	0
WETMORE LOUIS S	76	857	0	0	0	0	0
WHICHARD DAVID J	0	29	0	0	0	0	0
WHITE THOMAS H	0	228	0	0	0	0	0
WHITENER ROBERT L	0	4,595	0	0	0	0	0
WHITENER ROBERT L	0	3,374	0	0	0	0	0
WICKER DONALD M	0	0	0	0	0	0	0
WILEY CHRISTOPHE J	0	0	0	0	0	0	0
WILKINSON WILLIAM A	250	0	0	0	0	0	0
WILLARD CHARLES	0	102	0	0	0	0	0
WILLARD TERRY E	0	0	0	0	0	0	0
WILLIAMS GLENN E	0	0	0	0	0	0	0
WILLIAMS JOHN M	0	57,796	0	0	0	0	0
WILLIAMS JOHNNY J	0	0	0	0	0	0	0
WILLIAMS RAYFORD D	0	0	0	0	0	0	0
WILLIAMS STEVEN G	0	0	0	0	0	0	0
WILLIAMSON J W	0	16	0	0	0	0	0
WILLIS [redacted]	250	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WILSON D S	0	0	3,072	0	0	0	0
WILSON DANIEL K	8,387	0	0	0	0	0	0
WILSON WINFRED G	15	24	0	0	0	0	0
WISE CHRISTOPHE C	6,525	0	0	0	0	0	0
WOMACK CLYDE E	0	0	0	0	0	0	0
WOODALL MEREDITH B	0	0	0	0	890	0	0
WOODARD KENNY W	0	0	0	0	0	0	0
WOOTEN MARVIN G	6,525	0	0	0	0	0	0
WOOTEN WILLIAM B	8,665	0	0	0	0	0	0
WOOTEN WILLIAM B	21,850	0	0	0	0	0	0
WORDSWORTH BRIAN L	0	0	0	0	0	0	0
WORDSWORTH JERRY L	0	0	0	0	0	0	0
WORDSWORTH JR	0	0	0	0	0	0	0
WORDSWORTH STEVE A	0	0	0	0	0	0	0
WORNOM III SAMUEL J	257	5,323	0	0	0	0	0
WRAY PHILLIP C	0	0	0	0	0	0	0
WRENN GUY W	271	0	0	0	0	0	0
WRENN JACKSON K	101	0	0	0	0	0	0
WRENN JAMES H	0	0	2,108	0	0	0	0
WRENN RICHARD N	233	0	0	0	0	0	0
YARBORO THOMAS R	2,655	7,371	0	0	0	0	0
YARBOROUGH RAMON L	0	27,884	0	0	0	0	0
ZINSER ROBERT L	0	0	0	0	9	0	0
1071606 ONTARIO, INC.	0	1,141	0	0	0	0	0
1997 MARITAL TRUST, EDWARD I	0	0	0	0	0	0	0
4118 INVESTORS CORPORATION	0	217	0	0	0	0	0
4PI ANALYSIS, INC.	0	0	0	0	0	0	0
A & B FLORIST SUPPLY COMPANY	0	0	0	0	0	0	0
A&M TOOL M DIVISION, INC.	0	14	0	0	0	0	0
A. KLEIN & CO., INC.	0	0	0	0	0	0	0
A. M. CASTLE & CO.	750	0	0	0	0	0	0
A.C. FURNITURE CO. INC.	0	0	0	0	0	0	0
AAA FARLEY STORAGE, INC.	0	0	0	0	0	0	0
AB AUTOMOTIVE, INC.	4,041	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ABB AUTOMATION INC.	0	4,377	6,213	0	0	0	0
ABB INC.	0	0	0	0	0	0	0
ABBOTT LABORATORIES, INC.	0	237,457	68,125	0	0	0	0
ABBOTT LABORATORIES, INC.	0	225,011	64,106	21,419	0	0	0
ABCO AUTOMATION, INC.	250	0	0	0	0	0	0
ABERDEEN COCA-COLA BOTTLING C	125	0	0	0	0	0	0
ABOVE THE GRADE CLEARING & G	0	0	0	0	0	0	0
ACCUCOPY OF GREENVILLE	0	0	0	0	0	0	0
ACCUMA CORPORATION	2,636	0	0	0	0	0	0
ACCUMA CORPORATION	10,464	0	0	0	0	0	0
ACEQUEST ENTERPRISES, INC.	0	18	0	0	0	0	0
ACOUSTIC BARN PRODUCTIONS, IN	0	40	0	0	0	0	0
ACROPRINT TIME RECORDER CO.	0	0	0	0	0	0	0
ACTION PERFORMANCE COMPANIES,	3,750	5,076	0	0	0	0	0
ACTION PERFORMANCE COMPANIES,	34,750	57,076	0	0	0	0	0
ACUCOTE, INC.	0	804	0	0	0	0	0
ADAM & BRITT CONSTRUCTION CO,	0	0	0	0	453	0	0
ADAMS FURNITURE USA, INC.	0	0	0	0	0	0	0
ADAMS SALES, INC.	0	18	0	0	0	0	0
ADAMS WHOLESALE COMPANY	0	0	0	0	0	0	0
ADC DSL SYSTEMS, INC.	3,125	0	9,786	0	0	0	0
ADHESION TECHNOLOGIES, INC.	0	6,707	0	0	0	0	0
ADM MILLING CO.	0	23,544	0	0	0	0	0
ADMIRALTY TRANSPORT, INC.	0	0	10	0	0	0	0
ADVANCED CONTRACTORS, INC.	0	0	0	0	0	0	0
ADVANCED DIGITAL CABLE, INC.	3,156	11,853	0	0	0	0	0
ADVANCED DRAINAGE SYSTEMS, IN	8,558	29,284	0	0	0	0	0
ADVANCED INTERNET TECHNOLOGIE	51,004	0	28,614	0	0	0	0
ADVANCED PERFUSION CARE, INC.	10	10	0	0	10	10	0
ADVANCED TUBING TECHNOLOGY IN	0	0	0	0	0	0	0
AEP INDUSTRIES INC.	0	12,165	0	0	0	0	0
AEROGLIDE CORPORATION	125	0	0	0	0	0	0
AF BANKSHARES, INC.	10	9	0	0	0	0	0
AFA PRODUC[redacted]NC.	0	13,663	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
AIR SYSTEM COMPONENTS LP	0	12,277	0	0	0	0	0
AIR SYSTEM COMPONENTS LP	0	73,522	0	0	0	0	0
AIRTOUCH PAGING	0	551	0	0	0	0	0
AIRTOUCH PCS HOLDING, INC.	0	1,598	0	0	0	0	0
AJINOMOTO USA INC	0	0	0	2,500	0	0	0
AKG OF AMERICA, INC.	2,375	0	0	0	0	0	0
ALADDIN MANUFACTURING CORP	0	0	0	0	0	0	0
ALAMAC KNIT FABRICS, INC.	0	1,369	0	0	0	0	0
ALBANI, BAYEUX INC.	2,472	0	0	0	0	0	0
ALBA-WALDENSIAN, INC.	15,596	0	0	0	0	0	0
ALCATEL NA CABLE SYSTEMS, INC	44,250	719,740	8,193	504,622	0	0	0
ALCATEL USA GP, INC.	18	0	0	0	0	0	0
ALCATEL USA LP, INC.	21,613	0	0	0	0	0	0
ALCATEL USA SOURCING, L.P.	22,650	0	0	0	0	0	0
ALCOA EXTRUSIONS, INC.	3,250	0	0	0	0	0	0
ALCOA INC.	0	109,851	0	0	0	0	0
ALCOA POWER GENERATING INC.	0	98,378	0	0	0	0	0
ALDERON BIOSCIENCES, INC.	0	0	0	0	0	0	0
ALDO PRODUCTS COMPANY	0	364	3,282	0	0	0	0
ALERT METAL WORKS, INC.	0	0	0	0	1,685	0	0
ALERT METAL WORKS, INC.	0	0	0	0	1,685	0	0
ALEXVALE FURNITURE, INC.	0	0	0	0	0	0	0
ALL ANIMALS VETERINARY HOSPIT	0	0	0	0	0	0	0
ALLEN CANNING COMPANY	0	20,307	0	0	0	0	0
ALLEN-BECK INDUSTRIES, INC.	2,833	0	0	0	0	0	0
ALLFAB SOLUTIONS INCORPORATED	0	0	0	0	0	0	0
ALLIED INDUSTRIES CO.	0	0	49	9	0	0	0
ALLIED LAND SURVEYING CO., P.	0	0	0	0	9	0	0
ALLIED VAN LINES INC	0	1,319	0	0	0	0	0
ALLTEL INFORMATION SERVICES,	7,625	0	0	0	0	0	0
ALPHAGARY CORPORATION	0	25,950	0	0	0	0	0
ALPHIN BROTHERS, INC.	450	0	0	0	0	0	0
ALRAY TIRE CENTER OF STATESVI	0	0	0	0	0	0	0
AL'S SALES & SERVICE, INC.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ALSTOM POWER INC.	0	0	0	0	0	0	0
ALTEC INDUSTRIES, INC.	0	5,556	0	0	0	0	0
AMERESCOSOLUTIONS, INC.	13,125	23,658	0	0	0	0	0
AMERICAN & EFIRD, INC.	7,000	272,478	11,709	0	0	0	0
AMERICAN & EFIRD, INC.	3,750	231,354	0	0	0	0	0
AMERICAN CYANAMID COMPANY	0	37,500	0	0	0	0	0
AMERICAN DISTILLATION, INC.	0	706	0	0	0	0	0
AMERICAN FIBER & FINISHING, I	0	0	0	0	0	0	0
AMERICAN FIBERS AND YARNS COM	0	19,236	0	0	0	0	0
AMERICAN LAFRANCE CORPORATION	33,074	0	0	0	0	0	0
AMERICAN METAL TREATING, INC.	0	874	0	0	0	0	0
AMERICAN MONFORTS CORP.	0	0	10	0	0	0	0
AMERICAN NATIONAL ELECTRIC	0	0	0	0	9	0	0
AMERICAN OFFSET PRINTING INK	0	0	0	0	0	0	0
AMERICAN OFFSET PRINTING INK,	47	0	0	0	0	0	0
AMERICAN ROLLER BEARING AND M	0	21,279	0	0	0	0	0
AMERICAN ROLLER BEARING COMPA	0	8,751	0	0	0	0	0
AMERITECH DIE & MOLD, INC.	250	0	0	0	0	0	0
AMERITECH DIE & MOLD, INC.	0	0	0	0	0	0	0
AMERITEX YARN, LLC	0	83,219	0	0	0	0	0
AMERITRUCK REAL ESTATE HOLDIN	0	220	0	0	0	0	0
AMILON HOLDING, INC.	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMITAL SPINNING CORP.	0	15,665	0	0	0	0	0
AMITY AUTOMOTIVE SERVICE, INC	0	0	0	0	0	0	0
ANALOG DEVICES, INC.	0	0	514,306	0	0	0	0
ANALOG DEVICES, INC.	0	0	122,308	0	0	0	0
ANASTASIA FURS, INC.	46	0	0	0	0	0	0
ANCHOR INDUSTRIAL SALES, INC.	125	0	0	0	0	0	0
ANDY BLANTON AGENCY, INCORPOR	0	0	0	0	9	0	0
ANSER-QUIK COMMUNICATIONS, IN	0	0	0	0	9	0	0
ANVIL KN[redacted] INC.	17,480	68,338	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
ANVIL KNITWEAR INC.	0	0	0	12,500	0	0	0
APBI INC.	29,250	22,823	0	34,188	1,256	0	0
APEX ARIDYNE CORP.	0	0	0	0	0	0	0
APPALACHIAN INN, INC.	0	427	0	0	0	0	0
APPLIED MANAGEMENT COMPANY IN	0	0	0	9	0	0	0
APPLIED MEDICAL TECHNOLOGIES,	773	0	0	0	0	0	0
AQUA SHINE, INC.	0	0	0	0	0	0	0
ARARAT ROCK PRODUCTS COMPANY	0	0	0	0	0	0	0
ARCHER, INC.	0	0	0	0	0	0	0
ARCHER-DANIELS-MIDLAND COMPAN	0	137,634	0	0	0	0	0
ARCHITECTU	0	0	0	0	0	0	0
ARDENT PHARMACEUTICALS, INC.	0	0	0	0	0	0	0
ARJOBEX AMERICA	1,375	26,228	0	0	0	0	0
ARMACELL UNITED STATES HOLDIN	18,154	0	0	0	0	0	0
ARMADA, INC.	0	0	0	0	0	0	0
ARMADA, INC.	0	8	0	0	0	0	0
ARNOLD FOODS COMPANY, INC.	0	0	0	0	0	0	0
ARROW INTERNATIONAL, INC.	0	2,699	0	0	0	0	0
ARTEVA SPECIALTIES S.A.R.L.	44,702	0	0	0	0	0	0
ARVINMERITOR, INC.	28,450	90,634	0	0	0	0	0
ASCOM WIRELESS SOLUTIONS INC.	0	0	1,195	0	0	0	0
ASHLAND INC.	33,750	0	0	0	0	0	0
ASHLEY ELECTRIC, INC.	0	0	0	0	0	0	0
ASHLEY ELECTRIC, INC.	26	0	0	0	0	0	0
ASKEW CHEVROLET, INC.	0	0	0	0	0	0	0
ASMO APPALACHIAN CORPORATION	693	0	0	0	0	0	0
ASMO GREENVILLE OF NORTH CARO	0	29,124	0	0	0	0	0
ASMO NORTH CAROLINA, INC.	0	50,398	0	0	0	0	0
ASSOCIATED ASPHALT, INC.	0	695	0	0	0	0	0
ASSOCIATED POSTERS, INCORPORA	450	0	0	0	0	0	0
ASTRO CONSTRUCTION COMPANY, I	0	0	0	0	0	0	0
AT & T COMMU	0	2,726	0	0	0	0	0
AT&T CORP.	0	546,780	0	0	0	0	0
ATHEY PRODUCTS CORPORATION	831	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ATHOL MANUFACTURING CORP	4,000	6,058	7,614	0	0	0	0
ATI ACQUISITION CORPORATION	0	1,385	3,177	0	0	0	0
ATLANTIC CORPORATION OF WILMI	0	17,225	0	0	0	0	0
AUSTIN-BERRYHILL FABRICATORS,	0	10	0	0	9	0	0
AUTOMATION PARTNERS INC	0	0	18	0	0	0	0
AUTOMOTIVE ANYTHING, INC.	0	55	0	0	0	0	0
AUTOMOTIVE MOTORS OF THOMASVI	2,445	0	0	0	0	0	0
AUTOMOTIVE SALES MANAGEMENT,	0	0	0	0	0	0	0
AVANT CORPORATION AND SUBSIDI	0	0	3,397	0	0	0	0
AVDEL CHERRY TEXTRON INC.	0	14,798	0	0	0	0	0
AVDEL CHERRY TEXTRON INC.	0	12,499	0	0	0	0	0
AVX CORPORATION	23,500	141,455	0	61,880	0	0	0
AW NORTH CAROLINA, INC.	19,250	44,603	0	0	0	0	0
AYLWARD ENTERPRISES	2,250	0	0	0	0	0	0
B & A CONCRETE CONSTRUCTION,	5	0	0	0	0	0	0
B & W AUTO REPAIR, INC.	0	0	0	0	0	0	0
B S A TRUCKING, INCORPORATED	0	30	0	0	0	0	0
B. ESTES TRUCKING, INC.	0	0	0	6	0	0	0
B. R. LEE INDUSTRIES, INC.	9,033	0	0	0	0	0	0
BABB & ASSOCIATES, P. A.	0	18	0	0	0	0	0
BAKER & TAYLOR, INC.	350	0	0	0	0	0	0
BAKER, KNAPP & TUBBS, INC.	0	0	0	0	0	0	0
BALL'S MACHINE MANUFACTURING	15	0	0	0	0	0	0
BANK OF AMERICA NA	219,500	825,891	0	0	71,429	0	0
BANK OF AMERICA TECHNOLOGY AN	0	0	74,482	0	0	0	0
BANKNOTE CORPORATION OF AMERI	0	28,002	0	0	0	0	0
BANNER PHARMACAPS INC.	0	8,938	3,881	0	0	0	0
BAREFOOT FLOORING, INC.	0	41	0	0	0	0	0
BARMET ALUMINUM CORP	0	0	4,013	0	0	0	0
BARNEY'S HOSIERY, INC.	0	0	0	0	0	0	0
BARNHARDT MANUFACTURING COMPA	0	11,410	0	0	0	0	0
BARR-MULLIN, INC.	0	0	0	0	0	0	0
BASF CORPORATION	0	0	263,676	0	0	0	0
BASS AIR [redacted] IONING COMPANY	10	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BATTEN & COMPANY	105	0	0	0	0	0	0
BAUMANN SPRINGS USA, INC.	0	0	0	0	0	0	0
BAUMGARTNER INC.	0	0	0	0	0	0	0
BAYER CORP	43,625	588,576	0	0	0	0	0
BE AEROSPACE, INC.	0	0	0	0	0	0	0
BEACON TECHNOLOGIES INC.	0	0	24,160	0	0	0	0
BEAR CREEK HOSIERY, INC.	69	0	0	0	0	0	0
BEAUFORT IMPORTS LLC	0	190	0	0	0	0	0
BECTON, DICKINSON AND COMPANY	3,563	27,685	4,443	0	0	0	0
BECTON, DICKINSON AND COMPANY	3,563	40,633	0	0	0	0	0
BEFCO, INC.	7,227	455	0	0	0	0	0
BEIERSDORF-JOBST, INC.	0	24,012	0	0	0	0	0
BEKAERT TEXTILES U.S.A. INC.	4,500	133,868	0	0	0	0	0
BELK ADMINISTRATION COMPANY	0	16,647	0	0	0	0	0
BELL & HOWELL MAIL AND MESSAG	1,812	0	0	0	0	0	0
BELL & HOWELL MAIL AND MESSAG	7,250	0	0	0	0	0	0
BELL ATLANTIC MOBILE SYSTEMS	0	27,942	0	0	0	0	0
BELL ATLANTIC MOBILE SYSTEMS,	0	68,000	0	0	0	0	0
BELL ATLANTIC PERSONAL COMMUN	0	32,192	0	0	0	0	0
BENTEX MILLS, INC.	0	0	0	0	0	0	0
BERNARDS, INC.	600	0	0	0	0	0	0
BERNHARDT FURNITURE COMPANY	177,742	0	0	0	0	0	0
BERTELSMANN MUSIC GROUP, INC.	0	81,879	0	0	0	0	0
BERTELSMANN MUSIC GROUP, INC.	0	63,197	0	0	0	0	0
BESTSWEET INC.	6,685	0	0	0	0	0	0
BEVERLY KNITS, INC.	0	0	0	0	0	0	0
BIC USA, INC. (BIC CONSUMER P	3,000	0	11,521	0	0	0	0
BIG ED, LLC	0	0	0	0	0	0	0
BILL DAVIS RACING, INCORPORAT	0	0	0	0	0	0	0
BILL'S BARBECUE & CHICKEN RES	9	0	0	0	0	0	0
BILL'S MOBILE CRANE SERVICE,	0	0	0	0	0	0	0
BIOGEN INC	4,375	344,287	77,265	0	0	0	0
BIOMERIEUX, INC.	0	0	50,491	0	0	0	0
BISON INVE	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BI-STATE PROPERTIES INC.	0	0	0	0	0	0	0
BLACK & DECKER (U.S.) INC.	0	88,000	0	0	0	0	0
BLACK'S AUTO COLLISON REPAIR,	0	0	0	0	0	0	0
BLANKET FACTORY, INC.	0	0	0	0	0	0	0
BLAST, INC.	0	0	0	0	0	0	0
BLG ELECTRICAL SUPPLY CO., IN	0	0	0	0	0	0	0
BLUE RIDGE GRADING AND HAULIN	0	66	0	0	0	0	0
BLUE RIDGE METALS CORPORATION	625	11,830	0	0	0	0	0
BLUE RIDGE PAPER PRODUCTS	138,297	0	0	0	0	0	0
BLUE RIDGE TIRE SERVICE, INC.	0	0	0	0	0	0	0
BLUEPHOENIX SOLUTIONS USA	0	0	0	0	0	0	0
BOBBY'S AUTO PARTS, INC.	0	0	0	0	0	0	0
BOEHME-FILATEX, INC.	3,500	0	0	0	0	0	0
BOLTON CORP.	0	0	0	0	0	0	0
BOLTON CORP.	0	0	0	0	0	0	0
BONEY WILSON & SONS INC	0	50,756	0	0	0	0	0
BONSAL AMERICAN, INC.	0	3,600	0	0	0	0	0
BONSET AMERICA CORPORATION	1,750	122,727	0	0	0	0	0
BORDEN CHEMICAL, INC.	1,250	1,585	0	0	0	0	0
BORGWARNER TURBO SYSTEMS INC.	13,750	20,850	0	0	0	0	0
BOWERS FARMS, INCORPORATED	0	134	0	0	0	0	0
BOX-BOARD PRODUCTS, INC.	0	0	0	0	0	0	0
BOYD & HASSELL, INC.	40	0	0	0	0	0	0
BOYD & HASSELL, INC.	80	0	0	0	0	0	0
BOYD UTILITY BORING, INC.	0	0	0	0	0	0	0
BP AMERICA CHEMICALS COMPANY	0	4,741	0	0	0	0	0
BRACKETT BROTHERS CORPORATION	0	0	0	0	9	0	0
BRANCH BANKING AND TRUST COMP	498,250	57,994	0	0	87,760	0	0
BRAXTON AUTO PARTS CORPORATIO	0	0	0	0	0	0	0
BRAYTON INTERNATIONAL, INC.	10,625	0	0	0	0	0	0
BRESTL, INC.	500	0	0	0	0	0	0
BREWER EQUIPMENT CO.	95	0	0	0	0	0	0
BRICO, INC.	0	0	9	0	0	0	0
BRIDGESTONE/FIRESTONE AMERICA	0	196,411	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BRIDGESTONE/FIRESTONE, INC.	0	0	0	0	0	0	0
BRODER BROS CO	0	0	0	0	0	0	0
BROOKER, INCORPORATED	0	0	9	0	0	0	0
BROOKS EQUIPMENT CO	0	0	0	0	0	0	0
BROWN & WILLIAMSON TOBACCO CO	0	0	0	0	0	0	0
BROWN AND WALKER COMPANY	0	75	0	0	0	0	0
BROWN BROTHERS PLUMBING & HEA	63	0	0	0	0	0	0
BROWN JOHNSTON, INC.	0	18	0	0	0	0	0
BROYHILL FURNITURE INDUSTRIES	0	333,908	25,347	0	0	0	0
BROYHILL TRANSPORT, INC.	750	0	0	0	0	0	0
BRUNZL DISTRIBUTION MIDCENTRA	3,625	0	0	0	0	0	0
BRUSHY MOUNTAIN BEE FARM, INC	6	0	0	0	0	0	0
BSH HOME APPLIANCES CORP	0	0	0	0	0	0	0
BSH HOME APPLIANCES CORPORATI	49,708	24,724	1,026	20,863	0	0	0
BUCKEYE LUMBERTON INC.	12,500	6,413	0	0	0	0	0
BUCKEYE LUMBERTON INC.	0	36,894	0	0	0	0	0
BUDGET PANELS INC.	0	2,162	0	0	0	0	0
BUEHLER MOTOR, INC.	3,125	9,079	0	0	0	0	0
BUILDING BLOCKS CHILD CARE DE	0	0	0	0	0	0	0
BULLET PROPERTIES, LLC	0	0	0	0	0	0	0
BULLHEAD STONE PRODUCTS, INC.	0	152	0	0	0	0	0
BUNZL RICHMOND INC	3,625	0	0	0	0	0	0
BURGESS RENOVATIONS, INC.	0	12	0	0	0	0	0
BURKE MILLS, INC.	8,250	2,505	0	0	0	0	0
BURLAN CORPORATION	0	5,112	0	0	0	0	0
BURLAN CORPORATION	0	0	0	0	0	0	0
BURLAN CORPORATION	0	0	0	0	0	0	0
BURLINGTON CHEMICAL CO., INC.	0	8,254	0	0	0	0	0
BURLINGTON INDUSTRIES, INC.	897,554	0	0	0	29,661	0	0
BURTON INC	0	0	0	0	0	0	0
BUSICK BROTHERS MACHINE, INC.	0	1,904	0	0	0	0	0
BUS-TECH, INC.	0	0	498	0	0	0	0
BUTLER MANUFACTURING COMPANY	616	0	0	0	0	0	0
BYRD TRACTOR AND EQUIPMENT CO	179	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
C T SPECIALTIES CORP.	0	0	0	0	0	0	0
C. F. P., INC.	0	0	0	0	0	0	0
C. G. P. COMPANY, INC.	0	0	0	0	0	0	0
C. THOMAS MORAN, M.D., P.A.	0	0	0	0	0	0	0
CALYPSO PANEL COMPANY, INC.	0	0	0	0	0	0	0
CAMP PINNACLE, INCORPORATED	0	0	0	0	0	0	0
CAMP SKY RANCH, INCORPORATED	0	131	0	0	0	0	0
CAMPBELL MFG 1 COMPANY	0	14,104	0	0	0	0	0
CAMPBELL MFG 2 COMPANY	0	14,104	0	0	0	0	0
CAMPBELL SOUP SUPPLY COMPANY	0	28,209	0	0	0	0	0
CAN AMERICAN UTILITY CONTRACT	38	0	0	0	0	0	0
CANDLE CORPORATION OF AMERICA	0	30,351	0	0	0	0	0
CANDLE CORPORATION OF AMERICA	0	0	36,650	0	0	0	0
CAR EXCHANGE OF FAYETTEVILLE,	0	9	0	0	0	0	0
CARADREW CORPORATION	0	0	0	0	0	0	0
CARAUSTAR CUSTOM PACKAGING GR	0	4,160	0	0	0	0	0
CARAUSTAR MILL GROUP, INC.	2,455	0	0	0	0	0	0
CARD SHOP MANAGEMENT, INC.	0	0	9	0	9	0	0
CARDINAL STONE COMPANY	0	0	0	0	0	0	0
CARDIOVASCULAR DIAGNOSTICS, I	0	0	18,621	0	0	0	0
CAREER PLACEMENTS, INC.	0	0	0	0	0	0	0
CARLTON GROUP, INC.	0	0	0	0	0	0	0
CARLTON'S SALVAGE, INCORPORAT	10	0	9	0	0	0	0
CARNES-MILLER GEAR COMPANY, I	0	0	0	0	0	0	0
CAROLINA BASE - PAC CORP.	0	0	0	0	0	1	0
CAROLINA CASEWORK, INC.	0	0	0	0	0	0	0
CAROLINA COMMERCIAL HEAT TREA	1,066	0	0	0	0	0	0
CAROLINA CONVERTING INC	9,888	0	0	0	0	0	0
CAROLINA CORE RECYCLING, INC.	0	18	0	0	0	0	0
CAROLINA FENCE & MAINTENANCE,	0	0	0	0	0	0	0
CAROLINA JUNCTION, INC.	0	274	0	0	0	0	0
CAROLINA MILLS, INCORPORATED	0	21,652	0	0	0	0	0
CAROLINA MILLWORK OF ROCKINGH	0	0	0	0	0	0	0
CAROLIN & WALLPAPER IN	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CAROLINA PAPER CONVERTERS	0	975	0	0	0	0	0
CAROLINA POWER & LIGHT COMPAN	67,000	80,811	0	0	71,429	0	0
CAROLINA PRECAST CONCRETE, IN	0	0	0	0	0	0	0
CAROLINA SPECIALTY METALS, IN	0	0	0	0	0	0	0
CAROLINA SPORTS DECALS, INC.	0	18	0	0	0	0	0
CAROLINA STEEL CORPORATION	40,375	2,851	0	0	0	0	0
CAROLINA SUNROCK CORPORATION	3,750	5,662	0	0	0	0	0
CAROLINA T	56,625	57,923	0	0	0	0	0
CAROLINA WHOLESALE OFFICE MAC	750	0	0	0	0	0	0
CAROLINA'S CHOICE BY WILLIAMS	1,119	0	0	0	0	0	0
CAROLINA'S CHOICE BY WILLIAMS	144	0	0	0	0	0	0
CARPENTER CONTRACTORS OF AMER	11,221	1,612	0	0	0	0	0
CARPENTER INDUSTRIES, INC.	625	0	0	0	0	0	0
CARRIER CORPORATION	35,250	0	0	10,618	0	0	0
CARROLLS TURKEYS	24,377	0	0	0	0	0	0
CARVER REALTY, INC.	0	0	0	0	0	0	0
CARY PRINTING COMPANY, INC.	0	1,056	0	0	0	0	0
CASCADE HYDRAULIC CYLINDERS,	18	0	0	0	0	0	0
CASCADES MOULDED PULP, INC.	1,911	0	0	0	0	0	0
CASCADES TISSUE GROUP - NORTH	27,679	0	0	0	0	0	0
CATAWISSA LUMBER & SPECIALTY	0	2,697	0	0	0	0	0
CATERPILLAR INC.	0	0	0	112,974	44,056	0	0
CATOSOUTH, LLC.	2,000	0	0	0	0	0	0
CAVALIER SPECIATLY YARN COMPA	0	10,727	0	0	0	0	0
CAVALIER SPECIATLY YARN COMPA	0	12,223	0	0	0	0	0
CCS HOLDINGS, INC.	0	209,836	0	0	0	0	0
CECIL A. RASCOE CO., INC.	0	0	0	0	0	0	0
CECIL AND SPRY FARM	0	0	0	0	0	0	0
CECIL M. FARRINGTON, JR., M.D	0	0	0	0	0	0	0
CELGARD, INC	0	15,609	0	0	0	0	0
CELLCO PARTNERSHIP	0	0	0	0	0	0	0
CELLO PARTNERSHIP	0	0	0	0	0	0	0
CELLULAR SOLUTIONS, INC.	0	18	0	0	0	0	0
CEM HOLDINGS CORPORATION	875	0	412	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
CEM HOLDINGS CORPORATION	875	0	3,689	0	0	0	0
CENTER FOR MARTIAL ARTS I	0	0	0	0	0	0	0
CENTOCOR INC	0	0	4,177	0	0	0	0
CENTRAL TOBACCO EXCHANGE, INC	0	1,203	0	0	0	0	0
CENTRO, INC.	20,007	2,121	0	0	0	0	0
CENTROBE, INC.	0	0	20	0	0	0	0
CENTURY FURNITURE INDUSTRIES,	0	37,500	0	0	0	0	0
CERTAINTEED CORPORATION	3,250	25,416	0	0	0	0	0
CF GROUP, INC.	0	0	0	0	0	0	0
CHALLENGER INDUSTRIES, INC.	0	0	0	0	0	0	0
CHAMBERS FABRICS, INC.	1,375	3,693	0	0	0	0	0
CHAMPION HOME BUILDERS CO.	0	0	0	0	0	0	0
CHAMPION INTERNATIONAL CORPOR	0	1,044,702	0	0	0	0	0
CHAMPION PRODUCTS INC.	0	7,182	0	0	0	0	0
CHANNEL MASTER, INC.	0	5,465	0	0	0	0	0
CHAPEL HILL PEDIATRIC PSYCHOL	8	0	0	0	0	0	0
CHARLES & COLVARD, LTD.	8,000	0	14,828	0	0	0	0
CHARLES CRAFT, INC.	0	0	0	0	0	0	0
CHARLES CRAFT, INC.	0	5,735	0	0	0	0	0
CHARLOTTE IMPORT TRUCKS INC	0	0	0	0	0	0	0
CHARLOTTE PIPE AND FOUNDRY CO	12,875	443,303	53,479	0	0	0	0
CHARLOTTE STEEL DESIGN, INC.	0	18	0	0	0	0	0
CHARTER PROPERTIES, INC.	0	0	0	0	0	0	0
CHATHAM, INC.	0	28,390	0	0	0	0	0
CHATSWORTH PRODUCTS, INC.	2,809	0	0	0	0	0	0
CHELSEA THEATER, INC.	0	0	0	0	0	0	0
CHEMCODES, INC.	0	0	1,527	0	0	0	0
CHEMICAL SPECIALTIES, INC.	0	34,445	0	0	0	0	0
CHEMTEX INTERNATIONAL, INC.	0	0	0	0	0	0	0
CHESAPEAKE DISPLAY AND PACKAG	7,631	0	0	0	0	0	0
CHICOPEE, INC.	0	131,899	0	0	0	0	0
CHINESE TRADIONAL ACUPRESSURE	0	0	0	0	18	0	0
CHIRON AMERICA, INC.	1,125	0	0	0	0	0	0
CHOICE U[redacted]ERAGE, INC.	18,125	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CIMARRON CAPITAL, INC.	0	9	0	0	0	0	0
CISCO SYSTEMS SALES & SERVICE	0	30,101	0	0	0	0	0
CISCO SYSTEMS SALES & SERVICE	0	32,421	0	0	0	0	0
CLARIANT CORPORATION	0	61,250	0	0	0	0	0
CLARIFY ACQUISITION CORPORATI	0	0	16,382	0	0	0	0
CLARK AME	0	0	0	0	0	0	0
CLARK OPTOMETRIC CENTER, P.A.	0	0	0	0	0	9	0
CLARKE AME	0	0	0	0	0	0	0
CLARKE AMERICAN CHECKS, INC.	17,750	10,465	0	55,474	0	0	0
CLAY-BARNETTE FUNERAL HOME, I	0	90	0	0	0	0	0
CLAYSON KNITTING COMPANY, INC	0	10,364	0	0	0	0	0
CLAYSON KNITTING COMPANY, INC	21,530	12,660	0	0	0	0	0
CLAYTON-MARCUS COMPANY, INC.	2,250	3,750	0	0	0	0	0
CLAYTON-MARCUS COMPANY, INC.	2,250	689	0	0	0	0	0
CLEVELAND ELECTRICAL CONTRACT	0	0	0	0	0	0	0
CLINTON MEDICAL CLINIC INC	0	0	0	0	0	0	0
CLOSURE MEDICAL CORPORATION	0	0	8,272	0	0	0	0
CMH MANUFACTURING, INC.	1,500	0	0	0	0	0	0
CMH MANUFACTURING, INC.	32,000	0	0	0	0	0	0
COASTAL LUMBER COMPANY	0	5,989	0	0	0	0	0
COASTAL TUMBLEGYM, INC.	0	18	0	0	0	0	0
COATES COMMUNICATIONS CORPORA	0	9	0	0	0	0	0
COATINGS AND ADHESIVES CO	0	0	0	0	0	0	0
COCA-COLA BOTTLING CO CONSOLI	0	0	0	0	0	0	0
COCA-COLA BOTTLING CO. AFFILI	12,870	0	0	0	0	0	0
COCA-COLA BOTTLING CO. CONSOL	25,000	129,987	0	0	0	0	0
COCA-COLA BOTTLING COMPANY OF	0	0	0	0	0	0	0
COCA-COLA ENTERPRISES INC.	3,642	0	0	0	0	0	0
COLLINS & AIKMAN PRODUCTS CO.	0	33,282	216,987	0	0	0	0
COLORIT ENTERPRISES, INC.	0	18	0	0	0	0	0
COLUMBIA FOREST PRODUCTS	0	0	0	0	0	0	0
COLUMBIA LIFE SYSTEMS, INC.	0	0	0	0	0	0	0
COLUMBIA PLYWOOD CORPORATION	0	22,456	0	0	0	0	0
COLVILLE GROUP, LTD.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
COMER SANITARY SERVICE, INC.	6	0	0	0	0	0	0
COMFORT WINDOW & DOOR, LLC	0	0	0	0	0	0	0
COMMSCOPE, INC. OF NORTH CARO	0	140,265	88,812	483,062	0	0	0
COMPASS GROUP USA, INC.	19,625	6,771	0	0	47,977	0	0
COMPONENT CONCEPTS, INC.	1,312	0	0	0	0	0	0
CONCRETE SUPPLY CO.	16,000	8,597	0	0	0	0	0
CONCRETE SUPPLY CO.	0	0	0	0	0	0	0
CONE MILLS CORPORATION	54,000	0	0	0	0	0	0
CONFLANDEY INC.	5,195	0	0	0	0	0	0
CONFLANDEY INC.	5,835	0	0	0	0	0	0
CONFULENCE HOLDINGS CORP	4,947	0	0	0	0	0	0
CONITEX- SONOCO U.S.A., INC.	63,293	82,884	0	0	0	0	0
CONOPCO, INC.	133,000	46,333	0	0	0	0	0
CONSOER TOWNSEND ENVIRODYNE	0	0	27,157	0	0	0	0
CONSOLIDATED LAUNDRY EQUIPMEN	0	0	0	0	0	0	0
CONSOLIDATED METCO, INC.	40,307	0	0	0	0	0	0
CONSOLIDATED METCO, INC.	14,106	26,351	0	0	0	0	0
CONTEMPORARY FURNITURE DESIGN	0	0	0	0	0	0	0
CONTEMPORARY PUBLISHING COMPA	0	0	0	0	0	0	0
CONTIGROUP COMPANIES, INC.	0	9,845	0	0	0	0	0
CONTINENTAL TEVES, INC.	0	98,645	0	0	0	0	0
CONTINENTAL TICKING CORPORATI	0	0	0	0	0	0	0
CONTINENTAL TIRE NORTH AMERIC	0	91,631	0	0	0	0	0
COOPER BUSSMANN, INC.	0	19,409	0	0	0	0	0
COOPER INDUSTRIES, INC.	0	0	782	0	0	0	0
COOPER KENWORTH, INC.	0	0	0	0	0	0	0
COOPER LEASING, INC.	70	0	0	0	0	0	0
COOPER-STANDARD AUTOMOTIVE I	0	53,403	0	0	0	0	0
COPE EQUIPMENT COMPANY	0	0	0	0	0	0	0
COPELAND CORPORATION	92,965	170,387	0	0	111	0	0
COPELAND CORPORATION	107,006	173,692	0	0	0	0	0
COPLAND FABRICS, INC.	0	8	0	0	0	0	0
COPLAND FABRICS, INC.	0	10,551	0	0	0	0	0
COREY TR[redacted]SSION SERVICE, I	0	187	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CORNING CABLE SYSTEMS INTERNA	0	0	0	0	0	0	0
CORNING INCORPORATED	383,190	531,961	438,360	0	0	0	0
CORNUCOPIA CHEESES, INC.	0	259	0	0	0	0	0
CORNUCOPIA CHEESES, INC.	0	212	0	0	0	0	0
CORRIHER TRUCKING, INC.	0	0	0	0	0	0	0
CORTEK, INC.	0	420	0	0	0	0	0
CO-SUB INC	0	0	0	0	0	0	0
COTT BEVERAGE S USA INC	0	0	0	0	0	0	0
COTY INC.	0	83,758	0	0	0	0	0
COUNTRY CONSTRUCTION CORPORAT	0	18	0	0	0	0	0
COUNTRY ESTATES HOMES, INC.	0	6	0	0	0	0	0
COVENTOR, INC.	0	0	1,943	0	0	0	0
COX NORTH CAROLINA	9,500	42,944	0	0	0	0	0
COXE-LEWIS CORPORATION	0	4,538	0	0	0	0	0
C-PHONE CORPORATION	0	0	1,245	0	0	0	0
CRAFTSMEN CONSTRUCTION COMPAN	0	0	0	0	0	0	0
CRANE CO.	0	0	24,497	0	0	0	0
CREATIVE TRANSPORTATION SERVI	0	63	0	0	0	0	0
CREE, INC.	0	107,009	0	0	0	0	0
CREE, INC.	0	94,089	0	0	0	0	0
CRESTLINE HOMES, INC.	0	0	0	0	0	0	0
CRESTLINE HOMES, INC.	0	0	0	0	0	0	0
CRESTWOOD INTERNATIONAL, INC.	0	2,113	0	0	0	0	0
CROMPTON MANUFACTURING COMPAN	0	0	0	0	0	0	0
CROMPTON MANUFACTURING COMPAN	0	38,689	0	0	0	0	0
CROSS CREEK EMERGENCY PHYSICI	18	0	0	0	0	0	0
CROSS SALES AND ENGINEERING C	625	0	0	0	0	0	0
CROSSLOGIC CORPORATION	13,500	0	0	6,000	0	0	0
CROWFOOT SERVICE CENTER, INC.	0	23	0	0	0	0	0
CROWN CRAFTS, INC.	5,674	0	0	0	0	0	0
CROWN EQUIPMENT CORPORATION	0	0	0	0	0	0	0
CRUMP CLAIMS CONSULTING, INC.	0	0	0	0	0	0	0
CSI CORPORATION	0	0	0	0	43	0	0
CT COMMUNICATIONS, INC.	0	0	37,500	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
CTC EXCHANGE SERVICES, INC.	0	2,706	0	0	0	0	0
CTC INTERNET SERVICES, INC.	2,382	3,447	0	0	0	0	0
CTC LONG DISTANCE SERVICES, I	0	19,146	0	0	0	0	0
CTW SPECIALITIES, INC.	0	0	0	0	0	0	0
CULP, INC.	0	56,757	0	0	0	0	0
CUMMINS ENGINE COMPANY, INC.	0	30,283	0	0	0	0	0
CURRIN'S AUTO SUPPLY, INC.	0	0	0	0	0	0	0
CURTIS SCREW CO., INC.	3,500	3,976	0	0	0	0	0
CURTISE WRIGHT FLIGHT SYSTEMS	0	0	0	0	0	0	0
CURVED PLYWOOD, INC.	0	261	0	0	0	0	0
CUSTOM ENGRAVING AND TROPHY,	0	0	0	0	0	0	0
CUSTOM GLASS PRODUCTS OF CARO	60	0	0	0	0	0	0
CUSTOM MOLDERS, INCORPORATED	2,670	204	0	0	0	0	0
CUSTOMIZED SURFACES, INC.	0	0	0	0	0	0	0
CUTLER-HAMMER INC.	0	0	35,844	0	0	0	0
CVEO CORPORATION	0	28,406	0	0	0	0	0
CYCLE GROUP INC.	0	1,237	0	0	0	0	0
D & G UNIFORMS, INC.	0	0	0	0	0	0	0
D. B. TEXTILES, INC.	160	0	0	0	0	0	0
D. M. & E. CORPORATION	0	0	0	0	0	0	0
D. S. DUGGINS WELDING, INC.	0	0	0	0	0	0	0
D.M. KENNEDY PLUMBING, INC.	0	51	0	0	0	0	0
D.R. ALLEN & SON, INC	0	0	0	0	0	0	0
DAIMLERCHRYSLER CORP	0	0	0	0	0	0	0
DAIMLERCHRYSLER NORTH AMERICA	0	503,251	0	0	0	0	0
DAN RIVER INC.	0	23,920	0	0	0	0	0
DANA CORPORATION	0	93,670	29,875	0	0	0	0
DARRYL D. NABORS, D.D.S., P.A	0	0	0	0	0	0	0
DART CONTAINER CORP OF GEORGI	4,375	33,812	0	0	0	0	0
DATA SPECTRUM CORPORATION	0	0	0	0	0	0	0
DATAMARK GRAPHICS, INC.	236	484	0	0	0	0	0
DATATEK, INC.	0	160	0	0	0	0	0
DAUGHTRIDGE OIL COMPANY OF GR	0	0	0	0	0	10	0
DAVCOM [redacted] RISES, INC.	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
DAY INTERNATIONAL, INC.	0	15,224	0	0	2,141	0	0
DEA - DON, INC	0	0	0	0	0	50	0
DEAL'S LAWN SERVICE, INC.	5	0	0	0	0	0	0
DECHANT ARCHITECTURE, P.A.	0	0	0	0	0	0	0
DECISION LABS, LTD.	0	0	0	0	0	0	0
DECKER ADVANCED FABRICATION,	0	0	0	0	0	0	0
DEERE & COMPANY	0	69,617	18,848	136,715	0	0	0
DEERE AND COMPANY	0	0	0	0	0	0	0
DEERE-HITACHI CONSTRUCTION MA	22,750	0	0	10,639	0	0	0
DELLINGER ENTERPRISES, LTD.	0	0	0	0	0	0	0
DELLINGER WRECKER SERVICE, IN	0	467	0	0	0	0	0
DELTA CONSOLIDATED INDUSTRIES	0	16,627	782	0	0	0	0
DELTA GYPSUM, INC.	1,973	0	0	0	0	0	0
DELVIN, INC.	0	0	0	0	0	0	0
DENERGY, INC.	18	0	0	0	0	0	0
DERINGER MFG. COMPANY	0	1,730	0	0	0	0	0
DESIGN WOR	0	0	0	0	0	0	0
DIAMOND ELECTRIC SUPPLY CO.,	0	0	0	0	0	0	0
DICEY MILLS, INC.	0	8,931	0	0	0	0	0
DICEY MILLS, INC.	0	8,513	0	0	0	0	0
DIGITAL OPTICS CORPORATION	3,375	15,080	3,434	0	0	0	0
DILLARD'S, INC.	14,352	0	0	0	0	0	0
DIOSYNTH RTP INC.	0	62,451	0	0	0	0	0
DIOSYNTH RTP INC.	0	73,271	0	0	0	0	0
DIRECT CALL, INC.	23	0	0	0	0	0	0
DISCOUNT DRAPERY, INC.	0	0	0	0	0	0	0
DISPENSING SYSTEMS OF NORTH C	0	768	0	0	0	0	0
DK ENTERPRISES INC.	0	144	0	0	0	0	0
DML INDUSTRIAL PRODUCTS, INC.	0	249	0	0	0	0	0
DOLOROSA FARMS, LTD.	0	2,945	0	0	0	0	0
DOMNICK HUNTER INC	0	0	0	0	0	0	0
DONNA K HAGER PA	0	0	0	0	9	0	0
DOPACO, INC.	0	15,732	0	0	0	0	0
DOWN EAST FARMS, INC.	0	0	0	0	10	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
DOWN EAST VIDEO OF GOLDSBORO,	0	0	0	0	0	0	0
DR. HARRY W. KILLIAN, P. A.	0	0	0	0	0	9	0
DRAKA ELEVATOR PRODUCTS, INC.	17,959	42,997	0	0	0	0	0
DRAKE ENTERPRISES, LTD.	0	0	0	0	0	0	0
DROEGE COMPUTING SERVICES, IN	0	0	1,353	0	0	0	0
DSM DESOTE	0	0	0	0	0	0	0
DSM PHARMACEUTICALS, INC.	422,760	0	0	0	0	0	0
DT MAGNETICS INTERNATIONAL, I	0	0	0	0	0	0	0
DUBOSE STEEL, INC. OF NORTH C	3,250	2,487	0	0	0	0	0
DUBOSE STEEL, INC. OF NORTH C	3,250	2,487	0	0	0	0	0
DUKE ENERGY CORPORATION	0	0	0	42,000	0	0	0
DUKE PROJECT SERVICES, INC.	81,366	0	0	0	68,982	0	0
DUPLICATE TRANS ID#	0	0	0	0	0	0	0
DURATEX NORTH AMERICA, INC.	0	0	0	0	0	0	0
DYNAPAR CORP	54,000	8,893	0	0	0	0	0
DYNAYARN USA, LLC	620	0	0	0	0	0	0
E & H ELECTRICAL SERVICE, INC	0	9	0	0	0	0	0
E BEN WARD JR PA	0	0	0	0	0	0	0
EAGERTON PLUMBING CO. INC.	2,629	0	0	0	0	0	0
EANES OIL COMPANY	0	0	0	0	0	0	0
EASCO HAND TOOLS, INC.	0	1,731	1,785	9,598	0	0	0
EAST CAROLINA WALLPAPER MARKE	0	0	0	0	0	0	0
EASTERN BLOCK INC	0	0	9	0	0	0	0
EASTERN NORTH CAROLINA BROADC	0	0	0	0	4,500	0	0
EASTHAVEN DEVELOPMENT CORPORA	0	0	0	0	0	0	0
EATON AEROQUIP INC.	53,375	110,875	0	49,016	0	0	0
EATON CORPORATION	0	204,206	37,648	0	0	0	0
ECLIPSE PACKAGING, INC.	0	0	0	0	0	0	0
ECMD, INC.	0	4,407	0	0	0	0	0
ED MILLER, INCORPORATED	0	28	0	0	0	0	0
ED N. FERRELL, JR. MASONRY, I	0	113	0	0	0	0	0
EDS INFORMATION SERVICES,LLC	0	0	169,149	0	0	0	0
EDS PERSONAL COMMUNICATIONS C	0	0	149	0	0	0	0
EDS/SHL CORP ATION	0	0	607	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
EDWARD VOGT VALVE CO	0	0	0	0	0	0	0
EDWARD VOGT VALVE COMPANY	14,750	42,148	0	0	0	0	0
EDWARDS BROTHERS, INC.	0	0	0	0	0	0	0
EFCO STEEL, INC.	0	9	10	0	0	0	0
EGL, INC.	0	0	0	0	900	0	0
EHM HOLDINGS, INC.	0	0	0	0	0	0	0
EISAI INC.	20,375	0	223,202	0	0	0	0
ELECTROLUX HOME PRODUCTS, INC	6,875	0	0	0	11,535	0	0
ELECTRONIC DATA MAGNETICS	0	0	0	0	0	0	0
ELECTRONIC DATA MAGNETICS, IN	4,197	0	0	0	0	0	0
ELECTRONIC DATA SYSTEMS CORPO	0	0	285	0	0	0	0
ELI LILLY AND COMPANY	0	112,437	49,694	0	0	0	0
ELLISON CO., INC.	0	0	0	0	0	0	0
ELUMENS CORPORATION	0	0	1,783	0	0	0	0
EMBREX, INC.	0	0	9,303	0	0	0	0
EMGRAN HOLDING CO., INC,	0	18	0	0	0	0	0
ENERGY SYSTEMS ANALYSTS, INC.	81	0	0	0	0	0	0
ENGINE POWER SOURCE, INC.	0	10	0	0	0	0	0
ENGINEERED CONTROLS INTERNATI	0	1,419	0	0	0	0	0
ENGINEERED POLYMER SOLUTIONS,	0	19,107	0	0	0	0	0
ENGINEERED POLYMER SOLUTIONS,	0	20,684	0	0	0	0	0
ENGINEERING TECTONICS, P.A.	0	0	0	0	0	0	0
ENOVIA CORP	0	0	22,209	0	0	0	0
ENSLEY'S RADIO COMPANY, INC.	0	0	0	0	0	0	0
ENVIRON PRODUCTS INC.	1,500	0	0	0	0	0	0
ENVIRONMENTAL CLEARING INC	10	0	0	0	0	0	0
ENVIRONMENTAL MANAGEMENT SERV	0	31	0	0	0	0	0
EON LABS MANUFACTURING, INC.	21,000	90,897	0	22,500	0	0	0
EPIC ENTERPRISES, INC.	1,375	0	0	0	0	0	0
EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0	0	0	0
EQUESTRIAN CLUB OF CHARLOTTE,	5	0	0	0	0	0	0
ERICSSON INC.	0	0	0	0	0	0	0
ET ELECTRONICS, INC.	0	0	0	0	0	0	0
ETHAN ALLEN INC.	92,556	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ETHAN ALLEN MANUFACTURING COR	0	11,998	0	0	0	0	0
ETRIALS, INC.	559	0	0	0	0	0	0
EURO-MATIC PLASTICS, INC.	3,931	0	0	0	0	0	0
EUROSOFT, INC.	0	163	0	0	0	0	0
EVE LADIES LEGWEAR, INC.	0	0	0	0	0	0	0
EVEREADY BATTERY COMPANY, INC	13,500	75,396	0	0	0	0	0
EVEREADY BATTERY COMPANY, INC	13,500	218,648	1,387	0	0	0	0
EVERETT BRYANT SALES, INC.	0	0	0	0	0	0	0
EXCEL CARGO SERVICES, INC.	2,125	0	0	0	0	0	0
EXTREME NETWORKS, INC.	0	0	9,629	0	0	0	0
EXTREME NETWORKS, INC.	0	0	4,143	0	0	0	0
E-Z SERVE CONVENIENCE STORES,	5,421	0	0	0	0	0	0
F & G ENTERPRISES, INC.	0	54	0	0	0	0	0
F. J. RAGAZ, M.D., P.A.	0	15	0	0	0	0	0
FABRISTEEL CORPORATION	0	0	0	0	0	0	0
FAB-TECH INDUSTRIES, INC.	450	0	0	0	0	0	0
FAMILY DOLLAR, INC.	18,875	221,213	127,640	0	43,769	0	0
FAMILY DOLLAR, INC.	11,625	45,710	164,581	0	43,769	0	0
FARMERS BURLEY WAREHOUSE, INC	0	0	0	0	0	0	0
FASCO CONTROLS CORPORATION	0	56,692	0	0	0	0	0
FAST CHART, INC.	0	80	0	0	0	0	0
FAYETTEVILLE PUBLISHING COMPA	3,000	12,588	0	0	0	0	0
FEDERAL PACKAGING, INC.	0	2,700	0	0	0	0	0
FEDERAL PACKAGING, INC.	0	1,800	0	0	0	0	0
FFNC, INC.	3,354	0	0	0	0	0	0
Fiber Composites	0	0	0	0	0	0	0
FIBER COMPOSITES LLC	0	0	0	0	0	0	0
FIBER INDUSTRIES, INC.	0	0	13,656	0	0	0	0
FIBER INDUSTRIES, INC.	0	0	15,541	0	0	0	0
FIELDCREST CANNON INC	0	0	0	0	0	0	0
FILTRATION GROUP, INC.	0	0	986	0	0	0	0
FINELINE INDUSTRIES EAST, INC	0	18	0	0	0	0	0
FINELINE INDUSTRIES EAST, INC	0	0	0	1,369	0	0	0
FIRST C[redacted] NATIONAL BANK	5,500	13,342	[redacted] 0	0	24,079	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
FIRST CHARTER NATIONAL BANK	17,250	71,453	0	5,290	0	0	0
FIRST UNION NATIONAL BANK	0	780,116	0	0	0	0	0
FIT-ALL SPORTSWEAR, INC.	0	0	0	0	0	0	0
FLEETWASH SYSTEMS OF CAROLINA	0	0	0	0	0	0	0
FLEETWOOD HOMES OF NORTH CARO	0	0	0	0	0	0	0
FLEXCELL INTL CORP	0	0	0	0	0	0	0
FLORIDA PROFESSIONAL MANAGEME	4,500	0	0	0	0	0	0
FLOW SCIENCES, INC.	928	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLYNT FABRICS, INC.	0	10,086	0	0	0	0	0
FLYNT'S FLOWERS, INC.	15	0	0	0	0	0	0
FOAMEX LP	0	0	0	0	0	0	0
FOARD SYSTEMS DESIGN, INC.	0	28	0	0	0	0	0
FOARD SYSTEMS DESIGN, INC.	0	69	0	0	0	0	0
FOCKE & CO., INC.	2,500	3,092	0	0	0	0	0
FOLK'S CLEANERS, INC.	0	120	0	0	0	0	0
FOOTHILLS HARLEY DAVIDSON, IN	0	0	0	0	11	0	0
FOOTHILLS, INC.	6,375	1,432	0	0	0	0	0
FOREST2MARKET.COM	0	0	0	0	0	0	0
FORREST FARM SUPPLY, INC.	0	9	0	0	0	0	0
FORSYTH DEVELOPMENT OF WINSTO	0	0	0	0	0	0	0
FORTRON BIO SCIENCE, INC.	0	0	951	0	0	0	0
FRAMATOME ANP DE&S, INC.	750	0	0	0	10,753	0	0
FRANK LEE INSURANCE AGENCY, I	0	106	0	0	0	0	0
FREEMAN METAL PRODUCTS, INC.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
FREIGHTLIN	0	113,296	0	0	0	0	0
FREUDENBER	0	0	0	0	0	0	0
FRISBY AEROSPACE, INC.	0	0	0	14,892	0	0	0
FRONTIER, INC.	18,750	0	0	0	0	0	0
FUCHS SYSTEMS, INC.	548	0	0	0	0	0	0
FUEL SYSTEM	0	0	0	0	0	0	0
FUJI SILYSIA CHEMICAL USA, LT	3,000	119	0	0	0	0	0
FUJITSU NETWORK COMMUNICATION	0	0	16,379	0	0	0	0
FULLER REAL ESTATE MANAGEMENT	0	0	0	0	0	0	0
FUN-TEES, INC.	0	0	0	0	0	0	0
G & E INVESTMENTS, INC.	0	33	0	0	0	0	0
G & G LUMBER	0	2,607	0	0	0	0	0
G & H RECYCLING, INC.	0	23	0	0	0	0	0
G & L CABINETS	0	73,336	0	0	0	0	0
G. S. TUCKER & CO. OF WILSON,	8	0	0	0	0	0	0
GADGETSPACE, INC.	0	0	0	0	0	0	0
GAIA HERBS, INC.	0	900	0	0	0	0	0
GAIA HERBS, INC.	0	900	0	0	0	0	0
GALEY & LORD INDUSTRIES, INC.	37,439	0	0	0	0	0	0
GALEY & LORD INDUSTRIES, INC.	38,275	0	0	0	0	0	0
GALLIMORE ENTERPRISES, INC.	0	0	0	0	0	0	0
GARRETT OPTOMETRIC CENTER, P.	0	25	0	0	0	0	0
GASTON SYSTEMS INC	0	0	0	0	0	0	0
GATE CONCRETE PRODUCTS CO.	7,750	0	0	0	0	0	0
GAYLORD INC	28,125	89	0	0	0	0	0
GAYLORD, INC.	0	0	0	0	0	0	0
GENE INMAN TRUCKING, INC.	0	0	0	0	0	0	0
GENE STEWART PUMP & PLUMBING	0	0	0	0	0	0	0
GENE TIERNEY COMPANY, INC.	0	18	0	0	0	0	0
GENE TIERNEY COMPANY, INC.	0	18	0	0	0	0	0
GENERAL DYNAMICS ADVANCED TEC	0	0	647	0	0	0	0
GENERAL PARTS, INC.	21,625	0	0	0	0	0	0
GENEVA CORPORATION	1,250	7,168	0	0	0	0	0
GENTRY M[redacted] C.	0	6,497	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
GENTRY MILLS, INC.	0	4,739	0	0	0	0	0
GEO. G. SCOTT & CO.	207	0	0	0	0	0	0
GEORGIA-CAROLINA QUARRIES, IN	0	0	0	0	0	0	0
GEORGIA-PACIFIC CORPORATION	0	0	0	0	0	0	0
GEORGIA-PACIFIC RESINS, INC.	0	0	0	0	0	0	0
GETRAG CORPORATION	16,500	13,496	0	0	0	0	0
GGS, INC.	0	0	0	0	0	0	0
GILES CHEMICAL CORP	0	0	0	0	0	0	0
GKN AUTOMOTIVE, INC.	22,125	150,907	0	0	0	0	0
GKN AUTOMOTIVE, INC.	22,125	6,011	0	0	0	0	0
GLCO MARKETING, INC.	0	0	0	0	0	0	0
GLENOIT CORPORATION	13,571	0	0	0	0	0	0
GLOBAL SOFTWARE, INC.	0	0	0	0	0	0	0
GLOSSON REFRIGERATION & ELECT	0	0	0	0	0	0	0
GOERLICH'S, INC.	0	0	9,977	0	0	0	0
GOLD STAR COATINGS - ASHEVILL	0	0	0	0	0	0	0
GOLD TOE BRANDS, INC.	0	0	0	8,394	0	0	0
GONYEA TV	0	0	0	0	0	0	0
GOOD & RELIABLE LAWN CARE INC	0	0	0	0	0	0	0
GOODMARK FOODS, INC.	0	25,890	0	0	0	0	0
GOODMARK FOODS, INC.	0	42,476	0	0	0	0	0
GOODRICH CORPORATION	0	13,574	0	0	0	0	0
GORDON RECYCLERS, INC.	0	0	0	0	0	0	0
GOULSTON TECHNOLOGIES, INC.	250	10,369	56,734	0	0	0	0
GOURMET FOODS, INCORPORATED	0	0	0	0	0	0	0
GRADY L. MCCLAMROCK, JR., J.D	0	0	0	0	0	0	0
GRANLUND AMERICA, INC.	0	125	0	0	0	0	0
GRANT TOURS, INC.	0	0	0	0	0	0	0
GRAPHIC DETAIL, INC.	0	0	0	0	0	0	0
GRAPHIC PACKAGING CORPORATION	0	18,698	0	0	0	0	0
GRAPHIC PRINTING SERVICES, IN	750	0	0	0	0	0	0
GRASS AMERICA, INC.	0	19,816	0	0	0	0	0
GRASS AMERICA, INC.	0	21,621	0	0	0	0	0
GRAY BROTHERS FURNITURE, INC.	10	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
GRAYBAR ELECTRIC COMPANY, INC	23,625	0	0	0	0	0	0
GREEN & MCCLURE FURNITURE COM	0	0	0	0	0	0	0
GREEN PRINTING AND PACKAGING	0	9,442	0	0	0	0	0
GREENFIELD INDUSTRIES INC	98	25,440	0	0	0	0	0
GREEN'S GRAINS, INC.	0	0	0	0	0	0	0
GREENSBORO TWINE & PAPER COMP	0	0	0	0	0	0	0
GREER LABORATORIES, INC.	0	0	63,456	0	0	0	0
GREGORY POOLE EQUIPMENT COMPA	0	48,050	0	0	21,465	0	0
GRIFFIN FURNITURE AND APPLIAN	0	0	0	0	0	0	0
GROVER INDUSTRIES, INC.	0	2,424	0	0	0	0	0
GROWING CHILD PEDIATRICS, P.A	9	0	0	0	0	0	0
GRUMA CORPORATION	8,421	0	0	0	0	0	0
GTE CONSUMER SERVICES INC	0	261	0	0	0	0	0
GTE WIRELESS INCORPORATED	6,855	0	0	0	0	0	0
GTE WIRELESS OF OHIO INCORPOR	0	178	0	0	0	0	0
GTE WIRELESS OF THE SOUTH INC	0	1,743	0	0	0	0	0
GUARANTEED SUPPLY COMPANY	0	102	0	0	0	0	0
GUILFORD MILLS, INC.	0	100,721	0	0	0	0	0
GUILFORD MILLS, INC.	0	142,110	0	0	0	0	0
GULF STATES PAPER CORPORATION	32,000	86,959	0	0	0	0	0
GULF STATES PAPER CORPORATION	8,000	143,950	0	0	0	0	0
H & H OF RALEIGH, INC.	2	0	0	0	0	0	0
H & J WAREHOUSES, LL	0	2	0	0	0	0	0
H & M WOOD PRESERVING, INC.	0	207	0	0	0	0	0
H. B. FULLER COMPANY	0	10,029	0	0	0	0	0
H.R.W., INC.	168	0	0	0	0	0	0
HABCO, INC.	0	0	0	0	0	0	0
HAFELE AMERICA CO.	4,625	0	0	0	0	0	0
HAHT SOFTWARE, INC.	630	0	0	0	0	0	0
HALCORE GROUP, INC.	46,626	0	0	0	0	0	0
HALDEX HYDRAULICS CORPORATION	0	6,804	0	0	0	0	0
HALIFAX	0	2,250	0	0	0	0	0
HALL CONTRACTING CORPORATION	0	0	0	0	9	0	0
HAMMI[redacted]S, INC.	0	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
HAMPTON INDUSTRIES, INC.	3,699	0	0	0	0	0	0
HANCOR, INC.	0	3,656	0	0	0	0	0
HANSON & ORTH FIBERS INC	0	0	0	0	0	0	0
HARDWARE SUPPLIERS OF AMERICA	1,000	0	0	0	0	0	0
HARMON PLUMBING SERVICES INC.	0	23	0	0	0	0	0
HARRIET & HENDERSON YARNS, IN	0	14,442	0	0	0	0	0
HARRIS FEED CO., INC.	0	0	0	0	0	0	0
HASCO MOLD BASES - ASHEVILLE,	1,500	6,725	0	0	0	0	0
HATTERAS NETWORKS, INC.	1,875	0	9,574	0	0	0	0
HAYWARD INDUSTRIAL	0	0	10,722	0	0	0	0
HAYWARD POOL PRODUCTS, INC.	37,125	0	11,968	0	0	0	0
HEALTH DECISIONS, INC.	0	0	0	0	0	0	0
HEARST COMMUNICATIONS, INC.	26,288	0	0	0	0	0	0
HEARTHSTONE ENTERPRISES, INC.	0	499	0	0	0	0	0
HEATON, FULGHUM & WILLIAMS, M	0	98	0	0	0	0	0
HENDERSON MACHINERY, INC.	125	0	0	0	0	0	0
HEXTEK TECHNOLOGIES, INC.	301	0	0	0	0	0	0
HEXTEK TECHNOLOGIES, INC.	678	0	0	0	0	0	0
HICKORY CARPET & FLOOR COVERI	0	0	0	0	0	0	0
HICKORY PRINTING GROUP, INC.	0	8,599	0	0	0	0	0
HICKORY SCRAP IRON & METAL CO	0	0	0	0	0	0	0
HICKORY SPRINGS MANUFACTURING	0	37,789	0	0	0	0	0
HIGHLAND FABRICATORS, INC.	5,875	0	0	0	0	0	0
HINSON & RHYNE, P.A.	0	18	0	0	0	0	0
HITACHI METALS NORTH CAROLINA	0	104,267	0	0	0	0	0
HI-TEX, INC.	0	1,953	0	0	0	0	0
HOBART SMITH CONSTRUCTION CO.	0	0	0	0	0	0	0
HOF TEXTILES, INC.	1,500	4,209	0	0	0	0	0
HOFFMAN & HOFFMAN, INC.	10,875	0	0	0	0	0	0
HOG SLAT INC.	0	9,015	0	0	0	0	0
HOLBERT INVESTMENTS COMPANY,	0	54	0	0	0	0	0
HOLMES SEAT COVER SHOP, INC.	0	7	0	0	0	0	0
HOLT SUBLIMATION PRINTING & P	0	2,296	0	0	0	0	0
HOLT SUBLIMATION PRINTING & P	0	2,296	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
HOMANIT USA, INC.	15,000	0	0	43,843	0	0	0
HOME ASSIST MEDICAL EQUIPMENT	0	55	0	0	0	0	0
HOME LIFE CARE, INC.	4,564	0	0	0	0	0	0
HOMES BY GEORGE STEELE, INC.	0	0	0	0	0	0	0
HOMES BY GEORGE STEELE, INC.	0	0	0	0	0	0	0
HOMES BY OAKWOOD, INC.	18	0	0	0	0	0	0
HOMES BY OAKWOOD, INC.	16,125	2,072	0	0	0	0	0
HONEYWELL INTERNATIONAL INC.	12,500	14,729	0	0	0	0	0
HORN OIL COMPANY, INC.	10	0	0	0	0	0	0
HOWELL FARMS, INC.	0	0	0	0	0	0	0
HSMF, INC.	0	578	0	0	0	0	0
HTC LOGGING, INC.	0	609	0	0	0	0	0
HUDSON & SON GARAGE, INC.	0	462	0	0	0	0	0
HUFFMAN BROTHERS HOUSEMOVING,	0	10	0	0	0	0	0
HUFFMAN OIL COMPANY, INCORPOR	1,000	2,623	0	0	0	0	0
HUFFMAN TECHNOLOGY, INC.	12	0	0	0	0	0	0
HUNTER INDUSTRIES INCORPORATE	5	0	0	0	0	0	0
HUNTLEY CHEVROLET & BUICK PON	0	0	0	0	49	0	0
HVAC DESIGN AND CONTRACTING,	9	0	0	0	0	0	0
HYDRAULIC VALVE DIV	0	0	0	0	0	0	0
I.X.O.Y.E., INC.	0	0	0	0	0	0	0
IDEAL ACCESSORIES CORPORATION	75	0	0	0	0	0	0
IENTERTAINMENT NETWORK, INC.	0	0	2,759	0	0	0	0
ILCO UNICAN CORP.	0	98,621	0	0	0	0	0
IMAGES OF AMERICA, INC.	0	0	0	0	1	0	0
IMPACT TECHNOLOGIES GROUP, IN	0	0	9,576	0	0	0	0
IMPACT TECHNOLOGIES, INC.	0	18	0	0	0	0	0
IMPLUS FOOTCARE, LLC	0	0	0	0	0	0	0
IMPULSE NC, INC.	10,633	0	0	0	0	0	0
INDALEX INC.	30,547	0	0	0	0	0	0
IND-COM ELECTRIC COMPANY	0	0	9	0	0	0	0
INDEPENDENT BEVERAGE CORPORAT	0	11,579	0	0	0	0	0
INDEPENDENT BEVERAGE CORPORAT	0	25,142	0	0	0	0	0
INDEPEN[redacted]3ORATORIES, INC	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
INDIAN HEAD INDUSTRIES, INC.	0	0	4,859	0	0	0	0
INDOOR PLANTSCAPING INC & GAR	0	10	0	0	0	0	0
INDUSTRIAL FABRICATORS, INC.	22,747	0	0	0	0	0	0
INDUSTRIAL FABRICATORS, INC.	0	0	0	0	0	0	0
INDUSTRIAL MICROWAVE SYSTEMS,	1,625	0	1,430	0	0	0	0
INDUSTRIAL PIPING, INC.	0	9	0	0	0	0	0
INDUTER U.S.A. INC	0	0	0	0	0	0	0
INGERSOLL-RAND COMPANY	0	47,976	0	0	0	0	0
INGERSOLL-RAND COMPANY	0	47,976	0	0	0	0	0
INJECTRONICS, INC.	3,750	0	0	0	0	0	0
INSECT BIOTECHNOLOGY, INC.	0	0	34	0	0	0	0
INSPIRE PHARMACEUTICALS, INC.	0	0	38,909	0	0	0	0
INST TRANS EQUIP CORP	0	0	0	0	0	0	0
INT COTTON FABRIC HOLDINGS, A	0	0	0	0	0	0	0
INTEGRATED SOFTWARE SOLUTIONS	0	0	0	0	0	0	0
JENKINSINTEGRATED SOFTWARE SOLUTION	0	0	0	0	0	0	0
INTEGRATED SOFTWARE SYST	0	0	0	0	0	0	0
INTEGRIAN, INC.	0	0	0	0	0	0	0
INTEK, INC.	0	12,207	0	0	0	0	0
INTELLI-MARK TECHNOLOGIES, IN	0	0	0	0	0	0	0
INTERFACE TECHNOLOGIES, INC.	375	0	0	0	0	0	0
INTERIOR WOOD SPECIALTIES, IN	0	0	0	0	0	0	0
INTERIOR WOOD SPECIALTIES, IN	5,003	48	0	0	0	0	0
INTERNATIONAL BUSINESS MACHIN	554,050	0	0	0	0	0	0
INTERSIL COMMUNICATIONS, INC.	0	0	58,357	0	0	0	0
INTERSTATE APPAREL GROUP	0	0	0	0	0	0	0
INTERSTATE BRANDS CORPORATION	17,633	49,141	0	0	0	0	0
INTERSTATE BRANDS CORPORATION	15,000	52,700	0	0	0	0	0
INTIMATE TOY BOX, INC.	0	0	0	0	0	0	0
IQMAX INC	0	0	0	0	0	0	0
IQMAX, INC.	0	0	0	0	0	0	0
IQMAX, INC.	0	0	0	0	0	0	0
IRREVOCABLE TRUST U/A/D 7/14/	111	133	0	0	0	0	0
IRREVOCABLE TRUST U/A/D 7/14/	111	133	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ITS	0	0	0	0	0	0	0
IVYMAR, INC.	0	0	0	0	51	0	0
J & C CAR COMPANY, INC.	0	25	0	0	0	0	0
J & L AMERICA, INC.	1,125	0	0	0	0	0	0
J & S PLUMBING COMPANY	0	140	0	0	0	0	0
J W JONES LUMBER COMPANY	0	0	0	0	0	0	0
J. B. M. & W., INC.	0	110	0	0	0	0	0
J. C. STEELE AND SONS, INC.	0	9,645	0	0	0	0	0
J. CHRISTOPHER KIBLER, D.D.S.	0	0	0	0	0	0	0
J. D. CLARK COMPANY	0	506	0	0	8	0	0
J. P. TAYLOR COMPANY, INCORPO	0	414,619	0	0	0	0	0
J. P. TAYLOR COMPANY, INCORPO	0	0	0	0	0	0	0
J. P. TAYLOR COMPANY, INCORPO	0	55,983	0	0	0	0	0
J. R. KELLAM CONTRACTOR, INC.	0	143	0	0	0	0	0
J. RICHARD BURKE, INC.	0	52	0	0	0	0	0
J. S. MANN'S OF WHITEVILLE, I	6	0	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	24,735	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	19,130	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	26,690	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	19,582	0	0	0	0	0
J.E. WOODIE & SONS, INCORPORA	0	9	0	0	0	0	0
JACK CROSS HEATING & AIR COND	0	0	0	0	0	0	0
JACK HENRY SERVICES, LP	0	0	5,493	0	0	0	0
JACK HENRY SYSTEMS, LP	0	0	8,999	0	0	0	0
JACKSON FAMILY BUSINESS, INC.	0	0	0	0	19	0	0
JACKSON PAPER MANUFACTURING C	6,400	11,669	0	0	0	0	0
JACKSON TUBE SERVICE, INC.	0	0	0	0	0	0	0
JACKSON'S IGA OF PINK HILL, I	0	0	0	0	0	0	0
JAI SAI RAM, INC.	0	14	0	0	0	0	0
JALCO, INC.	441	0	0	0	0	0	0
JAMES A. DOBBINS CONSTRUCTION	0	0	0	0	0	0	0
JAMES A. OLDHAM, D.D.S., P.A.	0	0	0	0	0	0	0
JAMES DEAN WALLACE ELECTRIC C	0	0	0	0	0	0	0
JAMES L[redacted] R MFG. CO.	560	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
JAMES R. TICE & CO., INC.	0	0	0	0	0	0	0
JANE RICHTER ASSOCIATES, INCO	0	0	0	0	0	0	0
JANE'S NURSERY AND TRANSPORT,	0	57	0	0	0	0	0
JELD-WEN, INC.	18,250	94,546	0	0	0	0	0
JERRY WILLIAMS & SONS	0	63,980	0	0	0	0	0
JERSAN, INC.	0	36	0	0	0	0	0
JESSCO, INC.	0	0	0	0	0	0	0
JESSICA VYAS SECOND SHARE PRI	0	0	0	0	0	0	0
JG3 INC	0	0	0	0	0	0	0
JGI INC.	0	0	0	0	0	0	0
JILLIAN'S, INC.	0	0	0	0	0	0	0
JIMMY WARD HARDWOODS, INC.	0	0	0	0	0	0	0
JIMMY'S PLUMBING & REPAIR, IN	0	0	0	0	0	0	0
JOE BROWN, INC.	4	0	0	0	0	0	0
JOEL W. WALKER, D.D.S., P.A.	5	0	0	0	0	0	0
JOHN DEERE CONSUMER PRODUCTS,	0	19,157	0	8,702	0	0	0
JOHN DEERE TURF CARE, INC.	43,625	0	11,302	5,694	0	0	0
JOHN DEERE TURF CARE, INC.	0	68,555	0	0	8	0	0
JOHN J. MORTON COMPANY, INC.	0	0	0	0	249	0	0
JOHN WIELAND HOMES AND NEIGHB	4,750	0	0	0	0	0	0
JOHN WIRGHT ENTERPRISES, INC.	0	18	0	0	0	0	0
JOHNSON CONCRETE COMPANY	0	0	0	0	0	0	0
JOHNSON CONTROLS BATTERY GROU	4,875	37,482	0	0	0	0	0
JOHNSON CONTROLS WORLD SERVIC	0	1,055	0	0	0	0	0
JOHNSTON CASUALS FURNITURE, I	0	5,905	0	0	0	0	0
JONES BROTHERS TRANSPORT INC	0	333	0	0	0	0	0
JORDAN SELF-SERVE OF ASHEVILL	0	1,800	0	0	0	0	0
JOSEPH A. RHODES, D.D.S., P.A	0	0	0	0	61	0	0
JOSEPH T. HOGGARD LOGGING, IN	0	678	0	0	0	0	0
JOURNIGAN'S TIRE & BATTERY SA	0	0	0	0	0	0	0
JOWAT CORPORATION	1,125	0	0	0	0	0	0
JPW, INC.	0	660	0	0	0	0	0
JSL PARTNERS, INC.	0	0	0	0	5	0	0
JSP HILLSB	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
JUKI AUTOMATION SYSTEMS, INC.	1,375	0	0	0	0	0	0
JULIUS BLUM INC.	32,250	206,455	0	0	0	0	0
JULIUS BLUM INC.	11,000	124,028	0	0	0	0	0
JVI CONSTRUCTION, INC.	0	479	0	0	0	0	0
K VA T FOOD STORES INC	0	665	0	0	0	0	0
K. E. AUSTIN CORPORATION	0	0	0	18	0	0	0
K.L. BUTLER LOGGING, INC.	0	0	0	0	0	0	0
K.L. BUTLER LOGGING, INC.	0	0	0	0	0	0	0
KABA ILCO CORP.	0	12,240	0	0	0	0	0
KASTRUI, INC.	0	58	0	0	0	0	0
KAYDON CORP	4,477	0	0	0	0	0	0
KAYSER-ROTH CORPORATION	0	66,604	0	0	0	0	0
KCBC FOODS, INC.	0	53	0	0	0	0	0
KCS INTERNATIONAL INC.	0	0	0	15,145	0	0	0
KEEBLER COMPANY	20,250	0	0	0	0	0	0
KEEL NETWORK LLC	0	0	0	0	0	0	0
KEENER LUMBER COMPANY, INCORP	0	0	0	0	0	0	0
KEIIIN CAROLINA SYSTEM TECHNO	188,017	0	0	0	0	0	0
KELICO CORPORATION	0	80	0	0	0	0	0
KEL-MAC METALS, INC.	0	0	0	0	0	0	0
KEMP HARRIS, INC.	0	6	0	0	0	0	0
KENCO ELECTRIC, INC.	0	0	0	0	0	0	0
KENCRAFT MANUFACTURING, INC.	0	0	0	0	0	0	0
KENGO, INC.	18	0	0	0	0	0	0
KENNAMETAL INC.	0	47,963	0	0	0	0	0
KENNAMETAL INC.	0	36,957	0	0	0	0	0
KENNEDY DIECASTING, INC.	0	0	0	0	0	0	0
KENNEDY DIECASTING, INC.	0	0	0	0	0	0	0
KENYON PLUMBING SERVICES, INC	0	54	0	0	0	0	0
KERR GROUP, INC.	0	13,978	0	0	0	0	0
KEWAUNEE SCIENTIFIC CORPORATI	0	16,835	10,290	0	0	0	0
KEYSTONE POWDERED METAL COMPA	0	1,673	0	0	0	0	0
KIDDE TECHNOLOGIES INC.	13,500	14,773	3,391	0	0	0	0
KILLEBRE[redacted]IO I & M SERVI	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
KINARD BATTLEGROUND DRUGS, IN	0	0	0	0	0	0	0
KINCAID FURNITURE COMPANY, IN	0	52,026	0	0	0	0	0
KING BROTHERS ELECTRIC COMPAN	324	0	0	0	0	0	0
KING TV, INC.	0	0	0	0	0	0	0
KINGS FARMING ENTERPRISES	0	0	0	0	0	0	0
KIP CARR ASSOCIATES, INC.	0	19	0	0	8	0	0
KISER MASONRY, INC.	0	0	0	9	0	0	0
KLAUSSNER FURNITURE INDUSTRIE	0	46,459	11,905	0	0	0	0
KLINGSPOR ABRASIVES, INC.	15,265	0	0	0	0	0	0
KOBE COPPER PRODUCTS INC.	0	19,731	0	0	0	0	0
KONICA MANUFACTURING U.S.A.,	0	70,470	0	0	0	0	0
KORDSA USA	0	0	0	0	0	0	0
KRISPY KREME DOUGHNUT CORPORA	62,588	0	0	0	0	0	0
KURZ TRANSFER PRODUCTS, L.P.	11,234	17,618	0	0	0	0	0
KYRUS CORP	8,409	0	0	0	0	0	0
KYRUS CORP	3,806	0	0	0	0	0	0
L & E PACKAGING, LLC	0	0	0	0	0	0	0
L & J ELECTRONICS INC	0	22	0	0	0	0	0
L & J ELECTRONICS, INC.	0	0	0	0	0	0	0
L B PLASTICS INC	0	0	1,922	0	0	0	0
L S STARRETT CO	0	0	0	0	0	0	0
LA MARA, INC.	0	57	0	0	0	0	0
LACE LASTICE CO INC	0	27,256	0	0	0	0	0
LADD FURNITURE, INC.	92,772	0	0	0	0	0	0
LADD FURNITURE, INC.	0	0	0	0	0	0	0
LADD FURNITURE, INC.	397,396	0	0	0	0	0	0
LADD FURNITURE, INC.	0	0	0	0	0	0	0
LAFEBER CO	0	0	89	0	0	0	0
LAKESIDE BEACH, INC.	0	0	0	0	0	0	0
LAMARR JOHNSON & ASSOCIATES,	0	0	0	0	0	0	0
LAMBDA TECHNOLOGIES, INC.	750	0	0	0	0	0	0
LAMPE & MALPHRUS LUMBER COMPA	0	0	0	0	0	0	0
LANCE MFG. LLC	0	298,982	0	0	0	0	0
LANCE, INC.	0	10,991	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
LANE FURNITURE INDUSTRIES, IN	0	30,555	0	0	0	0	0
LARRY W. POOLE & ASSOCIATES,	0	0	0	0	0	0	0
LARRY WILLIAMS PLUMBING & HEA	77	0	0	0	0	0	0
LARRY WILLIAMS PLUMBING & HEA	154	0	0	0	0	0	0
LAS PALMAS II, INC.	0	53	0	0	0	0	0
LAU INDUSTRIES, INC.	0	1,800	0	0	0	0	0
LAWN PRO., INC.	0	0	0	0	0	0	0
LAWSON FARMS, INC.	0	159	0	0	0	0	0
LA-Z-BOY INCORPORATED	34,250	25,214	0	0	0	0	0
LBSS,INC.	2,250	0	0	0	0	0	0
LE BLEU CORPORATION	0	13,146	0	0	0	0	0
LEDBETTER TIMBER AND PULPWOOD	0	486	0	0	0	0	0
LEE BRICK & TILE COMPANY	125	0	0	0	0	0	0
LEE BUILDER MART, INC.	0	0	0	0	0	0	0
LEE BUILDER MART, INC.	0	0	0	0	0	0	0
LEE MECHANICAL, INC.	0	0	10	0	0	0	0
LEE-MOORE OIL COMPANY	0	12,239	0	0	0	0	0
LEE-MOORE OIL COMPANY	0	14,824	0	0	0	0	0
LEGACY CLASSIC FURNITURE, INC	2,000	0	0	0	0	0	0
LEMANS CORPORATION	1,250	15,664	0	0	0	0	0
LENDINGTREE, INC.	9,693	0	0	0	0	0	0
LENOIR PAD AND PAPER COMPANY	936	0	0	0	0	0	0
LENOX, INCORPORATED	0	0	0	0	8	0	0
LEVITON MANUFACTURING CO., IN	0	28,006	0	0	0	0	0
LEWISVILLE PAVING COMPANY, IN	0	0	0	0	0	0	0
LEX MAR, INC.	0	0	0	0	0	0	0
LEXCOM CABLE SERVICES, INC.	0	0	0	0	0	0	0
LEXCOM TELEPHONE COMPANY	16,750	409,079	0	0	0	0	0
LEXINGTON BARBECUE, INCORPORA	0	0	0	0	0	0	0
LEXINGTON FURNITURE INDUSTRIE	0	19,170	0	0	0	0	0
LIBERTYHOUSE, INC.	0	185	0	0	0	0	0
LIGGETT GROUP INC.	0	69,397	0	0	0	0	0
LIMITORQUE CORPORATION	0	0	0	0	0	0	0
LIN PAC, IN	5,610	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
LINEAR TECHNOLOGY CORP	0	0	44,878	0	3	0	0
LINEAR TECHNOLOGY CORP	0	0	16,046	0	0	0	0
LIPS, INC.	0	0	0	0	0	0	0
LISY CORPORATION	0	145	0	0	0	0	0
LISY CORPORATION	0	1,098	0	0	0	0	0
LITESPEC OPTICAL FIBER LLC	0	107,785	0	0	0	0	0
LITTLE DAVID'S CARPET OUTLET,	0	18	0	0	0	0	0
LIVEWIRE LOGIC, INC.	0	0	528	0	0	0	0
LKF, INC.	0	2,024	0	0	0	0	0
LOFTIS CONSTRUCTION CORP.	0	805	0	0	0	0	0
LONESOURCE.COM, INC.	0	0	378	0	0	0	0
LONG CREEK FARMS, INC.	0	77	0	0	0	0	0
LORD CORPORATION	6,125	0	9,949	0	0	0	0
LORILLARD TOBACCO COMPANY	32,000	673,291	0	0	71,429	0	0
LOUISIANA-PACIFIC CORPORATION	24,000	70,517	0	0	0	0	0
LOWE'S COMPANIES, INC.	157,211	124,256	0	0	71,429	0	0
LOWE'S COMPANIES, INC.	857,537	6,367,107	0	0	717,429	0	0
LOWE'S COMPANIES, INC.	197,528	281,053	0	0	0	0	0
LOWE'S HOME CENTERS, INC.	0	53,387	0	0	0	0	0
LOWRY OIL COMPANY, INCORPORAT	0	0	0	0	0	0	0
LUNDBERG WINDOWS & SIDING, IN	0	0	0	0	0	0	0
LUSTAR DYEING AND FINISHING,	875	0	0	0	0	0	0
LUSTAR DYEING AND FINISHING,	875	0	0	0	0	0	0
LUTRABOND COMPANY	2,486	34,250	0	0	0	0	0
LUTRADUR CORPORATION	1,960	32,908	0	0	0	0	0
LVD CORP.	8	0	0	0	0	0	0
LVD CORP.	14,361	0	0	0	0	0	0
LVL7 SYSTEMS, INC.	0	0	0	0	0	0	0
LYLE E. FARVER & SON, INC.	7	0	0	0	0	0	0
M & M ELECTRIC SERVICE, INC.	0	0	0	0	0	0	0
M.C. PRECAST CONCRETE, INC.	0	0	0	0	0	0	0
M.D. COASTAL BILLING CENTER,	0	22	0	0	0	0	0
MACHINE & WELDING SUPPLY	0	0	0	0	0	0	0
MADDUX SUPPLY COMPANY	4,875	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MADDUX SUPPLY COMPANY	9,625	0	0	0	0	0	0
MAGNETI MARELLI POWERTRAIN U.	0	85,952	0	0	0	0	0
MAGNOLIA MFG CO	0	0	0	0	0	0	0
MAGNUM MANUF	0	0	0	0	0	0	0
MAIN STREET MONOGRAMS, INC.	0	0	0	9	0	0	0
MALLIN INVESTMENT COMPANY	0	0	0	0	45	0	0
MANDIR, INC.	0	145	0	0	0	0	0
MANESS, INC.	0	76	0	0	0	0	0
MANNING FABRICS, INC.	0	0	0	0	8	0	0
MAOLA MILK AND ICE CREAM COMP	0	4,603	0	0	0	0	0
MARAPESE MASONRY, INC.	0	566	0	0	0	0	0
MARCOM TRANSPORT, INC.	0	18	0	0	0	0	0
MARKETECH SYSTEMS	0	0	0	0	0	0	0
MARK'S MICRO SHOP, INC.	0	0	0	0	0	0	0
MARLOWE-VAN LOAN CORPORATION	0	0	0	0	0	0	0
MARLOWE-VAN LOAN CORPORATION	0	0	0	0	0	0	0
MARMON/KEYSTONE CORPORATION	125	0	0	0	0	0	0
MARSH'S CAROLINA EXTERIORS, I	0	0	0	0	0	0	0
MASONRY REINFORCING CORP OF A	0	0	0	0	0	0	0
MASSEY SEPTIC TANK CO., INC.	0	179	0	0	0	0	0
MASTER FORM, INC.	0	0	0	0	0	0	0
MASTERBRAND CABINETS, INC.	134,785	0	0	0	0	0	0
MATERIAL HANDLING TECHNOLOGIE	685	0	0	0	0	0	0
MAYFLOWER GLASS	0	0	0	0	0	0	0
MAYFLOWER GLASS	0	0	0	0	0	0	0
MAYFLOWER GLASS INC.	0	46	0	0	0	0	0
MAYFLOWER GLASS INC.	0	46	0	0	0	0	0
MAYFLOWER VEHICLE SYSTEMS, IN	9,470	0	0	0	0	0	0
MAYHEW BROS., INC.	0	57	0	0	0	0	0
MAYO KNITTING MILL, INCORPORA	0	7,012	0	0	0	0	0
M-B INDUSTRIES, INC.	0	6,595	0	0	0	0	0
MBB, INC.	0	0	0	0	0	0	0
MCCOY, HILLARD & PARKS, CPA'S	0	0	0	0	0	0	0
MCFARL[redacted]'OMPANY, INC., PU	3,066	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
MCGEE CORPORATION	438	0	0	0	0	0	0
MCLAMB'S L. P. GAS & SUPPLY C	0	0	0	0	0	0	0
MCLANE FOODSERVICE, INC.	13,238	2,493	0	0	0	0	0
MCLANE/CAROLINA,INC.	77,590	133,293	0	0	0	0	0
MCLAWHORN LIVESTOCK FARM, INC	0	0	0	0	0	0	0
MCMAN, INC.	0	0	0	0	0	0	0
MCMURRAY FABRICS, INC.	0	0	0	0	0	0	0
MCNEELY ASSOCIATES P.A.	0	0	0	9	0	0	0
MCNUTT SERVICE GROUP, INC.	156	0	0	0	0	0	0
MDEVERYWHERE, INC.	0	0	6,044	0	0	0	0
MDM, INC.	0	0	0	0	222	0	0
MEASURMENT INCORPORATED PAYRO	32,495	3,884	0	0	0	0	0
MEC-TRIC CONTROL COMPANY	68	0	0	0	0	0	0
MED COVERS, INC.	0	0	0	0	0	0	0
MEDIA EVOLVED, LLC	0	0	0	0	0	0	0
MEDIBEG USA, INC.	2,734	0	0	0	0	0	0
MEDICAL CYBERNETICS, INC.	0	0	0	0	0	0	0
MEDICAL CYBERNETICS, INC.	0	0	0	0	0	0	0
MEDICAL SPECIALTIES INCORPORA	0	0	0	0	0	0	0
MEDICAL SQUARE ASSOCIATES	0	0	0	0	0	0	0
MEDICLICK, INC.	0	0	256	0	0	0	0
MEDTEC, INC.	0	0	0	0	0	0	0
MERCHANTS DISTRIBUTORS, INC.	0	100,847	0	0	0	0	0
MERCK & CO., INC.	207,000	120,407	0	0	0	0	0
MEREDITH WEBB PRINTING CO.INC	0	0	0	0	0	0	0
MERIX BIOSCIENCE, INC.	0	0	19,886	0	0	0	0
MERRITT LOGGING AND CHIPPING	0	0	9	0	0	0	0
MERRITT'S POTTERY, INC.	0	0	0	0	0	0	0
METAGENIX, INC.	0	0	101	0	0	0	0
METAL WORKS OF HIGH POINT, IN	0	0	0	0	0	0	0
METRICS, INC.	0	0	0	0	0	0	0
METRO MOBILE CTS OF CHARLOTTE	0	44	0	0	0	0	0
MICELL TECHNOLOGIES, INC.	1,725	0	0	0	0	0	0
MICHAEL A. SWANN, P.A.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MICHIGAN PACKAGING COMPANY	0	32,451	0	0	0	0	0
MICHIGAN PACKAGING COMPANY	0	749	0	0	0	0	0
MICKEY TRUCK BODIES INC.	8,750	12,877	0	0	0	0	0
MICRO AUDIOMETRICS CORPORATIO	102	0	463	0	0	0	0
MICRO AUDIOMETRICS CORPORATIO	59	0	461	0	0	0	0
MICROBAN PRODUCTS COMPANY	1,527	0	1,870	0	0	0	0
MICROFIBRES, INC.	0	25,959	0	0	0	0	0
MICROMASS COMMUNICATIONS, INC	0	0	268	0	0	0	0
MICVIC INC.	0	0	0	0	0	0	0
MID ATLANTIC PRINTERS LTD	10	0	0	0	0	0	0
MID SOUTH DRILLING INCORPORAT	0	0	9	0	0	0	0
MID-ATLANTIC BUILDING SYSTEMS	0	0	0	1,963	0	0	0
MID-ATLANTIC DRAINAGE, INC.	0	0	0	0	0	0	0
MIDSTATE MILLS, INC.	0	21,134	0	0	0	0	0
MIKE LAWRENCE, INC.	0	1	0	11	0	0	0
MIKE NEAVES TRUCKING, INC.	0	283	0	0	0	0	0
MILKCO, INC.	4,125	30,344	0	45,076	0	0	0
MILKCO, INC.	17,906	53,996	0	68,603	0	0	0
MILLENNIUM EQUIPMENT CO.	0	0	0	0	79	0	0
MILLENNIUM MANUFACTURING STRU	3,305	0	0	0	0	0	0
MILLER BREWING COMPANY	500	535,887	180	0	0	0	0
MILLRIDGE INVESTMENTS, INC.	0	0	0	0	0	0	0
MINDENHILL FARMS, INC.	0	64	0	0	0	0	0
MINTON'S AUTOMOTIVE, INC.	0	18	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRRO PRODUCTS COMPANY, INCOR	0	10	0	0	0	0	0
MJ SOFFE CO INC	42,394	0	0	0	0	0	0
MODACAD INC	0	0	0	0	0	0	0
MOEN INCORPORATED	91,375	354,362	160,964	0	0	0	0
MOEN INCORPORATED	181,750	283,729	56,494	0	0	0	0
MOHICAN MILLS INC	0	13,503	0	0	0	0	0
MOLDED FI[redacted]SS COMPANY/NO	0	0	[redacted]0	25,625	16,781	0	[redacted]0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
MOLDED FIBER GLASS COMPANY/NO	7,927	0	0	0	0	0	0
MONOLITH CORPORATION	0	0	0	0	0	0	0
MONSANTO COMPANY	4,750	67,801	0	0	0	0	0
MOORE'S WELDING SERVICE, INC.	0	0	0	0	0	9	0
MORFLEX, INC.	0	0	38,978	0	0	0	0
MORGANITE	0	0	0	0	0	0	0
MORRIS COMMUNICATION CORP	0	0	0	0	0	0	0
MORRIS HEATING & AIR CONDITIO	2	0	0	0	0	0	0
MORRISETTE PAPER COMPANY, INC	0	2,577	0	0	0	0	0
MORRISETTE PAPER COMPANY, INC	0	4,173	0	0	0	0	0
MORTON & SHERMAN IMPLEMENT CO	0	0	0	0	0	0	0
MOSS-FISHER, INC.	0	0	0	0	0	0	0
MOTOR PRODUCTS INC	0	3,801	0	0	0	0	0
MOUNT OLIVE PICKLE COMPANY, I	151,200	33,240	0	0	0	0	0
MOUNT OLIVE PICKLE COMPANY, I	131,250	93,157	0	0	0	0	0
MOUNTAINEER JANITORIAL SUPPLY	0	2,160	0	0	0	0	0
MOVIEMAX, INC.	0	57	0	0	0	0	0
MSS CLEAN TECHNOLOGY INC.	0	0	0	0	0	0	0
MT. AIRY OB-GYN CENTER, INC.	16	0	0	0	0	0	0
MTLC LIMITED	0	0	0	9	0	0	0
MU RO, INC.	674	12,852	0	0	0	0	0
MULLIS MOTORSPORTS, INC.	0	0	0	0	0	0	0
MUSCLE MOTORSPORTS, INC.	0	129	0	0	0	0	0
MYLAN PHARMACEUTICALS INC.	9,750	12,172	0	0	0	0	0
NACCO MATERIALS HANDLING GROU	0	0	0	58,064	0	0	0
NANCE-JORDAN NURSERIES, INC.	0	0	0	0	0	0	0
NARRICOT INDUSTRIES, INC.	19,295	10,308	0	0	0	0	0
NASHVILLE WELDING & MACHINE W	0	0	0	0	0	0	0
NATHANS LAWN SERVICE INC	0	0	0	0	0	0	0
NATIONAL PIPE & PLASTICS, INC	0	15,932	0	0	0	0	0
NATIONAL SERVICE INDUSTRIES	0	1,668	0	0	0	0	0
NATIONAL TEXTILES LLC	1,250	48,166	0	0	0	0	0
NATUZZI AMERICAS, INC.	125	0	0	0	0	0	0
NEIL ALLEN INDUSTRIES, INC.	500	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
NEPTCO, INCORPORATED	0	0	0	0	0	0	0
NEPTCO, INCORPORATED	0	91,109	0	0	0	0	0
NETOCTAVE, INC.	1,471	0	0	0	0	0	0
NETWORK ASSOCIATES, INC.	0	0	5,016	0	0	0	0
NEUVILLE INDUSTRIES, INC.	3,351	3,363	0	0	0	0	0
NEW BERN AUTO SUPPLY, INC.	0	0	0	0	0	0	0
NEW BREED CORPORATE SERVICES,	12,000	5,496	0	0	28,275	0	0
NEW BREED, INC.	0	0	0	0	0	0	0
NEW FILCAS OF AMERICA, INC.	0	4,635	0	0	0	0	0
NEW FILCAS OF AMERICA, INC.	22,077	1,488	0	0	0	0	0
NEW FOREST TECHNOLOGY INC	0	179	0	0	0	0	0
NEW HERITAGE REALTY AND DEVEL	0	0	0	0	239	0	0
NEW SOUTH INTERNATIONAL, INC.	0	0	0	0	0	0	0
NEWTON INSTRUMENT CO	0	0	0	0	0	0	0
NEWTON INSTRUMENT CO INC	8,250	9,595	0	0	0	0	0
NEWTON INSTRUMENT CO INC	8,250	11,073	0	0	0	0	0
NEXANS INC.	0	4,663	0	0	0	0	0
NEXTEL SOUTH CORP.	0	114,239	0	0	0	0	0
NGK CERAMICS USA, INC.	0	93,281	0	0	0	0	0
NIKHIL VYAS SECOND SHARE PRIV	0	0	0	0	0	0	0
NITRONEX CORPORATION	0	0	17,680	0	0	0	0
NIVEK CORPORATION	70	0	0	0	0	0	0
NJB AUTO GROUP, INC.	0	31	0	0	0	0	0
NOBLE OIL SERVICES, INC.	0	0	0	0	0	0	0
NOEL FAMILY TRUST	0	70	20	0	0	0	0
NOEL FAMILY TRUST BO WENDY NO	0	70	20	0	0	0	0
NOEL FAMILY TRUST FBO MICHAEL	0	70	20	0	0	0	0
NOEL VENTURES, LLC	0	13,509	0	0	0	0	0
NOELFAMILY	0	0	0	0	0	0	0
NOMACORC LLC	0	0	0	0	0	0	0
NORANDAL USA, INC.	0	6,406	0	0	0	0	0
NORDIC GROUP OF COMPANIES, LT	0	8,740	0	0	0	0	0
NORDIC GROUP OF COMPANIES, LT	0	8,102	7,257	0	0	0	0
NORMAN BE[redacted]'VESTME	0	21	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
NORTEL NETWORKS INC.	0	0	1,129,971	0	0	0	0
NORTH 321 STONE COMPANY, INC.	0	0	0	0	0	0	0
NORTH CAROLINA ASAHI, INC.	9,268	0	0	0	0	0	0
NORTH CAROLINA MOTORS AND CON	0	0	0	0	0	0	0
NORTH CAROLINA SERVICES CORPO	10,375	0	0	0	0	0	0
NORTH CAROLINA SERVICES CORPO	13,625	0	0	0	0	0	0
NORTH STATE DISPOSAL, INC.	0	0	0	0	0	0	0
NORTH STATE TELEPHONE COMPANY	1,625	182,995	0	0	0	0	0
NORTHEAST TOOL AND MFG. COMPA	500	0	0	0	0	0	0
NORTHEAST TOOL AND MFG. COMPA	500	0	0	0	0	0	0
NORTHEASTERN DERMATOLOGY	0	0	0	0	0	0	0
NORTHWEST RADIOLOGICAL & ASSO	0	0	0	0	0	0	0
NOVARTIS ANIMAL HEALTH US, IN	2,875	0	8,625	0	71,429	0	0
NOVARTIS PHARMACEUTICALS CORP	0	0	212,149	0	0	0	0
NOVATION FABRICS, INC.	0	8,145	0	0	0	0	0
NOVATION FABRICS, INC.	0	8,145	0	0	0	0	0
NOVO NORDISK PHARMACEUTICAL I	5,500	62,434	0	0	0	0	0
NOVOVITA INC	0	0	4,429	0	0	0	0
NOVOZYMES NORTH AMERICA, INC.	11,000	124,032	35,486	0	0	0	0
NSS, LLC	0	55	0	0	0	0	0
NU & MINH, INC.	0	18	0	0	0	0	0
NUWAY SPEAKER PRODUCTS, INC.	0	2,550	0	0	0	0	0
NVIDIA CORPORATION	0	0	4,813	0	0	0	0
NYNEX PCS, INC.	0	78,510	0	0	0	0	0
NYPRO CAROLINA INC.	35,750	7,972	0	0	0	0	0
NYPRO CAROLINA INC.	9,500	4,669	0	0	0	0	0
O. HENRY HOUSE LTD	0	0	0	0	0	0	0
OAK ISLAND SERVICES CORPORATI	0	115	0	0	0	0	0
OAKWOOD ACCEPTANCE CORP	0	0	0	0	0	0	0
OAKWOOD HOMES CORPORATION	0	37,500	0	0	0	0	0
OAKWOOD HOMES CORPORATION	2,000	35,500	0	0	0	0	0
OAKWOOD MOBILE HOMES, INC.	59,095	20,577	0	0	0	0	0
OFFICE DEPOT INC	1,375	13,989	0	0	0	0	0
OKUMA AMERICA CORPORATION	0	49,678	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
OLDHAM SAW CO INC	0	0	0	0	0	0	0
OLDHAM SAW CO., INC.	0	0	0	0	0	0	0
OLIVER RUBBER COMPANY	0	5,220	29,172	0	0	0	0
OPTICAL EXPERTS MANUFACTURING	8,675	0	0	0	0	0	0
OPTIMUM FILTRATION CO	0	0	0	0	0	0	0
ORDIWAY ENTERPRISES, INC.	0	36	0	0	0	0	0
ORNAMENTAL MOULDINGS INC	0	0	0	0	0	0	0
ORTHO-CLINICAL DIAGNOSTICS, I	0	0	0	0	0	0	0
OSTROW HOLDINGS, INC.	0	0	0	0	0	0	0
OUTDOOR LIGHTING, INC.	2	0	0	0	0	10	0
OUTER BANKS PAINT CENTER, INC	0	10	0	0	0	0	0
OVERHEAD HANDLING SYSTEMS INC	18	0	0	0	0	0	0
OWEN E. GUPTON ROOFING, INC.	0	0	0	0	0	0	0
OWENS & MINOR MEDICAL, INC.	19,125	0	0	0	0	0	0
OWENS ELECTRIC MOTOR REPAIRS	0	18	0	0	0	0	0
OWENS-BROCKWAY PLASTIC PRODUC	5,000	2,397	0	2,000	0	0	0
OWENS-ILLINOIS CLOSURE INC.	21,640	0	0	30,000	0	0	0
P & D INVESTMENTS, INC.	0	69	0	0	0	0	0
P & R LOGGING, INC.	0	0	0	9	0	0	0
P J'S SPORTSWEAR, INC.	0	43	0	0	0	0	0
P P G INDUSTRIES, INC.	1,125	0	60,259	0	0	0	0
P, INC.	0	0	0	0	0	0	0
P.A.M.A. FURNITURE, INC.	0	0	0	0	0	0	0
PACKAGING CORPORATION OF AMER	0	5,800	0	13,500	0	0	0
PAINTING YOUR WORLD, INC.	0	0	0	0	0	0	0
PAINTWORKS, INC.	9	0	0	0	0	0	0
PAMA FURNITURE INC	0	0	0	0	0	0	0
PARADISE VALLEY, INC.	0	0	0	0	0	9	0
PARAGON BUILDING CORPORATION	0	0	0	6	0	0	0
PARKDALE A	0	0	0	0	0	0	0
PARKDALE MILLS, INCORPORATED	0	0	0	0	0	0	0
PARKER SALES & SERVICE, INC.	214	0	0	0	0	0	0
PARTON LUMBER COMPANY, INC.	0	19,963	0	0	0	0	0
PASS & SEYMO[illegible] NC.	61,764	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
PATE-DAWSON COMPANY	4,500	0	0	0	0	0	0
PATY LUMBER COMPANY	0	0	0	0	0	0	0
PAXAR CORPORATION	0	23,832	0	0	0	0	0
PCII, LLC	2,416	3,820	0	0	0	0	0
PCS PHOSPHATE COMPANY, INC.	0	350,231	0	0	0	0	0
PEARCE BROTHERS ROOFING CO.,	114	0	0	0	0	0	0
PEC THECHNOLOGIES SOUTH EASTE	0	0	0	0	0	0	0
PECHINEY PLASTIC PACKAGING, I	0	35,325	0	0	0	0	0
PEDULLA TRUCKING, EXCAVATING	0	737	0	0	0	0	0
PEE DEE EMC SERVICES, INC.	0	49	0	0	0	0	0
PENDER NURSERY, INC.	0	0	0	0	0	0	0
PENDLETON FARMS INC	0	0	0	0	0	0	0
PENN ENGINEERING & MANUFACTUR	5,375	0	0	0	0	0	0
PEOPLECLICK.COM, INC.	0	0	6,179	0	0	0	0
PEOPLECLICK.COM, INC.	0	0	6,250	0	0	0	0
PEOPLES WAREHOUSE, INC.	0	0	0	0	0	0	0
PEPCOM INDUSTRIES, INC.	63,618	127,577	0	0	0	0	0
PEPSI BOTT	0	0	0	0	0	0	0
PEPSI-COLA BOTTLING COMPANY O	7,375	7,292	0	0	0	0	0
PEPSI-COLA BOTTLING COMPANY O	0	4,049	0	0	0	0	0
PERFECTION FABRICS, INC.	0	97	0	0	0	0	0
PERFORMAWORKS, INC.	875	0	241	0	0	0	0
PERGO, INC.	10,500	27,000	0	0	0	0	0
PERNELL STEEL AND MACHINE SER	0	0	0	0	0	0	0
PETER N. GLASS & ASSOCIATES,	0	0	10	6	9	0	0
PETER OUTLAW'S GOURMET FOODS,	0	32	0	63	0	0	0
PETERSON DEVELOPMENT CORPORAT	0	0	0	0	0	0	0
P-F PLUMBING CONTRACTORS, INC	0	0	0	0	0	6	0
PH GLATFELTER CO	0	0	0	0	0	0	0
PHARMAGRAPHICS (SOUTHEAST) LL	0	0	0	0	0	0	0
PHARMAGRAPHICS LLC	0	0	0	0	0	0	0
PHARMAGRAPHICS, INC.	625	0	0	0	0	0	0
PHARSIGHT CORPORATION	0	0	1,532	0	0	0	0
PHILIP MORRIS INCORPORATED	18,500	5,033,062	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
PHILLIPS-VAN HEUSEN CORPORATI	6,500	0	0	0	0	0	0
PHILLIPS-VAN HEUSEN CORPORATI	6,500	0	0	0	0	0	0
PHOENIX COMMUNICATIONS LTD.	0	0	9	0	0	0	0
PHOENIX LUMBER CO	0	0	0	0	0	0	0
PIEDMONT METALS OF BURLINGTON	250	0	0	0	0	0	0
PIEDMONT PACKAGING, INCORPORA	125	0	0	0	0	0	0
PIEDMONT TRAILER RENTALS, INC	90	0	0	0	0	0	0
PIEDMONT TRAILER REPAIRS, INC	0	0	0	0	0	0	0
PILKINGTON NORTH AMERICA, INC	0	65,339	0	0	0	0	0
PINE HALL BRICK CO., INC.	0	0	0	0	0	0	0
PINE HALL BRICK CO., INC.	15,401	3,262	0	0	0	0	0
PINNACLE FILMS, INC.	0	0	0	0	0	0	0
PINPOINT NETWORKS, INC.	0	0	0	0	0	0	0
PIONEER ECLIPSE CORPORATION	8,951	354	0	0	0	0	0
PISGAH LABORATORIES, INC.	0	0	19,814	0	0	0	0
PLASTIC PACKAGING, INC.	7,197	46,695	0	0	8	0	0
PLASTIC TECHNOLOGY, INC.	0	0	0	0	0	0	0
PLATINUM PROTECTIVE PRODUCTS,	0	1,169	0	0	0	0	0
PLIANT SYSTEMS, INC.	0	0	4,273	0	0	0	0
PLUS DISTRIBUTORS, INC.	0	9	0	0	0	0	0
PLYMOUTH PRINTING CO. INC.	0	1,052	0	0	0	0	0
PMW PRODUCTS, INC.	0	0	0	0	0	0	0
POLAR PLASTICS (NC) INC	0	0	0	0	9,474	0	0
POLAR PLASTICS (NC) INC	0	0	0	0	9,681	0	0
POLTHOM, INC.	0	61	0	0	0	0	0
POLYCHEM ALLOY, INC.	1,750	0	2,472	0	0	0	0
POLYZEN INC	0	0	0	0	0	0	0
POST, BUCKLEY, SCHUH & JERNIG	0	0	21,059	0	0	0	0
PPG INDUSTRIES FIBER GLASS PR	0	716,056	0	0	0	0	0
PRECISION ALLOYS INC	0	0	0	0	0	0	0
PRECISION COMPONENTS, INC.	0	0	0	0	0	0	0
PRECISION DECORATING CENTER,	30	0	0	0	0	0	0
PRECISION FABRICS GROUP, INC.	1,750	0	77,556	0	0	0	0
PRECISION ICS GROUP, INC.	1,750	0	74,776	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
PREFERRED MEDICAL MARKETING C	0	0	7,505	0	0	0	0
PREFORMED LINE PRODUCTS COMPA	31,500	12,627	0	0	0	0	0
PRESTIGE FABRICATORS, INC.	750	2,362	0	0	0	0	0
PRESTIGE SEWING COMPANY	0	0	0	0	0	0	0
PRESTON-HILL, INC.	0	0	0	0	0	0	0
PRIDE OF SAMPSON, INC.	225	0	0	0	0	0	0
PRIDGEN BROS. CONTRACTORS, IN	63	0	0	0	0	0	0
PRIDGEN WOODWORK, INC.	111,101	0	0	0	0	0	0
PRINCE BROTHERS FURNITURE CO.	0	0	0	0	0	0	0
PRINTPACK INC	2,250	0	0	0	0	0	0
PRINTPACK INC	2,250	0	0	0	0	0	0
PRISM TECHNOLOGY RESOURCES, I	0	0	0	0	0	0	0
PROBITY PRODUCTS	0	0	0	0	0	0	0
PROTRONICS, INC.	0	72	0	0	0	0	0
PURCHASE FINANCE, INC.	4	0	0	0	0	0	0
PUROLATOR	0	0	0	0	0	0	0
PUROLATOR FACET, INC.	2,250	0	14,231	0	0	0	0
PUROLATOR PRODUCTS AIR FILTRA	16,000	0	2,108	0	0	0	0
PUROLATOR PRODUCTS NA, INC.	7,000	98,490	0	0	0	0	0
PYA/MONARCH, INC.	10,750	23,005	0	0	0	0	0
PYROTECH SERVICES, INC.	0	0	0	0	0	0	0
QUENBY AUTO CENTER, INC.	0	0	0	0	25	0	0
QUINTILES TRANSNATIONAL CORP.	15,125	14,273	0	0	7,202	0	0
QUINTILES, INC.	17,000	43,378	0	0	0	0	0
R & J SERVICE COMPANY, INC.	31	0	0	0	0	0	0
R & R MACHINE COMPANY, INC.	0	0	0	0	0	0	0
R & S MACHINERY & DESIGN, INC	0	64	0	0	0	0	0
R. A. SERAFINI, INC.	0	3,346	0	0	0	0	0
R. J. REYNOLDS TOBACCO COMPAN	127,125	301,418	0	113,500	0	0	0
R. L. STOWE MILLS, INC.	20,879	0	0	0	0	0	0
R. L. STOWE MILLS, INC.	17,045	0	0	0	0	0	0
R.H. DONNELLEY INC.	0	0	0	0	0	0	0
R.H. HAGEMEYER, INC.	0	137	0	6	0	0	0
R.P. MACHINE ENTERPRISES, INC	18	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
RACE CITY MACHINE & FABRICATI	0	18	0	0	0	0	0
RACK ROOM SHOES, INC.	0	6,389	0	0	0	0	0
RADICISPANDEX CORP	0	0	0	0	0	0	0
RADONNAS, INC.	0	59	0	0	0	0	0
RAFLATAC, INC.	3,000	0	0	0	0	0	0
RAILLINC CORPORATION	0	0	0	0	0	0	0
RAILROAD FRICTION PRODUCTS CO	70,750	0	9,087	0	0	0	0
RAINDROP GEOMAGIC, INC.	0	0	0	0	0	0	0
RALEIGH GOLF ASSOCIATION, INC	0	0	0	0	0	0	0
RALEIGH GROUP INTERNATIONAL,	0	0	0	0	0	0	0
RALEIGH MEDICAL GROUP, P.A.	0	0	0	0	0	0	0
RALEIGH PLASTIC SURGERY CENTE	41	0	0	0	0	0	0
RAM TRUST NO. 1	0	0	0	0	0	0	0
RAM TRUST NO. 10	0	0	0	0	0	0	0
RAM TRUST NO. 2	0	0	0	0	0	0	0
RAM TRUST NO. 29	0	0	0	0	0	0	0
RAM TRUST NO. 3	0	0	0	0	0	0	0
RAM TRUST NO. 4	0	0	0	0	0	0	0
RAM TRUST NO. 5	0	0	0	0	0	0	0
RAM TRUST NO. 6	0	0	0	0	0	0	0
RAM TRUST NO. 7	0	0	0	0	0	0	0
RAM TRUST NO. 8	0	0	0	0	0	0	0
RAM TRUST NO. 9	0	0	0	0	0	0	0
RAMSEY'S HARDWOOD MILL, INC.	0	5,586	0	0	0	0	0
RAMTEX INC.	0	90,794	0	0	0	0	0
RAMTEX INC.	0	4,107	0	0	0	0	0
RANDY'S RV OF RALEIGH, INC.	0	422	0	0	0	0	0
RAWLS TRACTOR REPAIR, INC.	0	0	10	0	0	0	0
RBC CENTURA BANK	60,500	55,623	0	0	0	0	0
REALTY PRESENTATIONS, INC.	0	0	0	0	9	0	0
RECREATIONAL EQUIPMENT, INC.	95	0	0	0	0	0	0
RED VALVE COMPANY, INC.	0	0	2,147	3,651	0	0	0
REDMAN HOMES, INC.	0	0	0	0	0	0	0
REFRIGERATE[redacted]OXES, INC	0	3,644	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
REGIONAL STORAGE & TRANSPORT,	3,831	0	0	0	0	0	0
REGIONAL SURGICAL AFFILIATES,	9	0	0	0	0	0	0
REICHHOLD, INC.	0	0	31,402	0	0	0	0
RELATIVITY TECHNOLOGIES, INC.	0	0	799	0	0	0	0
RELEASE INTERNATIONAL, INC.	1,508	0	0	0	0	0	0
RELEASE INTERNATIONAL, INC.	8,660	8,047	0	0	0	0	0
RELIANCE ELECTRIC INDUSTRIAL	56,595	134,911	0	0	0	0	0
RELIANCE ELECTRIC INDUSTRIAL	61,723	83,464	0	0	0	0	0
REMCO EAST, INC.	0	0	6	0	0	0	0
REMCO SUPPLY, INC.	1,488	0	0	0	0	0	0
REMINGTON ARMS COMPANY, INC.	0	0	0	0	0	0	0
REMPAC FOAM CORP	1,734	384	0	0	0	0	0
RENAISSANCE WORLDWIDE IT CONS	0	0	0	0	0	0	0
RENE COMPOSITE MATERIALS CORP	0	0	0	2,530	0	0	0
RENFRO FL, INC.	0	67,631	0	0	0	0	0
REPLACEMENTS, LTD.	11,973	3,600	0	0	0	0	0
REPLACEMENTS, LTD.	0	0	0	0	0	0	0
RESER'S FINE FOODS INC	0	0	0	0	0	0	0
RESINALL CORP	0	0	0	0	0	0	0
RE-SOURCE AMERICA, INC.	0	0	18	0	0	0	0
REVLON CONSUMER PRODUCTS CORP	0	118,106	0	0	0	0	0
REXAM BEVERAGE CAN COMPANY	0	54,836	0	0	0	0	0
REXAM RELEASE	0	29,983	0	0	0	0	0
REXNORD CORPORATION	0	15,674	0	0	0	0	0
RF MICRO DEVICES, INC.	93,000	146,822	0	0	0	0	0
RICHARD GAYLORD HOMES, INC.	52	0	0	0	0	0	0
RICHARDSON CONTRACTING SERVIC	0	86	0	0	0	0	0
RMC CAROLINA MATERIALS, INC.	0	32,175	0	0	0	0	0
ROANE OBSTETRICS & GYNECOLOGY	0	0	0	0	0	0	0
ROBERT ABBEY, INC.	9	0	0	0	0	0	0
ROBERT C. HICKMAN INSURANCE A	0	0	0	0	0	0	0
ROBERT PIERCE FARMS, INC.	0	0	0	9	10	0	0
ROBERT S HUDGINS CO INC	2	0	0	0	0	0	0
ROBERTS BROS., INC.	0	987	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ROCKY MOUNT DERMATOLOGY	0	0	0	0	0	0	0
ROCKY MOUNT RECYCLERS, INC.	0	4,088	0	0	0	0	0
ROCKY MOUNT RECYCLERS, INC.	0	0	0	0	0	0	0
ROEHRIG ENGINEERING INC	0	1,138	0	0	0	0	0
ROGER A BETTIS TRUCKING INC	0	900	0	0	0	0	0
ROGER B. BERNHOLZ, P.A.	0	0	0	0	0	0	0
ROGER DAVIS COMPANY, INC.	0	0	0	0	0	0	0
ROLLASON & WOOD REALTY, INC.	0	31	0	0	0	0	0
ROMEO GUEST ASSOCIATES, INC.	266	0	0	0	0	0	0
ROMEO GUEST ASSOCIATES, INC.	266	0	0	0	0	0	0
RON LONG SALES, INC.	0	10	0	0	0	0	0
ROSEMART, INC.	0	0	0	0	0	0	0
ROYAL PARK UNIFORMS, INC.	15,500	1,187	0	0	0	0	0
ROYAL PARK UNIFORMS, INC.	14,747	0	0	0	0	0	0
RU-BOB GOLF COURSE, INC.	0	87	0	0	0	0	0
S & D COFFEE INC	4,876	52,543	0	0	0	0	0
S & L, INC.	0	31	0	0	0	0	0
S & N COMMUNICATIONS, INC.	450	0	0	0	0	0	0
S & W READY MIX CONCRETE COMP	0	12,786	0	0	0	0	0
S & W READY MIX CONCRETE COMP	0	10,011	0	0	0	0	0
S T E R, ENTERPRISES, INC.	0	0	0	0	0	0	0
S. B. SNIDER ENTERPRISES, INC	8	0	0	0	0	0	0
S.N.M. MANUFACTURING, INC.	0	0	0	0	0	0	0
SABER CARGO AIRLINES, INC.	0	0	0	0	483	0	0
SAFELITE GLASS CORP	0	0	0	7,968	0	0	0
SAFFRON TECHNOLOGY, INC.	0	0	628	0	0	0	0
SAFT AMERICA INC	0	0	9,532	0	0	0	0
SAINT-GOBAIN CONTAINERS, INC.	0	49,652	0	0	0	0	0
SANDLAND LAWN & LANDSCAPE, IN	0	0	0	0	0	0	0
SANDVIK, INC.	0	36,223	0	0	0	0	0
SANMINA CORPORATION	0	24,149	0	0	0	0	0
SANTA FE NATURAL TOBACCO CO	21,327	26,095	0	5,000	0	0	0
SAPONA MANUFACTURING COMPANY,	375	35,224	0	0	0	0	0
SARA LEE C[redacted]ATION	375,966	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
SARA LEE SOCK COMPANY	0	46,221	0	0	0	0	0
SARA LEE SOCK COMPANY	0	6,409	0	0	0	0	0
SAS INSTITUTE INC.	0	0	0	0	0	0	0
SAS INSTITUTE INC.	0	0	138,855	0	0	0	0
SAS SHOES OF ASHEVILLE, INC.	0	0	0	6	0	0	0
SAT INTERNATIONAL, INC.	0	0	0	0	0	0	0
SATURN RETAIL OF CHARLOTTE NC	0	900	0	0	0	0	0
SATURN RETAIL OF RALEIGH NC,	0	900	0	0	0	0	0
SBS TECHNOLOGIES, INC., GOVER	0	0	10,983	0	0	0	0
SBS TECHNOLOGIES, INC., GOVER	0	0	5,458	0	0	0	0
SCHAEFER SYSTEMS INTERNATIONA	1,250	0	0	0	0	0	0
SCHOLTZ I LIMITED PARTNERSHIP	0	0	0	0	0	0	0
SCIQUEST, INC.	17,375	25,130	47,063	0	5,991	0	0
SCOTT DUPRE-CUSTOM BUILDER, I	0	311	0	0	0	0	0
SCOTT R. MELROSE & ASSOCIATES	0	0	0	0	0	0	0
SCYNEXIS CHEMISTY & AUTOMATIO	3,500	0	51	0	0	0	0
SEABOARD GIN COMPANY	0	579	0	0	0	0	0
SEALED AIR CORPORATION (US)	58,750	25,929	0	0	0	0	0
SEALY INC	21,625	67,312	0	0	15,975	0	0
SEALY MATTRESS MANUFACTURING	1,306	0	0	0	0	0	0
SEEGARS FENCE CO OF WAKE COUN	0	0	0	0	0	0	0
SELEE CORPORATION	0	6,755	0	0	0	0	0
SENTINEL AUTOMOTIVE DISTRIBUT	0	24	0	0	0	0	0
SEVERN PEANUT COMPANY, INC.	26,609	0	0	0	0	0	0
SGL CARBON CORPORATION	0	0	0	0	0	0	0
SHADOWLINE, INCORPORATED	2,250	0	0	0	0	0	0
SHEEHAN CONSTRUCTION COMPANY,	0	552	0	0	0	0	0
SHELTON'S LAWN CARE, INC.	0	81	0	0	0	0	0
SHEPHERD'S VINEYARD SWIM AND	0	0	0	0	0	0	0
SHOEHEEL HARVESTING LLC	0	0	0	0	0	0	0
SHOTO, INC.	0	0	0	0	0	0	0
SHOWLINE AUTOMOTIVE	0	0	0	0	0	0	0
SHOWLINE AUTOMOTIVE PRODUCTS,	0	497	0	0	0	0	0
SHREE DUTT, INCORPORATED	0	71	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SHREE RANG, INC.	0	63	0	0	0	0	0
SHUFORD MILLS, INC.	0	12,534	0	0	0	0	0
SHURTAPE TECHNOLOGIES, INC.	0	0	31,790	0	0	0	0
SIEBEL SYSTEMS, INC.	0	0	23,095	0	0	0	0
SIEMENS WESTINGHOUSE POWER CO	25,125	0	0	0	0	0	0
SIERRAPINE LIMITED	0	0	0	0	0	0	0
SILICON SEMICONDUCTOR CORPORA	0	0	0	0	0	0	0
SILVERBACK TECHNOLOGIES, INC.	0	0	23	0	0	0	0
SKY ENTERPRISES, INC.	0	0	0	0	0	0	0
SLICKEDIT INC.	1,125	0	13,868	0	0	0	0
SMART ONLINE, INC.	632	0	0	0	0	0	0
SMITH BROTHERS TRUCKING OF MO	0	0	0	0	18	40	0
SMITH FABRICATION, INC.	0	16	10	0	0	0	0
SMITHKLINE BEECHAM CORPORATIO	0	0	0	0	0	0	0
SMITH-TOMLINSON CORPORATION	0	0	0	0	0	0	0
SMOKY MOUNTAIN WATERPROOFING,	0	27	0	0	0	0	0
SNIDER'S MACHINE SHOP, INC.	0	0	0	0	9	0	0
SOFTEX FIN	328	0	0	0	0	0	0
SOFTPRO CORP	0	0	0	0	0	0	0
SOFTWARE DEVELOPMENT EUROPE,	9	9	0	0	0	0	0
SOLECTRON TECHNOLOGY, INC.	0	0	0	0	0	0	0
SOLECTRON TECHNOLOGY, INC.	142,936	0	0	0	0	0	0
SONOCO PRODUCTS CO	0	0	0	0	0	0	0
SONOPRESS, INC.	0	237,783	0	0	0	0	0
SOUTH TECH PLASTICS, INC.	0	0	0	0	0	0	0
SOUTHCO DISTRIBUTING CO	0	0	0	0	0	0	0
SOUTHEAST LIBRARY BINDERY, IN	0	239	0	0	0	0	0
SOUTHEASTERN AGENCY GROUP, IN	0	0	0	0	0	0	0
SOUTHEASTERN CONTAINER, INC.	0	43,593	0	0	0	0	0
SOUTHEASTERN PROTEIN INC	0	0	0	0	0	0	0
SOUTHERN COASTAL MARKETING SE	0	0	0	0	332	0	0
SOUTHERN CONCRETE	0	0	0	0	0	0	0
SOUTHERN CONCRETE MATERIALS,	30,625	21,905	0	0	0	0	0
SOUTHER[redacted]AINER CORP.	11,250	61,673	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
SOUTHERN FABRICATORS, INC.	10,931	0	0	0	0	0	0
SOUTHERN FILM EXTRUDERS, INC.	0	5,515	0	0	0	0	0
SOUTHERN HARDWOODS, INC.	0	2,445	0	0	0	0	0
SOUTHERN PARTS OF HILLSBOROUG	28	0	0	0	0	0	0
SOUTHERN STATES INSPECTIONS I	0	0	0	0	0	0	0
SOUTHERN STEEL AND WIRE, INCO	11,169	0	0	0	8	0	0
SOUTHTECH ORTHOPEDICS INC	0	0	0	0	0	0	0
SPACE SAVERS, INC.	0	0	0	0	0	0	0
SPARTA PLANT, INC.	122,194	0	0	0	0	0	0
SPBL ACQUISITION CO LLC	0	6,317	576	0	0	0	0
SPECIALTIES & PLEASANTRIES, I	0	12	0	0	0	0	0
SPECIALTY MINERALS INC.	0	6,909	0	0	0	0	0
SPECTRUM CONSTRUCTION MANAGEM	0	9	0	0	0	0	0
SPECTRUM DYED YARNS, INC.	8,194	0	0	0	0	0	0
SPECTRUM TEXTURED YARNS, INC.	0	14,777	0	0	0	0	0
SPEIZMAN INDUSTRIES	625	0	0	0	0	0	0
SPENCER YACHTS, INC.	0	0	0	0	0	0	0
SPICER MANUFACTURING, INC.	43,498	33	0	0	0	0	0
SPOTLESS ENTERPRISES INCORPOR	0	0	0	0	0	0	0
SPRING HOPE GOLF ASSOCIATION,	0	51	0	0	0	0	0
SPRINGS INDUSTRIES, INC.	0	10,878	0	0	0	0	0
SQUARE D CO	0	0	0	0	0	0	0
SR-71 GAME SCOTING, INC.	0	0	0	0	0	0	0
SSS CONTRACTING, INC	0	16	0	0	0	0	0
STACKHOUSE PLUMBING COMPANY,	0	37	0	0	0	0	0
STANADYNE CORPORATION	0	63,548	0	0	0	0	0
STANDARD COMMERCIAL TOBACCO C	43,500	75,606	0	0	0	0	0
STANLEY FURNITURE COMPANY, IN	96,875	19,162	0	0	0	0	0
STANLEY LAB, INC.	0	0	0	0	0	0	0
STANLY FUNERAL HOME, INCORPOR	0	0	0	0	0	0	0
STAR FOOD PRODUCTS, INC.	0	0	0	0	0	10	0
STATESVILLE MARBLE & GRANITE	0	283	0	0	0	0	0
STATESVILLE NEWSSTAND & GRILL	0	0	0	0	10	0	0
STATIC CONTROL COMPONENTS, IN	21,000	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
STAUNTON SALES, INC.	10	0	0	0	0	0	0
STEEL TECHNOLOGIES, LLC	0	2,454	0	0	0	0	0
STEELCASE INC.	17,625	21,388	0	0	0	0	0
STELLA NOVA TECHNOLOGIES	0	0	0	0	0	0	0
HORTONSTELLA NOVA TECHNOLOGIES	0	0	0	0	0	0	0
STELLA NOVE TECHNOLOGIES	0	0	0	0	0	0	0
STEPHEN MEEHAN COMMUNICATIONS	0	0	0	0	0	0	0
STEPHENS-L&E LLC	0	0	0	0	0	0	0
STEPHENSON BUILDERS, INC.	0	0	0	0	0	0	0
STEPHENSON MILLWORK COMPANY	15,757	0	0	0	0	0	0
STEPHENSON MILLWORK COMPANY	11,711	0	0	0	0	0	0
STEVE EARLEY BUILDERS, INC.	0	0	0	0	17	0	0
STEVE HODGES ASSOCIATES, INC.	0	0	0	0	0	0	0
STOCKHAUSEN INC.	0	85,116	0	0	0	0	0
STOCKYARD & CO., INC.	0	0	0	0	0	0	0
STRATEGIC POWER SYSTEMS, INC.	0	0	739	0	0	0	0
STRATEGIC POWER SYSTEMS, INC.	0	0	1,356	0	0	0	0
STRATEGIC RESOURCE SOLUTIONS	17,210	0	0	0	0	0	0
STRATEGIC TECHNOLOGIES, INC.	4,699	0	0	0	0	0	0
STRATEGIC TECHNOLOGIES, INC.	4,308	0	3	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRUCTURAL STEEL PRODUCTS COR	0	0	0	0	0	0	0
STUART A. HAIR, ELECTRICAL CO	0	449	0	0	0	0	0
STX, INC.	0	0	0	0	0	0	0
SUIZA DAIRY	0	64,708	0	0	0	0	0
SUIZA FLUID DAIRY GROUP HOLDI	3,718	61,302	0	0	0	0	0
SUMITOMO ELECTRIC LIGHTWAVE C	77,204	4,152	0	0	4,500	0	0
SUNLINE USA GROUP, INC.	0	0	0	0	0	0	0
SUNNY SIDE OYSTER BAR, INC.	0	0	0	0	0	0	0
SUNROOMS PLUS, INC.	0	0	0	0	0	0	0
SUPERIOR DR[redacted]'ANERS AND LAU	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
SUPERIOR TELECOMMUNICATIONS,	0	29,372	0	0	0	0	0
SURONGO AMERICA INC	0	0	499	0	0	0	0
SURONGO AMERICA INC	0	0	0	0	0	0	0
SWEDISH IMPORT MAINTENANCE, I	0	0	0	0	6	0	0
SWIFT TEXTILES, INC.	0	24,602	0	0	0	0	0
SWIFT TEXTILES, INC.	0	31,202	0	0	0	0	0
SWIFT-ECKRICH, INC.	17,103	0	0	0	0	0	0
SWIMOUT OVERFLOW COMPONENTS,	0	0	0	0	0	0	0
SYDNEY BAG & PAPER COMPANY	0	1,700	0	0	0	0	0
SYNAPSE TECHNOLOGY, INC.	1,425	0	2,756	0	0	0	0
SYNGENTA BIOTECHNOLOGY INC	8,000	3,451	0	0	24,997	0	0
SYNGENTA BIOTECHNOLOGY INC	8,000	3,451	0	0	21,257	0	0
SYNGENTA CROP PROTECTION, INC	0	0	81,062	0	0	0	0
SYZYGY LIVING & LEARNING CENT	0	0	0	0	0	0	0
SYZYGY LIVING & LEARNING CENT	0	0	0	0	0	0	0
T STROUPE & ASSOCIATES, INC	0	0	0	0	0	0	0
T. R. HILLIARD CORPORATION OF	0	0	0	0	0	0	0
T.H. BRADLEY GRADING & SEPTIC	6	0	0	0	0	0	0
T.M. LITTLE VENTURES LIMITED	0	0	0	0	0	0	0
T.M. LITTLE VENTURES LIMITED	0	0	0	0	0	0	0
TANBARK LANDSCAPE COMPANY, IN	0	0	9	0	0	0	0
TAPCO UNDERWRITERS, INC.	0	0	0	0	0	9	0
TAR HEEL ELECTRIC COMPANY OF	9	0	0	0	0	0	0
TAR HEEL GENERATOR, LLC	0	0	0	0	21	0	0
TAR HEEL INSPECTION SERVICES,	0	0	0	0	0	0	0
TATANKA, INC.	0	0	0	0	0	0	0
TATE LANNING & ASSOCIATES, P.	5	0	0	0	0	0	0
TAYLOR CONSTRUCTION COMPANY O	0	149	0	0	0	0	0
TAYLOR CRISP PAC	0	0	0	0	0	0	0
TCG OF THE CAROLINAS, INC.	0	44,388	0	0	0	0	0
TECHNIBILT, LTD.	0	6,949	0	0	0	0	0
TECHNICAL COATING INTERNATION	0	0	0	0	0	0	0
TECHNICAL PRECISION PLASTICS,	250	0	0	0	0	0	0
TECHNIMARK, INC.	0	17,348	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
TECSTAR ELECTRO SYSTEMS, INC.	8,471	0	0	0	0	0	0
TEE-LOK CO	0	0	0	0	0	0	0
TEKELEC	38,125	8,779	70,829	0	0	0	0
TEKTONE SOUND AND SIGNAL MFG.	0	0	566	0	0	0	0
TELEVISION AND APPLIANCE WARR	0	0	0	0	0	0	0
TENET HEALTH CARE SYSTEMS OF	0	0	0	0	0	0	0
TENN-TEX PLASTICS, INC.	1,000	0	0	0	0	0	0
TERRY PHILLIPS & ASSOCIATES,	0	0	0	0	0	6	0
TERRY'S FLOOR FASHIONS, INC.	0	0	0	0	0	0	0
TEXEL USA INC.	91	0	0	0	0	0	0
TEXTILE CLEANER SERVICE CORPO	0	0	0	0	0	0	0
TEXTURING SERVICES INC	0	0	0	0	0	0	0
THE ADVANTAGE DELIVERY AND LO	0	18	0	0	0	0	0
THE ATRIUM, LTD.	0	0	0	0	0	0	0
THE CATO CORPORATION	6,875	0	141,342	0	3,881	0	0
THE CHALLENGE PRINTING CO. OF	0	7,568	0	0	0	0	0
THE CONCORD	0	0	0	0	0	0	0
THE CONCORD TELEPHONE COMPANY	29,250	166,960	0	0	29,912	0	0
THE COPELAND OFFICE INC.	0	19	0	0	0	0	0
THE CORE GROUP ENTERPRISES, I	0	0	0	0	0	40	0
THE FELDSPAR CORPORATION	0	16,832	0	0	0	0	0
THE G.L.G. CORPORATION	19	0	0	0	0	0	0
THE GATES CORPORATION	3,000	34,109	0	0	0	0	0
THE GILLETTE COMPANY	700	178,190	0	4,086	0	0	0
THE GOODYEAR TIRE & RUBBER CO	179,486	229,778	0	0	0	0	0
THE HAZEL COMPANY	0	0	0	0	0	0	0
THE HON COMPANY	12,349	79	0	0	0	0	0
THE IAMS COMPANY	0	0	0	0	0	0	0
THE INN AT PLUMTREE, INCORPOR	0	18	0	0	0	0	0
THE L. S. STARRETT COMPANY	29,015	17,444	0	0	0	0	0
THE L. S. STARRETT COMPANY	0	8,296	0	0	0	0	0
THE LANE COMPANY, INCORPORATE	0	10,007	0	0	0	0	0
THE LUNDY PACKING COMPANY	0	20,007	0	0	0	0	0
THE LUNDY [illegible]KING COMPANY	4,000	15,784	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
THE LUNDY PACKING COMPANY	0	3,025	0	0	0	0	0
THE MCAULAY COMPANY, INC.	0	0	0	0	0	0	0
THE MITCHELL GOLD CO.	51,906	0	0	1,755	0	0	0
THE MITCHELL GOLD CO.	37,021	0	0	0	0	0	0
THE MOORE COMPANY	11,662	0	0	0	0	0	0
THE MOORE COUNTY HOUNDS, INC.	5	0	0	0	0	0	0
THE NATURAL SELECTION, LTD	0	22	0	0	0	0	0
THE NEWARK GROUP INC	0	4,866	0	0	0	0	0
THE OHIO MATTRESS COMPANY LIC	5,250	0	0	0	0	0	0
THE OPTICAL SHOP OF LAKE NORM	0	0	0	0	0	0	0
THE PANTRY, INC.	5,125	5,258	0	0	2,814	0	0
THE PROCTE	0	0	0	0	0	0	0
THE PROCTER & GAMBLE MANUFAC	0	0	0	0	0	0	0
THE QUANTU GROUP INC	0	0	0	0	0	0	0
THE RENTAL MART	0	0	0	0	0	0	0
THE RIVER GOLF AND COUNTRY CL	0	594	0	0	0	0	0
THE ROWBOAT COMPANY, INC.	203	0	0	0	0	0	0
THE SANTEE COMPANY, LLC	10,069	1,864	0	0	0	0	0
THE SHERWIN-WILLIAMS COMPANY	1,625	0	5,082	0	0	0	0
THE SMITHFIELD PACKING COMPAN	109,157	0	0	0	0	0	0
THE SOUTHERN FINISHING COMPAN	16,299	0	0	0	0	0	0
THE STANDARD REGISTER COMPANY	7,625	0	0	0	0	0	0
THE STEEL NETWORK, INC.	0	0	4,622	0	0	0	0
THE STOWE A-WAY FISH HOUSE, I	0	30	0	0	0	0	0
THE STOWE A-WAY FISH HOUSE, I	0	36	0	0	0	0	0
THE TIMKEN COMPANY	52,125	0	0	10,326	0	0	0
THE TOOL & GAGE HOUSE COMPANY	0	0	0	0	0	0	0
THE TORRINGTON COMPANY	14,250	53,281	0	0	0	0	0
THE TRANSCRIPTION CENTER, INC	0	0	0	0	0	0	0
THE VANGUARD GROUP, INC.	12,465	0	0	0	0	0	0
THE WASHINGTON NEWS PUBLISHIN	0	0	0	0	10	0	0
THE WORKS INC.	0	0	0	0	7	0	0
THETFORD PROPERTY MANAGEMENT,	0	0	0	0	0	0	0
THETFORD PROPERTY MANAGEMENT,	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
THIEMAN METAL TECHNOLOGIES, L	0	2,762	0	0	0	0	0
THOMAS BUILT BUSES, INC.	13,101	22,688	0	10,818	0	0	0
THOMAS CONCRETE OF CAROLINA,	14,500	12,118	0	0	0	0	0
THOMAS DENNIS CO., LLC	0	0	0	0	0	0	0
THOMAS FARM SERVICE, INCORPOR	0	27	0	0	0	0	0
THOMAS MFG. COMPANY, INC. OF	1,500	71,210	0	0	0	0	0
THOMAS UZZELL FARMS, INC.	9	0	0	0	0	0	0
THOMASVILLE FURNITURE INDUSTR	0	107,766	0	0	0	0	0
THOMPSON CABINET SHOP, INCORP	0	0	0	0	0	0	0
THOR.LO, INC.	0	2,074	14,503	0	0	0	0
THREADLINE PRODUCTS, INC.	0	138	0	0	0	0	0
THREE S APPAREL, INC.	0	0	0	0	38	0	0
THUNDER KAYAK COMPANY INC.	0	0	0	0	0	0	0
TIEPET, INC.	0	18,002	0	0	0	0	0
TIEPET, INC.	0	9,557	0	0	0	0	0
TILLMAN ENTERPRISES, INC.	0	195	0	0	0	0	0
TILSON MACHINE, INC.	0	0	0	0	0	0	0
TIM THOMAS, INC.	0	10	0	0	0	0	0
TIMMONS FABRICATIONS, INC.	34	0	0	0	0	0	0
TIMMONS TIMBERS, INC.	0	0	0	6	0	0	0
TIMVEST GP	0	0	0	0	0	0	0
TIPPER TIE, INC.	0	0	0	0	0	0	0
TIRE DISPOSAL AND RECYCLING S	0	183	0	0	0	0	0
TJS ENTERPRISES, INC.	0	37	0	0	0	0	0
TLV CORPORATION	625	0	0	0	0	0	0
TLV CORPORATION	500	0	0	0	0	0	0
TNS MILLS, INC.	16,761	0	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	12,539	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	62,387	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	15,221	0	0	0	0	0
TOGETHERSOFT CORPORATION	0	5,209	0	0	0	0	0
TOMSED CORPORATION	750	0	0	0	0	0	0
TOP CHOICE REALTY, INC.	0	0	0	0	0	1	0
TOP TOBACC[redacted]	52,000	29,357	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
TORE'S HOME, INC.	0	170	0	0	0	0	0
TRAFFIC CONTROL DEVICES, INC.	0	0	0	0	0	0	0
TRAVIS KNITS	0	416	0	0	0	0	0
TRAVIS KNITS, INC.	0	7,514	0	0	0	0	0
TREDEGAR FILM PRODUCTS (U.S.)	0	3,789	0	0	0	0	0
TRIANGLE BRICK COMPANY	28,025	127,098	0	0	0	0	0
TRIANGLE BUILDING SERVICES, I	0	0	0	0	0	0	0
TRIANGLE MICROSYSTEMS, INC.	0	0	935	0	0	0	0
TRIANGLE PHARMACEUTICALS, INC	11,875	14,109	42,083	0	0	0	0
TRIFOLIUM, INC.	0	0	0	0	0	0	0
TRILUX TECHNOLOGIES, INC.	0	0	0	0	0	0	0
TRINITY MANUFACTURING, INC.	3,125	10,347	0	0	0	0	0
TRION, INC.	4,818	0	2,768	0	0	0	0
TRIPATH IMAGING, INC.	4,500	0	2,929	0	0	0	0
TRITEX YARN, LLC	0	66,575	0	0	0	0	0
TRIVIRIX INTERNATIONAL, INC.	500	0	0	0	0	0	0
TRI-WESTERN INVESTMENTS, INC.	0	0	0	0	0	0	0
TROXLER ELECTRONIC LABORATORI	4,887	0	0	0	0	0	0
TRUCK FLEET PAINTING CENTER,	0	0	0	0	0	0	0
TRUSTEE FOR CAROLINA CONTAINE	0	34,852	0	0	0	0	0
TTC TIMBER	0	0	0	0	0	0	0
TUBE SPECIALTIES CO., INC.	22,679	0	0	0	0	0	0
TURN BULL LUMBER CO	9,000	4,410	0	0	0	0	0
TURNAMICS, INC.	750	0	0	0	0	0	0
TURNAMICS, INC.	750	0	0	0	8	0	0
TURNER EQUIPMENT COMPANY, INC	0	10	0	0	0	0	0
TURNER MORTGAGE COMPANY	0	0	0	0	0	0	0
TUSCARORA YARNS, INC.	10	0	10	0	0	0	0
TV INVESTORS, L.L.C.	0	17,113	0	0	0	0	0
TWIN BRANCH FARM, INC.	0	0	0	0	0	9	0
TWIN CITY SPRINKLER COMPANY,	0	231	0	0	0	0	0
TYGRA TRUCKING, INC.	0	0	0	0	0	0	0
TYSINGERS, INC.	0	0	0	0	0	0	0
U. S. TEXTILE CORP.	0	12,904	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
U.S. TRANSPORTATION SERVICES,	0	18	0	0	0	0	0
UCHIYAMA AMERICA, INCORPORATE	9,648	0	0	0	0	0	0
UCO FABRICS, INC.	24,629	0	0	0	0	0	0
ULTIMATE TEXTILE, INC.	986	0	0	0	0	0	0
ULTIMUS, INC.	494	0	8,827	0	0	0	0
ULTRA-MEK, INC.	193	0	0	0	0	0	0
UMG MANUFACTURING & LOGISTICS	0	0	0	0	0	0	0
UNICHEM INC	0	0	0	0	0	0	0
UNICON CONCRETE, LLC	0	0	0	0	0	0	0
UNICON CONCRETE, LLC	0	0	0	0	0	0	0
UNIFI MANUFACTURING, INC.	0	304,398	84,317	124,336	0	0	0
UNIFI MANUFACTURING, INC.	0	61,736	30,463	195,851	0	0	0
UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0	0	0	0
UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0	0	0	0
UNIGRAPHICS SOLUTIONS INC.	0	0	134	0	0	0	0
UNIMIN CORPORATION	70,875	3,796	0	0	0	0	0
UNION CARBIDE CORPORATION	0	0	34,251	0	0	0	0
UNITED GENERAL SERVICES, INC.	0	0	0	0	0	0	0
UNITED GUARANTY CORPORATION	0	9	0	0	0	0	0
UNITED STATIONERS SUPPLY CO	0	0	0	0	0	0	0
UNITED STEEL PRODUCTS CO	4,500	0	0	0	0	0	0
UNITIVE ELECTRONICS, INC.	4,000	1,974	0	0	0	0	0
UNIVERSAL LEAF NORTH AMERICA	0	397,791	0	0	0	0	0
UNIVERSAL LEAF NORTH AMERICA	0	25,267	0	0	0	0	0
US AIRWAYS, INC.	244,415	0	0	0	42,862	0	0
US CONEC LTD.	0	0	0	0	0	0	0
US LEC CORP.	0	0	0	0	37,500	0	0
VALDESE TEXTILES, INC.	0	0	0	0	0	0	0
VALDESE WEAVERS, INC.	0	12,917	0	0	0	0	0
VALLEY BROOK , LLC	0	0	0	0	0	0	0
VALSPAR INDUSTIRES (USA), INC	30,625	61,633	0	0	0	0	0
VALVOLINE INSTANT OIL CHANGE	0	900	0	0	0	0	0
VANDERVEER'S L.P. GAS SERVICE	0	0	0	0	0	9	0
VAUGHN [redacted]ODUCE CO., INC.	0	69	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
VECTOR TOBACCO INC.	0	0	31,170	0	0	0	0
VEEDER ROOT OF NC	0	0	0	0	0	0	0
VEEDER ROOT OF NC INC	0	4,120	0	0	0	0	0
VENETICA CORPORATION	0	0	0	0	0	0	0
VERITAS SO	0	0	0	0	0	0	0
VERIZON SOUTH INC.	0	193,912	0	0	0	0	0
VERMONT AMERICAN CORPORATION	0	0	0	0	0	0	0
VERNE C. LANIER, JR., M.D.,	0	0	0	0	0	0	0
VESTER NISSAN, INC.	0	0	0	0	0	0	0
VF CORP	9,000	20,375	0	0	56,840	0	0
VF JEANSWEAR SALES, INC.	0	12,536	0	0	0	0	0
VF JEANSWEAR, INC.	0	484	0	0	0	0	0
VF JEANSWEAR, INC.	10,125	768	0	92,158	0	0	0
VF PLAYWEAR INC	0	0	0	0	0	0	0
VF PLAYWEAR, INC.	0	462	0	0	0	0	0
VF SERVICES, INC.	18,506	0	0	0	0	0	0
VICK'S FIRE EXTINGUISHER COMP	0	32,583	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC HOLDING COMPANY, LL	0	0	0	0	0	0	0
VICTAULIC HOLDING COMPANY, LL	2,250	2,050	0	0	0	0	0
VIEWMONT PHARMACY, INC.	0	0	0	0	0	9	0
VILLAGE ANTIQUES & GIFTS, INC	0	34	0	0	0	0	0
VIRATA RALEIGH CORPORATION	0	0	3,022	0	0	0	0
VIRATA RALEIGH CORPORATION	0	0	52	0	0	0	0
VIRTA RALEIGH CORP	0	0	0	0	0	0	0
VISIONAIR, INC.	4,144	0	0	0	0	0	0
VITAFOAM INC	0	29,553	0	0	0	0	0
VITTORIA TRUST I	0	0	0	0	0	0	0
VODAFONE AMERICAS INC.	0	21,778	0	0	0	0	0
VOLUMETRICS MEDICAL IMAGING,	0	0	142	0	0	0	0
VOLVO CONSTRUCTION EQUIPMENT	0	296,460	0	0	0	0	0
VOLVO TRUCKS NORTH AMERICA, I	0	0	76,866	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
V-SAB MEDICAL LABS, INC.	0	0	0	0	0	0	0
V-SAB MEDICAL LABS, INC.	0	0	3,874	0	0	0	0
VULCAN AGGREGATES COMPANY,LLC	0	242,322	0	0	0	0	0
VULCAN CONSTRUCTION MATERIALS	0	0	0	0	0	0	0
VULCAN GUF AGGREGATES	0	0	0	0	0	0	0
VULCAN MATERIALS COMPANY - CH	0	0	0	0	0	0	0
VUNCANNON PLUMBING & MECHANIC	3	0	0	0	0	0	0
W. D. BROOKS, INC.	0	0	0	0	0	0	0
W. E. BAILEY AND SON, INC.	0	0	0	0	0	0	0
W. F. COLLINS & ASSOCIATES, I	0	0	0	0	0	0	0
W. L. MITCHELL & SONS, INC.	15	0	0	0	0	0	0
WACHOVIA BANK OF NORTH CAROLI	0	2,294,801	0	0	0	0	0
WACHOVIA CORPORATION	67,250	0	0	0	0	0	0
WAGNER KNITTING, INC.	0	0	0	0	1,413	0	0
WAKE FOREST FEDERAL SAVINGS &	0	0	0	0	0	0	0
WAKE STONE CORPORATION	2,250	123,702	0	0	0	0	0
WALL VENTURES LIMITED PARTNER	0	0	0	0	0	0	0
WALLACE COMPUTER SERVICES, IN	0	0	0	0	0	0	0
WALLACE WELDING, INC.	0	0	0	0	0	0	0
WALL'S WELDING AND FABRICATIO	0	0	0	0	0	0	0
WALTER KIDDE PORTABLE EQUIPME	0	0	0	0	0	0	0
WANDEL & GOLTERMANN A.T.E. SY	0	0	1,780	0	0	0	0
WANDEL & GOLTERMANN A.T.E. SY	0	0	797	0	0	0	0
WANDEL & GOLTERMANN INC	0	0	2,334	0	0	0	0
WANDEL & GOLTERMANN INC	0	0	3,383	0	0	0	0
WARDS FRUIT & PRODUCE COMPANY	0	0	0	9	0	0	0
WARFORD INCORPORATED	0	104	0	8	0	0	0
WARRENTON GOLF CLUB	10	0	0	0	0	0	0
WARSAW MOTOR LODGE, INC.	0	16	0	0	0	0	0
WATTS REGULATOR CO.	0	56,160	0	0	0	0	0
WAYNE ELEVATOR COMPANY	0	0	0	0	0	0	0
WAYNE LOWERY GRADING CO., INC	0	0	0	0	0	0	0
WAYNE'S BACKHOE SERVICE, INC.	0	10	0	0	0	0	0
WB GROUP [redacted] RTIES, LLC	6,807	36,677	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
WEEKS ANIMAL CLINIC, P.A.	0	0	0	0	0	0	0
WELCH ALLYN INC	0	10,833	10,877	0	0	0	0
WELDON STEEL CORP	0	0	0	0	0	0	0
WENDOVER FINANCIAL SERVICES C	0	0	23,253	0	0	0	0
WENDOVER OB-GYN & INFERTILITY	0	0	0	0	0	0	0
WENTWORTH CORPORATION	16,098	0	0	0	0	0	0
WENTWORTH CORPORATION	14,639	0	0	0	0	0	0
WESLEY HALL FURNITURE, INC.	0	0	0	0	0	0	0
WEST PHARMACEUTICAL SERVICES,	0	7,591	0	0	0	0	0
WEST PHARMACEUTICAL SERVICES,	0	25,100	0	0	0	0	0
WESTERN CAROLINA CONTRACTING,	0	0	0	0	10	0	0
WESTERN FORGE CORPORATION	15,397	8	0	0	0	0	0
WESTLAKE INDUSTRIES, INC.	2,639	3,417	2,354	0	0	0	0
WESTLAKE PRESS, INC.	411	0	205	0	0	0	0
WESTPOINT STEVENS INC.	162,957	0	0	0	0	0	0
WESTPOINT STEVENS INC.	181,943	0	0	0	0	0	0
WEVA CORPORATION	4	0	0	0	0	0	0
WEYERHAEUSER COMPANY	0	366,663	0	0	0	0	0
WFP CONSTRUCTION CO., INC.	0	0	0	0	0	0	0
WHEATSTONE CORPORATION	22,809	0	0	0	0	0	0
WHITE CONSOLIDATED INDUSTRIES	0	0	23,007	0	0	0	0
WHITE FOX CONSTRUCTION COMPAN	0	0	0	0	0	0	0
WHITE INSURANCE SERVICES, INC	0	0	0	0	0	0	0
WHITE OIL COMPANY	226	0	0	0	0	0	0
WHITESIDE MACHINE & REPAIR CO	0	0	0	0	0	9	0
WIGGINS-NORTH STATE MONUMENT	0	0	0	0	0	0	0
WIL-FOOD, INC.	0	0	0	9	0	0	0
WILLAMETTE INDUSTRIES, INC.	8,000	125,083	6,950	0	0	0	0
WILLIAM S. KELLY, M. D., P. A	0	0	0	0	0	0	0
WILLOW CREEK INN, LTD.	0	0	0	0	0	0	0
WILMORE ELECTRONIC COMPANY, I	125	0	6,858	0	0	0	0
WILSON-COOK MEDICAL INC.	90,625	15,047	34,402	0	0	0	0
WILTON CONNOR, LLC	0	0	0	0	0	0	0
WINSTON PRINTING COMPANY	1,500	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WINSTON-SALEM ENGRAVING COMPA	0	90	0	0	0	0	0
WINTERVILLE MACHINE WORKS, IN	3,250	11,211	0	0	0	0	0
WIREWAY/HUSKY CORP.	21,125	4,858	0	0	0	0	0
WIREWAY/HUSKY CORP.	15,875	3,944	0	0	0	0	0
WIREWAY/HUSKY CORP.	0	0	0	0	0	0	0
WM T BURNETT & CO INC F/K/A M	0	0	0	0	0	0	0
WM T BURNETT MANAGEMENT, INC	0	0	0	0	0	0	0
WM T BURNETT OPERATING LIMITE	0	1,699	0	0	0	0	0
WOMEN'S WELLNESS CENTER, P.A.	0	0	0	0	0	0	0
WOODIE ENTERPRISES, INC.	9	9	0	0	0	0	0
WOODLAND MILLS CORPORATION	0	0	0	14,661	0	0	0
WOODWISE DESIGN AND	0	10	0	0	0	0	0
WRENN BROTHERS, INC.	0	0	0	0	0	0	0
WRIGHT CORP	0	0	0	0	0	0	0
WWGP BROADCASTING CORPORATION	0	0	0	0	0	0	0
YACHT LIGHTING AND ACCESSORIE	0	0	0	0	0	0	0
YORK TAPE & LABEL, INC.	5	0	0	0	0	0	0
YORKSHIRE AMERICAS INC	0	14,937	0	0	0	0	0
YOTEL, INC.	0	214	0	0	0	0	0
ZAGAROLI AND COMPANY	0	0	0	0	0	0	0
ZEMEX MICA CORPORATION	0	0	0	5,219	0	0	0
ZIPTRONIX, INC.	0	0	2,441	0	0	0	0
Grand TOTAL:	15,897,754	46,720,301	7,128,644	2,602,127	1,847,875	84,651	9,234

House Committee on Finance

Minutes
April 3, 2003

The House Committee on Finance met on Thursday, April 3, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Cunningham. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:30 a.m. He then recognized the pages for the meeting. Two pages were in attendance: Sarah Robertson of Stokes County, sponsored by Representative Rex Baker; and Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Prior to action on the agenda, Chairman McComas made two short announcements. First, he informed the committee members that House Bill 690 – Leland Occupancy Tax – had been referred to the House Finance Subcommittee on Occupancy Taxes. Secondly, he announced the creation of the House Finance Subcommittee on "Tax and Tags" and appointed the following representatives as its members: Representative McCombs (Chair), Representative Decker, and Representative Womble.

As the first item of business on the agenda, the Chair recognized Senator Clodfelter to explain Senate Bill 51 – CLOSE FRANCHISE TAX LOOPHOLE (see attachment 3). Senator Clodfelter informed the committee members that this bill acts to close a corporate tax loophole that companies are using deliberately to avoid paying their share of taxes to the government. The Chair then opened the floor to questions for Senator Clodfelter. Representative Rayfield was recognized and asked the Senator if he had any idea how many tax dollars were being lost due to this loophole. The Senator stated he had no idea and that it was very difficult to measure such an amount.

The Chair then recognized Representative Luebke who made a motion that the Committee give a favorable report to SB 51. Representative Creech, however, disagreed with this motion and clearly stated his feeling that the bill was "wrong." He continued by stating that companies are using this loophole as a "tax deduction," and that it is legal and rather then closing these holes, the Committee should be providing more of these tax benefits for companies. Representative Luebke rebutted this argument by stating that it was not fair for most working individuals, who typically have far less income than companies, to be responsible for the majority of the tax base. Rep. Luebke then

reasserted his motion for a favorable report to SB 51. Chairman McComas than called for a vote and the motion carried.

Staffperson Richard Bostic was next on the agenda to continue his presentation on the NC Individual Income Tax (see attachments 4 & 5). This portion of the presentation focused on current tax rates, including credits in specific areas (i.e. agricultural, environmental, real property, developmental), a comparison of North Carolina and other states in the nation, as well as individual exemptions and exclusions. At the conclusion of his presentation, discussion ensued among the members as to immigrants illegally using government programs and services and evading income tax responsibilities.

The Chair next recognized staffperson David Crotts for his presentation on the NC Corporate Income Tax (see attachment 6). This tax was first established in 1921 and North Carolina was one of the first states to begin using it. Mr. Crotts discussed the history of the tax in the state, specifically on rates over the years and how the tax is associated with the Bill Lee Act, which was started in 1996 and continues today. He made a number of interesting comments on the status of the Corporate Income Tax in North Carolina, several of which are detailed below:

- Corporate Income Taxes are extremely difficult to forecast due to highly volatile profit margins, cash flow issues, and poor or inconsistent account management.
- Corporate tax burdens have fallen, just as many other taxes, due to the fact that personal income tax rates have risen dramatically, while other taxes (including the corporate tax) have not.
- North Carolina's corporate tax burden is relatively high at 6.9%. However, with the total combined tax burden (including the property tax and all other taxes), NC holds a low tax burden overall. On the whole then, the cost of business in NC is far lower than most areas.

Mr. Crotts also discussed a handout of new information that was available on business tax incentives from 1996-2002 in North Carolina (see attachment 7).

Chairman McComas then thanked Mr. Crotts for his presentation and opened the floor for other questions or announcements from the committee. Hearing none, the Chair adjourned the meeting at 9:50 a.m. and reminded the members that the committee would reconvene on the following Tuesday, April 8, 2003 at 8:30 am in the same location.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 51 and related materials
4. Handout on North Carolina Individual Income Tax
5. Spreadsheets on Individual Income Tax in NC (not discussed)
6. Handout on North Carolina Corporate Income Tax
7. Spreadsheets on Business Tax Incentives in North Carolina 1996-2002

House Committee on Finance

Minutes
April 3, 2003

The House Committee on Finance met on Thursday, April 3, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Cunningham. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:30 a.m. He then recognized the pages for the meeting. Two pages were in attendance: Sarah Robertson of Stokes County, sponsored by Representative Rex Baker; and Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Prior to action on the agenda, Chairman McComas made two short announcements. First, he informed the committee members that House Bill 690 – Leland Occupancy Tax – had been referred to the House Finance Subcommittee on Occupancy Taxes. Secondly, he announced the creation of the House Finance Subcommittee on "Tax and Tags" and appointed the following representatives as its members: Representative McCombs (Chair), Representative Decker, and Representative Womble.

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Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

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ATTACHMENT 1

AGENDA

House Finance Committee

April 3, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Danny McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 51 Close Franchise Tax Loophole *Sen. Clodfelter*

Continuation of the Overview of the NC Individual Income Tax
Richard Bostic

Overview of the NC Corporate Income Tax
David Crotts

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Goforth	
Paul Stock	NC Bankers Assn.
Kevin Howell	Gov's Office
Rob Dusseldorf	NC State Water
Steve Woodson	NC Farm Bureau
Don Hebart	DOC
David Bremer	P+S
Tom Sri	NCRMA
Ken McHon	Alley Associates
Kevin Leonard	WCSR
Zik Alley	Alley Assoc

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	CCNC
Greg Radford	DOR
Lewis Collins	DOR
Preston Howard	MCIC
[illegible]	[illegible]
[illegible]	Capitol Group
Chris Nichols	Hunton & Williams
Marcos Arellano	Intern (Rep. Luebke)
[illegible]	Electricities
Duke Chen	Intern
Hal Miller	NCACCT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 51

Short Title:	Close Franchise Tax Loophole.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-114.1 reads as rewritten:

"**§ 105-114.1. Limited liability companies.**

(a) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

(1) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(2) Owned indirectly. – A person owns indirectly assets of a limited liability company if the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.

(3) Principal corporation. – A corporation that is a member of a limited liability company or has a related member that is a member of a limited liability company.

(b) Controlled Companies. – If a corporation or a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation together own indirectly seventy percent (70%) or more of the limited liability company's assets, then the following provisions apply:

(1) A percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that principal corporation and must be included in the principal corporation's computation of tax under this Article.

(2) The principal corporation's investment in the limited liability company is not included in the principal corporation's computation of tax under this Article.

(3) The attributable percentage is equal to the percentage of the limited liability company's assets owned indirectly by the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations.

(b1) Attribution. – For the purpose of applying this section, any membership interest a business trust holds in a limited liability company is attributed to the owners of the beneficial interests in the business trust, according to their interests in the trust, and the trust itself is disregarded as a separate entity.

(c) Other Companies. – In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a principal corporation under this Article.

(d) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 2. This act becomes effective January 1, 2004, and applies to taxes due on or after that date.

SENATE BILL 51:
Close Franchise Tax Loophole

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	April 3, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Staff Attorney

SUMMARY: ***Senate Bill 51 further tightens legislation enacted in 2001 intended to close a loophole that allows corporations to escape franchise tax by transferring assets to a controlled LLC. Senate Bill 51 provides that any membership interest a business trust holds in a LLC is attributed to the owners of the beneficial interests in the trust, according to their interests in the trust. The bill becomes effective January 1, 2004, and applies to taxes due on or after that date.***

CURRENT LAW: Under North Carolina law, limited liability companies[1] (LLCs) are not subject to the franchise tax. In 1997, the North Carolina law regarding LLCs was changed to allow for a single-member LLC. This change had the unintended consequence of allowing a corporation subject to North Carolina franchise tax to set up an LLC and transfer assets to the LLC in a tax-free transfer. The assets then held by the LLC would not be subject to the franchise tax. Thus, the corporation could avoid a significant portion of its franchise tax liability by transferring assets into a wholly owned LLC subsidiary without affecting its income tax liability.

In 2001, the General Assembly enacted S.L. 2001-327 to close this loophole. The 2001 legislation tried to address this problem by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned[2] at least 70% of the LLC's assets. Unfortunately, tax planners found that the tax could still be avoided by using an additional paper transaction. If the corporation interposed a partnership between itself and the LLC holding its assets, then technically the 2001 legislation would not apply and the assets would continue to escape franchise tax.

In 2002, the General Assembly enacted S.L. 2002-126 to tighten the 2001 legislation. The 2002 legislation included "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. "Related members" is a defined term and includes shareholders, partnerships, etc. If a corporation and its related members together indirectly own at least 70% of an LLC's assets, the 2002 legislation provides that each corporation pays franchise tax on its relative share of the LLC's assets. The relative share is calculated after excluding those related members who are not corporations. Thus, the entire assets are subject to franchise tax, with the tax burden shared proportionally by the corporations that are involved in the ownership scheme.

BILL ANALYSIS: Senate Bill 51 recognizes that there exists other paper transactions that can be interposed between the corporation and the LLC in order to circumvent the applicability of the franchise tax to the assets of the corporation. One such entity is the business trust. A business trust is not considered a related member, as that term is defined in G.S. 105-130.7A, because it would be the

[1] A limited liability company is a business entity that is essentially a hybrid of a partnership and a corporation. Like a corporation, an LLC limits the liability of its owners. Like a partnership, an LLC is usually not subject to entity-level taxation.

[2] Indirect ownership of an LLC's assets is determined based on who is entitled to receive those assets upon dissolution of the LLC.

corporation, not the shareholders, who forms the trust. Senate Bill 51 provides that for purposes of determining the ownership of a LLC's assets, any membership interest of a business trust would be attributed to the owners of the beneficial interest in the business trust, according to their interests in the trust, and the trust itself would be disregarded as a separate entity.

BACKGROUND: The State franchise tax is among the oldest taxes in North Carolina. It is a tax on S Corporations and C Corporations for the privilege of doing business in the State. The tax rate is $1.50 per $1,000 of value of the greatest of (1) apportioned net book value of the corporation; (2) 55% of appraised value of real and tangible personal property in N.C.; or (3) total actual investment in tangible property in N.C.

The Department of Revenue, in its reports to the Revenue Laws Study Commission, noted that there exists a general franchise tax inequity because the imposition of the tax depends on the type of entity. The Governor's Commission to Modernize State Finances recommended that the State impose the franchise tax on all types of business entities, not just on traditional corporations. The Commission recommended that the revenues generated from this base broadening could be used to establish a minimum net worth threshold for payment of the tax.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 51 (1st Edition)

SHORT TITLE: Close Franchise Tax Loophole

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

PRINCIPAL DEPARTMENT AFFECTED: The franchise tax is collected by the Department of Revenue. The enactment of the bill should not affect the budget requirements of the Department.

EFFECTIVE DATE: Applies to taxes due on or after January 1, 2004.

ISSUE BACKGROUND: During the last two legislative sessions, the General Assembly has enacted legislation that attempted to close loopholes in the corporation franchise tax that allowed corporations to minimize their tax liability by transferring potentially taxable assets to a controlled limited liability company (LLC). This occurs because LLCs are not subject to the franchise tax.

The 2001 bill required a corporation to include a LLC's assets in its franchise tax base if the corporation is entitled to receive 70% or more of the assets of the LLC upon dissolution of the LLC. However, it was discovered after the 2001 session that if the corporation interposed a partnership between it and the LLC holding its assets, the 2001 change would not apply and the assets would continue to escape taxation.

The 2002 bill attempted to address this issue by broadening the 2001 legislation to include "related members" (other entities and individuals) who may form a partnership with one or more corporate entities to own the LLC to which the corporate assets are transferred. "Related members" include shareholders, partnerships, etc. The legislation provided that if a corporation and its related members together indirectly own at least 70% of an LLC's assets, each corporation pays franchise tax on its relative share of the LLCs assets. The relative share is calculated after excluding those related members who are not corporations.

Since the implementation of the 2002 change, the Department of Revenue has become concerned that the use of a business trust to hold the assets allows the franchise tax to be avoided.

BILL SUMMARY: Provides that any membership interest that a business trust holds in an LLC is attributed to the owners of the beneficial interest in the trust for purposes of determining franchise tax liability.

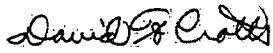
ASSUMPTIONS AND METHODOLOGY: A discussion with the Department of Revenue indicated that there is no data available on this issue.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: David Crotts



APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: March 26, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 51 A BILL TO BE ENTITLED AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

PUBLIC BILL

OLL CALL

S.B. 51

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

Introduced by Senator(s) Clodfelter Clodfelter

Principal Clerk's Use Only

FILED FEB 1 3 2003

PASSED 1st READING

FEB 17 2003

AND REFERRED TO COMMITTEE

ON Finance

Committee on Finance to whom this bill referred, a majority being present and ing, has carefully considered the same and ommended that it do...pass.

For the Committee

PORTED FAVORABLY MAR 2 5 2003

PASSED 2nd & 3rd READINGS

50-2

MAR 26 2003

ORDERED SENT TO HOUSE OF REPRESENTATIVE

Janet Pruitt

PASSED 2nd READING

Ayes 50 Noes 0

MAR 26 2003

AND Remains ON THE CALENDAR

PASSED 3rd READING

Ayes 49 Noes 0

MAR 27 2003

AND ORDERED SENT

To House of Representatives

Janet Pruitt

03-31-03P08:09 RCVD

PASSED 1st READING

APR 1 2003

AND REFERRED TO COMMITTEE

ON Finance

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, April 3, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

- **SB 51 - CLOSE FRANCHISE TAX LOOPHOLE - Sen. Clodfelter**

The following presentations will also be offered:

- **Overview of the NC Individual Income Tax (continued)**
- **Overview of the NC Corporate Income Tax**

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **2:00 P.M.** on **April 2, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

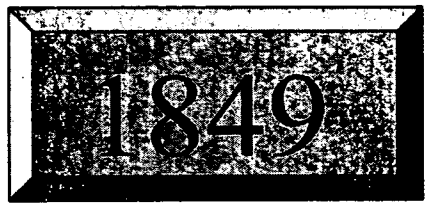
North Carolina Individual Income Tax

Fiscal Research Division

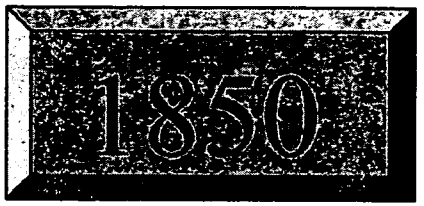
ATTACHMENT 4

THE TERRORISM CONTINUES TODAY, WITH COUNTLESS VICTIMS DEVASTATED BEYOND ALL HOPE. THERE'S NO QUICK END IN SIGHT TO THIS NIGHTMARE...
BUT ENOUGH ABOUT THE IRS!
APRIL 15
GORRELL

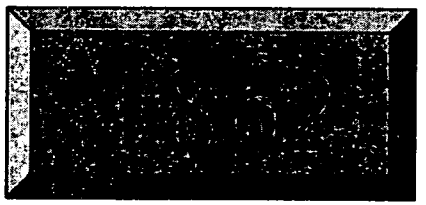
JEFF PARKER
DIST. BY
Y'KNOW I USED TO THINK THAT DEATH AND TAXES THING WAS JUST A JOKE...
POINK POINK POINK
TAX DEADLINE
1040



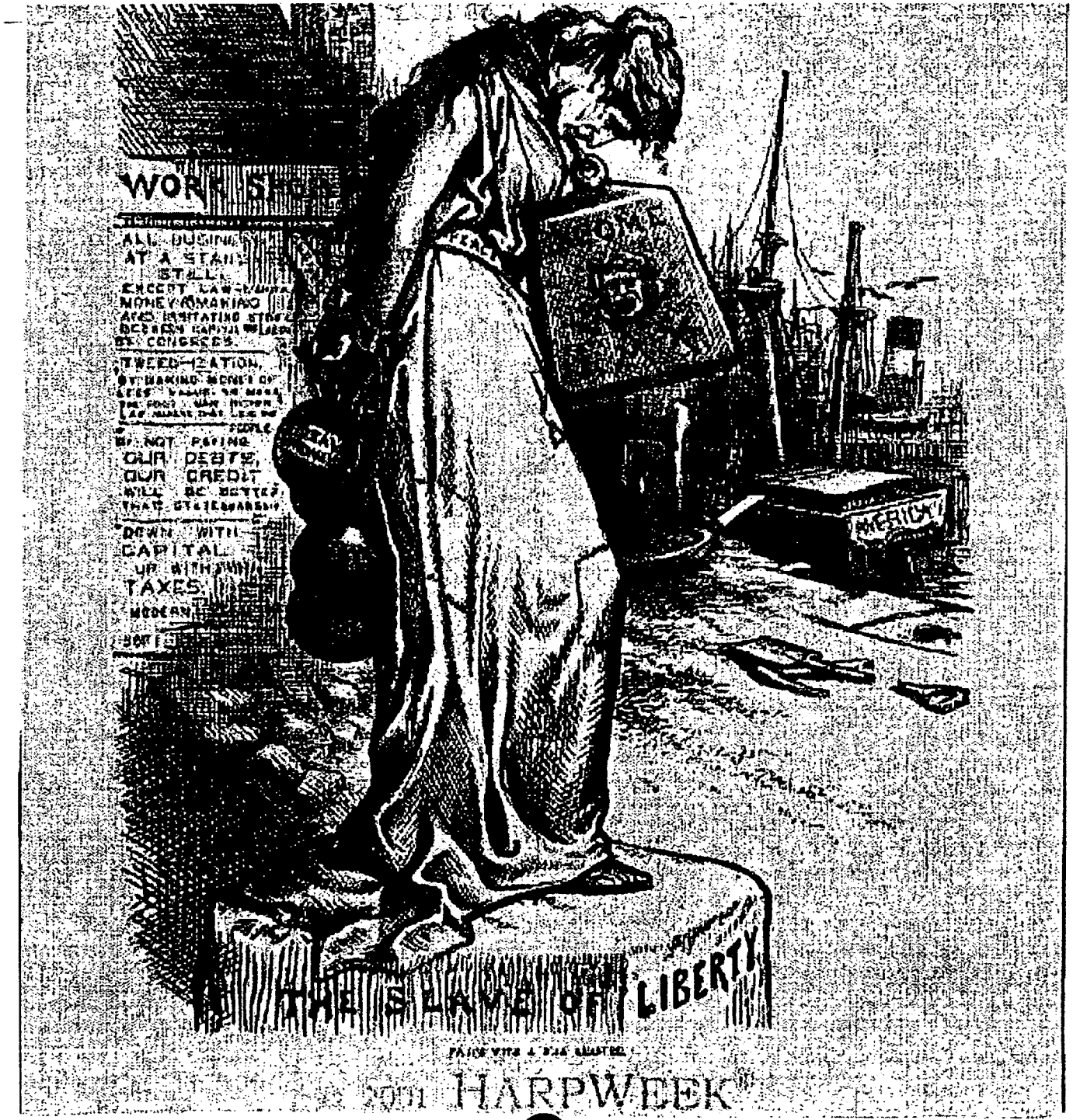
- Established income tax
- 3¢ per dollar of interest and profit from slave trade, shipping and stocks/corporate shares
- $3 on salaries over $500
- Physicians, dentists, lawyers exempt for first 5 years of practice
- Sheriff collects taxes



- Amended so that $3 on first $500 in salaries and $2 for every additional $500

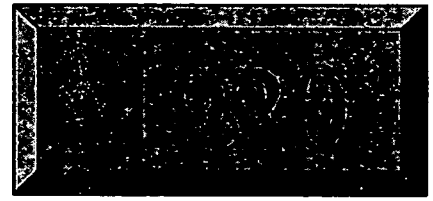


- U.S. approves income tax to support Civil War effort


WORK SHOP
ALL BUSINESS
AT A STAND
STILL
MONEY MAKING
BY CONGRESS
TWEEDIZATION
OUR DEBTS,
OUR CREDIT
DOWN WITH
CAPITAL
TAXES
MODERN
THE SLAVE OF LIBERTY
HARPWEEK

MILLIONAIRE
BUSINESS MAN
WAGE EARNER
PROPOSED INCOME TAX
· PHIL · PORTER ·

- Constitutional amendment failed – Amendment to end statewide property tax and switch to alternative taxes (income, inheritance, etc.)



- Constitutional amendment approved-Permit taxation of all income, including income from property

- General Assembly enacted state administered income tax
- Rates were 1% on first $2500 of net taxable income up to 3% on excess over $10,000

  (5 rate brackets)

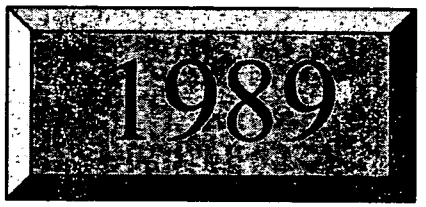
- Increased tax rates
- 3% on net income up to $2,000

  4% on next $2,000

  5% on next $2,000

  6% on next $4,000

  7% on amount greater than $10,000



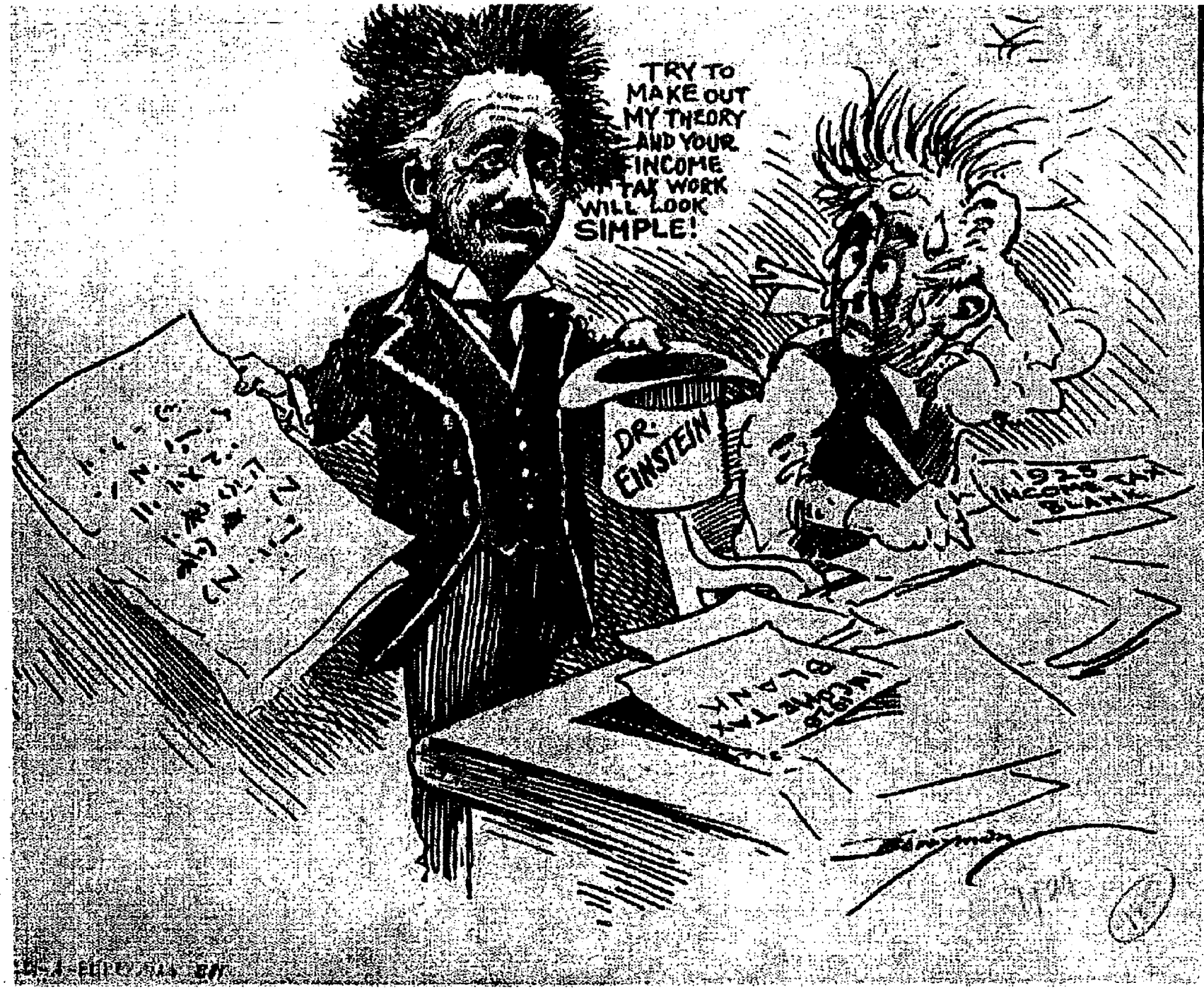
- Tax Fairness Act approved
- Adopted the federal definition of taxable income as the base for state income tax
- Allowed married couple to file a joint return for the first time.
- New tax rates of 6% and 7%
- Exemption $2,000 standard deduction $5,000 (married filing jointly)

Mike Thompson, Detroit, Michigan, The

03/28/03

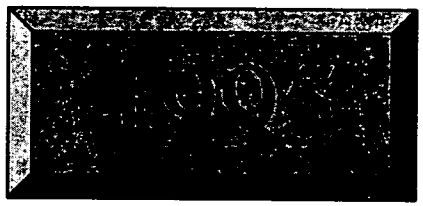
Get Image

OF COURSE YOU CAN'T READ IT... WHY DO YOU THINK THEY CALL IT A CODE?
TAXES
A to 9.62
Vol B
Vol C

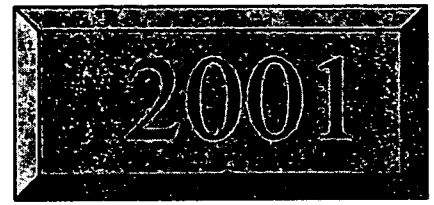


"Try to Make Out My Theory and Your Income Tax Work Will Look Simple!"

- Added 7.75% tax rate



- Increase personal exemption to $2,500 (keep at $2,000 for high income tax payers)



- Added 8.25% tax rate (temporary)
- Increase standard deduction for married filing jointly to $6,000 in 2003

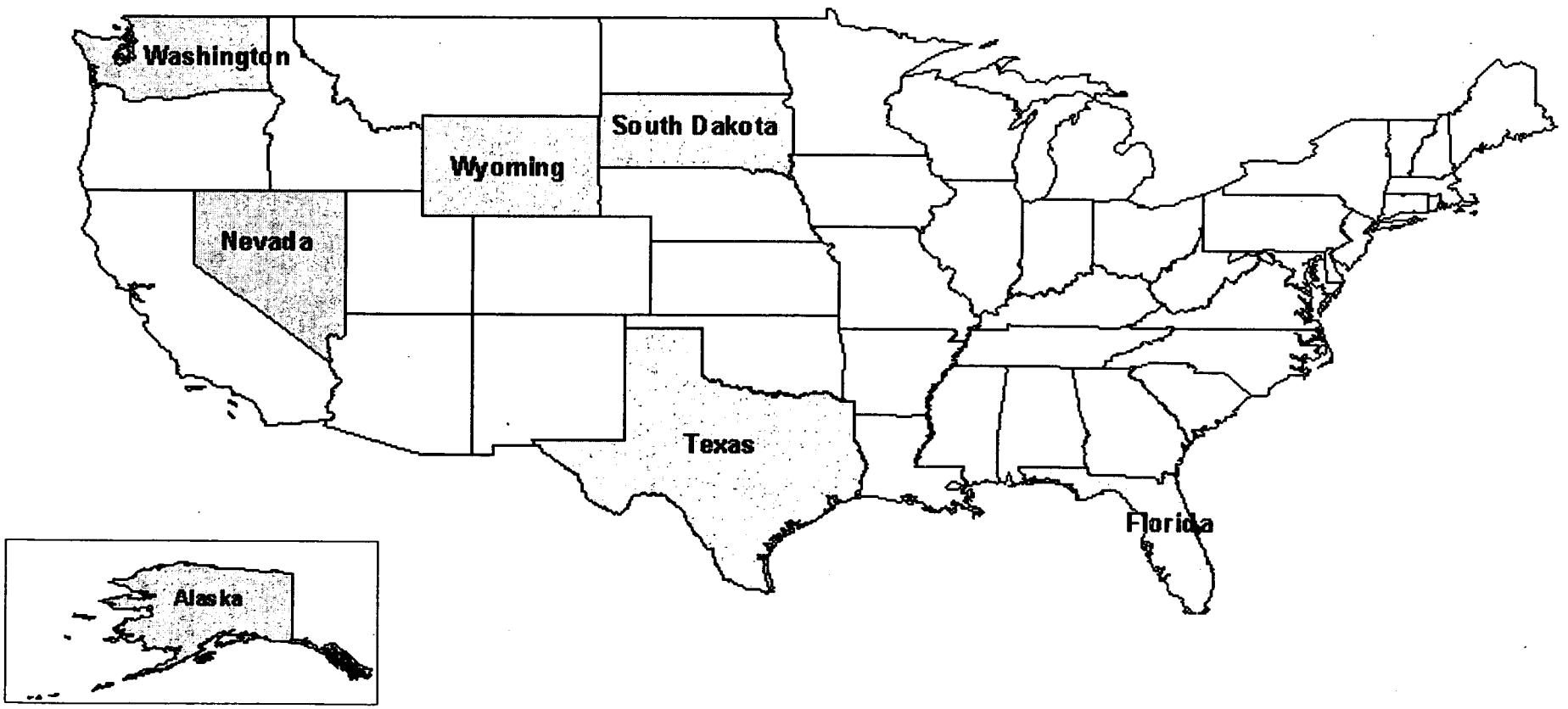
John Trever, New Mexico, The Albuquerque Journal 03/28/03

Individual Income Tax Rates

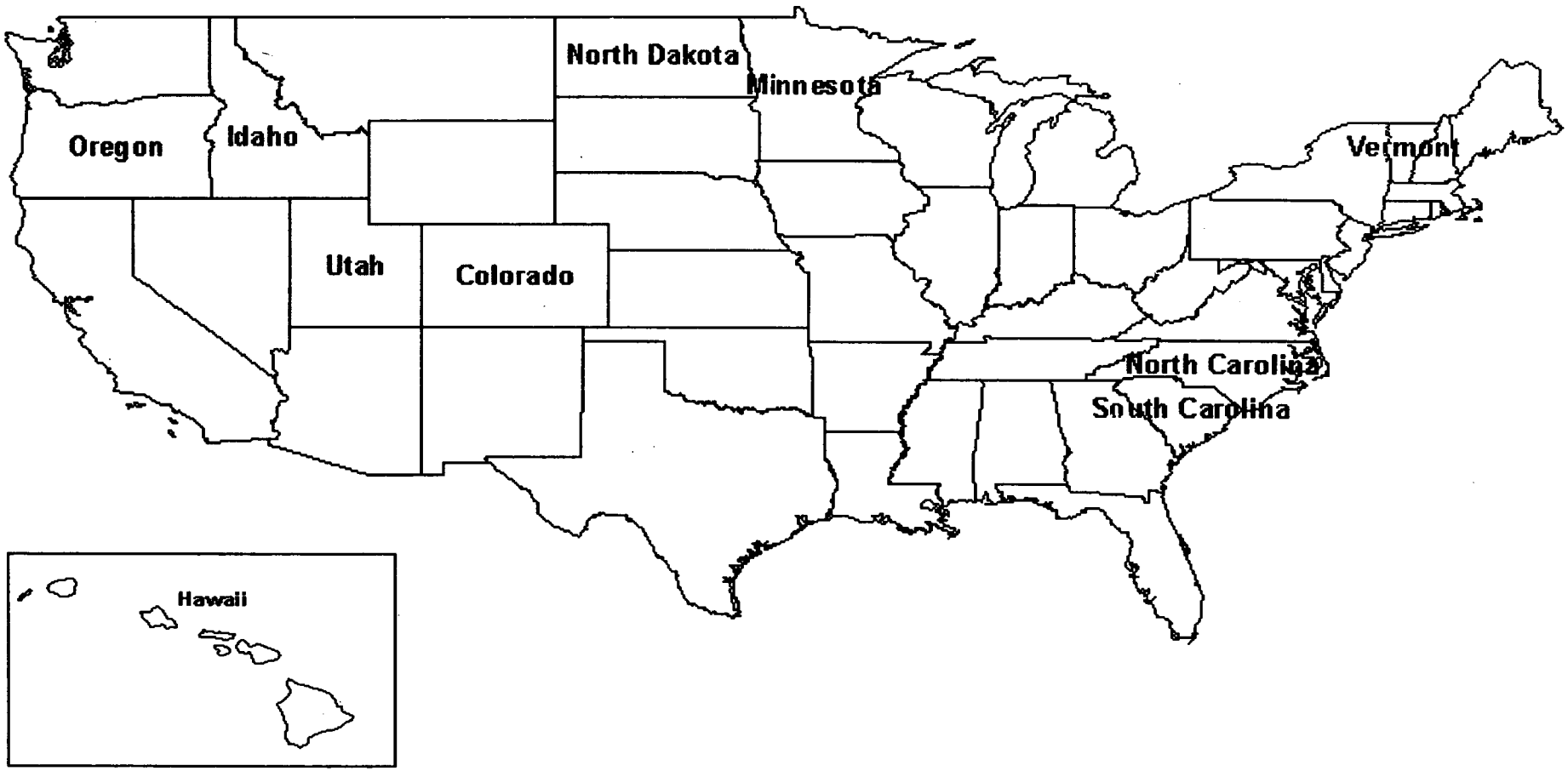
Tax Rates	Taxable Income			
	6%	7%	7.75%	8.25%*
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

States with No Income Tax

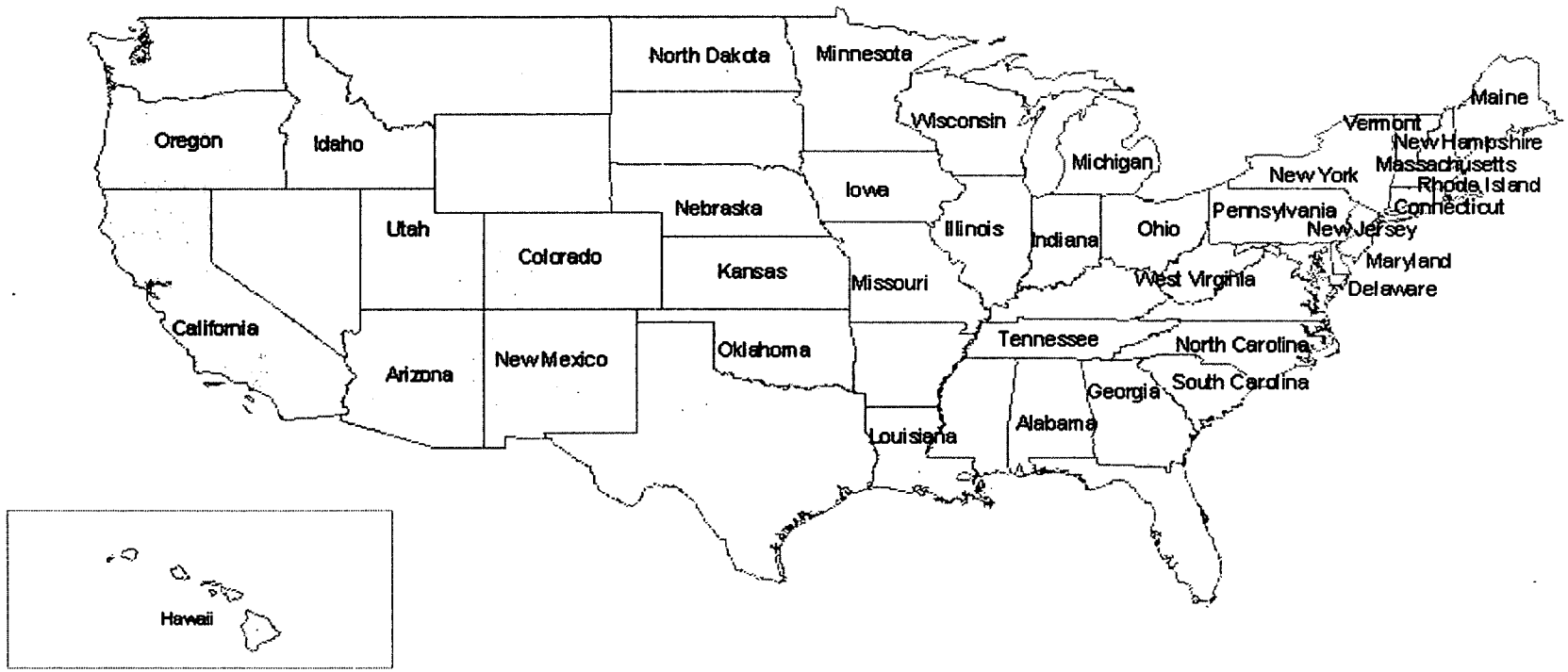


Starting Point = Taxable Income



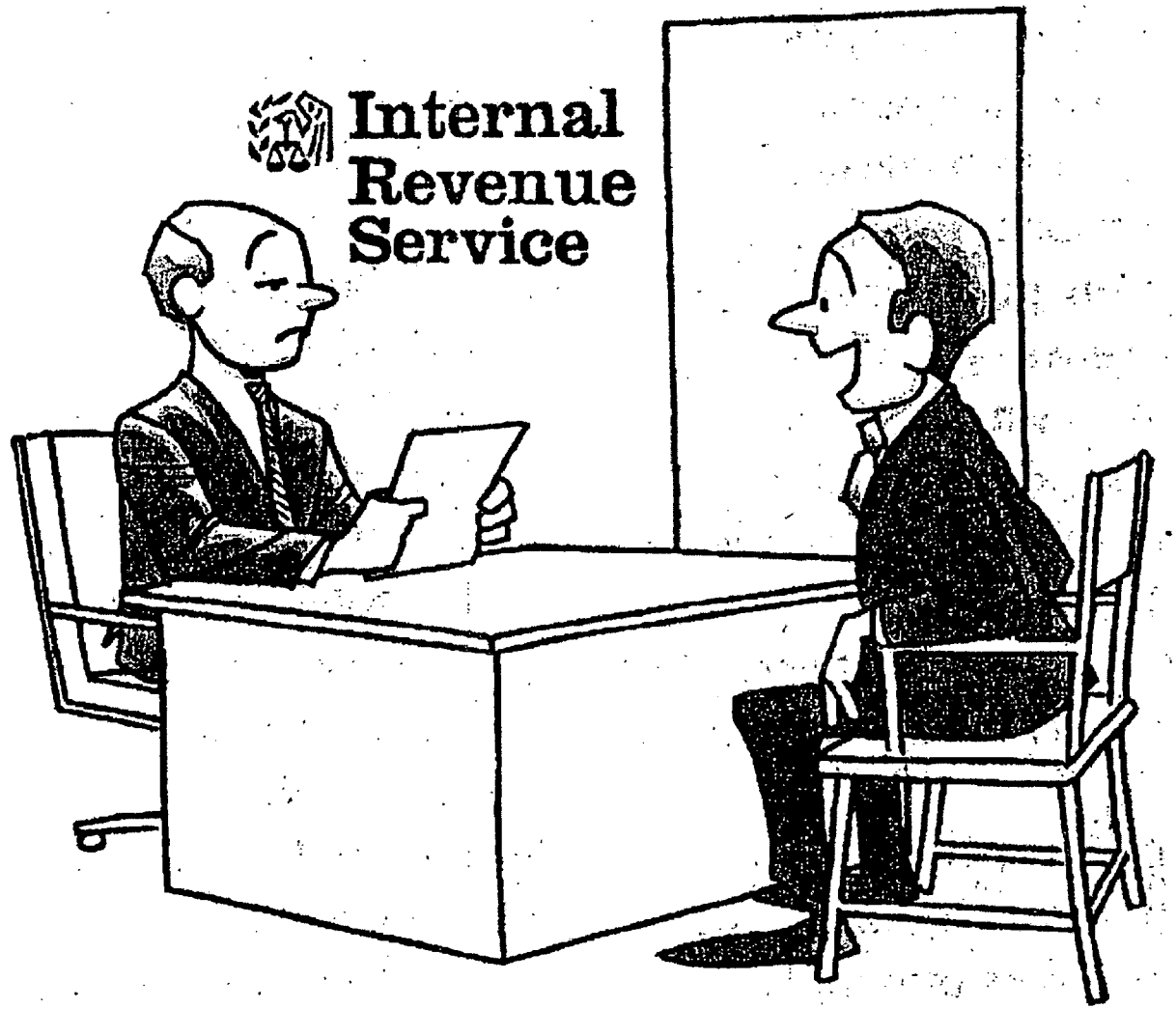
Starting Point = Federal AGI

Joint Filing for Married Couples



Exemptions/Exclusions

- Social Security
- Retirement income = $4,000 for public retirees and $2,000 for private retirees
- Retirement income = 100% exclusion for those vested in local, state and federal retirement system by August 12, 1989.
- Up to $35,000 in severance pay

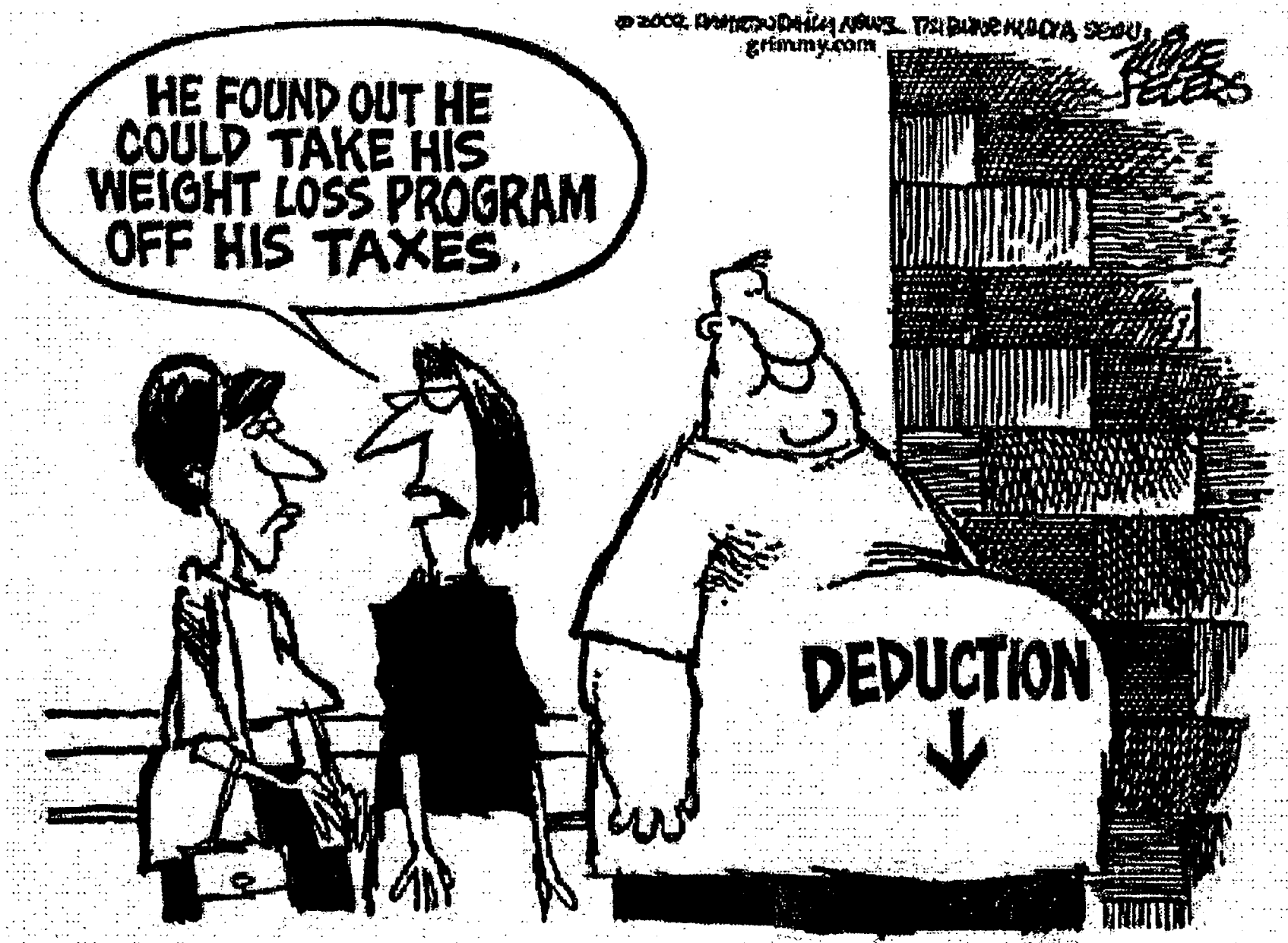


"I work religiously, so I thought my income was tax-exempt."

Deductions

- Interest income from U.S. and state obligations
- Local, state, or foreign tax refunds included in gross income
- Income earned on federally recognized Indian reservation
- Hurricane Floyd relief payments
- Distributions from Parental Savings Trust Fund (529 Plan)

MIKE PETERS **4/6/02**



Credits

- Child care and employment related expenses
- Dependent child = $60
- Disabled taxpayer = 1/3 of federal
- Long term care insurance
- Non-itemized charitable contributions
- Taxes paid to other states or countries

Credits - Housing

- Handicapped dwelling units
- Historic structure rehabilitation
- Low income housing

Credits - Agriculture

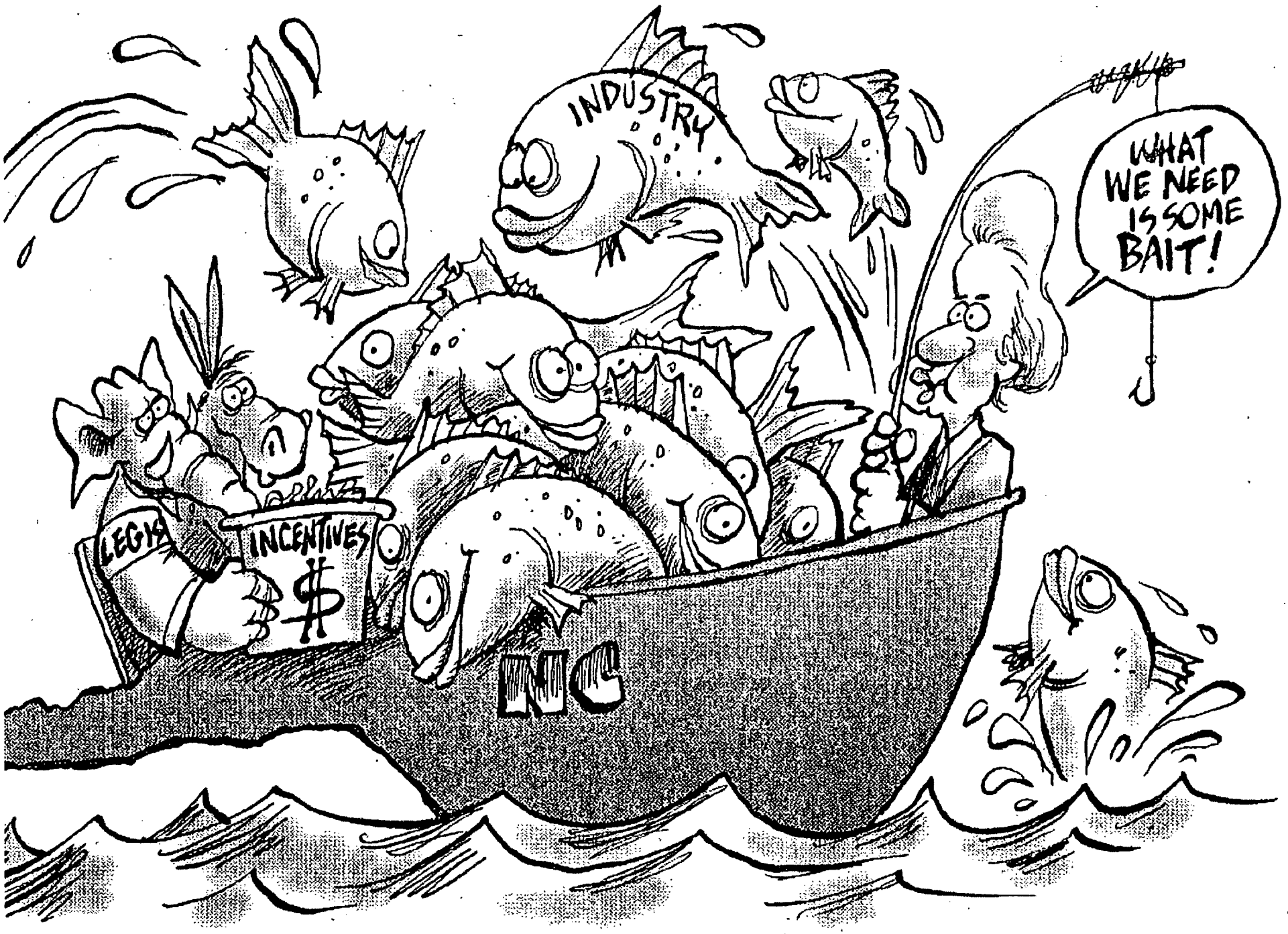
- Conservation tillage equipment
- Gleaned crops
- Property tax paid on farm machinery
- Poultry composting facility

Credits - Environment

- Renewable energy property
- Non-hazardous dry cleaning equipment
- Large or major recycling facility
- Certain real property donations

Credits – Economic Development

- Job creation
- Machinery and equipment
- Technology commercialization
- Research and development
- Worker training
- Central administrative office or aircraft facility property
- Purchase or lease of real property
- Development zone projects
- Recycling facility transport expenses
- State ports wharf fees
- Qualified business investments


INDUSTRY
WHAT WE NEED IS SOME BAIT!
LEGIS
INCENTIVES
$
NC

Individual Income Tax as % of State Tax Collections - 2001

North Carolina	48.2%
Georgia	48.2%
South Carolina	34.6%
Tennessee	2.5%
Virginia	55.2%
United States	37.1%

Size of Income Taxable in NC	Filing Status -Married Filing Separately; Single; Head of Household				Filing Status - Married Filing Jointly and Qualifying Widow(er) with Dependent Child			
	Number of Returns	% of All Returns	Estimated Tax Paid	% of All Estimated Taxes Paid	Number of Returns	% of All Returns	Estimated Tax Paid	% of Estimated Taxes Paid
$ 1 - $ 2,000	237,526	7.69%	$11,024,549	0.16%	40,616	1.32%	$1,420,655	0.02%
2,001 - 4,000	176,647	5.72%	$25,390,946	0.36%	41,238	1.34%	$5,252,826	0.07%
4,001 - 6,000	144,314	4.67%	$36,299,696	0.51%	37,875	1.23%	$8,730,825	0.12%
6,001 - 10,000	248,009	8.03%	$103,514,686	1.46%	73,758	2.39%	$29,321,308	0.41%
10,001 - 10,625	35,242	1.14%	$19,574,931	0.28%	11,275	0.37%	$5,991,508	0.08%
10,626 - 12,750	112,967	3.66%	$72,204,960	1.02%	38,587	1.25%	$23,508,971	0.33%
12,751 - 15,000	107,597	3.48%	$84,087,816	1.19%	39,738	1.29%	$29,267,516	0.41%
15,001 - 17,000	85,373	2.76%	$79,441,948	1.12%	34,645	1.12%	$29,729,564	0.42%
17,001 - 20,000	111,644	3.62%	$123,745,281	1.75%	52,161	1.69%	$52,416,114	0.74%
20,001 - 21,250	41,181	1.33%	$52,042,444	0.74%	22,050	0.71%	$24,874,682	0.35%
21,251 - 25,000	106,593	3.45%	$153,066,848	2.16%	65,861	2.13%	$85,348,171	1.21%
25,001 - 30,000	104,036	3.37%	$180,630,367	2.55%	89,638	2.90%	$143,219,197	2.03%
30,001 - 40,000	118,652	3.84%	$263,484,479	3.73%	176,044	5.70%	$371,295,058	5.25%
40,001 - 50,000	53,570	1.73%	$156,237,720	2.21%	153,852	4.98%	$429,908,233	6.08%
50,001 - 60,000	26,579	0.86%	$96,108,609	1.36%	116,942	3.79%	$406,054,185	5.74%
60,001 - 75,000	20,227	0.66%	$90,860,050	1.28%	109,153	3.54%	$470,316,175	6.65%
75,001 - 80,000	3,950	0.13%	$20,988,997	0.30%	23,806	0.77%	$120,543,122	1.70%
80,001 - 100,000	10,294	0.33%	$63,516,332	0.90%	66,282	2.15%	$390,506,927	5.52%
100,001 - 150,000	9,505	0.31%	$80,648,241	1.14%	66,926	2.17%	$546,044,933	7.72%
150,001 - 200,000	3,295	0.11%	$40,681,341	0.58%	23,551	0.76%	$283,308,027	4.01%
200,001 or more	5,953	0.19%	$243,111,626	3.44%	40,493	1.31%	$1,618,184,087	22.88%
TAXABLE	1,763,154	57.10%	$1,996,661,867	28.23%	1,324,491	42.90%	$5,075,242,083	71.77%
NONTAXABLE	365,927				147,250			

ATTACHMENT 5

Tax Year 2000 - All Returns

Size of Income Taxable in NC	Number of Returns	% of Returns	Estimated Taxes Paid	% of All Estimated Taxes Paid
$ 1 - $ 2,000	278,142	9.0%	$12,445,204	0.18%
2,001 - 4,000	217,885	7.1%	$30,643,772	0.43%
4,001 - 6,000	182,189	5.9%	$45,030,521	0.64%
6,001 - 10,000	321,767	10.4%	$132,835,994	1.88%
10,001 - 10,625	46,517	1.5%	$25,566,439	0.36%
10,626 - 12,750	151,554	4.9%	$95,713,931	1.35%
12,751 - 15,000	147,335	4.8%	$113,355,333	1.60%
15,001 - 17,000	120,018	3.9%	$109,171,512	1.54%
17,001 - 20,000	163,805	5.3%	$176,161,395	2.49%
20,001 - 21,250	63,231	2.0%	$76,917,126	1.09%
21,251 - 25,000	172,454	5.6%	$238,415,019	3.37%
25,001 - 30,000	193,674	6.3%	$323,849,564	4.58%
30,001 - 40,000	294,696	9.5%	$634,779,537	8.98%
40,001 - 50,000	207,422	6.7%	$586,145,953	8.29%
50,001 - 60,000	143,521	4.6%	$502,162,794	7.10%
60,001 - 75,000	129,380	4.2%	$561,176,225	7.94%
75,001 - 80,000	27,756	0.9%	$141,532,119	2.00%
80,001 - 100,000	76,576	2.5%	$454,023,259	6.42%
100,001 - 150,000	76,431	2.5%	$626,693,174	8.86%
150,001 - 200,000	26,846	0.9%	$323,989,368	4.58%
200,001 or more	46,446	1.5%	$1,861,295,713	26.32%
TAXABLE	3,087,645	100.0%	$7,071,903,951	100.00%
NONTAXABLE	513,177			

Corporate Income Tax History: Major Events

- North Carolina's broad-based corporate income tax was first established in 1921 during the beginning of the state fiscal revolution. North Carolina was one of first states to adopt the tax.
- The original tax rate was 3%. By 1933, the rate was up to 6%.
- A nationally-accepted method for apportioning the income of multistate corporations was adopted in 1937.
- In 1987, the rate was raised to 7%, with 50% of increase used for school facilities aid and the remainder for inventory tax reimbursement.
- During the budget crisis of 1991, the base rate was adjusted to 7.75%. In addition, a temporary surtax pushed the rate to 8.06%. The surtax was phased out over 4 years.
- The 1996 General Assembly lowered the rate to 6.9% over 4 years.

(Over)

ATTACHMENT 6

Corporate Income Tax History: Major Events (Continued)

- In 1996, the General Assembly adopted a package of corporate incentives (Bill Lee Act) to address the loss of highly publicized major companies to other states in the region. The package included tax credits for investment in machinery/equipment, job creation, R&D, and worker training.
- During the 1997-2002 sessions, the Bill Lee Act was modified and incentives to recruit specific companies were added.
- In 1998 the apportionment formula for allocating the U.S. taxable income of multistate corporations was adjusted to give preference to home state manufacturers.
- In both the 2001 and 2002 sessions, actions were taken to close loopholes in tax base (royalty income, nonbusiness income).
- The 2002 General Assembly approved the Job Development Investment Grant program. Under this program, a limited number of highly-prized companies would receive grants of up to 75% of withholding payments if they met specific performance objectives.

Observations on the Corporate Income Tax

- This tax is the most difficult tax to forecast due to the volatility of corporate profits, varying accounting and financial reporting practices, and cash flow issues.
- The share of the General Fund tax base from the corporate income tax has fallen substantially over the last few decades. This tracks pattern of most General Fund taxes. The primary reason has to do with the structure of the personal income tax. This structure (fixed personal exemptions and standard deduction, progressive rate schedule) leads to revenue growth in excess of economic growth. Over time, this lowers the relative burden of most other taxes.
- North Carolina's corporate tax rate of 6.9% is relatively high. However, low property taxes bring the combined state and local tax burden ranking down substantially (11th highest out of 15 Southeastern states).
- Due to the proliferation of corporate tax loopholes, many long-term observers are suggesting that business tax system should be converted from "ability to pay" (net income) to "benefits received" basis (gross receipts).

FISCAL HISTORY OF 1996-2002 BUSINESS TAX INCENTIVES
GENERAL FUND REVENUE LOSS ($ MILLIONS)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
1996	Targeted investment tax credit (machinery & equipment)	-4.1	-11.1	-24.2	-19.2	-28.9	-38.6	-47.1	-56.7	-52.5	-50.4	-42.0	-28.4	-24.3
	Jobs tax credit expansion	-0.8	-2.6	-6.1	-6.5	-11.2	-15.9	-16.9	-16.9	-16.9	-12.5	-8.2	-4.1	-
	Research & development tax credit	-5.9	-7.5	-7.8	-12.4	-8.0	-7.1	-7.1	-7.5	-7.8	-	-	-	-
	Worker training tax credit	-0.3	-0.3	-2.3	-2.1	-2.4	-2.6	-2.6	-2.6	-2.6	-	-	-	-
	General investment tax credit (Berry credit)	-3.9	-7.2	-8.7	-12.7	-21.2								
1997	Add central administrative offices to Lee Act		0.0	-0.6	-0.8	-1.3	-1.9	-2.5	-3.0	-3.4	-3.2	-2.8	-2.1	-1.7
	Extend investment tax credit to capital leases		-0.4	-1.2	-2.4	-2.7	-3.0	-3.9	-4.7	-5.4	-4.9	-4.3	-3.4	-2.6
	Apply "planned expansion" eligibility to investment tax credit			-0.7	-2.2	-3.0	-3.8	-5.3	-6.9	-8.4	-8.0	-7.2	-6.0	-4.5
	Tier 1 Grandfathering		-0.1	-0.2	-0.5	-0.8	-1.0	-1.2	-1.3	-1.3	-1.0	-0.6	-0.3	-
1998	Extend investment tax credit to operating leases			-0.3	-0.8	-1.1	-1.4	-1.9	-2.4	-3.1	-3.0	-2.6	-2.2	-1.7
	Adopt credit application fee ($75)		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
	Add credit for development zones													
	Air Courier Hub incentives:													
	Lower sales tax on handling, storage, equipment				-									-0.1
	Sales tax exempt. for lubricants, repair parts													-0.2

Covers

ATTACHMENT 7

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Major recycling facility incentives:				-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2
	Sales tax exemption for electricity					-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
	Extend targeted investment tax credit to major recycling facility		-0.5	-0.5	-0.6	-0.6	-0.7	-1.1	-2.4	-2.4	-2.4	-2.4	-2.4	-2.4
	Refundable credit for additional transport costs		-0.2	-0.6	-3.9	-8.1	-9.6	-10.1	-10.4	-10.4	-10.4	-10.4	-10.4	-
	Lower sales tax on handling, storage, equipment, exempt. lubricants		-0.3	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.3	-0.3	-0.3	-0.3
	Large recycling facility incentives*													
1999	Extend Bill Lee Act sunset from 1/1/02 to 1/1/06**				-	-				-	-	-	-	-
	Air carrier incentives:													
	1%, $80 sales tax to training equipment			-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4
	Sales tax exemption on repair parts, lubricants, etc.			-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2
	Nonprofit insurance company incentives:													
	Sales tax refund for building materials, fixtures, equipment				-0.6	-1.2	-0.6	-	-	-	-	-	-	-
	Sales tax refund for capitalized computer equipment				-	-	-0.6	-0.1	-0.2	-0.1	-0.1	-0.1	-0.1	-0.1
	Tier 1 & 2 enhancements:													
	Extend Lee Act to customer call centers				-	-0.6	-1.3	-1.9	-2.6	-2.6	-2.0	-1.4	-0.6	-
	Sales tax refund for building materials, fixtures, equipment				-0.1	-0.2	-0.3	-0.6	-0.8	-1.0			-	-
	Extend Bill Lee Act credits to certain electronic mail order houses				-	-2.7	-3.8	-4.8	-5.9	-4.4	-3.4	-2.5	-1.2	-0.2
	Modify tiers for small counties and high poverty rates				-	-	-	-	-	-	-	-		
	Close loopholes in definition of State Development Zones				0.1	0.1	0.3	0.3	0.3	0.2	0.1	0.1	-	-
	Establish investment tax credit of 25% of contribution or investment to nonprofit organization in Development Zone ($4 mil. limit)				-	-2.5	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0
	Allow tax credit for construction or rehab of low-income housing				-	-1.5	-3.4	-5.3	-7.6	-10.1	-11.0	-11.9	-12.9	-13.5
	Extend Bill Lee Act credits to insurance company administrative offices				-	-	-	-	-	-	-	-	-	-
	Require companies applying for credits to provide for health insurance benefits and meet environmental and OSHA standards				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Restructure application fees for Bill Lee Act credits				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require taxpayers receiving Bill Lee Act credits to provide additional information				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Clarify business definitions and refunds				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Clarify sales tax refunds for interstate air carriers				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Modify research and development credit expiration				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require environmental certificate to qualify for Industrial development fund				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require Department of Commerce to support efforts to reduce interstate competition to lure business investment between states				-	-	-	-	-	-	-	-	-	-
	Technology Commercialization Credit						-0.1	-2.1	-2.1	-2.1	-2.1	-2.1	-2.1	-2.1
	Tobacco manufacturing export tax credit				-9.0	-9.3	-9.6	-9.9	-10.2	-10.6	-10.9	-11.3	-11.7	-12.0
2000	Application fee changes													
	Extend credit carryforwards***													
	Wage standards for grants													
	Prohibit funding for defaulting grantees													
	Aircraft maintenance facility credit						0.0	-0.1	-0.1	-0.1	-0.1	-0.1	0.0	0.0
	Employment buyout incentive													
	Extend low income housing credit to disaster counties													
	Low income housing credit technical change													
	Tier change (SB 1318)					-0.1	-0.2	-0.3	-0.5	-0.5	-0.5	-0.3	-0.2	-0.1

(OVER)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Jobs tax credit change													
	Investment tax credit correction													
	Nonprofit sales tax refund technical correction													
2001	Eligible Business Clarification							-0.2	-1.1	-2.5	-4.5	-4.5	-4.1	-3.2
	Small County Exception 2							-0.2	-0.4	-0.6	-0.9	-0.7	-0.5	-0.3
	Customer Service Center						-0.3	-0.6	-0.9	-1.2	-0.9	-0.6	-0.3	
	Real Property Credit							-4.7	-9.4	-14.3	-18.7	-18.7	-18.7	-18.7
	R&D Carryforward													-2.0
2002	Limit Machinery & Equipment Credit in Tiers 1-3							3.6	7.3	10.9	14.5			
	Eliminate Wage Test in Tiers 1 & 2							-0.1	-0.2	-0.2	-0.3			
	Eliminate Worker Training Wage Test							-0.1	-0.1	-0.1	-0.1			
	Job Development Investment Grant							-10.0	-20.0	-20.0	-20.0	-20.0	-20.0	-20.0
	TOTAL 1996 TO 2002 INCENTIVES	-15.0	-30.1	-54.8	-75.6	-109.3	-111.5	-142.8	-175.3	-179.5	-162.8	-160.7	-137.8	-115.8

*Due to recent acquisition it is unlikely that proposed facility will be built.
**Costs of this provision have been allocated to the incentives impacted.
***Impact begins in 2013-14 fiscal year.

House Committee on Finance

Minutes

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April 8, 2003

The House Committee on Finance met on Tuesday, April 8, 2003 at 9:00am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Cunningham. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. Three pages were also present: Mary Armstrong of Nash County, sponsored by Representative Joe Tolson; Meghan Dawson of Cumberland County, sponsored by Representative Marvin Lucas; and Brett Jarrett of Lincoln County, sponsored by Representative Joe Kiser. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 9:05am and immediately recognized Senator Weinstein for an explanation of SB 396 – RAEFORD ANNEXATION (see attachment 3). This bill acts specifically to annex the right-of-way of McMillan Street to the Corporate Limits of the City of Raeford. Following the explanation, the Chair recognized Representative Hill who made a motion for a favorable report. Having no other discussion, the Chairman called the vote and the motion passed with no known opposition. The Chair thanked Senator Weinstein for his time and was informed by the Senator that Representative Young would be handling the discussion of this bill (SB 396) on the House floor.

The Chair next recognized Representative Hill to explain SB 419 – CHADBOURN ANNEXATION (in lieu of Senator Soles, the bill sponsor, as Representative Hill has filed an identical bill in the House) (see attachment 4). Representative Hill answered only a few questions from members. Representative Rayfield then made a motion for a favorable report. Upon the Chair's call for the vote, the motion passed unanimously.

Chairman Miner once again recognized Representative Hill to explain HB 685 - INCORPORATE SUNSET HARBOR (see attachment 5). This local bill incorporates the Town of Sunset Harbor in Brunswick County and enacts a charter setting out the powers and duties of the Town. Under this charter the Town would have the power to tax and would be governed by the Mayor-Council form of government. Chairman Miner recognized members for questions on the bill. By a motion of Representative Alexander, the committee voted a favorable report to the bill.

For the next bill up for discussion, the Chair recognized the bill sponsor, Representative Howard, to explain HB 328 – AMEND REAL ESTATE LICENSING LAWS/FEES. This bill makes a number of changes concerning the practice and licensure of North Carolina Realtors and is best summarized in the attached bill analysis (see attachment 6). The Chair then opened the floor to committee members for questions. Representative Hill quickly moved for favorable report. Several questions from members, however, were first posed to Representative Howard and Ms. Miriam Baer, General Counsel to the North Carolina Real Estate Commission. Representative Womble questioned if the changeover to computer testing would be the only method available. That is, would paper tests be available to those individuals specially requesting them. Representative Howard responded that only those persons with "special disabilities" would technically be eligible for another method of testing other than by computer. Representative Howard also stated that the Real Estate industry is one that has become so proficient with the regular use of computers, that only a small minority of those taking the tests would have a desire for a paper test. Ms. Baer complemented Representative Howard's sentiments by stating that of those few that could possibly want a paper test, the Commission would accommodate their preference when possible. The Chair then reminded members of the Committee of the outstanding motion of Representative Hill for a favorable report to the bill. Chairman Miner called the vote and the motion passed, the only dissention known from Representative Creech.

The Chairman then recognized Representative Haire to explain HB 790 – INCORPORATE CASHIERS (see attachment 7). This bill acts to repeal the charter of the Town of Cashiers because the Town has been inactive since its' incorporation but also acts to incorporate Cashiers as a Village. Chairman Miner opened the floor for discussion and recognized Page Bernstein, resident of Cashiers, who was present to answer any questions of the committee members. Without further discussion, the Chair recognized Representative Weiss who moved that the Committee offer a favorable report. With no known opposition, the motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:27am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 396 (and related materials)
4. Senate Bill 419 (and related materials)
5. House Bill 685 (and related materials)
6. House Bill 328 (and related materials)
7. House Bill 790 (and related materials)

House Committee on Finance

Minutes

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April 8, 2003

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Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:27am.

Respectfully submitted,

Representative David Miner
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Attachments:

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7. House Bill 790 (and related materials)

AGENDA

House Finance Committee

April 8, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 328	**Amend Real Estate Licensing Laws/Fees**	*Rep. Howard*
HB 685	**Incorporate Sunset Harbor**	*Rep. Hill*
HB 790	**Incorporate Cashiers**	*Rep. Haire*
SB 396	**Raeford Annexation**	*Sen. Weinstein*
SB 419	**Chadbourn Annexation**	*Sen. Soles*

Adjournment

CORRECTED NOTICE:
NEW MEETING TIME - 9:00 AM

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 8, 2003**

TIME: ~~**8:30 A.M.**~~ **9:00 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 328 – AMEND REAL ESTATE LICENSING LAWS/FEES– Rep. Howard

HB 685 – INCORPORATE SUNSET HARBOR – Rep. Hill

HB 790 – INCORPORATE CASHIERS – Rep. Haire

SB 396 – RAEFORD ANNEXATION – Sen. Weinstein

SB 419 – CHADBOURN ANNEXATION – Sen. Soles

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 3, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 8, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 328 – AMEND REAL ESTATE LICENSING LAWS/FEES– Rep. Howard

HB 685 – INCORPORATE SUNSET HARBOR – Rep. Hill

HB 790 – INCORPORATE CASHIERS – Rep. Haire

SB 396 – RAEFORD ANNEXATION – Sen. Weinstein

SB 419 – CHADBOURN ANNEXATION – Sen. Soles

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 3, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 8, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peg O'Connell	MRNC, 5625 Dillard, Cary
PAGE BERNSTEIN	783 WAYFARING Rd, CASHIERS NC 28717
John McMillan	MF&S
Doug Lassiter	NCSTA
Miriam Baer	NCREC
DON HAZNR	DOL
Tim Minard	NC Home Builders
Chris Nichols	Hunton + Williams
Rob Dusablon	NC State watch
Ken Melton	Alley Associates, Inc.
[illegible]	NCRA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 396

Short Title:	Raeford Annexation.	(Local)
Sponsors:	Senator Weinstein.	
Referred to:	Finance.	

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Raeford are extended to include the following described property:

A certain tract or parcel of land in Raeford Township, Hoke County, North Carolina, adjacent to the City of Raeford, being further described as follows:

Beginning at an iron pipe on the southeast side of N.C.S.R. No. 1463, McMillan Street, said iron pipe being the west corner of the Franklin Kemp Crumpler tract described in Deed Book 456, at Page 803 in the Hoke County Registry and shown as Tract No. 1 on a plat entitled "Survey for Linwood E. Huffman and wife, Helen H. Huffman" and recorded in Slide 397, Map No. 006, said beginning corner also being the north corner of the Harold Keith Jackson 3.902 acre tract as described in Deed Book 351, at Page 316 and shown on a plat entitled "Survey for Harold Keith Jackson" and recorded in Slide 386, at Map No. 007;

THENCE from the beginning as line of Harold Keith Jackson, South 45 degrees 43 minutes 55 seconds West for a distance of 230.03 feet to a rebar;

THENCE as line of Jackson, South 42 degrees 24 minutes 32 seconds West for a distance of 99.99 feet to a rebar;

THENCE as a line of Jackson, South 32 degrees 26 minutes 07 seconds West for a distance of 116.96 feet to an iron pipe, a common corner of Harold Keith Jackson and Emmett Steele, Jr. (D.B. 351, Pg. 305);

THENCE as line of Steele, South 28 degrees 25 minutes 33 seconds West for a distance of 82.77 feet;

THENCE as a line of Steele, South 10 degrees 31 minutes 07 seconds West for a distance of 100.00 feet;

THENCE as line of Steele, South 03 degrees 16 minutes 07 seconds West for a distance of 48.00 feet to a flat iron, a common corner of said Emmett Steele, Jr. tracts described in Deed Book 351, at Page 305 and Deed Book 340, at Page 342;
THENCE as a line of Steele (D.B. 340, Pg. 342), South 03 degrees 16 minutes 07 seconds West for a distance of 210.00 feet to the southwest corner of Steele in the north right of way line of Prospect Avenue;
THENCE crossing N.C.S.R. No. 1463, McMillan Street, North 76 degrees 54 minutes 08 seconds West for a distance of 40.60 feet to the intersection of the north right of way of Prospect Avenue and the west right of way line of McMillan Street, the southeast corner of James E. Douglas (D.B. 128, Pg. 051);
THENCE as the east line of Douglas, the east line of Lot No. 1 as shown on a plat entitled "Subdivision of Raeford Power and Manufacturing" and recorded in Map Book 3, at Page 76, North 03 degrees 04 minutes 40 seconds East for a distance of 218.62 feet to an iron pipe, the northeast corner of Douglas;
THENCE as the east line of the James Douglas' Lot No. 1-A, Subdivision of Raeford Power and Manufacturing, North 03 degrees 22 minutes 07 seconds East for a distance of 200.25 feet to an iron pipe, the northeast corner of the James Douglas Lot No. 1-A and the southeast corner of the James E. Douglas tract described in Deed Book 212, at Page 123;
THENCE as a southeast line of Douglas (D.B. 212, Pg. 123A), North 37 degrees 09 minutes 39 seconds East for a distance of 173.52 feet to a corner of Douglas;
THENCE continuing as a southeast line of Douglas, North 43 degrees 15 minutes 43 seconds East for a distance of 83.95 feet to an iron rod, a common corner of Douglas and Lot No. 27 as shown on a plat entitled "Highlanders Crossing - Phase One" as recorded in Slide 2-48, Plat No. 006;
THENCE as the southeast line of Lot No. 27, North 46 degrees 43 minutes 39 seconds East for a distance of 100.45 feet to a rebar, a common corner of Lot Nos. 27 and 28;
THENCE as the southeast line of Lot No. 28, North 47 degrees 06 minutes 27 seconds East for a distance of 150.02 feet to a rebar, a common corner of Lot Nos. 28 and 29;
THENCE as the southeast line of Lot No. 29, North 47 degrees 06 minutes 03 seconds East for a distance of 154.48 feet to a rebar, the east corner of Lot No. 28;
THENCE North 47 degrees 02 minutes 10 seconds East for a distance of 60.00 feet to a rebar, the south corner of Lot No. 30;
THENCE as the southeast line of Lot No. 30, North 47 degrees 02 minutes 57 seconds East for a distance of 150.03 feet to a rebar, a common corner of Lot No. 30 and the W.E. Carter 0.189 acre tract described in Deed Book 409, at Page 494;
THENCE as the southeast line of Carter, North 47 degrees 03 minutes 31 seconds East for a distance of 89.65 feet to a rebar, a corner of said Carter 0.189 acre tract in a south line of the W.E. Carter tract described in Deed Book 218, at Page 158;
THENCE as the south line of Carter, North 77 degrees 57 minutes 08 seconds East for a distance of 84.84 feet to an iron pipe, a corner of the Franklin Kemp Crumpler tract as described in Deed Book 360, at Page 429 and shown as Tract No. 2, 4.18 acres on the aforementioned "Survey for Linwood E. Huffman and Helen H. Huffman" plat (Slide 397, Map No. 006);

THENCE as a common line with Crumpler, South 50 degrees 56 minutes 46 seconds West for a distance of 99.45 feet to an iron, a corner of Crumpler;
THENCE as a northwest line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 319.80 feet to a rebar, a common corner of the aforementioned Franklin Kemp Crumpler tracts (D.B. 360, Pg. 429, and D.B. 456, Pg. 803);
THENCE as a line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 105.00 feet to the beginning.
Said property contains 1.596 acres more or less.

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

SENATE BILL 396:
Raeford Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Weinstein
Date:	April 8, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 396 annexes the right-of-way of McMillan Street to the corporate limits of the City of Raeford. The bill would become effective when it becomes law.***

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary. A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 396 annexes the right-of-way of McMillan Street to the corporate limits of the City of Raeford. This street, approximately 1.6 acres, is a dead-end street with both the beginning point and ending point of the street already annexed to the city limits. Currently, the Department of Transportation has possession of and maintains the street. The city is seeking to annex this property so it can pave the street. The reason that the city is seeking to annex this property by legislation rather than by petition is because the DOT does not ordinarily make requests to have property annexed.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 396 A BILL TO BE ENTITLED AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

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

OCAL BILL

OLL CALL

S.B. 396

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

Introduced by Senator(s) Weinstein Weinstein

Principal Clerk's Use Only

FILED MAR 12 2003

PASSED 1st READING
MAR 13 2003
AND REFERRED TO COMMITTEE
ON Finance

Committee on Finance to whom this bill referred, a majority being present and ng, has carefully considered the same and mmended that it do pass.

For the Committee

2RTED FAVORABLY MAR 25 2003

PASSED 2nd READING
Ayes 50 Noes 0
MAR 26 2003
AND ~~PASSED~~ Remains ON THE CALENDAR

PASSED 3rd READING
Ayes 49 Noes 0
MAR 27 2003
AND ORDERED SENT
To House of Representative

Janet Pruitt

03-31-03P08:16 RCVD

PASSED 1st READING
APR 1 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 419*

Short Title:	Chadbourn Annexation.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Chadbourn:

Beginning at an iron stake, said stake being located in the southeastern corner of the lands hereinafter described and said beginning stake being further located north 86 degrees 47 minutes west 300.00 feet to an iron stake located in the western margin of S.R. 1562, which stake is located north 2 degrees 35 minutes east 182.93 feet from a right-of-way monument which right-of-way monument is located north 14 degrees 48 minutes east 218.63 feet from another right-of-way monument which is located in the northwestern corner of the intersection of S.R. 1562 and U.S. Highway 76 bypass, and runs thence from the beginning stake and with one of Ralph Nance's lines north 2 degrees 33 minutes east 200.00 feet to an iron stake, and runs thence north 86 degrees 47 minutes west 200.00 feet to an iron stake; and runs thence south 2 degrees 33 minutes west 200.00 feet to an iron stake, and runs thence south 86 degrees 47 minutes east 200.00 feet to an iron stake, the point of beginning and containing 0.92 acres, more or less.

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

SENATE BILL 419:
Chadbourn Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Soles
Date:	April 8, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 419 annexes certain noncontiguous property to the corporate limits of the Town of Chadbourn. The act is effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 419 annexes slightly less than 1 acre of property to the corporate limits of the Town of Chadbourn. Although the annexation is voluntary, the annexation is not being done by petition because the Town does not have the funds to extend water and sewer services to this property, which is a requirement under G.S. 160A-58.1(b)(3). However, there is only one owner involved, and he has requested that the property be annexed. The Town Manager has also indicated that there is no known opposition to the annexation.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 419 A BILL TO BE ENTITLED AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

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

CAL BILL

LL CALL

S.B. 419

H 515

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

Introduced by Senator(s) Soles

Principal Clerk's Use Only

FILED MAR 13 2003

PASSED 1st READING

MAR 17 2003

AND REFERRED TO COMMITTEE

ON Finance

Committee on Finance to whom this bill referred, a majority being present and ng, has carefully considered the same and ommended that it do.....pass.

For the Committee

RIED FAVORABLY MAR 25 2003

PASSED 2nd READING

Ayes 50 Noes 0

MAR 26 2003

AND Remains ON THE CALENDAR

PASSED 3rd READING

Ayes 49 Noes 0

MAR 27 2003

AND ORDERED SENT

To House of Representatives

Jane Pruitt

03-31-03P08:17 RCVD

PASSED 1st READING

APR 1 2003

AND REFERRED TO COMMITTEE

ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 685*

Short Title:	Incorporate Sunset Harbor.	(Local)
Sponsors:	Representative Hill.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Sunset Harbor is enacted to read:

"CHARTER OF THE TOWN OF SUNSET HARBOR.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Sunset Harbor are a body corporate and politic under the name 'Town of Sunset Harbor'. The Town of Sunset Harbor has all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Sunset Harbor shall be as follows:

BEGINNING at a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry, as extended to the west; thence running eastwardly with the southern boundary of River Run Plantation as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry; thence across Sunset Harbor Road (State Road #1112) to the western boundaries of the Old Swain Property; thence southwardly with the western boundary of the Old Swain Property to a point where said extended line intersects with the boundary line of Lockwood Folly Township and Smithville Township in the U. S. Intracoastal Waterway, thence westwardly with the boundary line of Lockwood's Folly Township and Smithville Township in the U.S. Intracoastal Waterway, back to the run of Mercer's Mill Pond Creek; thence continuing with the run of Mercer's Mill Pond Creek, to a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run

Plantation recorded in the Brunswick County Registry, as extended to the west, the place and point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body.** The governing body of Sunset Harbor shall be the Board of Aldermen, which shall have five members and a Mayor.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Elaina Darter is hereby appointed Mayor and Dennis Ruocco, Craig Howell, Jackie Haddon, Roger Comer, and Miles Edge are appointed members of the Board of Aldermen of the Town of Sunset Harbor, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Board of Aldermen; Terms of Office.** The qualified voters of the entire Town shall elect the members of the Board of Aldermen and, except as provided in this section, they shall be elected to two-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and biennially thereafter, three members shall be elected to two-year terms. In 2007, and biennially thereafter, two members shall be elected to two-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2003, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Sunset Harbor will operate under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Ad Valorem Taxes.** The maximum ad valorem tax rate for the Town of Sunset Harbor is hereby established as ten cents (10¢) per one hundred dollars ($100.00) valuation, and the Board of Aldermen shall not increase that rate without the vote or consent of a majority of the qualified voters of the Town of Sunset Harbor."

SECTION 2. From and after the effective date of this act, the citizens and property in the Town of Sunset Harbor shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose, the Town shall obtain from Brunswick County a record of property in the area incorporated in Section 1 of this act that was listed for taxes as of January 1, 2003. The Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid

at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

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

HOUSE BILL 685:
Incorporate Sunset Harbor

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hill
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 685 is a local bill that incorporates the Town of Sunset Harbor in Brunswick County and enacts a charter setting out the powers and duties of the Town. The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Town in its report on February 12, 2003. The Commission concluded that the proposed Town met the standards required by Article 20 of Chapter 120 of the General Statutes.

BILL ANALYSIS: House Bill 685 incorporates the Town of Sunset Harbor under a mayor-council form of government. There will be five members of the Board of Alderman and a Mayor. Prior to the initial 2003 election, specifically named persons will serve as interim Mayor and the Board of Alderman. At the initial election, the Board of Alderman will be elected to staggered terms. The Mayor will serve a two-year term. Elections will be on a nonpartisan basis.

The maximum ad valorem tax rate will be 10¢ per $100 valuation. The rate may not be increased without the vote or consent of a majority of the qualified voters of the Town.

BACKGROUND: Article 20 of Chapter 120 of the General Statutes creates the Joint Legislative Commission on Municipal Incorporations and sets out the procedures for review of the statutory requirements for incorporation. The Commission, with the help of the Division of Community Assistance of the Department of Commerce, found that the proposed Town of Sunset Harbor satisfied the following requirements:

- The petition must be signed by 15% of the registered voters in the proposed area, but by not less than 25 registered voters. The petition was signed by 146 of the 298 voters in the proposed area. The Brunswick County Board of Elections verified the petition.
- The petition contained the necessary information, including a plan to provide a reasonable level of services and an ad valorem tax levy of at least 5¢ per $100 valuation. The Town proposes to provide fire protection, police protection, street lighting, and water distribution.
- The proposed area must have a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. The Town of Sunset Harbor contained a total population of 474 in the 2000 census. The Town is composed of an area of .626 square miles according to the Brunswick County Planning Department, resulting in a density of approximately 757 persons per square mile.
- At least 40% of the proposed area must be developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space. 48.39% of the proposed Town of Sunset Harbor is developed.

Fiscal Reserach Report: Sunset Harbor Incorporation

Sales Tax Revenue Change:

Brunswick County distributes sales tax revenues on a per capita basis. This analysis uses 2000-01 actual sales tax distribution to show how that distribution would have changed had Sunset Harbor been incorporated at that time. (Note to create a more accurate representation, the population numbers have been adjusted in accordance with the 2000 census).

Current

County	Municipalities	Population	% Population	Sales Tax Distribution
Brunswick		73692	73.6%	12,308,389
	Bald Head Island	174	0.2%	29,062
	Belville	287	0.3%	47,936
	Boiling Spring Lakes	2994	3.0%	500,072
	Bolivia	149	0.1%	24,887
	Calabash	716	0.7%	119,590
	Carolina Shores	1493	1.5%	249,368
	Caswell Beach	373	0.4%	62,300
	Holden Beach	793	0.8%	132,451
	Leland	4030	4.0%	673,110
	Navassa	482	0.5%	80,506
	Northwest	676	0.7%	112,909
	Oak Island	6619	6.6%	1,105,537
	Ocean Isle Beach	433	0.4%	72,322
	Sandy Creek	248	0.2%	41,422
	Shallotte	1394	1.4%	232,833
	Southport	2388	2.4%	398,855
	Saint James	810	0.8%	135,290
	Sunset Beach	1837	1.8%	306,825
	Varnamtown	484	0.5%	80,840
TOTAL		100072		16,714,503

With Incorporation

County	Municipalities	Population	% Population	Sales Tax Distribution	Change
Brunswick		73692	73.3%	12,250,364	(58,025)
	Bald Head Island	174	0.2%	28,925	(137)
	Belville	287	0.3%	47,710	(226)
	Boiling Spring Lakes	2994	3.0%	497,715	(2,357)
	Bolivia	149	0.1%	24,769	(117)
	Calabash	716	0.7%	119,026	(564)
	Carolina Shores	1493	1.5%	248,192	(1,176)
	Caswell Beach	373	0.4%	62,007	(294)
	Holden Beach	793	0.8%	131,826	(624)
	Leland	4030	4.0%	669,937	(3,173)
	Navassa	482	0.5%	80,126	(380)
	Northwest	676	0.7%	112,376	(532)
	Oak Island	6619	6.6%	1,100,325	(5,212)
	Ocean Isle Beach	433	0.4%	71,981	(341)
	Sandy Creek	248	0.2%	41,227	(195)
	Shallotte	1394	1.4%	231,735	(1,098)

	Southport	2388	2.4%	396,975	(1,880)
	Saint James	810	0.8%	134,652	(638)
	Sunset Beach	1837	1.8%	305,378	(1,446)
	Varnamtown	484	0.5%	80,459	(381)
	Sunset Harbor	474	0.5%	78,797	78,797
TOTAL		100546	100%	16,714,503	

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,086,685 and available funds of $101,578,822.46. This created a per capita distribution rate of $ 24.86.

Adding the new population of Sunset Harbor (474) to the statewide total creates a new population of 4,087,132 and a per capita allocation of $24.853. The impact of this change on Brunswick municipalities is as follows:

Municipalities	Population	Current Allocation	Prospective Allocation	Change
ald Head Island	174	4324.952	4324.422	(0.53)
ville	n/a			-
Boiling Spring Lakes	2994	74418.996	74409.882	(9.11)
Bolivia	149	3703.551	3703.097	(0.45)
Calabash	716	17796.928	17794.748	(2.18)
Carolina Shores	1493	37110.074	37105.529	(4.54)
Caswell Beach	373	9271.304	9270.169	(1.14)
Holden Beach	793	19710.843	19708.429	(2.41)
Leland	4030	100169.858	100157.59	(12.27)
Navassa	482	11980.613	11979.146	(1.47)
Northwest	676	16802.686	16800.628	(2.06)
Oak Island	6619	164522.156	164502.007	(20.15)
Ocean Isle Beach	433	10762.667	10761.349	(1.32)
Sandy Creek	248	6164.299	6163.544	(0.75)
Shallotte	1394	34649.325	34645.082	(4.24)
Southport	2388	59356.233	59348.964	(7.27)
Saint James	n/a			-
Sunset Beach	1837	45660.553	45654.961	(5.59)
Varnamtown	n/a			-
Sunset Harbor	474		11780.322	11,780.32

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light d telephone companies, 3.09 percentage points (or 96% of collections) are distributed he respective municipalities within which these services took place. In 1998-99 the

Statewide total was $161.1 million.

Because Sunset Harbor only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Sunset Harbor from this tax would be new or drawn from the NC General Fund.

4. Reimbursements:

Since 1979 the General Assembly has made several changes to tax law that impact local governments. The state's cities and counties have received reimbursements from the state for some of these losses, particularly as they relate to the sales and property tax bases. The state reimburses local governments for property tax losses related to the repeal of taxes on inventories and intangibles, as well as some of the losses associated with the homestead exemption. Locals also receive a reimbursement for sales taxes that are no longer paid on items purchased with food stamps. These reimbursements total to $333.4 million annually. Normally, when a new town incorporates some existing municipalities may see a small decline in their distributions, with a tiny amount redistributed to the new town. However, because the reimbursements sunset June 30, 2003, the Town of Sunset Harbor will not qualify for these funds.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 685 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

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

LOCAL BILL

ROLL CALL

H.B. 0685

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

Introduced by Representative(s): Hill.

Principal Clerk's Use Only

PASSED 1st READING
MAR 26 2003
AND REFERRED TO COMMITTEE
ON... Finance...

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 328
Committee Substitute Favorable 3/26/03

Short Title: Amend Real Estate Licensing Laws/Fees.-AB (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES, CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-4(b) reads as rewritten:

"(b) Except as otherwise provided in this Chapter, any person who submits an application to the Commission in proper manner for a license as real estate broker or a license as real estate salesperson shall be required to take an ~~oral or written~~ examination. The ~~Commission may allow an applicant to elect to take the examination by computer as an alternative to the written or oral~~ examination ~~and~~may be administered orally, by computer, or by any other method the Commission deems appropriate. The Commission may require the applicant to pay the Commission or a provider contracted by the Commission the actual cost of ~~administering the computerized examination.~~the examination and its administration. The cost of the ~~computerized~~examination and its administration shall be in addition to any other fees the applicant is required to pay under subsection (a) of this section. The examination shall determine the applicant's qualifications with due regard to the paramount interests of the public as to the applicant's competency. A person holding a real estate salesperson license in this State and applying for a real estate broker license shall not be required to take an additional examination under this subsection. A person who fails the license examination shall be entitled to know the result and score. A person who passes the exam shall be notified only that the person passed the examination. Whether a person passed or failed the examination shall be a matter of public record; however, the scores for license examinations shall not be considered public records. Nothing in this subsection shall limit the rights granted to any person under G.S. 93B-8.

An applicant for licensure under this Chapter shall satisfy the Commission that he or she possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The Commission may investigate the moral character of each applicant for licensure and require an applicant to provide the Commission with a criminal record report. All applicants shall obtain criminal record reports from one or more reporting services designated by the Commission to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of these reports. If the results of any required competency examination and investigation of the applicant's moral character shall be satisfactory to the Commission, then the Commission shall issue to the applicant a license, authorizing the applicant to act as a real estate broker or real estate salesperson in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law."

SECTION 2. G.S. 93A-4A(a) reads as rewritten:

"(a) The Commission shall establish a program of continuing education for real estate brokers and salespersons. ~~A person licensed as a real estate broker or salesperson must present evidence to the Commission upon the second license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed eight classroom hours of real estate instruction in courses approved by the Commission.~~An individual licensed as a real estate broker or salesperson is required to complete continuing education requirements in an amount not to exceed eight classroom hours of instruction a year during any license renewal period in subjects and at times the Commission deems appropriate. Any licensee who fails to complete continuing education requirements pursuant to this section shall not actively engage in the business of real estate broker or salesperson."

SECTION 3. G.S. 93A-9 reads as rewritten:

"**§ 93A-9. Licensing nonresidents.**

(a) An applicant from another state, which offers licensing privileges to residents of North Carolina, may be licensed by conforming to all the provisions of this Chapter and, in the discretion of the Commission, such other terms and conditions as are required of North Carolina residents applying for license in such other state; provided that the Commission may exempt from the examination prescribed in G.S. 93A-4 a broker or salesperson duly licensed in another state if a similar exemption is extended to licensed brokers and salespersons from North Carolina.

(b) The Commission may issue a limited broker's or salesperson's license to a person or an entity from another state or territory of the United States without regard to whether that state or territory offers similar licensing privileges to residents in North Carolina if the person or entity satisfies all of the following:

(1) Is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or territory of the United States.

(2) Only engages in business as a real estate broker or salesperson in North Carolina in transactions involving commercial real estate and

while the person or entity is affiliated with a resident North Carolina real estate broker or salesperson.

(3) Complies with the laws of this State regulating real estate brokers and salespersons and rules adopted by the Commission.

The Commission may require an applicant for licensure under this subsection to pay a fee not to exceed three hundred dollars ($300.00). All licenses issued under this subsection shall expire on June 30 of each year following issuance or on a date that the Commission deems appropriate unless the license is renewed pursuant to the requirements of G.S. 93A-4. A person or entity licensed under this subsection may be disciplined by the Commission for violations of this Chapter as provided in G.S. 93A-6 and G.S. 93A-54.

Any person or entity licensed under this subsection shall be affiliated with a resident North Carolina real estate broker or salesperson, and the resident North Carolina real estate broker or salesperson shall actively and personally supervise the licensee in a manner that reasonably assures that the licensee complies with the requirements of this Chapter and rules adopted by the Commission. The Commission may exempt applicants for licensure under this subsection from examination and the other licensing requirements under G.S. 93A-4. The Commission may adopt rules as it deems necessary to give effect to this subsection, including rules establishing: (i) qualifications for licensure; (ii) licensure and renewal procedures; (iii) requirements for continuing education; (iv) conduct of persons and entities licensed under this subsection and their affiliated resident real estate brokers or salespersons; (v) a definition of commercial real estate; and (vi) any requirements or limitations on affiliation between resident real estate brokers or salespersons and persons or entities seeking licensure under this subsection."

SECTION 4. G.S. 93A-10 reads as rewritten:

"**§ 93A-10. Nonresident licensees; filing of consent as to service of process and pleadings.**

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any of the courts of record of this State, by the service of any process or pleading authorized by the laws of this State in any county in which the plaintiff may reside, by serving the same on the Executive Director of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Executive Director shall be taken and held in all courts to be valid and binding as if due service had been made personally upon the applicant in this State. This consent shall be duly acknowledged, and, if made by a corporation, shall be ~~authenticated by its seal.~~executed by an officer of the corporation. The signature of the officer on the consent to service instrument shall be sufficient to bind the corporation and no further authentication is necessary. An application from a corporation or other business entity shall be ~~accompanied by a duly certified copy of the resolution of the board of directors, authorizing the proper officers to execute it.~~signed by an officer of the corporation or entity or by an individual designated by the Commission. In all cases where process or pleadings shall be served, under the provisions of this Chapter, upon the Executive Director of the Commission, such process or pleadings shall be served in duplicate, one of which shall be filed in the

office of the Commission and the other shall be forwarded immediately by the Executive Director of the Commission, by registered mail, to the last known business address of the nonresident licensee against which such process or pleadings are directed."

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 328:
Amend Real Estate Licensing Laws/Fees-AB

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 328 is before the House Finance Committee because it imposes a fee for a new limited license for out-of-state real estate brokers or real estate salespersons. The Bill makes the following changes to the laws regarding real estate brokers and salespersons:

- *Clarifies that the Real Estate Commission may administer the exam for licensure orally, by computer, or by any other method the Commission deems appropriate and may require the applicant to pay the actual cost of the examination and its administration.*
- *Authorizes the Commission to investigate the moral character of an applicant for licensure and requires the applicant to furnish criminal record reports from one or more reporting services designated by the Commission. The applicant must pay the service for the report.*
- *Provides that any licensee who fails to complete continuing education requirements may not actively engage in the business of real estate broker or salesperson.*
- *Authorizes the Commission to issue a limited broker or salesperson license to a nonresident broker or salesperson even if the state or territory where the applicant resides does not offer similar licensing privileges to NC residents. Certain requirements must be met and the Commission may charge a licensure fee not to exceed $300.*
- *Makes technical and conforming changes.*

BILL ANALYSIS: Section 1 of the bill clarifies the authority of the Real Estate Commission to allow applicants for licenses to take the exam orally, by computer, or by any other method the Commission deems appropriate. It allows the Commission to require the applicant to pay the actual cost of the exam and its administration regardless of the method of administration. Current law only requires the applicant to pay the cost of a computerized exam. Section 1 also requires the applicant to provide the Commission with a criminal record report from one or more reporting services designated by the Commission at the expense of the applicant. Current law requires the applicant to satisfy the Commission that the applicant has the general moral character to protect the public interest and promote public confidence in the real estate brokerage business.

Section 2 clarifies that failure to complete the continuing education requirements for brokers and salespersons will prevent the licensee from acting as a broker or salesperson. This section does not change the continuing education requirements, but merely allows the Commission to have the flexibility of designating the 12-month period in which they will be completed. This is

necessary for the annual continuing education requirements to fit with changes in the licensing year for brokers and salespersons that may occur if the Commission goes to staggered licensing periods, which it is already authorized to do.

Section 3 authorizes the Commission to issue a limited license to a broker or salesperson residing in a state that does not provide reciprocity to NC brokers and salesperson. The following requirements must be satisfied:

1. The applicant is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or US territory.
2. The applicant only engages in transactions involving commercial real estate in NC and while the applicant is affiliated with a resident NC real estate broker or salesperson. (The NC broker or salesperson must actively and personally supervise the applicant.)
3. The applicant complies with NC laws and rules regulating brokers and salespersons.

The Commission may charge a fee not to exceed $300 for the limited license. The limited license will expire each year on June 30 unless it is renewed.

Current law authorizes the Commission to assess the following fees:

Real estate broker or salesperson license	not to exceed $30
License renewal fee	$30, unless the Commission sets the fee at a higher amount not to exceed $50. The fee may not increase by more than $5 during a 12-month period.)
Reinstatement of expired license	$55
Duplicate license	$5
Commission certification of licensee's licensee history	$10

Section 4 requires that consent for service of process on nonresident applicants be signed by an officer of the corporation. Current law requires a nonresident applicant to file consent that actions may be commenced against the applicant in NC courts by serving the Executive Director of the Commission. The consent of a corporate applicant requires authentication by corporate seal.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 328 (Second Edition)

SHORT TITLE: Amend Real Estate Licensing Laws/Fees

SPONSOR(S): Rep. Howard

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Commission Special Account					
Sections 1,2, & 4	No Fiscal Impact				
Section 3	No Estimate Available				
EXPENDITURES					
Commission Special Account					
Section 1	No Fiscal Impact				
Section 3	No Estimate Available				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Real Estate Commission

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill revises real estate licensing examination procedures, clarifies continuing education requirements, and enables the Real Estate Commission to permit limited commercial practice by nonresident real estate brokers.

ASSUMPTIONS AND METHODOLOGY:

Section 1

This section allows the Real Estate Commission to charge applicants the actual cost of the licensing exam and its administration whether it is taken in writing, orally, or by computer. Currently, 95% of applicants take the exam by computer and the Commission has the authority to charge them actual cost. While this section expands the Commission's right to charge written and oral exam takers the actual cost of the test, the Commission's Executive Director said there are no plans to increase the exam fee. However, the Commission's Executive Director stated the Commission's goal is to have 100% of the exams completed by computer.

The second part of Section 1 requires applicants to provide a criminal record report from a reporting service designated by the Commission. The cost of the report is borne by the applicant and the Commission receives no revenue from this transaction.

Sections 2 and 4

Section 2 requires real estate brokers and salespersons to complete annual continuing education requirements or cease actively engaging in the profession. This section also gives the Commission flexibility in setting the 12-month period for license holders to complete the education requirements. Flexibility in the continuing education period is needed if the Commission goes to staggered license renewals. The Commission does not expect either provision to impact license renewals.

Section 4 is a technical change that allows the Executive Director of the Commission to sign for a service of process for a nonresident licensee instead of affixing a corporate seal to the document.

Section 3

This section allows the Commission to charge up to $300 for a nonresident commercial broker or salesperson license. This license would be available to residents of states that do not have reciprocity status with North Carolina. The licensee would not have to complete an exam, would only be involved in commercial real estate, and must be affiliated with a North Carolina real estate broker or salesperson. The Commission's Executive Director said this special license was requested by the commercial real estate industry. The Commission has no estimate of the number of special nonresident licenses it will issue each year.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 7, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 328 A BILL TO BE ENTITLED AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES , CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED CCMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

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

JBLIC BILL
LL CALL

Committee Substitute For
H.B. 328

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES, CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

Introduced by Representative(s): Howard

Principal Clerk's Use Only

tee on Ways & Means
rity being present, having considered
recommend that it do ✓ pass.
Reps Decker & Pate
For the Committee

FAVORABLE TO COMM. SUB.
UNFAVORABLE TO BILL

MAR 26 2003

AND PLACED ON CALENDAR FOR

pursuant to Rule 38(b)
re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 790

Short Title: Incorporate Cashiers. (Local)

Sponsors: Representative Haire.

Referred to: Finance.

March 27, 2003

A BILL TO BE ENTITLED

AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 112 of the 1927 Session Laws is repealed.

SECTION 2. A Charter for the Village of Cashiers is enacted to read:

"CHARTER OF THE VILLAGE OF CASHIERS.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Cashiers are a body corporate and politic under the name 'Village of Cashiers'. The Village of Cashiers has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Cashiers are as follows:

BEGINNING at the northernmost corner of parcel number 7582-01-46-2769 (n/f Hooper), and running along the northeast and east boundaries of said parcel to the southeast corner of said parcel, also being the southwest corner of parcel number 7582-01-46-7446, (n/f Martin), thence along the south boundary of parcel number 7582-01-46-2769 (n/f Hooper), to the easternmost corner of parcel number 7582-01-36-8125 (n/f Parsons), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7582-01-36-4097 (n/f Parsons), to the northeast corner of parcel number 7582-01-35-4422 (n/f Dezell), thence along the east boundary of said parcel to its southeast corner, thence along the south boundary of said parcel to its southernmost corner, thence along the east boundary of parcel number 7582-03-34-4905 (n/f Oak Ridge Builders) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4732 (n/f Cudahy) to its southeast corner, thence along the east boundary of

parcel number 7582-03-34-4541 (n/f Buck) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4323 (n/f Roberts) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-3127 (n/f Mansfield) to the northeast corner of parcel number 7582-03-33-2996 (n/f Davis), thence along the east boundary of said parcel to the south corner of said parcel, thence along the south boundary of said parcel to its intersection with Parsons View Road, thence crossing said road to the easternmost corner of parcel number 7582-03-23-8948 (n/f Mountain View Ventures, Inc.), thence along the west boundary of parcel number 7582-03-43-7333 (n/f Mountain View Ventures, Inc.) to the southwest corner of said parcel thence along the south boundary of said parcel to the northeast corner of parcel number 7582-03-32-6218 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to the east corner of parcel number 7582-03-31-2811 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to its south corner, thence along the southwest boundary of said parcel to the southeast corner of parcel number 7582-03-21-0825 (n/f Mountain View Ventures, Inc.), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-11-4915 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-01-9935 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-02-4432 (n/f Engelhardt), thence along the south boundary of said parcel to the east corner of parcel number 7582-03-01-2926 (n/f McCarlton Partners Ltd.), thence along the south boundary of said parcel to the southeast corner of parcel number 7572-04-92-2412 (n/f Andrews), thence along the south boundary of said parcel to a point in that south boundary, said point being due north from the northeast corner of parcel number 7572-04-91-5415 (n/f Ledbetter Ltd.), thence to said northeast corner of said parcel, thence along the east boundary of said parcel to a corner in the line of said parcel, thence in a southeasterly direction to the north corner of parcel number 7572-04-91-8321 (n/f Lofton), thence along the northeast boundary of said parcel to the northernmost corner of the right of way for East Halsted Road, thence along the east boundary of said right of way to its intersection of the north boundary of Wake Road, thence along the northeast boundary of said right of way to the westernmost corner of parcel number 7582-03-00-3170 (n/f Yates), thence along the northwest boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to the north corner of parcel number 7582-03-00-2470 (n/f Kehoe), thence along the northeast boundary of said parcel to a point in the north boundary of parcel number 7582-03-00-3224 (n/f Cranford), thence along the north boundary of said parcel to its northeast corner, thence along the east boundary of said parcel to the northeast corner of parcel number 7582-03-00-3068 (n/f Davis), thence along the east boundary of said parcel to the north corner of parcel number 7581-01-09-4898 (n/f Riley), thence along the northeast boundary of said parcel to its easternmost corner, thence along the south boundary of said parcel to its southwest corner in the right of way of Wade Road. Thence along the east boundary of the right of way for Wade Road in a southerly direction to the west corner of parcel number 7581-01-09-9220 (n/f Pearce), thence along the northwest boundary of said parcel to its north corner, thence along the

northeast boundary of said parcel in a southerly direction to its southeast corner, thence along the south boundary of said parcel to the northeast corner of parcel number 7581-01-08-9975 (n/f Fox), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-01-08-9760 (n/f St. John), thence along the east boundary of said parcel to the southernmost corner of said parcel, thence in a northwesterly direction along the southwest boundary of said parcel to its southwest corner. Thence in a southerly direction along the southeast boundary of parcel number 7581-01-08-5411 (n/f Johnson) to the south corner of said parcel, thence along the southwest boundary of said parcel to the boundary of the right of way for Wade Road; thence along the south boundary of the right of way for Wade Road to the north corner of parcel number 7581-01-07-1941 (n/f Strong), thence along the east boundary of said parcel to the east corner of parcel number 7571-02-97-8784 (n/f Jordan), thence along the southeast boundary of said parcel to the east corner of parcel number 7571-02-97-7588 (n/f Warriner). Thence in a southwesterly direction to the north corner of parcel number 7571-04-94-4469 (n/f Waddell), thence along the east boundary of said parcel to the north corner of parcel number 7571-04-93-7748 (n/f Chattooga Dev. Corp.), thence along the north boundary of said parcel in a southerly direction to a corner and thence continuing with said boundary in a northeast direction to the intersection of said boundary with the west boundary of Chimney Top Trail, thence along the west boundary of Chimney Top Trail to the south corner of parcel number 7581-03-04-1419 (n/f Fazio), thence leaving Chimney Top Trail and along the west boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to its intersection with the west boundary of the right of way for Chimney Top Trail; thence along the west boundary of Chimney Top Trail to the southwest corner of parcel number 7581-01-16-3228 (n/f Sims), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7581-01-16-5306 (n/f Coker), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-6377 (n/f Collier), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-8321 (n/f Domescik), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-9281 (n/f Cay), thence along the northeast boundary of said parcel to the northwest corner of parcel number 7581-01-26-1164 (n/f Ingram) to the north boundary of the right of way for Chimney Top Trail. Thence along the north boundary of Chimney Top Trail to the west corner of parcel number 7581-01-26-7298 (n/f Allen, Inc.), thence leaving Chimney Top Trail and running to the northwest corner of parcel number 7581-01-26-9206 (n/f Moore), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-36-0212 (n/f Puckett), thence along the north boundary of said parcel to the north corner of parcel number 7581-01-36-1115 (n/f Watson), thence along the northeast boundary of said parcel to the north corner of parcel number 7581-01-36-1096 (n/f Dalton), thence along the north boundary of said parcel to the north corner of parcel number 7581-03-44-0738 (n/f Wade Hampton POA) thence along the west, southwest and east boundaries of said parcel to the southwest corner of parcel number 7581-04-54-1583 (n/f Dunagon), thence along the west boundary of said parcel to its

northwest corner and the southwest corner of parcel number 7581-04-54-1946 (n/f Dehority), thence along the west boundary of said parcel to the southwest corner of parcel number 7581-02-55-1424 (n/f Jones), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-02-55-6467 (n/f Chanin), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-02-55-7122 (n/f Green), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-54-7508 (n/f Keller), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-54-5037 (n/f Gary), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-6754 (n/f Livermore), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5473 (n/f Floyd), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5135 (n/f Griffin), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6931 (n/f Davis), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6658 (n/f Tattersall), thence along the east boundary of said parcel to the northwest corner of parcel number 7581-04-52-7288 (n/f Smith), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-62-3346 (n/f Green), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-72-0320 (n/f Green), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-1054 (n/f Wade Hampton Co.), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-0589 (n/f McKee), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-71-1008 (n/f McKee Development), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-60-9645 (n/f Loon Corp.), thence along the southeast boundary of said parcel to the east corner of parcel number 7581-04-60-3281 (n/f Loon Corp.), thence along the south boundary of said parcel to the southwest corner of said parcel and the south boundary of the right of way of Silver Springs Road (formerly known as "Deer Camp Road"), thence along the south boundary of the right of way for said road to the southeast corner of parcel number 7581-04-50-0244 (n/f Glover), thence leaving said road and running in a west direction with the north boundary of 7581-03-40-7042 (n/f Silver Run Inc.) to its westernmost corner and the east boundary of North Carolina Highway 107 South, thence along the east boundary of the right of way for Highway 107 South, and the west boundary of parcel number 7581-03-40-7042 (n/f Silver Run, Inc.) to the southwest corner of said parcel, thence continuing along the east boundary of the right of way for Highway 107 South in a southerly direction to the southwest corner of parcel number 7580-00-49-6555 (n/f Silver Run, Inc.), thence crossing Highway 107 South and running to the southeast corner of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC), said corner being in the west boundary of the right of way for Highway 107 South, thence leaving Highway 107 South and running along the south boundary of said parcel to the southeast corner of parcel number 7580-00-29-6440 (n/f Bryson), thence

along the east boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of said parcel to the northwest corner of said parcel, thence along the west boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC) to the southwest corner of said parcel, thence along the west boundary of said parcel to the southeast corner of parcel number 7580-00-09-7162 (n/f Dillard), thence along the south boundary of said parcel to its southwest corner, thence along the southeast boundary of parcel number 7580-00-09-4833 (n/f Kinnard) to the south corner of said parcel, thence along the southwest boundary of said parcel in a northwesterly direction to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence along the line of said parcel in a westerly direction to parcel number 7580-00-09-2945 (n/f Little Terrapin), thence along the southeast and southwest boundary of said parcel to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence with the line of said parcel to a point in the southwest line of parcel number 7571-04-90-8017 (n/f Coggiola), thence with the southeast line of said parcel to its south corner and the east corner of parcel number 7570-00-99-5900 (n/f Moore), thence with the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-3873 (n/f Stewart), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-2777 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-1770 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-0589 (n/f Kehm), thence with the southeast boundary of said parcel to a point in said boundary line and the westernmost point of parcel number 7570-00-99-3500 (n/f Kehm), thence with the southwestern boundary of said parcel to the easternmost corner of parcel number 7570-00-89-9405 (n/f Walburn), thence with the southeast boundary of said parcel to the northeast corner of parcel number 7570-00-89-7172 (n/f Evans), thence with the east boundary of said parcel to the north corner of parcel number 7570-00-99-1164 (n/f Little Terrapin Property Owners), thence with the east boundary of said parcel to the northwest corner of parcel number 7570-00-98-2976 (n/f Langford), thence with the southwest boundary of said parcel to the northwest corner of parcel number 7570-00-98-6709 (n/f Gibbs), thence along the southeast boundary of parcel number 7570-00-98-0840 (n/f Langford) to its south corner, thence along the west boundary of said parcel to its northwest corner, thence along the south boundary of parcel number 7570-00-88-7936 (n/f Langford) to its southwest corner, being a point in the east boundary of parcel number 7570-00-79-6188 (n/f USA), thence along the northeast boundary of the USA parcel to its north corner, being a point in the line of parcel number 7571-04-61-2284 (n/f River), running thence in a southwesterly direction along the boundary of the River parcel to the southernmost corner of said parcel, thence in a northerly direction to the southwest corner of parcel number 7571-04-51-7634 (n/f Berglund), thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of parcel number 7571-04-61-2284 (n/f River) to the southwest corner of parcel number 7571-04-62-7189

(n/f Ingram), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-04-62-8620 (n/f Ingram), thence along the west and northwest boundaries of said property to the westernmost corner of parcel number 7571-04-72-1729 (n/f Terry), thence along the west boundary of said property to the northwest most corner of said parcel, thence crossing Whiteside Cove Road in a northwesterly direction to the southwest corner of parcel number 7571-04-73-2459 (n/f Parsons), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7571-04-63-0643 (n/f First National Bank of Palm Beach), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the north boundary of parcel 7571-03-21-3762 (n/f Warren) to the southwest corner of parcel number 7571-03-13-1347 (n/f Crawford), thence along the southwest boundary of said parcel to the southwest corner of parcel number 7571-03-03-8596 (n/f Powell), thence along the west and northwest boundaries of said parcel to the westernmost corner of Timber Ridge Drive (parcel number 7571-03-14-5568) (n/f Timber Ridge), thence along the end of Timber Ridge Drive to a point, thence along the northern boundary of the right-of-way for Timber Ridge Drive in an easterly direction to a corner near the northeast corner of parcel number 7571-03-13-4366 (n/f Cameron), thence with the west boundary of the right-of-way of Timber Ridge Drive to Devil's Courthouse View Road, thence along the western and southwestern boundary of the right-of-way for said road to a point due south of the southwest corner of parcel number 7571-01-15-4360 (n/f Swanson), thence crossing said road to the southwest corner of the Swanson parcel, thence along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the southwest corner of parcel number 7571-01-15-9621 (n/f Slaughter), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-25-0815 (n/f Tidwell), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-26-0094 (n/f Baumgarner), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, thence with the west boundary of the right-of-way for Mitten Lane, SR 1110, to its intersection with the boundary of 7571-01-26-5723 (n/f Education Tomorrow), thence along the southwest boundary of said parcel to its westernmost corner, thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0141 (n/f Davis), thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0376 (n/f Young), thence along the western boundary of said parcel to the south corner of parcel number 7571-01-27-1502 (n/f Madden), thence along the southwest boundary of said parcel to the southernmost corner of parcel number 7571-01-27-9527 (n/f Madden), thence along the southwest boundary of said parcel to the southwestern corner of the right-of-way for Zeb Alley Road SR 1111 and the westernmost corner of parcel number 7571-01-17-9527 (n/f Madden), thence to the southeast corner of parcel number 7571-01-17-8774 (n/f Pell) near the north boundary of the right-of-way of Zeb Alley Rd, thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the south and west boundaries of parcel number 7571-01-18-5076 (n/f Wakulla Motel) to the southwest corner of said parcel, thence in a northerly direction along the boundary of parcel number

7571-01-08-5333 (n/f Silver Slip Lodge) to the east corner of parcel number 7561-00-96-0982 (n/f Spraggins), thence along the southeast boundary of said parcel to its south corner, thence along the west boundary of said parcel to the south corner of parcel number 7561-00-97-0291 (n/f Walden), thence with the west boundary of said parcel to the southeast corner of parcel number 7561-00-97-0571 (n/f Woock), thence along the south boundary of said parcel to the southeast corner of parcel number 7561-00-87-5533 (n/f Woocks at Millstone Inn, Inc.), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7561-00-87-4659 (n/f Woock), thence along the south boundary of said parcel to its southwest corner, thence with the north boundary of parcel number 7561-01-77-5244 (n/f Black) in a westerly direction to the northwest corner of said parcel, thence along the south boundary of parcel number 7561-00-68-1485 (n/f Stewart) to its southwest corner and the southeast corner of parcel number 7561-00-58-6320 (n/f Kapers), thence along the southeast boundary of said parcel to its southernmost corner, thence along the southwest boundary of said parcel to the southwest corner of parcel number 7561-00-69-0110 (n/f Palmetto Investors Group, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7561-00-59-4079 (n/f Kapers), thence along the west boundary of said parcel to its northwest corner, said corner being in the south boundary of the right-of-way for US Hwy 64, thence crossing US Hwy 64 in a northwesterly direction to the easternmost corner of parcel number 7561-00-59-3533 (n/f Atkinson Properties), thence with the northern boundary of the right-of-way for US Hwy 64 in a northwesterly direction to the westernmost corner of parcel number 7562-03-01-8754 (n/f Wildcat Mountains Development Co, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7562-03-02-9707 (n/f MMB Development), thence along the southwest boundary of said parcel to its westernmost corner, thence along the northwest boundary of said parcel to the west corner of parcel number 7562-03-12-1965 (n/f MMB Development), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the north corner of parcel number 7562-03-12-4893 (n/f Walker), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7562-03-12-8653 (n/f Hubbard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-22-3353 (n/f Highlands Land Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-0554 (n/f Senterfit Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-4479 (n/f Smith), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of 7562-03-32-6275 (n/f Smith), thence along the east boundary of said parcel to the northeast corner of parcel number 7562-03-32-6173 (n/f Worley), thence along the east boundary of said parcel to the northwest corner of parcel number 7562-03-31-8648 (n/f Douglass), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-31-9494 (n/f Collins), thence to the northwest corner of parcel number 7562-03-41-3458 (n/f Bryan), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-41-5294 (n/f Bryan), thence to the northwest corner of parcel number

7562-03-41-7387 (n/f Watts), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-1436 (n/f Hilliard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-4504 (n/f Meek), thence along the north boundary of said parcel to the westernmost corner of parcel number 7562-04-61-0810 (n/f Wallace), thence along the northwest boundary of said parcel to its north corner, thence along the east boundary of said parcel to the north corner of parcel number 7562-04-61-1584 (n/f Wallace), thence along the east and northeast boundary of said parcel to the westernmost corner of parcel number 7562-04-61-8590 (n/f Drake), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-71-0705 (n/f Drake), thence along the northwest boundary of said parcel to its northernmost corner, thence along the northeast boundary of said parcel to its easternmost corner, thence along the southeast boundary of said parcel to its southernmost corner, thence along the northeast boundary of parcel number 7562-04-61-8590 (n/f Drake) to the easternmost corner of said parcel, thence with the boundary of said parcel in a southwesterly direction to a point in the line of parcel number 7562-04-71-6044 (n/f Coyle), thence from said point in a southeasterly direction to the easternmost corner of said parcel, thence in a northeasterly direction along the north boundary of parcel number 7562-04-70-8590 (n/f Failey) to the northeast corner of said parcel, thence in a northeasterly direction along the boundary of parcel number 7562-04-81-7067 (n/f Joe Mike LLC) to the north corner of said parcel and the easternmost corner of parcel number 7562-04-81-8324 (n/f Coyle), thence with the northwest boundary of said parcel to the northwest corner of parcel number 7562-04-91-0486 (n/f Choate), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-3526 (n/f Oberle), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-5518 (n/f Valley Helicopters), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7562-04-91-6756 (n/f Dillard), thence along the southwest boundary of said parcel to its west corner and the south corner of parcel number 7562-04-92-1260 (n/f Pinchot), thence in a northwesterly direction along the southwest boundary of said parcel to the northernmost corner of said parcel, thence in a southeasterly direction along the boundary of said parcel to the westernmost corner of parcel number 7562-04-92-6224 (n/f Johnson), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-92-3962 (n/f Johnson), thence along the northwest boundary of said parcel to its north corner, thence in a southeasterly direction to the southwest corner of parcel number 7562-04-93-4146 (n/f Owen), thence in a northerly direction to the north corner of said parcel, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7562-04-93-9030 (n/f McCall), thence along the north boundary of said parcel to its northernmost corner and the westernmost corner of parcel number 7572-03-03-2205 (n/f Pressley), thence along the northwest boundary of the Pressley parcel to the westernmost corner of parcel number 7572-03-03-2521 (n/f McCall), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7572-03-03-4684 (n/f Moss), thence along the northwest boundary of said parcel to a point in the line of parcel number

7572-03-04-5028 (n/f Dills), thence with the boundary of the Dills parcel to its westernmost corner and the southwest corner of parcel number 7572-03-04-1259 (n/f Brandon), thence with the west boundary of the Brandon parcel to its northwest corner, thence with the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-3268 (n/f Newberry), thence along the north boundary of said parcel to the westernmost corner of parcel number 7572-03-04-5324 (n/f Dufilho), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-7436 (n/f Logan), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-9558 (n/f Logan), thence along the north boundary of said parcel to the intersection of said boundary and the west boundary of the right-of-way for NC Hwy 107 North, thence with the west boundary of NC Hwy 107 North to a point due south of the southwest corner of parcel number 7572-03-04-8966 (n/f Rogers), thence crossing the right-of-way for NC Hwy 107 North in a north direction to said corner, thence leaving Hwy 107 and running in a northeasterly direction along the boundary of parcel number 7572-01-05-5164 (n/f Jahn) to the north corner of parcel number 7572-03-14-3969 (n/f Pierce), thence along the northeast boundary of parcel number 7572-03-14-6907 (n/f Wolf) to the southeast corner of parcel number 7572-01-15-3647 (n/f Neal), thence along the northeast boundary of said parcel to the north corner of said parcel, thence with the boundary of parcel number 7572-01-16-1209 (n/f Kinsey) to the northeast corner of said parcel, thence continuing with the line of the Kinsey parcel in a westerly direction to the southwest corner of parcel number 7572-01-17-5082 (n/f Cedar Creek Realty), thence with the southwest line of said parcel to its westernmost corner and the south corner of parcel number 7572-01-17-1065 (n/f Webb). Thence with the west boundary of the Webb parcel to the south corner of parcel number 7572-01-17-3704 (n/f Cedar Creek Realty), thence with the southwest boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the southwest corner of parcel number 7572-01-18-3367 (n/f Toms), thence along the west boundary of said parcel to the southwest corner of parcel number 7572-01-09-8001 (n/f Bennett), thence along the west boundary of said parcel to its north corner and the southwest corner of parcel number 7572-01-09-9267 (n/f Flock), thence along the west boundary of said parcel to its northwest corner, thence along the boundary of parcel number 7573-03-10-3149 (n/f Henry) to the northwest corner of parcel number 7573-03-21-5169 (n/f Damico), thence along the north boundary of said parcel to its northeast corner, thence along the north boundary of parcel number 7573-03-31-2033 (n/f Bebbington) to the northwest corner of parcel number 7573-03-40-8454 (n/f Middelthon), thence along the west boundary of said parcel to the northwest corner of parcel number 7572-02-59-4421 (n/f Big Sheepcliff Property Owners), thence along the west and south boundaries of said parcel to the north corner of parcel number 7572-01-48-0166 (n/f Thomas), thence along the northeast boundary of said parcel and the west boundary of parcel number 7572-02-58-0035 (n/f Foster) to the northeast corner of parcel number 7572-01-47-9109 (n/f Hawkins), thence along the northeast and east boundary of said parcel to its easternmost corner and a corner in the line of parcel number 7572-02-55-4964 (n/f Hawkins), thence with the north boundary of said parcel to the northwest corner of

parcel number 7572-02-56-6461 (n/f Hawkins), thence with the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7572-02-66-0536 (n/f Mountain View Ventures), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the easternmost corner of said parcel, thence to the south corner of parcel number 7572-02-67-1020 (n/f Mountain View Ventures), thence along the eastern boundary of an unnamed private road to its intersection with the north boundary of Wandering Ridge Road, thence along the north boundary of Wandering Ridge Road to the southwest corner of parcel number 7572-02-76-3414 (n/f Law), thence leaving Wandering Ridge Road and running in a northerly direction along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the northwest boundary of the right-of-way for Upper Ridge Road, being a point in the south line of parcel number 7572-02-77-2250 (n/f Law), thence with the northwest boundary of the right-of-way for Upper Ridge Road and the southeast boundary of said parcel to the southeast corner of parcel number 7572-02-77-8219 (n/f Dempsey), thence leaving Upper Ridge Road and running along the west boundary of said parcel to the northernmost corner of said parcel, thence along the south boundary of parcel number 7572-02-87-2951 (n/f Thomas) to the south corner of said parcel and the northwest boundary of the right-of-way for Overlook Pass, thence with the southeast boundary of the Thomas parcel and the northwest boundary of the right-of-way for Overlook Pass to a point in the line of parcel number 7572-02-97-6861 (n/f Rhane), thence with the west boundary of said parcel to its southwest corner, thence with the south boundary of said parcel to the southeast corner of said parcel, being a point in the boundary of the right-of-way for Cedar Creek Road, SR 1120, thence with the west boundary of the right-of-way for Cedar Creek Road in a southeasterly direction to the intersection of the boundary of the right-of-way of said road with the north boundary of the right-of-way of Wandering Ridge Road, thence crossing Cedar Creek Road in an easterly direction to the west corner of parcel number 7582-01-16-0612 (n/f Hackney), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7582-01-16-1586 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-4505 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-6527 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-8559 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-26-0683 (n/f Nantahala Power), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7582-01-26-8938 (n/f Valley Corp.), thence along the west boundary of the Valley Corp. parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, being a point in the line of parcel number 7582-01-46-2769 (n/f Hooper), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the point of BEGINNING.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Cashiers is the Mayor and the Village Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Marcia Moore, Mark Zachary, Frank Doherty, Hamilton Arnall, and Colleen McCall are appointed members of the Village Council of the Village of Cashiers, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and quadrennially thereafter, three members shall be elected to four-year terms. In 2007, and quadrennially thereafter, two members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Village shall elect the Mayor. In 2003, and quadrennially thereafter, the Mayor shall be elected for a term of four years. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council, shall have the right to vote only when there is an equal division on any question or matter before the Village Council, and shall exercise the powers and duties conferred by law or as directed by the Village Council.

"Section 3.5. **Mayor Pro Tempore.** The Village Council shall appoint one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Village Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Council-Manager Plan.** The Village shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Village Manager.** The Village Council shall appoint a Village Manager in accordance with G.S. 160A-147. The Manager shall be the administrative head of all Village departments and shall have all the powers and duties conferred by general law, except as expressly limited by the Village Council, so far as authorized by general law, and the provisions of this Charter, and any additional powers conferred by the Village Council. The Manager shall have the power to appoint, suspend, and remove

all Village officers, department heads, and employees, except the Village attorney and any other official whose appointment or removal is vested in the Village Council.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Cashiers shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Village shall obtain from Jackson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

SECTION 3. The Village may not exercise any powers authorized under G.S. 160A-360.

SECTION 4. The Village may annex areas only as provided in Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes.

SECTION 5. On or before June 30, 2004, and June 30, 2005, the Village Council shall submit to the House and Senate Finance Committees and the Joint Legislative Commission on Municipal Incorporations evidence that the Village is providing four municipal services from the list provided in G.S. 120-163(c) for the benefit of the residents of the Village and that the Village has imposed an ad valorem tax of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within the Village's corporate boundaries.

SECTION 6. The Jackson County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Village of Cashiers the question of whether or not the area shall be incorporated as the Village of Cashiers. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 7. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Village of Cashiers."

SECTION 8. In the election, if a majority of the votes are cast "For the Incorporation of the Village of Cashiers", Sections 1 through 5 of this act shall become effective on the date that the Jackson County Board of Elections certifies the results of the election. Otherwise, Sections 1 through 5 of this act shall have no force and effect.

SECTION 9. This act is effective when it becomes law.

HOUSE BILL 790:
Incorporate Cashiers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Haire
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: ***House bill 790 is a local bill that repeals the Charter for the Town of Cashiers in Jackson County and incorporates the Village of Cashiers, subject to a vote of the people in the proposed area to be incorporated. The Town has been inactive since incorporation in 1927. The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Village in its report on March 24, 2003. The Commission concluded that the proposed Village met the standards required by Article 20 of Chapter 120 of the General Statutes.***

BILL ANALYSIS: Subject to the vote of the people in the area to be incorporated, House Bill 790 incorporates the Village of Cashiers in Jackson County and repeals the charter of the Town of Cashiers. The Village will operate under a council-manager form of government. There will be five members of the Village Council and a Mayor. Until the initial election in 2003, specifically named persons will serve as interim Village Council members. At the initial election, the Village Council will be elected to staggered terms. The Mayor will serve a four-year term. Elections will be on a nonpartisan basis. The Village Council will appoint a Village Manager to be the administrative head of all Village departments.

The Village may not exercise any powers of planning and regulation beyond the village limits, and may only annex by petition or by meeting the statutory requirements for satellite annexation.

On or before June 30 of 2004 and 2005, the Village Council must submit evidence to the House and Senate Finance Committees and the Joint Legislative Commission on Municipal Incorporations that it is providing at least four of the municipal services provided in G.S. 120-163(c) and that the Village has imposed an ad valorem tax of at least 5¢ on the $100 valuation. The services in G.S. 120-163(c) are: police protection, fire protection, solid waste collection or disposal, water distribution, street maintenance, street construction or right-of-way acquisition, street lighting, and zoning.

The election on the question of incorporation must be held not less than 60 nor later than 120 days after the act becomes effective. If the majority of voters vote against incorporation, then the repeal of the Charter for the Town and the incorporation of the Village do not take effect.

BACKGROUND: Article 20 of Chapter 120 of the General Statutes creates the Joint Legislative Commission on Municipal Incorporations and sets out the procedures for review of the statutory requirements for incorporation. The Commission, with the help of the Division of Community Assistance of the Department of Commerce, found that the proposed Village of Cashiers satisfied the following requirements:

- The petition must be signed by 15% of the registered voters in the proposed area, but by not less than 25 registered voters. The petition was signed by 113 of the 596 voters in the proposed area. The Jackson County Board of Elections verified the petition.
- The petition contained the necessary information including a plan to provide a reasonable level of services (fire protection, police protection, zoning, and solid waste collection), and an ad valorem tax of at least 5¢ on the $100 valuation.
- The proposed area must have a permanent population of at least 100 and a population density of at least 250 persons per square mile. The data suggest that there are 2,376 people in the proposed area with a population density of 287 persons per square mile.
- At least 40% of the proposed area must be developed for residential, commercial, industrial, institutional, or governmental uses, or be dedicated as open space. 45.86% of the proposed area is developed.

Cashiers Incorporation
Fiscal Report

1. Sales Tax Revenue Change:

Jackson County distributes sales tax revenues on an ad valorem basis. This analysis uses the ad valorem amounts certified by county, city, and town officials to the Department of Revenue to show how that distribution would have changed had Cashiers been incorporated at that time.

Current

County	Municipalities	Ad Valorem Levy	% Levy*	Sales Tax Distribution
Jackson		16,505,542	94.1%	**6,118,192**
	Dillsboro	61,700	0.4%	22,253
	Forest Hills	18,599	0.1%	7,010
	Highlands	57,237	0.3%	21,673
	Sylva	894,644	5.1%	349,940
	Webster	9,042	0.1%	3,475
TOTAL		17,546,764	100.0%	6,522,542

* These percentages indicate the 2002 percent of levy. However, in 2001 the levy proportions are slightly different. Thus, distribution does not mirror these proportions exactly.

With Incorporation

County	Municipalities	Ad Valorem Levy	% Levy	Sales Tax Distribution	Change (Approx)
Jackson		16,505,542	91.4%	5,962,699	(155,494)
	Dillsboro	61,700	0.3%	22,289	37
	Forest Hills	18,599	0.1%	6,719	(291)
	Highlands	57,237	0.3%	20,677	(996)
	Sylva	894,644	5.0%	323,194	(26,746)
	Webster	9,042	0.1%	3,266	(208)
	Cashiers	*508,500*	2.8%	183,698	183,698
TOTAL		18,055,264	100.0%	6,522,542	(0)

** This assumes the village levies the $0.09 property tax noted in their incorporation papers..

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,086,685 and available funds of $101,578,822.46. This created a per capita distribution rate of $ 24.86.

Adding the new population of Cashiers (2376) to the statewide total creates a new

population of 4,089,061. This creates no appreciable change in the per capita payment rate (less than 2 cents per person). As such, this changes should have no significant impact on Powell Bill payments to other Jackson County municipalities.

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light and telephone companies, 3.09 percentage points (or 96% of collections) are distributed to the respective municipalities within which these services took place. In 1998-99 the statewide total was $161.1 million.

Because Cashiers only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Cashiers from this tax would be new or drawn from the NC General Fund.

4. Reimbursements:

The state reimbursements to local governments for previous tax law changes were repealed by the previous General Assembly. To that end no reimbursements will be available to Cashiers. Under current law some local governments will qualify for a "hold harmless" payment if their new estimated sales tax revenue does not exceed their previous reimbursements. However, because Cashiers did not receive a reimbursement in 2001-02 (the base year for calculation purposes) they are not eligible for a hold harmless payment.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controlling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 790 A BILL TO BE ENTITLED AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

FOR JOURNAL USE ONLY

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

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

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

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

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

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

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

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

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

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

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

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

LOCAL BILL

ROLL CALL

0790

H.B. _____ SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

Introduced by Representative(s): Haire.

Principal Clerk's Use Only

PASSED 1st READING

MAR 27 2003

AND REFERRED TO COMMITTEE

ON.....Finance.....

House Committee on Finance

Minutes

~

April 10, 2003

The House Committee on Finance met on Thursday, April 10, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Lewis, McCombs, McGee, Rayfield, Ross, Setzer, Weiss, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:30 am and recognized the three Pages present: Meghan Dawson and Amy McClellan, both of Cumberland County, sponsored by Representative Lucas; and Lindsey White of Wake County, sponsored by Representative Stam.

The Chair then recognized Representative Adams to explain HB 626 – GREENSBORO/AIRPORT ANNEXATION AGREEMENTS (see attachment 3). This bill authorizes the City of Greensboro and Piedmont Triad International Airport Authority Administration to enter into agreements to amend the description of a land area that, under current law, cannot be annexed into any municipality. The bill's purpose, explained Representative Adams, is to accommodate the changing needs of the City and the Airport. Linda Miles, City Attorney of Greensboro, was present in the audience to answer any questions from members on the bill. As there was no conflict among parties for this agreement, there were no questions from members. Chairman Wainwright recognized Representative Womble who offered a motion for a favorable report on HB 626. Upon the Chair's call of the vote, the motion passed with no known opposition.

Chairman Wainwright next recognized Senator Weinstein to explain SB 244 – RECOGNIZE RETIRED NURSES/FEES (see attachment 4). Senator Weinstein explained that the bill establishes a one-time fee of up to $50.00 for the issuance of a special license plate to recognize a retired registered nurse (RN) or retired licensed practical nurse (LPN). The bill also describes the procedures for the reinstatement of a retired RN or LPN to active practice. Following this description, the Chair recognized Representative Howard who moved that SB 244 receive a favorable report. The motion carried with no known opposition. Senator Weinstein noted to the Chair that Representative Sutton would be presenting this bill on the House floor.

Next on the agenda was HB 597 – ROANOKE RAPIDS DEANNEXATION and HB 598 – ROANOKE RAPIDS ANNEXATION (see attachment 5). Chairman Wainwright recognized Representative Hall, the sponsor, to explain the bills. HB 597 removes a 1,555-acre section of land from the corporate limits of the City of Roanoke Rapids while HB 598 annexes a 3,990-acre section of land to the City limits. The Chair opened the floor for discussion among the members. Representative Gibson made the motion for a favorable report on HB 597 and the motion carried

unanimously. Representative Howard then moved that HB 598 receive a favorable report and this motion carried unanimously as well.

Next, the Chair recognized Representative Coates to explain HB 351 – SALISBURY PARKING ENFORCEMENT (see attachment 6). This bill would allow the City of Salisbury to adopt an ordinance related to several parking issues. (Please see the attached bill summary for a more detailed description of this proposed ordinance.) The Chair entertained discussion of the bill between Representative Coates and several committee members. On a motion from Representative Womble, the committee voted to offer the bill a favorable report.

Chairman Wainwright recognized Representative Hill to explain the next bill: HB 89 – FORSYTH FIRE DISTRICTS (see attachment 7). Representative Hill explained that this bill would repeal a local law passed in 1981 that authorized the creation of joint fire and rescue protection districts inside of Forsyth County. The bill, by repealing the local law, would make the general law applicable. As there was no controversy on the matter, Representative Womble moved for a favorable report. Chairman Wainwright then called on the committee to vote, and the motion passed.

Lastly, the Chair recognized Representative Hill to explain HB 142 – SUNSET BEACH EROSION CONTROL (see attachment 8). The bill, explained Representative Hill, simply allows the Town of Sunset Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access. Chairman Wainwright opened the floor for questions following the explanation and recognized Representative Rayfield who asked if this bill affected anyone in the Oak Island area. Representative Hill informed him that he did not represent that area in his district but that a similar bill by Representative Stiller for that area would be coming before the Committee sometime in the near future. Upon a motion of favorable report by Representative Luebke, and hearing no further discussion from Committee members, Chairman Wainwright called the vote, and the motion carried.

As a final announcement, the Chair referred the following bills to the Subcommittee on Tax & Tags: HB 255 – Blue Ridge Parkway Foundation License Plate, HB 477 – NC Coastal Federation Special Plate, HB 563 – Surveyor Special License Plate, HB 577 – Retired Law Enforcement Special Plates, HB 661 – Alternative Fuel Vehicle Special Plate, HB 823 – Zeta Phi Beta Special Registration Plate, HB 855 – Breast Cancer Awareness Special Plate, and SB 295 – Special Registration Plates. Chairman Wainwright also referred HB 96 – Avery County Occupancy Tax, to the Subcommittee on the Occupancy Tax.

Having no further business, the Chair adjourned the meeting at 8:57 a.m.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 626 (and related materials)
4. Senate Bill 244 (and related materials)
5. House Bills 597 & 598 (and related materials)
6. House Bill 351 (and related materials)
7. House Bill 89 (and related materials)
8. House Bill 142 (and related materials)

House Committee on Finance

Minutes

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Having no further business, the Chair adjourned the meeting at 8:57 a.m.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
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4. Senate Bill 244 (and related materials)
5. House Bills 597 & 598 (and related materials)
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7. House Bill 89 (and related materials)
8. House Bill 142 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 10, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen	*Representative Danny McComas*
Representative Julia Howard	*Representative David Miner*
Representative Paul Luebke	*Representative William Wainwright*

Call to Order

Introduction of Pages

Bills:

HB 89	**Forsyth Fire Districts**	*Rep. McGee*
HB 142	**Sunset Beach Erosion Control**	*Rep. Hill*
HB 351	**Salisbury Parking Enforcement**	*Rep. Coates*
HB 597	**Roanoke Rapids Deannexation**	*Rep. Hall*
HB 598	**Roanoke Rapids Annexation**	*Rep. Hall*
HB 626	**Greensboro/Airport Annexation Agreements**	*Rep. Adams*
SB 244	**Recognize Retired Nurses/Fees**	*Sen. Weinstein*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Mistor	NC Home Builders
Jerry Hardesty	NC Park Council
[illegible]	City of Greensboro
Blair Carr	City of Greensboro
Amy Jo Horne	NCMS
Marcos Arellano	Intern for Rep. Luebke
Ernestine Durham	Exe Intern - Rep Gibson
[illegible]	OSBM
Amy Dobson	NC Statewater
Cam Amer	BPMHL
Chris Nichols	Hunton + Williams

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kevin Leonard	WCSR
Ken Melton	Alley Associates
Don Hobart	DOC
Rob Dusablon	NC Statewatch
Dean Plunkett	NC Beer & Wine.
Fran Preston	NCRMA
John Bowdish	Astra Zeneca
[illegible] McMillen	MFOS
Tom Sri	NCRMA
Andy Ellen	NCRMA
[illegible]	[illegible]

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 626

Short Title:	Greensboro/Airport Annexation Agreements.	(Local)
Sponsors:	Representatives Adams, Bowie, Jeffus, and Jones (Primary Sponsors).	
Referred to:	Local Government II.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Greensboro and the Piedmont Triad International Airport Administration may enter into agreements to amend the boundaries of the territory described in Section 4 of Chapter 818 of the 1985 Session Laws to meet the changing needs of the City and the Airport Administration.

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

HOUSE BILL 626:
Greensboro/Airport Annexation Agreements

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Adams, Bowie, Jeffus, And Jones
Date:	April 10, 2003		
Version:	1st Edition	**Analysis by:**	Martha Walston* Committee Counsel

SUMMARY: House Bill 626 is a local bill that authorizes the City of Greensboro and the Piedmont Triad International Airport Administration to jointly amend the description of the area that cannot be annexed by Greensboro or any other municipality. House Local Government II gave the bill a favorable report on April 2. House Bill 467 is an identical bill.

CURRENT LAW: Under current law, the two tracts described in Section 4 of Chapter 818 of the 1985 Session Laws cannot be annexed by Greensboro or by any other municipality. Chapter 818 also annexed into Greensboro certain property west of the City's corporate limits.

BILL ANALYSIS: House Bill 626 authorizes the City of Greensboro and the Piedmont Triad International Airport Authority Administration to enter into agreements to amend the description of the area that cannot be annexed into any municipality. The purpose of the bill is to meet the changing needs of the City and the Airport Administration.

*Giles Perry, Counsel to House Local Government II, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 626 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

LOCAL BILL

ROLL CALL

=H467

H.B. 0626

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

Introduced by Representative(s): Adams, Bowie, Jeffus, and Jones (Primary Sponsors).

Principal Clerk's Use Only

ASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON. Local Government II

Committee on LOCAL GOVERNMENT II
ajority being present, having considered
bill, recommend that it do ✓ pass.
Rep. Adams
For the Committee

d be re-referred to Finance

PORTED FAVORABLY APR 2 2003
-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 244
Finance Committee Substitute Adopted 3/25/03

Short Title: Recognize Retired Nurses/Fees. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-171.36A. Retired nurse status; reinstatement.**

(a) After a registered nurse or a licensed practical nurse has retired, upon payment of the one-time fee required by G.S. 90-171.27(b), the Board may issue a special license to a registered nurse or licensed practical nurse in recognition of the nurse's retired status.

(b) If a retired registered nurse or licensed practical nurse wishes to return to the practice of nursing, the retired nurse shall apply for reinstatement on a form provided by the Board and satisfy any requirements the Board deems necessary to reinstate the license."

SECTION 2. G.S. 90-171.27(b) reads as rewritten:

"(b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse	$75.00
Application for certificate and license as registered nurse by endorsement	150.00
Application for each re-examination leading to certificate and license as registered nurse	75.00
Renewal of license to practice as registered nurse(two-year period)	100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	180.00
Application for examination leading to certificate and license as licensed practical nurse by examination	75.00

Application for certificate and license as licensed practical nurse by endorsement 150.00
Application for each re-examination leading to certificate and license as licensed practical nurse 75.00
Renewal of license to practice as a licensed practical nurse (two-year period) 100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee 180.00
Application fee for retired registered nurse status or retired licensed practical nurse status 50.00
Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period) 100.00
Reasonable charge for duplication services and materials.

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%)."

SECTION 3. The Board shall initially charge a twenty-five dollar ($25.00) application fee for retired registered nurse status or retired licensed practical nurse status. Nothing in this section shall prohibit the Board from amending the fee pursuant to Chapter 150B of the General Statutes.

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

SENATE BILL 244:
Recognize Retired Nurses/Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Weinstein
Date:	April 9, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 244 does the following:

- ***Establishes a one-time fee of up to $50.00 for the issuance of a special license to recognize a retired registered nurse (RN) or a retired licensed practical nurse (LPN).***
- ***Establishes procedures for the reinstatement of a retired RN or LPN to active practice.***
- ***Clarifies that the Board may charge a reinstatement fee to a retired RN or LPN returning to active practice.***

CURRENT LAW: Currently, no category exists for the recognition of a retired RN or LPN. Upon retirement, the RN or LPN can: (1) become inactive and be considered unlicensed; (2) pay a renewal fee every two years of up to $100 to maintain an active license; or (3) pay a fee of up to $180 to reinstate a lapsed license and resume practice.

BILL ANALYSIS:

Retired Nurse Status.

SB 244 establishes the retired RN and LPN category. The purpose for the retired status is two-fold. First, it will allow RNs and LPNs at the end of their careers to obtain title recognition. According to the NC Board of Nursing (Board), some retired RNs and LPNs continue to pay the renewal fee merely to maintain their title. Second, the category would help the Board maintain a more accurate count of nurses who are retired as opposed to inactive or who have let their licenses lapse.

Fee: The Board may charge a one-time fee of up to $50.00 for the retired status. However, the Board has indicated they initially intend to levy a fee of only $25.00.

Reinstatement of RNs and LPNs to Active Licensure.

If a retired RN or LPN wishes to return to the practice of nursing, the nurse must apply for reinstatement to the Board and satisfy any requirements prescribed by the Board for reinstatement.

Procedures for Reinstatement: According to the Board, the following requirements would apply to retired RNs and LPNs wishing to return to active practice:

- Reinstatement 5 Years or Less from Date of Retirement: If the reinstatement occurs five years or less from the date of retired status, the only requirement would be completing the reinstatement application and payment of the reinstatement fee.
- Reinstatement More Than 5 Years from Date of Retirement: If the reinstatement to practice occurs more than five years from the date of retired status, in addition to completing the application and paying the fee, he/she would also be required to take a refresher course before the license would become active.

Fee: The bill authorizes the Board to charge a reinstatement fee to retired RNs and LPNs returning to active status. The fee may not exceed $100 for a 2-year period. Currently, the Board plans to charge $72.00 for a 2-year period, the same as it charges for regular renewals.

Amy Compeau, Research Assistant, Research Division & Staff to the Senate Health Committee, contributed substantially to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 244 (2nd Edition)

SHORT TITLE: Recognize Retired Nurses/Fees

SPONSOR(S): Senator Weinstein

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund			* No General Fund Impact *		
Board of Nursing	139,188		*See Assumptions and Methodology *		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Nursing.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the North Carolina Board of Nursing to issue a special license to a retired registered nurse or licensed practical nurse. The charge for the license is a one-time fee of $50.00. It also authorizes the Board to levy a fee of up to $100 for a retired nurse to return to active practice.

ASSUMPTIONS AND METHODOLOGY: According to the annual report of the North Carolina Board of Nursing, as of December 31, 2001, there were 69,370 licensed registered nurses and 15,140 licensed practical nurses, for a total of 79,100 licensed nurses employed in nursing in North Carolina. Of the licensed nurses, approximately 5,500 are over 65 years of age. Their records also indicate that there were 33,618 registered nurses who were inactive in calendar 2001, and 10,652 licensed practical nurses who were inactive in the same period, for a total of 44,270 inactive nurses. It is unclear to Fiscal Research how many of the inactive nurses are retired, although it is reasonable to assume that at least 25% of the total are retired. It is also unclear to Fiscal Research how many nurses retire each year.

The Board of Nursing indicates that while the legislation authorizes a fee of $50, it intends to only levy a fee of $25. The fiscal note assumes the Board uses a fee of $25 for the first year and $50 in the out years. Using 25% of the inactive nurse number as a proxy for first time applications for a retired nurse registration suggests first year revenue associated with the bill of $276,688 from those nurses. Assuming 50% of the 65-year-old and older nurses apply for the new license, revenue from that source in the first year would amount to an additional $68,750, creating a first year revenue estimate of $345,438. If the loss of license renewals for the retiring

nurses was considered, the net gain to the Board in the first year would be approximately $139,188. If 5% of active nurses retire each year and request a retired nurse license, the annual revenue stream associated with the license would be approximately $197,750 ($50 x 3,955). However, because there would also be an associated loss of traditional license fees ($100 for a two-year license), the net revenue stream would be limited to a loss in the out years, if those same individuals would have continued paying for their full license.

According to the Board, the costs to the Board associated with the bill should be limited to approximately $1,500 in software and database costs, as well as approximately $5 each for the creation of the certificates themselves.

As of December 31, 2001, the NC Board of Nursing carried a $1,849,222 fund balance, which was an increase of $323,428 over the previous year. The 2001 fund balance is equal to approximately 44% of its annual expenditures.

In addition, the bill allows the Board to levy a fee of up to $100 to reinstate the license to practice of a nurse who previously carried a retired nurse license. According to Board staff, while the bill authorizes a fee of up to $100 for the two-year period, they will actually charge $72, as this aligns with other similar fees charged by the Board. Because we currently have no retired nurse program, it is impossible to estimate the number of nursed who would move from a retired nurse program back into practice. Thus, there is no fiscal estimate on this portion of the bill. As a practical matter, however, there would be very little no revenue from the reinstatement fee in the first year.

SOURCES OF DATA: NC Board of Nursing, NC Secretary of State.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 9, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 244 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

BLIC BILL

LL CALL fees

Finance

~~Proposed~~ Committee Substitute For

S.B. 244

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

Introduced by Senator(s) Weinstein

Principal Clerk's Use Only

Committee Substitute
Adopted
Pursuant to Rule 45.1
MAR 25 2003

PASSED 1st READING
MAR 31 2003
AND REFERRED TO COMMITTEE
ON Finance

PASSED 2nd & 3rd
READINGS
50-0 VV
MAR 26 2003
ORDERED SENT TO
HOUSE OF REPRESENTATIVE

Janet Pruitt

03-27-03A11:45 RCVD

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 597

Short Title:	Roanoke Rapids Deannexation.	(Local)
Sponsors:	Representative Hall.	
Referred to:	Finance.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Roanoke Rapids:

Being a strip of land 70 (seventy) feet in approximately 656± feet east of the eastern right-of-way line of N.C.S.R. 1710 and approximately 900± feet northeast of the intersection of N.C.S.R. 1734 and N.C.S.R. 1710 in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe found, the southeast corner of a 13.892 acre tract of land shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Page 22-T of the Halifax County Registry. Said point of beginning having North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,659.58 feet and E(X) = 2,405,954.45 feet and said point of beginning being further located S 08° 14' 55" W 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 and S 89° 42' 48" E - 690.50 feet from an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710; thence from the point of beginning so located, N 890 42' 48" W - 71.32 feet to a point; thence N 110 20' 22" E - 967.45 feet to a point; thence S 89° 47' 37" E - 71.34 feet to a point; thence S 11° 20' 22" W - 967.55 feet to the point and place of beginning containing 67,723 square feet (1.555 acres) plus or minus.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 598

Short Title:	Roanoke Rapids Annexation.	(Local)
Sponsors:	Representative Hall.	
Referred to:	Finance.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the City of Roanoke Rapids:

Being a tract of land in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710 in the Town of Weldon, North Carolina. Said beginning point having North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,762.16 feet and E(X) = 2,405,278.33 feet and being shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Slide 22-T of the Halifax County Registry: thence from said point of beginning S 08° 14' 55" W - 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 to an existing iron pipe; thence S 89° 42' 48" E 619.18 feet to a point; thence S 11° 20' 22" W - 71.32 feet to a point; thence N 89° 42' 48" W 685.98 feet to a point; thence N 08° 14' 55" E - 99.43 feet to a point; thence S 89° 46' 25" W 20.21 feet to a point; thence N 08° 20' 54" E - 809.73 feet to a point; thence S 81° 32' 15" E 400.22 feet to a point; thence N 08° 26' 37" E - 248.43 feet to a point; thence S 89° 47' 37" E 360.29 feet to a point; thence S 11° 20' 22" W - 71.34 feet to a point; thence N 89° 47' 37" W 285.92 feet to an existing iron pipe, the northeast corner of Halifax County Property as described in Deed Book 1440, Page 467; thence S 08° 26' 37" W - 257.86 feet with and along the eastern line of the property described in Deed Book 1440, Page 467 to an existing iron pipe found; thence N 81° 32' 15" W - 400.10 feet to a new iron rebar set; thence S 08° 20' 5411 W - 658.24 feet with and along the eastern right-of-way line of N.C. S.R. 1710 to an existing iron pipe found; thence N 89° 46' 25" E - 20.07

feet with and along the northern right-of-way line of N.C.S.R. 1734 to the point of beginning containing 173,799 square feet (3,990 acres) plus or minus.

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

HOUSE BILL 597: Roanoke Rapids Deannexation
HOUSE BILL 598: Roanoke Rapids Annexation

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hall
Date:	April 10, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 597 and 598 are local bills annexing and de-annexing property to the City Limits of Roanoke Rapids in Halifax County. Both bills are effective when they become law.

CURRENT LAW: A city or town may annex property by petition of owners of property to be annexed or if the property meets certain statutory requirements. If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex. The General Assembly can also de-annex property of a municipality.

BILL ANALYSIS: House Bill 597 removes a strip of land containing 1.555 acres from the corporate limits of the City of Roanoke Rapids. House Bill 598 annexes 3,990 acres to the corporate limits of the City of Roanoke Rapids.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 597 A BILL TO BE ENTITLED AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

LOCAL BILL
ROLL CALL

H.B. 0597

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

Introduced by Representative(s): Hall.

Principal Clerk's Use Only

PASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON... Finance

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 598 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

LOCAL BILL

ROLL CALL

H.B. 0598

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

Introduced by Representative(s): Hall.

Principal Clerk's Use Only

PASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 351

Short Title:	Salisbury Parking Enforcement.	(Local)
Sponsors:	Representative Coates.	
Referred to:	Local Government II.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter VII of the Charter of the City of Salisbury, as revised and consolidated by S.L. 1987-205, is amended by adding the following new section:

"Sec. 7.4. Parking Regulations and Violations.

(a) The City Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The City Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and parking penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and parking penalties. Payment of the towing fee and all outstanding parking tickets and parking penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and parking penalties.

(c) The City Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

(d) Notwithstanding the provisions of Chapter 20 of the General Statutes or any other public or private local laws to the contrary, the City Council may adopt ordinances:

(1) Prohibiting parking or standing of a vehicle in a space designated with a sign for handicapped persons when the vehicle does not display the distinguishing registration plate, windshield placard, or disabled veteran registration plate and that prohibit parking or standing of a vehicle so as to obstruct a curb ramp or curb cut, as provided in G.S. 20-37.6(e).

(2) Prohibiting parking or standing of a vehicle in front of or within a specified distance in either direction of a fire hydrant or the driveway entrance to any fire station, or in any area designated as a fire lane.

(3) Prohibiting parking or standing of a vehicle in front of or within a specified distance from a public or private driveway.

(4) Prohibiting parking or standing of a vehicle within a specified distance from an intersection or crosswalk.

(e) Any ordinance adopted pursuant to this section may be enforced by law enforcement officers and any person or persons authorized by ordinance, by the city manager, or by the chief of police, whether or not the vehicle is parked on public or private property."

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

HOUSE BILL 351:
Salisbury Parking Enforcement.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Coates
Date:	April 9, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 351 amends the Charter for the City of Salisbury to authorize it to adopt and enforce ordinances related to parking. This bill received a favorable report in House Local Government II.***

CURRENT LAW: The Salisbury Charter allows the City Council to control traffic through the use of traffic-control devices that include parking meters. It does not otherwise address parking ordinances. However, G.S. 160A-301 provides that a city may, by ordinance, regulate parking of vehicles on the public streets. Violation of local ordinances is an infraction and subject to a penalty of not more than fifty dollars ($50).

The following municipalities currently have the authority to use wheel locks on illegally parked vehicles and assess an immobilization fee: Winston-Salem, Greensboro, Chapel Hill, Greenville, Henderson, Asheville, Durham, Raleigh, Lenoir, Wilmington, Charlotte, and Monroe.

BILL ANALYSIS: HB 351 allows the Salisbury City Council to adopt an ordinance that provides for the following:

- Each hour a vehicle remains illegally parked is a separate offense and may be ticketed separately.
- Vehicles towed for parking violations may be held until the towing fee and penalties are paid in full.
- Authorizes the use of wheel locks on illegally parked vehicles for which there are three or more outstanding and unpaid parking tickets for a period of 90 days. The ordinance must provide for an immobilization fee not to exceed $50.00 and charges for towing and storage.
- Authorizes ordinances prohibiting parking in certain designated spaces.
- Allows for enforcement by law enforcement officers and other persons authorized by the ordinance.

The act is effective when it becomes law.

Kory J. Goldsmith, counsel for House Local Government II, substantially contributed to this summary.

H351-SMSV-001

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 351 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

LOCAL BILL
ROLL CALL

H.B. 0351

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

Introduced by Representative(s): Coates.

Principal Clerk's Use Only

PASSED 1st READING
MAR 6 2003
AND REFERRED TO COMMITTEE
ON Local Government II

ommittee on Local Government II
rity being present, having considered
l, recommend that it do ✓ pass
Rep. Adams
For the Committee
d be re-referred to
nance

REPORTED FAVORABLY MAR 26 2003
re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 89

Short Title:	Forsyth Fire Districts.	(Local)
Sponsors:	Representatives McGee; Holmes, Parmon, Sexton, and Womble.	
Referred to:	Local Government I.	

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS, SO THE GENERAL LAW WILL APPLY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 147 of the 1981 Session Laws is repealed.

SECTION 2. This act applies to Forsyth County only.

SECTION 3. This act becomes effective April 17, 1981.

HOUSE BILL 89:
Forsyth Fire Districts

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McGee
Date:	April 10, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel*

SUMMARY: House Bill 89 is a local bill that repeals a 1981 local law that authorized the creation of joint fire and rescue protection districts within Forsyth County. The repeal will make the general law applicable. House Bill 89 was given a favorable report in House Local Government I. on March 19. The bill is effective retroactive to April 17, 1981.

CURRENT GENERAL LAW: Article 3A of Chapter 69 authorizes the board of county commissioners to hold an election to levy property taxes on property in a rural fire protection district for fire protection purposes, if 35% of the resident freeholders living in the district sign a petition calling for the election. G.S. 69-25.4, enacted on April 17, 1981, provides that for purposes of fire protection districts, the term "fire protection" and the levy of a tax for that purpose may include the levy, appropriation, and expenditure of funds for furnishing emergency medical, rescue and ambulance services to protect persons within the fire district from injury or death. The tax cannot be more than 15¢ on the $100 valuation of property.

CURRENT LOCAL LAW: Chapter 147 of the 1981 Session Laws, enacted on March 31, 1981, provides that whenever the term "fire protection district" or "fire protection" is used in Chapter 69, the term is deemed to refer to "fire and rescue district" with respect to Forsyth County only.

BILL ANALYSIS: House Bill 89 would repeal the above local law, and make the general law regarding the formation of rural fire and rescue districts applicable in Forsyth County. The County has been applying the general law since 1981 when it was enacted less than a month after the local law. Local acts take precedence over subsequent general acts, unless the subsequent general act repeals the local act.

*Erika Churchill, staff to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 89 A BILL TO BE ENTITLED AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS , SO THE GENERAL LAW WILL APPLY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

ROLL CALL RC

0089

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS, SO THE GENERAL LAW WILL APPLY.

Introduced by Representative(s): McGee.

Earline W. Parmon, Thomas, _____, _____
Holmes, Wayne Sexton, _____, _____
_____, _____, _____, _____
_____, _____, _____, _____

Principal Clerk's Use Only

PASSED 1st READING
FEB 26 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ority being present, having considered
ll, recommend that it do ✓ pass.
be re-referred to Finance

For the Committee
Rep. Walker

ORTED FAVORABLY MAR 19 2003
d re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 142

Short Title:	Sunset Beach Erosion Control.	(Local)
Sponsors:	Representative Hill.	
Referred to:	Local Government I.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2001-36, as amended by S.L. 2001-478, reads as rewritten:

"**SECTION 3.** This act applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach."

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

HOUSE BILL 142:
Sunset Beach Erosion Control

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hill
Date:	April 10, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 142 authorizes the Town of Sunset Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access.

CURRENT LAW:

General Condemnation Procedures: Under general condemnation procedures, title to the property and the right of possession vests in the city or county seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

The following 16 localities have the additional authority to use quick-take condemnation for purposes of engaging in beach erosion control and flood and hurricane protection works and public beach access:

Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

BILL ANALYSIS: House Bill 142 authorizes the Town of Sunset Beach to use quick-take condemnation procedures for the following purposes:

- Engaging in or participating with other governmental entities in acquiring, construction, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- Establishing access for the public to public trust beaches and appurtenant parking areas.

House Bill 142 would be effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 142 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

OCAL BILL

LL CALL

0142

H.B. _____ SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

Introduced by Representative(s): Hill.

Principal Clerk's Use Only

ASSED 1st READING
FEB 27 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ority being present, having considered
ill, recommend that it do ✓ pass.
Rep. Walker
For the Committee

ORTED FAVORABLY MAR 1 9 2003
ursuant to Rule 38(6)
he bill is re-referred
o Finance

House Committee on Finance

Minutes

~

April 15, 2003 ~ 8:30 am

The House Committee on Finance met on Tuesday, April 15, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman G. Allen called the meeting to order at 8:40 am and recognized the three Pages present: Hannah Wright of Cabarrus County, sponsored by Representative L. Johnson; Donovan Ragsdale of Wake County, sponsored by Representative Capps; and Ross Martin of Guilford County, sponsored by Representative Jeffers.

Chairman Allen made several announcements prior to considering the bills on the agenda. First, the Chair announced that the Finance Committee would meet again at 2pm for debate on the proposed bill HB 254 – REDUCE YOUTH SMOKING: RAISE TOBACCO TAXES and a third time immediately following the full House session later in the afternoon for consideration of HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. Finally, the Chairman announced the removal of HB 650 – DURHAM ANNEXATIONS from the day's agenda to be re-calendared at the request of one of the bill's sponsors, Representative Luebke.

The Chair also announced the referral of HB 1034 – M.A.D.D. SPECIAL REGISTRATION PLATE and HB 1160 – STOCK CAR RACING THEME SPECIAL PLATES to the Finance Subcommittee on Tax and Tags. The Chair then reminded the members of the Subcommittee on Tax and Tags that they would meet later in the day at 10:00 am in Room 425 of the Legislative Office Building.

Chairman Allen then recognized Representative Stam to explain HB 517 – HOLLY SPRINGS CHARTER REVISION (see attachment 3). This bill acts to consolidate the charter of the Town of Holly Springs and amends the Charter to include a provision allowing the Town to enact a tree ordinance. Immediately following this explanation, the Chair recognized Representative Weiss who made a motion for a favorable report. Having no discussion, the Chair called the vote and the motion passed with no known opposition.

Chairman Allen then recognized Representative Stiller, the bill sponsor, to explain HB 542 – OAK ISLAND/CASWELL/OCEAN ISLE CONDEMNATIONS (see attachment 4). This bill is proposed to authorize the Towns of Oak Island, Caswell Beach, and Ocean Isle Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access. Noting that he had already offered a similar bill for his area of representation, Representative Hill moved for a favorable report. The motion

carried without dissent.

The Chairman next recognized Rep. Blackwood to explain HB 731 – STALLINGS SATELLITE ANNEXATION (see attachment 5). Representative Blackwood explained that the bill is controversial, since the Town of Indian Trail has objected to the proposed satellite annexations of the bill. Upon hearing Mr. Blackwood's explanation, Representative Howard stated that it seemed that he had attempted to make a fair compromise on the bill and subsequently moved for a favorable report. However, prior to the consideration of this motion, the Chairman recognized members for questions concerning the opposition of the Town of Indian Trail to the proposed annexations. Representative Womble asked to hear from anyone at the meeting in opposition to this bill; however no one from Indian Trail was present at the meeting to voice opposition. Following this, Representative Jones reasserted the earlier motion for a favorable report, stating that the bill seemed to meet legitimate conditions for annexation.

Representative Blackwood then reiterated his hope that the communities of Indian Trail and Stallings could work out an agreement amongst themselves, as, even when passed, this bill remains a voluntary annexation. Representative Decker offered an amendment to the bill to add a sunset until 2006, as the current edition does not have a stated date of expiration. This amendment would act to provide that the ability to annex for these two communities would expire under law in 2006 if they were to remain unable to reach an appropriate compromise.

Representatives Rayfield and Alexander asked Representative Blackwood if he would consider withdrawing his current bill and return once again to these communities to attempt to sort things out and make a compromising arrangement. Representative Blackwood stated that, unfortunately, at the present time he did not believe there was any other resolution. Representative Womble was then recognized by the Chair to address the Committee and stated his belief that the Committee should not be involved on such a controversial local issue, where there is such wide opposition. He also stated his belief that Representative Blackwood should withdraw his bill and return to the community for further interaction with these communities.

At that time, Representative Blackwood, upon consulting with Chairman Allen, acted to withdraw his bill and to return to the local community for additional attempts at compromise.

Chairman Allen then reminded members of the Subcommittee on Tax and Tags that it would meet at 10 am that day in room 425 of the Legislative Office Building. The Chair also reminded the Committee once again that it would meet again that day at 2:00 pm to debate the Cigarette Tax and for a third time following the full House session at approximately 4:30 pm.

Having no further business at that time, Chairman Allen adjourned the meeting at 9:05 am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 517 (and related materials)
4. Senate Bill 542 (and related materials)
5. House Bill 731 (and related materials)
6. House Bill 650 (and related materials) **(removed from agenda prior to meeting)**

ATTACHMENT 1

AGENDA

House Finance Committee

April 15, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills:

HB 517	**Holly Springs Charter Revision**	*Rep. Stam*
HB 542	**Oak Island/Caswell/Ocean Isle Condemnations**	*Rep. Stiller*
HB 650	**Durham Annexations**	*Rep. Luebke*
HB 731	**Stallings Satellite Annexation**	*Rep. Blackwood*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 15, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 517 – HOLLY SPRINGS CHARTER REVISION – Rep. Stam

HB 542 – OAK ISLAND/CASWELL/OCEAN ISLE CONDEMNATIONS – Rep. Stiller

HB 650 – DURHAM ANNEXATIONS – Rep. Luebke

HB 731 – STALLINGS SATELLITE ANNEXATION – Rep. Blackwood

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **10:00 A.M.** on **April 10, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Debbie Holder	NC Utilities Commission
Dorothy Davis	Public Staff- Utilities
Bob Gillam	Public Staff
Joe McClees	McClees Consulting
Paul Zepin	OSBA
Ron Aycock	County Com. Assoc
Andy Sabol	NCDOR
Marthan Glass	NC DAICS
Henry Hutaff	N.C.SDA.
Regan Ball	DCD-DHHS
Bob Fitzgerald	DFS/DHHS

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30 am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drexdal Pratt	DHHS / DFS / Emerging Med. Services
Roz Sawyer	NCCCS
Bill Rustin	ACP
DAVID BARNES	Poyner Spruill LLP
Leslie Berger	NCCBI
Betty Turner	Bank of America
Chris Nichols	Hunton + Williams
Dave Lamb	NCSITA
[illegible]	Poyner & Spruill
Jim Blackburn	NC Association of County Commissioners
Ken Melton	Alley Associates, Inc.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30 am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marcos Arellano	Intern
Duke "The Nuke" Chen	Intern
Shelley Welton	Cons Council Intern
Robert Wilson	Lee of Stats
Melva Fager Okun	NC Alliance for Health
John Thompson	American Cancer Society
Peg O'Connell	Medical Rev of NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 517
Committee Substitute Favorable 4/7/03

Short Title: Holly Springs Charter Revision. (Local)

Sponsors:

Referred to:

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Holly Springs is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF HOLLY SPRINGS.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Holly Springs and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Holly Springs', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Holly Springs specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Wake County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, to be elected by all the qualified voters of the

Town, for staggered terms of four years and until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2005, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2003, and quadrennially thereafter, two Commissioners shall be elected to four-year terms. At the regular municipal election in 2005, and quadrennially thereafter, three Commissioners shall be elected to four-year terms.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give

notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. MISCELLANEOUS POWERS.

"Section 5.1. **Tree Ordinances.**

(a) The Town may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.

(b) Ordinances adopted pursuant to this section shall:

(1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way and any required conservation easements.

(2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.

(3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.

(4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.

(5) Provide that a survey of individual trees is not required.

(6) Include reasonable provisions for access onto and within the subject property.

(7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a municipality may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought. A municipality may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.

(c) Before adopting an ordinance under this section, the governing board of the municipality shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 160A-364.

(d) Nothing in this section shall be construed to limit or be limited by any other existing laws or ordinances.

(e) This section applies to the Town and to property located within the Town's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

(f) This section becomes effective January 1, 2004."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Holly Springs and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 110, Session Laws of 1951
Chapter 121, Session Laws of 1953
Chapter 495, Session Laws of 1971
Chapter 331, Session Laws of 1985
Chapter 382, Session Laws of 1985
Chapter 941, Session Laws of 1985.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Holly Springs and all existing rules or regulations of departments or agencies of the Town of Holly Springs not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Holly Springs or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or

applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superceded.

SECTION 10. This act is effective when it becomes law.

HOUSE BILL 517:
Holly Springs Charter Revision

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Stam
Date:	April 15, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: House bill 517 consolidates the charter of the Town of Holly Springs and amends the Charter to include a provision allowing the Town to enact a tree ordinance. The current bill was given a favorable report in House Local Government I.

CURRENT LAW: The charter of the Town of Holly Springs was last revised and consolidated in 1951. Since then, several amendments have been enacted in separate pieces of local legislation.

BILL ANALYSIS: The 2nd Edition of House bill 517 brings together the pieces of the charter into one document and amends the charter to include a provision allowing the Town to enact tree ordinances. HB 517 grants the Town the authority to adopt ordinances regulating the cutting of trees and shrubs prior to development within a perimeter buffer zone. The buffer zone may be up to 50 feet along public roadways and property boundaries adjacent to developed property and up to 25 feet along property boundaries adjacent to undeveloped property. The ordinances must also provide that:

1. The buffer area will not exceed 20% of the area of the tract, net of public road rights-of-way and any required conservation easements.
2. The buffer zones adjoining public roadways shall be measured from the edge of the public road right-of-way.
3. Tracts that are 2 acres or less and zoned for single-family residential use are exempt from the buffer requirements.
4. Ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.
5. Surveys of individual trees are not required.
6. There will be reasonable provisions for access to and within the property.
7. Normal forestry activities on property that is taxed at use value or is managed under a forestry management plan prepared or approved by a registered forester will be excluded. The Town may deny a building permit or refuse a subdivision plan for 3 years after the completion of the harvest of the perimeter trees that would have otherwise been protected. This period may be shortened to 2 years if the owner replants the buffer area within 120 days with appropriate plant material.

BACKGROUND: Other municipalities with similar authority to regulate clear cutting of trees are: Durham, Cary, Garner, Knightdale, Fuquay-Varina, Morrisville, and Spencer (S.L. 2001-191)

*Erika Churchill, staff to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 517 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

ROLL CALL

title change

~~Proposed~~ Committee Substitute For
B. 517

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

Introduced by Representative(s): Starn

Principal Clerk's Use Only

e Committee on Local Govt I
najority being present, having considered
bill, recommend that it do pass.
Rep. Warner
For the Committee

FAVORABLE TO COMM. SUB
UNFAVORABLE TO BILL

APR 7 2003

TITLE CHANGE

~~AND PLACED ON CALENDAR FOR~~

pursuant to Rule
38(b) be referred
to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 542

Short Title: Oak Island/Caswell/Ocean Isle Condemnations. (Local)

Sponsors: Representative Stiller.

Referred to: Local Government I.

March 18, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors [Modified Provision for Certain Localities]. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

(2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

(3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

(4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.

(5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

(6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

(7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

(8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.

(9) Opening, widening, extending, or improving public wharves.

(10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.

(11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this chapter.

This subsection applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach."

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

HOUSE BILL 542:
Oak Island/Caswell/Ocean Isle Condemnations.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	April 15, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 542 authorizes the Towns of Oak Island, Caswell Beach, and Ocean Isle Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access.

CURRENT LAW:

General Condemnation Procedures: Under general condemnation procedures, title to the property and the right of possession vests in the city or county seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

The following 16 localities have the additional authority to use quick-take condemnation for purposes of engaging in beach erosion control and flood and hurricane protection works and public beach access:

Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

BILL ANALYSIS: House Bill 542 authorizes the Towns of Caswell Beach, Oak Island, and Ocean Isle Beach to use quick-take condemnation procedures for the following purposes:

- Engaging in or participating with other governmental entities in acquiring, construction, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- Establishing access for the public to public trust beaches and appurtenant parking areas.

House Bill 542 would be effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for

H.B. 542 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

)CAL BILL

L[redacted]LL

H.B. 0542

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

Introduced by Representative(s): Stiller.

Principal Clerk's Use Only

PASSED 1st READING
MAR 18 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ajority being present, having considered
bill, recommend that it do pass.
Rep Warren
For the Committee

na be re-referred
Finance

)RTED FAVORABLY APR 2 2003
-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 731

Short Title:	Stallings Satellite Annexation.	(Local)
Sponsors:	Representative Blackwood.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF STALLINGS TO MAKE VOLUNTARY SATELLITE ANNEXATION OF CERTAIN PROPERTY WITH THE CONSENT OF THE TOWN OF INDIAN TRAIL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 160A-58.1(b)(2), the Town of Stallings may annex any of the following property in Union County with the approval of an ordinance or resolution by the governing board of the Town of Indian Trail. The remaining provisions of Part 4 of Article 4A of Chapter 160A of the General Statutes shall apply to such annexation.

Union County Tax Parcel identification numbers:

07-147-139
07-147-139B
07-147-137
07-147-137B
07-147-137C
07-147-137D
07-147-137E
07-141-009
07-141-010
07-141-008
07-141-007
07-141-007A
07-141-001
07-141-001D
07-141-001G
07-141-002
07-141-002A
07-141-003

07-141-004D
07-087-002.

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

HOUSE BILL 731:
Stallings Satellite Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Blackwood
Date:	April 15, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 731 allows the Town of Stallings to make voluntary satellite annexation of certain property with the consent of the Town of Indian Trail. The act is effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 731 authorizes the Town of Stallings to make voluntary satellite annexation of certain property with the consent of the Town of Indian Trail and without having to meet the requirement in G.S. 160A-58.1(b)(2).

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

)CAL BILL

L CALL

H.B. 0731

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF STALLINGS TO MAKE VOLUNTARY SATELLITE ANNEXATION OF CERTAIN PROPERTY WITH THE CONSENT OF THE TOWN OF INDIAN TRAIL.

Introduced by Representative(s): Blackwood.

Principal Clerk's Use Only

PASSED 1st READING
MAR 27 2003
AND REFERRED TO COMMITTEE
ON... Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 650

Short Title:	Durham Annexations.	(Local)
Sponsors:	Representatives Crawford, Luebke, Michaux, and Miller (Primary Sponsors).	
Referred to:	Finance.	

March 25, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO ANNEX STREETS THAT ARE CONTIGUOUS ON BOTH SIDES OF PROPERTY LOCATED WITHIN THE CITY LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read:

"Sec. 2.7. Annexation of Streets. – In addition to the authority to annex streets under this Charter and general law, the City may annex the portions of public or private streets that are directly contiguous on two opposing sides of property that is within the City limits. When the City proposes to annex a street under this section and the annexation is of the street alone, the City shall adopt a resolution describing the street area and setting a date for a public hearing. Notice shall be given and the public hearing shall be held as provided in Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes. Upon compliance with the provisions of this section, the City Council may adopt an ordinance annexing the described area and no other requirements shall apply. The time for appealing the annexation shall be as provided in Section 2.6 of this Charter."

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

HOUSE BILL 650:
Durham Annexations

BILL ANALYSIS

Committee: House Finance
Date: April 15, 2003
Version: 1st Edition

Sponsor: Rep. Crawford, Luebke, Michaux, and Miller
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 650 is a local bill that amends the charter of the City of Durham to allow the City to annex streets that are contiguous on both sides of property located within the city limits.

BILL ANALYSIS: House Bill 650 amends the Charter of the City of Durham to give the City the authority to annex portions of public or private streets that are directly contiguous on two opposing sides of property that is within the City limits.

If the annexation is for the street alone, the City must adopt a resolution that describes the street area and sets a date for a public hearing, and then gives notice in a newspaper of general circulation at least 10 days prior to the public hearing. The time for appealing the annexation is 30 days after the adoption of the annexation ordinance.

The bill is effective when it becomes law.

LOCAL BILL

ROLL CALL

H.B. 0650

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO ANNEX STREETS THAT ARE CONTIGUOUS ON BOTH SIDES OF PROPERTY LOCATED WITHIN THE CITY LIMITS.

Introduced by Representative(s): Crawford, Luebke, Michaux, and Miller (Primary Sponsors).

Principal Clerk's Use Only

PASSED 1st READING
MAR 25 2003
AND REFERRED TO COMMITTEE
ON Finance

House Committee on Finance

Minutes

~

April 15, 2003 ~ 2:00 pm

The House Committee on Finance met on Tuesday, April 15, 2003 at 2:00 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, Womble, and Wood; and Ex-Officio Committee Member Representatives Culpepper, Cunningham, and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Visitor Registration Sheet is attached and incorporated into these minutes as attachment 1.

Chairman G. Allen called the meeting to order at 2:07 pm and recognized the Pages present at the meeting: (1) Justin Kelly of Wake County, sponsored by Representative Eddins; (2) Faith Smith and (3) Joel Smith, both of Wilson County, sponsored by Representative Farmer-Butterfield.

As the only bill on the agenda, Representative Weiss was recognized by the Chairman to explain HB 254 – REDUCE YOUTH SMOKING: RAISE TOBACCO TAXES. This bill is a committee substitute of the original bill. It acts to increase the excise tax on cigarettes from 5 cents a pack to 50 cents a pack, and increases the excise tax on other tobacco products from 2% of the cost price of the products to 18% of the cost price. Overall, explained Representative Weiss, the bill's purpose is to reduce youth smoking by raising the price of tobacco products higher than affordable for teens. The Representative also presented several pieces of information in favor of the bill to Committee members, which are included in these minutes as attachments 3, 4, and 5.

As there were a great deal of visitors present at the meeting, the Chair recognized all those who desired to address the Committee, but limited their time to 90 seconds each as a means to control the time of debate. Representative Daughtridge, although not a member of the Committee, was present to briefly address the Committee as an opponent of the bill, stating from a travel and tourism position, that people traveling through North Carolina stop currently because of their ability to buy cheap cigarettes and, if this cigarette tax increase passes, they will no longer do so.

The following individuals, representing personal causes, as well as a number of community and state organizations, spoke in support of the bill:

- Peg O'Connell, representing the North Carolina Alliance for Health;
- Adam Searing, representing the North Carolina Health Access Coalition and Covenant with North Carolina's Children (see attachment 6);
- the Reverend Mark Creech, representing the Christian Action League of North Carolina;
- Leah Devlin, State Health Director;
- Steve Shore, Executive Director of the North Carolina Pediatric Society;

- Dr. Adam Goldstein, a family physician with UNC;
- Jim Goodman, representing Capital Broadcasting Company;
- Leanne Winner, representing the North Carolina School Boards Association; and
- John Thompson, representing the Cancer Society.

Also present, were individuals speaking in opposition to the bill:

- Mrs. Asulp, a resident of Surry County and an advocate with the Citizens for a Sound Economy, stated that a lot of tobacco was grown in her area of the state and that this tax increase would seriously hurt their economy;
- Don Yelsin, also with the Citizens for a Sound Economy and a resident of Buncombe County, stated that if legislators want to reduce youth smoking, they should outlaw cigarettes entirely, rather than using this cause as a means to generate revenues for the state.
- Leslie Bebback, representing the North Carolina Citizens for Business and Industry, opposed the bill because "no tax should single out any one industry".
- Roger Bone, of the Tobacco Industry, who spoke to the possible economic implications on the state with an increased tobacco tax.

Following the words of these concerned citizens, Chairman Allen recognized a large number of the Committee Members to voice their position on the bill and asks questions:

- Representative Hill stated his view of this bill in two distinct parts: first, to reduce youth smoking; and second, to raise tobacco taxes, just as the title of the bill suggests. He stated his profession as a retailer already prohibited the sale of cigarettes to minors and that the price of tobacco isn't the problem, it's that others are buying cigarettes for these underage teen smokers. Thus, he believes that an increase in the tobacco tax will not solve the problem of youth smoking.
- Representative Lewis stated that he does not favor the tax because it is nothing more than a punitive tax on a legal product.
- Representative Creech spoke passionately to individual's lack of responsibility on this issue. He stated his belief that the government can't do everything for citizens. Rather, people must make good choices and be held accountable if they do not. He does not believe that government can help the problem of underage smoking and smoking-related disease by raising the taxes on tobacco. He also noted that some 14,000 jobs in the state are due to be lost from this proposed increase.
- Representative Wainwright questioned the bill sponsor, Representative Weiss, asking if the state's budget included appropriations from this tax increase to further address the problem of youth smoking. Representative Weiss stated that raising the price of cigarettes alone, would reduce the number of youth smokers.
- Representative Luebke first noted that while Citizens for a Sound Economy are vehemently against this proposed increase, in 1998 their second largest corporate contributor was the Phillip Morris Company (with contributions of $1,070,550). He also questioned Representative Creech as to the 14,000 jobs that are subject to loss because of this bill. Representative Creech responded that cigarettes were already the most highly taxed product in history. On a final note, Representative Luebke noted that a portion of the monies raised by this tax should be invested in new youth smoking education programs.

- Representative Rayfield asked Representative Weiss when the last tobacco tax increase was passed in the General Assembly. Representative Weiss stated that it was in 1991. Representative Rayfield also noted that neither the Committee nor the General Assembly could be expected to legislate morality.
- Representative Glazier was recognized and prefaced his remarks by mentioning his past service as a local school board member. He also noted that he was a co-sponsor of the bill. His main focus, he stated, aside from the tobacco tax, was to reduce teen smoking.
- Representative McComas asked Representative Weiss of the economic impact that the tobacco settlements have had on the state. Representative Weiss was unaware of the total impact.
- Chairman Allen recognized Representative Holliman who asked a question to RJR Spokesman Gene Ainsworth as to the current number of people RJR currently employs in Davidson County. Mr. Ainsworth stated that RJR employed 585 people in Davidson County at that time. Representative Holliman then stated his concern that an increase in the tax on tobacco might cause even more jobs to be lost in Davidson County, where the unemployment rate is already at 8 percent.
- Representative Jones was recognized for a question to Representative Weiss. He asked her why an increase on tobacco taxes was being proposed now when he had heard no mention of them and there had been no increase since 1991. Representative Jones also stated his feeling that this bill is nothing more than a mechanism for the state to bring in new revenues in these tight economic times.
- Representative Decker was recognized next by the Chair. He commented that the taxes on alcohol had not been raised since 1969 and that he did not favor any increase in cigarette taxes. He also made a motion for the vote on the bill to be made by roll call.

However, prior to Chairman Allen calling the vote on the bill, Representative Weiss, the bill sponsor, acted to withdraw the bill from the Committee, halting any further consideration at that time.

As a final announcement, the Chair reminded the members that the Committee would reconvene once again immediately following the full session for consideration of HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. At 3:50 pm, the Chair adjourned the meeting so that the members could attend the full House session.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. House Bill 517 (and related materials)
3 - 5. Materials provided by Representative Weiss on HB 254
6. Prepared Statement of Mr. Adam Searing of NC Health Access Coalition

House Committee on Finance

Minutes

~

April 15, 2003 ~ 2:00 pm

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- Adam Searing, representing the North Carolina Health Access Coalition and Covenant with North Carolina's Children (see attachment 6);
- the Reverend Mark Creech, representing the Christian Action League of North Carolina;
- Leah Devlin, State Health Director;
- Steve Shore, Executive Director of the North Carolina Pediatric Society;

- Dr. Adam Goldstein, a family physician with UNC;
- Jim Goodman, representing Capital Broadcasting Company;
- Leanne Winner, representing the North Carolina School Boards Association; and
- John Thompson, representing the Cancer Society.

Also present, were individuals speaking in opposition to the bill:

- Mrs. Asulp, a resident of Surry County and an advocate with the Citizens for a Sound Economy, stated that a lot of tobacco was grown in her area of the state and that this tax increase would seriously hurt their economy;
- Don Yelsin, also with the Citizens for a Sound Economy and a resident of Buncombe County, stated that if legislators want to reduce youth smoking, they should outlaw cigarettes entirely, rather than using this cause as a means to generate revenues for the state.
- Leslie Bebback, representing the North Carolina Citizens for Business and Industry, opposed the bill because "no tax should single out any one industry".
- Roger Bone, of the Tobacco Industry, who spoke to the possible economic implications on the state with an increased tobacco tax.

Following the words of these concerned citizens, Chairman Allen recognized a large number of the Committee Members to voice their position on the bill and asks questions:

- Representative Hill stated his view of this bill in two distinct parts: first, to reduce youth smoking; and second, to raise tobacco taxes, just as the title of the bill suggests. He stated his profession as a retailer already prohibited the sale of cigarettes to minors and that the price of tobacco isn't the problem, it's that others are buying cigarettes for these underage teen smokers. Thus, he believes that an increase in the tobacco tax will not solve the problem of youth smoking.
- Representative Lewis stated that he does not favor the tax because it is nothing more than a punitive tax on a legal product.
- Representative Creech spoke passionately to individual's lack of responsibility on this issue. He stated his belief that the government can't do everything for citizens. Rather, people must make good choices and be held accountable if they do not. He does not believe that government can help the problem of underage smoking and smoking-related disease by raising the taxes on tobacco. He also noted that some 14,000 jobs in the state are due to be lost from this proposed increase.
- Representative Wainwright questioned the bill sponsor, Representative Weiss, asking if the state's budget included appropriations from this tax increase to further address the problem of youth smoking. Representative Weiss stated that raising the price of cigarettes alone, would reduce the number of youth smokers.
- Representative Luebke first noted that while Citizens for a Sound Economy are vehemently against this proposed increase, in 1998 their second largest corporate contributor was the Phillip Morris Company (with contributions of $1,070,550). He also questioned Representative Creech as to the 14,000 jobs that are subject to loss because of this bill. Representative Creech responded that cigarettes were already the most highly taxed product in history. On a final note, Representative Luebke noted that a portion of the monies raised by this tax should be invested in new youth smoking education programs.

- Representative Rayfield asked Representative Weiss when the last tobacco tax increase was passed in the General Assembly. Representative Weiss stated that it was in 1991. Representative Rayfield also noted that neither the Committee nor the General Assembly could be expected to legislate morality.
- Representative Glazier was recognized and prefaced his remarks by mentioning his past service as a local school board member. He also noted that he was a co-sponsor of the bill. His main focus, he stated, aside from the tobacco tax, was to reduce teen smoking.
- Representative McComas asked Representative Weiss of the economic impact that the tobacco settlements have had on the state. Representative Weiss was unaware of the total impact.
- Chairman Allen recognized Representative Holliman who asked a question to RJR Spokesman Gene Ainsworth as to the current number of people RJR currently employs in Davidson County. Mr. Ainsworth stated that RJR employed 585 people in Davidson County at that time. Representative Holliman then stated his concern that an increase in the tax on tobacco might cause even more jobs to be lost in Davidson County, where the unemployment rate is already at 8 percent.
- Representative Jones was recognized for a question to Representative Weiss. He asked her why an increase on tobacco taxes was being proposed now when he had heard no mention of them and there had been no increase since 1991. Representative Jones also stated his feeling that this bill is nothing more than a mechanism for the state to bring in new revenues in these tight economic times.
- Representative Decker was recognized next by the Chair. He commented that the taxes on alcohol had not been raised since 1969 and that he did not favor any increase in cigarette taxes. He also made a motion for the vote on the bill to be made by roll call.

However, prior to Chairman Allen calling the vote on the bill, Representative Weiss, the bill sponsor, acted to withdraw the bill from the Committee, halting any further consideration at that time.

As a final announcement, the Chair reminded the members that the Committee would reconvene once again immediately following the full session for consideration of HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. At 3:50 pm, the Chair adjourned the meeting so that the members could attend the full House session.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. House Bill 517 (and related materials)
3 - 5. Materials provided by Representative Weiss on HB 254
6. Prepared Statement of Mr. Adam Searing of NC Health Access Coalition

ATTACHMENT 1

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ray & Karen McKinney	Mitchell 38 Elkin Rd Bakersville NC
Phyllis Stevenson	CSE Stokes Co.
Jim & Jean Taylor	Mitchell Co.
Andy BROWN	CSE YANCEY
Ernestine Durham	Exe. Intern
Wanda Brown	Yancey County CSE
Katherine Harvey	CSE
William Towne	CSE Orange County
Fran Cockman	State Watch
Mary Copeland	CSE - Orange County
Bill Daughtridge	Representation NC House

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peg O'Connell	MRNC
Lynette Tolson	AHA
John Thompson	ACS
Audra Harrold	ACS
Bill Smith	Robeson County Hlth Dept
Melva F. Okun	NC Alliance for Health
Pam Seamans	NC Alliance for Health
Bill Miller	CSE
Ed Furniss	CSE
John Holleman	NCAE
Glynn Downs	CSE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Garner	AARP of NC
STEVE ROBERTS	AARP
Susan Haddon	CSE
Janet Maynard	CSE
Ralph Hunt	CSE
Lloyd Hedgpeth	CSE
Kay Hedgpeth	CSE
Sarah + Stefani Johnson	CSE - Guilford
Richard T. Buck	CSE
Jennifer Barnes	CSE
Tom Shaffner	CSE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe McCleer	McCloes Consulting Inc
Otis Carter	Carter & Assoc.
Pricy Harrison	Beaufort NC
Nancy L Varnum	Gilford NC
Vary Zakeitian	Guilford Co. Commissioner
Nancy Bishop	Greensboro GOP
Antoinette Horan	Guilford GOP
Neal V Hamm	GSO
Roger Bone	Bone & Assoc
Gene Ainsworth	RJR
Michael Shannon	Lorillard

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Adam Goldstein	
Ron Aycock	N.C. ~~[illegible]~~ Assoc of County Comm
Ed Regan	N.C.A.C.C
Leanne Winner	NCSBA
[illegible]	Orange Co. CSE
Bill Scoggin	KCUI
A L Eckel	Comm
Harriett Purves	El Pueblo, Inc.
Sandra Peterson	Orange Co. CSE
Mildred Smith	Forsyth CSE
Susan Markham	NCSPA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Devon White	PENC
Lou Wilson	
Crissey Porter	Smith Anderson
Joyce Peters	JP Assoc
[illegible]	UCICU
Sandra Long	Martin Marietta
Ruby Roddy	Tillman
John Roddy	Tillman
Anna D Cannon	CSE - Buncombe
Kathie Lack	CSE - Buncombe Co.
BILL LACK	CSE - BUNCOMBE COUNTY

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 2 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hope Herrick	
Julie Allen	NC Statewatch
Helen S Morrison	CSE
Trudy [illegible]	CSE
Marvin [illegible]	CSE
Don Yelton	"Citizen"
Wm. Reynolds	CSE
Leslie Bowman	NCCBI
Kevin [illegible]	WCSR
Sandy Sands	WCSR
Molly Walsh	Altair

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03 - 2:00 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eugene Fritchard	CSE
R F (Buck) Golding	CSE Surry Co
Shirley T. Golding	CSE Surry Co.
Randy Copeland	CSE
Andrew Meehan	NC Assn. of Elec. Cooperatives
Rev. Mark Creech	CAL
Roz Sawitt	NCCCC
Cam Cover	BPMHL
Mildred Smith	Surry & Forsyth
Angie McMillan	TNC
Anne Winne	[illegible]

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Bewley	LBA
Carole Lawler	EGHS
Steve Mitchell	Novartis
AL DEITCH	DOA/YAIO
Tom V. Bennett	NCCFTF
Katherine Jape	NCASA
Michael Houser	NCAE
[illegible]	PSF
J Pinsky	NCCAI
Connie Mullinix	Flynt Mullinix Healthcare Consulting
LaNelle Alsup	P.O. Box 62 Tax payer

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joanne Stevens	nursing / NCCASA
Wanda Thompson	
Meg Mollocy	NC Alliance for Health
Paula A. Wolf	Covenant w/NC's Children
[illegible]	Altria
Paula Page	RRP NCFB
BRIAN LEWIS	Planned Parenthood Health Sys.
Paige Johnson	Planned Parenthood Central North Carolina
John Bowdish	AstraZeneca
BRIAN SHANK	AstraZeneca
Glenn Wells	HUFFMANN-LA ROCHE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura Harper	SEANC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 254
PROPOSED COMMITTEE SUBSTITUTE H254-PCS80263-LYx-2

Short Title: Reduce Youth Smoking: Raise Tobacco Taxes. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO RAISE THE EXCISE TAXES ON CIGARETTES AND OTHER TOBACCO PRODUCTS TO REDUCE AND PREVENT YOUTH SMOKING IN NORTH CAROLINA AND THEREBY PROTECT THE HEALTH AND SAVE THE LIVES OF NORTH CAROLINA'S CHILDREN.

Whereas, North Carolina's excise tax on cigarettes is currently 5¢ a pack, the third lowest in the nation, and

Whereas, the use of tobacco products is the leading cause of preventable death and disability in North Carolina, and

Whereas, the use of tobacco products costs the State $4,750,000,000 in medical costs and lost productivity annually, and

Whereas, 24,600 North Carolina children become new daily smokers each year, a rate of 67 new daily child smokers everyday, and

Whereas, the best way to prevent and reduce tobacco use by children is to substantially increase the cost of cigarettes, and

Whereas, such a tax increase would result in a 16.1% decrease in youth smoking rates, prevent 105,750 North Carolina children from starting to smoke, and save 33,750 North Carolina children from premature smoking-related deaths; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.5 reads as rewritten:

"**§ 105-113.5. Tax on cigarettes.**

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of ~~two and one-half mills~~two and one-fourth cents (2 1/4¢) per individual cigarette.

This tax does not apply to any of the following:

(1) Sample cigarettes distributed without charge in packages containing five or fewer cigarettes.

(2) Cigarettes in a package of cigarettes given without charge by the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government."

SECTION 2. G.S. 105-113.35(a) reads as rewritten:

"(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of ~~two percent (2%)~~eighteen percent (18%) of the cost price of the products. This tax does not apply to the following:

(1) A tobacco product sold outside the State.

(2) A tobacco product sold to the federal government.

(3) A sample tobacco product distributed without charge."

SECTION 3. This act becomes effective July 1, 2003.

HOUSE BILL 254:
Reduce Youth Smoking: Raise Tobacco Taxes

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Weiss
Date:	April 15, 2003	**Analysis by:**	Martha Walston and Y. Canaan Huie, Committee Counsel
Version:	PCS to 1st Edition		

SUMMARY: ***The proposed committee substitute for House Bill 254 increases the excise tax on cigarettes from 5 cents a pack to 45 cents a pack, and increases the excise tax on other tobacco products from 2% of the cost price of the products to 18% of the cost price. The bill would become effective July 1, 2003.***

CURRENT LAW: G.S. 105-113.5 levies a tax on the sale or possession of cigarettes in the State at the rate of 5 cents per pack of 20 cigarettes. The tax does not apply to the free distribution of sample cigarettes in packs of five or less or to any packs of cigarettes donated free by a manufacturer to its employees who work in the factory if the cigarettes are not taxed by the federal government.

G.S. 105-113.35(a) levies an excise tax on tobacco products other than cigarettes at the rate of 2% of the cost price of the products. The tax does not apply to a tobacco product sold outside the State, a tobacco product sold to the federal government, or a sample product distributed without charge. A tobacco product is any product that contains tobacco and is intended for inhalation or oral use.

BILL ANALYSIS: House Bill 254 increases the excise tax on cigarettes from 5 cents a pack to 45 cents a pack and increases the tax on other tobacco products from 2% of cost price to 18% of cost price. Historically, North Carolina has had one of the lowest excise taxes on cigarettes and other tobacco products. Currently only two states, Kentucky (3¢ per pack) and Virginia (2.5¢ per pack), [1] have a lower excise tax on cigarettes than does North Carolina. Nationwide, state excise tax rates on cigarettes will average 67.3¢ per pack as of July 1, 2003.[2] Tax rates on other tobacco products are more difficult to compare across states because some states impose a tax based on cost whereas other states impose a tax based on quantity. Of the states that impose a tax based on cost, like North Carolina, only seven have a lower excise tax rate for other tobacco products (District of Columbia, Kentucky, Pennsylvania, and Virginia)[3] or for a subset of the other tobacco products (Florida,[4] Georgia,[5] and New Hampshire[6]).

[1] It should be noted, however, that Virginia allows some localities to place an additional tax on cigarettes. This tax currently is as high as 45¢ a pack in certain localities.
[2] This includes cigarette tax increases that have been enacted and that will become effective between now and July 1, 2003.
[3] None of these states impose an excise tax on any other tobacco products.
[4] Florida has no excise tax on cigars, but has a 25% excise tax on other tobacco products.
[5] Georgia has an excise tax on cigars of 2¢ per 10 cigars or 13% of wholesale price, but no excise tax on other tobacco products.
[6] New Hampshire has no excise tax on cigars, but has a 19.7% excise tax on other tobacco products.

FISCAL ANALYSIS MEMORANDUM

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

DATE: **April 15, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 254 – (PCS) – Reduce Youth Smoking – Raise Tobacco Taxes

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ millions)				
	FY 2003-04	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
REVENUES					
General Fund					
Excise Tax	**246.3**	**236.4**	**227.0**	**217.9**	**209.2**
Sales Tax	**9.9**	**9.5**	**9.1**	**8.7**	**8.4**
OTP	**16.8**	**16.8**	**17.3**	**17.3**	**17.3**
TOTAL	**273.0**	**262.7**	**253.4**	**243.9**	**234.9**

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

EFFECTIVE DATE: July 1, 2003.

BILL SUMMARY: The bill increases the tax on cigarettes from $0.05 per pack (20 cigarettes) to $0.45 per pack, and other tobacco products from the current rate of 2% to 18%.

ASSUMPTIONS AND METHODOLOGY: In FY 1999-00 and FY 2000-01 the state received the following revenues from the sale of cigarettes and other tobacco products:

	($ million)	
	1999-00	2000-01
Cigarette	40.5	38.5
Other Tobacco Products	3.2	3.5

For fiscal year 2002-03, North Carolina has actually seen an increase in cigarette tax revenue. However, because almost all of this increase occurred in two months directly after a number of other states dramatically increased their cigarette tax, this trend is not expected to continue without additional, large-scale cigarette tax increases in other states.

According to a March 2002 report from the Council of State Governments, cigarette consumption is expected to decline nationally by approximately 1.5% a year. (This estimate is based on the four-year average since the adoption of the Master Settlement Agreement in 1998.) However, historically North Carolina has seen a much more dramatic decline. Therefore, independent of any change in price, Fiscal Research estimates that cigarette tax revenues will decrease by approximately 4% annually, creating the following baseline revenue stream:

	2003-04	2004-05	2005-06	2006-07
Total Cigarette Revenue	37.0	35.5	34.1	32.7
Revenue Per Penny	7.4	7.1	6.8	6.5

While these numbers are a good indication of revenues from existing taxes and even small increases in the tax on cigarettes, academic research suggests that larger price increases could result in smaller per penny gains. According to a 1998 report from the National Bureau of Economic Research, "a ten-percent increase in cigarette prices would reduce overall cigarette consumption by three to five percent". A similar study offered in 1998 by Blake Brown at North Carolina State University suggests that a 10% increase in the price of cigarettes will result in a decline in consumption of 2% - 7.5%. However, because nonresidents often stop in North Carolina to purchase cigarettes or purchase cigarettes from the state through other means, Fiscal Research believes our state's overall consumption will be more sensitive than average to changes in price. Therefore, the higher end estimate of 7.5% is used to determine the impact of each 10% increase in price. An additional adjustment is added to larger increases to remain conservative in our estimating process. In addition, under current law, cigarette distributors get to retain 4% to defray the cost of administering the tax. The 2001 Tax Burden on Tobacco publications indicates that the average cigarette price in North Carolina is $3.12.

Based on the above assumptions, the potential revenue stream from a $0.40 increase in the tax on a pack of cigarettes is estimated as the following:

	2003-04	2004-05	2005-06	2006-07	2007-08
40 Cent Increase*					
Cigarette Tax Revenue	246.3	236.4	227.0	217.9	209.2
Sales Tax Revenue	9.9	9.5	9.1	8.7	8.4
Total New General Fund Revenues	256.1	245.9	236.1	226.6	217.6

The bill also increases the tax on all other tobacco products (OTP) from the current rate of 2% to 18%. Under the current system, OTP revenue is estimated as the following:

	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05
Other Tobacco Products	3.2	3.5	3.7	3.8	3.9	3.9

Once adjustments are made for declines in demand due to increased prices, the following revenue stream is expected from the increase in the Other Tobacco Products tax:

2003-04	2004-05	2005-06	2005-06	2006-07
16.8	16.8	17.3	17.3	17.3

SOURCES OF DATA: Dr. Blake Brown, NCSU, Federal Economic Research Service, NC Department of Revenue.

Reg. Weiss

ATTACHMENT 3

North Carolina Alliance for Health

Protect Children – Raise Revenues

Increasing NC's Cigarette Tax by $.75 Will Generate ~$400 million.
The majority of NC voters support an increase in NC's cigarette tax.

North Carolina Smoking Information (04/04/03)

Tobacco is addictive and deadly and accounts for more than 11,500 deaths in North Carolina per year. Raising the price is the most effective way to protect children from starting to smoke.

Health -

- 38.3% of NC high school students currently use tobacco products, exceeding the national average of 34%.[1]
- 18.4% of NC's children in grades 6-8 use tobacco products, exceeding the national average of 15.1%.
- 26% of NC adults are smokers.[2]
- The average age of initiation of the use of tobacco products is between 12-14 years old.[3]
- 14% of pregnant women in NC are smokers.[4]
- Tobacco use is highest among lower-income and lower-education populations;[5] and often translates to higher prevalence, morbidity, and tobacco-attributable mortality among ethnic minorities.
- An increase by $.75 in the cigarette tax will result in a decrease by 16% in youth smoking and a 17.5% decrease in smoking rates among NC pregnant women.

Expenditures -

- The use of tobacco products costs NC $4.75 billion in medical and lost productivity costs.[6]
- In 1998, about 13% of all Medicaid expenditures in NC were spent on smoking-related illnesses and diseases.[7] For SFY 2002 NC State expenditures for Medicaid services were $1.9 billion and NC county expenditures were $355 million.[8]

Revenue -

- An increase of $.75 in NC's cigarette tax will generate ~$400 million in new revenues.[9]
- NC's cigarette tax is $.05 and has not increased since 1991. It is the third lowest in the nation. The average state cigarette tax is $.67.[10] The state's low tax makes it vulnerable to cross border sales. In a Charlotte trial, people were convicted of selling cheap NC cigarettes out-of-state and using the profits as a fundraiser for the Hezbollah.[11]
- Other southern tobacco-producing states are working with NC to increase all cigarette taxes together. West Virginia passed a tax increase on 03.06.03 to $.55.

NC Alliance for Health, 3131 RDU Center, Suite 100, Morrisville NC 27560; 919 463-8328; ncalliance@heart.org

---

[1] Youth Tobacco Survey (1999)
[2] Behavioral Risk Factor Surveillance System, CDC, 2001
[3] National Cancer Institute Smoking and Control Program
[4] NC State Center for Health Statistics, PRAMS data, 2000
[5] Behavioral Risk Factor Surveillance System 1999-2000. MMWR Oct. 12, 2001; 869.
[6] Smoking Attributable Morbidity, Mortality, and Economic Costs, CDC Office of Smoking & Health, 2002
[7] CDC. State highlights. http:..www.cdc.gov/tobacco/statehi/pdf_2002/NorthCarolina.pdf.
[8] NC DHHS
[9] Campaign for Tobacco Free Kids
[10] ibid.
[11] Washington Post, 6/22/02

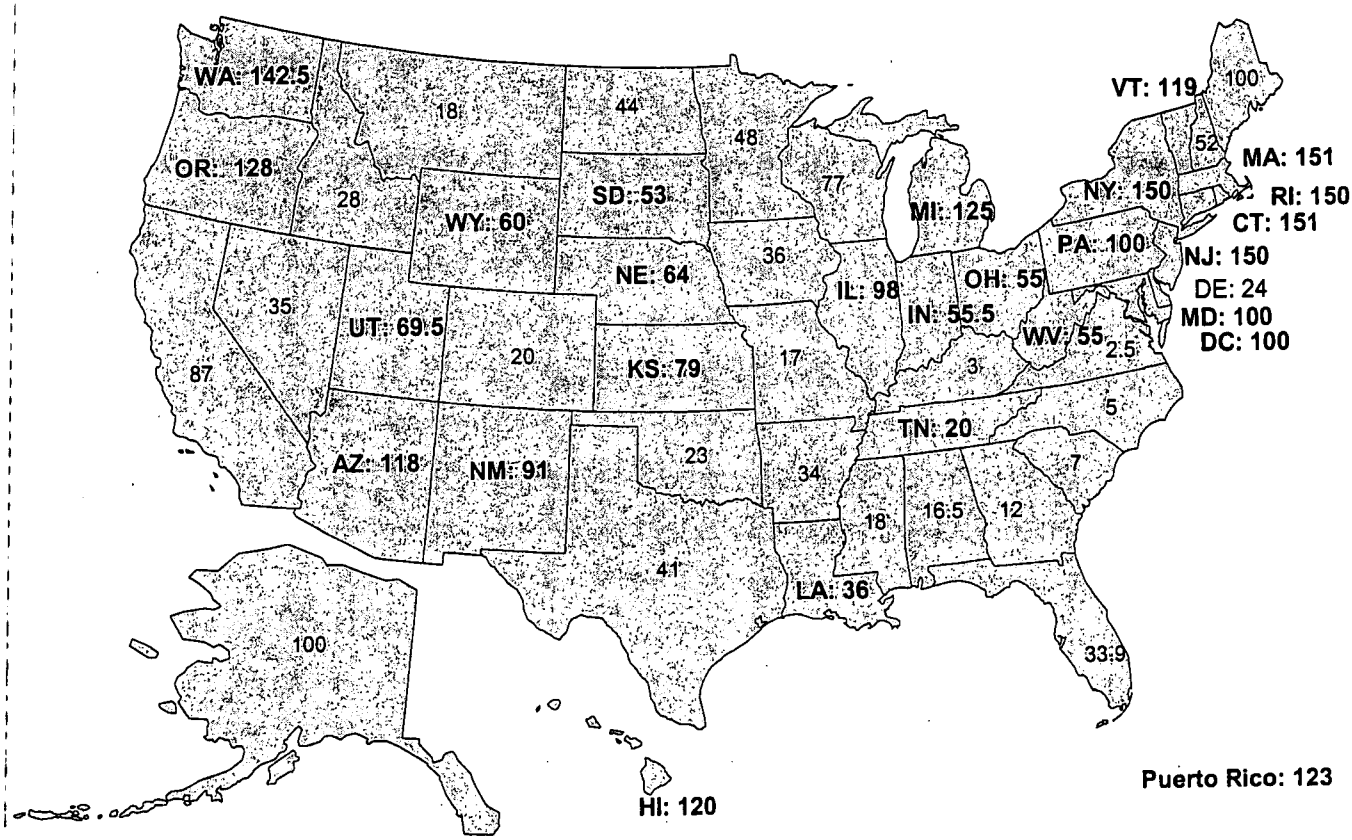
CAMPAIGN for TOBACCO-FREE Kids®

MAP OF STATE CIGARETTE TAX RATES - 2003

Average State Cigarette Tax Per Pack: 67.3 cents

Average Tobacco State Tax: 8.25 cents

Other States' Average: 75.2 cents



Map shows state cigarette tax rates in effect now or already scheduled to be enacted in 2003. States with new tax increases implemented or passed since 1/1/2002 marked in bold. Additional increases scheduled to go into effect in 2004 and beyond in HI and RI. Major tobacco states = NC, KY, VA, SC, TN, GA. State averages do not include Puerto Rico (which has a population larger than those in 20 different states). Including Puerto Rico increases the overall state average to 68.4 cents per pack, and increases the non-tobacco-state average to 76.2 cents. Federal cigarette tax rate is 39 cents per pack. Some local governments also tax cigarettes. For example, New York city increased its local cigarette tax from 8 cents to $1.50 per pack in 2002, and more than 35 cities, towns, and counties in VA have taxes ranging from two to 50 cents per pack. The U.S. Centers for Disease Control & Prevention estimates that smoking-caused health costs in the United States total $7.18 per pack sold.

For more information on state cigarette taxes and the benefits from increasing them, see:
http://tobaccofreekids.org/reports/prices or http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18

National Center for Tobacco-Free Kids, Apriil 4, 2003 / Eric Lindblom

1400 I Street NW · Suite 1200 · Washington, DC 20005.
Phone (202) 296-5469 · Fax (202) 296-5427 · www.tobaccofreekids.org

Rep. Jennifer Weiss

ATTACHMENT 4

North Carolina Department of Health and Human Services
Division of Public Health • Office of the State Health Director
1915 Mail Service Center • Raleigh, North Carolina 27699-1915
Tel 919-733-7081 • Fax 919-715-3144

Michael F. Easley, Governor
Carmen Hooker Odom, Secretary

Leah Devlin, DDS, MPH
State Health Director
Director, Division of Public Health

April 15, 2003

Representative Jennifer Weiss
Room 2221 Legislative Building
Raleigh, N.C. 27601-1096

Dear Representative Weiss:

I am writing in response to your request to provide a summary and references for the scientific evidence regarding the public health impact of raising the unit price for tobacco products by 50 cents per pack through a product excise tax increase.

The Scientific Evidence. The Task Force on Community Preventive Services' recommends increasing the unit price for tobacco products in order to reduce the number of people who start using tobacco on the basis of strong evidence of effectiveness[1]. This review of the scientific evidence demonstrates that increasing the price of tobacco products is effective both in 1) reducing tobacco use prevalence and consumption among both adolescents and young adults and 2) increasing tobacco use cessation [1]. This Task Force is an independent nonfederal group of scientists that systematically reviewed the price elasticity data and its relationship to initiation, consumption and cessation of tobacco use.

Numerous recent studies indicate that a 10% increase in product price results in an overall 3-5% decrease in cigarette consumption and a 7% decrease in youth smoking.[2] A recent study by the University of Illinois at Chicago (April 2001) found that a 10% increase in the price of cigarettes would decrease the probability of an adolescent starting smoking between 3 and 10 percent depending on the type of initiation, including initiation of any smoking (including experimentation), initiation of daily smoking, and initiation of smoking at lease one half-pack per day. Price was found to have the largest impact on stemming the initiation of daily smoking among youths.[3] A study published in the American Journal of Public Health shows that a 10% increase in price would reduce smoking rates among pregnant women by 7%[4].

The Health Toll of Tobacco in NC. Tobacco use continues to be the leading preventable cause of mortality in NC resulting in more than 14,000 deaths annually.[5] Although 50.4% of adults have never smoked a cigarette, current smoking prevalence continues to hover around a quarter (25.7%) of the population or an estimated 2.1 million North Carolinians.[6] Currently 35.8% of high school and 17.4% of middle school students use tobacco products; 27.8% of high school and 11.3% of middle school students smoke cigarettes. The current prevalence rate is expected to lead to the deaths of 210,000 current youth if the trend prevails.[7]

The Economic Toll of Tobacco Use. Tobacco use in NC costs the state $1.9 billion in direct medical expenditures alone, or more than $255 per person. In 1998, about 13% ($600,000,000 or $513.30 per recipient) of all Medicaid expenditures were spent on smoking-related illnesses. Lost productivity costs are estimated to be greater than $2.8 billion or $370 per person. When combined, direct medical and productivity losses cost NC $4.8 billion annually.[8]

The Benefits of a 50-cent Tobacco Tax Increase. A 50-cent per cigarette pack increase in NC would result in:

- Fewer state packs of cigarettes sold each year: 232.3 million[9]
- Percent decrease in youth smoking: 11.7%[9]
- Increase in total number of kids alive today who will not become smokers: 76,800[9]
- Number of current adult smokers in the state who would quit: 49,900[9]
- Number of current adult smokers saved from smoking-caused death: 10,900[9]
- Number of kids alive today saved from premature smoking-caused death: 24,500[9]
- 5-Year healthcare savings from fewer smoking-affected pregnancies & births: $11.6 million[9]
- 5-year healthcare savings from fewer smoking-caused heart attacks & strokes: $17.0 million[9]
- Long-term healthcare savings in state from adult & youth smoking declines: $1,333.3million.[9]

Thank you for your interest in the health of North Carolinians. Please let me know if I can be of further assistance.

Sincerely,

Leah Devlin, DDS, MPH
State Health Director

cc: Advisory Committee on Cancer Coordination and Control
Heart Disease and Stroke
NC Alliance for Health
NCPHA
NC Medical Society
NC Pediatric Society
NC Dental Society
NC Association of Local Health Directors

References:

[1] Hopkins, DP & Fielding, JE, 2001. Recommendations Regarding Interventions to Reduce Tobacco Use and Exposure to Environmental Tobacco Smoke. *Task Force on Community Preventive Services, Supplement to the American Journal of Preventive Medicine*, 20 (2S).

[2] Tauras, J, et al., 2001. "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," *Bridging the Gap Research, ImpacTeen*, and other price studies at

www.uic.edu/orgs/impacteen. Chaloupka, F, 1999. "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* and other price studies at http://tigger.uic.edu/~fjc; Chaloupka, F & Pacula, R, 1998. An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies, *National Bureau of Economic Research, Working Paper* 6541, http://tigger.uic.edu/~fjc. Emery, S; et al., 2001. "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270. Evans, W & Huang, L, 1998. *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, www.bsos.umd.edu/econ/evans/wrkpap.htm. Harris, J & Chan, S, 1998. "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2): 3-12, www.mit.edu/people/jeffrey.

[3] Tauras, J, et al., 2001. "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," *Bridging the Gap Research, ImpacTeen*, and other price studies at www.uic.edu/orgs/impacteen.

[4] Ringel, J. & W. Evans, 2001. Cigarette Taxes and Smoking During Pregnancy. *American Journal of Public Health* 91: 1851-1856.

[5]North Carolina State Center for Health Statistics, 2002. Unpublished data, available upon request.

[6] North Carolina State Center for Health Statistics, 2001. *NC Behavioral Risk Factor Surveillance System Data.* Current Smoker, www.schs.state.nc.us/SCHS/healthstats/brfss/2001/nc/ rfsmok2.html.

[7]Centers for Disease Control and Prevention, 2002. *Tobacco Control State Highlights 2002: Impact and Opportunity.* Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

[8]Centers for Disease Control and Prevention, 2002. *Tobacco Control State Highlights 2002: Impact and Opportunity.* Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

[9] Campaign for Tobacco Free Kids, 2003. *Benefits from a Cigarette Increase in North Carolina -- 50 cents.* February 20, 2003. Unpublished. On file.

Rep. Jennifer Weiss

ATTACHMENT 5

Organizations and Individuals Supporting a Significant Increase in North Carolina's Cigarette Excise Tax As of 4-14-03

The following *organizations* support a significant increase in North Carolina's cigarette tax:

Access Care
Adolescent Pregnancy Prevention Coalition of NC
American Cancer Society, Southeast Division, Inc.
American Heart Association
Anchor Club/TATU of South Brunswick High School
Association of North Carolina Boards of Health
Buncombe County Board of Health
Campaign for Tobacco Free Kids
Capitol Pediatrics
Chatham County Breathe Easy Coalition
Christian Action League of North Carolina, Inc.
Cleveland County Health Department
Council on Adolescents of Catawba County
Democratic Precinct Swift Creek 04
Durham MH Board
Eastern District NC Public Health Association
El Pueblo
Forsyth County Board of Health
Goldsboro Pediatrics, PA
Healthy Alamance Substance Abuse Task
Healthy Carolinians Council of Orange County
Institute for Health, Science, and Society
Management Concepts, Inc.
Medical Review of North Carolina
NC AARP
NC Assn of Local Health Directors
NC Association of Local Health Directors
NC Association of Student Assistance Professionals
NC Chapter of the Society for Public Health Education
NC Commission of Indian Affairs
NC Pediatric Society

NC Prevention Partners
NC Public Health Association
NC School Board Association
North Carolina Dietetic Association
Poe Center for Health Education
Robeson County Community Child Protection/Fatality Prevention Team
Robeson County Partnership for Children
S.W.A.T.
SAVE of NC GASP
School Health Association of North Carolina
Triangle Older Women's League

The following *individuals* support a significant increase in North Carolina's cigarette tax:

Douglas H.	Adams
M. Deery	Adams
Deborah L.	Ainsworth, MD
Hazel S.	Alikrez
Sundayhl	Allen, C.S.A.C.
William	Ameen, MD
Dorothy G.	Anderson
Jack D.	Anderson, MD
Souad	Andrawes, MD
Souad	Andrawes, MD
Jennie	Andresen, MD
Abena	Asante
Al	Asbarhr, MD
Jennifer H.	Bacon
Marty A.	Baker, MD
Charlene	Barbour
Elsie	Barbour
P. Kenneth	Bates, MD
Toby	Bates, MD
Joseph T.	Bell, MD
Joseph T.	Bell, MD
Timothy	Bell, PA
Beverly	Bizzell
H. John	Bradley, Jr. MD
Susan	Bragg
Jeffrey	Brown, MD
Faye	Buchanon

Dr. Greg	Burke
Annette B.	Burke, MD
Karen	Burke-Haynes, MD
Liz	Butcher, MD
Anne Y.	Butzen
Rex W.	Byrd
Virginia T.	Byrd
Karen S.	Cannon, MD
Hillary	Carroll, MD
Brenda	Caudill
C. Ja'met	Chappelle
Kathleen	Clarke-Pearson, MD
William L.	Coleman, MD
Ed	Coley, MD
Brunilda	Cordero, MD
Timothy	Cornell, MD
Connell	Covington, MD
Kelly	Crocker, MD
Sue	Cumpston
Edward	Davis, MD
Jadeys	Debsikdas, MD
Brenda D.	Deese
Linda	Deshazo
R.T. Dickinson	Dickinson
Donna	Dinkin
Terry C.	Dodds
Shirley	Domingo
Stevi	Dunk
Robert R.	Earnest, MD
Lisa	Easterling
Ed H.	Emory
Jim	Evans
Bryan Elliot	Farley
Ben	Feldman
Louise B.	Ferguson
Lashavia	Floyd
Theresa	Flynn, MD
Robert H.	Foreman
Susan	Foreman, MD
Sharon	Foster, MD
Richard	Fox
Jane M.	Foy, MD
Jerry K.	Fruedye, MD
Lawal	Garba

Mary	Gardner, MSN, FNP
Norman H.	Garrett, Jr.
Laura	Gerald, MD
Dale Sussman	Gertz, MD
Michelle	Gill
Mary	Gillett
David C.	Goff, Jr., MD, PhD
Brenda	Gordon
Arthur G.	Green, MD
Edwin Greene, MD	Greene, MD
Tiffany M.	Hall
Lekisha J.	Hammonds
Kiran C.	Harrell, MD
Katherine L.	Harrelson
Fred	Haywood
Kathryn	Heller, MD
Marianne A.	Hertle
Xaver	Hertle
Charles M.	Hicks, MD
Karin	Hillenbrand, MD
Katherine B.	Hilliard
Jan	Hollar
William B.	Horn
David	Horowitz, MD
Wilma	Hughes
Peggy Jones	Hunt
Hong	Huynh
David L.	Ingram, MD
Novles	Jarrett
Kimberly L.	Jones
Niakeya	Jones
Timothy D.	Jordan, MD
Shivani	Joshi
Darlene J.	Keene, MD
Jean F.	Kenny, MD
Kathryn W.	Kerkering, MD
Jeffrey S.	Kerr, MD
Karen L.	Kline
Pam	Kohl
Theodore	Kushnick, MD
Timothy W.	Lane
Ted L.	Ledford
Valerie	Leschber
Patricia V.	Lowery, MD

Kathleen E.	Lucas, MD
John A.	Luck, MD
Matt	Manning
James R.	Markello, MD
Venega	McArthur
Oveta	McIntosh-Vick, MD
Elizabeth	McKinney
Ronald	McKinney
S. Dean	McPhail
Joyce K.	McShara
James L. Mertz, MD	Mertz, MD
David K.	Merz, MD
Stan	Meyer
Diana D.	Mills
David M.	Millsaps, MD
Farida	Millwala
Charles	Milone
Carolyn	Morphy
Lola W.	Morrison
Laura	Mrosla
Leticia S.	Myers, MD
Wissam E.	Nadra, MD
Joseph P.	Narins
Patricia J.	Nofsinger
Michael E.	Norman, MD
Ike	Nwabinwe
John M.	Olsson, MD
Diane	Parker, MSN, FNP
Tracy Enright	Patterson
Dr. Lauren L.	Patton
Marilyn	Pearson, MD
Nancy	Phifer
Robert	Phillips
Joan	Phillips-Trimmer, MPH CHES
Paul W.	Popish, MD
Betty	Poteat
Kenneth	Poteat, Jr.
Kenneth	Poteat, Sr.
Scott	Proescholdsell
Amy	Quesinberry
Christina	Rama, MD
Suji	Raman
Ashley	Ramsey, MD

Ebony	Randall
Kenneth	Ray
Michael E.	Reichel, MD, MPH
Rosalind C.	Richardson
Leslie A.	Richardson, MD
Frank	Rigels
Waldo	Rogers
C. Stewart	Rogers, MD
Richard	Rosen, MD
David M.	Rubin, MD
Taylor	Rushing
LaKrystal	Sanders
Evelyn D.	Schmidt, MD
Virginia J.	Schreiner, MD
Sheri	Scott
Barbara	Scott, RHCC
Pam	Seamans
Gayzel	Sevilla
Milton J.C.	Sevilla, MD
Katherine	Shea, MD, MPH
Nancy	Simpson
Tionna S.	Singleton
Precilla	Spellman
Darrell	Spencer, Ed.D.
Billy	Stewart
William L.	Stewart, MD
Cheri B.	Stinson
Margorie A.	Sullivan
Raymond C.	Sullivan, MD
Jenn	Summer, MD
Kimberly	Sykes
David	Talbot, MD
Gregg	Talente, MD
David T.	Tayloe, Jr., MD
Reverend Evelyn	Teasley
Stuart	Teplin, MD
Doris M.	Thompson
Elizabeth E.	Tilt, MD
William W.	Truslow
Mary Kay	Tucker
Mary Kay	Tucker, PNP
Donald	Vaughn, MD
Gretchen	Velazquez, MD
Terri	Wallace

Kyne	Wang, MD
Al	Ward
Melissa	Warren, T.A.T.U
Lynn S.	Wegner, MD
Nancy J. R.	Wells
Robert Whitener	Whitener
Marian Davis	Whiteside, RN
Barbara	Wilkins
Anne	Williams
Yashica T.	Williams
Donna L.	Williams
David R.	Williams, MD
Ada	Williams-Wooten, MD
Charles F.	Willson, MD
Dave A.	Wilpula
Debra	Wilson
Cindy	Wise
William O	Young, MD

THE NORTH CAROLINA HEALTH ACCESS COALITION

A Project of the North Carolina Justice and Community Development Center

P.O. Box 28068 ● Raleigh, NC, 27611 ● 919/856-2568 ● fax:919/856-2175 ● health@ncjustice.org ● www.nchac.org

4/15/2003

Testimony on the Cigarette Tax
Adam Searing, JD, MPH

Representing:
NC Health Access Coalition
Covenant with North Carolina's Children

I am glad that we are finally talking about the need to raise revenue to save services.

Many of you know about the painful cuts in the current House budget to children, pregnant women, infants, working families. Experts tell me that a realistic view of the budget situation includes the possibility of hundreds of millions of less revenue than we are counting on today.

We believe any budget that doesn't harm the health of our most vulnerable children and families must raise substantial revenue and that a cigarette tax must be a part of that effort. WHY?

First and foremost, a substantial cigarette tax will stop significant numbers of children from taking up smoking. This is simply a fact. The boon to the health of our next generation is huge.

Second, in these tough budgetary times the cigarette tax will raise some revenue. We support raising this tax to the median even though it is clearly regressive for the following reasons:

1. NC currently has one of the lowest cigarette taxes in the country. It can be said we are subsidizing smoking by keeping taxes so low. Raising the tax to the national median brings us in line with other states.

2. The huge health benefits to our children who do not start smoking and from other smokers who reduce their smoking outweigh the regressive nature of the tax.

3. Raising this tax as part of a package of revenue raising changes – such as a 4% income tax surcharge that would cost the average taxpayer making $35,000 about $39 – can spread the burden of raising needed revenue.

Caution. A cigarette tax is part of the solution and not the only solution to our budget dilemma. A higher cigarette tax will mean less demand for cigarettes and, as smoking rates decline, less tax revenue every year. In contrast, health program costs grow with inflation and our growing population.

Raise the cigarette tax for the substantial health benefits for all of our children. Raise it to find some needed revenue. But raise it as part of a package that will remove the need for hundreds of millions of dollars in cuts in health programs to our most vulnerable people.

House Committee on Finance

Minutes

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April 15, 2003 ~ 4:30 pm

The House Committee on Finance met on Tuesday, April 15, 2003 at 4:30 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Starnes, Weiss, C. Wilson, Womble, and Wood; and Ex-Officio Committee Member Representatives Brubaker and Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, Lisa Holloway, Canaan Huie, Linda Millsaps, Susan Morgan, and Martha Walston. The Visitor Registration Sheet is attached and incorporated into these minutes as attachment 1.

Chairman G. Allen called the meeting to order at 5:00 pm and immediately recognized Representative Miner to explain HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. Representative Miner first noted that because of the excellent and expedient work of the House Appropriations Committee, this committee was now able to consider a revenue bill for the state's budget far earlier than usual. He then made a motion that the Proposed Committee Substitute for HB 593 be approved by the Committee for consideration. The motion was seconded by Representative Weiss and carried without known opposition. Representative Miner explained this bill simply as one that generates the revenues needed by the state but at the same time provides tax relief to working families.

Representative Creech quickly asked Representative Miner as to what spending cuts, exactly, were being made in this bill. Representative Miner explained that the bill produces the needed $384 million in cuts overall, and that staff could provide details of these cuts. Staff person Linda Millsaps then provided a description of these cuts using the fiscal note for HB 593 (see attachment 2). However, even after this description, Representative Creech once again asked for the exact figures that are being proposed.

Representative Decker was recognized by the Chair and asked staff to explain the fee for licensure of Daycare Facilities, which is a new fee. Lisa Holloway, fiscal staff member, was present to explain that many other states already have this fee for license. Peggy Ball from the Division of Child Development was also present to answer Representative Decker's follow-up question of how many daycares there are presently in the state that are under state regulation but do not accept state licensure. Representative Decker then proposed an amendment to HB 593 to exempt from this fee those daycares that will not accept a state license due to religious reasons. Staffperson Canaan Huie, however, stated that the fee was per issuance of the license and would not be levied if these daycares were not in receipt of a license.

Rep. Holliman was recognized next and asked Representative Miner about the "Hold Harmless" agreement expiring in 10 years. Specifically, he wondered how the time period of 10 years had been reached. Representative Miner responded that, to his knowledge, there was no

specific reason for this chosen time period.

Chairman Allen recognized from the audience Paula Wolf with the Covenant for North Carolina's Children to make a statement. She spoke in opposition to the bill stating that it cuts over $800 million in programs for children, pregnant and single mothers, and other vulnerable citizens.

Following this, Representative Capps was recognized by the Chair and asked if all of the "Facilities Fees" mentioned on Page 6 of the bill were new fees. Staffperson Susan Morgan was present to respond and answered "yes". Representative Capps also inquired on the abortion information detailed on Page 5 of the bill. Staffperson Martha Walston responded that this section explains only when and who can legally perform an abortion in the state.

The Chair also recognized Perri Morgan of the National Federation of Independent Businesses of North Carolina (NFIBNC) from the audience to speak on the bill. She stated that the proposed increase on the higher income bracket would not only hurt higher income earners but also small businesses. She was clear that the NFIBNC opposed the bill.

Representative Womble was recognized to ask Paula Wolf about what other alternatives there are to funding if some of the Health and Human Services in the state are not cut. She responded only that other cuts, those not effecting children, mothers, etc. should be made to balance the state's budget.

Representative Blackwood asked why this bill is taxing Nursing Homes when so many are already closing due to bankruptcy. Representative Miner stated that this tax was necessary in order for this budget plan to balance.

Chairman Allen recognized Representative Decker to address Amendment #1 (on the Daycare Facilities Licenses) (see attachment 5). Representative Decker explained that the amendment simply clarifies what facilities are not responsible for the fee. Following this description, he made a motion for adoption of the amendment and the motion carried by consent.

Representative Creech addressed the Committee and spoke passionately that matters as complex as the budget require more time than a single debate. He voiced his belief that the people of North Carolina are being done a disservice by rushing such an important matter through committee and onto the House floor. He also stated that the Finance Committee should have the advantage of hearing from the Appropriations Committee on the fee analysis prior to voting on the budget bill.

Representative Ellis was recognized next by the Chairman to explain Amendment #2 (see attachment 6). This amendment would increase the fee for an abortion license from the proposed $700 to $4,562, the full cost to the State. It also deleted the section of the fees associated with the Emergency Medical Services (EMS) in the state. Upon his explanation of the amendment, Representative Ellis moved its adoption.

Representative Ross was recognized to speak against the amendment. She stated that the amendment's proposed fee increases for abortions are excessive and that the $700 fee is what the Appropriations Committee approved. Representative Alexander seconded Representative Ross' comments. Representative Weiss also spoke in opposition to the amendment due to the fact that the fee had already been determined as an acceptable rate. Representative Starnes, however, voiced

his support of the amendment, as did Representative Capps. The Chair again recognized Representative Ellis who reiterated his motion for adoption, stating that if the fee for abortion is higher, hopefully fewer of the procedures will be performed. Representative Weiss then moved for a roll call vote on the amendment and Chairman Allen instructed the Clerk to call the vote. The amendment failed by a vote of 16 (yes) to 19 (no) (see attachment 7).

Upon failure of this amendment, the Chair recognized the bill sponsor, Representative Miner, who made the motion for a favorable report to HB 593 (unfavorable as to original bill, but favorable to committee substitute bill – see attachment 9). Representative Creech called for a roll call vote and Representative Miner concurred with that call. Chairman Allen then instructed the Clerk to call the vote.

Having 22 votes in the affirmative and 13 votes in the negative (see attachment 8), the bill passed and will be reported by the Clerk to the House floor with a favorable report.

Seeing no further business before the Committee, Chairman Allen adjourned the meeting at 7:05 pm.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. House Bill 593 (and related materials)
3 - 4. Materials provided by Representative Miner on HB 593
5. Amendment #1 (Decker) – **Adopted by Consent**
6. Amendment #2 (Ellis) – **Failed**
7. Roll Call Vote Tally on Amendment #2 (Ellis)
8. Roll Call Vote Tally on Committee Substitute Bill of HB 593
9. Committee Report on HB 593, filed with the House Principal Clerk

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Assistant to Committee on Finance

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ATTACHMENT 1

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Minton	NC Home Builders Assn
Kari Barsness	NCDENR
Susan Coward	NCDOT
David King	NCDOT
John Holleman	NCAE
Michael Houser	NCAE
Donald Pratt	DHHS / DFS
Ernestine Duchman	Executive Intern
Otis Carter	Carter & Assoc
Joe McClees	McClees Consultant

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	Conservation Trust for NC 319 Beck's Ch. Rd Lexington, NC 27292
Anna Pope	NCDOR
Duke Chen	Intern
Mark Brason	Capitol Group
Roy Williams	UK
John McMillan	MF&S
Stacy Flannery	NCHCPA
Barbara Camden	MF&S
Betty Turner	Bank of America
Kim C. Cornell	WCSR
John Rust	NCFPC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Bennink	NCUC Staff
Janice Burke	NC Deptiy State Treasurer
Angie McMillan	TNC
Carol Lawen	EGHS
[illegible]	PSF
Roz Sawitt	NC Child Care Coalition
Sandy Sarah	WCSR
Linda Rouse Suttle	SEANC
Laura Harper	SEANC
Aris Watkins	SEANC
R. Palacio	NC Justice

VISITOR REGISTRATION SHEET

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VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Julie Allen	NC Statewatch
John McHugh	GOLD OFFICE
Bob Fitzgerald	DHHS/DFS
Bill Rustin	ACP
Ken Melton	Alley Associates, Inc.
Leslie Bevacqua	NCCBI
Lon Wilson	MALTCF.
Joyce Peters	JD Assoc
Ed Regan	NCACC
Ron Aycock	NCACC
Susan Markham	NCSPA

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NAME	FIRM OR AGENCY AND ADDRESS
Robert Wilson	Sec. of State
Andy Romanet	NCLM
Sandra Long	Martin Marietta
Evelyn Hawthorne	EAGR
Dorothy Davis	Public Staff
Bob Gillam	Public Staff
Don Hoover	Utilities Commission - Staff
Debbie Holder	Utilities Commission
NFIB	PERRI MORGAN
NCLCV	[illegible]

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Gruber	NCUC Public Staff
Sam J. Ervin, IV	N.C. Utilities Commission
Dennis Hemmingway	DHHS - DPIL

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 593

Committee Substitute Favorable 4/15/03

Short Title: Family Tax Cut/Protect AAA Rating. (Public)

Sponsors:

Referred to:

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE STATE'S TRIPLE-A BOND RATING.

The General Assembly of North Carolina enacts:

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PART 5. DEPARTMENT OF TRANSPORTATION FEES
PART 6. ADJUST LOCAL GOVERNMENT HOLD HARMLESS
PART 7. TEMPORARILY MAINTAIN STATE SALES TAX RATE
PART 8. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE
PART 9. REPAIR AND RENOVATION
PART 10. GENERAL PROVISIONS

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 1.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

SECTION 1.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars ($200,000).

SECTION 1.1.(c) This section becomes effective July 1, 2003.

PART 2. INSURANCE REGULATORY CHARGE

SECTION 2.1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for the 2003 calendar year.

SECTION 2.1.(b) This section is effective when it becomes law.

PART 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

SECTION 3.1.(a) G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50). A license shall not be renewed if outstanding ~~fines~~ fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

a. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 3.1.(b) This section becomes effective October 1, 2003.

SECTION 3.2.(a) G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Facility Type	Number of Beds	Base Fee	Per-Bed Fee
General Acute Hospitals:	1-49 beds	$250.00	$12.50
	50-99 beds	$350.00	$12.50

100-199 beds	$450.00	$12.50
200-399 beds	$550.00	$12.50
400-699 beds	$750.00	$12.50
700+ beds	$950.00	$12.50
Other Hospitals	$500.00	$12.50."

SECTION 3.2.(b) This section becomes effective October 1, 2003.

SECTION 3.3.(a) G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50)."

SECTION 3.3.(b) This section becomes effective October 1, 2003.

SECTION 3.4.(a) G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00)."

SECTION 3.4.(b) This section becomes effective October 1, 2003.

SECTION 3.5.(a) G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of seven hundred dollars ($700.00) plus a nonrefundable annual per-operating room fee in the amount of fifty dollars ($50.00)."

SECTION 3.5.(b) This section becomes effective October 1, 2003.

SECTION 3.6.(a) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of two hundred fifty dollars ($250.00)."

SECTION 3.6.(b) This section becomes effective October 1, 2003.

SECTION 3.7.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of seven hundred dollars ($700.00)."

SECTION 3.7.(b) This section becomes effective October 1, 2003.

SECTION 3.8.(a) G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF-MR):	6 or fewer beds	$250.00	$0
	More than 6 beds	$250.00	$12.50
ICF-MR Only:	6 or fewer beds	$650.00	$0
	More than 6 beds	$650.00	$12.50."

SECTION 3.8.(b) This section becomes effective October 1, 2003.

SECTION 3.9.(a) Part 3 of Article 6 of Chapter 131E of the General Statues is amended by adding the following new section to read:

"**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee in the amount of twelve dollars and fifty cents ($12.50)."

SECTION 3.9.(b) This section becomes effective October 1, 2003.

SECTION 3.10.(a) Article 56 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-520 Fees.**

The Department of Health and Human Services shall charge a nonrefundable annual fee for emergency medical services provided under this Article, as follows:

Type of Provider	Annual Fee
Credentialing of persons paid for providing EMS Services	$90.00
Licensing of EMS Providers/Vehicle Inspections	$50.00
Licensing of Emergency Dispatch Providers	$185.00."

SECTION 3.10.(b) This section becomes effective October 1, 2003.

SECTION 3.11.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-267. Fees for departmental review of health care facility construction projects.

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars ($25,000) for any single project:

Institutional Project	Project Fee
Hospitals	$300.00 plus $0.20/square foot of project space
Nursing Homes	$250.00 plus $0.15/square foot of project space
Ambulatory Surgical Facility	$200.00 plus $0.15/square foot of project space
Psychiatric Hospital	$200.00 plus $0.15/square foot of project space
Adult Care Home more than 7 beds	$175.00 plus $0.10/square foot of project space

Residential Project	Project Fee
Family Care Homes	$175.00 flat fee
ICF/MR Group Homes	$275.00 flat fee
Group Homes: 1-3 beds	$100.00 flat fee
Group Homes: 4-6 beds	$175.00 flat fee
Group Homes: 7-9 beds	$225.00 flat fee
Other residential:	
More than 9 beds	$225.00 plus $0.075/square foot of facility space."

SECTION 3.11.(b) This section becomes effective October 1, 2003.

SECTION 3.12.(a) G.S. 110-90 reads as rewritten:

"**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

(1a) To establish a fee for the licensing of child care facilities. The amount of the fee may not exceed the amount listed in this subdivision. The fee does not apply to a religious sponsored child care center operated pursuant to a letter of compliance.

Capacity of Facility	Maximum Fee
12 or fewer children	$ 35.00
13-50 children	$125.00
51-100 children	$250.00
101 or more children	$400.00

(2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.

(3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or

reports are not available from existing State agencies and units of local government.

(4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.

(5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.

(7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.

(8) Repealed by Session Laws 1997-506, s. 5.

(9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.

(11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

SECTION 3.12.(b) This section becomes effective October 1, 2003.

SECTION 3.13.(a) G.S. 130A-5 is amended by adding the following new subdivision to read:

"(15) To establish a fee to cover the cost of analyzing clinical Pap smear specimens sent to the State Laboratory by local health departments and

State-owned facilities and for reporting the results of the analysis. This fee shall be in addition to the charge for the Pap smear test kit."

SECTION 3.13.(b) This section becomes effective July 1, 2003.

PART 4. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

SECTION 4.1.(a) G.S. 113-34(c) reads as rewritten:

"(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:

(1) The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.

(2) Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.

(3) Vehicle access to Fort Fisher State Recreation Area."

SECTION 4.1.(b) Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after the effective date of this section.

SECTION 4.1.(c) This section becomes effective July 1, 2003.

PART 5. DEPARTMENT OF TRANSPORTATION FEES

SECTION 5.1.(a) G.S. 138-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so ~~require, and to prescribe and collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient.~~ require. The Department of Transportation shall collect tolls on all ferries. The Department may establish various classes of ferry users.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 5.1.(b) This section becomes effective July 1, 2004.

PART 6. ADJUST LOCAL GOVERNMENT HOLD HARMLESS

SECTION 6.1. G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government hold harmless.**

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

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~September~~ August 15, 2003, and each ~~September~~ August 15 thereafter, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 thereafter, the amount distributed under this section for the current fiscal year."

SECTION 6.2. Effective January 1, 2013, G.S. 105-521 is repealed.

PART 7. TEMPORARILY MAINTAIN STATE SALES TAX RATE

SECTION 7.1. Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, 2005. ~~2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

PART 8. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

SECTION 8.1. Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
-0-	$21,250	6%
$21,250	$100,000	7%
$100,000	~~$200,000~~NA	7.75%
~~$200,000~~	~~NA~~	~~8.25%~~

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
-0-	$17,000	6%
$17,000	$80,000	7%
$80,000	~~$160,000~~NA	7.75%
~~$160,000~~	~~NA~~	~~8.25%~~

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	$12,750	6%
$12,750	$60,000	7%
$60,000	~~$120,000~~NA	7.75%
~~$120,000~~	~~NA~~	~~8.25%~~

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	$10,625	6%
$10,625	$50,000	7%
$50,000	~~$100,000~~NA	7.75%
~~$100,000~~	~~NA~~	~~8.25%~~"

SECTION 8.2. Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, ~~2001, and expires for taxable years beginning on or after January 1, 2004.~~2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

PART 9. REPAIR AND RENOVATION

SECTION 9.1. Repair and Renovation. – This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of two hundred million dollars ($200,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this Part.

SECTION 9.2. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Repair and Renovation Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Repair and Renovation Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for repair and renovation of capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities repair and renovations when circumstances and conditions warrant the providing of capital facilities repair and renovations

through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(15b) Repair and renovation. – Any project of the type that may be funded from the Repairs and Renovations Reserve Account created in G.S. 143-15.3A.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency determines that special indebtedness is appropriate to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration concurs, it shall provide written notice to the State Treasurer advising the State Treasurer of this determination.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be

desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Financing Terms. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration

after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Oversight by Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Documentation. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Documentation. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 9.3. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

SECTION 9.4. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 9.4.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 9.4.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 9.4.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

PART 10. GENERAL PROVISIONS

SECTION 10.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 10.2. Except as otherwise provided in this act, this act is effective when it becomes law.

(formerly 593)

HOUSE BILL 397 (3rd Edition):

2003 Budget/Family Tax Cut/AAA Bond Rating

BILL ANALYSIS

Committee: House Floor
Date: April 16, 2003
Version: 3rd Edition

Sponsor:
Analysis by: Finance Team

SUMMARY: This summary covers Parts 32 through 41 of the bill, which are the fee and finance provisions. These Parts contain the following provisions:

- *PART 32 sets the public utility regulatory fee at 0.12% for the 2003 calendar year. This rate generates $12.9 million. The public utility regulatory fee established last year was 0.1%. PART 32 also sets the electric membership corporation regulatory fee at $200,000. The electric membership corporation fee is the same as the rate established last year.*
- *PART 33 sets the insurance regulatory fee at 6.5% for the 2003 calendar year. This rate is the same as the 2002 rate. This rate generates $25 million.*
- *PART 34 authorizes the Department of Health and Human Services to assess the following fees within the Division of Facility Services, Division of Child Development, and the Division of Public Health:*

  Division of Facility Service fees - Annual license or certification fees for adult care homes; hospitals; nursing homes; home care agencies; ambulatory surgical facilities; cardiac rehabilitation certification programs; hospital or clinic certified to perform abortions; facilities for the mentally ill, the developmentally disabled, and substance abusers; and nursing beds and adult care home beds in continuing care retirement facilities.

  Annual fee for credentialing of persons paid for providing EMS services, licensing of EMS providers/vehicle inspections, and licensing of emergency dispatch providers.

  One-time fee for review of each health care facility construction project. The fee may not exceed $25,000 for any single project.

  Division of Child Development fee – This fee is for the licensing of child care facilities, and the amount of the fee is based upon the number of children served by the facility.

  Division of Public Health fee – The fee will cover the cost of analyzing and reporting clinical Pap smear specimens sent to the State Laboratory.
- *PART 35 authorizes the Department of Environment and Natural Resources to charge and collect reasonable fees for vehicle access to Fort Fisher State Recreation Area and to adopt temporary rules for this purpose within six months after the effective date of this section.*
- *PART 36 requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. DOT estimates that a fee structure for the currently free ferries similar to the fee*

structure now in place for the other ferries would generate approximately $1 million per year after expenses.

- *PART 37 moves the annual hold-harmless payment date from September 15 to August 15, and repeals the hold-harmless payments effective January 1, 2013.*
- *PART 38 temporarily maintains State sales and use taxes at their existing rate by extending the sunset for the half-cent increase in the State sales tax from July 1, 2003 to July 1, 2005. This will generate $346.5 million in sales tax revenue in fiscal year 2003-2004.*
- *PART 39 temporarily maintains the individual income tax brackets at their existing rates by extending the sunset for the 8.25% upper income individual income tax bracket from January 1, 2004, to January 1, 2006. This will generate approximately $83.3 million in individual income tax payments in tax year 2004.*
- *PART 40 authorizes the issuance of security interest debt to finance $200 million of repair and renovations in accordance with G.S. 143-15.3A, the Repairs and Renovations Reserve Account.*

PART 32: REGULATORY FEE FOR UTILITIES COMMISSION

Part 32 of the bill sets the tax rate for the public utility regulatory fee for the 2003-2004 tax year at 0.12% **(same as Governor's Budget).** The rate last year was 0.1%. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair and equitable rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 32 also sets at $200,000 for the 2003-2004 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale **(same as Governor's Budget).** This is the same rate that was in effect for the 2001-2002 and 2002-2003 fiscal years. The North Carolina Electric Membership Corporation is the only electric membership corporation that fits this description.

The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly enacted 1999-180, which authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, S.L. 1999-180 levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Cooperation will be passed on to its member electric membership corporations.

PART 33: INSURANCE REGULATORY CHARGE

Part 33 of this bill sets the insurance regulatory charge at 6.5% for the 2003 calendar year. This is the same rate used for the past two years. The Department of Insurance has indicated that it cannot submit a rate proposal at this time, because it cannot estimate the rate until early May after the April collections are known. Using the rate of 6.5%, the charge is expected to generate $25 million for the 2003-2004 fiscal year. The insurance regulatory charge is a tax that was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's premiums tax liability. The insurance regulatory charge is imposed on insurance companies that pay the gross premiums tax and, beginning in 2000, on health maintenance organizations and medical service corporations. For health maintenance organizations and medical service corporations, the fee is levied on each company's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The hypothetical calculation is necessary because medical service corporations and health maintenance organizations pay premiums tax at a lower rate **(not in Governor's Budget).**

PART 34: DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

Part 34 of this bill authorizes the Department of Health and Human Services to impose the following fees:

Division of Facility Services Fees (effective October 1, 2003)

- Section 34.1 authorizes the Department to charge each adult care home with six or fewer beds a $250 nonrefundable annual license fee. The nonrefundable license fee for more

than six beds is $350 plus a nonrefundable annual per-bed fee of $12.50 **(same as Governor's Budget)**.

- Section 34.2 authorizes the Department to charge hospitals a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee. The amount of the fee is based upon the type of facility (general acute hospitals and other hospitals) and the number of beds in the facility **(same as Governor's Budget)**.
- Section 34.3 authorizes the Department to charge nursing homes a $450 nonrefundable annual license fee plus a nonrefundable annual per-bed fee of $12.50 **(same as Governor's Budget)**.
- Section 34.4 authorizes the Department to charge home care agencies a $350 nonrefundable annual license fee **(same as Governor's Budget)**. A home care agency is a private or public organization that provides home care services. Home care services include the following services and directly related medical supplies and appliances which are provided to an individual in his or her home:
    1. nursing care by or under the supervision of a registered nurse.
    2. physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place used as the individual's home.
    3. medical social services.
    4. in-home aide services that involve hands-on care to an individual.
    5. infusion nursing services.
    6. assistance with pulmonary care, pulmonary rehabilitation, or ventilation.
- Section 34.5 authorizes the Department to charge a $700 nonrefundable annual base license fee plus a $50 nonrefundable annual per-operating room fee to an ambulatory surgical facility **(same as Governor's Budget)**.
- Section 34.6 authorizes the Department to charge a $250 nonrefundable annual certification fee to a Cardiac Rehabilitation Program **(same as Governor's Budget)**, and shortens the certification period from a period not to exceed two years to a period not to exceed one year. A Cardiac Rehabilitation Program is a program for the delivery of cardiac rehabilitation services to outpatients and includes coordinated, physician-directed, individualized programs of therapeutic activity and adaptation designed to assist the cardiac patient in attaining the highest rehabilitative potential. The services offered by the program must meet all cardiac rehabilitation program rules.
- Section 34.7 authorizes the Department to charge a $700 nonrefundable annual certification fee to a hospital or clinic that performs abortions **(same as Governor's Budget except that this bill amends the Health Care Facilities and Services statutes in Chapter 131E instead of the Criminal Law statutes in Chapter 14)**.
- Section 34.8 authorizes the Department to charge an annual base license fee plus a nonrefundable annual per-bed fee to licensed facilities for the mentally ill, developmentally disabled, and substance abusers. The amount of the fees is based on the

type of facility (non-ICF-MR and ICF-MR only) and the number of beds **(same as Governor's Budget)**.

- Section 34.9 authorizes the Department to charge a $450 nonrefundable annual base license fee plus a $12.50 nonrefundable annual per-bed fee to continuing care retirement communities that have nursing home beds or adult care home beds **(same as Governor's Budget)**.
- Section 34.10 authorizes the Department to charge a nonrefundable annual fee to emergency medical service providers. The Division of Facility Services licenses all emergency medical service providers. Under this section, all EMS providers will pay an annual license fee based on the number of permitted EMS vehicles ($50 per vehicle) operated by the EMS provider, except that emergency medical dispatch providers will pay $185 annually. All volunteer-only EMS providers and volunteer EMS providers with paid personnel will be exempted from the fees. The Division of Facility Services also offers eight levels of EMS credential for persons who are trained EMS personnel. This section imposes a $90 credentialing fee for all levels of EMS credentialing. It exempts persons who work as volunteers within an EMS system from paying credentialing fees. Persons who are paid to work in an EMS system or persons with no system affiliation will pay fees **(same as Governor's Budget)**.
- Section 34.11 authorizes the Department to charge a fee for the review of each health care facility construction project to ensure that project plans and construction comply with State law. The fee is charged on a one-time per-project basis and cannot exceed $25,000 for any single project. **(The Governor's Budget does not cap the fee.)** Large institutional projects for hospitals, nursing homes, ambulatory surgical facilities, psychiatric hospitals, and adult care homes with more than seven beds would be charged a flat fee plus an amount based upon the size of the project in square feet. **(The Governor's Budget does not charge the flat fee.)** Residential construction projects for family care homes, intermediate care facilities for the mentally retarded group homes, and mental health group homes would be assessed a flat fee depending on the type and number of beds. If the residential project contains more than nine beds the project will be charged a flat fee plus $0.075 per square foot of facility space. **(The Governor's Budget does not charge the flat fee for a residential project that contains more than nine beds.)**

Division of Child Development Fee (effective October 1, 2003)

- Section 34.12 authorizes the Secretary of Health and Human Services to establish fees for the licensing of child care facilities. The maximum amounts of the fees range from $35 to $400 depending upon the number of children the facility can serve **(not in the Governor's Budget).** The fees do not apply to a religious sponsored child care center operated pursuant to a letter of compliance.

Division of Public Health Fee (effective July 1, 2003)

- Section 34.13 authorizes the establishment of a fee to cover the cost of analyzing and reporting clinical Pap smear specimens sent to the State Laboratory by local health

departments and State-owned facilities. The fee is in addition to the charge for the Pap smear test kit **(not in the Governor's Budget).**

PART 35: DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

Part 35 of this bill authorizes the Department of Environment and Natural Resources to charge and collect reasonable fees for vehicle access to Fort Fisher State Recreation Area. Part 35 becomes effective July 1, 2003. The Department may also adopt temporary rules to establish these fees within six months of the effective date. According to Department officials, the annual fee would be approximately $40 per year. **(not in the Governor's Budget)**

PART 36: DEPARTMENT OF TRANSPORTATION FEES

Part 36 of this bill instructs the Department of Transportation to collect tolls on all ferries by July 1, 2004, and authorizes DOT to establish various classes of ferry users. Currently there are seven ferries operating in the State. Of these, three collect tolls. The toll operations are Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Southport-Fort Fisher. The four free ferry operations are Hatteras-Ocracoke, Bayview-Aurora, Cherry Branch-Minnesott, and Currituck-Knotts Island. DOT estimates that if a fee structure similar to that used on the toll ferry operations was in place for the four free ferry operations, it would generate approximately $1 million per year after expenses. This fee change would affect only the Highway Fund **(not in the Governor's Budget).**

PART 37: ADJUST LOCAL GOVERNMENT HOLD-HARMLESS

Part 37 of the bill changes the date that sales tax hold-harmless payments are made to local governments each year, from September 15 to August 15, and repeals the hold-harmless payments after ten years effective January 1, 2013. **(The Governor's Budget would have eliminated the hold harmless payments beginning in 2003.)**

Background: In 2001, the General Assembly gave local governments the authority to increase their local sales tax by one-half cent, effective upon the repeal of the State's additional half-cent sales tax on July 1, 2003. Also effective July 1, 2003, the State's reimbursements to local governments were repealed, and the State was directed to provide hold-harmless payments to those local governments whose potential gain from the half-cent local sales tax increase would be less than 100% of their loss from the repealed State reimbursements. State reimbursements consist of reimbursements from the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the "homestead exclusion" from property tax, and the repeal of local sales and use taxes on food purchased with food stamps.

In 2002, the General Assembly accelerated the repeal of the State reimbursements from July 1, 2003, to July 1, 2002, and accelerated the effective date that local governments could began levying the additional half-cent local tax from July 1, 2003, to December 1, 2002.

PART 38: TEMPORARILY MAINTAIN STATE SALES TAX RATE

Part 38 of this bill delays the sunset of the half-cent increase in the State sales tax from July 1, 2003, to July 1, 2005. In the 2001 Appropriations Act, the General Assembly increased the State sales tax by one-half cent, from 4% to 4.5%, effective October 16, 2001. This State sales tax increase sunsets July 1, 2003. Before 2001, the State sales tax rate had last been increased in 1991 from 3% to 4%.

Also in 2001, the General Assembly gave local governments the authority to increase their local sales tax by one-half cent, effective upon the repeal of the State's one-half cent on July 1, 2003. In 2002, the General Assembly accelerated the effective date of the additional half-cent local sales and use tax from July 1, 2003, to December 1, 2002 **(same as Governor's recommendation).**

PART 39: TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Part 39 of this bill delays the sunset of the upper-income 8.25% individual income tax rate from January 1, 2004, to January 1, 2006. In 2001, the General Assembly added a new tax bracket that imposed an additional one-half percent income tax on certain North Carolina taxable income for three years. Under prior North Carolina law, tax was imposed at the following rates on individuals' North Carolina taxable income:

Tax Rate	*Married filing jointly*	*Heads of household*	*Single filers*	*Married filing separately*
6.0%	Up to $21,250	Up to $17,000	Up to $12,750	Up to $10,625
7.0%	Over $21,250 and up to $100,000	Over $17,000 and up to $80,000	Over $12,750 and up to $60,000	Over $10,625 and up to $50,000
7.75%	Over $100,000	Over $80,000	Over $60,000	Over $50,000

The 2001 law created a fourth tax bracket for North Carolina taxable income as follows:

Tax Rate	*Married filing jointly*	*Heads of household*	*Single filers*	*Married filing separately*
8.25%	Over $200,000	Over $160,000	Over $120,000	Over $100,000

This change was estimated to effect approximately 2% of North Carolina taxpayers **(same as Governor's recommendation).**

PART 40: REPAIR AND RENOVATION

Part 40 of this bill authorizes the State to incur $200 million of security interest indebtedness for repair and renovation of State capital facilities. The proceeds would be used to repair and renovate State buildings in the same manner as funds in the Reserve for Repair and Renovations are used. Except in the case of an emergency, the Director of the Budget is required to consult with the Joint Legislative Commission on Governmental Operations before incurring debt for specific repair and renovation projects.

Part 40 also enacts the procedural and regulatory provisions needed to carry out the security interest indebtedness. Commonly referred to as "certificates of participation," security interest indebtedness is debt that is secured by an interest in the property being repaired or renovated. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property being repaired, and other circumstances. Based on these circumstances, one form or another of security interest debt may be the least expensive and most practical for the State to utilize. **(not in the Governor's Budget)**

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 15, 2003

TO: House Finance Committee

FROM: Linda Millsaps, Richard Bostic, David Crotts, Bob Weiss, Evan Rodewald, Jennifer Haygood, Susan Morgan, Lisa Hollowell, and Marilyn Chism.
Fiscal Research Division

RE: HB 593 – (PCS) FAMILY TAX CUT/ PROTECT AAA RATING

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ million) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Utilities Special Fund	12.95				
Insurance Reg. Fund	25.0				
Agency Receipts					
Dept. of Health & Human Services					
Div. of Facility Services	5.1	5.1	5.1	5.1	5.1
Div. of Child Development	0.9	0.9	0.9	1.0	1.0
Div. of Public Health	1.1	1.1	1.1	1.1	1.1
Dept. of Environment & Natural Resources	0.04	0.04	0.04	0.04	0.04
Highway Fund		1.0	1.0	1.0	1.0
General Fund					
Sales Tax Extension	346.5	388.2	26.5	0.0	0.0
Income Tax Extension	37.5	92.7	57.3	0.0	0.0
TOTAL G.F.	**384.0**	**480.9**	**83.8**	**0.0**	**0.0**
EXPENDITURES					
Highway Fund		* See Assumptions and Methodology *			
General Fund	-	21.4	20.8	20.3	19.7

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Utilities Commission, Department of Insurance, Department of Transportation, Department of Revenue, and Department of Environment and Natural Resources.

EFFECTIVE DATE: Part I, Section 3.13 and Part IV are effective July 1, 2003. The remainder of Part III becomes effective October 1, 2003. The remainder of the bill is effective when law.

BILL SUMMARY:

Part I, Section 1(a) sets the regulatory fee rate for the Public Utilities Commission at 0.12%. This rate must be set annually and is an increase from the .1% rate in 2002. Section 1(b) sets the regulatory fee for the electric membership corporations at a flat $200,000. This fee has remained the same since it was first imposed in 1999.

Part II addresses the annual establishment of the insurance regulatory fee. Section 2(a) sets the insurance regulatory charge at 6.5%. The rate remains the same as in the previous year.

Part III addresses three sets of fees related to the Department of Health and Human Services. Sections 3.1-3.11 increase and establish a variety of fees related to the Division of Facility Services. Section 3.12 imposes a new fee on day care facilities. Section 3.13 imposes a new fee on certain pap smears.

Part IV allows the Department of Environment and Natural Resources to adopt temporary rules to establish fees for off-highway vehicle access to the Fort Fisher Recreation Area.

Part V requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. The Department may establish various classes of ferry users.

Part VI ends all hold harmless payments to locals after 2012, and expedites the payment of hold harmless payments in 2003-04 and 2004-05.

Part VII extends the state half-cent sales tax that became effective on October 16, 2001 from July 1, 2003 to July 1, 2005.

Part VIII delays the sunset of the 8.25% income tax rate from January 1, 2004 to January 1, 2006.

Part IX authorizes the state to incur $200 million of security interest indebtedness for the repair and renovation of State facilities. These proceeds would be used to repair and renovate State buildings in the same manner as funds allocated to the Reserve for Repair and Renovations.

ASSUMPTIONS AND METHODOLOGY:

PART 1: REGULATORY FEE FOR UTILITIES COMMISSION

Part 1 of the bill sets the fees for regulation by the North Carolina Utilities Commission ("Commission"). Section 1(a) of the bill sets the public utility regulatory fee rate at 0.12% for FY 2003-04. (The FY 2002-03 rate is .1%) Revenue from this fee, which is assessed against regulated public utilities, is used to support the operations of both the Commission and the Public Staff. The Commission estimates the .12% regulatory fee will produce $12,950,000 in FY 2003-04. For the same period, the Commission estimates that the combined operations of the Commission and Public

Staff will require total expenditures of not less than $12,183,000. The estimated balance in the Commission's Accumulated Fee Margin Reserve Account as of June 30, 2003 is $4.6 million. The proposed fee would generate a surplus of $767,000 that will be added to this Reserve Account for a June 2004 balance of $5.37 million. This represents approximately 4.4 months of operating reserve. The Commission considers this reserve balance "adequate to reasonably ensure our continuing financial integrity".

Section 1(b) of the bill sets the public utility regulatory fee to be paid by the North Carolina Electric Membership Corporation for the 2003-04 fiscal year at $200,000. In 1999, the initial fee of $200,000 was developed as a result of discussions between the industry and the Utilities Commission, based on what the Utilities Commission believed to be the cost associated with regulating the electric membership cooperatives. In 2001 the Utilities Commission provided information to the General Assembly's Fiscal Research illustrating that these fees supported approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

PART 2: INSURANCE REGULATORY CHARGE

Part 2 of the bill sets the insurance regulatory charge at 6.5% for calendar year 2003. This is the same rate used in 2002 because the Department of Insurance has not submitted a rate proposal. The Department has stated that it cannot estimate the rate until early May after the April collections are known.

This fee is assessed against the 1.9% premiums tax paid by insurers or against the presumed premiums tax that would be paid by HMOs and Article 65 companies (Blue Cross/Blue Shield) if taxed at 1.9% (they are taxed at 1%). The revenue is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the insurance industry and other industries and to other departments as specified in G.S. 58-6-25(d). The 6.5% rate was estimated to generate $25 million in regulatory fee revenue in 2002.

PART 3: DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

All fees generated in this part of the bill flow to the affected divisions of the Department of Health and Human Services. Corresponding reductions have been made to their General Fund appropriations in the budget bill.

SECTIONS 3.1-3.11: DIVISION OF FACILITIES SERVICES FEES

The purpose of the proposed fees for the Division of Facility Services (DFS) is to provide revenue to cover a portion of the State cost associated with the regulation and licensure of health and social care facilities and services. The proposed fees will generate $5,142,000 in revenue -- $5,100,000 will be used as departmental receipts to cover a portion of the Division of Facility Services operating budget and $42,000 will be used to pay for one position to collect the fees. Under this proposal, fees would support 33% of the General Fund budget ($15.4 million) for the Division of Facility Services. The Division of Facility Services also receives $12.5 million in federal funds. The fees fall into three categories: (1) fees for licensure and regulation of health and social care facilities and services, (2) fees for

the licensure of Emergency Medical Services providers and credentialing persons who are certified by the Division of Facility Services to provide Emergency Medical Services, and (3) fees for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities.

Fees for Licensure and Regulation of Health and Social Care Facilities and Services

The Division of Facility Services licenses and regulates health and social care facilities including hospitals, abortion clinics, ambulatory surgical facilities, cardiac rehabilitation facilities, nursing facilities, adult care homes, mental health group homes, intermediate care facilities for the mentally retarded, and continuing care retirement communities. DFS also regulates home care service agencies including home health and personal care service providers. The fee structure for all facilities and agencies includes a base fee that applies regardless of the size of the facility. In addition, facilities that have beds, offices, or rooms associated with their license will also be charged a per bed or room fee. Facilities with less than six beds are exempted from the per bed fees. The attached chart summarizes the base fees and per bed fees for all facilities and agencies.

Fees for Licensure and Credentialing of Emergency Medical Service Providers

The Division of Facility Services licenses all emergency medical service providers. Under this proposal, all EMS providers will pay an annual license fee based on the number of permitted EMS vehicles ($50 per vehicle) operated by the EMS provider except that emergency medical dispatch programs will pay $185 annually. All volunteer only EMS providers and volunteer EMS providers with paid personnel will be exempted from the fees.

The Division of Facility Services also offers eight levels of EMS credential for persons who are trained EMS personnel. This proposal establishes a $90 credentialing fee for all levels of EMS credentialing and will be applied for initial credentialing, recredentialing, legal recognition, and challenge applicants. The proposal will exempt persons who work as volunteers within an EMS system from paying credentialing fees. Persons who are paid to work in an EMS system or persons with no system affiliation will pay fees.

Fees for Processing and Reviewing Construction Plans for Social and Health Care Facilities

The Construction Section of the Division of Facility Services has the following responsibilities:

- Review plans for new construction, conversions, additions, and renovations of all health and social care facilities
- On-site inspection of each project's regulatory compliance with licensure standards related to physical plant systems and life safety code requirements during the building process and a final inspection once the project is completed
- Routine inspections of existing facilities to monitor continued compliance with licensure requirements
- Consultation services.

Under the proposal, fees would be assessed for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities. A chart summarizing the fees is attached.

Large institutional projects for hospitals, nursing homes, ambulatory surgical facilities, and adult care homes with seven or more beds would be assessed fees based on the size of the project in square feet. The fee would range $.10 to $.20 per square foot depending on the type of facility.

Residential construction projects for family care homes, intermediate care facilities for the mentally retarded, group homes, and mental health group homes would be assessed a flat fee ranging from $100 to $275 per project depending on the type and size of the facility.

The revenues generated by the new and increased Division of Facility Services fees are as follows:

FACILITY TYPE	# FACILITIES, REVIEWS or EXAMS	BASE FEE	ADDT'L FEE	# OF BEDS/ OFFICES/ ROOMS	TOTAL REVENUE
GENERAL ACUTE HOSPITALS					
1 - 49 beds	25	$ 250	$ 12.50	736	**$ 15,450**
50 - 99 beds	29	$ 350	$ 12.50	1,993	**$ 35,063**
100 - 199 beds	36	$ 450	$ 12.50	4,918	**$ 77,675**
200 - 399 beds	18	$ 550	$ 12.50	5,093	**$ 73,563**
400 - 699 beds	8	$ 750	$ 12.50	4,789	**$ 65,863**
700 + beds	4	$ 950	$ 12.50	3,273	**$ 44,713**
OTHER HOSPITALS	12	$ 500	$ 12.50	614	**$ 13,675**
ABORTION CLINICS	**16**	**$ 700**	$ 0.00	**NA**	**$ 11,200**
ADULT CARE HOMES <6 BEDS	**690**	$ 250	$ 0.00	**0**	**$ 172,500**
ADULT CARE HOMES >6 BEDS	**628**	$ 350	$ 12.50	**34,801**	**$ 654,813**
AMBULATORY SURGERY	**51**	**$ 700**	$ 50.00	**167**	**$ 44,050**
CARDIAC REHABILITATION	**81**	**$ 250**	$ 0.00	**NA**	**$ 20,250**
CCRC's	47	$ 450	$ 12.50	4,958	**$ 83,125**
HOME HEALTH AGENCIES	**162**	**$ 350**	$ 0.00	**NA**	**$ 56,700**
LICENSED-ONLY HOME CARE AGENCIES	**1,199**	**$ 350**	$ 0.00	**NA**	**$ 419,650**
MH FACILITIES (excluding ICF-MR)<6 BEDS	**3,070**	$ 250	$ 0.00	**10,892**	**$ 767,500**
MH FACILITIES (ICF-MR only)<6 BEDS	**281**	$ 650	$ 0.00	**5,247**	**$ 182,650**
MH FACILITIES (excluding ICF-MR)>6 BEDS	**138**	$ 250	$ 12.50	**2,591**	**$ 66,888**
MH FACILITIES (ICF/MR only)>6 beds	**43**	$ 650	$ 12.50	**1,016**	**$ 40,650**
NURSING HOMES	**430**	**$ 450**	$ 12.50	**42,928**	**$ 730,100**
CONSTRUCTION PROJECTS--LARGE	**386**	**Varies**	$ 0.00	**NA**	**$ 821,875**
CONSTRUCTION PROJECTS--RESIDENTIAL	**1,576**	**Varies**	$ 0.00	**NA**	**$ 115,925**
EMS CREDENTIALING FEES	6,297	$ 90	$ 0.00	**NA**	**$ 566,730**
EMS PROVIDER FEE (Vehicles)	1,025	$ 50	$ 0.00	**NA**	**$ 51,250**
EMERGENCY DISPATCH PROGRAM	57	$ 185	$ 0.00	**NA**	**$ 10,545**
TOTAL	15,910			**124,016**	$ 5,142,400

NOTES

Column (4) ADDTL FEE is the additional fee that will be based on the number of beds, offices or rooms as shown in Column (5).

OTHER HOSPITALS excludes all State-owned facilities which are exempt from licensure.

TOTAL # FACILITIES does not include emergency medical vehicles.

SECTION 3.12 CHILD CARE LICENSING FEES

This section of the bill adds a new licensing fee for child care centers. The fee will be annual and will cover a portion of the departmental cost of licensing and monitoring these centers. The annual fee will be based on the number of children in the center. The following fees will apply: Centers with 12 or fewer children -$35.00; 13-50 children - $125.00; 51-100 children - $250.00; 101 or more children - $400.

The revenue estimates are based on the current number of childcare centers and the estimated increase in the number of new centers as historical data indicates. There has been an approximate 2.75% annual increase in the number of centers starting up annually over the past seven (7) years and is the amount used to project additional revenues for future years.

	2003-04		2004-05		2005-06		2006-07		2007-08	
Size of facility (number of children)	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue
Up to 12	343	12,005	352	12,335	362	12,674	372	13,023	382	13,381
13-50	1583	197,875	1,627	203,317	1,671	208,908	1,717	214,653	1,764	220,556
51-100	1168	292,000	1,200	300,030	1,233	308,281	1,267	316,759	1,302	325,469
More than 100	946	378,400	972	388,806	999	399,498	1,026	410,484	1,054	421,773
TOTAL	4040	880,280	4,151	904,488	4,265	929,361	4,383	954,919	4,503	981,179

All revenue generated will remain with the Division of Child Development. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

SECTION 3.13: PAP SMEAR FEE

This section adds a $7 fee for analyzing clinical Pap smear specimens by the Cancer Cytology Program of the NC State Laboratory of Public Health. This processing fee is in addition to the $7.44 charge for the Pap smear kit already required. This new fee will be charged to the local health departments and other state facilities that utilize the NC State Lab for cytology lab work. This proposal increases receipts by $1,050,000. This revenue estimate is based on a minimum of 150,000 specimens reviewed each year for the next five years. The estimation for lab utilization for cytology work for FY 2003-04 represents a slight decrease from FY 2000-01 (the latest year of data) and remains unchanged for the following years through FY 2007-08, since behavior is unknown of whether local entities will seek their lab work through private labs. While the new fee in conjunction with the cost of the kit is cheaper in most cases for these state facilities and local health departments than private labs, the response time of the private labs may prompt some locals to consider contracting with a private lab in lieu of continuing to utilize the state lab.

All revenue generated will remain with the Division of Public Health. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

PART 4: DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FEES

Part IV of the bill relates to the Fort Fisher State Recreation Area. The bill authorizes the Department of Environment and Natural Resources to levy a fee and establish rules related to the use of off-highway vehicle access to the recreation area. According to Department officials, the annual fee would be approximately $40 per year. No information has been provided on offering a daily fee. The fee is expected to generate $36,857. Revenues from this fee flow to the Department of Environment and Natural Resources.

PART 5: DEPARTMENT OF TRANSPORTATION FEES

Section 5.1(a) requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. Currently, three of the State's seven ferries (Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Southport-Fort Fisher) are toll operations. Four ferries are free (Hatteras-Ocracoke, Bayview-Aurora, Cherry Branch-Minnesott, and Currituck-Knotts Island). DOT estimates that a fee structure for the now free ferries similar to the one currently in place on the other ferries would raise approximately $1,000,000 more per year, after expenses. (A one-year delay is assumed to clear the rule making process). This fee change affects the Highway Fund. No General Fund impact is expected.

PART 6: ADJUST LOCAL GOVERNMENT HOLD HARMLESS

During the 2001 session, the General Assembly agreed to what was termed a "sales tax swap". As a part of this swap, the State portion of the sales tax was increased by ½ cent for the period October 16, 2001 to July 1, 2003. The local units were also granted authority to increase their own sales tax rate by ½ cent, effective July 1, 2003. This additional authority to levy local sales taxes was viewed as a "swap" for the repeal of the state reimbursements to local governments for losses related to several tax repeals. These repeals included the repeal of property taxes on inventories and intangibles, some of the tax loss associated with the homestead exemption, and repeal of the reimbursement for sales taxes that are no longer paid on items purchased with food stamps. The repeal of these reimbursements was to be effective July 1, 2003. The legislation also required that hold harmless payments be made to those local governments whose gain from a half cent local sales tax increase is less than 100% of their loss from the repealed state tax reimbursements. In 2002, the General Assembly chose to move forward the date local units could start levying the additional ½ cent of sales tax by 7 months to December 1, 2002. At the same time, the General Assembly accelerated the repeal of the reimbursements, effective July 1, 2002. No hold harmless payments were made for the 2002-03 fiscal year.

Because of the recent slow down in sales tax revenues, the amount of the calculated hold harmless payments to locals increased over the original estimates. New preliminary estimates created by a model agreed to by the Tax Research Division of the Department of Revenue and Fiscal Research indicate the following hold harmless liability under the current statute:

FY 2003-04	$36.1 million
FY 2004-05	$31.2 million
FY 2005-06	$26.4 million
FY 2006-07	$22.0 million
FY 2007-08	$18.0 million

The bill assumes these payments will be made. The bill makes two additional changes to the hold harmless provision. First, it sunsets the hold harmless payment after 10 years so no hold harmless payments would be made after 2012-13. It also requires that for fiscal years 2003-04 and 2004-05 the hold harmless payment be made by August 15.

PART 7: TEMPORARILY MAINTAIN STATE SALES TAX RATE

As noted in previous sections of this document, in 2001 the General Assembly increased the State portion of the sales tax to 4.5%. Under current law, this increase in the State sales tax will expire July 1, 2003. The bill extends this sunset date by two years to July 1, 2005. Joint estimates provided by Fiscal Research and the Office of State Management and Budget suggest the following revenue stream from this tax extension.

FY 2003-04	$346.5 million
FY 2004-05	$388.2 million
FY 2005-06	$ 26.5 million

Note: While the tax expires June 30, 2005, many retailers will not submit their payments to the Department of Revenue for the month of June until the following fiscal year. Thus, a revenue increase is shown for 2005-06 as well. This timing issue also plays a role in reducing the 2003-04 to the amount above.

PART 8: TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Section 8.1 of the bill extends the 8.25% tax bracket from January 1, 2004 to January 1, 2006 for taxable incomes that are shown in the chart below.

8.25% for taxable incomes over:	
$200,000	Married filing jointly
$160,000	Head of household
$120,000	Single
$100,000	Married filing separately

The additional revenue from this extension is calculated using the North Carolina Individual Income Tax Model. The model estimates that $83.3 million in individual income tax payments will be generated in Tax Year 2004 and $104.2 million in revenue in Tax Year 2005. This revenue is divided into fiscal years as follows:

FY 2003-04	$37.5 mil.
FY 2004-05	$92.7 mil.
FY 2005-06	$57.3 mil.

FY 2003-04 will receive 45% of Tax Year 2004 revenue because of withholding from January through June 2004 and two quarterly estimated payments. High-income taxpayers avoid a penalty if estimated payments during the tax year equal at least 90% of actual liability. In the FY 2004-05, taxpayers will pay the remaining 55% of the tax due in tax year 2004 and again pay 45% in estimated payments for tax year 2005. FY 2005-06 is equal to the remaining 55% of tax year 2005.

PART 9: REPAIR AND RENOVATION

Last July the Department of State Treasurer prepared an estimate of debt service requirements analysis for a $200 million repairs and renovation security interest financing that would take place in March 2003. We took this schedule and backed the issuance to March 2004. The average interest rate used in the projections was 5.70% and the maturity was 20 years. Based on this analysis the total interest payments would amount to $119.7 million. If the interest payments were added to the $200 million of debt repayment, the total debt service requirements over the period would be $319.7 million. The 5.70% interest rate assumption is very conservative in light of the fact that if the debt were issued today, the interest would be under 5%.

SOURCES OF DATA: February 14, 2003 Memorandum to Governor Easley from Utilities Commission chair Jo Anne Sanford and Executive Director Robert Gruber; Individual Income Tax Model, Tax Research Division of the Department of Revenue, Office of State Budget and Management, and the Treasurer's Debt Service Report.

ATTACHMENT 3

THE SANFORD HOLSHOUSER LAW FIRM, PLLC

JAMES E. HOLSHOUSER, JR.
(910)295-4250

100 MARKET SQUARE

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April 14, 2003

Dear Fellow Republicans:

I write to you out of a growing concern about the State budget.

Those of us who follow state government and care deeply about the future of our state can't help but be concerned that we have lost our Triple-A bond rating with one of the three rating agencies and could easily lose it with the other two.

Not only would this cost us extra money in interest in the years ahead, but it would also have a significant adverse affect in our economic development efforts.

Our law firm represents some forty counties in economic development work, and so we pay a lot of attention to things that help or hurt in the creation of jobs across the state.

Companies that are looking to make a substantial investment always examine the climate in the state - both regulatory and fiscal - and our bond rating is one significant bit of evidence as to how we handle our affairs.

I should say at the outset that in my four terms as a member of the legislature, I never voted for a tax increase, and didn't propose a single tax increase during my four years as Governor. I don't intend to change that philosophy at this point.

Having said this, I want to ask for your thoughtful consideration regarding two points.

First, it seems to me that a limited extension of the sunset on the sales and income taxes is an important part of getting our fiscal situation back in balance and on the right road. Given the hole which we have dug ourselves into, failure to extend the sunset requires either ignoring the Constitution's requirement of a balanced budget (which may have been done for

two or three years now) or making such deep cuts in so many places that serious damage will result. The bond rating agencies will frown on either of these approaches, and it seems to me we tread on really thin ice if we let the sunset stand.

I am not happy about it, but the future well-being of the people of our state will be significantly affected if we don't get our fiscal house in order. Republicans have always tried to be fiscally responsible, and this will follow that tradition.

Frankly, I had to face a similar situation in my third year as Governor. In January of that year, I proposed the repeal of the sales tax on food. Within about two weeks, unemployment figures started to rise, with an accompanying drop in State revenues about six weeks later. Finally, it became apparent that we simply couldn't afford the tax cut at that time, so I withdrew the request from the legislature in order to maintain our fiscal position.

It seems to me that's where we are right now. I suspect some of you feel that a sunset extension would be a "tax increase", but I would submit to you that you are in about the same position that I was in 1975. With the tax on the books right now, it seems to me that allowing it to continue could hardly be called a "tax increase". Rather, what you will be doing is delaying a tax cut until a date that you choose. I think that is a very important distinction, since many of you have done what I used to do - not vote for tax increases. I just don't believe we can afford a tax cut right now.

Having said all of the above, however, I would also encourage you on a second point. I have an increasingly hard time understanding why we keep going beyond the required minimums in the expansion budget when we're in such a deep hole already.

When I say "required minimums", I generally throw in such things as rate increases for utilities; debt service increases; inflation increases (which are incredibly small right now); enrollment increases in the public schools, community colleges, and university; staffing increases for the prison system due to increased prison population; and Medicaid (although I think we've gone beyond what most of our sister states on the east coast have done in the way of benefits and should take a hard look at this).

I realize that the appropriation process in the House is winding to a conclusion, and these thoughts on the expansion budget are too late for consideration in the House

Appropriations Committee. The process is just beginning, however, and these are thoughts for later in the session.

Thanks for all you are doing. It is not an easy time to deal with the budget in Raleigh, but there are also many other important things to which you will attend before you leave town. I wish you well and want you to know I'm always at your disposal if I can be of help.

Sincerely yours,

THE SANFORD HOLSHOUSER LAW FIRM, PLLC

James E. Holshouser, Jr.

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REPRESENTATIVE DAVID MINER
NORTH CAROLINA HOUSE OF REPRESENTATIVES
62nd DISTRICT

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Covenant *with*
North Carolina's **Children**

THREE-YEAR EMERGENCY REVENUE PACKAGE

2003 PLAN

North Carolina is facing an extreme budget crisis and budget deficits are projected to continue for several more years. The state cannot afford to resolve this crisis through budget cuts alone, causing long-term irreparable harm to programs and the children they serve. Public officials must raise additional revenue, use existing resources, and close outdated tax loopholes to solve this budget crisis. We support the use of a balanced package of progressive tax options to achieve this goal. This three-year revenue package will get the state beyond this crisis, but it is imperative that officials use this time to restructure the state tax system to meet the growing needs of the state and reflect the realities of the modern economy.

2003 Emergency Revenue Options

Option	ESTIMATED Revenue (millions)
Capture Tobacco Law Suit Settlement[1]	137
Close Tax Preference that Benefits Banks	15
Eliminate Corporate Tax Incentives In Wealthy Counties	17
Expand Sales Tax to Most Services and Lower Overall Tax Rate[2]	350
Reinstate Corporate Income Tax Rate to mid-1990's Levels[3]	97
Raise Cigarette Tax to National Median[4]	393
Adopt Temporary Emergency 10% Surcharge on All Individuals Who Pay Income Tax	750
TOTAL	**$1,799**

[1] Exempt funds going for Senior's Prescription Drug program, Smoking Cessation and Obesity Prevention

[2] Exceptions to taxing services will track the Governor's Commission – health, education, funeral, legal, banking, housing. Could possibly reduce the overall state sales tax rate to less than 3.5% from the current 4.5%.

[3] Reinstate corporate tax to 7.5% from current level of 6.9%. Corporate tax was reduced from 7.5% in 1997.

[4] Current national median cigarette tax is fifty cents per pack, so this would mean a forty-five cents per pack increase. North Carolina's current cigarette tax is five cents per pack, the third lowest in the country.

Covenant with North Carolina's Children

A coalition advancing public policy that benefits children in North Carolina

P.O. Box 28268 • Raleigh, NC 27611 • 919 / 846-1432 • FAX / 829-7299

41595 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

ATTACHMENT 5

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

adopted by consent

EDITION No. PCS

H. B. No. 593 DATE

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

COMMITTEE SUBSTITUTE PCS

Rep.) Decker
Sen.)

moves to amend the bill on page 6, line 31

( ) WHICH CHANGES THE TITLE

by rewriting that line to read:

"of the Fee may not exceed the amount listed in this subdivision. The Fee does not apply to a religious sponsored child care center operated pursuant to a ~~notice~~ letter of compliance."

SIGNED M Decker

ADOPTED FAILED TABLED

41595 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen) **ATTACHMENT 6**

EDITION No. PCS

H. B. No. 593 DATE

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

COMMITTEE SUBSTITUTE ✓

Rep.) Ellis
Sen.)

moves to amend the bill on page 5, line 9

( ) WHICH CHANGES THE TITLE

by replacing the phrase "seven hundred dollars ($700.00)." with the phrase "four thousand five hundred sixty-two dollars ($4,562)." and

on page 5, lines 32-40, by deleting those lines

SIGNED

ADOPTED FAILED TABLED

(Revised 04-03)

ROLL CALL VOTE

ATTACHMENT 7

16 YES 19 NO = 35 (TOTAL) FAILS Date: 4 / 15 / 2003 HB# 593 SB# ____

Amendment # 2 (Ellis)

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	___	X	Ex officio Members		
Blackwood	X	___	Brubaker	___	X
Bordsen	___	X	Culpepper	___	X
Capps	X	___	Cunningham	___	X
Carney	___	X	Eddins	X	___
Creech	X	___			
Decker	X	___	Co-Chairs		
Ellis	X	___	Allen	___	X
Gibson	___	X	Howard	X	___
Glazier	___	X	Luebke	___	X
Hackney	___	X	McComas	X	___
Hill	___	X	Miner	___	X
Holliman	___	X	Wainwright	___	X
Jones	___	X			
Lewis	X	___			
McCombs	X	___			
McGee	X	___			
Munford	X	___			
Rayfield	X	___			
Ross	___	X			
Setzer	___	___			
Starnes	X	___			
Weiss	___	X			
Wilson	X	___			
Womble	___	X			
Wood	X	___			

(Revised 04-03)

ROLL CALL VOTE

ATTACHMENT 8

22 YES 13 NO = 35 (TOTAL) PASSES Date: 4 / 15 / 2003 HB# 593
SB# ____
Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	X		Ex officio Members		
Blackwood		X	Brubaker	X	
Bordsen	X		Culpepper	X	
Capps		X	Cunningham	X	
Carney	X		Eddins		X
Creech		X			
Decker		X	Co-Chairs		
Ellis		X	Allen	X	
Gibson	X		Howard	X	
Glazier	X		Luebke	X	
Hackney	X		McComas	X	
Hill	X		Miner	X	
Holliman	X		Wainwright	X	
Jones	X				
Lewis		X			
McCombs		X			
McGee	X				
Munford		X			
Rayfield		X			
Ross	X				
Setzer					
Starnes		X			
Weiss	X				
Wilson		X			
Womble	X				
Wood		X			

Passed

(Revised 04-03)

ROLL CALL VOTE

17 YES | 13 NO = 35 (TOTAL) Date: 4/15/03 HB# 593 (cs)

SB# ____

Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	✓		Ex officio Members		
Blackwood		✓	Brubaker	✓	
Bordsen	✓		Culpepper	✓	
Capps		✓	Cunningham	✓	
Carney	✓		Eddins		✓
Creech		✓			
Decker		✓	Co-Chairs		
Ellis		✓	Allen	✓	
Gibson	✓		Howard	✓	
Glazier	✓		Luebke	✓	
Hackney	✓		McComas	✓	
Hill	✓		Miner	✓	
Holliman	✓		Wainwright	✓	
Jones	✓				
Lewis		✓			
McCombs		✓			
McGee	✓				
Munford		✓			
Rayfield		✓			
Ross	✓				
Setzer					
Starnes		✓			
Weiss	✓				
Wilson		✓			
Womble	✓				
Wood		✓			

ATTACHMENT 9

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 593 A BILL TO BE ENTITLED AN ACT RELATING TO THE COUNTY OF WAKE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

House Committee on Finance

Minutes

~

April 16, 2003

The House Committee on Finance met on Wednesday, April 16, 2003 at 7:00 pm for an urgent "around the table" meeting in the House Chamber at the desk of Chairwoman Julia Howard. While attendance of the members was limited, a clear quorum was present for the official conduct of committee business. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chair Alexander; and Representatives Capps, Carney, Hackney, Holliman, Lewis, McCombs, McGee, Rayfield, Ross, and Wood. Bill Freeman was the Sergeant-at-Arms present. Staff persons present included Linda Millsaps and Martha Walston.

Chairwoman Howard called the meeting to order at 7:00 pm and explained to the Committee members the need to hear a highly time sensitive bill sponsored by Representative Rex Baker, HB 222 – MOUNT AIRY ANNEXATION MORATORIUM. Representative Baker was then recognized by the Chair who first moved for adoption of the committee substitute to HB 222 (see attachment 1). The Representative's motion carried without known objection. Representative Baker then explained his bill. He informed the committee members that this bill acted to prohibit the City of Mount Airy from annexing certain property in its surrounding territories for a period of six months. Representative Baker explained that the bill was necessary because the City of Mount Airy was scheduled to involuntarily annex two "country club" areas adjacent to the city's boundaries within the next few days. Representative Baker, who represents the areas facing the annexation and is supported by the other legislators of his delegation on this bill, wants the six months of prohibited annexation to act as a "cooling off" period for the City and these two private communities.

Following this explanation Chairwoman Howard recognized Representative McComas who made the motion for a favorable report on the bill. Committee members, however, posed several questions, before the Chair took action on this motion. Representative Luebke voiced strong concerns that this bill was highly controversial since the City of Mount Airy is highly opposed to the bill's passage. He stated that had he known the controversial nature of this bill and been provided any period of notice, he would have objected to the convening of this urgent meeting in the House Chamber. He also stated that the individuals being affected by this bill, both those from the City of Mount Airy and those from the two private communities, had the right to have this bill heard at a formal meeting where public debate was allowed. Noting that the Committee typically avoids taking positions on local bills with controversy, Representative Luebke requested that the bill be withdrawn from further consideration at the meeting.

Representative Carney, speaking as a past County Commissioner, stated that she could not support a bill that did not allow for the voice of the local governments. In response to this, Representative Baker was quick to note that he was representing his constituents and not the local government.

Representative Holliman noted that he did not feel confident to make such a controversial decision without having additional information on the bill.

Representative Wainwright voiced his concern that the City of Mount Airy was being stripped of its constitutional right to annex areas bordering its corporate limits. He suggested that at least an early morning meeting should be called to invite the officials of the City and the areas facing the annexation to discuss the matter completely. Discussion among the members commenced on this suggestion; however, Representative Baker reiterated the urgency of the bill and his intent to present it to the Senate for passage the following day. Consequently, Chairwoman Howard ruled that time simply did not allow for such a meeting. She noted that a decision on the matter had to be made by the Committee before adjournment.

Seeing no further questions from the members, the Chair requested the vote via roll call and instructed the Clerk to call the vote. With a tally of 7 in the affirmative and 10 in the negative, the motion for a favorable report failed (see attachment 2). Thus, the bill cannot be reported out on the House floor for consideration of passage. Acknowledging the vote of the Committee, Representative Baker thanked the members for their agreement to consider the bill on such short notice and stated that he would inform his constituents of the taken action.

Having no further business at the time, Chairwoman Howard adjourned the meeting at 7:35 pm.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. House Bill 222
2. Roll Call Vote on HB 222

House Committee on Finance

Minutes

~

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Representative Wainwright voiced his concern that the City of Mount Airy was being stripped of its constitutional right to annex areas bordering its corporate limits. He suggested that at least an early morning meeting should be called to invite the officials of the City and the areas facing the annexation to discuss the matter completely. Discussion among the members commenced on this suggestion; however, Representative Baker reiterated the urgency of the bill and his intent to present it to the Senate for passage the following day. Consequently, Chairwoman Howard ruled that time simply did not allow for such a meeting. She noted that a decision on the matter had to be made by the Committee before adjournment.

Seeing no further questions from the members, the Chair requested the vote via roll call and instructed the Clerk to call the vote. With a tally of 7 in the affirmative and 10 in the negative, the motion for a favorable report failed (see attachment 2). Thus, the bill cannot be reported out on the House floor for consideration of passage. Acknowledging the vote of the Committee, Representative Baker thanked the members for their agreement to consider the bill on such short notice and stated that he would inform his constituents of the taken action.

Having no further business at the time, Chairwoman Howard adjourned the meeting at 7:35 pm.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. House Bill 222
2. Roll Call Vote on HB 222

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 222
PROPOSED COMMITTEE SUBSTITUTE H222-PCS50250-LB-24

Short Title: Mount Airy Annexation Moratorium. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A MORATORIUM OF SIX MONTHS ON ANNEXATION OF CERTAIN AREAS BY THE CITY OF MOUNT AIRY.

The General Assembly of North Carolina enacts:

SECTION 1. Between the date this act becomes law and 180 days later, the City of Mount Airy may not adopt any annexation ordinance, resolution of intent, or resolution of consideration under Part 3 of Article 4A of Chapter 160A of the General Statutes as to any area in the Cross Creek or Laurel Forest Areas. Any deadlines under that Part are suspended during that period as to proposed annexation of any of those areas.

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

(Revised 04-03)

ATTACHMENT 2

ROLL CALL VOTE

7 YES 10 NO = 17 (TOTAL) FAILS Date: 4 / 16 / 2003 HB# 222
SB# ____
Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	___	X	Ex officio Members		
Blackwood	___	___	Brubaker	___	___
Bordsen	___	___	Culpepper	___	___
Capps	X	___	Cunningham	___	___
Carney	___	X	Eddins	___	___
Creech	___	___			
Decker	___	___	Co-Chairs		
Ellis	___	___	Allen	___	X
Gibson	___	___	Howard	X	___
Glazier	___	___	Luebke	___	X
Hackney	___	X	McComas	X	___
Hill	___	___	Miner	X	___
Holliman	___	X	Wainwright	___	X
Jones	___	___			
Lewis	X	___			
McCombs	___	X			
McGee	X	___			
Munford	___	___			
Rayfield	___	X			
Ross	___	X			
Setzer	___	___			
Starnes	___	___			
Weiss	___	___			
Wilson	___	___			
Womble	___	___			
Wood	X	___			

House Committee on Finance

Minutes

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April 22, 2003

The House Committee on Finance met on Tuesday, April 22, 2003 at 9:00 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, and Luebke; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble; and Ex-Officio Committee Member Representative Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Matt Myers, and Dusty Rhodes. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 9:08 am and recognized the four Pages present at the meeting: (1) Austin Branch of Pitt County, sponsored by Representative Tolson; (2) Joy Hawley and (3) Meagan Hawley, both of Harnett County, sponsored by Representative Lewis, and Teresita Whitley of Wake County, sponsored by Representative Ellis.

The Chair next recognized Representative Preston for explanation of HB 774 – BEAUFORT SATELLITE ANNEXATIONS (see attachment 3). Representative Preston first requested that the Committee approve the Committee Substitute for the bill. Representative Womble was recognized by the Chair and made a motion to approve the Committee Substitute. The motion carried without opposition. Representative Preston explained that the bill was being brought at the request of the elected officials of the Town of Beaufort to allow the Town to annex in (voluntarily) businesses just outside of the Town that are in need of the Town's sewer system. The bill would require 3 of the 6 statutory requirements for annexation to be waived in this case. There were several questions from Representative Rayfield to Representative Preston concerning the special nature of this annexation and the necessity of the statutory exemptions. Representative Preston referred to documentation that she had been provided by the Town of Beaufort in her response (see attachment 3). Immediately following that discussion, Representative Rayfield made the motion for a favorable report to the Committee Substitute Bill to HB 774, unfavorable as to the original bill. Chairman Luebke then called the vote and the motion carried without objection.

Chairman Luebke recognized Representative McCombs next for an update on the Finance Subcommittee on Tax and Tags (of which Representative McCombs chairs) as well as to explain his bill, HB 680 – GRANITE QUARRY CHARTER REVISION (see attachment 4). Representative McCombs, with regard to the Subcommittee, informed the Chairman and the Committee members that the tax and tag bills up for consideration would be on the Committee's calendar the following Thursday (April 24, 2003). He then simply explained HB 680 as an act to consolidate the Town of Granite Quarry's charter into one document, providing for the continuance of a five-member board, the mayor-council form of government, and nonpartisan elections. Representative McCombs, seeing that there were no questions, was recognized by the Chair and then, "as a member of the committee," moved for a favorable report on his bill. The Chair called the vote and the motion passed unanimously.

Discussion of SB 122 – VARIOUS SATELLITE ANNEXATIONS (see attachment 5) was the next item addressed by Chairman Luebke, who recognized Representative McHenry (on behalf of the bill sponsor, Senator Hoyle) to explain the bill. Representative McHenry informed the members of the Committee that the bill adds the municipalities of Bladenboro, Gastonia, Locust, Pine Level, and Ranlo to the list of towns that do not have to meet one of the five statutory standards necessary for voluntary satellite annexations. Specifically, the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Chairman Luebke recognized Representative Womble who asked Representative McHenry if these annexations would result in any tax increases for the annexed areas. Representative McHenry responded that there were no tax increases to his knowledge. Representative Womble also noted his concern that all of these annexations be completely voluntary and then moved for a favorable report to SB 122.

Prior to action of the motion, however, the Chair recognized Representative Creech who made a request for further details of the cities affected by this bill. Senator McHenry stated that he was not aware of all of the details of the cities involved. Representative Creech then stated that he would confer with Senators Smith and Hoyle prior to the bill reaching the House floor for passage.

Representative Decker was then recognized for a question in regard to the 10% exemption and was informed that it does not currently have a sunset. The Representative also offered an amendment to clarify the bill (see attachment 5) and moved its' adoption, which passed without objection.

Representative Capps was then recognized to ask staff if "voluntary annexation" means that all those involved must agree to the annexation in the proposed areas or it cannot take place. Andy Romanet, Counsel to the League of Municipalities, was present to speak on Representative Capps' question. He informed the Committee that "Yes," any voluntary annexation must have 100% support in order to occur.

Representative Howard was then recognized by the Chair and made the motion to roll Representative Decker's amendment into a committee substitute bill and to offer this Committee Substitute a favorable report. Specifically, Representative Howard's motion acted to give a favorable report to the House Committee Substitute Bill, but an unfavorable report to the Senate Committee Substitute Bill. The Chair called the vote and the motion passed unanimously.

Chairman Luebke then asked Co-Chairwoman Howard to preside over the meeting while he presented SB 482 – DURHAM STREET ANNEXATIONS (on behalf of the bill sponsor, Senator Gulley) (see attachment 6). Chairwoman Howard recognized Representative Luebke to explain the bill. The bill, he explained, is companion to HB 650 and allows the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill acts to alleviate troublesome factors of the current law that fail to include these roads in other contiguous annexations. Following this explanation, Chairwoman Howard recognized Representative Decker who moved for a favorable report. The Chair, seeing no questions from committee members, called the vote and the motion carried by consent.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 774 (and related materials)
4. House Bill 680 (and related materials)
5. House Bill 122 (and related materials)
6. House Bill 482 (and related materials)

House Committee on Finance

Minutes

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April 22, 2003

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Chairman Luebke recognized Representative Womble who asked Representative McHenry if these annexations would result in any tax increases for the annexed areas. Representative McHenry responded that there were no tax increases to his knowledge. Representative Womble also noted his concern that all of these annexations be completely voluntary and then moved for a favorable report to SB 122.

Prior to action of the motion, however, the Chair recognized Representative Creech who made a request for further details of the cities affected by this bill. Senator McHenry stated that he was not aware of all of the details of the cities involved. Representative Creech then stated that he would confer with Senators Smith and Hoyle prior to the bill reaching the House floor for passage.

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Chairman Luebke then asked Co-Chairwoman Howard to preside over the meeting while he presented SB 482 – DURHAM STREET ANNEXATIONS (on behalf of the bill sponsor, Senator Gulley) (see attachment 6). Chairwoman Howard recognized Representative Luebke to explain the bill. The bill, he explained, is companion to HB 650 and allows the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill acts to alleviate troublesome factors of the current law that fail to include these roads in other contiguous annexations. Following this explanation, Chairwoman Howard recognized Representative Decker who moved for a favorable report. The Chair, seeing no questions from committee members, called the vote and the motion carried by consent.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 774 (and related materials)
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6. House Bill 482 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Paul Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 680	**Granite Quarry Charter Revision**	*Rep. McCombs*
HB 774	**Beaufort Satellite Annexations**	*Rep. Preston*
SB 122	**Various Satellite Annexations**	*Sen. Hoyle*
SB 482	**Durham Street Annexations**	*Rep. Luebke*

Adjournment

CORRECTED NOTICE

HB 572 – REMOVED / SB 482 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 22, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

~~**HB 572 – AIRPORT AUTHORITY INSTALLMENT PURCHASE – Rep. L. Allen**~~

HB 680 – GRANITE QUARRY CHARTER REVISION – Rep. McCombs

HB 742 – CAROLINA SHORES CHARTER – Rep. Hill

HB 774 – BEAUFORT SATELLITE ANNEXATIONS – Rep. Preston

HB 782 – SATELLITE ANNEXATION/NORTH BRUNSWICK – Rep. Stiller

SB 122 – VARIOUS SATELLITE ANNEXATIONS – Sen. Hoyle

SB 482 - DURHAM STREET ANNEXATIONS – Sen. Gulley

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **2:00 P.M.** on **April 17, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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HB 774 – BEAUFORT SATELLITE ANNEXATIONS – Rep. Preston

HB 782 – SATELLITE ANNEXATION/NORTH BRUNSWICK – Rep. Stiller

SB 122 – VARIOUS SATELLITE ANNEXATIONS – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:00 NOON** on **April 17, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	Alley Associates, Inc.
Doug Lassiter	NCSTA
Andy Romcast	NCLM
Shelia Sanfelton	NCDMDA
Mari [illegible]	NCAHP
[illegible]	H&W
Tammy Hunt	National MS Society - Mid Atlantic Chapter
Tiffany Harwell	National MS Society - Mid Atlantic Chapter Gaston County
Sandra Mitchell	National MS Society - Mid-Atlantic Chapter Lincoln County -
Karen Heath	National Multiple Sclerosis Society Mid-Atlantic Chapter
Anne Marie McDermott	National MS Society 9844 C Southern Pines Charlotte

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Spencer Harrison	Rep. Glazier
Marcos Arellano	Intern for Rep. Luebke
Lisa Piercy	Capitol Group
Kevin Tull	Intern
Ernestine Durham	Executive Intern
Hal Miller	NCACCT
Rep. Patrick McHenry	
[illegible]	UVA
John McHugh	Gov Office
Brian Shank	AZ
Duke Chen	Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa D. Beam	National MS Society Mid-Atlantic Chapter - Charlotte, NC
Kit Borden	NMSS Transylvania County
JANICE BROOKS	M.S. SOCIETY ADV
Jennifer Mahan	MHANC
Jim Parker	NMSS MID ATLANTIC CHAPTER
DAVE & KIT BORDEN	NMSS Mid Atlantic Chapter
[signature]	Addiction Professionals of NC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 774
PROPOSED COMMITTEE SUBSTITUTE H774-PCS80273-SVx-5

Short Title: Beaufort Satellite Annexations. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

~~(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.~~

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

~~(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~

(6) The area must be east of a line that runs from the confluence of Taylor's Creek and Gallant's Channel northwardly with Gallant's Channel to Town Creek, then northwestwardly from Town Creek to the Intracoastal Waterway in Newport River, then northwardly with the Intracoastal Waterway to a point where an extension of SR 1162 would intersect the Waterway of the Intracoastal Waterway, and Beaufort municipal sewer must be available within the area."

SECTION 2. Nothing in this act shall be construed to limit or be limited by any provisions of Chapter 432 of the 1997 Session Laws or any other existing laws or ordinances.

SECTION 3. This act applies to the Town of Beaufort only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 774

Short Title:	Beaufort Satellite Annexations.	(Local)
Sponsors:	Representative Preston.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

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(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

~~(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~

(6) The area must be on the east side of the Intracoastal Waterway, and Beaufort municipal sewer must be available within the area."

SECTION 2. Nothing in this act shall be construed to limit or be limited by any provisions of Chapter 432 of the 1997 Session Laws or any other existing laws or ordinances.

SECTION 3. This act applies to the Town of Beaufort only.

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

HOUSE BILL 774:
Beaufort Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Preston
Date:	April 22, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 774 allows the Town of Beaufort to annex satellite areas without meeting three of the five standards required for voluntary satellite annexation. However, it adds the following requirements:***

- ***The area being annexed must be east of a specifically described area; and***
- ***Beaufort municipal sewer must be available within the area.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: House Bill 774 authorizes the Town of Beaufort to annex satellite areas without having to meet three of the five statutory requirements in G.S. 160A-58.1, which are as follows:

- The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

However, the bill adds the following requirements:

- The area must be east of a line that runs from the confluence of Taylor's Creek and Gallant's Channel northwardly with Gallant's Channel to Town Creek, then northwestwardly from Town Creek to the Intracoastal Waterway in Newport River, then northwardly with the Intracoastal Waterway to a point where an extension of SR 1162 would intersect the Waterway of the Intracoastal Waterway; and
- Beaufort municipal sewer must be available within the area.

The bill becomes effective when it becomes law.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

TOWN OF BEAUFORT

215 Pollock Street, P.O. Box 390
Beaufort, N.C. 28516
(252) 728-2141, (252) 728-3982 fax
www.beaufortnc.org

April 21, 2003

VIA FACSIMILE (919) 715-5815

Representative Jean Preston
N.C. House of Representatives
Raleigh, NC 27601-1096

RE: **House Bill 774**

Dear Representative Preston:

Here are the answers to the four questions you raised regarding the above.

1. The main purpose is to allow Beaufort to annex, by voluntary satellite annexation, properties that apply for connection to Beaufort municipal sewer that are located more than three miles from our primary city limits. Satellite annexation by statute is voluntary. Our sewer lines down Highways 101 and 70 extend approximately five miles. We have received a request for sewer connection from several projects that are more than three miles from the city limits. The Board of Commissioners now believes that if municipal sewer is provided, an option for the Town needs to be annexation. The projects that are already connected to sewer more than three miles from our city limits, such as Jarrett Bay and Parker Boats, are not proposed for annexation but if they request annexation in the future HB 774 would allow the annexation. There is a separate annexation bill for the Taylor Farm Subdivision that was adopted by the General Assembly in the late 1990's. Our current request is not related to Taylor Farms.

2. HB 774 relates to satellite annexation only. Satellite annexation by General Statute is limited to voluntary annexation. The Board of Commissioners is aware of this and cannot and will not use HB 774 for involuntary annexation.

3. Eastman's Creek has applied for both sewer service and voluntary annexation. The project is more than three miles from our city limits; therefore the Town cannot annex the project without HB 774 or some similar legislation. None of the other projects referenced in question number 3 have approached Beaufort about annexation.

Mayor Thomas L. Steepy
Commissioner Julian Arrington Commissioner Faye M. Nelson Commissioner Nancy Russell
Commissioner Math Chaplain Commissioner Charles McDonald
Town Manager Terri Parker-Eakes

and there have been no discussions about annexing these projects. Under the satellite annexation Statutes, they could not be annexed unless they petition for voluntary annexation.

4. HB 774 will have no effect on the jurisdictional control of Michael J. Smith Air Field. Part of the airport is currently within the city limits of Beaufort and the remainder is within the Town's extraterritorial zoning jurisdiction. It is my understanding that the Airport Authority can preempt Town zoning under the State Statutes.

If you need additional explanation, please call or email.

Sincerely,

Terri Parker-Eakes

Terri Parker-Eakes
Town Manager

cc: File

TOWN OF BEAUFORT

215 Pollock Street, P.O. Box 390
Beaufort, N.C. 28516
(252) 728-2141, (252) 728-3982 fax

RESOLUTION REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY ADOPT A SPECIAL BILL AUTHORIZING VOLUNTARY SATELLITE ANNEXATION BY THE TOWN OF BEAUFORT OF PROPERTIES RECEIVING MUNICIPAL SEWER

WHEREAS, sewer mains connected to the Beaufort municipal sewer system extend northwardly from the city limits along Highway 101 and Highway 70 more than three miles from the primary city limits; and

WHEREAS, property owners in the vicinity of such sewer lines request, from time to time, to be allowed to connect to such sewer lines; and

WHEREAS, under existing Town policy, applicants for connection apply for annexation, but when properties are more than three miles from the city limits, the Town has no authority to annex; and

WHEREAS, Beaufort would like the option of annexing properties that connect to its municipal sewer system upon the voluntary application for satellite annexation by such owners.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Town of Beaufort that the North Carolina General Assembly be asked to enact a special bill that will give the Town the authority to satellite annex properties in the vicinity of the Highway 101 and Highway 70 corridors into the city limits when the owners of such properties apply for annexation and when such properties will be served with Beaufort municipal sewer, notwithstanding that such properties do not meet the current statutory requirements for satellite annexation. The attached draft of the proposed bill, and any reasonable modifications thereof, is approved by the Board of Commissioners.

Enacted this 31st day of March, 2003.

TOWN OF BEAUFORT

By: _____
Thomas L. Steepy, Mayor

Attest:

_____
Jennifer Raynor, Town Clerk

Mayor Thomas L. Steepy
Commissioner Julian Arrington Commissioner Faye M. Nelson Commissioner Nancy Russell
Commissioner Math Chaplain Commissioner Charles McDonald
Town Manager Terri Parker-Eakes

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 774 A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 680

Short Title:	Granite Quarry Charter Revision.	(Local)
Sponsors:	Representative McCombs.	
Referred to:	Local Government I.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRANITE QUARRY.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Granite Quarry is revised and consolidated to read:

"CHARTER OF THE TOWN OF GRANITE QUARRY.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1-1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Granite Quarry are a body corporate and politic under the name "Town of Granite Quarry". Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2-1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Granite Quarry are as shown upon the official map showing the current town boundaries retained in the office of the Town Clerk.

"CHAPTER III.

"GOVERNING BODY.

"Section 3-1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Granite Quarry is the Board of Aldermen, which has five members.

"Section 3-2. **Manner of Electing Board.** The qualified voters of the entire Town elect the members of the Board.

"Section 3-3. **Terms of Office of Board Members.** Members of the Board are elected to four-year terms. In 2003, and each four years thereafter, three members of the Board shall be elected. In 2005, and each four years thereafter, two members of the Board shall be elected.

"Section 3-4. **Election of Mayor; Term of Office.** At the organizational meeting of the Board following each election, the Board shall elect one of its members to serve as Mayor and one to serve as Mayor Pro Tempore. The Mayor and Mayor Pro Tempore shall serve at the pleasure of the Board.

"Section 3-5. **Mayor to Vote in Case of Tie Vote Only.** The Mayor shall not vote on any matter before the Board, except when there exists a tie vote among the other members of the Board.

"CHAPTER IV.

"ELECTIONS.

"Section 4-1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5-1. **Town to Operate Under Mayor-Council Plan.** The Town of Granite Quarry operates under the mayor-council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Granite Quarry and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 259, Private Laws of 1901
Chapter 43, Private Laws of 1905
Chapter 667, Session Laws of 1949
Chapter 14, Session Laws of 1957
Chapter 76, Session Laws of 1959.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Granite Quarry and all existing rules or regulations of departments or agencies of the Town of Granite Quarry not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Granite Quarry or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute which most nearly corresponds to the statutory provision which is repealed or superceded.

SECTION 10. This act is effective when it becomes law.

HOUSE BILL 680:
Granite Quarry Charter Revision

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. McCombs
Date:	April 22, 2003	**Summary by:**	Trina Griffin*
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 680 revises and consolidates the charter of the Town of Granite Quarry. This bill received a favorable report in House Local Government I. The bill would become effective when it becomes law.***

CURRENT LAW: The charter of the Town of Granite Quarry has not been previously revised and consolidated. The Town was incorporated in 1901 under the name of Woodside. The name was changed to Granite Quarry in 1905. The last changes that were made to the charter were in 1957 and 1959, when the present primary and general election schedule were established.

BILL ANALYSIS: House Bill 680 brings together the pieces of the charter into one document, providing for the continuance of five board members, the mayor-council form of government, and non-partisan elections.

*Erika Churchill, counsel for House Local Government I, substantially contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 680 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRANITE QUARRY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 122
Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/7/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S122-PCS35251-SVx-6

Short Title: Various Satellite Annexations. (Local)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

Subdivision (5) of this subsection does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 3rd

H. B. No. _____

S. B. No. 122

COMMITTEE SUBSTITUTE _____

adopted by consent

DATE 4/22/03

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

(Rep.) Decker
Sen.)

1 moves to amend the bill on page 1, line 26
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting the line to read
4 "Subdivision (5) of this subsection does not
5 apply to the Cities of Claremont,"
6
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19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 122

Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/7/03

Short Title: Various Satellite Annexations. (Local)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and

Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

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

SENATE BILL 122:
Various Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hoyle
Date:	April 22, 2003	**Summary by:**	Trina Griffin*
Version:	3rd Edition		Committee Counsel

SUMMARY: ***Senate Bill 122 adds Bladenboro, Gastonia, Locust, Pine Level, and Ranlo to the list of cities and towns that do not have to meet one of the five statutory standards required for voluntary satellite annexation in G.S. 160A-58.1(b). These cities and towns would not have to meet the standard that limits the size of the area within the satellite corporate limits. The act would become effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

BILL ANALYSIS: Senate Bill 122 amends G.S. 160A-58.1(b) by adding the Cities of Gastonia and Locust and the Towns of Bladenboro, Pine Level and Ranlo to the list of cities and towns[2] that do not have to meet the 5th statutory standard required for voluntary satellite annexation. This means that the noncontiguous property to be annexed does not have to be within the statutory size limit.

*Cindy Avrette, counsel for Senate Finance, substantially contributed to this summary.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

[2] G.S. 160A-58.1(b)(5) does not apply to the following cities and towns: Calabash, Catawba, Claremont, Concord, Conover, Dallas, Godwin, Hickory, Kenly, Louisburg, Maiden, Marion, Midland, Mocksville, Mooresville, Mount Airy, Newton, Oxford, Pembroke, Rockingham, Rutherfordton, Salisbury, Sanford, Southport, Statesville, Swansboro, Waynesville, and Warsaw. Several other cities and towns have had this provision modified.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 122 A BILL TO BE ENTITLED AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 482
Second Edition Engrossed 4/10/03

Short Title:	Durham Street Annexations.	(Local)
Sponsors:	Senator Gulley.	
Referred to:	Finance.	

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ANNEX ROADS THAT ARE ADJACENT ON BOTH SIDES TO PROPERTY ALREADY WITHIN THE CITY LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"**Sec. 2.5A. Annexation of Streets Adjacent to City Limits.**

In addition to its authority to annex streets under this Charter and under general law, the City may annex the portions of public or private streets that are directly contiguous on two opposing sides to property that is within the City limits. When the City proposes to annex a street under this authority and the annexation is of the street alone, and no other property, the City may accomplish the annexation using the procedure described in this section. The City Council shall pass a resolution describing the street area to be annexed, and setting a date for a public hearing. Notice and a public hearing as required under Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes shall be provided. Upon compliance with these requirements, the City Council may pass an ordinance annexing the described area, and no other requirements shall apply. The time period for appeal of the annexation shall be as provided in Section 2.6 of this Charter."

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

SENATE BILL 482:
Durham Street Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Gulley
Date:	April 22, 2003	**Summary by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: ***Senate Bill 482 is a local bill that authorizes the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill would become effective when it becomes law. The 2nd Edition makes a technical change to the original bill. It changes a section cite from "Sec. 2.6" to "Sec. 2.5A", because the Durham City Charter already contains a Section 2.6. (S.L. 1997-452, s. 5)***

House Bill 650 is a companion bill and also is in House Finance.

BILL ANALYSIS: In Durham, there have been instances where developers have petitioned the City to annex property into its corporate limits. In some cases, the petitions have inadvertently failed to include the portion of the street adjacent to the property. This situation has created holes within the contiguous city limits that are not included within the city. Senate Bill 482 authorizes Durham to annex the portions of streets that are fully contiguous on both sides to the City limits, following notice and a public hearing. Without this legislation, the city would have to begin the formal process of involuntary annexation of the streets or it would have to ask the property owners to petition the city to have the streets annexed. The process provided by this bill allows the municipality to annex the streets in a less cumbersome manner.

CURRENT LAW: A municipality may include within areas to be annexed the streets in that area. Also, property owners may petition a municipality to annex their property within the municipality's corporate limits and included within that property description may be streets. The situation addressed by this bill is where the property described in a voluntary annexation inadvertently failed to include the streets.

Senate Bill 482 provides that notice must be given and a public hearing must be held in accordance with the notice and public hearing requirements for voluntary annexations. Under those requirements, the governing board of the municipality sets the date for a public hearing. Notice of the public hearing must be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing. If there is no such newspaper, then notice of the public hearing must be posted in three or more places within the area to be annexed and within the municipality at large.

The Durham City Charter provides that any judicial action contesting the validity of a voluntary annexation must be filed within 30 days after the adoption of the annexation ordinance. Senate Bill 482 allows for this same appeals process for the annexation of streets adjacent to its city limits.

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 482 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ANNEX ROADS THAT ARE ADJACENT ON BOTH SIDES TO PROPERTY ALREADY WITHIN THE CITY LIMITS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

House Committee on Finance

Minutes

~

April 24, 2003

The House Committee on Finance met on Thursday, April 24, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Jones, McCombs, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stencil. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:31 am and recognized the two Pages present at the meeting: (1) Summer Green of Mecklenburg County, sponsored by Representative C. Wilson; and (2) Brittany Matthews of Harnett County, sponsored by Representative Lewis.

The Chair next recognized Representative Hill to explain HB 742 – CAROLINA SHORES CHARTER (see attachment 3). First, however, a technical amendment was necessary (as attached) and was offered by Representative Howard, who also moved for the amendment's adoption. The Committee adopted the amendment unanimously. Representative Hill then noted that this bill makes a number of changes to the Charter of the Town of Carolina Shores, pending the annexation of certain property to its corporate limits prior to August 1, 2003. Representative Wainwright then made a motion to roll the amendment to the bill into a Proposed Committee Substitute, and then moved for a favorable report. Seeing no questions, Chairman McComas called the vote and the motion passed without opposition. HB 742 will be reported as favorable to the committee substitute bill, unfavorable to the original bill.

Chairman McComas next recognized Representative Gibson (on behalf of the bill sponsor, Representative Glazier) to explain HB 959 – STUDY TAX PREFERENCES (see attachment 4). This bill acts to require the Revenue Laws Study Commission to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The Chair recognized Representative Weiss, who offered an amendment to the bill, changing the required period of review from 10 years to 5 years. The Chair then recognized Representative Womble who stated his agreement to the amendment and moved for its' adoption. The amendment was adopted without objection. Having no other questions from the members, Chairman McComas recognized Representative Howard who requested that the adopted amendment be rolled into a proposed committee substitute bill. She then moved that the Committee offer a favorable report as to the committee substitute bill, unfavorable as to the original bill. Upon the Chair's call, the motion carried by consent.

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES (see attachment 5) was the next bill to be considered. The Chairman recognized Representative Howard who moved that the Proposed Committee Substitute to HB 855 be adopted by the Committee for discussion. The

motion was approved without objection. The Chair then recognized Representative McCombs, Chair of the Finance Subcommittee on Tax and Tags, to explain the bill. Representative McCombs thanked the other members of the Subcommittee (Representatives Decker and Womble) and staff (Martha Walston and Jason Cannon) for all of their good work on the bill. He explained that this committee substitute bill rolls some seven (7) license plate bills into one, and includes license plates for the following groups/organizations: Breast Cancer Awareness, Blue Ridge Parkway Foundation, Surveyors, Retired Law Enforcement Officers, and Mothers Against Drunk Driving. Commissioner of the Division of Motor Vehicles, Carol Howard, was present and spoke briefly on the bill, acknowledging that she had no problems with creating any of the plates in HB 855. She did note concern on the issuance of NASCAR Racing plates, a separate bill not up for consideration at this meeting. Following this, Chairman McComas recognized Representative Wainwright, who thanked Representative McCombs and the Subcommittee for its thorough work on this bill and immediately moved for a favorable report. Representative Creech, however, upon recognition of the Chair, expressed his contention that the number of specialized license plates is "getting out of hand" and that the fees for this state service have not been increased in over 20 years. Chairman McComas then called the vote, and the motion carried with one member, Representative Creech, voicing opposition.

Representative Preston was recognized by the Chairman to explain the final bill on the meeting's agenda: SB 295 – SPECIAL REGISTRATION PLATES (see attachment 6). The Chair first, however, recognized Representative G. Allen who moved the adoption of the Proposed Committee Substitute to SB 295, which carried without objection. Representative Preston then explained that this bill too was one for specialized vehicle plates, and provided for two separate groups: Professional Paramedics and the North Carolina Coastal Federation. The Finance Subcommittee on Tax and Tags also favorably reviewed the bill. Following this explanation, Chairman McComas recognized Representative Creech for a question. He asked Representative Preston if local law enforcement were in favor of all of these license plate bills. Representative Preston responded that she had heard from no law enforcement officials in her district and noted that if law enforcement were significantly concerned, it would be present to express its position. The Chair then recognized Representative Ross, who moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. Allowing for brief comments from the audience, Mr. Jim Stevenson with the North Carolina Coastal Federation voiced his firm support of the bill. Seeing no further discussion, Chairman McComas called the vote and the motion carried, with Representative Creech again standing as the sole member in opposition.

Having no further business before the Committee, the Chair adjourned the meeting at 9:04 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 742 (and related materials)
4. House Bill 959 (and related materials)
5. House Bill 855 (and related materials)
6. Senate Bill 295 (and related materials)

House Committee on Finance

Minutes

~

April 24, 2003

The House Committee on Finance met on Thursday, April 24, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Jones, McCombs, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stencil. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:31 am and recognized the two Pages present at the meeting: (1) Summer Green of Mecklenburg County, sponsored by Representative C. Wilson; and (2) Brittany Matthews of Harnett County, sponsored by Representative Lewis.

The Chair next recognized Representative Hill to explain HB 742 – CAROLINA SHORES CHARTER (see attachment 3). First, however, a technical amendment was necessary (as attached) and was offered by Representative Howard, who also moved for the amendment's adoption. The Committee adopted the amendment unanimously. Representative Hill then noted that this bill makes a number of changes to the Charter of the Town of Carolina Shores, pending the annexation of certain property to its corporate limits prior to August 1, 2003. Representative Wainwright then made a motion to roll the amendment to the bill into a Proposed Committee Substitute, and then moved for a favorable report. Seeing no questions, Chairman McComas called the vote and the motion passed without opposition. HB 742 will be reported as favorable to the committee substitute bill, unfavorable to the original bill.

Chairman McComas next recognized Representative Gibson (on behalf of the bill sponsor, Representative Glazier) to explain HB 959 – STUDY TAX PREFERENCES (see attachment 4). This bill acts to require the Revenue Laws Study Commission to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The Chair recognized Representative Weiss, who offered an amendment to the bill, changing the required period of review from 10 years to 5 years. The Chair then recognized Representative Womble who stated his agreement to the amendment and moved for its' adoption. The amendment was adopted without objection. Having no other questions from the members, Chairman McComas recognized Representative Howard who requested that the adopted amendment be rolled into a proposed committee substitute bill. She then moved that the Committee offer a favorable report as to the committee substitute bill, unfavorable as to the original bill. Upon the Chair's call, the motion carried by consent.

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES (see attachment 5) was the next bill to be considered. The Chairman recognized Representative Howard who moved that the Proposed Committee Substitute to HB 855 be adopted by the Committee for discussion. The

motion was approved without objection. The Chair then recognized Representative McCombs, Chair of the Finance Subcommittee on Tax and Tags, to explain the bill. Representative McCombs thanked the other members of the Subcommittee (Representatives Decker and Womble) and staff (Martha Walston and Jason Cannon) for all of their good work on the bill. He explained that this committee substitute bill rolls some seven (7) license plate bills into one, and includes license plates for the following groups/organizations: Breast Cancer Awareness, Blue Ridge Parkway Foundation, Surveyors, Retired Law Enforcement Officers, and Mothers Against Drunk Driving. Commissioner of the Division of Motor Vehicles, Carol Howard, was present and spoke briefly on the bill, acknowledging that she had no problems with creating any of the plates in HB 855. She did note concern on the issuance of NASCAR Racing plates, a separate bill not up for consideration at this meeting. Following this, Chairman McComas recognized Representative Wainwright, who thanked Representative McCombs and the Subcommittee for its thorough work on this bill and immediately moved for a favorable report. Representative Creech, however, upon recognition of the Chair, expressed his contention that the number of specialized license plates is "getting out of hand" and that the fees for this state service have not been increased in over 20 years. Chairman McComas then called the vote, and the motion carried with one member, Representative Creech, voicing opposition.

Representative Preston was recognized by the Chairman to explain the final bill on the meeting's agenda: SB 295 – SPECIAL REGISTRATION PLATES (see attachment 6). The Chair first, however, recognized Representative G. Allen who moved the adoption of the Proposed Committee Substitute to SB 295, which carried without objection. Representative Preston then explained that this bill too was one for specialized vehicle plates, and provided for two separate groups: Professional Paramedics and the North Carolina Coastal Federation. The Finance Subcommittee on Tax and Tags also favorably reviewed the bill. Following this explanation, Chairman McComas recognized Representative Creech for a question. He asked Representative Preston if local law enforcement were in favor of all of these license plate bills. Representative Preston responded that she had heard from no law enforcement officials in her district and noted that if law enforcement were significantly concerned, it would be present to express its position. The Chair then recognized Representative Ross, who moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. Allowing for brief comments from the audience, Mr. Jim Stevenson with the North Carolina Coastal Federation voiced his firm support of the bill. Seeing no further discussion, Chairman McComas called the vote and the motion carried, with Representative Creech again standing as the sole member in opposition.

Having no further business before the Committee, the Chair adjourned the meeting at 9:04 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 742 (and related materials)
4. House Bill 959 (and related materials)
5. House Bill 855 (and related materials)
6. Senate Bill 295 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 24, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Danny McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 742	**Carolina Shores Charter**	*Rep. Hill*
HB 855	**Breast Cancer Awareness Special Plate**	*Rep. McCombs*
HB 959	**Study Tax Preferences**	*Rep. Glazier*
SB 295	**Special Registration Plates**	*Sen. Albertson* *Rep. Preston*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, April 24, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 742 – CAROLINA SHORES CHARTER – Rep. Hill

HB 855 – BREAST CANCER AWARENESS SPECIAL PLATE – Rep. Alexander

HB 959 – STUDY TAX PREFERENCES – Rep. Glazier

SB 295 – SPECIAL REGISTRATION PLATES – Sen. Thomas

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 23, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 24, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID SCHILLER	445 EASTPOINT DR GREENVILLE, NC
Sarah Howard	DOT / DMV
Amy Dobson	NC State watch
Melissa Beard	NCSS
Anna Pope	DOR
Boyd Cauble	City of Charlotte
Erin Byrd	NCNCE
Ken Melton	Alley Associates
John McKay	GOV ~~OFFICE~~
Mark Lynn	Capitol Group
Jim Stephenson	NC Coastal Federation

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 24, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Poyner + Spruill CCI
Warren Plonk	OSBM
Estherine Davis	Electric Cities
Anne Winner	[illegible]
Joanne Stevens	nursing

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 742*
PROPOSED COMMITTEE SUBSTITUTE H742-PCS60305-LA-10

Short Title: Carolina Shores Charter. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"Sec. 3.2. **Manner of Electing Board.** The qualified voters of the entire Town elect all of the members of the Board of Commissioners. The Town is divided into two districts, District 1 consisting of the territory annexed as described in Section 5 of this act; District 2 consists of the remainder of the Town. One member shall be a resident of District 1, two members shall be residents of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 shall be elected separately on the ballot.

SECTION 2. Section 3.3(b) of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"(b) In 1999 five members of the Board of Commissioners are elected. The three persons receiving the highest numbers of votes are elected to four-year terms and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 2001 and quadrennially thereafter, two members of the council are elected to four-year ~~terms.~~ terms at large. In 2003 and quadrennially thereafter, three members of the council are elected to four-year ~~terms.~~ terms, one a resident of District 1 and two who are residents of District 2."

SECTION 3. From July 1, 2003, until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners is expanded from five members to six members. The Board of Commissioners shall appoint a person who resides in the territory annexed as described in Section 5 of this act to fill that seat.

SECTION 3.1. Of the funds received by the Town of Carolina Shores under G.S. 136-41.1 through G.S. 136-41.3 for the 10 fiscal years beginning on or after July 1,

2003, the Town must expend in District 1 all of the funds received on account of the population and road mileage in that District.

SECTION 4. Of the funds received by the Town of Carolina Shores from local option sales taxes for the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the funds received on account of the population or assessed valuation in that District (depending on the formula used by Brunswick County to distribute such revenues to the municipalities in that county).

SECTION 5. Sections 1 through 4 of this act become effective only if the Town of Carolina Shores annexes any or all of the following property under Part 2 of Article 4A of Chapter 160A of the General Statutes prior to August 1, 2003:

BEGINNING at a fixed point of southerly side of the intersection of the right-of-way of Clubview Lane and the easterly side of the right-of-way of State Road 1165 then S06°09'45W 200.0 feet, then S06°24'06W for 185.0 feet, then S 14°22'08 for 133.05 feet then S31°37'12 for 125.0 feet, then S42°37'12W for 884.77 to a fixed point. Then, turning westerly along a utility easement and along the westerly boundary for the Town of Carolina Shores, N25°36'51W for 1369.78 feet, then N25°36'51W for 1491.07 feet, then N25°34'45W 352.46', then N25°29'27 feet for 2444.56 feet. Then N64°30'38 for 120.58 feet, the northerly along the westerly right-of-way of Watson Ave. N25°29'22W for 7.10 feet then N09°59'30 along a chord of 383.14 feet. Then along the Southerly boundary of the utility easement S77°24'38E for 721.50 feet to the westerly edge of a water body known as Lake D. Then along the lake edge N03°33'56E for 42.98 feet, N03°46'23E for 47.50 feet, then N06°12'39E for 28.37 feet, then N32°08'35E for 25.69 feet, then N14°59'37E, then N00°22'22E for 41.11 feet, then N21°33'30E for 21.17 feet, then N17°36'53E for 28.05 feet, then N29°09'08W for 17.25 feet then S78°32'11W for 19.05 feet and S43°47'28W 21.94 feet to the edge of the pond and the rear property line of lot 283. Then S77°24'38E 312.48 feet and then 185.00 feet, then S12°35'22W 183.16 feet, then S77°24'38 for 914.06 feet along a utility and drainage easement, then continuing along the easement S12°35'22W for 724.87 feet. Then S36°10'40E for 161.38 feet, then S48°17'03E for 11245.30 feet, then S87°46'05E for 153.78 feet, then S38°25'40E for 505.54 feet, then S33°42'50E for 168.96 feet then S22°30'50 for 199.35 feet then S64°59'73W for 901.96 feet along a drainage easement. Then N23°26'21 for 482.18 feet, then N66°33'39E for 185.40 feet then N06°09'45E for 716 feet back to the point of beginning.

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 742*

Short Title:	Carolina Shores Charter.	(Local)
Sponsors:	Representatives Hill and Stiller (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"Sec. 3.2. **Manner of Electing Board.** The qualified voters of the entire Town elect all of the members of the Board of Commissioners. The Town is divided into two districts, District 1 consisting of the territory annexed as described in Section 5 of this act; District 2 consists of the remainder of the Town. One member shall be a resident of District 1, two members shall be residents of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 shall be elected separately on the ballot.

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SECTION 3. From July 1, 2003, until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners is expanded from five members to six members. The Board of Commissioners shall appoint a person who resides in the territory annexed as described in Section 5 of this act to fill that seat.

SECTION 3.1. Of the funds received by the Town of Carolina Shores under G.S. 136-41.1 through G.S. 136-41.3 for the 10 fiscal years beginning on or after July 1,

2003, the Town must expend in District 1 all of the funds received on account of the population and road mileage in that District.

SECTION 4. Of the funds received by the Town of Carolina Shores from local option sales taxes for the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the funds received on account of the population or assessed valuation in that District (depending on the formula used by Brunswick County to distribute such revenues to the municipalities in that county).

SECTION 5. Sections 1 through 4 of this act become effective only if the Town of Carolina Shores annexes any or all of the following property under Part 2 of Article 4A of the General Statutes prior to August 1, 2003:

BEGINNING at a fixed point of southerly side of the intersection of the right-of-way of Clubview Lane and the easterly side of the right-of-way of State Road 1165 then S06°09'45W 200.0 feet, then S06°24'06W for 185.0 feet, then S 14°22'08 for 133.05 feet then S31°37'12 for 125.0 feet, then S42°37'12W for 884.77 to a fixed point. Then, turning westerly along a utility easement and along the westerly boundary for the Town of Carolina Shores, N25°36'51W for 1369.78 feet, then N25°36'51W for 1491.07 feet, then N25°34'45W 352.46', then N25°29'27 feet for 2444.56 feet. Then N64°30'38 for 120.58 feet, the northerly along the westerly right-of-way of Watson Ave. N25°29'22W for 7.10 feet then N09°59'30 along a chord of 383.14 feet. Then along the Southerly boundary of the utility easement S77°24'38E for 721.50 feet to the westerly edge of a water body known as Lake D. Then along the lake edge N03°33'56E for 42.98 feet, N03°46'23E for 47.50 feet, then N06°12'39E for 28.37 feet, then N32°08'35E for 25.69 feet, then N14°59'37E, then N00°22'22E for 41.11 feet, then N21°33'30E for 21.17 feet, then N17°36'53E for 28.05 feet, then N29°09'08W for 17.25 feet then S78°32'11W for 19.05 feet and S43°47'28W 21.94 feet to the edge of the pond and the rear property line of lot 283. Then S77°24'38E 312.48 feet and then 185.00 feet, then S12°35'22W 183.16 feet, then S77°24'38 for 914.06 feet along a utility and drainage easement, then continuing along the easement S12°35'22W for 724.87 feet. Then S36°10'40E for 161.38 feet, then S48°17'03E for 11245.30 feet, then S87°46'05E for 153.78 feet, then S38°25'40E for 505.54 feet, then S33°42'50E for 168.96 feet then S22°30'50 for 199.35 feet then S64°59'73W for 901.96 feet along a drainage easement. Then N23°26'21 for 482.18 feet, then N66°33'39E for 185.40 feet then N06°09'45E for 716 feet back to the point of beginning.

SECTION 6. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 742*

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

H742-ALA-3 [v.1]

Date 4/24/ ,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative ~~G. Allen~~ Howard

moves to amend the bill on page 2, line 10, by rewriting the line to read:
"Article 4A of Chapter 160A of the General Statutes prior to August 1, 2003:".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 742:
Carolina Shores Charter

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hill and Stiller
Date:	April 24, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 742 is a local bill that would amend the Charter of the Town of Carolina Shores in Brunswick County only if the Town annexes certain property under the annexation statutes in Chapter 160A of the General Statutes prior to August 1, 2003.

CURRENT LAW: S.L. 1998-75 authorized the incorporation of the Town of Carolina Shores. The Town was to consist of an area previously annexed into the Town of Calabash in 1989.

BILL ANALYSIS: If any or all of certain described property is annexed by the Town of Carolina Shores prior to August 1, 2003, then the Charter of the Town of Carolina Shores will be amended as follows:

- The Town will be divided into two districts. District 1 will consist of the annexed area, and District 2 will consist of the remainder of the Town. One member of the Town Board of Commissioners will be a resident of District 1, two members will be a resident of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 will be elected separately on the ballot, and the voters of the Town will elect all of the members. Under the Current Charter the Board of Commissioners is composed of five members.
- Under the current charter, in 2003 and every four years thereafter, three members of the Board of Commissioners will be elected to four-year terms. House Bill 742 will require one of the members to be a resident of District 1 and two members to be residents of District 2.
- From July 1, 2003 until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners will be expanded from five to six members. The Board will appoint a sixth member who resides in the annexed area.
- For the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the Powell Bill funds received on account of the population and road mileage in District 1. Under current law, Powell Bill funds may be used only for the purposes of maintaining, repairing, constructing, reconstructing, or widening of local streets that are the responsibility of the municipalities.
- For the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the local option sales taxes received by the Town on account of the population or assessed valuation in that District. The amount will depend on the formula used by Brunswick County to distribute local option sales tax revenues to the

municipalities in the County. Current law provides that in April of each year, each county board of commissioners elects one of two methods to determine the distribution of revenue between the county and its municipalities. The two methods are:

Per Capita Method - the net proceeds of the county are divided by the sum of the population of the county and its municipalities to determine a per capita amount. This amount is multiplied by the county's total population and each municipality's population to determine the allocation to each area

Ad Valorem Method - the net proceeds may be distributed between the county and its municipalities in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the year of distribution.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 742 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 959
PROPOSED COMMITTEE SUBSTITUTE H959-PCS60306-SV-9

Short Title: Study Tax Preferences. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY FIVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.106 reads as rewritten:

"**§ 120-70.106. ~~Purpose and powers~~Purpose, powers, and duties of Committee.**

(a) The Revenue Laws Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Committee shall conduct a comprehensive review of each tax expenditure at least once every five years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective and shall report to the General Assembly on the findings of this review. For the purpose of this subsection, the term 'tax expenditure' has the same meaning as in G.S. 105-256. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year."

SECTION 2. The first reviews required under G.S. 120-70.106(c), as enacted by this act, shall be reported to the 2005 General Assembly.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 959

Short Title:	Study Tax Preferences.	(Public)
Sponsors:	Representatives Glazier; Bell, Carney, Earle, Gibson, Lucas, Luebke, and Rapp.	
Referred to:	Finance, if favorable, Rules, Calendar, and Operations of the House.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY TEN YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.106 reads as rewritten:

"**§ 120-70.106. ~~Purpose and powers~~Purpose, powers, and duties of Committee.**

(a) The Revenue Laws Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Committee shall conduct a comprehensive review of each tax expenditure at least once every 10 years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective and shall report to the General Assembly on the findings of this review. For the purpose of this subsection, the term 'tax expenditure' has the same meaning as in G.S. 105-256. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year."

SECTION 2. The first reviews required under G.S. 120-70.106(c), as enacted by this act, shall be reported to the 2005 General Assembly.

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 959 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Weiss
Sen.)

moves to amend the bill on page 1, line 4

( ) WHICH CHANGES THE TITLE

by deleting "TEN" and substituting "FIVE";

and on page 2, line 2

by deleting "10" and substituting "5".

SIGNED Jennifer Weiss

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 959:
Study Tax Preferences.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Glazier
Date:	April 24, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 959 requires the Revenue Laws Study Committee to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The first review of tax expenditures would be reported to the 2005 General Assembly.

CURRENT LAW: The Revenue Laws Study Committee (Committee) began in 1977 as a subcommittee of the Legislative Research Commission. Then, in 1997, the Committee became a permanent legislative commission established by statute and designed to regularly review issues relating to taxation and finance. The Committee consists of 16 members, eight appointed by the President Pro Tempore of the Senate and eight appointed by the Speaker of the House of Representatives. The Committee is given broad authority to review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable. The Committee is directed to report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws. The report may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee would result in an increase or decrease in State revenues, the report must include an estimate of the amount of the increase or decrease.

The Department of Revenue is required to prepare and publish, at least every two years, a tax expenditure report that lists the tax expenditures and gives an estimate of the amount by which revenue is reduced by each tax expenditure (G.S. 105-256). The Department is required to distribute one copy of this report to each member of the General Assembly.

BILL ANALYSIS: House Bill 959 adds as a duty of the Revenue Laws Study Committee the requirement that it conduct a comprehensive review of each tax expenditure at least once every 10 years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective. The Committee must report to the General Assembly on the findings of this review. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year. The term "tax expenditure" means an exemption, an exclusion, a deduction, an allowance, a credit, a refund, a preferential tax rate, or another device that reduces the amount of tax revenue that would otherwise be available to the State.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 959 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY TEN YEARS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 855*
PROPOSED COMMITTEE SUBSTITUTE H855-PCS30274-LAf-9

Short Title: Various Special Registration Plates. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR BLUE RIDGE PARKWAY FOUNDATION, SURVEYORS, RETIRED LAW ENFORCEMENT OFFICERS, ALTERNATIVE FUEL VEHICLES, ZETA PHI BETA SORORITY, BREAST CANCER AWARENESS, AND MOTHERS AGAINST DRUNK DRIVING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less, other than a Friends of the Great Smoky Mountains National Park special registration ~~plate~~ plate, a Blue Ridge Parkway Foundation special registration plate, or a Rocky Mountain Elk Foundation special registration plate shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1a) Alternative Fuel Vehicles. – Issuable to the registered owner of an alternative fuel vehicle. The plate shall bear the words "Alternative Fuel Vehicle". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(3d) Blue Ridge Parkway Foundation. – Issuable to a registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall be the full art, three-color design submitted to the Division by the Blue Ridge Parkway Foundation in camera-ready format. The background color and design shall allow the numbers on the face of the plate to be readily distinguished. Submission to the Division of the background design shall be the final design, and, upon acceptance by the Division, no further changes in the background design shall be made.

(3e) Breast Cancer Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

~~(3d)~~(3f) Bronze Star Recipient. – Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star."

...

(27c) Mothers Against Drunk Driving. – Issuable to the registered owner of a motor vehicle. The plate shall bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The Division must receive 300 or more applications for the plate before it may be developed.

...

(36b) Retired Law Enforcement Officers. – Issuable to a retired law enforcement officer presenting to the Division, along with the application for the plate, a copy of the officer's retired identification card or letter of retirement. The plate shall bear the phrase "Retired Law Enforcement Officer" and representation of a law enforcement badge. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

~~(36b)~~(36c) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Rocky Mountain Elk Foundation" and a logo approved by the Rocky Mountain Elk Foundation, Inc.

~~(36c)~~(36d) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the

phrase "Save the Sea Turtles" and a representation related to sea turtles.

...

(45b) Surveyor Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Following In Their Footsteps" and shall bear a picture of a transit.

~~(45b)~~(45c) Sweet Potato. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture representing the State's official vegetable, the sweet potato. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

~~(45c)~~(45d) Tobacco Heritage. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(52) Zeta Phi Beta Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Zeta Phi Beta"."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Blue Ridge Parkway Foundation	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00

First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Blue Ridge Parkway Foundation	$10	$20	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
(Effective until June 30, 2006)			
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0

Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
(Effective until June 30, 2006)			
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
Surveyor Plate	$10	$15	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
Zeta Phi Beta Sorority	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding two new subdivisions to read:

"(b25) Blue Ridge Parkway Foundation. – The Division must receive 300 or more applications for a Blue Ridge Parkway Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Blue Ridge Parkway Foundation plates to the Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina.

(b26) Surveyor Plate. – The Division must receive 300 or more applications for a Surveyor plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Surveyor plates to the North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs.

(b27) Zeta Phi Beta Sorority – The Division must receive 300 or more applications for a Zeta Phi Beta sorority plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Zeta Phi Beta Sorority plates to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State."

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 855:
Various Special Registration Plates

BILL ANALYSIS

Committee: House Finance
Date: April 24, 2003
Version: Proposed Committee Substitute

Sponsor: Rep. Alexander and Rayfield
Analysis by: Martha Walston
Committee Counsel

SUMMARY: Senate Bill 855 authorizes the Division of Motor Vehicles to issue a special registration plate for Breast Cancer Awareness. The Proposed Committee Substitute authorizes the Division of Motor Vehicles to also issue the following special plates: Blue Ridge Parkway Foundation (requested by Rep. Haire, HB 255), Surveyors (requested by Rep. Gillespie and Gibson, HB 563), Retired Law Enforcement Officers (requested by Rep. A Williams, HB 577), Alternative Fuel Vehicles (requested by Rep. Insko, HB 661), Zeta Phi Beta Sorority (requested by Rep. McAllister, HB 823), and Mothers Against Drunk Driving (requested by Rep. Allred, HB 1034). The Division must receive 300 applications for each of these plates before it can be issued. The plates will be subject to the $10 fee imposed for special plates. The special plates for the Blue Ridge Parkway Foundation, Surveyors, and the Zeta Phi Beta Sorority will also be subject to additional fees of $20, $15, and $10, respectively. These additional fees will be transferred quarterly to support the purposes for which they are imposed.

The Proposed Committee Substitute for HB 855 has been reviewed by the Tax and Tags Subcommittee in House Finance.

CURRENT LAW: The General Assembly has authorized the Division of Motor Vehicles to issue many different special registration plates so long as it receives at least 300 applications for the plate. DMV has issued at least 87 special license plates. It has received requests for at least 40 additional plates but it has not issued those plates because it has not yet received 300 applications for them.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The Centers are located in Brunswick, Camden, Carteret, Caswell, Macon, Tyrell, and Watauga Counties, and each Center receives $75,000. The remaining revenue in the account is transferred quarterly as follows:

- 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
- 50% to DOT for beautification of highways other than those designated as interstate.
- 17% to the account of DHHS to promote travel accessibility for disable persons.

[1] One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of war. Four special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Legion of Valor, Purple Heart Recipient, and the Silver Star Recipient.

The cost of some special plates includes a fee in additional to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The ***Proposed Committee Substitute*** for House Bill 855 authorizes the following special plates. The Division must receive at least 300 applications for a plate before it may be issued.

- **Alternative Fuel Vehicle (Rep. Insko).** - The special plate would be issuable to a registered owner of an alternative fuel vehicle and would bear the words "Alternative Fuel Vehicle". When a vehicle is titled, the Division is able to tell from the Vehicle Identification Number (VIN) whether the vehicle is an alternative fuel vehicle. The $10 special registration plate fee goes into the Special Registration Plate Account.
- **Breast Cancer Awareness (Rep. Alexander and Rayfield).** - The special plate would be issuable to a registered owner of a vehicle and would bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Mothers Against Drunk Driving (Rep. Allred)** - The special plate would be issuable to a registered owner of a vehicle and would bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Retired Law Enforcement Officers (Rep. A. Williams)**- The special plate would be issuable to a retired law enforcement officer who presents to the Division a copy of the officer's retired identification card or letter of retirement. The plate will bear the phrase "Retired Law Enforcement Officer" and a representation of a law enforcement badge. The following special plates for retired law enforcement officers are already authorized: "Retired Highway Patrol" and "Sheriff" if the sheriff served for at least 10 years before retiring. The "Sheriff" special plate does not require 300 applications. The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Blue Ridge Parkway Foundation (Rep. Haire)** - The special plate would be issuable to a registered owner of a vehicle and would have the words "First in Flight" printed at the top of the plate. The background of the plate would be the full art, three-color design submitted to the Division by the Blue Ridge Parkway Foundation in camera-ready format. Once the Division accepts the design, no further changes may be made. The fee for the special plate is the $10 special registration plate fee plus an additional $20. The money derived from the additional $20 is transferred quarterly to the Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. The Foundation was incorporated in North Carolina in 1997 as an independent, private non-profit supporting foundation of the Blue Ridge Parkway. It provides private funding and specific programs and projects which further the preservation, protection and enhancement of the Blue Ridge Parkway.

- **Surveyor Plate (Rep. Gillespie and Gibson)** - The special plate would be issuable to a registered owner of a motor vehicle and would bear the words "Following In Their Footsteps" and a picture of a transit. A transit is a surveyor's instrument for measuring horizontal and, usually, also vertical angles. The fee for the special plate is the $10 special registration plate fee plus an additional $15. The money derived from the additional $15 fee is transferred quarterly to the North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs. The Foundation is a non-profit, tax-exempt organization that works with community colleges and high schools to promote the field of surveying. The Foundation is also working with the community college system and the university system to seek a four-year surveyor degree.

- **Zeta Phi Beta Sorority (Rep. McAllister)** - The special plate would be issuable to a registered owner of a motor vehicle and would bear the words "Zeta Phi Beta". The fee for the special plate is the $10 special registration plate fee plus an additional $10. The money derived from the additional $10 fee is transferred quarterly to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State. Zeta Phi Beta Sorority was founded at Howard University in 1920 and emphasizes scholarship and service. The Sorority was the first Greek-letter organization to charter a chapter in Africa and to form adult and youth auxiliary groups.

FISCAL ANALYSIS MEMORANDUM

[This fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 23, 2003

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: PCS for House Bill 855

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Fund - Special Registration Plate Acct.	$21,000	$21,000	$21,000	$21,000	$21,000
Collegiate and Cultural Attraction Plate Acct.	$13,500	$13,500	$13,500	$13,500	$13,500
EXPENDITURES					
Highway Fund - Special Registration Plate Acct.	$7,000				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: This bill authorizes the Division of Motor Vehicles (DMV) to issue a special registration plate for Alternative Fuel Vehicles, the Blue Ridge Parkway Foundation,

Breast Cancer Awareness, Mothers Against Driving Drunk, Retired Law Enforcement Officers, Surveyors, and the Zeta Phi Beta Sorority if at least 300 applications for each plate are received. The bill also allows the Blue Ridge Parkway Foundation special plate to have a different background other than the "First in Flight" plate background.

ASSUMPTIONS AND METHODOLOGY:
This fiscal note assumes that applicants for these special plates already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The note also assumes the issuance of the minimum 300 license plates in FY 2003-04 and renewal of those plates in the following years. There is a one-time cost of $100 to design the new plate and a one-time production cost of approximately $3.00 per plate. For 300 plates, the total production cost is $1,000 and is paid from the Special Registration Plate Account.

In addition to the normal $20 registration fee, each plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. Three of the plates have additional fees that are deposited into the Collegiate and Cultural Attraction Plate Account then transferred to specific organizations. The Blue Ridge Parkway Foundation plate has an additional $20 fee that is to be credited to the Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. The Surveyors' plate has an additional $15 fee to be given to the North Carolina Society of Surveyors Education Foundation, Inc. for public educational programs. The Zeta Phi Beta Sorority plate has an additional $10 fee to be given to the Zeta Phi Beta Sorority Foundation for funding undergraduate scholarships.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 855 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A BREAST CANCER AWARENESS SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 295*
Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/1/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S295-PCS40028-LAf-7

Short Title: Special Registration Plates. (Public)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR PARAMEDICS AND THE NORTH CAROLINA COASTAL FEDERATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28d) NC Coastal Federation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State.

...

(29d) Paramedics. – Issuable to an emergency medical technician-paramedic, as defined in G.S. 131E-155. The plate shall bear the Star of Life logo and the phrase "Professional Paramedic". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of

War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the

Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
NC Coastal Federation	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding the following new subsection to read:

"(b25) NC Coastal Federation. – The Division must receive 300 or more applications for a NC Coastal Federation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Coastal Federation plates to the North Carolina Coastal Federation, Inc."

SECTION 5. This act is effective when it becomes law.

SENATE BILL 295:
Special Registration Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Thomas
Date:	April 24, 2003	**Summary by:**	Martha Walston
Version:	PCS for 3rd Edition		Committee Counsel
	PCS40028-Laf-7		

SUMMARY: ***The third Edition of Senate Bill 295 authorizes the Division of Motor Vehicles to issue the following special registration plates: NC Coastal Federation (requested by Sen. Hargett, SB 337), Paramedics (requested by Sen. Albertson, SB 163), and Alpha Kappa Alpha Sorority (requested by Sen. Dorsett, SB 397). The Division must receive at least 300 applications for a plate before it can be issued. Each of the three plates authorized by the 3rd Edition will be on a "First in Flight" background and will be subject to the $10 fee imposed for special plates. The special plate for the NC Coastal Federation will also be subject to an additional fee of $15 that will be transferred quarterly to support the purposes for which it is imposed.***

The proposed committee substitute deletes the reference to the Alpha Kappa Alpha Sorority special plate because this plate was authorized in House Bill 482, sponsored by Rep. Adams, and ratified on April 10, 2003. (S.L. 2003-10)

The proposed committee substitute for SB 295 has been reviewed by the Tax and Tags Subcommittee in House Finance.

CURRENT LAW: The General Assembly has authorized the Division of Motor Vehicles to issue many different special registration plates so long as it receives at least 300 applications for the plate. DMV has issued at least 87 special license plates. It has received requests for at least 40 additional plates but it has not issued those plates because it has not yet received 300 applications for them.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The Centers are located in Brunswick, Camden, Carteret, Caswell, Macon, Tyrell, and Watauga Counties, and each Center receives $75,000. The remaining revenue in the account is transferred quarterly as follows:

- 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
- 50% to DOT for beautification of highways other than those designated as interstate.
- 17% to the account of DHHS to promote travel accessibility for disable persons.

[1] One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of war. Four special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Legion of Valor, Purple Heart Recipient, and the Silver Star Recipient.

The cost of some special plates includes a fee in additional to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The ***Proposed Committee Substitute*** for Senate Bill 295 authorizes the following special license plates. The Division must receive at least 300 applications for a plate before it may be issued. Each of the plates would be on a "First in Flight" background.

- **NC Coastal Federation.** – The special plate would bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State. The fee for the special plate would be the special registration plate fee of $10 plus an additional $15 fee. The money derived from the additional fee would be transferred quarterly to the North Carolina Coastal Federation, Inc. The NC Coastal Federation is a non-profit, tax-exempt organization that seeks to provide citizens and groups with the assistance needed to take an active role in the wise management of North Carolina's coastal water quality and natural resources. Eight grassroots groups concerned with local coastal issues founded it in 1982. Today, it serves 7,500 members and 200 affiliated organizations. It focuses on three main areas of work: the restoration and protection of coastal water quality and habitat; the encouragement of sound environmental programs and their enforcement; and the delivery of effective education programs.
- **Paramedics.** – The special plate would be issuable to an emergency medical technician-paramedic. The plate would bear the phrase "Professional Paramedic" and the Star of Life logo. The fee for the special plate would be the special registration plate fee of $10. To be an emergency medical technician-paramedic, a person must be credentialed as such by the Department of Health and Human Services under G.S. 131E-159. The following special plates are already authorized: "Firefighter", "Rescue Squad", "Firefighter-Rescue Squad".

FISCAL ANALYSIS MEMORANDUM

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

DATE: **April 23, 2003**

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: SB 295 – PCS –Special Registration Plates

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* No General Fund Impact *			
Highway Fund		* No Highway Fund Impact *			
Special Plate Acct.	**$6,000**	**$6,000**	**$6,000**	**$6,000**	**$6,000**
Coll. & Cultural Acct.*	**$4,500**	**$4,500**	**$4,500**	**$4,500**	**$4,500**
EXPENDITURES					
Special Plate Acct.	$2,000				

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

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes creation of two new special license plates. The new plates would recognize the NC Coastal Federation and paramedics. Fees vary with proceeds sent to a variety of organizations.

ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000. This cost is assumed to apply to both plates under consideration, as both require 300 applications as a minimum to begin production, so the total expenditure is estimated at $2,000.

The paramedic plate requires an additional payment to the special plate account of $10 (per current statute), creating an estimated revenue steam of $3,000 from the plate.

The NC Coastal Federation plate requires an additional payment of $25, with the proceeds flowing to both the special registration plate account ($10) and the collegiate and cultural attraction plate account ($15). Each quarter the collections into the collegiate and cultural attractions plate account for the NC Coastal Federation plate must be transferred to the North Carolina Coastal Federation, Inc.

SOURCES OF DATA: NC Division of Motor Vehicles.

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
82nd Airborne	$10.00	0	337	653	766	827	856	943	1003	961
Air Force Reserve	$10.00	133	140	147	149	154	158	154	166	159
Amateur Radio	$10.00	2,332	2,916	2,601	2,721	2489	2467	2074	2164	2097
Antique	$10.00	1,786	2,093	2,386	2,544	2714	2826	3046	3191	3274
American Legion	$10.00	0	371	380	359	364	360	354	350	341
Amran Temple	$10.00	377	376	365	356	353	354	350	335	323
Animal Lovers	$20.00			689	928	1312	1610	1927	2234	2373
Army Reserve	$10.00	301	318	318	321	325	338	345	335	356
Appalachian State University	$25.00	672	766	905	986	1038	1065	1113	1157	1163
A & T State University	$25.00			595	785	925	974	1087	1155	1178
Bronze Star	$10.00			346	449	559	630	753	821	886
Civil Air Patrol	$10.00	74	73	75	74	83	80	74	72	66
Citizens Band Radio	$10.00	38	26	24	22	21	21	20	20	18
Coast Guard Auxiliary	$10.00	74	73	79	77	81	74	79	83	84
Coast Guard Reserve	$10.00	44	49	53	54	54	54	52	53	56
Clemson University	$25.00	583	634	717	783	831	828	830	863	872
Congressional Medal of Honor	Free	4	3	3	3	3	3	4	5	4
Clerk of Superior Court	$10.00	73	77	79	79	78	78	74	74	72
Consular Corps	$10.00	2	2	1	1	1	1	1	1	1
Core Sound Waterfowl Museum	$30.00								270	305
Court of Appeals	$10.00			17	17	26	26	25	25	26
Disabled Veteran	Free	3,725	3,833	4,059	4,148	4339	4443	4696	5073	5312
Distinguished Flying Cross	None			124	143	171	176	200	216	224
NC Dept of Transportation	$10.00	46	45	49	50	37	38	30	30	35
NC District Attorney	$10.00	23	22	23	23	26	26	24	25	23
Ducks Unlimited	$20.00							398	462	487
Duke University	$25.00	645	638	662	689	707	728	758	765	758
Eagle Scout	$10.00							332	441	473
East Carolina University	$25.00	675	700	772	819	860	875	864	852	900
Fayetteville State University	$25.00									218
Fireman	$10.00	1,383	1,560	1,799	1,812	1934	1981	2098	2168	2208
Fraternal Order of Police	$10.00	705	1,033	1,338	1,502	1698	1811	1950	2112	2191
Fireman/Rescue	$10.00	525	605	709	743	805	838	927	960	969
Friends of Great Smoky Mtns	$30.00			1,423	2,233	3009	3501	4356	5053	5294
Horseless Carriage	$10.00	618	649	693	724	744	736	745	772	767
Historic Lighthouse	$30.00	937	1,405	1,809	2,033	2263	2349	2460	2573	2608
Carolina Hurricanes	$10.00									699
International Assoc Firefighters	$10.00					503	599	748	830	926

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
NC House	$10.00	175	189	185	181	188	190	193	189	177
NC Judicial	$10.00	308	327	298	299	327	328	332	335	337
Kids First	$25.00							299	368	395
Knights of Columbus	$10.00	366	375	392	380	379	383	381	371	372
Korean Conflct Veteran	$10.00									276
Legion of Valor	$10.00	20	22	23	20	23	23	23	21	20
Litter Prevention	$20.00						232	350	354	361
NC Magistrate	$10.00	241	317	340	338	356	355	374	374	370
Marine Corps Reserve	$10.00	85	77	89	103	106	108	114	122	115
Maritime Museum	$30.00								354	406
Masonic Temple	$10.00	642	918	1,143	1,238	1315	1308	1374	1423	1476
Naval Reserve	$10.00	176	178	160	158	163	171	181	171	174
National Guard (assigned)	None	1,146	1,113	1,059	1,036	1019	1006	1015	1006	993
Native American	$10.00			1,194	1,940	2800	3088	3538	3886	3989
NC State University	$25.00	2,105	2,255	2,500	2,672	2852	2934	3069	3277	3370
National Guard (unassigned)	None	885	885	919	996	980	1056	1008	1092	823
North Carolina Central Univ.	$25.00			306	405	486	572	642	747	778
Oasis Temple	$10.00	945	930	923	913	899	910	885	858	852
State Gov't Official	$10.00	91	87	81	79	49	52	61	64	70
Olympic Spirit	$25.00	205	175	142	140	121	119	128	125	118
Carolina Panthers	$10.00	708	1,056	1,255	1,302	1312	1324	1308	1308	1334
Pembroke University	$25.00	207	202	193	188	183	185	169	175	171
Partially Disabled Veteran	$10.00	97	89	90	90	97	91	89	92	103
Pearl Harbour Survivor	$10.00	206	196	184	172	167	163	154	150	142
Prince Hall	$10.00					323	372	419	439	459
Purple Heart Veteran	None	2,813	3,186	3,392	3,447	3520	3587	3642	3658	3637
Prisloner of War	Free	833	803	760	731	703	687	663	642	630
Retired Air Force	$10.00	1,193	1,241	1,307	1,357	1387	1432	1485	1499	1534
Retired Army	$10.00	1,472	1,547	1,630	1,638	1686	1697	1738	1770	1798
Retired Clerk of Court	$10.00	1	5	7	6	8	8	17	18	21
Retired Coast Guard	$10.00			81	88	104	114	132	145	140
Retired Highway Patrol	$10.00			661	695	759	780	807	811	827
Rescue Squad	$10.00	270	297	315	336	330	345	346	352	354
Retired Magistrate	$10.00								4	14
Retired Marine	$10.00	981	1,052	1,105	1,136	1157	1159	1188	1202	1216
Retired Navy	$10.00	508	560	606	618	665	689	715	749	755
Retired National Guard	$10.00	353	396	431	396	467	464	496	511	536
Register of Deeds	$10.00	58	54	57	57	56	56	55	55	49

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
Retired Sheriff	$10.00	34	59	60	59	62	63	66	67	74
Ruritan Club	$10.00					249	257	252	240	236
Save the Sea Turtles	$10.00									377
Sons of Confederate Veterans	$10.00	866	1,518	2,591	3,144	3556	3694	3792	3832	3856
NC Senate	$10.00	73	72	68	67	70	66	71	71	69
Sheriff	$10.00	58	78	84	88	85	85	84	83	80
Silver Star	None			138	159	191	206	216	225	223
Supreme Court Judge	$10.00			11	11	14	14	14	14	15
Square Dance Club	$10.00	549	528	495	491	477	464	437	433	422
Street Rod	$10.00	1	2	1	1	1	1	1	1	1
Sudan Temple	$10.00	1,097	1,100	1,118	1,081	1071	1066	1058	1041	1031
Tobacco Heritage	$10.00					447	472	537	542	551
UNC-Charlotte	$25.00	296	373	411	424	452	461	451	466	457
UNC-Chapel Hill	$25.00	3,276	3,507	3,705	3,883	3998	4080	4204	4327	4345
UNC-Wilmington	$25.00	304	389	424	434	442	456	472	475	476
University of South Carolina	$25.00					327	411	504	574	584
US District Attorney	$10.00	0	0	0	0	0	0	1	1	1
US House	$10.00	13	9	9	11	12	11	11	11	10
US Marshal	$10.00	0	0	1	1	1	1	1	2	0
US Supreme Court Judge	$10.00	1	1	1	3	4	3	3	3	3
US Senate	$10.00	1	3	3	2	3	0	1	1	0
Vietnam Veterans	$10.00	0	1,025	1,789	2,106	2525	2760	3179	3423	3593
Van Pool	None	25	22	20	15	9	16	14	15	14
Veteran of Foreign Wars	$10.00								294	330
Wake Forest University	$25.00	633	672	699	714	719	728	740	767	763
Western Carolina University	$25.00				251	300	329	341	360	361
Wildlife Resources	$20.00	0	950	1,088	1,146	1243	1279	1350	1360	1369
Winston Salem State University	$25.00	0	294	338	357	354	373	387	400	414
World War II Veteran	$10.00									19
Totals		40,090	47,878	58,775	63,996	70933	74188	79468	84454	87573
Personalized	$20.00	177,717	182,794	200,178	210,067	215044	210666	216786	226244	226809

Organizations Still Trying to Obtain 300 Applications

ORGANIZATIONS TRYING TO OBTAIN 300 APPLICATIONS	
ORGANIZATION	TRYING SINCE
Audubon North Carolina	2001
Aviation Maintenance Technician	2002
Boy Scouts	1996
Barton College	1999
Combat Infantry Badge	2001
Combat Veteran	1998
Delta Sigma Theta Sorority	1996
Desert Storm	2001
Elon College	1995
First in Forestry	2001
Future Farmers of America	1993
Goodness Grows	2000
Harley Owner's Group	2001
Johnson C Smith University	1999
Livingstone College	1997
March of Dimes	1997
Meredith College	1992
Morehouse College	2000
NC Agribusiness	2002
NC School of Arts	2000
Ohio State University	1999
Omega Psi Phi Fraternity	2000
Optimist Club	2000
Peace College	1999
Pennsylvania State University	1999
Phi Beta Sigma Fraternity	2000
Rocky Mountain Elk Foundation	2001
Rotary Club	1994
Scenic Rivers	1997
School Technology	1997
Sertoma	1995
Shaw University	1993
Soil & Water Conservation	1997
Special Forces	2001
Special Olympics	1994
Support Public Schools	2000
Sweet Potato	2002
University of Alabama	1995
University Health Systems	1999
University of NC - Greensboro	1992
University of Tennessee	1995
US Navy Specialty	2001
The V Foundation	2001
Virginia Tech	1995

Collegiate Plates
First Quarter of Fiscal Year 2001/2002

	Jul-01	Aug-01	Sep-01	Sub Totals	%	Pro-Rated Adjustment	Available for Distribution	Distribution Per Plate	Number of Plates	Actual Disbursements
ASU	1,740.00	1,725.00	1,365.00	4,830.00	0.04333	201.87	5,031.87		335	5,025.00
ATU	1,320.00	1,500.00	1,245.00	4,065.00	0.03646	169.90	4,234.90		282	4,230.00
ECU	1,695.00	1,680.00	1,245.00	4,620.00	0.04144	193.10	4,813.10		321	4,815.00
ESU				0.00	0	0.00	0.00		0	0.00
NCC	1,035.00	990.00	990.00	3,015.00	0.02705	126.01	3,141.01		209	3,135.00
NCSU	4,320.00	4,845.00	3,615.00	12,780.00	0.11464	534.15	13,314.15		887	13,305.00
PBU	225.00	360.00	225.00	810.00	0.00727	33.85	843.85		56	840.00
UCC-UNC-CLT	1,005.00	630.00	555.00	2,190.00	0.01964	91.53	2,281.53		152	2,280.00
UNC-CH	7,095.00	6,630.00	5,730.00	19,455.00	0.17452	813.13	20,268.13		1350	20,250.00
UNC-W	810.00	825.00	645.00	2,280.00	0.02045	95.29	2,375.29		158	2,370.00
WCU	600.00	630.00	225.00	1,455.00	0.01305	60.81	1,515.81		101	1,515.00
WSU	585.00	765.00	540.00	1,890.00	0.01695	78.99	1,968.99		131	1,965.00
UNC Board of Trustees				57,390.00		2,398.64	59,788.64	15.00	3984	59,730.00
Animal Lovers	2,180.00	2,080.00	1,750.00	6,010.00	0.05391	251.19	6,261.19	10.00	626	6,260.00
Clemson				0.00	0	0.00	0.00	15.00	0	0.00
Duke	1,260.00	1,335.00	750.00	3,345.00	0.03001	139.81	3,484.81	15.00	232	3,480.00
Great Smoky Mts.	7,520.00	7,260.00	7,260.00	22,040.00	0.1977	921.17	22,961.17	20.00	1148	22,960.00
Historic Lighthouse	5,380.00	5,320.00	4,120.00	14,820.00	0.13294	619.41	15,439.41	20.00	772	15,440.00
Meredith College				0.00	0.00000	0.00	0.00	15.00	0	0.00
Olympic Games	270.00	210.00	75.00	555.00	0.00498	23.20	578.20	15.00	39	585.00
Wake Forest	1,095.00	1,230.00	795.00	3,120.00	0.02799	130.40	3,250.40	15.00	217	3,255.00
Wildlife	1,380.00	1,450.00	1,370.00	4,200.00	0.03767	175.54	4,375.54	10.00	438	4,380.00
	39,515.00	39,465.00	32,500.00	111,480.00	1.00000	4,659.36	116,139.36		7456	116,090.00
IMS - Collections Ledger				116,139.36						116,139.36
Difference				4,659.36			Undistributed Balance			49.36

BILLS IN HOUSE FINANCE SUBCOMMITTEE ON TAX & TAGS - 2003 Session
(Updated April 14, 2003, at 9:10 p.m. by Martha Walston)
(Stricken bills have been given a favorable report in House Finance)

Bill #	Short Title	Sponsor	Referred to Sub-Committee	Type	Description	Effective Date
H255	Blue Ridge Parkway Foundation License Plate	Haire	4/10/03	Special License Plate	Authorizes DMV to issue Blue Ridge Parkway Foundation plate for additional $25 fee. $15 of the additional fee is to go to Foundation to promote and preserve Parkway as scenic attraction	When it becomes law
H477	NC Coastal Federation Special Plate	Preston	4/10/03	Special License Plate	Authorizes DMV to issue NC Coastal Federation plate for $25 additional fee. $15 of fee will go to North Carolina Coastal Federation, Inc.	When it becomes law
H563	Surveyor Special License Plate	Gillespie and Gibson	4/10/03	Special License Plate	Authorizes DMV to issue special plate for surveyor that bears words "Following In Their Footsteps" and a picture of a transit. The additional fee is $25 ($15 to the NC Society of Surveyors Education Foundation, Inc., for public educational programs.	When it becomes law
H577	Retired law Enforcement Special Plates	A. Williams	4/10/03	Special License Plate	Authorizes DMV to issue special plate bearing words "Retired Law Enforcement Plate" and representations of law enforcement badges. The additional fee is $10.	When it becomes law
H661	Alternative Fuel Vehicle Special Plate	Insko	4/10/03	Special plate	Authorizes "Alternative Fuel Vehicle" special plate for $10 additional fee	When it becomes law
H823	Zeta Phi Beta Special Registration Plate	McAllister	4/10/03	Special Plate	Authorizes DMV to issue special "Zeta Phi Beta" plate for additional $10 fee	When it becomes law
H855 S946	Breast Cancer Awareness Special Plate	Alexander and Rayfield	4/10/03	Special Plate	Authorizes DMV to issue special plate with phrase "Early Detection Saves Lives" and a representation of pink ribbon for additional $10 fee.	When it becomes law

Bill #	Short Title	Sponsor	Referred to Sub-Committee	Type	Description	Effective Date
H1034	M.A.D.D. Special Registration Plate	Allred		Special Plate	Authorizes DMV to issue special plate with letters "M.A.D.D." and the words "Mothers Against Drunk Driving" for $10 additional fee	When it becomes law
H1160	Stock Car Racing Theme Special Plates	Goodwin and L. Johnson		Special Plate	Authorizes DMV to issue series of plates displaying themes of professional stock care racing or drivers. DMV must have license to use copyrighted or registered words, symbols, trademarks, or designs and may contract with any person for the license. The additional fee is $30 which goes to the Special Registration Plate Account. A replacement plate will cost $25. The plate will not have the words "First in Flight	
S295 3rd Ed	Special Registration Plates	Thomas	4/10/03	Special Plate	Authorizes DMV to issue special plates for Alpha Kappa Alpha Sorority ($10), NC Coastal Federation ($25 of which $15 goes to NC Coastal Federation, Inc), Paramedics ($10)	When it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 295 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR PARAMEDICS, THE NORTH CAROLINA COASTAL FEDERATION, AND THE ALPHA KAPPA ALPHA SORORITY.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

House Committee on Finance

Minutes

~

April 29, 2003

The House Committee on Finance met on Tuesday, April 29, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Martha Harris, and Martha Walston. There were also two Pages present at the meeting: (1) Kristin Broadwell of Wake County, sponsored by Representative Ellis; and (2) Vonda Walker of Pender County, sponsored by Representative Justice. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:33 am and immediately recognized Representative Ross to explain HB 755 – CARY/GARNER CONDEMNATIONS (see attachment 3). She explained very briefly to the Committee that this was a standard condemnation bill. It allows the Towns of Cary and Garner to acquire property for the (re)location of utility lines when it acquires property for streets. It also allows the Towns to acquire property through the condemnation procedures under Chapters 136 and 40A of the General Statutes (see attached Bill Summary). With no discussion from the members, the Chair recognized Representative Gibson for a motion of favorable report. The motion carried without opposition.

The Chairman then recognized Representatives Crawford and Cole to explain HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE (see attachment 4). Representative Cole explained that the transportation needs of North Carolina are growing exponentially. By 2025, the population in the state is expected to double from the current rate; thus, many more quality roads will be needed. Representative Crawford explained the specifics of the bill. The bill appropriates $300 million in fiscal year 2003-2004 and $400 million in fiscal year 2004-2005 from the State's Highway Trust Fund for "highway preservation, modernization, and maintenance" as well as for regional public transit systems (both urban and rural). According to Representative Crawford, the North Carolina Department of Transportation (DOT), under this bill plans to pursue road projects in all counties of the state and to get them underway immediately.

The Chair recognized Rep. Holliman who asked whether the bill was for road maintenance or new projects. Rep. Crawford explained that these appropriations are mostly for new projects, but are smaller projects in comparison to some of those currently underway in the state.

Representative Carney was recognized to send forth an amendment, which appointed a "Blue Ribbon" commission to study the transportation needs of the state, especially in rural areas. Representative Hackney then sent forth a perfecting amendment changing the number of members of the Commission from 5 to 6 in both the House and Senate. Upon the Chair's call, Representative

Hackney's perfecting amendment carried without objection, increasing the total membership of the Commission to 26.

Chairman Miner also recognized the audience to speak on HB 48. Duane Long, immediate past Chairman of the Greater Raleigh Chamber of Commerce and Ellis Hankins, Executive Director of the North Carolina League of Municipalities both spoke highly in support of the Carney Amendment (establishing a study commission to address the state's transportation needs).

Representative Luebke was then recognized to speak on the Carney amendment, specifically on the creation of a "blue ribbon" commission, rather than a typical study commission. He noted his belief that often, the members of these blue ribbon commissions are too full of legislators and that there should be a member from an environmental agency, such as the North Carolina Department of Environment and Natural Resources (DENR). Representative Luebke then sent forth another perfecting amendment to add an additional member of the commission to represent the state's environmental interests in regard to transportation needs, bringing the total membership of the Commission to 27. He also moved the adoption of this amendment.

Representative Wainwright was then recognized by Chairman Miner and voiced his concerns on the lack of public members on the blue ribbon commission who are from rural areas. He stated his desire to perfect Representative Luebke's perfecting amendment to include this rural membership. Representative Carney stated that she felt confident that the membership of the commission would be diversified without further additions to her proposed amendment.

The Chair then recognized Representative Decker who debated with Representative Luebke as to the necessity of an environmental member on the Commission, since there are no other members from specific areas. Following this discussion, the Chair called the vote on the Luebke perfecting amendment and it carried, but opposition was present. Having no further questions from the Committee, the Chair, upon a motion from Representative Ross, then called the vote on the adoption of Representative Carney's amendment. The motion carried by consent and the amendment was adopted.

Having concluded discussion on these amendments, Chairman Miner informed the Committee that it would now consider the full version of HB 48. Representative Hackney was then recognized to send forth an amendment. This amendment deleted section 5 of the bill, which required the approval of DENR on DOT transportation projects. The amendment carried without opposition.

Representative Howard was then recognized to voice her concern that the use of Highway Trust Fund money in this bill was not the original intention of the Fund. Specifically, she noted that the roads in rural communities have note yet been paved and that this was the trust fund's original purpose. She then sent forth an amendment to reduce the appropriations in the bill for bicycle, ferry, and other improvements from $70 million to $35 million to place the difference of these funds toward the further paving of rural roads in the state. She explained that this amendment places additional dollars for maintenance of roads, while not the traditional purpose of this bill, but helps the state make good on its original promise to constituents of the use of the Highway Trust Fund. Representative McCombs spoke in support of Howard's amendment stating that it would also help to get more of these funds to rural areas. Representative Capps also reiterated Representative Howard in that the State has a responsibility to keep promises made in earlier legislation.

The Chair then took time to recognize members of the audience who desired to speak on the full content of HB 48. Representative Gibson requested that the Committee hear from any DOT representatives that were present. Mr. Sanderson, State Highway Administrator of NCDOT and Miriam Perry, Public Transportation Director with DOT, were present to discuss the state's highway and transportation needs.

Continuing the discussion of the Howard Amendment, Chairman Miner recognized Representative Crawford who, in opposition, stated that the majority of the rural roads in the state had in fact already been paved. Representative Hill stated that his community is depending on this bill to address a very bad intersection in his district. Representative Rayfield voiced his concerns that the smaller communities of the state would not be properly provided for in this bill if the 10 most populous cities were being highlighted by DOT.

Representative Hackney, upon recognition of the Chair, spoke against the Howard Amendment stating that the current bill was already well balanced without further alteration. Representative Ross also spoke in opposition, stating that the State should take whatever matched transportation dollars from the Federal Government that it can. Representative Creech spoke in support of the Howard amendment, stating that rural communities have waited long enough to have their dirt roads paved. Chairman Miner then called the vote, but a division of the members was requested. In tallying a hand vote of 13 to 15, the Howard amendment failed.

On a question from Representative Creech, Representative Crawford explained that the road projects outlined in the bill also act as economic incentives because they are small projects, which are to be completed by local contractors in areas throughout the state.

Representative Capps was then recognized to present an amendment that would restrict $20,000 from use on a Wake County light rail system. He stated his reason for this amendment was that Wake County's transportation problems could not be helped because the City is not ready for the use of rail travel at the present time. He suggested that these funds should be used for other, more appropriate parts of the proposed transportation improvements. Representative Hackney spoke against this amendment basing his argument again on his belief that the bill, as it was, provided a balanced package, already approved by the Governor. Representatives Cole and Crawford also spoke against this amendment, citing this balance. Representative Ross stated this amendment would hurt Wake County due to the large number of youth communities (colleges, universities, etc.) in the area that could benefit from a light rail system. Representative Capps then reiterated his support of his amendment noting that it was a waste of tax dollars for Wake County at the present time. The Chair called the vote and, once again, the request for division was made. By a count of hands, the Capps amendment failed 10 to 15.

Chairman Miner then recognized Representative Hackney who made a motion for a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute.

However, prior accepting this motion, the Chair recognized Representative Ellis who sent forth an amendment to require that none of the appropriated funds from HB 48 could be used unless the transportation projects being undertaken were completed to DOT standards. Mr. Sanderson of DOT stated that this standard is already required, but informed the Committee, along

with Representative Crawford, that he had no concerns with the amendment. The Chair then called the vote as to the Ellis amendment and it carried without dissent.

Chairman Miner then recognized Representative Hackney's earlier amendment to offer a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute. Hearing no further questions from the Committee, the Chair called the vote and the motion carried without known opposition. Thus, HB 48 received a favorable report as to the committee substitute, unfavorable as to the original bill.

As the next item on the agenda, Representative Gibson was recognized by the Chair to explain HB 697 – TROY QUICK TAKE (see attachment 5). Representative Gibson stated that the purpose of the bill was to allow the Town of Troy and the Troy Redevelopment Commission to exercise the power of "quick-take" condemnation in the acquisition of property for the Smitherman Village neighborhood (see attached Bill Summary). Following this explanation, Representative Luebke was recognized and immediately moved for favorable report. Upon the Chair's call, the motion carried unanimously.

The Chairman then recognized Representative Gordon Allen for his birthday. The members of the Committee gave Representative Allen a standing ovation in observance of his special day.

Next, Chairman Miner recognized Representative LaRoque for explanation of the final bill on the day's agenda, HB 469 – LENOIR/DUPLIN UNPAID FEES COLLECTION (see attachment 6). He explained that the bill allows the Counties of Lenoir and Duplin "to attach personal property, garnish wages, and place liens on certain real property to collect unpaid fees for services." Having heard the explanation, the Chair recognized Representative Jones who moved for a favorable report on HB 469.

However, Representative Howard was first recognized to send forth an amendment adding the County of Davie to the text of the bill.

Representative Luebke was then recognized for a question to staff. He asked if this sort of bill was a regular occurrence because he held concerns about the large use of government taking power in this bill. Staff person Martha Walston stated that bills of a similar nature had already passed in earlier sessions. Representative Blackwood questioned Representative LaRoque as to how this bill would affect landlords. Representative LaRoque explained that this bill would affect only the individuals who have received the unpaid services, not the owners of the property if it were rented.

The Chair then recognized Representative Howard to explain her amendment. She noted that it simply adds Davie County with Lenoir and Duplin Counties in the bill. She also presented a perfecting amendment to include Columbus County (on behalf of Representative Hill). Representative Hill then moved the adoption of both amendments. The Chair called the vote on both the perfecting amendment and then the Howard amendment. Both motions carried without known opposition.

Representative Ross was then recognized by Chairman Miner and voiced her concern on the garnishment of wages in the bill. Seeing no further comments from members, the Chair called the

vote as moved by Representative Hackney for a favorable report as to the committee substitute, unfavorable as to the original on HB 469. The motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:58 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
4. House Bill 48 (and related materials)
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House Committee on Finance

Minutes

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vote as moved by Representative Hackney for a favorable report as to the committee substitute, unfavorable as to the original on HB 469. The motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:58 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
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6. Senate Bill 469 (and related materials)

AGENDA

House Finance Committee

April 29, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 48	**Moving Ahead Transportation Initiative**	*Rep. Crawford*
HB 469	**Lenoir/Duplin Unpaid Fees Collection**	*Rep. LaRoque*
HB 697	**Troy Quick Take**	*Rep. Gibson*
HB 755	**Cary/Garner Condemnations**	*Rep. Ross*

Adjournment

AGENDA

House Finance Committee

corrected

April 29, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills:

HB 48 **Moving Ahead Transportation Initiative** *Rep. Crawford*

Adjournment

CORRECTED NOTICE

HB 469, HB 697, & HB 755 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 29, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE –
Reps. Crawford and Cole

HB 469 – LENOIR/DUPLIN UNPAID FEES COLLECTION –
Reps. LaRoque and Wainwright

HB 697 – TROY QUICK TAKE – Rep. Gibson

HB 755 – CARY/GARNER CONDEMNATIONS – Reps. Ross, Ellis, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **7:35 A.M.** on **April 29, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, April 29, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE – Rep. Crawford

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:15 P.M.** on **April 28, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Harvey Schmitt	Greater Raleigh Chamber of Commerce
DWANE LONG	LONGISTICS
Jeff Merritt	Greater Raleigh Chamber of Commerce
Glen Lang	Mayor of Cary
R. Paul Wilms	NCHBA
Ken Sanderson	NCDOT
Brian Burby	CarVet
[illegible]	OSBM
Mitch Alford	OSBM
[illegible]	NC Home Builders
Wayne Stallings	NCDOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Miriam Perry	NCDOT
Kari Barsness	NCDENR
Leslie Batchelor	NCCBI
Kathryn Sawyer	Charlotte Chamber
Joshua Long	Martin Marietta Materials
Doug Lassiter	NCSTA
David Ferrell	Vandeventer Black LLP
BILL RUSTIN	ACP
Bean Mills	NC Metro Coalition
Glen Long	Town of Cary
Sandra Long	Martin Marietta Materials

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE
Susan Coward	NCDOT
Fred Allen	NCAA
Sandy Sanford	NCAA
Sandra O'Connor	NCAA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 755

Committee Substitute Favorable 4/24/03

Short Title: Cary/Garner Condemnations. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWNS OF CARY AND GARNER TO ACQUIRE PROPERTY FOR THE PRESENT OR FUTURE LOCATION OR RELOCATION OF TELEPHONE, TELEGRAPH, ELECTRIC, OR OTHER LINES TO BE OPERATED BY PUBLIC UTILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. When acquiring rights-of-way for the construction or improvement of streets, the Town may also locate and acquire such additional rights-of-way as may be necessary for the present or future location or relocation, above or below ground, of telephone, telegraph, electric, and other lines, as well as gas, water, sewerage, oil, and other pipelines to be operated by public utilities defined and regulated under Chapter 62 of the General Statutes. In acquiring real property by eminent domain for these purposes, the Town may use the procedures of either Chapter 40A or Chapter 136 of the General Statutes.

SECTION 2. This act applies to the Towns of Cary and Garner.

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

HOUSE BILL 755:
Cary/Garner Condemnations.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Ross
Date:	April 29, 2003	**Summary by:**	Trina Griffin*
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 755 authorizes the Towns of Cary and Garner to acquire property for the location or relocation of utility lines when it acquires property for streets. It also gives these towns the ability to acquire property through the condemnation procedures under Chapter 136 as well as under Chapter 40A. The bill would become effective when it becomes law.***

CURRENT LAW:

Acquiring property for the location of utility lines. – Cities and towns can acquire property for the construction and improvement of streets and roads. Often the construction and improvement of streets and roads involves the movement of utility lines and the need to acquire property for their location or relocation. The utility companies can acquire property for the placement of their lines, but municipalities cannot do it for them.

Acquiring property through Chapter 136. – Local public condemnors and private condemnors may acquire property under the eminent domain provisions in Chapter 40A. The Department of Transportation may acquire property under Article 9 of Chapter 136 for the construction and improvement of highways. Municipalities may also use the condemnation provisions in Article 9 of Chapter 136 for the acquisition of property related to the construction and improvement of roads and streets within their corporate boundaries that are part of the state-highway-system, but not for city streets. There are two primary differences between the acquisition authority granted by Chapter 40A and Article 9 of Chapter 136:

- Under Chapter 40A, a condemnor must give the owner of the property to be acquired 30 days notice of its intent to institute an action to condemn the property.[1] Under Article 9 of Chapter 136, the condemnor does not have to give this 30–day notice.
- Under Chapter 40A, the just compensation for the value of the property taken is generally its fair market value prior to the taking.[2] Under Chapter 136, the just compensation for the property taken is its fair market value, taking into consideration any benefits resulting from the utilization of the part taken for highway purposes.

[1] For purposes of road construction and improvement, the title to the property and the right to immediate possession vests automatically with the city subject to the filing of the condemnation complaint and deposit of the estimated just compensation. Chapter 40A and Article 9 of Chapter 136 do not differ in this point.

[2] Under Chapter 40A, the measure of compensation is the greater of either (i) the amount by which the fair market value of the entire tract immediately before the taking exceeds the fair market value of the remainder immediately after the taking or (ii) the fair market value of the property taken. The value of the property does not include an increase or decrease in value that is cause by the proposed improvement or project for which the property is taken.

BILL ANALYSIS: House Bill 755 authorizes the Towns of Cary and Garner to:

- Acquire rights-of-way for the location or relocation of utility lines when it acquires right-of-way for the construction or improvement of streets. In practice, this right-of-way would then be given to the utility companies. Utility companies are often hesitant to use their condemnation authority to acquire additional rights-of-way to relocate utility lines when a municipality undertakes street improvements. This authority will enable the Towns of Cary and Garner to acquire rights-of-way on a timelier basis, resulting in the completion of road improvement projects on a timelier basis. The Department of Transportation has this authority under G.S. 136-18(2) and the City of Raleigh has had this authority since 1991.[3]
- Use the procedures of either Chapter 40A or Chapter 136 when it acquires property by eminent domain.

*Cindy Avrette, counsel for Senate Finance, contributed substantially to this summary.

[3] S.L. 1991-312.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 755 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWNS OF CARY AND GARNER TO ACQUIRE PROPERTY FOR THE PRESENT OR FUTURE LOCATION OR RELOCATION OF TELEPHONE, TELEGRAPH, ELECTRIC, OR OTHER LINES TO BE OPERATED BY PUBLIC UTILITIES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 48*

Committee Substitute Favorable 4/23/03

PROPOSED COMMITTEE SUBSTITUTE H48-PCS30296-LA-12

Short Title: Moving Ahead Transportation Initiative. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation

projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

SECTION 2. G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Projects selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subdivision (1) of subsection (a3) of this section on any project that does not meet Department of Transportation standards for road construction, traffic flow standards, or sight distance criteria."

SECTION 3. G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

SECTION 4. The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

SECTION 5.(a) Commission Established. – There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

SECTION 5.(b) Membership. – The Commission shall be composed of 27 members as follows:

(1) Fifteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, one of whom shall represent the environmental community, two of whom shall represent the Business Coalition for Regional Transportation

Strategies, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the 10 most populous municipalities in the State.

(2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) Six members of the Senate appointed by the President Pro Tempore of the Senate.

SECTION 5.(c) Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

SECTION 5.(d) Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

(1) Innovative financing approaches to mitigate urban congestion.

(2) Local revenue options which would give urban areas more control over their regional mobility future.

(3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

SECTION 5.(e) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 5.(f) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 11 members.

SECTION 5.(g) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 5.(h) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

SECTION 5.(i) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 5.(j) Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 5.(k) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 5.(l) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its

deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 5.(m) Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

SECTION 5.(n) Funding. – The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

SECTION 5.(o) Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

SECTION 5.(p) This section is effective when it becomes law.

SECTION 6. Except as otherwise provided, this act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 48*
Committee Substitute Favorable 4/23/03

Short Title: Moving Ahead Transportation Initiative. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO EXPEDITE THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

SECTION 2. G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Projects selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A."

SECTION 3. G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

SECTION 4. The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources for transportation construction projects.**

(a) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has received a complete application for a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, the Department of Environment and Natural Resources shall expedite the review of the application and shall issue or deny the permit within 90 days of receipt of the submission. All permits not denied within that time limit shall be deemed approved. The Secretary of Environment and Natural Resources and the Secretary of Transportation shall jointly decide any question as to whether an application for a permit is complete. If the

Secretary of Environment and Natural Resources and the Secretary of Transportation are unable to jointly decide any question, the Governor shall decide the question.

(b) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or cancelled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

(1) The modification or cancellation is requested by the Department of Transportation.

(2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources would result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.

(3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.

(4) The modification or cancellation is ordered by a court of competent jurisdiction.

(5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered."

SECTION 6. This act becomes effective July 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALA-5 [v.5]

adopted Date 4-29- ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Carney

moves to amend the bill
on page 1, line 14, by rewriting that line to read:
"PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS, AND";

on page 3, line 26, by rewriting the line to read:

"SECTION 6.(a) Commission Established. -- There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

SECTION 6.(b) Membership. -- The Commission shall be composed of 24 members as follows:

(1) Fourteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, two of whom shall represent the Business Coalition for Regional Transportation Strategies, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the ten most populous municipalities in the State.

(2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) Five members of the Senate appointed by the President Pro Tempore of the Senate.

SECTION 6.(c) Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

SECTION 6.(d) Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

(1) Innovative financing approaches to mitigate urban congestion.

(2) Local revenue options which would give urban areas more control over their regional mobility future.

(3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

SECTION 6.(e) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 6.(f) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eleven members.

SECTION 6.(g) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 6.(h) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

SECTION 6.(i) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 6.(j) Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 6.(k) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval

of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 6.(l) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 6.(m) Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

SECTION 6.(n) Funding. – The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

SECTION 6.(o) Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

SECTION 6.(p) This section is effective when it becomes law.

SECTION 7. Except as otherwise provided, this act becomes effective July 1, 2003."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen) perfecting adopted w/ consent

EDITION No. _____

H. B. No. H 48 - ALA-5 [v.5] DATE 4-29-03

S. B. No. _____ Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney

Sen.)

1 moves to amend the bill on page 1, line 11

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "24" and substituting "26"

4

5 and on page 1, line 20 by deleting "Five" and

6 substituting "Six"

7

8 and on page 1, line 22 by deleting "Five" and

9 substituting "Six".

10

11

12

13

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17

18

19

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

adopted

EDITION No. _____

H. B. No. 48 as amended DATE 4-29-03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Luebke
Sen.)

amendment

moves to amend the ~~bill~~ on page 1, line 11

( ) WHICH CHANGES THE TITLE

by changing "26" to "27";

and on page 1, line 14, by adding after the following the comma: "one of whom shall represent the environmental community,";

and on page 1, line 15, by changing "fourteen" to "fifteen"

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALA-4 [v.2]

Date 4-29-03 ,2003

adopted

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Hackney

moves to amend the bill on page 1, line 10, by adding the word "AND" at the end of the line;

on page 1, lines 14-16, by rewriting those lines to read:
"PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE."

On page 2, lines 31-43 and page 3, lines 1-25, by deleting SECTION 5 in its entirety;

and by renumbering the remaining section accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 48

S. B. No. _____

failed 15 to 13

DATE 4-29-03

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

Rep.) Howard
Sen.)

moves to amend the bill on page 1, line 22

by rewriting the line to read

"4) Six hundred sixty-five million dollars ($665,000,000) for highway system"

and on page 2, line 1 by deleting "seventy" and substituting "Thirty-five" and deleting "($70,000,000)" and substituting "($35,000,000)".

SIGNED _____

ADOPTED _____ FAILED ✓ 15/13 TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALK-9 [v.1]

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

failed 10 to 15

Representative Capps

moves to amend the bill on page 1, line 22,
by rewriting that line to read:
"Six hundred fifty million dollars ($650,000,000) for highway system"
and further moves to amend the bill on page 2, line 1,
by rewriting that line to read:
"(2) Fifty million dollars ($50,000,000) for regional public transit";
and further moves to amend the bill on page 2, line 6,
by rewriting that line to read:
"improvements. None of these funds may be used for light rail in Wake County. For any project of program listed in the subdivision for".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ 10/15 TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 48, ~~[illegible]~~ DATE 4-29-03

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE X adopted

(Rep.) Ellis

Sen.)

bill

moves to amend the ~~Bill~~ on page 2, line 12

( ) WHICH CHANGES THE TITLE

by adding the following immediately before the quotation mark:

"No funds shall be expended pursuant to subsection (a3) of this section on any project that does not meet Department of Transportation standards for road surface construction, traffic flow standards, or sight distance criteria."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

HOUSE BILL 48:
Moving Ahead Transportation Initiative

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Crawford and Cole
Date:	April 29 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 48 (2nd Ed) does the following:

- *Authorizes the Department of Transportation (DOT) to use $300 million in fiscal year 2003-2004, and $400 million in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for specified purposes.*
- *Requires DOT to report on its intended, actual, and future use of the above funds.*
- *Requires the Department of Environment and Natural Resources (DENR) to expedite the permit review process for permits required for transportation construction projects undertaken by DOT.*

CURRENT LAW: The Highway Trust Fund was established in 1989 for the purposes of funding highway construction. The purposes include intrastate system projects, urban loop projects, city streets, and secondary roads. The 2001 General Assembly permitted the use of $680 million of Trust Fund cash balances over three fiscal years for additional purposes, primarily maintenance. At the end of January 2003, the cash balance in the Highway Trust Fund was $213 million.

The Highway Trust Fund's primary revenue sources are ¼ of the motor fuel tax, a 3% Highway Use Tax, title fees and various registration fees, and interest earned on cash balances.

BILL ANALYSIS: Section 1 of House Bill 48 amends G.S. 136-176 (the Highway Trust Fund statute) by adding a new subsection that provides more flexibility in the Highway Trust Fund. This new subsection authorizes DOT to use $300 million in fiscal year 2003-2004 and $400 million in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

1. ~~$680~~ million for highway system preservation, modernization, and maintenance.
2. $70 million for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. If federal funds are received for any of these projects, then the funds from the cash balance of the Highway Trust Fund shall be limited to matching the federal funds.

Section 2 of HB 48 amends the Highway Trust Fund statute to require that projects selected under the new subsection must be based on identified and documented need. Funds expended for highway system preservation, modernization, and maintenance must be distributed in accordance with the equity distribution formula in G.S. 136-17.2A.

Section 3 of HB 48 amends the Highway Trust Fund statute to require DOT to report on the funds authorized by the new subsection as follows:

- DOT must report to the Joint Legislative Transportation Oversight Committee by September 1, 2003, on the intended use of the funds.
- DOT must report to the Joint Transportation Appropriations Subcommittee by May 1, 2004, on it actual current and intended future use of the funds.
- DOT must certify to the Joint Legislative Transportation Oversight Committee each year by November 1, that use of the Highway Trust Fund cash balances for the purposes authorized by the new subsection will not adversely affect the delivery schedule of any Highway Trust Fund projects. If DOT cannot certify that the authorized amounts in the cash balance of the Highway Trust Fund will not have an adverse effect, then DOT may determine the amount that can be used without adversely affecting the delivery schedule and proportionately apply this amount to the purposes authorized in the new subsection.

Section 4 of HB 48 reaffirms the intent of the General Assembly that the proceeds from the issuance of any bonds pursuant to the Highway Bond Act of 1996 are to be used only for the purposes stated in that act, and for no other purpose.[1]

Section 5 of HB 48 adds a new statute to Article 2A (State Roads Generally) of Chapter 136 (Roads and Highways) that would expedite the permit process for a transportation construction project undertaken by DOT. Once DENR has received a complete application for a permit that is required for a transportation construction project, DENR must issue or deny the permit within 90 days of the application's receipt. If the permit is not denied within the 90-day time limit, then the permit is deemed approved. The Secretaries of DENR and DOT will jointly decide if an application for a permit is complete. If the Secretaries are unable jointly to decide any question, the Governor shall make the decision. Once a permit has been issued, it will remain in effect until the transportation project is completed. However, the permit may be modified or cancelled if (1) requested by DOT, (2) required by change in federal law and a failure to modify or cancel the permit would result in a loss of federal funds, (3) required by change in State law that expressly states that the change applies to ongoing transportation construction projects, (4) the modification or cancellation is ordered by the courts, or (5) the nature or scope of the transportation construction project is significantly altered.

[1] The State Highway Bond Act of 1996, subject to the vote of the people, authorized the issuance of $950 million general obligation bonds of the State for the purpose of providing funds, with any other available funds, for constructing, improving, and relocating roads, bridges, tunnels, and other highway facilities constituting at the time of the construction, improvement, and relocation, urban loops, highways in the Intrastate System, or a part of the State secondary highway system.

For Rep Stam

From Rep Stam re HB 48 (not discussed)

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election which are in addition to those which would have otherwise been incurred, these expenses to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond question to be used in the ballots or voting systems shall be in substantially the following form:

[ ] FOR [ ] AGAINST

The issuance of nine hundred fifty million dollars ($950,000,000) State of North Carolina Highway Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, through the application of not in excess of five hundred million dollars ($500,000,000) of the bonds to pay the capital costs of urban loops, the application of not in excess of three hundred million dollars ($300,000,000) of the bonds to pay the capital costs of Intrastate System projects, and the application of not in excess of one hundred fifty million dollars ($150,000,000) of the bonds to pay the capital costs of projects constituting a part of the State secondary highway system resulting in the paving of unpaved roads.

If a majority of those voting on the bond question vote in favor of the issuance of the bonds, the bonds may be issued as provided in this act. If a majority of those voting on the bond question vote against the issuance of the bonds, the bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for the holding of elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Sec. 10. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not later than December 1, 2013, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; form and denomination; registration. Bonds or notes may be issued as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 48 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO EXPEDITE THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 697
Committee Substitute Favorable 4/16/03

Short Title: Troy Quick Take. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF TROY AND ITS REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY WITHIN A REDEVELOPMENT AREA USING THE "QUICK TAKE" PROCEDURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-42(a)(1) reads as rewritten:

"(1) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a city or city redevelopment commission is acquiring property within a redevelopment area under a redevelopment plan adopted pursuant to Article 22 of Chapter 160A, or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

SECTION 2. This act applies to the Town of Troy and the Troy Redevelopment Commission when acquiring property for the "Smitherman Village" neighborhood only.

SECTION 3. This act is effective when it becomes law and expires July 1, 2008.

HOUSE BILL 697:
Troy Quick Take.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Gibson
Date:	April 29, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 697 authorizes the Town of Troy and the Troy Redevelopment Commission to exercise the power of "quick-take" condemnation to acquire property for the Smitherman Village neighborhood. The act would be effective when it becomes law and would expire July 1, 2008.***

CURRENT LAW:

General Condemnation Procedures: Both municipalities and redevelopment commissions are granted the authority to acquire real property by eminent domain in accordance with Chapter 40A. Under general condemnation procedures, title to the property and the right of possession vests in the city or county (or redevelopment commission) seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

BILL ANALYSIS: House Bill 697 authorizes the Town of Troy and the Troy Redevelopment Commission to use quick-take condemnation procedures for acquiring property within a redevelopment area under a redevelopment plan. This authority is only with respect to property acquired for the Smitherman Village project. Currently, the town council members of the Town of Troy comprise the membership of the Troy Redevelopment Commission.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 697 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF TROY AND ITS REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY WITHIN A REDEVELOPMENT AREA USING THE "QUICK TAKE" PROCEDURE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 469

Committee Substitute Favorable 4/28/03

PROPOSED COMMITTEE SUBSTITUTE H469-PCS60316-LA-13

Short Title: Several Counties Unpaid Fees Collection. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COLUMBUS, DAVIE, DUPLIN, AND LENOIR COUNTIES, CERTAIN DISTRICTS CREATED BY THESE COUNTIES, AND MUNICIPALITIES LOCATED WITHIN THESE COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. A county may adopt an ordinance providing that any fee charged by the county and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the county for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided a statement containing the name and address of the person against whom the lien is claimed, the name of the county, county water and sewer district, county service district, or municipality, whichever applies, claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service and within 180 days of the date of the failure to pay for the service. The lien may be discharged as provided in G.S. 44-48.

SECTION 2. The reference to county shall include a county, a county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, a county service district created under Article 16 of Chapter 153A of the General Statutes, or a municipality located wholly or partly within that county.

SECTION 3. This act shall not apply to fees collectable under Articles 9A and 9B of Chapter 44 of the General Statutes, G.S. 153A- 293, and G.S. 160A-314.1.

SECTION 4. This act applies only to Columbus, Davie, Duplin, and Lenoir Counties, county water and sewer districts located in Columbus, Davie, Duplin, or Lenoir County, county service districts located within Columbus, Davie, Duplin, or Lenoir County, and municipalities located wholly or partially within Columbus, Davie, Duplin, or Lenoir County.

SECTION 5. This act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 469
Committee Substitute Favorable 4/28/03

Short Title: Lenoir/Duplin Unpaid Fees Collection. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LENOIR AND DUPLIN COUNTIES, CERTAIN DISTRICTS CREATED BY LENOIR AND DUPLIN COUNTIES, AND MUNICIPALITIES LOCATED WITHIN LENOIR AND DUPLIN COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. A county may adopt an ordinance providing that any fee charged by the county and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the county for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided a statement containing the name and address of the person against whom the lien is claimed, the name of the county, the county water and sewer district, the county service district, or the municipality, whichever applies, claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service and within 180 days of the date of the failure to pay for the service. The lien may be discharged as provided in G.S. 44-48.

SECTION 2. The reference to county shall include a county, a county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, a county service district created under Article 16 of Chapter 153A of the General Statutes, or a municipality located wholly or partly within that county.

SECTION 3. This act shall not apply to fees collectable under Articles 9A and 9B of Chapter 44 of the General Statutes, G.S. 153A- 293, and G.S. 160A-314.1.

SECTION 4. This act applies only to Lenoir and Duplin Counties, county water and sewer districts located in Lenoir or Duplin County, county service districts located within Lenoir or Duplin County, and municipalities located wholly or partially within Lenoir or Duplin County.

SECTION 5. This act becomes effective July 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.1]

adopted

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, AND DAVIE COUNTIES, CERTAIN DISTRICTS WITHIN THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read:
"**SECTION 4.** This act applies only to Lenoir, Duplin, and Davie Counties, county and water sewer districts located in Lenoir, Duplin, or Davie County, county service districts located within Lenoir, Duplin, or Davie County, and municipalities located wholly or partially within Lenoir, Duplin, or Davie County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469 (perfecting)

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-6 [v.1] adopted

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Hill

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, AND COLUMBUS COUNTIES, CERTAIN DISTRICTS CREATED WITHIN THESE COUNTIES, AND MUNICIPALITIES LOCATED WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6, by rewriting those lines to read:
"**SECTION 4.** This act applies only to Lenoir, Duplin, and Columbus Counties, county and water sewer districts located in Lenoir, Duplin, or Columbus County, county service districts located within Lenoir, Duplin, or Columbus County, and municipalities located wholly or partially within Lenoir, Duplin, or Columbus County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.2]

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE COLUMBUS, DAVIE, DUPLIN, AND LENOIR COUNTIES, CERTAIN DISTRICTS CREATED BY THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read:
"**SECTION 4.** This act applies only to Columbus, Davie, Duplin, and Lenoir Counties, county water and sewer districts located in Columbus, Davie, Duplin, or Lenoir County, county service districts located within Columbus, Davie, Duplin, or Lenoir County, and municipalities located wholly or partially within Columbus, Davie, Duplin, or Lenoir County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read: AND COLUMBUS
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, ~~AND~~ DAVIE COUNTIES, CERTAIN DISTRICTS WITHIN THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read: and Columbus
"SECTION 4. This act applies only to Lenoir, Duplin, ~~and~~ Davie Counties, county and water sewer districts located in Lenoir, Duplin, ~~or~~ Davie County, county service districts located within Lenoir, Duplin, ~~or~~ Davie County, and municipalities located wholly or partially within Lenoir, Duplin, ~~or~~ Davie County." or Columbus or Columbus

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 469:
Lenoir/Duplin Unpaid Fees Collection

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. LaRoque
Date:	April 28, 2003	**Analysis by:**	Martha Walston*
Version:	2nd Edition		Committee Counsel

SUMMARY: House bill 469 would permit the Counties of Lenoir and Duplin, any municipality located wholly or partly in either county, and water and waste-water authorities in those counties to collect any fee owed to the local government that remains unpaid 90 days as if the fee were a delinquent property tax.

CURRENT LAW: Local governments are authorized to charge fees for various services provided to the citizens of the jurisdiction. Examples of programs that might charge fees include: participating in recreational activities, solid waste, water and waste water system, transportation systems, mental health services, health services, environmental health, concealed handgun permit, animal control, etc.

Several of the fees have statutory provisions for collection. Examples include:

- PUBLIC ENTERPRISES. G.S. 153A-277(b) provides that a county operating a public enterprise may disconnect services after an account is delinquent for 10 days. G.S. 160A-314(b) provides like authority for municipalities operating public enterprises. G.S. 162A-9 provides a similar authority for water and sewer authorities after an account is delinquent 30 days.
- AMBULANCE SERVICES. G.S. 44-51.4 allows a local government to collect an account 90 days delinquent through the use of attachment and garnishment proceedings set forth for the collection of property taxes. G.S. 44-51.1 also allows the placement of a lien on real property for unpaid ambulance fees.
- SOLID WASTE FEES. G.S. 153A-293 permits a county to enact an ordinance providing that a solid waste fee may be billed and collected as a property tax. G.S. 160A-214.1(b) provides like authority for municipalities.

BILL ANALYSIS: House Bill 469 would allow the Counties of Lenoir and Duplin, any municipality located wholly or partly in those counties, or a water or sewer authority located in those counties to collect any fee owed to the local government that is past due for 90 days as if it were a property tax. The bill would require the local government to enact an ordinance stating this is a method of collection in that local government's jurisdiction, and would exempt the ambulance and solid waste fees.

*Erika Churchill, counsel to House Local Government I, contributed substantially to this summary.

Currently under general law, property taxes may be collected in the following ways:

- Placement of a lien on real and personal property that are superior to all other liens.
- Sale of personal property.
- Attachment and garnishment of wages and bank accounts.
- Sale of real property.

If the county seeks to collect the delinquent fee by placing a lien on real property, a statement must be filed with the clerk of superior court. The statement must contain the name and address of the delinquent person, the name of the local government claiming the lien, the specific service that was provided, the amount of the unpaid charge, and the date and place of furnishing the service. To be valid, the lien must be filed after 90 days from the date of the failure to pay and within 180 days of the date of the failure to pay.

EFFECTIVE DATE: The act would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 469 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE LENOIR AND DUPLIN COUNTIES, CERTAIN DISTRICTS CREATED BY LENOIR AND DUPLIN COUNTIES, AND MUNICIPALITIES LOCATED WITHIN LENOIR AND DUPLIN COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

House Committee on Finance

Minutes

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May 22, 2003

The House Committee on Finance met on Tuesday, May 22, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Ellis, Hackney, Holliman, Jones, McGee, Rayfield, Ross, Setzer, Weiss, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stanley. Staff persons present included Cindy Avrette, Richard Bostic, Jerry Cohen, Trina Griffin, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:35 am and immediately recognized the two pages present: Zachary Pope of Haywood County, sponsored by Representative Rapp and Elizabeth Edwards of Rowan County, sponsored by Representative McCombs. She also thanked the Sergeant-at-Arms and Staff for their regular attendance and assistance.

As the first matter of business, Chairman Wainwright recognized Representative Gulley to explain HB 705 – MATTHEWS ANNEXATION (see attachment 3). This bill acts to extend the corporate limits of the Town of Matthews to include the entire area remaining in its "sphere of influence" within Mecklenburg County. Chairman Wainwright recognized Representative Rayfield who asked if there was any known opposition to the bill in the areas of annexation. Representative Gulley stated that the only opposition he was aware of was from the County with regard to the few lands they still held in the proposed annexation areas. Otherwise, he stated that the bill was highly supported. Representative Rayfield then moved for a favorable report on HB 705. The motion carried with no known opposition.

Sen. Stevens was then recognized by the Chairman to explain SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES (see attachment 4). The Senator explained that the bill authorizes the Town of Apex to do two different things. First, it allows the Town to use the same condemnation procedures and authority for roads that the Department of Transportation uses. Second, it adopts ordinances for the Town to regulate the demolition of historic structures in its Historic District. Senator Stevens also stated that there was no known opposition on the bill. Without further discussion, Chairman Wainwright recognized Representative Ross who moved for a favorable report on SB 181. The motion carried by consent.

The Chair next recognized Representative Nye to explain HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES (see attachment 5). HB 1260 amends the fees that Board of Examiners for Speech and Language Pathologists and Audiologists can charge by increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal. Discussion among the members, particularly from Representative Capps, ensued noting the concern of the Committee that the levels of the fees were being raised more than 100 percent. Representative Nye stated that the fees had not been increased

since 1987 and that the costs of inflation alone made up a significant part of this increase. Seeing no further discussion, Chairman Wainwright recognized Representative Holliman who moved for a favorable report. The Chair called the vote and the motion carried without objection.

The Chair then recognized Representative Moore to explain HB 163 – KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). He explained that the bill acts to allow the City of Kings Mountain to annex certain described property owned by the town by voluntary annexation without having to meet the customary statutory requirements. Representative Moore also noted that there was a Proposed Committee Substitute for the bill; however, Staff was unaware of this. The Chair then temporarily displaced HB 163 so that Representative Moore could confer with Staff on the matter

In the interim, the Chair recognized Sen. Apodaca to explain SB 288 – POLK SCHOOL ACQUISITION (see attachment 7). He explained that the bill acts to add Polk County to the list of 87 counties in North Carolina that are authorized to acquire school property on behalf of their boards of education. He stated that the bill would be effective when it became law and that there was no known opposition on the matter. Having no discussion from the members, Chairman Wainwright recognized Representative McGee who then moved for a favorable report on SB 288. The Chair called the vote and the motion carried unanimously.

The Chair next recognized Representative Alexander to explain HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS (see attachment 8). She explained that the bill requires each ABC store to prominently display a warning sign stating that drinking alcohol during pregnancy can cause birth defects. The bill further requires the ABC Commission to develop the signs and provide for their distribution (for additional details see Bill Analysis in attachment). Following the explanation, Representative Rayfield was recognized for a question. He asked Representative Alexander who was responsible to pay for the required signs. Representative Alexander responded that each individual retail store would be responsible for the costs, which cannot exceed $25.00). Representative Ellis was also recognized by the Chair and commended Representative Alexander on her bill, stating that the best way to protect our pregnant mothers was through education. Chairman Wainwright then recognized Representative Jones, who moved for a favorable report on HB 1118. Seeing no further questions, the Chair called the vote and the motion carried without opposition.

The Chairman then replaced HB 163 - KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). Representative Moore stated that the bill before the Committee was the correct version of the bill and then requested the member's support. (Staff was able to determine that the Committee Substitute on the bill, as mentioned above, had been adopted in an earlier meeting in the House Committee on Local Government I). Seeing no discussion on the bill, Chairman Wainwright recognized Representative McGee for a motion of favorable report.

Representative Luebke was recognized by the Chair to explain the last bill before the Committee for consideration (for the Sponsor, Senator Gulley): SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION (see attachment 9). He explained that the bill establishes a procedure to remove property from a research and production service district and, although a public bill, only effects portions of Durham and Wake County. This deannexation can only be accomplished once a number of requirements have been met (see Bill Analysis for details).

Seeing no discussion or questions on the bill, Chairman Wainwright recognized Representative Weiss who moved for a favorable report on SB 214. The Chair called for the vote and the motion carried without known opposition.

The Chair then made the announcement that the next House Finance Committee Meeting would be held on the following Wednesday, May 28, 2003, at 8:30 am in the same location.

Having no further business before the Committee, Chairman Wainwright wished the Committee members a good Memorial Day holiday and then adjourned the meeting at 9:03 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
4. House Bill 48 (and related materials)
5. House Bill 697 (and related materials)
6. Senate Bill 469 (and related materials)
6. Senate Bill 469 (and related materials)
7. Senate Bill 469 (and related materials)
8. Senate Bill 469 (and related materials)
9. Senate Bill 469 (and related materials)
10. Senate Bill 469 (and related materials) (not discussed – bill pulled from the meeting agenda on 5-21-2003, to be considered at a later date)

House Committee on Finance

Minutes

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May 22, 2003

The House Committee on Finance met on Tuesday, May 22, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Ellis, Hackney, Holliman, Jones, McGee, Rayfield, Ross, Setzer, Weiss, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stanley. Staff persons present included Cindy Avrette, Richard Bostic, Jerry Cohen, Trina Griffin, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

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The Chair next recognized Representative Nye to explain HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES (see attachment 5). HB 1260 amends the fees that Board of Examiners for Speech and Language Pathologists and Audiologists can charge by increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal. Discussion among the members, particularly from Representative Capps, ensued noting the concern of the Committee that the levels of the fees were being raised more than 100 percent. Representative Nye stated that the fees had not been increased

since 1987 and that the costs of inflation alone made up a significant part of this increase. Seeing no further discussion, Chairman Wainwright recognized Representative Holliman who moved for a favorable report. The Chair called the vote and the motion carried without objection.

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Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

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10. Senate Bill 469 (and related materials) (not discussed – bill pulled from the meeting agenda on 5-21-2003, to be considered at a later date)

ATTACHMENT 1

corrected

AGENDA

House Finance Committee

May 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 214	**RES AND PRODUCTION SVC. DIST. DEANNEXATION**	**Rep. Luebke**
HB 1260	**RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES**	**Rep. Nye**
HB 163	**KINGS MTN. ANNEX WATER SYSTEM**	**Rep. Moore**
HB 705	**MATTHEWS ANNEXATION**	**Rep. Gulley**
HB 1118	**DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS**	**Rep. Alexander**
SB 181	**APEX QUICKTAKE ROADS/HISTORIC STRUCTURES**	**Sen. Stevens**
SB 288	**POLK SCHOOL ACQUISITION**	**Sen. Apodaca**

Adjournment

AGENDA

House Finance Committee

May 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 214	**RES AND PRODUCTION SVC. DIST. DEANNEXATION**	**Rep. Luebke**
HB 163	**KINGS MTN. ANNEX WATER SYSTEM**	**Rep. Moore**
HB 96	**AVERY COUNTY OCCUPANCY TAX**	**Rep. Frye**
HB 705	**MATTHEWS ANNEXATION**	**Rep. Gulley**
HB 1118	**DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS**	**Rep. Alexander**
HB 1260	**RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES**	**Rep. Nye**
SB 181	**APEX QUICKTAKE ROADS/HISTORIC STRUCTURES**	**Sen. Stevens**
SB 288	**POLK SCHOOL ACQUISITION**	**Sen. Apodaca**

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JASON KAUS	TOWN OF APEX
PEYTON MAYNARD	NCSULA
John Randall	NC Bd of Ex
Kathy Sulik	U. of N. Carolina Chapel Hill
Ernestine Durham	Executive Intern, FRD
Tim Morse	ABC COMMISSION
Carol Lawler	E&HS
Paul Gepin	OSBM
Kevin Fitzgerald	UNC
[illegible]	The Arc
[illegible]	NCRMA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Meyer	NCACC
Andy Romcart	NCLM
Frank Gray	N.C. Pr. I
John McHugh	Co Office
DAVID BARNES	Poyner + Spruill
Bill Rustin	ACR
[illegible]	Alley Assoc
Roz Sawitt	NC CCC
R. Paul Wilmers	NCHBA
Dean Plunkett	NC Beer & Wine.
Jon Carr	NCABC Boards

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Angie Harris	Maupin Taylor
[illegible]	NC BIO
B. J. McMillan	ADCNC - Durham
Elizabeth Dalton	Bone & Assoc.

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, May 21, 2003 4:26 PM
Subject: CORRECTED NOTICE - House Finance Committee 5-22-2003
Importance: High

CORRECTED NOTICE – HB 96 REMOVED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, May 22, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

~~**HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye**~~ *REMOVED*

HB 163 – KINGS MTN. ANNEX WATER SYSTEM – Rep. Moore

HB 705 – MATTHEWS ANNEXATION – Reps. Gulley & Black

HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS – Rep. Alexander

HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES – Rep. Nye

SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES – Sen. Stevens

SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION – Sen. Gulley

SB 288 – POLK SCHOOL ACQUISITION – Sen. Apodaca

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:25 P.M.** on

May 21, 2003.

___Principal Clerk
___Reading Clerk - House Chamber
Jason A. Cannon (Committee Assistant)

Jason Cannon (House Finance)

From: Martha Walston (Fiscal Research)
Sent: Wednesday, May 21, 2003 3:48 PM
To: Joyce Harris (Rep. Luebke)
Cc: Trina Griffin (Research); Jason Cannon (House Finance)
Subject: RE: HB 96 - Avery Occupancy Tax

I just called Rep. Frye and left the message with his LA.

-----Original Message-----
From: Joyce Harris (Rep. Luebke)
Sent: Wednesday, May 21, 2003 3:45 PM
To: Martha Walston (Fiscal Research)
Subject: HB 96 - Avery Occupancy Tax

Hi Martha,

Rep. Luebke asked me to call you (which I did a few minutes ago) to tell you to pull the above bill which is on for tomorrow and for you to call Rep. Frye and tell him. Rep. Luebke will see Rep. Frye about this on the House floor in a few minutes. Thanks!

Joyce T. Harris
Legislative Assistant to
Rep. Paul Luebke
Telephone: (919) 733-7664
Fax: (919) 754-3192
E-Mail: luebkela@ncleg.net

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, May 20, 2003 12:13 PM
Subject: House Finance Committee Notice 5-22-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, May 22, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye

HB 163 – KINGS MTN. ANNEX WATER SYSTEM – Rep. Moore

HB 705 – MATTHEWS ANNEXATION – Reps. Gulley & Black

HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS – Rep. Alexander

HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES – Rep. Nye

SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES – Sen. Stevens

SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION – Sen. Gulley

SB 288 – POLK SCHOOL ACQUISITION – Sen. Apodaca

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:15 P.M.** on **May 20, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 705

Short Title:	Matthews Annexation.	(Local)
Sponsors:	Representatives Gulley and Black (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX TO THE TOWN OF MATTHEWS ALL THE TERRITORY REMAINING IN ITS SPHERE OF INFLUENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Matthews are extended to include the entire area remaining in its sphere of influence within Mecklenburg County. As used in this act, "sphere of influence" means that area designated as such in annexation agreements between the Town of Matthews and other municipalities under Chapter 953 of the 1983 Session Laws, or under other general or local acts.

SECTION 2. The Town of Matthews shall record in the office of the Register of Deeds of Mecklenburg County a detailed map of the area annexed by this act. The map shall also delineate any area for which annexation is deferred pursuant to Section 3 of this act.

SECTION 3. This act becomes effective June 30, 2003, except that as to land that is being taxed at present-use value pursuant to G.S. 105-277.4 on the day this act is ratified, it becomes effective on the same day as determined under G.S. 160A-49(f2) that it would have become effective if the area had been annexed under Part 3 of Article 4A of Chapter 160A of the General Statutes. The Town may, however, provide police, fire, and emergency medical services to areas whose annexation has been deferred by this section.

HOUSE BILL 705:
Matthews Annexation.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Gulley and Black
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 705 annexes to the Town of Matthews all the territory remaining in its sphere of influence. Except for land taxed at present-use value, the act would become effective June 30, 2003. The annexation of land taxed at present-use value would be deferred until the land no longer meets the criteria for taxation at present-use value. However, this property would be considered part of the Town of Matthews for boundary and planning purposes and would receive police, fire, and EMS protection.***

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary.

Voluntary Annexation. – A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Involuntary Annexation. – An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 705 annexes to the Town of Matthews the entire area remaining in its sphere of influence within Mecklenburg County. The annexation of any land within the sphere of influence that is currently being taxed at present-use value is deferred until the land no longer qualifies for present-use valuation. However, for boundary purposes, planning purposes, and public safety purposes, the land will be considered part of the Town of Matthews.

BACKGROUND: In 1984, the General Assembly enacted legislation authorizing the City of Charlotte and the surrounding municipalities to enter into annexation agreements that create "spheres of influence." The "sphere of influence" is the area described in the agreement that the parties agree may be annexed by a one of the municipalities to the exclusion of the others. Since this legislation was enacted, Matthews has received over 500 voluntary annexation petitions and several pieces of land have been annexed in accordance with the agreement, creating several "donut holes" along the way. This legislation would close up the remaining donut holes and peninsulas. Additionally, one of the reasons for this legislation is to provide clarification as to the proper entity that will provide police, fire, and EMS protection in these areas.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 705 A BILL TO BE ENTITLED AN ACT TO ANNEX TO THE TOWN OF MATTHEWS ALL THE TERRITORY REMAINING IN ITS SPHERE OF influence.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 181
Finance Committee Substitute Adopted 4/16/03

Short Title: Apex Quicktake Roads/Historic Structures (Local)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THE APEX HISTORIC DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.5 of the Charter of the Town of Apex, being Chapter 356 of the 1985 Session Laws, as added by Chapter 70 of the 1987 Session Laws, reads as rewritten:

"Sec. 6.5. Additional Eminent Domain Powers. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and easements) to be used for water lines and treatment facilities and sewer lines and treatment facilities, and opening, widening, extending, or improving public streets and roads, the town may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'Town ~~Manager';~~Manager', and whenever therein the word 'highway' appears, it is deemed to include 'public works' in accordance with this section, provided further that nothing herein shall be construed to enlarge the power of the town to condemn property already devoted to public use. Provided further, just compensation for the acquisition of fee simple title or a perpetual easement pursuant to this section to be used for street or road right-of-way shall be no less than (i) one dollar ($1.00) per square foot of real property taken, or (ii) the prorated ad valorem tax value of the parent tract, whichever is less. The powers granted by this section are in addition to and supplementary to those powers granted by any local or general law."

SECTION 2. In order to preserve and enhance one of the most valuable and unique natural resources of the community, and to preserve the property values and promote the general welfare of its citizens, the Town of Apex may adopt ordinances to regulate the demolition of historic structures within its municipal corporate limits and extraterritorial jurisdiction. For purposes of this section, "historic structures" means any structure (i) individually listed in the National Register of Historic Places, (ii) listed as a contributing structure in the National Register of Historic Places, (iii) certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, (iv) individually listed in the State inventory of historic places, (v) listed in the Wake County Register of Historic Places, or (vi) individually listed in a local inventory of historic places in communities with historic preservation programs that have been certified by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs. Prior to adopting any such ordinance, a public hearing shall be held before the town's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364. Ordinances adopted under this section may not prohibit the demolition of historic structures except in accordance with the provisions of Part 3C of Article 19 of Chapter 160A of the General Statutes.

SECTION 3. This act is effective when it becomes law. Section 1 of this act expires on December 31, 2008, but civil actions or special proceedings instituted pursuant to that section on or before December 31, 2008, shall be completed under the provisions of that section as if it had not expired.

SENATE BILL 181:
Apex Quicktake Roads/Historic Structures

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Stevens
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 181 authorizes the Town of Apex to do two different things:

- *To use the same condemnation procedures and authority for roads that the Department of Transportation uses in Chapter 136.*
- *To adopt ordinances regulating the demolition of historic structures in its Historic District.*

CONDEMNATION PROCEDURES FOR ROADS: Cities and towns may condemn property under Chapter 40A for opening, widening, extending, or improving roads and streets. The Department of Transportation may acquire property under Article 9 of Chapter 136 for the construction and improvement of highways. Municipalities may also use the condemnation provisions in Article 9 of Chapter 136 for the acquisition of property related to the construction and improvement of roads and streets within their corporate boundaries that are part of the state-highway-system, but not for city streets. There are two primary differences between the acquisition authority granted by Chapter 40A and Article 9 of Chapter 136:

- Under Chapter 40A, a condemnor must give the owner of the property to be acquired 30 days notice of its intent to institute an action to condemn the property.[1] Under Article 9 of Chapter 136, the condemnor does not have to give this 30–day notice.
- Under Chapter 40A, the just compensation for the value of the property taken is generally its fair market value prior to the taking.[2] Under Chapter 136, the just compensation for the property taken is its fair market value, taking into consideration any benefits resulting from the utilization of the part taken for highway purposes.

Section 1 of Senate Bill 181 provides that the Town of Apex may use the procedure and authority of Article 9 of Chapter 136 for the acquisition of property for roads. It currently has this authority for the acquisition of property for water and sewer lines and treatment facilities. It also establishes a floor for determining just compensation by specifying that just compensation may be no less than $1.00 per square foot of real property taken or the prorated property tax value of the parent tract, whichever is less. Therefore, for the Town of Apex, the determination of just compensation under Article 9 of Chapter 136 would be the fair market value of the property taking into consideration any benefit the property derives

[1] For purposes of road construction and improvement, the title to the property and the right to immediate possession vests automatically with the city subject to the filing of the condemnation complaint and deposit of the estimated just compensation. Chapter 40A and Article 9 of Chapter 136 do not differ in this point.

[2] Under Chapter 40A, the measure of compensation is the greater of either (i) the amount by which the fair market value of the entire tract immediately before the taking exceeds the fair market value of the remainder immediately after the taking or (ii) the fair market value of the property taken. The value of the property does not include an increase or decrease in value that is caused by the proposed improvement or project for which the property is taken.

from the road improvement, but in no event may that value be less than $1.00 per square foot or the prorated property tax value of the parent tract, whichever is less.

Section 1 becomes effective when it becomes law and expires on December 31, 2008. The Town of Apex plans to spend approximately $30 million over the next 5-6 years to construct the "Apex Peakway". This provision will allow the Town to use the procedures of Article 9 of Chapter 136 to make the road improvements anticipated over the next few years.

REGULATE DEMOLITION OF HISTORIC BUILDINGS: Section 2 of Senate Bill 181 would allow the Town of Apex to adopt ordinances regulating the demolition of historic structures after notice and a public hearing. The bill defines the term "historic structure". The Town may not prohibit the demolition of an historic structure unless the structure has statewide significance as defined in the criteria of the National Register of Historic Places, as determined by the State Historic Preservation Officer.[3] The Town of Apex's downtown is Federally-designated and recognized as an historic district.

Under current law, municipalities may designate historic districts and historic landmarks if they establish or designate a historic preservation commission and follow the numerous landmark designation procedures outlined in Part 3C of Article 19 of Chapter 160A. Those procedures include preparing and adopting guidelines and procedures, conducting investigations and reports, consulting with the Department of Cultural Resources, etc. A person with property located in an historic district must file an application for a certificate of appropriateness before the person may alter the exterior of a building located in the district or relocate or demolish a building in the district.

Section 2 of this bill would allow the Town of Apex to regulate the demolition of historic structures located in its zoning jurisdiction without having to meet the procedural requirements of Part 3C. Likewise, the Town will not be able to regulate historic structures as extensively as would otherwise be allowed under Part 3C. This bill allows the Town to only regulate the demolition of those structures.

[3] G.S. 160A-400.14. Under this statute, the property may be demolished even if it meets this standard if the property owner would otherwise suffer extreme hardship or be permanently deprived of all beneficial use of the property.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 181 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THE APEX HISTORIC DISTRICT.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1260

Short Title:	Raise Ceiling/Speech Path./Audiologist Fees.	(Public)
Sponsors:	Representative Nye.	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM FEES THAT THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MAY ASSESS FOR CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-305 reads as rewritten:

"**§ 90-305. Fees.**

Persons subject to licensure under this Article shall pay ~~the following~~ fees to the ~~Board:~~Board not to exceed the following:

(1)	Application fee	$30.00
(2)	Examination fee	30.00
(3)	Initial license fee	~~40.00~~100.00
(4)	Renewal license fee	~~40.00~~100.00
(5)	Temporary license	40.00
(6)	Delinquency fee	~~25.00~~25.00."

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

HOUSE BILL 1260:
Raise Ceiling/Speech Path./Audiologist Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Nye
Date:	May 22, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1260 amends the fees that the Board of Examiners for Speech and Language Pathologists and Audiologists may charge by

- *changing these set fees to maximum fees*
- *increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal.*

CURRENT LAW: A person who practices or holds himself or herself out as being able to practice speech and language pathology or audiology in North Carolina must hold a current, unsuspended, unrevoked license issued by the Board of Examiners for Speech and Language Pathologists and Audiologists or register with the Board as an assistant. A license may be granted in either speech and language pathology or audiology independently. A person may be licensed in both areas if qualified in both areas. The license must be renewed annually.

BILL ANALYSIS: House Bill 1260 amends the fees paid to the Board of Examiners for Speech and Language Pathologists and Audiologists as follows:

DESCRIPTION	CURRENT FEE	PROPOSED FEE
Application Fee	$30	not to exceed $30
Examination Fee	$30	not to exceed $30
Initial license Fee	$40	not to exceed $100
Renewal License Fee	$40	not to exceed $100
Temporary License	$40	not to exceed $40
Delinquency Fee	$25	not to exceed $25

The current fees have not been increased since 1987 (S.L. 1987-65). According to the Executive Secretary of the Board, the Board plans to charge $60 for an initial license and a renewal license.

G.S. 12-3.1 requires the Board to consult with the Joint Legislative Commission on Governmental Operations on the amount and the purpose of the fees to be increased before the increase goes into effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1260 (1st Edition)

SHORT TITLE: Raise Ceiling / Speech Path. / Audiologist Fees

SPONSOR(S): Representative Nye

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Examiners	$77,000	$77,000	$77,000	77,000	77,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Examiners for Speech and Language Pathologist and Audiologists.

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 90-305 by increasing the initial and renewal license fee that the Board of Examiners for Speech and Language Pathologists and Audiologists may charge to maximum fees of $100.

ASSUMPTIONS AND METHODOLOGY: Under current law, speech and language pathology or audiology practitioners in the State of North Carolina are required to hold a current, unsuspended, unrevoked license issued by the Board of Examiners for Speech and Language Pathologists and Audiologists (the Board). A person may be licensed in both areas if qualified in both areas. The license must be renewed annually. Currently, the Board may charge the following fees:

Description	Fee
Application Fee	$30
Examination Fee	$30
Initial License Fee	$40
Renewal License Fee	$40
Temporary License	$40
Delinquency Fee	$25

According to the G.S. 12-3.1, the Board has to consult with the Joint Legislative Commission on Governmental Operations on the amount the purpose of the fees increase before such an increase may be implemented. The House Bill 1260 proposes increasing

maximum initial license fee and maximum renewal license fee from $40 to $100. According to the Executive Secretary of the Board, the Board plans to charge $60 for an initial license and a renewal license.

The current fees have not been increased since 1987 (S.L. 1987-65). Based the *Statistical Abstracts of the United States* historical data on inflation, after adjusting for inflation, the current initial license fee and renewal license fee should amount $63 to be equivalent to the 1987 rate of $40. The Board ended the fiscal year 2002 with a negative fund balance of $10,735, or 6.34 percent. Raising the initial and renewal license fees would allow the Board to overcome fiscal constraints.

For the fiscal year 2002, initial license fees constituted 5.84 percent of all total revenues of the Board. Renewal fees constituted 78.10 percent. Together, these fees amounted to 83.94 percent of total revenues. If the Board starts charging $60 for both initial and renewal of the license, as it plans to, it will constitute a 50-percent increase of the corresponding portion of the revenues. Charging the maximum fees of $100 will constitute a 150-percent increase (Table 1). Alternatively, these new fees would correspond to a 42-percent and 126-percent increase in total revenues for the Board.

Currently, 3,850 language pathology and audiology practitioners are registered with the Board. The twenty-dollar increase of the renewal fees would increase the annual revenues of the Board by $77,000 (3,850 × $20).

Table 1. Percentage increase in fees and total revenues under the proposed legislation

	New Fees	
	$60	**$100**
Fees Increase (%)	50%	150%
Increase in Total Revenues (%)	42%	126%

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists; *Statistical Abstracts of the United States*.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 21, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1260 A BILL TO BE ENTITLED AN ACT TO INCREASE THE MAXIMUM FEES THAT THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MAY ASSESS FOR CERTAIN FEES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 163
Committee Substitute Favorable 4/30/03

Short Title: Kings Mtn. Annex Water System. (Local)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF KINGS MOUNTAIN TO ANNEX CERTAIN PROPERTIES OWNED BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Kings Mountain may annex any or all of the following city-owned properties by voluntary annexation under G.S. 160A-58.7 without such annexations satisfying the requirements of G.S. 160A-58.1:

(1) That real estate reflected in the records for Cleveland County, North Carolina, as being parcel 6-3-1-28 in the Tax Mapping Office, the same being that real estate upon which there is situated the Water Treatment Plant at the John H. Moss Reservoir, the John H. Moss Reservoir Dam, the campsite and the buildings and structure located adjacent thereto, such property being bounded by the Elliot M. Johnson Property (now or formerly) as shown in Deed Book 10-M at Page 460 of the Cleveland County Registry; that property of Elliot M. Johnson (now or formerly) as shown in Deed Book 8-J at Page 472 of the Cleveland County Registry; the right-of-way margin of Oak Grove Road; the Craver and/or Austell properties as shown on Tax Map as Map 3137; Lot 1; Parcel 8: the Frank Meeker, Jr. property (now or formerly) as shown in Deed Book 1012 at Page 353 of the Cleveland County Registry; and further, a boundary which is 736.0' above mean sea level elevation, adjacent to the waters of the John H. Moss Reservoir.

(2) That real estate which is commonly referred to as the "Camp Creek Church Road Picnic Area", and such being that acreage reflected on Tax Map 3137, Block 1, Lot 1; Tax Map 3137, Block 1, Lot 2; Tax Map 3137, Block 1, Lot 3; and Tax Map 3137, Block 1, Lot 4, in the Tax Mapping Office for Cleveland County, North Carolina, with the boundary on that side of the property which is bounded by the waters

of the John H. Moss Reservoir, such having a boundary of 736.0' above mean sea level elevation.

SECTION 2. The City of Kings Mountain may exercise the authority in Section 1 of this act only under the following conditions:

(1) The area proposed for annexation must be owned by the City of Kings Mountain.

(2) The City of Kings Mountain must be able to provide the same services within the area proposed for annexation that it provides within the corporate limits.

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

HOUSE BILL 163:
Kings Mtn. Annex Water System.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Moore
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***The bill would allow the City of Kings Mountain to annex certain described property owned by the town by voluntary annexation without having to meet the statutory requirements.***

CURRENT LAW: G.S. 160A-58.1 and 160A-58.7 govern the voluntary annexation by a municipality of noncontiguous property. G.S. 160A-58.1 provides that all property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

G.S. 160-58.7 provides the process a city must follow when the city is the property owner of the satellite area. This process requires that the city comply with the provisions of G.S. 160A-58.1 as described above.

BILL ANALYSIS: The bill would exempt the City of Kings Mountain from having to meet the requirements in G.S. 160A-58.1 when annexing two particularly described tracts of property owned by the city used as the water treatment facility.

BACKGROUND: The cities of Hickory, New Bern, Statesville, Kenly, Troy, Mt. Airy, Mooresville, Marion, Oxford, Rockingham, Newton, Conover, and Claremont and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, Maiden, Swansboro and Waynesville have already eliminated the 5th standard for all annexations by the municipality.

EFFECTIVE DATE: The bill would become effective when it becomes law.

Erika Churchill, counsel to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 163 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF KINGS MOUNTAIN TO ANNEX CERTAIN PROPERTIES OWNED BY THE TOWN.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 288*

Short Title: Polk School Acquisition. (Local)

Sponsors: Senator Apodaca.

Referred to: Finance.

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE POLK COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-158.1 reads as rewritten:

"**§ 153A-158.1. Acquisition and improvement of school property in certain counties.**

(a) Acquisition by County. – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,

Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties."

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

SENATE BILL 288:
Polk School Acquisition

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Apodaca
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 288 adds Polk County to the list of 87 counties authorized to acquire school property on behalf of their boards of education. The bill is effective when it becomes law.***

BILL ANALYSIS: **Senate Bill 288** is a local bill that applies only to Polk County and the local board of education for school administrative units in Polk County. The substance of the bill is the same as that enacted in past legislative sessions for 87 other counties.

The bill makes the following changes concerning the acquisition and financing of public school facilities:

(1) It authorizes the county to acquire real or personal property for use by a school administrative unit located in the county when requested to do so by the unit. Under current law, only those counties listed in G.S. 153A-158.1(e) have this authority. Under general law, a county is authorized to acquire real or personal property only on behalf of the county or an agency of the county and a school administrative unit is not an agency of the county.

(2) It authorizes the local board of education to contract with the county for the erection or repair of a public school building that is located on a site owned by the county. Under current general law, local boards of education are required to hold title to all school property and therefore have no authority to make contracts concerning the construction or repair of school buildings located on sites not owned by them.[1]

(3) It authorizes the local board of education to transfer to the county any property on which a school building in need of renovation or repair is located for any price agreed to by the board of education and the county. Current law requires transfers from a local board of education to a county to be at fair market value and allows a local board of education to transfer property to a county only if the board does not believe the property is necessary or desirable for a school.[2]

The effect of these changes is to allow installment purchase financing to be used for public school construction or renovation in Polk County. Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

[1] G.S. 115C-40; G.S. 115C-521.
[2] G.S. 115C-518; G.S. 160A-274.

Under current law, installment purchase financing is available to counties[3] but is not generally available to local school administrative units. G.S. 160A-20 grants installment purchase financing authority only to a local school administrative unit located in a county whose local board of education can levy a school tax. There are only two such local units: Mooresville and Roanoke Rapids. A related provision, G.S. 143-64.17C, authorizes school administrative units and community colleges to use installment purchase financing to finance energy conservation measures. In addition, G.S. 115D-58.15 authorizes community colleges to use installment purchase financing for equipment.

[3] The Local Government Commission must approve installment purchase contracts and certificates of participation. The Local Government Commission cannot approve such a contract if the net debt of the contracting unit, after execution of the contract, would exceed 8% of the assessed value of property subject to taxation by the unit.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 288 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE POLK COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARD OF EDUCATION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 1118
Committee Substitute Favorable 4/29/03

Short Title: Display Fetal Alcohol Syndrome Warning Signs. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE SIGNS TO BE POSTED WARNING OF THE POSSIBLE DANGERS OF CONSUMPTION OF ALCOHOL DURING PREGNANCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-203(a) is amended by adding the following new subdivision to read:

"(18) Provide for the distribution and posting of warning signs to local ABC boards regarding the dangers of alcohol consumption during pregnancy as required under G.S. 18B-808."

SECTION 2. Article 8 of Chapter 18B of the General Statutes is amended by adding the following new section to read:

"**§ 18B-808. Warning signs regarding dangers of alcohol consumption during pregnancy required; posting.**

(a) Each ABC store shall display or cause to be displayed warning signs that meet the requirements of this section on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

(b) The Commission shall develop the warning signs in accordance with subsection (c) of this section and provide for their distribution and replacements to local ABC boards subject to the requirement of this section. The Commission may charge a reasonable fee, not to exceed twenty-five dollars ($25.00), for each sign, including replacement signs.

(c) The signs required by this section shall:

(1) Be composed of black, capital letters printed on white paper at the minimum weight of one hundred ten pound index. The letters comprising the word 'WARNING' shall be highlighted black lettering and shall be larger than all other lettering on the sign.

(2) Contain the message: 'WARNING Pregnancy and alcohol do not mix. Drinking alcohol during pregnancy can cause birth defects.'

(3) The size of the sign shall be at least eight and one-half inches by 14 inches.

(4) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(5) Be in both English and Spanish.

(d) A local ABC board shall ensure that each ABC store manager displays the warning sign in an open and prominent place in the store within 30 days of receipt of the sign from the Commission."

SECTION 3. This act is effective when it becomes law. The Commission and each local ABC board shall be in full compliance with the requirements of this act no later than six months after the day the bill becomes law.

HOUSE BILL 1118:
Display Fetal Alcohol Syndrome Warning Signs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Alexander
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1118 requires each ABC store to prominently display a warning sign stating that drinking alcohol during pregnancy can cause birth defects. The bill further requires the ABC Commission to develop the signs and provide for their distribution. The Commission is also authorized to charge a fee not to exceed $25.00 for each sign, including replacements. The local ABC board is required to ensure that each ABC store manager properly displays the sign within 30 days of its receipt.***

The bill would become effective when it becomes law. The Commission and each local ABC board would have six months from the effective date to be in full compliance with the act.

CURRENT LAW: The operation of ABC stores is governed by Article 8 of Chapter 18B, which addresses the opening and closing of stores, the operating hours, the store management, the pricing of alcohol, and the distribution of revenues. ABC stores are under the authority of and operated by a local ABC board.

BILL ANALYSIS: House Bill 1118 does the following:

- ***Requirement for ABC stores.*** – It requires each ABC store to display a warning sign, developed by the ABC Commission, that warns about the dangers of alcohol and pregnancy. Specifically, the sign would state:

  WARNING: Pregnancy and alcohol do not mix.
  Drinking alcohol during pregnancy can cause birth defects.

- ***Requirement for ABC Commission.*** – It requires the ABC Commission to develop and distribute the warning signs. The Commission may charge a fee not to exceed $25.00 for each sign, including replacements. The bill specifies that the signs must:
  - Be on certain paper and in certain lettering.
  - Be at least 8½ x 14 in size.
  - Be in both English and Spanish.
  - Contain a graphic depiction of the message for nonreaders.

- ***Requirement for local ABC boards.*** – It requires local ABC boards to ensure that each ABC store manager posts the warning sign in an open and prominent place in the store within 30 days of its receipt.

BACKGROUND[1]: Fetal Alcohol Syndrome (FAS) is a set of physical, mental, and neurobehavioral birth defects caused by maternal consumption of alcohol during pregnancy. FAS is considered the most common nonhereditary cause of mental retardation. In addition to deficits in general intellectual functioning, individuals with FAS often demonstrate difficulties with learning, memory, attention, and problem solving as well as problems with mental health and social interactions. Although prenatal alcohol exposure does not always result in FAS, there is no known safe level of alcohol consumption during pregnancy. FAS is 100% preventable when a woman completely abstains from alcohol during her pregnancy.

[1] This information was obtained from the National Organization on Fetal Alcohol Syndrome.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1118 (Second Edition)

SHORT TITLE: Display Fetal Alcohol Syndrome Warning

SPONSOR(S): Rep. Alexander

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
ABC Fund	up to $10,000				
EXPENDITURES					
Local ABC Board	up to $10,000				
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Alcoholic Beverage Control Commission, Local ABC Boards

EFFECTIVE DATE: This act is effective when it becomes law. The Commission and each local ABC board shall be in full compliance with the law no later than six months after the day the bill becomes law.

BILL SUMMARY: The bill requires the posting of signs in Alcoholic Beverage Control (ABC) stores warning of the possible dangers of consumption of alcohol during pregnancy.

ASSUMPTIONS AND METHODOLOGY: The maximum $25 fee from each of the state's 400 ABC stores will generate $10,000. An administrator of the ABC Commission thinks the $25 fee is more than sufficient to cover the costs of the signs. In fact, the Commission may choose to pay for the signs out of its operating budget rather than bother with collecting fees from the local ABC boards.

SOURCES OF DATA: Alcoholic Beverage Control Commission

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 21, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1118 A BILL TO BE ENTITLED AN ACT TO REQUIRE SIGNS TO BE POSTED WARNING OF THE POSSIBLE DANGERS OF CONSUMPTION OF ALCOHOL DURING PREGNANCY.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 214
Finance Committee Substitute Adopted 4/30/03

Short Title: Res and Production Svc. Dist. Deannexation. (Public)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW TERRITORY TO BE REMOVED FROM A RESEARCH AND PRODUCTION SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-314.1. Removal of territory from service districts.**

(a) Standards. – A board of commissioners may by resolution remove territory from a research and production service district upon finding that:

(1) The owners of the territory to be removed contemplate placing residential uses on some of the territory to be removed.

(2) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.

(3) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:

(1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and

(2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a service district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than

seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Municipal Annexation Allowed Under General Law. – The general law concerning annexation, Article 4A of Chapter 160A of the General Statutes, shall apply to any territory removed from the district under this section, notwithstanding any local act to the contrary.

(e) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board."

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

SENATE BILL 214:
Res and Production Svc District Deannexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Gulley
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 214 establishes a procedure to remove property from a research and production service district. The bill is effective when it becomes law.***

CURRENT LAW: In 1985, the General Assembly allowed for the creation of a research and production service district.[1] The legislation sets forth the requirements necessary to create the district, expand the district, and abolish the district; but it does not allow for the removal of property from the district. A county may by resolution establish a research and production service district for an area that meets the following requirements[2]:

- All the property is used for research or scientifically oriented production or for associated commercial or institutional purposes.
- The area contains at least 4,000 acres.
- The area includes research and production facilities that employ at least 5,000 people.
- The area has no more than 25 permanent residents.

The Research Triangle Park is the only research and production service district at this time. The property within the Research Triangle Park is not subject to annexation, pursuant to section 2 of Chapter 435 of the 1985 Session Laws. The Park currently consists of approximately 7,000 acres. Property in the district is subject to an additional property tax at the rate of 0.02 cents on each $100 value of property subject to taxation.[3] The tax revenue generated from this tax may only be used to provide services within the district.

BILL ANALYSIS: Senate Bill 214 establishes a procedure to remove property from a research and production service district. The board of county commissioners may remove property from a district by resolution after notice and a public hearing. For property to be removed from a district, the board of county commissioners must find the following:

- The owners of the property to be removed contemplate placing residential uses on some of the property to be removed.
- All of the owners of property in the area to be removed have petitioned for removal.
- The area to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

Once property has been removed from the district, it is subject to the general law concerning annexation. A resolution removing property from a district takes effect at the beginning of a fiscal year commencing after its passage. The Research Triangle Park plans a mixed-use project near one of the Triangle Transit Authority Rail stations, to open in 2007. The area to be removed is approximately 26 acres on the edge of the district.

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[1] Part 2 of Article 16 of Chapter 153A.
[2] G.S. 153A-312(a) imposes additional conditions.
[3] G.S. 153A-317 provides that the tax rate may not exceed 10 cents on each $100 value of property subject to taxation.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 214 A BILL TO BE ENTITLED AN ACT TO ALLOW TERRITORY TO BE REMOVED FROM A RESEARCH AND PRODUCTION SERVICE DISTRICT.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 96
PROPOSED COMMITTEE SUBSTITUTE H96-CSSVx-11 [v.3]

5/14/2003 3:33:53 PM

Short Title: Avery County/Blowing Rock Occupancy Tax. (Local)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY AND TO AUTHORIZE THE TOWN OF BLOWING ROCK TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

AVERY COUNTY OCCUPANCY TAX

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County

District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

BLOWING ROCK OCCUPANCY TAX

SECTION 6. Chapter 171 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. – (a) Authorization and scope. – The Blowing Rock Town Council may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the corporate limits of the town that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3).~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Blowing Rock Town Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The Town of Blowing Rock may not levy a tax under this section unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~

(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act.~~The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a~~

~~return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and use of tax revenue. The Town of Blowing Rock ~~shall retain from the gross proceeds of the tax an amount sufficient to pay its direct costs for administrative and collection expenses, not to exceed three percent (3%) of the gross proceeds. The town council shall, at least once annually, conduct a hearing on the proposed use of the net proceeds of the tax. The amount of the net proceeds shall be reported at the hearing. After the hearing, the town council may remit twenty percent (20%) of the net proceeds reported at the hearing to the Blowing Rock Chamber of Commerce. The Blowing Rock Chamber of Commerce may use the funds remitted to it pursuant to this subsection only to promote tourism within the Town of Blowing Rock. The remainder of the net proceeds may be used by the town to enhance the ability of the town to attract tourism, except that the town may not expend any of the net proceeds for general fund operating expenses that are not tourist related or for water and sewer capital or operating expenses that are not tourist related.~~shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Blowing Rock Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Blowing Rock and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 1.1. Blowing Rock Tourism Development Authority. – (a) Appointment and membership. – When the Blowing Rock Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Blowing Rock Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Blowing Rock shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the town.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Blowing Rock Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Blowing Rock Town Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. This act is effective upon ratification."

SECTION 7. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan,

Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 8. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

SECTION 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 96

Short Title:	Avery County Occupancy Tax.	(Local)
Sponsors:	Representative Frye.	
Referred to:	Finance.	

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5

of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 6. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 96:
Avery County Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***House Bill 96 creates a taxing district in Avery County that consists of the unincorporated areas of the county and authorizes the district to levy a room occupancy tax of up to 6%. The Proposed Committee Substitute adds a provision authorizing the Town of Blowing Rock to increase its room occupancy tax from 3% to 6% and makes its current administrative provisions conform to the occupancy tax guidelines followed by the House Finance Committee.***

The PCS was given a favorable report by the Occupancy Tax Subcommittee.

CURRENT LAW:

Avery County

In 1993, the General Assembly authorized Avery County to levy a 3% occupancy tax. In 2000, the county repealed its occupancy tax, but it still had the legislative authority to levy the tax. Then in 2001, the General Assembly repealed the county's authority to levy the tax. All of the towns in Avery County currently have the authority to levy a 6% room occupancy tax.

Blowing Rock

In 1987, the General Assembly authorized the town of Blowing Rock to levy a 3% room occupancy tax. The legislation requires the town council to conduct a hearing at least once a year on the proposed use of the net proceeds of the tax. After the hearing, the town council may remit 20% of the net proceeds to the Blowing Rock Chamber of Commerce, which must use the funds to promote tourism within the town. The town may use the remainder of the proceeds to enhance the ability of the town to attract tourism. However, the town may not use any of the proceeds for general fund operating expenses that are not tourist-related. Currently, the town does not have a Tourism Development Authority.

BILL ANALYSIS:

Avery County District U

The bill creates the Avery County District U taxing district, which consists of the unincorporated areas of the county. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. The bill authorizes the district to levy a room occupancy tax of up to 6%. The district must remit the net proceeds of the tax on a quarterly basis to a Tourism Development Authority, which is required to be established under the bill. The Authority must use two-thirds of the net proceeds to promote travel and tourism and the remainder must be used for tourism-related purposes.

The provisions regarding Avery County District U meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

Blowing Rock

Section 6 of the bill authorizes the town of Blowing Rock to increase its room occupancy tax from 3% to 6%. It also conforms Blowing Rock's current legislation to both the uniform provisions concerning the levy, administration, collection, and repeal of the tax found in G.S. 160A-215 and the uniform provisions concerning the use and distribution of the proceeds.

The provisions regarding Blowing Rock meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

FISCAL ANALYSIS MEMORANDUM

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

DATE: **May 19, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 96 PCS – Avery County Occupancy Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No General Fund Impact ***				
Avery Co. TDA	*** See Assumptions and Methodology ***				
Blowing Rock	**333,653**	**340,326**	**347,133**	**354,075**	**361,157**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Avery County and the Town of Blowing Rock.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes three changes to current occupancy taxes. First, it creates a taxing district, "Avery County District U", and authorizes that district to levy a room occupancy tax of up to 6%. Second, it allows the Town of Blowing Rock to increase its room occupancy rate from 3% to 6%. Finally, it conforms the existing Blowing Rock occupancy tax language to reflect the occupancy tax guidelines followed by the House Finance Committee.

BACKGROUND: In 1983 the General Assembly authorized Avery County to levy a room occupancy tax of up to 3%. That tax was levied through 1999. In 2000, the local county commission repealed the room tax, and in 2001, the General Assembly repealed that county's authority to levy an occupancy tax. Independent of these actions, all municipalities in Avery County are authorized to levy a room tax of up to 6%.

ASSUMPTIONS AND METHODOLOGY: The first potential fiscal impact relates to Avery County. According to reports filed with the Tax Research Division of The NC Department of Revenue, Avery County municipalities levied and collected the following occupancy taxes in 2001-02:

Municipality	Rate	Revenue
Banner Elk	3%	54,338
Beech Mountain	3%	
Sugar Mountain*	3%	53,896

* Sugar Mountain's occupancy tax became effective January 1, 2002.

In 1999-00 Avery County collected $156,512 in occupancy taxes, using a 3% rate. Growing this forward to a 2001-02 occupancy tax estimate suggests that if a countywide tax were levied in that year it would yield approximately $162,272. However, as the above municipal revenue figures indicate, the vast majority of the revenues were drawn from incorporated areas, suggesting limited revenues from what now would be the Avery County District U. However, no exact fiscal estimate is available at this time.

The second impact relates to Blowing Rock. In 2001-02 the 3% Blowing Rock occupancy tax raised $320,697 in revenues. This suggests that doubling the rate to 6% in that same year would have yielded an additional $320,697. Applying the 2% growth rate noted above suggests the following increased revenue stream for Blowing Rock:

2003-04	2004-05	2005-06	2006-07	2007-08
333,653	340,326	347,133	354,075	361,157

This is the amount shown in the fiscal impact box. It should also be noted that the changes made in the Blowing Rock occupancy tax statutes may result in a reallocation of funds among purposes.

SOURCES OF DATA: NC Department of Revenue.

2003

HOUSE FINANCE

COMMITTEE MINUTES

House Committee on Finance

Minutes

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May 28, 2003 ~ 8:30 am

The House Committee on Finance met on Wednesday, May 28, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Wood, and Ex-officio members, Representatives Brubaker, Culpepper and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Jerry Cohen, Martha Harris, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Allen called the meeting to order at 8:47 am and immediately recognized the four pages present: (1) Heather Clayton of Rowan County, sponsored by Representative McCombs; (2) Tyler Dickson of Gaston County, sponsored by Representative Rayfield; (3) Nina Jackson of Sampson County, sponsored by Representative Nye; and (4) Shira Sattin of New Hanover County, sponsored by Representative McComas.

As the first matter of business before the Committee, Chairman Allen recognized Representative Howard for a motion on HB 457 – CITY OF JACKSONVILLE LOCAL ACT-2 (see attachment 3). Representative Howard moved that the Committee adopt the Proposed Committee Substitute for the bill and that the bill be re-referred to the House Finance Subcommittee on Occupancy Taxes. The Chair called the vote on the motion, and it carried without objection.

Chairman Allen then recognized and welcomed the Secretary of the North Carolina Department of Health and Human Services, Carmen Hooker Odom. Secretary Odom began her discussion by heavily emphasizing the State's need for "a new, state-of-the-art psychiatric hospital." She noted that various studies have shown that North Carolina relies heavily upon institutional care rather than community care. Due to federal regulations and other factors, noted Odom, the downsizing of these institutions and the implementation of community-based care facilities is being required. Secretary Odom stated that a new hospital in the central area of the state was, in her opinion, the most prudent and fiscally wise choice. She explained that by closing down two, old existing hospitals and building this one new one, the state could save money while at the same time providing the necessary level of care. She reported that the required costs to properly renovate and update the two existing hospitals would cost the state between $140 million and $160 million dollars. Construction of the proposed new hospital would cost only an estimated $110 million. On a final note, with regard to the overall costs of a new hospital, Secretary Odom pointed out that the proposed funding for this hospital was through Certificates of Participation (COPS) which have been used by the state for past prison constructions.

Secretary Odom then turned her focus to the most appropriate site or location of the new hospital (see bill summary and fiscal note, attachment 4). She noted that her office had investigated a number of locations that were proposed in the central part of the state. After this search, she announced that she and her office were in support of the new hospital being constructed in the community of Butner (Granville County). She was quick to stress, however, that the location of the new hospital was far less important than the quality of the clinical care provided to the patients.

Secretary Odom further spoke to the outstanding quality and commitment provided by the dedicated employees working in these hospitals. She noted that the loss of the current hospital in the Butner area and the new hospital being located elsewhere would likely have a lasting effect on the growing employment problems in that area of the state.

Secretary Odom spoke to the proposed Chatham County (Siler City) site for a hospital. However, she explained that this location, while located more centrally than any other proposed site in the region, does not have good highway access. She also stated that water and sewer lines would both have to be extended to the area as they are not already in place. She also noted that this location would require the construction of an access road, which would require a right of access from private property owners. Secretary Odom compared these problems with the Butner site when stating that at the Granville County site there would be no access roads required and the state already owns the water and sewer lines on the property.

Following a few questions from members, Chairman Allen thanked Secretary Odom for her presentation and asked her to remain in the Committee room to field any questions that might arise.

The Chair then recognized Representative Luebke who moved for the adoption of the PCS for HB 684, HB 949, and HB 961. With no objection present, the motion carried.

Chairman Allen then immediately recognized Representative Crawford to explain HB 684 (see attachment 5). This bill acts to construct a new psychiatric hospital at the Butner (Granville County) site. Representative Crawford noted his long commitment and work involving the issues of mental health and illness. He explained that Butner was the best location for the new hospital because the people in this rural area are caring. He also explained that the community of Butner was economically dependent upon the continued existence of a hospital in the area. He specifically stated that the unemployment rate in Butner was estimated to soar from 6 percent to 13 percent if the hospital was relocated. He noted that there are over 9,000 acres at the Butner site available and that the site provides easy access to both Interstate 85 and Interstate 40.

The Chair next recognized Representative Hackney to explain HB 949 (see attachment 6). This bill acts to construct the new hospital at the Chatham County (Siler City) site. Representative Hackney began his presentation for HB 949 by stating that the Committee members should think about the long term when considering the construction site for this hospital. He then outlined a number of reasons why Chatham County (Siler City) was the best site:

- Representative Hackney stated that the primary focus should be the interests of the patients and their families, and not State Employees.
- The Triad, Triangle, and Cumberland metropolitan areas of the central region are all easily accessible to the Chatham site.

- The site provides temporary living options and other services (hotels, motels, restaurants, etc.)
- The Chatham site sits close to the intersection of two large highways – US 64 and US 421.
- Representative Hackney emphasized that the problems pointed out by Secretary Odom concerning access to the facility are outdated and no longer accurate and that access to the site would cost the state no money.
- The new hospital facility must be able to attract the best and the brightest staff, but Representative Hackney feels this can't be accomplished at the Butner site. He specifically cites Dr. Golden's letter from the UNC School of Medicine, Department of Psychiatry (see attachment 5).
- There is no state institution in Chatham County. Wake County and Butner both already have state and federal facilities within their borders.
- Chatham County, due to job losses in the furniture industry, can rival the job demand for the hospital in the Butner area. Chatham also has a ready workforce available (since it can easily draw from surrounding communities) unlike Butner.
- The Chatham/Siler City community offers affordable living for those families choosing to relocate to the area.
- Finally, Representative Hackney noted that Butner is in the far northeast of the central region and Wake is farther east than any other area in the region.

Following Representative Hackney's explanation, Chairman Allen informed the Committee that the time was 10:00 am and asked if the Committee could continue onward or if it would need to break. As several committee members were required to attend other meetings during the 10:00 o'clock hour, Chair Allen ordered the meeting in recess (at 10:02 am) for one hour until 11:00 am. He stated that when the Committee reconvened at 11 am, it would hear from Representative Ross on the proposed Wake County Hospital site. He also noted that the members would meet in Room 643 of the Legislative Office Building (Appropriations Committee Room) as the current room was unavailable during that hour.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 457 (and Proposed Committee Substitute)
4. Bill Summary and Fiscal Note for HB 684, HB 949, and HB 961
5. House Bill 684 (and related materials)
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House Committee on Finance

Minutes

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Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

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House Committee on Finance

Minutes

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May 28, 2003 ~ 11:00 am

The House Committee on Finance reconvened on Wednesday, May 28, 2003 at 11:00 am in Room 643 of the Legislative Office Building (following an 8:30 am meeting in Room 544). The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Wood, and Ex-officio members, Representatives Culpepper and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Jerry Cohen, Martha Harris, Jim Klingler, and Martha Walston.

Chairman Allen called the meeting back to order at 11:30 am. He then recognized the two pages present: Leigh Williamson and Lesli Oakley, both of Wake County, both sponsored by Speaker Black.

In continuing the discussion of Psychiatric Hospitals in the state, the Chair recognized Representative Ross to explain HB 961 (see attachment 7). This bill acts to construct a new psychiatric hospital in the Wake County area. Representative Ross requested first that the Chair recognize Representative Miner to address the Committee on the bill, noting that there is bipartisan support of this hospital by all members of the Wake County delegation. Representative Miner spoke briefly on the importance of the Committee making the best decision on where to build this hospital. The Chair then once again recognized Representative Ross. She began by stating her background as a daughter of a psychiatrist with over 25 years experience working in a hospital and caring for the mentally ill. She noted that she represents all of the neighborhoods in and around the current Dorothea Dix Hospital in Raleigh. Representative Ross feels that the primary focus of the General Assembly and the Committee should be patient care. She then explained that Wake County has the largest number of people in its area with regard to population. Wake County, according to Ross, is also able to provide the best staff and treatment for patients in a psychiatric hospital as well as the services needed by families living or visiting in the area. She stressed that while Chatham County is most central in the region when looking at a map, Wake County is most central with regard to accessibility to the greatest number of people.

Following this discussion and a few questions from members, Chairman Allen informed the members that a Budget Conference Committee meeting had been called for 12 noon and would require the postponement of this meeting until a later time.

Without further discussion, Chairman Allen recessed the meeting at 11:57 am until next Tuesday, June 3, 2003, at 8:30am in Room 544 of the Legislative Office Building when the issue of the location of this new psychiatric hospital will again be addressed.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

7. House Bill 961 (and related materials)

House Committee on Finance

Minutes

~

May 28, 2003 ~ 11:00 am

The House Committee on Finance reconvened on Wednesday, May 28, 2003 at 11:00 am in Room 643 of the Legislative Office Building (following an 8:30 am meeting in Room 544). The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Wood, and Ex-officio members, Representatives Culpepper and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Jerry Cohen, Martha Harris, Jim Klingler, and Martha Walston.

Chairman Allen called the meeting back to order at 11:30 am. He then recognized the two pages present: Leigh Williamson and Lesli Oakley, both of Wake County, both sponsored by Speaker Black.

In continuing the discussion of Psychiatric Hospitals in the state, the Chair recognized Representative Ross to explain HB 961 (see attachment 7). This bill acts to construct a new psychiatric hospital in the Wake County area. Representative Ross requested first that the Chair recognize Representative Miner to address the Committee on the bill, noting that there is bipartisan support of this hospital by all members of the Wake County delegation. Representative Miner spoke briefly on the importance of the Committee making the best decision on where to build this hospital. The Chair then once again recognized Representative Ross. She began by stating her background as a daughter of a psychiatrist with over 25 years experience working in a hospital and caring for the mentally ill. She noted that she represents all of the neighborhoods in and around the current Dorothea Dix Hospital in Raleigh. Representative Ross feels that the primary focus of the General Assembly and the Committee should be patient care. She then explained that Wake County has the largest number of people in its area with regard to population. Wake County, according to Ross, is also able to provide the best staff and treatment for patients in a psychiatric hospital as well as the services needed by families living or visiting in the area. She stressed that while Chatham County is most central in the region when looking at a map, Wake County is most central with regard to accessibility to the greatest number of people.

Following this discussion and a few questions from members, Chairman Allen informed the members that a Budget Conference Committee meeting had been called for 12 noon and would require the postponement of this meeting until a later time.

Without further discussion, Chairman Allen recessed the meeting at 11:57 am until next Tuesday, June 3, 2003, at 8:30am in Room 544 of the Legislative Office Building when the issue of the location of this new psychiatric hospital will again be addressed.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

7. House Bill 961 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

May 28, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Secretary Carmen Hooker Odom,
North Carolina Department of Health and Human Services

Bills:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 28, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Caroline Rickless	NAMI Wake County
Frances Glover	
Linda Keller	
Betty Lisk	
Greg Baker	
Josie Douglas	NAMI Wake County
John Speight	NAMI Wake County
Betty Schmadel	NAMI Wake Co.
Tommy Emerson	CHAIRMAN Chatham County B.O. Comm.
BOB ATWATER	CHATHAM Co. COMMISSIONER
Tony Tucker	Chatham Co. Economic Dev Corp.
Paul Taylor	CHA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 28, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tony Hatch	DHHS
Michael Rulison	NAMI
Adele Fasehia	Eastern Seals & Coalition 2001
Robert Golden MD	UNC Psychiatry Dept.
Ernestine Durham	Executive Intern - FRD / Lop Gibson
Tony W. Cozart	Granville County Commissioner
Hubert L. Goodlett	GRANVILLE COUNTY COMMISSIONER
Dudley Watts	GRANVILLE COUNTY MANAGER
Henry Lancaster	LCA
J. Pratt Winston	GRANVILLE COUNTY EDC Chairman
Ron Wiggins	Granville County Comm.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 28, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Maria Boyer	Nurse of the Wes
[illegible]	[illegible]
Lafonda Jones	FAMM-NC
Laura Sager	FAMM-NC
Susanna Winters	NAMI WAKECO
Susan Johnson	NAMI WAKECO
Amy Dobson	NC State Watch
Joe Durham	Wake Co Gov't
Mildred Spearman	Dept. of Correction
[illegible]	Foundation of Hope
John Cyrus	NC State Grange

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 28, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hal Miller	NCACCT
Tommy Emerson	Chatham County Comm.
Tony Tucker	Chatham EDC
Bob Atwater	Chatham Commerce
Mark Dixon	Capitol Group
Amy Dobson	NC Statewatch.
Louise Fisher	Wake AMI - MHA N.C.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 5/28/03

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS	
Gerald Akland	NAMI-WC	Knightdale NC
Ann Akland	NAMI-WC	Knightdale NC
Sarah House	NAMI-WC	Knightdale NC

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Wednesday, May 28, 2003**

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

LOCATION: **544 LOB**

The following discussion will be offered:

INFORMATIONAL PRESENTATION – Secretary Carmen Hooker Odom,
North Carolina Department of Health and Human Services

The following bills will be considered:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **May 22, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, May 22, 2003 11:09 AM
Subject: NOTICE House Finance Committee 5-28-2003

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Wednesday, May 28, 2003**

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

LOCATION: **544 LOB**

The following discussion will be offered:

INFORMATIONAL PRESENTATION – Secretary Carmen Hooker Odom,
North Carolina Department of Health and Human Services

The following bills will be considered:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **May 22, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Nancy Brantley (Rep. Gordon Allen)

From: Martha Harris (Bill Drafting)
Sent: Monday, May 19, 2003 12:58 PM
To: Rep. Gordon Allen
Cc: Nancy Brantley (Rep. Gordon Allen); Canaan Huie (Bill Drafting); Martha Walston (Fiscal Research)
Subject: Three Psychiatric Hospital Bills - Procedure

Here is an outline of the procedure we discussed that appears to be equally fair to the proponents of each location for a new hospital (see chart below). We reviewed several options and this one seems to create an even playing field with a minimum of confusion. Staff will have the documents ready. If you decide on a different approach, please let us know. Also, you may want to inform Rep. Hackney and Rep. Ross in advance of this procedure.

1. The Secretary and each sponsor will be given an opportunity to speak at the beginning of the meeting.
2. The committee members will be informed that identical PCSs have been prepared for each bill. Each PCS does three things:
   - Removes the location.
   - Removes the unmarketable type of debt that was in the original bill, as recommended by Treasurer.
   - Clarifies generally (without naming hospitals) that if any existing institutions are closed, the recurring savings will go toward debt service.
3. The committee members will be informed that the question of where the hospital will be located will be decided by voting on amendments to the PCS, which any member may offer.
4. The committee would then adopt HB 684 for discussion and consideration of amendments. Staff will have amendments ready for each of the three locations.

Psychiatric Hospital Debt Bills for Jun 5/27/03 "secured indebtedness"

Bill #	Short Title	Sponsor	Status	Information
H684 [S845]	Psychiatric Hospital - Butner	Rep. Crawford [Sen. Gulley]	H Fin [S Fin]	Authorizes $110 million of security interest debt. The PCS for each House bill removes the special obligation bonds, which the Treasurer's office determined are not marketable. The PCS also provides that any savings from closing any existing hospital would be used for debt service. Each PCS removes any reference to location; location will be determined by committee amendment.
H949	Psychiatric Hospital - Chatham	Rep. Hackney	H Fin	
H961	Psychiatric Hospital - Wake	Rep. Ross	H Fin	

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Martha H. Harris, Staff Attorney
Legislative Drafting
401 Legislative Office Building
Raleigh, NC 27603-5925
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, May 20, 2003 1:56 PM
To: 'aakland@nc.rr.com'
Subject: House Bills 684, 949, and 961 calendared for 5-27-03

Ms. Akland,

This message confirms our phone conversation earlier today.

Please be advised that the House Committee on Finance has calendared House Bills 684, 949, and 961 for consideration on Tuesday, May 27, 2003 at 8:30 am in Room 544 of the Legislative Office Building.

I will inform the Committee Chairs of your intent to address the membership. Please let me know if you have further questions for concerns.

Thank you.

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Jason A. Cannon, MPA
Assistant to the House Committee on Finance
North Carolina General Assembly
1104 State Legislative Building
Raleigh, North Carolina 27601-1096
(919) 715-1812 ~ jasonc@ncleg.net
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 457
PROPOSED COMMITTEE SUBSTITUTE H457-CSSVx-21 [v.2]

5/24/2003 8:43:05 PM

Short Title: Jacksonville Occupancy Tax. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF JACKSONVILLE TO LEVY AN OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Jacksonville City Council may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – The City of Jacksonville shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Jacksonville Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Jacksonville and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a city or to attract

tourists or business travelers to the city. The term includes tourism-related capital expenditures.

SECTION 2. Jacksonville Tourism Development Authority. – (a) Appointment and Membership. – When the Jacksonville City Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a city Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the city, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the city. The city council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the City of Jacksonville shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in this act. The Authority shall promote travel, tourism, and conventions in the city, sponsor tourist-related events and activities in the city, and finance tourist-related capital projects in the city.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Jacksonville City Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the city council may require.

SECTION 3. G.S. 160A-215(g) reads as rewritten:

"(g) **(Effective February 1, 2003)** This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Jacksonville, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 457

Short Title:	City of Jacksonville Local Act-2.	(Local)
Sponsors:	Representatives Grady; and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 13, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CITY OF JACKSONVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to the City of Jacksonville only.

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

HB 684, 949, & 961 (PCS): Psychiatric Hospital Financing

BILL ANALYSIS

Committee: House Finance
Date: May 21, 2003
Version: PCS

Sponsors: See below
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The PCS for each of these three bills authorizes the issuance of up to $110 million in security interest debt to finance the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

Introduction: Three bills have been introduced in the House to authorize the issuance of $110 million of debt to finance a new psychiatric hospital. The sponsors and the hospital locations for each bill are indicated in the following chart:

Bill #	Short Title	Sponsors; Co-Sponsors	Status
H684 **[S845]**	Psychiatric Hospital – Butner H684-CSLCx-42	Rep. Crawford, G. Allen, Fox, Luebke; Rep. Wainwright [Sen. Gulley]	H Finance [S Finance]
H949	Psychiatric Hospital – Chatham H949-CSLCx-41	Rep. Hackney, Insko, Brubaker, Culp	H Finance
H961	Psychiatric Hospital – Wake H961-CSLCx-43	Rep. Ross, Munford, Miner, Weiss; Rep. B. Allen, Capps, Eddins, Ellis	H Finance

The PCS for each of these bills removes the location so that no location is specified. A location can be added by adoption of an amendment.

The PCS for each bill also makes two changes suggested by the State Treasurer:

1. Removes the authorization for special obligation bonds that would have been supported by receipts of the new hospital. It has been determined that these bonds would not be marketable.
2. Clarifies that any recurring savings generated by closing any existing psychiatric hospitals would be used for debt service. This provision is worded generically, without naming any institutions that might be closed.

The following summary applies equally to the PCS for each bill, as they are identical:

Part 1 of the bill enacts the procedural and regulatory provisions needed to carry out the security interest indebtedness. This provision is similar to the repair and renovation authorization that was in the House budget bill. Commonly referred to as "certificates of participation," security interest indebtedness is debt that is secured by an interest in the property being repaired or renovated. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of

participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of security interest debt may be the least expensive and most practical for the State to utilize. More details about security interest debt are provided at the end of this summary. Part 1 prohibits the issuance of security interest debt except for projects specifically authorized by the General Assembly.

Part 2 of the bill provides the specific legislative authorization for up to $110 million of this type of indebtedness to be used for a new psychiatric hospital. Part 2 also states: "The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project."

Part 3 of the bill makes the following changes:

- Requires DHHS to maintain the UNC Medical School research programs currently being conducted at Dorothea Dix hospital.
- Authorizes the county chosen as the site for the hospital to acquire the land by eminent domain and to convey the land to the State.
- Directs that recurring savings realized from the closure of State psychiatric hospitals will not revert to the General Fund but will be used for the payment of debt service on the debt financing the new hospital.
- Creates a study commission to consider the potential disposition of the State-owned real property encompassing the Dorothea Dix Hospital campus.

Details about Security Interest Debt

Security. The debt would be secured by a lien on or security interest in all or any part of the capital facilities to be financed, including all or part of any land on which improvements are to be constructed. If the project is a renovation, the entire existing facility as well as the improvement could serve as security. The value of the property securing the debt may exceed the amount of the debt and the financing of several capital projects may be jointly secured by liens on some or all of the capital facilities being financed.

There would be no pledge of the State's faith and credit or taxing power. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered against the State, but the capital facilities that serve as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

Types of projects. The bill specifically defines capital facilities that may be financed as any combination of:

(1) Buildings, utilities, structures, and other facilities and property developments, including streets, landscaping, equipment and furnishings in connection with a building project.

(2) Additions, renovations, and improvements to existing facilities, including streets and landscaping.

(3) Land acquisition.

(4) Other infrastructure.

(5) Furniture, equipment, vehicles, machinery, and similar items.

Form of debt. The funds could be borrowed from a single entity in an installment purchase or lease purchase contract, could be generated by the issuance of limited obligation bonds, or could be borrowed under an installment financing contract by the sale of certificates of participation. A certificate of participation represents the holder's undivided interest in the right to receive the installment payments to be made by the State. If certificates of participation are issued, a nonprofit corporation will act as a straw person to facilitate the financing.

History. While local governments have used installment finance contracts for years, it is a recent financing tool for the State. In 1999, the Senate passed Senate Bill 912 to authorize the issuance of bonds for UNC system and Community College system projects, to be secured by the property being constructed or improved. The House of Representatives rejected this part of the bill and when the bill was enacted in 2000 the bonds authorized were general obligation bonds, which the voters subsequently approved. In 2000, the General Assembly enacted S.L. 2000-143, which authorized installment contract financing for a $13.5 million office building and wildlife education center for the Wildlife Commission and a $4 million Eastern Wildlife Education Center. In 2001, the General Assembly authorized the State to enter into lease-purchase contracts to finance three prisons (S.L. 2001-84). In 2002, the General Assembly authorized installment financing contracts for guaranteed energy savings contracts for State buildings (S.L. 2002-161). In 2003, both the House and Senate versions of the budget bill authorized special indebtedness for repair and renovations and the Senate version also authorized lease-purchase of an additional three prisons.

Oversight. Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

Jason Cannon (House Finance)

From: Martha Harris (Bill Drafting)
Sent: Thursday, May 22, 2003 11:21 AM
To: Jason Cannon (House Finance)
Cc: Martha Walston (Fiscal Research); Jennifer Williston (Bill Drafting)
Subject: Three Psych Hospital PCSs

Here are the three proposed committee substitutes for the three psychiatric hospital bills to be considered Wednesday. They are identical except for bill number and date of introduction.
Thanks,
Martha

Psychiatric Hospital Debt Bills

Bill #	Subject	Sponsor	Status	Information
H684 [S845]	Psychiatric Hospital - Butner H684-CSLCx-42	Rep. Crawford [Sen. Gulley]	H Fin [S Fin]	$110 million of security interest debt. The PCS for each House bill removes the special obligation bonds, which the Treasurer's office determined are not marketable. The PCS also provides that any savings from closing any existing hospital would be used for debt service. Each PCS removes any reference to location; location will be determined by committee amendment.
H949	Psychiatric Hospital - Chatham H949-CSLCx-41	Rep. Hackney	H Fin	
H961	Psychiatric Hospital - Wake H961-CSLCx-43	Rep. Ross	H Fin	

FISCAL ANALYSIS MEMORANDUM

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

DATE: **May 28, 2003**

TO: House Finance Committee

FROM: Jim Klingler
Fiscal Research Division

RE: HB 684, 949, and 961(PCS) – Psychiatric Hospital Financing

---

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

(In Millions)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Operating Expenditures					
Dix & Umstead Hosp.	($5.23)	($9.77)	($27.86)	($49.19)	($104.02)
New Psych. Hospital				$21.66	$52.00
Community Services	$5.23	$6.47	$15.76	$15.76	$40.58
Debt Service					
New Psych. Hospital		$3.30	$12.1	$11.77	$11.44

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: When the bill becomes law

BILL SUMMARY:

The Project - The proposed committee substitute (PCS) for House Bills 684, 949, and 961 provides authorization for financing the construction of a 450,000 square foot, 432-bed psychiatric hospital for central North Carolina. The amount of indebtedness is limited to the estimated cost of construction of $110 million.

Special Indebtedness - Financing authorized by this proposed bill includes: (1) an installment-purchase or lease-purchase contract with a single entity; (2) limited obligation bonds, or (3) an installment-purchase contract through the sale of certificates of participation. Certificates of participation are a form of contract indebtedness where the State, through a non-profit corporation, issues certificates that represent the holder's undivided interest in the right to receive installment payments from the State.

Securitization - In order to secure financing under the three forms of indebtedness listed above, a lien or security interest may be placed on the constructed facilities comprising the new hospital and the land on which the facilities are located. If this indebtedness is used to finance the renovation of existing facilities, a lien could be placed on all or part of the existing facilities.

Under the forms of financing authorized by this PCS, there would be no pledge of the State's taxing power or a pledge of the State's full faith and credit. As a result, voter approval is not necessary for issuance of these forms of debt. If the State defaulted on repayment of this debt, the State could not be forced to generate new tax revenue to service the debt. Instead, the land and facilities financed through special indebtedness could be liquidated to repay the debt. If the General Assembly chose not to appropriate funds for debt service for the new hospital, the State's credit rating could be adversely impacted.

Issuance – The Department of Health and Human Services must notify the Department of Administration of the need for special indebtedness. The Department of Administration then consults with the Office of State Treasurer on the merits of issuing debt for the authorized purpose. The Treasurer must contact the Office of State Budget and Management to determine whether revenues will be available to service the proposed debt. If the Treasurer determines that special indebtedness is desirable for financing the project, the Treasurer must certify this decision in writing to the Department of Administration.

The Department of Administration then calls a meeting of the Council of State for preliminary approval. Prior to issuance of debt, the Council of State must give final approval. The approval resolution must contain a description of the specific project, a maximum principal amount of the special indebtedness, a specified maturity or maximum maturity on the debt, specified interest rates or a maximum rate of interest on the debt, and any condition in addition to the provisions of this bill.

Upon approval by the Council of State, the Treasurer provides final written approval. To do so, the Treasurer is authorized to request addition information and reports to determined the appropriateness of issuing debt. The Treasurer is responsible for management and oversight of the issuance of debt. Once all the provisions of this bill have been met, the Treasurer must report to Joint Legislative Commission on Governmental Operations at least five days prior to issuing any special indebtedness.

UNC Research Programs – This PCS directs the Department of Health and Human Services (DHHS) to preserve all existing educational and research programs in Dorothea Dix Hospital conducted by the University of North Carolina Medical School. As the Department closes Dix Hospital, DHHS must consult with the UNC Medical School regarding the transfer of these programs to the new hospital. The UNC Medical School would retain authority over the management of these education and research programs in the new psychiatric hospital.

Disposition of County Property – Upon selection of a particular site to construct the new hospital, this proposed bill authorizes the selected county to use eminent domain, if necessary, to acquire land for the project. The county would transfer possession of this land to the State.

Cost Savings and Hospital Closure – This PCS requires all savings associated with the closure of any psychiatric hospitals to be directed to repaying debt service on the new psychiatric hospital before reverting to the General Fund. Nonrecurring savings would be deposited in the Mental Health Trust Fund for System Reform and recurring savings would be retained by DHHS. Both sources of funds would be dedicated first to repaying the debt. The balance of non-recurring cost savings, after payment of the annual debt service, would remain in the Mental Health Trust Fund for the purposes of the Trust Fund. All remaining recurring savings would be retained by DHHS for the purpose of complying with the Olmstead v. L.C. and E.W. case and implementation Mental Health Reform.

In practical terms, funds saved from the closure of the two hospitals will: (1) pay the annual debt service on the new hospital; (2) pay the operating expenses of the new hospital, and (3) the remaining balance will go to community programs for the expansion of mental health services in the community.

Dix Hospital Property Study Commission – The proposed bill establishes the Dorothea Dix Property Study Commission. If the State finds itself in the position of selling the land and facilities on which Dorothea Dix Hospital is currently located, the Dorothea Dix Property Study Commission must consider the sale prior to any action by the State. Before the sale occurs, the Study Commission will make a recommendation on disposition of the property to the Joint Legislative Commission on Governmental Operations.

ASSUMPTIONS AND METHODOLOGY:

The proposed bill calls for a 450,000 square foot, 432-bed psychiatric hospital. The cost of constructing this hospital is estimated to be $110 million. Construction is assumed to begin in November 2004 and complete in November 2006.

Debt service payments were estimated based on a simulation provided by the Office of State Treasurer. The estimated debt service assumes that the State will finance the full $110 million through special indebtedness. The estimated repayment includes an average interest rate of 6.0% and a maximum maturity of 20 years. The earliest expected date of issuance would be November 2004. Estimated annual debt services payments range from $5.83 million to $12.1 million.

The following chart displays the current expenditures associated with operating Dix and Umstead Hospitals for the next five years. The chart also shows the shift of operating dollars from the two existing hospitals to the newly constructed psychiatric hospital and to the community for increased local mental health services.

The New Psychiatric Hospital and Realignment of Operating Expenditures					
Operating Expenditures	**FY 2003-04**	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
Dix and Umstead Hospitals	$107,415,928	$103,652,980	$85,567,980	$60,313,621	$0
New Psychiatric Hospital	$0	$0	$0	$21,666,667	$52,000,000
Hospital Debt Service		$3,300,000	$12,100,000	$11,770,000	$11,440,000
Butner ADATC and Dix Campus Operation			$3,917,693	$9,402,462	$9,402,462
Expenditures Realigned to Community Services	$5,231,780	$6,475,000	$15,760,000	$15,760,000	$40,585,518

In calculating the numbers in the chart above, DHHS made the following assumptions:

- The operating costs of Dix and Umstead Hospitals do not include lapse salaries/benefits, which are budgeted annually.
- In FY 2005-06 and subsequent years, DHHS separated the estimated budget for running the Butner Alcohol and Drug Abuse Treatment Center (ADATC) and for maintaining the Dix Campus.
- The Butner ADATC expenditures were estimated from the average appropriation to the Jones ADATC and the Keith ADATC.
- The Dix Campus operating expenditures were estimated according to current appropriations for maintain the Dix Campus facilities used by various DHHS agencies and 15% of the appropriation for the hospital facilities.

- The estimated operating costs for the new hospital are based on the average appropriation for Dix and Umstead, excluding the Butner ADACT and the Dix Campus operation.

As proposed in the PCS, this analysis assumes that the cost savings from the closure of Dix and Umstead Hospitals would not revert to the General Fund. Instead, the cost-savings would be used to pay the debt service for the new hospital, the operating expenditures associated with the new hospital, and the expansion of community-based mental health services. Considering that DHHS is anticipating annual cost-savings from the closure of Dix and Umstead Hospitals that exceed the cost of annual debt service payments for the new hospital, **no net impact to the General Fund is expected.**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 684*
PROPOSED COMMITTEE SUBSTITUTE H684-CSLCx-42 [v.2]

5/22/2003 11:16:40 AM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ___" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 684*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Crawford, G. Allen, Fox, Luebke (Primary Sponsors); and Wainwright.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN BUTNER, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the

use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ___" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the

property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 4.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of Dorothea Dix Hospital and John Umstead Hospital that are in excess of the cost of operating and maintaining the new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of Dorothea Dix Hospital and John Umstead Hospital shall not revert to the General Fund but shall be retained by the Department of Health and Human Services and used for the purposes of subsections (b)(2) and (b)(3) of this section and for the repayment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital."

SECTION 4.4.(a) Dorothea Dix Hospital Property Study Commission. – If the State-owned real property encompassing the Dorothea Dix Hospital campus is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

Blackwood 1317

THE CASE FOR A NEW PSYCHIATRIC HOSPITAL AT BUTNER

HOUSE BILL 684
SENATE BILL 845

After two exhaustive studies, the Secretary of Health and Human Services concluded that, to fulfill the duty of the State of North Carolina to care for the least fortunate and most needy among us, Mental Health Reform needed to be accomplished. Two key components are:

1. Improved community based services for patients who no longer need to remain institutionalized, and

2. Improved hospital facilities to be accomplished by the construction of three (3) new facilities to replace four (4) outdated and inadequate psychiatric hospitals.

The following factors were considered in the selection of the site:

1. Patient Care.

2. Availability of workforce and economic impact on the area.

3. Availability of state-owned or reasonably priced land.

4. Access to major highways.

5. Proximity to Duke and UNC-Chapel Hill Universities.

The following additional criteria were later added and considered:

1. Location in the Central Region catchment area to be served by the hospital that will maximize client access, and

2. Availability of utilities, particularly water and sewer services.

A location on Veazey Road at Butner in Granville County was chosen. That site topped the list on all criteria except proximity to UNC-Chapel Hill University which is closer to the Pittsboro location in Chatham County. When compared to the present Dix campus or to the Siler City location, the Butner location scores highest on all criteria.

Because of the large number of patients just up Interstate Highways 85 and 40 in Forsyth and Guilford Counties, as well as its closeness to Raleigh and Durham, the Butner location has better access to the largest number of patients or clients in the catchment area to be served by the new hospital.

CONCLUSION

Except for the possible inconvenience to some doctors at UNC Hospitals, the Butner location is superior in all of the studied areas which are mentioned above.

SUPPORT

Senate Bill 845 and House Bill 684 which authorize the $110 Million Dollar financing for the new psychiatric hospital at Butner in Granville County, North Carolina.

Submitted by:
Granville County
Moore & Van Allen PLLC
Chip Killian
George Teague
Paula Hopper
Lobbyists

The Case for Butner
in the Establishment of the New Mental Health Facility

"Location, Location, Location"

As in most any real estate development, the primary factor is the location. Butner has a prime location - being comprised of 9000 acres of State-owned land already served by State owned and operated water and sewer utilities.

Butner is readily accessible to the 25 County cachement area by both interstate I-85 and I-40. The two universities that provide medical support and research to the State are both within an easy commute.

Existing Infrastructure designed to Serve Institutional Uses

The State acquired Butner from the Federal Government for a bargain - $1.00. The best use for this land is the current use - provision of psychiatric care. Walking away from this investment is irresponsible.

The State operates a public safety service having over 42 officers that are cross trained in both law enforcement and fire protection. This combined force is specially trained to service institutional facilities such as hospitals and prisons requiring unique safety and security protocols.

Locating a new facility in another location will require the creation of a similar public safety agency.

A Trained, Skilled and Efficient Workforce

The employees in this area possess the unique skills to care for psychiatric patients. The Butner community has staffed these facilities over a 50 year period and the critical community support structure already exists.

DHHS's Assessment Supports Placement of the New Facility in Butner

The Department completed an assessment of several sites and has concluded that, given all of the factors, Butner is the best location for the new facility.

Clearly this new facility belongs in Butner and the Community wants it.

THE CASE FOR BUTNER

THE CHALLENGE OF MENTAL HEALTH REFORM AND THE ESTABLISHMENT OF THE NEW "DIX-UMSTEAD" HOSPITAL AT BUTNER

Since right after World War II, Umstead Hospital, located in the community of Butner in South Granville County, has been the home of one of the country's most outstanding psychiatric hospitals.

For the 50 years of its existence, a supportive community of health care workers, family and friends has grown up and still exists in Butner as a valuable support system and trained health care workforce. Some communities tolerate mental hospitals. Butner and Granville County embrace John Umstead Hospital.

The North Carolina Department of Health and Human Services (DHHS) has announced plans to consolidate the Dorothea Dix facility in Raleigh and the John Umstead facility in Butner into a new and downsized facility at Butner. However, community leaders in Wake County and Chatham County have not given up hope and would like to convince the North Carolina General Assembly to override the Department's decision. It is in the best interests of all concerned that the new hospital be located in Butner near the current facility.

Representatives Jim Crawford, Gordon Allen, Stan Fox, and Paul Luebke have introduced House Bill 684, and Senators Wib Gulley and Jeanne Lucas have introduced Senate Bill 845, to authorize the financing of the new psychiatric hospital at Butner. State Treasurer Richard Moore has endorsed this $110 million Special Obligation Bond financing.

The following factors were considered in the selection of a site for the new psychiatric hospital to replace Dix and Umstead:

1. Patient Care.

- It cannot be disputed that the experienced and dedicated staff at John Umstead Hospital is providing extraordinary patient care.

- John Umstead Hospital is served by a staff of professional and non-professional health care workers who possess the unique skills necessary to care for psychiatric patients.

- Fourteen (14) staff members have received recent statewide recognition and awards for excellence in psychiatric health care. Other awards include the following:

  a. Von Brown, Volunteer Services Director, recently received the Marsha B. Riddle Award from the North Carolina Association of Volunteer Administration.

b. Frederick Cassidy, M.D., Duke University, is one of the leading researchers of bipolar disorders in the world, and was the 2001 winner of the Robins/Guze Award from the American Psychopathological Association.

c. Ann Louise Barrick, Ph.D., Director of Psychology, has received the American Psychological Association's Division 18 Distinguished Service Award for Service and many other awards.

d. Joseph P. McEvoy, M.D., Deputy Clinical Director, was named Distinguished Teacher of the Year for 2002 by the Duke University Department of Psychiatry and Behavioral Sciences.

e. Eugene M. Golby, M.D., was selected to receive the 2002 Eugene A. Hargrove Mental Health Research Award by the North Carolina Foundation for Mental Health Research.

f. One program at the Children's Psychiatric Unit became the first such state hospital based program to be accredited by JCAHO.

- Over the 50 years of its existence, patient care has been materially enhanced and promoted by several generations of a supportive community of health care workers, patients' families, friends and other employees of John Umstead Hospital.

2. **Availability of Workforce and Economic Impact on the Area.**

- Most of these employees live in Granville, Durham, Franklin, Warren, Person, Wake, Vance and Orange Counties. Relocating the facility will require the training of a new group of psychiatric health care specialists.

- The closing of John Umstead Hospital and location of a new facility in some other area could displace 1,274 employees, of whom 692 reside in Granville County representing 5.9% of the county's workforce and its third largest employer.

- In the last year, over 1000 jobs have been lost in Granville County as a result of announced closings and layoffs at the following places of employment: Lenox China, Newton Instrument Company, Avnet, Granville Plastics and Kayser-Roth.

- Currently, unemployment in Granville County is 6.8%, as compared to 8.5% for Planning Region K. There are 1,820 active job applicants in Granville County.

- Currently, unemployment in Person County is 9.2%, as compared to 8.5% for Planning Region K. There are 1,496 active job applicants in Person County.

- Currently, unemployment in Vance County is 13.1%, as compared to 8.5% for Planning Region K. There are 2,427 active job applicants in Vance County.

- Currently, unemployment in Franklin County is 6.3%, as compared to 8.5% for Planning Region K. There are 1,563 active job applicants in Franklin County.

- Currently, unemployment in Chatham County is 4.8%, as compared to 5.0% for Planning Region J. There are 1,374 active job applicants in Chatham County.

- Currently, unemployment in Wake County is 5.0%, as compared to 5.0% for Planning Region J. There are 19,279 active job applicants in Wake County.

- The population of Butner is 5,000, over one-half of whom work at one of the federal or state institutions where an additional 5,600 persons are institutionalized, including 610 at John Umstead Hospital.

- The median family income in Granville County is $52,600, 27th highest in the state. Per capita personal income is $21,850 or 59th highest in the state, less than the state average.

- The median family income in Wake County is $71,300, highest in the state. Per capita personal income is $36,581 or second highest in the state.

- The median family income in Chatham County is $71,300, first in the state. Per capita personal income is $30,380 or fourth highest in the state.

- The ratios of physicians, registered nurses, and licensed practical nurses in Granville County are more than twice as high as in Chatham County.

- Butner Public Safety is an agency specially trained to deal with psychiatric patients that does not exist elsewhere in the State. Moving the hospital to Chatham County or Wake County will require the development and training of a similar agency to protect patients, employees and the public.

- Most persons suffering job losses from the closing of John Umstead Hospital are not eligible for jobs at the prison due to minimum hiring age requirements.

3. **Availability of State-Owned or "Reasonably-Priced" Land.**

- At Butner in Granville County, there are 9,000 acres of available state-owned land. There is no location in the State of North Carolina that compares in terms of cost, available infrastructure, and choices of good sites.

- Real property costs in Chatham and Wake County are among the highest in the state.

- At Butner, the State has already chosen a site for the hospital and has expended substantial funds for planning, engineering, and architectural services.

- The state has invested many millions of dollars in the infrastructure at Butner. Not building at Butner is the equivalent of walking away from this investment in water and sewer facilities and leaving the operating costs to be absorbed by other agencies.

- The Dorothea Dix facility and land can be converted to other valuable commercial or institutional uses, or sold for a substantial sum. The Butner facility is not as economically viable for other uses and is likely to be mothballed, resulting in ongoing expense.

- The cost of transitioning to a new hospital location away from Butner will be tremendous and is largely unknown.

4. Access to Major Highways

- The Town of Butner is located adjacent to Interstate Highway 85, approximately 20 miles from Interstate 40 and 30 miles from Raleigh/Durham International Airport.

- Pittsboro and Siler City in Chatham County are served by U.S. 15, U.S. 421, and U.S. 64. The center of the county is located 32 miles from Interstate 40, and Pittsboro is located 38 miles from Interstate 85.

- The Dix campus is located near downtown Raleigh off Western Boulevard, a high-traffic location.

- The new facility is intended to serve 25 counties in the central part of North Carolina. Interstate Highways 40 and 85 provide excellent highway accessibility to patients and families in this area.

5. Proximity to Duke and UNC-Chapel Hill Universities.

- The physicians who staff and conduct research at John Umstead Hospital are principally located at Duke University Medical Center and UNC Hospitals.

- Butner is located 15 miles from Duke University Medical Center and 35 miles from UNC Hospitals.

- Dorothea Dix is located 24 miles from Duke University Medical Center and 33 miles from UNC Hospitals.

- Siler City is located 43 miles from Duke University Medical Center and 48 miles from UNC Hospitals.

- Pittsboro is located 28 miles from Duke University Medical Center and 32 miles from UNC Hospitals.

- In normal traffic, driving time from Duke to Butner is 20-25 minutes and from UNC Hospitals to Butner is 50-55 minutes.

OTHER CRITERIA

In a separate written document, the Secretary has listed six "Criteria for First Stage of Site Selection Process." Although patient care was not listed as a criteria, "location in the central region area to be served by the hospital that will maximize client access," and "availability of utilities, particularly water and sewer service," were substituted.

- A study dated July 18, 2002 rates four (4) proposed sites as to travel costs to hospital sites based on bed allocation broken down by roundtrip mileage, annualized family costs and annualized law enforcement costs.

- The Veazey Road (S.R. 1120) at Central Avenue (S.R. 1103) site at Butner in Granville County was chosen as the most desirable site.

- The same study shows the following combined average normal trip travel time results (25 county seats to each of the four site locations):

Pittsboro	124
Siler City	133
Raleigh	145
Butner	147

- The obvious conclusion is that patient travel times, mileage, family travel costs, and law enforcement costs to the four sites are not significantly different.

- The State of North Carolina has a water and sewer system which is in the process of being incorporated into the South Granville Water and Sewer Authority, providing existing on-site services at Butner. Current capacity is adequate for John Umstead Hospital, and is being expanded. DHHS has a reserve capacity for the State's exclusive use. This water and sewer service represents no additional cost.

CONCLUSION

On all counts, locating the new psychiatric hospital in the Town of Butner is a winner for the patients, taxpayers, health care providers and employees of John Umstead Hospital.

Moving this psychiatric hospital from Butner to Chatham County or Wake County goes in the opposite direction of Governor Easley's efforts to have "One North Carolina."

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 949*
PROPOSED COMMITTEE SUBSTITUTE H949-CSLCx-41 [v.1]

5/19/2003 1:09:58 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 949*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Hackney, Insko, Brubaker, and Culp (Primary Sponsors).	
Referred to:	Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL NEAR SILER CITY IN CHATHAM COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of

Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar

conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that

the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or

notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in

paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes,

execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not

be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to

pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust

agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust

agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United

States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the

Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

UNC
SCHOOL OF MEDICINE
DEPARTMENT OF PSYCHIATRY
Robert N. Golden, M.D.
Professor and Chair

May 26, 2003

Representative Joe Hackney
Room 2207
Legislative Building
Raleigh, NC 27601-1096

Joe

Dear ~~Representative~~ Hackney;

I am writing in response to your request to provide my opinion regarding the best location for the proposed new state psychiatric hospital.

From my perspective, the single most important factor in this issue is clinical care. The new facility will serve the central region of the state, and thus it must be located at a site that is readily accessible by automobile/ambulance/sheriff's office transportation from the largest patient bases (e.g., Greensboro, Raleigh). Patients admitted to state hospitals are severely ill and usually quite dangerous, and thus safe transportation from our most populous urban areas is key. In addition, it is important that patient families be involved, whenever possible, with their treatment and discharge planning. Most of our state hospital patients are indigent, and their families have limited means of transportation, especially to areas as far away as Butner. Finally, if we are to achieve our goals of reducing inpatient days and shifting to a model of increased outpatient and community based care, then the new facility should be located in a community linked to a strong local area program with opportunities for sheltered work programs and other community support systems.

An additional set of important considerations involves professional workforce issues. The new facility must be able to attract the very best psychiatrists, psychologists, nurses, and social workers. Currently, the nurse vacancy rate at John Umstead Hospital is several times greater than that at Dorothea Dix Hospital. This will become an increasingly difficult issue in future years, since all projections suggest that we will face a growing crisis in nursing shortages throughout the country. I believe that it will be much more feasible to attract "the best and the brightest" professional staff to Chatham or Wake Counties than to the Butner location.

For all of the above reasons, the new state psychiatric hospital should be located either in Chatham or Wake County. I fully respect and heartily endorse Secretary Hooker-Odom's vision and plan for reforming the state mental health system. I believe that from a clinical perspective, the overall goals of her plan will be facilitated to a much greater degree if the location of the new central psychiatric hospital is determine largely on the considerations of patient location and professional workforce issues.

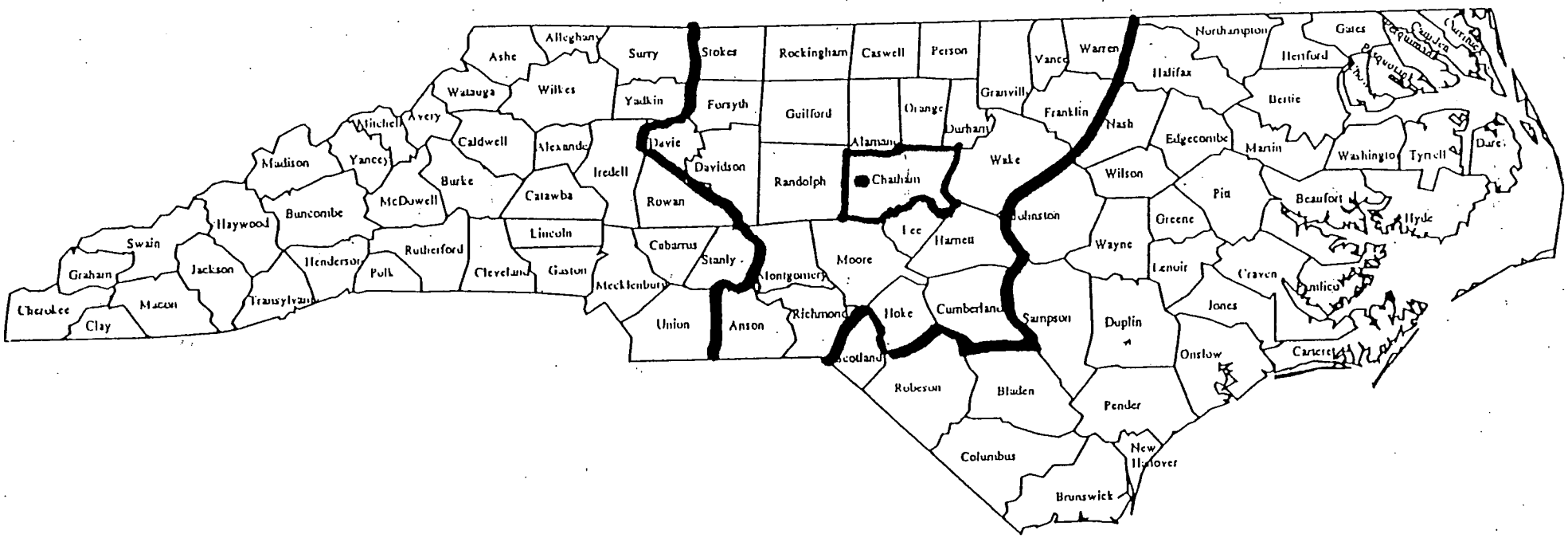
The University of North Carolina at Chapel Hill, Campus Box # 7160, Chapel Hill, North Carolina 27599-7160
Telephone: (919) 966-4738; FAX: (919) 966-7659; E-MAIL: robert_golden@med.unc.edu

I hope these reflections are useful. Please let me know if there are any questions or ways in which I can further facilitate the discussion of this critical issue.

Sincerely,

Robert N. Golden, M.D.
Professor and Chair

Three Hospital Model



Rep. Joe Hackney

for: HB 949 (Chatham)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 961
PROPOSED COMMITTEE SUBSTITUTE H961-CSLCx-43 [v.1]

5/19/2003 1:14:38 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 961

Short Title:	Psychiatric Hospital Financing.	(Public)
Sponsors:	Representatives Ross, Munford, Miner, Weiss (Primary Sponsors); B. Allen, Capps, Eddins, and Ellis.	
Referred to:	Finance.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN WAKE COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of

Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. -- In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003". References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act. 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

Reps Ross, Miner, Wells, Manford

Wake County is the Best Site for a New Psychiatric Hospital

Patient Care Should be the Priority

Wake County has a significant number of highly qualified professionals to treat the patient population at the new psychiatric hospital. By contrast, John Umstead Hospital (JUH) has a severe nursing shortage. In January 2003, CMS found JUH out of compliance based on a nursing vacancy rate of over 20%.

Step down programs and community alternatives are much stronger in Wake County than in either of the other sites. In particular, Wake County has more resources dedicated to the homeless. An average of four adults per month who are discharged from Dorothea Dix enter a Wake County homeless shelter or local adult care homes.

Evidence-based practice on quality patient care depends on support from patients' families and friends. Therefore, it is imperative that the new facility be in a central location.

Central location = Population Center

Wake County is Centrally Located and Easily Accessible through a Variety of Methods of Transportation

Wake County is centrally located, particularly based on population. Twice as many people live within 30 miles of Raleigh (1,000,000), as there are within 30 miles of Butner (500,000). Many fewer people live within 30 miles of the Chatham site. Moreover, Raleigh is accessible by major interstate, train, bus, and the Triangle Transit Authority. Neither of the other sites offers this type of accessibility.

Wake County Lacks In-Patient Treatment for Adult Medicaid Patients

At present, no hospital in Wake County has adult Medicaid in-patient psychiatric beds. Due to the downsizing at Dorothea Dix, Wake County residents are placed away from their homes and families. Despite this lack of beds, Wake County has not used Dorothea Dix at a greater rate than other counties with state psychiatric facilities. Wake County's population is 8%, and Wake County uses about 8% of state psychiatric hospital beds. The State Hospital Bed Day Allocation Plan for Wake County is consistent with Wake's usage rate.

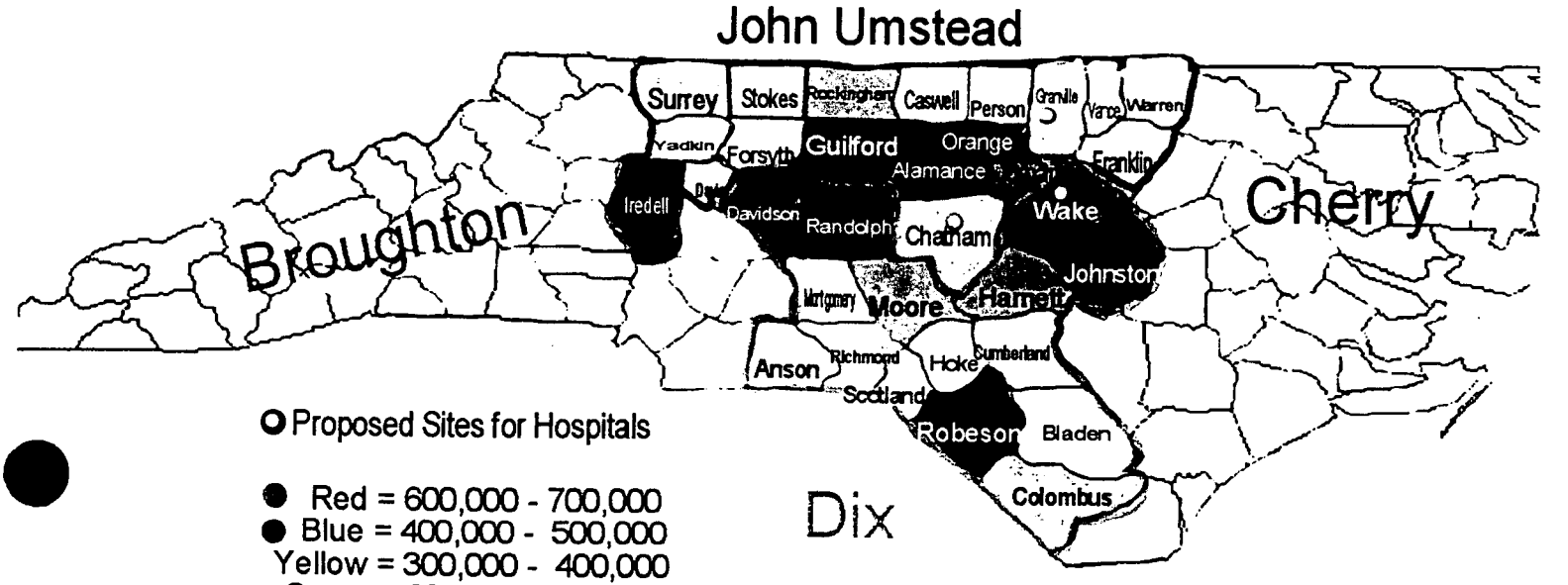
In 2001, Wake County used Dorothea Dix at a rate of 304 per 100,000 population. Granville County used JUH at a rate of 319 per 100,000 population. Burke County used Broughton Hospital at a rate of 310 per 100,000 population. Wayne County used Cherry Hospital at a rate of 298 per 100,000 population. Figures are similar for 2002. Durham County uses JUH at rates exceeding 400 per 100,000, and has access to Medicaid psychiatric beds at Duke.

Wake County is committed to providing the necessary spectrum of community mental health service to serve its citizens. However, those services must include in-patient adult Medicaid facilities as a last resort.

Wake County is the best site for a new psychiatric hospital, not just for the citizens of Wake but for the infrastructure and human resources that Wake County can provide to the citizens of North Carolina that need this facility.

Reps Ross, Miner, Weiss, Munford

Raleigh Site is Closer to many more Patients and Families



Proposed Sites for Hospitals

- Red = 600,000 - 700,000
- Blue = 400,000 - 500,000
- Yellow = 300,000 - 400,000
- Green = 200,000 - 300,000
- Purple = 100,000 - 150,000
- Orange = 75,000 - 100,000
- Lavender = 50,000 - 75,000
- Pink = 25,000 - 50,000
- Gray = 0 - 25,000

Wake Site: 1,000,000 people within 30 miles

Granville Site: 500,000 people within 30 miles

Chatham Site: 50,000 people within 30 miles

House Committee on Finance

Minutes

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May 29, 2003

The House Committee on Finance met on Thursday, May 29, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Martha Harris, Jim Mills, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairwoman Howard called the meeting to order at 8:42 am and immediately recognized the four pages present: Tyler Dickson of Gaston County, sponsored by Representative Rayfield; Lesli Oakley of Wake County, sponsored by Speaker Black; Shira Sattin of New Hanover County, sponsored by Representative McComas; and Leigh Williamson of Wake County, sponsored by Speaker Black.

As the only matter of business on the agenda, Chair Howard recognized Representative Luebke to explain the purpose of the meeting. Representative Luebke stated that the reason for this meeting was to discuss a portion of the budget bill, PART XLVII of HB 397 (see attachment 3), which was added in the Senate and involves the lease or purchase of three new prisons in the state. Representative Luebke expressed his concern that the amount of debt that the state is incurring by building a third prison is too high, especially given the fact that the state has so many other needs such as education, healthcare, etc. He also noted that even if there are three prisons built, the third one could be a lower-level security prison or women's prison rather than maximum security. The Sentencing Commission of the State (appointed by the General Assembly) has made several recommendations regarding the use of prisons. Representative Luebke stated his belief that there should be sentencing alternatives instead of the current long-term sentences for prisoners, especially those serving time for non-violent crimes (see attachment 4).

Senator Kerr, the sponsor of this section of the bill, was present and was recognized by the Chair to address this part of HB 397. He noted that the passage of this bill would create a $25 million savings for the state. He also noted that the prisoners that would fill the proposed prisons are not non-violent. He also stated that the sentencing alternatives and reforms suggested by Representative Luebke are not an option at this time.

Representative Hackney was recognized for a question to Senator Kerr. He asked the Senator why the action was taken to include this large expenditure in the Budget bill when the House Finance Committee was given no opportunity to address the issue. Representative Hackney asked the Chair if the committee could take any action on this matter. Chairwoman Howard explained that the matter was before the Committee for discussion only at that time and if it were the Committee's desire to take action on this matter, a separate meeting would need to be called.

The Chair also suggested that the Budget Conference Committee could take this matter under further consideration.

The Chair recognized Representative Holliman who asked Senator Kerr a question concerning the total indebtedness that the construction of these three prisons would put the state in. Senator Kerr, with the assistance of Staff person Jim Mills, explained that the total indebtedness would be $391 million over twenty years. He noted, however, that this debt could be bought back by the state if so desired. He also explained that the state would soon be short of the needed prison beds for the convicted criminals of this state.

Chairwoman Howard then recognized Representative Ross for a question. She asked Senator Kerr if a prison "package" had been considered on this matter. She explained such a package as a compromise, which might entail the construction of two new prisons instead of three with the addition of some rehabilitative and reformative programs, as recommended by the legislatively mandated North Carolina Sentencing Commission. Senator Kerr responded that the issues of sentencing reform and the construction of these prisons were two separate and distinct issues. Representative Ross then expressed her opinion that the state must do something to revise its criminal process to include more sentencing alternatives with often less time in prison but rehabilitative services, else the increased need for prison construction will only continue. Senator Kerr responded by stating that the prisoners that would occupy these proposed prisons are violent criminals and not the non-violent offenders that Representative Ross was suggesting.

Representative Jones was then recognized by the Chair and expressed his distaste with the Senate Finance Committee for its action in placing this legislation into the budget bill without the input or opportunity for action of the Finance Committee in the House of Representatives. He also clearly expressed his concern that the information that was requested by the Committee for this matter was not readily available. Chairwoman Howard then assured Representative Jones that any and all information that he requested would be supplied to him and that he would be provided all of the time that he needed to address his concerns on this matter.

Representative Womble stated his understanding of this meeting as informational only; however, he then posed a question to the Chair. He asked her for some direction on when the Committee might have the opportunity to take action on this matter. Chairwoman Howard responded by assuring Representative Womble that there were several options available to the Committee and that any necessary action would be taken at the appropriate time.

Chairwoman Howard then recognized Representative Rayfield who asked Senator Kerr how exactly the state could save $25 million by building these prisons now. Senator Kerr explained that due to the implementation of the International Building Code in the near future, the costs of construction would be elevated considerably and that construction now would allow the state to circumvent this code and its fiscal implications.

Representative Gibson was then recognized by the Chair to address the members of the Committee. He stated that this issue is a thankless one; one that no one likes to deal with. He expressed his thanks to Senator Kerr for his stand on the issue and noted his belief that these prisons need to be built now in order for the state to save whatever money it can. He also informed the Committee of his experience that most constituents want people who have broken the law in prison.

The Chair then recognized members of the public that were present and had requested to address the Committee. Gale Marshall with Friends of Haywood County was the first constituent to speak. She expressed her concerns of the use of such a large amount of tax dollars on prison construction (see attachment 5). Lafonda Jones with Families Against Mandatory Minimums (FAMM) was also present and advocated that the members consider the reformative recommendations made by the North Carolina Sentencing Commission (see attachment 6).

Representative Hackney was recognized next by Chairwoman Howard for a question to Senator Kerr concerning the construction locations for these three prisons. Senator Kerr stated that he had heard about areas such as Greene and Bertie Counties as well as an area in the eastern part of the state. He emphasized, however, that the locations were not definite at present. He explained that the main focus of this section of the budget bill was simply to get the construction process for these prisons underway.

Representative Ellis was recognized by Chairwoman Howard for one final comment. He stated that before attending this meeting he too was upset by the Senate including this matter in the budget bill without the House's knowledge or input. He continued, however, to state that now that he had learned of the true need for these prisons to keep criminals off the streets (and his constituents safe), he supported the addition of this section to the budget.

Chairwoman Howard then informed the Committee that the time was 9:50 am and that it was time to adjourn. She assured the members that the Chairs of the Committee would discuss this matter further and make a decision on when the full Finance Committee should meet again to continue in its discussion and debate on PART XLVII of HB 397 (SB 227).

Seeing no further questions, Chairwoman Howard adjourned the meeting at 9:51 am.

Respectfully submitted

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Part XLVII of House Bill 397 (with Bill Summary and Fiscal Notes)
4. Handout from Representative Luebke
5. Handout from Constituent Speaker Gale Stewart with Friends of Haywood County
6. Handouts from Lafonda Jones with Families Against Mandatory Minimums

House Committee on Finance

Minutes

~

May 29, 2003

The House Committee on Finance met on Thursday, May 29, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Martha Harris, Jim Mills, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairwoman Howard called the meeting to order at 8:42 am and immediately recognized the four pages present: Tyler Dickson of Gaston County, sponsored by Representative Rayfield; Lesli Oakley of Wake County, sponsored by Speaker Black; Shira Sattin of New Hanover County, sponsored by Representative McComas; and Leigh Williamson of Wake County, sponsored by Speaker Black.

As the only matter of business on the agenda, Chair Howard recognized Representative Luebke to explain the purpose of the meeting. Representative Luebke stated that the reason for this meeting was to discuss a portion of the budget bill, PART XLVII of HB 397 (see attachment 3), which was added in the Senate and involves the lease or purchase of three new prisons in the state. Representative Luebke expressed his concern that the amount of debt that the state is incurring by building a third prison is too high, especially given the fact that the state has so many other needs such as education, healthcare, etc. He also noted that even if there are three prisons built, the third one could be a lower-level security prison or women's prison rather than maximum security. The Sentencing Commission of the State (appointed by the General Assembly) has made several recommendations regarding the use of prisons. Representative Luebke stated his belief that there should be sentencing alternatives instead of the current long-term sentences for prisoners, especially those serving time for non-violent crimes (see attachment 4).

Senator Kerr, the sponsor of this section of the bill, was present and was recognized by the Chair to address this part of HB 397. He noted that the passage of this bill would create a $25 million savings for the state. He also noted that the prisoners that would fill the proposed prisons are not non-violent. He also stated that the sentencing alternatives and reforms suggested by Representative Luebke are not an option at this time.

Representative Hackney was recognized for a question to Senator Kerr. He asked the Senator why the action was taken to include this large expenditure in the Budget bill when the House Finance Committee was given no opportunity to address the issue. Representative Hackney asked the Chair if the committee could take any action on this matter. Chairwoman Howard explained that the matter was before the Committee for discussion only at that time and if it were the Committee's desire to take action on this matter, a separate meeting would need to be called.

The Chair also suggested that the Budget Conference Committee could take this matter under further consideration.

The Chair recognized Representative Holliman who asked Senator Kerr a question concerning the total indebtedness that the construction of these three prisons would put the state in. Senator Kerr, with the assistance of Staff person Jim Mills, explained that the total indebtedness would be $391 million over twenty years. He noted, however, that this debt could be bought back by the state if so desired. He also explained that the state would soon be short of the needed prison beds for the convicted criminals of this state.

Chairwoman Howard then recognized Representative Ross for a question. She asked Senator Kerr if a prison "package" had been considered on this matter. She explained such a package as a compromise, which might entail the construction of two new prisons instead of three with the addition of some rehabilitative and reformative programs, as recommended by the legislatively mandated North Carolina Sentencing Commission. Senator Kerr responded that the issues of sentencing reform and the construction of these prisons were two separate and distinct issues. Representative Ross then expressed her opinion that the state must do something to revise its criminal process to include more sentencing alternatives with often less time in prison but rehabilitative services, else the increased need for prison construction will only continue. Senator Kerr responded by stating that the prisoners that would occupy these proposed prisons are violent criminals and not the non-violent offenders that Representative Ross was suggesting.

Representative Jones was then recognized by the Chair and expressed his distaste with the Senate Finance Committee for its action in placing this legislation into the budget bill without the input or opportunity for action of the Finance Committee in the House of Representatives. He also clearly expressed his concern that the information that was requested by the Committee for this matter was not readily available. Chairwoman Howard then assured Representative Jones that any and all information that he requested would be supplied to him and that he would be provided all of the time that he needed to address his concerns on this matter.

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Chairwoman Howard then informed the Committee that the time was 9:50 am and that it was time to adjourn. She assured the members that the Chairs of the Committee would discuss this matter further and make a decision on when the full Finance Committee should meet again to continue in its discussion and debate on PART XLVII of HB 397 (SB 227).

Seeing no further questions, Chairwoman Howard adjourned the meeting at 9:51 am.

Respectfully submitted

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
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5. Handout from Constituent Speaker Gale Stewart with Friends of Haywood County
6. Handouts from Lafonda Jones with Families Against Mandatory Minimums

ATTACHMENT 1

AGENDA

House Finance Committee

May 29, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Julia Howard

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bill:

PART XLVII: Lease-Purchase Three New Prisons in HOUSE BILL 397
(FOR DISCUSSION ONLY)

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, May 28, 2003 10:41 AM
Subject: NOTICE House Finance Committee 5-29-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, May 29, 2003**

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

LOCATION: **544 LOB**

The following bill will be considered:

PART XLVII: Lease-Purchase Three New Prisons in HOUSE BILL 397 (FOR DISCUSSION ONLY) – Reps. Crawford and Sherrill

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **May 28, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Karen Jones	Sentencing Commission
S. Katzenelson	-1-
L Sager	NC FAMM
[illegible]	FAMM
Elaine Mejia	NC Budget + Tax Center
Gale Marshall	Friends of Haywood
[illegible]	Nat'l Prison Ctr on Prisons + Communities
Bruce Cunningham	NC FAMM
John Madler	NC Sentencing Commission
Tracy Little	NCDOC
Jim Nowell	OSBM

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Milton Alford	OSBM
[illegible]	Phelps of Haywood County
Ernesting Durham	Exe. Intern - 7th D / Rep. Gibson
Duke Chen	Intern
Ronald Wilds	NAACP
Katherine Joyce	NCASA

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 397

Seventh Edition Engrossed 4/30/03

PART XLVII
LEASE-PURCHASE THREE NEW PRISONS

(p. 225, line 41 – p. 229, line 34)

approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 46.3. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment-purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

SECTION 46.4. Interpretation of Part. (a) Additional Method. – This Part provides an additional and alternative method for the doing of the things authorized by this Part and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this Part shall not be regarded as in derogation of any powers now existing. The authority granted in this Part is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 46.4.(b) Statutory References. – References in this Part to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 46.4.(c) Liberal Construction. – This Part, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 46.4.(d) Severability. – If any provision of this Part or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the Part that can be given effect without the invalid provision or application, and to this end the provisions of this Part are severable.

PART XLVII LEASE-PURCHASE THREE NEW PRISONS

Requested by: Senators Thomas, Garrou, Dalton, Hagan, Kerr, Jenkins, Holloman, Soles

SECTION 47.1. G.S. 148-37.2 reads as rewritten:

"**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells~~ described in subsection (a1) of this section to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and

under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds. The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

(1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.

(2) 2003 Facilities. – Three close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 3,000 cells. If the State is able to negotiate a contract for one or more of these facilities with the selected contractor for the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.

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

(1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.

(2) Construction contract agreement. – A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.

(3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.

(4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.

(5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.

(6) Selected contractors. – One or more private firms selected to construct the Projects.

(7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed

by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the Projects. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the constructed Projects to the special nonprofit corporation. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

(1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.

(3) The lease-purchase agreement can be entered into on terms desirable to the State.

(4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

(e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:

(1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.

(2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not

be pledged to secure any moneys due under the lease-purchase agreement.

(3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.

(4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.

(5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.

(6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the Projects to the special nonprofit corporation for purchase, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such proposal,~~ this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. ~~87-1; provided that this~~87-1. This subsection ~~shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

PART XLVIII. GENERAL PROVISIONS

Requested by: Senators Garrou, Dalton, Hagan

SECTION 48.1. Parts 32 through 47 of this act do not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by those parts before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 48.2. Except as otherwise provided in this act, parts 32 through 48 of this act are effective when this act becomes law.

PART XLIX. MISCELLANEOUS PROVISIONS

Requested by: Senators Garrou, Dalton, Hagan

EXECUTIVE BUDGET ACT APPLIES

SECTION 49.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Senators Garrou, Dalton, Hagan

COMMITTEE REPORT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

DRAFT
SPECIAL PROVISION

2003-PART47-C47.1A

Part XLVII. Lease-Purchase Three New Prisons
Conference Provision

Requested by: Senators Thomas, Garrou, Dalton, Hagan, Kerr, Jenkins, Holloman, Soles

SECTION 47.1. G.S. 148-37.2 reads as rewritten:

"**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells~~ described in subsection (a1) of this section to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

(1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.

(2) 2003 Facilities. – Three close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 3,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or more of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined

by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.

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

(1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.

(2) Construction contract agreement. – ~~A~~ Either of the following:

a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.

b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.

(3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.

(4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.

(5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.

(6) Selected contractors. – One or more private firms selected to construct the Projects.

(7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects.~~Projects or, alternatively, the construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

(1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.

(3) The lease-purchase agreement can be entered into on terms desirable to the State.

(4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

(e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:

(1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.

(2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.

(3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.

(4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.

(5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.

(6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the

completed Projects to the special nonprofit ~~corporation for purchase,~~corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the

lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such proposal,~~ this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. ~~87-1; provided that this~~87-1. This subsection ~~shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

Discussion of HB 397: 2003 Budget Act (PART XLVII Lease-Purchase Three New Prisons)

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	May 29, 2003	**Analysis by:**	Finance Team
Version:	Part XLVII (Lease-Purchase Three New Prisons) 7th Edition		

SUMMARY: ***House bill 397, the 2003 Budget bill, is currently before the conference committee. The version passed by the Senate contains Part 47, which authorizes the State to lease purchase three 1,000-bed close security correctional facilities. Senate Bill 227 also gives the same authorization to the State. SB 227 was given a favorable report in Senate Finance and is currently in Senate Appropriations.***

PART 47: LEASE-PURCHASE THREE PRISONS

Part 47 would authorize the State to enter into lease-purchase contracts to build three new prisons.

In 2001, the General Assembly authorized lease-purchase financing of three new 1000-cell close security prisons. This Part would authorize three more substantially identical prisons. The State may first try to negotiate a contract for these new prisons with the same company that is building the 2001 prisons. If the Secretary of Administration and the Council of State find that the negotiations have failed to produce a reasonable price, the State would solicit the projects using a similar procedure as for the 2001 prisons.

The initial construction loan must be obtained by the vendor on a private, taxable basis. The State's acquisition of the constructed prisons will be financed with tax-exempt obligations. The prisons are exempt from property taxes both during and after construction.

The Part provides that after the prisons are completed, approved, and accepted by the State, a nonprofit corporation controlled by the State would purchase the prisons from the vendor and lease them to the State under a lease-purchase agreement. The nonprofit corporation would finance its purchase price for the prisons by selling tax-exempt obligations known as certificates of participation (COPs). The COPs would represent interests in the nonprofit corporation's rights to receive the lease payments under the lease-purchase agreement with the State. The COPs would be secured by a lien on the property, not by a pledge of the State's full faith and credit. The COPs would be paid from the State's lease-purchase payments over the course of 20 years.

Because only private funds would be involved during the construction phase, and because the vendor is at risk for that construction financing until the completed facilities are delivered, requirements for public bidding of construction would not apply. The new prisons are to be substantially identical to the 2001 prisons, so the Department of Correction will first try to negotiate a contract with the existing vendor to build the three new prisons. If, in the opinion of the Secretary of Administration and the Council of State, the terms of the proposed negotiated contract are not favorable to the State, the Department of Correction will solicit for the construction of the three new prisons. The Department of Correction would be required to consult with the Joint Legislative Commission on Governmental Operations before making a final award decision. The final award decision would also be subject to the approval of the Council of State.

The prisons would be required to be built in accordance with plans and specifications developed by the Department of Correction, and the Department of Correction and the State Construction Office would inspect and review the facilities during construction to ensure that they are suitable for use and acquisition by the State. The minority participation requirements of G.S. 143-128.2 apply to these projects.

It is expected that the COPs would be sold close to the time of purchase, although the State may have the nonprofit sell the COPs earlier if the State Treasurer determines that an earlier sale would be to the advantage of the State. Even if the COPs are sold earlier, there would be no payments from the State's General Fund until after the prisons have been accepted and purchased. Because of the State's involvement, interest with respect to the COPs will be tax-exempt.

The lease-purchase agreement would be between the nonprofit corporation and the State. Under the agreement, which must be approved by the Council of State and the State Treasurer, the State would make lease-purchase payments to the nonprofit corporation, which would use the funds to retire the COPs. The COPs would be secured by a lien on the property and the State's failure to make payments could result in its eviction from the property. The State Treasurer would determine the price to be paid for the COPs and the rate of interest to be paid on them. The State would retain the option of refinancing the debt if interest rates fall. The State would also retain the option of paying off its obligations and purchasing the property before the end of the lease-purchase period. Under the lease-purchase agreement, the State will own the facilities at the end of the lease term. The nonprofit corporation that issues the COPs would be subject to the Public Records Act and the Open Meetings Law.

ESTIMATED COST OF PROPOSED NEW PRISONS

Negotiated Contract and COPS Issued After Construction (Vendor finances construction)

2000 Beds (Prisons 4 and 5) COPS Issued July 2005

	FY 2002-0:	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	TOTAL L/P DEBT $252 Million
E. Lease/Purchase	$-	$-	$-	$5.38	$16.72	$16.26	
F. Operating	$-	$-	$11.44	$33.80	$36.19	$36.19	
G. TOTAL	$-	$-	**$11.44**	**$39.18**	**$52.91**	**$52.45**	

ASSUMPTIONS

Assumes "COPS" issued July 2005; also assumes a low end negotiated cost of $150 Million

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 6.15% interest rate for two prisons at cost of $150 million. L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 3/11/03)

3000 Beds (Prisons 4,5,6) COPS Issued July 2005 and May 06 (SB 227)

E. Lease/Purchase	$-	$-	$-	$5.38	$26.19	$25.47	TOTAL L/P DEBT $391 Million
F. Operating	$-	$-	$11.44	$42.60	$53.48	$54.29	
G. TOTAL	$-	$-	**$11.44**	**$47.98**	**$79.67**	**$79.76**	

ASSUMPTIONS

Assumes COPS issued July 2005 for prisons 4 and 5 at low end negotiated cost of $150 million. Assumes COPS issued May 1, 2006 for prison #6 at additional base cost of $84.25 million or $234.25 million construction cost for 3 new prisons (plus debt cost);

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 6.15% interest rate (Treasurer's Office 3/17/03) L/P figures could change based on final contract price and interest rate at time of issuance.

FRD 5/27/03

Figure 8

Comparison with Moody's 2002 Median Ratios for States and Other Benchmarks
State of North Carolina Ratios as of June 30, 2002

Net Tax-Supported Debt to Personal Income			Debt Service as a % of Tax Revenues		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Median	Ratio of the State to Median
1.4%	2.3%	0.61x	2.3%	3.5%*	0.66x
Net Tax-Supported Debt Per Capita			**Principal Payout Percentage in 10 Years**		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Benchmark Average	Ratio of the State to Benchmark
$395	$573	0.69x	57.4%	50.0%**	1.15x

* Last published in 1996
** Rule of Thumb

The table below details the peer group comparison for the three debt ratios evaluated. The peer group, states ranked triple-A by all three credit rating agencies, include the states of Delaware, Georgia, Maryland, Minnesota, Missouri, South Carolina, Utah and Virginia. The debt to personal income and debt per capita ratios are taken from Moody's "2002 State Debt Medians" report while the debt service ratio has been calculated from the most recent Comprehensive Annual Financial Report available for each state. As seen below, North Carolina has the lowest debt service ratio of any of the peer group and the second lowest debt per capita and debt to personal income ratios while all debt ratios are below the median levels. Thus, the State's debt ratios compare very favorably to the highest rated states.

Figure 9

State of North Carolina
Debt Ratios versus Other Highly Rated States

	Ratings	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

NC Prison Population Changes with New Beds and with House Structured Sentencing Bills 242,243,246,247,264

1 Fiscal Yr. Ending	2 Inmate Pop. Projection*	3 DOC Expan. Capacity**	4 **Prison Beds Over/Under w/no change**	5 Prison Beds Over/Under w/2prisons***	6 Prison Beds Over/Under w/3 prisons****	7 Prison Beds Over/under w/5 House Sent. Bills & 2 prisons****	8 Prison Beds Over/Under w/5 House Sent. Bills & 3 prisons
6/30/2003	34,570	31,969	**-2,601**	-2,601	-2,601	-2,601	-2,601
6/30/2004	35,851	***34,561***	**-1,290**	-1,290	-1,290	-1,290	-1,290
6/30/2005	36,787	34,729	**-2,058**	-2,058	-2,058	-1,464	-1,464
6/30/2006	37,739	34,729	**-3,010**	-1,282	-1,282	-279	-279
6/30/2007	38,687	34,729	**-3,958**	-2,230	-1,366	776	88
6/30/2008	39,557	34,729	**-4,828**	-3,100	-2,236	-1,124	-782
6/30/2009	40,345	34,729	**-5,616**	-3,888	-3,024	-1,326	-462
6/30/2010	41,068	34,729	**-6,339**	-4,611	-3,747	-1,474	-610
6/30/2011	41,768	34,729	**-7,039**	-5,311	-4,447	-1,678	-814
630/2012	42,413	34,729	***-7,684***	***-5,956***	***-5,092***	***-1,903***	***-1,039***

* Population Projections by Sentencing and Policy Advisory Commission, Jan. 2003

**DOC Expanded Capacity as of Dec. 4, 2002 with 2,592 new beds opening in FY 2004. DOC defines Expanded Operating Capacity (EOC) (EOC) as one inmate per cell or less than 50 square feet per inmate in dorms (35 sq ft is 130% of standard capacity)

*** "Prisons" assumes two new prisons with EOC of 1,728 new beds (FY 05-06) or 3 with 2,592 new beds (FY 06-07)

****House Bills are: (1) HB 242 - Amend Habitual Felon Law ;(2) HB 243 - Reclassify Statutory Rape/Sex Offense (3) HB 246 Adjust B1-E Felonies; (4) HB 247: Restructure Prior Criminal Record Points & (5) HB 264 Proportionate Sentence Lengths

FRD 4/21/03

FROM: Rep. Paul Luebke
TO: Members, House Finance Committee

Carolina Justice Policy Center

Q: Are there any options available to the state that could help reduce the need to authorize 3,000 prison beds in this year's budget and 7,500 by 2012?
A: Yes. There are 6 bills options that have been presented by the Sentencing and Policy Advisory Commission. If all were enacted, the need for new prisons would be reduced by over 4,000 beds by 2012.

Q: Why did the Sentencing Commission come up with these options? Are they reasonable?
A: Since the projected bed need is so great and so expensive, the legislature asked the Sentencing Commission to see if it could develop adjustments to the Sentencing Structure for legislative consideration. Many options were not sent forward, but the ones that were submitted make modest changes, but do create significant bed reductions.

Q: What new state projects are needed and which ones should take priority for approximately $445 - $460 million in additional borrowing? Does the finance committee have any role in these decisions?
A: The State Treasurer's office says that billions are needed for rennovation and repair. Fiscal research has prepared a long list of capital needs. Just a few of the requests include land purchase for wilderness areas, a new cancer hospital, and recent recommendations for $90 million in training schools. The Finance committee should play a major role in determining when and how the state should take on additional debt.

Q: Why are these three prisons a top priority for additional borrowing when there are other options available for reducing the need for beds?
A: There is no prioritization process and all 3,000 beds will be required by 2006 if the Sentencing Commission recommendations are not enacted.

Q: How many new projects can the state authorize with borrowed money between now and 2006 in addition to what is already authorized?
A: While the state Treasurer is not recommending any additional borrowing before 2006, he has agreed to the authorization of the 3,000 new prison beds and $220 million in rennovations and repairs.

Q: Won't these three prisons comprise a very large share of the additional borrowing?
A: If $465 million is all the additional borrowing that is allowed, the three prisons - at $240 million - will obviously comprise a large share of it. It appears that the State Treasurer is recommending NO new debt between now and 2006 other than $225 -$240 for three new prisons and $220 million in rennovations and repairs.

Q: How should priorities for capital projects be decided? Is there currently any mechanism to prioritize projects?
A: There is currently no mechanism for prioritizing projects. The State Treasurer is recommending the establishment of a committee that will set debt limits and prioritize projects.

Q: Would the three new prisons be part of the new priority setting plan for capital projects?
A: No. They are currently authorized in the Senate budget.

Q: If the legislature authorizes 3,000 new beds in the 2003 budget, will all the certificates of participation have to be issued by 2006?
A: Yes, $225 - $240 million in COPS will have to be issued unless the Sentencing Commission options are enacted.

Q: Couldn't the projected bed need be addressed by putting two prisoners into every cell?
A: The state has been sued for prison crowding before and could be sued again. Each unit must be evaluated individually. The Senate budget lists several units that should be evaluated in the coming year and a report will be presented to the legislature.

Q: Who opposes the Sentencing Commission recommendations?
A: The District Attorney's Association has been the primary opponent of these options. Many Commission members understand that the legislature may need to identify savings. Towards that end, members have worked as a group to identify the most appropriate area for adjustments.

Q: Has the state always financed prisons through certificates of participation and a lease-purchase arrangement?
A: No. The state has traditionally funded prisons on a pay-as-you go method. More recently, a bond package was issued. The last five prisons have been built by private vendors and leased back by the state.

Q: Is this a more expensive method of financing?
A: Yes. The actual cost of construction for 3 new prisons is $225 - $240 million. When the debt costs are added in, the total cost rises to $390 million over a 20 year period.

Q: How does the funding mechanism work?
A: It is a complicated funding mechanism. A private foundation in Louisiana provides the initial financing to build the prisons. Those prisons are then sold to a non-profit corporation established for the purpose of issuing certificates of participation. The state leases back the prisons from the non-profit corporation. Since the same vendor is being used for all of the units, the standard practice for bidding on state projects would not be utilized.

Q: Does the habitual felon proposal do away with the habitual felon law?
A: No. It maintains it and still requires an active sentence for every person convicted as an habitual felon. The sentences would be shorter for some offenders because the punishment is set three classes higher than the triggering offense. The current law sets the punishment for every habitual felon at the same level regardless of the triggering offense.

Q: Could a greater use of community-based corrections programs help alleviate crowding at a reduced price?
A: Yes, if the programs are adequately funded and targeted to specific offenders. The budget crisis has placed such a strain on community programs that they have been struggling just to keep their basic operations going.

Friends of Haywood County

Friendsofhaywoodcounty@mindspring.com

NORTH CAROLINA HOUSE FINANCE COMMITTEE

RALEIGH, NORTH CAROLINA

May 29, 2003

REGARDING SB 227

LEASE PURCHASE THREE NEW PRISONS

STATEMENT BY GALE MARSHALL
828.648.7613 Choctaw@prodigy.net

ON BEHALF OF FRIENDS OF HAYWOOD COUNTY

MY NAME IS GALE MARSHALL AND I AM HERE TODAY REPRESENTING THE FRIENDS OF HAYWOOD COUNTY, A GROUP OF CONCERNED CITIZENS IN WESTERN NORTH CAROLINA. I WOULD LIKE TO THANK REPRESENTATIVE PAUL LUEBKE AND THE OTHER MEMBERS OF THIS COMMITTEE FOR GRANTING THE FRIENDS OF HAYWOOD COUNTY THE OPPORTUNITY TO REGISTER OUR OPINION ABOUT SENATE BILL 227 WHICH, IF ADOPTED, WOULD AUTHORIZE THE STATE TO FINANCE THE BUILDING OF THREE NEW 1000-BED PRISONS.

THE FRIENDS OF HAYWOOD COUNTY RESPECTFULLY EXPRESSES THE FOLLOWING CONCERNS ABOUT THIS BILL:

1. AS TAXPAYERS IN THIS STATE, WE BELIEVE THAT MORTGAGING OUR FUTURE TO PRISONS WILL BE A COSTLY MISTAKE. OUR STATE IS IN A FINANCIAL CRISIS AND MANY IMPORTANT SERVICES FOR COMMUNITIES LIKE OURS IN WESTERN NORTH CAROLINA ARE IN DANGER OF BEING CUT OR ELIMINATED ALTOGETHER. MORE THAN EVER BEFORE NORTH CAROLINA MUST GET ITS PRIORITIES IN ORDER AND CONSIDER ITS FUTURE FISCAL AND SOCIAL HEALTH.

2. THERE ARE SENSIBLE ALTERNATIVES TO BUILDING THESE PRISONS THAT OUR CITIZENS SUPPORT. BEING SMART ON CRIME IS A POLICY THAT APPEALS TO PEOPLE IN SMALL TOWNS AS WELL AS BIG CITIES. NORTH CAROLINA SHOULD FOLLOW THE LEAD OF OTHER STATES WHICH ARE REFORMING SENTENCING LAWS AND PROVIDING LESS COSTLY OPTIONS THAN PRISONS FOR REHABILITATING MANY OFFENDERS IN THEIR HOME COMMUNITIES. WITH OUR STATE AND LOCAL GOVERNMENTS RUNNING IN THE RED, WE BELIEVE IT IS OF THE UTMOST IMPORTANCE FOR OUR ELECTED OFFICIALS TO SCRUTINIZE EVERY PROPOSAL THAT WILL PLACE AN EXTRA LOAD ON TAXPAYERS AND PROPERTY OWNERS ALREADY HEAVILY BURDENED.

3. WE ARE WONDERING WHY THE REFORMS PROPOSED BY THE NORTH CAROLINA SENTENCING COMMISSION AND REFORM OF THE HABITUAL FELON LAW HAVE NOT BEEN GIVEN SERIOUS CONSIDERATION BY OUR ELECTED OFFICIALS. IT APPEARS TO US THAT THESE PROPOSALS WOULD SAVE MONEY WITHOUT COMPROMISING PUBLIC SAFETY. WE ALSO SUPPORT NORTH CAROLINA'S COMMUNITY CORRECTIONS PROGRAMS WHICH SERVED AS NATIONAL MODELS UNTIL BUDGET CUTS BEGAN TO REDUCE THEIR EFFECTIVENESS.

4. AS CITIZENS, WE STRONGLY RECOMMEND LEGISLATORS EXERCISE DUE DILIGENCE ON LEGISLATION WHICH AFFECTS US AND THAT THE POLICY-MAKING PROCESS IS ONE THAT REFLECTS THE CORE DEMOCRATIC VALUES OF THIS NATION AND OUR GREAT STATE. IT APPEARS THAT NEITHER DILIGENCE NOR DEMOCRACY HAS BEEN OF SUFFICIENT CONCERN REGARDING THE PRISON BUILDING BILL. TO OUR KNOWLEDGE, NO FISCAL NOTE HAS BEEN AVAILABLE TO THE PUBLIC DETAILING THE TOTAL COSTS OF SENATE BILL 227. TO OUR KNOWLEDGE NO FISCAL ANALYSIS HAS BEEN MADE AVAILABLE TO THE PUBLIC COMPARING THE COSTS OF PRIVATE FINANCING TO PUBLIC FINANCING EVEN THOUGH MEMBERS OF THE SENATE FINANCE COMMITTEE REQUESTED THIS INFORMATION AT A MEETING OF THE SENATE FINANCE COMMITTEE ON MARCH 18TH, WHICH I ATTENDED. NO PUBLIC HEARING HAS BEEN HELD IN ORDER THAT CITIZENS AND THEIR ELECTED REPRESENTATIVES COULD HAVE THE OPPORTUNITY TO BECOME FAMILIAR WITH AND EXPRESS THEIR VIEWS ON A PROPOSAL THAT INVOLVES UNUSUAL AND COMPLEX FINANCIAL ARRANGEMENTS AND SOLE-SOURCE CONTRACTING.

5. WE OBJECT TO TAXPAYERS BEING DEPRIVED OF THE RIGHT TO CONSIDER AND REGISTER AN OPINION ON THE "LEASE-PURCHASE" METHOD OF FINANCING PRISONS PROPOSED IN THIS BILL. WE HAVE SEEN ANALYSES PREPARED BY ORGANIZATIONS OUTSIDE THE LEGISLATURE THAT SUGGEST THE TOTAL COST OF BUILDING AND OPERATING SIX NEW PRISONS UNDER THIS FINANCING SCHEME WOULD BE OVER 2 BILLION DOLLARS. IF WE ARE THINKING ABOUT SPENDING THAT KIND OF MONEY, ARE PRISONS WHAT WE MOST NEED? IF LEGISLATORS ARE GOING TO TAKE ON MORE DEBT IN OUR NAME, SHOULDN'T TAXPAYERS HAVE A RIGHT TO EXPRESS OUR OPINION ABOUT WHAT WE WOULD LIKE YOU TO BUY WITH OUR MONEY?

6. WHILE OUR CONCERNS ABOUT SENATE BILL 227 ORIGINATED WITH ISSUES SPECIFIC TO OUR OWN COMMUNITY IN HAYWOOD COUNTY, I SPEAK TODAY ON BEHALF OF PEOPLE CONCERNED ABOUT THE POTENTIAL OF THIS BILL TO PUT ALL OF WESTERN NORTH CAROLINA RESIDENTS AT RISK OF HIGHER TAXES AND FEWER SERVICES. THE FUNDAMENTAL QUESTIONS THIS BILL RAISES FOR ME AND MANY OTHER WESTERN NORTH CAROLINIANS ARE: WHAT ARE WE DOING TO ENSURE THAT OUR YOUTH HAVE THE TOOLS NECESSARY TO GROW, DEVELOP, LEARN AND YES, TO STAY OUT OF PRISON, IN THIS STATE? WHAT TYPE OF FUTURE DO WE WANT FOR THE CHILDREN OF THIS STATE? AND, IF THIS PRISON BUILDING BILL IS APPROVED, WILL WE HAVE THE RESOURCES TO ENSURE THAT FUTURE?

ON BEHALF OF THE FRIENDS OF HAYWOOD COUNTY, I APPRECIATE THIS OPPORTUNITY TO REGISTER OUR CONCERNS.

This material, provided by Families Against Mandatory Minimums, is relevant to the May 30, 2003 House Finance Committee Meeting discussion of House Bill 397, Part 47

Ease North Carolina's budget crisis by being "smart on crime"

Sentencing Commission options save beds, taxpayer dollars

North Carolina is struggling to find revenue and cutting critically-needed services and programs. At the same time, projections show a need for 10,000 more prison beds by 2010. Five (5) 1,000 bed prisons cost approximately $100 million to build and $120 million per year to maintain and operate. **There is another choice!** The NC Sentencing and Policy Advisory Commission submitted five modest sentencing reform options, at the legislature's request, that would save 4,597 prison beds. If enacted this year, these options would save more than $1 billion over the next decade.

Modify the habitual felon statute = 1, 879 prison beds or approx. 2.5 prisons

- The option: Currently, individuals with three prior felonies charged as "habitual felons" must be sentenced at Level C of the guidelines (sentences otherwise largely reserved for serious and violent crimes such as rape, kidnapping, etc.) no matter how minor the offense (including some misdemeanors) that triggered the charges. The Commission option mandates a three-level increase (example: from Level I up to F on the sentencing grid) above the triggering felony.

- Smart and tough: Under the proposal, **all habitual felons would still have to serve long prison sentences.** However, by more closely fitting the punishment to the crime, this class of offenders would serve an average 68.2 months, rather than the current average of 101 months.

- Reform affects sentencing for lowest-level, nonviolent offenses: The lowest level drug and property offenses (Levels G, H, I) triggered habitual felon status for 82 percent of those convicted in 2002. **The other 18 percent would still receive a level C guideline enhancement under the Commission options.** In 2000/01, 84 percent convicted of habitual felon status (for whom prior record data is available--487 of 647) had no prior felony above a Level G.

"North Carolina's taxpayers can't afford to lock up small-fry crooks for years on end. It might be good politics, but it's bad money management . . . The NC House is thinking about tinkering with the sentencing law so that judges aren't required to throw the book at people nailed for more than three minor crimes. . . That would make excellent sense." – *Star-News, 4/24/03*

The combined Commission options = 4,597 prison beds or approx. 6.5 prisons

- The Commission presented the legislature with **several options** (see over). The projected bed space savings for all of the options are cumulative. **The legislature must act this session to achieve the needed cost savings.**

Families Against Mandatory Minimums - Randolph Cloud (919) 821-1004 – May 29, 2003

IMPACT OF SENTENCING ALTERNATIVES ON PRISON POPULATION[1]

FISCAL YEAR	A	B	C	D	E
2004/05	-672	7	8	1	-2
2005/06	-956	49	-90	-51	-8
2006/07	-1,095	18	-181	-225	-12
2007/08	-1,205	-43	-251	-511	-17
2008/09	-1,348	-187	-316	-878	-23
2009/10	-1,511	-434	-391	-1,200	-24
2010/11	-1,645	-696	-468	-1,428	-24
2011/12	-1,750	-948	-522	-1,572	-24
2012/13	-1,838	-1,154	-575	-1,680	-25
2013/14	-1,916	-1,306	-613	-1,763	-25

Alternatives Modeled[2]:

A = Restructure the prior record level point ranges in order to expand the points in Prior Record Level I and to even out the remaining ranges. Expand Prior Record Level I to include up to **two prior record points**. Make Prior Record Levels II through V consistent by covering four points each.

B = Make the increase in sentence lengths between prior record levels more proportionate using set percentage (15%) increments. The current sentence lengths in Prior Record Level I in each offense class would remain unchanged, serving as an anchor, while the sentence lengths between each subsequent prior record level would be increased by 15% in all classes except Classes H and I, which would remain unchanged.

C = Reallocate three months from the minimum sentence in Classes B1 through E to the maximum sentence for the purpose of increasing the period of imprisonment following revocation of post-release supervision from nine months to twelve months. Also increase the period of post-release supervision from nine months to twelve months.

D = Punish habitual felons three classes higher than the offense classification for the principal offense, but in no case higher than Class C, and require an active sentence.

E = Reclassify statutory rape or sexual offense of a person who is 13, 14, or 15 years old by a defendant who is more than four years but less than six years older from Class C to Class F.

---

[1] For a full discussion of these sentencing alternatives, see the North Carolina Sentencing and Policy Advisory Commission's Report on Study of Structured Sentencing Pursuant to Session Law 2001-424, Section 25.8, May 2002.

[2] There was no sufficient statistical information available to model the alternative to amend the definition of special probation.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2001/02 Felony Simulation Data, February 2003

IMPACT OF COMBINATIONS OF SENTENCING ALTERNATIVES ON PRISON POPULATION

FISCAL YEAR	ABCE	ABCDE
2004/05	-653	-594
2005/06	-1,040	-1,003
2006/07	-1,282	-1,454
2007/08	-1,543	-1,976
2008/09	-1,922	-2,562
2009/10	-2,379	-3,137
2010/11	-2,792	-3,633
2011/12	-3,162	-4,053
2012/13	-3,433	-4,359
2013/14	-3,645	-4,597

Alternatives Modeled:

ABCE = Restructure prior record level point ranges (A), sentence length proportionality (B), post-release supervision reallocation (C), reclassify statutory rape (E)

ABCDE = Restructure prior record level point ranges (A), sentence length proportionality (B), post-release supervision reallocation (C), punish habitual felons three classes higher (D), reclassify statutory rape (E)

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2001/02 Felony Simulation Data, February 2003

Effective for Offenses Committed on or after 12/1/95

FELONY PUNISHMENT CHART

PRIOR RECORD LEVEL

OFFENSE CLASS	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts
A	Death or Life Without Parole					
B1	A *240-300* **192-240** *144-192*	A *288-360* **230-288** *173-230*	A *336-420* **269-336** *202-269*	A *384-480* **307-384** *230-307*	A *Life Without Parole* **346-433** *260-346*	A *Life Without Parole* **384-480** *288-384*
B2	A *157 - 196* **125 - 157** *94 - 125*	A *189 - 237* **151 - 189** *114 - 151*	A *220 - 276* **176 - 220** *132 - 176*	A *251 - 313* **201 - 251** *151 - 201*	A *282 - 353* **225 - 282** *169 - 225*	A *313 - 392* **251 - 313** *188 - 251*
C	A *73 - 92* **58 - 73** *44 - 58*	A *100 - 125* **80 - 100** *60 - 80*	A *116 - 145* **93 - 116** *70 - 93*	A *133 - 167* **107-133** *80 - 107*	A *151 - 188* **121 - 151** *90 - 121*	A *168 - 210* **135 - 168** *101-135*
D	A *64 - 80* **51 - 64** *38 - 51*	A *77 - 95* **61 - 77** *46 - 61*	A *103 - 129* **82 - 103** *61 - 82*	A *117 - 146* **94 - 117** *71 - 94*	A *133 - 167* **107 - 133** *80 - 107*	A *146 - 183* **117 - 146** *88 - 117*
E	I/A *25 - 31* **20 - 25** *15 - 20*	I/A *29 - 36* **23 - 29** *17 - 23*	A *34 - 42* **27 - 34** *20 - 27*	A *46 - 58* **37 - 46** *28 - 37*	A *53 - 66* **42 - 53** *32 - 42*	A *59 - 74* **47 - 59** *35 - 47*
F	I/A *16 - 20* **13 - 16** *10 - 13*	I/A *19 - 24* **15 - 19** *11 - 15*	I/A *21 - 26* **17 - 21** *13 - 17*	A *25 - 31* **20 - 25** *15 - 20*	A *34 - 42* **27 - 34** *20 - 27*	A *39 - 49* **31 - 39** *23 - 31*
G	I/A *13 - 16* **10 - 13** *8 - 10*	I/A *15 - 19* **12 - 15** *9 - 12*	I/A *16 - 20* **13 - 16** *10 - 13*	I/A *20 - 25* **16 - 20** *12 - 16*	A *21 - 26* **17 - 21** *13 - 17*	A *29 - 36* **23 -29** *17 - 23*
H	C/I/A *6 - 8* **5 - 6** *4 - 5*	I/A *8 - 10* **6 - 8** *4 - 6*	I/A *10 - 12* **8 - 10** *6 - 8*	I/A *11 - 14* **9 - 11** *7 - 9*	I/A *15 - 19* **12 - 15** *9 - 12*	A *20 - 25* **16 - 20** *12 - 16*
I	C *6 - 8* **4 - 6** *3 - 4*	C/I *6 - 8* **4 - 6** *3 - 4*	I *6 - 8* **5 - 6** *4 - 5*	I/A *8 - 10* **6 - 8** *4 - 6*	I/A *9 - 11* **7 - 9** *5 - 7*	I/A *10 - 12* **8 -10** *6 - 8*

DISPOSITION
Aggravated Range
PRESUMPTIVE RANGE
Mitigated Range

HABITUAL FELON NOW

Examples:
ARMED ROBBERY
FIRST DEGREE BURGLARY
SECOND DEGREE KIDNAPPING

MOST OFFENDERS HABITUALIZED HAVE H AND I LEVEL OFFENSES

Note: A - Active Punishment I - Intermediate Punishment C - Community Punishment
*Numbers shown are in months and represent the range of minimum sentences.

Revised: 08-04-95

BACKGROUND STATISTICAL INFORMATION

ALTERNATIVE D
HABITUAL FELON RECLASSIFICATION

Offense Class	Underlying Offense	Current Law	Alternative D
A	1 (<1%)	1	1
B1	1 (<1%)	1	1
B2	2 (<1%)	2	2
C	27 (4%)	634	116
D	43 (7%)		125
E	18 (3%)		299
F	28 (4%)		94
G	125 (20%)		
H	299 (47%)		
I	94 (15%)		
TOTAL	638 (100%)	638	638
Average Estimated Time Served		101.0	68.2

NOTE: Percentages do not add to 100% due to rounding.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2001/02 Felony Simulation Data, February 2003

Offenders convicted as habitual felons in FY 2000/01:

OFFENSE CLASS	Most Serious Current Conviction	Most Serious Prior Conviction*
B1	3	0
B2	3	0
C	39	28
D	37	23
E	11	11
F	27	15
G	103	36
H	310	358
I	113	16
TOTAL	647	487

Data on the type of prior convictions were available for 487 of the 647 offenders convicted as habitual felons.

Source: NC Sentencing Commission

(Prison Entries between 01-01-2001 and 12-31-2001)

----- Selection Criteria -----

1. Most Serious Offense is (HABITUAL FELON)

Received request on 05-13-2002 at 09:20:11

	County of Conviction	Most Serious Offense	Race	Total
PRISON ENTRIES	ALAMANCE	HABITUAL FELON	WHITE	4
			BLACK	8
			INDIAN	1
		TOTAL HABITUAL FELON		13
	TOTAL ALAMANCE			13
	ANSON	HABITUAL FELON	BLACK	2
		TOTAL HABITUAL FELON		2
	TOTAL ANSON			2
	BEAUFORT	HABITUAL FELON	BLACK	4
		TOTAL HABITUAL FELON		4
	TOTAL BEAUFORT			4
	BLADEN	HABITUAL FELON	BLACK	1
		TOTAL HABITUAL FELON		1
	TOTAL BLADEN			1
	BUNCOMBE	HABITUAL FELON	WHITE	23
			BLACK	11
		TOTAL HABITUAL FELON		34
	TOTAL BUNCOMBE			34
	BURKE	HABITUAL FELON	WHITE	4
			BLACK	2
		TOTAL HABITUAL FELON		6
	TOTAL BURKE			6
	CABARRUS	HABITUAL FELON	WHITE	4
			BLACK	5
		TOTAL HABITUAL FELON		9
	TOTAL CABARRUS			9
	CALDWELL	HABITUAL FELON	WHITE	2
		TOTAL HABITUAL FELON		2
	TOTAL CALDWELL			2
	CARTERET	HABITUAL FELON	WHITE	3

		BLACK	6
		TOTAL HABITUAL FELON	9
	TOTAL CARTERET		9
	CATAWBA	HABITUAL FELON WHITE	3
		BLACK	3
		TOTAL HABITUAL FELON	6
	TOTAL CATAWBA		6
	CHATHAM	HABITUAL FELON BLACK	1
		TOTAL HABITUAL FELON	1
	TOTAL CHATHAM		1
	CHEROKEE	HABITUAL FELON WHITE	1
		TOTAL HABITUAL FELON	1
	TOTAL CHEROKEE		1
	CHOWAN	HABITUAL FELON BLACK	1
		TOTAL HABITUAL FELON	1
	TOTAL CHOWAN		1
	CLEVELAND	HABITUAL FELON WHITE	1
		TOTAL HABITUAL FELON	1
	TOTAL CLEVELAND		1
	CRAVEN	HABITUAL FELON WHITE	3
		BLACK	7
		TOTAL HABITUAL FELON	10
	TOTAL CRAVEN		10
	CUMBERLAND	HABITUAL FELON WHITE	7
		BLACK	18
		INDIAN	2
		TOTAL HABITUAL FELON	27
	TOTAL CUMBERLAND		27
	DAVIDSON	HABITUAL FELON WHITE	1
		BLACK	2
		TOTAL HABITUAL FELON	3
	TOTAL DAVIDSON		3
	DURHAM	HABITUAL FELON WHITE	4
		BLACK	21
		TOTAL HABITUAL FELON	25
	TOTAL DURHAM		25
	FORSYTH	HABITUAL FELON WHITE	14
		BLACK	65

		INDIAN	1
	TOTAL HABITUAL FELON		80
	TOTAL FORSYTH		80
	FRANKLIN		
	HABITUAL FELON	BLACK	5
	TOTAL HABITUAL FELON		5
	TOTAL FRANKLIN		5
	GASTON		
	HABITUAL FELON	WHITE	2
		BLACK	2
	TOTAL HABITUAL FELON		4
	TOTAL GASTON		4
	GRANVILLE		
	HABITUAL FELON	BLACK	1
	TOTAL HABITUAL FELON		1
	TOTAL GRANVILLE		1
	GREENE		
	HABITUAL FELON	BLACK	3
	TOTAL HABITUAL FELON		3
	TOTAL GREENE		3
	GUILFORD		
	HABITUAL FELON	WHITE	5
		BLACK	30
	TOTAL HABITUAL FELON		35
	TOTAL GUILFORD		35
	HALIFAX		
	HABITUAL FELON	BLACK	2
	TOTAL HABITUAL FELON		2
	TOTAL HALIFAX		2
	HARNETT		
	HABITUAL FELON	WHITE	2
		BLACK	5
	TOTAL HABITUAL FELON		7
	TOTAL HARNETT		7
	HAYWOOD		
	HABITUAL FELON	WHITE	1
	TOTAL HABITUAL FELON		1
	TOTAL HAYWOOD		1
	HENDERSON		
	HABITUAL FELON	WHITE	2
		BLACK	9
	TOTAL HABITUAL FELON		11
	TOTAL HENDERSON		11
	HERTFORD		
	HABITUAL FELON	BLACK	1
	TOTAL HABITUAL FELON		1

TOTAL HERTFORD			1
IREDELL	HABITUAL FELON	WHITE	3
		BLACK	5
	TOTAL HABITUAL FELON		8
TOTAL IREDELL			8
JOHNSTON	HABITUAL FELON	WHITE	1
		BLACK	13
	TOTAL HABITUAL FELON		14
TOTAL JOHNSTON			14
LEE	HABITUAL FELON	BLACK	2
	TOTAL HABITUAL FELON		2
TOTAL LEE			2
LENOIR	HABITUAL FELON	WHITE	3
		BLACK	11
	TOTAL HABITUAL FELON		14
TOTAL LENOIR			14
LINCOLN	HABITUAL FELON	BLACK	1
	TOTAL HABITUAL FELON		1
TOTAL LINCOLN			1
MACON	HABITUAL FELON	WHITE	2
	TOTAL HABITUAL FELON		2
TOTAL MACON			2
MARTIN	HABITUAL FELON	BLACK	2
	TOTAL HABITUAL FELON		2
TOTAL MARTIN			2
MECKLENBURG	HABITUAL FELON	WHITE	4
		BLACK	59
	TOTAL HABITUAL FELON		63
TOTAL MECKLENBURG			63
MOORE	HABITUAL FELON	WHITE	6
		BLACK	9
	TOTAL HABITUAL FELON		15
TOTAL MOORE			15
NASH	HABITUAL FELON	WHITE	1
		BLACK	2
	TOTAL HABITUAL FELON		3

	TOTAL NASH		3
NEW HANOVER	HABITUAL FELON	BLACK	1
	TOTAL HABITUAL FELON		1
	TOTAL NEW HANOVER		1
ONSLOW	HABITUAL FELON	WHITE	1
	TOTAL HABITUAL FELON		1
	TOTAL ONSLOW		1
ORANGE	HABITUAL FELON	WHITE	1
		BLACK	2
	TOTAL HABITUAL FELON		3
	TOTAL ORANGE		3
PASQUOTANK	HABITUAL FELON	BLACK	2
	TOTAL HABITUAL FELON		2
	TOTAL PASQUOTANK		2
PENDER	HABITUAL FELON	BLACK	3
	TOTAL HABITUAL FELON		3
	TOTAL PENDER		3
PERSON	HABITUAL FELON	WHITE	2
		BLACK	4
	TOTAL HABITUAL FELON		6
	TOTAL PERSON		6
PITT	HABITUAL FELON	BLACK	10
	TOTAL HABITUAL FELON		10
	TOTAL PITT		10
RANDOLPH	HABITUAL FELON	WHITE	1
	TOTAL HABITUAL FELON		1
	TOTAL RANDOLPH		1
RICHMOND	HABITUAL FELON	WHITE	7
		BLACK	15
	TOTAL HABITUAL FELON		22
	TOTAL RICHMOND		22
ROBESON	HABITUAL FELON	BLACK	2
		INDIAN	1
	TOTAL HABITUAL FELON		3
	TOTAL ROBESON		3
ROCKINGHAM	HABITUAL FELON	WHITE	4

			BLACK	7
		TOTAL HABITUAL FELON		11
	TOTAL ROCKINGHAM			11
	ROWAN	HABITUAL FELON	WHITE	2
			BLACK	5
		TOTAL HABITUAL FELON		7
	TOTAL ROWAN			7
	RUTHERFORD	HABITUAL FELON	BLACK	1
		TOTAL HABITUAL FELON		1
	TOTAL RUTHERFORD			1
	SAMPSON	HABITUAL FELON	BLACK	3
			INDIAN	1
		TOTAL HABITUAL FELON		4
	TOTAL SAMPSON			4
	STANLY	HABITUAL FELON	WHITE	3
			BLACK	3
		TOTAL HABITUAL FELON		6
	TOTAL STANLY			6
	SURRY	HABITUAL FELON	BLACK	2
		TOTAL HABITUAL FELON		2
	TOTAL SURRY			2
	TYRRELL	HABITUAL FELON	BLACK	1
		TOTAL HABITUAL FELON		1
	TOTAL TYRRELL			1
	UNION	HABITUAL FELON	WHITE	6
			BLACK	15
			OTHER	1
		TOTAL HABITUAL FELON		22
	TOTAL UNION			22
	VANCE	HABITUAL FELON	BLACK	3
		TOTAL HABITUAL FELON		3
	TOTAL VANCE			3
	WAKE	HABITUAL FELON	WHITE	3
			BLACK	28
		TOTAL HABITUAL FELON		31
	TOTAL WAKE			31
	WASHINGTON	HABITUAL FELON	BLACK	2

		TOTAL HABITUAL FELON		2
	TOTAL WASHINGTON			2
	WAYNE	HABITUAL FELON	WHITE	7
			BLACK	26
		TOTAL HABITUAL FELON		33
	TOTAL WAYNE			33
	WILKES	HABITUAL FELON	BLACK	1
		TOTAL HABITUAL FELON		1
	TOTAL WILKES			1
	WILSON	HABITUAL FELON	BLACK	6
		TOTAL HABITUAL FELON		6
	TOTAL WILSON			6
GRAND TOTAL				**611**

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House Committee on Finance

Minutes

~

June 2, 2003

The House Committee on Finance met on Monday, June 2, 2003 at 3:00 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, and Luebke; Vice-Chairs Alexander and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Martha Harris, Jim Mills, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairwoman Howard called the meeting to order at 3:08 pm and immediately recognized the four pages present: Duncan Briley of Columbus County, sponsored by Representative Hill; Montrell Brown of Wake County, sponsored by Representative Stam; Cameron Falkner of Vance County, sponsored by Representative Fox; and Tempe Williamson of Franklin County, sponsored by Representative L. Allen.

As the sole matter of business before the Committee, the purpose of this meeting is the continued discussion of PART XLVII of HOUSE BILL 397, involving the construction of three new prisons in North Carolina (see attachment 3). Chairwoman Howard first recognized Secretary of the North Carolina Department of Corrections, Theodis Beck. He was present to explain the responsibilities of the Department and its Division of Prisons. He offered some statistics of the current operating capacities of the North Carolina prison system. He reported the total number of sentenced prisoners in the state is above earlier estimates at 34,390. He also reported that by 2006, there would be a 3,000-bed shortage in the state; and by 2010, there would be a 6,300-bed shortage. (These estimates of shortage **include** the construction of the prisons currently under debate by the Committee and the General Assembly.) He notes that this overpopulation within the prisons could cause not only the obvious strain on staff and resources but also an increase in violent incidents among inmates. After several questions from members, the Secretary clearly stated the need for these prisons as the inmate population continues to steadily grow.

Susan Katzenelson, Executive Director of the North Carolina Sentencing and Policy Advisory Commission, was recognized by the Chair to address a question from Representative Womble regarding the large increases in the number of prisoners in the state over the recent past. Ms. Katzenelson stated that the top reasons for this increase are: (1) simply as the general population of the State increases, so does the criminal population; (2) activities by the General Assembly in dictating the classification of certain laws with certain penalties; and (3) the effects of the habitual felon laws that, if implemented, require large sentence requirements once an individual has committed more than three felonies.

The Chair then recognized Representative Luebke who clearly stated his opinion that the General Assembly should adopt the recommended alternatives of the Sentencing Commission in order to, at the very least, decrease the number of prison beds needed by the state in the years ahead.

Representative Jones was recognized next by Chairwoman Howard and he thanked Secretary Beck for his work within the Department of Corrections over the past years. He asked the Secretary for the number of prisoners currently in the state that were African American, that were female, and that were incarcerated for non-violent crimes. Secretary Beck stated that between 65-68 percent of the current prison population was African American. He also noted that approximately 2,200 prisoners were female and that approximately 40 percent of those incarcerated were there for non-violent crime.

Chairwoman Howard next recognized Representative Earle to briefly address the Committee. She stated her belief that rather than simply sentencing criminals convicted of illegal substance abuse to long prison sentences, drug treatments and other services should be offered as an alternative in an effort to rehabilitate drug offenders.

Representative Kiser was then recognized by the Chair and offered his opinion that structured sentencing in North Carolina has not hurt; it has, in fact, helped. He stated that since the implementation of structured sentencing in the state, the murder rate had dropped 23 percent. Representative Luebke interjected to explain to Representative Kiser that neither he, nor any other member present, had expressed their desire to dispose of structured sentencing. Representative Kiser responded, however, that by adopting the recommendations of the Sentencing Commission, of which Representative Luebke was an advocate, structured sentencing would indeed be threatened. Representative Kiser further stated that structured sentencing has offered a level "playing field" for criminals and their offenses. He expressed that he had no problem with the state continuing to build prisons as long as necessary in order to keep the citizens of North Carolina safe from offenders. Representative Womble was recognized to address Representative Kiser's earlier comments. He stated his belief that much of Representative Kiser's commentary was opinion. Representative Kiser continued to field questions from members of the Committee concerning his standpoint on structured sentencing and the habitual felons law.

Representative Glazier was then recognized for a comment. He noted his concerns on the discussion of the meeting. He expressed his belief that major changes are not needed to structured sentencing. However, he does see that some minute changes might be implemented to help with the administration of the law and sentencing. With regard to the habitual felon law, he stated his concerns of the law and suggested some revision to it (see attachment 4).

Representative Kiser was recognized by Chair Howard to make a final comment. He reported that there were already 117,000 criminals in North Carolina participating in "alternative" sentencing opportunities. He also stated that as the population of the state grows, the prison population would grow also, just as schools do. He noted that, like schools, new prisons must also be built to accommodate growth.

Judge W. Ervin Spainhour, Chairman of the North Carolina Sentencing and Policy Advisory Commission, was recognized by the Chair to address the Committee. He reviewed the objectives of the Commission as mandated by the General Assembly and discussed the membership of the Commission. He stated that the product of the Commission's work is simply alternatives for the

Committee's consideration. He stated, personally, that he enjoys structured sentencing. He also stated that when he uses the habitual felon law, he does it with a clear conscience. He further stated that the Commission's recommendations are not to forgo structured sentencing, rather simply alternatives to save prison beds (and state funds). Representative Capps asked Judge Spainhour if he felt there was a need to build more prisons, regardless of the alternatives offered by the Commission. He agreed with Representative Capps that they were indeed needed. He stated that the Commission anticipates that there will be a 7,700-bed shortage in the next ten years, if the state's population growth continues as planned. Judge Spainhour then responded to a series of questions and comments in regard to structured sentencing and the habitual felon laws from the members of the Committee. Representative Womble expressed his concern that the State simply cannot afford the costs of continued prison construction and advocated for the use of any viable alternatives available to curb the growth of the prison population.

The Chair then again recognized Ms. Katzenelson to discuss the four alternatives offered by the Sentencing Commission (see attachment 5). Overall, she explained that if the recommendations of the Commission were enacted, some 4,600 beds could be saved over then next ten years.

Senator Kerr was then recognized by Chairwoman Howard and stated his belief that it was time for the Legislature to take action on this issue and urged the Committee to move forward on the matter. He also noted that from a fiscal standpoint, now was the time for the State to borrow money to build prisons since interest rates are so low.

Without further discussion and with the regrets of Chairwoman Howard to those present who were unable to speak, the meeting was then adjourned at 5:10 pm due to time.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. PART XLVII of HOUSE BILL 397 (and related materials)
4. Habitual Felon Handout from
5. Alternatives offered by NC Sentencing and Policy Advisory Commission
6. Greene Citizens for Responsible Growth (not discussed due to time)
7. Testimony of May Va Lor, Researcher, Grassroots Leadership (not discussed due to time)

AGENDA

ATTACHMENT 1

House Finance Committee

June 2, 2003
3:00 p.m.
Room 544 LOB
Chaired by: Rep. Julia Howard

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bill:

PART XLVII: Lease-Purchase Three New Prisons in HOUSE BILL 397
(CONTINUED – FOR DISCUSSION ONLY)

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, May 29, 2003 10:50 AM
Subject: NOTICE for MONDAY 6-2-03 - House Finance Committee Meeting
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE:	**Monday, June 2, 2003**
TIME:	**3:00 P.M.**
LOCATION:	**544 LOB**

The following bill will be considered:

PART XLVII: Lease-Purchase Three New Prisons in HOUSE BILL 397
(CONTINUED – FOR DISCUSSION ONLY)

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **May 29, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 2, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Cunningham	NC FAMM — Attorney
Frank Warren	Greene Citizens for Responsible Growth
S. Katzenelson	NC Sentencing Commission
S.A. HAIRSTON	WSFC NAACP
Mary Vuler	Grassroots leadership
Theodis Beck	NCDOC
Mildred Spearman	NCDOC
John Madler	NC Sentencing Commission
Karen Jones	NC Sentencing Commission
Ginny Hevener	NC Sentencing Commission
W. Erwin Spainhour	" " "

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 2, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Everett Brower	604 E. Saunders St. Carthage, N.C. 28327
Ruth Brower	604 E. Saunders St. Carthage, N.C. 28327
Irene Sellars	PO Box 984 400 Stage Rd. Carthage, NC 28327
Marcheta Riley	6224 Dixon Dr. Raleigh NC 27609
Meredith Norris	NCPED
John O'Hale	Governor's Office
Duke Chen	Intern
Tracy Little	NCDOC
David Smith	NC DOC
LaFonda Jones	NC FAMM
Bonnie Moore	NC FAMM
Lu-Ann Coe	NC FAMM
Roger Bone	Bone & Assoc.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 2, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard E. Clark	FAMM
Sandy Pearce	DOC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

ATTACHMENT 3

DRAFT
SPECIAL PROVISION

2003-PART47-C47.1A

Part XLVII. Lease-Purchase Three New Prisons
Conference Provision

Requested by: Senators Thomas, Garrou, Dalton, Hagan, Kerr, Jenkins, Holloman, Soles

SECTION 47.1. G.S. 148-37.2 reads as rewritten:

"**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells~~ described in subsection (a1) of this section to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

(1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.

(2) 2003 Facilities. – Three close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 3,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or more of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined

by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.

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

(1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.

(2) Construction contract agreement. – ~~A~~ Either of the following:

a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.

b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.

(3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.

(4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.

(5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.

(6) Selected contractors. – One or more private firms selected to construct the Projects.

(7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects.~~Projects or, alternatively, the construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

(1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.

(3) The lease-purchase agreement can be entered into on terms desirable to the State.

(4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

(e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:

(1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.

(2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.

(3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.

(4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.

(5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.

(6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the

completed Projects to the special nonprofit ~~corporation for purchase,~~corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the

lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such proposal,~~ this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. ~~87-1; provided that this~~87-1. This subsection ~~shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

Discussion of HB 397: 2003 Budget Act (PART XLVII Lease-Purchase Three New Prisons)

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	May 29, 2003	**Analysis by:**	Finance Team
Version:	Part XLVII (Lease-Purchase Three New Prisons) 7th Edition		

SUMMARY: House bill 397, the 2003 Budget bill, is currently before the conference committee. The version passed by the Senate contains Part 47, which authorizes the State to lease purchase three 1,000-bed close security correctional facilities. Senate Bill 227 also gives the same authorization to the State. SB 227 was given a favorable report in Senate Finance and is currently in Senate Appropriations.

PART 47: LEASE-PURCHASE THREE PRISONS

Part 47 would authorize the State to enter into lease-purchase contracts to build three new prisons.

In 2001, the General Assembly authorized lease-purchase financing of three new 1000-cell close security prisons. This Part would authorize three more substantially identical prisons. The State may first try to negotiate a contract for these new prisons with the same company that is building the 2001 prisons. If the Secretary of Administration and the Council of State find that the negotiations have failed to produce a reasonable price, the State would solicit the projects using a similar procedure as for the 2001 prisons.

The initial construction loan must be obtained by the vendor on a private, taxable basis. The State's acquisition of the constructed prisons will be financed with tax-exempt obligations. The prisons are exempt from property taxes both during and after construction.

The Part provides that after the prisons are completed, approved, and accepted by the State, a nonprofit corporation controlled by the State would purchase the prisons from the vendor and lease them to the State under a lease-purchase agreement. The nonprofit corporation would finance its purchase price for the prisons by selling tax-exempt obligations known as certificates of participation (COPs). The COPs would represent interests in the nonprofit corporation's rights to receive the lease payments under the lease-purchase agreement with the State. The COPs would be secured by a lien on the property, not by a pledge of the State's full faith and credit. The COPs would be paid from the State's lease-purchase payments over the course of 20 years.

Because only private funds would be involved during the construction phase, and because the vendor is at risk for that construction financing until the completed facilities are delivered, requirements for public bidding of construction would not apply. The new prisons are to be substantially identical to the 2001 prisons, so the Department of Correction will first try to negotiate a contract with the existing vendor to build the three new prisons. If, in the opinion of the Secretary of Administration and the Council of State, the terms of the proposed negotiated contract are not favorable to the State, the Department of Correction will solicit for the construction of the three new prisons. The Department of Correction would be required to consult with the Joint Legislative Commission on Governmental Operations before making a final award decision. The final award decision would also be subject to the approval of the Council of State.

The prisons would be required to be built in accordance with plans and specifications developed by the Department of Correction, and the Department of Correction and the State Construction Office would inspect and review the facilities during construction to ensure that they are suitable for use and acquisition by the State. The minority participation requirements of G.S. 143-128.2 apply to these projects.

It is expected that the COPs would be sold close to the time of purchase, although the State may have the nonprofit sell the COPs earlier if the State Treasurer determines that an earlier sale would be to the advantage of the State. Even if the COPs are sold earlier, there would be no payments from the State's General Fund until after the prisons have been accepted and purchased. Because of the State's involvement, interest with respect to the COPs will be tax-exempt.

The lease-purchase agreement would be between the nonprofit corporation and the State. Under the agreement, which must be approved by the Council of State and the State Treasurer, the State would make lease-purchase payments to the nonprofit corporation, which would use the funds to retire the COPs. The COPs would be secured by a lien on the property and the State's failure to make payments could result in its eviction from the property. The State Treasurer would determine the price to be paid for the COPs and the rate of interest to be paid on them. The State would retain the option of refinancing the debt if interest rates fall. The State would also retain the option of paying off its obligations and purchasing the property before the end of the lease-purchase period. Under the lease-purchase agreement, the State will own the facilities at the end of the lease term. The nonprofit corporation that issues the COPs would be subject to the Public Records Act and the Open Meetings Law.

ESTIMATED COST OF PROPOSED NEW PRISONS

Negotiated Contract and COPS Issued After Construction (Vendor finances construction)

2000 Beds (Prisons 4 and 5) COPS Issued July 2005

	FY 2002-0:	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	TOTAL L/P DEBT $252 Million
E. Lease/Purchase	$-	$-	$-	$5.38	$16.72	$16.26	
F. Operating	$-	$-	$11.44	$33.80	$36.19	$36.19	
G. TOTAL	$-	$-	**$11.44**	**$39.18**	**$52.91**	**$52.45**	

ASSUMPTIONS

Assumes "COPS" issued July 2005; also assumes a low end negotiated cost of $150 Million

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 6.15% interest rate for two prisons at cost of $150 million. L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 3/11/03)

3000 Beds (Prisons 4,5,6) COPS Issued July 2005 and May 06 (SB 227)

							TOTAL L/P DEBT
E. Lease/Purchase	$-	$-	$-	$5.38	$26.19	$25.47	$391 Million
F. Operating	$-	$-	$11.44	$42.60	$53.48	$54.29	
G. TOTAL	$-	$-	**$11.44**	**$47.98**	**$79.67**	**$79.76**	

ASSUMPTIONS

Assumes COPS issued July 2005 for prisons 4 and 5 at low end negotiated cost of $150 million. Assumes COPS issued May 1, 2006 for prison #6 at additional base cost of $84.25 million or $234.25 million construction cost for 3 new prisons (plus debt cost);

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 6.15% interest rate (Treasurer's Office 3/17/03) L/P figures could change based on final contract price and interest rate at time of issuance.

FRD 5/27/03

NC Prison Population Changes with New Beds and with House Structured Sentencing Bills 242,243,246,247,264

1 Fiscal Yr. Ending	2 Inmate Pop. Projection*	3 DOC Expan. Capacity**	4 **Prison Beds Over/Under w/no change**	5 Prison Beds Over/Under w/2prisons***	6 Prison Beds Over/Under w/3 prisons****	7 Prison Beds Over/under w/5 House Sent. Bills & 2 prisons****	8 Prison Beds Over/Under w/5 House Sent. Bills & 3 prisons
6/30/2003	34,570	31,969	**-2,601**	-2,601	-2,601	-2,601	-2,601
6/30/2004	35,851	***34,561***	**-1,290**	-1,290	-1,290	-1,290	-1,290
6/30/2005	36,787	34,729	**-2,058**	-2,058	-2,058	-1,464	-1,464
6/30/2006	37,739	34,729	**-3,010**	-1,282	-1,282	-279	-279
6/30/2007	38,687	34,729	**-3,958**	-2,230	-1,366	-776	88
6/30/2008	39,557	34,729	**-4,828**	-3,100	-2,236	-1,124	-782
6/30/2009	40,345	34,729	**-5,616**	-3,888	-3,024	-1,326	-462
6/30/2010	41,068	34,729	**-6,339**	-4,611	-3,747	-1,474	-610
6/30/2011	41,768	34,729	**-7,039**	-5,311	-4,447	-1,678	-814
630/2012	42,413	34,729	***-7,684***	***-5,956***	***-5,092***	***-1,903***	***-1,039***

* Population Projections by Sentencing and Policy Advisory Commission, Jan. 2003

**DOC Expanded Capacity as of Dec. 4, 2002 with 2,592 new beds opening in FY 2004. DOC defines Expanded Operating Capacity (EOC) (EOC) as one inmate per cell or less than 50 square feet per inmate in dorms (35 sq ft is 130% of standard capacity)

*** "Prisons" assumes two new prisons with EOC of 1,728 new beds (FY 05-06) or 3 with 2,592 new beds (FY 06-07)

****House Bills are: (1) HB 242 - Amend Habitual Felon Law ;(2) HB 243 - Reclassify Statutory Rape/Sex Offense (3) HB 246 Adjust B1-E Felonies; (4) HB 247: Restructure Prior Criminal Record Points & (5) HB 264 Proportionate Sentence Lengths

FRD 4/21/03

Figure 8

Comparison with Moody's 2002 Median Ratios for States and Other Benchmarks
State of North Carolina Ratios as of June 30, 2002

Net Tax-Supported Debt to Personal Income			Debt Service as a % of Tax Revenues		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Median	Ratio of the State to Median
1.4%	2.3%	0.61x	2.3%	3.5%*	0.66x
Net Tax-Supported Debt Per Capita			**Principal Payout Percentage in 10 Years**		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Benchmark Average	Ratio of the State to Benchmark
$395	$573	0.69x	57.4%	50.0%**	1.15x

* Last published in 1996
** Rule of Thumb

The table below details the peer group comparison for the three debt ratios evaluated. The peer group, states ranked triple-A by all three credit rating agencies, include the states of Delaware, Georgia, Maryland, Minnesota, Missouri, South Carolina, Utah and Virginia. The debt to personal income and debt per capita ratios are taken from Moody's "2002 State Debt Medians" report while the debt service ratio has been calculated from the most recent Comprehensive Annual Financial Report available for each state. As seen below, North Carolina has the lowest debt service ratio of any of the peer group and the second lowest debt per capita and debt to personal income ratios while all debt ratios are below the median levels. Thus, the State's debt ratios compare very favorably to the highest rated states.

Figure 9

State of North Carolina
Debt Ratios versus Other Highly Rated States

	Ratings	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

PLEASE SUPPORT HABITUAL FELON PENALTY REFORM

The North Carolina Sentencing Commission option to reform habitual felon penalties alone will save 1,763 prison beds over the next decade – or approximately 2.5 prisons. Currently, "habitual felons" are sentenced at Level C of the guidelines, no matter how minor the offense (including some misdemeanors) that triggers the charges. The Commission option requires individuals convicted as "habitual felons" to be sentenced three offense classes above the triggering offense. For example, a Class "G" offense would be sentenced at Class "D." All habitual felons would still serve hard prison time – but the average sentence would go from about 101 months to 68 months. Sentences would be more proportionate to the offense that triggered the habitual felon status.

REFORM IS URGENTLY NEEDED:

- **The habitual offender statute distorts structured sentencing guidelines designed to tailor the punishment to the crime and the individual defendant and to conserve expensive prison beds– the lowest-level repeat offenders are serving sentences equivalent to those levied for rape, kidnapping and arson. Structured sentencing was the solution to an exploding prison population. Now, routine use of "habitual felon" charges for petty offenders is a major contributor to the prison bed space crisis.**

- **This modest reform does not compromise public safety. The option still raises sentencing guidelines for habitual felons by three guideline levels – tough penalties by any standard. Habitual felons whose triggering conviction was a serious or violent offense would still be sentenced at Offense Class C.**

  According to NC Sentencing Commission statistics: two-thirds of those convicted as habitual felons in FY 2000/2001 had "H" and "I" Class offenses (the lowest level) as their most serious current conviction (423 of 627); more than 75 percent had "H" and "I" Class offenses as their most serious prior conviction (374 of 487 for whom data was available).

- **Most NC habitual felons" are nonviolent, low-level addicts convicted of very minor property and drug possession crimes. Investing in substance abuse and mental health treatment, drug courts and community corrections programs to reduce recidivism would be far less costly and protect the public better than throwing away the key for the lowest-level repeat offenders.**

> ***Referring to Keith Jamerson, convicted as a habitual felon and sentenced to 6.6 years, Judge James M. Webb noted: "I cannot believe that it is the intent of the General Assembly for someone to go to prison in this particular circumstance . . . It is just inconceivable that this is what the legislature intends . . . at some point in time, somebody has to step in and apply some reason. Send somebody to prison for 6.6 years for (possessing) a tenth of a gram of cocaine . . .?***

- **This statute hits African Americans hardest. According to the Commission, 505 of the 695 people sentenced as habitual felons between 3/01/2002 and 2/28/2003 were African American, 15 were white, and 15 were designated "Indian" or "other."**

NC Families Against Mandatory Minimums urges you to support habitual felon reform!

For more information, contact Randolph Cloud at (919) 821-1004 — June 2003

BACKGROUND STATISTICAL INFORMATION

ALTERNATIVE D
HABITUAL FELON RECLASSIFICATION

Offense Class	Underlying Offense	Current Law	Alternative D
A	1 (<1%)	1	1
B1	1 (<1%)	1	1
B2	2 (<1%)	2	2
C	27 (4%)	634	116
D	43 (7%)		125
E	18 (3%)		299
F	28 (4%)		94
G	125 (20%)		
H	299 (47%)		
I	94 (15%)		
TOTAL	638 (100%)	638	638
Average Estimated Time Served		101.0	68.2

NOTE: Percentages do not add to 100% due to rounding.

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2001/02 Felony Simulation Data, February 2003

IMPACT OF COMBINATIONS OF SENTENCING ALTERNATIVES ON PRISON POPULATION

FISCAL YEAR	ABCE	ABCDE
2004/05	-653	-594
2005/06	-1,040	-1,003
2006/07	-1,282	-1,454
2007/08	-1,543	-1,976
2008/09	-1,922	-2,562
2009/10	-2,379	-3,137
2010/11	-2,792	-3,633
2011/12	-3,162	-4,053
2012/13	-3,433	-4,359
2013/14	-3,645	-4,597

Alternatives Modeled:

ABCE = Restructure prior record level point ranges (A), sentence length proportionality (B), post-release supervision reallocation (C), reclassify statutory rape (E)

ABCDE = Restructure prior record level point ranges (A), sentence length proportionality (B), post-release supervision reallocation (C), punish habitual felons three classes higher (D), reclassify statutory rape (E)

SOURCE: NC Sentencing and Policy Advisory Commission, FY 2001/02 Felony Simulation Data, February 2003

NORTH CAROLINA
SENTENCING AND POLICY ADVISORY COMMISSION

Summary of Alternatives

The North Carolina Sentencing and Policy Advisory Commission, in response to the mandate contained in Session Law 2001-424 Section 25.8, presented six alternatives to be considered by the General Assembly. Following are four of the alternatives with are estimated to have sizeable impact on the State's future correctional resource needs:

- Restructure the way prior convictions impact an offender's current penalty — projected bed saving within 10 yrs.: 1,916.
- Make the punishment for current convictions increase more proportionately to prior convictions — projected bed saving within 10 yrs.: 1,306.
- Shift three months from the minimum sentence for violent offenders to extend their post-release supervision from nine months to a year, to facilitate their successful reentry into society — projected bed saving within 10 yrs.: 613.
- Preserve the habitual felon law and continue to require prison for all habitual felons. Punish habitual felons with a current violent offense at the existing level; punish habitual felons with a current non-violent offense at three offense levels higher than the underlying current offense — projected bed saving within 10 yrs.: 1,763.

NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION

PRISON POPULATION PROJECTIONS:
UPDATED JANUARY 2003

PREPARED IN CONJUNCTION WITH THE DEPARTMENT OF CORRECTION'S OFFICE OF RESEARCH AND PLANNING

FISCAL YEAR	PREVIOUS PROJECTION as of June 30	REVISED PROJECTION as of June 30	*ESTIMATE OF EXPANDED OPERATING PRISON CAPACITY*[1]	*ESTIMATE OF STANDARD OPERATING PRISON CAPACITY*[2]
2003	34,129	34,570	31,969	28,501
2004	34,840	35,851	34,561	31,093
2005	35,647	36,787	34,729	31,261
2006	36,485	37,739	34,729	31,261
2007	37,405	38,687	34,729	31,261
2008	38,306	39,557	34,729	31,261
2009	39,203	40,345	34,729	31,261
2010	40,077	41,068	34,729	31,261
2011	41,052	41,768	34,729	31,261
2012	N/A	42,413	34,729	31,261

[1] Expanded Operating Capacity (EOC) is the bed space count yielded by calculating the number of general population single cells with one inmate per cell, the number of cells that house two inmates, and the number of inmates in dormitories operating at varying percentages beyond their Standard Operating Capacity (SOC) which is rounded up to the closest double bunk configuration.

[2] Standard Operating Capacity (SOC) is the bed space count yielded by calculating the number of general population single cells with one inmate per cell plus the number of inmates who can be housed in dormitories by dividing the gross square feet of each dormitory by 50 square feet and rounding to the closest double bunk configuration.

ATTACHMENT 6

GREENE CITIZENS FOR RESPONSIBLE GROWTH

1070 HOWELL SWAMP CHURCH ROAD, WALSTONBURG, NC 27888
FOR FURTHER INFORMATION, OR QUESTIONS, CALL 252-747-3529

TESTIMONY TO THE NORTH CAROLINA HOUSE FINANCE COMMITTEE

RALEIGH, NORTH CAROLINA

JUNE 2, 2003

REGARDING HB 397/PART XLVII: LEASE PURCHASE THREE NEW PRISONS

STATEMENT BY FRANK WARREN

ON BEHALF OF GREENE CITIZENS FOR RESPONSIBLE GROWTH

MY NAME IS FRANK WARREN AND I AM HERE TODAY REPRESENTING GREENE CITIZENS FOR RESPONSIBLE GROWTH (GCRG) AN ORGANIZATION OF CONCERNED CITIZENS IN GREENE COUNTY, NORTH CAROLINA. I WOULD LIKE TO THANK THE MEMBERS OF THIS COMMITTEE FOR GRANTING US THE OPPORTUNITY TO REGISTER OUR OPINION ABOUT HOUSE BILL 397 WHICH, IF ADOPTED, WOULD AUTHORIZE THE STATE TO FINANCE THE BUILDING OF THREE NEW 1000-BED PRISONS.

GREENE CITIZENS FOR RESPONSIBLE GROWTH RESPECTFULLY EXPRESSES THE FOLLOWING CONCERNS ABOUT THIS BILL:

1. THE DEPARTMENT OF CORRECTIONS HAS APPROVED A SITE FOR ONE OF THESE PRISONS IN GREENE COUNTY DESPITE THE LACK OF WIDE-SPREAD SUPPORT IN OUR COMMUNITY FOR THIS PROJECT AND THE CONTINUING CONTROVERSY THIS PROJECT HAS GENERATED IN OUR COUNTY. LESS THAN THREE WEEKS AGO, FOR EXAMPLE, THE PRISON WAS REJECTED BY OUR COUNTY COMMISSIONERS BY A VOTE OF 3 COMMISSIONERS AGAINST THE PRISON AND 2 COMMISSIONERS FOR THE PRISON. THREE DAYS LATER, IN A SPECIAL SESSION OF

THE COUNTY COMMISSION THAT OCCURRED AT 2 O'CLOCK IN THE AFTERNOON WITH MINIMUM PUBLIC NOTICE, COUNTY COMMISSIONERS VOTED AGAIN AND THIS TIME THE PRISON WAS APPROVED BY A VOTE OF 3 TO 2. ONE PERSON CHANGED HIS VOTE. TWO COMMISSIONERS MADE STRONG STATEMENTS AGAINST ACCEPTING A NEW PRISON FOR GREENE COUNTY. GIVEN THE STRONG CITIZEN SENTIMENT AGAINST THIS PROJECT, AN APPROVAL VOTE OF 3 TO 2 BY OUR COUNTY COMMISSIONERS FAILS TO SATISFY THE "STRONG COMMUNITY SUPPORT" CRITERIA ESTABLISHED BY THE DEPARTMENT OF CORRECTIONS IN LINE WITH THE GOVERNOR'S POLICY NOT TO SITE PRISONS IN COMMUNITIES THAT DO NOT WANT THEM.

2. THERE IS CURRENTLY NO ADEQUATE SOURCE OF WATER FOR THIS PRISON IN GREENE COUNTY AND NONE PROJECTED TO BE AVAILABLE FOR SEVERAL YEARS, CERTAINLY NOT BY 2005-6 WHEN THE DEPARTMENT OF CORRECTIONS PROJECTS THESE PROPOSED PRISONS WOULD BE READY TO SERVE INMATES. GREENE COUNTY IS IN THE CENTRAL COASTAL PLAIN AND IS ONE OF ELEVEN COUNTIES FACING SERIOUS WATER CHALLENGES AS A RESULT OF DEPLETION OF GROUNDWATER RESERVES. GREENE COUNTY IS IN WHAT IS CALLED THE DEWATERING ZONE, WHICH COVERS THE MOST CHALLENGED PART OF THE AQUIFER, AND IS UNDER STATE MANDATE TO REDUCE WITHDRAWALS BY 75% BY 2006. ACCORDING TO THE DEPARTMENT OF CORRECTIONS, THE PROPOSED PRISONS ARE FORECAST TO USE 150,000 GALLONS PER DAY WITH 1,500 GALLONS PE MINUTE FOR FIRE-FIGHTING. GREENE COUNTY MUST FIND ALTERNATIVE WATER SUPPLIES BY PURCHASING WATER FROM ANOTHER SOURCE. CURRENT PLANS TO USE WATER FROM THE NEUSE RIVER ARE SEVERAL YEARS AWAY AT BEST.

3. GREENE COUNTY ALREADY HAS TWO STATE PRISONS: EASTERN CORRECTIONAL INSTITUTION, WHICH IS A MAXIMUM SECURITY PRISON, AND GREENE CORRECTIONAL INSTITUTION, WHICH IS A MINIMUM SECURITY PRISON. THE INMATE POPULATION OF THE TWO PRISONS COMBINED IS APPROXIMATELY 1200. WE HAVE ALREADY DONE MORE THAN OUR SHARE WITH REGARD TO HOSTING THE STATE'S LULUS (LOCALLY UNWANTED LAND USES).

4. WHILE IT IS CLEAR THAT A FEW PEOPLE AND A FEW

CORPORATIONS WILL BENEFIT HANDSOMELY FROM THIS PRISON-BUILDING BILL, IT IS ALSO CLEAR THAT AVERAGE PEOPLE WILL NOT. DESPITE THE PROMISES MADE TO OUR COMMUNITY BY OUR LEGISLATORS AND THE DEPARTMENT OF CORRECTIONS, RESIDENTS OF OUR COUNTY HAVE SEEN LITTLE ECONOMIC BENEFIT FROM THE STATE PRISONS WE ALREADY HAVE. LESS THAN ONE-THIRD OF THE JOBS PROVIDED BY THE TWO EXISTING STATE PRISONS ARE FILLED BY RESIDENTS OF GREENE COUNTY ACCORDING TO THE DEPARTMENT OF CORRECTION'S OWN DATA. THERE HAS BEEN NO SIGNIFICANT SPIN-OFF DEVELOPMENT IN GREENE COUNTY AS A RESULT OF OUR HOSTING THESE PRISONS AND NO SECONDARY INDUSTRIAL GROWTH. THE TOWN OF MAURY, WHERE THE TWO EXISTING PRISONS ARE LOCATED, HAS DETERIORATED ECONOMICALLY AND NO LONGER USES ITS MUNICIPAL CHARTER.

5. SENATOR JOHN KERR'S PROMISES TO US REGARDING THE PROPOSED NEW PRISON ARE ALSO CONTRADICTED BY THE DEPARTMENT OF CORRECTION'S OWN DOCUMENTS ASSESSING THE APPROVED PRISON SITE WHICH STATE THAT "IT IS NOT ANTICIPATED THAT THE PROPOSED GREENE COUNTY CORRECTIONAL INSTITUTION WOULD RESULT IN SUBSTANTIAL SECONDARY GROWTH. CORRECTIONAL FACILITIES DO NOT TYPICALLY SPUR THE CONSTRUCTION OF DIRECT SUPPORT BUSINESS. ANCILLARY GROWTH IS TYPICALLY CONFINED TO INCREASES IN POPULATION DURING THE CONSTRUCTION PHASE AND MINOR LONG TERM INCREASES IN LOCAL BUSINESSES." RECENT NATIONAL STUDIES ON THE IMPACTS OF PRISONS ON RURAL COMMUNITIES LIKE OURS CONFIRM THE LACK OF BENEFITS FROM PRISONS: A STUDY BY THE SENTENCING PROJECT IN WASHINGTON, D.C., WHICH EMPLOYED STATISTICAL CONTROLS TO MEASURE THE EFFECTS OF PRISONS ON LOCAL ECONOMIES OVER A 25-YEAR PERIOD, FOUND THAT RURAL COUNTIES WITH PRISONS DID NOT GAIN ADVANTAGES IN EMPLOYMENT OR PER CAPITA INCOME WHEN COMPARED WITH SIMILAR COUNTIES WITHOUT PRISONS.

6. FINALLY, WE ECHO THE SENTIMENTS EXPRESSED BY WESTERN NORTH CAROLINA CITIZENS WHO TESTIFIED BEFORE THIS COMMITTEE ON MONDAY: PEOPLE IN SMALL TOWNS AS WELL AS BIG CITIES IN NORTH CAROLINA SUPPORT 'SMART ON CRIME' POLICIES WHICH WOULD REDUCE THIS STATE'S DEPENDENCE ON EXPENSIVE

PRISONS. WE SUPPORT SENSIBLE SENTENCING REFORMS AND COMMUNITY-BASED CORRECTIONS PROGRAMS THAT WOULD SAVE THE STATE AND ITS TAXPAYERS AND PROPERTY OWNERS MONEY. OUR COMMUNITIES IN EASTERN NORTH CAROLINA NEED ANY EXTRA FUNDING THAT YOU HAVE AVAILABLE FOR SUSTAINABLE ECONOMIC DEVELOPMENT PROJECTS, AND IMPROVED EDUCATION AND OTHER PROGRAMS FOR OUR CHILDREN.

ON BEHALF OF GREENE CITIZENS FOR RESPONSIBLE GROWTH, I THANK YOU FOR CONSIDERING OUR CONCERNS.

-30-

TESTIMONY OF MAY VA LOR
RESEARCHER, GRASSROOTS LEADERSHIP
RE: HOUSE BILL 397
HOUSE FINANCE COMMITTEE
JUNE 2, 2003

Good afternoon. I would like to thank this committee for giving me an opportunity to speak. My name is May Va Lor, and I am a researcher for Grassroots Leadership, a 20-year-old organization concerned with economic and justice policy impacts on communities in North Carolina and nationally. We are based in Charlotte with five offices in Southern states and New York. For the past four years, we have been studying the mechanisms used to finance prisons, including finance instruments like the lease purchase arrangement proposed in House Bill 397.

Today, I'd like to share some concerns and questions regarding this proposed arrangement.

Our first concern is that this finance method constitutes an extreme departure from previous approaches used to finance prisons in North Carolina, and many questions about its effects remain unanswered. When this particular lease-purchase arrangement was first authorized in 2001, many individuals including the State Treasurer at the time, raised critical questions about whether or not this finance vehicle was a way to circumvent the state's constitutional requirement to go to the voters when the state borrowed money, if it was a way for the state to hide its debt, or whether or not this finance approach was the smartest option for the state.

Second, proponents of this lease-purchase arrangement argue that it provides a short-term cost savings for the state. But it remains unclear to us why this arrangement is a better one than traditional forms of prison finance when the issuance fees for this arrangement are considerably higher.

When comparing general obligation bond financing to the lease-purchase arrangement used in 2001 and now proposed to be used again this year, cost of issuance for this type of arrangement is significantly higher because:

1. General obligation bonds are backed by the full faith and taxing power of the state and thus the interest rates charged on this type of

debt are lower because the risks for investors are lower. For example, North Carolina's General Obligation Public Improvement Bonds were issued in March of 2003 at an average interest rate of 4.6% over the 25-year life of the bonds. In contrast, Certificates of Participation (COPs) used in the lease purchase arrangement will be secured by a lien on the property, and the State Treasurer's office forecasts a 5.3% interest rate for the three prisons the state will acquire in July. In other words, the feature that allows the state to avoid taking the question to the voters is the same feature that makes the bonds more risky to investors, and therefore more costly to the state.

2. Because COPs are not voter-approved and backed by the full faith and taxing power of the state, the state will have to pay for other types of credit enhancers such as bond insurance, in order to receive a better credit rating.

3. Cost of underwriting is lower for standard bond issues like general obligation bonds. This lease-purchase transaction is more complex and underwriting fees will be significantly higher. The Wall Street Journal reported in 2002 that Lehman Brothers is receiving $2 million in underwriting fees for bonds supporting the construction and purchase of the three prisons authorized in 2001.

   By comparison, according to the Official Bond statement, the underwriters of the state's March 2003 general obligation bond received $492,000 for selling an issue $95 million larger.

4. The complexity of this arrangement also requires more management than a traditional general obligation bond. For example, The Wall Street Journal also reported that in addition to $20 million in interest expense, Contractor Carolina Corrections will receive a separate development fee and a monthly administrative-oversight fee.

5. By privately financing the construction costs of the proposed prisons, the state will pay for the debt to be issued twice, once by Carolina Corrections and a second time by the state's infrastructure corporation. Private corporate bonds have higher interest rates than tax-exempt bonds, and because the state is paying for Carolina Corrections' bond issuance fees, these additional costs includes

Carolina Corrections' bond counsel, underwriting fees, bond rating fees, and credit enhancers.

It is our understanding that the State Treasurer's Office is currently completing the bond documents for the $225 million worth of COPs it is issuing in July to purchase the Anson, Alexander and Scotland prisons. It would, in our view, be reasonable for the State to delay approval of the three new prisons until the bonds for the first three have been issued so that an assessment could be undertaken to determine whether this is indeed the most fiscally prudent of the mechanisms available to build prisons in the state of North Carolina. Funding three more prisons under an arrangement that is still untested and unevaluated seems particularly risky when the state's deficit continues to grow.

Third and finally, proponents of this prison bill have stated that if these new prisons are not authorized by June 30th, the prisons will cost the state an additional $25 million because:

1. Building codes requiring sprinklers to be placed in each cell will go into effect July 1, and
2. The State wishes to purchase concrete slabs from a particular contractor, and is afraid the company will be disassembled and moved out of state if the prisons are delayed.

While we appreciate the desire of the proponents of this bill to save taxpayers money in fiscally difficult times, these concerns are put forth in the context of an overall proposal that appears overly expensive, committing the state and its taxpayers to hundreds of millions of dollars in unnecessary finance and related fees compared to other available financing options. $25 million is less than a tenth of the prison cost under this proposed financing arrangement and may be far less than potential liability costs over time.

On behalf of Grassroots Leadership, I thank you for allowing me time to share these concerns. We applaud the House Finance Committee's interest in ensuring that if prisons have to be built, that they are built in the most cost effective way. We understand that this is a difficult process because the state's prison system is currently overcrowded, and that without sentencing reforms, the population will continue to grow rapidly. Yet, as you know, the state is also in a time of fiscal difficulty, and so we appreciate your

leadership in looking at the issue to insure that the state's response to the overcrowding crisis doesn't exacerbate North Carolina's fiscal crisis.

House Committee on Finance

Minutes

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June 3, 2003

The House Committee on Finance met on Tuesday, June 3, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, and Womble, and Ex-officio members, Representatives Brubaker, Culpepper and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Trina Griffin, Martha Harris, Jim Klingler, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Gordon Allen called the meeting to order at 8:44 am and immediately recognized the three pages present: (1) Elizabeth Beavers of Rockingham County, sponsored by Representative Sexton; (2) Montrell Brown of Wake County, sponsored by Speaker Black; and (3) Camry Curtis of Wake County, sponsored by Speaker Black.

In continuing the business of the Committee on the Committee Substitutes of HB 684, HB 949, and HB 981 as adopted by the Committee earlier on May 28, 2003, (see bill summary and fiscal notes in attachment 3) involving the **location** of the construction of a psychiatric hospital in the state, Chairman Allen explained to the Committee that it was the intent of the Chair to have a vote on the issue during the meeting. He also announced that in the interest of time and to allow members ample time for debate, only two speakers on each of the bills would be allowed to address the Committee for a period not to exceed two minutes each.

The Chair first recognized Representative Hackney to discuss HB 949 (see attachment 4), which involved the construction of the psychiatric hospital at the proposed Chatham County/Siler City site. Representative Hackney explained that after consulting with the County on this matter, Chatham was offering the land as well as water and sewer to the location free of charge to the state. He also read a letter from a private property owner granting an easement (without charge) to the site for an access road that would lead to the hospital (see attachment 5). The Chair then recognized the second speaker for HB 949: Dr. Golden of the University of North Carolina School of Medicine, Department of Psychiatry. His brief address to the Committee made note of the need for easy accessibility to the hospital for those commuting to and from the area. He also stated his expert opinion that either the Wake or Chatham County sites, but not the Granville County/Butner site, could offer the highly skilled staff necessary for a hospital of this nature.

Chairman Allen recognized Representative Ross as the first speaker for HB 961 (see attachment 6) involving the construction of the hospital at the proposed Wake County location. Representative Ross briefly reiterated her points from the earlier House Finance meeting on May 28, 2003, noting that the Wake site is most convenient to the greatest number of the people and that the

Wake County area has the ability to recruit the best and brightest staff available (due to its close relationships with UNC-Chapel Hill and Duke University Schools' of Medicine). Wake County Commissioner Joe Bryan was then recognized by Chairman Allen as the second speaker on HB 961. He expressed and pledged the strong support of the local Wake community for this hospital, citing the fact that the community had supported the current hospital in place, Dorothea Dix, for the entire 150 years of its' existence. He also stated his and Wake County's continued commitment to the care for Mental Health issues for all of North Carolina. Finally, he noted that because of Wake County's long history of involvement with Mental Health, the necessary structure for this new hospital is already in place.

Immediately thereafter, the Chair recognized Representative Stan Fox to briefly discuss HB 684, which involves the construction of the new psychiatric hospital at the proposed Granville County/Butner location (see attachment 7). Representative Fox reported that if Umstead Hospital in Granville County is abandoned and the new hospital is not built in the Butner area, the community could expect to lose an estimated 1,200 jobs. He explained that Granville County simply couldn't compete for the business and industry that the other sites (Wake and Chatham Counties) can and is, therefore, dependent on the presence of this hospital in the area. He also reassured the Committee that the Butner community had proven its ability to provide the same level of care and "do just as well, if not better," than the other proposed locations. Dr. Patsy Christian, Director of the Umstead Hospital in Butner, was then recognized by the Chair as the second speaker for HB 684. First, she stated that, contrary to earlier reports, Umstead Hospital did not have a 20 percent vacancy rate among registered nurses, but rather only a three percent rate of vacancy. She further noted that the Hospital currently had no trouble filling positions, specifically informing the Committee that all other positions other than nurses were typically highly competitive. Finally, she informed the members that most of the current employees at the Umstead Hospital were paid at a relatively lower rate than others in the profession and, therefore, they simply could not afford to commute or relocate to a new hospital site in Wake or Chatham County.

Chairman Allen then thanked all of the speakers for their comments and advised the Committee that the floor was open for amendments to HB 684, HB 949, and HB 961. He specifically requested that an amendment be offered to designate a location for the new hospital, as the current bills did not name a determined site. Following his request, the Chair recognized Representative Hackney who offered an amendment to HB 949 to designate that the new psychiatric hospital be constructed in Chatham County, near Siler City (see attachment 8). He explained his amendment to the members and reminded them of the advantages of the Chatham site (as above). He also noted that unlike Wake and Granville Counties, Chatham County had no state facility within its' borders. Representative Gibson was then recognized by the Chair to discuss the amendment. He stated that the same level of high quality care for patients could be offered at any of the proposed sites and focused on the fact that Chatham County is the most geographically central location proposed; thus, allowing the easiest access for the families of hospital patients. Representative Ellis was then recognized and disputed Representative Gibson's comments stating that the most central location was the Wake site because it provided convenient access for the largest number by population. He also noted that the decision on where to place a psychiatric hospital should be based upon human services and not on issues of commerce. Chairman Allen then recognized Representative Brubaker for a comment on the amendment. Representative Brubaker then advocated for Representative Hackney's amendment stating that Chatham did not currently have a state facility, was in desperate need of employment opportunities, and was clearly the most centrally located. In his words, choosing the Chatham site was "just common sense."

Representative Holliman, upon recognition of the Chair, also stated his and his district's support of the hospital in the Chatham County/Siler City area. Representative Holliman was additionally recognized to send forth a technical amendment (see attachment 9). The Chair, however, ruled to temporarily displace the technical amendment until the conclusion of the issue was at hand. Without further discussion, Representative Hackney was again recognized by Chairman Allen and moved the adoption of his amendment, calling for a roll call vote (see attachment 8). By a vote of 7 in favor and 26 opposed, the amendment failed.

Representative Miner was then recognized by the Chair to offer an amendment to HB 961 (see attachment 10). His amendment acted to designate the location for the construction of the new psychiatric hospital to be in Wake County. Representative Miner then explained the amendment and reviewed the reasons for choosing the Wake County site (as above). He also noted that there was a "good reason" for the current Dorothea Dix Hospital being in Raleigh for the past 150 years, alluding to the many attributes available in the area. He further urged those members that voted for the failed amendment on the Chatham site to support the amendment for Wake County. Representative Hackney was immediately recognized, however, and stated that all those supporting HB 949 (Chatham) should vote "no" for both the Wake and Granville County sites in order to keep the Chatham site as a viable option. Representative Weiss was recognized next and voiced her support of Representative Miner's amendment on HB 961.

Representative Lewis was then recognized by the Chair for a question to Representative Ross. He asked her why HB 961 did not specify that the new hospital would be built on the current Dorothea Dix Hospital site. Representative Ross stated that the City of Raleigh and Wake County would have to further consider the location if Wake County was chosen by the Legislature for the new hospital. Joe Durham, Deputy County Manager for Wake County, was then recognized and further explained that the County and City currently had several appropriate plots of land that could be used for the new hospital site and that additional deliberations would need to be made by the Raleigh City Council and Wake County Board of Commissioners prior to a site being defined.

Following this discussion, Representative Glazier was recognized by Chairman Allen to speak to the amendment on HB 961. Representative Glazier went on to state his belief that all three of the sites were excellent proposals. He stated further that, overall, his decision (if all three sites were indeed equal in their quality of care, staffing abilities, etc.) was based on the expertise of the Secretary of the North Carolina Department of Health and Human Services (DHHS), Carmen Hooker Odom. He noted that the Secretary should be given deference by the Committee on this matter and support her location of choice for the new psychiatric hospital: Butner/Granville County (as discussed in the May 28, 2003, House Finance Committee Meeting). As a final comment, Representative Glazier also noted his concerns over the proposed Wake County hospital not having a defined location.

Representative Wainwright was then recognized by the Chair to ask a question of Deputy County Manager Joe Durham. He asked Mr. Durham if the City of Raleigh and Wake County would be willing to freely grant the necessary lands for this hospital if approved for construction in Wake County. Mr. Durham stated that he could not provide any definite answers, as the matter would have to be determined by the Wake County Board of Commissioners.

Representative Starnes was recognized next by Chairman Allen to express his discomfort with HB 961 due to the fact that a specific site for the hospital within Wake County was not

designated. Representative Creech also expressed similar concerns. Representative Starnes then requested to hear from Secretary Odom concerning her knowledge on alternatives to the assumed Dorothea Dix Hospital site. Secretary Odom was recognized to address Representative Starnes' question and stated that the Department of Health and Human Services had not considered any other sites in Wake County as appropriate alternatives for the new hospital and that such consideration would require a lengthy surveying procedure of the Wake area by DHHS.

Representative Munford was then recognized by the Chair to offer a perfecting amendment to Representative Miner's amendment on HB 961. Representative Munford explained that the amendment acted simply to designate the location of the new hospital within Wake County at the anticipated Dorothea Dix site and then moved the adoption of his perfecting amendment. Without discussion, Chairman Allen called the vote on the perfecting amendment and the motion carried.

The Chair then recognized Representative Miner who moved the adoption of his amendment to HB 961 as perfected. As a roll call was requested, the Chair instructed the Clerk to call the vote. By a vote of 14 in support and 20 in opposition, Representative Miner's perfected amendment was not adopted (see attachment 10).

Due to time, Chairman Allen then adjourned the meeting at 9:55 am and informed the members of the Committee that it would reconvene the following day, Wednesday, June 4, 2003, at 8:30 am in the same location.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Bill Summary and Fiscal Note for HB 684, HB 949, and HB 961
4. House Bill 949 (and related materials)
5. Letter from Property Owner on Easement for HB 949 (submitted by Rep. Hackney)
6. House Bill 961(and related materials)
7. House Bill 684 (and related materials)
8. Proposed Amendment and Roll Call Vote to House Bill 949
9. Technical Amendment (offered by Representative Holliman)
10. Proposed Amendment and Roll Call Vote to House Bill 961

ATTACHMENT 1

AGENDA

House Finance Committee

June 3, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen	*Representative Danny McComas*
Representative Julia Howard	*Representative David Miner*
Representative Paul Luebke	*Representative William Wainwright*

Call to Order

Introduction of Pages

Bills:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, May 29, 2003 8:14 AM
Cc: Nancy Goodman (House Legislative Assistant's Office)
Subject: NOTICE House Finance Committee 6-3-2003

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE:	**Tuesday, June 3, 2003**
TIME:	**8:30 A.M.**
LOCATION:	**544 LOB**

The following bills will be considered:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **8:30 A.M.** on **May 29, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, June 03, 2003 10:56 AM
Subject: NOTICE House Finance Committee Meets AFTER JOINT SESSION 6-3-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

CANCEL LOB RESCHEDULED TO 6/4/03 @ 5:30 pm 544 LOB

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

DAY & DATE: **Tuesday, June 3, 2003**

TIME: ***10 MINUTES AFTER THE JOINT SESSION***

LOCATION: ***643 LOB (APPROPRIATIONS COMM. RM.)***

The following bills will be considered:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **June 3, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Lancaster	LCA
Mildred Spearman	Dept of Correction
Lu-Ann Coe	NC Psychiatric Assoc
Robert Johnston	Walk Co.
Ken Melton	Alley Associates, Inc.
Michael S. Felts	Granville County
Ann Lee	DUNS
Jerry Schill	NC Fisheries Association
Herman Wilkerson	City of Creedmoor
Jimmie Cozart	Granville County
Bob Atwater	Chatham County

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Emerson	Chatham Co.
Tony Tucker	Chatham Co.
Janet Wlodarczyk	Wake Co, Raleigh
Robyn E. Clark	Robyn E. Clark & Associates, Inc.
Hal Miller	NCACCT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Bode Call & Grayson PO Box 6335 Raleigh NC
Betty Schmiedel	NAMI, Wake County
Bonnie T. Broadwell	NAMI, Wake Co.
Martha House	NAMI, Wake Co.
Grey Baker	Wake County
Beth Jennings	Wake County
Dino Kapil	Wake County
[illegible]	MHA
Janett S. [illegible]	NC Council
Kristi Morgan	MHA
Joe Bergan	Wake County Commissioner

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sherry Whittington	NAMI
Garland Guion	NAMI
Louis Micks	NAMI
Wendy Rutter	TNC
Katie Hoover	TNC
Jack Day	Town of STEM
Ron Alligood	Granville County Comm.
Paul Kieson	City of Oxford Comm.
Leon Turner	GRN. CTY.
Pete Bennett	Granville Comm.
Al Woodlief	Mayor of Oxford

VISITOR REGISTRATION SHEET

House Finance
Name of Committee

6/3/03 - 8:30 a
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jacquie Gray	NAMI - 2125 Sheffield Rd, Raleigh
Wonie Elliott	- 205 West C St. Butner
Tom Lane	
Caroline Rickless	NAMI Wake County - 202 Dunhagan Pl., Cary
Gerry Akland	NAMI - WC 1112 Old Ferrell Rd Knightdale
Ann Akland	NAMI - WC " " "
Sarah House	NAMI - WC Knightdale
Bonnie Broadwell	NAMI - WC Knightdale
Al Woodlief	Mayor City of Oxford
Leon Turner	EDC Director - Granville County
Patsy Christian	John Umstead Hospital
Terry Hatcher	DHHS
Carol Woodlief	City of Oxford
Josie Douglas	NAMI - Wake
Jack Day	Tom STEM
Paul Kiesow	City of Oxford Commissioner
Pete Averett	Granville Commissioner
Darryl Moss	Mayor, City of Creedmoor
Ron Allicood	Granville Co County
Chip Kellum	Mayor N Van Allen
JOE BRYAN	WAKE COUNTY COMMISSIONER
Robin Allen	NAMI - Wake
Gwen Cunin	Granville Co Chamber of Commerce
Christine Durham	Exe. Intern, FRD Rep. Gibson
Bobie Bosnetsen	Foundation of Hope
[illegible]	Wake Co Human Service
[illegible]	Capitol Group

HB 684, 949, & 961 (PCS): Psychiatric Hospital Financing

BILL ANALYSIS

Committee: House Finance
Date: May 21, 2003
Version: PCS

Sponsors: See below
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The PCS for each of these three bills authorizes the issuance of up to $110 million in security interest debt to finance the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

Introduction: Three bills have been introduced in the House to authorize the issuance of $110 million of debt to finance a new psychiatric hospital. The sponsors and the hospital locations for each bill are indicated in the following chart:

Bill #	Short Title	Sponsors; Co-Sponsors	Status
H684 **[S845]**	Psychiatric Hospital – Butner H684-CSLCx-42	Rep. Crawford, G. Allen, Fox, Luebke; Rep. Wainwright [Sen. Gulley]	H Finance [S Finance]
H949	Psychiatric Hospital – Chatham H949-CSLCx-41	Rep. Hackney, Insko, Brubaker, Culp	H Finance
H961	Psychiatric Hospital – Wake H961-CSLCx-43	Rep. Ross, Munford, Miner, Weiss; Rep. B. Allen, Capps, Eddins, Ellis	H Finance

The PCS for each of these bills removes the location so that no location is specified. A location can be added by adoption of an amendment.

The PCS for each bill also makes two changes suggested by the State Treasurer:

1. Removes the authorization for special obligation bonds that would have been supported by receipts of the new hospital. It has been determined that these bonds would not be marketable.
2. Clarifies that any recurring savings generated by closing any existing psychiatric hospitals would be used for debt service. This provision is worded generically, without naming any institutions that might be closed.

The following summary applies equally to the PCS for each bill, as they are identical:

Part 1 of the bill enacts the procedural and regulatory provisions needed to carry out the security interest indebtedness. This provision is similar to the repair and renovation authorization that was in the House budget bill. Commonly referred to as "certificates of participation," security interest indebtedness is debt that is secured by an interest in the property being repaired or renovated. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of

participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of security interest debt may be the least expensive and most practical for the State to utilize. More details about security interest debt are provided at the end of this summary. Part 1 prohibits the issuance of security interest debt except for projects specifically authorized by the General Assembly.

Part 2 of the bill provides the specific legislative authorization for up to $110 million of this type of indebtedness to be used for a new psychiatric hospital. Part 2 also states: "The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project."

Part 3 of the bill makes the following changes:

- Requires DHHS to maintain the UNC Medical School research programs currently being conducted at Dorothea Dix hospital.
- Authorizes the county chosen as the site for the hospital to acquire the land by eminent domain and to convey the land to the State.
- Directs that recurring savings realized from the closure of State psychiatric hospitals will not revert to the General Fund but will be used for the payment of debt service on the debt financing the new hospital.
- Creates a study commission to consider the potential disposition of the State-owned real property encompassing the Dorothea Dix Hospital campus.

Details about Security Interest Debt

Security. The debt would be secured by a lien on or security interest in all or any part of the capital facilities to be financed, including all or part of any land on which improvements are to be constructed. If the project is a renovation, the entire existing facility as well as the improvement could serve as security. The value of the property securing the debt may exceed the amount of the debt and the financing of several capital projects may be jointly secured by liens on some or all of the capital facilities being financed.

There would be no pledge of the State's faith and credit or taxing power. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered against the State, but the capital facilities that serve as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

Types of projects. The bill specifically defines capital facilities that may be financed as any combination of:

(1) Buildings, utilities, structures, and other facilities and property developments, including streets, landscaping, equipment and furnishings in connection with a building project.

(2) Additions, renovations, and improvements to existing facilities, including streets and landscaping.

(3) Land acquisition.

(4) Other infrastructure.

(5) Furniture, equipment, vehicles, machinery, and similar items.

Form of debt. The funds could be borrowed from a single entity in an installment purchase or lease purchase contract, could be generated by the issuance of limited obligation bonds, or could be borrowed under an installment financing contract by the sale of certificates of participation. A certificate of participation represents the holder's undivided interest in the right to receive the installment payments to be made by the State. If certificates of participation are issued, a nonprofit corporation will act as a straw person to facilitate the financing.

History. While local governments have used installment finance contracts for years, it is a recent financing tool for the State. In 1999, the Senate passed Senate Bill 912 to authorize the issuance of bonds for UNC system and Community College system projects, to be secured by the property being constructed or improved. The House of Representatives rejected this part of the bill and when the bill was enacted in 2000 the bonds authorized were general obligation bonds, which the voters subsequently approved. In 2000, the General Assembly enacted S.L. 2000-143, which authorized installment contract financing for a $13.5 million office building and wildlife education center for the Wildlife Commission and a $4 million Eastern Wildlife Education Center. In 2001, the General Assembly authorized the State to enter into lease-purchase contracts to finance three prisons (S.L. 2001-84). In 2002, the General Assembly authorized installment financing contracts for guaranteed energy savings contracts for State buildings (S.L. 2002-161). In 2003, both the House and Senate versions of the budget bill authorized special indebtedness for repair and renovations and the Senate version also authorized lease-purchase of an additional three prisons.

Oversight. Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

FISCAL ANALYSIS MEMORANDUM

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

DATE: May 28, 2003

TO: House Finance Committee

FROM: Jim Klingler
Fiscal Research Division

RE: HB 684, 949, and 961(PCS) – Psychiatric Hospital Financing

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

(In Millions)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Operating Expenditures					
Dix & Umstead Hosp.	($5.23)	($9.77)	($27.86)	($49.19)	($104.02)
New Psych. Hospital				$21.66	$52.00
Community Services	$5.23	$6.47	$15.76	$15.76	$40.58
Debt Service					
New Psych. Hospital		$3.30	$12.1	$11.77	$11.44

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: When the bill becomes law

BILL SUMMARY:

The Project - The proposed committee substitute (PCS) for House Bills 684, 949, and 961 provides authorization for financing the construction of a 450,000 square foot, 432-bed psychiatric hospital for central North Carolina. The amount of indebtedness is limited to the estimated cost of construction of $110 million.

Special Indebtedness - Financing authorized by this proposed bill includes: (1) an installment-purchase or lease-purchase contract with a single entity; (2) limited obligation bonds, or (3) an installment-purchase contract through the sale of certificates of participation. Certificates of participation are a form of contract indebtedness where the State, through a non-profit corporation, issues certificates that represent the holder's undivided interest in the right to receive installment payments from the State.

Securitization - In order to secure financing under the three forms of indebtedness listed above, a lien or security interest may be placed on the constructed facilities comprising the new hospital and the land on which the facilities are located. If this indebtedness is used to finance the renovation of existing facilities, a lien could be placed on all or part of the existing facilities.

Under the forms of financing authorized by this PCS, there would be no pledge of the State's taxing power or a pledge of the State's full faith and credit. As a result, voter approval is not necessary for issuance of these forms of debt. If the State defaulted on repayment of this debt, the State could not be forced to generate new tax revenue to service the debt. Instead, the land and facilities financed through special indebtedness could be liquidated to repay the debt. If the General Assembly chose not to appropriate funds for debt service for the new hospital, the State's credit rating could be adversely impacted.

Issuance – The Department of Health and Human Services must notify the Department of Administration of the need for special indebtedness. The Department of Administration then consults with the Office of State Treasurer on the merits of issuing debt for the authorized purpose. The Treasurer must contact the Office of State Budget and Management to determine whether revenues will be available to service the proposed debt. If the Treasurer determines that special indebtedness is desirable for financing the project, the Treasurer must certify this decision in writing to the Department of Administration.

The Department of Administration then calls a meeting of the Council of State for preliminary approval. Prior to issuance of debt, the Council of State must give final approval. The approval resolution must contain a description of the specific project, a maximum principal amount of the special indebtedness, a specified maturity or maximum maturity on the debt, specified interest rates or a maximum rate of interest on the debt, and any condition in addition to the provisions of this bill.

Upon approval by the Council of State, the Treasurer provides final written approval. To do so, the Treasurer is authorized to request addition information and reports to determined the appropriateness of issuing debt. The Treasurer is responsible for management and oversight of the issuance of debt. Once all the provisions of this bill have been met, the Treasurer must report to Joint Legislative Commission on Governmental Operations at least five days prior to issuing any special indebtedness.

UNC Research Programs – This PCS directs the Department of Health and Human Services (DHHS) to preserve all existing educational and research programs in Dorothea Dix Hospital conducted by the University of North Carolina Medical School. As the Department closes Dix Hospital, DHHS must consult with the UNC Medical School regarding the transfer of these programs to the new hospital. The UNC Medical School would retain authority over the management of these education and research programs in the new psychiatric hospital.

Disposition of County Property – Upon selection of a particular site to construct the new hospital, this proposed bill authorizes the selected county to use eminent domain, if necessary, to acquire land for the project. The county would transfer possession of this land to the State.

Cost Savings and Hospital Closure – This PCS requires all savings associated with the closure of any psychiatric hospitals to be directed to repaying debt service on the new psychiatric hospital before reverting to the General Fund. Nonrecurring savings would be deposited in the Mental Health Trust Fund for System Reform and recurring savings would be retained by DHHS. Both sources of funds would be dedicated first to repaying the debt. The balance of non-recurring cost savings, after payment of the annual debt service, would remain in the Mental Health Trust Fund for the purposes of the Trust Fund. All remaining recurring savings would be retained by DHHS for the purpose of complying with the Olmstead v. L.C. and E.W. case and implementation Mental Health Reform.

In practical terms, funds saved from the closure of the two hospitals will: (1) pay the annual debt service on the new hospital; (2) pay the operating expenses of the new hospital, and (3) the remaining balance will go to community programs for the expansion of mental health services in the community.

Dix Hospital Property Study Commission – The proposed bill establishes the Dorothea Dix Property Study Commission. If the State finds itself in the position of selling the land and facilities on which Dorothea Dix Hospital is currently located, the Dorothea Dix Property Study Commission must consider the sale prior to any action by the State. Before the sale occurs, the Study Commission will make a recommendation on disposition of the property to the Joint Legislative Commission on Governmental Operations.

ASSUMPTIONS AND METHODOLOGY:

The proposed bill calls for a 450,000 square foot, 432-bed psychiatric hospital. The cost of constructing this hospital is estimated to be $110 million. Construction is assumed to begin in November 2004 and complete in November 2006.

Debt service payments were estimated based on a simulation provided by the Office of State Treasurer. The estimated debt service assumes that the State will finance the full $110 million through special indebtedness. The estimated repayment includes an average interest rate of 6.0% and a maximum maturity of 20 years. The earliest expected date of issuance would be November 2004. Estimated annual debt services payments range from $5.83 million to $12.1 million.

The following chart displays the current expenditures associated with operating Dix and Umstead Hospitals for the next five years. The chart also shows the shift of operating dollars from the two existing hospitals to the newly constructed psychiatric hospital and to the community for increased local mental health services.

The New Psychiatric Hospital and Realignment of Operating Expenditures					
Operating Expenditures	**FY 2003-04**	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
Dix and Umstead Hospitals	$107,415,928	$103,652,980	$85,567,980	$60,313,621	$0
New Psychiatric Hospital	$0	$0	$0	$21,666,667	$52,000,000
Hospital Debt Service		$3,300,000	$12,100,000	$11,770,000	$11,440,000
Butner ADATC and Dix Campus Operation			$3,917,693	$9,402,462	$9,402,462
Expenditures Realigned to Community Services	$5,231,780	$6,475,000	$15,760,000	$15,760,000	$40,585,518

In calculating the numbers in the chart above, DHHS made the following assumptions:

- The operating costs of Dix and Umstead Hospitals do not include lapse salaries/benefits, which are budgeted annually.
- In FY 2005-06 and subsequent years, DHHS separated the estimated budget for running the Butner Alcohol and Drug Abuse Treatment Center (ADATC) and for maintaining the Dix Campus.
- The Butner ADATC expenditures were estimated from the average appropriation to the Jones ADATC and the Keith ADATC.
- The Dix Campus operating expenditures were estimated according to current appropriations for maintain the Dix Campus facilities used by various DHHS agencies and 15% of the appropriation for the hospital facilities.

- The estimated operating costs for the new hospital are based on the average appropriation for Dix and Umstead, excluding the Butner ADACT and the Dix Campus operation.

As proposed in the PCS, this analysis assumes that the cost savings from the closure of Dix and Umstead Hospitals would not revert to the General Fund. Instead, the cost-savings would be used to pay the debt service for the new hospital, the operating expenditures associated with the new hospital, and the expansion of community-based mental health services. Considering that DHHS is anticipating annual cost-savings from the closure of Dix and Umstead Hospitals that exceed the cost of annual debt service payments for the new hospital, **no net impact to the General Fund is expected.**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 949*
PROPOSED COMMITTEE SUBSTITUTE H949-CSLCx-41 [v.1]

5/19/2003 1:09:58 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 949*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Hackney, Insko, Brubaker, and Culp (Primary Sponsors).	
Referred to:	Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL NEAR SILER CITY IN CHATHAM COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of

Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar

conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that

the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or

notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in

paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes,

execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not

be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to

pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust

agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust

agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United

States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the

Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

UNC
SCHOOL OF MEDICINE
DEPARTMENT OF
PSYCHIATRY

Robert N. Golden, M.D.
Professor and Chair

May 29, 2003

Representative Joe Hackney
Room 2207
Legislative Building
Raleigh, NC 27601-1096

Joe

Dear ~~Representative Hackney~~;

I am writing, as you requested, to expand on a few of the reasons behind my opinion regarding the best location for the proposed new state psychiatric hospital.

As you know, I fervently believe that the single most important factor in this issue is clinical care. One of the most dangerous periods in the timeline of clinical care for an acutely psychotic patient involves their transportation to the treatment facility. The longer the drive to the hospital, the greater the risks for any acutely ill patient. Thus even if the quality of care is absolutely equal at two different facilities, the one that is closer to the patient is the clearly preferred choice. Would any of us, facing an acute medical emergency, drive past the ER of a hospital in order to reach one of similar quality that is farther away? Most of the patients at our state hospitals are brought there under involuntary commitment, and thus they are often extremely angry, upset, and confused during their forced transport, compounding the acuity of their psychiatric and behavioral symptoms. Any sheriff's officer or ambulance driver can attest to the clear advantage of a shorter, rather than longer, trip. In a few instances, concerned family members choose to transport their ill relative themselves, and they are often unprepared to deal with the kinds of behavioral emergencies that can evolve during a longer journey. Unfortunately, I am personally aware of tragic outcomes that have occurred during relatively long drives to a psychiatric facility. The new facility thus should be located where the large patient base will be; it makes much more sense, in terms of patient safety and clinical outcomes, to be more concerned about patient transport distance, than employee commuting distance.

A number of studies have documented the incredible impact that family involvement can have on long term outcomes in the treatment of schizophrenia and other serious psychiatric disorders. The greater the distance, the greater the difficulty, even for concerned relatives, in becoming fully engaged in the treatment and discharge planning process, especially when public transportation is not readily accessible. In my opinion, the Butner site would not be located near any substantial number of patient families, and in general would not facilitate the transition to community based local care following discharge as well as the other sites that are under consideration.

The University of North Carolina at Chapel Hill, Campus Box # 7160, Chapel Hill, North Carolina 27599-7160
Telephone: (919) 966-4738; FAX: (919) 966-7659; E-MAIL: robert_golden@med.unc.edu

I remain very concerned about professional workforce issues. While all members of the healthcare treatment team play important roles, in my opinion, the quality of the doctors and nurses represents the single most important variable in determining treatment outcomes. I believe, based on current and past experience, that it will prove to be substantially more difficult to consistently fill nursing positions at the Butner site, compared to the other locations under consideration. But again, even if that is not the case, i.e. even if the professional staffing would be identical at a hypothetical facility in Butner vs. one in either Chatham or Wake county, such staff would not be able to intervene during the long and potentially dangerous transport of an acutely ill patient from a far away population center.

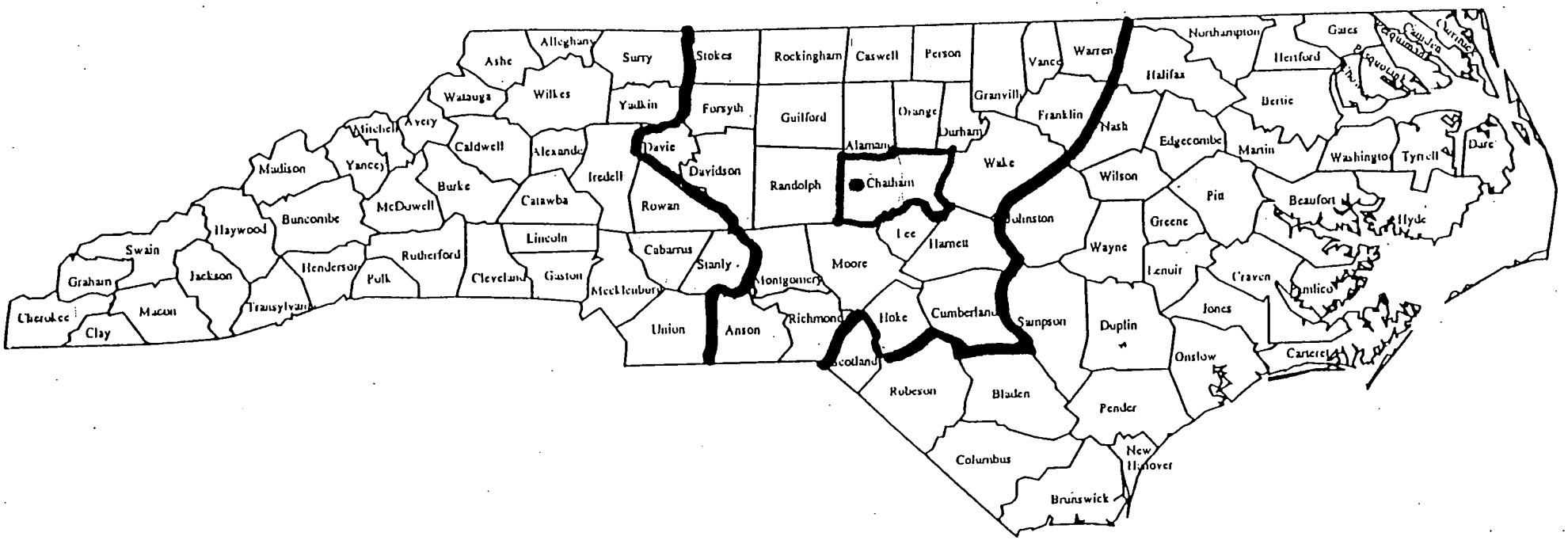
I was deeply impressed with the thoughtful presentations and discussions which took place during the Finance Committee hearing yesterday. I realize that there are multiple perspectives and viewpoints regarding this complex issue. From my view, which is focused exclusively on patient care, I believe that the Chatham or Wake County sites are clearly preferable to the Butner site.

I would be happy to expand on any of these ideas or any related questions, and deeply appreciate your concerned involvement with this critical issue.

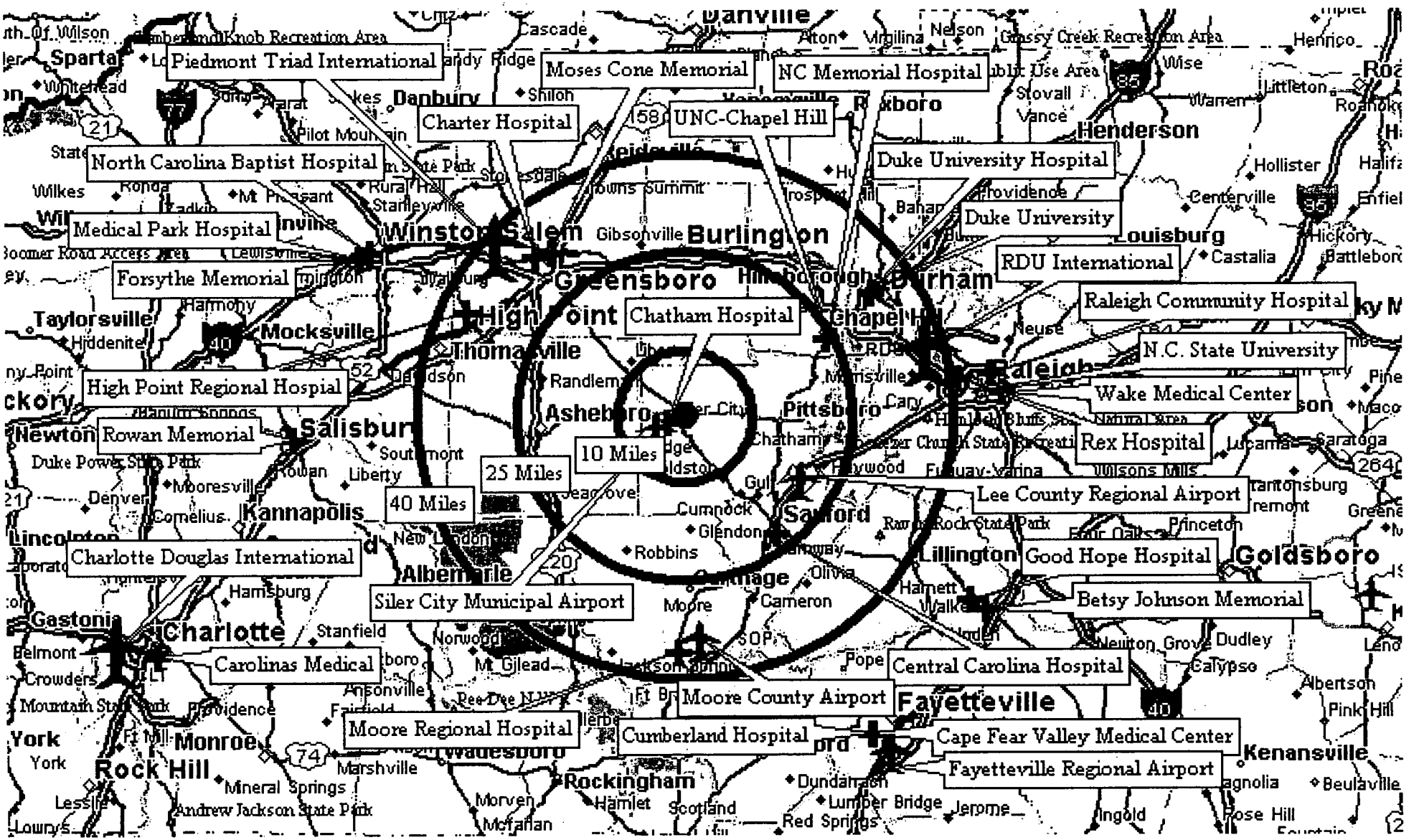
Sincerely,

Robert N. Golden, M.D.
Professor and Chair

Three Hospital Model



Rep. Joe Hackney



Rep. Joe Hackney

ATTACHMENT 5

Lodestar

16847-A Birkdale Commons Parkway • Huntersville, NC 28078 • Phone 704-892-9885 • Fax 704-892-0904

VIA FACSIMILE (919) 542-4716

June 2, 2003

Tony Tucker
Chatham County Economic Development Commission
PO Box 1627
Pittsboro NC 27312

Re: Chatham Land Access

Dear Tony:

This letter will serve to confirm our previous discussions and agreement to grant the County an easement, for an accessway across our property from U.S. Highway 64 to serve the county property proposed to be used for the new regional State Hospital project. As discussed this would be a sixty (60) foot wide non-exclusive easement in a mutually agreed upon location, which we have agreed to grant for no monetary consideration. It is our understanding that the County will construct the roadway and provide us reasonable access points from it to serve our property.

Our agreement to grant the easement is not open-ended and is good only for so long as we own the property or for six (6) months from the date hereof, whichever is shorter.

Sincerely
LODESTAR DEVELOPMENT, LLC

Joe Looney
Member/Manager

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 961
PROPOSED COMMITTEE SUBSTITUTE H961-CSLCx-43 [v.1]

5/19/2003 1:14:38 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 961

Short Title:	Psychiatric Hospital Financing.	(Public)
Sponsors:	Representatives Ross, Munford, Miner, Weiss (Primary Sponsors); B. Allen, Capps, Eddins, and Ellis.	
Referred to:	Finance.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN WAKE COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of

Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003". References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act. 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. - The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 684*
PROPOSED COMMITTEE SUBSTITUTE H684-CSLCx-42 [v.2]

5/22/2003 11:16:40 AM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.,

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 684*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Crawford, G. Allen, Fox, Luebke (Primary Sponsors); and Wainwright.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN BUTNER, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the

use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the

property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 4.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of Dorothea Dix Hospital and John Umstead Hospital that are in excess of the cost of operating and maintaining the new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of Dorothea Dix Hospital and John Umstead Hospital shall not revert to the General Fund but shall be retained by the Department of Health and Human Services and used for the purposes of subsections (b)(2) and (b)(3) of this section and for the repayment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital."

SECTION 4.4.(a) Dorothea Dix Hospital Property Study Commission. – If the State-owned real property encompassing the Dorothea Dix Hospital campus is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT

House Bill ~~684~~* 949

949 Chatham

H~~684~~-ALC-19 [v.1]

7 to 26 no 7 yes

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

Date 6/3/ ,2003

Comm. Sub. [YES]
Amends Title [YES]
H~~684~~-CSLCx-42
949

Representative Hackney

moves to amend the bill on page 1, line 5,
by adding the following before the period:
"TO BE LOCATED NEAR SILER CITY IN CHATHAM COUNTY";

and on page 15, line 28,
by adding the following before the period:
"to be located near Siler City in Chatham County".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Fails

(Revised 04-03)

ROLL CALL VOTE

7 YES 24 NO = 33 (TOTAL) Date: 6/3/03 HB# 949

SB# ____

Amendment # ____ Hackney chairman

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	✓		Ex officio Members		
Blackwood		✓	Brubaker	✓	
Bordsen		✓	Culpepper		✓
Capps		✓	Cunningham		
Carney		✓	Eddins		✓
Creech		✓			
Decker		✓	Co-Chairs		
Ellis		✓	Allen		✓
Gibson	✓		Howard		✓
Glazier		✓	Luebke		✓
Hackney	✓		McComas	✓	
Hill		✓	Miner		✓
Holliman	✓		Wainwright		✓
Jones		✓			
Lewis		✓			
McCombs		✓			
McGee		✓			
Munford		✓			
Rayfield		✓			
Ross		✓			
Setzer					
Starnes	✓				
Weiss		✓			
Wilson		✓			
Womble		✓			
Wood					

ROLL CALL VOTE

7 YES 26 NO = 33 (TOTAL) FAILS Date: 6/3/03 HB# 949 SB# ____

Amendment # Hackney- Chatham Site

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander	X	
Blackwood		X
Bordsen		X
Capps		X
Carney		X
Creech		X
Decker		X
Ellis		X
Gibson	X	
Glazier		X
Hackney	X	
Hill		X
Holliman	X	
Jones		X
Lewis		X
McCombs		X
McGee		X
Munford		X
Rayfield		X
Ross		X
Setzer		
Starnes	X	
Weiss		X
Wilson		X
Womble		X
Wood		

MEMBER (last name)	YES	NO
Ex-officio Members		
Brubaker	X	
Culpepper		X
Cunningham		
Eddins		X
Co-Chairs		
Allen		X
Howard		X
Luebke		X
McComas	X	
Miner		X
Wainwright		X

PLEASE PRESS HARD - 5 COPIES

ATTACHMENT 9

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Page 102

EDITION No. PCS

H. B. No. 684 DATE 6/3/03

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

COMMITTEE SUBSTITUTE ✓

Rep.) Holliman
Sen.)

moves to amend the bill on page 15, line 42

( ) WHICH CHANGES THE TITLE

by adding the following after the word "Medicine":

"and the Psychology Department within the College of Arts and Sciences at the University of North Carolina at Chapel Hill"; and

on page 15, line 42,

by adding the following before the comma:

"and John Umstead Hospital";

and on page 15, line 44,

by adding the following before the period:

"or the College of Arts and Sciences";

and on page 16, lines 1-2,

by adding the following after the word "psychiatry":

"; and the University of North Carolina College of Arts and Sciences shall retain authority over all educational and research programs in psychology conducted at these hospitals and any new State psychiatric hospital."

and by deleting the remainder of the sentence.

SIGNED

ADOPTED FAILED TABLED

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 684 DATE

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

COMMITTEE SUBSTITUTE ✓

Rep.) Holliman
Sen.)

moves to ~~amend the bill on page~~ , line

( ) WHICH CHANGES THE TITLE

by

and on page 16, line 6,
by adding the following at the end of the line:

"In addition, the Secretary shall consult with the University of North Carolina College of Arts and Sciences to ensure appropriate continuation of educational and research programs conducted by the University of North Carolina College of Arts and Sciences."

SIGNED

ADOPTED FAILED TABLED

ATTACHMENT 10

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill ~~684~~* 961

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

H~~684~~ Wake-ALC-20 [v.1]
961

14 to 20 yes no

Date 6/3 ,2003

Comm. Sub. [YES]
Amends Title [YES]
H684-CSLCx-42

Representative Miner

moves to amend the bill on page 1, line 5,
by adding the following before the period:
"TO BE LOCATED IN WAKE COUNTY";

and on page 15, line 28,
by adding the following before the period:
"to be located in Wake County".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

Fails

(Revised 04-03)

ROLL CALL VOTE

14 YES 20 NO = 34 (TOTAL) Date: 6 / 3 / 03 HB# 961

SB# ____

Amendment # Miner Weke

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	✓		Ex officio Members		
Blackwood	✓		Brubaker		✓
Bordsen		✓	Culpepper		✓
Capps	✓		Cunningham		
Carney		✓	Eddins	✓	
Creech		✓			
Decker		✓	Co-Chairs		
Ellis	✓		Allen		✓
Gibson	✓		Howard	✓	
Glazier		✓	Luebke		✓
Hackney		✓	McComas		✓
Hill		✓	Miner	✓	
Holliman		✓	Wainwright		✓
Jones		✓			
Lewis	✓				
McCombs		✓			
McGee		✓			
Munford	✓				
Rayfield		✓			
Ross	✓				
Setzer	✓				
Starnes	✓				
Weiss	✓				
Wilson		✓			
Womble		✓			
Wood					

ROLL CALL VOTE

14 YES 20 NO = 34 (TOTAL) FAILS Date: 6/3/03 HB# 961
SB# ____
Amendment # Miner- Wake Site

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander	X	
Blackwood	X	
Bordsen		X
Capps	X	
Carney		X
Creech		X
Decker		X
Ellis	X	
Gibson	X	
Glazier		X
Hackney		X
Hill		X
Holliman		X
Jones		X
Lewis	X	
McCombs		X
McGee		X
Munford	X	
Rayfield		X
Ross	X	
Setzer	X	
Starnes	X	
Weiss	X	
Wilson		X
Womble		X
Wood		

MEMBER (last name)	YES	NO
Ex-officio Members		
Brubaker		X
Culpepper		X
Cunningham		
Eddins	X	

Co-Chairs		
Allen		X
Howard	X	
Luebke		X
McComas		X
Miner	X	
Wainwright		X

House Committee on Finance

Minutes

~

June 4, 2003

The House Committee on Finance met on Wednesday, June 4, 2003, 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Gibson and Hill; Representatives Blackwood, Bordsen, Carney, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble; and Ex Officio Members, Representatives Culpepper and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Trina Griffin, Martha Harris, Jim Klingler, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Allen called the meeting to order at 8:50 am and immediately recognized the four pages present: Duncan Briley of Columbus County, sponsored by Representative Hill; Camry Curtis of Wake County, sponsored by Speaker Black; Cameron Falkner of Vance County, sponsored by Representative Fox; and Tempe Williamson of Franklin County, sponsored by Representative L. Allen.

In continuing the business of the Committee from yesterday's (June 3, 2003) meeting, Chairman Allen explained the purpose of the meeting was for the further discussion of HB 684, HB 949, and HB 961, involving the location for construction of a new psychiatric hospital in the state (see bill summary and fiscal notes in attachment 3). The Chair then recognized Representative Wainwright to send forth an amendment (see attachment 4) to HB 684 (see attachment 5). Representative Wainwright explained that the amendment acted to designate the location for the state's new psychiatric hospital to be at Butner and then moved for the adoption of his amendment. He offered support for the Butner site for several stated reasons:

- Butner was the preferred site of the combined expertise within the North Carolina Department of Health and Human Services and its Secretary, Carmen Hooker Odom.
- Butner already had a relevant and qualified staff in place.
- He noted that despite contrary reports, there was not a 20% vacancy rate among Registered Nurses at Butner, but rather only a 3.5% rate of vacancy.
- The economy in Butner would suffer significantly in an already slow job market if the new hospital was not built in the area.
- Finally, he noted that the State already owns the land at Butner, and the water and sewer are already in place for use.

Immediately following Representative Wainwright's discussion of the proposed amendment to HB 684, Representative Hackney was recognized to speak against the amendment. As a supporter of the Chatham County/Siler City site, he stated that he was "absolutely convinced" that Butner was the wrong location for the new hospital, noting as he had in earlier meetings that the Butner location is not central and does not serve the central region of the state well.

Representative Hackney then sent forth a "perfecting" amendment to HB 684 and explained that the amendment acted to change Representative Wainwright's initial amendment (designating Butner as the location for the new hospital) to the Chatham County/Siler City site (see attachment 6). Upon discussion among the members and consultation with staff, however, Chairman Allen then acted to rule Representative Hackney's motion out of order, stating that a perfecting amendment could not be offered to a standing amendment when it acts in direct opposition to that amendment.

The Chairman then recognized Representative Ellis to address the Committee on Representative Wainwright's amendment to HB 684. He spoke against the amendment stating first that Secretary Odom's recommendation to place the hospital in Butner was based more on commerce than patient care, and second that the costs (incurred by the counties) of transporting patients to and from Butner was likely higher than either the Chatham or Wake sites.

Representative Ross was recognized next by the Chair. She also spoke against the proposed Butner site citing, once again, the high vacancy rates of registered nurses. She then provided a report to the Committee obtained from the current Umstead Hospital in Butner detailing a 22% vacancy rate among nurses dated May 31, 2003. Upon request of Representative Wainwright, the Chair immediately recognized Secretary Odom and Dr. Patsy Christian, Director of the Umstead Hospital in Butner, to address the data presented by Representative Ross. The Secretary noted her deep concern of the allegations implicated by Representative Ross and informed the Committee that, in general, all of the State's hospitals had been cited at some point in the past for lack of staff, including Dix Hospital in Raleigh. Dr. Christian was then recognized and explained that vacancies at the hospital were measured in different ways, according to wards, etc. She stated that the current need at Butner was for only 7 nurses. Representative Starnes requested further information from Dr. Christian on these staffing matters, but was informed that the staffing issues of the hospital were simply too complex to discuss generally. Representative Crawford was recognized to interject a comment concerning staffing, stating that the turnover rate of nurses at the Dix Hospital was much higher than at Umstead Hospital in Butner and that whenever Umstead has needed nurses, they have always been found, even as far as Greenville.

Noting the time of 9:52 am, Representative Wainwright was recognized and inquired of the Chair's his intent for the meeting. Chairman Allen then informed the members that the meeting would continue until the matter before the Committee was voted upon and resolved.

In returning to debate the amendment on HB 684, Representatives Womble and Luebke were recognized and both noted their support of the Butner site. Representative Gibson, however, reiterated his support of the proposed Chatham location due to its central location. He further noted, however, that if provisions were included to reimburse the counties in the central region for the costs of transporting patients to the hospital in the Butner area, a lot more support for the bill could likely be garnered, especially when the bill was debated on the House floor. Representative Crawford stated his support of Representative Gibson's suggestion.

Chairman Allen then recognized Representative Jones who stated his opinion that the issues involving the new hospital had been overstressed. He stated that the decision should be simple. He noted that Butner had a long history of quality care for the mentally ill and that the Committee should support Secretary Odom's recommendation.

Representative Hackney was recognized next and acted to send forth and move adoption of another simple perfecting amendment deleting lines 1-3 (the site location in the title) of Representative Wainwright's amendment on HB 684 (see attachment 7). Representative Wainwright, however, was quickly recognized by the Chair to speak against the amendment, reminding members that the other amendments to HB 949 (see attachment 8) and HB 961 (see attachment 9) (as discussed at earlier meetings) included the location of the hospital in their titles and, therefore, so should the amendment to HB 684. Representative Wilson concurred with Representative Wainwright's assertion (as did Representative Creech) and stated her belief that Representative Hackney's latest amendment was an attempt to prolong a vote on the matter.

Seeing no further concerns and a roll call being requested, Chairman Allen called the vote on Representative Hackney's simple amendment and by a vote of 14 in support and 17 in opposition, the amendment was not adopted (see attachment 7). Following this, the Chair then recognized Wainwright who, again, moved adoption of his amendment to HB 684, which placed the site of the new psychiatric hospital in Butner. A roll call vote having been requested, the Chair then instructed the Clerk to call the vote. With 24 in favor and 8 opposed the Wainwright amendment was adopted (see attachment 5).

Representative Wainwright was again immediately recognized by the Chair and moved that the adopted amendment to HB 684 be incorporated into the bill and rolled into a new committee substitute bill. The Chair called the motion to a vote and it carried by consent. As such, HB 684 was reported unfavorable as to the first committee substitute; favorable as to the second committee substitute bill.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 10:15 am.

Respectfully submitted

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk, Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Bill Summary and Fiscal Notes f6r HB 684, HB 949, and HB 961
4. Wainwright Amendment and Roll Call Vote on House Bill 684 (Adopted)
5. House Bill 684 (and related materials)
6. Hackney "Perfecting " Amendment to HB 684 (ruled Out of Order by the Chair)
7. Hackney "Simple" Amendment and Roll Call Vote on House Bill 684 (Failed)
8. House Bill 949 (and related materials)
9. House Bill 961 (and related materials)
10. Technical Amendment offered by Representative Holliman (on June 3, 2003, meeting – displaced at that time, not discussed at this meeting – remains displaced)

ATTACHMENT 1

AGENDA

House Finance Committee

June 4, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen	*Representative Danny McComas*
Representative Julia Howard	*Representative David Miner*
Representative Paul Luebke	*Representative William Wainwright*

Call to Order

Introduction of Pages

Bills: (CONTINUED)

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, June 03, 2003 5:24 PM
Cc: Nancy Goodman (House Legislative Assistant's Office)
Subject: NOTICE House Finance Committee 6-4-2003
Importance: High

PLEASE NOTE: HOUSE FINANCE MEETS ON WEDNESDAY, JUNE 4, 2003 AT 8:30AM IN ROOM 544 OF LOB

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Wednesday, June 4, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 684 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Crawford, G. Allen, Fox, and Luebke

HB 949 – PSYCHIATRIC HOSPITAL BONDS
– Reps. Hackney, Insko, Brubaker, and Culp

HB 961 – PSYCHIATRIC HOSPITAL FINANCING
– Reps. Ross, Munford, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **5:25 P.M.** on **June 3, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

6/3/2003

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 4, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	N C Council
Sally Cameron	NC Psychological
Amy Dobson	NC Statewatch
[illegible] Bode	Wake Forest
Robert Jahnke	Wake Co.
Mildred Spearman	Dept. of Correction
Debra Chen	Intern
Leon M Killian	Moore & Van Allen
William L. Hopper	Guerrville County
Paula L. Hopper	Moore & Van Allen
[illegible]	Moore & Van Allen

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 4, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Emerson	Chatham Co.
Margaret Pollard	Chatham Co.
Josie Douglas	NAMI Wake County
Greg Baker	Dig - Wake Co
Betty Schmiedel	NAMI-Wake Co.
[illegible]	NASW
Wayne Williams	State Budget Office
Ernestine Durham	Executive Intern, FRD & Rep Coiboser.
James W Kirkpatrick	Wake Co Human Ser.
[illegible]	Bode Call & Stamps
Mark Benson	Capitol Group

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 4, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ron Alligood	Granville Co Commissioner
Herbert R. Good, Jr.	GRANVILLE CO. COMMISSIONER
Jan Allard	NAMI Wake
Sarah House	NAMI Wake
Tony Hatch	NCDHHS
BRIAN ALLIGOOD	GRANVILLE COUNTY DEPUTY MGR.
Robert Golden MD	UNC-CH
Lee-Ann Coe	NC Psychiatric Assoc
LEON TURNER	Gran. Cty. EDC
Tom Lane	Granville County
Bob ATWATER	Chatham County

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 4, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCPA
Louise Fisher	Wake AMI & MHANC - advocate for mentally ill
Michelle Frazier	NC Bar Ass'n
Joe Durham	Wake County Government
Frank Johnson	Private citizen
Kevin Fitzgerald	UNC
Hal Miller	NCACCT

HB 684, 949, & 961 (PCS): Psychiatric Hospital Financing

BILL ANALYSIS

Committee: House Finance
Date: May 21, 2003
Version: PCS

Sponsors: See below
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The PCS for each of these three bills authorizes the issuance of up to $110 million in security interest debt to finance the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

Introduction: Three bills have been introduced in the House to authorize the issuance of $110 million of debt to finance a new psychiatric hospital. The sponsors and the hospital locations for each bill are indicated in the following chart:

Bill #	Short Title	Sponsors; Co-Sponsors	Status
H684 **[S845]**	Psychiatric Hospital – Butner H684-CSLCx-42	Rep. Crawford, G. Allen, Fox, Luebke; Rep. Wainwright [Sen. Gulley]	H Finance [S Finance]
H949	Psychiatric Hospital – Chatham H949-CSLCx-41	Rep. Hackney, Insko, Brubaker, Culp	H Finance
H961	Psychiatric Hospital – Wake H961-CSLCx-43	Rep. Ross, Munford, Miner, Weiss; Rep. B. Allen, Capps, Eddins, Ellis	H Finance

The PCS for each of these bills removes the location so that no location is specified. A location can be added by adoption of an amendment.

The PCS for each bill also makes two changes suggested by the State Treasurer:

1. Removes the authorization for special obligation bonds that would have been supported by receipts of the new hospital. It has been determined that these bonds would not be marketable.
2. Clarifies that any recurring savings generated by closing any existing psychiatric hospitals would be used for debt service. This provision is worded generically, without naming any institutions that might be closed.

The following summary applies equally to the PCS for each bill, as they are identical:

Part 1 of the bill enacts the procedural and regulatory provisions needed to carry out the security interest indebtedness. This provision is similar to the repair and renovation authorization that was in the House budget bill. Commonly referred to as "certificates of participation," security interest indebtedness is debt that is secured by an interest in the property being repaired or renovated. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of

participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of security interest debt may be the least expensive and most practical for the State to utilize. More details about security interest debt are provided at the end of this summary. Part 1 prohibits the issuance of security interest debt except for projects specifically authorized by the General Assembly.

Part 2 of the bill provides the specific legislative authorization for up to $110 million of this type of indebtedness to be used for a new psychiatric hospital. Part 2 also states: "The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project."

Part 3 of the bill makes the following changes:

- Requires DHHS to maintain the UNC Medical School research programs currently being conducted at Dorothea Dix hospital.
- Authorizes the county chosen as the site for the hospital to acquire the land by eminent domain and to convey the land to the State.
- Directs that recurring savings realized from the closure of State psychiatric hospitals will not revert to the General Fund but will be used for the payment of debt service on the debt financing the new hospital.
- Creates a study commission to consider the potential disposition of the State-owned real property encompassing the Dorothea Dix Hospital campus.

Details about Security Interest Debt

Security. The debt would be secured by a lien on or security interest in all or any part of the capital facilities to be financed, including all or part of any land on which improvements are to be constructed. If the project is a renovation, the entire existing facility as well as the improvement could serve as security. The value of the property securing the debt may exceed the amount of the debt and the financing of several capital projects may be jointly secured by liens on some or all of the capital facilities being financed.

There would be no pledge of the State's faith and credit or taxing power. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered against the State, but the capital facilities that serve as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

Types of projects. The bill specifically defines capital facilities that may be financed as any combination of:

(1) Buildings, utilities, structures, and other facilities and property developments, including streets, landscaping, equipment and furnishings in connection with a building project.

(2) Additions, renovations, and improvements to existing facilities, including streets and landscaping.

(3) Land acquisition.

(4) Other infrastructure.

(5) Furniture, equipment, vehicles, machinery, and similar items.

Form of debt. The funds could be borrowed from a single entity in an installment purchase or lease purchase contract, could be generated by the issuance of limited obligation bonds, or could be borrowed under an installment financing contract by the sale of certificates of participation. A certificate of participation represents the holder's undivided interest in the right to receive the installment payments to be made by the State. If certificates of participation are issued, a nonprofit corporation will act as a straw person to facilitate the financing.

History. While local governments have used installment finance contracts for years, it is a recent financing tool for the State. In 1999, the Senate passed Senate Bill 912 to authorize the issuance of bonds for UNC system and Community College system projects, to be secured by the property being constructed or improved. The House of Representatives rejected this part of the bill and when the bill was enacted in 2000 the bonds authorized were general obligation bonds, which the voters subsequently approved. In 2000, the General Assembly enacted S.L. 2000-143, which authorized installment contract financing for a $13.5 million office building and wildlife education center for the Wildlife Commission and a $4 million Eastern Wildlife Education Center. In 2001, the General Assembly authorized the State to enter into lease-purchase contracts to finance three prisons (S.L. 2001-84). In 2002, the General Assembly authorized installment financing contracts for guaranteed energy savings contracts for State buildings (S.L. 2002-161). In 2003, both the House and Senate versions of the budget bill authorized special indebtedness for repair and renovations and the Senate version also authorized lease-purchase of an additional three prisons.

Oversight. Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

FISCAL ANALYSIS MEMORANDUM

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

DATE: May 28, 2003

TO: House Finance Committee

FROM: Jim Klingler
Fiscal Research Division

RE: HB 684, 949, and 961(PCS) – Psychiatric Hospital Financing

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

(In Millions)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Operating Expenditures					
Dix & Umstead Hosp.	($5.23)	($9.77)	($27.86)	($49.19)	($104.02)
New Psych. Hospital				$21.66	$52.00
Community Services	$5.23	$6.47	$15.76	$15.76	$40.58
Debt Service					
New Psych. Hospital		$3.30	$12.1	$11.77	$11.44

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: When the bill becomes law

BILL SUMMARY:

The Project - The proposed committee substitute (PCS) for House Bills 684, 949, and 961 provides authorization for financing the construction of a 450,000 square foot, 432-bed psychiatric hospital for central North Carolina. The amount of indebtedness is limited to the estimated cost of construction of $110 million.

Special Indebtedness - Financing authorized by this proposed bill includes: (1) an installment-purchase or lease-purchase contract with a single entity; (2) limited obligation bonds, or (3) an installment-purchase contract through the sale of certificates of participation. Certificates of participation are a form of contract indebtedness where the State, through a non-profit corporation, issues certificates that represent the holder's undivided interest in the right to receive installment payments from the State.

Securitization - In order to secure financing under the three forms of indebtedness listed above, a lien or security interest may be placed on the constructed facilities comprising the new hospital and the land on which the facilities are located. If this indebtedness is used to finance the renovation of existing facilities, a lien could be placed on all or part of the existing facilities.

Under the forms of financing authorized by this PCS, there would be no pledge of the State's taxing power or a pledge of the State's full faith and credit. As a result, voter approval is not necessary for issuance of these forms of debt. If the State defaulted on repayment of this debt, the State could not be forced to generate new tax revenue to service the debt. Instead, the land and facilities financed through special indebtedness could be liquidated to repay the debt. If the General Assembly chose not to appropriate funds for debt service for the new hospital, the State's credit rating could be adversely impacted.

Issuance – The Department of Health and Human Services must notify the Department of Administration of the need for special indebtedness. The Department of Administration then consults with the Office of State Treasurer on the merits of issuing debt for the authorized purpose. The Treasurer must contact the Office of State Budget and Management to determine whether revenues will be available to service the proposed debt. If the Treasurer determines that special indebtedness is desirable for financing the project, the Treasurer must certify this decision in writing to the Department of Administration.

The Department of Administration then calls a meeting of the Council of State for preliminary approval. Prior to issuance of debt, the Council of State must give final approval. The approval resolution must contain a description of the specific project, a maximum principal amount of the special indebtedness, a specified maturity or maximum maturity on the debt, specified interest rates or a maximum rate of interest on the debt, and any condition in addition to the provisions of this bill.

Upon approval by the Council of State, the Treasurer provides final written approval. To do so, the Treasurer is authorized to request addition information and reports to determined the appropriateness of issuing debt. The Treasurer is responsible for management and oversight of the issuance of debt. Once all the provisions of this bill have been met, the Treasurer must report to Joint Legislative Commission on Governmental Operations at least five days prior to issuing any special indebtedness.

UNC Research Programs – This PCS directs the Department of Health and Human Services (DHHS) to preserve all existing educational and research programs in Dorothea Dix Hospital conducted by the University of North Carolina Medical School. As the Department closes Dix Hospital, DHHS must consult with the UNC Medical School regarding the transfer of these programs to the new hospital. The UNC Medical School would retain authority over the management of these education and research programs in the new psychiatric hospital.

Disposition of County Property – Upon selection of a particular site to construct the new hospital, this proposed bill authorizes the selected county to use eminent domain, if necessary, to acquire land for the project. The county would transfer possession of this land to the State.

Cost Savings and Hospital Closure – This PCS requires all savings associated with the closure of any psychiatric hospitals to be directed to repaying debt service on the new psychiatric hospital before reverting to the General Fund. Nonrecurring savings would be deposited in the Mental Health Trust Fund for System Reform and recurring savings would be retained by DHHS. Both sources of funds would be dedicated first to repaying the debt. The balance of non-recurring cost savings, after payment of the annual debt service, would remain in the Mental Health Trust Fund for the purposes of the Trust Fund. All remaining recurring savings would be retained by DHHS for the purpose of complying with the Olmstead v. L.C. and E.W. case and implementation Mental Health Reform.

In practical terms, funds saved from the closure of the two hospitals will: (1) pay the annual debt service on the new hospital; (2) pay the operating expenses of the new hospital, and (3) the remaining balance will go to community programs for the expansion of mental health services in the community.

Dix Hospital Property Study Commission – The proposed bill establishes the Dorothea Dix Property Study Commission. If the State finds itself in the position of selling the land and facilities on which Dorothea Dix Hospital is currently located, the Dorothea Dix Property Study Commission must consider the sale prior to any action by the State. Before the sale occurs, the Study Commission will make a recommendation on disposition of the property to the Joint Legislative Commission on Governmental Operations.

ASSUMPTIONS AND METHODOLOGY:

The proposed bill calls for a 450,000 square foot, 432-bed psychiatric hospital. The cost of constructing this hospital is estimated to be $110 million. Construction is assumed to begin in November 2004 and complete in November 2006.

Debt service payments were estimated based on a simulation provided by the Office of State Treasurer. The estimated debt service assumes that the State will finance the full $110 million through special indebtedness. The estimated repayment includes an average interest rate of 6.0% and a maximum maturity of 20 years. The earliest expected date of issuance would be November 2004. Estimated annual debt services payments range from $5.83 million to $12.1 million.

The following chart displays the current expenditures associated with operating Dix and Umstead Hospitals for the next five years. The chart also shows the shift of operating dollars from the two existing hospitals to the newly constructed psychiatric hospital and to the community for increased local mental health services.

The New Psychiatric Hospital and Realignment of Operating Expenditures					
Operating Expenditures	**FY 2003-04**	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
Dix and Umstead Hospitals	$107,415,928	$103,652,980	$85,567,980	$60,313,621	$0
New Psychiatric Hospital	$0	$0	$0	$21,666,667	$52,000,000
Hospital Debt Service		$3,300,000	$12,100,000	$11,770,000	$11,440,000
Butner ADATC and Dix Campus Operation			$3,917,693	$9,402,462	$9,402,462
Expenditures Realigned to Community Services	$5,231,780	$6,475,000	$15,760,000	$15,760,000	$40,585,518

In calculating the numbers in the chart above, DHHS made the following assumptions:

- The operating costs of Dix and Umstead Hospitals do not include lapse salaries/benefits, which are budgeted annually.
- In FY 2005-06 and subsequent years, DHHS separated the estimated budget for running the Butner Alcohol and Drug Abuse Treatment Center (ADATC) and for maintaining the Dix Campus.
- The Butner ADATC expenditures were estimated from the average appropriation to the Jones ADATC and the Keith ADATC.
- The Dix Campus operating expenditures were estimated according to current appropriations for maintain the Dix Campus facilities used by various DHHS agencies and 15% of the appropriation for the hospital facilities.

- The estimated operating costs for the new hospital are based on the average appropriation for Dix and Umstead, excluding the Butner ADACT and the Dix Campus operation.

As proposed in the PCS, this analysis assumes that the cost savings from the closure of Dix and Umstead Hospitals would not revert to the General Fund. Instead, the cost-savings would be used to pay the debt service for the new hospital, the operating expenditures associated with the new hospital, and the expansion of community-based mental health services. Considering that DHHS is anticipating annual cost-savings from the closure of Dix and Umstead Hospitals that exceed the cost of annual debt service payments for the new hospital, **no net impact to the General Fund is expected.**

ATTACHMENT 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 684*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H684-ALC-18 [v.1]

Page 1 of 1

Date _____ ,2003

Comm. Sub. [YES]
Amends Title [YES]
H684-CSLCx-42

Representative Wainwright

moves to amend the bill on page 1, line 5,
by adding the following before the period:
"TO BE LOCATED IN BUTNER";

and on page 15, line 28,
by adding the following before the period:
"to be located in Butner".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

(Revised 04-03)

ROLL CALL VOTE

24 YES 4 NO = 32 (TOTAL) Date: 6 / 4 / 03 HB# 684

SB# ____

Amendment # Barbee – Wainwright

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	✓		Ex officio Members		
Blackwood	✓		Brubaker		
Bordsen	✓		Culpepper	✓	
Capps		✓	Cunningham		
Carney	✓		Eddins		✓
Creech	✓				
Decker	✓		Co-Chairs		
Ellis		✓	Allen	✓	
Gibson	✓		Howard	✓	
Glazier	✓		Luebke	✓	
Hackney		✓	McComas		✓
Hill	✓		Miner		
Holliman	✓		Wainwright	✓	
Jones	✓				
Lewis	✓				
McCombs	✓				
McGee	✓				
Munford		✓			
Rayfield	✓				
Ross		✓			
Setzer					
Starnes	✓				
Weiss		✓			
Wilson	✓				
Womble	✓				
Wood	✓				

ROLL CALL VOTE

24 YES 8 NO = 32 (TOTAL) ADOPTED Date: 6-4-2003 HB# 684 SB# ____

Amendment # Wainwright – Butner

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander	X	
Blackwood	X	
Bordsen	X	
Capps		X
Carney	X	
Creech	X	
Decker	X	
Ellis		X
Gibson	X	
Glazier	X	
Hackney		X
Hill	X	
Holliman	X	
Jones	X	
Lewis	X	
McCombs	X	
McGee	X	
Munford		X
Rayfield	X	
Ross		X
Setzer		
Starnes	X	
Weiss		X
Wilson	X	
Womble	X	
Wood	X	

MEMBER (last name)	YES	NO
Ex officio Members		
Brubaker		
Culpepper	X	
Cunningham		
Eddins		X
Co-Chairs		
Allen	X	
Howard	X	
Luebke	X	
McComas		X
Miner		
Wainwright	X	

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 684*
PROPOSED COMMITTEE SUBSTITUTE H684-CSLCx-42 [v.2]

5/22/2003 11:16:40 AM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 684*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Crawford, G. Allen, Fox, Luebke (Primary Sponsors); and Wainwright.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN BUTNER, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the

use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the

property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 4.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of Dorothea Dix Hospital and John Umstead Hospital that are in excess of the cost of operating and maintaining the new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of Dorothea Dix Hospital and John Umstead Hospital shall not revert to the General Fund but shall be retained by the Department of Health and Human Services and used for the purposes of subsections (b)(2) and (b)(3) of this section and for the repayment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital."

SECTION 4.4.(a) Dorothea Dix Hospital Property Study Commission. – If the State-owned real property encompassing the Dorothea Dix Hospital campus is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

Jan 715-0707

NURSING VACANCY REPORT

Date of Report: May 31 2003 (last day of month)

FACILITY	AVG. DAILY PATIENT CENSUS	TOTAL RN POSITIONS	TOTAL LPN POSITIONS	CURRENT VACANT RN	CURRENT VACANT LPN	NON FUNCTIONAL RN POSITIONS	NON FUNCTIONAL LPN POSITIONS	# HRS. PAID ABOVE PERM. RN STAFF	# HRS. PAID ABOVE PERM. LPN STAFF	% RN VACANCY	% LPN VACANCY
Broughton Hospital											
Cherry											
Dix											
John Umstead	350	202	39	40	4	-4	-1	3690	1264	22%	13%
Black Mountain											
Caswell											
Murdock											
O'Berry											
WCC											
Special Care Center											
JFKADATC											
WB Jones ADATC											

40
+ 4
44 ÷ 202 = 21.78 or 22%

1) Total positions includes DON and all others except Staff Development
2) % Vacancy - this is functional vacancy percentage which is the number impacting minimal coverage

JUH DEPT OF NURSING
919 575 7673 Fax:919-575-7673

Jun 2 '03 7:52 P.01

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 6

EDITION No. _____

H. B. No. 684

DATE 6/4/2003

S. B. No. _____

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

COMMITTEE SUBSTITUTE _____

Rep.) Hackney
) Wainwright amendment
Sen.)

moves to amend the ~~bill~~ on page 1, line 5 3 + 7

( ) WHICH CHANGES THE TITLE

by deleting "IN BUTNER"

and substituting

"NEAR SILER CITY in CHATHAM COUNTY"

perfecting

ruled by chair "out of order"

SIGNED Hackney

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 7

EDITION No. _____

H. B. No. 684

S. B. No. _____

COMMITTEE SUBSTITUTE _____

No 17 yes 14

DATE _____

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

Rep.)
) Hackney
Sen.)

1 moves to amend the ~~bill~~ wainwright amendment on page _____, line _____

2 ( ) WHICH CHANGES THE TITLE

3 by _____

4 deleting lines 1-3

5

6

7

8

9

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11

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13 failed 14 to 17

14

15

16

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18

19

SIGNED Hackney

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 949*
PROPOSED COMMITTEE SUBSTITUTE H949-CSLCx-41 [v.1]

5/19/2003 1:09:58 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ___" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 949*

Short Title:	Psychiatric Hospital Bonds.	(Public)
Sponsors:	Representatives Hackney, Insko, Brubaker, and Culp (Primary Sponsors).	
Referred to:	Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL NEAR SILER CITY IN CHATHAM COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of

Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar

conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that

the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or

notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in

paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes,

execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not

be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003." References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Chatham County in the vicinity of Siler City.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to

pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust

agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust

agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United

States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the

Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 961
PROPOSED COMMITTEE SUBSTITUTE H961-CSLCx-43 [v.1]

5/19/2003 1:14:38 PM

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 961

Short Title:	Psychiatric Hospital Financing.	(Public)
Sponsors:	Representatives Ross, Munford, Miner, Weiss (Primary Sponsors); B. Allen, Capps, Eddins, and Ellis.	
Referred to:	Finance.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN WAKE COUNTY, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract,

installment purchase contract, or other similar type of installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of

Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the

particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum principal amount of one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003, to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, provided that the aggregate principal amount shall not exceed one hundred ten million dollars ($110,000,000), which amount shall be reduced by the amount of any special obligation bonds issued to finance the project under the Special Obligation Hospital Bonds Act of 2003. The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. SPECIAL OBLIGATION HOSPITAL BONDS

SECTION 3.1. Title. – This Part shall be known and may be cited as the "Special Obligation Hospital Bonds Act of 2003". References in this Part to "this act" mean this Part.

SECTION 3.2. Definitions. – The following definitions apply in this act:

(1) Bonds. – Special obligation bonds issued by the State pursuant to this act.

(2) Cost. – Any of the following, without limiting or restricting any proper definition of this term in financing the cost of the project as authorized by this act:

a. The cost of acquiring, constructing, and equipping the project, including the acquisition of rights-of-way, easements, equipment, furnishings, land, and other interests in real or personal property acquired or used in connection with the project.

b. The cost of engineering, architectural, and other consulting services in connection with the project as may be required.

c. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of the trust agreement or resolution or related documents, interest before and during construction or acquisition of the project and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

d. Administrative expenses and charges.

e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the bonds.

f. The cost of reimbursing the State for any payments made for any cost described above.

g. Any other costs and expenses necessary or incidental to the purposes of this act.

(3) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption

premium, if any, and interest with respect to the bonds payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(4) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(5) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any bonds including any of the following:

a. A provision providing for an adjustment so that the purchase price of the bonds in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of the bonds at a reasonable interest cost to the State.

(6) Pledged revenues. – Pledged revenues consist of any or all of the following:

a. The Medicaid and Medicare reimbursements received by the State and allocated for depreciation expense of the project, plus the Medicaid and Medicare reimbursements received by the State and allocated for interest on the debt used to finance the project.

b. The funds deposited with the Department of State Treasurer as nontax revenue associated with Disproportionate Share Payments from State institutions for mental disease that are collected pursuant to Title XIX of the Social Security Act. 42 U.S.C. 1396r-4, as amended.

c. The revenues generated by the project.

(7) Project. – The acquisition, construction, and equipping of an approximately 400,000 square foot, 432-bed new psychiatric hospital to be located in Wake County.

(8) State. – The State of North Carolina, including any State agency.

(9) State agency. – Any State agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(10) State Treasurer or Treasurer. – The incumbent Treasurer, from time to time, of the State.

(11) Trust agreement. – Any trust agreement or similar instrument or agreement authorizing and securing bonds issued under this act.

SECTION 3.3. Authorization. – The State Treasurer may, by and with the consent of the Council of State, issue and sell special obligation bonds of the State to pay the cost of the project, in a total principal amount not to exceed one hundred ten million dollars ($110,000,000), which maximum principal amount shall be reduced by the amount of any special indebtedness incurred for the project under Article 9 of Chapter 142 of the General Statutes. The principal of, premium, if any, and interest on the bonds shall be payable solely from the pledged revenues in accordance with the terms of the resolution or trust agreement authorizing and securing the bonds. The State Treasurer may, in the State Treasurer's sole discretion, require one or more reports satisfactory to the State Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

SECTION 3.4. Terms and Conditions. – The bonds may be issued, from time to time, in one or more series, but in no event before July 1, 2004. The bonds shall be dated, and may be made redeemable before maturity at the option of the State at any price or prices and upon any terms and conditions, as may be determined by the State Treasurer at the time of the sale of the bonds. The bonds also may be made payable, from time to time, on demand or tender for purchase by the owner upon any terms and conditions as may be determined by the State Treasurer. The bonds shall bear interest at any rate or rates (whether fixed or variable, or any combination thereof, and including, without limitation, any variations as may be permitted pursuant to a par formula) as may be determined by the State Treasurer. Bonds shall mature at any time or times not exceeding 40 years from their date or dates, as may be determined by the Council of State, subject to the limitations provided in this act. The Council of State shall determine the form and manner of execution of the bond, and shall fix the denominations and the places of payment of principal and interest, which may be any bank or trust company within or without the State. If an officer whose signature or facsimile of whose signature appears on any bond ceases to be that officer before the delivery of the bonds, the signature or facsimile is nevertheless valid for all purposes as if the officer had remained in office until the delivery. The Council of State may also provide for the authentication of the bonds by a trustee or fiscal agent. The Council of State may also provide for any other terms, conditions, or matters not inconsistent with the provisions of this act.

Bonds may be sold in any manner, either at public or private sale, and for any price as the State Treasurer determines to be for the best interests of the State and to effectuate best the purposes of this act, as long as the sale has been approved by the Council of State. The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment agreements, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments as the State Treasurer determines are desirable in connection with the issuance of bonds under this act. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated

with any bond issue under this act. The proceeds of any bonds shall be used solely for the purposes for which they are issued and shall be disbursed in any manner and under any restrictions the Council of State may provide in the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

Except as otherwise expressly provided in this act, bonds may be issued under this act without obtaining the consent of any department, division, commission, board, body, bureau, or agency of the State, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things that are specifically required by this act and the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds.

SECTION 3.5. Trust Agreement or Resolution. – Any bonds issued under the provisions of this act may be secured by a trust agreement by and between the State and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution or trust agreement authorizing and securing the bonds shall, subject to the limitations set forth in this act, specify the pledged revenues and shall pledge or assign the pledged revenues to pay the principal of, premium, if any, or interest on the bonds in the manner provided by this act. The resolution or trust agreement may contain any provisions for protecting and enforcing the rights and remedies of the holders of any bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the State in relation to the purposes to which bond proceeds may be applied, the disposition or pledging of the pledged revenues, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys.

Any resolution or trust agreement may restrict the individual right of action by an individual owner of bonds. In addition to the foregoing, any resolution or trust agreement may contain any other provisions as the Council of State considers reasonable and proper for the security of the holders of any bonds. Expenses incurred by the State in carrying out the provisions of the resolution or trust agreement may be paid from the pledged revenues as provided for in the resolution or trust agreement.

SECTION 3.6. Pledge of Revenues; Limited Obligations. – The State is authorized to pledge the pledged revenues to the payment of the principal of, premium, if any, and interest on bonds issued under this act as they become due and payable, and to create and maintain any reserves therefor, and to fulfill the terms of any agreements made with the holders of bonds issued under this act. Notwithstanding the foregoing, any pledged revenues not required to pay the principal of, premium, if any, and interest on the bonds secured by the pledged revenues as they become due and payable, or to create and maintain any reserves for them, or to fulfill the terms of any agreements made with the holders of the bond issued under this act, shall be available to the State for expenditure for any lawful purpose, subject to the terms and provisions of any resolution or trust agreement authorizing and securing the bonds.

Any pledge of the pledged revenues made by the State under the provisions of this act shall be set forth in the resolution or trust agreement authorizing the issuance of the bonds. The pledge of these pledged revenues made by the State shall be valid and binding from the time when the pledge is made. All pledged revenues so pledged and

thereafter received by the State are immediately subject to the lien of the pledge without any physical delivery or further act, and the lien of the pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the State, irrespective of whether the parties have notice of the lien. The resolution or trust agreement by which a pledge is created need not be filed or recorded except in the records of the Council of State.

All bonds issued under this act shall be equally and ratably secured by a pledge, charge, and lien upon the pledged revenues pledged to the payment of those bonds, without priority by reason of number, or of dates of bonds, execution, or delivery, in accordance with the provisions of this act and of the resolution or trust agreement authorizing and securing the bonds; except that the State may provide in the resolution or trust agreement that the bonds shall, to the extent and in the manner prescribed in the resolution or trust agreement, be subordinated and junior in standing with respect to the payment of principal of, premium, if any, and interest on any other bonds.

All bonds issued under this act shall be special obligations of the State. The principal of, premium, if any, and interest on the bonds shall not be payable from the general funds of the State, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the pledged revenues. Neither the credit nor the taxing power of the State is pledged for the payment of the principal of, premium, if any, or interest on the bonds, and no holder of bonds has the right to compel the exercise of the taxing power by the State or the forfeiture of any of its property in connection with any default on the bonds, except for the pledged revenues. Every bond issued under this act shall recite in substance that the principal of, premium, if any, and interest on the bond is payable solely from the pledged revenues and that the State is not obligated to pay the principal, premium, or interest, except from these pledged revenues so pledged.

SECTION 3.7. Agreement of the State. – The State pledges to and agrees with the holders of any bonds by the State pursuant to this act that as long as any of the bonds are outstanding and unpaid, the State will not limit or alter the rights vested in the State at the time of issuance of the bonds to collect and apply the pledged revenues in the manner provided in the resolution or trust agreement authorizing and securing the bonds to pay the principal of, premium, if any, and interest on the bonds as they become due and payable, and to create and maintain any reserves for payment, and to fulfill the terms of any agreements made with the holders of the bonds. The State will not in any way impair the rights and remedies of the holders of the bonds until the bonds and all costs and expenses in connection with any action or proceedings by or on behalf of the holders of the bonds, are fully paid, met, and discharged.

SECTION 3.8. Trust Funds. – Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this act, including proceeds of the bonds and the pledged revenues, are trust funds to be held and applied solely as provided in this act. The resolution authorizing the issuance of, or any trust agreement securing any bonds issued under this act may provide that any of these moneys may be temporarily invested pending their disbursement and shall provide that

any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of this act, subject to any limitations this act and the resolution or trust agreement provide. These moneys may be invested in any investment authorized by law for investment of trust funds held by the State Treasurer.

SECTION 3.9. Remedies. – Any holder of bonds issued under the provisions of this act, and the trustee under any resolution or trust agreement authorizing and securing the bonds, except to the extent the rights given in this act may be restricted by the resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the State or granted under this act or under the resolution or trust agreement, or under any other contract executed by the Council of State or the State Treasurer pursuant to this act, and may enforce and compel the performance of all duties required by this act or by the resolution or trust agreement to be performed by the State or by any officer of the State.

SECTION 3.10. Investment Securities. – All bonds and interest coupons appertaining to them issued under this act are investment securities within the meaning of and for all the purposes of Article 8 of Chapter 25 of the General Statutes, whether or not they are of the form and character as to be investment securities under that act, subject only to the provisions of the bonds pertaining to registration.

SECTION 3.11. Bonds Eligible for Investment. – Bonds issued under the provisions of this act are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Bonds issued under the provisions of this act are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

SECTION 3.12. Refunding Bonds. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds for the purpose of refunding any bonds issued under this act and then outstanding, including payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the refunded bonds. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The principal of, premium, if any, and interest on the refunding bonds shall be payable solely from funds provided under this act for payment of bonds.

The proceeds from the sale of any refunding bonds shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being

refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

The issuance of refunding bonds, their maturities and other details, the rights of their holders, and the rights, duties, and obligations of the State in respect of them shall be governed by the provisions of this act that relate to the issuance of bonds, insofar as those provisions are appropriate.

SECTION 3.13. Officers and Employees Not Liable. – No member of the Council of State or officer or employee of the State shall be subject to any personal liability or accountability by reason of the execution or issuance of any bonds under this act.

SECTION 3.14. Tax exemption. – Any bonds issued by the State under the provisions of this act shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the bonds; and franchise taxes. Interest on the bonds is not subject to taxation as income.

PART 4. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 4.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 4.2.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 4.2.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 5. GENERAL PROVISIONS

SECTION 5.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 5.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 5.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 5.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 5.2. Effective Date. – This act is effective when it becomes law.

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ATTACHMENT 10

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Page 182

EDITION No. PCS

H. B. No. ~~684~~ 949

DATE

S. B. No.

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

COMMITTEE SUBSTITUTE ✓

Rep.) Holliman
Sen.)

moves to amend the bill on page 15, line 42

( ) WHICH CHANGES THE TITLE

by adding the following after the word "Medicine":

"and the Psychology Department within the College of Arts and Sciences at the University of North Carolina at Chapel Hill"; and

on page 15, line 42,

by adding the following before the comma:

"and John Umstead Hospital";

and on page 15, line 44,

by adding the following before the period:

"or the College of Arts and Sciences";

and on page 16, lines 1-2,

by adding the following after the word "psychiatry":

"; and the University of North Carolina College of Arts and Sciences shall retain authority over all educational and research programs in psychology conducted at these hospitals and any new State psychiatric hospital."

And by deleting the remainder of the sentence.

SIGNED

ADOPTED 11 FAILED TABLED

72467 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

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NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS

H. B. No. 684 DATE

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

COMMITTEE SUBSTITUTE ✓

Rep.) Hollman
Sen.)

moves to ~~amend the bill on page~~ , line

( ) WHICH CHANGES THE TITLE

by

and on page 16, line 6,
by adding the following at the end of the line:

"In addition, the Secretary shall consult with the University of North Carolina College of Arts and Sciences to ensure ~~that~~ appropriate continuation of educational and research programs conducted by the University of North Carolina College of Arts and Sciences."

SIGNED

ADOPTED FAILED TABLED

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 684 A BILL TO BE ENTITLED AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL IN BUTNER, AND TO AUTHORIZE THE ISSUANCE OF SPECIAL OBLIGATION BONDS FOR THE CONSTRUCTION OF THE NEW PSYCHIATRIC HOSPITAL.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 684* (as adopted)

PROPOSED COMMITTEE SUBSTITUTE H684-PCS60368-LCx-42

Short Title: Psychiatric Hospital Financing. (Public)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE THE CONSTRUCTION OF A NEW PSYCHIATRIC HOSPITAL TO BE LOCATED IN BUTNER.

The General Assembly of North Carolina enacts:

PART 1. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the

State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, other types of reserves required pursuant to the terms of any special indebtedness or related documents, and interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type of installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:
a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
b. A private corporation or other entity issuing certificates of participation pursuant to this Article.
(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of

Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget

proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special

indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer, or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until

delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the

General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured

as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or

notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 1.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 2. PSYCHIATRIC HOSPITAL CONSTRUCTION

SECTION 2.1. Construction of Psychiatric Hospital. – In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of financing contract indebtedness in a maximum aggregate principal amount of one hundred ten million dollars ($110,000,000) to finance the cost of the project described in this Part, subject to the limitations described in this Part. The financing contract indebtedness shall not be incurred prior to July 1, 2004.

SECTION 2.2. The Project. – The project shall consist of the acquisition, construction, and equipping of an approximately 450,000 square foot, 432-bed new psychiatric hospital to be located in Butner.

SECTION 2.3. Authorization of Financing Contracts. – The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes as enacted by this act, is authorized to execute and deliver one or more financing contracts in order to provide funds to the State to be used, together with other available funds, to pay the cost of the project, in an aggregate principal amount not to exceed one hundred ten million dollars ($110,000,000). The State Treasurer may, in the Treasurer's sole discretion, require one or more reports satisfactory to the Treasurer evidencing the savings expected to be realized from the closure of existing psychiatric hospitals that are to be replaced by the project and the feasibility of the financing of the project.

PART 3. GENERAL PROVISIONS FOR PSYCHIATRIC HOSPITAL

SECTION 3.1. The Secretary of Health and Human Services shall maintain all existing educational and research programs in psychiatry and psychology conducted by the University of North Carolina School of Medicine at Dorothea Dix Hospital, unless the programs are otherwise modified by the University of North Carolina School of Medicine. The University of North Carolina School of Medicine shall retain authority

over all educational and research programs in psychiatry and psychology conducted at the new psychiatric hospital authorized under this act. The Secretary shall consult with the University of North Carolina School of Medicine in programmatic, operational, and facility planning of the new psychiatric hospital to ensure appropriate patient treatment and continuation of educational and research programs conducted by the University of North Carolina School of Medicine.

SECTION 3.2. Part 3 of Article 8 of Chapter 153A of the General Statutes is amended by adding the following new section to read:

"**§ 153A-178. Disposition of county property for a State psychiatric hospital.**

When the Secretary of Health and Human Services selects a county for the location of a new State psychiatric hospital as authorized by law, the county selected for the location of the new State psychiatric hospital is authorized under the general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a psychiatric hospital. The county may acquire the property by eminent domain, and the power under this section is supplementary to any other power the county may have to take property by eminent domain."

SECTION 3.3. G.S. 143-15.3D is amended by adding the following new subsection to read:

"(c) Notwithstanding G.S. 143-18, any nonrecurring savings in State appropriations realized from the closure of any State psychiatric hospitals that are in excess of the cost of operating and maintaining a new State psychiatric hospital shall not revert to the General Fund but shall be placed in the Trust Fund and shall be used for the purposes authorized in this section. Notwithstanding G.S. 143-18, recurring savings realized from the closure of any State psychiatric hospitals shall not revert to the General Fund but shall be used for the payment of debt service on financing contract indebtedness authorized pursuant to Article 9 of Chapter 142 of the General Statutes for the construction of a new State psychiatric hospital. Any remainder not needed for this debt service shall be credited to the Department of Health and Human Services to be used only for the purposes of subsections (b)(2) and (b)(3) of this section."

SECTION 3.4.(a) Dorothea Dix Hospital Property Study Commission. – If any of the State-owned real property encompassing the Dorothea Dix Hospital campus is no longer needed by Dorothea Dix Hospital and is not transferred to another State agency or agencies before the sale of any or all of the property to a nongovernmental entity, options for this sale shall be considered by the Dorothea Dix Hospital Property Study Commission. The Commission shall make recommendations on the options for sale of the property to the Joint Legislative Commission on Governmental Operations before any sale of any or all parts of the property.

SECTION 3.4.(b) Creation and Membership. – The Dorothea Dix Hospital Property Study Commission is created. The Commission shall consist of nine members, four appointed by the President Pro Tempore of the Senate and four appointed by the Speaker of the House of Representatives. The Secretary of Health and Human Services shall serve as an ex officio member of the Commission.

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

Jason Cannon (House Finance)

From: Linda Winstead (Rep. Jim Crawford)
Sent: Thursday, June 05, 2003 9:27 AM
To: @House/Finance
Cc: Jason Cannon (House Finance)
Subject: HB 684 Psychiatric Hospital Bonds

Thank you for your patience during the Finance Committee discussion of HB 684 - Psychiatric Hospital Bonds.

Your support of the mental health system in general is greatly appreciated as I believe the goal we all have is the best care possible for the patients served.

I ask for your continued support and hope we can all come together to support the Butner location for a new mental health hospital.

If you have any questions that were not addressed during committee discussion, please let me know and I will be glad to discuss it with you.

Representative Jim Crawford
NC General Assembly
1301 Legislative Building
919 733-5824

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 5, 2003

The House Committee on Finance met on Thursday, June 5, 2003 at 8:30 am in Room 544 of the Legislative Office Building. A majority of the members were present for the official conduct of business. Also present were members of Staff as well as Sergeant-at-Arms: Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:40 am and announced that the Presiding Chair for the meeting, Chairman Luebke, was running a few minutes behind schedule. However, in light of the heavy calendar of bills before the Committee for consideration, Chairman Wainwright then acted to chair the meeting until Chairman Luebke arrived (just minutes later).

Chairman Wainwright first recognized the pages present: (1) Laura Buckley of Cabarrus County, sponsored by Representative Linda Johnson; (2) Adam Edgerton of Johnston County, sponsored by Representative Daughtry; (3) Lucas Keller of Caldwell County, sponsored by Representative Starnes; and (4) Clint Starnes of Caldwell County, sponsored by Representative Starnes.

As the first matter of business before the Committee, Chairman Wainwright recognized Representative Crawford to explain **HB 471 – CDL CHANGES** (see attachment 3). As there was a Proposed Committee Substitute (PCS) to the bill, Representative Howard moved that the PCS be adopted by the Committee for discussion purposes. The motion carried without opposition. Representative Crawford then explained that the bill brings North Carolina state law into compliance with recently adopted federal laws regarding commercial driver's licenses only. The bill also requires "mopeds" to have license plates just as any other motor vehicle on state roads. The Chair then recognized Representative Hill who moved for a favorable report on HB 471. The motion carried without opposition.

The Chair once again recognized Representative Crawford to explain **HB 1074 – BUTNER ADVISORY COUNCIL** (see attachment 4). He noted that the Town of Butner is owned by the state and governed by the Department of Human Resources and the State Legislature. He emphasized that, currently, the Town does have a Council, but it is appointed; not elected. He then

explained that this bill allows for the election of this Council by the citizens of Butner. These elections, however, would not change the governing body of the Town as the Council would be required to report (and could only make recommendations) to the Department of Human Resources. Representative Ellis, upon first inquiring as to what funds would used to pay for the Town's elections, was recognized by the Chair to send forth an amendment clarifying that the Town be required to utilize locally collected fees and/or taxes to finance its elections and that it not be permitted to use funds from the State Department of Human Resources or any other State or Federal agency. Representative Crawford, the bill sponsor, was recognized and stated his agreement to the Ellis amendment. Seeing no further discussion of the amendment, Chairman Luebke (who had arrived to the meeting during the discussion of this bill) called the vote and the amendment was unanimously adopted. Representative Womble was then recognized by the Chair for a few substantive questions for the bill sponsor. Following this, Representative Womble moved that the amendment to HB 1074 be incorporated into a new PCS with a favorable report and that the original committee substitute of the bill be reported unfavorably. The Chair then called the motion to a vote and it carried by consent.

Chairman Luebke next recognized Representative Hill, on behalf of Representative A. Williams, to explain **HB 948 – CLARIFY AUTHORITY/REGULATION OF CERVIDS** (see attachment 5). Representative Hill noted that the bill expands the authority of the State Wildlife Commission to regulate the cervid (i.e. deer) population and was originally sent through the Agriculture Committee, where it received extensive debate. Seeing no further discussion or debate, Chairman Luebke recognized Representative Howard who moved for a favorable report on the bill. The motion carried without known opposition.

The Chair next recognized Representative Setzer to explain **HB 725 – CONOVER/CLAREMONT DEANNEXATIONS** (see attachment 6). He explained that the bill had two sections. The first section acted to deannex a 50-foot strip of land (vacant property) from the City of Claremont. The second section then acted to deannex three parcels of property from the City of Conover and add them to the City of Claremont. He noted that there is no opposition to the bill and that the bill simply acts to solidify an existing agreement between the towns. Following this explanation, Chairman Luebke recognized Representative McComas who moved for a favorable report on the bill. Following a small amount of discussion among the members, the Chair called the vote and the motion carried without opposition.

Chairman Luebke, on the matter of **SB 652 – AIRPORT AUTHORITY DEBT FINANCING** (see attachment 7), recognized Senator Metcalf for an explanation of the bill. Representative Howard moved that the PCS for the bill be adopted for consideration and the motion carried without objection. Senator Metcalf then noted that the bill (on page 3, line 17) grants airport authorities in the state the option to finance debt (and other aspects). He noted that this authority is similar to that used by local governments and other entities. Martha Walston (staff) explained that the PCS on the bill also added two sections concerning the Village of Pinehurst and Stanley County (see bill summary in attachment 7 for further detail). Chairman Luebke then recognized Representative Holliman who moved for a favorable report (seconded by Representative Ross). Following only brief discussion from the members, the Chair called the vote and the motion carried by consent.

As the next matter of business, the Chairman recognized Senator Foxx to explain her bill, **SB 777 – AMEND DEALER LICENSING LAW** (see attachment 8). She explained the bill

generally, as well as its fiscal impact. The bill acts to clarify the laws (rules and regulations) concerning commercial trailers and helps to make the process for obtaining trailer licenses more efficient. She noted that there was a small impact to the Highway Fund, but that there was no opposition. Linda Millsaps (Fiscal Research Staff) then provided a more detailed description of the fiscal impacts of the bill. She verified that the bill only affects those persons purchasing landscaping and some motorcycle trailers. The bill exempts only those selling these specific types of trailers from obtaining the required trailer license (and, of course, paying the $50.00 associated fee). Finally, Ms. Millsaps noted that the financial impact to the Highway Trust would be about $2,000 per year (at the extreme). Following Ms. Millsaps explanation, a brief amount of discussion ensued between the members and staff. The Chair then recognized Representative Wainwright who moved for a favorable report on SB 777. The Chair called the vote and the motion carried by consent.

Chairman Luebke called **HB 1006 – MANUFACTURED HOUSING** (see attachment 9) next and recognized Representative Stam, on behalf of Representatives Hunter and Barnhart, to explain the bill. Representative Stam noted that the importance of the bill is that it provides provisions for certain manufactured homes to be qualified as "real property". It also allows borrowers to get lower interest rates when purchasing these specific properties. He stated that there was no controversy on the bill. Representative Hackney was recognized and asked several questions to Representative Stam on the bill. He expressed his concerns that the rules outlined in the bill do not allow for a return of deposits less than $2,000.00. Frank Gray, attorney representing the North Carolina Manufactured Housing Association (NCMHA), stated that the NCMHA does not necessarily favor these rules as they are stated and noted that in most cases, the amount of deposit was not a significant concern for the manufactured homebuyers. Representative Hackney disagreed, noting that, in his experience, disputes between manufactured housing dealers and consumers almost always arise out of either an inability to deliver the home or refused deposit returns. Bill Rowe with the North Carolina Low Income Housing Coalition explained that they do recognize problems exist with some of the proposed rules; however, he noted that the bill was a compromise in fear that other, more crucial, issues pertaining to manufactured housing would go unheard. Representative Ross was then recognized by the Chair for a motion of favorable report on HB 1006. Chair Luebke, seeing no further discussion or debate among the members, then called the vote and the motion carried.

The next matter of business before the Committee was **HB 511 – ANDREWS SATELLITE ANNEXATIONS** (see attachment 10). Chairman Luebke recognized Representative West to briefly explain the bill. Representative West noted simply that the bill acted to exempt property owned by the Town of Andrews from the statutory ceiling on voluntary annexation. Representative Rayfield was then recognized and moved for a favorable report. Seeing no other discussion, the Chair called the vote and the motion carried by consent.

Chairman Luebke then took time to make special recognition of Representative Howard's recent graduation from Salem College on May 24, 2003. She graduated with a Bachelor of Arts degree in Sociology and attained Magna cum Laude status as well as Departmental Honors. Members of the Committee also showered Representative Howard with confetti (saved by Chairman Luebke) from the commencement ceremony!

HB 96 – AVERY COUNTY OCCUPANCY TAX (see attachment 11) was then called before the Committee for discussion. The Chair made the announcement that there would be no vote on the bill at the meeting and that debate on each side of the bill would be limited to 15

minutes each. Chairman Luebke then recognized Representative Frye to explain the bill. He explained that the bill acts to allow Avery County to levy an occupancy tax within the unincorporated areas of the County. He noted that the municipalities in the County already had the ability to levy these taxes. This bill simply allows the areas in the county that are not incorporated to levy an occupancy tax to support travel and tourism within the County. Representative Frye then introduced Commissioner Bill Beutell of the Avery County Board of Commissioners who addressed the Committee in support of the bill. Mr. James Pitts with the Tree and Nurseryman's Association of North Carolina was also present and addressed the members of the Committee in support of the bill. Mr. Steve Rondinaro, President of Rondinaro Broadcasting was also present. He noted his ownership of two local radio stations in the Avery County area and his involvement with the political news of the County. He also stated his concerns that former Representative of the district, Monroe Buchanan, was being given undue influence in the matter before the Committee. Finally, Carol Lawler with the North Carolina Travel and Tourism Coalition was present and stated that the Coalition did not oppose HB 96. There was no one present to speak in opposition to the bill. Several questions then followed from the members. Following this discussion, Chairman Luebke thanked those who traveled from Avery County for being present and sharing their concerns with the Committee. Representative Jones inquired to the Chair as to why there was to be no vote on the bill at that time. Chairman Luebke explained that the Chairs of the Committee made the decision collectively.

The Chairman next recognized Representative McComas, on behalf of Senator Ballantine, to explain **SB 57 – MUNICIPAL WHEEL LOCK AUTHORIZATION** (see attachment 12). Representative Bordsen moved that the Committee adopt the PCS for consideration. The motion carried without objection. Representative McComas then explained that the bill acts to allow the Towns of Carolina Beach and Wrightsville Beach to utilize wheel locks on drivers who have numerous unpaid parking tickets. Representative Starnes, at the request of Representative Holmes, brought forth and moved the adoption of an amendment to add the Town of Yadkinville to the areas included in the bill. As there was no objection, the amendment was adopted by consent. Representative Hill was then recognized and moved that SB 57 receive a favorable report as to the Committee Substitute bill, unfavorable as to the original bill. The motion carried by consent.

As the final matter of business before the Committee, the Chair recognized Representative G. Allen to explain **HB 1294 – EXPAND QUALIFIED BUSINESS CREDIT** (see attachment 13). Representative Allen then requested that the Committee hear from Mr. Harry Kaplan with the North Carolina Biosciences Organization who spoke in favor of the bill to extend a current credit, which helps the growth of small business in the state. He stated that the bill acts only to extend the term of the current credit out until 2007. Representative Gibson was then recognized and moved for a favorable report on the bill. Martha Harris (staff) noted that the bill does add one group of entrepreneurs for the university system. Following this, the Chair acted to acknowledge Ms. Lisa Rowe-Ralls with the Council for Entrepreneurial Development. Seeing no further discussion or debate, Chairman Luebke then called the vote on Representative Gibson's motion for a favorable report and the motion carried without known opposition.

Having no further business before the Committee, Chairman Luebke adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 471 (and related materials)
4. House Bill 1074 (and related materials)
5. House Bill 948 (and related materials)
6. House Bill 725 (and related materials)
7. Senate Bill 652 (and related materials)
8. Senate Bill 777 (and related materials)
9. House Bill 1006 (and related materials)
10. House Bill 511 (and related materials)
11. House Bill 96 (and related materials)
12. Senate Bill 57 (and related materials)
13. House Bill 1294 (and related materials)
14. House Bill 971 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 5, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order & Introduction of Pages

Bills:

HB 96 **Avery County Occupancy Tax** *Rep. Frye*

HB 471 **CDL Changes** *Rep. Crawford*

HB 511 **Andrews Satellite Annexations** *Rep. West*

HB 725 **Conover/Claremont Deannexations** *Rep. Setzer*

HB 948 **Clarify Authority/Regulation of Cervids** *Rep. A. Williams*

HB 971 **Cosmetic Art/Continuing Education** *Rep. Howard*

HB 1006 **Manufactured Housing** *Reps. Hunter & Barnhart*

HB 1074 **Butner Advisory Council** *Rep. Crawford*

HB 1294 **Expand Qualified Business Credit** *Rep. G. Allen*

SB 57 **Municipal Wheel Lock Authorization** *Sen. Ballantine*

SB 652 **Airport Authority Debt Financing** *Sen. Metcalf*

SB 777 **Amend Dealer Licensing Law** *Sen. Foxx*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 5, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Beuttell	Avery Co. Commissioner
James Pitts	Avery Co. Christmas Growers
Steve Rindman	Avery County citizen
Mark Gerson	Capitol Group
Ernestine Durham	Exe. Intern, FRD
Shana Matthews	DOT - DMV
Sam McEwen	NCDOR
Bernetta Smith	NC Cosmetic Art Bd
Allan Russ	Secretary of State
Patricia Harper	Secretary of State
Perry R. Bosema	Secretary of State

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 5, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
J & Hobbs	NC Hotel Assn
Carol Lauer	EGHS
Bill Rowe	NC Justice Center
Lisa Rowe-Ralls	Council for Entrepreneurial Development
Chris McClure	NCEITA
Dee Williams	NC Bd. of Cosmetology
Helen Hilliard Francis	NC Cosmetology Pension Council
John Phelps	NCLM
Bill Beuttell	Avery Co. Commissioner
James Pitts	Avery Co. Christmas Growers
Dick Hamilton	NCWRC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 5, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Baily	NCDOR
David Baker	NCDOR
Joan Troy	WRC
[illegible]	NC Ports Authority
[illegible]	UCAA
Glenn Lamm	UCAA
Regina Green	NC Low Income Housing Coalition
Paul Stock	NC Bankers Asn.
Harry Kaplan	NC BIO
John O'Hale	Governor's Office
[illegible]	Alley Associates

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, June 04, 2003 12:17 PM
Subject: NOTICE House Finance Committee 6-5-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, June 5, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye

HB 471 – CDL CHANGES – Rep. Crawford

HB 511 – ANDREWS SATELLITE ANNEXATION – Rep. West

HB 725 – CONOVER/CLAREMONT DEANNEXATIONS – Rep. Setzer

HB 948 – CLARIFY AUTHORITY/REGULATION OF CERVIDS – Rep. A. Williams

HB 971 – COSMETIC ART/CONTINUING EDUCATION – Rep. Howard

HB 1006 – MANUFACTURED HOUSING – Reps. Hunter & Barnhart

HB 1074 – BUTNER ADVISORY COUNCIL – Rep. Crawford

HB 1294 – EXPAND QUALIFIED BUSINESS CREDIT – Rep. G. Allen

SB 57 – MUNICIPAL WHEEL LOCK AUTHORIZATION – Sen. Ballantine

SB 652 – AIRPORT AUTHORITY DEBT FINANCING – Sen. Metcalf

SB 777 - AMEND DEALER LICENSING LAW – Sen. Foxx

Respectfully,

Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:30 P.M.** on **June 4, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber
Jason A. Cannon (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 471*

Committee Substitute Favorable 4/30/03

PROPOSED COMMITTEE SUBSTITUTE H471-CSLAf-20 [v.2]

6/4/2003 9:31:14 PM

Short Title: CDL Changes/Moped Tag. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE; AND TO REQUIRE A MOPED IDENTIFICATION TAG.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(4a) reads as rewritten:

"(4a) Conviction. – A conviction for an offense committed in North Carolina or another state:

a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:

1. A final conviction of a criminal offense, including a no contest plea.
2. A determination that a person is responsible for an infraction, including a no contest plea.
3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
4. A third or subsequent prayer for judgment continued within any five-year period.
5. For the purpose of disqualification only, a prayer for judgment continued, when the offense occurs in a

commercial vehicle or the offender holds a commercial drivers license.

b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:

1. An unvacated adjudication of guilt.
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

SECTION 2. G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial motor vehicle:

a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
b. Careless and reckless driving.
c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
d. Improper or erratic lane changes.
e. Following the vehicle ahead too closely.
f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported."

SECTION 3. G.S. 20-17.4 is amended by adding a new subsection to read:

"(k) Disqualification for Railroad Grade Crossing Offenses. – Any person convicted of violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

(1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
(2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
(3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any

combination of railroad grade crossing offenses listed in this subsection."

SECTION 4. G.S. 20-37.12 is amended by adding a new subsection to read:

"(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense."

SECTION 5. G.S. 20-37.16 reads as rewritten:

"**§ 20-37.16. Content of license; classifications and endorsements; fees.**

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

(1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.

(2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.

(3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

Endorsement	Vehicles That Can Be Driven
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
S	School bus
T	Double trailers
X	Tank vehicles carrying hazardous materials.

To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years.

(d) The fee for a Class A, B, or C commercial drivers license is ten dollars ($10.00) for each year of the period for which the license is issued. The fee for each endorsement is one dollar and twenty-five cents ($1.25) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to a ~~person whose license is restricted to driving a school bus or school activity bus or to~~ employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

(1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.

(2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.

(3) A farm vehicle that meets all of the following criteria:

a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.

b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.

c. Is not used in the operations of a for-hire motor carrier.

d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation."

SECTION 6. G.S. 20-37.16 is amended by adding a new subsection to read:

"(c1) The test for an S endorsement may be waived by the Division for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the requirements of this subsection. An applicant for a waiver under this subsection shall verify that, during the two-year period immediately prior to application for an S endorsement, the applicant met all of the following requirements:

(1) The applicant held a valid commercial drivers license with a passenger vehicle endorsement to operate a school bus representative of the group the applicant will be driving.

(2) The applicant did not have the applicant's drivers license or commercial drivers license suspended, revoked, or cancelled or the applicant was not disqualified from operating a commercial motor vehicle.

(3) The applicant was not convicted of a State law offense that corresponds to the list of disqualifying offenses in 49 C.F.R. § 383.51(b) while operating a commercial motor vehicle or of any offense in a noncommercial motor vehicle that would be a disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a commercial motor vehicle.

(4) The applicant was not convicted of more than one of the serious traffic violations listed and defined in G.S. 20-4.01(41a) while operating any type of motor vehicle.

(5) The applicant was not convicted of a violation of State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.

(6) The applicant was not convicted of any motor vehicle traffic violation that resulted in an accident.

(7) The applicant was regularly employed as a school bus driver, operated a school bus representative of the group the applicant seeks to drive, and provides evidence of that employment."

SECTION 7. Article 3 of Chapter 20 of the General Statutes is amended by adding a new part to read:

"Part 3B. Moped Identification Tags.

"**§ G.S. 20-71.6. Moped Identification Tags.**

(a) Tags Required. – Every moped, as defined in G.S. 105-164.3 and operated in the State, shall display a permanent identification tag. The tag must display information for identification and enforcement purposes and be approved by the Commissioner.

(b) Duties of Moped Dealer. – A moped dealer shall attach the approved tag to each moped sold by the dealer in this State. The moped dealer may collect a one time only fee not exceeding twenty-five dollars ($25.00) from the purchaser of the new or used moped. Moped dealers shall make an effort to promote awareness of the tag requirement.

(c) Violations. – A moped dealer who fails to attach a tag to a moped at the time of sale or a person who operates a moped upon the public highways and streets of this State without displaying the tag is guilty of a Class 3 misdemeanor."

SECTION 8. Sections 3, 5, 7, and 8 of this act become effective October 1, 2003. Section 6 of this act becomes effective October 1, 2003, and expires September 30, 2005. The remainder of this act becomes effective January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 471*

Committee Substitute Favorable 4/30/03

Short Title: CDL Changes. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(4a) reads as rewritten:

"(4a) Conviction. – A conviction for an offense committed in North Carolina or another state:

a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:

1. A final conviction of a criminal offense, including a no contest plea.
2. A determination that a person is responsible for an infraction, including a no contest plea.
3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
4. A third or subsequent prayer for judgment continued within any five-year period.
5. For the purpose of disqualification only, a prayer for judgment continued, when the offense occurs in a commercial vehicle or the offender holds a commercial drivers license.

b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:

1. An unvacated adjudication of guilt.
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

SECTION 2. G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial motor vehicle:

a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
b. Careless and reckless driving.
c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
d. Improper or erratic lane changes.
e. Following the vehicle ahead too closely.
f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported."

SECTION 3. G.S. 20-17.4 is amended by adding a new subsection to read:

"(k) Disqualification for Railroad Grade Crossing Offenses. – Any person convicted of violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

(1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.
(2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.
(3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection."

SECTION 4. G.S. 20-37.12 is amended by adding a new subsection to read:

"(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense."

SECTION 5. G.S. 20-37.16 reads as rewritten:

"**§ 20-37.16. Content of license; classifications and endorsements; fees.**

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

(1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.

(2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.

(3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

Endorsement	Vehicles That Can Be Driven
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
S	School bus
T	Double trailers
X	Tank vehicles carrying hazardous materials.

To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years.

(d) The fee for a Class A, B, or C commercial drivers license is ten dollars ($10.00) for each year of the period for which the license is issued. The fee for each endorsement is one dollar and twenty-five cents ($1.25) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to ~~a person whose license is restricted to driving a school bus or school activity bus or to~~ employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also

waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

(1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.

(2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.

(3) A farm vehicle that meets all of the following criteria:

a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.

b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.

c. Is not used in the operations of a for-hire motor carrier.

d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation."

SECTION 6. G.S. 20-37.16 is amended by adding a new subsection to read:

"(c1) The test for an S endorsement may be waived by the Division for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the requirements of this subsection. An applicant for a waiver under this subsection shall verify that, during the two-year period immediately prior to application for an S endorsement, the applicant met all of the following requirements:

(1) The applicant held a valid commercial drivers license with a passenger vehicle endorsement to operate a school bus representative of the group the applicant will be driving.

(2) The applicant did not have the applicant's drivers license or commercial drivers license suspended, revoked, or cancelled or the applicant was not disqualified from operating a commercial motor vehicle.

(3) The applicant was not convicted of a State law offense that corresponds to the list of disqualifying offenses in 49 C.F.R. § 383.51(b) while operating a commercial motor vehicle or of any offense in a noncommercial motor vehicle that would be a disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a commercial motor vehicle.

(4) The applicant was not convicted of more than one of the serious traffic violations listed and defined in G.S. 20-4.01(41a) while operating any type of motor vehicle.

(5) The applicant was not convicted of a violation of State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.

(6) The applicant was not convicted of any motor vehicle traffic violation that resulted in an accident.

(7) The applicant was regularly employed as a school bus driver, operated a school bus representative of the group the applicant seeks to drive, and provides evidence of that employment."

SECTION 7. Sections 3, 5, and 7 of this act become effective October 1, 2003. Section 6 of this act becomes effective October 1, 2003, and expires September 30, 2005. The remainder of this act becomes effective January 1, 2005.

HOUSE BILL 471:
CDL Changes/Moped Tag

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Jim Crawford
Date:	June 4, 2003	**Analysis by:**	Martha Walston
Version:	H471-CSLAf-20		Committee Counsel*

SUMMARY: ***House Bill 471 makes several changes to North Carolina law required by federal regulation concerning the effect of certain traffic violations on persons holding commercial drivers licenses, and requires a new "S" school bus driver endorsement. The bill has been heard in House Transportation and House Judiciary I. The proposed committee substitute adds language requiring moped identification tags.***

House Bill 471 is in House Finance because it imposes an endorsement fee of $1.25 on persons whose commercial license is restricted to driving a school bus or school activity bus.

CURRENT LAW: On July 31, 2002, the Federal Motor Carrier Safety Administration of the U.S. Department of Transportation issued amended regulations concerning commercial drivers license (CDL) holders. In order to comply with these new federal regulations, North Carolina law would have to be amended as described below. Failure to comply with these new federal regulations could result in the loss of Federal–aid highway funds (49 C.F.R. §384.401).

BILL ANALYSIS: Section 1 of House Bill 471: Federal regulation 49 C.F.R. §384.226 prohibits states from "masking" a conviction of a CDL driver for any traffic related violation in any type of vehicle. To comply with this regulation, Section 1 amends NC law to include in the definition of "conviction", for purposes of disqualification only, a PJC (Prayer for Judgment Continued) for offenses occurring in a commercial motor vehicle or offenses committed by a person with a CDL.

Section 2 of House Bill 471: Federal regulation 49 C.F. R. § 383.51 (Table 2) requires disqualification from driving a commercial motor vehicle for specified time periods for conviction of listed serious traffic violations. Section 2 amends NC law to include those offenses in NC's definition of "serious traffic violations" when driving a commercial motor vehicle.

Section 3 of House Bill 471: Federal regulation 49 C.F.R. §383.51 (Table 3) requires disqualification from driving a commercial motor vehicle for violation of certain railroad crossing offenses. Section 3 amends NC law to require this disqualification.

Section 4 of House Bill 471: Federal regulation 49 C.F.R. §383.5 provides that a person shall not be convicted of failing to carry a CDL if, by the court date, the person produces a CDL that was valid at the time of the offense. Section 4 amends NC law to conform to this requirement.

Sections 5 and 6 of House Bill 471: Federal regulation 49 C.F.R. §383.93 and §383.123 require a new S school bus endorsement. The endorsement fee is $1.25 for each year of the period for which the endorsement is issued. Prior to October 1, 2005, states are authorized to grandfather currently licensed school bus drivers. Sections 5 and 6 of the PCS amend NC law to conform to this requirement.

*Susan Sitze and Giles Perry, staff attorneys, contributed substantially to this summary.

Section 7 of House Bill 471: This section adds new language to the Motor Vehicle Laws that requires a moped operated in the State to display an identification tag. A moped dealer must attach the tag to each new or used moped sold in the State and may charge the purchaser a fee not exceeding $25. Failure to attach the tag or to operate a moped without displaying the tag is a Class 3 misdemeanor. The North Carolina Motorcycle Dealers Association believe that the tags will help law enforcement identify mopeds and enforce the appropriate law and to track stolen mopeds. G.S. 105-164.3 defines a moped as a "vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface."

EFFECTIVE DATE: Section 3 (CDL requiring disqualification for railroad crossing offenses), Section 5 (requiring new S school bus endorsement), and Section 7 (requiring moped identification tags, and Section 8 (effective date clause) are effective October 1, 2003. Section 6 (school bus driver grandfather clause) is effective October 1, 2003, and expires September 30, 2005 (as required by federal regulations). The remaining sections are effective January 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 471 (Second Edition)

SHORT TITLE: CDL Changes

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Fund					
License Fees					
Section 6	**$225,000**	**$225,000**	**$150,000**		
Section 5			**$356,250**	**$475,000**	**$475,000**
TOTAL	**$225,000**	**$225,000**	**$551,250**	**$475,000**	**$475,000**
EXPENDITURES					
Highway Fund					
SADLS Changes	**$141,420**				

POSITIONS: (cumulative)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Fund; Division of Motor Vehicles (DMV)

EFFECTIVE DATE: Sections 3, 5, and 7 becomes effective October 1, 2003. Section 6 becomes effective October 1, 2003 and expires September 30, 2005. The remainder of the bill becomes effective January 1, 2005.

BILL SUMMARY: The bill makes several changes to North Carolina law required by federal regulation concerning the effect of certain traffic violations on persons holding commercial drivers licenses, and requires a new "S" school bus driver endorsement. It permits current school bus drivers to be grandfathered in if they meet certain requirements. *(Source: Bill Analysis)*

ASSUMPTIONS AND METHODOLOGY: The fiscal impact of the bill consists of expenditures to make changes in the State Automated Driver License System (SADLS) to implement the changes required and revenues from the newly required "S" school bus endorsement and the grandfathering until 2005 of currently licensed school bus drivers meeting certain requirements. A third fiscal impact will be the costs to change the process for testing and

hiring school bus drivers. That cost will depend on federal regulations which have not yet been released and is not estimated.

Expenditures

The Department of Transportation's Information Technology Section considers the modifications necessary for SADLS as complex, requiring the following steps:

- Change both Motor Vehicle Report (MVR) processes for batch and on-line information.
- Add new business rules for New Prayer for Judgment (PJC) code to adudicate as if guilty.
- Add new servers to process new prior conviction PJC data.
- Modify batch conviction process to determine what type of license the driver had at the time of the offense and establishment of business rules concerning CDL vs. Classified.
- Add new conviction codes and business rules concerning the codes to include them in calculating serious violations.
- Update Remote Driver License System Interface (RDLSI) with new convictions.
- Create rules for proper displaying of new PJC code(s) and conviction codes on MVRs.
- Create Commercial Motor Vehicle indicator on Civil Revocation process and record types.
- Add new disqualification rule(s) and action module(s) to disqualify a driver for civil revocation offense occurring in CMV or if holding CDL at the time of offense.
- Add 'S' endorsement business rules and coding for acceptance in Certification process.
- Change fee structure to accept new 'S' endorsement.
- Add new correspondence for 'S' endorsement including CDL with P endorsement prerequisite.
- Change Customer Merge process to accept changes in business rule logic.

The Department of Transportation (DOT) estimates that 1,620 hours will be required for these changes at $80 per hour ($129,600) plus computer overhead charges of $11,280 for a total of $141,420.

DMV notes that it has received federal funds from the Federal Motor Carrier Safety Administration to make certain changes to SADLS related to motor carriers and that some of the above tasks can be made using those funds. An estimate as to how much of the work would be covered with federal funds is not available.

Revenues

Additional revenues to the Highway Fund will come from grandfathering current school bus drivers, who apply and meet the requirements of the bill, during the two-year period October 1, 2003 to September 30, 2005. DMV estimates that 40,000 applicants will qualify. The drivers who are grandfathered will have to pay a total of $15 for a new license. This includes a statutory $10 CDL duplicate license fee plus a $5 duplicate license fee for the "S" endorsement. Total revenues would be 40,000 applicants at $15 per license, or $600,000. It is assumed here that the revenues are received as follows: $225,000 in FY03-04, $225,000 in FY04-05, and $150,000 in FY05-06.

Eventually, drivers who get an "S" endorsement will pay $10 more per year than drivers who currently get an "S" restriction. Under current law, an "S" restriction costs $2.50 per year. An "S" endorsement will cost $10 per year for the CDL license plus $1.25 for the required "P"

endorsement and $1.25 per year for the "S" endorsement, for a total of $12.50 per year, or an increase of $10 over what the customer has been paying. Licenses are issued for five years, so the total would be $50 of additional payments at the time of application. DMV estimates that this will apply to approximately 9,500 persons per year beginning in FY05-06, or $475,000 for a full fiscal year and three quarters of that, or $356,250, for the nine months of fiscal year FY05-06. The bill would allow drivers to get these endorsements starting October 1, 2003 but it is assumed here that few will do so and no estimate is given for the time period when grandfathering is permitted.

SOURCES OF DATA: Division of Motor Vehicles

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bob Weiss

Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: June 4, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 471 A BILL TO BE ENTITLED AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1074

Committee Substitute Favorable 4/23/03

PROPOSED COMMITTEE SUBSTITUTE H1074-CSRR-36 [v.5]

6/4/2003 12:57:53 PM

Short Title: Butner Advisory Council. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL AND OF THE JURISDICTION OF SPECIAL POLICE OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-413 reads as rewritten:

"**§ 122C-413. Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the ~~territorial jurisdiction established by G.S. 122C-408(a),~~ Butner Advisory Council Jurisdiction, as shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Butner Advisory Council shall be elected at a nonpartisan election pursuant to G.S. 163-292 administered by the Granville County Board of Elections to be ~~set after preclearance from the federal Department of Justice.~~ held in the first odd-numbered year after preclearance under section 5 of the Voting Rights Act of 1965 is obtained. The Granville County Board of Elections may change the dates of the candidate-filing period for the first election if preclearance is not obtained before the statutory filing period begins.

(a1) Any resident of Butner who is also a resident of Durham County shall vote, as if the voter was a Granville County resident, in any Butner election at a location in the Granville County portion of Butner designated by the Granville County Board of Elections, or by absentee ballot if absentee voting is authorized by the Secretary. As

soon as possible after the close of registration for the election, the Durham County Board of Elections shall send the Granville County Board of Elections any information necessary to conduct the election, including all of the following:

(1) A set of mailing labels for all registered voters in Durham County who are eligible to vote in the Butner election.

(2) A list of all registered voters in Durham County who are eligible to vote in the Butner election.

(3) An official precinct roster to be used by the Granville County Board of Elections to verify the eligibility to vote of persons presenting themselves to vote in the election.

The Granville County Board of Elections shall mark on the official roster provided by Durham County all those voters who vote in the election. Promptly after the election, the Granville County Board of Elections shall return the roster to the Durham County Board of Elections so it can update voter history for the Butner voters who are residents of Durham County.

(b) ~~Members~~ All members of the Butner Advisory Council shall be elected at ~~large,~~ large in one multi-seat race, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General ~~Statutes.~~ Statutes, with the Secretary, advised by the Advisory Council, acting as the governing body of the city. Part 4 of Article 5 of Chapter 160A of the General Statutes does not apply to Butner. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a registered voter and a resident of the ~~territorial jurisdiction established by G.S. 122C-408(a).~~ Butner Advisory Council Jurisdiction, as shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections.

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy and any required campaign finance report with the Granville County Board of ~~Elections.~~ Elections, regardless of whether they live in the Granville or Durham County portion of the jurisdiction. The Secretary, with the advice of the Advisory Council, shall determine whether to authorize ~~Absentee~~ absentee voting by qualified voters residing in the territorial jurisdiction ~~shall be~~ in accordance with G.S. 163-302. The filing fee shall be ten dollars ($10.00) for the first election of the Butner Advisory Council. In subsequent elections the Secretary, with the advice of the Advisory Council, shall set the filing fee using the procedure in G.S. 163-294.2(e).

(d) The seven candidates receiving the highest numbers of votes shall be elected for ~~the following terms:~~ four-year terms.

~~(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.~~

~~(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.~~

~~Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.~~

(d1) The Department of Health and Human Services shall reimburse the Granville County Board of Elections and, if necessary, the Durham County Board of Elections for the actual cost of administering the election of the Butner Advisory Council according to the provisions of G.S. 163-284 as if Butner were a city.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city. Only those provisions of those Parts that are consistent with an advisory council are applicable and relevant to the Butner Advisory Council.

(g) Neither the Secretary nor the Butner Advisory Council shall have any authority over the Lyons Station Sanitary District, except as relates to matters involving whether to increase, decrease, or terminate the tax applicable to the Fire and Public Safety District defined by G.S. 122C-408, to the extent that the Lyons Station Sanitary District is a part of that Fire and Public Safety District."

SECTION 2. G.S. 122C-408(a) reads as rewritten:

"(a) The Secretary of Crime Control and Public Safety may employ special police officers for the territory of the ~~Camp Butner reservation.~~ Butner Advisory Council Jurisdiction. The territorial jurisdiction of these special police officers ~~shall include: (i) the Camp Butner reservation; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County adjoining the Butner reservation and the Lyons Station Sanitary District situated north and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those roads and the boundaries of the reservation and the sanitary district.~~ is as shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Secretary of Crime Control and Public Safety may organize these special police officers into a public safety department for that territory and may establish it as a division within that principal department as permitted by Chapter 143B of the General Statutes.

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1074 DATE 6/5/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) E/H's
)
Sen.)

1 moves to amend the bill on page 3, line 10
2 ( ) WHICH CHANGES THE TITLE
3 by adding the following at the
4 end:
5 " Reimbursement shall not come
6 from General Fund appropriation
7 or federal funds.
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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 1074

Committee Substitute Favorable 4/23/03

Short Title: Butner Advisory Council. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-413 reads as rewritten:

"**§ 122C-413. Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the ~~territorial jurisdiction established by G.S. 122C-408(a),~~ Butner Advisory Council Jurisdiction, as shown on a map produced April 3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Butner Advisory Council shall be elected at a nonpartisan election pursuant to G.S. 163-292 administered by the Granville County Board of Elections to be ~~set after preclearance from the federal Department of Justice.~~ held in the first odd-numbered year after preclearance under section 5 of the Voting Rights Act of 1965 is obtained. The Granville County Board of Elections may change the dates of the candidate-filing period for the first election if preclearance is not obtained before the statutory filing period begins.

(b) ~~Members~~ All members of the Butner Advisory Council shall be elected at ~~large,~~ large in one multiseat race, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a registered voter and a resident of the ~~territorial jurisdiction established by G.S. 122C-408(a).~~ Butner Advisory Council Jurisdiction, as shown on a map produced April

3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections.

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302. The filing fee shall be the minimum set by G.S. 163-294.2(e).

(d) The seven candidates receiving the highest numbers of votes shall be elected for ~~the following terms:~~ four-year terms.

~~(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.~~

~~(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.~~

~~Biennially thereafter, in each even numbered year, the members whose terms expire shall be elected to four year terms.~~

(d1) The Department of Health and Human Services shall reimburse the Granville County Board of Elections for the actual cost of administering the election of the Butner Advisory Council according to the provisions of G.S. 163-284 as if Butner were a city.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city."

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

HOUSE BILL 1074:
Butner Advisory Council

BILL ANALYSIS

Committee:	House Appropriations	**Introduced by:**	Representative Crawford
Date:	April 23, 2003	**Summary by:**	William R. Gilkeson
Version:	H1074-CSRR-36 [v.5]		Staff Attorney

SUMMARY: House Bill 1074 would change a statute already on the books to create an elected Advisory Council for the largely State-owned town of Butner. Instead of electing the 7 council members to 4-year terms with elections staggered every 2 years, the bill would elect all seven in the same multi-seat race held at the same time. The 7 candidates with a plurality would win 4 year terms. The bill would also fix the boundaries of the council jurisdiction as well as the patrol jurisdiction of State police by reference to a map.

CURRENT LAW: Butner, which contains John Umstead Hospital and a federal prison, is not a municipality, but local affairs are run by the State Department of Health and Human Services, which employs a town manager. The Secretary of HHS also appoints an advisory council. The General Assembly enacted legislation in 1996 to create an elected Advisory Council, but the bill was denied preclearance under Section 5 of the Voting Rights Act because the U.S. Justice Department questioned whether the elections in multi-seat races using staggered terms would give minority voters an adequate opportunity to elect candidates of their choice. Another bill creating an elected Advisory Council was enacted in 1999, but its similarity to the first one, the 2000 Census, and a consensus of community leaders led the State Board of Elections to submit the bill for informational purposes only to the U.S. Department of Justice and not for preclearance at that time.

BILL ANALYSIS:

Section 1 of the PCS amends the 1999 legislation to change the election from staggered 4-year terms – 4 members elected one year and 3 elected two years later – to one in which all 7 members are elected in the same multi-seat race every 4 years. The first election would occur in the first odd-numbered year after the bill was precleared. Filing fees for candidates would be $10 for the initial election; in subsequent elections filing fees would be set as in cities: capped at 1% of the annual salary of the office sought, but no less than $5. The Department of HHS would be required to reimburse the Granville County Board of Elections (and, if necessary, the Durham County Board of Elections, since a small part of the Butner jurisdiction is in Durham County) for the cost of the election.

The bill also defines the territory of the Advisory Council electorate by reference to a map that is designed to reflect the patrol jurisdiction of the Crime Control and Public Safety police as it existed on January 1, 2003.

Section 2 of the PCS would amend to statute describing the territory of Crime Control police by reference to the same map used to define the Butner Advisory Council jurisdiction in Section 1. The effect of referring to the map to define both jurisdictions is to fix the boundaries so they do not expand. The current statute ties the Advisory Council jurisdiction to the police jurisdiction, and the definition of the police jurisdiction includes the Lyons Station Sanitary District. The Granville County Commissioner have the authority to expand the boundaries of that sanitary district, and have done so in recent times. Tying both the police jurisdiction and the Advisory Council jurisdiction to a map means that neither territory will be subject to change when the commissioners change the sanitary district.

FISCAL ANALYSIS MEMORANDUM

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

DATE: **June 4, 2003**

TO: House Finance Committee

FROM: Kathie Austin
Fiscal Research Division

RE: PCS for H 1074 –CSRR-36 [v.4]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
EXPENDITURES					
DHHS	$5,233.75				$5,894.92

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services; Granville County Board of Elections; Durham County Board of Elections

EFFECTIVE DATE: Act is effective when it becomes law.

BILL SUMMARY:
The Proposed Committee Substitute (PCS) revises the existing statutory provision for the election of members to the Butner Advisory Council (Council). The Council's 7 members are to be elected in a nonpartisan election to be administered by the Granville County Board of Elections in the first odd-numbered year after pre-clearance under section 5 of the Voting Rights Act of 1965 is obtained. The PCS directs that all members of the Council be elected at large in one multi-seat race and serve 4-year terms. The candidate-filing fee for at least

the first election is to be set at ten dollars ($10.00) per candidate. The Secretary of the Department of Health and Human Services (DHHS), with advice of the Council, will determine whether to authorize absentee voting by qualified voters residing in the Council territory. New subsection (d1) of G.S. 122C-413 requires that DHHS reimburse the Granville County Board of Elections (GCBE), and if necessary, the Durham County Board of Elections (DCBE), for the actual cost of administering the election of the Council.

ASSUMPTIONS AND METHODOLOGY:

The following assumptions apply to determine the actual cost of the election incurred by GCBE and DCBE:

- After this PCS is law, the Granville County Board of Elections and the Granville County attorney will submit the appropriate form to the US Department of Justice to seek and obtain pre-clearance under section 5 of the Voting Rights Act of 1965. Generally, it takes the Justice Department 60 days to review and pre-clear a submission.
- It is highly probable that GCBE will have to change the dates of the candidate-filing period as allowed in the PCS as the statutory filing period begins July 4, 2003. However, GCBE will operate under the assumption that the pre-clearance will be obtained in time for the Council election to be held in November 2003.
- GCBE does not anticipate or have planned any countywide election or statewide special election during the fall of 2003.
- Assume the Secretary of DHHS will authorize absentee voting for qualified voters.
- These assumptions for 2003 are assumed to hold true for the 2007 election. The estimated Council election cost for 2007 includes the application of inflation to the entire sum by Fiscal Research Division staff: FY 2004-05 (2.4%); FY 2005-06 (2.5%); FY 2006-07 (2.4%); and FY 2007-08 (2.3%). FRD staff assumes that the election would be held in November 2007, and therefore impact the appropriations of DHHS' 2007-08 FY budget.[1]
- For the first election, the fee is set at $10 and is to be paid to the Granville County Board of Elections. The number of candidates can not be determined at this time so Fiscal Research Division staff can not estimate the revenue generated from the filing fee.

Granville County Board of Elections determined that the actual cost for conducting an election, based on current cost factors, for the Butner Advisory Council would be $5,233,75[2]

[1] If pre-clearance is not obtainable in time for an election to be held during 2003, then it is to be assumed that an election would be held in 2005, the first odd-numbered year after pre-clearance is obtained. Using all the same assumptions as set out in this Fiscal Note for a 2003 election, and using the same inflation rates, the cost for an election in the fall of 2005 is estimated to be $5,627.32. The election reimbursement costs would probably effect DHHS' FY 2005-06 appropriations.

[2] Granville County Board of Elections also estimated an alternative election cost of $4,658.75, using current cost factors. This lower cost calculation is based on the cost of coding memory packs at $150, instead of the $725 cost included in the actual cost estimate used in this Fiscal Note. The Fiscal Research Division staff decision to use the higher of the two figures is because the assumption that no other countywide or special

in 2003. This cost would be reimbursed by DHHS to GCBE ($5,153.55) and DCBE ($80.20). The cost estimate includes the costs for the three required precincts (salaries for poll workers); postage for absentee ballots[3]; advertising for required legal notice; coding the computer chips for ballot counter machines and memory pack preparation; ballot printing; mailing notices to qualified Durham county residents about election; and travel. Durham County Board of Elections' cost covers postage for mailings and absentee ballots and travel cost.

There are no additional anticipated fiscal impacts to the agency operations of the Department of Health and Human Services or the Department of Crime Control and Public Safety as a result of this PCS.

SOURCES OF DATA: Granville County Board of Elections; State Board of Elections; Department of Health and Human Services; and Department of Crime Control and Public Safety.

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election is anticipated or planned at this time. If only this election will be conducted in November 2003, the memory packs would be submitted by GCBE at a separate time from other memory packs to be programmed and require the $700 memory pack programming fee and the $25 FedEx shipping cost.

[3] GCBE had to estimate the number of total voters from 1996 with the addition of new areas developed since then as the detailed map information is not available to GCBE at this time. The cost for mailings and absentee ballots is therefore estimated for both Durham and Granville counties. Travel costs for the GCBE were calculated by GCBE using Granville county mileage rate of $.28 cents per mile; this rate may increase.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1074 A BILL TO BE ENTITLED AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 948
Committee Substitute Favorable 5/21/03

Short Title: Clarify Authority/Regulation of Cervids. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF CERVIDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-129(1b) reads as rewritten:

"(1b) Big Game. – Bear, wild boar, wild turkey, and ~~deer, not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97.~~white-tailed deer."

SECTION 2. G.S. 113-129 is amended by adding a new subdivision to read:

"(1f) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer)."

SECTION 3. G.S. 113-129 is amended by adding two new subdivisions to read:

"(5a) Deer. – White-tailed deer (Odocoileus virginianus), except when otherwise specified in this Chapter.

(5b) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes."

SECTION 4. G.S. 113-129(7c) reads as rewritten:

"(7c) Game Animals. – Bear, fox, rabbit, squirrel, wild boar, ~~and~~ white-tailed deer, ~~not to include fallow deer or red deer raised for production and sale under G.S. 106-549.97;~~ and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and ~~raccoon~~ raccoon. ~~except when trapped in accordance with provisions relating to fur-bearing animals.~~"

SECTION 5. Article 21 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-272.6. Transportation of cervids and licensing of captive cervid facilities.**

(a) The Wildlife Resources Commission shall regulate the transportation, including importation and exportation, and possession of cervids, including game carcasses and parts of game carcasses extracted by hunters. The Commission shall adopt rules to implement this section, including requirements for captivity licenses, captivity permits, and transportation permits. The rules adopted pursuant to this section shall establish standards of care for the transportation and possession of cervids, including requirements for fencing, tagging, record keeping, and inspection of captive cervid facilities. Notwithstanding any other provision of law, the Commission may charge a fee of up to fifty dollars ($50.00) for the processing of applications for captivity licenses, captivity permits, and transportation permits, and the renewal or modification of those licenses and permits. The fees collected shall be applied to the costs of administering this section.

(b) The Wildlife Resources Commission shall notify every applicant for a transportation permit that any permit issued is subject to the applicant's compliance with the Department of Agriculture and Consumer Services' requirements for transportation pursuant to Article 34 of Chapter 106 of the General Statutes.

(c) The Department of Agriculture and Consumer Services shall regulate the production and sale of farmed cervids for commercial purposes pursuant to G.S. 106-549.97.

(d) Notwithstanding any other provision of law, the North Carolina Wildlife Resources Commission shall issue captivity licenses, captivity permits, or transportation permits to any person possessing cervids that were held in captivity by that person prior to May 17, 2002, if the Executive Director finds that the applicant has come into compliance with all applicable rules related to the holding of cervids in captivity by January 1, 2004, and that issuance of such license or permit does not pose unreasonable risk to the conservation of wildlife resources.

(e) Any captivity license, captivity permit, or cervids held contrary to the provisions of this section may be subject to forfeiture and disposition in accordance with the provisions of G.S. 113-137 or G.S. 113-276.2."

SECTION 6. G.S. 113-276.2(a) reads as rewritten:

"(a) This section applies to the administrative control of:

(1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;

(2) Individuals holding special device licenses under G.S. 113-272.2(c)(1), (1a), (2), and (2a);

(3) Individuals holding collection licenses under G.S. 113-272.4;

(4) Individuals holding captivity licenses under ~~G.S. 113-272.5;~~ G.S. 113-272.5 and G.S. 113-272.6; and

(5) Persons holding dealer licenses under G.S. 113-273."

SECTION 7. G.S. 113-291.2(c) reads as rewritten:

"(c) An individual who has lawfully taken game within applicable bag, possession, and season limits may, except as limited by rules adopted pursuant to subsection (c1) of this section, after the game is dead, possess and personally transport it

for his own use by virtue of his hunting license, and without any additional permit, subject to tagging and reporting requirements that may apply to the fox and big game, as follows:

(1) In an area in which the season is open for the species, the game may be possessed and transported without restriction.

(2) The individual may possess and transport the game lawfully taken on a trip:

a. To his residence;

b. To a preservation or processing facility that keeps adequate records as prescribed in G.S. 113-291.3(b)(3) or a licensed taxidermist;

c. From a place authorized in subparagraph b to his residence.

(3) The individual may possess the game indefinitely at his residence, and may there accumulate lawfully-acquired game up to the greater of:

a. The applicable possession limit for each species; or

b. One half of the applicable season limit for each species.

The above subdivisions apply to an individual hunter under 16 years of age covered by the license issued to his parent or guardian, if he is using that license, or by the license of an adult accompanying him. An individual who has lawfully taken game as a landholder without a license may possess and transport the dead game, taken within applicable bag, possession, and season limits, to his residence. He may indefinitely retain possession of such game, within aggregate possession limits for the species in question, in his residence."

SECTION 8. G.S. 113-291.2 is amended by adding a new subsection to read:

"(c1) In the event that the Executive Director finds that game carcasses or parts of game carcasses are known or suspected to carry an infectious or contagious disease that poses an imminent threat to the health or habitat of wildlife species, the Wildlife Resources Commission shall adopt rules to regulate the importation, transportation, or possession of those carcasses or parts of carcasses that, according to wildlife disease experts, may transmit such a disease."

SECTION 9. G.S. 113-292(d) reads as rewritten:

"(d) The Wildlife Resources Commission is authorized to authorize, license, regulate, prohibit, prescribe, or restrict anywhere in the State the acquisition, importation, possession, transportation, disposition, or release into public or private waters or the environment of ~~exotic~~ zoological or botanical species or specimens that may threaten the introduction of epizootic disease or may create a danger to or an imbalance in the environment inimical to the conservation of wildlife resources. This subsection is not intended to give the Wildlife Resources Commission the authority to supplant, enact any conflicting rules, or otherwise take any action inconsistent with that of any other State agency acting within its jurisdiction."

SECTION 10. G.S. 113-294 is amended by adding a new subsection to read:

"(o) Any person who willfully imports or possesses black-tailed or mule deer (Odocoileus hemionus and all subspecies) in this State for any purpose is guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 106-549.97 reads as rewritten:

"**§ 106-549.97. Regulation ~~of fallow deer and red deer~~ by Department of Agriculture and Consumer ~~Services;~~ Services of certain cervids produced and sold for commercial purposes; certain authority of North Carolina Wildlife Resources Commission not affected; definitions.**

(a) The Department of Agriculture and Consumer Services shall regulate the production and sale of ~~fallow deer and red deer for food purposes.~~ farmed cervids. The Board of Agriculture shall adopt rules for the production and sale of ~~fallow deer and red deer for food purposes~~ farmed cervids in such a manner as to provide for close supervision of any person, firm, or corporation producing and selling ~~fallow deer or red deer, or both, for food purposes.~~ farmed cervids and shall notify any such person, firm, or corporation that the activity is subject to compliance with Wildlife Resources Commission rules pursuant to G.S. 113-272.6.

(b) The North Carolina Wildlife Resources Commission shall regulate the ~~possession and transportation of live fallow deer and live red deer and may adopt rules to prevent the release or escape of fallow deer or red deer, or both, upon finding that it is necessary to protect live fallow deer or live red deer, or both, or to prevent damage to the native deer population or its habitat.~~possession and transportation, including importation and exportation, of cervids pursuant to G.S. 113-272.6.

(c) The following definitions apply in this Article:

~~(1) Fallow deer. A member of the Dama dama species.~~

~~(2) Red deer. A member of the Cervus elephus species.~~

(3) Cervid or Cervidae. – All animals in the Family Cervidae (elk and deer).

(4) Farmed Cervid. – Any member of the Cervidae family, other than white-tailed deer, elk, mule deer, or black-tailed deer, that is bought and sold for commercial purposes.

(5) White-tailed deer. – A member of the species Odocoileus virginianus."

SECTION 12. Section 10 of this act becomes effective October 1, 2003, and applies to acts committed on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 948:
Clarify Authority Regulation of Cervids

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. A. Williams
Date:	June 4, 2003	**Analysis by:**	Barbara Riley
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 948 amends `Subchapter IV of Chapter 113 of the General Statutes, Conservation of Marine and Estuarine and Wildlife Resources as follows:***

- ***Amends a number of definitions to clarify the Wildlife Resources Commission's authority to regulate the possession and transportation of cervids, members of the deer and elk family.***
- ***adds a new section to Chapter 113 providing specifically for the transportation of cervids and the licensing of captive cervid facilities.***
- ***authorizes the Commission to adopt rules regulating the import and possession of game carcasses that are known or suspected of carrying an infectious or contagious disease posing an imminent threat to the health of the State's wildlife.***
- ***Makes the willfull possession or importation of a black-tailed deer or a mule deer in North Carolina a Class I misdemeanor.***
- ***authorizes the Commission to charge a fee of up to $50 for the issuance of captivity licenses, captivity permits and transportation permits for cervids, and the renewal or modification of those license and permits.***

BACKGROUND: House Bill 948 (and House Bill 939) have their roots in the controversy over the adoption of rules by the Wildlife Resources Commission and the North Carolina Department of Agriculture and Consumer Services to protect the State's white tailed deer population and farmed deer population from the disease known as Chronic Wasting Disease (CWD). CWD is a fatal neurological disease of farmed and wild deer and elk.

In May of 2002 (and again in October 2002) the WRC proposed emergency rules that restricted the transportation of farmed cervids within the State and also increased the requirements for tagging cervids, and fencing, maintenance and recordkeeping at captive cervid facilities. The North Carolina Deer/ Elk Farmers Association, Ltd. filed objections to the rules on the basis that the WRC lacked jurisdiction to promulgate those rules. The basis of the objections rested in part on the definitions in the Wildlife laws that exempted red deer and fallow deer, from the definitions of "big game" and "game animal", and therefore from the definition of "wild animal" such that the WRC did not have jurisdiction to regulate the possession of these animals. The objections, however, were overruled as G.S. 106-549.97 gives the WRC specific authority to regulate the possession and transportation of red deer and fallow deer. House Bill 948 was introduced to clarify the WRC's jurisdiction to regulate the possession and transportation of cervids.

BILL ANALYSIS: Section 1 of House Bill 948 amends G.S. 113-129(1b) to define "big game" animals to include only white-tailed deer. The reference exempting red deer and fallow deer is removed.

Section 2 of the bill amends G.S. 113-129 by adding a new subdivision (1f) defining "cervids" to mean all animals in the Cervidae family (elk and deer).

Section 3 adds two new subdivisions (5a) and (5b) which define "deer" to mean white-tailed deer" and "farmed cervid" to mean any member of the cervidae family other than white-tailed deer, elk, mule deer or black-tailed deer, that is bought and sold for commercial purposes.

Section 4 of the bill amends G.S. 113-129 to clarify that the term "game animals" includes only white-tailed deer. It removes the language exempting red deer and fallow deer.

Section 5 adds G.S. 113-272.6 requiring the WRC to regulate the transportation of cervids and licensing of captive cervid facilities. This includes the transportation, importation, exportation, and possession of cervids, including game carcasses and parts of game carcasses. The WRC shall adopt rules for the licensing of captive cervid facilities including rules on fencing, tagging, record keeping and inspections of captive cervid facilities. The WRC is given the authority to charge a fee of up to $50 to process applications for captivity licsenses, captivity permits, and transportation permits, and the renewal or modification of those licenses and permits. The fees collected are to be applied to the costs of administering the regulation of transporting and licensing cervids.

Subsections (b) and (c) of G.S. 113-272.6 provide that persons issued transportation permits by the WRC must be notified of the transportation requirements of the Department of Agriculture and Consumer Services and provide that the Department shall regulate the production and sale of farmed cervids.

G.S. 113-272.6 (d) provides that the WRC may issue captivity licenses to persons with cervids held prior to May 17, 2002 if the Executive Director finds that the person has complied with all rules applicable to the holding of cervids in captivity by October 1, 2003, and that the issuance of the captivity license does not present a unreasonable risk to the State's wildlife.

Subdivision (e) provides for the forfeiture and disposition of any cervids held contrary to the provisions of G.S. 113-272.6.

Section 6 of the bill amends G.S. 113-276.2 to make that section applicable to transportation permits and licensing of captive cervid facilities. G.S. 113-276.2 requires the Executive Director of the WRC to satisfy himself that the qualifications for licenses and permits are met by the applicant and provides for license revocations and refusals to reissue permits or licenses based upon failure to meet the qualifications requirements or the commission of a substantial violation of the wildlife statutes or rules governing the permit or license.

Sections 7 and 8 provide for the WRC to regulate the importation, possession or transportaion of game carcasses that are suspected of carrying an infectious or contagious disease that presents an imminent threat to wildlife in the State.

Section 9 expands the authority of the WRC to regulate the import, possession, transportation disposition or release of plant and animal species that may create a danger to or imbalance in the environment that would be harmful to the conservation of wildlife resources, to include those species that may threaten the introduction of an epizootic disease

Section 10 makes the importation or possession of black-tailed or mule deer a Class 1 misdemeanor.

Section 11 of the bill amends G.S. 106-549.97, the regulation of the production and sale of red deer and fallow deer by the Department of Agriculture and Consumer Services, to make it consistent with the definitions in G.S. 113-129 regarding farmed cervids. Section 11 also amends the statute to require the

Department to notify persons subject to its rules on farmed cervids that their activity is also subject to compliance with the WRC rules under G.S. 113-272.6.

Section 10 of the act becomes effective October 1, 2003 and applies to acts committed on or after that date. The remainder of the act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 948 (Second Edition)

SHORT TITLE: Clarify Authority/Regulation of Cervids

SPONSOR(S): Representative A. Williams

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
NCDACS	No Fiscal Impact				
Dept of Correction	Unable to determine exact amount; no significant impact anticipated.				
Judicial Branch	Unable to determine exact amount; no significant impact anticipated.				
Wildlife Resources Commission Receipts	$7,000	$7,000	$7,000	$7,000	$7,000
EXPENDITURES					
General Fund					
NCDACS	$39,338	$40,733	$42,072	$43,419	$44,815
WRC – position & operating support*	$44,295	$45,750	$47,144	$48,550	$50,004
POSITIONS: (cumulative)	**2.0**	**2.0**	**2.0**	**2.0**	**2.0**

**Note: The WRC position will be receipt supported therefore the net General Fund impact to WRC is zero.*

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Wildlife Resources Commission, Department of Agriculture and Consumer Services, Department of Corrections, and Judicial Branch.

EFFECTIVE DATE: Amended G.S. 113-294 subsection (o) becomes effective Oct. 1, 2003. Remainder of bill is effective when it becomes law.

BILL SUMMARY: HB 948 clarifies the role of the Wildlife Resources Commission and the Department of Agriculture and Consumer Services with respect to the regulation of cervids (deer and elk). G.S. 113-272.6 provides the Wildlife Resources Commission with the ability to regulate the transportation, importation, exportation, and possession of cervids. The Wildlife Resources Commission is also authorized to charge up to a $50 application fee for cervid captivity licenses. In addition, the Department of Agriculture and Consumer Services will regulate the production and sale for commercial purposes of cervids other than white-tailed deer. Wildlife Resources will notify applicants for transportation permits that the activity is authorized subject to the applicant's compliance with the Department of Agriculture's transportation requirements. Any captivity license, permit or cervid held contrary to the provisions of the new section could be subject to forfeiture. The legislation also amends G.S. 113-291.2 by adding a new subsection (c1) authorizing the Executive Director of the Wildlife Resources Commission to adopt rules regulating the importation, transportation, or possession of any carcasses or parts of carcasses that are known to or suspected to carry an infectious disease that poses an imminent threat to the health or habitat of wildlife species. The definition of farmed cervid is also added. G.S. 113-294 is amended with the addition of a new subsection (o) making it a Class 1 misdemeanor to import or possess black-tailed or mule deer which would become effective October 1, 2003. The remainder of the bill is effective when it becomes law.

ASSUMPTIONS AND METHODOLOGY:
A captivity license, captivity permit and a transportation permit are all identified in HB 948. There are no fees associated with captivity or transportation permits, however, there are some administrative costs incurred by the issuance of such permits. According to the Wildlife Resources Commission (WRC), no captivity permits would be issued for any cervids identified in HB 948. For the purposes of this fiscal note, only captivity licenses and transportation permits will be addressed.

Wildlife Resources Commission
Currently, the Wildlife Resources Commission regulates the transportation, importation, exportation and possession of cervids and captive cervid facilities (facilities). The rise in the number of deer diagnosed with Chronic Wasting Disease (CWD) has created the need for increased enforcement of those regulations including establishing standards of care for the transportation and possession of cervids, requirements for fencing, tagging, record keeping, and inspection of facilities. The WRC does not anticipate additional enforcement costs above and beyond their existing operating budget.

Captivity licenses currently cost $5. In addition to the captivity license fee, the WRC anticipates charging the full $50 application fee to create additional revenue and to allow WRC to enforce facility regulations. There are 140 such facilities in the state; approximately 80 are currently licensed and approximately 60 are unlicensed. The Commission estimates that a $50 per application fee for a captivity license would generate $7,000 annually when all 140 facilities applied for a captivity license. Each facility would also pay $50 annually to renew or modify existing licenses. The WRC has no estimate as to the number of facilities that may or may not operate in future years because of the fluctuating nature of the business, thus the estimate is based on the number of existing facilities.

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Number of Applications	140	140	140	140	140
Cost Per Application	$50	$50	$50	$50	$50
Total Revenue	$7,000	$7,000	$7,000	$7,000	$7,000

The additional administrative costs to coordinate application and enforcement efforts will require one additional position, a Wildlife Biologist I, with salary and benefits totaling $37,295 per year with adjustments for inflation in future years. The WRC anticipates paying for this position with existing receipts. The WRC also estimates that other administrative costs associated with the captivity license fee and the transportation permits including equipment, paper, printing, postage and travel would total $7,000 and would be paid for using the additional application fee revenues. **Since the added position would be receipt supported and the additional administrative costs would be covered by application license fee revenues, there is no fiscal impact on the General Fund.**

Department of Agriculture and Consumer Services

The North Carolina Department of Agriculture and Consumer Service's (NCDACS) Veterinary Services Division currently works in conjunction with the WRC on all facility inspections. NCDACS is now also responsible for all farmed cervids and those being raised for any commercial purpose other than white-tail, black-tail, and mule deer and elk. With this expansion, NCDACS would see an increase in the number of facilities they would need to inspect. According to NCDACS, to adequately administer inspections an additional Animal Health Technician would be needed with salary and benefits totaling $35,778 per year with adjustments for inflation in future years. Additional laboratory costs would also be incurred to conduct necropsy and sample preparation which would then be sent to approved labs for testing. Shipment and sample costs would total $3,560. **The total fiscal impact on the General Fund for FY 2003-04 would be $39,338.**

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. The AOC notes that data is unavailable concerning the number of charges that may result under this bill as data are unavailable on how common the existence of black-tailed or mule deer is across the State. For offenses that are brought to trial as Class 1 misdemeanors, the estimated court cost per trial is $3,144. For Class 1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $279.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population

projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. The Sentencing Commission notes that in FY 2001-2002, 15.8 percent of Class 2 misdemeanor convictions resulted in active sentences. The average estimated time served was 35.2 days. Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days at a cost to the state of $18/day. Most Class 1 misdemeanants receive community or intermediate sanctions. In 2001-2002, costs for these non-active sentences ranged from $1.83 to $11.47 per offender per day.

SOURCES OF DATA: Wildlife Resources Commission, Department of Agriculture and Consumer Services, Judicial Branch, and Department of Correction.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Heather Martin & Stephanie Schmitt Stephanie Schmitt

APPROVED BY: James D. Johnson, Director Fiscal Research Division

James D. Johnson

DATE: June 4, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 948 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE AUTHORITIES OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND THE WILDLIFE RESOURCES COMMISSION WITH RESPECT TO THE REGULATION OF CERVIDS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 725
PROPOSED COMMITTEE SUBSTITUTE H725-CSSVx-10 [v.5]

5/16/2003 2:45:41 PM

Short Title: Conover/Claremont Annex/Deannex. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CITY OF CLAREMONT AND THE CITY OF CONOVER AND ANNEXING CERTAIN DESCRIBED PROPERTY TO THE CITY OF CLAREMONT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate boundaries of the City of Claremont:

Being all or Parcel Five (Boyce Roop Hollar, Jr. Family) as adopted in the annexed ordinance of the City of Claremont as appears in City of Claremont Ordinance Book 2 at Page 921 and in the Office of the Register of Deeds of Catawba County in Book 1575 at Page 147 (said description should be read so as to include in the next to the last call before the number 20 the following words: "in a westerly direction"), and said Parcel Five being more particularly described on that certain annexation map of the City of Claremont recorded in the Office of the Register of Deeds of Catawba County in Plat Book 24 at page 51 on the 25th day of August, 1988, with reference to said map being made for more particular description.

SECTION 2. The following described property is removed from the corporate boundaries of the City of Conover and added to the corporate limits of the City of Claremont:

Beginning at an iron pin at the northeast corner of what is designated as the Margaret H. Sherrill property on that certain annexation map of the City of Conover recorded in the Catawba County Registry in Plat Book 23 at Page 52 on the 27th day of January, 1988 (hereinafter referred to as "Map"), and running thence from said beginning point South 23° East 410 feet, more or less, with the Sherrill line to a point in the southern right-of-way line of US Highway 70 (formerly US Highway 64-70); thence with said right-of-way line South 68° West 800 feet, more or less, to the northeast corner of Boyce Roop Hollar, Jr. property; thence continuing with the southern right of way of said highway in a westerly direction 300 feet, more or less, to a point that is

perpendicular across said highway from the southeast corner of the Boyce Roop Hollar, Jr. property and the northern right-of-way of said highway, said Hollar property being described in that certain deed recorded in Book 2138 at Page 1313 of the Catawba County Registry thence across said highway in a perpendicular direction 60 feet to the southeast corner of Boyce Roop Hollar, Jr. described in said Book 2138 at Page 1313, Catawba County Registry; thence with the eastern line of Boyce Roop Hollar, Jr. property described in Book 2138 at Page 1313, Catawba County Registry North 18° 30' 39" West 200 feet to the Conover city limits as shown on the map; thence with the Conover city limits shown on said map in a northeasterly direction 765 feet, more or less, to the Conover city limits line in the western line of Margaret H. Sherrill; thence with Sherrill first North 4° West 150 feet; thence secondly with Sherrill's line North 69° 15' East 250 feet, more or less, to the point of Beginning (and for more particular description see the annexation Map) recorded in Plat Book 23 at Page 52 and the deed to Boyce Roop Hollar, Jr. dated March 22, 1999, and recorded in Book 2138 at Page 1313, Catawba County Registry.

SECTION 3. This act is effective June 30, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 725

Short Title:	Conover/Claremont Deannexations.	(Local)
Sponsors:	Representatives Setzer; and Hilton.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CITY OF CLAREMONT AND THE CITY OF CONOVER.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate boundaries of the City of Claremont:

Being all or Parcel Five (Boyce Roop Hollar, Jr. Family) as adopted in the annexed ordinance of the City of Claremont as appears in City of Claremont Ordinance Book 2 at Page 921 and in the Office of the Register of Deeds of Catawba County in Book 1575 at Page 147 (said description should be read so as to include in the next to the last call before the number 20 the following words: "in a westerly direction"), and said Parcel Five being more particularly described on that certain annexation map of the City of Claremont recorded in the Office of the Register of Deeds of Catawba County in Plat Book 24 at page 51 on the 25th day of August, 1988, with reference to said map being made for more particular description.

SECTION 2. The following described property is removed from the corporate boundaries of the City of Conover:

Beginning at an iron pin at the northeast corner of what is designated as the Margaret H. Sherrill property on that certain annexation map of the City of Conover recorded in the Catawba County Registry in Plat Book 23 at Page 52 on the 27th day of January, 1988 (hereinafter referred to as "Map"), and running thence from said beginning point South 23° East 410 feet, more or less, with the Sherrill line to a point in the southern right-of-way line of US Highway 70 (formerly US Highway 64-70); thence with said right-of-way line South 68° West 800 feet, more or less, to the northeast corner of Boyce Roop Hollar, Jr. property; thence continuing with the southern right of way of said highway in a westerly direction 300 feet, more or less, to a point that is perpendicular across said highway from the southeast corner of the Boyce Roop Hollar, Jr. property and the northern right-of-way of said highway, said Hollar property being described in that certain deed recorded in Book 2138 at Page 1313 of the Catawba

County Registry thence across said highway in a perpendicular direction 60 feet to the southeast corner of Boyce Roop Hollar, Jr. described in said Book 2138 at Page 1313, Catawba County Registry; thence with the eastern line of Boyce Roop Hollar, Jr. property described in Book 2138 at Page 1313, Catawba County Registry North 18° 30' 39" West 200 feet to the Conover city limits as shown on the map; thence with the Conover city limits shown on said map in a northeasterly direction 765 feet, more or less, to the Conover city limits line in the western line of Margaret H. Sherrill; thence with Sherrill first North 4° West 150 feet; thence secondly with Sherrill's line North 69° 15' East 250 feet, more or less, to the point of Beginning (and for more particular description see the annexation Map) recorded in Plat Book 23 at Page 52 and the deed to Boyce Roop Hollar, Jr. dated March 22, 1999, and recorded in Book 2138 at Page 1313, Catawba County Registry.

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

HOUSE BILL 725:
Conover/Claremont Annex/Deannex.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Setzer
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel
	H725-CSSVx-10		

SUMMARY: The Proposed Committee Substitute for House Bill 725 does the following:

- *It deannexes a 50-foot strip of vacant property from the city limits of Claremont.*
- *It deannexes certain described property from the city limits of Conover and annexes the same property to the city limits of Claremont.*

CURRENT LAW: A city or town may annex property by petition of owners of property to be annexed or if the property meets certain statutory requirements. If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex. The General Assembly can also de-annex property of a municipality.

BILL ANALYSIS:

Section 1 of the bill removes a 50-foot strip of vacant property from the corporate boundaries of the City of Claremont.

Section 2 of the bill removes certain described property from the corporate boundaries of the City of Conover and adds the property to the corporate boundaries of the City of Claremont. There are three homeowners on this property. They will continue to receive the same city services without any additional charge and will have tax rates that are substantially similar or less than they are currently paying.

BACKGROUND: This legislation is designed to solidify an existing annexation agreement between the cities of Conover and Claremont entered into over a year ago.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 725 A BILL TO BE ENTITLED AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CITY OF CLAREMONT AND THE CITY OF CONOVER.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 652
PROPOSED COMMITTEE SUBSTITUTE S652-PCS65299-LB-61

Short Title: Airport Financing and Leases/Dam Assessments. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN AIRPORT AUTHORITIES TO ENTER INTO INSTALLMENT CONTRACTS, TO EXTEND FROM TEN TO FIFTEEN YEARS THE MAXIMUM REPAYMENT PERIOD FOR DAM REPAIR ASSESSMENTS IN THE VILLAGE OF PINEHURST, AND TO ALLOW THE STANLY COUNTY AIRPORT AUTHORITY TO ENTER INTO LONG-TERM LEASES WITH THE UNITED STATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20 reads as rewritten:

"**§ 160A-20. Security interests.**

(a) Units of local government, as defined in subsection (h), may purchase or finance the purchase of real or personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Units of local government, as defined in subsection (h), may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Units of local government, as defined in subsection (h), may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any fixture, improvement, project, or property financed or purchased pursuant to such contract.

(e) A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

(1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and

(2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(e1) A nonprofit corporation or association operating or leasing a public hospital may only enter into a contract pursuant to this section if the nonprofit corporation or association will have an ownership interest in the property being financed, including a leasehold interest, and the security interest granted in such property being financed shall only be to the extent of such property interest. In addition, any contract entered into by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority which owns such hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

(1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.

(2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.

(3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity.

(f) No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this section, and the taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section.

(g) Before entering into a contract under this section involving real property, a unit of local government shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

(h) As used in this section, the term "unit of local government" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(5b) A local airport authority that was created pursuant to a local act of the General Assembly.

(6) A local school administrative unit whose board of education is authorized to levy a school tax.

(6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.

(10) A regional natural gas district, as defined by Article 28 of this Chapter.

(11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

SECTION 2.(a) G.S. 160A-232 reads as rewritten:

"**§ 160A-232. Payment of assessments in cash or by installments.**

The owners of assessed property shall have the option, within 30 days after the publication of the notice that the assessment roll has been confirmed, of paying the assessment either in cash or in not more than ~~10~~ 15 annual installments, as may have been determined by the council in the resolution directing the project giving rise to the

assessment to be undertaken. With respect to payment by installment, the council may provide

(1) That the first installment with interest shall become due and payable on the date when property taxes are due and payable, and one subsequent installment and interest shall be due and payable on the same date in each successive year until the assessment is paid in full, or

(2) That the first installment with interest shall become due and payable 60 days after the date that the assessment roll is confirmed, and one subsequent installment and interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full."

SECTION 2.(b) This section applies only to assessments for repair and rehabilitation of a dam in the Village of Pinehurst.

SECTION 3. Section 4(12) of Chapter 419 of the 1971 Session Laws reads as rewritten:

"Sec. 4. The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

. . .

(12) To lease for a term not to exceed 25 years, and for purposes not inconsistent with the grants and agreements under which the airport is held, real or personal property under the supervision of or administered by the Airport ~~Authority.~~Authority, except the Airport Authority may execute leases with the United States of America, its agencies, departments, boards, and military (including reserves and national guard) for terms not to exceed 50 years.

. . . ."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 652

Short Title:	Airport Authority Debt Financing.	(Public)
Sponsors:	Senator Metcalf.	
Referred to:	Finance.	

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN AIRPORT AUTHORITIES TO ENTER INTO INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20 reads as rewritten:

"**§ 160A-20. Security interests.**

(a) Units of local government, as defined in subsection (h), may purchase or finance the purchase of real or personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Units of local government, as defined in subsection (h), may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Units of local government, as defined in subsection (h), may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any fixture, improvement, project, or property financed or purchased pursuant to such contract.

(e) A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

(1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and

(2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(e1) A nonprofit corporation or association operating or leasing a public hospital may only enter into a contract pursuant to this section if the nonprofit corporation or association will have an ownership interest in the property being financed, including a leasehold interest, and the security interest granted in such property being financed shall only be to the extent of such property interest. In addition, any contract entered into by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority which owns such hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

(1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.

(2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.

(3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity.

(f) No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this section, and the taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section.

(g) Before entering into a contract under this section involving real property, a unit of local government shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

(h) As used in this section, the term "unit of local government" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(5b) A local airport authority that was created pursuant to a local act of the General Assembly.

(6) A local school administrative unit whose board of education is authorized to levy a school tax.

(6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.

(10) A regional natural gas district, as defined by Article 28 of this Chapter.

(11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

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

SENATE BILL 652:
Airport Financing and Leases/Dam Assessments

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Metcalf
Date:	June 4, 2003	**Summary by:**	Martha Walston
Version:	PCS65299-LB-61		Committee Counsel*

SUMMARY: Senate Bill 652 does three things:

1. *gives airport authorities created by a local act of the General Assembly the authority to finance real and personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20*
2. *extends the maximum repayment period for dam repair assessments in the village of Pinehurst from 10 to 15 years (added in the proposed committee substitute)*
3. *allows the Stanly County airport authority to enter into long-term leases with the United States (added in the proposed committee substitute)*

BILL ANALYSIS: Section 1 of Senate Bill 652 would give airport authorities created by a local act of the General Assembly the authority to use installment purchase financing. Counties and cities have the authority to own and operate airports as public enterprises.[1] Counties and cities currently have the authority to enter into installment purchase contracts. Senate Bill 652 would give airport authorities created by a local act the same financing options as one owned and operated by a county or city.

Airport authorities created by a local act of the General Assembly have only the powers given to them in the local legislation that creates them. Local legislation creating airport authorities typically gives them the power to set fees and rents and to issue bonds and notes. Some airport authorities have the ability to finance the purchase of real and personal property by installment contracts and other means of indebtedness authorized by G.S. 160A-20. This authority has been conferred on them in one of two ways: a classification created by statute[2] or through the powers given to them in the legislation that creates them.[3] Since July 1973, Article V, Section 4(1) of the N.C. Constitution prohibits local legislation relating to debt. Senate Bill 652 is general legislation that would enable all airport authorities to have the ability to purchase real and personal property through installment contracts or any other means of indebtedness authorized by G.S. 160A-20.

Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

*Cindy Avrette, counsel for Senate Finance, contributed to this summary.

[1] Article 15 of Chapter 153A and Article 16 of Chapter 160A.

[2] See G.S. 160A-20(h)(4), (5), and (5a). Page 3, lines 1 – 14 of SB 652. SB 339 seeks this authority through this same means for the Halifax Airport Authority.

[3] S.L. 2000-9 gives the "Foothills Regional Airport Authority" the ability to use installment purchase contracts in the list of its powers and authorities.

The Local Government Commission must approve installment purchase contracts and certificates of participation. The taxing power of a unit of local government may not be pledged to secure any moneys due under a contract entered into under this section. Before entering into a contract under this authority, the airport authority must give notice of and hold a public hearing.

Section 2 of Senate Bill 652 would allow the Village of Pinehurst to give owners up to 15 years to pay assessments for repair and rehabilitation of a dam in the Village. The general law allows the cities to give owners up to 10 years to pay assessments.

Section 3 of Senate Bill 652 amends Chapter 419 of the 1971 Session Laws which authorized Stanly County to establish an airport authority. Under the current law, the Stanly County Airport Authority may lease real or personal property for a term not to exceed 25 years. Senate bill 652 amends the session law to allow the Stanly County Airport Authority to execute longer leases with the United States. The amendment would allow the Authority to execute leases with the United State, its agencies, departments, boards, and military (including reserves and national guard) for terms not to exceed 50 years.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 652 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN AIRPORT AUTHORITIES TO ENTER INTO INSTALLMENT CONTRACTS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 777
House Committee Substitute Favorable 5/27/03

Short Title: Amend Dealer Licensing Law. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW WITH REGARD TO THE MANUFACTURE, SALE, AND DISTRIBUTION OF TRAILERS AND SEMITRAILERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-286(11) reads as rewritten:

"(11) Motor vehicle dealer or dealer. –

a. A person who does any of the following:

1. For commission, money, or other thing of value, buys, sells, or exchanges, whether outright or on conditional sale, bailment lease, chattel mortgage, or otherwise, five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
2. On behalf of another and for commission, money, or other thing of value, arranges, offers, attempts to solicit, or attempts to negotiate the sale, purchase, or exchange of an interest in five or more motor vehicles within any 12 consecutive months, regardless of who owns the motor vehicles.
3. Engages, wholly or in part, in the business of selling new motor vehicles or new or used motor vehicles, or used motor vehicles only, whether or not the motor vehicles are owned by that person, and sells five or more motor vehicles within any 12 consecutive months.
4. Offers to sell, displays, or permits the display for sale for any form of compensation five or more motor vehicles within any 12 consecutive months.

5. Primarily engages in the leasing or renting of motor vehicles to others and sells or offers to sell those vehicles at retail.

b. The term "motor vehicle dealer" or "dealer" does not include any of the following:

1. Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court.
2. Public officers while performing their official duties.
3. Persons disposing of motor vehicles acquired for their own use or the use of a family member, and actually so used, when the vehicles have been acquired and used in good faith and not for the purpose of avoiding the provisions of this Article.
4. Persons who sell motor vehicles as an incident to their principal business but who are not engaged primarily in the selling of motor vehicles. This category includes financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles to which they have taken title as an incident of payments made under policies of insurance, and auctioneers who sell motor vehicles for the owners or the heirs of the owners of those vehicles as part of an auction of other personal or real property or for the purpose of settling an estate or closing a business or who sell motor vehicles on behalf of a governmental entity, and who do not maintain a used car lot or building with one or more employed motor vehicle sales representatives.
5. Persons manufacturing, distributing or selling trailers and semitrailers weighing not more than ~~750 pounds and carrying not more than a 1,500 pound load.~~ 2,500 pounds unloaded weight.
6. A licensed real estate broker or salesman who sells a mobile home for the owner as an incident to the sale of land upon which the mobile home is located.
7. An employee of an organization arranging for the purchase or lease by the organization of vehicles for use in the organization's business.
8. Any publication, broadcast, or other communications media when engaged in the business of advertising, but not otherwise arranging for the sale of motor vehicles owned by others.
9. Any person dealing solely in the sale or lease of vehicles designed exclusively for off-road use.

10. Any real property owner who leases any interest in property for use by a dealer.
11. Any person acquiring any interest in a motor vehicle for a family member."

SECTION 2. G.S. 20-288(d) reads as rewritten:

"(d) To obtain a license as a wholesaler, an applicant who intends to sell or distribute self-propelled vehicles must have an established office in this State, and an applicant who intends to sell or distribute only trailers or semitrailers of ~~less~~ more than ~~2500~~ 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

To obtain a license as a motor vehicle dealer, an applicant who intends to deal in self-propelled vehicles must have an established salesroom in this State, and an applicant who intends to deal in only trailers or semitrailers of ~~less~~ more than ~~2500~~ 2,500 pounds unloaded weight must have a place of business in this State where the records required under this Article are kept.

An applicant for a license as a manufacturer, a factory branch, a distributor, a distributor branch, a wholesaler, or a motor vehicle dealer must have a separate license for each established office, established salesroom, or other place of business in this State. An application for any of these licenses shall include a list of the applicant's places of business in this State."

SECTION 3. This act becomes effective July 1, 2003, and applies to licenses issued or renewed on or after that date.

SENATE BILL 777:
Amend Dealer Licensing Law

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Foxx, Hoyle, and Sloan
Date:	June 4, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: SB 777 amends the Motor Vehicle Dealers and Manufacturers Licensing Law pertaining to the manufacture, sale, and distribution of trailers and semitrailers as follows:

- *Amends the definition of motor vehicle dealer in G.S. 20-286(11) to exclude persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 2,500 pounds unloaded weight. Current law excludes from the definition those persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 750 pounds and carrying not more than a 1,500 pound load.*
- *Amends G.S. 20-288(d) to require an applicant to have a place of business in North Carolina where the records required under the Dealer Licensing Law are kept, only if the applicant deals in or sells or distributes trailers or semitrailers weighing more than 2,500 pounds. Current law requires the applicant to have a place of business in North Carolina where the records required under the Dealer Licensing Law are kept, if the applicant deals in or sells or distributes trailers or semitrailers of less than 2, 500 pounds.*

CURRENT LAW: Article 12 of Chapter 20 of the General Statutes requires motor vehicle dealers to be licensed to engage in business in North Carolina. The definition of motor vehicle dealer specifically excludes persons manufacturing, distributing or selling trailers and semitrailers weighing not more than 750 pounds and carrying not more than a 1,500 pound load, thereby exempting those persons from regulation under Article 12.

Persons manufacturing, distributing or selling trailers and semitrailers that are not specifically excluded from the definition of motor vehicle dealer are subject to regulation under Article 12 and must be licensed. G.S. 20-288(d) requires applicants for a license to maintain an established office or showroom in North Carolina. However, license applicants who intend only to deal in or sell or distribute trailers or semitrailers weighing less than 2,500 pounds unloaded are required to have "a place of business" in North Carolina where records are kept.

The license fee for motor vehicle dealers and wholesalers is $50 for each place of business. These fees are credited to the Highway Fund.

BILL ANALYSIS: SB 777 changes the definition of motor vehicle dealer so that fewer persons would be required to obtain the annual license and pay the required fee. The act would become effective July 1, 2003 and would apply to licenses issued or renewed on or after that date.

*Wendy Graf Ray, counsel to House Transportation, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 777 (2nd Edition)

SHORT TITLE: Amend Dealer Licensing Laws

SPONSOR(S): Senator Foxx

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No General Fund Impact ***				
Highway Fund	*** Less than $5,000 annually ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Division of Motor Vehicles.

EFFECTIVE DATE: July 1, 2003 and applies to licenses issued on or renewed on or after that date.

BILL SUMMARY: Current law exempts from the motor vehicle dealer license requirements persons who manufacture, distribute, or sell trailers and semi trailers weighing not more than 750 pounds and carrying not more than a 1,500-pound load. The legislation expands that definition of those exempt to include those manufacturing, distributing, or selling trailers and semi trailers weighing not more than 2,500 pounds.

ASSUMPTIONS AND METHODOLOGY: The only fiscal impact of the bill relates to the Highway Fund. According to industry representatives and the Division of Motor Vehicles, the bill effectively expands the exemption to include pull behind trailers of the type generally used by landscape contractor and those hauling motorcycles. The NC Retail Merchants Association believes this bill will affect two of their members – both home improvement stores. They estimate that as many as forty (40) member locations are or will likely sell this type of vehicle. If all 40 facilities were currently paying the $50 license fee, the bill would result in a Highway Fund loss of approximately $2,000. In addition, the Division of Motor Vehicles believes that one or two other retail chains could sell these trailers, representing a potential additional loss. DMV also indicates that some motorcycle dealers may sell this type of trailer. However, because they would still need to obtain a license to sell motorcycles, the bill would have no impact on their need to obtain a dealer license.

SOURCES OF DATA: NC Division of Motor Vehicles.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 3, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 777 A BILL TO BE ENTITLED AN ACT TO AMEND THE MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSING LAW WITH REGARD TO THE MANUFACTURE, SALE, AND DISTRIBUTION OF TRAILERS AND SEMITRAILERS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1006

Committee Substitute Favorable 6/2/03

Short Title: Manufactured Housing. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO GRANT GREATER CONSUMER PROTECTION TO RESIDENTS OF MANUFACTURED HOUSING IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-109.2 reads as rewritten:

"**§ 20-109.2. Surrender of title to manufactured home.**

(a) Surrender of Title. – If a title has been issued for a manufactured home and the manufactured home qualifies as real property as defined in G.S. 105-273(13), the owner shall submit an affidavit to the Division that the manufactured home meets this definition and surrender the certificate of title to the Division.

(b) Affidavit. – The affidavit must be in a form approved by the Commissioner and shall include or provide for all of the following information:

(1) The manufacturer and, if applicable, the model name of the manufactured home.

(2) The vehicle identification number and serial number of the manufactured home.

(3) The legal description of the real property on which the manufactured home is placed, stating that the owner of the manufactured home also owns the real ~~property.~~property or that the owner of the manufactured home has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed with a copy of the lease or a memorandum thereof pursuant to G.S. 47-18 attached to the affidavit, if not previously recorded.

(4) A description of any security interests in the manufactured home.

(5) A section for the Division's notation or statement that the title has been surrendered and cancelled by the Division.

(c) Cancellation. – Upon compliance by the owner with the procedure for surrender of title, the Division shall rescind and cancel the certificate of title. If a security interest has been recorded on the certificate of ~~title,~~title and not released by the

secured party, the Division may not cancel the title without written consent from all secured parties. After cancelling the title, the Division shall return the original of the affidavit to the owner, or to the secured party having the first recorded security interest, with the Division's notation or statement that the title has been surrendered and has been cancelled by the Division. The owner or secured party shall file the affidavit returned by the Division with the office of the register of deeds of the county where the real property is located. The Division may charge five dollars ($5.00) for a cancellation of a title under this section.

(d) Application for Title After Cancellation. – If the owner of a manufactured home whose certificate of title has been cancelled under this section subsequently seeks to separate the manufactured home from the real property, the owner may apply for a new certificate of title. The owner must submit to the Division an affidavit containing the same information set out in subsection (b) of this section, verification that the manufactured home has been removed from the real property, and written consent of any affected owners of recorded mortgages, deeds of trust, or security interests in the real property where the manufactured home was placed. The Commissioner may require evidence sufficient to demonstrate that all affected owners of security interests have been notified and consent. Upon receipt of this information, together with a title application and required fee, the Division is authorized to issue a new title for the manufactured home.

(e) Sanctions. – Any person who violates this section is subject to a civil penalty of up to one hundred dollars ($100.00), to be imposed in the discretion of the Commissioner."

SECTION 2. G.S. 47-20.6(a) reads as rewritten:

"(a) If the owner of real property or the owner of the manufactured home who has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed has surrendered the title to a manufactured home that is placed on the real property and the title has been cancelled by the Division of Motor Vehicles under G.S. 20-109.2, the owner, or the secured party having the first security interest in the manufactured home at time of surrender, shall record the affidavit described in G.S. 20-109.2 with the office of the register of deeds of the county where the real property is located. Upon recordation, the affidavit shall be indexed on the grantor index in the name of the owner of the manufactured home and on the grantee index in the name of the secured party or lienholder, if any."

SECTION 3. G.S. 47-20.7(a) reads as rewritten:

"(a) A person who owns real property on which a manufactured home has ~~been,~~ been or will be ~~placed,~~placed or the owner of a manufactured home who has entered into a lease with a primary term of at least 20 years for the real property on which the manufactured home has been or will be placed, as defined in G.S. 105-273(13), and either where the manufactured home has never been titled by the Division of Motor Vehicles or where the title to the manufactured home has been surrendered and cancelled by the ~~Division,~~Division prior to January 1, 2002, may record in the office of the register of deeds of the county where the real property is located a declaration of intent to affix the manufactured home to the property and may convey or encumber the

real property, including the manufactured home, by a deed, deed of trust, or other instrument recorded in the office of the register of deeds."

SECTION 4. G.S. 105-273(13) reads as rewritten:

"**§ 105-273. Definitions.**

When used in this Subchapter (unless the context requires a different meaning):

...

(13) "Real property," "real estate," and "land" mean not only the land itself, but also buildings, structures, improvements, and permanent fixtures on the land, and all rights and privileges belonging or in any way appertaining to the property. These terms also mean a manufactured home as defined in G.S. 143-143.9(6) if it is a residential structure; has the moving hitch, wheels, and axles removed; and is placed upon a permanent foundation either on land owned by the owner of the manufactured ~~home.~~ home or on land in which the owner of the manufactured home has a leasehold interest pursuant to a lease with a primary term of at least 20 years for the real property on which the manufactured home is affixed and where the lease expressly provides for disposition of the manufactured home upon termination of the lease. A manufactured home as defined in G.S. 143-143.9(6) that does not meet all of these conditions is considered tangible personal property."

SECTION 5. Chapter 42 of the General Statutes is amended by adding a new section to read:

"**§ 42-14.3. Notice of conversion of manufactured home communities.**

(a) In the event that an owner of a manufactured home community (defined as a parcel of land, whether undivided or subdivided, that has been designed to accommodate at least five manufactured homes) intends to convert the manufactured home community, or any part thereof, to another use that will require movement of the manufactured homes, the owner of the manufactured home community shall give each owner of a manufactured home notice of the intended conversion at least 180 days before the owner of a manufactured home is required to vacate and move the manufactured home, regardless of the term of the tenancy. Failure to give notice as required by this section is a defense in an action for possession.

(b) Notwithstanding subsection (a) of this section, if a manufactured home community is being closed pursuant to a valid order of any unit of State or local government, the owner of the community shall be required to give notice of the closure of the community to each resident of the community within three business days of the date on which the order is issued."

SECTION 6. Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-143.20A. Display of pricing on manufactured homes.**

(a) If the manufacturer of a manufactured home publishes a manufacturer's suggested retail price, that price shall be displayed near the front entrance of the manufactured home.

(b) Each manufactured home dealer shall prominently display a sign and provide to each buyer a notice, developed by the North Carolina Manufactured Housing Board, containing information about the Board, including how to file a consumer complaint with the Board and the warranties and protections provided for each new manufactured home under federal and State law."

SECTION 7. G.S. 143-143.21A reads as rewritten:

"**§ 143-143.21A. Purchase agreements; buyer cancellations.**

(a) A purchase agreement for a manufactured home shall include all of the following:

(1) A description of the manufactured home and all accessories included in the purchase.

(2) The purchase price for the home and all accessories.

(3) The amount of deposit or other payment toward or payment of the purchase price of the manufactured home and accessories that is made by the buyer.

(4) The date the retail purchase agreement is signed.

(5) The estimated terms of financing the purchase, if any, including the estimated interest rate, number of years financed, and monthly payment.

(6) The buyer's signature.

(7) The dealer's signature.

(b) The purchase agreement shall contain, in immediate proximity to the space reserved for the signature of the buyer and in at least ten point, all upper-case Gothic type, the following statement:

"I UNDERSTAND THAT I HAVE THE RIGHT TO CANCEL THIS PURCHASE BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE THAT I HAVE SIGNED THIS AGREEMENT. I UNDERSTAND THAT THIS CANCELLATION MUST BE IN WRITING. IF I CANCEL THE PURCHASE AFTER THE THREE-DAY PERIOD, I UNDERSTAND THAT THE DEALER MAY NOT HAVE ANY OBLIGATION TO GIVE ME BACK ALL OF THE MONEY THAT I PAID THE DEALER. I UNDERSTAND ANY CHANGE TO THE TERMS OF THE PURCHASE AGREEMENT BY THE DEALER WILL CANCEL THIS AGREEMENT."

(c) At the time the deposit or other payment toward or payment for the purchase price is received by the dealer, the dealer shall give the buyer a copy of the purchase agreement and a completed form in duplicate, captioned "Notice of Cancellation," which shall be attached to the purchase agreement, be easily detachable, and explain the buyer's right to cancel the purchase and how that right can be exercised.

(d) The dealer shall return the deposit or other payment toward or payment for the purchase price to the buyer if the buyer cancels the purchase before midnight of the third business day after the date the buyer signed the purchase ~~agreement.~~agreement or if any of the material terms of the purchase agreement are changed by the dealer. To make the cancellation effective, the buyer shall give the dealer written notice of the buyer's cancellation of the purchase. The dealer shall return the deposit or other

payment toward or payment for the purchase price to the buyer within 15 business days after receipt of the notice of ~~cancellation.~~ cancellation or within three business days of any change by the dealer of the purchase agreement. For purposes of this section, "business day" means any day except Sunday and legal holidays. Each time the dealer gives the buyer a new set of financing terms, unless the financing terms are more favorable to the buyer, the buyer shall be given another three-day cancellation period. The dealer shall not commence setup procedures until after the final three-day cancellation period has expired.

(e) If the buyer cancels the purchase after the three-day cancellation period, but before the sale is completed, and if:

(1) The manufactured home is in the dealer's inventory, the dealer may retain from the deposit or other payment received from the buyer actual damages up to a maximum of ten percent (10%) of the purchase price; or

(2) The manufactured home is specially ordered from the manufacturer for the buyer, the dealer may retain actual damages up to the full amount of the buyer's deposit or other payment received from the buyer.

(f) The Board shall adopt rules concerning the terms of any deposit paid by a buyer to a dealer. The rules may exempt deposits of less than two thousand dollars ($2,000). To the extent practicable, the rules shall protect the deposits from the claims of the creditors of a dealer that may thereafter be in bankruptcy. The rules shall further provide for the prompt return of a buyer's deposit if the buyer is entitled to its return."

SECTION 8. Sections 6 and 7 of this act become effective October 1, 2003. The remainder of this act is effective when it becomes law.

HOUSE BILL 1006: Manufactured Housing.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Hunter and Barnhart
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1006 amends the laws related to manufactured homes and increases consumer protections for owners of manufactured homes. The two sections of the bill dealing with consumer protections become effective October 1, 2003. The remainder of the bill would be effective when it becomes law.***

This bill has been referred to House Finance because it authorizes the DMV to charge a $5.00 fee for the cancellation of title required once a manufactured home qualifies as real property (Section 1).

SECTION-BY-SECTION BILL ANALYSIS:

Sections 1-4: Expanding definition of manufactured homes that qualify as "real property."

CURRENT LAW: Under current law, a manufactured home is considered real property if it is placed upon land owned by the owner of the manufactured home and the owner has filed an affidavit with the register of deeds stating that the home meets the definition of real property. The owner of a manufactured home that has been placed on property owned by that owner may convey or encumber the property and manufactured home by a mortgage. If the manufactured home has not yet been placed upon the property, the owner may record a declaration of intent to affix the manufactured home to the real property in order to convey or encumber the property with a mortgage.

If the owner of a manufactured home does not own the land on which the home is located, then the manufactured home is considered tangible personal property. If a manufactured home qualifies as tangible personal property, then it is subject to the same registration and certificate of title requirements that apply to motor vehicles.

If a certificate of title has been issued for a manufactured home, and then the home subsequently qualifies as real property because the owner of the home also owns the property on which the home is affixed, the owner must file an affidavit with the DMV indicating that the home meets the definition of real property and surrender the title. The DMV must cancel the title to a manufactured home once the affidavit is filed stating, among other things, that the owner of the manufactured home is also the owner of the real property on which the manufactured home is affixed. As previously mentioned, the owner must also file a copy of the affidavit with the register of deeds in the county where the real property is located.

ANALYSIS: House Bill 1006 expands the definition of a manufactured home that qualifies as real property to include manufactured homes on land leased by the manufactured home owner for a term of at least 20 years. Sections 1 through 3 make changes to the relevant statutes that address manufactured homes qualifying as real property. Specifically:

- Section 1 amends G.S. 20-109.2, which sets forth the information required to be in the affidavit that is filed with the DMV when surrendering the certificate of title. The owner must state in the affidavit that he has entered into a lease of at least 20 years for the property on which the manufactured home is located and must attach a copy of the lease or a copy of the memorandum of the lease. **This section also authorizes the Division to charge a $5.00 fee for the cancellation of the title.**

- Sections 2 and 3 make conforming changes to the recording statutes.
- Section 4 amends the definition of "real property" in the tax laws to include manufactured homes that have been placed on land where the owner of the home has a leasehold interest for a term of at least 20 years and where the lease expressly provides what will happen to the manufactured home if the lease is terminated before the expiration of the 20-year term.

Section 5: Notice of conversion of manufactured home communities

ANALYSIS: Section 5 of the bill adds a new section to Chapter 42 of the General Statutes (Landlord and Tenant). This new section would require the owner of a manufactured housing community to give 180 days prior notice to each owner of a manufactured home if the community owner intends to convert the community to another use such that the homes would need to be moved. A manufactured home community is defined as a parcel of land designed to accommodate at least 5 manufactured homes. If the closure is due to a valid order of a state or local government, then notice of the closure must be given within 3 days of the date of the order.

Sections 6 and 7: Consumer protections for purchasers of manufactured homes

CURRENT LAW: Article 9A of Chapter 143 provides a framework for the regulation of the manufactured home industry in an effort to protect consumers, including licensing and bonding requirements for dealers, warranty requirements and enforcement mechanisms, and requirements for purchase agreements including notice of rescission rights and provision for the proper return of deposits.

ANALYSIS: Sections 6 and 7 of the bill expand the protections afforded to purchasers of manufactured homes as follows:

- Section 6 requires a manufactured home dealer to display the suggested retail price of a manufactured home near the front entrance of the home, if in fact the manufacturer publishes the retail price. In addition, it also requires the dealer to display a sign and provide each buyer with information on how a consumer may file a complaint with the NC Manufactured Housing Board (Board) and on the warranties and protections provided to each manufactured home owner. The Board will develop the sign and notice.
- Section 7 provides for the automatic cancellation of a purchase agreement if the dealer changes any of the material terms of the agreement and for the return of any deposits within 3 business days in the event of cancellation. Each time the dealer gives the buyer a new set of less favorable financing terms, the buyer shall be given a new 3-day cancellation period. The Board must also adopt rules concerning deposits, including rules protecting the deposits from the claims of creditors of a dealer in bankruptcy and providing for the prompt return of deposits, if a buyer is entitled to its return.

Section 8: Effective date

Sections 6 and 7, which deal with the additional consumer protections afforded purchasers of manufactured homes, become effective October 1, 2003. The remainder of the act is effective when it becomes law.

Drupti Chauhan, counsel for Senate Judiciary II, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1006 (Second Edition)

SHORT TITLE: Manufactured Housing

SPONSOR(S): Representatives Hunter and Barnhart

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
NC Division of Motor Vehicles	$17,075	$17,075	$17,075	$17,075	$17,075
Local Governments	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Division of Motor Vehicles

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill makes several changes to the laws surrounding manufactured housing. Sections 1 and 3 changes a manufactured home owner's options for title surrender if a 20 year or greater lease is involved and file an appropriate declaration with the Register of Deeds. Section 2 authorizes the Division of Motor Vehicles to charge $5.00 for canceling a title to a manufactured home. Section 4 clarifies that manufactured homes with a lease of at least 20 years are real property for tax purposes. Section 5 addresses the notice requirements for conversion of a manufactured home community. Section 6 requires the display of pricing information on manufactured homes if that manufacturer has published a suggested retail price, as well as information on warranties and filing complaints. Section 7 allows for the cancellation of the purchase agreement if any of the material terms of the agreement are changed by the dealer, requires that deposits be returned within three business days if such an agreement is cancelled, and directs the Manufactured Housing Board to adopt rules on this process.

ASSUMPTIONS AND METHODOLOGY: With regard to fiscal impact, the proposed bill changes the G.S. 47-20.6(a) by authorizing the NC Division of Motor Vehicles (DMV) to charge a five-dollar cancellation fee when the certificate title of a manufactured home is surrendered after the home had been qualified as real property. According to the DMV data, between 1996 and 2002 the average number of surrendered titles to manufactured home as the result of their qualification as real property constituted 3,415. If for the next five years this number will remain

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1006 (Second Edition)

SHORT TITLE: Manufactured Housing

SPONSOR(S): Representatives Hunter and Barnhart

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

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REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
NC Division of Motor Vehicles	$17,075	$17,075	$17,075	$17,075	$17,075
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PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Division of Motor Vehicles

EFFECTIVE DATE: This act is effective when it becomes law.

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the same, DMV will be able to generate $17,075 in revenue from title cancellations for manufactured homes.

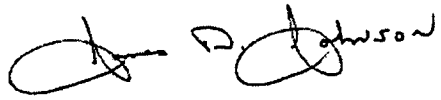
The bill will also have a local impact. Section 4 of the bill amends the statute to include as real property manufactured homes where the owner of the manufactured home has a lease of at least 20 years for the land on which the home is affixed. Currently, some manufactured homes are classified as real property while others are classified as personal property. The bill could move some homes that are currently listed as personal property into the real property category. Neither the Department of Revenue nor Fiscal Research can estimate the impact this will have on local units, although whatever revenue change occurs should be small and positive.

SOURCES OF DATA: North Carolina Division of Motor Vehicles.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 3, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1006 A BILL TO BE ENTITLED AN ACT TO GRANT GREATER CONSUMER PROTECTION TO RESIDENTS OF MANUFACTURED HOUSING IN NORTH CAROLINA.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 511

Short Title: Andrews Satellite Annexation. (Local)

Sponsors: Representative West.

Referred to: Local Government I.

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN TOWN-OWNED PROPERTIES OF THE TOWN OF ANDREWS FROM THE CEILING ON VOLUNTARY SATELLITE ANNEXATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. The Town of Andrews may annex any or all of the following town-owned properties by voluntary annexation under G.S. 160A-58.7 without such annexations counting against the ceiling on annexations under G.S. 160A-58.1(b)(5):

(1) Town of Andrews Wastewater Treatment Plant. A 12-acre tract of land located at the end of Reagan Street near Andrews. This tract of land is located on the western side of the current Town limits with a tract of open, undeveloped land separating the existing Town limits from the Wastewater Treatment Plant.

(2) Town of Andrews Water Treatment Plant. A three and one-half acre tract of land located north of the existing town limits on Dan Holland Creek Road.

(3) Town of Andrews Reservoir and Dam. A 60-acre tract of land located north of the existing Town limits at the end of Dan Holland Creek Road.

(4) Town of Andrews Watershed. An 883-acre tract of land located on the headwaters of Beaver Creek north of the Town of Andrews.

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

HOUSE BILL 511:
Andrews Satellite Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative West
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	First Edition		Committee Counsel

SUMMARY: ***House Bill 511 would allow the Town of Andrews to annex property owned by the town without limitation on the area of the property.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: The bill would exempt the Town of Andrews from the requirement in G.S. 160A-58.4(b)(5) that the area within the proposed satellite annexation not exceed ten percent (10%) of the area within the primary corporate limits of the Town with respect to the annexation of the following four stated properties owned by the Town:

(1) Town of Andrews Wastewater Treatment Plant. – A 12-acre tract of land located at the end of Reagan Street near Andrews. This tract of land is located on the western side of the current Town limits with a tract of open, undeveloped land separating the existing Town limits from the Wastewater Treatment Plant.

(2) Town of Andrews Water Treatment Plant. – A three and one-half acre tract of land located north of the existing town limits on Dan Holland Creek Road.

(3) Town of Andrews Reservoir and Dam. – A 60-acre tract of land located north of the existing Town limits at the end of Dan Holland Creek Road.

(4) Town of Andrews Watershed. – An 883-acre tract of land located on the headwaters of Beaver Creek north of the Town of Andrews.

BACKGROUND: The cities of Hickory, New Bern, Statesville, Kenly, Troy, Mt. Airy, Mooresville, Marion, Oxford, Rockingham, Newton, Conover, and Claremont and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, Maiden, Swansboro and Waynesville have already eliminated the 5th standard for all annexations by the municipality.

EFFECTIVE DATE: The bill would become effective when it becomes law.

Cindy Avrette, staff attorney, contributed to this summary.

H511-SMSV-002

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 511 A BILL TO BE ENTITLED AN ACT TO EXEMPT CERTAIN TOWN-OWNED PROPERTIES OF THE TOWN OF ANDREWS FROM THE CEILING ON VOLUNTARY SATELLITE ANNEXATIONS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 96

Short Title: Avery County Occupancy Tax. (Local)

Sponsors: Representative Frye.

Referred to: Finance.

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5

of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 6. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 96:
Avery County Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 96 creates a taxing district in Avery County that consists of the unincorporated areas of the county and authorizes the district to levy a room occupancy tax of up to 6%. The bill was given a favorable report by the Occupancy Tax Subcommittee.***

CURRENT LAW: In 1993, the General Assembly authorized Avery County to levy a 3% occupancy tax. In 2000, the county repealed its occupancy tax, but it still had the legislative authority to levy the tax. Then in 2001, the General Assembly repealed the county's authority to levy the tax. All of the towns in Avery County currently have the authority to levy a 6% room occupancy tax.

BILL ANALYSIS: The bill creates the Avery County District U taxing district, which consists of the unincorporated areas of the county. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. The bill authorizes the district to levy a room occupancy tax of up to 6%. The district must remit the net proceeds of the tax on a quarterly basis to a Tourism Development Authority, which is required to be established under the bill. The Authority must use two-thirds of the net proceeds to promote travel and tourism and the remainder must be used for tourism-related purposes.

The provisions regarding Avery County District U meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

FISCAL ANALYSIS MEMORANDUM

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

DATE: May 19, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 96 PCS – Avery County Occupancy Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Avery Co. TDA	* See Assumptions and Methodology *				
Blowing Rock	333,653	340,326	347,133	354,075	361,157

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Avery County and the Town of Blowing Rock.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes three changes to current occupancy taxes. First, it creates a taxing district, "Avery County District U", and authorizes that district to levy a room occupancy tax of up to 6%. Second, it allows the Town of Blowing Rock to increase its room occupancy rate from 3% to 6%. Finally, it conforms the existing Blowing Rock occupancy tax language to reflect the occupancy tax guidelines followed by the House Finance Committee.

BACKGROUND: In 1983 the General Assembly authorized Avery County to levy a room occupancy tax of up to 3%. That tax was levied through 1999. In 2000, the local county commission repealed the room tax, and in 2001, the General Assembly repealed that county's authority to levy an occupancy tax. Independent of these actions, all municipalities in Avery County are authorized to levy a room tax of up to 6%.

ASSUMPTIONS AND METHODOLOGY: The first potential fiscal impact relates to Avery County. According to reports filed with the Tax Research Division of The NC Department of Revenue, Avery County municipalities levied and collected the following occupancy taxes in 2001-02:

Municipality	Rate	Revenue
Banner Elk	3%	54,338
Beech Mountain	3%	
Sugar Mountain*	3%	53,896

* Sugar Mountain's occupancy tax became effective January 1, 2002.

In 1999-00 Avery County collected $156,512 in occupancy taxes, using a 3% rate. Growing this forward to a 2001-02 occupancy tax estimate suggests that if a countywide tax were levied in that year it would yield approximately $162,272. However, as the above municipal revenue figures indicate, the vast majority of the revenues were drawn from incorporated areas, suggesting limited revenues from what now would be the Avery County District U. However, no exact fiscal estimate is available at this time.

The second impact relates to Blowing Rock. In 2001-02 the 3% Blowing Rock occupancy tax raised $320,697 in revenues. This suggests that doubling the rate to 6% in that same year would have yielded an additional $320,697. Applying the 2% growth rate noted above suggests the following increased revenue stream for Blowing Rock:

2003-04	2004-05	2005-06	2006-07	2007-08
333,653	340,326	347,133	354,075	361,157

This is the amount shown in the fiscal impact box. It should also be noted that the changes made in the Blowing Rock occupancy tax statutes may result in a reallocation of funds among purposes.

SOURCES OF DATA: NC Department of Revenue.

Avery County Board of Commissioners
Post Office Box 640 ~ Newland, NC 28657
Phone: 828-733-8212 Fax: 828-733-8209

Kenny Poteat, Chairman
Joe Strickland, Vice Chairman
Jake Owens
Phyllis Forbes
Bill Bennett

Highest Courthouse East of the Rockies

Robert C. Wiseman
County Manager

Nancy Cook
Clerk to the Board

June 2, 2003

Rep. Phillip D. Frye
1019 Legislative Building
Raleigh, North Carolina 27601-1096

Dear Representative Frye:

The Avery County Board of Commissioners wish to go on record as being in unanimous support of HB 96 entitled, "An Act to Authorize Avery County To Levy an Occupancy Tax in a Tax District Comprising The Unincorporated Areas of the County". A copy of our Resolution requesting this legislation is attached.

The Board feels that the implementation of a 6% Room Tax will have no adverse effect on tourism in Avery County but rather will facilitate an increase in tourism related businesses. A recent Associated Press poll stated that 4 of 5 interviewed said that problems with the economy and terrorism will have no effect on their vacation plans.

We feel that the expenditure of Room Tax monies for promotion of travel and tourism in Avery County can only enhance the economic well being of the community and further stabilize our economy.

JUN-04-03 01:25 PM AVERY COUNTY MANAGER 828 737 9295 P.02

On behalf of the Board, I would like to thank you for all of your efforts on behalf of Avery County.

Sincerely,

Kenny Poteat, Chairman
Avery County Board of Commissioners

Kp/nc
Attachment

RESOLUTION
AVERY COUNTY BOARD OF COMMISSIONERS
TO LEVY A ROOM OCCUPANCY TAX FOR AVERY COUNTY

BE IT HEREBY RESOLVED that the Avery County Board of Commissioners do hereby unanimously request that legislation be introduced before the North Carolina Legislature, and be enacted by the North Carolina Legislature, to allow the County of Avery to levy a room occupancy tax within the unincorporated areas of Avery County, and that this tax levy be enacted without the necessity of a public referendum. Rate of said tax to be 6 percent.

Adopted this 17th day of February, 2003.

SEAL:

Kenny R. Poteat, Chairman
Avery County Board of Commissioners

ATTEST: Nancy H. Cook
Nancy H. Cook, Clerk to the Board

JUN-04-03 01:26 PM AVERY COUNTY MANAGER 828 737 9295 P.04

P.O. Box 804
Newland, NC 28657

Avery County Christmas Tree & Nurserymen's Assoc.

(828) 733-6083

May 30, 2003

North Carolina General Assembly
Attn: House Finance Committee
Raleigh, NC 27695

Re: House Bill 96

To Whom It May Concern:

We, Avery County Christmas Tree and Nurserymen's Association-Board of Directors, have unanimously voted to support the ***House Bill 96***. This should entitle Avery County to receive tourism dollars from the Occupancy Taxes. Avery County will utilize this money to promote tourism for the area.

It is the understanding, of the Avery County Christmas Tree and Nurserymen's Association- Board of Directors, that the money is to be utilized only for Avery County; no tax will be added to Sugar Mountain, Beech Mountain or Banner Elk.

The association represents approximately 145 tree growers and a major part of the Avery County's economic base. Fraser fir Christmas Trees account for $25 million in annual income. Also, with 15,000 plus Fraser fir Christmas Trees being sold through Choose and Cut Farms and through tourist lodging in our local motels/hotels and dining in our local restaurants, we have added one million dollars to those non-farming industries. The tourist brings much needed income to Avery County.

We hope this illustration will enable you to have a much clearer perception of the tourism needs in Avery County, as the fate of the ***House Bill 96*** is decided upon.

Sincerely,

Darrell Pitts

Darrell Pitts, President
Avery County Christmas Tree and
Nurserymen's Association

Rondinaro Broadcasting, Inc.

643-G Greenway Road
Boone, NC 28607
828-265-9593
Fax# 828-264-8902
www.wecr1023.com

May 31, 2003

Dear Representative Frye &
House Finance Committee Chairs,

We appreciate your efforts to bring an occupancy tax to unincorporated Avery County. It's a win-win... when we really need it at a time of state budget shortfalls. And it's fair to all.

Fairness?

1. Every tourism-oriented county in the state has an occupancy tax... except Avery.
2. All of Avery County's primary tourist towns: Banner Elk, Sugar Mountain, and Beech Mountain have 6% occupancy taxes. This would level the field for the lodging industry across the county and allow Avery County government access to this revenue stream enjoyed by those towns.

Your HB 96 does the "right thing." It also reflects the unanimous will of the Avery County Board of Commissioners and the vast majority of the citizens of Avery County.

To the **Chairs of the House Finance Committee** I say this: Phil Frye was overwhelmingly elected in Avery County, in large part on the strength of this issue. His incumbent opponent stood as an impediment to progress in Avery County and the people recognized this in a big way. Mr. Frye is our duly elected representative for good reason. Please support him in doing what he was asked to do.

Sincerely,

Steve Rondinaro

Steve Rondinaro
President

WECR 102.3
Boone • Blowing Rock • Beech Mtn

The High Country's NEWSTALK 1200
WXIT Blowing Rock • Boone • Lenoir

AM 1130 WECR
Avery's Hometown Station

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 57
Judiciary II Committee Substitute Adopted 3/26/03
House Committee Substitute Favorable 5/22/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S57-CSSV-24 [v.1]

6/4/2003 5:12:19 PM

Short Title: Municipal Wheel Lock Authorization. (Local)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CAROLINA BEACH AND WRIGHTSVILLE BEACH TO USE WHEEL LOCKS ON ILLEGALLY PARKED VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. The council of a city may provide, by ordinance, for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The city shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

SECTION 2. This act applies to the Towns of Carolina Beach and Wrightsville Beach only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 3

SENATE BILL 57
Judiciary II Committee Substitute Adopted 3/26/03
House Committee Substitute Favorable 5/22/03

Short Title: Municipal Wheel Lock Authorization. (Local)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CAROLINA BEACH AND WRIGHTSVILLE BEACH TO USE WHEEL LOCKS ON ILLEGALLY PARKED VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 291 of the 1993 Session Laws, as amended by Chapter 381 of the 1995 Session Laws, S.L. 1997-218, and S.L. 2002-127, reads as rewritten:

"Sec. 2. This act applies to the Cities of Durham, Greensboro, Lenoir, Monroe, Raleigh, ~~and Winston-Salem~~ Winston-Salem, and the Town of Wrightsville Beach only. This act shall also apply to the City of Wilmington, but only as to the area in the central business district as defined in that City's zoning ordinance as of June 1, 1997."

SECTION 2. The council of a city may provide, by ordinance, for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets issued on at least three separate days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The city shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

SECTION 3. Section 1 of this act applies to the Town of Wrightsville Beach only.

SECTION 4. Section 2 of this act applies to the Town of Carolina Beach only.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 57:
Municipal Wheel Lock Authorization.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Ballantine
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 3rd Edition S57-CSSV-24		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 57 would allow the towns of Carolina Beach and Wrightsville Beach to use wheel locks on any illegally parked vehicle that has three or more outstanding, unpaid and overdue parking tickets for that vehicle issued on at least three separate days.***

CURRENT LAW: The following municipalities have the authority to provide by ordinance for the use of wheel locks on illegally parked vehicles that have 3 or more unpaid parking tickets for 90 days or more: Asheville, Charlotte, Durham, Greensboro, Greenville, Henderson, Lenoir, Monroe, Raleigh, Winston-Salem, and Wilmington.[1] The ordinance has to provide for the following:

- Notice or warning to be put on the vehicle.
- Immobilization through the wheel locks and an immobilization fee of not more than $50.00.
- Towing.
- Impoundment.
- An appeal hearing.

The cities are not responsible for any damage that may occur to immobilized, illegally parked vehicles resulting from unauthorized attempts to free or move the vehicle. Cities have found wheel locks to be effective, inexpensive and the risk of damage to be minimal.

BILL ANALYSIS: This bill allows the towns of Carolina Beach and Wrightsville Beach to pass an ordinance to allow for the use of wheel locks similar to the authority already granted to several other municipalities. Under this bill, wheel locks can be used on illegally parked vehicles that have three or more unpaid and overdue parking tickets issued on at least three separate days. However, this bill does not specifically require that the tickets be 90 days overdue as virtually all the other local legislation authorizing wheel locks do.

BACKGROUND: In April of this year, the House Finance Committee reported favorably on HB 351, Salisbury Parking Enforcement, which authorized the City of Salisbury to provide by ordinance for the use of wheel locks. This bill has already been ratified by the General Assembly.

EFFECTIVE DATE: This act is effective when it becomes law.

Drupti Chauhan, counsel for Senate Judiciary II, substantially contributed to this summary.

S57-SMSV-003

[1] Wilmington uses wheel locks in its central business district as defined by its zoning ordinance.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ House Committee Substitute #1 for
S.B. 57 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWNS OF CAROLINA BEACH AND WRIGHTSVILLE BEACH TO USE WHEEL LOCKS ON ILLEGALLY PARKED VEHICLES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1294
PROPOSED COMMITTEE SUBSTITUTE H1294-CSLC-61 [v.1]

6/4/2003 11:09:29 AM

Short Title: Expand Qualified Business Credit. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2004.~~2007."

SECTION 2. G.S. 105-163.010 reads as rewritten:

"**§ 105-163.010. Definitions.**

The following definitions apply in this Part:

...

(7b) Qualified business. – A qualified business venture, a qualified grantee business, or a qualified licensee business.

...

(9) Qualified grantee business. – A business that (i) is registered with the Secretary of State under G.S. 105-163.013, and (ii) has received during the preceding three years a grant or other funding from a federal agency under the Small Business Innovation Research Program administered by the United States Small Business Administration or from an organization that meets any of the following qualifications:

a. It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.

b. It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the ~~microelectronics and~~microelectronics, wireless, or communication industries, including networking and related technologies, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.

c. It is an institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii) is financed in part by a domestic or foreign corporation that is tax-exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology.

(9a) Qualified licensee business. – A business that meets all of the following conditions:

a. It is registered with the Secretary of State under G.S. 105-163.013.

b. During its most recent fiscal year before filing an application for registration under G.S. 105-163.013, it had gross revenues, as determined in accordance with generally accepted accounting principles, of one million dollars ($1,000,000) or less on a consolidated basis.

c. It has been certified by a constituent institution of The University of North Carolina or a research university as currently performing under a licensing agreement with the institution or university for the purpose of commercializing technology developed at the institution or university. For the purpose of this section, a research university is an institution of higher education classified as a Doctoral/Research University, Extensive or Intensive, in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching."

SECTION 3. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. Tax credits allowed.**

(a) No Credit for Brokered Investments. – No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified ~~business venture or a qualified grantee~~ business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified ~~grantee business, a qualified business venture,~~business or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified ~~grantee business or a qualified business venture~~ business directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was

paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part."

SECTION 4. G.S. 105-163.012(d) reads as rewritten:

"(d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result of an investment in a qualified ~~business venture or qualified grantee~~ business shall be reduced for the purposes of this Article by the amount of allowable credit. 'Allowable credit' means the amount of credit allowed under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

SECTION 5. G.S. 105-163.013 reads as rewritten:

"**§ 105-163.013. Registration.**

(a) Repealed by Session Laws 1993, c. 443, s. 4.

(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified business venture. A business meets the requirements for registration as a qualified business venture if all of the following are true as of the date the business files the required application:

(1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(1a) Reserved for future codification purposes.

(1b) Either (i) it was organized after January 1 of the calendar year in which its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis.

(2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(3) It is organized to engage primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry.

(4) It does not engage as a substantial part of its business in any of the following:

a. Providing a professional service as defined in Chapter 55B of the General Statutes.

b. Construction or contracting.

c. Selling or leasing at retail.

d. The purchase, sale, or development, or purchasing, selling, or holding for investment of commercial paper, notes, other indebtedness, financial instruments, securities, or real property, or otherwise make investments.

e. Providing personal grooming or cosmetics services.

f. Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.

(5) It was not formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses.

(6) It is not a real estate-related business.

The effective date of registration for a qualified business venture whose application is accepted for registration is 60 days before the date its application is filed. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned upon other investors' commitment of additional funds, the date of the investment is the date escrowed funds are transferred to the qualified business venture free of the condition.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars ($1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars ($1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed five million dollars ($5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(c) Qualified Grantee Businesses and Qualified Licensee Businesses. – In order to qualify as a qualified grantee business or a qualified licensee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business or a qualified licensee business. The requirements for

registration as a qualified grantee business or a qualified licensee business are set out in G.S. 105-163.010.~~G.S. 105-163.010(9).~~

The effective date of registration for a qualified grantee business or a qualified licensee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified grantee business or a qualified licensee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts ~~listed in this subsection.~~demonstrating that it continues to meet the applicable requirements for qualification.

(d) Application Forms; Rules; Fees. – Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form required by the Secretary of State. The Secretary of State may, by rule, require applicants to furnish supporting information in addition to the information required by subsections (b) and (c) of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The Secretary of State shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: "Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete." A person who submits a false application is guilty of a Class 1 misdemeanor.

The fee for filing an application for registration under this section is one hundred dollars ($100.00). The fee for filing an application for renewal of registration under this section is fifty dollars ($50.00). The fee for filing an application for reinstatement of registration under this section is fifty dollars ($50.00).

An application for renewal of registration under this section ~~shall~~ must indicate whether the applicant is a minority business, as defined in G.S. 143-128, and ~~shall~~ include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided.

(e) Revocation of Registration. – If the Securities Division of the Department of the Secretary of State finds that any of the information contained in an application of a business registered under this section is false, it shall revoke the registration of the business. The Secretary of State shall not revoke the registration of a business solely because it ceases business operations for an indefinite period of time, as long as the business renews its registration each year as required under ~~G.S. 105-163.013.~~this section.

(f) Transfer of Registration. – A registration as a qualified ~~business venture or qualified grantee~~ business may not be sold or otherwise transferred, except that if a qualified ~~business venture or qualified grantee~~ business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving company would otherwise meet the criteria for being a qualified ~~business venture or qualified grantee~~ business, the surviving company retains the registration without further application to the Secretary of State. In such a case, the qualified ~~business venture or qualified grantee~~ business ~~shall~~ must provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company.

(g) Report by Secretary of State. – The Secretary of State shall report to the Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified business ~~ventures~~ ventures, qualified licensee businesses, and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

SECTION 6. G.S. 105-163.014 reads as rewritten:

"**§ 105-163.014. Forfeiture of credit.**

(a) Participation in Business. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or qualified grantee~~ business forfeits the credit if, within three years after the investment was made, the taxpayer participates in the operation of the qualified ~~business venture or qualified grantee~~ business. For the purpose of this section, a taxpayer participates in the operation of a qualified ~~business venture or a qualified grantee~~ business if the taxpayer, the taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a business controlled by any of these individuals, provides services of any nature to the qualified ~~business venture or qualified grantee~~ business for compensation, whether as an employee, a contractor, or otherwise. However, a person who provides services to a qualified ~~business venture or a qualified grantee~~ business, whether as an officer, a member of the board of directors, or otherwise does not participate in its operation ~~if the~~ person receives as compensation only reasonable reimbursement of expenses incurred in providing the services, participation in a stock option or stock bonus plan, or both.

(b) False Application. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit if the registration of the qualified ~~business venture or qualified grantee~~ business is revoked because information in the registration application was false at the time the application was filed with the Secretary of State.

(c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit in the following cases:

(1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:

a. The death of the taxpayer.

b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.

c. A merger, conversion, consolidation, or similar transaction requiring approval by the owners of the qualified ~~business venture or qualified grantee~~ business under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction.

(2) Except as provided in subsection (d1) of this section, within five years after the investment was made, the qualified ~~business venture or qualified grantee~~ business in which the investment was made makes a redemption with respect to the securities received in the investment.

In the event the taxpayer transfers fewer than all the securities in a manner that would result in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying the aggregate credit attributable to the investment by a fraction whose numerator equals the number of securities transferred and whose denominator equals the number of securities received on account of the investment to which the credit was attributable. In addition, if the redemption amount is less than the amount invested by the taxpayer in the securities to which the redemption is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a fraction whose numerator equals the redemption amount and whose denominator equals the aggregate amount invested by the taxpayer in the securities involved in the redemption. The term "redemption amount" means all amounts paid that are treated as a distribution in part or full payment in exchange for securities under section 302(a) of the Code.

(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this section if a qualified business venture that engages primarily in motion picture film production makes a redemption with respect to securities received in an investment and the following conditions are met:

(1) The redemption occurred because the qualified business venture completed production of a film, sold the film, and was liquidated.

(2) Neither the qualified business venture nor a related person continues to engage in business with respect to the film produced by the qualified business venture.

(e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been

due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 7. This act becomes effective for taxable years beginning on or after January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

HOUSE BILL 1294

Short Title:	Expand Qualified Business Credit.	(Public)
Sponsors:	Representatives G. Allen; Goodwin, Miner, L. Allen, and Tolson.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2004.~~2010."

SECTION 2. G.S. 105-163.010 is amended by adding the following new subdivisions to read:

"**§ 105-163.010. Definitions.**

The following definitions apply in this Part:

...

(7b) Qualified business. – A qualified business venture, a qualified grantee business, or a qualified licensee business.

...

(9a) Qualified licensee business. – A business that is registered with the Secretary of State under G.S. 105-163.013 and has been certified by a constituent institution of The University of North Carolina or a research university as currently performing under a licensing agreement with the institution or university for the purpose of commercializing technology developed at the institution or university. For the purpose of this section, a research university is an institution of higher education classified as a Research I university in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching."

SECTION 3. G.S. 105-163.012 reads as rewritten:

"**§ 105-163.012. Limit; carry-over; ceiling; reduction in basis.**

(a) The credit allowed a taxpayer under G.S. 105-163.011 may not exceed the amount of income tax imposed by Part 2 of this Article for the taxable year reduced by the sum of all other credits allowable except tax payments made by or on behalf of the taxpayer. The amount of unused credit allowed under G.S. 105-163.011 may be carried forward for the next five succeeding years. The fifty thousand dollar ($50,000) limitation on the amount of credit allowed a taxpayer under G.S. 105-163.011 does not apply to unused amounts carried forward under this subsection.

(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for investments made in a calendar year may not exceed ~~six million dollars ($6,000,000).~~ the applicable maximum provided in the table at the end of this subsection. The Secretary of Revenue shall calculate the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a calendar year exceeds ~~six million dollars ($6,000,000),~~ the applicable maximum for that year, the Secretary shall allow a portion of the credits claimed by allocating a total ~~of six million dollars ($6,000,000)~~ amount equal to the applicable maximum in tax credits in proportion to the size of the credit claimed by each taxpayer.

Year	Maximum
Before 2005	$ 6,000,000
2005	8,000,000
2006	10,000,000
After 2006	12,000,000

(c) If a credit claimed under G.S. 105-163.011 is reduced as provided in this section, the Secretary shall notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year following the calendar year in which the investment was made. The Secretary's allocations based on applications filed pursuant to G.S. 105-163.011(c) are final and shall not be adjusted to account for credits applied for but not claimed.

(d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result of an investment in a qualified ~~business venture or qualified grantee~~ business shall be reduced for the purposes of this Article by the amount of allowable credit. "Allowable credit" means the amount of credit allowed under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

SECTION 4. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. Tax credits allowed.**

(a) No Credit for Brokered Investments. – No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified ~~business venture or a qualified grantee~~ business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of

credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified ~~grantee business, a qualified business venture,~~business or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified ~~grantee business or a qualified business venture~~ business directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part."

SECTION 5. G.S. 105-163.013 reads as rewritten:

"**§ 105-163.013. Registration.**

(a) Repealed by Session Laws 1993, c. 443, s. 4.

(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified business venture. A business meets the requirements for registration as a qualified business venture if all of the following are true as of the date the business files the required application:

(1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(1a) Reserved for future codification purposes.

(1b) Either (i) it was organized after January 1 of the calendar year in which its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis.

(2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(3) It is organized to engage primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry.

(4) It does not engage as a substantial part of its business in any of the following:

a. Providing a professional service as defined in Chapter 55B of the General Statutes.

b. Construction or contracting.

c. Selling or leasing at retail.

d. The purchase, sale, or development, or purchasing, selling, or holding for investment of commercial paper, notes, other indebtedness, financial instruments, securities, or real property, or otherwise make investments.

e. Providing personal grooming or cosmetics services.

f. Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.

(5) It was not formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses.

(6) It is not a real estate-related business.

The effective date of registration for a qualified business venture whose application is accepted for registration is 60 days before the date its application is filed. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned upon other investors'

commitment of additional funds, the date of the investment is the date escrowed funds are transferred to the qualified business venture free of the condition.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars ($1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars ($1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed five million dollars ($5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(c) Qualified Grantee Businesses and Qualified Licensee Businesses. – In order to qualify as a qualified grantee business or a qualified licensee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business or a qualified licensee business. The requirements for registration as a qualified grantee business or a qualified licensee business are set out in G.S. 105-163.010.~~G.S. 105-163.010(9).~~

The effective date of registration for a qualified grantee business or a qualified licensee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified grantee business or a qualified licensee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts ~~listed in this subsection.~~demonstrating that it continues to meet the applicable requirements for qualification.

(d) Application Forms; Rules; Fees. – Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form required by the Secretary of State. The Secretary of State may, by rule, require applicants to furnish supporting information in addition to the information required by subsections (b) and (c) of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The Secretary of State shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: "Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete." A person who submits a false application is guilty of a Class 1 misdemeanor.

The fee for filing an application for registration under this section is one hundred dollars ($100.00). The fee for filing an application for renewal of registration under this section is fifty dollars ($50.00). The fee for filing an application for reinstatement of registration under this section is fifty dollars ($50.00).

An application for renewal of registration under this section ~~shall~~ must indicate whether the applicant is a minority business, as defined in G.S. 143-128, and ~~shall~~ include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided.

(e) Revocation of Registration. – If the Securities Division of the Department of the Secretary of State finds that any of the information contained in an application of a business registered under this section is false, it shall revoke the registration of the business. The Secretary of State shall not revoke the registration of a business solely because it ceases business operations for an indefinite period of time, as long as the business renews its registration each year as required under ~~G.S. 105-163.013.~~this section.

(f) Transfer of Registration. – A registration as a qualified ~~business venture or qualified grantee~~ business may not be sold or otherwise transferred, except that if a qualified ~~business venture or qualified grantee~~ business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving company would otherwise meet the criteria for being a qualified ~~business venture or qualified grantee~~ business, the surviving company retains the registration without further application to the Secretary of State. In such a case, the qualified ~~business venture or qualified grantee~~ business ~~shall~~ must provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company.

(g) Report by Secretary of State. – The Secretary of State shall report to the Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified business ~~ventures~~ ventures, qualified licensee businesses, and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

SECTION 6. G.S. 105-163.014 reads as rewritten:

"**§ 105-163.014. Forfeiture of credit.**

(a) Participation in Business. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or qualified grantee~~ business forfeits the credit if, within three years after the investment was made, the taxpayer participates in the operation of the qualified ~~business venture or qualified grantee~~ business. For the purpose of this section, a taxpayer participates in the operation of a qualified ~~business venture or a qualified grantee~~ business if the taxpayer, the taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a business controlled by any of these individuals, provides services of any nature to the qualified ~~business venture or qualified grantee~~ business for compensation, whether as an employee, a contractor, or otherwise. However, a person who provides services to a qualified ~~business venture or a qualified grantee~~ business, whether as an officer, a member of the board of directors, or otherwise does not participate in its operation if the person receives as compensation only reasonable reimbursement of expenses incurred in providing the services, participation in a stock option or stock bonus plan, or both.

(b) False Application. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit if the registration of the qualified ~~business venture or qualified grantee~~ business is revoked because information in the registration application was false at the time the application was filed with the Secretary of State.

(c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit in the following cases:

(1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:

a. The death of the taxpayer.

b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.

c. A merger, conversion, consolidation, or similar transaction requiring approval by the owners of the qualified ~~business venture or qualified grantee~~ business under applicable State

law, to the extent the taxpayer does not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction.

(2) Except as provided in subsection (d1) of this section, within five years after the investment was made, the qualified ~~business venture or qualified grantee~~ business in which the investment was made makes a redemption with respect to the securities received in the investment.

In the event the taxpayer transfers fewer than all the securities in a manner that would result in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying the aggregate credit attributable to the investment by a fraction whose numerator equals the number of securities transferred and whose denominator equals the number of securities received on account of the investment to which the credit was attributable. In addition, if the redemption amount is less than the amount invested by the taxpayer in the securities to which the redemption is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a fraction whose numerator equals the redemption amount and whose denominator equals the aggregate amount invested by the taxpayer in the securities involved in the redemption. The term "redemption amount" means all amounts paid that are treated as a distribution in part or full payment in exchange for securities under section 302(a) of the Code.

(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this section if a qualified business venture that engages primarily in motion picture film production makes a redemption with respect to securities received in an investment and the following conditions are met:

(1) The redemption occurred because the qualified business venture completed production of a film, sold the film, and was liquidated.

(2) Neither the qualified business venture nor a related person continues to engage in business with respect to the film produced by the qualified business venture.

(e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 7. This act becomes effective for taxable years beginning on or after January 1, 2004.

HOUSE BILL 1294 (PCS): Expand Qualified Business Tax Credits

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gordon Allen
Date:	June 4, 2003	**Analysis by:**	Martha H. Harris
Version:	Draft		Staff Attorney

SUMMARY: Makes the following changes to the Qualified Business Investment Tax Credits effective beginning with the 2004 tax year:

- ***Extends the sunset from 2004 to 2007.***
- ***Expands the definition of a qualified grantee business to include those that receive grants from entities such as MCNC-Research and Development Institute, a nonprofit corporation formed to enhance economic development in North Carolina through applied research and technology development and commercialization of these technologies.***
- ***Adds a new type of qualified business: a small business that is commercializing technology developed by a research university.***

Sunset: The qualified business investment tax credit was enacted in August 1987 to promote economic development for North Carolina businesses. The initial credits applied to both corporations and individual taxpayers, and there was a $12 million cap on the total amount of all tax credits. In response to a 1996 United States Supreme Court decision in Fulton Corp. v. Faulkner, the General Assembly reduced the $12 million cap to $6 million, removed the requirement that the qualified businesses be headquartered or operating in North Carolina , and limited the credit to individuals and small pass-through entities. The latter change was based on the theory that these investors are not likely to invest outside a 50-mile radius of their homes.

The credit was to expire for investments made on or after January 1, 1999. In 1998, as part of the appropriations bill, the credit was extended for four additional years until January 1, 2003. In 2002, the General Assembly extended it one year, until 2004. Section 1 of this bill would extend the sunset for three additional years until January 1, 2007.

One of the purposes of the sunset was to determine if the credit is being allowed for investments in non-North Carolina businesses. Because the Constitution does not allow the credit to be restricted to North Carolina businesses, there is the possibility that North Carolina tax dollars may actually be subsidizing investments in out-of-State corporations. The Secretary of State's Office is required to publish a periodic list of businesses that have registered as qualified businesses. This list should provide an indication as to whether this credit is being taken advantage of by non-North Carolina corporations.

Expand Types of Qualified Businesses: Under current law, n order to be a business in which investments are eligible for a credit, the business must be either a *qualified*

business venture or a *qualified grantee business*. Both types of businesses must be registered with the Secretary of State. The definition of *qualified business venture* includes several general requirements related to the line of business, gross revenues of the business, and the organization date of the business. A *qualified grantee business* is one that has received a grant or other funding in at least one of the three previous years from one of several types of entities that are generally described in the statute. Those descriptions would encompass the following entities that, before 2002, were specifically named in the statute: the North Carolina Biotechnology Center, MCNC, and the Kenan Institute for Engineering, Technology, and Science. Section 2 of this bill would expand one of these descriptions, which currently applies to nonprofits organized to stimulate microelectronics and communications industries, to also apply to nonprofits organized to stimulate the wireless industry and networking and related technologies. This language is designed to bring in a new entity called MCNC-Research and Development Institute, which is a nonprofit corporation formed to enhance economic development in North Carolina through applied research and technology development and commercialization of these technologies.

Section 2 of this bill would also add a third category of qualified businesses: a *qualified licensee business*. These businesses must have no more than $1 million in gross revenues annually and must be performing under a contract with a UNC system institution or a doctoral research university to commercialize technology developed by the institution or university.

Background Information: The qualified business investment tax credit is allowed for an individual taxpayer who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. The credit may not be taken in the year the investment is made. Instead, the credit is taken in the year following the calendar year in which the investment was made, but only if the taxpayer filed an application with the Secretary of State. Any unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed with the Secretary of State. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $6 million in tax credits in proportion to the size of the credit claimed by each taxpayer. In general, a taxpayer forfeits the credit if the taxpayer transfers the securities within one year or the qualified business redeems the securities purchased by the taxpayer within five years after the investment was made.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 4, 2003

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: HB 1294 PCS (CSLC v.1) – Expand Qualified Business Tax Credits

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($Million) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	-	-	(6.0)	(6.0)	(6.0)
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Department of the Secretary of State

EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after January 1, 2004.

BILL SUMMARY: The bill extends the qualified business tax credit program's sunset from 2004 to 2007, expands the definition of a qualified grantee business, and adds a new type of grantee business.

BACKGROUND:

Enacted in August 1987 and scheduled to sunset in 2003, the qualified business investment tax credit is allowed to individuals and pass through entities. A maximum of $6 million in credits is allowed each year. For individual taxpayers, the credit is for those who purchase the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. To be eligible for the tax credit, an individual investor must file Form D-499, Application for Tax Credit for Qualified Business Investments, with the Department of Revenue on or before April 15 of the year following the calendar year in which the investment was made. Any unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed with the Secretary of State. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $6 million in tax credits in proportion to the size of the credit claimed by each taxpayer.

ASSUMPTIONS AND METHODOLOGY:

Section one of the bill extends the sunset of the Qualified Business tax credit from 2004 to 2007. Since the General Fund revenue forecast for future fiscal years assumes an end to the Qualified Business tax credit program, extension of the sunset means there will be a General Fund revenue loss from FY 2005-06 until FY 2007-08. The revenue loss from tax year 2004 is delayed because investments are made in 2004, applications for the tax credit on the 2004 investments are made in 2005, the Department of Revenue notifies taxpayers in November/December of 2005 of the amount of credit they will receive, then the taxpayers file their tax returns in spring 2006. This puts the revenue loss for 2004 into FY 2005-06.

The bill continues to cap the General Fund revenue loss from the tax credit at $6 million. This fiscal analysis assumes the credit maximum will be reached in each of the next five years based on program history. The amount of credits applied for exceeded the $6 million cap four out of five years between 1997 and 2001 (see chart below).

Year Credit Claimed	Individuals	Corporations/ Pass-Throughs	Total
1997	2,322,317	3,677,683	6,000,000 *
1998	4,235,771	1,108,870	5,344,641
1999	4,714,892	1,285,108	6,000,000 *
2000	4,221,732	1,778,268	6,000,000 *
2001	3,612,777	2,387,223	6,000,000 *
	$41,516,450	**$15,959,343**	**$57,475,793**

*In these years, total credits requested exceeded $6 million. Actual requests were as follows:	
1997	$9,250,000
1999	6,450,000
2000	7,000,000
2001	19,000,000

In 2002, taxpayers have applied for $5.6 million in credits, but the Department of Revenue will not have complete numbers on 2002 qualified business tax credits until extension returns are filed this fall.

Another reason this note assumes the credit maximums will be reached is the expansion in the number of investments taxpayers may receive a tax credit. Section 2 of the bill adds qualified licensee businesses to the list of entities that taxpayers may invest in to get a qualified business tax credit. Qualified licensee businesses have less than $1million in gross revenues and are under contract with a doctoral research university or a UNC system school to commercialize technology developed by the university or institution. Section 2 also expands the definition of qualified grantee business to include nonprofits organized to stimulate the wireless industry and the networking and related industry. This will make investors into MCNC-Research and Development Institute grantees eligible for the tax credit.

SOURCES OF DATA: Department of Revenue; Department of the Secretary of State

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

as corrected 6/9/03

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1294 A BILL TO BE ENTITLED AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1294 A BILL TO BE ENTITLED AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT.

in caucus

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 971
PROPOSED COMMITTEE SUBSTITUTE H971-CSLA-21 [v.1]

6/4/2003 9:28:07 PM

Short Title: Cosmetic Art/Continuing Education. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired ~~licenses.~~licenses; inactive status.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ cosmetologist's, esthetician's, or manicurist's license, the ~~teacher~~ licensee shall annually complete ~~a minimum of~~ eight hours of Board-approved continuing education ~~which shall be approved by the Board. Teachers~~

for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are at least 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. This act becomes effective October 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 971

Short Title:	Cosmetic Art/Continuing Education.	(Public)
Sponsors:	Representative Howard.	
Referred to:	Ways and Means.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired ~~licenses.~~licenses; inactive status.**

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(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ cosmetologist's, esthetician's, or manicurist's license, the ~~teacher~~ licensee shall annually complete ~~a minimum of~~ eight hours of Board-approved continuing education ~~which shall be approved by the Board. Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of

required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. This act becomes effective October 1, 2003.

HOUSE BILL 971:
Cosmetic Art/Continuing Education

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard
Date:	June 4, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Committee Substitute.		Committee Counsel

SUMMARY: House Bill 971 amends the Cosmetic Art Act as follows:

- *Requires cosmetologists, estheticians and manicurists to annually complete 8 hours of Board-approved continuing education for each year of the licensing cycle.*
- *Exempts a licensee who is at least 62 years old or is a non-practicing cosmetic art teacher.*
- *Allows a cosmetologist to complete up to 24 hours of the required continuing education at any time within the cosmetologist's three-year licensing cycle.*
- *Authorizes the Board to establish an inactive list of licensees and exempts inactive persons from the continuing education requirements.*

BILL ANALYSIS: Under current law, a cosmetology teacher, esthetician teacher, or a manicurist teacher must annually compete a minimum of eight hours of Board-approved continuing education before the teacher's license may be renewed. Licensed cosmetologists, estheticians, and manicurists are not required to complete continuing education. House Bill 971 would require licensed cosmetologists, estheticians, and manicurists to annually complete eight hours of Board-approved continuing education, although a cosmetologist may complete up to 24 hours at any time within the cosmetologist's three-year license cycle. House Bill exempts the following licensees from the continuing education requirements: (a) a licensee who is at least 62 years old, and (b) cosmetic art teachers, unless the teacher is actively practicing as a cosmetologist, esthetician, or manicurist.

House Bill 971 authorizes the Board to establish an inactive list of licensees. The inactive licensee must be in good standing with the Board and may not practice cosmetic art for consideration. The inactive licensee is not required to complete continuing education requirements and may continue to purchase supplies as accorded an active licensee. The licensee must notify the Board when he or she desires to return to active status, pay the required fee, and compete any continuing education required by the Board.

The act becomes effective October 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 971 (First Edition)

SHORT TITLE: Cosmetic Art/Continuing Education

SPONSOR(S): Representative Howard

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: None

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-21 by requiring holders of cosmetologist's, esthetician's, or manicurist's licenses, prior to renewal of their licenses, to complete eight hours of continuing education for each year of the licensing cycle. This is an annual requirement. The continuing education program must be approved by the NC Board of Cosmetic Art Examiners (the Board). A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist. Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of G.S. 88B-21.

ASSUMPTIONS AND METHODOLOGY:

There are no accurate estimates available to evaluate fiscal impact of the proposed bill. Training and education for cosmetic art licensees is provided by different agencies and its costs vary broadly (generally between $50 and $180), based on the cosmetic specialty, length of training, and use of equipment. Table 1 presents summary of the data provided by the Board on the number of licenses of various cosmetic art specialists.

Table 1. Cosmetic Art Licenses

Specialty	Number of Licenses	Training Quantity and Frequency
Cosmetologist	45,679	24 hours within three years
Manicurist	8,149	8 hours annually
Esthetician	1,084	8 hours annually

It was impossible to determine the exact number of inactive licenses for each specialty. It was also impossible to determine the number of licenses that become inactive or return to active status on the annual basis. The number of licensees above 62 years of age is not monitored by the Board.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 4, 2003.

House Committee on Finance

Minutes

~

June 10, 2003

The House Committee on Finance met on Tuesday, June 10, 2003 at 8:30 am in Room 544 of the Legislative Office Building. A majority of the members were present for the official conduct of business. Also present were members of Staff as well as Sergeant-at-Arms: Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:35 am and immediately recognized the six (6) pages present: (1) Andrew Butchelor of Wake County, sponsored by Representative Church (2) Jacob Carr of Wake County, sponsored by Representative Capps; (3) Alicia Davis of Wake County, sponsored by Representative Ross; (4) Dan Mercer of Wake County, sponsored by Representative Young, (5) Clarke Munford of Wake County, sponsored by (and the son of) Representative Munford; and (6) Henry Neese of Wake County, sponsored by Representative Munford.

As the first matter of business before the Committee, Chairman McComas recognized Senator Weinstein to explain **SB 414 – ROBESON REAPPRAISAL TIMING** (see attachment 3). He explained that the bill acts to provide a one-year delay on the reappraisal of property in Robeson County. Suffering from a poor rate of tax collection in the past, the County has purchased new equipment and devoted more personnel to help with the situation. The Senator was requesting this one-year delay to allow the County to prepare for the use of these new collection measures. Seeing no questions from the Committee members, Chairman McComas recognized Representative G. Allen, who moved for a favorable report on the bill. The Chair called the vote and the motion carried.

The Chair next recognized Senator Queen to explain his bill, **SB 450 – PROPERTY TAX CORRECTION** (see attachment 4). Senator Queen stated that the County Commissioners of Haywood County requested this bill. He explained that the bill corrects a problem that the County created when the residents of the County were all taxed assuming the presence of a well or septic system on their property. Overall, SB 450 sets a new precedent by allowing a governing body of a taxing unit to release or refund a portion of taxes on property for only the prior fiscal year (2002-2003) outside of the normal appeals process. The Chair recognized Representative Carney. She moved for a favorable report on the bill. Seeing no other questions and being assured there was no opposition to the bill, Chairman McComas then called the vote and the motion carried by consent.

HB 673 – AVERY FIRE PROTECTION (see attachment 5) was the next bill before the Committee. Chairman McComas then recognized the bill sponsor, Representative Frye, to explain the bill. He explained simply that the bill acts to allow Avery County to establish an Avery County Fire Commission. He also noted the creation of this commission was favored unanimously by the County Commissioners and that he was aware of no opposition to the bill. Representative Setzer

was then recognized by the Chair and moved for a favorable report on HB 673. There being no further questions from the Committee, the Chair called the vote and the motion carried by consent.

Chairman McComas next recognized Representative Sexton to explain **HB 1026 – WORTHLESS CHECK PROGRAM/EXTEND STATEWIDE** (see attachment 6). He explained that a model from Alabama was used to pattern the system for North Carolina and that since the program's inception in "pilot" districts, there were numerous requests every legislative session to extend the program to additional areas throughout the State. As a result, he explained that this bill, as the short title suggests, extends the program statewide. Representative Hill, after being recognized, then moved for a favorable report. The motion carried by consent.

HB 1257 – AMEND RESPIRATORY CARE PRACTICES ACT/FEES (see attachment 7) was the next bill considered by the Committee. Representative Jones, upon recognition from the Chair, moved that the Committee adopt the Proposed Committee Substitute (PCS) to the bill for discussion purposes. His motion carried without objection. The Chairman then recognized the bill sponsor, Representative Tolson, to offer an explanation on the PCS of HB 1257. He explained that the bill amends the Respiratory Care Practice Act in a number of ways (refer to the Bill Analysis for further detail). Following this explanation, Representative Hill moved for a favorable report to the PCS for HB 1257, and unfavorable report to the original bill. Representative Ellis voiced his concern that these fee increases appear extremely high. He also noted that while he understands that the Board is requesting a cap on the fees that it can charge rather than what it plans to charge at the present as a way to avoid coming to the legislature each year for additional increases, he explained that the effect of this on legislators could appear very negative. Having stated this, Representative Ellis then inquired if Representative Tolson would agree to an amendment to the bill when it reached the House floor. He explained that the amendment places the fee rates on a scheduled index that allows for increases over time. Representative Tolson agreed to this request. Representative Womble was then recognized and asked if there was any concern about these increases from the public. Floyd Bohyer, Executive Director of the North Carolina Respiratory Care Board, was present and addressed Representative Womble's inquiry by stating that there was no known opposition from anyone on the proposed fee increases. Representative Ellis was again recognized and sent forth an amendment to change only the title of the bill in preparation of his aforementioned substantive Floor amendment to the bill. (Note: the Rules of the House do not provide that an amendment can be offered on the floor that changes the title of the bill.) Representative Ellis explained that the amendment made no change to the language of the bill at the time and moved its' adoption. The Chair called the proposed amendment to a vote and the amendment was adopted by consent.

Representative Hill then reasserted his motion for a favorable report to the PCS on HB 1257. However, prior to the vote, the Chair recognized Representative Decker for a parliamentary inquiry concerning the Ellis amendment that was just adopted. He stated that the Rules of the House require that the substance of the bill be provided in its' title. He then inquired how Representative Ellis' amendment was permissible. Gerry Cohen, Director of Bill Drafting, was then recognized to provide his expert opinion on the matter. Mr. Cohen stated that only the title of the bill had changed and the additions to the title made by Representative Ellis' amendment were not substantive; however, he still concurred with Representative Decker's point. Representative Decker then moved that the Committee reconsider the vote taken on the Ellis amendment. Representative Ellis then asked Representative Decker if he had voted against the amendment on the initial vote. (As noted above, the amendment was adopted by consent.) Representative Decker then stated that

the amendment was called by a voice vote and, therefore, his vote could not be verified. He further stated that, in Committee, members were to be afforded the largest leeway when considering parliamentary issues. Chairman McComas then informed the members of his intent to displace the bill from the Committee calendar, as there were a number of other bills requiring attention. He further encouraged Representatives Decker and Ellis as well as Mr. Cohen to confer on the matter.

Representative K. Williams was then recognized by the Chair to explain **HB 1028 – NEW BULKHEAD PERMIT** (see attachment 8). He explained that the bill was non-controversial. He also stated that the Coastal Resources Commission had approved the bill. Specifically, the bill acts to direct the Commission to adopt temporary and permanent rules to establish a general permit for the construction of offshore sills for shoreline and wetland protection (i.e. the prevention of erosion). The Chair then recognized Representative Blackwood who moved for a favorable report on the bill. Following a technical question from Representative Wilson, the Chair called the vote and the motion for favorable report carried.

SB 76 – INCORPORATE MISENHEIMER (see attachment 9), sponsored by Senator Purcell, was considered next. Representative Howard moved that the PCS for SB 76 be adopted for consideration and the motion carried without objection. Representative Goodwin, on behalf of the Senator, was recognized to briefly explain the bill. He stated that the citizens and residents of the Village of Misenheimer, including the administration of Pfeiffer University, requested this bill. The Chair then recognized Mr. Peter Edquest, a member of the Village's Board and Committee on Incorporation. He gave his strong support of the bill noting research stating that at least 84 percent of the population of Misenheimer favors its' incorporation. However, Mr. Joe Carter, a resident of Misenheimer, was present and recognized to speak in opposition to the bill. He stated that there was a rapidly growing list of those who oppose Misenheimer's incorporation. He also spoke of failed efforts in the past to further discuss the matter with Mr. Edquest. Chairman McComas then recognized Representative Goodwin who stated that this was the first time that he had even met Mr. Carter. In the interest of time, the Chair acted to displace the bill, suggesting that Representative Goodwin, along with Senator Purcell, work with Mr. Carter on his concerns with the bill.

Representative Howard was then called upon by the Chair to explain **HB 971 – COSMETIC ART/CONTINUING ED/PENALTY CHANGE** (see attachment 10). Representative Capps moved the adoption of the PCS for HB 971 for discussion purposes. His motion carried without objection. Representative Howard then stated that, overall, the bill makes the following changes to the Cosmetic Art Act:

- Requires cosmetologists, estheticians, and manicurists to annually complete 8 hours of Board-approved continuing education for each year of the 3-year licensing cycle;
- Exempts a licensee who is at least 62 years old or is a non-practicing cosmetic art teacher;
- Authorizes the Cosmetic Art Board to establish an inactive list of licensees and exempts inactive persons from the continuing education requirements.

Following this explanation, the Chair recognized Representative Decker. He then alleged that Representative Howard had purposely taken action to remove this bill from the Committee on Ways and Means, which he co-chairs with Representative Pate, without his knowledge or approval. He further stated that Representative Howard's action broke House Rule 39.2, which requires that the

Chairman of a Committee in which a bill is requested to be withdrawn, must give consent for the action to occur. Representative Howard then informed Representative Decker that she had received consent from his co-Chair, Representative Pate, to withdraw the bill from the Committee on Ways and Means. Despite this, Representative Decker then made the motion that the bill be removed from the Finance Committee calendar and be re-referred back to the Ways and Means Committee. He further made the "serious allegation" that Representative Howard's actions were "highly unethical". Representative Howard states that the bill should be based upon its own merits and not on political disagreements. Representative Decker then stated that "the spirit of the House" with its' Co-Speakers was supposed to be one of cooperation. He suggested that the bill be removed from the day's agenda and that he and Representative Howard seek out a meeting with the Speakers and the Rules Chairman, Representative Culpepper, to further discuss the matter.

Chairman McComas then stated the fact that HB 971 had been re-referred from the Ways and Means Committee on June 8, 2003, over thirty days ago. He also spoke about the strong trust shared for one another among the Finance Chairs, noting that such trust and open discussion/communication is apparently not present among the co-Chairs of the Ways and Means Committee. Following these statements, the Chair informed Representative Decker that he was unaware of the specifics of the situation being described and ruled that consideration of HB 971 would continue. He, however, inform Representative Decker that following the debate of the bill, he would entertain a motion to have the bill reported without prejudice from the Finance Committee with a recommendation that the bill be re-referred to the Committee on Ways and Means, if Representative Decker still desired to make such a motion at that time.

Representative Howard was then recognized to further explain the bill and address questions from the members. She stated that the bill simply seeks to "raise the bar" in the various professions of Cosmetic Art and requested that the members move the bill forward out of the Committee with a favorable report. Helen Pollard Frazier, with the North Carolina Cosmetology Liaison Committee, was recognized and spoke in high support of the bill as well as answered several questions from the members. Ms. Virginia Saunders, a cosmetology teacher from Moore County, was also present and spoke in opposition of the bill. With completion of the debate on the bill, Representative Decker was again recognized and moved that HB 971 be reported from the Committee without prejudice and be re-referred to the Committee on Ways and Means. The Chairman then recognized Representative Ellis who offered a substitute motion that the PCS for HB 971 receive a favorable report, with an unfavorable report as to the original bill. Chairman McComas, however, upon conferring with Mr. Cohen, stated that Representative Ellis' motion was out of order, as the House Rules do not provide for substitute motions. The Chair decided to hear the Decker motion first and, if it failed, he would entertain a new motion from Representative Ellis for a favorable report. At that time, the Chair called the vote on the Decker motion (as above) and the motion failed. Chairman McComas then recognized Representative Ellis who then made a new motion that the PCS for HB 971 receive a favorable report (as above). The Chair called the vote and with 13 ayes and 12 nays, the motion carried. Representative Howard then thanked the Committee members for their consideration

Having no further business before the Committee, Chairman McComas then immediately adjourned the meeting at 9:51 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 414 (and related materials)
4. Senate Bill 450 (and related materials)
5. House Bill 673 (and related materials)
6. House Bill 1026 (and related materials)
7. House Bill 1257 (and related materials)
8. House Bill 1028 (and related materials)
9. Senate Bill 76 (and related materials)
10. House Bill 971 (and related materials)
11. House Bill 806 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 10, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order & Introduction of Pages

Bills:

HB 673 AVERY FIRE PROTECTION *Rep. Frye*

HB 806 REBATE AND GRANT PROGRAM FOR AFVS *Rep. Tolson*

HB 971 COSMETIC ART/CONTINUING EDUCATION *Rep. Howard*

HB 1026 WORTHLESS CHECK PROGRAM/EXTEND STATEWIDE *Rep. Sexton*

HB 1028 NEW BULKHEAD PERMIT *Reps. K. Williams & Justice*

HB 1257 AMEND RESPIRATORY CARE PRACTICE ACT/FEES *Reps. Tolson & Nye*

SB 76 INCORPORATE MISENHEIMER *Sen. Purcell*

SB 414 ROBESON REAPPRAISAL TIMING *Sen. Weinstein*

SB 450 PROPERTY TAX CORRECTION *Sen. Queen*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Williams	N.C. Society For Resp. Care Zebulon, NC
Garrett Alexander	Research Council
Susan Wilson	United Cosmetic Art Ass Town Country Apex
Rob Stephens	Town & Country Apex, NC United Cosmetic Art
Lonnie Wilson	Town + Country Apex NC United Cosmetic Art
Bonnie Harper	Town: Country Apex, N.C. United Cosmet Art
Kip Carter	Town + County apex nc United Cosmetic Art
Sidy Ann Carter	Town + County apex United Cosmetic Art
Linda Speight	United Cos. Art Ass.
Amanda Sawyer	Central Carolina
Amy Page	Central Carolina

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jay Stephenson	NCA of N.C. President - P.O. Box 1475 Angier, N.C. 27501
Sharon Stroud	State Energy Office MSC 1340
Floyd Boyer	NC Respiratory Care Board
Charles Mann	NC Respiratory Care Board
Peter Edquist	Village of Misenheimer
Doris Weaver	NC CWA Political Council
Anne Tazewell	TJCOG Clean Cities
Sam N. Lee Jr	Crain Growers Cooperative, Inc
Brian Potter	Potter Oil
Dave Holec	City of Greenville
Clark Everett	District Attorney Pitt Co

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tommy Harrah	Enterprise
Joe Carter	MISENHEIMER
Tom Coley	CWA
Jim Stephenson	NC Coastal Federation
[illegible]	UCICU
Elisa Wolper	AOC
Jim Blackburn	NC Association of County Commissioners
Ricky Williams	United Cosmetic Art Association
BEN MATTHEWS	NCDPI
Tobin Freid	TJCOG
FAY McCutcheon	Cos-Clint
Wm H Potter Jr	NCDS & NCPTA
Paul Stock	NC Bankers Assn

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Helen Frazier	N.C. Cos. Liaison Council
Dee Williams	NC Fi Bd. of Cos.
Bennetta Smith	NC State Bd of Cos. Art
Thomas McCormick	City of Raleigh.
Larry Shirley	State Energy Office
Diane Johnson	DMV
Robert Andrew Smith	The LEAFLIGHT, INC.
Bennett Finkler	Central Carolina Comm. College Pittsboro, NC
Mary L. Singletary	Intern - Rep. Jeffus
Steve Wall	Conservation Council

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 05, 2003 4:38 PM
Subject: CORRECTED NOTICE House Finance Committee 6-10-2003
Importance: High

CORRECTED NOTICE

HB 51-REMOVED / HB 1026-ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, June 10, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

~~**HB 51 – UNC TUITION/MILITARY STUDENTS – Reps. McAllister, Dickson, Lucas, & Glazier**~~

HB 673 – AVERY FIRE PROTECTION – Rep. Frye

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 971 – COSMETIC ART/CONTINUING EDUCATION – Rep. Howard

HB 1026 - WORTHLESS CHECK PROGRAM/EXTEND STATEWIDE – Rep. Sexton

HB 1028 – NEW BULKHEAD PERMIT – Reps. K. Williams & Justice

HB 1257 – AMEND RESPIRATORY CARE PRACTICE ACT/FEES– Reps. Tolson & Nye

SB 76 – INCORPORATE MISENHEIMER – Sen. Purcell

SB 414 - ROBESON REAPPRAISAL TIMING – Sen. Weinstein

SB 450 – PROPERTY TAX CORRECTION– Sen. Queen

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:50 P.M.** on **June 5, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 05, 2003 1:53 PM
Subject: NOTICE House Finance Committee 6-10-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, June 10, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 51 – UNC TUITION/MILITARY STUDENTS
– Reps. McAllister, Dickson, Lucas, & Glazier

HB 673 – AVERY FIRE PROTECTION – Rep. Frye

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 971 – COSMETIC ART/CONTINUING EDUCATION – Rep. Howard

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SB 76 – INCORPORATE MISENHEIMER – Sen. Purcell

SB 414 - ROBESON REAPPRAISAL TIMING – Sen. Weinstein

SB 450 – PROPERTY TAX CORRECTION– Sen. Queen

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **1:50 P.M.** on **June 5, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 414

Short Title:	Robeson Reappraisal Timing.	(Local)
Sponsors:	Senator Weinstein.	
Referred to:	Finance.	

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW ROBESON COUNTY TO DELAY THE REAPPRAISAL OF PROPERTY FOR PROPERTY TAX PURPOSES BY ONE YEAR.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 105-286, Robeson County may delay the reappraisal of real property required to be completed by 2004 under that section until 2005. This delay does not delay the schedule of reappraisals established in G.S 105-286, and Robeson County must then complete its next reappraisal by 2012.

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

SENATE BILL 414:
Robeson Reappraisal Timing

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Weinstein
Date:	June 10, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 414 would allow Robeson County to delay its scheduled reappraisal of property by one year. The bill becomes effective when it becomes law.***

BILL ANALYSIS: G.S. 105-286 requires counties to reappraise all real property at least once every eight years. The statute sets up a schedule of reappraisals by county. Robeson County conducted its last reappraisal in 1996. It is scheduled to hold its next reappraisal in 2004. Because of a variety of factors, an accurate reappraisal cannot be conducted next year. Rather than conduct an inaccurate reappraisal, Senate Bill 414 would allow the county an additional year to correct its records and prepare for an effective reappraisal in 2005. The bill requires the County to conduct its next reappraisal by 2012, thereby keeping it in its current statutory reappraisal schedule.

BACKGROUND: In 2001, a task Force Committee comprised of academic and expert practitioners in the field of property taxation met in Robeson County to assess the status of the County's tax administration. The Committee found that the County had the lowest collection percentage at 86% that the Committee had seen in a task force consultation project. The statewide average collection percentage is 95%. A closer examination of the tax records has revealed the following:

- A significant number of properties receiving exemptions or exclusions that may not be deserved.
- In 2000, "unknown owner" properties were deleted from the taxable database.
- 5500+ records with discrepancies in the deeded and calculated acreage.
- Rules established in the database conversion to create account numbers were not sustained requiring the maintenance of 50,000+ records.
- Historically new construction has lagged from 1 to 1 ½ years behind. Years 2001 and 2002 are still being completed.
- The 1996 schedule of values was not converted to the new CAMA system requiring duplicative work in the old and new CAMA systems to complete both appraisal and real estate data entry.
- The GIS will not be completed until late 2003 preventing analysis of the revaluation efforts prior to 2004.

To proceed with the reappraisal as scheduled would result in incorrect property records and erroneous values. The County did not experience a good reappraisal in 1996 and taxpayer confidence in the county tax system is low. By delaying the reappraisal by one year, the County will have time to contract with an appraisal company to correct the current tax records and make the corresponding data entries. It will also allow the GIS to be completed and the quality of the reappraisal efforts to be examined thoroughly.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 414 A BILL TO BE ENTITLED AN ACT TO ALLOW ROBESON COUNTY TO DELAY THE REAPPRAISAL OF PROPERTY FOR PROPERTY TAX PURPOSES BY ONE YEAR.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 450*

Short Title:	Property Tax Correction.	(Public)
Sponsors:	Senator Queen.	
Referred to:	Finance.	

March 18, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE RELEASE OR REFUND OF CERTAIN PROPERTY TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 105-380 and G.S. 105-381, for the 2002-2003 tax year a taxing unit shall release or refund the portion of property taxes paid on real property that is attributable to the erroneous inclusion of a septic or well system in the valuation of the property. For the purposes of this act, "erroneous inclusion of a septic or well system" means the inclusion in the valuation of real property of the value of a septic or well system that is not in fact a component part of the real property. The term does not include any other errors related to septic or well systems in the valuation of real property.

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

SENATE BILL 450:
Property Tax Correction

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Queen
Date:	June 10, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 450 sets a new precedent by allowing a governing body of a taxing unit to release or refund a portion of taxes on property for the prior fiscal year outside of the appeals process. The bill is restricted to a release or refund of the portion of taxes attributable to the inclusion of a well or septic system in valuing property when there was no well or septic system on the property. Many of the properties affected are served by public water and sewer, but the schedule of values did not specifically include a value to be assigned to public water and sewer as it did for wells and septic systems. The authority covers tax year 2002-03.

BILL ANALYSIS AND BACKGROUND: Senate Bill 450 seeks to address a situation that has arisen in Haywood County. The issue appears to place two rules of property taxation at odds: the valuation of property at its fair market value and the strict adherence to a county's schedule of values.

G.S. 105-283 and 105-284 require property to be appraised and assessed uniformly at its fair market value. G.S. 105-317 requires the assessor to prepare and the board of county commissioners to adopt a uniform schedule of values, standards, and rules to be used in appraising real property at its true value.

In the schedule of values adopted by the County for its most recent reappraisal, one of the factors used to appraise real property is the property's access to water and sewer. There was to be added to a property's value $1,500 for sewer (denoted as a "S" in the schedule) and $2,000 for water (denoted as a "W" in the schedule of values). There was a 0 value denoted for PW (public water) and for PS (public sewer). Typically properties within a municipality have public water and sewer and properties located in the more rural parts of the county have well and septic systems. To ensure that urban and rural properties were treated similarly, the assessor added $3,500 to properties that had either public water and sewer or well and septic systems. The rationale is that the preparer of the schedule of values used S and W to denote all methods of sewer and water access rather than differentiating between public systems and wells and septic systems.

The statutes allow for the board of equalization and review to implement changes that are necessary to insure that an individual's property is appraised at fair market value through the appeals process. The Board of Equalization and Review in Haywood County heard all appeals filed with it before the published July 31 adjournment date. In some instances, the board reduced the property value of some taxpayers with public water and sewer by $3,500 because the addition of that amount conflicted with the schedule of values. The Board of County Commissioners

wants to unilaterally reduce by $3,500 all the property served by public water and sewer on the premise that to do otherwise conflicts with its schedule of values.

G.S. 105-287(a)(2) and G.S. 105-325(a)(4) allows an assessor and the board of equalization and review to change values that resulted from a clerical error. Haywood County asserts that the misapplication of the county's schedule of values is a clerical error. The County asked the Attorney General if it could make such an adjustment based on these statutes. George Boylan, Special Deputy Attorney General in the Revenue Section, responded that the County could make future adjustments to achieve fair market value upon the petition of a taxpayer, but it could not do so for the prior 2002-tax year. The letter suggested seeking local legislation that would confer additional taxpayer rights for the prior tax year. Senate Bill 450 appears to go beyond conferring additional taxpayer rights by allowing the county to reduce urban property values by $3,500 regardless of whether or not a taxpayer petitions the county for such an adjustment.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 450 (1st Edition)

SHORT TITLE: Property Tax Correction

SPONSOR(S): Sen. Queen

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Haywood County	(174,552)				
Haywood municipalities & fire districts	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, NC local governments.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill requires that a local unit of government release or refund certain taxes associated with the inclusion of a septic or well system in the valuation of real property. In particular, the bill defines the "erroneous inclusion of a septic or well system" as the inclusion in the valuation of real property a septic or well system that is not a component part of the real property, and requires that taxes on that amount be refunded. The act applies only to taxes paid for the 2002-03 fiscal year.

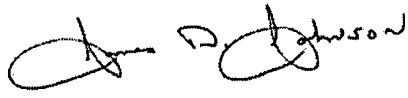
ASSUMPTIONS AND METHODOLOGY: According to the Department of Revenue, the controversy centers in Haywood County. The Haywood County attorney indicates that the assessor's office added a total of $3,500 in value to each property that had water and sewer or septic as an attempt to reflect the increased value associated with those improvements. However, the schedule of values adopted by the commission suggested that no such adjustment is required. The bill requires the local taxing unit to refund or release all taxes paid on the adjustments. Calculations provided by the county assessor suggest that the bill affects approximately $28.6 million in value and will result in a county revenue loss of approximately $174,552. The bill will also negatively affect revenues in the associated municipalities and fire districts, although no specific revenue information is available for those taxing units. Because the bill limits the requirement to the 2002-03 tax year, the impact is for one year only.

Both the Department of Revenue and the Attorney General have advised Haywood County that this situation cannot be corrected under the "clerical error" portion of the Machinery Act.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: April 7, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 450 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE RELEASE OR REFUND OF CERTAIN PROPERTY TAXES.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 673
Committee Substitute Favorable 4/30/03

Short Title: Avery Fire Protection. (Local)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO ENABLE THE COUNTY OF AVERY TO ESTABLISH AN AVERY COUNTY FIRE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. There is hereby created the "Avery County Fire Commission" (hereinafter referred to as the "Commission"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly.

SECTION 2. The Avery County Board of Commissioners and the Commission shall jointly adopt a mission statement as well as a memorandum of understanding jointly agreed upon and clearly stating the expectations and obligations of each under this act.

SECTION 3.(a) The Commission shall consist of five persons who are residents of Avery County, two of whom shall be consumers appointed by the Board of Commissioners and two of whom shall be firemen approved by the Avery County Fire Association and appointed by the Board of Commissioners. The other four sitting members of the Commission shall choose the remaining member. In case of a deadlock or failure of the seated members to act within 60 days to fill the fifth seat, a five-member committee composed of the Chairman of the Board of Commissioners and another commissioner appointed by the Chairman, the President of the Fire Association and another member of the Fire Association, and a fifth person chosen jointly by the other four members of the committee will make the appointment. The County Manager shall serve as a nonvoting ex officio member of the Commission and shall be the liaison from the Commission to the Board of Commissioners. No elected official may serve on the Commission. Any member of the Commission can be a member of a rescue unit, but membership in a rescue unit is not a prerequisite for any appointment.

SECTION 3.(b) One of the initial Fire Association appointees shall be appointed for a two-year term; the other shall be appointed for a one-year term. One of

the initial appointees by the Board of Commissioners shall be appointed for a two-year term; the other shall be appointed for a one-year term. The at-large member appointed by the four seated members shall serve a two-year term. All successors shall serve two-year terms. Unexcused absence from two out of three consecutive, regularly scheduled meetings, or absence from one-third of the meetings per year, shall be grounds for removal from the Commission. Recurring noncompliance with Commission decisions or duly adopted policy enacted by a majority vote of the Commission shall be grounds for removal from the Commission by the Board of Commissioners.

SECTION 3.(c) The officers of the Commission shall consist of a chairman, a vice-chairman, and a secretary/clerk. At the first meeting of each calendar year, the Commission shall elect from its own membership, by majority vote, a chairman, a vice-chairman, and a secretary/clerk, each of whom shall serve for one year or until the officer's death, resignation, retirement, or removal. The chairman, vice-chairman, or secretary/clerk may be removed from office by a simple majority vote of the Commission whenever, in its judgment, the best interests of the Commission will be served thereby. The Commission shall fill any vacant officer's position within 30 days of the vacancy.

SECTION 3.(d) The chairman shall preside at all meetings of the Commission, appoint all subcommittees, serve as an ex officio member of such subcommittees, delegate responsibilities to members, notify members and the media of meeting times and dates, and, upon approval of the Commission member, sign all minutes and any such records, vouchers, or other documents connected with the work of the Commission requiring such signature. The chairman is responsible for the decorum of the meeting and may remove from the meeting, by simple majority, any member who is deemed to be disruptive.

In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. The vice-chairman shall also exercise such duties as from time to time may be assigned to him by the chairman of the Commission.

The secretary/clerk shall record the actions of the Commission, maintain and secure all pertinent Commission material, and ensure adequate correspondence with Commission members. All approved minutes of Commission meetings will be made available for public review upon request.

SECTION 3.(e) The Commission shall meet at least monthly for regular meetings. The regular meetings shall be held in a public facility convenient to the public, preferably at the County Office Building.

The chairman may call such special meetings as may be deemed necessary to carry out the duties of the Commission, or, upon the written request of at least three members, the chairman shall call a meeting within 10 days. Notice of special meetings shall be given to all Commission members at least 48 hours in advance of any such meetings.

Three or more members shall constitute minimum attendance to conduct business.

Notice of the agenda items to be considered at each regular meeting shall be communicated to all members at least three days prior to each meeting. All meetings

shall be conducted with strict compliance to the duly adopted Commission policy and procedures manual.

SECTION 3.(f) Each Commission member shall be entitled to one vote. Members must register their request to abstention from voting on matters that would pose for them a conflict of interest. Abstention may be allowed only by approval of a majority of the remaining members.

SECTION 3.(g) The Commission policy and procedures manual and changes thereto shall be approved by the Avery County Board of Commissioners.

SECTION 3.(h) The Commission shall adopt suitable bylaws policy and procedures, contracts, rules, and regulations for its management subject to approval by the Avery County Board of Commissioners. The bylaws may be amended by a vote of the Commission subject to the approval of the Avery County Board of Commissioners. The members of the Commission may receive compensation or per diem and shall be allowed their actual traveling expenses incurred in transacting the business and at the insistence of the Commission.

SECTION 4.(a) The Commission may:

(1) Purchase, acquire, establish, construct, own, control, lease, improve, maintain, or operate real or personal property.

(2) Sue and be sued in the name of the Commission.

(3) Make contracts and hold any personal property necessary for the exercise of the powers of the Commission.

(4) Make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of Commission property and provide penalties for the violations of these rules and regulations; provided, the rules and regulations are not in conflict with the laws of North Carolina or local ordinance.

(5) Sell, lease, or otherwise dispose of any property, real or personal, belonging to the Commission according to general law applicable to counties. Sale of real property shall be made in accordance with general law applicable to counties.

(6) Be responsible for any and all insurance claims or liabilities. Avery County does not incur any personal or property liability.

(7) Deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time.

(8) Have a corporate seal, which may be altered at will.

(9) Contract with and accept grants from other agencies or representatives of said governmental bodies.

(10) Acquire from the county, either by gift or for such consideration as the county may deem wise, any real or personal property that it now owns or may hereafter acquire.

SECTION 4.(b) The Commission shall be liable for its acts or omissions and shall purchase liability insurance in such amounts as the Avery County Board of Commissioners shall require. Avery County shall not be liable for the acts or omissions of the Commission.

SECTION 5. The Commission has the same exemptions in respect to payment of taxes and license fees and eligibility for sales and use tax refunds to the same extent as provided for municipal corporations by the laws of the State of North Carolina.

SECTION 6. The Commission shall make an annual report to the Avery County Board of Commissioners setting forth in detail the operations and transactions conducted by it pursuant to this act. The Commission shall not have the power to pledge the credit of Avery County, or any subdivision thereof, or to impose any obligation on Avery County, or any of its subdivisions, except when that power is expressly granted by statute.

SECTION 7. The Avery County Board of Commissioners shall appropriate funds derived from the Avery County Fire Tax to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Avery County Board of Commissioners. The Commission may make recommendations to the Avery County Board of Commissioners with respect to such appropriations.

SECTION 8. The powers granted to the Commission shall not be effective until the Avery County Board of Commissioners has appointed the members of the Commission, and nothing in this act shall require the Board of Commissioners to make the initial appointments. It is the intent of this act to enable but not to require the formation of the Commission.

SECTION 9. If any one or more sections, clauses, sentences, or parts of this act shall be adjudged invalid, such judgment shall not affect, impair, or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions held to be invalid, and the inapplicability or invalidity of any section, clause, sentence, or part of this act in one or more instances or circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

SECTION 10. This act is effective when it becomes law.

HOUSE BILL 673:
Avery Fire Protection.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	June 10, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***HB 673 authorizes the creation of an Avery County Fire Commission to administer funds appropriated by the Board of County Commissioners from the Avery County fire district tax.***

The bill was given a favorable report by the House Ways and Means Committee, and was referred to House Finance because Section 5 of the bill exempts the Commission from the payment of taxes and fees to the same extent provided to other municipal corporations.

CURRENT LAW: The voters of Avery County have previously authorized a fire protection tax under the provisions of GS 69-25.4. The county is a single fire district.

There is a provision for the appointment of a fire commission under GS 69-25.7. It is a three-person commission and operates under the supervision of the board of county commissioners.

BILL ANALYSIS: This bill authorizes the County Commissioners to create a fire commission to administer fire protection funds from the fire protection tax as determined by the county commission.

Section 1 creates the Avery County Fire Commission.

Section 2 provides for a mission statement and a memorandum of understanding to be adopted jointly by the county commissioners and the fire commission.

Sections 3.(a) through (h) set out the composition of the fire commission, who may serve, and the officers. There are five members. Terms are staggered and are ultimately for two years. Those sections also specify the regularity of meetings and how notice is provided, and that the fire commission's policy and procedures manual and its bylaws are adopted subject to approval by the county commissioners.

Section 4.(a) sets out the powers of the fire commission.

Section 4.(b) exempts Avery County for liability resulting from acts or omissions of the commission. The fire commission is required to purchase liability insurance as specified by the county commissioners.

Section 5 grants tax exemptions and eligibility for sales and use tax refunds to the same extent as a municipality.

Section 6 requires the fire commission to make an annual report to the county commission. It further provides that the fire commission shall not have the power to pledge the credit of the county.

Section 7 provides that the county commission shall, in its discretion, appropriate funds from the fire tax to carry out the provisions of this act. It also provides that the fire commission may make recommendations regarding the appropriations.

Section 8 provides that no powers of the fire commission are effective until the county commission makes its fire commission appointments under section 3.(a) and that the county commission is not obligated to do so.

Section 9 is a severability clause.

The act is effective when it becomes law.

Steve Rose, counsel for House Ways and Means, substantially contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 673 A BILL TO BE ENTITLED AN ACT TO ENABLE THE COUNTY OF AVERY TO ESTABLISH AN AVERY COUNTY FIRE COMMISSION.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 1026
Committee Substitute Favorable 5/21/03

Short Title: Worthless Check Program/Extend Statewide. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE THE PROGRAM FOR THE COLLECTION OF WORTHLESS CHECKS AVAILABLE STATEWIDE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-107.2 is amended by adding a new subsection to read:

"(a1) The Administrative Office of the Courts may authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The Administrative Office of the Courts may consider the following factors when making a feasibility determination:

(1) The population of the district.

(2) The number of worthless check prosecutions in the district.

(3) The availability of personnel and equipment in the district."

SECTION 2. G.S. 14-107.2(b) reads as rewritten:

"(b) Upon authorization by the Administrative Office of the Courts, a~~A~~ district attorney may establish a program for the collection of worthless checks in cases that may be prosecuted under G.S. 14-107. The district attorney may establish a program for the collection of worthless checks in cases that would be punishable as misdemeanors, in cases that would be punishable as felonies, or both. The district attorney shall establish criteria for the types of worthless check cases that will be eligible under the program."

SECTION 3. G.S. 14-107.2(e) is repealed.

SECTION 4. G.S. 7A-346.2(b) reads as rewritten:

"(b) The Administrative Office of the Courts shall report by April 1 of each odd-numbered year to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the ~~implementation~~economic viability of the worthless check collection programs established by district attorneys pursuant to ~~G.S. 14-107.2, including their effectiveness in assisting the recipients of worthless checks in obtaining restitution and the amount of time saved from not prosecuting worthless check~~

~~cases.~~G.S. 14-107.2, including an assessment of whether any adjustments need to be made to ensure that the programs, on a statewide basis, are self-supporting."

SECTION 4. As soon as practicable, the Administrative Office of the Courts shall determine the economic feasibility of establishing a worthless check collection program in Prosecutorial Districts 1, 3A, 18, 25, 28, and 29. The Administrative Office of the Courts shall authorize the establishment of a worthless check collection program in any or all of the prosecutorial districts identified in this section that are determined to be economically feasible before it authorizes a worthless check collection program in any other prosecutorial district.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1026:
Worthless Check Program/Extend Statewide.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sexton
Date:	June 10, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1026 would authorize the Administrative Office of the Courts to authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The act would become effective when it becomes law.***

BILL ANALYSIS: House Bill 1026 does three things:

- It authorizes the Administrative Office of the Courts to authorize the establishment of a program for the collection of worthless checks in any prosecutorial district where economically feasible. The AOC may consider the following factors when making a feasibility determination:
  - The population of the district.
  - The number of worthless check prosecutions in the district.
  - The availability of personnel and equipment in the district.

- It modifies the reporting requirement for the AOC by requiring that it report every other year on the economic viability of the worthless check collection programs, including an assessment of whether any adjustments need to be made to ensure that the programs, on a statewide basis, are self-supporting.

- It requires the AOC to determine the economic feasibility of establishing a worthless check collection program in the following prosecutorial districts and then to authorize programs in those districts where economically feasible before it authorizes a program in any other district:
  - 1 Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans (HB 602 – Reps. Owens /Culpepper)
  - 3A Pitt County (HB 18 – Rep. McLawhorn)
  - 18 Guilford County (HB 380 – Rep. Jeffus)
  - 25 Burke, Caldwell, Catawba (HB 25 – Rep. Gillespie)
  - 28 Buncombe (HB 83 – Rep. Goforth)
  - 29 McDowell, Rutherford, Polk, Henderson, Transylvania (HB 25 – Rep. Gillespie)

CURRENT LAW:

I. <u>Worthless Check Offense</u>

A person is guilty of making or uttering a worthless check if he or she (1) makes and delivers (2) a check or draft (3) without having sufficient funds or credit with the bank for the check or draft to be paid, and (4) knows that there are insufficient funds or credit available for the payment. There are three possible sentencing classifications for this offense:

- The violation is punishable as a **<u>Class I felony</u>** if the amount of the worthless check is more than $2,000. The range of punishment for a Class I felony is a minimum of community punishment with a

3-month suspended sentence to 15 months active, depending on various mitigating and aggravating factors.

- The violation is punishable as a **Class 1 misdemeanor** if the amount of the worthless check is $2,000 or less and any of the following apply:
  - The check is drawn upon a nonexistent account.
  - The check is drawn upon an account the drawer knows to be closed.
  - The conviction is the person's fourth or subsequent conviction for this offense. Additionally, the sentencing judge must order, as a part of probation for the repeat offender on his fourth offense, that the offender refrain from maintaining a checking account or making or uttering a check for three years.

  The range of punishment for a Class 1 misdemeanor is from 1-120 days, with the possibility of an active sentence depending on the number of prior convictions.
- In other cases where the amount of the worthless check is $2,000 or less, the violation is punishable as a **Class 2 misdemeanor**. The range of punishment for a Class 2 misdemeanor is 1-60 days.

II. Worthless Check Collection Program

G.S. 14-107.2 authorizes district attorneys in certain counties to establish a program for the collection of worthless checks in cases that would be otherwise punishable as misdemeanors, felonies, or both. Under the program, a district attorney may not prosecute a worthless check case if the check passer pays a $60 fee to the Collection of Worthless Checks Fund and provides restitution to the check taker for: (1) the amount of the worthless check, (2) any service charge imposed on the check taker by a bank for processing the dishonored check, and (3) a processing fee imposed by the check taker of up to $25.

While the district attorney has some discretion to establish the criteria for the operation of the program in his or her district, the program typically follows this basic procedure:

1) The check taker first attempts to collect on his own.
2) If unsuccessful, the check taker refers the check and documentation of the collection effort to the Worthless Check office of the District Attorney.
3) The Worthless Check office sends the worthless check writer a letter informing the writer of his participation in the program. A payment form is included with the letter.
4) The worthless check writer who participates brings the full restitution amount and the program fee to the office of the Clerk of Superior Court within thirty days. The check writer must also bring the payment form sent by the Worthless Check office.
5) The clerk validates the form as paid and forwards the form to the Worthless Check office.
6) The Clerk's office forwards the restitution amount to the check taker and forwards the program fee to the Worthless Check fund.
7) If the worthless check writer does not comply with the requirements of the program, the Office of the District Attorney either requests the issuance of a warrant or criminal summons or authorizes the check taker to do so.

Currently, the district attorneys of Bladen, Brunswick, Columbus, Cumberland, Durham, Edgecombe, Nash, New Hanover, Onslow, Pender, Rockingham, Wake, and Wilson Counties have authority to establish a worthless check collection program.

III. The Collection of Worthless Checks Fund

The proceeds from the $60 fee are remitted to the State by the clerk of court in the county in which the program is established and are credited to the Collection of Worthless Checks Fund. The revenue in the Fund does not revert at the end of the fiscal year and may be used solely for the expenses of the programs established for the collection of worthless checks.

IV. Reporting Requirement

The Administrative Office of the Courts (AOC) is required to report annually to the Chairs of the House and Senate Appropriations Committees and the Chairs of the House and Senate Appropriations Subcommittees on Justice and Public Safety on the implementation of the worthless check collection programs, including their effectiveness in obtaining restitution and the amount of time saved from not prosecuting worthless check cases.

BACKGROUND: The worthless check collection program statute had its origin as an uncodified pilot program enacted in the 1997 Budget Bill. At that time, Columbus, Durham and Rockingham were the only counties authorized to establish a program. In 1998, Wake County was added to the list of authorized counties. In 1999, Brunswick, Bladen, New Hanover, and Pender counties were added. In 2000, Cumberland, Edgecombe, Nash, Onslow, and Wilson counties were added to the program.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1026 (2nd Edition)

SHORT TITLE: Worthless Check Program/Extend Statewide

SPONSOR(S): Rep. Sexton

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	Unable to determine exact amount				
EXPENDITURES	Unable to determine exact amount				
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts

EFFECTIVE DATE: When the bill becomes law.

BILL SUMMARY: This bill would authorize the Administrative Office of the Courts (AOC) to establish worthless check programs in any prosecutorial district in which the program is requested by the District Attorney and where it would be cost effective. The factors AOC may consider when determining whether to establish a program in a given prosecutorial district include the population of the district, the number of worthless check prosecutions, and the availability of personnel and equipment. The bill also requires biennial reports to the General Assembly assessing the programs' progress in being totally receipt-supported. The bill also requires the AOC give priority to assessing the feasibility of establishing the program in the following districts: 1, 3A, 18, 25, 28, and 29.

ASSUMPTIONS AND METHODOLOGY: In the past, it has cost roughly $115,000 in the first year and around $90,000 in the second year to establish a worthless check program. This cost is based on a basic equipment package including copier, fax machine, and computers, as well as two positions. By the third year, programs typically generate enough revenue to offset their costs. Because receipts are collected into a reserve fund, AOC must pay out the salary money and, subsequently, transfer funds from the reserve to cover local program costs.

Over the past three years, the program has produced excess revenue, which the General Assembly has authorized AOC to expend on equipment needs in the District Attorneys' offices where worthless check programs operate. AOC would be able to purchase the standard

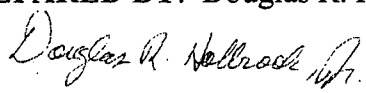
equipment packages for the districts prioritized in this bill with existing balance in the worthless check reserve account, but cannot pay for the personnel costs.

This bill authorizes the AOC to establish programs subject to funding availability and economic feasibility. Thus, any impact is in the AOC's discretion in any given year. The AOC has indicated that they will seek other funding sources, such as federal grants, to help get programs started with one-time money.

SOURCES OF DATA: Administrative Office of the Courts

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Douglas R. Holbrook, Jr.



APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 9, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1026 A BILL TO BE ENTITLED AN ACT TO MAKE THE PROGRAM FOR THE COLLECTION OF WORTHLESS CHECKS AVAILABLE STATEWIDE.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1257
PROPOSED COMMITTEE SUBSTITUTE H1257-CSLAf-23 [v.1]

6/8/2003 9:54:34 PM

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652(1) reads as rewritten:

"The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

SECTION 2. G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for

Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).
(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).
(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).
(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).
(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).
(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).
~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1257

Short Title:	Amend Respiratory Care Practice Act/Fees.	(Public)
Sponsors:	Representatives Tolson and Nye (Primary Sponsors).	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

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"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).

(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).

(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).

(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).

~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. All civil penalties collected by the Board shall be remitted to the General Fund of the State of North Carolina.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1257:
Amend Respiratory Care Practice Act/Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Tolson and Nye
Date:	June 10, 2003	**Analysis by:**	Martha Walston
Version:	Prop. Committee Substitute		Committee Counsel

SUMMARY: House Bill 1257 amends the Respiratory Care Practice Act as follows:

- *Authorizes the Respiratory Care Board to conduct background investigation of applicants for licensure.*
- *Amends the requirements for licensure by requiring the applicant to submit written evidence to the Board that the applicant has completed the minimal requirements of a respiratory care education program approved by the Board (now requires approval by the Commission for Accreditation of allied Health Educational Programs).*
- *Amends requirements for licensure by requiring the applicant to submit written evidence to the Board that the applicant has completed the minimal requirements for Basic Cardiac Life Support as recognized by the Board (now as recognized by the American Heart Association).*
- *Provides that temporary licenses may be issued for up to 90 days from date of application. (now provides that a temporary license is valid until October 1, 2002.)*
- *Requires direct supervision of provisional licensees by respiratory care practitioners.*
- *Establishes the following new fees:*
  A fee not to exceed $20 for official verification of licensure status
  A fee not to exceed $150 for approval of continuing education programs
- *Authorizes Board to assess a civil penalty of up to $1,000 and charge costs, including reasonable attorneys' fees, to any licensee for violation of the Act and the promulgated rules. The PCS adds language that the proceeds of any civil penalty will be remitted to the Civil Penalty and Forfeiture Fund established by the General Assembly.[1] The earlier version of HB 1257 provided that civil penalties would be remitted to the General Fund.*

BACKGROUND: The Respiratory Care Practice Act was enacted in 2000. Respiratory care, as defined by the written order of a licensed physician, is the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The Act sets up a 10-member Board, establishes licensure requirements, provides for the denial, suspension, and revocation of licenses, establishes fees, provides that a violation is a Class 1 misdemeanor, and exempts certain persons and practices from licensure.

[1] Article 31A of Chapter 115C of the General Statutes creates the Civil Penalty and Forfeiture Fund administered by the Office of State Budget and Management. This Fund consists of the proceeds of all civil penalties and civil forfeitures collected by a State agency. These proceeds are transferred to the State School Technology Fund and allocated to local school administrative units on the basis of average daily membership. Litigation is pending to determine several issues, including the issue of whether the N.C. Constitution requires that the proceeds go to the school fund of the county in which the violation occurred instead of the School Technology Fund. The parties are awaiting decision of the North Carolina Court of Appeals.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1257 (First Edition)

SHORT TITLE: Amend Respiratory Care Practice Act/Fees

SPONSOR(S): Representatives Tolson and Nye

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	Approximately $3,000 annually				
Board of Cosmetic Art Examiners	$21,050	$21,050	$21,050	$21,050	$21,050
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, North Carolina Respiratory Care Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill amends various provisions under the Respiratory Care Practice Act, authorizing the North Carolina Respiratory Care Board (the Board) to establish fees for verification of licensure status and approval of continuing education programs. The bill also authorizes the Board to assess civil penalties for violations of Article 38 of Chapter 90.

ASSUMPTIONS AND METHODOLOGY: According to the information provided by the Board, there are 3,401 licensed respiratory care practitioners in North Carolina. Of these, 157 practitioners hold provisionary licenses. According to the Board, on average, they perform 790 license verifications every year. With a verification fee of $20, the total annual revenue from providing official verification of licensure status for a fee would constitute $15,800.

The bill proposes to set a maximum fee for approval of continuing education programs at $150. However, the Board plans to charge $35 for this service. Based on the data provided by the Board, on average, annually it approves 150 programs, which would generate annual revenue of $5,250.

With regard to civil penalties, the Board has indicated that there are about twenty major violations of Article 38, Chapter 90 of the General Statues, such as operating under somebody else's license, which would be considered for the maximum penalty of $1,000. There are also an identified number of less serious violations that would generate fewer penalties, for which no specific amounts are set. Overall, it is possible to assume that the total amount generated as the result of civil penalties collection would be in the range of $3,000. According to the proposed bill, this amount would be remitted to the General Fund of the State of North Carolina.

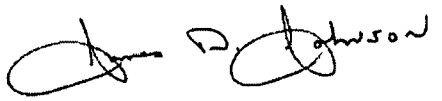
SOURCES OF DATA: North Carolina Respiratory Care Board

TECHNICAL CONSIDERATIONS: Given the recent court rulings on the use of revenue from fines and forfeitures, it does not appear to Fiscal Research that the proceeds of the Board's civil penalties can be credited to the General Fund.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 5, 2003.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 129 DATE 6/10/2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
) _____
Sen.)

1 moves to amend the bill on page 1 , line 7

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following at the end before the period

4 "AND TO AUTHORIZE ADJUSTMENTS

5 IN FEES FOR BOARDS TO

6 REFLECT CHANGES IN THE

7 CONSUMER PRICE INDEX"

8

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SIGNED _____

ADOPTED ✓ (by consent) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE **(FOR ENGROSSMENT)**

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-60 [v.1]

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Ellis

moves to amend the bill on page 3, line 37, by adding the following between lines 37 and 38:

"**SECTION 6.1.** Chapter 93B of the General Statutes is amended by adding a new section to read:

'**§ 93B-17. Fees to be consistent with Consumer Price Index; notice.**

(a) When the General Assembly establishes an occupational licensing board, the General Assembly shall set the fees that may be charged by the board to reflect the board's anticipated regulatory and operating costs. New occupational licensing boards and existing occupational licensing boards may increase license fees previously set by the General Assembly by an amount equal to the percentage increase in the Consumer Price Index (CPI) for the most recent calendar year for which data are available. However, a board shall not set fees at an amount that exceeds its regulatory and operating costs.

(b) Occupational licensing boards shall publish notice of any fee increase in the North Carolina Register and in a newspaper of general circulation not less than 60 days before the fee increase becomes effective. Boards shall notify their current members of any fee increase, by mail, not less than 60 days before the fee increase becomes effective. Each board shall report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all fees increased pursuant to this section.'

(c) This section applies only to the North Carolina Respiratory Care Board."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-60 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 1028
Corrected Copy 4/16/03
Committee Substitute Favorable 5/27/03

Short Title: New Bulkhead Permit. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 113A-118.1, the Coastal Resources Commission may adopt temporary and permanent rules to establish a general permit to allow the construction of offshore parallel sills made of stone or other suitable riprap materials for shoreline protection in conjunction with existing, created, or restored wetlands. The permit shall be applicable only where a shoreline is experiencing erosion in public trust areas and estuarine waters. The permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the ocean hazard areas of environmental concern except that the permit may apply to those shorelines that exhibit characteristics of estuarine shorelines. Characteristics of estuarine shorelines include the presence of wetland vegetation, lower wave energy, and lower erosion rates than are generally characteristic of ocean erodible areas. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the authorization to adopt temporary rules pursuant to this section shall continue in effect until 1 July 2004.

SECTION 2. In adopting temporary rules pursuant to Section 1 of this act, the Coastal Resources Commission shall:

(1) Consult with persons who may be interested in the subject matter of the temporary rule during the development of the text of the proposed temporary rule.

(2) Notify persons on the mailing list that the Commission maintains pursuant to G.S. 150B-21.2(d) of its intent to adopt a temporary rule.

(3) Publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comments on the proposed rule may be submitted. The Commission shall accept written comments on the proposed temporary rule for at least 30 days after the notice of intent to adopt the temporary rule as published in the North Carolina Register.

(4) Hold at least one public hearing on the proposed temporary rule.

SECTION 3. The fee for a general permit established by temporary rules pursuant to Section 1 of this act shall be one hundred dollars ($100.00). In adopting permanent rules pursuant to Section 1 of this act, the Coastal Resources Commission shall set a fee for the general permit as provided in G.S. 113A-119.1.

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

HOUSE BILL 1028:
New Bulkhead Permit.

BILL ANALYSIS

Committee: House Finance
Date: June 10, 2003
Version: 3rd Edition

Introduced by: Reps. Williams and Justice
Summary by: Trina Griffin
Committee Counsel

SUMMARY: House Bill 1028 directs the Coastal Resources Commission to adopt temporary and permanent rules to establish a general permit for the construction of offshore sills for shoreline and wetland protection.

This bill was given a favorable report by the House Committee on Environment and Natural Resources, and has been referred to House Finance because it authorizes a new permit fee.

BILL ANALYSIS: House Bill 1028 directs the Coastal Resources Commission (Commission) to adopt temporary and permanent rules to establish a general permit to allow the construction of offshore parallel sills for shoreline protection in conjunction with existing, created, or restored wetlands. The general permit would applicable only where a shoreline is experiencing erosion in public trust areas and estuarine waters. Sills must be made of stone or other suitable riprap material.

In adopting the temporary rule, the Commission must:

1. Consult with interested parties.
2. Notify persons on the mailing list that the Commission maintains of its intent to adopt a temporary rule.
3. Publish a notice of intent and the text of the proposed temporary rule in the North Carolina Register.
4. Accept written comments for at least 30 days after the notice of intent is published.
5. Hold at least one public hearing on the proposed temporary rule.

The initial fee for the general permit established by temporary rule is one hundred dollars ($100.00). The Commission will set a fee for the general permit adopted by permanent rule as provided in G.S. 113A-119.1 (*See attached*).

BACKGROUND: G.S. 113A-118.1 authorizes the Coastal Resources Commission, by rule, to designate certain classes of major and minor development for which a general or blanket permit may be issued. In identifying the classes of development, the Commission must consider:

1. The size of the development.
2. The impact of the development on areas of environmental concern.
3. How often the class of development is carried out.
4. The need for onsite oversight of the development.
5. The need for public review and comment on individual development projects.

EFFECTIVE DATE: The bill would be become effective when it becomes law. The authorization to adopt temporary rules pursuant to the act would continue in effect until July 1, 2004.

Tim Dodge, Research Assistant for House Environment and Natural Resources Committee, substantially contributed to this summary.

§ 113A-119.1. Permit Fees.

(a) The Commission shall have the power to establish a graduated fee schedule for the processing of applications for permits, renewals of permits, modifications of permits, or transfers of permits issued pursuant to this Article. In determining the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications, related compliance activities, and the complexity of the development sought to be undertaken for which a permit is required under this Article. The fee to be charged for processing an application may not exceed four hundred dollars ($400.00). The total funds collected from fees authorized by the Commission pursuant to this section in any fiscal year shall not exceed thirty-three and one-third percent (33 1/3%) of the total personnel and administrative costs incurred by the Department for permit processing and compliance programs within the Division of Coastal Area Management.

(b) Fees collected under this section shall be applied to the costs of administering this Article.

(c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1039, s. 4. (1989 (Reg. Sess., 1990), c. 987, s. 2; 1991 (Reg. Sess., 1992), c. 1039, s. 4.)

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1028 (3rd Edition)

SHORT TITLE: New Bulkhead Permit

SPONSOR(S): Representatives K. Williams and Justice, et al.

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Riprap GP Fees	$2,000	$2,000	$2,000	$2,000	$2,000
Riprap CAMA Major Fees	($425)	($425)	($425)	($425)	($425)
Bulkhead GP Fees	($1,300)	($1,300)	($1,300)	($1,300)	($1,300)
Bulkhead CAMA Major Fees	($1,625)	($1,625)	($1,625)	($1,625)	($1,625)
Net Impact on Revenues	($1,350)	($1,350)	($1,350)	($1,350)	($1,350)
EXPENDITURES	No impact expected				
POSITIONS: (cumulative)	-	-	-	-	-

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources (DENR), Coastal Management Division, Coastal Resources Commission

EFFECTIVE DATE: When the legislation becomes law.

BILL SUMMARY: This legislation authorizes the Coastal Resources Commission to adopt temporary and permanent rules to establish a general permit for the construction of riprap sills for wetland enhancement and shoreline protection of estuarine and public trust waters. The authorization to adopt temporary rules shall continue in effect until July 1, 2004. The legislation also establishes a fee of $100.00 for a general permit issued pursuant to temporary rules.

ASSUMPTIONS AND METHODOLOGY: There are three approved methods for stabilizing estuarine shorelines: (1) planting vegetation, (2) constructing stone ripraps or revetments, and (3) constructing bulkheads. The latter two methods require a permit. Currently, a general permit is only available for bulkhead construction; parties that wish to construct riprap sills must obtain a permit through the Coastal Area Management Act (CAMA) Major permit or blanket CAMA Major permit process.

If the Coastal Resource Commission adopts rules for a general permit for riprap construction, the Division of Coastal Management (DCM) estimates that it will issue approximately twenty such permits per year. Under temporary rules, each of these permit applicants would be charged $100, generating revenue of $2,000.

Riprap projects meeting specific requirements would no longer have to apply for a permit under the CAMA Major or blanket CAMA Major permit process. During the past three years, DCM has issued an average of two CAMA Major permits and two blanket CAMA Major permits per year for riprap construction. This fiscal note assumes that an average of two projects per year would be eligible to apply for the general permit rather than one of the CAMA Major permits, resulting in a revenue loss of approximately $425. (A CAMA Major permit costs $325 on average, and a blanket CAMA Major permit costs $100.)

Furthermore, since riprap is an alternative method to bulkheads, the Department believes that this legislation would not result in a net increase in the number of permits issued for stabilizing estuarine shorelines. Rather for each additional general riprap permit issued, there would likely be one less bulkhead permit issued. DCM estimates that approximately thirteen fewer general permits and five fewer CAMA major permits for bulkhead construction would be issued each year. Currently, the fee for a bulkhead general permit is $100; CAMA major permits for bulkhead construction average $325 each. Consequently, DCM would collect approximately $2,925 less in bulkhead permit fees.

Table A compares the revenue generated under the current permit rules and the rules proposed under this legislation. Since the total number of permits for stabilizing shorelines is not expected to increase, ***this legislation would have a nominal impact on revenues.***

Table A: Revenue Comparison

Permit	Current rules			Proposed rules		
	Unit Price	# of permits	Revenue Generated	Unit Price	# of permits	Revenue Generated
General permit for bulkhead construction	$100	650	$65,000	$100	637	$63,700
Bulkhead CAMA Major permit	$325	50	$16,250	$325	45	$14,625
Riprap CAMA Major/Blanket permit	$325	2	$650	$325	1	$325
Blanket CAMA Major permit for riprap	$100	2	$200	$100	1	$100
General permits for riprap construction	$0	0	$0	$100	20	$2,000
Total		**704**	**$82,100**		**704**	**$80,750**

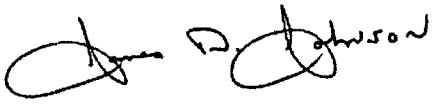
Expenditures: DCM believes that the low number of riprap general permit applications anticipated could be handled with current resources and that this legislation would not require additional expenditures.

SOURCES OF DATA: DENR, Division of Coastal Management

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jennifer Haygood Jennifer Haygood

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 9, 2003

Q & A on Adopting a General Permit for Sills for Shoreline Stabilization/Restoration Projects (H.B. 1028)

Q: What is a sill?

A: A sill is a shore-parallel erosion control structure that is also used for restoration and/or protection of coastal marsh. Unlike bulkheads and riprap, the sills are placed on the waterward side of existing or restored marshes.

Q: What are the benefits of sills?

A: One major benefit of sills is the ability to provide effective stabilization of eroding upland properties, while also providing protection, restoration or creation of valuable estuarine marshes and the adjacent upland buffers. The traditional erosion control devices are bulkheads and riprap, which are often located immediately adjacent to coastal marshes. While these structures provide erosion control, they are often not effective in protecting coastal marshes and adjacent upland vegetated buffers. Sills, in combination with existing or restored marshes, preserve a "living shoreline" for future generations.

Q: Why is protection or restoration of coastal marshes so important?

A: Coastal marshes are declining throughout NC's coastal region, and will continue to do so in the coming decades due to storms, boat wakes, and sea level rise. Healthy marsh systems provide critical nursery habitat for many recreationally and commercially valuable fisheries. They also serve as a direct food source for other wildlife such as turtles, fishes, and waterfowl, and are a major contributor of organic material for the estuarine food cycle. Sill projects allow for both the protection and restoration of marshes, which help to improve water quality by acting as the "kidneys" of the estuary. Marshes filter out pollution and sediment from stormwater runoff, and they provide flooding and erosion control protection. Protecting existing marshes is cheaper and more successful than efforts to reverse the effects of flooding and polluted runoff. Coastal marshes are also a very important part of North Carolina's natural heritage and beauty, and are closely associated with the health of the estuaries' shellfish areas.

Q: Are sills a new concept?

A: Sills are very extensively used along shorelines in a number of nearby states, including Virginia, Maryland, Delaware, and Florida. Sills have been very successful in stabilizing eroding shorelines and preserving marshes for over 25 years along the shores of Chesapeake Bay, which have very similar conditions to North Carolina's estuaries. States, such as Maryland, have had cost share programs for nearly 20 years to encourage the use of sills, and all of the states listed above encourage the construction of sill projects. The Florida Department of Environmental Protection, in cooperation with numerous federal, local and private partners, has developed an extensive model shoreline program called Project Greenshores, which is based on the principles of constructed sills and marsh restoration.

Prepared by the North Carolina Coastal Federation

Q: Are sills a new concept? (Continued)

In North Carolina, sills have been constructed for over five years, with very successful results. Projects have been constructed along private properties and public shorelines, and demonstration projects have been used to train contractors, consultants, agency personnel, and citizens. A number of contractors have begun to construct sills throughout the coastal region, despite a relatively difficult permit process.

Q: What is North Carolina's current permit system for sills and other erosion control measures?

A: NC Division of Coastal Management (DCM) issues permits for riprap or bulkhead projects totaling at least 30 miles of estuarine shorelines each year. Many of these projects are permitted by existing CAMA general permits (GP), which may be issued by the local permit officers or DCM staff in one or two days. Permits can also be issued in one day in the field. Application requirements are minimal; application fees are $50 to $100. No multi-agency review of projects is required, and approval by adjacent property owners is not a requirement for approval. In contrast, permitting for sills requires a Major CAMA permit, which is a minimum 75-day review with an option for an additional 75-day review. Major CAMA permit fees range from $250 to $475, and involve a multi-agency review of each project (up to 16 agencies). In addition, the CAMA Major Permit application is designed for more complex projects, so that many property owners would need to hire an expert to prepare an application for a sill project.

Q: Why do we need a General Permit for sills?

A: Adopting a General Permit for sill and marsh restoration projects will make the process equal to that which is currently allowed for bulkheads and rip-rap. As a result, it will allow an equal choice for property owners among the various stabilization options. It would remove the current disincentive that exists because of the relatively difficult process involved in obtaining permit approvals for these projects. Removing the current disincentive will allow for greater use of the sill and marsh approaches, with the numerous environmental benefits cited above.

Q: Why do some sill projects require backfill?

A: Many sill projects are designed to protect existing marshes, and are placed directly next to an eroding marsh. In some cases, the sill may be placed 10-30 feet waterward of an eroding marsh, and the area between the marsh and the sill is replanted with marsh plants. In other cases, erosion has progressed so that no marsh remains, and the shoreline has become too deep for marsh to continue to grow. In these cases, some backfilling of the sill is needed to allow for the replanting of the eroded marsh. In these cases, the newly planted marsh closely resembles a natural marsh within one to two growing seasons. In all cases, the restored marsh areas are intended to remain as intertidal wetland areas, and would require a CAMA permit for any future filling or modification.

For more information, please contact Jim Stephenson with the North Carolina Coastal Federation at (252) 393-8185.

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(left) Boat wakes can cause erosion in areas that otherwise would suffer little erosion from natural wave action. (below) Vertical walled bulkheads can cause increased erosion of adjacent shoreline by reflection of wave energy.

As the owner of shorefront property, you must examine your property and determine what erosion forces are at work. They will be different depending on whether you have property that is exposed or sheltered, high bank or low bank, etc. The process of shoreline erosion may be due to natural causes such as the interaction of tidal action with the bank face. The erosion may be accelerated by activities such as boat wakes or high waves during storms. Each year, this erosion causes the loss of valuable shorefront property. In addition, bank erosion can adversely affect the living resources of our bays and waterways by increasing sedimentation and turbidity which decreases the light penetration needed to sustain critical underwater vegetation and habitat. Conversely, placement of hard structures along estuarine shorelines often leads to losses of valuable wetlands and natural buffers, and may increase erosion on adjacent shorelines.

The practices outlined in this brochure are basic and are presented to introduce you to the concepts. You may wish to seek professional guidance in the actual design of an erosion project.

Why nonstructural alternatives?

The most commonly used techniques for erosion control have been the installation of hardened structures such as bulkheads or rip-rap. Structures such as these may be necessary along very exposed (high energy) shorelines. Although bulkheads and rip-rap are effective in these areas, rip-rap or other non-vertical structures are preferable since they result in less disturbance and loss of adjacent lands and intertidal habitats. In addition, bulkheads may be treated with wood preservatives which have been found to be toxic in the marine environment.

For many shorelines along the moderate to lower energy areas of North Carolina's tributaries and bays, the creation or restoration of fringing marshes is an effective, less expensive option for the control of shoreline erosion. These marshes:

- ☐ Act as a buffer from wave energy to lessen the effects of erosion.
- ☐ Reduce the amount of pollutants entering the water by filtering upland runoff and trapping sediment and nutrients.
- ☐ Enhance the fisheries and near shore habitat value of an area.
- ☐ Present natural, attractive views from both land and water.

For low to moderate energy areas, natural vegetation (either alone or with bank grading) may be used to lessen the effects of erosion. For moderate to higher energy areas with exposed shorelines, it is possible to combine the use of wetland plantings with low profile alternatives such as rip-rap sills, groins or breakwaters to provide effective solutions. There are some basic guidelines which can help you to choose a technique which will be successful for your shoreline. The following questions and possible solutions may help you to determine your needs:

Question: Is wave action a factor?

Waves can be caused by wind, tidal currents and boat wakes, and can undercut the toe of the slope, which can slump and erode.

Solutions:

- ☐ Reinforce the toe of the slope with some combination of rip-rap and vegetation.
- ☐ Regrade the bank and vegetate above or in combination with rip-rap.
- ☐ Limit boat speeds.

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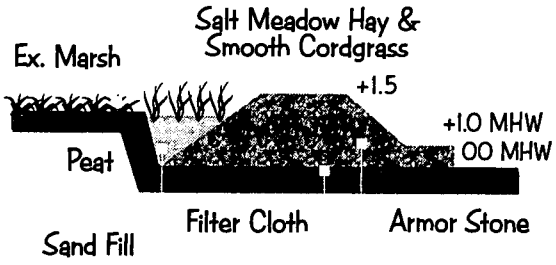
This combination of stone rip-rap and vegetation can be used to provide effective shoreline stabilization.

Question: Is concentrated storm water runoff a factor? During periods of rain, does the rainwater run off of the house, driveways and lawns, and channelize down the slope? Are gullies forming on the slope?

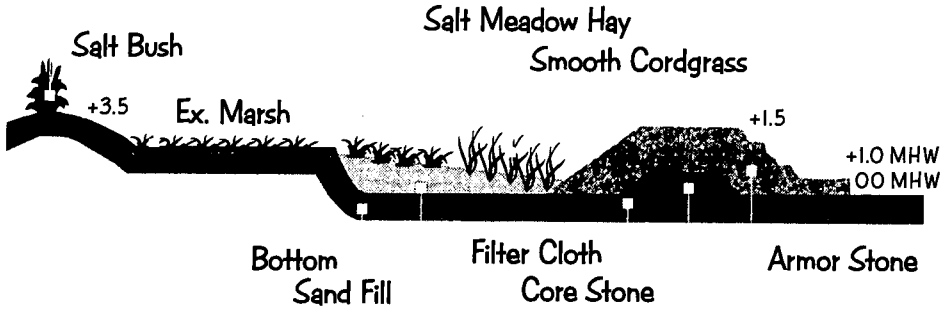
In many cases, loss of soil along with shoreline is not the result of shoreline erosion, but is instead the result of inadequate stormwater management on the upland property.



MARSH TOE SILL SECTION B-B'

Solutions:

- Install gutters at roof's edge.
- Divert rainwater away from the slope to flat vegetated areas.
- Create a berm along the top of bank to redirect water down the edges of the bank or in a reinforced channel.
- Encourage the use of native, mixed vegetation (grasses, shrubs, trees) in landscaping.
- Minimize hard-paved surfaces adjacent to shorelines.



Illustrations depict design examples of a marsh toe sill and breakwater combined with bank grading and use of wetland plantings.

BREAKWATER SECTION A-A'

Question: Are the slopes too steep?

Naturally occurring stable banks are usually 2H:1V (two feet horizontal for every one foot of vertical rise). Soils will not permanently remain on a vertical face but will erode and slump until they reach a natural angle of repose. Wave and boat wakes can cause undercutting of over-steepened banks, which quickly accelerates this process resulting in rapid erosion of the banks.

Solutions:

Slopes less than 2:1

- Regrade and revegetate with suitable groundcover or wetlands vegetation (such as *Spartina alterniflora* or *Spartina patens*).

Slopes greater than 2:1

- Regrade and plant suitable vegetation (such as *Spartina alterniflora* or *Spartina patens*) either alone or in combination with some rip-rap alternative such as groins, breakwaters, low-profile sills

Question: Is seepage in the slope causing bank failure?

This problem occurs when a coarse layer of sand overlays an impermeable layer such as clay. Water will filter quickly through the sand to the clay layer. Once it reaches this layer, it flows along the clay surface and exits the slope face.

Solution:

In minor cases, suitable vegetation and/or some combination of rip-rap may halt the bank erosion, however, this problem may be complex and require a detailed review by a trained professional.

Question: Can vegetation hold the slope?

Thick healthy vegetation contributes greatly to slope stability by holding soil in place with its root system. Even over-steepened banks can be held in place by existing vegetation. Once vegetation is cut or removed from over-steepened banks, revegetation may be very difficult to do without some regrading and/or stabilization with a structural alternative such as rip-rap.

Solutions:

- ☐ Where possible, maintain as much of the naturally occurring vegetation on the banks.
- ☐ Remove all dead vegetation and debris which may kill vegetation by smothering it.
- ☐ Where there is no vegetation or where regrading is necessary, select the best vegetation for the site, plant it, protect it and foster its growth until it is well established.
- ☐ For sites where vegetation alone has been unsuccessful in stabilizing a slope, install some combination of rip-rap and vegetation.
- ☐ Keep foot traffic to a minimum around eroding slopes and revegetated areas. Stable foot paths or constructed walkways work well to achieve this goal.

Question: Should I use vegetation alone or with rip-rap?

There are many factors that determine if plantings alone will be successful in stabilizing a bank. In addition, these factors will also determine what combination of vegetation and rip-rap should be applied to any given shoreline.

Solutions:

Before investing your time and money, evaluate the site (or consult with a professional) for the following factors:

- ☐ ***Existing vegetation:*** The presence of native vegetation below the toe of a slope is a favorable indication that further plantings will be successful.

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This combination of rip-rap groins and marsh plants create stable areas for successful marsh growth in low energy levels.

- ☐ ***Fetch:*** How many miles of open water does wind blow across before reaching your property? This distance, and the dominant direction from which it blows, is important in designing a project. If fetch is greater than 5 miles, it is unlikely vegetation alone will successfully halt erosion. Vegetation alone is most successful where the fetch is less than half a mile.
- ☐ ***Shape of shoreline:*** Orientation of the shoreline helps to determine what the forces of erosion are, and whether vegetation alone (such as in protected coves or lagoons) or some combination of vegetation and rip-rap will work to halt erosion.
- ☐ ***Boat traffic:*** The numbers of boats and how close they travel to a shoreline will help to determine the choice of a solution for a given site.
- ☐ ***Width of beach above mean high tide:*** Beaches which are greater than 10-feet above the mean tide high tide, or which can be regraded to create 10-feet in width above the mean high tide line have the best chance for successful vegetation growth.

Question: Are fluctuating water levels a problem?

Fluctuating water levels such as those that occur on tidal shorelines may make it difficult to get vegetation established or keep natural banks stabilized.

Solutions:

- ☐ For moderate to higher energy sites, it may be necessary to stabilize the toe of the bank from the full range of tidal action by some combination of rip-rap (such as low-profile revetment) and/or planting of suitable vegetation.
- ☐ When regrading, allow the fluctuating water levels to help create a stable slope during construction. Also, observe the range of rise and fall of the waters when planning the planting scheme for your site.
- ☐ Choose vegetation that can adjust to

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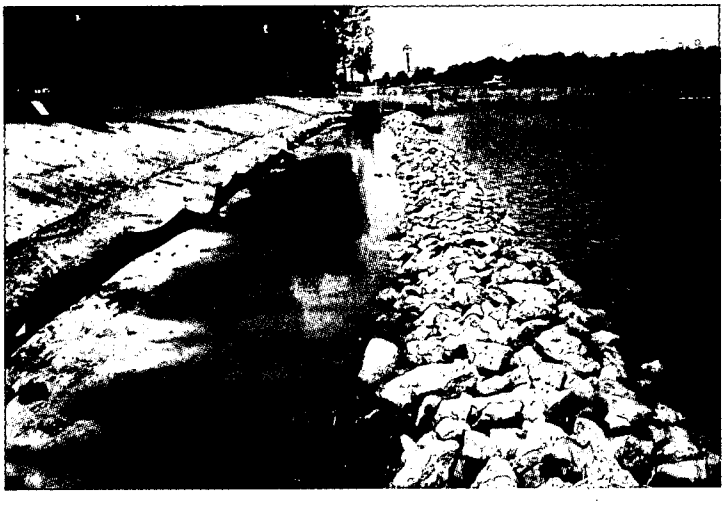
A demonstration project area prior to installation of shoreline stabilization measures.



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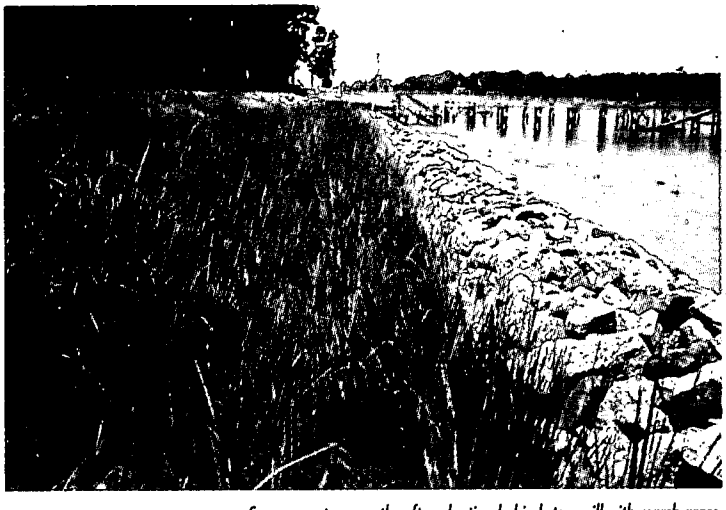
Same shoreline after regrading of eroding banks and stabilization with stone sill.



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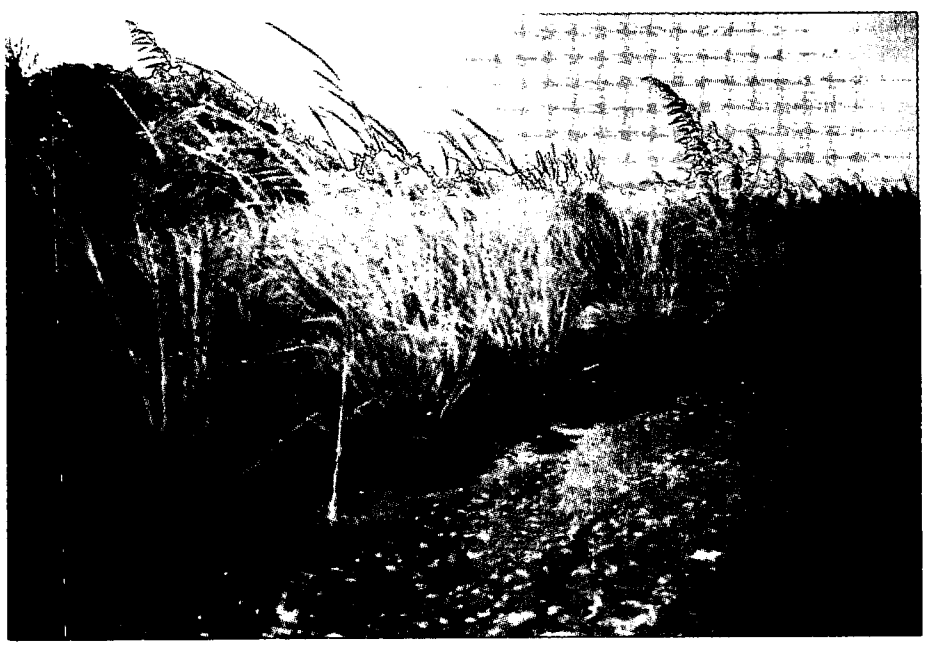
Same area two months after planting behind stone sill with marsh grass.

Question: What should you plant?

The growing season is an important factor in deciding when to plant. For marshes, spring is the best time to plant because it gives the plants an entire growing season to become established and take a firm hold. For native upland and dune grasses, certain species require spring planting while others need planting over the winter months to allow at least one good freeze during dormancy. For estuarine marsh areas, the grasses that are most commonly planted include smooth cordgrass planted in the intertidal zone, black needlerush, and saltmeadow hay planted above the mean high tide. These grasses are adapted to a wide range of salt tolerances and form a protective matting as the waves roll over them. Other grasses and plants may also be used in more freshwater areas. For planting in dune areas, or higher estuarine areas, numerous native grasses and shrubs will provide stabilization. American beach grass, coastal panicum, and wax myrtles are examples of native plants which are effective for erosion control.

Question: What maintenance is needed?

Proper maintenance is vital to the success of the grasses and shrubs. Foot traffic on the plantings should be kept to a minimum. Debris such as driftwood, trash, and other items that could smother or shade out the grasses must be cleared away. Trees or limbs shading the grasses must be kept pruned. In times of drought, fresh water should be applied to the upper grasses which do not get flooded by the normal tides. If there is damage to an area, it should be replanted as soon as possible. In some areas, a goose exclusion fence is also recommended to keep the geese from eating the grasses the first two years, while the grasses are established. The goose fence can be removed after that time.



ANITA LANCASTER

Many types of suitable wetland plants are available to provide an effective and aesthetically pleasing project. Choosing a qualified consultant and/or nursery to provide healthy plants is critical to the success of a wetlands planting project.

Question: How do I get started?

- ☐ Contact a qualified consultant, landscaper and/or marine contractor who is familiar with the approaches outlined here.
- ☐ Incorporate your personal needs into his/her design approach for your shoreline.
- ☐ Receive a cost estimate to have a better idea of total project costs.

Please Note ...

Erosion occurs most often from a combination of factors, rather than just one. Take the time to examine the history of your shoreline carefully or consult with a professional to determine what combination of factors is causing the total erosion problem. Only then can you choose a solution that will be effective for your site.

About Permitting ...

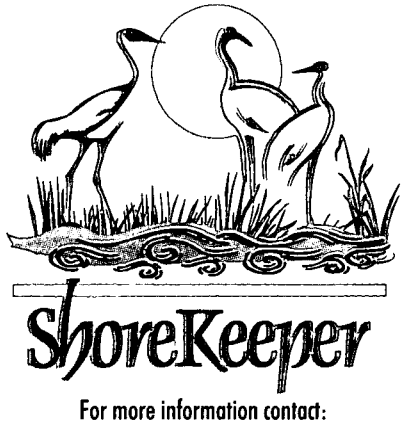
If you are interested in pursuing a shoreline project, you may need permits from the NC Department of Environment and Natural Resources (DENR), the US Army Corps of Engineers and local permit office. For more information on the permit process, call your local DENR Division of Coastal Management office, or in Raleigh call 919-733-2293.

The North Carolina Coastal Federation

The NCCF is the state's largest non-profit organization working to restore and protect the coast. Our headquarters are located at 3609 Highway 24 in Ocean, NC between Morehead City and Swansboro. The NCCF field office is located at 720 Market Street in Wilmington. Offices are open Monday through Friday between 8:30 a.m. and 5:00 p.m. The headquarters in Ocean houses a nature shop, library and information center.

NCCF's ShoreKeeper Program

The projects presented here are part of NCCF's ShoreKeeper Program. The program includes membership, public education, certification and accreditation programs, and restoration and protection projects. To learn more about how you can take an active role in caring for our coast, please call today.



For more information contact:
North Carolina Coastal Federation
3609 Hwy. 24 (Ocean)
Newport, NC 28570
***Phone:* 252-393-8185**
***Fax:* 252-393-7508**
***E-mail:* ncf@nccoast.org**
***Website:* www.nccoast.org**

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2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1028 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 76
Finance Committee Substitute Adopted 5/27/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S76-CSLAx-22 [v.1]

6/8/2003 8:31:35 PM

Short Title: Incorporate Misenheimer. (Local)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE VILLAGE OF MISENHEIMER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Village of Misenheimer is enacted to read:

"CHARTER OF THE VILLAGE OF MISENHEIMER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Misenheimer are a body corporate and politic under the name 'Village of Misenheimer'. The Village of Misenheimer has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Misenheimer are as follows:

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"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Misenheimer is the Mayor and the Village Council, which shall have four members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2004 provided for by Section 4.1 of this Charter, Chuck Ambrose, Peter Edquist, Maria Fisher, Michael Herron, and Beth Huber are appointed members of the Village Council of the Village of Misenheimer, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. The temporary officers shall elect a person from among the members of the temporary governing body to serve as interim mayor. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2004.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 76

Finance Committee Substitute Adopted 5/27/03

Short Title: Incorporate Misenheimer. (Local)

Sponsors:

Referred to:

February 18, 2003

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

SENATE BILL 76:
Incorporate Misenheimer

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Purcell
Date:	June 10, 2003	**Summary by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***Senate Bill 76 incorporates the Village of Misenheimer, effective when it becomes law. The Joint Legislative Commission on Municipal Incorporations met and issued a report on May 15, 2003, finding that the proposed Village of Misenheimer meets the standards for incorporation required by Article 20 of Chapter 160A of the General Statutes and recommending that it be incorporated***

The proposed committee substitute changes the date of the initial election of Village officers from 2003 to 2004 and makes corresponding changes to future election years in order to have staggered terms. This change in the date of the initial election is consistent with the date in the Village Charter.

CURRENT LAW: Under Senate Rule 42.3(b), the Joint Legislative Commission on Municipal Incorporations[1] must first consider a bill recommending the incorporation of an area before a Senate or House Committee may consider it. The Commission must decide whether the area to be incorporated meets the standards for incorporation required by Article 20 of Chapter 160A of the General Statutes.

BILL ANALYSIS: The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Village of Misenheimer on May 15, 2003. The Village of Misenheimer has been in existence for over 100 years. It is home to Pfeiffer University.

The proposed municipality held a public hearing on March 2, 2003, on the proposed incorporation. Fifty-one percent (51%) of the registered voters in the proposed municipality signed the petition for its incorporation.[2] The proposed Village submitted a sufficient plan for providing the following four services: fire protection, police protection, zoning, and solid waste collection. Misenheimer has proposed a $.15/$100 property tax rate with an estimated property tax revenue of $12,300.

The closest existing towns to the proposed Village of Misenheimer are the Towns of Richfield (within 1 mile) and New London (within 4 miles), but they do not exceed the neighboring municipal population thresholds. The Village has a permanent population of more than 150 residents and approximately 600 students in residence at Pfeiffer University. It has a population density of at least 250 persons per square mile. And it meets the development density threshold: 47.35% of the proposed area is developed.

The form of government would be a Mayor and Village Council. The voters would elect five people on a nonpartisan basis in the fall of 2004. The elected members of the Council would elect one of its members to serve as Mayor of the Village. At a public meeting held on March 2, 2003, the voters present elected five people to serve as the Interim Governing Board.

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

[1] The members of the Commission are: Sen. Hartsell, chair; Sen. Malone, Rep. Jarrell, Rep. Hurley, Mr. Steven Raper, Mr. Jerry Ayscue.

[2] The Stanley County Board of Elections' records show 183 registered voters in the proposed Village and verified 154 registered voter signatures on the petition seeking incorporation.

1. Sales Tax Revenue Change:

Stanly County distributes sales tax revenues on a per capita basis. This analysis uses 2001-02 actual sales tax distribution to show how that distribution would have changed had Misenheimer been incorporated at that time.

Current

County	Municipalities	Population	% Population	Sales Tax Distribution	
Stanly		58,792	69.9%	**7,235,212**	
	Albemarle	15,758	18.7%	1,972,012	
	Badin	1,148	1.4%	154,686	
	Locust	2,449	2.9%	306,784	
	New London	612	0.7%	72,164	
	Norwood	2,203	2.6%	288,182	4.343
	Oakboro	1,191	1.4%	156,648	
	Red Cross	369	0.4%		
	Richfield	516	0.6%	66,357	
	Stanfield	1,130	1.3%	135,206	
	TOTAL	84,168		10,387,252	

With Incorporation

County		Population	% Population	Sales Tax Distribution	Change
Stanly		58,792	69.2%	7,188,616	(46,596)
	Albemarle	15,758	18.5%	1,926,762	(45,249)
	Badin	1,148	1.4%	140,368	(14,318)
	Locust	2,449	2.9%	299,444	(7,340)
	New London	612	0.7%	74,830	2,666
	Norwood	2,203	2.6%	269,365	(18,817)
	Oakboro	1,191	1.4%	145,626	(11,022)
	Red Cross	369	0.4%	45,118	45,118
	Richfield	516	0.6%	63,092	(3,265)
	Stanfield	1,130	1.3%	138,167	2,962
	Misenheimer	784	0.9%	95,861	95,861
	TOTAL	84,952			

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,153,921 and available funds of $97,675,598.26. This created a per capita distribution rate of $ 23.51.

Adding the new population of Misenheimer (784) to the statewide total creates a new population of 4,154,705. However, the change is so small it will not impact the per capita distribution rate of $23.51. Therefore, incorporation will have no impact on the Powell Fund distributions received by other Stanly municipalities.

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light and telephone companies, 3.09 percentage points (or 96% of collections) are distributed to the respective municipalities within which these services took place. In 1998-99 the statewide total was $161.1 million.

Because Misenheimer only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Misenheimer from this tax would be new or drawn from the NC General Fund.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controlling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.
June 8, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 971
PROPOSED COMMITTEE SUBSTITUTE H971-PCS80329-LA-24

Short Title: Cosmetic Art/Continuing Ed/Penalty Change. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT AND CLARIFYING THE REMITTANCE OF CIVIL PENALTIES UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired ~~licenses.~~licenses; inactive status.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ cosmetologist's, esthetician's, or manicurist's license, the ~~teacher~~ licensee shall annually complete ~~a minimum of~~ eight hours of

Board-approved continuing education ~~which shall be approved by the Board. Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. G.S. 88B-29(a) reads as rewritten:

"(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. ~~All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred.~~ The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3. Section 1 of this act becomes effective October 1, 2003. Section 2 of this act is effective when it becomes law and applies to violations occurring on or after that date. Section 3 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 971
PROPOSED COMMITTEE SUBSTITUTE H971-CSLA-24 [v.2]

6/9/2003 3:27:45 PM

Short Title: Cosmetic Art/Continuing Ed/Penalty Change. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT AND CLARIFYING THE REMITTANCE OF CIVIL PENALTIES UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

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(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ cosmetologist's, esthetician's, or manicurist's license, the ~~teacher~~ licensee shall annually complete ~~a minimum of~~ eight hours of

Board-approved continuing education ~~which shall be approved by the Board.Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

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"(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. ~~All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred.~~The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3. Section 1 of this act becomes effective October 1, 2003. Section 2 of this act is effective when it becomes law and applies to violations occurring on or after that date. Section 3 is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 971

Short Title:	Cosmetic Art/Continuing Education.	(Public)
Sponsors:	Representative Howard.	
Referred to:	Ways and Means.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

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(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ cosmetologist's, esthetician's, or manicurist's license, the ~~teacher~~ licensee shall annually complete ~~a minimum of~~ eight hours of Board-approved continuing education ~~which shall be approved by the Board. Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of

required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

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SECTION 2. This act becomes effective October 1, 2003.

HOUSE BILL 971: Cosmetic Art/Continuing Education/Penalty Clarification

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard
Date:	June 10, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Comm. Substitute		Committee Counsel

SUMMARY: House Bill 971 amends the Cosmetic Art Act as follows:

- *Requires cosmetologists, estheticians and manicurists to annually complete 8 hours of Board-approved continuing education for each year of the licensing cycle.*
- *Exempts a licensee who is at least 62 years old or is a non-practicing cosmetic art teacher. (underlined language added in proposed committee substitute*
- *Allows a cosmetologist to complete up to 24 hours of the required continuing education at any time within the cosmetologist's three-year licensing cycle.*
- *Authorizes the Board to establish an inactive list of licensees and exempts inactive persons from the continuing education requirements.*
- *Clarifies that the proceeds of any civil penalty will be remitted to the Civil Penalty and Forfeiture Fund established by the General Assembly (added in PCS).*[1]

BILL ANALYSIS: Under current law, a cosmetology teacher, esthetician teacher, or a manicurist teacher must annually compete a minimum of eight hours of Board-approved continuing education before the teacher's license may be renewed. Licensed cosmetologists, estheticians, and manicurists are not required to complete continuing education. House Bill 971 would require licensed cosmetologists, estheticians, and manicurists to annually complete eight hours of Board-approved continuing education, although a cosmetologist may complete up to 24 hours at any time within the cosmetologist's three-year license cycle. House Bill exempts the following licensees from the continuing education requirements: (a) a licensee who is at least 62 years old, and (b) cosmetic art teachers, unless the teacher is actively practicing as a cosmetologist, esthetician, or manicurist.

House Bill 971 authorizes the Board to establish an inactive list of licensees. The inactive licensee must be in good standing with the Board and may not practice cosmetic art for consideration. The inactive licensee is not required to complete continuing education requirements and may continue to purchase supplies as accorded an active licensee. The licensee must notify the Board when he or she desires to return to active status, pay the required fee, and complete any continuing education required by the Board.

[1] Article 31A of Chapter 115C of the General Statutes creates the Civil Penalty and Forfeiture Fund administered by the Office of State Budget and Management. This Fund consists of the proceeds of all civil penalties and civil forfeitures collected by a State agency. These proceeds are transferred to the State School Technology Fund and allocated to local school administrative units on the basis of average daily membership. Litigation is pending to determine several issues, including the issue of whether the N.C. Constitution requires that the proceeds go the school fund of the county in which the violation occurred instead of the School Technology Fund. The parties are awaiting decision of the North Carolina Court of Appeals.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 971 (First Edition)

SHORT TITLE: Cosmetic Art/Continuing Education

SPONSOR(S): Representative Howard

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: None

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-21 by requiring holders of cosmetologist's, esthetician's, or manicurist's licenses, prior to renewal of their licenses, to complete eight hours of continuing education for each year of the licensing cycle. This is an annual requirement. The continuing education program must be approved by the NC Board of Cosmetic Art Examiners (the Board). A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 62 years of age or cosmetic art teachers do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician, or manicurist. Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of G.S. 88B-21.

ASSUMPTIONS AND METHODOLOGY:

There are no accurate estimates available to evaluate fiscal impact of the proposed bill. Training and education for cosmetic art licensees is provided by different agencies and its costs vary broadly (generally between $50 and $180), based on the cosmetic specialty, length of training, and use of equipment. Table 1 presents summary of the data provided by the Board on the number of licenses of various cosmetic art specialists.

Table 1. Cosmetic Art Licenses

Specialty	Number of Licenses	Training Quantity and Frequency
Cosmetologist	45,679	24 hours within three years
Manicurist	8,149	8 hours annually
Esthetician	1,084	8 hours annually

It was impossible to determine the exact number of inactive licenses for each specialty. It was also impossible to determine the number of licenses that become inactive or return to active status on the annual basis. The number of licensees above 62 years of age is not monitored by the Board.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 4, 2003.

North Carolina
Cosmetology Liaison Council

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May 30, 2003

TO: Honorable House of Representatives

FROM: N.C. Cosmetology Liaison Council

The North Carolina Cosmetology Liaison Council was formed in 1992 for purpose of uniting the beauty industry. Representation is provided for all phases of the industry, from educators, salon owners, and sales representatives, to the professional associations which make up the Liaison Council.

The goal is to promote professionalism, education, and community welfare in order to better serve the consumer.

In 2000 and 2001, there was a united effort throughout the state spearheaded by the Liaison Council to collect donations of products, supplies, and equipment for the purpose of restoring to operation salons that were destroyed by a hurricane. Seventy-seven salons were reopened. Other projects have been a food drive, collecting over 30, 000 pounds of food and a blood drive that collected 54 pints of blood. The project for this year is to collect personal supplies for the military serving in the Middle East and to assist military families left behind. We have compiled 110 gallon zip lock bags of supplies at this point.

Another goal is to establish requirements for continuing education for all licensed cosmetologists, estheticians, and nail technicians. This will promote a higher level of professionalism and ensure for the consumer optimum quality of service and safety. The Liaison Council is asking for your support for the House Bill #971 requiring eight hours of continuing education yearly for the purpose of renewing licenses. Your support will be greatly appreciated.

Sincerely,

Jo Ann P. Braxton
President of the NC Cosmetology Liaison Council

This survey was sent to every Cosmetology, Esthetician and Nail salon in N.C. also all Cosmetology Schools

North Carolina State
Cosmetology Liaison Council

We have received approx. 500 or 600 agree and 187 disagree

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January 6, 2003

Dear Fellow Professionals:

Our wonderful profession is one that is constantly changing and evolving with new looks, new products, and new techniques on an almost daily basis. In order to prepare ourselves for today's trends we constantly need to upgrade our knowledge and skills. To be professional in a licensed field it is imperative that we expand our knowledge and continue to grow as professionals. Our industry has struggled for many years to be seen as the respected and professional image we have worked so hard to become. One way to accomplish this goal would be for professionals to strongly support continuing education that addresses current needs in our industry.

The North Carolina State Cosmetology Liaison Council (an action committee which bridges the communications between various factions dealing with cosmetology) works closely with the NC State Board of Cosmetology and represents each faction of the beauty industry. In an effort to better serve the needs and desires of the Cosmetology, Esthetics, and Nail Technology professions of North Carolina and in an effort to reflect these needs and desires, the NC Cosmetology Liaison Committee asks that you please fill out and return the survey enclosed in this mail to: **Helen Frazier, 3020 Devonshire Drive, Raleigh, NC 27607.**

Respectfully yours,
Helen Pollard Frazier
NC Cosmetology Liaison Committee

Survey

1. **Do you agree there is a need for requiring Continuing Education credits in order to maintain a current license for Cosmetologists, Nail Technicians, and Estheticians?**
A. Agree ☐ B. Disagree ☐ C. Comment

2. **Do you agree persons who have reached the age of 62 should be exempt from Continuing Education if that is their choice?**
A. Agree ☐ B. Disagree ☐ C. Comment

3. **Do you agree eight clock hours of Continuing Education credit should be required per year in order to keep an active Cosmetology, Nail Technology, or Esthetics license?**
A. Agree ☐ B. Disagree ☐ C. Comment

Additional Comments: Please put on the back of this letter.

N.C. State Board of Cosmetic Arts. National Cosmetology Association of North Carolina High School Cosmetology Educators of North Carolina . NC State Beauticians and Cosmetologists Association . Cosmetologist Instructors Association of the NC Community College System. NC Private School Owners Association . Beauty and Barber Suppliers of North Carolina . NC Salon Owners Association . NC Aestheticians Association

This petition was also passed out throughout the state.

PETITION

IN SUPPORT OF CONTINUING EDUCATION FOR

COSMETOLOGIST, ESTHETICIANS, AND MANICURISTS

NAME	ADDRESS	PHONE

We have approx. 1,000 or more names in support of this petition

United Cosmetic Arts Association

Our Association will join together cosmetologist, manicurist, estheticians and salon owners.

We are registered with the IRS as a non-profit organization.
Cost to join is less than $3.35 a month, $40 yearly. Salon owner & salon licensee will work together to benefit our industry. Cosmetologist license fee is $13.00 per year this group are against a fee increase.

We will have a Board of Directors & Executive members, to work for you. We will have our own registered lobbyist at the NC General Assembly. Legislative Director Richard Westbrook and Lobbyist Glenn Lamm. You will get a newsletter from our Association to keep updated progress or changes made.

<u>What has been happening with our State Board of Cosmetic Art Examiners</u>

The past 6 years, NC Cosmetic Arts Board has worked hard to make changes. Mr. Mitchell, Chairman is now off the Board and was replaced by Mr. Toby Kennedy, Chairman. Some changes are as following:

students may spend 10% of their total school hours in an approved salon. As an intern.

A. Require $5.00 postage and handling fee to be sent with any license renewed.
B. No grace period for license renewal, before late fee starts.
C. All students can work in a salon, without pay, before graduating to achieve hours, before State Board Exam. - not new

same bill

D. 2001 General Assembly Fall secession, introduced <u>Continuing Education Bill</u>.

did not come up in short session

E. 2002 General Assembly Spring Secession, reintroduced <u>Continuing Education Bill</u>, again.

F. April 2003 General Assembly Spring secession, introduced House Bill 971, <u>Continuing Education</u>, effective Oct.1, 2003. (If passed) We would be required to complete 24 hours, continuing education. (enclosed is a copy of bill).

You may take 24 in one year or 8hrs per year.

G. April 2003, new <u>House Bill 896</u>, Increase Cosmetic Art fee' increases yearly (if passes).
1. **Combined fee's, $477.00 yearly, added to administration cost. (enclosed is a copy of bill)**

Richard Westbrook and Glenn Lamm are the (outside interest) that got these bills stopped in 2001& 2002. It was mentioned in the new letter, from State Board of Cosmetic Arts, which were sent to salons, and schools only.

This is not going to go away without costing us our income, so we will fight together

Chairman/Lobbyist	**Glenn Lamm**	**919-779-0523**
Vice Chairman:	**Janie Westbrook**	**919-779-4852**
Secretary:	**Gail Lamm**	
Treasurer:	**Linda Speight**	**919-779-4267**
Legislative Director:	**Richard Westbrook**	**919-779-4852**

Executive Board members: Virginia Saunders, Romelle Ledford,

Attention: ALL LICENSED COSMETIC ARTS PRACTIONERS

The North Carolina Board of Cosmetic Arts has submitted legislation in the North Carolina General Assembly, which will increase license fees for Cosmetologist, Apprentices, Estheticians, Teachers, and Schools. The fee for each booth in a Salon will increase from $3.00 per chair to $45.00 per chair. Totaling over $450 increase combined for all licensee. not True

Representative Julia Howard of Davidson County introduced a bill that would require each Cosmetologist to complete 24 hours of Continuing Education classes, before renewing our licenses every two years, at a cost of $60.
Below are the bill sponsors and their telephone numbers. Please call and say you oppose these bills.

CALL AND SAY, NO!

House Bill 896- Fee Increases
Sponsor: Representative Pryor Gibson, 33 District 919-715-3007
House Bill 971- Continuing Education
Sponsor: Representative Julia Howard, 74th District 919-733-5904

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 971 A BILL TO BE ENTITLED AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 806

Short Title:	Rebate and Grant Program for AFVs.	(Public)
Sponsors:	Representatives Tolson; and Insko.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative fuel and vehicle rebate and infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall issue rules implementing the program established in G.S. 113B-30.

(b) These rules shall be issued after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

HOUSE BILL 806:
Rebate and Grant Program for AFVs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Tolson
Date:	June 10, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 806 creates the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program, funded by a $1.00 increase in vehicle registration fees for the first 3 years of the program, and by an additional $1.00 increase for the remaining 7 years of the program. The program would provide rebates to first-time purchasers of AFVs, rebates for State taxes paid on the incremental costs of alternative motor fuels, and grants for the construction of AFV infrastructure projects.***

CURRENT LAW: An alternative fuel vehicle is a vehicle that operates using a source other than gasoline or diesel fuel, such as electricity, natural gas, hydrogen, ethanol, methanol, or fuels derived from biological materials. There are currently no benefits provided by the State, such as tax credits or rebates, for the purchase or use of alternative fuel vehicles or for the use of alternative fuels. North Carolina does offer a corporate tax credit for building an alternative fuel generating facility, such as an ethanol or biodiesel plant.

BILL ANALYSIS:

Purpose of Program

House Bill 806 creates the "Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program" (Program). The State Energy Office, which is a division of the Department of Administration, would administer the Alternative Fuel Rebate and Infrastructure Grant Program. The bill authorizes the State Energy Office to issues rules that would govern the administration of the program. Among other things, the rules would establish the procedures for providing:

- Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.
- Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.
- Grants for alternative motor fuel infrastructure projects.

Funding of Program

For the first 3 years of the program, the grants and rebates would be funded from a $1.00 increase in the vehicle registration fee for motor vehicles registered in this State. For the remaining 7 years of the program, it would be funded from an additional $1.00 increase, for a total of a $2.00 increase during those 7 years. However, commitments to rebates and grants may never exceed available funds. The bill directs the State Energy Office to establish a cap on the number and amounts of rebates based on the availability of funds. Up to 5% of the funds collected would be shared by both the State Energy Office and DMV for administrative costs.

Reporting Requirements

The Division of Motor Vehicles would be required to provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type. The State Energy Office would be required to provide an annual report on the expenditure of funds associated with the program and the number of

alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee.

EFFECTIVE DATE: The bill becomes effective when it becomes law. The State Energy Office must issue rules to implement the program on or before July 1, 2004. Upon final adoption of the rules, the DMV will begin collecting the fees required by the act. The act would expire on June 30, 2014.

H806-SMSV-001

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 806 First Edition

SHORT TITLE: Rebate and Grant Program for AFVs

SPONSOR(S): Representatives Tolson; and Insko

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
AFV Fee		**$8,068,737**	**$8,230,108**	**$8,394,710**	**$17,125,208**
EXPENDITURES					
DMV					
Computer system changes	$26,400				
State Energy Office					
Administration					
Personnel	$196,132	$196,132	$196,132	$196,132	$196,132
Other	$32,600	$32,600	$32,600	$32,600	$32,600
Rebates and Grants		$7,840,005	$8,001,376	$8,165,978	$16,896,476
POSITIONS: (cumulative)					
State Energy Office	**4.25**	**4.25**	**4.25**	**4.25**	**4.25**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV); State Energy Office (SEO)

EFFECTIVE DATE: When the bill becomes law, but revenue collections for the program are to start July 1, 2004.

BILL SUMMARY: The bill establishes an alternative fuel and alternative fuel vehicle rebate program to be administered by the State Energy Office. The program will provide partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles, limited rebates for State taxes paid on incremental costs of alternative motor fuels, and grants for alternative motor fuel infrastructure projects. The program would be funded by an additional $1 added to all registration fees for the first three years of the program and an additional $2 added to all registration fees for the remaining seven years of the program. A maximum of 5% of the funds collected can be used by the State Energy Office and DMV to administer the program.

The program is to include a cap on the number and amount of rebates and grants to limit them to the available funds.

The State Energy Office is to issue rules implementing the program on or before July 1, 2004, and upon final adoption of the rules the Division of Motor Vehicles is to begin collecting the additional fees mandated.

ASSUMPTIONS AND METHODOLOGY:

Expenditures

During FY03-04, SEO will be coordinating with other agencies and the industry in establishing rules for the program and DMV will be doing the computer changes necessary for the program. SEO estimates its expenditures at a total of $228,732, as follows:

Program Manager	$50,000
Program Associate	40,000
Administrative Assistant	30,000
Accounting Technician	32,000
Public Info Officer (1/4 time)	11,000
Fringe Benefits	33,132
TOTAL PERSONNEL	$196,132
TRAVEL	7,600
PRINTING and WEBSITE	$25,000
GRAND TOTAL	$228,732

SEO indicates that these administrative costs will continue during the life of the program.

DMV's expenditures during FY03-04 to prepare for the program include modifying the STARS (State Titling and Registration System) for plate fee calculation, updating the fiscal and other reports it prepares to capture the information required, and creation of the quarterly report specified in the bill. DMV estimates the cost of these activities as 300 professional hours times $80 per hour, or $24,000, plus computer overhead charges of $2,400, for a total of $26,400. Starting in FY04-05, during the operation of the program itself, DMV's costs are expected to be nominal and no estimate is shown.

Revenues

DMV estimates that the fee of $1 per vehicle will bring in $8,068,734 during the program's first year and that the number of vehicles will increase by 2% per year. The fee will double in the fourth year of the program. In each year, based on the bill, $228,732 will be used to pay administrative expenses and the remainder will be used for the rebates and grants according to the rules that SEO will be preparing in FY03-04.

SOURCES OF DATA: Division of Motor Vehicles; State Energy Office

TECHNICAL CONSIDERATIONS: The bill provides that SEO and DMV may use up to 5% of the funds collected for administration. However, administrative expenses will begin in FY03-04, while funds will not be collected until FY04-05. The source of funds for administration in FY03-04 is not clear.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bob Weiss

Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: June 9, 2003

House Committee on Finance

Minutes

~

June 11, 2003

The House Committee on Finance met on Wednesday, June 11, 2003 at 8:30 am in Room 544 of the Legislative Office Building. A majority of the members were present for the official conduct of business. Also present were members of Staff as well as Sergeant-at-Arms: Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:38 am and immediately recognized the six (6) pages present: (1) Andrew Batchelor of Wake County, sponsored by Representative Church; (2) Jacob Carr of Wake County, sponsored by Representative Capps; (3) Dan Mercer of Wake County, sponsored by Representative Young; (4) Clarke Munford of Wake County, sponsored by (and the son of) Representative Munford; (5) Henry Neese of Wake County, sponsored by Representative Munford; and (6) Cole Phillips of Wake County, sponsored by Representative Miner.

As the first matter of business before the Committee, Chairman Miner recognized Representative Justus to explain her bill: **HB 232 – INCORPORATE MILLS RIVER** (see attachment 3). She explained that the bill was supported by the entire legislative delegation for the area and was also endorsed by the City of Asheville. The bill acts to incorporate the Town of Mills River in Henderson County and to enact a charter setting out the powers and duties of the Town. She also noted that a council manager form of government would govern the Town, with five members being elected to the Town Council. Representative Justus stated that the only opposition she was aware of was from the Town of Fletcher. Mr. Milton Byrd, Councilman from the Town of Fletcher, was present and did speak in opposition to the bill. He stated that the Fletcher Town Council unanimously opposed the bill and requested that the Committee delay action on this matter until a "mutually beneficial" compromise could perhaps be made between the Fletcher and Mills River communities. Representative Justus opposed such a delay stating that numerous attempts at compromise had been made and remained unsuccessful to date. Representative Howard was then recognized by the Chair and moved for a favorable report on HB 232. As there was no other discussion among the members, Chairman Miner called the vote and the motion carried by consent.

The Chair then recognized Senator Horton to explain **SB 119 – EXPAND HISTORIC PRESERVATION CREDIT** (see attachment 4). Representative Howard moved the adoption of the Proposed Committee Substitute (PCS) of SB 119 for the purposes of discussion. The motion carried without opposition. Senator Purcell then explained that the bill acts to extend a tax credit on preservation efforts taken by taxpayers to restore historically significant items (i.e. real estate properties, etc.). Following this explanation, Representative Womble was recognized and moved for a favorable report as to the PCS on SB 119, and unfavorable as to the original bill. Representative Luebke was recognized by the Chair and expressed his concerns that, while he supports the bill, he does not believe that the State cant afford to lose any further funds from the General Fund to expand this credit. He then sent forth an amendment to change the title of the bill and delete Section 2 of the bill. Representative Ross spoke against the Luebke amendment and stated that the

PCS of the bill does not expand the credit and that an amendment is not necessary. She also asked to hear from the public on the matter. Chairman Miner then recognized Murray Gould, with Gould and Associates, who stated that the high levels of investment required by current law makes it very difficult for investors to qualify for the credit. He stated the need to keep section 2 of the bill and opposed Representative Luebke's amendment. The Chair then recognized the bill sponsor, Senator Horton, who stated that the Luebke amendment "guts the entire bill." He further reiterated that this credit only applies to those who actually restore properties in the state (and that property restoration brings new revenues as well). Representative Holliman was recognized and stated that while he supports the bill, it feels that there are many other issues that should take priority over the State's budget, especially given the poor fiscal condition of the State at the present time. Questions from members regarding the fiscal impact of the bill were posed to Richard Bostic (staff), who stated that it was difficult to rate the direct impact. Representative Ellis was then recognized and requested that staff draw up an amendment that requires the North Carolina Department of Revenue to create a specific field on tax returns for this credit so that an actual accrual of the amount claimed under this credit could be gauged. Senator Horton voiced his support of such an amendment. Representative Luebke was then recognized once again and desired to pose several questions concerning Section 2 of the bill Martha Harris (staff). Ms. Harris, however, was not present at the meeting, as she had been called away. Chairman Miner then ruled to displace the bill until Ms. Harris available to address Representative Luebke's concerns.

Sen. Kerr was recognized next by the Chairman to explain **SB 936 – WAIVE DEADLINES FOR TROOPS** (see attachment 5). The Senator stated his pleasure to be in the House Finance Committee. He explained that the bill simply waives some deadlines on voting and refunds of tuition for troops called into battle under Operation Iraqi Freedom and affects only a small number of people overall. The Chair then recognized Representative Holliman who moved for a favorable report. The motion carried by consent.

Chairman Miner recognized Senator Kerr once again to explain **SB 236 – REVENUE ADMINISTRATIVE CHANGES** (see attachment 6). Senator Kerr explained the bill as "a clean-up bill" affecting various sections of the State's Revenue Laws. (See bill summary in attachment 6 for further details of these administrative changes.) He also favored an amendment that sunset several of the provisions of the bill in 2005, as an effort to address the concerns of some private business owners who will be affected by the bill. Chairman Miner sent forth this amendment and moved its adoption. The amendment was adopted. Representative Alexander was then recognized to make a motion that SB 236 receive a favorable report as a PCS (incorporating the adopted amendment), and an unfavorable report as to the original bill.

For consideration of his third and final bill before the Committee, Senator Kerr was again recognized by the Chair to explain **SB 934 – DWI PROVIDER AUTHORIZATION FEES** (see attachment 7). The Chair recognized Representative Howard who moved the adoption of the PCS on SB 934 for discussion purposes. The motion carried by consent. The Senator explained that this bill closes a possible loophole in the state's DWI enforcement laws. He stated it was supported by all of the law enforcement agencies. He further stated that the bill acts to create quality assessment centers for DWI offenders, as there is currently no measurement system for the quality of these centers. The bill would direct a fee to be charged to the providers of these assessments, which would allow the Department of Health and Human Services (DHHS) to monitor and provide quality control. Following this explanation, Representative Alexander asked a question regarding the need for these quality controls on assessors. Michael Isen with the DHHS was present to address

the question and stated that the need had arisen from various complaints about assessments up to the present. Representative Alexander also asked Mr. Isen how long the costs for an assessment in the state had been $50.00. He stated that the costs had been at that rate for approximately 15 years. Representative Alexander then addressed the Committee stating that while this bill does not raise the assessment fee to those receiving the service, these assessments are very expensive and the current rate of $50.00 is not adequate. She stated that the Committee should consider raising these fees in the near future, especially as the number of assessments continues to increase. However, the Chair recognized Ms. Sonya Brown, also with DHHS, who stated that fee increases for those receiving these services is not timely given the national (and state) reform of the Mental Health System. The Chair then recognized Representative Holliman who raised the question as to why the state intends to provide the monitoring of these assessment centers when almost all mental health programs are handled on the local level. Ms. Brown was once again recognized and stated that similar to the fee increases, localized rather than statewide monitoring is not a good option amidst the ongoing reforms of the mental health system. Representative Holliman was then recognized by the Chair for a follow-up statement and informed the Committee members of his belief that this system, just like any other, would not work as well as it could unless it started on the local level. Following some other discussion, Representative Hackney was recognized for a motion of favorable report as to the PCS on SB 934, and unfavorable as to the original bill. Representative Glazier was then recognized and expressed his belief that these controls on providers are necessary, even though most are likely providing quality services. With the conclusion of general discussion among the members, Chairman Miner recalled Representative Hackney's motion and called it to a vote. The motion carried without opposition.

As the final matter of business before the Committee, Chairman Miner recognized Representative Goodwin to speak on behalf of Senator Purcell on **SB 76 – INCORPORATE MISENHEIMER** (see attachment 8). For the purposes of discussion, Representative Howard moved adoption of the PCS to SB 76. The motion carried without objection. Representative Goodwin presented several handouts to members (see attachment 8) and explained that the bill was coming back before the Committee because it was displaced from the calendar during the June 10, 2003 meeting. He briefly reviewed the content of the bill, noting that it involves the incorporation of the Village of Misenheimer, located in the northern part of Stanley County and the home of Pfeiffer University. He further noted that the bill had received a favorable recommendation from the Municipal Incorporations Commission. The President of Pfeiffer University, Mr. Charles M. Ambrose, was also present and stated his support of the incorporation of Misenheimer. Chairman Miner then recognized Representative Howard who moved for a favorable report as to the PCS for SB 76, and an unfavorable report as to the original bill. Following some brief discussion among the members, the Chair called Representative Howard's motion to a vote. The motion carried by consent.

As time the Committee's meeting time had expired, Chairman Miner immediately adjourned the meeting at 9:57 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 232 (and related materials)
4. Senate Bill 119 (and related materials)
5. Senate Bill 936 (and related materials)
6. Senate Bill 236 (and related materials)
7. Senate Bill 934 (and related materials)
8. Senate Bill 76 (and related materials)
9. House Bill 806 (and related materials) **(not discussed)**
10. House Bill 1072 (and related materials) **(not discussed)**
11. House Bill 1257 (and related materials) **(not discussed)**

ATTACHMENT 1

AGENDA

House Finance Committee

June 11, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order & Introduction of Pages

Bills:

HB 232 INCORPORATE MILLS RIVER *Rep. Justus*

HB 806 REBATE AND GRANT PROGRAM FOR AFVS *Rep. Tolson*

HB 1072 REGULATE TICKET BROKERS *Reps. Miner and Gibson*

HB 1257 AMEND RESPIRATORY CARE PRACTICE ACT/FEES *Reps. Tolson & Nye*

SB 76 INCORPORATE MISENHEIMER *Sen. Purcell*

SB 119 EXPAND HISTORIC PRESERVATION CREDIT *Sen. Horton*

SB 236 REVENUE ADMINISTRATIVE CHANGES *Sen. Kerr*

SB 934 DWI PROVIDER AUTHORIZATION FEES *Sen. Kerr*

SB 936 WAIVE DEADLINES FOR TROOPS *Sen. Kerr*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, June 10, 2003 12:58 PM
Subject: NOTICE House Finance Committee 6-11-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Wednesday, June 11, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 232 - INCORPORATE MILLS RIVER – Rep. Justus

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 1072 - REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1257 – AMEND RESPIRATORY CARE PRACTICE ACT/FEES– Reps. Tolson & Nye

SB 76 – INCORPORATE MISENHEIMER – Sen. Purcell

SB 119 – EXPAND HISTORIC PRESERVATION CREDIT – Sen. Horton

SB 236 – REVENUE ADMINISTRATIVE CHANGES – Sen. Kerr

SB 934 – DWI PROVIDER AUTHORIZATION FEES – Sen. Kerr

SB 936 – WAIVE DEADLINES FOR TROOPS – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **1:00 P.M.** on **June 10, 2003**.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Finch	NCDOR
Grey Radford	NC DOR
Lonnie Collins	DOR
Charlie Helms	NCDOR
Ron Starling	NCDOR
JULIAN FITZGERALD	NCDOR
Donna Alderman	NCDOR
Andy Sabol	NCDOR
John O'Hale	Governor's Office
Tom Beason	NC Environmental Defense
Floyd Boyer	NC Respiratory Care Board

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Julie Allen	NC Statewater
[signature]	NCICU
Bill Scoggin	KCCI+
Betty Turner	P. & A
Paul Stocic	NCBA
M Jenatian	HTA
G. Panos	#7A
Rachel Care	Page
Andy Romanit	NCLM
Peter Edquist	Village of Misenheimer
J. Michael Kennedy	Village of Misenheimer

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe Carter	Misenheimer Inc. / Richfield, N.C.
Terry Kimrey	Misenheimer Inc / Richfield N.C.
Tobin Freid	TJCOG / RTP, NC
Anne Tazewell	TJCOG / RTP, N C
Murray Gould	Gould + Assoc. / Raleigh, NC
Myrick Howard (COUNCILMAN)	Preservation Nc / Raleigh
Milton Byrd	Town of Fletcher, N.C.
Don Reeves	ARP/Phoenix Asheville NC
FRANK Jolly	ARP/Phoenix (NC DWI PROVIDERS Assoc
MICHAEL GLASS	COSTRAN, DWI & ALCOHOL SERS. NC DWI PROVIDERS ASSOC.
Craig Mooney	Town of Fletcher / Fletcher, NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 232*

Committee Substitute Reported Without Prejudice 6/3/03

Short Title: Incorporate Mills River. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Mills River is enacted to read:

"CHARTER OF THE TOWN OF MILLS RIVER.

"ARTICLE I. INCORPORATION AND CORPORATE BOUNDARIES.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mills River are a body corporate and politic under the name 'Town of Mills River'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mills River are as follows:

Beginning at a point at the Buncombe-Henderson County line on Pennsylvania Road (SR 1348) and traveling South to the Intersection with North Mills River Road (SR 1345). Turning Northwest on North Mills River Road (SR 1345) until the Intersection with Whitaker Lane (SR 1341). Turning South on Whitaker Lane (SR 1341) until the Intersection with South Mills River Road (SR 1338). Continuing South along Henderson County Land Records parcel lines known as 0802005 along the Southern edge; 9933871 along the Southern edge; 0800935 along the Northern and Eastern edges; 9900853 along the Eastern edge; 0801109 along the Eastern edge; 9965467 along the Southeastern edge; 9935627 along the Southeastern edge; 9935626 along the Southern edge; until reaching the Mills River Fire District line. Continuing West along the United States Forest Service property line and the Mills River Fire District line across what is commonly known as "Forge Mountain" to the Transylvania County line. Following the Transylvania County line South to the Mills River Fire District line and then along with the Mills River Fire District line Southeast to Ladson Road. Turning East on Ladson Road (SR 1314) until reaching the Intersection of Schoolhouse Road (SR 1426). Continuing East until the Intersection with Haywood Road (Hwy 191). Turning North

on Haywood Road (Hwy 191) until reaching Hooper Lane (SR 1353). Turning East on Hooper Lane (SR 1353), including the property on the Southeast side of the road listed with the Henderson County Land Records as: 0803205 along the Eastern edge; 9945652 along the Eastern and Northern edges; and rejoining Hooper Lane (SR 1353). Following Hooper Lane (SR 1353) until reaching Jeffress Road (SR 1345). Turning North along Jeffress Road (SR 1345) until its Intersection with Butler Bridge Road (SR 1352). Following Butler Bridge Road (SR 1352) Northeast until reaching the Mills River Fire District line. Following the Mills River Fire District line North and Northwest back to the Buncombe-Henderson County line on Pennsylvania Road (SR 1348).

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mills River is the Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Roger D. Snyder, Lois M. Pryor, Wayne S. Carland, James R. Cowan, and Linda F. Brittain are appointed members of the Town Council of the Town of Mills River, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Town Council; Terms of Office.** Two of the Council members shall be elected at large from the residents of the Town and three shall be elected from each of Districts 1, 2, and 3 respectively, as provided in Article IV of this Charter. The qualified voters of the entire Town shall elect all the members of the Town Council, and, except as provided in this section, they shall serve four-year terms. In 2003, two Council members shall be elected at large and they shall serve for four-year terms, and one Council member shall be elected from each of Districts 1, 2, and 3, respectively and they shall serve for two-year terms. In 2005, and quadrennially thereafter, one Council member shall be elected from each of Districts 1, 2, and 3 respectively and they shall serve for four-year terms. In 2007, and quadrennially thereafter, two members shall be elected at large and they shall serve for four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Town Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Town Council. The Mayor shall be the official head of Town government and shall preside at all meetings of the Town Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Town Council. In the case of a vacancy in the office of Mayor, the remaining members of the Town Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Vacancies.** Notwithstanding the provisions of G.S. 160A-63, a person appointed by the Town Council to fill a vacancy on the Council shall serve for the remainder of the unexpired term.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town elections shall be conducted on a nonpartisan basis and the results determined by plurality, as provided in G.S. 163-292. Elections shall be conducted by the Henderson County Board of Elections in accordance with general law, except as may be modified by this Charter.

"Section 4.2. **Regular Municipal Elections; District Boundaries.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. For purpose of the election of Town Council members, the Town is divided into three geographical subdivisions, known as districts, and all qualified voters of the Town may cast a vote for each seat. A written description or map showing the current boundaries of the three election districts shall be maintained in the office of the Town Clerk and shall be available for public inspection. The district boundaries may be amended periodically pursuant to the provisions of general law. Whenever areas are hereafter annexed and made part of the Town, the Town Council shall, by ordinance, redefine and rearrange the three election districts so as to include the annexed areas. The ordinance shall be adopted at least seven days prior to the opening of candidate filing for the municipal election next succeeding the date of any annexation and shall provide for three election districts of approximately equal population. In redefining and rearranging the election district lines, the Town Council shall follow as nearly as practical existing district lines.

"Section 4.3. **Residency Required.** Candidates for election to district seats on the Town Council shall reside in and represent their respective districts, but all candidates for Town Council shall be nominated and elected by all the voters of the Town.

"ARTICLE V. ADMINISTRATION.

"Section 5.1 . **Town to Operate Under Council-Manager Plan.** The Town shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Town of Mills River shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Town shall obtain from Henderson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Mills River is authorized to adopt such ordinances as the Town Council deems necessary to the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS PROVISIONS.

"Section 8.1. **Expenses.** The entities sponsoring incorporation shall be entitled to recover from the Town expenses of sponsoring incorporation in the amount of five hundred dollars ($500.00) or greater, provided that the entities seeking recovery shall submit written requests for reimbursement and shall be subject to annual audit. The Town Council may reimburse expenses after the first full fiscal year. To receive reimbursement, all requests must be submitted prior to the end of the second fiscal year."

SECTION 2. The temporary officers of the Town of Mills River shall, at least seven days prior to the opening of candidate filing for the initial municipal elections, adopt a plan to divide the Town into three districts for the purpose of municipal elections as provided in Article IV of this Charter. The plan shall immediately be transmitted to the Henderson County Board of Elections.

SECTION 3. Notwithstanding G.S. 163-294.2, the filing period for the Town Council for the 2003 municipal election shall open at 12:00 noon on the first Monday in August and shall close at 12:00 noon on the first Friday in August.

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

HOUSE BILL 232:
Incorporate Mills River

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Justus
Date:	June 11, 2003	**Analysis by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 232 is a local bill that would incorporate the Town of Mills River in Henderson County and enact a charter setting out the powers and duties of the Town. The Joint Legislative Commission on Municipal Incorporations could not recommend incorporation of the Town in its report on May 15, 2003, because the area proposed to be incorporated is not sufficiently developed. The Commission concluded that the proposed Town met the other standards required by Article 20 of Chapter 120 of the General Statutes.

Senate Bill 287, sponsored by Senator Apodaca, is a companion bill.

BILL ANALYSIS: House Bill 232 incorporates the Town of Mills River under a council-manager form of government. There will be five members of the Town Council. The Town will be divided into three geographic areas and one member will be elected from each district. Two members will be elected at-large. Candidates for election to district seats must reside in the respective district, but all the voters of the Town shall elect all candidates for Town Council. The members of the Council will elect one of its members to serve as mayor. Prior to the initial 2003 election, specifically named persons will serve as interim Town Council. At the initial election, the Town Council will be elected to staggered four-year terms. Elections will be on a nonpartisan basis.

The Town's Charter would provide that the entities sponsoring incorporation would be entitled to recover from the Town expenses of sponsoring incorporation in the amount of $500 or more, provided the entities seeking recovery submitted written requests for reimbursement and agreed to be subject to an annual audit. The Town Council could reimburse the expenses after the first full fiscal year. To receive reimbursement, all requests would have to be submitted prior to the end of the second fiscal year.

BACKGROUND: Article 20 of Chapter 120 of the General Statutes creates the Joint Legislative Commission on Municipal Incorporations and sets out the procedures for review of the statutory requirements for incorporation. The Commission, with the help of the Division of Community Assistance of the Department of Commerce, found that the proposed Town of Mills River satisfied all but one of the following requirements:

- The petition must be signed by 15% of the registered voters in the proposed area, but by not less than 25 registered voters. The petition was signed by 1,748 of the 3,769 voters in the proposed area. The Henderson County Board of Elections verified the petition.
- The petition contained the necessary information, including a plan to provide a reasonable level of services and an ad valorem tax levy of at least 5¢ per $100 valuation.

The Town proposes to provide fire protection, police protection, street lighting, and solid waste collection with a proposed tax rate of $.075 per $100 valuation

- The proposed area must have a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. The Town of River Mills would contain an estimated population of 6,890 based on the 2000 census. The Town is composed of an area of 21.5 square miles, resulting in a density of approximately 320 persons per square mile.[1]
- The proposed area must not be within a certain radius of other incorporated municipalities. The Town is within one mile of the City of Asheville. However, pursuant to the statutory requirements, the City of Asheville has given its express approval of the incorporation of the Town of Mills River by a resolution dated February 25, 2003.
- At least 40% of the proposed area must be developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space. Only 26.19% of the proposed Town of Mills River is developed.

[1] The North Carolina Department of Commerce, Division of Community Assistance, based its assessment of the area's population density on the number of dwelling units in the proposed Town and the average number of persons per household for Henderson County and an occupancy tax rate of 93.36%. Based on its assessment, the population density is 261 persons per square mile.

1. Sales Tax Revenue Change:

Henderson County distributes sales tax revenues on a per capita basis. This analysis uses 2001-02 actual sales tax distribution to show how that distribution would have changed had Mills River been incorporated at that time.

Current

County	Municipalities	Population	% Population	Sales Tax Distribution
Henderson		91,544	81.8%	14,636,054.17
	Flat Rock	2,653	2.4%	402,740.01
	Fletcher	4,339	3.9%	666,057.24
	Hendersonville	11,256	10.1%	1,735,920.91
	Laurel Park	2,061	1.8%	335,431.95
	Saluda	4	0.0%	
	TOTAL	111,857		17,776,204

With Incorporation

County		Population	% Population	Sales Tax Distribution	Change
Henderson		91,544	78.2%	13,899,322	(736,732)
	Flat Rock	2,653	2.3%	402,811	71
	Fletcher	4,339	3.7%	658,800	(7,258)
	Hendersonville	11,256	9.6%	1,709,023	(26,898)
	Laurel Park	2,061	1.8%	312,926	(22,506)
	Saluda	4	0.0%	-	-
	Mills River	5221	4.5%	792,716	792,716
	TOTAL	117,078		17,775,597	

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,153,921 and available funds of $97,675,598.26. This created a per capita distribution rate of $ 23.51.

Adding the new population of Mills River (5221) to the statewide total creates a new population of 4,159,142 and a per capita allocation of $23.48. The impact of this change on Henderson municipalities is as follows:

Municipalities	Population	Current Allocation	Prospective Allocation	Change
Flat Rock*	2,653	n/a	n/a	
Fletcher	4,339	102,027.56	101,879.72	(147.84)
Hendersonville	11,256	264,674.40	264,290.88	(383.52)
Laurel Park	2,061	48,462.50	48,392.28	(70.22)
Saluda	4	n/a	n/a	
Mills River	5221	n/a	n/a	5221.00

* Does not qualify for Powell Bill Fund.

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light and telephone companies, 3.09 percentage points (or 96% of collections) are distributed to the respective municipalities within which these services took place. In 1998-99 the statewide total was $161.1 million.

Because Mills River only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Mills River from this tax would be new or drawn from the NC General Fund.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controlling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.
June 2, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 232 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 119
Finance Committee Substitute Adopted 6/4/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S119-CSLAx-26 [v.1]

6/10/2003 8:22:58 PM

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY REMOVING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES, AND BY INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2004, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 119

Finance Committee Substitute Adopted 6/4/03

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY REMOVING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES, INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION, AND ALLOWING BOTH HISTORIC REHABILITATION TAX CREDITS TO BE TAKEN AGAINST FRANCHISE TAX AND GROSS PREMIUMS TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2004, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. G.S. 105-129.37(a) reads as rewritten:

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

SECTION 4. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2004.

SENATE BILL 119:
Expand Historic Preservation Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Horton
Date:	June 10, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 119 amends the historic preservation tax credits as follows:

- *Removes the January 1, 2004 sunset on provision that permits a pass-through entity to allocate among its owners the tax credit for income-producing property. Amends this provision to permit a pass-through entity to allocate the credit to an owner if an owner's adjusted basis in the pass-through entity is at least 40% of the amount of credit allocated to that owner.*
- *Provides that the historic preservation tax credits may be taken against the franchise tax, the gross premiums tax, and the income tax. The taxpayer must elect one of the taxes against which the credit is to be taken. Current law allows the credit to be taken only against the income tax.*

House Bill 1288, sponsored by Rep. Ross, is a companion bill.

BILL ANALYSIS: Section 1 of Senate Bill 119 removes the January 1, 2004 sunset on the provision in the historic rehabilitation tax credit that permits a pass-through entity to allocate among its owners the tax credit for income-producing property. This section is effective when it becomes law.

Section 2 of Senate Bill 119 increases the amount of the credit for income-producing property that a pass-through entity may allocate among its owners. Current law requires that the credit can be allocated to an owner of the pass-through entity as long as the amount of credit allocated to the owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Internal Revenue Code. Senate Bill 119 provides that the owner's adjusted basis must be at least 40% of the credit allocated to that owner. This section is effective for taxable years beginning on or after January 1, 2003.

Section 3 of Senate Bill 119 provides that the historic rehabilitation tax credits may be taken against the franchise tax, the income tax, and the gross premiums tax. The taxpayer may elect only one of these taxes for this purpose, and this election is binding for any carryforwards of the credit. This section becomes effective for taxable years beginning on or after January 1, 2004.

CURRENT LAW: G.S. 105-129.35 allows an income tax credit of 20% of the expenses of rehabilitating an income-producing historic structure. G.S. 105-129.36 allows an income tax credit of 30% of the expenses of rehabilitating an historic structure that is not income-producing. The credit for income-producing structures is lower because federal law also allows a 20% credit for those expenses, yielding a combined credit of 40%. The 20% credit is allowed only if the

taxpayer qualifies for the federal credit and the 30% credit is allowed only if the taxpayer does not qualify for the federal credit. The credit may not be taken for the tax year the property is placed in service but must be taken in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

A pass-through entity may qualify for the rehabilitation credit and pass the credits on to its owners. A pass-through entity is an entity, such as a partnership, a limited liability company, or a Subchapter S corporation, that is treated as owned by individuals or other entities under federal tax law and whose income, losses, and credits are reported by the owners on their State income tax returns.

Under the Internal Revenue Code, tax credits are allocated among S corporation shareholders in accordance with their pro rata share of the corporation, which is determined on the basis of stock ownership, and tax credits are allocated among partners in a partnership in accordance with the partnership agreement. The allocation made by the partnership agreement must have a substantial economic effect, which means that the allocation agreement must reflect the economic interest of the partners in the partnership and cannot be based solely on tax consequences. Therefore, the allocation agreement of partners cannot give one partner 100% of the income, loss, or credits of the partnership. A pass-through entity may allocate the credit for rehabilitating an income-producing historic structure among any of its owners, as long as the amount of the allocated credit does not exceed the owner's adjusted basis in the entity, as determined under the Code. The adjusted basis is determined at the end of the taxable years in which the historic structure is placed in service. Each year an allocated credit is claimed, the pass-through entity and its owners must include a statement with their tax return that shows both the allocation made and the allocation that would otherwise have been required under G.S. 105-131.8 and G.S. 105-269.15. G.S. 105-131.8 provides that the tax credit allowed a shareholder in a Subchapter S corporation is based on the percentage of stock held by the shareholder in the corporation. G.S. 105-269.15 provides that the tax credit allowed a partner is based on the partnership agreement, which must have substantial economic effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 119 (Second Edition)

SHORT TITLE: Expand Historic Preservation Credit

SPONSOR(S): Senator Horton

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		No estimate available			
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Cultural Resources – State Historic Preservation Office; Department of Revenue

EFFECTIVE DATE: Section 1 (removal of sunset) is effective when it becomes law. Section 2 (allocation) is effective for taxable years beginning on or after January 1, 2003. The remainder of the act becomes effective for taxable years on or after January 1, 2004.

BILL SUMMARY: The bill removes the January 1, 2004 sunset on a pass-through provision for the tax credit for rehabilitating income-producing historic structures. The bill allows a pass-through entity that qualifies for the historic rehab credit to allocate the credit among its owners in its discretion as long as an owner's adjusted basis is at least 40% of the amount of the credit allocated to that owner. The bill also allows the credit to be used against the franchise tax and the gross premiums tax.

BACKGROUND: The National Park Service of the U.S. Department of the Interior administers a federal income tax credit equal to 20% of qualified rehabilitation expenditures for certified historic structures that are used in connection with a trade or business or held for the production of income. This credit is available for both residential rental buildings and nonresidential buildings. In order to qualify, the property itself must be either listed in the National Register, or located in a registered historic district and be certified as being of historic significance. All rehabilitation work must meet The Secretary of the Interior's Standards for Rehabilitation and must be approved by the State Historic Preservation Office (SHPO).

From 1993 to 1997, North Carolina investors eligible for the Federal Rehabilitation Investment Tax Credit were allowed a state income tax credit equal to one-fourth of the federal amount (5%). The 1997 General Assembly expanded the State income tax credit from 5% to 20% for rehabilitating an income-producing historic structure, effective for tax years beginning on or after January 1, 1998. (S.L. 1997-139) The credits may not be taken in one year, but must be spread out in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

ASSUMPTIONS AND METHODOLOGY:

No estimate can be made of the actual fiscal impact of this bill. In theory, the bill has been proposed to increase the likelihood that the historic rehab tax credits will be fully utilized by taxpayers. However, the General Assembly's Fiscal Research Division has assumed from 1997 (the year the credit increased to 20%), that 100% of the tax credits have been used and have built 100% utilization of the historic credit into the General Fund availability forecast. All efforts to determine the actual cost of the credit program failed for reasons explained below.

From 1989 to 1997, the Journal of Multistate Taxation and Incentives reported North Carolina had 268 federally certified historic rehab projects valued at $125.3 million. The average project size in this period was $468,000 and the average number of projects each year was 30. The increase in the state credit in 1998 saw a significant increase in projects and in the size of projects. From 1998 through March 2003, $178.7 million was spent on rehabbing 199 historic structures. On average in the 1998-2003 period, 38 projects were completed each year at cost of $900,000 per project.

Income Producing Projects - Completed			
Tax Year	**# Of Projects**	**Rehab Expenses**	**Avg. Proj. Cost**
1998	27	$6,748,550	$249,946
1999	36	$25,187,152	$699,643
2000	44	$39,385,678	$895,129
2001	50	$74,117,018	$1,482,340
2002	30	$27,229,772	$907,659
J - M 2003	12	$6,035,293	$502,941
	199	$178,703,463	$898,007

As shown in the chart below, the General Fund impact of these credits is lessened by the requirement that the tax credit be taken over five years. In FY 02-03, the actual credit earned is $6,906,727, an amount slightly lower than the original projection of $7.2 million made in 1997.

I. Income Producing Projects - Completed

Tax Year	Credit Amount	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
1998	$1,349,710	$269,942	$269,942	$269,942	$269,942	$269,942
1999	$5,037,430		$1,007,486	$1,007,486	$1,007,486	$1,007,486
2000	$7,877,136			$1,575,427	$1,575,427	$1,575,427
2001	$14,823,404				$2,964,681	$2,964,681
2002	$5,445,954					$1,089,191
J - M 2003	$1,207,059					
General Fund Revenue Loss		**$269,942**	**$1,277,428**	**$2,852,855**	**$5,817,536**	**$6,906,727**
Original 1997 Estimate		**$1,050,000**	**$2,250,000**	**$3,750,000**	**$5,400,000**	**$7,200,000**

While the data above shows the amount of tax credits taxpayers are eligible for each year, it does not reveal the percentage of tax credits claimed each year. The Department of Revenue was asked to report on the amount of income-producing historic rehab credits taken in tax years 2000 and 2001. The Department's Tax Research Division responded that it could only determine the number of corporate taxpayers that claimed the historic rehab credit, because the agency's ITAS computer system does not contain information on the individuals that claim the credit. ITAS does not capture data on individual historic rehab tax credits, because the credit is one of a number of credits filed on Form D-400TC as a miscellaneous credit. The only way for the Department to determine the number of individual tax credits taken would be to manually search through 28,000 tax returns each year that claim a miscellaneous credit.

The Tax Research Division data on corporate historic rehab credits shows $893,265 was claimed in tax year 2000. Since these credits would probably have been claimed in the FY 2001-02 period, the reported $893,265 is only 15% of the $5.8 million in available credits that year. For the 2001 tax year, $725,703 in corporate credits were claimed out of $6.9 million credits available in FY 2002-03 (10.5%). Without the individual tax credit information, the corporate data is meaningless. No conclusion on credit utilization can be drawn from existing Department of Revenue or Department of Cultural Resources data.

SOURCES OF DATA: National Park Service; Journal of Multistate Taxation and Incentives (Nov/Dec 2000); Department of Revenue - Tax Research Division

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 4, 2003

S119

North Carolina Preservation

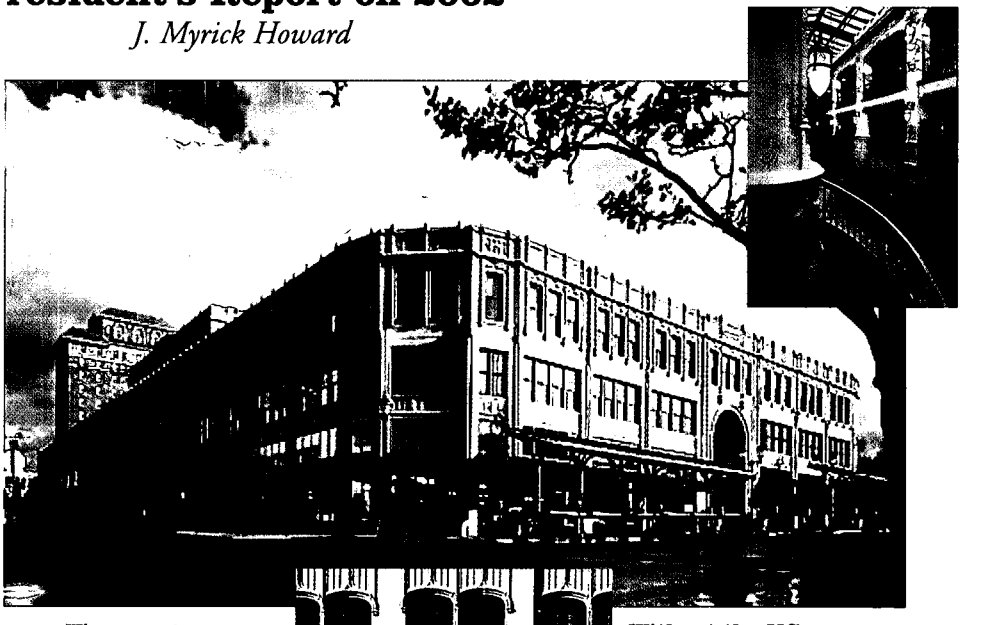
spring 2003

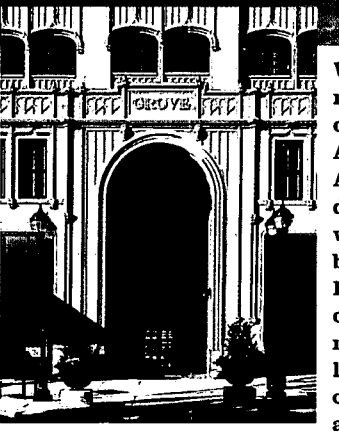
The Real News of 2002:
Historic Rehabilitation Soars

President's Report on 2002

J. Myrick Howard

Amidst recession, concerns about terrorism, legislative battles over budgets and redistricting, and a buildup for war, Preservation North Carolina had a successful year of historic preservation. Thanks to loyal supporters, low interest rates, a stable real estate market, and good luck, PNC made it through 2002 in the black (with an operating surplus of less than $1,000!), unlike many nonprofits. Most nonprofits saw their charitable contributions drop, and if they received public financial support, they faced abrupt funding reductions. Preservation North Carolina was fortunate. Though contributions were down only slightly in 2002, property revenue took up the slack. The following pages will describe the numerous and varied projects that Preservation North Carolina (PNC) undertook in 2002.





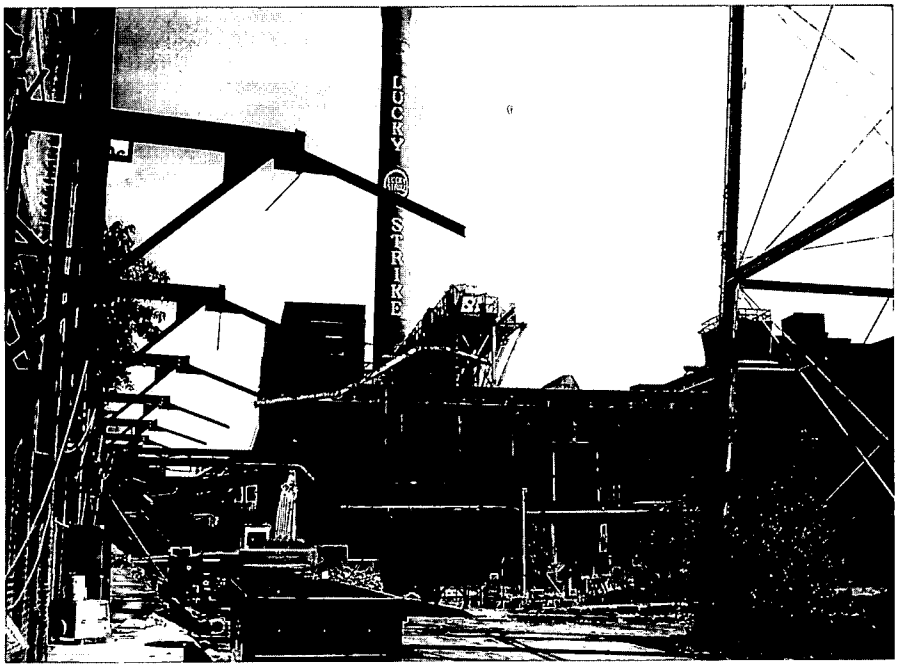
Without the NC rehabilitation tax credits, the magnificent Art Deco-style Grove Arcade in the heart of downtown Asheville would probably still be a bricked-up fortress. Instead, the ground floor of the arcade is a public market filled with locally owned and operated shops, stalls, and "daytables" for sale of home grown/home made farm and craft products. The shops include fresh food vendors, prepared food vendors, restaurants, craft shops, and various neighborhood businesses, showcasing many of Western North Carolina's best products. Offices and luxurious apartments are located on the upper floors of the building. (Photos courtesy of Weaver Cooke Construction)

The most important preservation news in North Carolina in 2002 was the continued success of the North Carolina Rehabilitation Tax Credits — advocated by PNC in 1996, enacted by nearly unanimous votes in the North Carolina General Assembly in 1997, and implemented in 1998. Many of the projects conceived — or recalculated in light of new incentives — since the beginning of 1998 are now coming to fruition, improving the landscape in many North Carolina cities and towns.

Despite the recession in North Carolina dating back to Hurricane

The mission of Preservation North Carolina is to protect and promote buildings, sites and landscapes important to the heritage of North Carolina.

Published by Preservation North Carolina | **Est. 1939** | *Number 123*



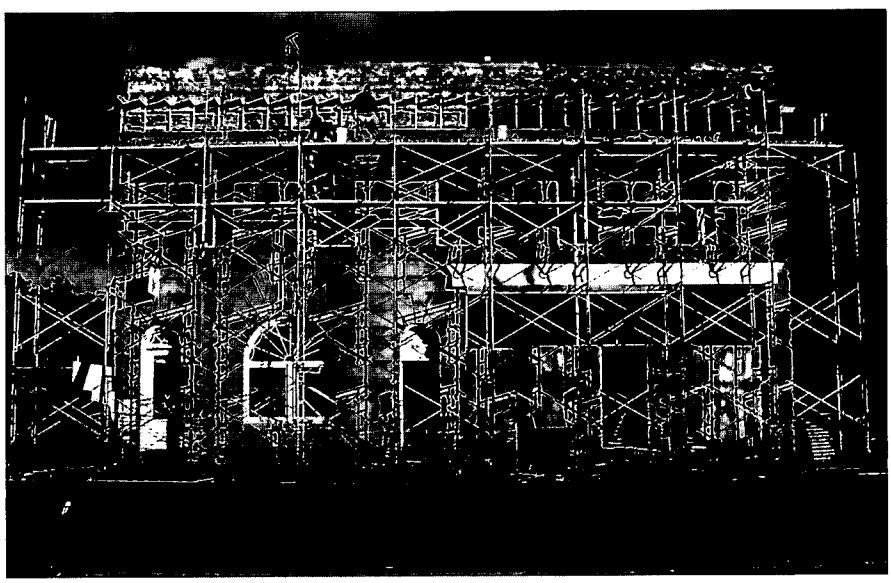
The NC historic rehabilitation tax credits have made possible the renovation of the American Tobacco Historic District in Durham, one of the state's largest redevelopment projects ever. In the words of the developer, "the American Tobacco District is the ongoing revitalization of the city's most prominent downtown industrial complex. Over 1.4 million square feet of mixed use space incorporates shops, residences, and class A offices all situated beside the Durham Bulls Triple A baseball park. These combine with a live performance theater and public green spaces to create a unique, high-density development unlike any other in North Carolina."

household incomes of North Carolina residents. Over 5,000 rental-housing units have been created or rehabilitated — many for low- to moderate-income families.

Even the most successful economic development agencies would be envious of the amount of investment being leveraged with State funds and the overall level of economic impact. But the numbers tell only part of the story. The results can be seen on the ground, from the coast to the mountains:

- The long-awaited restoration of the magnificent Art Deco Grove Arcade in Asheville.
- The numerous new upper-floor residential units in downtown Asheville.
- The symbolic renovation of the Lucky Strike smokestack in downtown Durham, where work has begun on the rehabilitation of the American Tobacco Complex, a $120 million project.
- The renovation of several other historic tobacco facilities in downtown Durham for housing, offices, restaurants and other uses — such as West Village, the Brodie Duke Warehouse, City Center, etc.
- The revival of Glenwood South in Floyd in 1999, the number and size of historic rehabilitation projects has blossomed, creating new jobs, building local tax bases, and encouraging new investment in North Carolina's town centers. The numbers are impressive. In 1997, the last year before the implementation of the new North Carolina tax credits, 23 projects were completed, for rehabilitation expenditures totaling $6,062,428. During the last three years (2000-02), the annual number of projects has averaged 115 (a 500% increase), with the annual investment averaging $46,910,823 (a 774% increase).

Since 1976, 1,088 completed "certified rehabilitation" projects have been reviewed by the North Carolina State Historic Preservation Office (HPO) involving $483.3 million dollars in construction costs. HPO staff estimate that North Carolina's rehabilitation expenditures on income- and non-income-producing projects have created 20,000 new full-time jobs, have added $1.06 billion dollars to the state's economy, and have added $387.1 million dollars to the



Small-town renovation projects are the toughest, and the North Carolina historic rehabilitation tax credits have stimulated many substantial rehab projects in the heart of small downtowns, like the historic 1912 First National Bank Building in Creedmoor. To quote Joel Panara of Grayson Research, its developer: "the project would never have been attempted without the credits.... The tax credit program is essential if we want to save a bit of history for future generations and, in this case, maintain the vitality of downtown areas."

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 936

Short Title:	Waive Deadlines for Troops.	(Public)
Sponsors:	Senator Kerr.	
Referred to:	Finance.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO WAIVE VARIOUS DEADLINES, FEES, AND PENALTIES FOR DEPLOYED MILITARY PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. Deployed Military Personnel Defined. – As used in this act, the term 'deployed military personnel' includes both of the following:

(1) A member of the armed forces or the armed forces reserves of the United States on active duty in support of Operation Iraqi Freedom on or after January 1, 2003.

(2) A member of the North Carolina Army National Guard or the North Carolina Air National Guard called to active duty in support of Operation Iraqi Freedom on or after January 1, 2003.

SECTION 2. Proof. – A copy of a soldier's military orders specifying deployment is conclusive evidence of the soldier's deployment.

SECTION 3. Waiver of Deadlines, Fees, and Penalties. – Except as prohibited by the Constitution, the Governor may extend deadlines and waive penalties or fees as is necessary to alleviate hardship created for deployed military personnel serving in Operation Iraqi Freedom. This authority includes the authority to do all of the following:

(1) Extend for up to 90 days from the end of deployment the validity of a permanent or temporary drivers license issued under G.S. 20-7 to deployed military personnel.

(2) Waive civil penalties and restoration fees under G.S. 20-309 for any deployed military personnel whose motor vehicle liability insurance lapsed during the period of deployment or within 90 days after the soldier returned to North Carolina if the soldier certifies to the Division of Motor Vehicles that the motor vehicle was not driven on the highway by anyone during the period in which the motor vehicle

was uninsured and that the owner now has liability insurance on the motor vehicle.

(3) Allow up to 90 days from the end of deployment for any deployed military personnel to renew a license as defined in G.S. 93B-1. During the period of deployment or active duty and until the expiration of the 90-day period provided for in this subdivision, expired licenses that are within the scope of this act remain valid, as if they had not expired.

(4) Require that any renewal fee applicable to the renewal of a license under subdivision (3) of this section be prorated over the period covered by the license and reduced in proportion to the period of time that the licensee was deployed outside the State.

SECTION 4.(a) Property Taxes. – Notwithstanding G.S. 105-360 or G.S. 105-330.4, deployed military personnel are allowed 90 days after the end of their deployment to pay property taxes at par, for any property taxes that became due or delinquent during the term of the deployment. For these individuals, the taxes for the relevant tax year do not become delinquent until after the end of the 90-day period provided in this section, and an individual who pays the property taxes before the end of the 90-day period is not liable for interest on the taxes for the relevant tax year. If the individual does not pay the taxes before the end of the 90-day period, interest accrues on the taxes according to the schedule provided in G.S. 105-360 or G.S. 105-330.4, as applicable, as though the taxes were unpaid as of the date the taxes would have become delinquent if not for this section.

SECTION 4.(b) Notwithstanding G.S. 105-307, deployed military personnel required to list property for taxation while deployed are allowed 90 days after the end of the deployment to list the property. For these individuals, the listing period for the relevant tax year is extended until the end of the 90-day period provided in this act, and an individual who lists the property before the end of the 90-day period is not subject to civil or criminal penalties for failure to list the property required to be listed during deployment.

SECTION 5.(a) Community College Refunds. – Upon request of the student, each community college shall:

(1) Grant a full refund of curriculum tuition and fees to military reserve and national guard personnel called to active duty or active personnel who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and

(2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

SECTION 5.(b) Upon request of the student, each community college shall:

(1) Grant a full refund of extension registration fees to military reserve and national guard personnel called to active duty or active personnel

who have received temporary or permanent reassignments as a result of military operations that make it impossible for them to complete their course requirements; and

(2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance-learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

SECTION 5.(c) This section applies to the 2002-2003 and 2003-2004 academic years only.

SECTION 6.(a) UNC System Refunds. – This section is intended to assist the constituent institutions of The University of North Carolina in situations in which students request refunds of tuition or fees because of involuntary or voluntary service in the military or because of circumstances related to national emergencies.

Upon request of the student, all constituent institutions may issue a full refund of tuition and required fees to students who are involuntarily called to active duty in the military after a semester or term begins.

All constituent institutions should have a process for determining on a case-by-case basis whether to grant a full refund of tuition and required fees to students who volunteer for military service or who request to withdraw because of circumstances related to a national emergency.

Constituent institutions should determine under what circumstances students who withdraw because of military service or circumstances related to national emergencies should be given the option of receiving incompletes in their courses instead of receiving tuition and fee refunds.

Constituent institutions should determine whether or not to give full or pro rata refunds of housing, parking, and other optional fees to students to whom they give tuition and required fee refunds.

Constituent institutions that offer courses on military bases should defer to their contracts with the military in making determinations concerning withdrawal from courses due to changes in assignments of military personnel.

It is recommended that every campus review its policy on tuition refunds and make modifications necessary to cover the circumstances described in this section.

SECTION 6.(b) Legislative Tuition Grants. – Students who are receiving the North Carolina Legislative Tuition Grant who lose their full-time student status due to a call to active military duty or circumstances related to national emergencies shall not be required to repay the Legislative Tuition Grant for that semester. The North Carolina State Education Assistance Authority shall implement this subsection.

SECTION 6.(c) This section applies to the 2002-2003 and 2003-2004 academic years only.

SECTION 7. This act is effective when it becomes law.

SENATE BILL 936 :
Waive Deadlines for Troops

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 11, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 936 would provide assistance to military personnel called to active duty in support of Operation Iraqi Freedom on or after January 1, 2003, as follows:

- *Deadlines, fees, and penalties associated with the expiration of drivers' licenses and the lapse of motor vehicle liability insurance would be extended and/or waived.*
- *Deployed personnel would have additional time to list property for taxation and to pay property taxes.*
- *Community colleges and colleges would grant full refunds of tuition to military reserve and National Guard personnel called to active duty and active personnel who, because of their reassignments, are unable to complete courses, and would buy back textbooks to the extent possible. The constituent institutions of the UNC system may issue refunds and should determine whether or not to give full or pro rata refunds of housing, parking and other optional fees to students to whom they give tuition and required fee refunds.*
- *Students receiving the North Carolina Legislative Tuition Grant would not be required to repay the grant for a semester that they lose their full-time student status due to a call to active military duty.*

The act would become effective when it becomes law.

BACKGROUND: Similar legislation was enacted for military personnel deployed or called to active duty during Operation Desert Storm, S.L. 1991-160, and during Operation Enduring Freedom and Noble Eagle, S.L. 2001-508.

BILL ANALYSIS: Senate Bill 936 waives deadlines, fees, and penalties for deployed military personnel. The term "deployed military personnel" is defined as a member of any of the following that are called to active duty in support of Operation Iraqi Freedom on or after January 1, 2003:

- Armed forces or armed forces reserves of the United States.
- North Carolina Army National Guard or the North Carolina Air National Guard.

A copy of a soldier's military orders specifying deployment is conclusive evidence of the soldier's deployment.

Section 3 of the bill allows the Governor to extend deadlines and waive fees for deployed military personnel, including the following:

- Extend for up to 90 days the validity of a drivers license. Senate Bill 936 and House Bill 1159 address this issue in a more definite manner for the future by establishing a military drivers license.[1]

[1] SB 935 is in Senate Finance and HB 1159 is in Senate Transportation. The bill establishing the military drivers license would become effective January 1, 2004.

- Extend for up to 90 days the validity of an occupational license and to allow for the prorating of any renewal fee associated with an occupational license.
- Waive any civil penalty and restoration fees associated with motor vehicle liability lapses if the soldier certifies that the motor vehicle was not driven during the period in which the vehicle was uninsured and that the vehicle is now insured. The Division of Motor Vehicles currently has policies and procedures in place to handle military personnel on a case-by-case basis. Fines, penalties, and revocations are waived if a person is deployed or unable to handle their business due to military actions.

Section 4 of the bill would extend property tax deadlines for deployed military personnel. Section 4(a) provides that these individuals are allowed 90 days after the end of their deployment to pay property taxes that became due or delinquent during the deployment. If the taxes are paid within this 90-day period, no interest is due. Section 4(b) of the act provides that deployed military personnel are allowed 90 days after the end of their deployment to list for taxation property that was otherwise required to be listed during their deployment. If the property is listed within this 90-day period, no penalties for failure to list apply. Property taxes for the 2001-02 fiscal year would otherwise be due September 1, 2002, and interest would begin to accrue on the taxes from January 6, 2003. The regular listing period for property taxes for the 2003-04 year ended on January 31, 2003.

Sections 5 and 6 would allow community college and UNC system refunds and waiver of legislative tuition grants to deployed students who are unable to complete the semester. As a result of the 2001 legislation for students called to active duty during Operation Enduring Freedom and Noble Eagle, the State Board of Community Colleges and the UNC System have policies on this issue. The State Board of Community Colleges authorized the initiation of the rule-making process to make permanent military tuition refunds when students are unable to complete their course requirements because they are called to active duty in September 2001.[2] Effective October 12, 2001, the UNC Policy Manual has guidelines for refunds of tuition and fees for students serving in the military or in the case of national emergency.[3]

[2] 23 NCAC 02D.0202(f) and 23 NCAC 02D.0203(e). The wording of the rule is practically verbatim the language in Section 5(a) and (b) of Senate Bill 936.
[3] The wording of the policy reads practically verbatim the language in Section 6(a) of Senate Bill 936.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 936 (First Edition)

SHORT TITLE: Waive Deadline for Troops

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Fiscal Impact				
Highway Fund	No Estimate Available				
Occupational Licensing Boards	No Estimate Available				
Local Governments	No Estimate Available				
EXPENDITURES					
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles, Occupational Licensing Boards, City and County Governments, Community College System, The University of North Carolina, State Education Assistance Authority

EFFECTIVE DATE: Sections 5 and 6 (Community college and UNC tuition and fees) apply only to FY 2002-03 and FY 2003-04. This act is effective when it becomes law.

BILL SUMMARY:

This legislation waives deadlines, penalties, and fees for military personnel on active duty in support of Operation Iraqi Freedom. Troops will have 90 days from the end of their deployment to renew their driver's license, renew their motor vehicle liability insurance, renew an occupational license, pay current year property taxes, and list property for next year's property tax. The bill also directs the Community College System to refund tuition and fees for military personnel called to active duty and to help those students complete their course work through distance learning and other educational methodologies. The University of North Carolina is asked to consider the full refund of tuition and fees to military personnel on active duty. Active duty personnel will not be asked to repay their Legislative Tuition Grants to the State Education Assistance Authority.

BACKGROUND:
Similar bills were approved by the General Assembly in 1991 and 1995. In 1991, HB 745 (Chapter 160) provided a grace period for listing and paying property taxes for members of the armed forces involved in Operation Desert Storm. The soldiers involved in Bosnia's Operation Joint Endeavor received the same property tax grace period in SB 1179 (Chapter 691).

ASSUMPTIONS AND METHODOLOGY:
According to a May 2, 2003, report in the *Raleigh News and Observer*, approximately 29,950 military personnel from North Carolina bases and National Guard units have been deployed for assignments in the Middle East. Some of the units will return to their bases before the end of this fiscal year. For example, about 100 personnel from Seymour Johnson have returned and 1,200 members of the Army's 82nd Airborne Division will return by mid May.

Sections 3 and 4 may cause a delay in revenue collection from FY 02-03 to FY 03-04 for driver's licenses (Highway Fund), occupational licenses (Licensing Board Special Accounts), and property tax collections (local governments). However, it is not possible to estimate this temporary fiscal impact. The General Assembly's Fiscal Research Division does not have access to records of military personnel assigned to Operation Iraqi Freedom, nor could it easily match driver records, local tax records, and occupational license records to military personnel if such records were available.

Section 5 has no fiscal impact on the Community College System because in 1999, the System adopted administrative rules 23 NCAC 02D .0202 (f) and 23 NCAC 02D .0203 (e) to grant a full refund of tuition and fees to military reserve and National Guard personnel called to active duty or active personnel assigned out of state. The rules also allow textbook buyback and distance learning.

Section 6(a) has no fiscal impact on the University of North Carolina (UNC) because UNC developed guidelines in 2001 to issue a full refund of tuition and fees to students involuntarily called to active duty in the military. The guidelines are almost verbatim to the language in section 6(a).

Section 6(b) has no fiscal impact because no reversions of tuition grants from military personnel are budgeted by the State Education Assistance Authority.

SOURCES OF DATA: *Raleigh News and Observer* – May 2, 2003; UNC Guidelines for Refunds of Tuition and Fees for Students Serving in the Military or in Case of National Emergency; North Carolina Administrative Code

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 6, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 936 A BILL TO BE ENTITLED AN ACT TO WAIVE VARIOUS DEADLINES, FEES, AND PENALTIES FOR DEPLOYED MILITARY PERSONNEL.

☒ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 236*
Finance Committee Substitute Adopted 5/28/03

Short Title: Revenue Administrative Changes. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE DIVIDEND RECEIVED DEDUCTION FOR REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS TO ENSURE THAT ALL DIVIDENDS ARE TREATED UNIFORMLY, TO EXTEND FOR TWO YEARS THE DEPARTMENT OF REVENUE'S AUTHORITY TO OUTSOURCE THE COLLECTION OF IN-STATE TAX DEBTS, TO AMEND THE MOTOR FUEL TAX LAWS, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

The General Assembly of North Carolina enacts:

PART 1. MODIFY DIVIDEND RECEIVED DEDUCTION FOR RICs AND REITs.

SECTION 1.1. G.S. 105-130.7 and G.S. 105-130.5(b)(3) are repealed.

SECTION 1.2. G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, ~~dividends less the portion deductible under G.S. 105-130.7,~~dividends, patent and copyright royalties and other kinds of income, to the extent that they constitute nonbusiness income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 1.3. G.S. 105-130.4(f) reads as rewritten:

"(f) Interest and net dividends are allocable to this State if the corporation's commercial domicile is in this State. For purposes of this section, the term "net dividends" means gross dividend income received less related ~~expenses and less that portion of the dividends deductible under G.S. 105-130.7.~~expenses."

PART 2. AVOID DUPLICATIVE REPORTING REQUIREMENTS REGARDING SALES OF SEIZED PROPERTY.

SECTION 2. G.S. 105-242(a)(2) reads as rewritten:

"(2) The Secretary may issue a warrant or order under the Secretary's hand and seal to any revenue officer or other employee of the Department of Revenue charged with the duty to collect taxes, commanding the

officer or employee to levy upon and sell the taxpayer's personal property, including that described in G.S. 105-366(d), found within the State for the payment of the tax, including penalties and interest. Except as otherwise provided in this subdivision, the levy upon the sale of personal property shall be governed by the laws regulating levy and sale under execution. The person to whom the warrant is directed shall proceed to levy upon and sell the personal property subject to levy in the same manner and with the same powers and authority normally exercised by sheriffs in levying upon and selling personal property under execution, except that the property may be sold in any county, in the discretion of the Secretary. In addition to the notice of sale required by the laws governing sale of property levied upon under execution, the Secretary may advertise the sale in any reasonable manner and for any reasonable period of time to produce an adequate bid for the property. Levy and sale fees, plus actual advertising costs, shall be added to and collected in the same manner as taxes. The Secretary is not required to file a report of sale with the clerk of superior court, as required by the laws governing sale of property levied upon under execution, if the sale is otherwise publicly reported."

PART 3. EXTEND AUTHORITY TO CONTINUE USING OUTSIDE COLLECTION AGENCIES.

SECTION 3. Section 9 of S.L. 2001-380 reads as rewritten:

"**SECTION 9.** Section 3 of this act becomes effective November 1, 2001. Section 6 of this act is effective on and after July 1, 2001. Section 8 of this act becomes effective ~~October 1, 2003.~~ October 1, 2005. The remainder of this act is effective when it becomes law and applies to tax debts that remain unpaid on or after that date."

PART 4. REVISE SECRECY PROVISION TO REFLECT TRANSFER OF DMV ENFORCEMENT TO THE DIVISION OF THE STATE HIGHWAY PATROL.

SECTION 4. G.S. 105-259(b)(7) reads as rewritten:

"(7) To exchange information with the ~~Division of Motor Vehicles of the Department of Transportation~~ Division of the State Highway Patrol of the Department of Crime Control and Public Safety or the International Fuel Tax Association, Inc., when the information is needed to fulfill a duty imposed on the Department of Revenue or the ~~Division of Motor Vehicles.~~Division of the State Highway Patrol of the Department of Crime Control and Public Safety."

PART 5. BASE LOCAL SALES TAX DISTRIBUTIONS ON TAXPAYER DATA.

SECTION 5. G.S. 105-472(a) reads as rewritten:

"(a) County Allocation. – The Secretary shall, on a monthly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. For the purpose of this section, "net

proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is due."

PART 6. SIMPLIFY PROCEDURE FOR HOLD HARMLESS CALCULATION.

SECTION 6. G.S. 105-521(b) reads as rewritten:

"(b) Distributions. – On or before May 1 of each year, the Department of Revenue and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

On or before ~~September 15, 2003, and each September 15 thereafter,~~August 15 of each year, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

~~On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.~~"

PART 7. CLARIFY THAT THE FILING FEE FOR AN ANNUAL REPORT IS NONREFUNDABLE.

SECTION 7. G.S. 55-1-22 is amended by adding a new subsection to read:

"(d) The fee for the annual report in subdivision (23) of this section is nonrefundable."

PART 8. CLARIFY ELIGIBILITY FOR R&D CREDIT.

SECTION 8.1. G.S. 105-129.4(a) is amended by adding a new subdivision to read:

"(7) Research and development. – For the purpose of determining eligibility under this subsection for the credit for research and development in G.S. 105-129.10, the following special rules apply:

a. If the primary activity of an establishment of the taxpayer in this State is computer services, the taxpayer's qualified research expenditures in this State are considered to be used in computer services.

b. For all other taxpayers, the taxpayer's qualified research expenditures in this State are considered to be used in the primary business of the taxpayer."

SECTION 8.2. The General Assembly finds that the amendment to G.S. 105-129.4 made by this Part clarifies the intent of the existing law and does not represent a change in the law. Accordingly, G.S. 105-129.4(a)(7)a. applies to taxable years beginning on or after January 1, 2001, and G.S. 105-129.4(a)(7)b. applies to taxable years beginning on or after January 1, 1996.

PART 9. REQUIRE ADDITIONAL DATA ON CORPORATE INCOME TAX RETURNS OF CERTAIN AFFILIATED CORPORATIONS.

SECTION 9. G.S. 105-130.16 is amended by adding a new subsection to read:

"(d) Consolidation Information. – If the taxpayer is a member of an affiliated group that files a consolidated return for federal tax purposes for the taxable year, the taxpayer must include the following information with its return, in the form required by the Secretary:

(1) The gross receipts, cost of goods, total income, total deductions, and federal taxable income before net operating loss reported on the consolidated return.

(2) The following information for each corporation that is included in the federal return:

a. Name and address.

b. Federal tax identification number.

c. Whether it also files a return under this Part for the taxable year.

d. Federal taxable income before net operating loss based on the separate entity pro forma return.

e. The numerator and denominator of its property factor, payroll factor, and sales factor, determined in accordance with G.S. 105-130.4.

f. The amount of nonbusiness income, determined in accordance with G.S. 130.4(d) through (h).

g. The adjustments to federal taxable income required under G.S. 105-130.5.

(3) The following information for every corporation that is related to the affiliated group and is domiciled in a tax haven country as defined in G.S. 143-59.1:

a. Name and address.

b. Federal tax identification number, if any, or other identifying information.

c. Federal taxable income before net operating loss or, if it does not file a federal return, sufficient information about its gross receipts and allowable deductions to support calculation of hypothetical federal taxable income before net operating loss.

d. The numerator and denominator of its property factor, payroll factor, and sales factor, determined in accordance with G.S. 105-130.4.

e. The amount of nonbusiness income, determined in accordance with G.S. 130.4(d) through (h).

f. The adjustments to federal taxable income required under G.S. 105-130.5.

PART 10. MOTOR FUEL TAX CHANGES.

SECTION 10.1. G.S. 105-449.49 reads as rewritten:

"**§ 105-449.49. Temporary permits.**

Upon application to the Secretary and payment of a fee of fifty dollars ($50.00), a motor carrier may obtain a temporary permit authorizing the carrier to operate a vehicle in the State without registering the vehicle in accordance with G.S. 105-449.47 for not more than ~~20~~three days. A motor carrier to whom a temporary permit has been issued may elect not to report its operation of the vehicle during the ~~20-day~~ three-day period. The Secretary may refuse to issue a temporary permit to any of the following:

(1) A motor carrier whose registration has been withheld or revoked.

(2) A motor carrier who the Secretary determines is evading payment of tax through the successive purchase of temporary permits."

SECTION 10.2. G.S. 105-449.60(33) reads as rewritten:

"(33) Tank wagon. – A truck that is not a transport truck and ~~has a compartment~~ is designed or used to carry at least 1,000 gallons of motor fuel."

SECTION 10.3. G.S. 105-449.65(a) reads as rewritten:

"(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in that business:

(1) A refiner.

(2) A supplier.

(3) A terminal operator.

(4) An importer.

(5) An exporter.

(6) A blender.

(7) A motor fuel transporter.

(8) Repealed by Session Laws 1999-438, s. 20.
(9) Repealed by Session Laws 1999-438, s. 21.
(10) A distributor who purchases motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State."

SECTION 10.4. G.S. 105-449.67 reads as rewritten:

"**§ 105-449.67. List of persons who may obtain a license.**

A person who is engaged in business as any of the following may obtain a license issued by the Secretary for that business:

(1) ~~A distributor.~~A distributor who is not required to be licensed under G.S. 105-449.65.
(2) A permissive supplier."

SECTION 10.5. G.S. 105-449.69(d) and (e) read as rewritten:

"(d) Import Activity. – An applicant for a license as an importer or as a distributor must list on the application each state from which the applicant intends to import motor fuel and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state.

~~A license holder that intends to import motor fuel from a state not listed on the license holder's application for an importer's license or a distributor's license must give the Secretary written notice of the change before importing motor fuel from that state. The notice must include the information that is required on the license application.~~

(e) Export Activity. – An applicant for a license as an exporter must designate an agent located in North Carolina for service of process and must give the agent's name and address. An applicant for a license as an exporter or as a distributor must list on the application each state to which the applicant intends to export motor fuel received in this State by means of a transfer that is outside the terminal transfer system and, if required by a state listed, must be licensed or registered for motor fuel tax purposes in that state. If a state listed requires the applicant to be licensed or registered, the applicant must give the applicant's license or registration number in that state.

~~A license holder that intends to export motor fuel to a state not listed on the license holder's application for an exporter's license or a distributor's license must give the Secretary written notice of the change before exporting motor fuel to that state. The notice must include the information that is required on the license application.~~"

SECTION 10.6. G.S. 105-449.72(a)(2) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:

...

(2) For an applicant for a license as any of the following, the amount is two times the applicant's average expected monthly tax liability under this Article, as determined by the Secretary. The amount may not be

less than two thousand dollars ($2,000) and may not be more than ~~two hundred fifty thousand dollars ($250,000):~~six hundred twenty-five thousand dollars ($625,000):

a. A supplier that is a fuel alcohol provider or a biodiesel provider but is neither a position holder nor a person that receives motor fuel pursuant to a two-party exchange.
b. An occasional importer.
c. A tank wagon importer.
d. A distributor.
e. Repealed by Session Laws 1997-60, s. 5, effective October 5, 1997."

SECTION 10.7. G.S. 105-449.73 reads as rewritten:

"**§ 105-449.73. Reasons why the Secretary can deny an application for a license.**

The Secretary may refuse to issue a license to an individual applicant that has done any of the following and may refuse to issue a license to an applicant that is a business entity if any principal in the business has done any of the following:

(1) Had a license or registration issued under this Article or former Article 36 or 36A of this Chapter cancelled by the Secretary for cause.
(1a) Had a motor fuel license or registration issued by another state cancelled for cause.
(2) Had a federal Certificate of Registry issued under § 4101 of the Code, or a similar federal authorization, revoked.
(3) Been convicted of fraud or misrepresentation.
(4) Been convicted of any other offense that indicates that the applicant may not comply with this Article if issued a license.
(5) Failed to remit payment for an overdue tax debt under Chapter 105 or Chapter 119 of the General Statutes. The term "overdue tax debt" has the same meaning as defined in G.S. 105-243.1.
(6) Failed to file a return due under Chapter 105 or Chapter 119 of the General Statutes."

SECTION 10.8. G.S. 105-449.86(a)(1) is repealed.

SECTION 10.9. G.S. 105-449.115(b) reads as rewritten:

"(b) Content. – A shipping document issued by a terminal operator or the operator of a bulk plant ~~must be machine printed and~~ must contain the following information and any other information required by the Secretary:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
(2) The date the motor fuel was loaded.
(3) The gross gallons loaded.
(4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
(5) If the document is issued by a terminal operator, the document must be machine printed and it must contain the following information:
a. The net gallons loaded.

b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel."

SECTION 10.10. G.S. 105-449.117 reads as rewritten:

"**§ 105-449.117. Penalties for highway use of dyed diesel or other non-tax-paid fuel.**

(a) Violation. – It is unlawful to use dyed diesel fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless that use is allowed under section 4082 of the Code. It is unlawful to use undyed diesel fuel in a highway vehicle that is licensed or required to be licensed under Chapter 20 of the General Statutes unless the tax imposed by this Article has been paid. A person who violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty.

(b) Civil Penalty. – The civil penalty is payable to the Department of Transportation, Division of Motor Vehicles, or the Department of Revenue and is payable by the person in whose name the highway vehicle is registered. The amount of the penalty depends on the amount of fuel in the supply tank of the highway vehicle. The penalty is the greater of one thousand dollars ($1,000) or five times the amount of motor fuel tax payable on the fuel in the supply tank. A penalty imposed under this section is in addition to any motor fuel tax assessed.

(c) Enforcement. – The Secretary or a person designated by the Secretary may conduct investigations to identify violations of this Article. It is not a valid defense to a violation of this Article that the State is exempt from the tax imposed by this Article."

SECTION 10.11. G.S. 105-449.123(a) reads as rewritten:

"(a) Requirements. – A person who is a retailer of dyed diesel fuel or who stores both dyed and undyed diesel fuel for use by that person or another person must mark the storage facility for the dyed diesel fuel ~~as follows with the phrase "Dyed Diesel", "For Nonhighway Use", or a similar phrase that clearly indicates the diesel fuel is not to be used to operate a highway vehicle:~~in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle.

(1) The storage tank of the storage facility must be marked if the storage tank is visible.

(2) The fillcap or spill containment box of the storage facility must be marked.

(3) The dispensing device that serves the storage facility must be marked.

(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements."

SECTION 10.12. G.S. 119-15 is amended by adding the following new subdivisions to read:

"**§ 119-15. Definitions that apply to Article.**

The following definitions apply in this Article:

...

(6) Terminal. – Defined in G.S. 105-449.60.

(7) Terminal operator. – Defined in G.S. 105-449.60."

SECTION 10.13. G.S. 119-16.2 is repealed.

SECTION 10.14. Article 3 of Chapter 119 of the General Statutes is amended by adding the following new sections to read:

"**§ 119-15.1. List of persons who must have a license.**

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

(1) A kerosene supplier.

(2) A kerosene distributor.

(3) A kerosene terminal operator.

(b) Exception. – A kerosene supplier license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal operator license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes.

"**§ 119-15.2. How to apply for a license.**

To obtain a license, an applicant must file an application with the Secretary of Revenue on a form provided by the Secretary. An application must include the applicant's name, address, federal employer identification number, and any other information required by the Secretary. An applicant must meet the requirements for obtaining a license set out in G.S. 105-449.69(b) and (c).

"**§ 119-15.3. Bond or letter of credit required as a condition of obtaining and keeping certain licenses.**

(a) Initial Bond. – An applicant for a license as a kerosene supplier, kerosene distributor, or kerosene terminal operator must file with the Secretary of Revenue a bond or an irrevocable letter of credit. A bond must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit may not be less than five hundred dollars ($500.00) and may not be more than twenty thousand dollars ($20,000).

(b) Adjustments to Bond. – When notified by the Secretary of Revenue, a person that has filed a bond or irrevocable letter of credit and that holds a license listed in this Article must file an additional bond or irrevocable letter of credit in the amount requested by the Secretary. The person must file the additional bond or irrevocable letter of credit within 30 days after receiving the notice from the Secretary. The amount of the initial bond or irrevocable letter of credit and the additional bond or irrevocable letter of credit by the license holder, however, may not exceed the limits set in subsection (a) of this section.

(c) Class 1. – A person who fails to comply with this section is guilty of a Class 1 misdemeanor."

SECTION 10.15. G.S. 119-18(a) reads as rewritten:

"(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is levied upon all of the ~~following fuel,~~ fuel listed in this subsection regardless of whether the fuel is exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of the General ~~Statutes:~~Statutes. The

~~(1) Motor fuel that is not dyed diesel fuel.~~

~~(2) Dyed diesel fuel used to operate a highway vehicle.~~

~~(3) Alternative fuel used to operate a highway vehicle.~~

~~(4) Kerosene.~~

~~The~~ inspection tax on motor fuel is due and payable to the Secretary of Revenue at the same time that the per gallon excise tax on motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes. The inspection tax on alternative fuel is due and payable to the Secretary of Revenue at the same time that the excise tax on alternative fuel is due and payable under Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly report is due by the 22nd of each month and applies to kerosene sold during the preceding month by a supplier licensed under that Part and to kerosene received during the preceding month by a kerosene supplier. A kerosene terminal operator must file a return in accordance with the provisions of G.S. 105-449.100.

(1) Motor fuel.

(2) Alternative fuel used to operate a highway vehicle.

(3) Kerosene."

SECTION 10.16. G.S. 119-18 is amended by adding a new subsection to read:

"(a1) Deferred Payment. – A licensed kerosene distributor that buys kerosene from a supplier licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes has the right to defer payment of the inspection tax until the supplier is required to remit the tax to this State or another state. A licensed kerosene distributor that pays the tax due a supplier licensed under that Part by the date the supplier must pay the tax to the State may deduct from the amount due a discount in the amount set in G.S. 105-449.93."

PART 11. CHARGE OFF BAD DEBTS.

SECTION 11. G.S. 105-164.13(15) reads as rewritten:

"(15) Accounts of purchasers, representing taxable sales, on which the tax imposed by this Article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross ~~sales, provided, however, they must be added to gross sales if afterwards collected.~~sales. In the case of a municipality that sells electricity, the account may be deducted if it meets all the conditions for charge-off that would apply if the municipality were subject to income tax. Any accounts deducted pursuant to this subdivision must be added to gross sales if afterwards collected."

PART 12. EFFECTIVE DATE.

SECTION 12. Parts 1 and 9 of this act are effective for taxable years beginning on or after January 1, 2003. Part 5 of this act becomes effective July 1, 2003. Part 10 of this act becomes effective January 1, 2004. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 236*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S236-ASV-15 [v.2]

Date 6/11/ ,2003

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Representative Miner

moves to amend the bill on page 3, line 10, by deleting the word "due." and substituting the word "received.";

and on page 11, line 2, by deleting the number "9" and substituting the number "8";

and on page 11, line 3, by inserting the following new sentence at the end of that line: "Part 9 of this act is effective for taxable years beginning on or after January 1, 2003, and shall expire for taxable years beginning on or after January 1, 2005.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

SENATE BILL 236:
Revenue Administrative Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 11, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 236 makes the following changes with regard to the administration of the tax laws:

- *It modifies the dividends received deduction for regulated investment companies and real estate investment trusts to ensure that all dividends are treated uniformly, effective for taxable years beginning on or after January 1, 2003, as recommended by the Revenue Laws Study Committee.*
- *It amends the reporting requirements regarding sales of seized property by the Secretary of Revenue to avoid duplicative filing of reports, as recommended by the Revenue Laws Study Committee.*
- *It extends until October 1, 2005 the Department of Revenue's authority to continue using outside collection agencies for the collection of in-state tax debts, as recommended by the Revenue Laws Study Committee.*
- *It revises the secrecy provision regarding the disclosure of tax information to reflect the transfer of the Division of Motor Vehicles to the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, as recommended by the Revenue Laws Study Committee.*
- *It ensures that the monthly distribution of local sales and use tax proceeds is based on taxpayer data from filed returns, effective July 1, 2003, as recommended by the Revenue Laws Study Committee.*
- *It simplifies the process for making the hold harmless calculation by requiring the Department of Revenue, rather than the Office of State Budget and Management, to make the required projection of estimated tax proceeds, as recommended by the Revenue Laws Study Committee. The bill also changes the distribution date from September 15 to August 15 because both the House and Senate versions of the budget bill, House Bill 397, make this date change.*
- *It clarifies that the $20 filing fee for annual reports is nonrefundable, as recommended by the Revenue Laws Study Committee.*
- *It clarifies the Research and Development tax credit, as requested by the Department of Commerce and Department of Revenue.*
- *It adds a provision that will help Fiscal Research prepare the fiscal analysis on consolidated returns, as requested by several legislative members. This provision would require taxpayers that file consolidated returns for federal income tax purposes to include certain information with their State tax return.*
- *It makes various changes to the motor fuel laws, as requested by the Motor Fuels Division of the Department of Revenue. These changes include technical changes, conforming changes, and substantive changes.*
- *It codifies the administrative practice of allowing municipalities that sell electricity to exempt from their gross receipts for sales tax purposes those accounts of customers that have been determined to be worthless. The sales tax law clearly allows this exemption for other taxpayers.*

BILL ANALYSIS:

Part 1: Modify dividends received deduction for RICs and REITs

G.S. 105-130.7(a) provides that a corporation may deduct the proportionate part of dividends received by it from a regulated investment company (RIC) or a real estate investment trust (REIT) as corresponds to income received by the company or trust that would not be taxed by North Carolina if received directly by the corporation. In other words, dividends received by a corporation from a RIC or REIT are deductible only to the extent that income received by that corporation from a RIC or a REIT is taxable by North Carolina.

Section 1.1 of the bill repeals G.S. 105-130.7. The repeal of G.S. 105-130.5(b)(3) and the changes in Sections 1.2 and 1.3 of the bill are conforming changes. In 2001, the General Assembly repealed G.S. 105-130.7(b) and G.S. 105-130.5(a)(7), which provided corporations with an income tax deduction for dividends received by their subsidiaries. As a result of the repeal, North Carolina law now piggybacks the federal law with regard to the dividends received deduction for subsidiary dividends. Adopting the federal approach simplifies tax administration and compliance because the taxpayer is required to make fewer adjustments to taxable income in order to calculate State net income. The repeal under Section 1.1 of this bill would be consistent with this approach.

Dividends received from a RIC qualify for the federal dividends received deduction. Therefore, the repeal of G.S. 105-130.7(a) is a technical change, and dividends received from RICs will continue to receive the same tax treatment under the proposal as under current law. The repeal of G.S. 105-130.7 also ensures that dividends received from a RIC are subject to the same rules concerning attribution of expenses as dividends received from other corporations.

Dividends from REITs do not qualify for the federal dividends received deduction. Therefore, under current law, dividends from REITs are taxed more favorably for State tax purposes than under federal law. The repeal of G.S. 105-130.7 would ensure that the State category of dividends with respect to REITs is the same as under federal law.

FEDERAL LAW:

Dividends received deduction.[1] – The dividends received deduction is meant to reduce the negative effects of the double tax on C corporation profits distributed to corporation shareholders as dividends. Subject to certain exceptions and limitations, corporations may deduct 70% of the dividends received from another domestic corporation if the receiving corporation owns less than 20% of the distributing corporation. The deduction rises to 80% of dividends if the corporation owns 20% or more of the corporation paying the dividends, and to 100% of the corporations are "affiliated" under the Code.

Regulated investment companies (RICs). – Certain investment companies, including mutual funds, may elect to be taxed as regulated investment companies. There are several conditions that must be satisfied to qualify for the election, of which the salient features are that ninety percent of gross income must be derived from dividends, interest, and gains on the sale of stock or securities, and that the corporation's investments must be diversified as prescribed by Section 851 of the Code. A qualified RIC is taxed only on its undistributed income and is treated as a partial conduit for the income it earns. The fundamental premise of conduit treatment is that the RIC's income should be taxed only once, at the shareholder level,

[1] 26 U.S.C. 243.

rather than to the RIC. Dividends received from RICs are eligible for the federal deduction, subject to additional limitations.[2]

Real estate investment trusts (REITs). – A real estate investment trust is a corporation or trust that uses the pooled capital of many investors to purchase and manage income property and/or mortgage loans. REITs are traded on major exchanges just like stocks. They are also granted special tax considerations. They pay yields in the form of dividends. However, REITs are not eligible for the federal dividends received deduction.

Part 2: Avoid duplicative reporting requirements regarding sales of seized property

If any tax levied by the State and payable to the Secretary of Revenue has not been paid within 30 days after the taxpayer was given a notice of final assessment of the tax, the Secretary is authorized to collect the tax through the levy upon and sale of real or personal property of the taxpayer. The Secretary may either direct the sheriff to levy upon and sell property, or it may levy upon the property itself through one of the Department's employees.

Most personal property seized by the Department of Revenue is for the payment of unauthorized substance taxes. When the Department levies upon the property itself without the use of the sheriff, the actual sale of the property is conducted by the Department of Administration's State Surplus Property section in accordance with the same notice and bidding procedures that apply to surplus property. The State Surplus Property section posts information related to bids and sales of seized property both online and in written format, which is available to the public.

The laws in Article 29B of Chapter 1 of the General Statutes, which apply to the sheriff when conducting the levy and sale of property, also apply to the Department of Revenue when conducting the levy and sale of property. Among those provisions is G.S. 1-339.63, which states that the sheriff must file a report of sale with the clerk of superior court. Since the Department is subject to the same laws governing execution sales, it has construed this provision to mean that the Department must file a report of all sales of seized property with the clerk of superior court.

Section 2 of the bill amends G.S. 105-242 such that the Department of Revenue is not required to file a report of sale of seized property with the clerk of superior court as long as the sale is otherwise publicly reported.

Since the Department of Administration makes a report of all property sold through the surplus property sales, the Department of Revenue does not see a need to file a report of sale with the clerk of court as well. In addition to improving efficiency by avoiding duplicative reporting, this change should also reduce costs since several clerks of court have begun charging a fee for filing these reports.

Part 3: Extend authority to use outside collection agencies

The Department of Revenue has permanent authority to outsource out-of-state tax debts and temporary authority to outsource in-state tax debts. This temporary authority is scheduled to expire on October 1, 2003. Section 3 of the proposal extends the authority of the Department of Revenue to outsource in-state tax debts for an additional two years.

In 1999, the General Assembly authorized the Department of Revenue to initiate a pilot program whereby the Department would contract for the collection of tax debts[3] owed by nonresidents and foreign entities.

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[2] Capital gain dividends received from a regulated investment company do not qualify for the deduction.

In September 2000, the Department, in conjunction with the Office of the State Auditor, began outsourcing some of its out-of-state tax debts. Between September 2000 and May 2001, it collected in excess of $12 million in out-of-state receivables using a combination of outsourcing and in-house collection techniques.

In 2001, the General Assembly enacted legislation that substituted a broader debt collection program for the pilot program. Under this program, the Department of Revenue was authorized to outsource out-of-state tax debts permanently and to outsource in-state tax debts for two years. When outsourcing tax debts, the Department is required to notify the taxpayer prior to submitting the debt to a collection agency. The taxpayer has 30 days after the notice is sent to pay the tax debt. If the debt remains unpaid at the end of the 30 days, then the debt may be outsourced to a collection agency. The collection agencies that contract to collect tax debts are prohibited from revealing confidential tax information. If a contractor reveals tax information, it is subject to a misdemeanor penalty, its contract is terminated, and it is barred from contracting again for five years.

Part 4: Revise secrecy provision to reflect transfer of DMV to the State Highway Patrol

Under G.S. 105-259(b), an officer, employee, or agent of the State who has access to tax information in the course of service or employment by the State may not disclose the information to any other person unless authorized to do by statute. There are several exceptions to this rule, one of which is that tax information may be disclosed for the purpose of exchanging information with the Division of Motor Vehicles of the Department of Transportation when the information is needed to fulfill a duty imposed on the Department of Revenue of the Division of Motor Vehicles.

Section 4 of the bill replaces the phrase "Division of Motor Vehicles of the Department of Transportation" with the phrase "Division of the State Highway Patrol of the Department of Crime Control and Public Safety" to reflect departmental changes made last year. In 2002, the General Assembly enacted legislation[4] that transferred the personnel and functions of the Department of Transportation Division of Motor Vehicles Enforcement Section for the regulation and enforcement of commercial motor vehicles, oversize and overweight vehicles, motor carrier safety, and mobile and manufactured housing to the Department of Crime Control and Public Safety, effective January 1, 2003. Consequently, the reference to the "Division of Motor Vehicles of the Department of Transportation" in G.S. 105-259(b)(7) needs to be amended to reflect this transfer to preserve the secrecy provision currently in place. Specifically, the State Highway Patrol will be performing the functions of the prior DMV Enforcement Section.

Part 5: Base local sales tax distributions on taxpayer data

Pursuant to G.S. 105-472, the Secretary of Revenue makes quarterly distributions of local sales and use tax proceeds to cities and counties. In 2001, the General Assembly accelerated the payment of local sales and use tax revenues by requiring that the distribution be made on a monthly basis, effective beginning July 1, 2003.

In addition, as of January 1, 2002, the threshold for taxpayers required to make semimonthly payments of sales and use tax was lowered from $20,000 to $10,000, substantially increasing the total amount of revenues received for processing by the Department on a monthly basis. Sales and use tax revenues received between the 1st and 15th of the month must be paid by the 25th of the same month, while sales and use tax revenues from the remainder of the month must be paid by the 10th of the next month. The return

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[3] A tax debt is the amount of tax, interest, and penalties due for which a final notice of assessment has been mailed to the taxpayer after the taxpayer no longer has the right to contest the debt.

[4] S.L. 2002-190 (HB 314), as amended by S.L. 2002-159, Sec. 31.5 (SB 1217, Sec. 31.5).

for the semimonthly period is due 10 days later, on the 20th of the month. Consequently, there is no return accompanying the revenues received for the first half of each month to indicate where the funds should be distributed.

Section 5 of the bill amends the local government sales and use tax distribution statute by stating that amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is due. Since semimonthly taxpayers are required to pay by electronic funds transfer, this amendment will ensure that the Department of Revenue is distributing local sales and use tax proceeds based on known information obtained from the semimonthly return rather than a speculative estimate.

Part 6: Simplify the procedure for hold harmless calculation

In 2001, the General Assembly authorized all counties of the State to levy a third one-half cent sales tax.[5] In that same legislation, local governments were also provided with an annual hold harmless distribution from the State's General Fund to ensure that none of them would lose money when the local government reimbursements are repealed. The hold harmless distribution provides that if a county or city's estimated proceeds from the third half-cent tax would be less than 100%of the amount it would have gotten under the repealed reimbursements, it will receive a reimbursement for the difference. If a county or city's estimated gain from the third half-cent tax exceeds 100% of its repealed reimbursements amount, it does not receive a hold harmless payment from the State. The hold harmless payment is the same whether or not the new tax is levied in the county.

G.S. 105-521(b) directs the Office of State Budget and Management (OSBM) and the Fiscal Research Division of the General Assembly to each submit to the Secretary of Revenue and the General Assembly, by May 1 of each year, a projection of the estimated amount that local governments are expected to receive from the levy of the third one-half cent local sales and use tax during the upcoming fiscal year. Then, by September 15 of each year, the Secretary of Revenue is required to calculate the hold harmless distribution amounts[6], if any, based on the projections and distribute the funds. If the Secretary does not use the lower of the two projections when making the calculation, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

Section 6 of the bill would require the Department of Revenue, rather than the OSBM, to project the estimated amount that all local governments would be expected to receive during the upcoming fiscal year from levying the third one-half cent local sales and use tax, assuming that every county levied the tax. From a practical standpoint, the data needed to make the projections are housed within the Department of Revenue. By making this change, it simplifies the process by eliminating the need for the OSBM to first obtain the data from Revenue and then make the necessary projection. Section 8 also makes a technical change by reversing the two paragraphs in G.S. 105-521(b) so that the statutory requirements appear chronologically.

Section 6 also changes the distribution date from September 15 to August 15. Both the House and Senate versions of House Bill 397 make this change.

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[5] Effective July 1, 2004, all 100 counties will have adopted the local option third one-half cent sales tax authorized by Section 34.14 of S.L. 2001-424.

[6] The hold harmless distribution amount is obtained by multiplying the each local government's sales tax share by the estimated amount that all local government are expected to receive from levying the third one-half cent local sales and use tax; if the amount is less than 100%of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than $100.00.

Part 7: Clarify that the filing fee for an annual report is nonrefundable

G.S. 55-1-22 sets out the fees for filing certain documents with the Secretary of State, including documents such as articles of incorporation, articles of dissolution, designation of a registered agent, etc. Included on the list is a $20.00 fee for filing an annual report. Each corporation[7] authorized to do business in this State is required to file an annual report, which unlike the other documents in G.S. 55-1-22, must be delivered to the Secretary of Revenue. The annual report contains the name of the corporation, its address, the name and address of its registered agent, the names and addresses of its principal officers, and a brief description of the nature of its business. Annual reports are due by the due date for the filing the corporation's income and franchise tax return. As a practical matter, the annual reports are typically attached to the return along with a check for the filing fee.

Section 7 of the bill amends G.S. 55-1-22 by adding a new subsection stating that the annual report fee of $20.00 is nonrefundable. The purpose of this change is to codify the Department of Revenue's existing policy that annual report fees are not refundable. G.S. 55-1-22 does not address whether or under what circumstances the filing fees are refundable. However, it is the policy and practice of the Secretary of State to issue refunds for those fees, if requested and depending on the circumstances. Specifically, if the Secretary of State's office has not begun to process or review the document for which the refund is requested, then it will usually refund the filing fee at the filer's request, regardless of whether the fee has been deposited. The Department of Revenue's policy with regard to the annual report is that the fee is nonrefundable.

Part 8: Clarify Eligibility for R&D Credit

The William S. Lee Quality Jobs and Business Expansion Tax Credits, Article 3A of Chapter 105 of the General Statutes, are designed to attract certain types of new businesses to North Carolina. As such, the credits are allowed only to certain types of businesses.[8] For most of the eligible business types, the law specifies that the taxpayer's primary business must be a designated business. For a few of them, including computer services, the law only requires the taxpayer's primary activity at an establishment to be a designated business. In addition, to qualify for the credits, jobs, investment, or activity must be used in the designated business or activity.

One of the credits under the Bill Lee Act is for research and development. Generally, a taxpayer that claims a federal income tax credit for increasing research activities under section 41 of the Code is allowed a State credit as well for the eligible research activities conducted in North Carolina. The amount of the credit varies, depending upon which type of federal credit is claimed.[9] Under the Department of Revenue's interpretation of the law, to satisfy the eligible business requirements, the jobs, investment, and activity must be located at an establishment where the primary activity is an eligible business or eligible activity.

The question has arisen with the allocation of a taxpayer's qualified research expenditures and whether those expenditures must have occurred on the premises of an establishment that performed an eligible

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[7] Nonprofit corporations are exempt from this requirement and insurance companies are required to deliver their annual reports to the Secretary of State.

[8] Central office or aircraft facility; air courier services or data processing; manufacturing, warehousing, or wholesale trade; computer services or electronic mail order house; customer service center; or warehousing at an establishment.

[9] The credit amount is 5% of the State's apportioned share if the taxpayer claims the credit under section 41(a) or 25% if the taxpayer claims the alternative incremental credit under section 41(c)(4).

industry activity. Under the Department's current interpretation of the law, the answer is yes. Part 8 of the bill purports to clarify the intent of the General Assembly that research and development activities need not be on the same premises of an eligible activity. It extends this clarification to the legislature's recent relaxation of the eligible business requirements surrounding computer services. The bill provides that if the primary activity of an establishment of the taxpayer in this State is computer services, then the taxpayer's qualified research expenditures in this State are considered to be used in computer services. For all other taxpayers, the expenditures are considered to be used in the primary business of the taxpayer.

Part 9: Require Additional Data on Corporate Income Tax Returns Of Certain Affiliated Corporations

Whenever study committees discuss tax modernization, one of the issues that always arises is the State's corporate income tax structure. The corporate tax structure has remained substantially unchanged for years. In the topic of these discussions, the Fiscal Research Division and the Tax Research Division of the Department of Revenue is asked what the fiscal consequences would be if the State allowed consolidated corporate income tax returns. Currently, neither has enough information to form a credible estimate. This Part would require corporations that file a consolidated federal income tax return to file an information return with the Department of Revenue that would give the Tax Research Division the information it needs to assist the General Assembly's Fiscal Research Division in the formulation of an estimate.

Part 10: Motor Fuel Changes

This Part makes several changes to the motor fuel tax laws. It provides the Department with greater enforcement capabilities, it seeks to protect the State's interest with a higher bond requirement for distributors, and it provides equity to the motor fuel statutes by imposing the inspection tax on dyed diesel fuel. It also makes several technical and administrative changes.

This Part strengthens the Division of Motor Fuel's enforcement capabilities in the following ways:

- Section 10.1 would reduce the number of days a motor carrier could operate in the State using a temporary permit rather than obtaining a license from 20-days to 3-days. The Department surveyed numerous states and determined that of the 26 states where permit information was available, 7 states issued 3-day permits, 2 states issued 4-day permits, 2 states issued 5-day permits, 1 state issued a 7-day permit, 5 states issued 10-day permits, 1 state issued a 13-day permit, 1 state issued a 20-day permit, and 7 states did not issue temporary permits. A license motor carrier pays tax based on the number of miles driven in the state. The cost of a temporary permit is $50. It would take approximately 1,000 miles to exceed the $50 temporary permit fee in taxes.
- Sections 10.3 would require a distributor that imports motor fuel from an out-of-state terminal into North Carolina to be licensed as a distributor. Currently, the statutes allow the distributor's license to be optional. However, if the product is being imported the taxpayer must register as a licensed importer. A distributor license allows the taxpayer to import and export the product. An importer's license requires the taxpayer to file a return on a monthly basis whereas a distributor's license does not. Sections 10.4 and 10.5 make conforming changes. Section 10.5 removes the reporting requirement of the license-holder to notify the Department of any states to which it plans to export or from which it plans to import motor fuel because there is no means for tracking this information once the application has been submitted. Also, a taxpayer, by virtue of a supplier license, is able to import and export motor fuel.

- Section 10.7 would enable the Department to deny a motor fuel license to a taxpayer that fails to file a return or pay a tax due in other North Carolina revenue tax laws.
- Section 10.10 clarifies the Department's authority to investigate violations of using non-tax-paid fuel for highway use. One way the Department investigates these alleged violations is through the use of under-cover operations. This section specifies that it is not a valid defense to a violation of this Article that the vehicle into which the fuel is dispensed is an exempt vehicle.[10]
- Sections 10.12 and 10.14 would require kerosene terminal operators to be licensed and to file reports. Currently, jet fuel and kerosene is being delivered from the pipeline directly to the airports. This method of delivery bypasses the motor fuels terminals and thereby bypasses the record-keeping requirements that help ensure that the Department can uniformly enforce the statutes. These entities are currently subject to the tax. The Internal Revenue Service licenses these terminals and the terminal operators must report the deliveries to the airports. These sections do not subject to the airports to greater tax liability; they do require them to be licensed and to file the reports so the Department can identify the taxpayers and ensure that they are paying the requisite amount of tax. Section 10.16 would ensure that a licensed kerosene distributor is afforded the same benefits of deferred payments and discounts that a licensed motor fuel distributor receives.

Section 10.6 would increase the cap on the bond amount of licensees to $625,000.[11] The current bond cap amount of $250,000 was last adjusted in January 1991. The Department believes the maximum bond amount should be increased to $1,000,000. Since 1991, the tax liabilities have increased to a point that 28% of the current licensees' liabilities exceed $250,000. Of those licensees, the monthly tax liability of 18.3% exceed $500,00, 13.17% exceed $750,000, and 8.48% exceed $1,000,000. In the last six months there have been four bankruptcy cases: 2 of which exceeded the taxpayer's bond amount. In one of these cases, the potential loss to the State is in excess of $1,000,000 after payment from the surety company. A survey of the surrounding states shows that SC, WVa, KY, and LA have do not have a cap; FL has a $100,000 cap; VA has a $300,000 cap; GA has a $150,000 cap; and MD has a $500,000 cap.

Section 10.15 would impose the inspection tax on dyed diesel. The inspection tax is currently imposed on all other fuel types at the rate of one-fourth of one cent per gallon[12], including dyed kerosene, which, like dyed diesel, is also used for heating and other non-highway purposes. The Department conducts monthly on-road investigations for the misuse of dyed fuels, including dyed diesel. Each sample of fuel withdrawn must be tested by the Department of Agriculture for evidence of dye in the fuel.

Lastly, Part 10 makes the following technical and administrative changes:

- Section 10.2 clarifies that a tank wagon includes vehicles designed to carry at least 1,000 gallons of motor fuel, regardless of whether they actually carry that amount. The current definition appears to exclude those tank wagon vehicles whose individual compartments are less than 1,000 gallons but are designed to carry in excess of 1,000 gallons.

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[10] G.S. 105-449.88 exempts motor fuel sold to the State for its use from the tax.

[11] The current bond amount is two times the applicant's average expected monthly tax liability, not to exceed $250,000.

[12] The inspection tax is imposed regardless of whether the fuel is exempt from the per-gallon excise tax. The proceeds of the tax are applied first to the cost of administering the Motor Fuels Tax Division. The remainder is credited to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum underground Story Tank Cleanup Fund.

- Section 10.8 conforms the statutes with the legislative change made last session to exempt local governments from the motor fuel tax.
- Section 10.9 removes the requirement that shipping documents must be machine-printed by the operator of a bulk plant. The document must continue to be machine printed by a terminal operator.
- Section 10.11 clarifies that storage facilities for dyed kerosene must be clearly marked for non-tax use only, just like the storage facilities for dyed diesel fuel. It also provides that the dispensing devise for this dyed fuel must be clearly marked as non-tax use only.
- Section 10.14 rewrites the statute repealed by section 10.13 to modernize the language and conform it to the format used for the other motor fuel articles.

Part 11: Charge Off Bad Debts

Retailers pay sales tax on their gross sales. If accounts of purchasers are found to be worthless and are charged off for income tax purposes, then the retailer may deduct those sales from its gross sales. Municipalities that sell electricity are considered to be retailers and pay State sales tax on their gross sales of electricity. The Department of Revenue has always allowed the municipalities to charge-off their bad debts as they allow other retailers. However, municipalities cannot technically meet the conditions of the statute because they do not pay federal income tax. This Part conforms the statute to the current practice by clarifying that municipalities that sell electricity may deduct worthless accounts from their gross sales for sales tax purposes. If the accounts are collected afterwards, they must be added back to gross sales.

Part 12: Effective date

Part 1 concerning the repeal of the dividends received deduction, and Part 9 concerning information returns by corporations that file consolidated returns for federal income tax purposes, are effective for taxable years beginning on or after January 1, 2003. Part 5 regarding the local sales tax distribution is effective July 1, 2003. Part 10, making the motor fuel tax changes, becomes effective January 1, 2004. The remainder of the act is effective when it becomes law.

Cindy Avrette, counsel for Senate Finance, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 236 (Second Edition)

SHORT TITLE: Revenue Administrative Changes

SPONSOR(S): Senators Kerr, Clodfelter, Dalton, Hartsell, and Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($million)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Parts 1,5 & 8	No Estimate Available				
Parts 2 & 3	See Assumption & Methodology				
Parts 4, 6, 7, 9, & 11	No Fiscal Impact				
Local Governments					
Sales Tax Distribution	No Estimate Available				
Highway Fund					
Temporary Permits	No Estimate Available				
Leaking Petroleum Underground Storage Tank Cleanup Funds					
- Dyed Diesel Fuel	1.2	1.2	1.2	1.2	1.2
- Aviation Fuel	.34	.34	.34	.34	.34
EXPENDITURES					
General Fund					
Dept. of Revenue - Sales Tax Distribution	No Fiscal Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Department of Transportation – Division of Motor Vehicles; Department of Crime Control and Public Safety – Division of the State Highway Patrol; Department of Commerce; Department of Administration – Division of Surplus Property

EFFECTIVE DATE: Parts 1 (dividend deduction) and 9 (consolidated returns) are effective for taxable years beginning on or after January 1, 2003. Part 5 (sales tax distribution) becomes effective July 1, 2003. Part 10 (motor fuel tax changes) becomes effective January 1, 2004. The remainder of this act is effective when it becomes law.

BILL SUMMARY: The bill makes the following administrative changes to the Revenue Laws:

- Modifies the dividend received deduction for regulated investment companies (RIC) and real estate investment trusts (REIT) to ensure that all dividends are treated uniformly.
- Amends the reporting requirements regarding sales of seized property by the Secretary of Revenue to avoid duplicate report filings.
- Extends until October 1, 2005, the Department of Revenue's authority to use outside collection agencies for in-state tax debts.
- Revises the secrecy provision regarding the disclosure of tax information to reflect the transfer of the Division of Motor Vehicles to the State Highway Patrol.
- Ensures that the monthly distribution of local sales and use tax proceeds is based on taxpayer data from filed returns.
- Requires the Department of Revenue to make the projection of estimated tax proceeds for the local hold harmless distribution.
- Clarifies that the filing fee for an annual report is nonrefundable.
- Clarifies the eligibility rules for taxpayers taking the research and development tax credit.
- Requires corporate taxpayers filing a consolidated tax return for federal tax purposes to provide on the state return certain financial information from the federal return as well as identifying information about affiliated companies
- Makes various changes to the motor fuel tax laws.
- Codifies municipal practice for bad debt charge off.

ASSUMPTIONS AND METHODOLOGY:

Part 1: Modify dividend received deduction for RICS and REITS

These sections are a continuation of the state effort to tax all dividends uniformly. The Department of Revenue considers the change with respect to regulated investment companies (RICs) a technical change. RIC dividends are deducted under federal law, so, therefore, there is no adjustment needed under state law. On the other hand, real estate investment trusts (REITs) do not qualify for the federal dividend received deduction. Responding to a staff query, the National Association of REITs reported "that most REIT investors are individuals or mutual funds ultimately owned by individuals". This would imply that this statutory change would have no fiscal impact on corporations. The Department of Revenue has no information on corporate investment in REITs that can be used to confirm this assumption of no fiscal impact.

Part 2: Avoid duplicative reporting requirements on seized property

The Department of Revenue may sell real or personal property of a taxpayer to collect a delinquent tax debt. The Department often uses the seizure of property for the payment of unauthorized substance taxes. The sale of the seized property is handled by the Department of Administration's Division of Surplus Property. The Department of Administration files public notices both on line and in written format on all bids and sales of property. The Department of Revenue's filing of seized property sales with the superior court is considered redundant.

Due to a backlog of seized property, an auction of property was held weekly in 2002. The Department of Revenue expects 2003 to be a more normal year with only 20 to 24 auctions. Up until December 2002, the Division of Surplus Property filed an auction sales report with the clerk of superior court in Wake County on behalf of the Department of Revenue. Neither State Surplus Property (SSP) nor the Department of Revenue paid any filing fees for reporting auction sales prior to December 2002. When the Department of Revenue starting filing the reports with the court in December 2002, they were asked to pay a filing fee and to pay $5,612 for previously filed reports between May and November 2002. Instead of paying the court fee for past reports, the Department retrieved the reports from the clerk's office and sent a one-page letter to the clerk explaining that details of all sales for the period November 7, 2000, through November 21, 2002, were available for inspection at the Division of Surplus Property Warehouse during normal business hours.

If approved, this change will have no fiscal impact because it conforms the statutes to the current practice of the department. If not approved, the Department of Revenue could be forced to begin paying court filing fees.

Part 3: Continue using collection agencies for in-state debt

As part of its Project Collect Tax, the Department of Revenue has been using in-state and out-of-state collection agencies to reduce its backlog of delinquent debt. The Department's experience to date with collection agencies is shown below.

Collection Agency Total Collections*

Year	In-State	Out-Of-State
2001	$ 446,388	$ 706,411
2002	$4,370,797	$4,526,101
2003	$ 415,878	$ 227,764

* Includes 20% Collection Assistance Fee Collections.

While the Department is now dependent on collection agencies to help with debt collection, it is developing a collection call center to bring the collection effort back in house. By utilizing private collection agencies or the new call center, the Department projects it will collect $4.3 million in in-state delinquent debt in each of the next two years. Prematurely ending the collection agency contracts before the collection call center is up and running, could hamper the in-state collection effort. Thus failure to extend the authority to use in-state collection agents could result in a General Fund loss of up to $3.2 million in FY 03-04 (9 months revenue since authority ends Oct 2003).

Part 4: Revise secrecy provision to reflect transfer of DMV Enforcement

This section has no fiscal impact. It changes the statutory reference for the Division of Motor Vehicles (DMV) Enforcement Section from the Department of Transportation to the Division of the State Highway Patrol of the Department of Crime Control and Public Safety to reflect a transfer of personnel and duties. Part 4 gives the same information and authority to the State Highway Patrol as was received by DMV.

Part 5: Base local sales tax distributions on taxpayer data

Under current law, retailers submit their sales tax returns and payments on a quarterly, monthly, or semi-monthly basis. In order to minimize the paperwork burden on taxpayers while maximizing funds available to the state, semi-monthly payment retailers – mostly very large retailers – are required to submit electronic payments twice a month, but only submit one refund form for the entire month. The law requires that payments to local governments be based on the "tax collected". Therefore, the Department of Revenue has to make a series of assumptions about the distribution of the tax collected, distribute funds to local units on those assumptions, and then adjust the next local payment to reflect the appropriate distribution once the return is received from the taxpayer. With state sales tax payments to local units shifting from quarterly to monthly, effective July 1, 2003, even more estimating and reconciliation is required. The legislation allows the Department of Revenue to hold funds until the refund documentation is received.

The only potential fiscal impact of this change is related to the "float". Conceivably the local units would experience a small loss of float (interest) because the state would be holding some of the funds up to two weeks longer, and thus gaining the interest. However, the amount of float shift would be extremely small since the new monthly payment schedule would significantly limit the amount of time between receipt of a taxpayer payment and a return of a portion of those funds to the appropriate local units. The change would also reduce the estimating workload of the Department, although this is not expected to translate into position reductions.

Part 6: Simplify the procedure for hold harmless calculation

Under current law, local governments are to receive a "hold harmless" payment from the state if their projected revenue from the new local half-cent sales tax does not exceed the reimbursement they would have received as payment for previous tax law changes (eliminating the intangibles tax, homestead exemption, food stamp sales tax exemption, eliminating the tax on inventories). Currently, the Office of State Budget and Management (OSBM) and the General Assembly's Fiscal Research Division are both required to provide estimates of local sales tax and reimbursement revenues to the Department of Revenue. The Secretary of Revenue is then directed to calculate "hold harmless" distribution amounts, distribute the funds, and offer an explanation to the Joint Legislative Commission on Governmental Operations if the payments do not reflect the lowest estimates offered by OSBM and Fiscal Research.

The legislation shifts OSBM's estimating responsibility to the Department of Revenue. While the hold harmless legislation was under consideration in the 2001 Session, all hold harmless estimates were developed jointly by the Department of Revenue's Tax Research Division and the Fiscal Research Division. As a practical matter, the data needed to make projections is housed in Revenue's Tax Research Division.

Part 7: Clarify annual report filing fee is nonrefundable

This section has no fiscal impact, because the Department of Revenue has never refunded an annual report fee. The section converts the departmental practice into statutory language.

Part 8: Clarify eligibility for Research and Development credit

The Bill Lee Act contains a tax credit for qualified research and development expenditures that applies to manufacturers and other specifically named industries. During the last few months, the Department of Revenue has been fine-tuning their interpretation of the Bill Lee Act

eligibility. One of the new rulings is that the qualifying expenditures for the research and development (R & D) credit must take place on the physical premises of the qualifying industry. For example, R & D spending at a manufacturing plant would be eligible because manufacturing is an eligible industrial classification for Bill Lee Act purposes. However, if these expenditures took place at a separate research facility, the costs would not be eligible.

Discussions with the Department of Revenue and Department of Commerce indicate that in the past, eligible taxpayers have been taking the credit based on qualified R & D spending at all facilities, regardless of whether the facility at which an activity took place fits within the listing of eligible industrial classifications. As a result of the new interpretations, the Department of Revenue has begun to audit companies claiming the R & D credit to determine eligibility. At this time, the Department is holding off on assessments, pending legislative activity on this issue.

The original fiscal note and subsequent updates have been based on the actual practice under the broad interpretation of legislative intent. Thus, these costs have been built into the official General Fund revenue estimate used for the purpose of preparing a state budget. If the language in the bill is not adopted, there may be cases in which additional General Fund revenue, relative to the currently budgeted estimates, is generated under the new administrative interpretation of the Department of Revenue.

Part 9: Require additional data from affiliated corporations

Part 9 is a means for the Department of Revenue to collect data that its Tax Research Division can use to estimate the impact of adopting a consolidated return for corporate income tax in North Carolina.

Part 10: Change motor fuel tax laws

Many sections of Part 10 have no fiscal impact. Sections 10.2 and 10.8 are technical changes. Sections 10.4 and 10.5 change reporting requirements. Section 10.6 changes departmental bonding requirements. Section 10.7 provides additional reasons why the Secretary of Revenue can deny an application for a motor fuel license. Section 10.9 removes the requirement that shipping documents issued by a terminal operator must be machine printed. Section 10.10 conforms language to changes made in the 2001-2002 session.

Section 10.1 reduces the number of days for a temporary permit for motor carriers from 20 to 3. This could increase Highway Fund revenues by increasing the number of permits issued or the number of permanent licenses issued. No estimate is available for the permit volume.

Sections 10.14 and 10.16 require kerosene terminal operators to be licensed and to file reports. Currently jet fuel and kerosene are delivered from the pipeline directly to the state's three major airports. Since this delivery method bypasses the motor fuel terminals, it also bypasses the Department of Revenue's reporting and accountability mechanism. From January 1, 1999, to December 31, 2001, the Department of Revenue found 407 million gallons of jet fuel delivered but not reported to the agency. Over this three-year period, the state lost approximately $1 million in inspection tax revenue. Passage of these sections should help the state claim the ¼ cent inspection tax on all jet fuel sales in the future and gain roughly $340,000 a year for the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

Section 10.15 imposes the ¼ cent inspection tax on dyed diesel fuel. This tax is collected at the terminal rack and the Department of Revenue estimates it will yield approximately $1.2 million a year. The net proceeds, after deducting administrative costs, are deposited into the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

Part 11: Codify municipal bad debt charge off

There is no fiscal impact from this part of the bill because it only codifies an exemption for bad debt that the Department of Revenue has given municipalities in regards to the sales tax on electricity.

SOURCES OF DATA: National Association of REITs; Department of Revenue

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic & Linda Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 27, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 236 A BILL TO BE ENTITLED AN ACT TO MODIFY THE DIVIDEND RECEIVED DEDUCTION FOR REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS TO ENSURE THAT ALL DIVIDENDS ARE TREATED UNIFORMLY, TO EXTEND FOR TWO YEARS THE DEPARTMENT OF REVENUE'S AUTHORITY TO OUTSOURCE THE COLLECTION OF IN-STATE TAX DEBTS, TO AMEND THE MOTOR FUEL TAX LAWS, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 934
PROPOSED HOUSE COMMITTEE SUBSTITUTE S934-CSLA-25 [v.3]

6/10/2003 12:22:57 PM

Short Title: DWI Provider Authorization Fees. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142.1(a) reads as rewritten:

"(a) Services. – An area authority shall provide, directly or by contract, the substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6 as a condition for the restoration of a drivers license. A person may obtain the required services from an area facility, from a private facility ~~that has complied with this subsection.~~ authorized by the Department to provide this service, or, with the approval of the Department, from an agency that is located in another state. ~~Before a private facility located in this State provides the substance abuse services needed by a person to obtain a certificate of completion, the facility shall notify both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services and shall agree to comply with the laws and rules concerning these services that apply to area facilities.~~"

SECTION 2. G.S. 122C-142.1 is amended by adding a new subsection to read:

"(a1) Authorization of a Private Facility Provider. – The Department shall authorize a private facility located in this State to provide substance abuse services needed by a person to obtain a certificate of completion if the private facility complies with all of the requirements of this subsection:

(1) Notifies both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services.

(2) Agrees to comply with the laws and rules concerning these services that apply to area facilities.

(3) Pays the Department the applicable fee for authorizing and monitoring the services of the facility. The initial fee is payable at the time the facility notifies the Department of its intent to provide the services and by July 1 of each year thereafter. Collected fees shall be used by the Division for program monitoring and quality assurance. The applicable fee is based upon the number of assessments completed during the prior fiscal year as set forth below:

Number of Assessments	Fee Amount
0-24	$250.00
25-99	$500.00
100 or more	$750.00."

SECTION 3. This act becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 934

Short Title: DWI Provider Authorization Fees. (Public)

Sponsors: Senator Kerr.

Referred to: Finance.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142.1(a) reads as rewritten:

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(1) Notifies both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services.

(2) Agrees to comply with the laws and rules concerning these services that apply to area facilities.

(3) Pays the Department the applicable fee for authorizing and monitoring the services of the facility. The initial fee is payable at the time the

facility notifies the Department of its intent to provide the services and by July 1 of each year thereafter. The applicable fee is based upon the number of assessments completed during the prior fiscal year as set forth below:

Number of Assessments	Fee Amount
0-24	$250.00
25-99	$500.00
100 or more	$750.00."

SECTION 3. This act becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.

SENATE BILL 934:
DWI Provider Authorization Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 11, 2003	**Summary by:**	Martha Walston
Version:	S934-CSLA-25		Committee Counsel*

SUMMARY: ***Senate Bill 934 is an agency bill requested by the Department of Health and Human Services. It establishes an annual fee for private facilities that provide substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6. The amount of the fee varies depending on the number of assessments completed by the facility during the prior fiscal year. The bill becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.***

The proposed committee substitute adds language to clarify that the collected fees will be used by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department for program monitoring and quality assurance.

CURRENT LAW: A person whose license was revoked as a result of a conviction for driving while impaired must have a substance abuse assessment and obtain a certificate of completion of either an alcohol and drug education traffic school or a substance abuse treatment program before the person's license can be restored. The substance abuse treatment programs may be provided by an area facility or by a private facility authorized by the Department of Health and Human Services. To be authorized to provide this service, a private facility must notify the Department of its intent to provide the service and agree to comply with the laws and rules concerning the services. The Department must also monitor the facility to ensure that it complies with the laws and rules concerning the services it offers. The volume of applications and DWI certificate of completion forms the Department receives from private facilities continues to increase and, according to the Department, exceeds it capacity of present staffing. The Department is concerned that the facilities do not receive the level of monitoring required under the rules or the technical assistance and consultation necessary to ensure that the quality of services will serve to protect the public welfare.

BILL ANALYSIS: Senate Bill 934 would establish an annual fee to be paid by private facilities that want to be authorized to provide substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6 as a condition for the restoration of a drivers license. The amount of the fee would vary depending upon the number of assessments completed by the facility during the prior fiscal year:

Number of Assessments	Fee Amount
0-24	$250
25-99	$500
100 or more	$750

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

The fee would be payable to the Department of Health and Human Services at the time the facility notifies the Department of its intent to provide the service and by July 1 of each year thereafter. The bill would become effective July 1, 2003, and would apply to private facilities providing substance abuse services on or after that date. The collected fees would be used by the Division of Mental health, Developmental Disabilities and Substance Abuse Services of the Department for program monitoring and quality assurance.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 934 (First Edition)

SHORT TITLE: DWI Provider Authorization Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

(In Thousands)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**$111-$163**	**$117-$172**	**$122-$180**	**$128-$188**	**$133-$196**
EXPENDITURES	**$122**	**$127**	**$132**	**$136**	**$141**
POSITIONS: (cumulative)	**2**	**2**	**2**	**2**	**2**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: July 1, 2003

BILL SUMMARY:

Section 1 – Amends G.S. 122C-142.1 to require persons found guilty of Driving While Intoxicated (DWI) to seek treatment from an Area Mental Health Authority or a private facility authorized by the Department of Health and Human Services (DHHS) to provide DWI Certificate of Completions.

Under current statute, a DWI offender could seek service at any private DWI treatment provider who meets the standard of the statute. This bill would now require that the private provider be authorized by DHHS to provide the services.

This section of the bill also moves language regarding private facility requirements from subsection (a) of G.S. 122C-142.1 to a subsection (a1).

Section 2 – Establishes a new subsection (a1) in G.S. 122C-142.1. The proposed subsection will include language currently located in subsection (a) of the statute requiring private DWI service providers to notify their local area mental health programs before providing services and that the facilities adhere to all relevant rules and laws. These requirements are not changed from current statute.

The proposed bill also requires the private service facilities to pay a fee to DHHS to recover the cost associated with expanding the office that authorizes and monitors these facilities as required by 10 NCAC 14V .3806. The fee would be collected as a departmental receipt and would be retained by DHHS. This proposed annual fee is divided into three tiers based on the number of persons treated ("assessed") by the facility per year. This fee would only apply to facilities that serve DWI offenders seeking Certificates of Completion.

The bill identifies the following schedule:

	Assessments per Year:	Annual Fee:
Tier 1	1-24	$250.00
Tier 2	25-99	$500.00
Tier 3	100 or more	$750.00

ASSUMPTIONS AND METHODOLOGY:

Revenues – In calculating the fiscal impact, the following revenue assumptions were used:

- Currently, there are 210 Tier 1 providers, 110 Tier 2 providers, and 75 Tier 3 providers.
- Based on trend data from 1999-2002, the expected growth rate for private DWI service providers is 5%. This analysis assumes that facilities will continue to grow at 5%. This projection does not consider the impact of Mental Health Reform on the number of providers.
- For the upper bound of the annual revenue projections, current service providers in all three tiers were assumed to pay the fee.
- For the lower bound of the annual revenue projections, providers in Tier 1 were assumed to eliminate services to DWI offenders for the purpose providing Certificates of Completion. This fee represents 14% of the average income these facilities receive serving DWI offenders and DHHS has stated that some of the facilities are expected to cease providing these services.

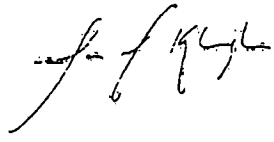
Anticipated Revenues for FY 2003-04*				
	Facilities	**Fee**	**Total Revenue FY 2003-04 (Lower Bound)**	**Total Revenue FY 2003-04 (Upper Bound)**
Tier 1	210	$250	None	$52,500
Tier 2	110	$500	$55,000	$55,000
Tier 3	75	$750	$56,250	$56,250
Total			**$111,250**	**$163,750**
** Service Providers are expected to grow by 5% in future years.*				

Expenditures – In calculating the fiscal impact, the following expenditure assumptions were used:

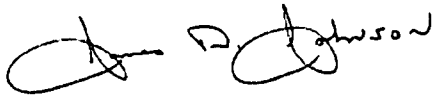
- According to DHHS, two positions will be needed to carry out the authorization and monitoring activities for these private facilities as required in 10 NCAC 14v .3806. Combined, the salaries and benefits associated with these positions will cost $122,565.
- The costs of the two positions were inflated according to the following schedule; FY 2005 (3.9%); FY 2006 (3.6%); FY 2007 (3.5%); FY 2008 (3.5%).
- DHHS has stated that any revenue collected in addition to the amount necessary for the two positions would be used to offset the cost of equipment, supplies, and travel for the two positions.
- DHHS assumes that there will be no costs associated with collecting this fee.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Klingler, Fiscal Analyst



APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: May 15, 2003

Area Mental Health Program and Catchment Areas.

TABLE 2B
PERSONS SERVED BY REGION
FOR THE NORTH CAROLINA AREA PROGRAMS BY COUNTY
WESTERN REGION
FY 2001-02

STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED	STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED
STATE TOTAL	317,122 /1	**FOOTHILLS**	9,464
WESTERN	99,989	ALEXANDER	1,249
		BURKE	3,147
SMOKY MOUNTAIN	10,105	CALDWELL	3,157
CHEROKEE	1,435	MCDOWELL	1,911
CLAY	449		
GRAHAM	594	**RUTHERFORD**	4,169
HAYWOOD	3,191	POLK	1,005
JACKSON	1,922	RUTHERFORD	3,164
MACON	1,717		
SWAIN	797	**GASTON-LINCOLN**	13,029
		CLEVELAND	4,052
BLUE RIDGE	8,595	GASTON	7,022
BUNCOMBE	6,619	LINCOLN	1,955
MADISON	660		
MITCHELL	530	**CATAWBA**	5,212
YANCEY	786		
		MECKLENBURG	26,740
NEW RIVER	7,968		
ALLEGHANY	743	**PIEDMONT**	11,047
ASHE	1,057	CABARRUS	3,226
AVERY	961	UNION	2,757
WATAUGA	2,105	STANLY	1,701
WILKES	3,102	ROWAN	3,363
TREND	3,660		
HENDERSON	2,734		
TRANSYLVANIA	926		

1/ Includes 645 out of State and includes 3,329 unknown counties.

TABLE 2B
PERSONS SERVED BY REGION
FOR THE NORTH CAROLINA AREA PROGRAMS BY COUNTY
NORTH CENTRAL REGION
FY 2001-02

STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED	STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED
STATE TOTAL	317,122 /1	**V-G-F-W**	5,844
NORTH CENTRAL	88,409	FRANKLIN	1,629
		GRANVILLE	1,437
CROSSROADS	11,025	VANCE	1,898
SURRY	4,987	WARREN	880
YADKIN	1,879		
IREDELL	4,159		
CENTERPOINT	18,183		
FORSYTH	13,838		
STOKES	2,583		
DAVIE	1,762		
ROCKINGHAM	4,259		
GUILFORD	27,990		
ALAMANCE-CASWELL	7,714		
ALAMANCE	6,546		
CASWELL	1,168		
O-P-C	6,244		
CHATHAM	1,584		
ORANGE	3,242		
PERSON	1,418		
DURHAM	7,150		

1/ Includes 645 out of State and includes 3,329 unknown counties.

TABLE 2B
PERSONS SERVED BY REGION
FOR THE NORTH CAROLINA AREA PROGRAMS BY COUNTY
SOUTH CENTRAL REGION
FY 2001-02

STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED	STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED
STATE TOTAL	317,122 /1		
SOUTH CENTRAL	56,460		
DAVIDSON	5,290		
SANDHILLS	6,740		
ANSON	1,093		
HOKE	1,399		
MONTGOMERY	1,096		
MOORE	1,790		
RICHMOND	1,362		
SOUTHEASTERN	10,199		
BLADEN	1,309		
COLUMBUS	2,049		
ROBESON	5,452		
SCOTLAND	1,389		
CUMBERLAND	7,611		
LEE-HARNETT	5,403		
HARNETT	3,415		
LEE	1,988		
JOHNSTON	4,432		
WAKE	10,262		
RANDOLPH	6,523		

1/ Includes 645 out of State and includes 3,329 unknown counties.

TABLE 2B
PERSONS SERVED BY REGION
FOR THE NORTH CAROLINA AREA PROGRAMS BY COUNTY
EASTERN REGION
FY 2001-02

STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED	STATE AND COUNTIES NORTH CAROLINA	PERSONS SERVED
STATE TOTAL	317,122 /1	**PITT**	5,053
EASTERN	68,290		
		ROANOKE-CHOWAN	4,784
SOUTHEASTERN	8,955	BERTIE	1,288
BRUNSWICK	856	GATES	584
NEW HANOVER	7,573	HERTFORD	1,587
PENDER	526	NORTHAMPTON	1,325
ONSLOW	4,364	**TIDELAND**	5,382
		BEAUFORT	2,794
WAYNE	5,795	HYDE	258
		MARTIN	1,344
WILSON-GREENE	5,172	TYRRELL	163
GREENE	839	WASHINGTON	823
WILSON	4,333		
		ALBEMARLE	5,093
EDGECOMBE-NASH	6,342	CAMDEN	210
EDGECOMBE	3,141	CHOWAN	651
NASH	3,201	CURRITUCK	514
		DARE	1,684
HALIFAX	3,997	PASQUOTANK	1,570
		PERQUIMANS	464
NEUSE	5,370		
CARTERET	2,112	**DUPLIN-SAMPSON**	5,047
CRAVEN	2,690	DUPLIN	2,500
JONES	264	SAMPSON	2,547
PAMILCO	304		
LENOIR	2,936		

1/ Includes 645 out of State and includes 3,329 unknown counties.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 934 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 76
Finance Committee Substitute Adopted 5/27/03

Short Title: Incorporate Misenheimer. (Local)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE VILLAGE OF MISENHEIMER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Village of Misenheimer is enacted to read:

"CHARTER OF THE VILLAGE OF MISENHEIMER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Misenheimer are a body corporate and politic under the name 'Village of Misenheimer'. The Village of Misenheimer has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Misenheimer are as follows:

Beginning at a point, the intersection of the extended center line of Wesley Chapel Road and the southern right-of-way of NC 49 Highway, thence from said point of beginning in a southwesterly direction with the southern right-of-way of NC 49 Highway approximately 623 feet to the intersection of the southern right-of-way of NC 49 Highway with the extended southern boundary of PIN 661202680112, thence in a northwesterly direction to the southwestern corner of PIN 661202680112, thence following the western boundary of the aforementioned parcel in a northerly direction to the southwestern corner of PIN 661202594073, thence in a northwesterly direction following the western boundary of PIN 661202594073 to the southern right-of-way of Mattons Grove Church Road, thence in a northwesterly direction to the southwestern corner of PIN 661201497564, thence in a northerly direction along the western boundary of PIN 661201497564 to the southwest corner of PIN 661304501502, thence in a northwesterly direction along the western boundary of the aforementioned parcel to its common corner with PIN 661303426162, thence continuing in a northwesterly direction along the western boundary of the aforementioned parcel approximately 75 feet to a corner, thence in a northeasterly direction along the western boundary of the

aforementioned parcel approximately 128 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 223 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 245 feet to a corner, thence in a southwesterly direction along the western boundary of the aforementioned parcel approximately 765 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 415 feet to a corner, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 977 feet to the northeast corner of PIN 661303116744, thence in a northwesterly direction along the western boundary of PIN 661303426162 approximately 775 feet to the southeast corner of PIN 661303240441, thence in a northeasterly direction along the western boundary of PIN 661303426162 approximately 1,720 feet to the southeastern corner of PIN 661303249399, thence in a northwesterly direction along the southern boundary of the aforementioned parcel approximately 322 feet to the southwest corner of the aforementioned parcel, thence in a northeasterly direction along the western boundary of PIN 661303249399, approximately 466 feet to the southern right-of-way of Glenmore Road, thence in a northwesterly direction along the southern right-of-way of Glenmore Road approximately 420 feet to the intersection of the southern right-of-way of Glenmore Road and the extended western boundary of PIN 661301258186, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 800 feet to the intersection of the extended western boundary of the aforementioned parcel and the northeastern right-of-way of US 52 Highway, thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,855 feet to the southwestern corner of PIN 661303448640, thence in a northeasterly direction along the western boundary of the aforementioned parcel to its northernmost corner, thence in a generally southerly direction, following the eastern boundary of the aforementioned parcel to its easternmost corner, said corner also being a common corner with PIN 661304543342, thence in a northwesterly direction along the northern boundary of PIN 661304543342 approximately 145 feet to the northwestern corner of the aforementioned parcel thence in a southerly direction along the western boundary of the aforementioned parcel to the northern right-of-way of US 52 Highway. Thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,050 feet to the southwestern corner of PIN 661304643049, thence in a northerly direction along the western boundaries of PINs 661304643049, 661304643361, 661304643497, 661304644611, and 661304644846 to the northwest corner of PIN 661304644846, thence in a northerly direction approximately 60 feet to the southwest corner of PIN 661302655348, thence in a northerly direction along the western boundaries of PINs 661302655348 and 661302655544 to the northernmost corner of PIN 661302655544, thence in a southeasterly direction along the northern boundary of the aforementioned parcel approximately 200 feet to the northeastern corner of the aforementioned parcel, thence in a southerly direction approximately 620 feet to the southernmost corner of PIN 661302596350, said point being located in the northwestern right-of-way of Reeves Island Road, thence along the northwestern right-of-way of Reeves Island Road in a

northeasterly direction approximately 350 feet, to the intersection of the northwestern right-of-way of Reeves Island Road and the northwesterly extended northern boundary of PIN 661302752445, thence in a southerly direction along the northern boundary of the aforementioned parcel approximately 300 feet to the southeast corner of PIN 661302596350, thence in a northerly direction crossing the right-of-way of Reeves Island Road approximately 544 feet to the southwest corner of PIN 661302882512, thence in an easterly direction crossing the right-of-way of Reeves Island Road along the northern boundary of PIN 661304847498 and continuing in an easterly direction along the northern boundary of the aforementioned parcel and then in a southerly direction along the eastern boundary of the aforementioned parcel to the southeastern corner of PIN 661304847498, said point also being the northeastern corner of PIN 662303100762, thence in a westerly direction along the southern boundary of PIN 661304847498 approximately 1,235 feet, crossing the right-of-way of US 52 Highway to the southeast corner of PIN 661304914577, thence in a westerly direction along the southern boundary of the aforementioned parcel approximately 570 feet to the southwest corner of the aforementioned parcel, thence in a northwesterly direction along the southwestern boundaries of PINs 661304914577, 661304911763, 661304911954, and 661304920059, to the easternmost corner of PIN 661304825379, thence in a southwesterly direction along the southeastern boundaries of the aforementioned parcel and PINs 661304825234, 661304812626, 661304814927, and 661304712926 to the southeast corner of the aforementioned parcel, thence in an easterly direction along the northern boundary of PIN 661304702603 approximately 1,150 feet to the northeast corner of the aforementioned parcel, thence in a southerly direction along the eastern boundary of the aforementioned parcel approximately 495 feet to a corner, thence in a westerly direction along the boundary of the aforementioned parcel approximately 780 feet to a corner, thence in a southerly direction along the boundary of the aforementioned parcel approximately 780 feet to the southeast corner of PIN 661304702603, thence in a westerly direction along the southern boundary of PIN 661304702603 approximately 1,475 feet to the northeast corner of PIN 661202686946, thence in a southerly direction along the eastern boundary of the aforementioned parcel approximately 820 feet to the northwest corner of PIN 661202780863, thence in a northeasterly direction with the northern boundary of the aforementioned parcel approximately 290 feet to the northeast corner of the aforementioned parcel, thence in a southerly direction with the eastern boundary of the aforementioned parcel approximately 563 feet to the southeastern corner of the aforementioned parcel, thence in an easterly direction approximately 35 feet to the northeast corner of PIN 661202688269, thence in a southerly direction with the eastern boundary of the aforementioned parcel for an approximate distance of 470 feet to the southeast corner of the aforementioned parcel, thence continuing in the same direction to the southern right-of-way of NC 49 Highway, thence in a westerly direction along the southern right-of-way of NC 49 Highway to the point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Misenheimer is the Mayor and the Village Council, which shall have four members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Chuck Ambrose, Peter Edquist, Maria Fisher, Michael Herron, and Beth Huber are appointed members of the Village Council of the Village of Misenheimer, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. The temporary officers shall elect a person from among the members of the temporary governing body to serve as interim mayor. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2003, the three candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and quadrennially thereafter, two members shall be elected to four-year terms. In 2007, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Village Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Village Council. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Village Council. In the case of a vacancy in the office of Mayor, the remaining members of the Village Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Residency Required.** Members of the governing body of the Village of Misenheimer, whether elected or appointed, must be qualified voters who reside within the corporate limits of the Village in order to qualify to take, hold, and continue in such office.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Village officers shall be nominated and elected on a nonpartisan basis as provided in G.S. 163-294.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Mayor-Council Plan.** The Village shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Misenheimer shall be subject to

municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Village shall obtain from Stanly County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 76

Finance Committee Substitute Adopted 5/27/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S76-CSLAx-22 [v.1]

6/8/2003 8:31:35 PM

Short Title: Incorporate Misenheimer. (Local)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE VILLAGE OF MISENHEIMER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Village of Misenheimer is enacted to read:

"CHARTER OF THE VILLAGE OF MISENHEIMER.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Misenheimer are a body corporate and politic under the name 'Village of Misenheimer'. The Village of Misenheimer has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Misenheimer are as follows:

Beginning at a point, the intersection of the extended center line of Wesley Chapel Road and the southern right-of-way of NC 49 Highway, thence from said point of beginning in a southwesterly direction with the southern right-of-way of NC 49 Highway approximately 623 feet to the intersection of the southern right-of-way of NC 49 Highway with the extended southern boundary of PIN 661202680112, thence in a northwesterly direction to the southwestern corner of PIN 661202680112, thence following the western boundary of the aforementioned parcel in a northerly direction to the southwestern corner of PIN 661202594073, thence in a northwesterly direction following the western boundary of PIN 661202594073 to the southern right-of-way of Mattons Grove Church Road, thence in a northwesterly direction to the southwestern corner of PIN 661201497564, thence in a northerly direction along the western boundary of PIN 661201497564 to the southwest corner of PIN 661304501502, thence in a northwesterly direction along the western boundary of the aforementioned parcel to its common corner with PIN 661303426162, thence continuing in a northwesterly

direction along the western boundary of the aforementioned parcel approximately 75 feet to a corner, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 128 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 223 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 245 feet to a corner, thence in a southwesterly direction along the western boundary of the aforementioned parcel approximately 765 feet to a corner, thence in a northwesterly direction along the western boundary of the aforementioned parcel approximately 415 feet to a corner, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 977 feet to the northeast corner of PIN 661303116744, thence in a northwesterly direction along the western boundary of PIN 661303426162 approximately 775 feet to the southeast corner of PIN 661303240441, thence in a northeasterly direction along the western boundary of PIN 661303426162 approximately 1,720 feet to the southeastern corner of PIN 661303249399, thence in a northwesterly direction along the southern boundary of the aforementioned parcel approximately 322 feet to the southwest corner of the aforementioned parcel, thence in a northeasterly direction along the western boundary of PIN 661303249399, approximately 466 feet to the southern right-of-way of Glenmore Road, thence in a northwesterly direction along the southern right-of-way of Glenmore Road approximately 420 feet to the intersection of the southern right-of-way of Glenmore Road and the extended western boundary of PIN 661301258186, thence in a northeasterly direction along the western boundary of the aforementioned parcel approximately 800 feet to the intersection of the extended western boundary of the aforementioned parcel and the northeastern right-of-way of US 52 Highway, thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,855 feet to the southwestern corner of PIN 661303448640, thence in a northeasterly direction along the western boundary of the aforementioned parcel to its northernmost corner, thence in a generally southerly direction, following the eastern boundary of the aforementioned parcel to its easternmost corner, said corner also being a common corner with PIN 661304543342, thence in a northwesterly direction along the northern boundary of PIN 661304543342 approximately 145 feet to the northwestern corner of the aforementioned parcel thence in a southerly direction along the western boundary of the aforementioned parcel to the northern right-of-way of US 52 Highway. Thence in a southeasterly direction along the northern right-of-way of US 52 Highway approximately 1,050 feet to the southwestern corner of PIN 661304643049, thence in a northerly direction along the western boundaries of PINs 661304643049, 661304643361, 661304643497, 661304644611, and 661304644846 to the northwest corner of PIN 661304644846, thence in a northerly direction approximately 60 feet to the southwest corner of PIN 661302655348, thence in a northerly direction along the western boundaries of PINs 661302655348 and 661302655544 to the northernmost corner of PIN 661302655544, thence in a southeasterly direction along the northern boundary of the aforementioned parcel approximately 200 feet to the northeastern corner of the aforementioned parcel, thence in a southerly direction approximately 620 feet to the southernmost corner of PIN

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"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2004, the three candidates receiving the highest numbers of votes shall be elected to four-year terms, and the two candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2006, and quadrennially thereafter, two members shall be elected to four-year terms. In 2008, and quadrennially thereafter, three members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Village Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Village Council. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Village Council. In the case of a vacancy in the office of Mayor, the remaining members of the Village Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Residency Required.** Members of the governing body of the Village of Misenheimer, whether elected or appointed, must be qualified voters who reside within the corporate limits of the Village in order to qualify to take, hold, and continue in such office.

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"Section 4.1. **Conduct of Village Elections.** Village officers shall be nominated and elected on a nonpartisan basis as provided in G.S. 163-294.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Mayor-Council Plan.** The Village shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

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"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Misenheimer shall be subject to

municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Village shall obtain from Stanly County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

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

SENATE BILL 76:
Incorporate Misenheimer

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Purcell
Date:	June 10, 2003	**Summary by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***Senate Bill 76 incorporates the Village of Misenheimer, effective when it becomes law. The Joint Legislative Commission on Municipal Incorporations met and issued a report on May 15, 2003, finding that the proposed Village of Misenheimer meets the standards for incorporation required by Article 20 of Chapter 160A of the General Statutes and recommending that it be incorporated***

The proposed committee substitute changes the date of the initial election of Village officers from 2003 to 2004 and makes corresponding changes to future election years in order to have staggered terms. This change in the date of the initial election is consistent with the date in the Village Charter.

CURRENT LAW: Under Senate Rule 42.3(b), the Joint Legislative Commission on Municipal Incorporations[1] must first consider a bill recommending the incorporation of an area before a Senate or House Committee may consider it. The Commission must decide whether the area to be incorporated meets the standards for incorporation required by Article 20 of Chapter 160A of the General Statutes.

BILL ANALYSIS: The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Village of Misenheimer on May 15, 2003. The Village of Misenheimer has been in existence for over 100 years. It is home to Pfeiffer University.

The proposed municipality held a public hearing on March 2, 2003, on the proposed incorporation. Fifty-one percent (51%) of the registered voters in the proposed municipality signed the petition for its incorporation.[2] The proposed Village submitted a sufficient plan for providing the following four services: fire protection, police protection, zoning, and solid waste collection. Misenheimer has proposed a $.15/$100 property tax rate with an estimated property tax revenue of $12,300.

The closest existing towns to the proposed Village of Misenheimer are the Towns of Richfield (within 1 mile) and New London (within 4 miles), but they do not exceed the neighboring municipal population thresholds. The Village has a permanent population of more than 150 residents and approximately 600 students in residence at Pfeiffer University. It has a population density of at least 250 persons per square mile. And it meets the development density threshold: 47.35% of the proposed area is developed.

The form of government would be a Mayor and Village Council. The voters would elect five people on a nonpartisan basis in the fall of 2004. The elected members of the Council would elect one of its members to serve as Mayor of the Village. At a public meeting held on March 2, 2003, the voters present elected five people to serve as the Interim Governing Board.

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

[1] The members of the Commission are: Sen. Hartsell, chair; Sen. Malone, Rep. Jarrell, Rep. Hurley, Mr. Steven Raper, Mr. Jerry Ayscue.

[2] The Stanley County Board of Elections' records show 183 registered voters in the proposed Village and verified 154 registered voter signatures on the petition seeking incorporation.

1. Sales Tax Revenue Change:

Stanly County distributes sales tax revenues on a per capita basis. This analysis uses 2001-02 actual sales tax distribution to show how that distribution would have changed had Misenheimer been incorporated at that time.

Current

County	Municipalities	Population	% Population	Sales Tax Distribution
Stanly		58,792	69.9%	**7,235,212**
	Albemarle	15,758	18.7%	1,972,012
	Badin	1,148	1.4%	154,686
	Locust	2,449	2.9%	306,784
	New London	612	0.7%	72,164
	Norwood	2,203	2.6%	288,182
	Oakboro	1,191	1.4%	156,648
	Red Cross	369	0.4%	
	Richfield	516	0.6%	66,357
	Stanfield	1,130	1.3%	135,206
	TOTAL	84,168		10,387,252

4.343

With Incorporation

County		Population	% Population	Sales Tax Distribution	Change
Stanly		58,792	69.2%	7,188,616	(46,596)
	Albemarle	15,758	18.5%	1,926,762	(45,249)
	Badin	1,148	1.4%	140,368	(14,318)
	Locust	2,449	2.9%	299,444	(7,340)
	New London	612	0.7%	74,830	2,666
	Norwood	2,203	2.6%	269,365	(18,817)
	Oakboro	1,191	1.4%	145,626	(11,022)
	Red Cross	369	0.4%	45,118	45,118
	Richfield	516	0.6%	63,092	(3,265)
	Stanfield	1,130	1.3%	138,167	2,962
	Misenheimer	784	0.9%	95,861	95,861
	TOTAL	84,952			

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,153,921 and available funds of $97,675,598.26. This created a per capita distribution rate of $ 23.51.

Adding the new population of Misenheimer (784) to the statewide total creates a new population of 4,154,705. However, the change is so small it will not impact the per capita distribution rate of $23.51. Therefore, incorporation will have no impact on the Powell Fund distributions received by other Stanly municipalities.

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light and telephone companies, 3.09 percentage points (or 96% of collections) are distributed to the respective municipalities within which these services took place. In 1998-99 the statewide total was $161.1 million.

Because Misenheimer only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Misenheimer from this tax would be new or drawn from the NC General Fund.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controlling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.
June 8, 2003.

Resolution #2003-02

STANLY COUNTY BOARD OF COMMISSIONERS
INCORPORATION OF MISENHEIMER

WHEREAS, the community of Misenheimer has existed with its own post office for over 90 years, and;

WHEREAS, the community of Misenheimer has informed this Board via certified letter dated February 10, 2003 of their intention to petition the State of North Carolina for incorporation as the Village of Misenheimer, and;

WHEREAS, on March 2, 2003, with appropriate legal Public Notice, a Public Meeting was held and an Interim Governing Body was elected and includes Dr. Charles Ambrose, Peter Edquist, Maria Fisher, Michael Herron, and Beth Huber, and;

WHEREAS, the Misenheimer community has presented evidence to this Board indicating that over 50% of the registered voters who reside within the proposed Village of Misenheimer have already signed a Petition For Incorporation whose signatures are to be presented for certification by the Stanly County Board of Elections, and;

WHEREAS, among the founding principals of both our country and the Great State of North Carolina are the rights of self-determination and the pursuit of happiness.

NOW THEREFORE BE IT RESOLVED, that the Stanly County Board of County Commissioners hereby endorses and supports the incorporation efforts of the Village of Misenheimer.

ADOPTED THIS 10TH DAY OF MARCH 2003.

Gene McIntyre, Chairman

Attest:

Nancy M. Litaker, Clerk

STANLY COUNTY BOARD OF ELECTIONS

1000 North First Street - Suite 16
ALBEMARLE, NC 28001

Jewell T. Simpson
Director of Elections
Telephone (704)-986-3647
Fax (704)-986-3798
E-mail: jsimpson@co.stanly.nc.us
WEBSITE: www.co.stanly.nc.us

John M. Bahner, Jr. Chairman
Janet W. Pickler, Secretary
Paul E. Bowers, Sr., Member

Interim Governing Board
Village of Misenheimer
PO Box 100
Misenheimer, NC 28109

Members of the Board

Our records show that there are 183 registered voters in the proposed Village of Misenheimer village limits.

We have verified 154 registered voter signatures on the petition.

I certify that this information is correct.

STANLY COUNTY BOARD OF ELECTIONS

Jewell Simpson

Jewell Simpson, Director

Stanly News and Press
P O Box 488
Albemarle NC 28002
Stanly County
Phone: 704-982-2121

Affidavit of Insertion

Account #: 28513 Date: 2-28-03

Customer Name: THE VILLAGE OF MISENHEIMER
INCORPORATION COMMITTEE
PO BOX 100
MISENHEIMER, NC 28109

Classification:
Start: # of insertions:
Editions: 2X2- AD SIZE
Size: RUN DATES: 2-20-03,2-23-03
2-25-03,2-27-03
3-02-03

TOTAL CHARGES: $ $142.20

North Carolina, Stanly County

AFFIDAVIT OF PUBLICATION

Before the undersigned, a Notary Public of said Cour
duly commissioned, qualified, and authorized by law
oaths, personally appeared: C. F. McClughan, who l
duly sworn, deposes and says: that he is Publisher of
known as STANLY NEWS AND PRESS, published,
entered as second class mail in the City of Albemarle
and State; that he is authorized to make this affidavit
statement; that the notice or other legal advertisemer
of which is attached hereto, was published in the ST.
AND PRESS on the dates specified on the copy attac
the said newspaper in which such notice, paper, doc
advertisement was published was, at the time of each
such publication, a newspaper meeting all of the requirements and
qualifications of Section 1-597 of the General Statutes of North
Carolina and was a qualified newspaper within the meaning of
Section 1-597 of the General Statutes of North Carolina.

PUBLIC NOTICE

In accordance with the North Carolina General Statute 120-164 public notice is hereby given that the community of Misenheimer will present to the Legislature a petition for the incorporation of the community of Misenheimer. Election of an Interim Governing Board will be held on Sunday, March 2, 2003 at 2:00 p.m. at Wesley Chapel United Methodist Church (46963 Wesley Chapel Road) in Misenheimer.

C F McClughan
Publisher

Sworn to and subscribed before me
this 4 day of March, 2003

Sherry E Davis
Notary Public
My Commission expires: 04-01-06 (seal)

PUBLIC NOTICE

In accordance with the North Carolina General Statute 120-164 public notice is hereby given that the community of Misenheimer will present to the Legislature a petition for the incorporation of the community of Misenheimer. Election of an Interim Governing Board will be held on Sunday, March 2, 2003 at 2:00 p.m. at Wesley Chapel United Methodist Church (46963 Wesley Chapel Road) in Misenheimer.

Published in SNAP 2/20, 2/23, 2/25, 2/27

We hope you will attend this public meeting. There will be a presentation explaining the incorporation process and time will be made available for your questions. All registered voters that reside within the proposed incorporation limits will have the opportunity to nominate and vote for a five person Interim Governing Board. This temporary board will be responsible for completing the incorporation process and will remain in office until the municipal elections are held in November, 2003. If you will not be able to attend the meeting but you have some questions, please call 704-463-1234 and someone will return your call.

March 17, 2003

Terry and April Kimrey
46841 Wesley Chapel Road
Richfield, North Carolina 28137

Subject: Misenheimer Incorporation

Dear Mr.& Mrs. Kimrey,

Thank you for your letter of March 12 expressing your concern for our community.

Your letter requested a copy of the list of all registered voters who live within the proposed Village of Misenheimer, and also copies of the petitions containing the signatures of those residents of Misenheimer who have expressed their desire to have a new municipality formed.

Please be advised that no such list of Misenheimer-only registered voters exists. A list of all registered voters who reside within the Richfield District (which includes Misenheimer) is available at the Stanly County Courthouse. With respect to the petition signatures, we are still in the midst of the multi-stage process of gathering those signatures and certifying them on our own. After completing that, we must submit them for independent certification, and then forward them to the General Assembly in Raleigh for their review. Once this entire process is complete, we will be pleased to provide you with copies per your request.

I would be happy to sit down with both of you to discuss the above, or any aspect of the proposed incorporation of Misenheimer. Please know that any other member of the Misenheimer Interim Governing Board (Chuck Ambrose, Maria Fisher, Mike Herron, Beth Huber) would also be able to answer your questions.

Sincerely yours,

Peter D. Edquist
Post Office Box 583
Misenheimer, North Carolina 28124

cc: Interim Governing Board Members

Dr Charles Ambrose

From: Dr Charles Ambrose [cambrose@pfeiffer.edu]
Sent: Thursday, February 13, 2003 8:28 AM
To: jfcarter@vnet.net
Subject: Misenheimer Meeting

Dear Joe:

Sorry I have been out of town since receiving your call -- but I asked Peter to call and see if you were available to meet this week and discuss any concerns you may have concerning incorporation. I believe the first preference that was free was Friday afternoon at 4:00 p.m. or perhaps -- Saturday morning at 8:00 a.m. We also could arrange a time next Monday or Tuesday. Please call me at the office (704)463-1360 ext. 2050 if either of these times work.

Chuck A

Outgoing mail is certified Virus Free.
Checked by AVG anti-virus system (http://www.grisoft.com).
Version: 6.0.449 / Virus Database: 251 - Release Date: 1/27/2003

June 10, 2003

Dear Mr. Murphy,

I have just received your message and, first of all, thank you for contacting me about Senate Bill 76 (not 86, as in your subject line above).

Though you are not a constituent of mine residing in the district, you have written me about a legislative bill affecting my constituents and I certainly feel obligated to respond to you as soon as possible given that this bill may be heard again this week.

In your email you stated that the proponents of Misenheimer's incorporation are "nothing more than a small group attempting to impose their will on others with whom they disagree." Sir, with all due respect to you, it seem quite the contrary: Those citizens - that is, eighty-four percent (84%!) of the registered voters in the community, as I understand it - actually support the incorporation bill. This seems to suggest that the small group allegedly attempting to impose its own will on others is actually those who oppose the bill, which could be anywhere between zero percent (0%) and sixteen percent (16%) of the community. Though overall the proponents' numbers may be small because it is a small community, a vast majority of that community's eligible population supports incorporation and that support appears in a formal petition certified by the Board of Elections. I believe in majority rule and that is how our legislative process works.

As I indicated to the House Finance Committee today, this incorporation matter has properly been before the Municipal Incorporation Commission, where it passed all measures and included input from opponents. Further, the bill has already passed a Senate committee and the full Senate. These actions are on top of meetings held in the district about this matter.

Of similar importance is the fact that the Stanly County Board of County Commissioners and each of the municipalities support this bill, as is evident in the record. All three legislators representing Stanly County also support the bill.

Noteworthy as well is that today was the first time any one contacted me personally in opposition to the bill. If opposition is as pronounced as some would say, then why has Misenheimer's only directly-elected State Representative not been contacted until now by opponents to the bill?

Before concluding, do realize I understand that every community in North Carolina has land owned by folks living somewhere else, whether across this State or somewhere else in the United States. And I certainly understand that for someone living elsewhere he or she may not feel they have as much opportunity to provide input on things like this. However, 84 percent is a significant majority of folks who actually live in the community. I've always been of the belief that what elected officials must give the most weight to are the folks who live in the communities and are most directly effected day in

and day out by proposed legislation such as this. Otherwise, the principle of local self-government is truly subverted.

I want to thank you again for writing me and sharing your opinion on this very important matter. Based upon all that I have heard during the last year on this subject, this matter is ready for a full hearing in the House Finance Committee after having cleared every required step along the way. I must go with the majority, as a community's representative is obligated to do.

Sincerely,

Rep. Wayne Goodwin

-----Original Message-----
From: jmurphy
To: Wayneg@ncleg.net
Cc: Williamp@ncleg.net; Gerryc@ncleg.net; Gordana@ncleg.net; Dannya@ncleg.net; Williamm@ncleg.net; Marthaa@ncleg.net; Miked@ncleg.net; Pryorg@ncleg.net; Deweyh@ncleg.net; Curtisb@ncleg.net; aliceb@ncleg.net; Beckyc@ncleg.net; Billyc@ncleg.net; Same@ncleg.net; Rickg@ncleg.net; Joeh@ncleg.net; Hughh@ncleg.net; Earlj@ncleg.net; Davidl@ncleg.net; Genem@ncleg.net; Donm@ncleg.net; Johnr@ncleg.net; Deborahc@ncleg.net; Mitchells@ncleg.net; Edgars@ncleg.net; Jenniferw@ncleg.net; Conniewi@ncleg.net; Larryw@ncleg.net; Stevewo@ncleg.net; Paull@nclet.net; Juliah@ncleg.net
Sent: 6/10/2003 4:39 PM
Subject: Misenheimer incorporation, Senate Bill 86

Sir: This is to express oppposition to the above referenced legislation. There are many who are effected and many who oppose but who have not been given the opportunity to be heard. There are also those who are not able to "vote" because although they own land within the proposed "town", they reside outside the limits of incorporation. This effort is nothing more than a small group attempting to impose their will on others with whom they disagree. Please vote No or at least postpone until the next session so that everyboby effected can be heard.....
John T. Murphy
Charlotte

June 10, 2003

Representative G. Wayne Goodwin
503 Legislative Office Building
300 North Salisbury Street
Raleigh, NC 27601-2808

Dear Representative Goodwin:

I am writing on behalf of Pfeiffer University and as a member of the interim governing board of the Village of Misenheimer in support of the process and affirmation of the Incorporation Bill being considered by the House Finance Committee Wednesday morning.

In light of recent comments made in opposition to the Bill, I want to speak directly to the significant level of support by a majority of the residents within our community (as certified by our County Board of Elections and unanimous support of and by the Stanly County Commissioners). Eighty-four percent of the residents within Misenheimer have signed and been certified by a process that has been very positive and forward thinking for the future of Misenheimer. The entire university community along with our Board of Trustees are also unanimous in their support. Any last minute issues of concern and opposition are being raised in light of individual interests that did not represent the majority of our citizens.

Please know that I stand ready to speak directly to the broad level of support for the incorporation of the Village of Misenheimer and appreciate the efforts of you and other legislators in moving this process forward.

Sincerely,

Charles M. Ambrose
President

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 76 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE VILLAGE OF MISENHEIMER.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 806
PROPOSED COMMITTEE SUBSTITUTE H806-CSSVf-26 [v.3]

6/10/2003 4:12:28 PM

Short Title: Rebate and Grant Program for AFVs. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall adopt rules implementing the program established in G.S. 113B-30.

(b) These rules shall be adopted after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in motor vehicle registration fees as provided in G.S. 20-87(b) and G.S. 20-88(i2).

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected under this section for the administration of the program.

(d) The State Energy Office may use up to ten percent (10%) of the funds collected under this section for education and awareness about the applications and advantages of alternative fuels and vehicles.

"**§ 113B-33. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund established.**

The Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund is created as a nonreverting account within the Department of Administration. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the purposes set out in this Article.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

(a) ~~These~~ There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

. . .

(b) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00

SECTION 3. G.S. 20-88 is amended by adding a new subsection to read:

"(i2) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to all other fees authorized

by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00"

SECTION 4. This act is effective when it becomes law. The State Energy Office shall adopt the rules to implement the program established by this act on or before January 1, 2004. This act shall expire on January 1, 2014.

HOUSE BILL 806

Short Title:	Rebate and Grant Program for AFVs.	(Public)
Sponsors:	Representatives Tolson; and Insko.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative fuel and vehicle rebate and infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall issue rules implementing the program established in G.S. 113B-30.

(b) These rules shall be issued after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

HOUSE BILL 806:
Rebate and Grant Program for AFVs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Tolson
Date:	June 11, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H806-CSSVf-26		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 806 creates the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program, funded by a $1.00 increase in vehicle registration fees for the first 3 years of the program, and by an additional $1.00 increase for the remaining 7 years of the program. The program would provide rebates to first-time purchasers of AFVs, rebates for State taxes paid on the incremental costs of alternative motor fuels, and grants for the construction of AFV infrastructure projects.***

CURRENT LAW: An alternative fuel vehicle is a vehicle that operates using a source other than gasoline or diesel fuel, such as electricity, natural gas, hydrogen, ethanol, methanol, or fuels derived from biological materials. There are currently no benefits provided by the State, such as tax credits or rebates, for the purchase or use of alternative fuel vehicles or for the use of alternative fuels. North Carolina does offer a corporate tax credit for building an alternative fuel generating facility, such as an ethanol or biodiesel plant.

BILL ANALYSIS:

Purpose of Program

House Bill 806 creates the "Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program" (Program). The State Energy Office, which is a division of the Department of Administration, would administer the Alternative Fuel Rebate and Infrastructure Grant Program. The bill authorizes the State Energy Office to issues rules that would govern the administration of the program. Among other things, the rules would establish the procedures for providing:

- Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.
- Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.
- Grants for alternative motor fuel infrastructure projects.

Funding of Program

For the first 3 years of the program, the grants and rebates would be funded from a $1.00 increase in the vehicle registration fee for motor vehicles registered in this State. For the remaining 7 years of the program, it would be funded from an additional $1.00 increase, for a total of a $2.00 increase during those 7 years. However, commitments to rebates and grants may never exceed available funds. The bill directs the State Energy Office to establish a cap on the number and amounts of rebates based on the availability of funds. Up to 5% of the funds collected would be shared by both the State Energy Office and DMV for administrative costs. Up to 10% of the funds collected may be used for education and awareness of the applications and advantages of alternative fuels and vehicles.

Reporting Requirements

The Division of Motor Vehicles would be required to provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type. The State Energy Office would be required to provide an annual report on the expenditure of funds associated with the program and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee.

EFFECTIVE DATE: The bill becomes effective when it becomes law. The State Energy Office must issue rules to implement the program on or before January 1, 2004. The act would expire on January 1, 2014.

H806-SMSV-001

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/11/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Allen
Sen.)

moves to amend the bill on page 2, line S 18-19

( ) WHICH CHANGES THE TITLE

by inserting a new subsection between the lines:

"(d) The State Energy Office may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for education and awareness about the applications and advantages of alternative fuels and vehicles."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

H 1

HOUSE BILL 1072

Short Title:	Regulate Ticket Brokers.	(Public)
Sponsors:	Representatives Miner, Gibson (Primary Sponsors); Barbee, Church, Sherrill, West, and Yongue.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who resells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets.**

(a) Except as otherwise provided in G.S. 66-259.3, it shall be unlawful for any person other than a ticket broker to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket. Notwithstanding G.S. 14-344(a), a ticket broker may charge a service fee not to exceed three dollars ($3.00) when tickets or other evidences of the right of entry are sold by a ticket sales agent authorized to do business by the municipality or county where the ticket sales agent's place of business is located. The owner, operator, lessee, or tenant of the property where the athletic contest or entertainment event is to be held or is being held or the promoter of the contest or event may charge or may authorize, in writing, any person to charge a service fee for the sale of any ticket, privilege, or license of admission in addition to the face value of the ticket. The writing granting authority to another to charge a service fee shall specify the amount of the service fee to be charged for the sale of each ticket, privilege, or license of admission.

(b) For any athletic contest or entertainment event described in G.S. 66-259.6, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 90-259.3. Exemptions.**

(a) Nothing in this Article or any other provision of law shall criminally prohibit a person who is the original purchaser of one or more tickets to an athletic contest or entertainment event covered under this Article and who purchased the tickets for personal use from reselling or offering for resale the tickets for any price. However, the person shall not sell or offer to sell the ticket within 1,500 feet of a ticket office for the contest or event or a public entrance to the contest or event.

(b) Nothing in this Article or any other provision of law shall criminally prohibit a person who, for personal use, purchases one or more tickets to an athletic contest or entertainment event from reselling or offering for resale any of the tickets in any zone within the restricted areas, as provided in this subsection or in G.S. 66-259.6(b), where the activity is authorized by the promoter of the contest or event and the owner or operator of the venue where the contest or event is being held or to be held.

(c) Charitable organizations and their employees and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or similar fund-raising activity for the benefit of the organization's charitable purposes.

"**§ 90-259.4. Requirements; issuance of registration; renewal; failure to comply.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of State on a form provided by the Secretary of State. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of State. The bond shall be executed in favor of this State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of State shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of State and pay a renewal fee not to exceed two thousand dollars ($2,000).

"**§ 66-259.5. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the

transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.6. County and municipal ordinances.**

(a) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, the municipal corporation where the contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact by ordinance regulations governing ticket brokers for the contest, event, or series of contests that are more restrictive than the provisions of this Article.

(b) The municipal corporation where an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact an ordinance prohibiting any person, whether a ticket broker or an original purchaser who purchased tickets for personal use, from reselling or offering for resale one or more tickets within 2,700 feet of a venue that seats or admits 15,000 or more persons.

"**§ 66-259.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 90-259.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 90-259.9. Violations.**

(a) Civil Penalties. – The Secretary of State may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of State. Orders issued by the Secretary of State may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of State may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of State that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of State, the Secretary of State may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 90-259.10. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not

exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to sales pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

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

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

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

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

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

(a1) Ticket Brokers. – A privilege tax is imposed on the net receipts of a person who is engaged in the business of ticket brokering as defined under Article 32A of Chapter 66 of the General Statutes. For the purposes of this subsection, "net receipts" means the gross receipts less the face value of the tickets sold.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the net receipts from the activities described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

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

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

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

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective July 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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HOUSE BILL 1072
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLU-4 [v.11]

6/10/2003 5:28:08 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who engages in the business of reselling one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in G.S. 14-344(a), it shall be unlawful for any person to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person is registered as a ticket broker pursuant to the provisions of this Article.

(b) Charitable or non-profit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(c) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 66-259.3. Requirements for registration; issuance of registration; renewal; failure to comply; Ticker Brokers' Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of Crime Control and Public Safety on a form provided by the Secretary of Crime Control and Public Safety. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of Crime Control and Public Safety. The bond shall be executed in favor of this State for the

benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of Crime Control and Public Safety shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of Crime Control and Public Safety and pay a renewal fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(d) There is created the Ticket Brokers' Revenue Account within the Department of Crime Control and Public Safety. Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article.

"**§ 66-259.4. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full

refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.5. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 66-259.6. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 66-259.7. Violations.**

(a) Civil Penalties. – The Secretary of Crime Control and Public Safety may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of Crime Control and Public Safety. Orders issued by the Secretary of Crime Control and Public Safety may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of Crime Control and Public Safety

may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of Crime Control and Public Safety that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of Crime Control and Public Safety, the Secretary of Crime Control and Public Safety may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 66-259.8. Rules.**

The Secretary of Crime Control and Public Safety may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

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

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

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

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

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

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker licensed under Article 32A of Chapter 66 of the General Statutes. For

the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

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

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

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

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1072:
Regulate Ticket Brokers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson and Miner
Date:	June 10, 2003	**Analysis by:**	Martha Walston
Version:	H1072-CSLU-4 [v.11]		Committee Counsel

SUMMARY: House Bill 1072 creates a new Article under the Commerce and Business Chapter of the General Statutes that would regulate ticket brokers. The bill is in House Finance because it imposes a registration fee on the ticket brokers and assesses a 3% privilege tax on the brokerage fee charged by the ticket broker.

The 3% privilege tax becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of the bill is effective when it becomes law.

BILL ANALYSIS: House Bill 1072 creates a new Article 32A that regulates ticket brokers:

§66-259.1 defines the following terms: promoter, ticket, ticket broker, and ticket sales agent.

§66-252.2 makes it unlawful to resell any ticket of admission to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket UNLESS THE TICKET IS SOLD BY A REGISTERED TICKET BROKER. (See Section 2 of the bill)

Exempts charitable or non-profit organizations from the new article when the organization is selling tickets to a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

Authorizes a promoter to contractually restrict the resale of a ticket to a single athletic contest or entertainment event that occurs no more than once annually or to any series of athletic contest that occur no more than once annually and occur within a time period not exceeding 10 days. The owner, operator, lessee, or tenant of the property where the contest or event is held may contractually restrict the resale of the right of occupancy.

§66-259.3 sets out the following requirements for a person seeking to practice or engage in the business as a ticket broker:

- Maintain a permanent office or place of business in the State.
- File for registration as a ticket broker with the Secretary of Crime Control and Public Safety.
- Obtain a bond in the amount of $100,000.
- Pay a registration fee not to exceed $2,000. This fee must be paid to the Secretary. A renewal fee not to exceed $2,000 must be paid annually.

§66-259.4 requires the ticket broker to disclose the broker's refund policy, cancellation policy, the difference between the face value of the ticket and the amount the broker charges for the ticket.

§66-259.5 prohibits a ticket broker or the broker's employee from engaging in certain conduct.

§66-259.5 disqualifies a person from practicing as a ticket broker if the person has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

§66-259.7 authorizes the Secretary of Crime Control and Public Safety to punish a person who willfully violates the Article. The Secretary may order the person to cease from violating the Article, suspend or revoke the certificate of registration, or impose a civil penalty of up to $1,000 for each violation. A willful violation of the Article constitutes a Class 2 misdemeanor.

§66-259.8 authorizes the Secretary of Crime Control and Public Safety to adopt rules.

SECTION 2 OF THE BILL clarifies that the new Article is not applicable to current law set out in G.S. 14-344. This statue authorizes a person, firm, or corporation to add a reasonable service fee to the face value of a ticket sold. This service fee may not exceed $3.00 for each ticket, except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree on a fee greater than $3.00 for the first sale of tickets by the ticket sales agent

SECTION 3 OF THE BILL imposes 3% privilege tax on the brokerage fee charged by a ticket broker. A brokerage fee is the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket. A county or city may not levy a license tax on a ticket broker who is assessed the 3% privilege tax on the brokerage fee.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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HOUSE BILL 1257
PROPOSED COMMITTEE SUBSTITUTE H1257-CSLAf-23 [v.1]

6/8/2003 9:54:34 PM

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652(1) reads as rewritten:

"The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

SECTION 2. G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for

Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).

(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).

(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).

(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).

~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1259 DATE 6/1/17

S. B. No. _____ Amendment No. _____

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Ellis

Sen.)

1 moves to amend the bill on page 1 , line 7

2 ( ) WHICH CHANGES THE TITLE

3 by adding the following at the end before the period

4 "AND TO AUTHORIZE ADJUSTMENTS

5 IN FEES FOR BOARDS TO

6 REFLECT CHANGES IN THE

7 CONSUMER PRICE INDEX"

8

10

11

12

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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-60 [v.1]

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Ellis

moves to amend the bill on page 3, line 37, by adding the following between lines 37 and 38:

"**SECTION 6.1.** Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-17. Fees to be consistent with Consumer Price Index; notice.**

(a) When the General Assembly establishes an occupational licensing board, the General Assembly shall set the fees that may be charged by the board to reflect the board's anticipated regulatory and operating costs. New occupational licensing boards and existing occupational licensing boards may increase license fees previously set by the General Assembly by an amount equal to the percentage increase in the Consumer Price Index (CPI) for the most recent calendar year for which data are available. However, a board shall not set fees at an amount that exceeds its regulatory and operating costs.

(b) Occupational licensing boards shall publish notice of any fee increase in the North Carolina Register and in a newspaper of general circulation not less than 60 days before the fee increase becomes effective. Boards shall notify their current members of any fee increase, by mail, not less than 60 days before the fee increase becomes effective. Each board shall report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all fees increased pursuant to this section.

(c) This section applies only to the North Carolina Respiratory Care Board."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-60 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

H 1

HOUSE BILL 1257

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors: Representatives Tolson and Nye (Primary Sponsors).

Referred to: Finance.

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652(1) reads as rewritten:

"The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

SECTION 2. G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).

(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).

(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).

(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).

~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. All civil penalties collected by the Board shall be remitted to the General Fund of the State of North Carolina.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1257 (First Edition)

SHORT TITLE: Amend Respiratory Care Practice Act/Fees

SPONSOR(S): Representatives Tolson and Nye

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	Approximately $3,000 annually				
Board of Cosmetic Art Examiners	$21,050	$21,050	$21,050	$21,050	$21,050
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, North Carolina Respiratory Care Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill amends various provisions under the Respiratory Care Practice Act, authorizing the North Carolina Respiratory Care Board (the Board) to establish fees for verification of licensure status and approval of continuing education programs. The bill also authorizes the Board to assess civil penalties for violations of Article 38 of Chapter 90.

ASSUMPTIONS AND METHODOLOGY: According to the information provided by the Board, there are 3,401 licensed respiratory care practitioners in North Carolina. Of these, 157 practitioners hold provisionary licenses. According to the Board, on average, they perform 790 license verifications every year. With a verification fee of $20, the total annual revenue from providing official verification of licensure status for a fee would constitute $15,800.

The bill proposes to set a maximum fee for approval of continuing education programs at $150. However, the Board plans to charge $35 for this service. Based on the data provided by the Board, on average, annually it approves 150 programs, which would generate annual revenue of $5,250.

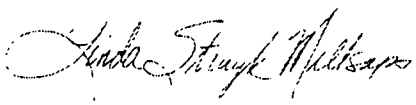
With regard to civil penalties, the Board has indicated that there are about twenty major violations of Article 38, Chapter 90 of the General Statues, such as operating under somebody else's license, which would be considered for the maximum penalty of $1,000. There are also an identified number of less serious violations that would generate fewer penalties, for which no specific amounts are set. Overall, it is possible to assume that the total amount generated as the result of civil penalties collection would be in the range of $3,000. According to the proposed bill, this amount would be remitted to the General Fund of the State of North Carolina.

SOURCES OF DATA: North Carolina Respiratory Care Board

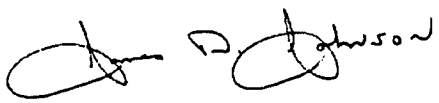
TECHNICAL CONSIDERATIONS: Given the recent court rulings on the use of revenue from fines and forfeitures, it does not appear to Fiscal Research that the proceeds of the Board's civil penalties can be credited to the General Fund.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev



APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 5, 2003.

House Committee on Finance

Minutes

~

June 12, 2003

The House Committee on Finance met on Thursday, June 12, 2003 at 8:30 am in Room 544 of the Legislative Office Building. A majority of the members were present for the official conduct of business. Also present were members of Staff as well as Sergeant-at-Arms: Bob Fowler, Bill Freeman, Dusty Rhodes, and Paul Rucho. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:35 am and immediately recognized the three (3) pages present: (1) Jacob Carr of Wake County, sponsored by Representative Capps; (2) Alicia Davis of Wake County, sponsored by Representative Ross; and (3) Garrett Matney of Buncombe County, sponsored by Representative Goforth.

As the first matter of business before the Committee, Chairman Wainwright recognized Representative Tolson to explain **HB 1257 – AMEND RESPIRATORY PRACTICE ACT/FEES** (see attachment 3). He noted that the bill had already been voted on at an earlier meeting, but Representative Ellis had an amendment to send forth, which Representative Tolson did not oppose. Representative Ellis explained the amendment in that it would allow the Respiratory Board to raise their own fees as necessary but limit them to the Consumer Price Index (CPI) system. He then moved the adoption of his amendment. The Chairman called the vote and the amendment was adopted by consent. Representative Ellis was again recognized and moved that the newly adopted amendment be incorporated into a new committee substitute bill, with an unfavorable report as to the original bill. Again, the motion carried by consent.

The Chair then recognized Representative Earle to explain **HB 1316 – N.C. TRAVEL AND TOURISM INVESTMENT ACT** (see attachment 4). Representative Earle explained that the purpose of the bill was to offer to support to the Travel and Tourism Industry, "one of the fastest growing industries in the state." The bill provides incentives for investment in travel and tourism. She informed the members of the bipartisan support of the bill and referred further explanation to staff. Staff then explained that the bill provides opportunities for grants to tourism investors in the state and applies to existing as well as new projects. The grants would be administered by a Travel and Tourism Board and could be of amounts up to $20 million; however, no more than 15 grants could be awarded in a given year. Fiscal staff person Linda Millsaps estimated a fiscal impact of about $60 million dollars to the General Fund over the next 10 years. She also explained that the amounts of grants awarded would be based upon sales tax impacts generated by projects in the state from the previous year. Martha Walston, from Research staff, explained that the conditions for these new or existing tourism projects was based upon the "tier system" in the state.

Following these explanations, Representative Womble was recognized by the Chair and asked the bill sponsor, Representative Earle, if there had been any questions or concerns brought to her attention over the bill. Representative Earle responded that while there were some concerns

over this bill when it was introduced in the last session of the General Assembly, those issues to her knowledge had now been addressed and resolved. His question having been answered, Representative Womble then moved for a favorable report to HB 1316, stating that the bill had already been debated extensively during last year's session.

Representative Hackney, however, was then recognized by Chairman Wainwright and stated that all of the concerns on the bill had **not** been addressed. He specifically stated that as this bill is based upon the state's tier system, it is unfair and least helpful to the poorest (and rural) counties in North Carolina. Representative Earle was recognized to respond and offered her agreement with Representative Hackney that the tier system is flawed but then stated that it was the only system we currently had to use. She also stated that this was a poor excuse not to invest in North Carolina's growing travel and tourism industry. Representative Hackney was recognized once again and then asked the bill sponsor if the purpose of this bill was for the construction of sports arenas in the Charlotte area (her district). Representative Earle responded by stating her disappointment in Representative Hackney for his comments and then, upon request, cited a number of proposed travel and tourism projects that could be funded under the grants provided in this bill. Chairman Wainwright next recognized Representative Decker. He stated his contention that while the bill is genuinely proposed to support the travel and tourism industry, it requires large investments for the construction of large projects, which excludes most historic structures and any state-owned projects. Overall, he stated his belief that the bill only acted to provide incentives to those investors who could already afford to make investments in travel and tourism in the state.

Representative Rayfield was recognized next to speak on the bill and stated his belief that the requirements outlined for application for a grant would act to exclude those counties placed in the lower tiers of the system. Representative Earle was recognized to respond and stated simply that the bill was drafted to help as many counties as possible. Representative Rayfield then requested staff to draft an amendment reducing the restrictions stated in the bill for the lower tiered areas of the state. Representative Wilson was then recognized and acted to send forth an amendment to amend the bill on page 5, lines 32-39 (see attachment 4). In short, the amendment acted to delete the provision of the bill providing the Travel and Tourism Committee exemption from rulemaking policies of the APA. Representative Wilson was recognized and further explained that this bill should be subject to the normal rulemaking process, including required public notices and public input. As Representative Wilson then moved the adoption of her amendment, Chairman Wainwright called the vote and, after division among the members was requested, the motion failed 11 ayes to 12 nays.

Representative Rayfield was then recognized to send forth his amendment (as aforementioned) amending the bill on page 3, lines 8 and 9. He explained that the amendment acted to reduce the grant eligibility/investment requirements for counties in the first, second or third tiers of the state's tiered system. As there was no discussion, Chairman Wainwright called the amendment to a vote and it was adopted without objection.

Chairman Wainwright next recognized Representative Weiss who sent forth another amendment. She explained her amendment as an action to require that the jobs created by these travel and tourism grants be required to pay a wage at least equal to the "applicable wage standards," as outlined in the General Statutes, "based on the tier in which the project is located" (see attachment 4). Seeing no discussion on the amendment, the Chair called the vote and the amendment was adopted with no known objection.

Representative Blackwood was then recognized by the Chair to send forth a final amendment. He explained that the amendment acted to decrease the total project investment amount required based upon the State's five tier system for receipt of a grant under the bill (see attachment 4 for more detail). As there was no further discussion, Chairman Wainwright called the amendment to a vote and it was adopted by consent.

The Chair then recognized Representative Carney who noted her support of the bill and then assured Representative Hackney of the fact that this bill would not provide funding for Charlotte's new sports arena, as that funding had already been secured from other sources. Representative Ellis was recognized for a final comment. He noted his disapproval of the bill when stating that the General Assembly's time should be more focused on priority issues such as Education and not on travel and tourism. As there was no further discussion on the bill, Chairman Wainwright recognized Representative Womble who reasserted his earlier motion for a favorable to the bill, now incorporating the adopted amendments into a new PCS. The Chair then immediately called the vote and the motion carried with no known objection.

As the next matter of business before the Committee, the Chair recognized Representative Ross, on behalf of Senator Horton, for continued discussion of **SB 119 – EXPAND HISTORIC PRESERVATION CREDIT** (see attachment 5). The bill came before the Committee once again as it was displaced during the June 11, 2003 meeting. The Chair recognized Representative Weiss who moved for the adoption of the PCS for discussion purposes. The motion carried without objection. Representative Ross then informed the Committee that the outstanding concerns expressed at the last meeting by Representative Luebke on Section 2 of the bill had been resolved in the new PCS, which acts to sunset the credit in four years rather than making it permanent. Representative Ellis was recognized next by Chairman Wainwright to send forth an amendment (see attachment 5). He explained that the amendment acts to require the Department of Revenue to provide a line item accounting of deductions on the state income tax form so that the amounts being deducted for this and other credits could be clearly separated and (since, at present, this category is combined all into one amount). Representative Ross stated her approval of the Ellis amendment and, following this, Representative Ellis moved adoption of his amendment. The Chair then called the Committee's attention to the fact that the Ellis amendment authorizes the Department of Revenue (DOR) to assess a fee not to exceed $14,000 in FY 2003-2004 for this service; and, because it appropriates these funds, upon approval, it would be required to be re-referred to the House Appropriations Committee. Representative Ellis, however, stated that since the amendment allows DOR to assess these fees out of the amounts they have collected, they do not constituent an appropriation. The Chair then conferred with Staff person Martha Harris, who confirmed Representative Ellis' claim, stating, "Technically, it's a reduction of revenues rather than an appropriation, just as the rest of the bill is. So, technically, the rules wouldn't require it to go [to Appropriations]." Chairman Wainwright then accepted Ms. Harris statement and called the vote on the Ellis amendment, which was adopted by consent. Representative Weiss was then recognized and moved that SB 119 be given a favorable report as to a new PCS, incorporating the Ellis amendment, and an unfavorable report as to the Senate Committee Substitute bill. Seeing no other discussion, Chairman Wainwright then called the vote and the motion carried with no known objection.

As the final matter of business before the Committee, Chairman Wainwright recognized Representative McComas to speak on **HB 1290 – CONFORM BANK EXPENSE DEDUCTION** (see attachment 6) and **HB 1291 – SUBSIDIARY DIVIDEND TAX**

CHANGES (see attachment 7). Chairman Wainwright then immediately announced that these bills were being brought jointly before the Committee for the purposes of discussion only and that no vote on either of the bills would be taken at the present meeting. Representative McComas then requested that the Chair recognize Mr. Wes Sturges, President of the North Carolina Banker's Association, who desired to speak on the bills. Chairman Wainwright accordingly welcomed Mr. Sturges and informed him that his remarks would have to be brief as there were only five minutes remaining in the meeting. Mr. Sturges then thanked the Committee for its time and proceeded to speak in grave opposition to the two bills. He stated that North Carolina is known as "the Banking State" yet the tax on banks in the state is the second highest in the southeast. He also noted that some 85,000 people in the state were employed in the banking industry and that these bills would only serve to weaken profits for the industry. Representative Luebke was then recognized by Chairman Wainwright to make a comment to Mr. Sturges. He expressed his contention that banks taking interest deductions off of tax free investments is wrong, yet it is ongoing everyday and these bills act to stop that from occurring. Representative Luebke also stated, contrary to Mr. Struges' comments that he was not in favor of treating banks differently in North Carolina. In fact, he stated that he feels that banks should not be treated any differently in this state than any other. The Chair then recognized Mr. Paul Stock, a lobbyist with the Banker's Association, who spoke only briefly in opposition to the bill.

As time had then expired, Chairman Wainwright acted to make one final announcement: the referral of **SB 497 - REVISE AND CONSOLIDATE MT. AIRY CHARTER** to the House Finance Subcommittee on Occupancy Taxes. He then immediately adjourned the meeting at 9:57 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1257 (and related materials)
4. House Bill 1316 (and related materials)
5. Senate Bill 119 (and related materials)
6. House Bill 1290 (and related materials)
7. House Bill 1291 (and related materials)
8. House Bill 1072 (and related materials) **(not discussed)**
9. House Bill 1289 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 12, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order & Introduction of Pages

Bills:

HB 1072 REGULATE TICKET BROKERS *Reps. Miner and Gibson*

HB 1257 AMEND RESPIRATORY CARE PRACTICE ACT/FEES
Reps. Tolson & Nye

HB 1289 AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES
Rep. Hackney

HB 1290 CONFORM BANK EXPENSE DEDUCTION *Rep. McComas*

HB 1291 SUBSIDIARY DIVIDEND TAX CHANGES *Rep. McComas*

HB 1316 N.C. TRAVEL AND TOURISM INVESTMENT ACT
Reps. Earle, Miner, and McComas

SB 119 EXPAND HISTORIC PRESERVATION CREDIT *Sen. Horton*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, June 11, 2003 12:36 PM
Cc: Nancy Goodman (House Legislative Assistant's Office)
Subject: NOTICE House Finance Committee 6-12-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Thursday, June 12, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 1072 - REGULATE TICKET BROKERS– Reps. Miner and Gibson

HB 1257 – AMEND RESPIRATORY CARE PRACTICE ACT/FEES– Reps. Tolson & Nye

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

HB 1290 – CONFORM BANK EXPENSE DEDUCTION – Rep. McComas

HB 1291 – SUBSIDIARY DIVIDEND TAX CHANGES – Rep. McComas

HB 1316 – N.C. TRAVEL AND TOURISM INVESTMENT ACT –
Reps. Earle, Miner, and McComas

SB 119 – EXPAND HISTORIC PRESERVATION CREDIT – Sen. Horton

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:45 P.M.** on **June 11, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 12, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Motley	Gov office
Amy Dobson	NC Statewatch
Wayne Woodard	NC Dept of Justice – PPS
Charles McDarris	Private Protective Services Bd. – Legal Counsel
Carlton E. Miles JR.	Chairman 74C Rewrite Committee – PPS
[illegible]	Moore & Van Allen
Ken Melton	Alley Associates
Wesley Sturges	First Commerce Bank
Paul Stach	NC BANKers
[illegible]	Alley Associates chair
Eddie Caldwell	Hafer & Caldwell, PA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 12, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Leon M Kelliher	Moore + Van Allen
Murray Gould	Gould + Associates
Floyd Boyer	NC Respiratory Care Board
Roger Hutchings	N.C. Boxing Commission
Jon Williams	CCPS
Mike Robertson	CCPS/ALE
Phil Kirk	NCCBI
Elaine Mejia	NC Budget + Tax Center
Carol Lawler	EGHS
Jim Hobbs	NC Hotel Assn
[illegible]	Capitol Group
Charlie Chrisawn	Poyner + Spruill
David Anders	PFFPRC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 12, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Linnie Collins	DOR
Andy Sabol	NCDOR
[illegible]	DOR
Eddie Finch	NCDOR
Paul Tipin	OSBM
Casandra Skinner	CCPS
Camille Stoll	KCLH
Angie Harris	Maupin Taylor
Chuck Neely	Maupin Taylor
Larry Shirley	State Energy Office
Hal Miller	NCACCT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 12, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DON HOBART	NC DOC
BILL SCOGGIN	KCLH
BETTY TURNER	B of A
[illegible]	Wachovia
[illegible]	Fund Citizens Bank
Myrick Howard	Preservation NC
Claudia Smith	PricewaterhouseCoopers
Jack Harper	" " "
Beau Mills	NCLM
Bill Rustin	ACP
GENE AINSWORTH	RJR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 12, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cam Cowan	BPMHL

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1257
PROPOSED COMMITTEE SUBSTITUTE H1257-PCS30383-LAf-30

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT, AND AUTHORIZING ADJUSTMENTS IN FEES FOR BOARDS TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652(1) reads as rewritten:

"The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

SECTION 2. G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).
(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).
(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).
(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).
(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).
(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).
(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).
~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. Chapter 93B of the General Statutes is amended by adding a new section to read:

"**§ 93B-17. Fees to be consistent with Consumer Price Index; notice.**

(a) When the General Assembly establishes an occupational licensing board, the General Assembly shall set the fees that may be charged by the board to reflect the board's anticipated regulatory and operating costs. New occupational licensing boards and existing occupational licensing boards may increase license fees previously set by the General Assembly by an amount not to exceed the cumulative amount of the percentage increase in the Consumer Price Index (CPI) since the fees were last adjusted. The fee increase may be rounded to the nearest dollar. However, a board shall not set fees by an amount that exceeds its regulatory and operating costs.

(b) Occupational licensing boards shall publish notice of any fee increase in the North Carolina Register and in a newspaper of general circulation not less than 60 days before the fee increase becomes effective. Boards shall notify their current members of any fee increase, by mail, not less than 60 days before the fee increase becomes effective. Each board shall report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all fees increased under this section.

(c) This section applies only to the North Carolina Respiratory Care Board."

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-65 [v.1]

Date 6-12- ,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Ellis

moves to amend the bill on page 3, line 40, by adding the following between lines 40 and 41:

"**SECTION 6.** Chapter 93B of the General Statutes is amended by adding a new section to read:

"'**§ 93B-17. Fees to be consistent with Consumer Price Index; notice.**

(a) When the General Assembly establishes an occupational licensing board, the General Assembly shall set the fees that may be charged by the board to reflect the board's anticipated regulatory and operating costs. New occupational licensing boards and existing occupational licensing boards may increase license fees previously set by the General Assembly by an amount not to exceed the cumulative amount of the percentage increase in the Consumer Price Index (CPI) since the fees were last adjusted. The fee increase may be rounded to the nearest dollar. However, a board shall not set fees by an amount that exceeds its regulatory and operating costs.

(b) Occupational licensing boards shall publish notice of any fee increase in the North Carolina Register and in a newspaper of general circulation not less than 60 days before the fee increase becomes effective. Boards shall notify their current members of any fee increase, by mail, not less than 60 days before the fee increase becomes effective. Each board shall report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all fees increased under this section.

(c) This section applies only to the North Carolina Respiratory Care Board.'";

and by renumbering the remaining section accordingly.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1257

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1257-ALBf-65 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1257
PROPOSED COMMITTEE SUBSTITUTE H1257-CSLAf-23 [v.1]

6/8/2003 9:54:34 PM

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652(1) reads as rewritten:

"The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity."

SECTION 2. G.S. 90-653(a) reads as rewritten:

"(a) Each applicant for licensure under this Article shall meet the following requirements:

(1) Submit a completed application as required by the Board.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs.~~approved by the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for

Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

(5) Pass the entry-level examination given by the National Board for Respiratory Care, Inc."

SECTION 3. G.S. 90-654 reads as rewritten:

"**§ 90-654. ~~Exemption from certain requirements.~~Temporary license.**

~~(a) The Board may issue a license to an applicant who, as of October 1, 2000, has passed the entry-level examination given by the National Board for Respiratory Care, Inc. An applicant applying for licensure under this subsection shall submit his or her application to the Board before October 1, 2002.~~

~~(b) The Board may grant a temporary license to an applicant who, as of October 1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence verified by oath, demonstrates that he or she is performing the duties of a respiratory care practitioner within the State. The temporary license is valid until October 1, 2002, within which time the applicant shall be required to complete the requirements of G.S. 90-653(a)(5). A license granted under this subsection shall contain an endorsement indicating that the license is temporary and shall state the date the license was granted and the date it expires.~~

Upon application and payment of the required fees, the Board may grant a temporary license to a person who, at the time of application, submits notarized copies of the items required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items from the issuing agency. The temporary license shall be valid for a period not to exceed 90 days from the date of application."

SECTION 4. G.S. 90-656 reads as rewritten:

"**§ 90-656. Provisional license.**

The Board may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed the education requirements under G.S. 90-653(a)(3) and has made application to take the examination required under G.S. 90-653(a)(5). A provisional license allows the individual to practice respiratory care under the direct supervision of a respiratory care practitioner and in accordance with rules adopted pursuant to this Article. A license granted under this section shall contain an endorsement indicating that the license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires."

SECTION 5. G.S. 90-660(b) reads as rewritten:

"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed twenty-five dollars ($25.00).

(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).

(3) For issuance of any license, a fee not to exceed one hundred dollars ($100.00).
(4) For the renewal of any license, a fee not to exceed fifty dollars ($50.00).
(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).
(6) For a license with a provisional or temporary endorsement, a fee not to exceed thirty-five dollars ($35.00).
(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).
(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).
~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure standards, charges not exceeding the actual cost of printing and mailing."

SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
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(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1257

Short Title:	Amend Respiratory Care Practice Act/Fees.	(Public)
Sponsors:	Representatives Tolson and Nye (Primary Sponsors).	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

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(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the ~~American Heart Association.~~Board.

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"(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

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(5) For the late renewal of any license, an additional late fee not to exceed fifty dollars ($50.00).

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(7) For official verification of licensure status, a fee not to exceed twenty dollars ($20.00).

(8) For approval of continuing education programs, a fee not to exceed one hundred fifty dollars ($150.00).

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SECTION 6. Article 38 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-666. Civil penalties.**

(a) Authority To Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one thousand dollars ($1,000) for the violation of any section of this Article or any rules adopted by the Board. All civil penalties collected by the Board shall be remitted to the General Fund of the State of North Carolina.

(b) Consideration Factors. – Before imposing and assessing a civil penalty and fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

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(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article. The schedule shall indicate for each type of violation whether the violation can be corrected. Penalties shall be assessed for the first, second, and third violations of specified sections of this Article and for specified rules.

(d) Costs. – The Board may, in an action brought under this section or in any other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1257:
Amend Respiratory Care Practice Act/Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Tolson and Nye
Date:	June 10, 2003	**Analysis by:**	Martha Walston
Version:	Prop. Committee Substitute		Committee Counsel

SUMMARY: House Bill 1257 amends the Respiratory Care Practice Act as follows:

- *Authorizes the Respiratory Care Board to conduct background investigation of applicants for licensure.*
- *Amends the requirements for licensure by requiring the applicant to submit written evidence to the Board that the applicant has completed the minimal requirements of a respiratory care education program approved by the Board (now requires approval by the Commission for Accreditation of allied Health Educational Programs).*
- *Amends requirements for licensure by requiring the applicant to submit written evidence to the Board that the applicant has completed the minimal requirements for Basic Cardiac Life Support as recognized by the Board (now as recognized by the American Heart Association).*
- *Provides that temporary licenses may be issued for up to 90 days from date of application. (now provides that a temporary license is valid until October 1, 2002.)*
- *Requires direct supervision of provisional licensees by respiratory care practitioners.*
- *Establishes the following new fees:*
  A fee not to exceed $20 for official verification of licensure status
  A fee not to exceed $150 for approval of continuing education programs
- *Authorizes Board to assess a civil penalty of up to $1,000 and charge costs, including reasonable attorneys' fees, to any licensee for violation of the Act and the promulgated rules. The PCS adds language that the proceeds of any civil penalty will be remitted to the Civil Penalty and Forfeiture Fund established by the General Assembly.[1] The earlier version of HB 1257 provided that civil penalties would be remitted to the General Fund.*

BACKGROUND: The Respiratory Care Practice Act was enacted in 2000. Respiratory care, as defined by the written order of a licensed physician, is the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The Act sets up a 10-member Board, establishes licensure requirements, provides for the denial, suspension, and revocation of licenses, establishes fees, provides that a violation is a Class 1 misdemeanor, and exempts certain persons and practices from licensure.

[1] Article 31A of Chapter 115C of the General Statutes creates the Civil Penalty and Forfeiture Fund administered by the Office of State Budget and Management. This Fund consists of the proceeds of all civil penalties and civil forfeitures collected by a State agency. These proceeds are transferred to the State School Technology Fund and allocated to local school administrative units on the basis of average daily membership. Litigation is pending to determine several issues, including the issue of whether the N.C. Constitution requires that the proceeds go to the school fund of the county in which the violation occurred instead of the School Technology Fund. The parties are awaiting decision of the North Carolina Court of Appeals.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1257 (First Edition)

SHORT TITLE: Amend Respiratory Care Practice Act/Fees

SPONSOR(S): Representatives Tolson and Nye

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	Approximately $3,000 annually				
Board of Cosmetic Art Examiners	$21,050	$21,050	$21,050	$21,050	$21,050
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, North Carolina Respiratory Care Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill amends various provisions under the Respiratory Care Practice Act, authorizing the North Carolina Respiratory Care Board (the Board) to establish fees for verification of licensure status and approval of continuing education programs. The bill also authorizes the Board to assess civil penalties for violations of Article 38 of Chapter 90.

ASSUMPTIONS AND METHODOLOGY: According to the information provided by the Board, there are 3,401 licensed respiratory care practitioners in North Carolina. Of these, 157 practitioners hold provisionary licenses. According to the Board, on average, they perform 790 license verifications every year. With a verification fee of $20, the total annual revenue from providing official verification of licensure status for a fee would constitute $15,800.

The bill proposes to set a maximum fee for approval of continuing education programs at $150. However, the Board plans to charge $35 for this service. Based on the data provided by the Board, on average, annually it approves 150 programs, which would generate annual revenue of $5,250.

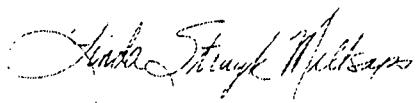
With regard to civil penalties, the Board has indicated that there are about twenty major violations of Article 38, Chapter 90 of the General Statues, such as operating under somebody else's license, which would be considered for the maximum penalty of $1,000. There are also an identified number of less serious violations that would generate fewer penalties, for which no specific amounts are set. Overall, it is possible to assume that the total amount generated as the result of civil penalties collection would be in the range of $3,000. According to the proposed bill, this amount would be remitted to the General Fund of the State of North Carolina.

SOURCES OF DATA: North Carolina Respiratory Care Board

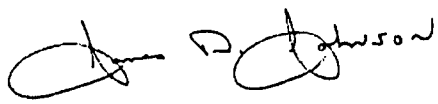
TECHNICAL CONSIDERATIONS: Given the recent court rulings on the use of revenue from fines and forfeitures, it does not appear to Fiscal Research that the proceeds of the Board's civil penalties can be credited to the General Fund.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev



APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 5, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1257 A BILL TO BE ENTITLED AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE ACT.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 1316
PROPOSED COMMITTEE SUBSTITUTE H1316-PCS80334-LAf-28

Short Title: N.C. Travel and Tourism Investment Act. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE A TRAVEL AND TOURISM CAPITAL INVESTMENT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.4. Travel and Tourism Capital Investment Program.**

(a) Program Established. – The Travel and Tourism Capital Investment Program is established in the Department of Commerce. Under the program, the Travel and Tourism Grant Committee established in subsection (d) of this section may award grants to the owners of qualified projects for the purpose of inducing the creation of new or the expansion or renovation of existing travel and tourism projects. Grant proceeds may not be distributed to any private individual or entity. The Committee shall develop guidelines to be used in determining whether the conditions in this section are satisfied and whether the project described in the application is consistent with the program.

(b) Owner. – For the purpose of the Travel and Tourism Capital Investment Program, the owner of a qualified project is the unit of local government that will own the qualified project in whole or in partnership with a private individual or entity. If the qualified project is located in an enterprise tier one, two, or three area, then the local government must own at least twenty-five percent (25%) of the qualified project. If the qualified project is located in an enterprise tier four or five area, then the local government must own at least fifty percent (50%) of the qualified project.

(c) Unit of Local Government Defined. – For the purpose of the Travel and Tourism Capital Investment Program, a unit of local government means a county or municipality in the State.

(d) Committee. – The Travel and Tourism Grant Committee shall consist of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, the Chair of the North Carolina Travel and Tourism Board,

and three elected local government officials. One elected local government official shall represent the Piedmont and shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. One elected local government official shall represent the Mountains and shall be appointed by the Governor. One elected local government official shall represent the Coastal Plain and shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. The elected local government officials may not be associated with or employed by the travel and tourism industry or an entertainment enterprise or be in any contractual relationship regarding the qualified project. The appointed members shall serve two-year terms. The Committee may act only upon a majority vote of its members.

It is unlawful for a member of the Committee to provide, during or within two years after the end of service on the Committee, services for compensation, as an employee, consultant, or otherwise, to any project that was awarded a grant under this section while the former member was serving on the Committee or to provide services for compensation to any person or entity that contracts with the project. Violation of this subsection is a Class 1 misdemeanor.

Meetings of the Committee are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. All documents of the Committee, including applications for grants, are public records governed by Chapter 132 of the General Statutes, including applicable provisions of the General Statutes protecting confidential information.

(e) Application and Fee. – The owner of a qualified project may apply for a grant no later than one year after the qualified project is opened to the public. When filing an application under this section, the applicant must pay the Committee a fee of five thousand dollars ($5,000). The fee is due at the time the application is filed. The Committee shall determine the allocation of the fee imposed by this subsection among the agencies whose heads are ex officio members of the Committee. The proceeds of the fee are receipts of the agency to which they are credited.

The application must contain all information required by the Committee, including a certification of the nature and cost of the tourism project, the estimated revenues to be generated by the project, the estimated economic benefit to the community, and the purposes for which the applicant will use the grant funds. If the tourism project is the result of a public-private partnership, the grant application must set forth in detail the respective rights and obligations of the parties and the specific terms of the agreement. The application must be signed by the finance officer and the chair of the governing body of the owner.

(f) Qualification. – A qualified project is a newly created travel and tourism project or expansion or renovation of a travel and tourism project that the Committee determines, pursuant to a feasibility study under this section, meets all of the following conditions:

(1) At least twenty-five percent (25%) of the project will be financed and owned by a unit of local government in which it is located if the project is located in an enterprise tier one, two, or three area. At least

fifty percent (50%) of the project will be financed and owned by a unit of local government in which it is located if the project is located in an enterprise tier four or five area.

(2) A project located in an enterprise tier one, two, or three area will target at least fifteen percent (15%) of its visitors from among persons who reside outside the State or more than 25 miles from the project. A project located in an enterprise tier four or five area will target at least thirty-five percent (35%) of its visitors from among persons who reside outside the State or more than 50 miles from the project.

(3) The project has a business plan that demonstrates a positive economic impact on the community in which the project is located.

(4) The applicant has provided impact projections regarding estimated State and local tax revenues with respect to the project.

(5) The project will have a significant and positive economic impact on the community in which the project is located, considering among other factors the extent to which the tourism project will compete directly with existing tourism attractions in the area and the amount by which tax revenues from the tourism project will exceed the amount of the grant provided.

(6) The applicant has provided a cost-benefit analysis of the project.

(7) The applicant has provided an economic impact analysis, certified by a certified public accountant, which demonstrates the employment, gross State product, and personal income effects of the project over a 10-year period.

(8) The project will be available to the public for a minimum of 100 days per year.

(9) The project will generate at least 10 new jobs in the community in which the project is located.

(10) The project will have the following minimum cost based on the enterprise tier in which it is located:

Enterprise Tier	**Minimum Cost**
1 and 2	$ 500,000
3	$ 1,000,000
4	$ 3,000,000
5	$ 4,000,000

(11) The governing body of the unit of local government has passed a resolution stating the need for the project and the positive economic impact and enhancement of travel and tourism revenues from the project.

(12) The applicant has demonstrated by clear and convincing evidence the following:

a. The project will not result in unnecessary duplication of existing services.

b. The project will generate new visitors to the area rather than drawing visitors away from other existing tourism attractions.

(13) The jobs created by the project pay a wage at least equal to the applicable wage standard provided in G.S. 105-129.4(b) based on the tier in which the project is located.

(g) Feasibility Study. – The applicant must fund a feasibility study certified by a certified public accountant and coordinated solely by the Committee. The Committee shall develop a list of qualified firms to conduct the study. The Committee shall prescribe the scope of the study to cover all of the qualifications established in this section.

(h) Amount. – Subject to the maximums provided in this section, the amount of a grant with respect to a qualified project is calculated as a percentage of the total amount of the following taxes collected and retained by the State each year:

(1) The net State sales tax collected on sales by or within the qualified project, as determined by the Department of Revenue.

(2) The net privilege tax paid by the qualified project under G.S. 105-37.1, as determined by the Department of Revenue.

(i) Maximums. – The maximum term of a grant is 10 years. No project may receive any grant proceeds for a year that is more than 10 years beyond the date of the initial grant award.

The Committee shall set the grant percentage at the time it awards the grant. The percentage used to calculate a grant may not exceed the applicable percentage provided in the table below based on the enterprise tier, as defined in G.S. 105-129.3, in which the qualified project is located. In addition, the cumulative maximum amount of a grant may not exceed the applicable percentage of the total project cost provided in the table below based on the enterprise tier in which the qualified project is located.

Enterprise Tier	**Percentage**
1 and 2	40
3 and 4	30
5	25

(j) Use. – The proceeds of a grant may be used only for capital costs, including debt service, with respect to the qualified project for which the grant was awarded.

(k) Disbursement. – In order to receive grant disbursements under this section, the owner of the qualified project must provide the Department of Revenue with periodic, verified accountings of the tax collections provided in subsection (h) of this section. These reports must be made at the times and in the form prescribed by the Department of Revenue. Each report must include the name, address, and tax identification number of every taxpayer whose collections are included in the report and any other information required by the Department of Revenue.

The Department of Revenue must disburse grants awarded under this section in accordance with G.S. 105-269.16. Upon awarding a grant under this section, the Committee must provide the following information to the Department of Revenue:

(1) The name, address, and other identifying information of the owner to whom the grant was awarded.

(2) The name and address of any lessee or individual or entity who has entered into a contract with the owner of the qualified project.

(3) The address and other identifying information of each facility that is part of the qualified project for which the grant was awarded.

(4) The applicable percentage and the maximum cumulative amount of the grant as determined in accordance with this section.

(5) Any other information included in the application, if required by the Department of Revenue.

(l) Reports. – The Committee must report annually to the Revenue Laws Study Committee concerning the applications made for grants, the grants awarded under this section, and the division and use of the fee collected by the Committee under this section.

(m) Cap. – The maximum number of projects that may be awarded grants each fiscal year is 15. No more than twenty million dollars ($20,000,000) in grants shall be awarded each fiscal year. For the purpose of this maximum, the amount awarded is calculated as the cumulative maximum amount of the grant divided by the number of years in its term."

SECTION 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-269.16. Travel and tourism grants.**

The Department must annually disburse the travel and tourism grants awarded under G.S. 143B-434.4. Each annual disbursement must be made by October 1 for the preceding fiscal year. The amount of each grant must be calculated in accordance with G.S. 143B-434.4 based on information provided to the Department by the owner of the qualified project. If information necessary to calculate a portion of a grant is not available, the Department must disburse only that portion for which information is available. To pay for this program, the Department must draw from State sales and use tax collections under Article 5 of this Chapter an amount equal to the grant funds disbursed and the Department's costs of administering the grants. The Department must provide the Committee an annual accounting of grant funds disbursed under this section."

SECTION 3. G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(12) The Travel and Tourism Grant Committee in developing guidelines for the Travel and Tourism Capital Investment Program under G.S. 143B-434.4."

SECTION 4. This act becomes effective January 1, 2004, and expires for grant applications filed on or after July 1, 2006.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1316

Short Title:	N.C. Travel and Tourism Investment Act.	(Public)
Sponsors:	Representatives Earle, Miner, McComas (Primary Sponsors); B. Allen, G. Allen, Bell, Brubaker, Carney, Clary, Cole, Crawford, England, Gibson, Glazier, Haire, Hall, Harrell, Hunter, Lucas, McLawhorn, Nye, Rapp, Saunders, Sherrill, Sutton, Tolson, Wainwright, Warner, Warren, and A. Williams.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE A TRAVEL AND TOURISM CAPITAL INVESTMENT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-434.4. Travel and Tourism Capital Investment Program.**

(a) Program Established. – The Travel and Tourism Capital Investment Program is established in the Department of Commerce. Under the program, the Travel and Tourism Grant Committee established in subsection (d) of this section may award grants to the owners of qualified projects for the purpose of inducing the creation of new or the expansion or renovation of existing travel and tourism projects. Grant proceeds may not be distributed to any private individual or entity. The Committee shall develop guidelines to be used in determining whether the conditions in this section are satisfied and whether the project described in the application is consistent with the program.

(b) Owner. – For the purpose of the Travel and Tourism Capital Investment Program, the owner of a qualified project is the unit of local government that will own the qualified project in whole or in partnership with a private individual or entity. If the qualified project is located in an enterprise tier one, two, or three area, then the local government must own at least twenty-five percent (25%) of the qualified project. If the qualified project is located in an enterprise tier four or five area, then the local government must own at least fifty percent (50%) of the qualified project.

(c) Unit of Local Government Defined. – For the purpose of the Travel and Tourism Capital Investment Program, a unit of local government means a county or municipality in the State.

(d) Committee. – The Travel and Tourism Grant Committee shall consist of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, the Chair of the North Carolina Travel and Tourism Board, and three elected local government officials. One elected local government official shall represent the Piedmont and shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. One elected local government official shall represent the Mountains and shall be appointed by the Governor. One elected local government official shall represent the Coastal Plain and shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate. The elected local government officials may not be associated with or employed by the travel and tourism industry or an entertainment enterprise or be in any contractual relationship regarding the qualified project. The appointed members shall serve two-year terms. The Committee may act only upon a majority vote of its members.

It is unlawful for a member of the Committee to provide, during or within two years after the end of service on the Committee, services for compensation, as an employee, consultant, or otherwise, to any project that was awarded a grant under this section while the former member was serving on the Committee or to provide services for compensation to any person or entity that contracts with the project. Violation of this subsection is a Class 1 misdemeanor.

Meetings of the Committee are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. All documents of the Committee, including applications for grants, are public records governed by Chapter 132 of the General Statutes, including applicable provisions of the General Statutes protecting confidential information.

(e) Application and Fee. – The owner of a qualified project may apply for a grant no later than one year after the qualified project is opened to the public. When filing an application under this section, the applicant must pay the Committee a fee of five thousand dollars ($5,000). The fee is due at the time the application is filed. The Committee shall determine the allocation of the fee imposed by this subsection among the agencies whose heads are ex officio members of the Committee. The proceeds of the fee are receipts of the agency to which they are credited.

The application must contain all information required by the Committee, including a certification of the nature and cost of the tourism project, the estimated revenues to be generated by the project, the estimated economic benefit to the community, and the purposes for which the applicant will use the grant funds. If the tourism project is the result of a public-private partnership, the grant application must set forth in detail the respective rights and obligations of the parties and the specific terms of the agreement. The application must be signed by the finance officer and the chair of the governing body of the owner.

(f) Qualification. – A qualified project is a newly created travel and tourism project or expansion or renovation of a travel and tourism project that the Committee determines, pursuant to a feasibility study under this section, meets all of the following conditions:

(1) At least twenty-five percent (25%) of the project will be financed and owned by a unit of local government in which it is located if the project is located in an enterprise tier one, two, or three area. At least fifty percent (50%) of the project will be financed and owned by a unit of local government in which it is located if the project is located in an enterprise tier four or five area.

(2) A project located in an enterprise tier one, two, or three area will target at least twenty-five percent (25%) of its visitors from among persons who reside outside the State or more than 50 miles from the project. A project located in an enterprise tier four or five area will target at least thirty-five percent (35%) of its visitors from among persons who reside outside the State or more than 50 miles from the project.

(3) The project has a business plan that demonstrates a positive economic impact on the community in which the project is located.

(4) The applicant has provided impact projections regarding estimated State and local tax revenues with respect to the project.

(5) The project will have a significant and positive economic impact on the community in which the project is located, considering among other factors the extent to which the tourism project will compete directly with existing tourism attractions in the area and the amount by which tax revenues from the tourism project will exceed the amount of the grant provided.

(6) The applicant has provided a cost-benefit analysis of the project.

(7) The applicant has provided an economic impact analysis, certified by a certified public accountant, which demonstrates the employment, gross State product, and personal income effects of the project over a 10-year period.

(8) The project will be available to the public for a minimum of 100 days per year.

(9) The project will generate at least 10 new jobs in the community in which the project is located.

(10) The project will have the following minimum cost based on the enterprise tier in which it is located:

Enterprise Tier	Minimum Cost
1 and 2	$ 500,000
3	$ 2,000,000
4	$ 5,000,000
5	$ 10,000,000

(11) The governing body of the unit of local government has passed a resolution stating the need for the project and the positive economic impact and enhancement of travel and tourism revenues from the project.

(12) The applicant has demonstrated by clear and convincing evidence the following:

a. The project will not result in unnecessary duplication of existing services.

b. The project will generate new visitors to the area rather than drawing visitors away from other existing tourism attractions.

(g) Feasibility Study. – The applicant must fund a feasibility study certified by a certified public accountant and coordinated solely by the Committee. The Committee shall develop a list of qualified firms to conduct the study. The Committee shall prescribe the scope of the study to cover all of the qualifications established in this section.

(h) Amount. – Subject to the maximums provided in this section, the amount of a grant with respect to a qualified project is calculated as a percentage of the total amount of the following taxes collected and retained by the State each year:

(1) The net State sales tax collected on sales by or within the qualified project, as determined by the Department of Revenue.

(2) The net privilege tax paid by the qualified project under G.S. 105-37.1, as determined by the Department of Revenue.

(i) Maximums. – The maximum term of a grant is 10 years. No project may receive any grant proceeds for a year that is more than 10 years beyond the date of the initial grant award.

The Committee shall set the grant percentage at the time it awards the grant. The percentage used to calculate a grant may not exceed the applicable percentage provided in the table below based on the enterprise tier, as defined in G.S. 105-129.3, in which the qualified project is located. In addition, the cumulative maximum amount of a grant may not exceed the applicable percentage of the total project cost provided in the table below based on the enterprise tier in which the qualified project is located.

Enterprise Tier	Percentage
1 and 2	40
3 and 4	30
5	25

(j) Use. – The proceeds of a grant may be used only for capital costs, including debt service, with respect to the qualified project for which the grant was awarded.

(k) Disbursement. – In order to receive grant disbursements under this section, the owner of the qualified project must provide the Department of Revenue with periodic, verified accountings of the tax collections provided in subsection (h) of this section. These reports must be made at the times and in the form prescribed by the Department of Revenue. Each report must include the name, address, and tax identification number of every taxpayer whose collections are included in the report and any other information required by the Department of Revenue.

The Department of Revenue must disburse grants awarded under this section in accordance with G.S. 105-269.16. Upon awarding a grant under this section, the Committee must provide the following information to the Department of Revenue:

(1) The name, address, and other identifying information of the owner to whom the grant was awarded.

(2) The name and address of any lessee or individual or entity who has entered into a contract with the owner of the qualified project.

(3) The address and other identifying information of each facility that is part of the qualified project for which the grant was awarded.

(4) The applicable percentage and the maximum cumulative amount of the grant as determined in accordance with this section.

(5) Any other information included in the application, if required by the Department of Revenue.

(l) Reports. – The Committee must report annually to the Revenue Laws Study Committee concerning the applications made for grants, the grants awarded under this section, and the division and use of the fee collected by the Committee under this section.

(m) Cap. – The maximum number of projects that may be awarded grants each fiscal year is 15. No more than twenty million dollars ($20,000,000) in grants shall be awarded each fiscal year. For the purpose of this maximum, the amount awarded is calculated as the cumulative maximum amount of the grant divided by the number of years in its term."

SECTION 2. Article 9 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-269.16. Travel and tourism grants.**

The Department must annually disburse the travel and tourism grants awarded under G.S. 143B-434.4. Each annual disbursement must be made by October 1 for the preceding fiscal year. The amount of each grant must be calculated in accordance with G.S. 143B-434.4 based on information provided to the Department by the owner of the qualified project. If information necessary to calculate a portion of a grant is not available, the Department must disburse only that portion for which information is available. To pay for this program, the Department must draw from State sales and use tax collections under Article 5 of this Chapter an amount equal to the grant funds disbursed and the Department's costs of administering the grants. The Department must provide the Committee an annual accounting of grant funds disbursed under this section."

SECTION 3. G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(12) The Travel and Tourism Grant Committee in developing guidelines for the Travel and Tourism Capital Investment Program under G.S. 143B-434.4 of the General Statutes."

SECTION 4. This act becomes effective January 1, 2004, and expires for grant applications filed on or after July 1, 2006.

HOUSE BILL 1316:
Travel & Tourism Investment Act

BILL ANALYSIS

Committee: House Finance
Date: June 11, 2003
Version: 1st Edition

Sponsor: Rep. Earle
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: House Bill 1316 creates the Travel and Tourism Capital Investment Program. The bill becomes effective January 1, 2004, and expires for grant applications filed on or after July 1, 2006. House Bill 1316 is similar to proposals debated in the House and Senate during the 2001-2002 biennium.

The Travel and Tourism Capital Investment Program is established to award grants to the owners of qualified projects for the purpose of inducing the creation of new or the expansion or renovation of existing travel and tourism projects.

Grant recipient - Grants may be awarded to a unit of local government that owns a qualified project in whole or in partnership with a private individual or entity. Grant proceeds may not be distributed to any private individual or entity. If the project is located in tier one, two, or three, the local government must own at least 25%. In tiers four and five, the local government must own at least 50%. A "unit of local government" is defined in the bill as a county or municipality in the State.

Travel and Tourism Grant Committee - The Travel and Tourism Grant Committee would have seven members:

- The Secretary of Commerce
- The Secretary of Revenue
- The Director of the Office of State Budget and Management
- The Chair of the NC Travel and Tourism Board
- Three elected local government officials who will serve two-year terms. One will be appointed by the Speaker of the House to represent the Mountains, one will be appointed by the President Pro Tem of the Senate to represent the Coastal Plain, and one will by appointed by the Governor to represent the Piedmont.

The Committee acts on a majority vote of its members. The Committee is subject to the open meetings law and the public records law. There are conflict of interest restrictions on the members of the Committee.

Qualified project - A qualified project is a newly created travel and tourism project or an expansion or renovation of a travel and tourism project that the Travel and Tourism Grant Committee determines, pursuant to a feasibility study funded by the applicant, meets the following conditions:

1. A minimum percentage of the project will be financed and owned by a unit of local government in which it is located. The percentage is 25% in tier one, two, or three and 50% in tier four or five.
2. The project will target a minimum percentage of its visitors from among persons who reside outside the State or more than 50 miles from the project. The percentage is 25% in tier one, two, or three and 35% in tier four or five.
3. The project has a business plan that demonstrates a positive economic impact on the community in which the project is located.
4. The applicant has provided impact projections regarding estimated State and local tax revenues with respect to the project.
5. The project will have a significant and positive economic impact on the community in which it is located, considering among other factors, the extent to which the project will compete directly with existing tourism attractions in the area and the amount by which tax revenues from the tourism project will exceed the amount of the grant provided.
6. The applicant has provided a cost-benefit analysis of the project.
7. The applicant has provided an economic impact analysis, certified by a CPA, which demonstrates the employment, gross state product, and personal income effects of the project over a 10-year period.
8. The project will be available to the public for a minimum of 100 days per year.
9. The project will generate at least 10 new jobs in the community in which the project is located.
10. The project will have the following minimum cost based on the enterprise tier in which it is located:

Enterprise Tier	**Minimum Cost**
1 and 2	$ 500,000
3	$ 2,000,000
4	$ 5,000,000
5	$10,000,000

11. The governing body of the unit of local government has passed a resolution stating the need for and positive economic impact and enhancement of travel and tourism revenues from the project.
12. The applicant has demonstrated by clear and convincing evidence both of the following
    a. The project will not result in unnecessary duplication of existing services.
    b. The project will generate new visitors to the area rather than drawing visitors away from other existing tourism attractions.

Amount of the grant - The amount of the grant is determined by multiplying the sum of the total amount of sales taxes collected on sales by or within the qualified project and the net privilege taxes paid by the qualifying project times a percentage not to exceed a maximum based on the enterprise tier in which the project will be located, as follows:

Enterprise Tier	Percentage
1 and 2	40
3 and 4	30
5	25

These same percentages are used to calculate the cumulative maximum amount of a grant determined by the applicable percentage of the total project cost.

Maximum term. – The maximum term of the grant is ten years.

Use of grant proceeds. - The proceeds of the grant may be used only for capital costs, including debt service, with respect to the qualified project.

Cap on number of projects and amount of projects awarded each year - No more than 15 projects may be awarded grants each fiscal year. No more than $20 million in grants may be awarded each fiscal year. For purpose of the $20 million maximum, the amount awarded is calculated as the cumulative maximum amount of the grant divided by the number of years in its term.

Fees. - Each applicant must pay the Committee a $5,000 application fee.

Disbursement of grants by the Department of Revenue - The Department of Revenue must annually disburse the grants by October 1 for the preceding fiscal year, based on information provided to the Department by the owner of the qualified project. In order to pay for this program, the Department will draw from State sales and use tax collections an amount equal to the grant funds disbursed and the Department's costs of administering the grants.

Exemption from rule making. – The Travel and Tourism Grant Committee is exempt from the rule-making provisions under the Administrative Procedure Act when developing guidelines for the Program.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1316 (1st Edition)

SHORT TITLE: NC Travel and Tourism Investment Act

SPONSOR(S): Representatives Earle, Miner, and McComas

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	(Millions)				
	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Sales Tax*	0	(20)	(40)	(60)	(60)
EXPENDITURES					
Travel and Tourism Grant Committee	* See Assumptions and Methodology *				
Dept. of Revenue	* See Assumptions and Methodology *				
POSITIONS:					
Department of Revenue	* See Assumptions and Methodology *				

* The grant application period for the bill sunsets July 1, 2006, although payments for grants authorized before that date will continue to be made up to ten years after the initial award.

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Travel and Tourism Grant Committee, NC Department of Revenue, and local governments.

EFFECTIVE DATE: January 1, 2004

BILL SUMMARY: The bill creates the Travel and Tourism Capital Incentive Grant program to be administered by the Travel and Tourism Grant Committee. The program offers grants to counties and municipalities who own "qualifying projects" that meet the following criteria: 1) the project is financed and owned (in whole or at least in 50% partnership in tiers 4 and 5, 25% ownership in the remaining tiers) by the unit of local government in which it is located, 2) the project will target 35% or more of its visitors from at least 50 miles away or out of state (25% in tiers 1–3), 3) the project has a business plan that indicates that project will be profitable, 4) the applicant provides tax impact projections, 5) the project will have a positive impact on the community, 6) the project will be open at least 100 days per year, 7) the project will generate at least ten new jobs in the local area, 8) the projects will meet a minimum cost criteria based on the North Carolina enterprise tier in which it is located, 9) the governing body of the local

government passes a resolution stating the need for, positive economic impact of, and the enhanced travel and tourism opportunities created by the project, and 10) the applicant demonstrates that the project will not duplicate services and will draw new visitors to the area. Grant funds can be used to fund new projects or the renovation and expansion of existing facilities. The grant amount is determined by multiplying the total amount of sales taxes collected by or within the qualified program and the net privilege taxes paid by the qualifying project by an enterprise tier based percentage, with maximum percentages outlined in the bill. These same percentages apply to the maximum amounts of the total project cost that can be funded through this grant program. The Travel and Tourism Grant Committee is charged with determining if all project criteria are met and the percentages used to calculate the grant amount. Grant funds can only be used for capital costs, including debt service. To receive a grant disbursement, the project owner must provide the Department of Revenue with periodic, verified accounting of the tax collections. Annual disbursements based on this information must be made by the Department of Revenue by October 1 of each year and should reflect tax collections from that project for the previous fiscal year. The Department is only required to distribute funds based on data provided by the owner. If appropriate data is not provided to justify a complete payment, a partial payment can be made to reflect the information provided. Applicants must fund a feasibility study coordinated and directed by the Travel and Tourism Grant Committee and pay a $5,000 application fee. The funds to pay for the grants and the associated departmental costs are drawn from State sales and use tax revenues. The grant application period for the bill sunsets July 1, 2006, although payments for grants authorized before that date will continue to be made up to ten years after the initial award. Only fifteen (15) grants can be awarded per year. Annual awards are limited to $20 million.

ASSUMPTIONS AND METHODOLOGY:

Impact on Revenue

The bill effectively earmarks a proportion of state tax revenue drawn from a particular qualifying project and returns that funding to the institution to fund capital costs and debt service. The proportion returned varies by location and other factors. The bill would allow funding for fifteen projects a year, with a maximum of forty-five grants awarded before the July 1, 2006 sunset. At present Fiscal Research is aware of several potential projects that have already reached the planning stages, primarily arenas, convention centers and athletic facilities, that could easily qualify for these grants, although local government officials indicate that many local units would likely be interested applying for these grants. Fiscal Research is also not aware of any other state that uses a similar funding mechanism, so no data is available from other states to suggest a fiscal cost. (Kentucky has a state sales tax incentive program for tourism development, which has funded seven (7) projects to date. However, because of substantial differences in the Kentucky plan and this bill, that state's experience cannot be used as a proxy for estimating purposes). Because there is no good data on the type, size and location of qualifying projects or potentially qualifying projects, the fiscal note assumes the committee awards the maximum annual amount of $20 million. Because the bill allows three grant cycle before the sunset, the maximum annual impact is reached in 2060-07 of $60 million ($20 million from each year of awards). Because all economic activity, in total, is considered in determining the state's baseline revenue projections, all grants awarded under this program would be shown as a loss of state revenue. However, none of that loss would appear in FY 2003-04, as the first payment would not be made for any project until October 2005.

Impact on Expenditures

Travel and Tourism Grant Committee: The bill charges the Travel and Tourism Grant Committee (the Committee) with carrying out the following activities in order to administer the grant program:

1. Adopt rules for the administration of the program.

2. Coordinate and direct feasibility studies funded by the applicants. This coordination function includes selection by the Department of qualified, independent consultants and prescription of the scope of each study.

3. Analyze applications to ensure they contain all necessary information regarding the nature and cost of the proposed tourism project, the estimated revenues to be generated by the project, the estimated economic benefit to the community, and the purposes for which the applicant will use grant funds.

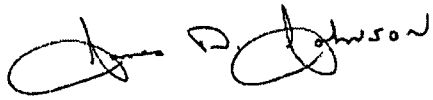
Each of these activities will involve a cost to the Committee. The bill allows the Committee, itself, to determine how the fee revenue and associated responsibilities will be distributed. Since the bill does not specify the financial structure of the Committee, how the Committee will operate, or how the Committee will utilize the $5,000 fee per application, it is not possible to estimate the fiscal impact on the Committee.

Department of Revenue: According to the Department of Revenue, the anticipated responsibilities from the enactment of the bill will not justify any positions being assigned to handle the work and, therefore, no employee costs will be incurred. There will only be very minimal costs for printing and mailings of forms and possibly some other minor administrative costs. The Department's assumption is that there will be a relatively small number of projects that will qualify, at least initially. Therefore, on the basis of this assumption, taxes eligible for grants will not be generated until a project is completed and business performed in the project. The first fiscal year for which grants could be issued would most likely be FY 2004-05. This should provide the department with ample time to get procedures in place.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps, Stephanie Schmitt, and Michele Nelson

APPROVED BY: James D. Johnson, Director Fiscal Research Division



DATE: June 10, 2003

A service of the North Carolina Department of Commerce

TOURISM

NC Commerce Home

Home
visitnc.com
Advertising
Calendar
Community Dev./ Grant Information
Contacts
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Heritage Tourism Programs
NewsLink
Tourism Events
NC Travel Tracker
Photo Gallery
Publications
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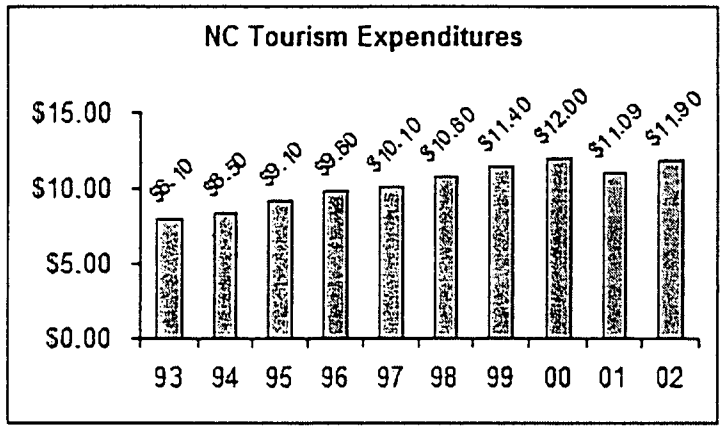
Sales & Travel Trade Development
Screen Saver
Visitor Services/ Welcome Center

Fast Facts About NC's Travel and Tourism

2002 Economic Impact of Tourism in North Carolina

- Tourism is one of North Carolina's largest industries. In 2002, **domestic travelers spent $11.986 billion** across the state.
- Traveler spending generated almost $2.2 billion in tax receipts: $1.1 billion in federal taxes, **$687.7 million in state tax revenue and $399.9 million in local tax revenue.**
- Number of visitors to North Carolina in 2002: **44.4 million**, ranking **North Carolina 6th** in person-trip volume by state behind California, Florida, Texas, Pennsylvania, and New York!



North Carolina's Top States of Visitor Origin,
Ten State Total 83%

NC	30%	PA	4%
VA	12%	TN	4%
SC	10%	NY	3%
GA	8%	MD	3%
FL	6%	OH	3%

Trip Spending

United States Travelers	$ 457
North Carolina Visitors	$ 316
North Carolina Residents	$ 221

Trip Duration

United States	3.4 Nights
NC Trip Total	4.2 nights
NC Portion	2.2 nights

Lodging

- 66 Percent of NC Person trips (around 29 million visitors) spend one or more nights in the state, Of those,
- 49 Percent stay in hotels, motels and B&B's
- 39 Percent stay private homes

Top Activities

Shopping	(26%)
Beaches	(13%)
Outdoor Activities	(10%)
Historical Places/Museums	(10%)

Based on data from domestic travel information from the US Travel Data Center and TravelScope at the Travel Industry Association of America. For more information, call the North Carolina Division of Tourism, Film and Sports Development at 919-733-4171 or 800-787-0670.

NC Department of Commerce 301 North Wilmington Street Raleigh, NC 27601 (919) 733-4151 4301 Mail Service Center Raleigh, NC 27699-4301

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1316 DATE 6-12-2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Wilson
)
Sen.)

moves to amend the bill on page 5, line 32-39

( ) WHICH CHANGES THE TITLE

by deleting those lines;

and by renumbering the remaining section accordingly.

11/45
12 no

SIGNED Connie Wilson

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1316 DATE 6-12-2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Rayfield
)
Sen.)

moves to amend the bill on page 3, line 8

( ) WHICH CHANGES THE TITLE

by deleting "twenty-five percent (25%)" and substituting "fifteen percent (15%)".

and on page 3, line 9, by deleting the number "50" and substituting the number "25".

SIGNED John Rayfield

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1316 DATE 6-12-2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Weiss
Sen.)

moves to amend the bill on page 41, line 5 4-5

( ) WHICH CHANGES THE TITLE

by adding the following between the lines:

"(13) The jobs created by the project pay a wage at least equal to the applicable wage standard provided in GS 105-129.4(b) based on the tier in which the project is located."

by consent

SIGNED Jennifer Weiss

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 1316 DATE 6-12-2013

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Blackwood
Sen.)

moves to amend the bill on page 3, line 36

( ) WHICH CHANGES THE TITLE

by deleting "$ 2,000,000" and substituting "$1,000,000";

on page 3, line 37, by deleting "$5,000,00" and substituting "$3,000,000" and

on page 3, line 38 by deleting "$10,000,000" and substituting "$4,000,000."

SIGNED Curtis Blackwood

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1316 A BILL TO BE ENTITLED AN ACT TO CREATE A TRAVEL AND TOURISM CAPITAL INVESTMENT PROGRAM.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

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

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

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

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

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

☐ Without prejudice.

☐ With an indefinite postponement report.

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

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

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 119
Finance Committee Substitute Adopted 6/4/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S119-CSLAx-27 [v.1]

6/11/2003 6:41:13 PM

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY EXTENDING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES AND INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, ~~2004,~~2008, for property placed in service on or after that date. Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 6-12-2003

S. B. No. 119 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE LAX-27

(Rep.) Ellis
Sen.)

moves to amend the bill on page 2, lines 2-3

( ) WHICH CHANGES THE TITLE

by adding the following between the lines:

"Section 3. The Department of Revenue shall modify the tax credit form for income tax filers to provide separate lines for each of the tax credits currently aggregated in a single line, so that the Department may capture data about the fiscal impact of the specific credits. The Department of Revenue may draw from collections under Article 4 of Chapter 105 of the General Statutes up to fourteen thousand dollars ($14,000) for the 2003-2004 fiscal year to implement this requirement.";

and on page 2, line 30, by rewriting the line to read:

"Section 4. Sections 1, 3, and 4 of this act are effective when it becomes law. Section 2".

SIGNED _____

✓ my consent

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 119
Finance Committee Substitute Adopted 6/4/03

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY REMOVING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES, INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION, AND ALLOWING BOTH HISTORIC REHABILITATION TAX CREDITS TO BE TAKEN AGAINST FRANCHISE TAX AND GROSS PREMIUMS TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2004, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. G.S. 105-129.37(a) reads as rewritten:

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

SECTION 4. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2004.

SENATE BILL 119:
Expand Historic Preservation Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Horton
Date:	June 11, 2003	**Analysis by:**	Martha Walston
Version:	CSLAx-27		Committee Counsel

SUMMARY: This proposed committee substitute to Senate Bill 119 amends the historic preservation tax credit as follows:

- *Extends the sunset on the provision that permits a pass-through entity to allocate among its owners the tax credit for income-producing property from January 1, 2004 to January 1, 2008.*
- *Amends the above-described provision to permit a pass-through entity to allocate the credit to an owner if an owner's adjusted basis in the pass-through entity is at least 40% of the amount of the credit allocated to that owner.*

BILL ANALYSIS: Section 1 of Senate Bill 119 extends the January 1, 2004 sunset on the provision in the historic rehabilitation tax credit that permits a pass-through entity to allocate among its owners the tax credit for income-producing property. The sunset is extended to January 1, 2008. This section is effective when it becomes law.

Section 2 of Senate Bill 119 increases the amount of the credit for income-producing property that a pass-through entity may allocate among its owners. Current law requires that the credit can be allocated to an owner of the pass-through entity as long as the amount of credit allocated to the owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Internal Revenue Code. Senate Bill 119 provides that the owner's adjusted basis must be at least 40% of the credit allocated to that owner. This section is effective for taxable years beginning on or after January 1, 2003.

CURRENT LAW: G.S. 105-129.35 allows an income tax credit of 20% of the expenses of rehabilitating an income-producing historic structure. G.S. 105-129.36 allows an income tax credit of 30% of the expenses of rehabilitating an historic structure that is not income-producing. The credit for income-producing structures is lower because federal law also allows a 20% credit for those expenses, yielding a combined credit of 40%. The 20% credit is allowed only if the taxpayer qualifies for the federal credit and the 30% credit is allowed only if the taxpayer does not qualify for the federal credit. The credit may not be taken for the tax year the property is placed in service but must be taken in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

A pass-through entity may qualify for the rehabilitation credit and pass the credits on to its owners. A pass-through entity is an entity, such as a partnership, a limited liability company, or a Subchapter S corporation, that is treated as owned by individuals or other entities under

federal tax law and whose income, losses, and credits are reported by the owners on their State income tax returns.

Under the Internal Revenue Code, tax credits are allocated among S corporation shareholders in accordance with their pro rata share of the corporation, which is determined on the basis of stock ownership, and tax credits are allocated among partners in a partnership in accordance with the partnership agreement. The allocation made by the partnership agreement must have a substantial economic effect, which means that the allocation agreement must reflect the economic interest of the partners in the partnership and cannot be based solely on tax consequences. Therefore, the allocation agreement of partners cannot give one partner 100% of the income, loss, or credits of the partnership. A pass-through entity may allocate the credit for rehabilitating an income-producing historic structure among any of its owners, as long as the amount of the allocated credit does not exceed the owner's adjusted basis in the entity, as determined under the Code. The adjusted basis is determined at the end of the taxable years in which the historic structure is placed in service. Each year an allocated credit is claimed, the pass-through entity and its owners must include a statement with their tax return that shows both the allocation made and the allocation that would otherwise have been required under G.S. 105-131.8 and G.S. 105-269.15. G.S. 105-131.8 provides that the tax credit allowed a shareholder in a Subchapter S corporation is based on the percentage of stock held by the shareholder in the corporation. G.S. 105-269.15 provides that the tax credit allowed a partner is based on the partnership agreement, which must have substantial economic effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 119 (Second Edition)

SHORT TITLE: Expand Historic Preservation Credit

SPONSOR(S): Senator Horton

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No estimate available				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Cultural Resources – State Historic Preservation Office; Department of Revenue

EFFECTIVE DATE: Section 1 (removal of sunset) is effective when it becomes law. Section 2 (allocation) is effective for taxable years beginning on or after January 1, 2003. The remainder of the act becomes effective for taxable years on or after January 1, 2004.

BILL SUMMARY: The bill removes the January 1, 2004 sunset on a pass-through provision for the tax credit for rehabilitating income-producing historic structures. The bill allows a pass-through entity that qualifies for the historic rehab credit to allocate the credit among its owners in its discretion as long as an owner's adjusted basis is at least 40% of the amount of the credit allocated to that owner. The bill also allows the credit to be used against the franchise tax and the gross premiums tax.

BACKGROUND: The National Park Service of the U.S. Department of the Interior administers a federal income tax credit equal to 20% of qualified rehabilitation expenditures for certified historic structures that are used in connection with a trade or business or held for the production of income. This credit is available for both residential rental buildings and nonresidential buildings. In order to qualify, the property itself must be either listed in the National Register, or located in a registered historic district and be certified as being of historic significance. All rehabilitation work must meet The Secretary of the Interior's Standards for Rehabilitation and must be approved by the State Historic Preservation Office (SHPO).

From 1993 to 1997, North Carolina investors eligible for the Federal Rehabilitation Investment Tax Credit were allowed a state income tax credit equal to one-fourth of the federal amount (5%). The 1997 General Assembly expanded the State income tax credit from 5% to 20% for rehabilitating an income-producing historic structure, effective for tax years beginning on or after January 1, 1998. (S.L. 1997-139) The credits may not be taken in one year, but must be spread out in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

ASSUMPTIONS AND METHODOLOGY:

No estimate can be made of the actual fiscal impact of this bill. In theory, the bill has been proposed to increase the likelihood that the historic rehab tax credits will be fully utilized by taxpayers. However, the General Assembly's Fiscal Research Division has assumed from 1997 (the year the credit increased to 20%), that 100% of the tax credits have been used and have built 100% utilization of the historic credit into the General Fund availability forecast. All efforts to determine the actual cost of the credit program failed for reasons explained below.

From 1989 to 1997, the Journal of Multistate Taxation and Incentives reported North Carolina had 268 federally certified historic rehab projects valued at $125.3 million. The average project size in this period was $468,000 and the average number of projects each year was 30. The increase in the state credit in 1998 saw a significant increase in projects and in the size of projects. From 1998 through March 2003, $178.7 million was spent on rehabbing 199 historic structures. On average in the 1998-2003 period, 38 projects were completed each year at cost of $900,000 per project.

Income Producing Projects - Completed

Tax Year	# Of Projects	Rehab Expenses	Avg. Proj. Cost
1998	27	$6,748,550	$249,946
1999	36	$25,187,152	$699,643
2000	44	$39,385,678	$895,129
2001	50	$74,117,018	$1,482,340
2002	30	$27,229,772	$907,659
J - M 2003	12	$6,035,293	$502,941
	199	$178,703,463	$898,007

As shown in the chart below, the General Fund impact of these credits is lessened by the requirement that the tax credit be taken over five years. In FY 02-03, the actual credit earned is $6,906,727, an amount slightly lower than the original projection of $7.2 million made in 1997.

I. Income Producing Projects - Completed

Tax Year	Credit Amount	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
1998	$1,349,710	$269,942	$269,942	$269,942	$269,942	$269,942
1999	$5,037,430		$1,007,486	$1,007,486	$1,007,486	$1,007,486
2000	$7,877,136			$1,575,427	$1,575,427	$1,575,427
2001	$14,823,404				$2,964,681	$2,964,681
2002	$5,445,954					$1,089,191
J - M 2003	$1,207,059					
General Fund Revenue Loss		**$269,942**	**$1,277,428**	**$2,852,855**	**$5,817,536**	**$6,906,727**
Original 1997 Estimate		**$1,050,000**	**$2,250,000**	**$3,750,000**	**$5,400,000**	**$7,200,000**

While the data above shows the amount of tax credits taxpayers are eligible for each year, it does not reveal the percentage of tax credits claimed each year. The Department of Revenue was asked to report on the amount of income-producing historic rehab credits taken in tax years 2000 and 2001. The Department's Tax Research Division responded that it could only determine the number of corporate taxpayers that claimed the historic rehab credit, because the agency's ITAS computer system does not contain information on the individuals that claim the credit. ITAS does not capture data on individual historic rehab tax credits, because the credit is one of a number of credits filed on Form D-400TC as a miscellaneous credit. The only way for the Department to determine the number of individual tax credits taken would be to manually search through 28,000 tax returns each year that claim a miscellaneous credit.

The Tax Research Division data on corporate historic rehab credits shows $893,265 was claimed in tax year 2000. Since these credits would probably have been claimed in the FY 2001-02 period, the reported $893,265 is only 15% of the $5.8 million in available credits that year. For the 2001 tax year, $725,703 in corporate credits were claimed out of $6.9 million credits available in FY 2002-03 (10.5%). Without the individual tax credit information, the corporate data is meaningless. No conclusion on credit utilization can be drawn from existing Department of Revenue or Department of Cultural Resources data.

SOURCES OF DATA: National Park Service; Journal of Multistate Taxation and Incentives (Nov/Dec 2000); Department of Revenue - Tax Research Division

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 4, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 1290

Short Title:	Conform Bank Expense Deduction.	(Public)
Sponsors:	Representatives McComas; Luebke and Insko.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO CONFORM STATE INCOME TAX ON BANKS TO FEDERAL INCOME TAX ON BANKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(2a) The portion of a financial institution's interest expense that is allocable to interest income exempt from taxation under this Part. The allocable portion of the interest expense is the portion for which deduction would be disallowed pursuant to section 265(b) of the Code if the interest income exempt from taxation under this Part were earned on tax-exempt obligations as defined in section 265(b) of the Code."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2003, and before January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

HOUSE BILL 1290:
Conform Bank Expense Deduction

BILL ANALYSIS

Committee: House Finance
Date: June 11, 2003
Version: 1st Edition

Sponsor: Rep. McComas
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: House Bill 1290 amends the corporate income tax law to provide that a bank is allowed to deduct interest expenses on tax-exempt income only to the extent it is allowable under federal tax law, effective beginning with the 2003 tax year.

House Bill 1290 would reverse a corporate income tax interpretation allowing corporations engaged in the banking business to deduct interest expenses incurred in producing tax-exempt interest income. Generally, other corporations are not allowed to deduct expenses incurred in producing tax-exempt income.

The North Carolina Corporation Income Tax Act provides in G.S. 105-130.5(a)(2) that interest paid in connection with tax-exempt income is not deductible. The statute makes no specific reference to financial institutions; however, in 1987, the Attorney General's Office issued an opinion interpreting the statute as not applying to corporations engaged in the banking business. Under this interpretation, banks and similar financial institutions are not required to include in taxable income interest expenses paid in connection with State tax-exempt income. One example of such expenses would be interest paid on deposits used to acquire federal obligations, the interest on which is exempt from State income tax.

Federal law formerly allowed the same special treatment to corporations engaged in the banking business but, since 1986, the deduction has been disallowed, with an exception for interest expenses in connection with tax-exempt obligations of qualified "small issuers."[1] This proposal would adopt the federal approach to deduction of interest expenses by corporations engaged in the banking business. Banking corporations would be required to allocate interest expenses between taxable and tax-exempt income based on a formula. Except as provided in the case of small issuers, those interest expenses allocable to exempt income would be includable in State net income; those interest expenses allocable to taxable income would be deductible.

The bill provides that no penalty for underpayment of estimated taxes would be imposed for 2003 tax years to the extent the underpayment was due to this bill.

[1] In general, an obligation is an obligation of a small issuer if, during the year the obligation is issued, the issuer is expected to issue no more than $10 million in obligations.

FISCAL ANALYSIS MEMORANDUM

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

DATE: June 12, 2003

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: House Bill 1290-Conform Bank Expense Deduction

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**(See Methodology and Assumptions)**				

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is administered by the Department of Revenue. The enactment of the bill is not expected to affect the budget requirements of the Department.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2003

BILL SUMMARY: Reverses a North Carolina corporate income tax interpretation allowing corporations engage in the banking business to deduct interest expenses incurred in producing tax-exempt interest income. An example would be the interest paid on deposits that are used to purchase federal obligations whose interest payments are exempt from the state income tax.

ASSUMPTIONS AND METHODOLOGY: In past years, the fiscal side of this issue had been reviewed by the Department of Revenue and a consultant used by the General Assembly. A January 15, 2002 memorandum from the Tax Research Division indicates that the annual revenue gain to the General Fund would amount to $12-15 million per year. This estimate was based on an analysis of two year of corporate tax returns of taxpayers subject to the banking privilege license tax.

TECHNICAL CONSIDERATIONS: The Revenue Department has indicated that most of the additional revenue would be paid by a small number of banks and that their investment portfolio decisions could have a major impact on the estimate. In addition, the estimate is subject to changes in the interest rate on federal obligations.

METHODOLOGY: The subsidiary dividend legislation is very complex and requires a review of confidential tax return data and discussions with major taxpayers. For these reasons this analysis has been carried out by the research staff of the Department of Revenue during the last few years.

During the 2002 session analysis, the Department examined 2000 tax returns from a group of selected large corporations and a sample of several hundred smaller corporations. In addition, Department personnel have had conversations with affected parties. Finally, Fiscal Research was involved in numerous meetings on the issue with the Department of Revenue and the affected parties.

Shown below is a comparison of the General Fund revenue anticipated under the original 2001 bill, the 2002 re-estimate that was discussed in the process of adjusting the 2002-03 General Fund budget, and the 2002 legislation:

Additional General Fund Revenue ($Mil.)				
	01-02	02-03	03-04	04-05
2001 Legislation	30.8	32.3	33.6	34.5
2002 Re-Estimate*	30.8	82.3	83.6	84.5
2002 Legislation	30.8	82.7	61.8	64.9
*The actual impact per calendar year could be $120 million or more but is heavily dependent of the compliance of taxpayers affected by the 2001 change. The amount shown is the figure that was discussed during the 2002-03 budget deliberations.				

The enactment of the bill would take the subsidiary dividend issue back to the status prior to the 2002 legislation. According to 2002 session discussions with the Department of Revenue, the 2001 changes, coupled with the Department's rules implementing the changes, could lead to additional annual revenue from the 2001 change of up to $120 million. This amount would be almost $60 million higher than the current law estimate. The actual revenue gain from this legislation depends on the ability of the Department to collect the tax from large taxpayers who in the past have protested the Department's expense attribution rules implementing the 2001 legislation. The experience prior to the 2002 change indicated that many of these affected taxpayers were not remitting the tax due under the Department's rules.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1291
PROPOSED COMMITTEE SUBSTITUTE H1291-CSLC-66 [v.2]

6/5/2003 2:18:22 PM

Short Title: Subsidiary Dividend Tax Changes. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.6A reads as rewritten:

"**§ 105-130.6A. Adjustment for expenses related to dividends.**

(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2.

(b) General Rule. – For corporations other than bank holding companies and electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of the dividends.

(c) Bank Holding Companies. – For bank holding companies the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part must be computed pursuant to guidelines adopted by the Department of Revenue. ~~may not exceed an amount equal to twenty percent (20%) of the dividends.~~

(d) Electric Power Holding Companies. – For electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of its total interest expenses.

~~(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.~~

~~The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.~~

~~If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. 105-241.1(e). The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236.~~

~~(f) Credits for Bank Holding Companies. – If the affiliated group of which a bank holding company is a member is eligible for the reduction provided in subsection~~

~~(e) of this section for a taxable year, the affiliated group is also eligible for a credit equal to two million dollars ($2,000,000). If the affiliated group of which a bank holding company is a member is not eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is eligible for a credit equal to the amount of additional tax that results from its expense adjustments in excess of the amount of additional tax that would result from the expense adjustments if the expense adjustment of any bank holding company in the group were equal to fifteen percent (15%) of the holding company's dividends for that taxable year.~~

~~A credit allowed by this subsection may be taken in four equal, annual installments beginning with the later of the following taxable year or the taxpayer's taxable year beginning in 2003. The members of the affiliated group may allocate a credit allowed by this subsection among themselves in their discretion.~~

(g) Credit for Electric Power Holding Companies. – After calculating the adjustment for expenses related to dividends under G.S. 105-130.5(c)(3), each electric power holding company must calculate the amount of additional tax under this Part that results from the expense adjustment for the taxable year. The electric power holding company is allowed a credit for the following taxable year equal to one-half of this amount of additional tax.

As an alternative to taking this credit against its own tax liability, an electric power holding company may elect to allocate the credit among the members of its affiliated group. In this case, the credit must be taken in four equal installments beginning in the later of the following taxable year or the taxable year for which the taxpayer's final return is due in 2004.

(h) Limitation on ~~Credits. The credits~~Credit. – The credit provided in this section ~~are~~ is allowed against the tax levied in this Part and the franchise tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.

In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.

A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2003, and before

January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1291

Short Title: Subsidiary Dividend Tax Changes. (Public)

Sponsors: Representative McComas.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.6A reads as rewritten:

"**§ 105-130.6A. Adjustment for expenses related to dividends.**

(a) Definitions. – The ~~provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the~~ following definitions apply in this section:

~~(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.~~

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2.

(b) ~~General~~ Uniform Rule. – ~~For corporations other than bank holding companies and electric power holding companies, the~~The adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part ~~may not exceed an amount equal to fifteen percent (15%) of the dividends.~~must be computed pursuant to guidelines adopted by the Department of Revenue. The guidelines adopted by the Department must

apply equally to bank holding companies, electric power holding companies, and other corporations.

~~(c) Bank Holding Companies. For bank holding companies the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to twenty percent (20%) of the dividends.~~

~~(d) Electric Power Holding Companies. For electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of its total interest expenses.~~

~~(e) Cap for Bank Holding Companies. After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.~~

~~The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.~~

~~If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. 105-241.1(e). The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236.~~

~~(f) Credits for Bank Holding Companies. If the affiliated group of which a bank holding company is a member is eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is also eligible for a credit equal to two million dollars ($2,000,000). If the affiliated group of which a bank holding company is a member is not eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is eligible for a credit equal to the amount of additional tax that results from its expense adjustments in excess of the amount of additional tax that would result from the expense adjustments if the expense adjustment of any bank holding company in the group were equal to fifteen percent (15%) of the holding company's dividends for that taxable year.~~

~~A credit allowed by this subsection may be taken in four equal, annual installments beginning with the later of the following taxable year or the taxpayer's taxable year beginning in 2003. The members of the affiliated group may allocate a credit allowed by this subsection among themselves in their discretion.~~

~~(g) Credit for Electric Power Holding Companies. After calculating the adjustment for expenses related to dividends under G.S. 105-130.5(c)(3), each electric power holding company must calculate the amount of additional tax under this Part that results from the expense adjustment for the taxable year. The electric power holding company is allowed a credit for the following taxable year equal to one half of this amount of additional tax.~~

~~As an alternative to taking this credit against its own tax liability, an electric power holding company may elect to allocate the credit among the members of its affiliated group. In this case, the credit must be taken in four equal installments beginning in the later of the following taxable year or the taxable year for which the taxpayer's final return is due in 2004.~~

~~(h) Limitation on Credits. The credits provided in this section are allowed against the tax levied in this Part and the franchise tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.~~

~~In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.~~

~~A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years.~~"

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made

under that statute for a taxable year beginning on or after January 1, 2003, and before January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

HOUSE BILL 1291 (PCS): Subsidiary Dividend Tax Changes

BILL ANALYSIS

Committee: House Finance
Date: June 11, 2003
Version: Draft

Sponsor: Rep. McComas
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Repeals the part of the 2002 legislation on dividend deductions that applies to bank holding companies, effective beginning with the 2003 tax year.

The proposed committee substitute for House Bill 1291 repeals part of legislation that was enacted in 2002 governing the corporate income tax treatment of deductible dividends. The 2002 law limited the amount of expenses that taxpayers must attribute to their deductible dividends, using caps and credits. The part of the 2002 law that this bill repeals is the part that applies to bank holding companies. As a result, bank holding companies will be governed by the 2001 law, which requires expense attribution without caps or credits. Other corporations will continue to be governed by the 2002 law.

This change becomes effective beginning with the 2003 tax year. The bill provides that no penalty for underpayment of estimated taxes would be imposed for 2003 tax years to the extent the underpayment was due to this bill.

Below is a summary of the 2001 and 2002 laws. The shaded portions of the 2002 law are the portions that this bill would repeal.

2001 Legislation: In 2001, the General Assembly enacted legislation conforming State law to the federal rules for the deduction of dividends received. This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction. Eliminating the adjustments also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income. As a result, expenses related to deductible dividends must be netted from those dividends.[1] The law did not provide guidelines for calculating the amount of expenses that are related to deductible dividends.

2002 Legislation: In 2002, the General Assembly enacted legislation to provide limits on the additional tax liability that a corporation would experience as a result of the 2001 legislation. The act stated the intent of the General Assembly that it would be effective during 2001 and 2002 but would be studied and might be revised effective beginning with the 2003 tax year. The study did not take place, however.

[1] North Carolina has an exception to its general law when federal and State laws differ regarding the taxability of an income item. Prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with deductible dividends earned from subsidiaries. The 2001 tax law change effectively eliminated the deduction of expenses associated with subsidiary dividends.

The 2002 legislation limited tax liability as follows:

- Placed the following caps on the amount of related expenses that must be netted from deductible dividends:
  - Most companies: 15% of dividends
  - Bank holding companies: 20% of dividends
  - Electric power holding companies: 15% of total interest expenses
- Limited the additional tax that a bank holding company and its related companies must pay as a result of the expense netting to a maximum of $11 million per corporate family.
- Provided a credit to bank holding company corporate families beginning in 2003. For bank corporate families that reach the $11 million maximum, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.
- Provided a credit to electric power holding companies in an amount equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If the electric power company makes this election, then the credit is spread out over four tax years, beginning in 2003.

FISCAL ANALYSIS MEMORANDUM

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

DATE: June 11, 2003

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: HB 1291 (Proposed Committee Substitute) – Subsidiary Dividend Tax Changes

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES	"See Assumptions and Methodology"				

PRINCIPAL DEPARTMENTS AFFECTED: The corporate income tax is collected by the Department of Revenue. The enactment of the bill will not affect the department's budget requirements.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2003.

ISSUE HISTORY:

2001 Legislation. The 2001 General Assembly adopted legislation conforming state law to the federal rules for the deduction of dividends received. This would apply, for example, to dividends received by a holding company from its subsidiaries. The 2001 change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction.

North Carolina has a general law that disallows the deduction of expenses incurred in earning income that is not taxable. However, there is an **exception to the rule** in cases where the federal and state laws differ regarding the taxability of an income item. Thus, prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with income earned from subsidiaries.

The 2001 session adoption of federal rules governing the deductibility of dividends effectively eliminated the deduction of expenses associated with subsidiary dividends. This meant that related expenses would have to be netted against the dividends that are deducted.

After the 2001 act was adopted, the Department of Revenue developed rules that companies could use to determine which expenses were associated with the deductible income. Since that time there has been much discussion about whether the Department's rules accurately attribute expenses incurred.

2002 Legislation. During the last session a bill was adopted to clarify the expense attribution rules and limit the indirect impact of the 2001 change on expense deductibility. Under the 2002 legislation, the new rules will be in effect for the 2001 and 2002 tax years. For future years, the bill stated the intent that the issue be studied during the interim and might be revised for the 2003 tax year. However, the study did not take place.

The new expense attribution rules are as follows:

1. The amount of related expenses that must be netted from deductible dividends is capped as follows:
   - Most companies — 15% of dividends
   - Bank holding companies — 20% of dividends
   - Electric power holding companies — 15% of total interest expenses

2. The additional tax that a bank holding company and its related companies must pay as a result of the expense netting is subject to a maximum of $11 million per corporate family.

3. Bank holding company corporate families receive a tax credit beginning in 2003. For bank corporate families that reach the $11 million cap, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.

Electric power holding companies receive a credit equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If this election is made, the credit is spread over four tax years, beginning in 2003.

BILL SUMMARY: Repeals the language in the 2002 legislation that limits the amount of additional tax liability for bank holding companies affected by the expense attribution change that resulted from the 2001 session legislation conforming State law to the federal rules for the deduction of dividends received.

WESLEY STURGES
CHAIRMAN OF THE BOARD,
NORTH CAROLINA BANKERS ASSOCIATION

HOUSE FINANCE COMMITTEE
THURSDAY, JUNE 12, 2003

Statement Regarding
House Bills 1290 and 1291

Mr. Chairman and Members of the Committee:

My name is Wes Sturges. I am President and CEO of First Commerce Bank in Charlotte. It is also my honor this year to serve as Chairman of the Board of the North Carolina Bankers Association. It is in the latter capacity that I appear before you today. My comments will be brief. First I would like to address the position of North Carolina's banking industry in the overall economy of our state and the statutory structure in which our banks operate. Then, if it is appropriate, Mr. Chairman, I will turn to the two proposals before you for discussion today, House Bills 1290 and 1291. We hope you will reject these proposed tax increases.

The Banking Industry in North Carolina

Early this year, the Dixon Odom accounting firm completed a comparative study of the overall tax burden on a typical bank in each of the seven southeastern states as well as an evaluation of the economic impact of the banking industry on the economy of North Carolina. We have brought a copy today for each member of the Finance Committee. To oversimplify the results, the overall tax burden on a typical bank in North Carolina (including state and local taxes) is the second highest in the Southeast, trailing only Florida. To the extent that there is a perception that the banking industry in North Carolina enjoys a favorable tax position here that justifies a tax increase, that perception is inaccurate.

North Carolina is the second leading banking state in the nation. It is not an accident that it is so, nor is it a birthright which can never be lost. Much of the credit for the development of the banking industry rests with this body: the General Assembly. For decades, the legislature enacted laws that allowed banks to flourish, while carefully balancing them with meaningful consumer protections. Statewide and interstate branching and the authorization to sell insurance are but a few of the now commonplace matters with respect to which North Carolina banks were placed at the forefront of the evolution of the financial services industry by the General Assembly.

A strong banking industry has proven beneficial to the economy of our state. According to the Dixon Odom study, in 2001, the latest year for which figures were available, the banking industry accounted for 9.1% of our gross state product. That same year, the industry employed 85,000 persons with a payroll of more than $4.5 billion. The banks and their employees paid over one-half billion dollars in taxes. In these stressful economic times, banks represent one of the few growth industries in North Carolina and serve as engines of economic growth for other components of the economy. Additionally, in almost every community in the state, banks are leaders in charitable giving and civic

volunteerism. In short, the healthy banking environment has been good for our banks and for our state.

House Bill 1290

House Bill 1290 seeks to conform the treatment of a bank's interest expense deduction to that which exists under federal law. If enacted, this change would require a bank to allocate a portion of its interest expense to tax-exempt income, thereby losing the deduction for that part of their interest expense. Those who have proposed this change argue that banks should be treated like other corporations. However, that analysis is faulty, because it ignores the very real differences between banks and other types of businesses.

First, a bank's inventory is money. In order to obtain this inventory from depositors, a bank must pay them interest. Other businesses pay the suppliers of their inventory a profit for providing those goods and are permitted to deduct from their income for tax purposes the entire cost of acquiring their inventory. No one has proposed that this deduction be eliminated, as it would increase costs prohibitively for businesses.

Second, banks take deposits from customers in order to make loans, not for the purpose of buying tax-exempt bonds. In fact, most banks are unable to fund their loans from their deposits and must buy funds elsewhere.. Finally, federal and state laws require banks to keep a substantial percentage of their assets in liquid investments—other companies do not have similar restrictions. Sound financial practice dictates using the safest possible investments for liquid funds, namely government bonds. Those investments also provide a stable market for government bonds.

In summary, enactment of House Bill 1290 would impose a punitive tax increase on banks in the mistaken belief that it would treat like companies in a like manner. Actually, current law treats banks and other businesses equitably by recognizing the real differences between banks and other types of companies.

House Bill 1291

Let me begin by saying that this bill, unlike House Bill 1290, applies to companies other than banks. This proposal, if enacted, would mark the third time in the last few years the state law regarding the treatment of dividends received from a subsidiary corporation has been changed substantially. First, the law was changed, ostensibly to conform to the federal treatment. When the business community identified ambiguity and unintended consequences last year, this body reached a compromise that clarified and set limits on the impact of the provision. Under the compromise, the banking industry alone paid new state income taxes of more than $25 million for each of the last two years. We have not been able to the extent to which other companies paid new taxes under this provision.

The banking industry helped reach the compromise entailed in last year's legislation in good faith. Within a couple of weeks after its enactment, our industry had paid more than

$50 million for the two tax years to which the compromise was to apply. It was our hope and understanding that a permanent repeal of the provision would be enacted this year.

North Carolina's current treatment of dividends received from a subsidiary represents bad policy and enactment of House Bill 1291 would only make the situation worse. The essence of the tax policy is the premise that a dividend moving through a corporate structure is new income each time it is paid from one subsidiary to its parent corporation. This premise is out of touch with the real world. It is analogous to taxing money as income when an individual moves it from one pocket to another. The federal government does not have such a policy; neither do forty-six other states.

This proposed tax increase would not apply only to banks. It applies to any business that adopts a complex corporate structure, which may be done for any number of reasons. Banks are forced to do so for sound regulatory purposes. Finally, it makes no sense to adopt such a disincentive for corporate headquarters to locate or remain in North Carolina, while devoting great energy and substantial tax dollars to lure new companies to our state.

Conclusion

Mr. Chairman, members of the Finance Committee. Thank you for entertaining these comments. I do not pretend to be a tax expert, though we have some in attendance today who will be happy to try to answer any questions you may have. Some legislators have suggested that the banking industry come forward with recommendations for a different system of taxation for financial institutions, if a better one is to be found. Though substantial resources have been devoted to the undertaking, nothing approaching a consensus has been found within the banking industry in North Carolina for a new approach. It may well be that the current system of taxation of financial services companies is more in need of fine-tuning than of major renovation.

I'd like to end where I started. North Carolina has been very good for banking and I believe banking has been extremely beneficial to North Carolina. Tax laws aside, our banking laws have fallen far behind those in other states. Our Commissioner of Banks is determined recommend to you changes in the law that will make our banking laws once again as progressive as any in the nation. Legislating tax increases such as those proposed in House Bill 1290 and House Bill 1291 threaten to make such an undertaking a thankless effort. I urge you to vote against these two bills.

North Carolina Bankers Association

Taxation of the Banking Industry in Seven Atlantic Coast States and the Economic Impact of Banks on North Carolina

Prepared by Dixon Odom PLLC

Taxation of the Banking Industry in Seven Atlantic Coast States and the Economic Impact of Banks on North Carolina

Executive Summary

Dixon Odom PLLC prepared this study for the North Carolina Bankers Association to compare the tax structure to which banks are subject in North Carolina with the analogous tax structures in Delaware, Florida, Georgia, Maryland, South Carolina, and Virginia. The total tax burden on a bank in each of these states is compared based upon a model bank and bank holding company. The study also examines the economic impact the banking industry has on the state of North Carolina.

The banking industry is subject to an intricate structure of state and local taxes and the North Carolina bank tax configuration is one of the most complex. Banks pay net income taxes, franchise taxes, excise taxes, privilege and license taxes, sales and use taxes, real and personal property taxes, unemployment taxes and other taxes. The tax burden North Carolina places on the model bank and bank holding company is the second highest of the seven states studied. Delaware would have the lowest tax burden on the same organization. Income taxes make up 41% of the state and local taxes paid by the model in North Carolina, followed by sales taxes, which make up 27% of the tax burden. In 2001 it is estimated that banks paid in excess of $275 million in taxes to North Carolina and its counties and municipalities. In addition, in 2001, it is estimated that North Carolina banks made contributions to North Carolina charitable organizations in excess of $32 million.

The number of banking employees in North Carolina has grown from 31,000 in 1985 to 85,000 in 2001. This represents a growth rate of 175% over the time period and outpaces the total state employment growth, which was 47% for the same time period. The average salary and benefits of a bank employee in 2001 was $54,000 and the average North Carolina state taxes paid per $1,000 of income in 2001 was $73. It is estimated that North Carolina banking sector employees paid total state taxes of $268 million in 2001. Finally, the banking sector has grown from 1.9% of the North Carolina Gross State Product in 1985 to 9.1% in 2001.

North Carolina has banks of all sizes located within the state. Banks headquartered within North Carolina provide for the availability of funds to finance construction, the purchases of homes and personal property, and for the working capital needs of the state's citizenry. Capital availability is necessary to the creation and sustenance of jobs in agriculture, manufacturing, service and other industries. In addition, banks are depositories for public funds for state and local government agencies and have traditionally been significant purchasers of North Carolina state and local bond offerings. The state has become a leading financial center on the Atlantic Coast. The strength in this sector of the economy has provided numerous economic benefits to the state.

Taxation of the Banking Industry in Seven Atlantic Coast States and the Economic Impact of Banks on North Carolina

Introduction

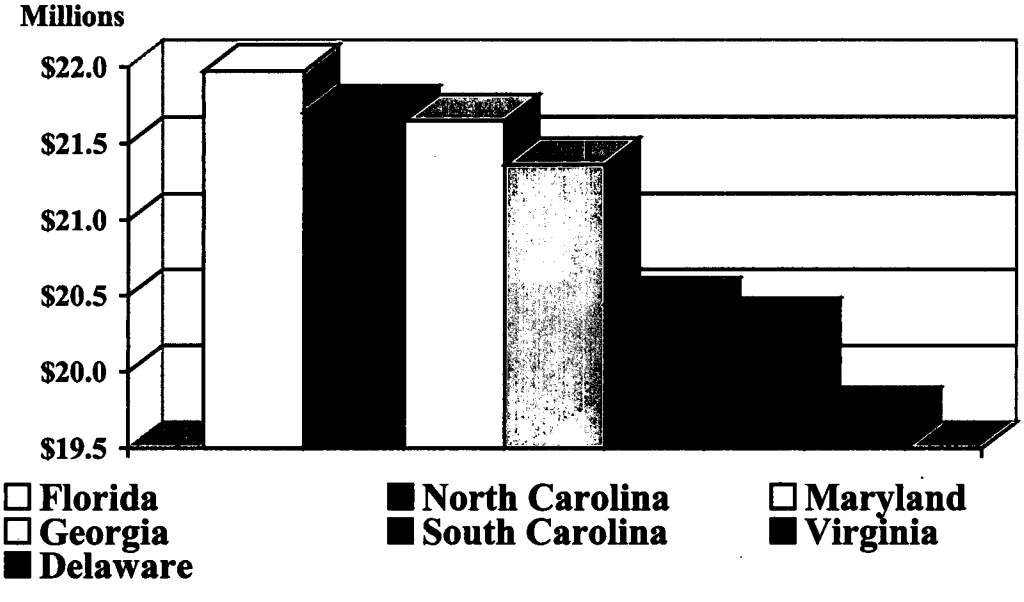
Dixon Odom PLLC has prepared this study for the North Carolina Bankers Association. The study compares the tax structure to which banks are subject in North Carolina with the analogous tax structures in Delaware, Florida, Georgia, Maryland, South Carolina, and Virginia. The total tax burden on a bank in each of these states is compared based upon a model bank and bank holding company. The study also examines the economic impact the banking industry has on the state of North Carolina.

Taxation of the Banking Industry in Seven Atlantic Coast States

The banking industry is subject to an intricate structure of state and local taxes. These taxes include net income taxes, franchise taxes, excise taxes, privilege and license taxes, sales and use taxes, real and personal property taxes, unemployment taxes and other taxes.

The tax burden North Carolina places on a model bank and its bank holding company is the second highest of the seven states studied. The North Carolina model bank pays total federal, state and local taxes of $21,700,000. (Federal income taxes are included in this calculation due to the fact that they are impacted by state and local taxes.) A model Florida bank organization has the highest tax burden at $22,000,000 and the Delaware model bank has the lowest total tax burden at $19,700,000.

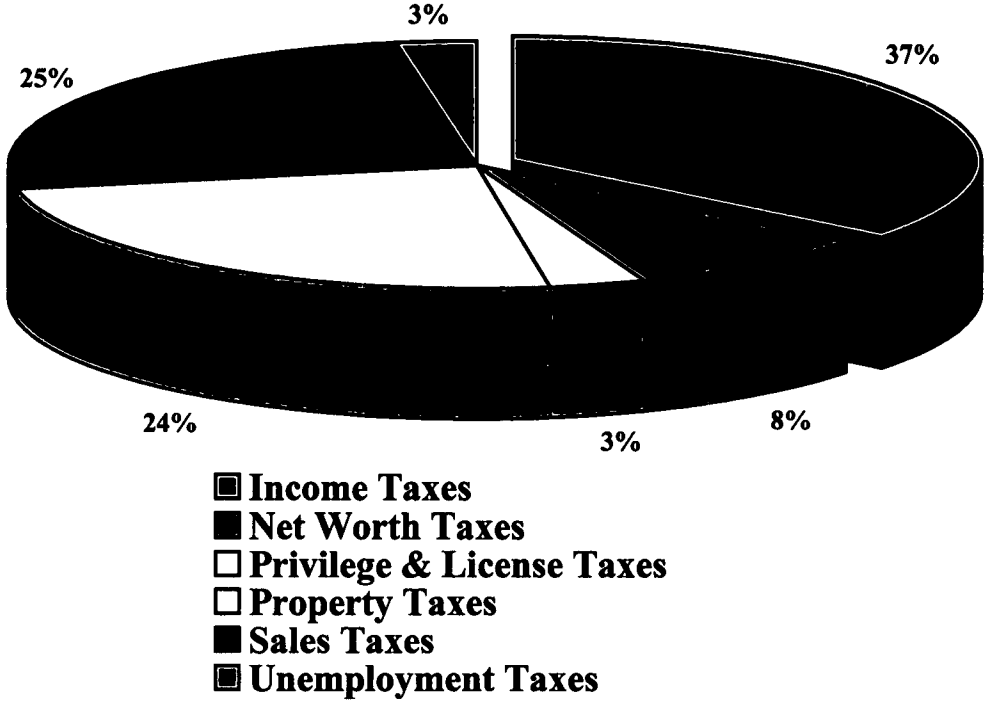
Federal and State Tax Burden



The model used in this study was based upon the average size bank in North Carolina, after excluding the state's two largest multi-state institutions. Our model bank is a "C" corporation, operating solely in one state and includes two entities. The first entity is the operating bank and the second entity is a holding company that owns 100% of the stock in the bank. Our model incorporates the tax burden of the bank as well as the holding company. The bank has total assets of $3.2 billion, interest income of $250 million, and net income before taxes of $50 million. Loans represent approximately $2 billion of the bank's total assets and its security portfolio is worth $1 billion. The security portfolio holdings are representative of a large single-state bank with 40% invested in US and state obligations and 60% invested in mortgage backed securities and other investments.

The largest state and local tax burden for the model bank in most of the seven states studied is a tax on income. At the high end of the scale, taxes on income represent 75% of the model Delaware bank's tax burden, since there is no sales tax. At the low end of the scale, Georgia's income tax on the model bank is only 18% of its total state and local taxes and Virginia does not have a bank tax on net income. The second largest tax burden is sales tax, followed closely by property taxes. Sales taxes represent 34% of a South Carolina bank's total state and local tax burden. However, sales tax makes up only 23% of the total state and local taxes for a Maryland bank. And, Delaware has no sales tax.

Average State Tax Breakdown

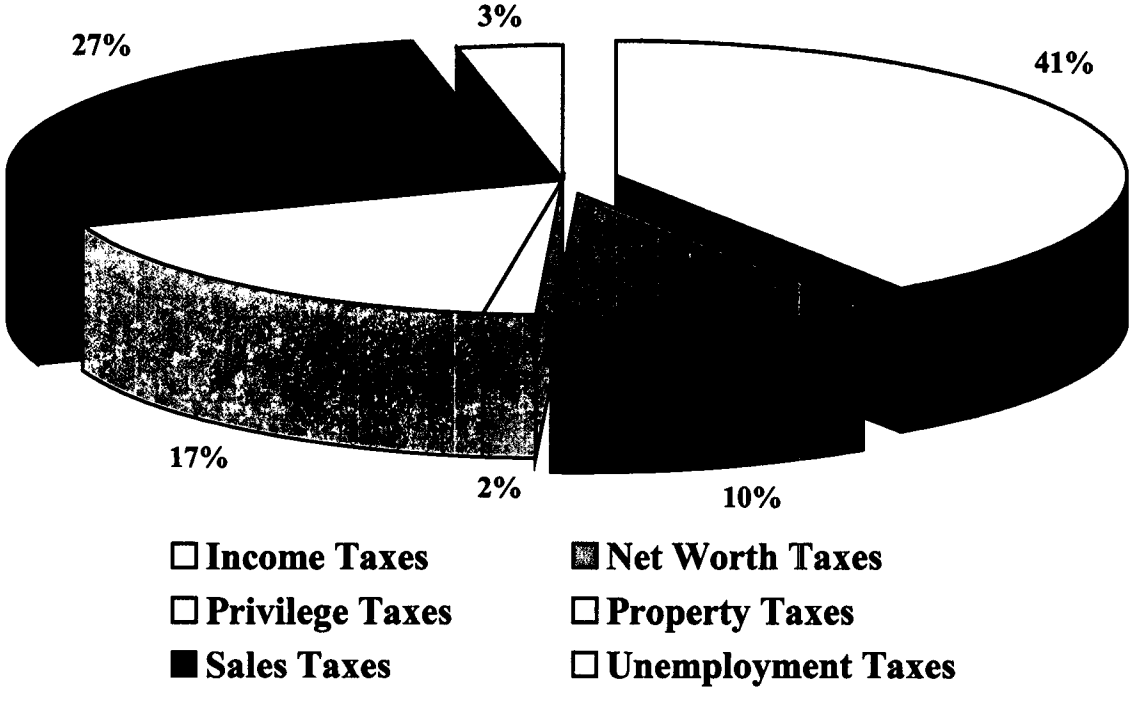


The North Carolina bank tax configuration is one of the most complex. North Carolina imposes more types of taxes than any other state included in this study. Banks in North Carolina are subject to the following taxes: corporate income tax, franchise tax on net worth, privilege taxes, real and personal property taxes, sales and use taxes and unemployment compensation taxes.

The income tax liability of the model North Carolina bank and bank holding company represents 41% of the total state and local tax burden. This tax has increased in the past year due to changes in the treatment of subsidiary dividends. The greatest impact of that change in the statute has been on the largest of the state's banks.

North Carolina sales taxes are also a higher percentage of the total state tax burden than the average of the seven states studied. This study uses the 4.5% state tax rate and an average 2.05% local rate. The North Carolina sales tax burden will become even higher as a result of recent rate changes at the state and local level.

North Carolina Tax Breakdown



State and Local Tax Burden on Model Bank

	Delaware	Florida	Georgia	Maryland	North Carolina	South Carolina	Virginia
Income Tax	$2.2 M	$2.8 M	$1.0 M	$2.5 M	$2.4 M	$1.5 M	$ -
Franchise Tax	-	-	-	-	.6 M	-	2.3 M
Sales Tax	-	1.6 M	1.6 M	1.3 M	1.6 M	1.4 M	1.1 M
Property Tax	.5 M	1.9 M	1.8 M	1.9 M	1.0 M	.9 M	.5 M
Unemployment Tax	.2 M	.1 M	-	.2 M	.2 M	.2 M	-
Privilege and License Tax	-	-	1.1M	-	.1 M	-	-
Total	$2.9 M	$6.4M	$5.5 M	$5.9 M	$5.9 M	$4.0 M	$3.9 M

Corporate Taxes Based on Net Income

Six of the seven states included in this study have a tax that is based on the net income of the corporation. However, Georgia allows a credit against state income taxes for license taxes paid in that state. This halved state income taxes in Georgia for the model bank. Virginia levies a franchise tax based on net capital in lieu of an income based tax.

Numerous factors contribute to the amount of taxes paid in each state based on net income. Each state differs on the inclusion of certain income and the deductibility of certain expenses. Florida does not exclude interest income from U.S. government obligations and as a result has the highest state taxes based upon income. South Carolina allows a deduction for Federal income taxes paid. Maryland has the highest tax rate at 7.0% and South Carolina has the lowest tax rate at 4.5%. Delaware has a declining tax rate which ranges from 8.7% to 1.7%. North Carolina's income tax rate is 6.9%.

The six states that tax income differ in their treatment of tax reporting for affiliated groups. Florida allows affiliated groups to elect to report income on a consolidated basis. Georgia corporations that do business exclusively in Georgia and report on a consolidated basis for federal tax purposes, must consolidate for state reporting. Delaware does not tax bank holding companies. North Carolina, Maryland and South Carolina do not allow consolidated reporting. Among all six states that tax income, only North Carolina treats the dividend payment from the subsidiary to the parent in a manner that creates taxation.

Franchise Tax

Five of the seven states in the study levy a franchise tax based on net worth at the bank level, the holding company level or both. North Carolina ranked second with total franchise tax of $600,000. Virginia ranked ahead of North Carolina with a franchise tax burden of $2,300,000. As noted earlier, Virginia uses a franchise tax on net worth, adjusted for U.S. Treasury obligations, in lieu of an income tax on the bank. Delaware, Georgia and South Carolina all had franchise tax burdens less than $25,000.

Privilege and License Taxes

North Carolina and Georgia each levy license taxes on banks doing business in their respective states. Georgia has a larger tax burden at $1,100,000. North Carolina's license tax was $100,000. However, as previously noted, Georgia license taxes are creditable against their corporate income taxes, in effect halving the state income tax on the model bank.

Property Taxes

Municipalities in each state included in the study assess real property taxes, personal property taxes, or both on the model bank. The model included average real property tax rates and personal property tax rates for each state. Florida and Maryland had the highest property tax burden at $1,900,000 and Virginia had the lowest tax burden at $440,000. The property tax burden for North Carolina was $1,000,000.

Sales and Use Tax

Six of the seven states studied levied a sales tax. Only Delaware does not have a sales tax. Municipalities in five of the other six states added on a local sales tax. North Carolina and Georgia have the highest average sales tax rate of 6.55%. The sales and use tax burden on the model bank ranged from $1,700,000 in North Carolina, Florida and Georgia to $1,100,000 in Virginia.

Unemployment Compensation

Unemployment compensation taxes range from 1% to 8% of the total state and local taxes paid by the model bank. Delaware had the highest amount of unemployment compensation taxes at $230,000. North Carolina, Maryland and South Carolina are second with unemployment tax for the model bank at $180,000.

Economic Impact of Banks on North Carolina

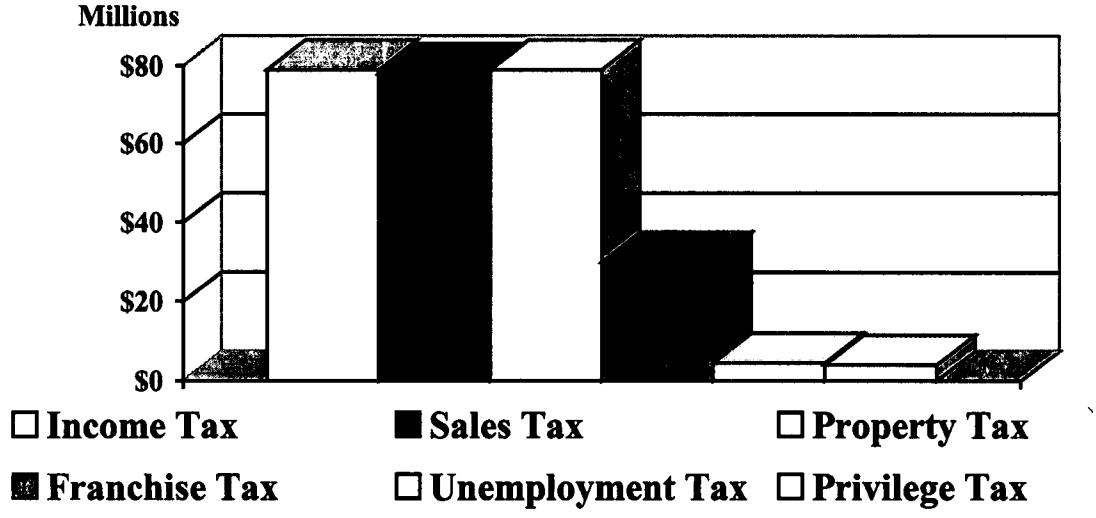
A second goal of this study is to analyze the significance of the banking industry on the North Carolina economy. The results will illustrate the importance of the banking industry on North Carolina's economy currently and in past years. The analysis will also include comparative economic data of Delaware, Florida, Georgia, Maryland, South Carolina, and Virginia.

North Carolina has banks of all sizes located within the state, including small one-branch banks, larger community banks and some of the largest banks in the country. North Carolina banks have shown longevity at the same time that the state is continually experiencing the creation of de novo banks. Banks headquartered within North Carolina have historically provided for the availability of funds to finance construction, the purchases of homes and personal property, and to provide for the working capital needs of the state's citizenry. Capital availability is necessary to the creation and sustenance of jobs in agriculture, manufacturing, service and other industries. In addition, banks have been depositories for public funds for state and local government agencies. This has required that banks provide collateral to insure these funds above and beyond Federal Deposit Insurance Corporation limits. And, banks have traditionally been significant purchasers of North Carolina state and local bond offerings.

In 1995 North Carolina had 126 commercial banks and savings institutions that were insured by the Federal Deposit Insurance Corporation (FDIC). Largely as a result of significant merger activity, the number of insured banks in North Carolina for the period 1995-2001 declined 8.7%, from 126 to 115. The total number of FDIC insured institutions for all states included in the study decreased by 17.7% from 1,455 in 1995 to 1,197 to 2001. North Carolina, however, has been the benefactor of much merger activity. The state is now home to two banking corporations with total assets over $300 billion each. And three other banks have grown to have assets in excess of $10 billion each, through mergers as well as internal expansion. The fact that the total number of insured banking institutions within the state has declined by only eleven banks over the six-year period from 1995 to 2001 partially reflects the active de novo banking market within North Carolina.

North Carolina banks pay significant taxes to state and local taxing authorities. Based upon information from approximately fifty North Carolina banks, it is estimated that in 2001, state and local tax payments made by banking corporations and affiliates to North Carolina taxing authorities are as follows:

2001 State and Local Taxes Paid by NC Banks

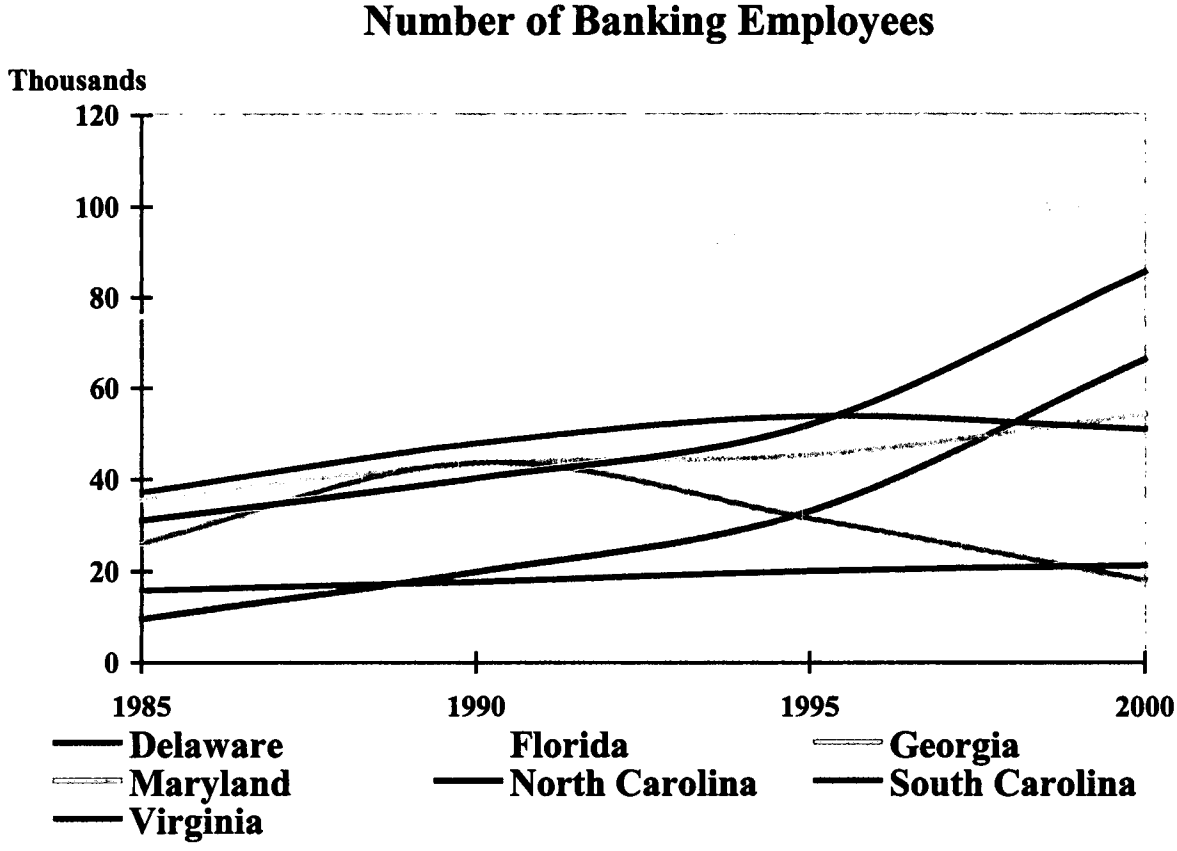


The total of all six types of taxes is in excess of $275 million. This bar chart confirms the fact that the state's banks paid the largest percentage of their taxes to North Carolina and its municipalities in the form of income taxes, sales taxes and property taxes. Total franchise taxes are estimated to have been in excess of $30 million. The proportionate distribution of the types of state and local taxes paid varies from the model bank, due to the impact the state's largest banking corporations have on both the total amount of state and local taxes paid, and the types of state and local taxes paid.

North Carolina banks are also supporting the state's non-profit organizations through large donations of money and time. In 2001, it is estimated that North Carolina banks made contributions to North Carolina charitable organizations in excess of $32 million.

The banking industry continues to generate many jobs for North Carolina citizens. The number of banking employees in North Carolina has grown from 31,000 in 1985 to 85,000 in 2001. This represents an increase of 54,000 jobs, and a growth rate of 175% over the time period. Banking sector job growth in North Carolina over that period outpaced the total state employment growth, which was 47%, and has increased from 1.2% of total jobs in North Carolina in 1985 to 2.2% in 2001. The creation of new jobs in the banking industry has a multiplicative effect on the state when taking into account the ancillary jobs that are generated as a result of this growth.

The data in the following chart shows the number of employees for banking corporations headquartered within each of the seven study states. The North Carolina data has been adjusted to include only individuals employed within North Carolina. A comparable adjustment has not been made to the other states. Nonetheless, the growth rate of banking employees in North Carolina exceeds the growth rate in all other states included in the study except for Delaware.

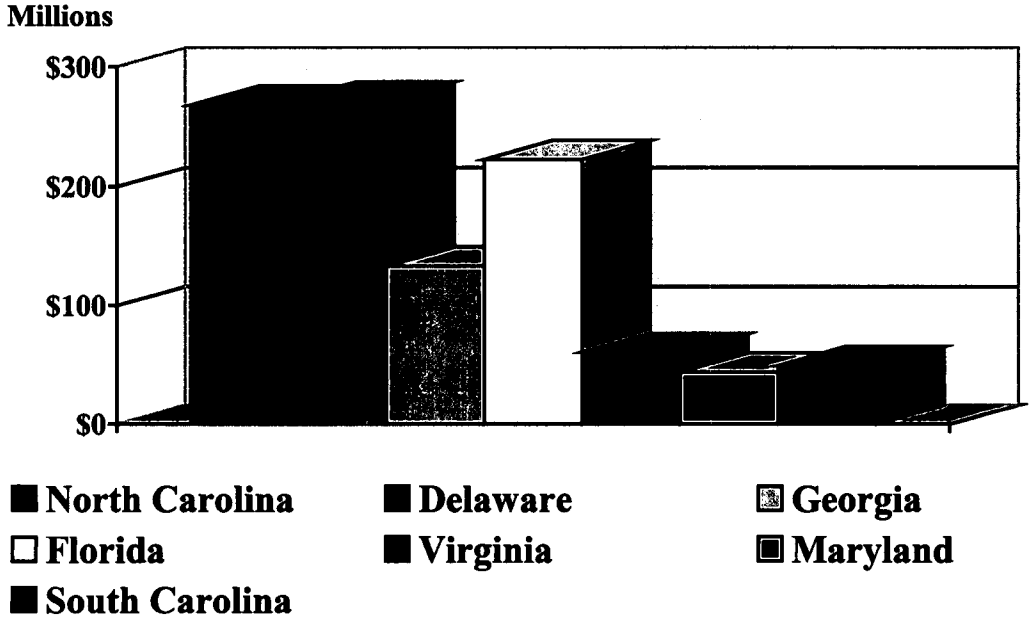


Source: Federal Deposit Insurance Corporation and certain North Carolina banking corporations

In 2001 the average salary and benefits of a North Carolina bank employee was $54,000 and the average North Carolina state tax paid per $1,000 of income in 2001 was $73. It is estimated that the 85,000 North Carolina banking sector employees paid total state taxes of $268 million in 2001.

The data in the following chart shows state taxes paid by employees of banking corporations headquartered within each of the seven study states. The North Carolina data has been adjusted to include only individuals employed within North Carolina. A comparable adjustment has not been made to the other states. Still, North Carolina was second only to Delaware in total state taxes paid by banking sector employees. The amount of state taxes paid per $1,000 of income ranged from $90 in Delaware to $57 in Florida.

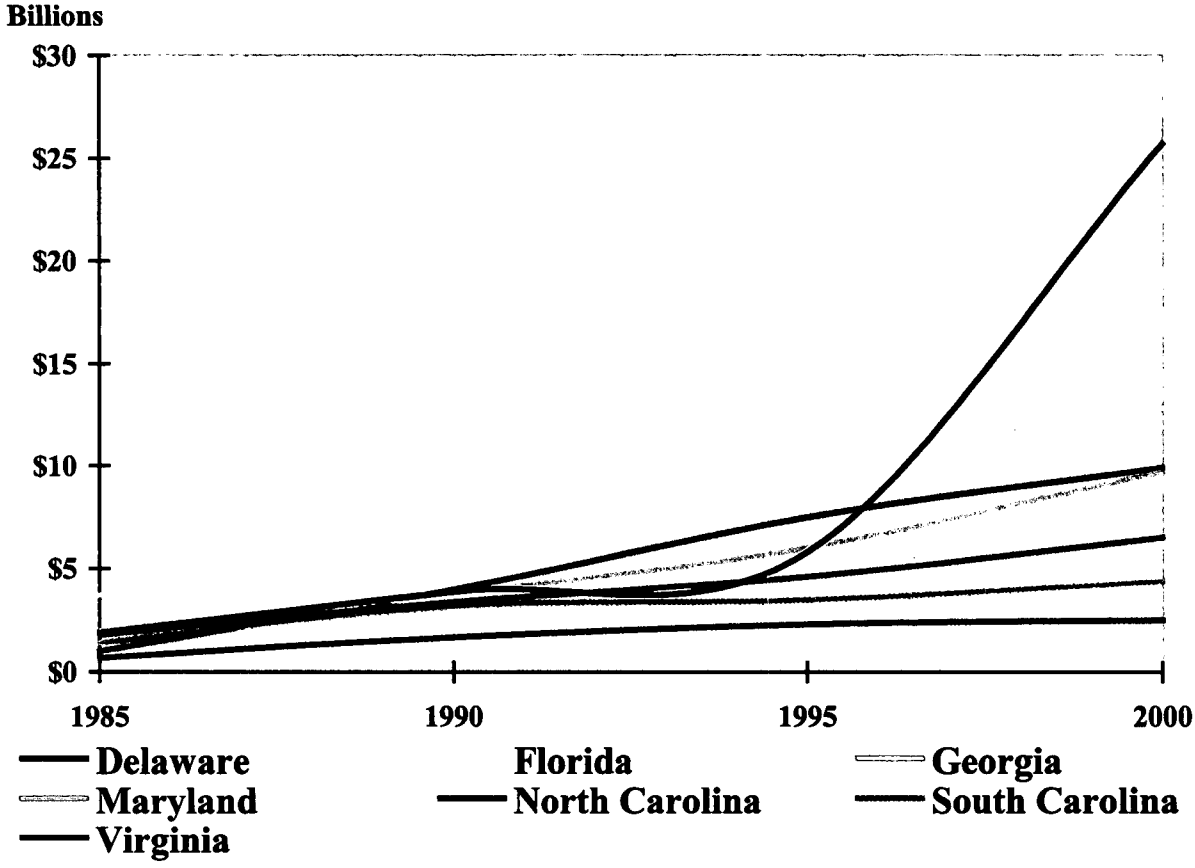
Total State Taxes Paid by Banking Employees in 2001



Source: Federal Deposit Insurance Corporation, The Tax Foundation and certain North Carolina banking corporations

Another good indicator of the impact the banking sector has on the economy is a comparison of the depository institution gross product and the Gross State Product (GSP). The gross product measures the market value of the goods and services produced by an industry or by all industries within a state. The total gross product of North Carolina depository institutions increased from $1.9 billion in 1985 to an estimated $25.7 billion in 2001. During that same time period, North Carolina's GSP increased from $98.2 billion to $281.7 billion. As a percentage of the total GSP of North Carolina, depository institutions have increased from 1.9% in 1985 to 9.1% in 2001. The data in the following chart shows the gross product of depository institutions headquartered within each of the seven study states.

Gross Product of Depository Institutions



Source: Bureau of Economic Analysis

Summary

The banking industry is subject to an intricate structure of state and local taxes and, the North Carolina bank tax configuration is one of the most complex. Banks pay net income taxes, franchise taxes, excise taxes, privilege and license taxes, sales and use taxes, real and personal property taxes, unemployment taxes and other taxes. The tax burden North Carolina places on a model bank and bank holding company is the second highest of the seven states studied. Delaware would have the lowest tax burden on the same model. Income taxes make up 41% of the state and local taxes paid by the model banking organization in North Carolina, followed by sales taxes, which make up 27% of the tax burden. In 2001 it is estimated that banks paid in excess of $275 million in taxes to North Carolina and its counties and municipalities. In addition, in 2001, North Carolina banks made contributions of approximately $32 million to North Carolina charitable organizations.

The number of banking employees in North Carolina has grown from 31,000 in 1985 to 85,000 in 2001. This represents an increase of 54,000 jobs, and a growth rate of 175% over the time period. Banking sector job growth in North Carolina over that period outpaced the total state employment growth, which was 47%, and has increased from 1.2% of total jobs in North Carolina in 1985 to 2.2% in 2001. The creation of new jobs in the banking industry has a multiplicative effect on the state when taking into account the ancillary jobs that are generated as a result of this growth. The average salary and benefits of a bank employee was $54,000 in 2001 and the average North Carolina state taxes paid per $1,000 of income in 2001 was $73. It is estimated that North Carolina banking sector employees paid total state taxes of $268 million in 2001.

Finally, the total gross product of North Carolina depository institutions increased from $1.9 billion in 1985 to an estimated $27.5 billion in 2001. During that same time period, North Carolina's GSP increased from $98.2 billion to $281.7 billion. As a percentage of the total GSP of North Carolina, depository institutions have increased from 1.9% in 1985 to 9.1% in 2001.

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1072
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLU-4 [v.12]

6/11/2003 12:44:13 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who engages in the business of reselling one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in G.S. 14-344(a), it shall be unlawful for any person to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person is registered as a ticket broker pursuant to the provisions of this Article.

(b) Charitable or non-profit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(c) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 66-259.3. Requirements for registration; issuance of registration; renewal; failure to comply; Ticker Brokers' Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of Crime Control and Public Safety on a form provided by the Secretary of Crime Control and Public Safety. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of Crime Control and Public Safety. The bond shall be executed in favor of this State for the

benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of Crime Control and Public Safety shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of Crime Control and Public Safety and pay a renewal fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(d) There is created the Ticket Brokers' Revenue Account within the Department of Crime Control and Public Safety. Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article.

"**§ 66-259.4. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full

refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.5. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 66-259.6. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 66-259.7. Violations.**

(a) Civil Penalties. – The Secretary of Crime Control and Public Safety may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of Crime Control and Public Safety. Orders issued by the Secretary of Crime Control and Public Safety may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of Crime Control and Public Safety

may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of Crime Control and Public Safety that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of Crime Control and Public Safety, the Secretary of Crime Control and Public Safety may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 66-259.8. Rules.**

The Secretary of Crime Control and Public Safety may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

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

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

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

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

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

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker registered under Article 32A of Chapter 66 of the General Statutes. For

the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

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

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

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

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-17 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, line 1, by rewriting the line to read:
"(a) It shall be unlawful for any";

and on page 2, line 6, by rewriting the line to read:
"the provisions of this Article, except that it shall not be unlawful for any person, firm or corporation to resell, to offer for resale, to purchase, or to offer to purchase such a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-16 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, lines 11-18, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1072

Short Title:	Regulate Ticket Brokers.	(Public)
Sponsors:	Representatives Miner, Gibson (Primary Sponsors); Barbee, Church, Sherrill, West, and Yongue.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who resells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets.**

(a) Except as otherwise provided in G.S. 66-259.3, it shall be unlawful for any person other than a ticket broker to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket. Notwithstanding G.S. 14-344(a), a ticket broker may charge a service fee not to exceed three dollars ($3.00) when tickets or other evidences of the right of entry are sold by a ticket sales agent authorized to do business by the municipality or county where the ticket sales agent's place of business is located. The owner, operator, lessee, or tenant of the property where the athletic contest or entertainment event is to be held or is being held or the promoter of the contest or event may charge or may authorize, in writing, any person to charge a service fee for the sale of any ticket, privilege, or license of admission in addition to the face value of the ticket. The writing granting authority to another to charge a service fee shall specify the amount of the service fee to be charged for the sale of each ticket, privilege, or license of admission.

(b) For any athletic contest or entertainment event described in G.S. 66-259.6, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 90-259.3. Exemptions.**

(a) Nothing in this Article or any other provision of law shall criminally prohibit a person who is the original purchaser of one or more tickets to an athletic contest or entertainment event covered under this Article and who purchased the tickets for personal use from reselling or offering for resale the tickets for any price. However, the person shall not sell or offer to sell the ticket within 1,500 feet of a ticket office for the contest or event or a public entrance to the contest or event.

(b) Nothing in this Article or any other provision of law shall criminally prohibit a person who, for personal use, purchases one or more tickets to an athletic contest or entertainment event from reselling or offering for resale any of the tickets in any zone within the restricted areas, as provided in this subsection or in G.S. 66-259.6(b), where the activity is authorized by the promoter of the contest or event and the owner or operator of the venue where the contest or event is being held or to be held.

(c) Charitable organizations and their employees and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or similar fund-raising activity for the benefit of the organization's charitable purposes.

"**§ 90-259.4. Requirements; issuance of registration; renewal; failure to comply.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of State on a form provided by the Secretary of State. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of State. The bond shall be executed in favor of this State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of State shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of State and pay a renewal fee not to exceed two thousand dollars ($2,000).

"**§ 66-259.5. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the

transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.6. County and municipal ordinances.**

(a) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, the municipal corporation where the contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact by ordinance regulations governing ticket brokers for the contest, event, or series of contests that are more restrictive than the provisions of this Article.

(b) The municipal corporation where an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact an ordinance prohibiting any person, whether a ticket broker or an original purchaser who purchased tickets for personal use, from reselling or offering for resale one or more tickets within 2,700 feet of a venue that seats or admits 15,000 or more persons.

"**§ 66-259.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 90-259.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 90-259.9. Violations.**

(a) Civil Penalties. – The Secretary of State may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of State. Orders issued by the Secretary of State may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of State may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of State that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of State, the Secretary of State may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 90-259.10. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not

exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to sales pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

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

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

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

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

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

(a1) Ticket Brokers. – A privilege tax is imposed on the net receipts of a person who is engaged in the business of ticket brokering as defined under Article 32A of Chapter 66 of the General Statutes. For the purposes of this subsection, "net receipts" means the gross receipts less the face value of the tickets sold.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the net receipts from the activities described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

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

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

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

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective July 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1072:
Regulate Ticket Brokers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson and Miner
Date:	June 11, 2003	**Analysis by:**	Martha Walston
Version:	H1072-CSLU-4 [v.12]		Committee Counsel

SUMMARY: House Bill 1072 creates a new Article under the Commerce and Business Chapter of the General Statutes that would regulate ticket brokers. The bill is in House Finance because it imposes a registration fee on the ticket brokers and assesses a 3% privilege tax on the brokerage fee charged by the ticket broker.

The 3% privilege tax becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of the bill is effective when it becomes law.

BILL ANALYSIS: House Bill 1072 creates a new Article 32A that regulates ticket brokers:

§66-259.1 defines the following terms: promoter, ticket, ticket broker, and ticket sales agent.

§66-259.2 makes it unlawful to resell any ticket of admission to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket UNLESS THE TICKET IS SOLD BY A REGISTERED TICKET BROKER. (See Section 2 of the bill)

Exempts charitable or non-profit organizations from the new article when the organization is selling tickets to a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

Authorizes a promoter to contractually restrict the resale of a ticket to a single athletic contest or entertainment event that occurs no more than once annually or to any series of athletic contest that occur no more than once annually and occur within a time period not exceeding 10 days. The owner, operator, lessee, or tenant of the property where the contest or event is held may contractually restrict the resale of the right of occupancy.

§66-259.3 sets out the following requirements for a person seeking to practice or engage in the business as a ticket broker:

- Maintain a permanent office or place of business in the State.
- File for registration as a ticket broker with the Secretary of Crime Control and Public Safety.
- Obtain a bond in the amount of $100,000.
- Pay a registration fee not to exceed $2,000. This fee must be paid to the Secretary. A renewal fee not to exceed $2,000 must be paid annually.

§66-259.4 requires the ticket broker to disclose the broker's refund policy, cancellation policy, and the difference between the face value of the ticket and the amount the broker charges for the ticket. A broker may only sell tickets at the broker's office or place of business.

§66-259.5 prohibits a ticket broker or the broker's employee from engaging in certain conduct.

§66-259.5 disqualifies a person from practicing as a ticket broker if the person has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

§66-259.7 authorizes the Secretary of Crime Control and Public Safety to punish a person who willfully violates the Article. The Secretary may order the person to cease from violating the Article, suspend or revoke the certificate of registration, or impose a civil penalty of up to $1,000 for each violation. A willful violation of the Article constitutes a Class 2 misdemeanor.

§66-259.8 authorizes the Secretary of Crime Control and Public Safety to adopt rules.

SECTION 2 OF THE BILL clarifies that the new Article is not applicable to current law set out in G.S. 14-344. This statue authorizes a person, firm, or corporation to add a reasonable service fee to the face value of a ticket sold. This service fee may not exceed $3.00 for each ticket, except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree on a fee greater than $3.00 for the first sale of tickets by the ticket sales agent

SECTION 3 OF THE BILL imposes 3% privilege tax on the brokerage fee charged by a ticket broker. A brokerage fee is the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket. A county or city may not levy a license tax on a ticket broker who is assessed the 3% privilege tax on the brokerage fee.

FISCAL ANALYSIS MEMORANDUM

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

DATE: **June 11, 2003**

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: Ticket Brokers – HB 1072

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* Revenue Increase – See Assumptions *				
Crime Control	* Minimum $24,000 annually – See Assumptions *				
EXPENDITURES					
Crime Control and Public Safety	**Unable to determine exact amount***				
	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, Crime Control and Public Safety.

EFFECTIVE DATE: October 1, 2003.

BILL SUMMARY: The legislation allows and regulates ticket brokering, and applies a 3% privilege tax on the service fees charged by these ticket brokers. As a part of the regulation, brokers are required to register with the Secretary of Crime Control and Public Safety and pay a $2,000 registration fee to offset the costs of the program. Bonds are also required.

Establishes a civil penalty of up to $1,000 and a Class 2 misdemeanor criminal penalty for violation of the act.

ASSUMPTIONS AND METHODOLOGY: There are two primary fiscal impacts related to the bill. The first relates to the tax while the second relates to the fee. In 2000-01, the Department of Revenue collected $27.6 million from the 3% privilege tax on amusements. Of this amount, approximately $6.67 million was drawn from amusements that could be impacted by the bill. The legislation does not jeopardize this revenue. Because this is a new tax, it will result in a revenue gain. Neither Tax Research nor Fiscal Research can estimate the exact amount. However, the increase is expected to be relatively small.

As far as the regulatory fee is concerned, according to the United States Ticket Brokers Association there are 788 bonded ticket brokers in the United States, 11 of which are currently in North Carolina. The National Association of Ticket Brokers boasts approximately 170 members nationwide, only one of which is in North Carolina. The registration of all current NC brokers would result in a revenue gain of approximately $24,000 (12 x $2,000). This creates the low end of the estimate. However, the actual amount of revenue increase will likely be higher as the number of ticket brokers is also likely to increase.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. The number of beds needed will always be equal to the projected number of inmates due to a bill.

Because the proposed bill creates a new offense, the Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. Only 12% (3,944) of total Class 2 misdemeanants convicted in 2002 (31,425) received active sentence. The average sentence is 23.4 days so time served will be in local jails and the Department of Correction (DOC) will not have to reimburse (only for misdemeanants with sentences over 30 days). (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because offenders serving active sentences of 90 days or less are housed in county jails, convictions under this bill would not be expected to have a significant impact on the prison population.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. AOC does not expect a significant increase in the number of charges for as a result of this bill given the relatively small number of ticket brokers operating in the state.

Department of Crime Control and Public Safety

Because this is a new regulatory function, staff at the Department of Crime Control and Public Safety (CCPS) is unable to determine the full cost to implement this bill. Most likely, this function would be added to the responsibilities of the Alcohol Law Enforcement Division, which currently monitors bingo activities or to the duties of the Boxing Commission. If the number of ticket brokers remains at the level currently operating in the state, the Department should be able to accommodate the regulatory duties within the existing continuation budget. However, the Department indicates that they are unable to determine the resources required to fully monitor ticket broker sales or those needed for enforcement activities related to the prohibitions, violations, and disqualification provisions of the bill. The Department would have to promulgate rules. CCPS staff estimates that the rulemaking process will require 48 hours of work by a staff attorney, whose annual salary is $75,083, at a cost of $1,985, including salary and benefits.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE H1289-CSSVf-28 [v.2]

6/11/2003 9:43:31 PM

Short Title: Amend Private Protective Services Act/Fees. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) ~~The license shall be issued for a term of one year.~~Upon the issuance of a license, the licensee may elect a license term of two, three, or five years. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this

Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-9(e) reads as rewritten:

"(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ($250.00);

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~ a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~ a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);

(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);

(13) A branch office license fee not to exceed fifty dollars ($50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00)."

SECTION 7. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within ~~20~~30 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 8. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of

employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed any badge or shield that was not designed and approved by the Board.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.
(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days of any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:
(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.
(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
(3) Illegal use, carrying, or possession of a firearm.
(4) Acts involving assault.
(5) Acts involving unlawful breaking or entering, burglary, or larceny.
(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. A failure to report shall be grounds for revocation of the license."

SECTION 9. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:
(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.
(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.
(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.
(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private

investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or an armed private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or a private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security ~~guard,~~guard or private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An armed security guard~~ A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which a private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the

Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:

a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,

b. Familiarity with this section,

c. Range firing and procedure and hand gun safety and maintenance, and

d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 10. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing

education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 11. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000)~~,twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000)~~.twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 12. This act is effective when it becomes law.

HOUSE BILL 1289

Short Title: Amend Private Protective Services Act/Fees. (Public)

Sponsors: Representative Hackney.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) The license shall be issued for a term of ~~one year.~~two, three, or five years without a fee discount. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within 20 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 7. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) All licensees are required to report to the Board any criminal arrests for or charges or convictions of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. The Board must receive written notice of any arrest, charge, or criminal conviction within 30 days from the date of occurrence of any of these events. A failure to report shall be grounds for revocation of the license."

SECTION 8. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or a private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or a private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or a private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) An armed security guard firearm registration permit or private investigator firearm registration permit grants authority to the armed security ~~guard,~~guard or private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed security guard firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each private investigator firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the name of the private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If the holder of an armed security guard firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which a private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private

investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000),~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is

needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. This act is effective when it becomes law.

HOUSE BILL 1289:
Amend Private Protective Services Act/Fees.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 12, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H1289-CSSVf-28		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1289 amends various provisions relating to the private protective services profession and to the Private Protective Services Board, which regulates the profession, including the following:***

- ***Reducing from 14 to 9 the number of members on the Private Protective Services Board.***
- ***Extending the term of a license from one year to two, three, or five years, at the election of the licensee.***
- ***Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.***
- ***Authorizing the Board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.***
- ***Decreases the required minimum balance in the Private Protective Services Recovery Fund.***

The act would become effective when it becomes law.

CURRENT LAW: The Private Protective Services Board (Board) is an occupational licensing board within the Department of Justice. The purpose of the Board is to administer the licensing, education and training requirements to increase the level of integrity, competency and performance of the persons, firms, associations and corporations engaged in the private protective services profession within North Carolina in order to safeguard the public health, safety and welfare. The Board's responsibilities are generally divided into six categories:

1. Background investigation for licensing of 13 occupations
2. Registration of licensee employees
3. Conduct investigations of public complaints
4. Conduct compliance audits
5. Enforce law and rules through administrative disciplinary processes and criminal courts
6. Maintain required records

BILL ANALYSIS:

Sections 1 and 2 make definitional changes. Section 1 renames "counterintelligence service profession" as the "electronic countermeasures profession" to conform to a change in terminology made at the federal level. Section 2 amends the definition of "security guard and patrol profession" to include the protection of patrons and persons *being escorted between premises* of the entity that entered into the security services contract.

Section 3 reduces the membership of the Board from 14 to 9 members.

Section 4 expands the scope of the Board's powers by authorizing it to do the following:

- Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training.

- Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services.

Section 5 allows the licensee to choose the term of the license from among two, three or five years. This section also authorizes the Board to require a licensee to complete continuing education courses approved by the Board before a license may be renewed.

Section 6 makes conforming changes with Section 5 by clarifying that the license fee would be in an amount equal to the current annual fee multiplied by the number of years of the license term, as chosen by the licensee.

Section 7 extends from 20 to 30 days the period by which a licensee must register its employees who will be engaged in providing private protective services after employment begins. Section 7 also authorizes the Board to require that a registered, unarmed security guard complete continuing education courses approved by the Board before renewing the guard's registration.

Section 8 does three things:

- It provides as an additional ground upon which the Board may deny, suspend, or revoke a license that a licensee possessed or displayed a badge or shield that was not designed or approved by the Board.
- It requires licensees to report to the Board, within 30 days, any charges, arrests for, or convictions of a misdemeanor or felony for any of the following:

  (1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.
  (2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
  (3) Illegal use, carrying, or possession of a firearm.
  (4) Acts involving assault.
  (5) Acts involving unlawful breaking or entering, burglary, or larceny.
  (6) Any offense involving moral turpitude.

  A failure to report these arrests or convictions shall be grounds for revocation of the license.
- It makes clarifying changes to two other grounds for denial, suspension, or revocation of a license.

Section 9 does the following:

- It distinguishes private investigators from security guards for purposes of firearm registration permits. Under current law, "private detectives", who are defined to be synonymous with "private investigators" under this Chapter, are included within the definition of "armed security guards." Under the bill, the same permitting requirements would apply to both categories of private protective services professionals.
- It authorizes the Board to require a firearm registration permit holder and a certified firearms trainer to complete continuing education courses before renewing the holder's permit or the trainer's certification.
- It authorizes a private investigator to carry a concealed weapon during the performance of his duties upon doing all of the following:
  - Obtaining a concealed weapon's permit.
  - Successfully completing the firearms training course approved by the Board and the Attorney General.

- Having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon.

Section 10 authorizes the Board to require completion of continuing education courses approved by the Board before the renewal of a license, registration, certificate, or permit issued by the Board. The Board would be required to establish, by rule, the number of hours of continuing education courses necessary for renewal and any other requirements for completion of continuing education courses. Under current law, licensees are not required to complete continuing education courses.

Section 11 reduces the minimum balance required to be maintained in the Private Protective Services Recovery Fund (Fund). This Fund is a special fund established within the Office of the State Treasurer that is used to satisfy claims by aggrieved persons who have suffered a direct monetary loss by reason of certain acts committed by a licensee. Under current law, if the balance in the Fund drops below a minimum of $100,000, then the Board is authorized to charge annually each licensee and trainee an additional amount, not to exceed $50.00. The amount assessed will only be so much as is needed to raise the level of the Fund to $100,000. Section 11 lowers the minimum fund balance from $100,000 to $25,000.

Under current law, the State Treasurer invests the monies in the Fund and the Board uses the proceeds of the investments to advance education and research in the private protective services field. Section 11 would authorize the Board to use any funds derived from investments or any funds in excess of the minimum Fund balance for those purposes. It also allows the Board to provide grant money to private individuals, associations, or corporations sponsoring educational courses to offset the actual cost of the courses. The Board would also be able to use funds in excess of $50,000 to offset the operating expenses of the Board, if there is a unanimous vote of the Board and the Board makes findings of fact supporting the need for the funds.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1289 (1st Edition)

SHORT TITLE: Amend Private Protective Services Act/Fees

SPONSOR(S): Representative Joe Hackney

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES:					
Board Special Account (no General Fund impact)					
Sections 1-4, 6-9	No impact anticipated				
Section 5	See assumptions and methodology				
Section 10	See assumptions and methodology				
EXPENDITURES:					
Board Special Account (no General Fund impact)					
Sections 1, 2, 4, 7-9	No impact anticipated				
Section 3	($14,000)	($14,000)	($14,000)	($14,000)	($14,000)
Section 5	$ 5,000	Some savings possible after first year			
Section 10	See assumptions and methodology				
POSITIONS:	None				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Private Protective Services Board (in the Department of Justice)

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: This legislation would make changes to the Private Protective Services Act. Section 3 reduces the number of Board members from 14 to 9. Section 4 permits the Board to approve training programs and badge or shield designs. Sections 5, 6 and 9 allow the Board to require continuing education for licensees and registration holders and to issue multi-year licenses. Section 7 narrows the prohibition on a badge or shield for private investigators to those that purport to indicate that the person is a law enforcement officer, places a 60-day restriction on appeals, and requires all licensees to report to the Board criminal arrests, charges, or convictions for specific offenses within 30 days of the date of occurrence. Section 8 broadens the firearm registration permit requirement from "armed security guards" to "armed private investigators" and allows the Board to require continuing education courses for this permit. Section 10 reduces the minimum balance of the Private Protective Services Recovery Fund from $100,000 to $25,000 and allows the Board to convert funds in the Fund in excess of $25,000 for education or research purposes, and funds in excess of $50,000 to offset operating expenses.

ASSUMPTIONS AND METHODOLOGY:

The Private Protective Services Board is supported entirely by receipts. As a result, changes to revenues or expenditures will not impact the General Fund.

Section 3: Reduction in Board Members. The elimination of five members will reduce the Board's operating expenses by approximately $14,000 annually due to decreased travel and per diem costs for 6 meetings per year. (See technical considerations)

Section 4: Approval of Badge/Shield Design. Section 7 prohibits designs that purport to represent law enforcement officers. The Board could incur minimal costs to review designs.

Sections 4, 5, 6, 8 and 9: Continuing Education Requirements. The Board anticipates minimal costs associated with reviewing courses for approval. Costs for continuing education courses would be borne by the industry.

Section 5: Modification of License Terms. Licenses would be issued for two, three, or five years rather than one year, with no reduction in fees. Currently, a one-year license costs $200. According to the Board, the intent of this section is that the licensee could choose a two-year, three-year, or five-year license, at a cost of $400, $600, or $1,000 respectively. (See technical considerations) In the short term, this would accelerate revenue collections as licensees begin paying for multiple years up front. We cannot project the impact of this change in the fee structure on current and future licensees. In addition, Board staff estimate one-time expenditures of $5,000 to modify computer software, and potential workload reductions in later years due to less frequent renewals.

Section 7: Duty to Report Criminal Offenses. Licensees would be required to report to the Board within 30 days any criminal arrests, charges, or convictions for a range of offenses. Failure to do so would be grounds for license revocation. The Board has not identified any costs associated with this requirement.

Section 8: Firearm Registration Permits. The Board does not anticipate any fiscal impact due to including "armed private investigators" as firearm registration permitees.

Section 10: Private Protective Services Fund. The Fund is maintained for the purpose of paying claims against licensees. Claims are limited to $5,000 per obligation and $10,000 in aggregate against any one licensee within a year. The Board reports that, within the past five years, one claim – of less than $5,000 – was made against the Fund. Staff records indicate that this is the only claim paid since the Fund's inception in 1983.

Each new applicant for a license or training permit pays a fee of $50 into the Fund. For any year that the balance falls below the minimum, the Board is authorized to charge each licensee and trainee an additional fee (up to $50) in order to reach the minimum threshold. Under current law, the Fund balance must be at least $100,000. This bill would reduce the minimum balance to $25,000. Currently, the Fund balance is approximately $22,650. By reducing the minimum from $100,000 to $25,000, the Fund balance would be less than $3,000 below the minimum, and the Board would be able to charge a lower additional fee.

The funds are invested by the State Treasurer, and the Board may use the proceeds from its investments to fund education and research in the area of private protective services. This legislation would allow the Board to use all except $25,000 in the Fund for education and research purposes, and all except $50,000 to offset operating expenses. Currently, the balance is below $25,000, so no additional funds would be available for these purposes.

SOURCES OF DATA: Private Protective Services Board (within the Department of Justice)

TECHNICAL CONSIDERATIONS:

1. This legislation is effective when it becomes law, and would eliminate five board member positions. At present, there is only one vacancy on the Board. However, one of the Attorney General's appointees is serving a term that expired June 30, 2001, and several of the House and Senate appointees are serving terms that expire June 30, 2003. If this legislation is enacted prior to June 30, 2003, there will still be people serving in several of the positions to be eliminated.

2. Conversations with Private Protective Services Board staff indicate that the intent of Section 5 is to collect the same $200 *annual* fee, but to collect it in two, three, or five-year allotments, depending on the licensing option chosen by the licensee. However, it is not clear in the legislation that this is the intent of the phrase "without a fee discount." This fiscal analysis assumes the Board's interpretation is correct, and the equivalent of $200 per licensee per year will be collected – as $400 every two years, $600 every four years, or $1,000 every five years.

FISCAL RESEARCH DIVISION: **(919) 733-4910**

PREPARED BY: Chloe Gossage

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 11, 2003

House Committee on Finance

Minutes

~

June 17, 2003

The House Committee on Finance met on Tuesday, June 17, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

The meeting was called to order at 8:39 am. As the first matter of business, Chairman Allen recognized Representative Decker, who then moved that the Committee reconsider the vote on **SB 119 – EXPAND HISTORIC PRESERVATION CREDIT** (see attachment 3) taken at the June 12, 2003 meeting. Senator Horton, the bill sponsor, was present and was recognized to explain the rationale for the reconsideration. He noted that at the June 12, 2003 meeting, an amendment offered by Representative Ellis was passed and incorporated into the bill that allocated funds in the amount of $14,000 to the Department of Revenue to revise the state income tax forms to provide for line item accounting of individual deductions. Although Staff informed the Committee members at the June 12, 2003 meeting that these funds were not considered an appropriation, in retrospect they, in fact, were. The Senator continued by stating that in order for this bill to avoid being sent on to the House Appropriations Committee, it was necessary to request that Representative Ellis remove his amendment. The Chair then called the vote on Representative Decker's motion for reconsideration and the motion carried with no known opposition. Representative Ellis was then immediately recognized and acted to send forth a new Proposed House Committee Substitute (PCS) for SB 119. Representative Howard was recognized by the Chair and moved adoption of the new PCS for discussion purposes. The motion carried by consent. Representative Ellis then explained that the new PCS removed the aforementioned $14,000 appropriation and, thus, avoided the bill's re-referral to the Appropriations Committee. Representative Ellis also noted that, due to the circumstances surrounding this appropriation and after conferring with the Department of Revenue (DOR), it had been determined that the itemized listing of deductions he had requested could still be provided through general operating funds already appropriated to DOR. Following Representative Ellis' explanation, some general discussion of the PCS ensued among the members. Chairman Allen then recognized Representative Womble who moved for a favorable report as to the new House Committee Substitute for SB 119, and an unfavorable report as to the Senate Committee Substitute bill. Seeing no other discussion, Chairman Allen called the motion to a vote and it carried without objection.

The bill sponsor for **HB 806 – REBATE AND GRANT PROGRAM FOR AFVs** (see attachment 4), Representative Tolson, was recognized next to offer an explanation of his bill. First, however, the Chair recognized Representative Bordsen who moved that the PCS be adopted for

discussion purposes. He noted that the bill acts to provide a rebate (or grant) to consumers in the state purchasing AFVs (Alternative Fuel Vehicles). He informed the members of the minimal costs involved in the program over a 10-year period and voiced his belief that this program would provide an incentive for North Carolina consumers to start moving away from their reliance upon fossil fuels and to consider viable alternatives, such as these AFVs. He further stated that the mechanism being considered to fund this rebate program was a one-dollar ($1.00) increase in vehicle registration fee for the first three years and a two-dollar ($2.00) increase in the fee for the remaining seven years of the ten-year program. Overall, he stated that the program would cost vehicle owners approximately $17.00 over the ten years or $1.70 per year. Representative Ellis was then recognized and stated his distaste for grants (as provided in this bill) and proceeded to ask Representative Tolson if he had considered offering tax credits instead. Representative Tolson welcomed any suggestions from Representative Ellis as a means to move the bill forward from the Committee, while at the same time providing adequate funding to the program. Representative Hackney was recognized next by Chairman Allen. He clearly voiced his support of the bill as a good push upon future public policy and made a motion for a favorable report to the PCS on HB 806. Representative Wilson was then recognized and offered her concern that this bill, while it helps those that buy AFVs, it also acts to increase fees on everyone, even those who do not. Following this discussion, Representative Hill was recognized to send forth an amendment to HB 806 that acted to exempt rental car companies from paying these fees and/or receiving these rebates. However, upon consulting with Representatives Tolson and Luebke, Representative Hill then acted to withdraw his amendment in deference to the large number of visitors from the public that were present for the discussion of other bills on the Committee's calendar. The Chair next recognized Representative Wilson to send forth two (2) amendments. Representative Wilson explained that the first amendment acted to sunset the program after three years to allow the General Assembly to revisit the issue to make certain that the program is working as it was intended. Representative Wilson then having moved adoption of her amendment, the Chair recognized Representative Tolson who agreed with the proposed amendment. Seeing no further discussion, the Chair called the vote and the amendment was adopted by consent. Representative Wilson was then recognized to explain her second amendment and stated that the amendment acted to make state and local government entities ineligible for AFV rebates. She noted that this amendment would ensure that more of these grants would be allotted to private citizens and not to local or state governments. Representative Tolson was then recognized by the Chair and stated that he neither supported nor opposed the amendment, asking the Committee members to vote their consciences. Seeing no further discussion on the amendment, Chairman Allen then called the vote. As the Committee was split on the discussion, division was then requested, and by a vote of 12 ayes and 9 nays, the amendment was adopted. Representative Gibson was recognized next and stated his general support of the bill. However, he expressed his serious concerns on the proposed fee increases of the bill and inquired to Representative Tolson if the program could be funded in some other fashion. Representative Tolson stated that he shared similar concerns and referred the Committee to Mr. Larry Shirley, Director of the North Carolina State Energy Office within the Department of Administration. He explained that, currently, the State was investing about $1 million annually, which was not nearly enough. Chairman Allen then acted to temporarily displace HB 806, as a long amendment being drafted for Representative Ellis was not yet ready to be sent forth.

Chairman Allen called **HB 758 – BAN SHRIMP NETS/INCREASE RCGL FEES** (see attachment 5) as the next order of business before the Committee and announced the bill would be heard for discussion only and that no vote on the issue would be taken at the meeting. He then recognized the bill sponsor, Representative Stiller, to explain the bill. He stated that the bill would

make it unlawful for holders of Recreational Commercial Gear Licenses to take shrimp with a trawl net in certain inland waters in Brunswick and New Hanover Counties. He emphasized strongly that the bill has no effect on the licenses of "commercial shrimpers" and noted that very little shrimping was done at the present in the proposed areas of the bill. He also commented that one of the main purposes of the bill was to control erosion of the marine environments present in the waters (as determined and enforced by the Division of Marine Fisheries). Following this explanation, the Chair recognized Representative Hill who stated his representation of Brunswick County, the same area as Representative Stiller. He stated, however, that given the extremely large number of constituents from the area that were present and opposed to the bill, he would rather see the bill explained and discussed further before any formal action was taken. At Representative Hill's request, Chairman Allen then recognized Mr. Jerry Schill, President of the North Carolina Fishery Association, Inc., who spoke in opposition to the bill stating that it had not been handled "through due process" appropriately. He strongly advocated for further study and research on the issue prior to any action by the Committee. The Chair also recognized David Beresoff, a citizen of Brunswick County and a member of a number of area marine advisory committees, who voiced his opposition to the bill and questioned the bill sponsor as to why the bill had never been discussed within the community. Representative Stiller was recognized to respond and referred the members of the Committee to handouts various offices in the area had provided to him voicing their support for the bill. In concluding the discussion of the bill, Representative McCombs was recognized and asked that all those persons visiting who were opposed to the bill to please rise. Noting the extremely large number of those who arose in opposition, Chairman Allen thanked everyone present for their concerns and interests on the issue.

The Chairman then recognized Senator Rand to explain **SB 919 – HOMICIDE PREVENTION ACT/DOMESTIC VIOLENCE** (see attachment 6). Senator Rand began by noting that North Carolina was sixth in the nation for crimes committed by males against females. He explained that the bill directly involved domestic violence and cited statistics that by March of 2003, some 20 domestic violence homicides had been recorded in the state, and of those, at least 14 were killings that involved fire arms. In an attempt to address this problem, the Senator explained that the bill sets up a structure whereby firearms can be removed from domestic settings under certain circumstances when they are cause for significant threat. He noted that the bill had already been through a House Judicial Committee and was in the Finance Committee because, within the bill, when a firearm is removed, the Sheriff holds it. This bill authorizes the Sheriff to assess a reasonable fee for the handling of the firearm until it is sold or returned. He also stated that the Sheriff's Association supported the bill. Representative Ellis was then recognized and asked Senator Rand a question pertaining to whether he had considered a bill to remove the domestic violator rather than simply the firearm. Senator Rand responded that whatever was necessary to provide for the safety of those who reside within homes of domestic violence should be undertaken. Following this discussion, the Chairman recognized Representative Weiss who reviewed the Senator's comments that the bill had already received extensive debate in the Judiciary IV Committee, and, therefore, made a motion for a favorable report as to the existing House Committee Substitute bill (seconded by Representative Ross). Seeing no further discussion or debate, the Chairman then called the motion to a vote. The motion carried with no known opposition.

Chairman Allen then replaced **HB 806 – REBATE AND GRANT PROGRAM FOR AFVs** (see attachment 4) and recognized Representative Ellis to send forth the amendment, which was being prepared earlier and was the cause of the bill's earlier displacement. Representative Ellis explained that his amendment acts to set the proposed one-dollar ($1.00) fee increase as voluntary,

where vehicle registrants would have the option of whether or not to participate in the AFV Rebate Program. (He noted that those who opted not to participate would be ineligible to receive a grant.) Representative Tolson was then recognized by Chairman Allen to speak on the Ellis amendment. He expressed his opposition of this amendment, stating that it acted to effectively "kill" the bill, as a voluntary program (not mandatory) would not provide the needed funds for the program to remain financially viable. Seeing no further discussion on the amendment, Chairman Allen called the vote. Division of the members having been called, by a vote of 12 ayes and 13 nays, the amendment was not adopted.

As the Committee's time had then expired, Chairman Allen acted to displace HB 806 once again and immediately adjourned the meeting at 9:58 am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 119 (and related materials)
4. House Bill 806 (and related materials)
5. House Bill 758 (and related materials)
6. Senate Bill 919 (and related materials)
7. House Bill 1049 (and related materials)**(not discussed)**
8. House Bill 1072 (and related materials)**(not discussed)**
9. House Bill 1289 (and related materials)**(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 17, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. G. Allen

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 758 BAN SHRIMP NETS/CERTAIN INLAND WATERS *Rep. Stiller*

HB 806 REBATE AND GRANT PROGRAM FOR AFVS *Rep. Tolson*

HB 1049 LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE *Rep. Holliman*

HB 1072 REGULATE TICKET BROKERS *Reps. Miner and Gibson*

HB 1289 AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES *Rep. Hackney*

SB 119 EXPAND HISTORIC PRESERVATION CREDIT *Sen. Horton*

SB 919 HOMICIDE PREVENTION ACT/DOMESTIC VIOLENCE *Sen. Rand*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 12, 2003 4:04 PM
Cc: Nancy Goodman (House Legislative Assistant's Office)
Subject: 2ND CORRECTED NOTICE House Finance Committee 6-17-2003
Importance: High

2nd CORRECTED NOTICE:
HB 806 – ADDED TO CALENDAR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, June 17, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 758 – BAN SHRIMP NETS/CERTAIN INLAND WATERS – Rep. Stiller

HB 806 - REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 1049 – LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE – Rep. Holliman

HB 1072 – REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

SB 119 - EXPAND HISTORIC PRESERVATION CREDIT – Sen. Horton

SB 919 – HOMICIDE PREVENTION ACT/DOMESTIC VIOLENCE – Sen. Rand

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 12, 2003 3:12 PM
Subject: CORRECTED NOTICE House Finance Committee 6-17-2003
Importance: High

CORRECTED NOTICE:
SB 119 – CALENDARED FOR RECONSIDERATION

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, June 17, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 758 – BAN SHRIMP NETS/CERTAIN INLAND WATERS – Rep. Stiller

HB 1049 – LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE – Rep. Holliman

HB 1072 – REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

SB 119 - EXPAND HISTORIC PRESERVATION CREDIT – Sen. Horton

SB 919 – HOMICIDE PREVENTION ACT/DOMESTIC VIOLENCE – Sen. Rand

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **3:20 P.M.** on **June 12, 2003**.

___Principal Clerk

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 12, 2003 2:03 PM
Subject: NOTICE House Finance Committee 6-17-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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

DAY & DATE: **Tuesday, June 17, 2003**

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

LOCATION: **544 LOB**

The following bills will be considered:

HB 758 – BAN SHRIMP NETS/CERTAIN INLAND WATERS – Rep. Stiller

HB 1049 – LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE – Rep. Holliman

HB 1072 – REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

SB 919 – HOMICIDE PREVENTION ACT/DOMESTIC VIOLENCE – Sen. Rand

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:15 P.M.** on **June 12, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Diane Johnson	DMV
Charles [illegible]	Poyner + Spruill
Steve Wu	CCNC
Shirley Ireland	Commercial Fisherman Lowland Marina Rd. Lowland N.C.
Roberta & Tracy Cator	Commercial Fisherman 2123 NC Hwy 306S, Grantsboro, NC
Catherine O'Neal	BAYBORO NC 28515
Karen O'Neal	Aurora NC
Shirley Britt	Island Crab Co. Lowland
Dianne Haskill	Haskill Seafood Inc. Bayboro, N.C.
Gray Papp	New Bern Commercial Fisherman
Roland Leary	Hobucken N.C. Commercial Fisherman

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Ann Olsen	NCAPP
Karen Stewart	NCAPP
Ron Eckard	GRNC
Judy MacCallum	Domestic Violence Prevention Project
Robert J Robinson	Brunswick County
J Walton Will	Brunswick County
Mark Eggold	CCC
Joanne Stevens	housing / NCCASA
Barry Bryant	Governor's Crime Commission
Myricle Howard	Preservation NC
Angie Harris	Maupin Taylor

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Randy Lewis	GRNC
Shelia McCuiston	
Denny McCuiston	Commercial Fishing 105 Cypress Ave. Wrightsville Bch, N.C. 28480
Wayne Woodard	NC Dept. of Justice
Charles McDaris	NC Private Protective Services Board
Sandra Gaskill	Commercial Fishermen Carteret County Harker Island NC, 28531
Janice M. Smith	Seafood Dealer Luther L. Smith & Son Beaufort, Atlantic, N.C.
Myron Smith	Commerical Fishermen 1724 Briarforest Place, Ral N.C. 27615
Linnie Collins	NC DOR
Eddie Frost	NC DOR
Sharon Matthews	DOT-DMV

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Darin Mayo	Commercial Fisherman 921 Air Strip Rd Bayboro N.C. 28515
Helena Mayo	Commercial Fishing 921 Air Strip Rd Bayboro N.C. 28515
Kelly Ballance	Commercial Fishing 5804 Lowland Road Lowland, NC 28552
James R. McEachern	Commercial Fishing 8445 Hwy 55 New Bern N.C. 28560
Perry Quinby	Commercial fishing/Tug boat 135 state Rd 1249 Hobucken NC 28537
Forrest H Williams	Comm. Fisherman F/V Lady Helen 8519 Hwy 55 E F/V Shekinah Glory New Bern N.C. 28560 F/V Amanda Ashley
Jay Quinby	commercial fishing Tugboat 135 SR 1249 PO Box 93 Hobucken NC 28537
Tracy Cato	Commercial Fishi F/V Sea Spray ~~[illegible]~~ Oriental N.C.
Amy Willis	NC Fisheries Association P.O. Box 1303 New Bern, NC 28561
Steve McClees	McClees Consulting, Inc.
Paul Smith	3011 C.I Rd. CEDAR Island, NC 28520

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Milton Styron	Fishermen Asso
Leland Letterton	Fishermen
Cathie Hopkins	NCFAA NC Fisherman's Association
Darrow Hopkins	NCFAA
Jordan Hopkins	NCFAA
James R. Bateman	NCFAA
[illegible]	NCFA
Frank W. Folger	N.C. DOT
Paul Stock	NCBA
Leslie Bevacqua	NCCBI
David Redwine	Citizen

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chet Hodgin	Victims of Violence PoBox 548 Jamestown NC 27282
Beth Froehlig	NCCADV
Sam N. Lee Jr	Grain Growers Cooperative, Inc
Phyllis McElroy	Self - SB 919
Stan Baumgarner	Self - SB 919 Commercial Fishing.
Dave A Beresoff	
Tobin Freid	TJCOG
Anne Tazewell	TJCOG
Holli Smith	Fishmeen
Jim COLPEPPER	FISHERMAN
VERNON WARD	CHAIRMAN DEM PARTY BRUNSWICK FOR FISHERMAN

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 119

Finance Committee Substitute Adopted 6/4/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S119-CSLAx-27 [v.2]

6/16/2003 7:25:33 PM

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY EXTENDING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES AND INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, ~~2004,~~2008, for property placed in service on or after that date. Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. The Department of Revenue shall modify the tax credit form for income tax filers to provide separate lines for each of the tax credits currently aggregated in a single line, so that the Department may capture data about the fiscal impact of the specific credits.

SECTION 4. Sections 1, 3, and 4 of this act are effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 119

Finance Committee Substitute Adopted 6/4/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S119-CSLAx-27 [v.1]

6/11/2003 6:41:13 PM

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY EXTENDING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES AND INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, ~~2004,~~2008, for property placed in service on or after that date. Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 6-12-2003

S. B. No. 119 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE LAX-27

(Rep.) Ellis
Sen.)

moves to amend the bill on page 2, lines 2-3

( ) WHICH CHANGES THE TITLE

by adding the following between the lines:

"Section 3. The Department of Revenue shall modify the tax credit form for income tax filers to provide separate lines for each of the tax credits currently aggregated in a single line, so that the Department may capture data about the fiscal impact of the specific credits. The Department of Revenue may draw from collections under Article 4 of Chapter 105 of the General Statutes up to fourteen thousand dollars ($14,000) for the 2003-2004 fiscal year to implement this requirement.";

and in page 2, line 3, by rewriting the line to read:

"Section 4. Sections 1, 3, and 4 of this act are effective when it becomes law. Section".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 119
Finance Committee Substitute Adopted 6/4/03

Short Title: Expand Historic Preservation Credit. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY REMOVING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES, INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION, AND ALLOWING BOTH HISTORIC REHABILITATION TAX CREDITS TO BE TAKEN AGAINST FRANCHISE TAX AND GROSS PREMIUMS TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9 of S.L. 1999-389, as amended by Section 19(a) of S.L. 2001-476, reads as rewritten:

"**Section 9.** Sections 1 through 6 of this act are effective for taxable years beginning on or after January 1, 1999. ~~G.S. 105-129.35(b), as amended by this act, is repealed effective January 1, 2004, for property placed in service on or after that date.~~ Sections 7 and 8 of this act become effective for taxable years beginning on or after January 1, 2000. The remainder of this act is effective when it becomes law."

SECTION 2. G.S. 105-129.35(b) reads as rewritten:

"(b) Allocation. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this section may allocate the credit among any of its owners in its discretion as long as ~~the amount of credit allocated to an owner does not exceed the~~ an owner's adjusted basis in the pass-through entity, as determined under the Code, at the end of the taxable year in which the certified historic structure is placed in ~~service.~~service, is at least forty percent (40%) of the amount of credit allocated to that owner. Owners to whom a credit is allocated are allowed the credit as if they had qualified for the credit directly. A pass-through entity and its owners must include with their tax returns for every taxable year in which an allocated credit is claimed a statement of the allocation made by the

pass-through entity and the allocation that would have been required under G.S. 105-131.8 or G.S. 105-269.15."

SECTION 3. G.S. 105-129.37(a) reads as rewritten:

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

SECTION 4. Section 1 of this act is effective when it becomes law. Section 2 of this act is effective for taxable years beginning on or after January 1, 2003. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2004.

SENATE BILL 119:
Expand Historic Preservation Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Horton
Date:	June 11, 2003	**Analysis by:**	Martha Walston
Version:	CSLCx-74		Committee Counsel

SUMMARY: Senate Bill 119 amends the historic preservation tax credits as follows:

- *Places a sunset on Article 3D (Historic Rehabilitation Tax Credits) so that the Article is repealed effective January 1, 2008 for property placed in service on or after that date. Removes the January 1, 2004 sunset on the provision in the Article that permits a pass-through entity to allocate among it owners the tax credit for income-producing property.*
- *Amends the provision, which permits a pass-through entity to allocate among its owners the tax credit for income-producing property, by permitting the pass-through entity to allocate the credit to an owner if the owner's adjusted basis in the pass-through entity is at least 40% of the amount of the credit allocated to that owner.*

House Bill 1288, sponsored by Rep. Ross, is a companion bill.

BILL ANALYSIS: Section 1 of Senate Bill 119 places a sunset on the Article in the Revenue Laws providing for historic rehabilitation tax credits so that the Article is repealed effective January 1, 2008. Section 1 also removes the January 1, 2004 sunset on the provision in the Article that permits a pass-through entity to allocate among its owners the tax credit for income-producing property. Section 1 is effective when it becomes law.

Section 2 of Senate Bill 119 increases the amount of the credit for income-producing property that a pass-through entity may allocate among its owners. Current law requires that the credit can be allocated to an owner of the pass-through entity as long as the amount of credit allocated to the owner does not exceed the owner's adjusted basis in the pass-through entity, as determined under the Internal Revenue Code. Senate Bill 119 provides that the owner's adjusted basis must be at least 40% of the credit allocated to that owner. Section 2 is effective for taxable years beginning on or after January 1, 2003.

CURRENT LAW: G.S. 105-129.35 allows an income tax credit of 20% of the expenses of rehabilitating an income-producing historic structure. G.S. 105-129.36 allows an income tax credit of 30% of the expenses of rehabilitating an historic structure that is not income-producing. The credit for income-producing structures is lower because federal law also allows a 20% credit for those expenses, yielding a combined credit of 40%. The 20% credit is allowed only if the taxpayer qualifies for the federal credit and the 30% credit is allowed only if the taxpayer does not qualify for the federal credit. The credit may not be taken for the tax year the property is placed in service but must be taken in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

A pass-through entity may qualify for the rehabilitation credit and pass the credits on to its owners. A pass-through entity is an entity, such as a partnership, a limited liability company, or a Subchapter S corporation, that is treated as owned by individuals or other entities under federal tax law and whose income, losses, and credits are reported by the owners on their State income tax returns.

Under the Internal Revenue Code, tax credits are allocated among S corporation shareholders in accordance with their pro rata share of the corporation, which is determined on the basis of stock ownership, and tax credits are allocated among partners in a partnership in accordance with the partnership agreement. The allocation made by the partnership agreement must have a substantial economic effect, which means that the allocation agreement must reflect the economic interest of the partners in the partnership and cannot be based solely on tax consequences. Therefore, the allocation agreement of partners cannot give one partner 100% of the income, loss, or credits of the partnership. A pass-through entity may allocate the credit for rehabilitating an income-producing historic structure among any of its owners, as long as the amount of the allocated credit does not exceed the owner's adjusted basis in the entity, as determined under the Code. The adjusted basis is determined at the end of the taxable years in which the historic structure is placed in service. Each year an allocated credit is claimed, the pass-through entity and its owners must include a statement with their tax return that shows both the allocation made and the allocation that would otherwise have been required under G.S. 105-131.8 and G.S. 105-269.15. G.S. 105-131.8 provides that the tax credit allowed a shareholder in a Subchapter S corporation is based on the percentage of stock held by the shareholder in the corporation. G.S. 105-269.15 provides that the tax credit allowed a partner is based on the partnership agreement, which must have substantial economic effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 119 (Second Edition)

SHORT TITLE: Expand Historic Preservation Credit

SPONSOR(S): Senator Horton

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No estimate available				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Cultural Resources – State Historic Preservation Office; Department of Revenue

EFFECTIVE DATE: Section 1 (removal of sunset) is effective when it becomes law. Section 2 (allocation) is effective for taxable years beginning on or after January 1, 2003. The remainder of the act becomes effective for taxable years on or after January 1, 2004.

BILL SUMMARY: The bill removes the January 1, 2004 sunset on a pass-through provision for the tax credit for rehabilitating income-producing historic structures. The bill allows a pass-through entity that qualifies for the historic rehab credit to allocate the credit among its owners in its discretion as long as an owner's adjusted basis is at least 40% of the amount of the credit allocated to that owner. The bill also allows the credit to be used against the franchise tax and the gross premiums tax.

BACKGROUND: The National Park Service of the U.S. Department of the Interior administers a federal income tax credit equal to 20% of qualified rehabilitation expenditures for certified historic structures that are used in connection with a trade or business or held for the production of income. This credit is available for both residential rental buildings and nonresidential buildings. In order to qualify, the property itself must be either listed in the National Register, or located in a registered historic district and be certified as being of historic significance. All rehabilitation work must meet The Secretary of the Interior's Standards for Rehabilitation and must be approved by the State Historic Preservation Office (SHPO).

From 1993 to 1997, North Carolina investors eligible for the Federal Rehabilitation Investment Tax Credit were allowed a state income tax credit equal to one-fourth of the federal amount (5%). The 1997 General Assembly expanded the State income tax credit from 5% to 20% for rehabilitating an income-producing historic structure, effective for tax years beginning on or after January 1, 1998. (S.L. 1997-139) The credits may not be taken in one year, but must be spread out in installments over five years after the historic structure is placed in service. Any unused portion of a credit may be carried forward for a five-year period.

ASSUMPTIONS AND METHODOLOGY:

No estimate can be made of the actual fiscal impact of this bill. In theory, the bill has been proposed to increase the likelihood that the historic rehab tax credits will be fully utilized by taxpayers. However, the General Assembly's Fiscal Research Division has assumed from 1997 (the year the credit increased to 20%), that 100% of the tax credits have been used and have built 100% utilization of the historic credit into the General Fund availability forecast. All efforts to determine the actual cost of the credit program failed for reasons explained below.

From 1989 to 1997, the Journal of Multistate Taxation and Incentives reported North Carolina had 268 federally certified historic rehab projects valued at $125.3 million. The average project size in this period was $468,000 and the average number of projects each year was 30. The increase in the state credit in 1998 saw a significant increase in projects and in the size of projects. From 1998 through March 2003, $178.7 million was spent on rehabbing 199 historic structures. On average in the 1998-2003 period, 38 projects were completed each year at cost of $900,000 per project.

Income Producing Projects - Completed

Tax Year	# Of Projects	Rehab Expenses	Avg. Proj. Cost
1998	27	$6,748,550	$249,946
1999	36	$25,187,152	$699,643
2000	44	$39,385,678	$895,129
2001	50	$74,117,018	$1,482,340
2002	30	$27,229,772	$907,659
J - M 2003	12	$6,035,293	$502,941
	199	$178,703,463	$898,007

As shown in the chart below, the General Fund impact of these credits is lessened by the requirement that the tax credit be taken over five years. In FY 02-03, the actual credit earned is $6,906,727, an amount slightly lower than the original projection of $7.2 million made in 1997.

I. Income Producing Projects - Completed

Tax Year	Credit Amount	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03
1998	$1,349,710	$269,942	$269,942	$269,942	$269,942	$269,942
1999	$5,037,430		$1,007,486	$1,007,486	$1,007,486	$1,007,486
2000	$7,877,136			$1,575,427	$1,575,427	$1,575,427
2001	$14,823,404				$2,964,681	$2,964,681
2002	$5,445,954					$1,089,191
J - M 2003	$1,207,059					
General Fund Revenue Loss		**$269,942**	**$1,277,428**	**$2,852,855**	**$5,817,536**	**$6,906,727**
Original 1997 Estimate		**$1,050,000**	**$2,250,000**	**$3,750,000**	**$5,400,000**	**$7,200,000**

While the data above shows the amount of tax credits taxpayers are eligible for each year, it does not reveal the percentage of tax credits claimed each year. The Department of Revenue was asked to report on the amount of income-producing historic rehab credits taken in tax years 2000 and 2001. The Department's Tax Research Division responded that it could only determine the number of corporate taxpayers that claimed the historic rehab credit, because the agency's ITAS computer system does not contain information on the individuals that claim the credit. ITAS does not capture data on individual historic rehab tax credits, because the credit is one of a number of credits filed on Form D-400TC as a miscellaneous credit. The only way for the Department to determine the number of individual tax credits taken would be to manually search through 28,000 tax returns each year that claim a miscellaneous credit.

The Tax Research Division data on corporate historic rehab credits shows $893,265 was claimed in tax year 2000. Since these credits would probably have been claimed in the FY 2001-02 period, the reported $893,265 is only 15% of the $5.8 million in available credits that year. For the 2001 tax year, $725,703 in corporate credits were claimed out of $6.9 million credits available in FY 2002-03 (10.5%). Without the individual tax credit information, the corporate data is meaningless. No conclusion on credit utilization can be drawn from existing Department of Revenue or Department of Cultural Resources data.

SOURCES OF DATA: National Park Service; Journal of Multistate Taxation and Incentives (Nov/Dec 2000); Department of Revenue - Tax Research Division

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 4, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Senate Committee Substitute for
S.B. 119 A BILL TO BE ENTITLED AN ACT TO EXPAND THE TAX CREDITS FOR HISTORIC REHABILITATION BY REMOVING THE SUNSET ON A PROVISION ALLOWING A PASS-THROUGH ENTITY TO ALLOCATE AMONG ITS OWNERS THE TAX CREDIT FOR INCOME-PRODUCING STRUCTURES, INCREASING THE AMOUNT THAT MAY BE ALLOCATED TO AN OWNER UNDER THIS PROVISION, AND ALLOWING BOTH HISTORIC REHABILITATION TAX CREDITS TO BE TAKEN AGAINST FRANCHISE TAX AND GROSS PREMIUMS TAXES.

☐ With a favorable report.

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

☐ With a favorable report, as amended.

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

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

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 806
PROPOSED COMMITTEE SUBSTITUTE H806-CSSVf-26 [v.3]

6/10/2003 4:12:28 PM

Short Title: Rebate and Grant Program for AFVs. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall adopt rules implementing the program established in G.S. 113B-30.

(b) These rules shall be adopted after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in motor vehicle registration fees as provided in G.S. 20-87(b) and G.S. 20-88(i2).

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected under this section for the administration of the program.

(d) The State Energy Office may use up to ten percent (10%) of the funds collected under this section for education and awareness about the applications and advantages of alternative fuels and vehicles.

"**§ 113B-33. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund established.**

The Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund is created as a nonreverting account within the Department of Administration. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the purposes set out in this Article.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

(a) ~~These~~ There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

. . .

(b) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00

SECTION 3. G.S. 20-88 is amended by adding a new subsection to read:

"(i2) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to all other fees authorized

by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00"

SECTION 4. This act is effective when it becomes law. The State Energy Office shall adopt the rules to implement the program established by this act on or before January 1, 2004. This act shall expire on January 1, 2014.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. Hill
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Hill
Sen.)

moves to amend the bill on page 2, line 21-22

( ) WHICH CHANGES THE TITLE

by inserting the following between the lines

"§ 113-33.1. Exemptions.

U-drive-it vehicles as defined in G.S. 20-4.01 (48a) are exempt from the additional motor vehicle registration fees assessed pursuant to G.S. 20-87(b) and G.S. 20-88(i2), and are not eligible for rebates or grants issued by the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.".

Withdrawn by sponsor - Hill (without objection)

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. Wilson #1
(to be filled in by
Principal Clerk)

H806-ASVf-18 [v.1]

Date 6/17/03 ,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative C. Wilson

moves to amend the bill on page 2, lines 35-40, by rewriting the lines to read:
"(b) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 2, lines 42 through page 3, line 4, by rewriting the lines to read:
"(i2) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to all other fees authorized by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 3, line 7 by rewriting the line to read:
"before January 1, 2004. This act shall expire on January 1, 2007.".

SIGNED Connie Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____
by Comm

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. Wilson #2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Wilson
Sen.)

moves to amend the bill on page 2, line s 2-3

( ) WHICH CHANGES THE TITLE

by inserting between the lines:

"(d) The rules shall provide that State and local government entities are not eligible for rebates or grants under the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

12 Y 0 N 0

SIGNED Connie Wilson

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

1 of 3

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. Ellis
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVF26

(Rep.) Ellis
(Sen.)

moves to amend the bill on page 2, line 35-40

( ) WHICH CHANGES THE TITLE

by "(b) Upon initial registration or renewal, an owner shall have the option to pay ~~the following~~ an additional ~~fee~~ $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.";

P. 2, lines 42 through p. 3, line 4

"(i2) Upon initial registration or renewal, an owner shall have the option to pay an additional $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternatiur Fuel and Vehicle Rebate and Infrastructure Grant Program."

13 NV
12 yes

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(2) of 3

EDITION No. _____

H. B. No. 804 DATE 6/17/03

S. B. No. _____ Amendment No. Ellis
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSV8-26

Rep.) Ellis
)
Sen.)

moves to amend the bill on page 2, line 2-3

( ) WHICH CHANGES THE TITLE

by inserting the following new subsection between those lines:

"(e) The rules shall provide that a motor vehicle owner who elects not to pay the additional fee under G.S. 20-87(b) or G.S. 20-88(i2) shall not be eligible for a grant or rebate under the Program."

~~and on page 2, lines 28-29 by inserting the following:~~

~~"(c) The Division of Motor Vehicles~~

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. Ellis
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVf-26

(Rep.) Ellis
Sen.)

moves to amend the bill on page 3, line 4-5

( ) WHICH CHANGES THE TITLE

by inserting the following new section

" SECTION 3. G.S. 20-57 is amended by adding a new subsection to read:

"(b1) The registration card shall indicate whether the owner elected to pay the additional fee assessed under G.S. 20-87(b) or G.S. 20-88(i2) to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program." ;

and renumber remaining section.

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

H 1

HOUSE BILL 806

Short Title:	Rebate and Grant Program for AFVs.	(Public)
Sponsors:	Representatives Tolson; and Insko.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative fuel and vehicle rebate and infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall issue rules implementing the program established in G.S. 113B-30.

(b) These rules shall be issued after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

HOUSE BILL 806:
Rebate and Grant Program for AFVs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Tolson
Date:	June 11, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H806-CSSVf-26		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 806 creates the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program, funded by a $1.00 increase in vehicle registration fees for the first 3 years of the program, and by an additional $1.00 increase for the remaining 7 years of the program. The program would provide rebates to first-time purchasers of AFVs, rebates for State taxes paid on the incremental costs of alternative motor fuels, and grants for the construction of AFV infrastructure projects.***

CURRENT LAW: An alternative fuel vehicle is a vehicle that operates using a source other than gasoline or diesel fuel, such as electricity, natural gas, hydrogen, ethanol, methanol, or fuels derived from biological materials. There are currently no benefits provided by the State, such as tax credits or rebates, for the purchase or use of alternative fuel vehicles or for the use of alternative fuels. North Carolina does offer a corporate tax credit for building an alternative fuel generating facility, such as an ethanol or biodiesel plant.

BILL ANALYSIS:

Purpose of Program

House Bill 806 creates the "Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program" (Program). The State Energy Office, which is a division of the Department of Administration, would administer the Alternative Fuel Rebate and Infrastructure Grant Program. The bill authorizes the State Energy Office to issues rules that would govern the administration of the program. Among other things, the rules would establish the procedures for providing:

- Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.
- Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.
- Grants for alternative motor fuel infrastructure projects.

Funding of Program

For the first 3 years of the program, the grants and rebates would be funded from a $1.00 increase in the vehicle registration fee for motor vehicles registered in this State. For the remaining 7 years of the program, it would be funded from an additional $1.00 increase, for a total of a $2.00 increase during those 7 years. However, commitments to rebates and grants may never exceed available funds. The bill directs the State Energy Office to establish a cap on the number and amounts of rebates based on the availability of funds. Up to 5% of the funds collected would be shared by both the State Energy Office and DMV for administrative costs. Up to 10% of the funds collected may be used for education and awareness of the applications and advantages of alternative fuels and vehicles.

Reporting Requirements

The Division of Motor Vehicles would be required to provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type. The State Energy Office would be required to provide an annual report on the expenditure of funds associated with the program and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee.

EFFECTIVE DATE: The bill becomes effective when it becomes law. The State Energy Office must issue rules to implement the program on or before January 1, 2004. The act would expire on January 1, 2014.

H806-SMSV-001

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 806 First Edition

SHORT TITLE: Rebate and Grant Program for AFVs

SPONSOR(S): Representatives Tolson; and Insko

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
AFV Fee		**$8,068,737**	**$8,230,108**	**$8,394,710**	**$17,125,208**
EXPENDITURES					
DMV					
Computer system changes	$26,400				
State Energy Office					
Administration					
Personnel	$196,132	$196,132	$196,132	$196,132	$196,132
Other	$32,600	$32,600	$32,600	$32,600	$32,600
Rebates and Grants		$7,840,005	$8,001,376	$8,165,978	$16,896,476
POSITIONS: (cumulative)					
State Energy Office	**4.25**	**4.25**	**4.25**	**4.25**	**4.25**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV); State Energy Office (SEO)

EFFECTIVE DATE: When the bill becomes law, but revenue collections for the program are to start July 1, 2004.

BILL SUMMARY: The bill establishes an alternative fuel and alternative fuel vehicle rebate program to be administered by the State Energy Office. The program will provide partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles, limited rebates for State taxes paid on incremental costs of alternative motor fuels, and grants for alternative motor fuel infrastructure projects. The program would be funded by an additional $1 added to all registration fees for the first three years of the program and an additional $2 added to all registration fees for the remaining seven years of the program. A maximum of 5% of the funds collected can be used by the State Energy Office and DMV to administer the program.

The program is to include a cap on the number and amount of rebates and grants to limit them to the available funds.

The State Energy Office is to issue rules implementing the program on or before July 1, 2004, and upon final adoption of the rules the Division of Motor Vehicles is to begin collecting the additional fees mandated.

ASSUMPTIONS AND METHODOLOGY:

Expenditures

During FY03-04, SEO will be coordinating with other agencies and the industry in establishing rules for the program and DMV will be doing the computer changes necessary for the program. SEO estimates its expenditures at a total of $228,732, as follows:

Program Manager	$50,000
Program Associate	40,000
Administrative Assistant	30,000
Accounting Technician	32,000
Public Info Officer (1/4 time)	11,000
Fringe Benefits	33,132
TOTAL PERSONNEL	$196,132
TRAVEL	7,600
PRINTING and WEBSITE	$25,000
GRAND TOTAL	$228,732

SEO indicates that these administrative costs will continue during the life of the program.

DMV's expenditures during FY03-04 to prepare for the program include modifying the STARS (State Titling and Registration System) for plate fee calculation, updating the fiscal and other reports it prepares to capture the information required, and creation of the quarterly report specified in the bill. DMV estimates the cost of these activities as 300 professional hours times $80 per hour, or $24,000, plus computer overhead charges of $2,400, for a total of $26,400. Starting in FY04-05, during the operation of the program itself, DMV's costs are expected to be nominal and no estimate is shown.

Revenues

DMV estimates that the fee of $1 per vehicle will bring in $8,068,734 during the program's first year and that the number of vehicles will increase by 2% per year. The fee will double in the fourth year of the program. In each year, based on the bill, $228,732 will be used to pay administrative expenses and the remainder will be used for the rebates and grants according to the rules that SEO will be preparing in FY03-04.

SOURCES OF DATA: Division of Motor Vehicles; State Energy Office

TECHNICAL CONSIDERATIONS: The bill provides that SEO and DMV may use up to 5% of the funds collected for administration. However, administrative expenses will begin in FY03-04, while funds will not be collected until FY04-05. The source of funds for administration in FY03-04 is not clear.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bob Weiss

Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: June 9, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 758
Committee Substitute Favorable 4/23/03
PROPOSED COMMITTEE SUBSTITUTE H758-CSSVf-30 [v.2]

6/16/2003 4:25:45 PM

Short Title: Ban Shrimp Nets/Increase RCGL Fees. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL FOR HOLDERS OF A RECREATIONAL COMMERCIAL GEAR LICENSE TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES, TO INCREASE THE FEES FOR A RECREATIONAL COMMERCIAL GEAR LICENSE, AND TO REQUIRE RECREATIONAL COMMERCIAL GEAR LICENSE HOLDERS TO REPORT TO THE DIVISION OF MARINE FISHERIES REGARDING THEIR CATCH.

The General Assembly of North Carolina enacts:

SECTION 1. It is hereby unlawful for the holder of a Recreational Commercial Gear License to take shrimp with a trawl net in the following described inland waters:

All inland waters (internal coastal fishing waters) in New Hanover and Brunswick Counties with the exception of those waters in the Cape Fear River south of a line beginning at a point on the west shore at 34° 04.6040'N - 77° 56.4780'W running easterly to a point on the east shore 34° 04.7920'N - 77° 53.3550'W. The following area in the Cape Fear River is also closed by this act. Those waters in the Cape Fear River bounded by a line beginning on the south side of the Spoil island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780'N - 77° 56.0010'W; running easterly to the east shore of the Cape Fear River at a point 34° 01.7230'N - 77° 55.1010'W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080'N - 77° 56.4120'W; running northerly to Bird Island at a point 33° 58.3870'N - 77° 56.5780'W; running northerly along the west shoreline of Bird Island and the Cape Fear River Spoil islands back to point of origin.

SECTION 2. Violation of Section 1 of this act shall constitute a violation of G.S. 113-187, and shall be punishable pursuant to that section.

SECTION 3. G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars ($35.00).~~ forty dollars ($40.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be ~~two hundred fifty dollars ($250.00).~~two hundred eighty-five dollars ($285.00)."

SECTION 4. G.S. 113-173(i) reads as rewritten:

"(i) Reporting Requirements. – The holder of a RCGL shall report monthly to the Division on a form provided by the Division regarding the type and amount of fish taken under the RCGL, including the type and amount of bycatch. The holder of a RCGL shall also comply with ~~the~~ other biological data sampling and survey programs of the Commission and the Division."

SECTION 5. This act becomes effective December 1, 2003. Section 2 of this act applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 758
Committee Substitute Favorable 4/23/03

Short Title: Ban Shrimp Nets/Certain Inland Waters. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is hereby unlawful to take shrimp with a trawl net in the following described inland waters:

All inland waters (internal coastal fishing waters) in New Hanover and Brunswick Counties with the exception of those waters in the Cape Fear River south of a line beginning at a point on the west shore at 34° 04.6040'N - 77° 56.4780'W running easterly to a point on the east shore 34° 04.7920'N - 77° 53.3550'W. The following area in the Cape Fear River is also closed by this act. Those waters in the Cape Fear River bounded by a line beginning on the south side of the Spoil island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780'N - 77° 56.0010'W; running easterly to the east shore of the Cape Fear River at a point 34° 01.7230'N - 77° 55.1010'W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080'N - 77° 56.4120'W; running northerly to Bird Island at a point 33° 58.3870'N - 77° 56.5780'W; running northerly along the west shoreline of Bird Island and the Cape Fear River Spoil islands back to point of origin.

SECTION 2. Violation of this act shall constitute a violation of G.S. 113-187, and shall be punishable pursuant to that section.

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

HOUSE BILL 758:
Ban Shrimp Nets/Certain Inland Waters.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	June 17, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***House Bill 758 would make it unlawful for holders of a Recreational Commercial Gear License to take shrimp with a trawl net in certain inland waters in Brunswick and New Hanover Counties. Violation of this provision would be a Class A1 misdemeanor.***

The Proposed Committee Substitute adds two provisions:

- ***It increases the cost of a Recreation Commercial Gear License from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents.***
- ***It requires RCGL holders to report monthly to the Division of Marine Fisheries on the type and amount of fish taken under the RCGL, including the type and amount of bycatch.***

The act would become effective December 1, 2003.

CURRENT LAW: A person may catch fish, including shrimp, in the inland waters subject to certain limitations and requirements set forth by the Division of Marine Fisheries (Division). A person who catches fish using certain commercial gear, but who does not plan to sell the fish commercially, must obtain a Recreational Commercial Gear License (RCGL). The RCGL is an annual license that allows recreational fishermen to use limited amounts of commercial gear to harvest seafood for their personal consumption. Seafood harvested under this license cannot be sold. Fishermen using this license will be held to recreational size and possession limits.[1] The license expires one year from the date of purchase. The cost of the license is $35 for North Carolina residents and $250 for nonresidents. Holders of an RCGL are required to comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division of Marine Fisheries.

The Division of Marine Fisheries also issues a Standard Commercial Fishing License (SCFL) and a Retired Standard Commercial Fishing License (RSCFL).

BILL ANALYSIS:

Sections 1 and 2: Ban Shrimp Nets

Section 1 of the bill makes it unlawful for holders of a Recreational Commercial Gear License to take shrimp with a trawl net in the inland waters in New Hanover and Brunswick Counties. Any violation of this section is a Class A1 misdemeanor, effective for offenses occurring on or after December 1, 2003. A Class A1 misdemeanor is punishable by a minimum of 1-60 days or by a maximum of 1-150 days, depending on the number of prior convictions, plus a possible fine in an amount determined in the judge's discretion.

[1] Recreational size and possession limits, set out in the rules of the Marine Fisheries Commission, vary from species to species and also vary based on the time of year and geographic area.

Section 3: RCGL Fee Increase

Section 3 increases the cost of a Recreation Commercial Gear License from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents. These fees have not been increased since the license provisions were enacted by the General Assembly in 1997.

Section 4: RCGL Reporting Requirement

Section 4 requires the holder of an RCGL to report monthly to the Division of Marine Fisheries, on a form provided by the Division, regarding the type and amount of fish taken under the RCGL, including the type and amount of bycatch.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 16, 2003

TO: Representative Stiller

FROM: Heather Martin
Fiscal Research Division

RE: Ban Shrimp Nets/Increase RCGL Fees

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
DENR -RCGL Net Fee Increase	$13,275*	$26,035	$25,530	$25,035	$24,550
Dept of Correction	Unable to determine exact amount; no significant impact anticipated.				
Judicial Branch	Unable to determine exact amount; no significant impact anticipated.				
EXPENDITURES – General Fund					
DENR – DMF	$351,632*	$416,883	$423,438	$430,040	$436,872
POSITIONS:					
DENR-DMF Marine Patrol	2.7*	4.0	4.0	4.0	4.0

** Adjusted to reflect December 1, 2003 effective date.*

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources – Division of Marine Fisheries, Department of Corrections, and Judicial Branch.

EFFECTIVE DATE: December 1, 2003

BILL SUMMARY: HB 758 makes it unlawful for the holder of a recreational commercial gear license (RCGL) to take shrimp with a trawl net in certain inland waters located in Brunswick and New Hanover Counties. Violation of this ban would be a Class A1 misdemeanor. In addition, the cost for a RCGL will increase from $35 to $40 for North Carolina residents and $250 to $285 for non-residents. Holders of an RCGL will also be required to report monthly to the Division of Marine Fisheries (DMF) on a form provided by DMF regarding the type and amount of fish taken under the RCGL including the type and amount of bycatch.

ASSUMPTIONS AND METHODOLOGY:

Department of Environment and Natural Resources – Division of Marine Fisheries

Enforcement Costs

The North Carolina Marine Patrol is responsible for enforcing rules, regulations and statutes including trawling regulations as they apply to North Carolina's coastal waters. The Marine Patrol monitors commercial and recreational fishing, patrols coastal waterways, piers and beaches and inspects seafood houses, vehicles transporting seafood and restaurants to ensure compliance with fishery rules.

The District Three office which covers the southern area from Cape Carteret, New River, Cape Fear River, Wilmington and all areas south of Wilmington to the South Carolina state line would be responsible for enforcing HB 758. This ban would apply to approximately 225 miles of inland waters in New Hanover and Brunswick Counties except for certain parts of the Cape Fear River. Currently, there are 4 administrative employees in the District Three office and 18 field enforcement officers. According to the Division of Marine Fisheries, an additional 4 enforcement officers, 2 stationed in each affected county for day and night coverage, would be needed to enforce a shrimp net ban. The estimated total salary and benefits per year for four new enforcement officers would be $175,248 ($43,812 per position) with adjustments for inflation in future years. Each DMF enforcement officer will require a boat and vehicle for enforcement purposes totaling $46,700 per year. With the added maintenance and fuel the total cost per year for one new position would be $93,512. There would also be additional fuel costs for existing boats, aircraft and helicopters totaling $7,000 per year.

Item	FY 2003-04*	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Enforcement Officer I (salary/benefits)	$29,208	$45,521	$47,159	$48,810	$50,518
Enforcement Boat	$40,000	$40,000	$40,000	$40,000	$40,000
Boat Maintenance/Fuel	$3,000	$3,000	$3,000	$3,000	$3,000
Vehicle Lease/Fuel	$6,700	$6,700	$6,700	$6,700	$6,700
Existing Boat Fuel	$2,000	$2,000	$2,000	$2,000	$2,000
Existing Aviation Fuel	$7,000	$7,000	$7,000	$7,000	$7,000
Total	$87,908	$104,221	$105,859.41	$107,509.99	$109,218
Total w/4 officers	**$351,632**	**$416,883**	**$423,438**	**$430,040**	**$436,872**

** FY 2003-04 adjusted to reflect November 1, 2003 start date.*

The general fund fiscal impact for FY 2003-04 to enforce a shrimp trawling ban for RCGL holders would be $351,632. The FY 2003-04 salary and benefits figure has been adjusted assuming a November 1, 2003 start date to begin enforcing the ban by December 1, 2003.

Recreational Commercial Gear License Fee Increase

The fee to obtain a RCGL would increase from $35 to $40 for North Carolina residents and $250 to $285 for non-residents. The RCGL is an annual license that allows recreational fishermen to use limited amounts of commercial gear to harvest seafood for their personal consumption. Seafood harvested under this license cannot be sold and is subject to recreational size and possession limits. In 2001 there were 6,126 resident and 76 non-resident RCGLs sold and in 2002 there were 5,304 resident and 17 non-resident RCGLs sold. **Factoring in a modest 2% decline for FY 2003-04 the total net revenue generated from a fee increase would be $13,275. For FY 2004-05 the total net revenue would be $26,035**. Since the fee increase would not take effect until December 1, 2003, the revenue for FY 2003-04 would be approximately half what it would be in subsequent years. The RCGL fee has not been increased since its inception in 1997.

Revenue from the RCGL goes into the DMF Advance License Sale Special Fund. This money is subsequently transferred to DENR's general fund at sporadic intervals. It is still undetermined if there are any restrictions on how that money can be used once transferred.

Fiscal Research is also unable to estimate if there are additional administrative costs associated with the RCGL reporting requirement.

Department of Corrections

Since the proposed bill creates a new offense, the North Carolina Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In FY 2001-02, 20% of Class A1 misdemeanor convictions resulted in active sentences. The average estimated time served was 55.1 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. For offenses that are brought to trial as Class 1 misdemeanors, the estimated court cost per trial is $3,144. For Class 1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $279.

SOURCES OF DATA: Department of Environment and Natural Resources – Division of Marine Fisheries, Department of Corrections and Judicial Branch.

TECHNICAL CONSIDERATIONS: None.

MADE AVAILABLE TO
FINANCE COMM. MEMBERS
BY
REP. BONNER L. STILLER

Limiting the Impact of Net Fishing in Coastal Waters of North Carolina

The capture of fish and other aquatic animals has a long tradition in the U.S. and North Carolina. Nets allow a few fishermen to gather large numbers of commercial marine or freshwater animals in a short period of time. There are two general types of net fishing. In one case, nets are set and fish caught when they encounter and move into nets. In the other, nets are dragged or pulled, trapping fish in the process. Nets can be designed to fish any segment of the water column from top to bottom.

There are environmental and management problems that can result from net fishing. For fish stocks that have experienced stock decline, the loss of large numbers from a population promotes the continued decline or limits the recovery of a fish stock. Net fishing often targets a species during critical periods, such as when adults or juveniles are migrating or when a species is in a spawning aggregation. To some degree, this is a problem related to both increased exploitation, i.e. more fishermen, coupled with habitat loss or degradation. In parts of North Carolina with large numbers of fishermen (commercial and recreational), coupled with small areas of coastal waters, a high proportion of important stocks of marine animals are impacted by nets during the part of the life cycle when these animals are within the barrier islands or along area beaches.

The second major problem is the loss that results from the catch of non-target species. These other species can be endangered, such as sea turtles, or commercial species whose harvest is restricted by regulations. In terms of numbers, however, most "bycatch" typically consists of juveniles of both commercial and non-commercial species. Bottom trawling is the primary technique responsible for this type impact where non-target to target species average around 3:1 in pounds. When the price for target species is high, fishermen are willing to tolerate even higher bycatch ratios.

Stationary gill nets can accomplish the same thing. Non-target fish trapped in gill nets often die in the net or lose the protective material covering their scales and die later. Marine transient species important to North Carolina's fisheries spend their juvenile period inshore and have limited ability to escape bottom trawls. Most primary nursery areas are protected under current regulations, but other areas where juvenile fish spend time are not.

Habitat alteration can also occur, especially with bottom trawling. This type of fishing is prohibited where rooted, submerged vegetation is located, but is allowed on most muddy and sandy bottoms because this habitat is not noticeably altered. During summer's peak season activity, an area of bottom in the Pamlico River chosen at random during a national study was dragged over 20 times in 24 hours. Dragging nets over soft bottom also increases the turbidity of the water column. While most estuarine fish and crustaceans can tolerate high turbidity, there is an associated reduction in the production of algae in the water column and in nearby rooted, submerged vegetation. Trawling near areas of submerged aquatic vegetation has the potential to destroy nearby aquatic plants as it severely limits photosynthesis when turbid water moves over these rooted plant communities. There is no evidence to suggest that bottom trawling is in someway similar

to plowing an agricultural field in that it increases the fertility of organisms found in the mud and sand bottoms.

Net fishing in sounds and bays of North Carolina has historically been an economically important aspect of commercial fishing. Marine species caught near shore require less transport time and can be caught using smaller vessels. The economic value from the production of these fish stocks is maintained close to the location where it was caught. As long as fish stocks exceeded the needs of North Carolina's citizens, net fishing was compatible with the mandate from Public Trust Common Law that requires the state to protect waters of the state, including fish stocks, for all citizens of the state. Several years ago, the NC's Marine Fisheries Commission recognized that this Public Trust obligation was not being met and revised the manner in which commercial fishing licenses were issued in an attempt to protect valuable fish stocks. There were 5893 valid commercial fishing permits issued in 2003 by the Division of Marine Fisheries for coastal water of North Carolina and the total number is limited. Commercial fishermen can use any legal means to harvest fish and shellfish as long as they obey state and federal regulations. Areas where net fishing is allowed can be limited by proclamation by the Director of the Division of Marine Fisheries. There are also 5866 Recreational Commercial licenses issued to individuals that allow them to use a single 100' gill net as well as other commercial gear including bottom trawls.

There is an inherent conflict that develops between commercial and recreational fishermen when fish stocks become fully utilized by humans. If economic value were the only criterion, recreational fishing would be chosen over the commercial industry because the total value to the state's economy from a pound of fish caught by a recreational fisherman brings 10 times more value to the local economy that does the same pound of fish caught by a commercial fisherman. Local economies benefit through the sale of boats and associated equipment, marina rentals, fishing gear, bait sales, motel rentals, restaurants, etc; an effect magnified in the local economy. Commercial fishermen's goal is to spend as little time and money as possible catching the wild stock and value accrues to the economy only when fishermen can satisfy the economic balance between cost and sale. Recreational fishermen do not relate success to profit, but to the ability to catch fish. The shift from commercial to recreational harvest is a boom for coastal economies, but will disappear when stocks of major fish species decline from over harvest and recreational fishermen spend their money in other states where fish are more plentiful.

While conflicts between net fishermen and recreational fishermen on the water are relatively common, most conflicts do not involve commercial fishermen, but those with Recreational Commercial licenses. There is no limit to the number of these licenses that can be issued and conflicts arise when recreational commercial fisherman set nets around anglers as they are catching fish. Seafood harvested with these recreational licenses cannot be sold, limiting the value of this resource to the local economy. The Recreational Commercial license also allow the use of a 25' bottom trawl, five crab pots, and other types of harvest not available to those without such a license. Much of the perceived conflict between net fishermen and sports fishermen is not between commercial interests and sport fishermen, but between recreational net fisherman and anglers. There is the potential for this conflict to increase as more recreational net fishermen use coastal water, especially in the limited areas inside the barrier islands from

Page 3 Limiting the Impact of Net Fishing in Coastal Waters of NC

Beaufort to Little River. This part of the state's coastal waters contain the most fishermen per square mile and the marine resources sought by both recreational and commercial fisherman is clearly limited.

A total ban on net fishing from coastal waters will be difficult because of the long history of this type of fishing in North Carolina and because most commercial fishermen will lose their livelihood if net fishing is banned. The elimination of he Recreational Commercial license, however, has benefits to both recreational fishermen that rely on line fishing and to commercial fishing interests. First, some restrictions will ultimately be necessary in the future anyway as the numbers of Recreational Commercial licenses grows. Second, the fish and shrimp stocks will increase if such a ban is enacted or at least not decrease to the same degree allowing more for both those citizens that depend on fishing for their livelihood and for recreational anglers as well. Finally, the removal of the large group of individuals that set nets near recreational anglers will eliminate much of the growing friction that exists today.

The limited number of true Commercial fishermen that can use any type of fishing gear will ultimately be affected by the increased catch of seafood by recreational anglers as North Carolina's population grows. One solution to this dilemma of more fishermen and a constant fish stock is for the state to purchase or reclaim any license not actively used for some set period of time. This would result is the gradual decline of Commercial Fishermen, at least within the barrier islands, but provide these fishermen with more fish per individual to catch.

State of North Carolina
Department of Environment and Natural Resources
Wilmington Regional Office
Division of Marine Fisheries

Michael F. Easley Governor
Preston P. Pate, Director

NCDENR
North Carolina Department of Environment and Natural Resources

MADE AVAILABLE TO FINANCE COMM. MEMBERS BY REP. BONNER L. STILLER

Rep. Bonner L. Stiller
North Carolina House of Representatives
300 North Salisbury St.
Room 508
Raleigh N.C. 27603

Dear Rep. Stiller

The following information is a summary of shrimp samples collected on May 29, 2003 in the Brunswick County Intracoastal Waterway that you requested. A 20 ft shrimp trawl was used to take the samples. Location and the tow times are included with the summary of each sample.

Sample 1 (5 min tow): Oak Island Bridge
Brown shrimp – 2lbs, 10oz; 478 shrimp (182 shrimp/pound)
Pink shrimp – 4oz; 12 shrimp
Bycatch – approx. 3 lbs, primarily croaker

Sample 2 (4 min tow): Holden Beach, Marker 163
Brown shrimp – 12oz; 100 shrimp
Pink shrimp – 2oz; 6 shrimp
Bycatch – approx. 3lbs, primarily bay anchovy

Sample 3 (3 min tow): West of Ocean Isle Beach
Brown shrimp – 1oz; 9 shrimp
Pink shrimp – 1lb 1 oz; 51 shrimp (30 shrimp/pound)
Bycatch – approx. 2 lbs, primariy croaker

Sample 4 (4 min tow): East of Sunset Beach Bridge
Brown shrimp – 8lb, 2oz; 1349 shrimp (166 shrimp/pound)
Pink shrimp – 6oz; 17 shrimp
Bycatch – approx. 2lbs, primarily spot and croaker

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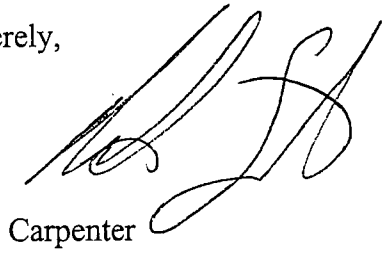
Other species observed in the bycatch were: hogchoker, summer flounder, bighead sea robin, leopard sea robin, northern sea robin, silver perch, grey trout, squid, striped anchovy, oscellated flounder, blue crab, lesser blue crab, mud crab, speckled worm eel, lookdown, butterfish, blackcheek tonguefish, seaboard goby, hardhead shrimp, grass shrimp, pigfish, and bay whiff. The dominant species in the bycatch were croaker, spot, bay anchovy, and blue crab. These samples were used to close the Intracoastal Waterway to shrimping.

If you need any further information, please contact me.

Sincerely,



Rich Carpenter
District Manager
N.C. Division of Marine Fisheries

STAR-NEWS | TUESDAY, JUNE 3, 2003

MADE AVAILABLE TO FINANCE COMM. MEMBERS BY REP. BONNER L. STILLEI

Support mounts to better manage world's fisheries

By Rick Weiss
The Washington Post

Momentum is building in the United States and abroad for an overhaul in the global management of fisheries and other ocean resources.

Marine scientists hope the movement, to be highlighted soon in three major reports calling for reforms, will lead to the first significant revisions in U.S. fisheries policy in nearly 40 years and inspire other nations to follow suit. The problem is straightforward: Populations of fish and other marine creatures have suffered drastic reductions because of overfishing and environmental degradation.

The latest analysis, reported last month by Canadian scientists, found that populations of virtually all the world's major marine fish species had fallen to 10 percent of their natural levels.

Fortunately, marine scientists say, years of research into ocean ecosystems and fisheries management have begun to pay off with practical knowledge about how to reverse current trends. Marine biologists and oceanographers have learned a tremendous amount about the life cycles and habits not only of fish, but also of the smaller marine forms and microscopic plankton upon which fish depend.

If those scientific findings were translated into policies, experts say, fishermen could catch far more than they do today while causing less damage to marine ecosystems.

"What we're seeing is an emerging 'mutiny for the bounty,'" said Jane Lubchenco, a professor of zoology at Oregon State University in Corvallis. "It's an acknowledgment that we've lost the bounty and a willingness to try to do something about it."

Dr. Lubchenco is a member of the Pew Oceans Commission, a privately funded collection of scientists, commercial fishermen and others that has been studying the problem for almost three years and will release its recommendations on Wednesday.

A coalition of environmental groups will release its report today, and the congressionally chartered U.S. Commission on Ocean Policy is expected to finish its work later this year. Although their reports have not been released, the groups' collective advice has largely been foreshadowed in interim publications and presentations.

"What's going on out there is the last buffalo hunt with regard to our fisheries," said Leon Panetta, chairman of the Pew Commission and former White House chief of staff in the Clinton administration.

"There are some success stories where depleted fisheries are being restored," said Mr. Panetta, who, as the son of a Monterey Bay fisherman, grew up watching the local sardine industry collapse from overfishing. "But overall, we take a kind of boom-and-bust approach to fisheries."

The U.S. could double its current catches if populations were first rebuilt, he said.

C.B.C.

April 30, 2003

North Carolina General Assembly

MADE AVAILABLE TO
FINANCE COMM. MEMBERS
BY
REP. BONNER L. STILLER

State Port Pilot
105 S. Howe Street
Southport, N. C. 28461

Dear Editor,

I would like to comment on the bill, Rep. Bonner Stiller of the 17th district, introduced to the Legislator, concerning trawling in the Cape Fear River and it's tributaries.

I will soon be 72 years old, born in Oriental by the mouth of the Neuse River, to a family that were Commercial Fisherman for many generations. I started fishing with my dad when I was just a small boy. I've been engaged in the commercial fishing industry all of my life. I was engaged in fishing industry in the Pamlico Sound area until 1964 when we moved to Southport, where we established a crab processing plant and have remained in business now for 40 years. During this time I have seen the crab supply, which was very plentiful decimated to the point that we stopped processing crab in 1996, as did most of the plants in the state. We now purchase our meat from other sources.

The cause for this is two primary reasons, water quality and the destruction of primary and secondary nursing areas. Trawling is a detriment, not just because of juvenile fish, crab, and shrimp that are destroyed, but more over it's the damage that occurs to the bottom of our nursery areas. North Carolina has for decades been losing tens or thousands of acres of nursery areas. This has to stop!

I might add that I served on the N. C. Fisheries Commission for 12 years, eight of those years as Chairman and Vice Chairman. I am also a Charter Member of the N. C. Fisherics Association for more than 50 years. Not an expert by no means "but" it doesn't take a Rocket Scientist to figure out that you have to hatch them before you can catch them.

I thank God we now have a representative that is willing to take a stand, for the protection of our estuaries, even though it may not be politically correct.

Sincerely,

C.B. Caroon

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 919

Judiciary I Committee Substitute Adopted 4/28/03
House Committee Substitute Favorable 6/11/03

Short Title: Homicide Prevention Act/Domestic Violence. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE SAFETY OF VICTIMS IN SERIOUS DOMESTIC VIOLENCE CASES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"**§ 50B-3.1. Surrender and disposal of firearms; violations; exemptions.**

(a) Required Surrender of Firearms. – Upon issuance of an emergency or ex parte order pursuant to this Chapter, the court shall order the defendant to surrender to the sheriff all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant if the court finds any of the following factors:

(1) The use or threatened use of a deadly weapon by the defendant or a pattern of prior conduct involving the use or threatened use of violence with a firearm against persons.

(2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.

(3) Threats to commit suicide by the defendant.

(4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

(b) Ex Parte or Emergency Hearing. – The court shall inquire of the plaintiff, at the ex parte or emergency hearing, the presence of, ownership of, or otherwise access to firearms by the defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(c) Ten-Day Hearing. – The court, at the 10-day hearing, shall inquire of the defendant the presence of, ownership of, or otherwise access to firearms by the

defendant, as well as ammunition, permits to purchase firearms, and permits to carry concealed firearms, and include, whenever possible, identifying information regarding the description, number, and location of firearms, ammunition, and permits in the order.

(d) Surrender. – Upon service of the order, the defendant shall immediately surrender to the sheriff possession of all firearms, machine guns, ammunition, permits to purchase firearms, and permits to carry concealed firearms that are in the care, custody, possession, ownership, or control of the defendant. In the event that weapons cannot be surrendered at the time the order is served, the defendant shall surrender the firearms, ammunitions, and permits to the sheriff within 24 hours of service at a time and place specified by the sheriff. The sheriff shall store the firearms or contract with a licensed firearms dealer to provide storage.

(1) If the court orders the defendant to surrender firearms, ammunition, and permits, the court shall inform the plaintiff and the defendant of the terms of the protective order and include these terms on the face of the order, including that the defendant is prohibited from owning, possessing, purchasing, or receiving or attempting to own, possess, purchase, or receive a firearm for so long as the protective order or any successive protective order is in effect. The terms of the order shall include instructions as to how the defendant may request retrieval of any firearms, ammunition, and permits surrendered to the sheriff when the protective order is no longer in effect. The terms shall also include notice of the penalty for violation of G.S. 14-269.8.

(2) The sheriff may charge the defendant a reasonable fee for the storage of any firearms and ammunition taken pursuant to a protective order. The fees are payable to the sheriff. The sheriff shall transmit the proceeds of these fees to the county finance officer. The fees shall be used by the sheriff to pay the costs of administering this section and for other law enforcement purposes. The county shall expend the restricted funds for these purposes only. The sheriff shall not release firearms, ammunition, or permits without a court order granting the release. The defendant must remit all fees owed prior to the authorized return of any firearms, ammunition, or permits. The sheriff shall not incur any civil or criminal liability for alleged damage or deterioration due to storage or transportation of any firearms or ammunition held pursuant to this section.

(e) Retrieval. – If the court does not enter a protective order when the ex parte or emergency order expires, the defendant may retrieve any weapons surrendered to the sheriff unless the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(f) Motion for Return. – The defendant may request the return of any firearms, ammunition, or permits surrendered by filing a motion with the court at the expiration of the current order and not later than 90 days after the expiration of the current order. Upon receipt of the motion, the court shall schedule a hearing and provide written notice to the plaintiff who shall have the right to appear and be heard and to the sheriff

who has control of the firearms, ammunition, or permits. The court shall determine whether the defendant is subject to any State or federal law or court order that precludes the defendant from owning or possessing a firearm. The inquiry shall include:

(1) Whether the protective order has been renewed;

(2) Whether the defendant is subject to any other protective orders; or

(3) Whether the defendant is disqualified from owning or possessing a firearm pursuant to 18 U.S.C. § 922 or any State law.

The court shall deny the return of firearms, ammunition, or permits if the court finds that the defendant is precluded from owning or possessing a firearm pursuant to State or federal law.

(g) Motion for Return by Third-Party Owner. – A third-party owner of firearms, ammunition, or permits who is otherwise eligible to possess such items may file a motion requesting the return to said third party of any such items in the possession of the sheriff seized as a result of the entry of a domestic violence protective order. The motion must be filed not later than 30 days after the seizure of the items by the sheriff. Upon receipt of the third party's motion, the court shall schedule a hearing and provide written notice to all parties and the sheriff. The court shall order return of the items to the third party unless the court determines that the third party is disqualified from owning or possessing said items pursuant to State or federal law. If the court denies the return of said items to the third party, the items shall be disposed of by the sheriff as provided in subsection (h) of this section.

(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by subdivision (4), (4a), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge.

(i) It is unlawful for any person subject to a protective order prohibiting the possession or purchase of firearms to:

(1) Fail to surrender all firearms, ammunition, permits to purchase firearms, and permits to carry concealed firearms to the sheriff as ordered by the court;

(2) Fail to disclose all information pertaining to the possession of firearms, ammunition, and permits to purchase and permits to carry concealed firearms as requested by the court; or

(3) Provide false information to the court pertaining to any of these items.

(j) Violations. – In accordance with G.S. 14-269.8, it is unlawful for any person to own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to this Chapter is in effect. Any defendant violating the provisions of this section shall be guilty of a Class H felony.

(k) Official Use Exemption. – This section shall not prohibit law enforcement officers and members of any branch of the United States armed forces, not otherwise prohibited under federal law, from possessing or using firearms for official use only.

(l) Nothing in this section is intended to limit the discretion of the court in granting additional relief as provided in other sections of this Chapter."

SECTION 2. G.S. 14-269.8 reads as rewritten:

"**§ 14-269.8. Purchase or possession of firearms by person subject to domestic violence order prohibited.**

(a) ~~It~~ In accordance with G.S. 50B-3.1, it is unlawful for any person to ~~purchase or attempt to purchase any gun, rifle, pistol, or other firearm while there remains in force and effect a domestic violence order issued pursuant to Chapter 50B of the General Statutes, prohibiting the person from purchasing a firearm.~~ own, possess, purchase, or receive or attempt to own, possess, purchase, or receive a firearm, as defined in G.S. 14-409.39(2), machine gun, ammunition, or permits to purchase or carry concealed firearms if ordered by the court for so long as that protective order or any successive protective order entered against that person pursuant to Chapter 50B of the General Statutes is in effect.

(b) Any person violating the provisions of this section shall be guilty of a Class H felony."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

SENATE BILL 919:
Homicide Prevention Act/Domestic Violence.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Rand
Date:	June 17, 2003	**Summary by:**	Trina Griffin
Version:	3rd Edition		Committee Counsel

SUMMARY: ***Senate Bill 919 specifically provides that where a court has issued an order to bring about a cessation of acts of domestic violence, the court shall order the defendant to surrender all firearms under the defendant's possession or control, if the court finds any one of several listed factors.***

This bill was given a favorable report by the House Judiciary IV Committee, and has been re-referred to House Finance because it authorizes the sheriff to charge a reasonable fee for the storage of firearms and ammunition taken pursuant to a protective order. The fees are to be used to pay for the cost of administering the provisions in the bill and for other law enforcement purposes.

CURRENT LAW: A court has the authority to prohibit a party from purchasing a firearm for a time fixed in the domestic violence order (G.S. 50B-3(a)(11)). Courts are also authorized to enter orders deemed necessary to protect a party or a minor child.

BILL ANALYSIS: The bill adds a new G.S. 50B-3.1 and makes conforming changes to G.S. 14-269.8. The new provisions are as follows:

- Upon the issuance of a domestic violence restraining order, the court is required to order the defendant to surrender to the sheriff all firearms, permits to purchase firearms, and permits to carry concealed firearms that are in the defendant's care, custody, possession, ownership or control, if the court finds any of the following factors:

  (1) The use or threatened use of a deadly weapon by the defendant, or a pattern of prior conduct by defendant involving violence with a firearm against persons.

  (2) Threats to seriously injure or kill the aggrieved party or minor child by the defendant.

  (3) Threats to commit suicide by the defendant.

  (4) Serious injuries inflicted upon the aggrieved party or minor child by the defendant.

- The court is required to question the defendant as to the defendant's ownership or access to firearms, permits, and ammunition, as well as the identifying information of the same.

- The defendant is required to surrender to the sheriff all items listed in the order. The sheriff may charge a reasonable storage fee and is not liable for any damage due to storage or deterioration. The terms of the order must include a notice of the penalty for a violation and notice of the procedure for the defendant to request return of the firearms.

- By motion, the defendant may request the return of the items at the expiration of the order. The court is required to determine whether any State or federal law would preclude the return of the items. If a motion for return is not filed, or if the defendant is precluded by law from re-obtaining the items, or fails to remit fees to the sheriff for storage, then an order for disposition may be sought.

- A third party owner of the firearms may file a motion for return of the seized firearms.
- It is a Class H felony to (1) violate the court order, (2) fail to surrender the firearms, ammunition or permits, or (3) provide false information to the court.

The act is effective December 1, 2003, and applies to offenses committed on or after that date.

H. Alan Pell, Committee Counsel to the Senate Judiciary I Committee, contributed substantially to this summary.

S919-SMSV-003

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE
(INCARCERATION NOTE G.S. 120-36.7)

BILL NUMBER: SB 919 3rd Edition

SHORT TITLE: Homicide Prevention Act/Domestic Violence

SPONSOR(S): Senator Rand

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUE					
Counties		See assumptions and methodology			
Local Education Agencies		See technical considerations			
EXPENDITURES					
GENERAL FUND					
Correction		Unable to determine exact amount.			
Judicial		Unable to determine exact amount.			
OTHER					
Counties		See assumptions and methodology			
ADDITIONAL PRISON BEDS*		Unable to determine exact amount.			
POSITIONS: (cumulative)		Unable to determine exact amount.			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction (DOC); Judicial Branch; Counties

EFFECTIVE DATE: December 1, 2003

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY:[1] This bill expands current G.S. 14-269.8, which prohibits a person subject to a Chapter 50B emergency or ex parte order from purchasing a firearm. It also expands Chapter 50B by creating a Class H felony for a defendant subject to a domestic violence order to possess or purchase a firearm. Under this bill, a court must order a defendant to surrender his firearms to the sheriff if he poses a threat to himself or others; under current law, this action is discretionary. This does not apply to law enforcement or military employees who possess or use firearms as part of their official duties.

Current G.S. 14-269.8 provides that it is a Class H felony for any person to purchase or attempt to purchase any gun, rifle, pistol, or other firearm while there remains in effect a Chapter 50B domestic violence order prohibiting the person from purchasing a firearm. This bill expands current G.S. 14-269.8 by (1) making it unlawful to also own, possess, receive, and attempt to own, possess, purchase, or receive a firearm; and (2) adding machine gun, ammunition, and permits to purchase or carry concealed firearms in place of "gun", "rifle" and "pistol."

The second edition of the bill requires the sheriff, instead of the defendant, to apply for an order of disposition of firearms. It also adds a provision pertaining to the sale of firearms if the sheriff conducts a sale of firearms surrendered by a defendant. In these circumstances, the sheriff must give any proceeds from the sale (after deducting costs associated with the sale) to the defendant. Under current law, the sheriff must, within 30 days after the sale, pay any proceeds to the treasurer of the county board of education in which the sale is made.

(NOTE: Third edition of the bill makes two minor clarifying changes and changes effective date to December 1, 2003)

ASSUMPTIONS AND METHODOLOGY:

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division (FRD) does not assume savings due to deterrent effects for this bill or other criminal penalty bills.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.* The number of beds needed will always be equal to the projected number of inmates due to a bill.

[1] AOC Research and Planning

The Sentencing Commission notes that in 2001-02 there were no convictions for violations of G.S. 14-269.8 for purchase or attempt to purchase any gun, rifle, pistol, or other firearm while a protective order is in place. However, it is not known how many additional Class H convictions will result from adding conduct to G.S. 50B-3.1(c) that is not currently illegal under G.S. 14-269.8.

It is also not known how many new felony charges would occur as a result of amending G.S. 14-269.8 to include "own, possess, receive or attempt to own, possess, or receive a machine gun, ammunition, or permits to purchase or carry concealed weapons if ordered by the court" and to include successive protective orders. If, for example, there were three additional Class H convictions per year due to the proposed broadening of the above statutes, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. In 2001-02, 34 percent of Class H felony offenders were sentenced to active sentences, 50 percent were sentenced to intermediate sanctions, and 16 percent were sentenced to community punishment. On average, offenders were sentenced to a minimum of ten and a maximum of twelve months.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

AOC data for calendar year 2002 indicate that there were approximately 27,680 Chapter 50B protective orders issued, and two defendants were charged under current G.S. 14-269.8 for purchasing a firearm in violation of a domestic violence order. Since this bill expands current G.S. 14-269.8 and therefore creates more opportunities for violations, the AOC anticipates an increase in the number of charges under this statute. However, the AOC has no data from which to estimate the number of new felony charges that would arise from this bill.

The AOC notes that SB 919 makes mandatory one form of relief under Chapter 50B that is currently issued at the court's discretion. Under current G.S. 50B-3.1(a)(11), the court or magistrate *may* specify in the protective order that the offender is prohibited from purchasing a firearm for a time fixed in the order. On the ex parte domestic violence protective order and domestic violence protective order forms, the judge can designate that the defendant is prohibited from possessing firearms, from purchasing firearms, and/or the defendant's concealed handgun permit is suspended for the effective period of the order.

The AOC does not anticipate this bill to increase the length or complexity of such hearings as judges currently make determinations in the hearings as to whether a defendant possesses a firearm and whether he poses a threat to himself or others. *However, since this bill broadens the items that can be confiscated and broadens the circumstances under which firearms can be disposed, the AOC notes that the bill could potentially increase the number of motions and*

hearings. District court judges would be required to conduct hearings and issue orders with respect to these new proceedings; clerks would incur additional workload in processing orders and complying with notice requirements.

With respect to the new Class H felonies created under Chapter 50B, the AOC has no data from which to estimate the number of new felony charges that would occur as a result of this bill. For offenses that are brought to trial as Class H felonies, the estimated court cost is $6,066. For Class H felony offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $352.

Local Law Enforcement

Under this bill, surrendered firearms and ammunition would be stored by county sheriffs. Counties would be allowed to charge a "reasonable fee" for this storage, to be used to pay the costs of administration and other law enforcement purposes. The amount of this fee is not set, and would likely vary by county and case. The Sheriff's Association has noted that some individuals have surrendered large collections of guns. In these instances, the sheriff may not have space to store the gun collection onsite, and will contract with a federally licensed firearms dealer for storage. This legislation allows sheriffs to pass private storage costs on to the gun owners. It would also permit the sheriff to charge a gun owner for storing a gun or guns and ammunition onsite, in an undetermined amount. Fiscal Research cannot estimate the range of fees charged or the county revenue that would be generated.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and, Office of State Construction.

TECHNICAL CONSIDERATIONS:

This legislation provides that, if a surrendered firearm is sold, the proceeds from the sale – minus expenses incurred by the sheriff – shall be distributed to the firearm's owner. Under current law, confiscated firearms may fall under a more general provision, G.S. 15-15, which states that, after paying for expenses, local law enforcement agencies shall pay the balance then remaining from the proceeds of such sales to the treasurer of the county board of education of the county in which such sale is made. In addition, G.S. 15-11.1 allows for the disposition of *seized* firearms to sheriffs *only* for destruction. It is not clear whether any firearms surrendered under domestic violence protective orders are currently sold, with the proceeds distributed to local education agencies (LEAs). If LEAs currently receive revenue from such sales, then this legislation would negatively impact LEA revenue. We cannot project the extent of the impact.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Nicole Kreiser, Chloe Gossage and Jim Mills

Nicole Kreiser Chloe Gossage Jim Mills

APPROVED BY: James D. Johnson, Director Fiscal Research Division

James D. Johnson

DATE: June 17, 3003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright**
(Chairs) for the Committee on **FINANCE.**

☒ House Committee Substitute for
S.B. 919 A BILL TO BE ENTITLED AN ACT TO ENHANCE THE SAFETY OF VICTIMS IN SERIOUS DOMESTIC VIOLENCE CASES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 1049
Committee Substitute Favorable 6/5/03

Short Title: Licensed Psych. Assoc./Insurance Payments. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW LICENSED PSYCHOLOGICAL ASSOCIATES TO RECEIVE PAYMENT FOR SERVICES FROM INSURERS AND TO INCREASE THE FEE THE PSYCHOLOGY BOARD MAY CHARGE FOR A TEMPORARY LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30(b) reads as rewritten:

"(b) For the purposes of this section, a "duly licensed psychologist" is ~~a~~ a:

(1) ~~licensed~~Licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology ~~Board.~~ Board; or

(2) Licensed psychological associate who holds permanent licensure."

SECTION 2. G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

(1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;

(2) Licensed or certified doctors of psychology;

(3) Certified clinical social workers and licensed clinical social workers;

(3a) Licensed professional counselors;

(4) Certified clinical specialists in psychiatric and mental health nursing;

(4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;

(5) Repealed by Session Laws 1997-512, s. 14.

(6) ~~Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or~~

~~licensed or certified doctor of psychology;~~Licensed psychological associates;

(7), (8) Repealed by Session Laws 1997-512, s. 14.

(9) Certified fee-based practicing pastoral counselors;

(10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified; and

(11) Licensed marriage and family therapists."

SECTION 3. G.S. 135-40.7B(c1) reads as rewritten:

"(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

(1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:

a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);

b. Licensed or certified psychologists;

c. Psychiatrists;

d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;

e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;

f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;

g. Certified clinical social workers and licensed clinical social workers;

h. Certified clinical specialists in psychiatric and mental health nursing;

i. Licensed professional counselors;

j. Certified fee-based practicing pastoral counselors;

k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and

l. Licensed marriage and family and therapists.

(2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:

a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);

b. Licensed or certified psychologists;

c. Psychiatrists;

d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;

e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;

f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;

g. Certified clinical social workers and licensed clinical social workers;

h. Certified clinical specialists in psychiatric and mental health nursing;

i. Licensed professional counselors;

j. Certified fee-based practicing pastoral counselors;

1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;

jl. Licensed marriage and family and therapists; and

k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:

1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and

2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and

3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

SECTION 4. G.S. 90-270.18 reads as rewritten:

"**§ 90-270.18. Disposition and schedule of fees.**

(a) ~~All~~Except as provided in subdivision (b)(2) of this section, all fees derived from the operation of this Article shall be deposited with the State Treasurer to the

credit of a revolving fund for the use of the Board in carrying out its functions. All fees derived from the operation of this Article shall be nonrefundable.

(b) Fees for activities specified by this Article are as follows:

(1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall not exceed one hundred dollars ($100.00).

(2) Fees for the national written examination shall be the cost of the examination ~~to the Board~~ as set by the vendor plus an additional fee not to exceed fifty dollars ($50.00). The Board may require applicants to pay the fee directly to the vendor.

(3) Fees for additional examinations shall be as prescribed by the Board.

(4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not exceed two hundred fifty dollars ($250.00) per biennium. This fee may not be prorated.

(5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be twenty-five dollars ($25.00).

(6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not exceed one hundred dollars ($100.00).

(7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be twenty-five dollars ($25.00).

(8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g), shall be ~~twenty-five~~ thirty-five dollars ~~($25.00).~~($35.00).

(9) Application fees for a health services provider certificate, per G.S. 90-270.20, shall be fifty dollars ($50.00).

(c) The Board may specify reasonable charges for duplication services, materials, and returned bank items in its rules."

SECTION 5. This act becomes effective January 1, 2004, and applies to services rendered by psychological associates on and after that date.

HOUSE BILL 1049:
Licensed Psych. Assoc./Insurance Payments

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Holliman
Date:	June 17 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: House Bill 1049 was given a favorable report in House Insurance and does the following:

- *Permits licensed psychological associates to receive fees directly from insurers.*
- *Allows the Psychology Practice Board to require applicants for licensure to pay the fee for the national written examination directly to the vendor. The cost of the examination shall be set by the vendor.*
- *Increases the fee for a temporary license from $25 to $35.*

The act becomes effective January 1, 2004, and applies to services rendered by psychological associates on and after that date.

BILL ANALYSIS: Section 1 –Current Law - G.S. 58-50-30(a1) provides that if a health benefit plan or policy of insurance under a Health Maintenance Organization provides coverage or payment for any service that is within the practice of certain providers, then the insured persons are entitled to coverage and to choose their providers. The providers are entitled to third party reimbursements for the services rendered. Duly licensed psychologists are among the listed providers.

HB 1049 expands definition of a duly licensed psychologist to include licensed psychological associates.

Sections 2 and 3 – Current Law - G.S. 135-40.7B provides the types of benefits for the treatment of mental illness and chemical dependency that are covered under the State Health Plan. A licensed psychological associate may not provide necessary care and treatment for mental health unless under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology. A licensed psychological associate may not provide necessary care and treatment for chemical dependency unless the associate has received the appropriate substance abuse training and experience and is working under the direct supervision of physicians, psychologists, or psychiatrists at the facility.

HB 1049 would allow licensed psychological associates to receive payment for necessary care and treatment of mental health and chemical dependency treatment under the State Health Plan.

Section 4 –Current Law - G.S. 90-270.18 provides the fees the Psychology Practice Board may charge to carry out its functions. The Board may charge the cost of the national written exam plus $50, and $25 for a temporary license.

HB 1049 -- would allow the Board to have the fee for the national exam be set by the vendor and remitted directly to the vendor by the applicants. The PCS also allows a $10 increase in the fee for temporary licenses (from $25 to $35).

*Kory Goldsmith, counsel to House Insurance, contributed substantially to this summary.

BACKGROUND: Article 18A of Chapter 90 is the Psychology Practice Act. It governs the qualifications and licensure of persons who practice psychology in North Carolina.

The practice of psychology is defined as the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior or of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health. It includes: psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis, including etiology and prognosis, and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological and neuropsychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation.

In order to obtain licensure as a psychologist, an individual must be at least 18 years old, have good moral character, have received a doctoral psychology degree, have at least two years of supervised experience, and pass a licensure exam.

In order to obtain licensure as a psychological associate, an individual must be at least 18 years old, have good moral character, have received a master's psychology degree and pass a licensure exam. Under rules adopted by the Psychology Board, psychological associates must receive at least one hour per month of supervision from a licensed psychologist or other qualified professional.

As a general rule, insurance companies will not directly reimburse psychological associates for services rendered unless the psychological associate is employed and directly supervised by a psychologist or other professional.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 16, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 1049 – Licensed Psychological Associates/Insurance Payments

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Psychological Board	* Less than $100 revenue increase annually *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Psychological Board.

EFFECTIVE DATE: January 1, 2004 and applies to services rendered by psychological associates on and after that date.

BILL SUMMARY: The bill makes three changes to the law governing the practice of psychology. First, it allows licenses psychological associates to receive fees directly from insurers. Second, it authorizes the Psychological Practice Board to require applicants for licensure to pay their national exam fee directly to the vendor. Finally, it increases the fee for a temporary license from $25 to $35.

ASSUMPTIONS AND METHODOLOGY: According to the Psychological Practice Board, there are currently 1291 Licensed Psychological Associates in North Carolina. Often these practitioners must be directly under the employment and supervision of a licensed psychiatrist or certified doctor of psychology to receive third party payments. All these

individuals would now be able to receive payment from third party payers, including the state health plan. The impact this change will have on the state health plan is outlined in the associated actuarial note.

The second change in the bill relates to the fees assessed for the national exam. According to the Board, the actual cost of the examination is not anticipated to change. Currently, applicants pay "the cost of the examination to the Board" directly to the Board, and then the Board remits this amount to the national examination service. The proposed legislation would permit the Board to have the applicants pay the cost of the examination directly to the examination vendor. The current cost of each examination is $450.00, and approximately 110 applicants are sitting for the examination during a fiscal year.

The final change relates to the fee for a temporary license. The Board estimates that five (5) persons or less will be affected each fiscal year by the increase in the temporary license fee. If the maximum of five is reached, the Board would see a revenue increase from this portion of the bill of $50.00.

SOURCES OF DATA: NC Psychological Practice Board.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE ACTUARIAL NOTE

BILL NUMBER: House Bill 1049

SHORT TITLE: Licensed Psychological Associates/Independent Practice

SPONSOR(S): Rep. Holliman

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Comprehensive Major Medical Plan.

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts, premium payments for dependents by active and retired teachers and State employees, premium payments for coverages selected by eligible former teachers and State employees and premium payments for coverages selected by firefighters, rescue squad workers, and members of the National Guard.

BILL SUMMARY: The bill allows psychological associates to provide mental health and chemical dependency benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan without supervision from a licensed psychologist under certain conditions. Psychological associates must be licensed as independent licensed psychological associates with at least five years of experience consisting of at least 7,500 hours of post-licensure supervised practice with average or above supervisory performance ratings, a supervisory recommendation for independent practice, hold a health services provider certification, and pass a licensing qualifying examination for independent practice if licensed on and after January 1, 2004. The Plan is subject to the bill's requirements by virtue of being subject to the provisions of G.S. 58-50-30.

EFFECTIVE DATE: When the bill becomes law.

ESTIMATED IMPACT ON STATE: Aon Consulting, consulting actuary for the Teachers' and State Employees' Comprehensive Major Medical Plan, projects that the bill will have a negligible cost impact upon the Plan. Hartman & Associates, consulting actuary for the General Assembly's Fiscal Research Division, estimates that the bill is not expected to have a significant financial impact on the Plan.

ASSUMPTIONS AND METHODOLOGY: The Comprehensive Major Medical Plan for Teachers and State Employees is divided into two programs. From October 1982, through June 1986, the Plan only had a self-funded indemnity type of program which covered all employees, retired employees, eligible dependents of employees and retired employees, and eligible former employees and their eligible dependents authorized to continue coverage past a termination of employment other than for retirement or disability purposes. A prepaid program of coverage by health maintenance organizations (HMOs) was offered in July 1986, as an alternative to the Plan's self-insured indemnity program. The benefits of the self-insured indemnity type of program are spelled out in Part 3 of Article 3 of Chapter 135 of the North Carolina General Statutes (i.e., $350 annual deductible, 20% coinsurance up to $1,500 annually, etc. paid by the program's members). HMOs are required to offer benefits that are comparable to those provided by the self-insured indemnity program. Beginning in July, 2000, firefighters, rescue squad workers, and members of the National Guard and their eligible dependents were allowed to voluntarily participate in the Plan on a fully contributory basis, provided they were ineligible for any other type of group health benefits and had been without such benefits for at least

six months. Employer-paid non-contributory premiums are only authorized for the indemnity program's coverage for employees and retired employees. All other types of premium in the indemnity program are fully contributory, except for job-sharing public school teachers who are authorized partially contributory premiums at 50% of non-contributory rates. The Plan's Executive Administrator has set the premium rates for firefighters, rescue squad workers, and members of the National Guard and their families at 20% more than the comparable rates charged for employees, retired employees, and their families. Premiums paid by employers to HMOs are limited to like amounts paid to the indemnity program with employees and retired employees paying any HMO amounts above the indemnity program's non-contributory rates. Both types of coverage continue to be available in the Plan; however none of the HMOs with certificates of authority to transact business in North Carolina have offered to participate in the Plan since September 30, 2001. The Plan's employees and retired employees select the type of program that they wish for themselves and their dependents during the months of August and September of each year for coverage beginning in October. The demographics of the Plan as of December 31, 2002, include:

	Self-Insured Indemnity Program	Alternative HMOs	Plan Total
Number of Participants			
Active Employees	280,065	-0-	280,065
Active Employee Dependents	137,841	-0-	137,841
Retired Employees	117,225	-0-	117,225
Retired Employee Dependents	18,999	-0-	18,999
Former Employees & Dependents with Continued Coverage	2,535	-0-	2,535
Firefighters, Rescue Squad Workers, National Guard Members & Dependents	7	-0-	7
Total Enrollments	556,672	-0-	556,672
Number of Contracts			
Employee Only	313,439	-0-	313,439
Employee & Child(ren)	40,978	-0-	40,978
Employee & Family	44,710	-0-	44,710
Total Contracts	399,127	-0-	399,127
Percentage of Enrollment by Age			
29 & Under	26.9%	-0-%	26.9%
30-44	20.9	-0-	20.9
45-54	20.9	-0-	20.9
55-64	16.2	-0-	16.2
65 & Over	15.1	-0-	15.1
Percentage of Enrollment by Sex			
Male	38.3%	-0-%	38.3%
Female	61.7	-0-	61.7

Assumptions for the Self-Insured Indemnity Program: For the fiscal year beginning July 1, 2002, the self-insured program started its operations with a beginning cash balance of $91.6 million. Receipts for the year are estimated to be $1.371 billion from premium collections and $7 million from investment earnings for a total of $1.378 billion in receipts for the year. Disbursements from the self-insured program are expected to be $1.335 billion in claim payments and $38 million in administration and claims processing expenses for a total of $1.373 billion for the year beginning July 1, 2002. For the fiscal year beginning July 1, 2002, the self-insured indemnity program is expected to have a net operating gain of approximately $5 million for the year. Without reserving an additional $15 million for implementation of the claims data and privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPPA) that take effect on and after April 14, 2003, the Plan's self-insured indemnity program is expected to have an available beginning cash balance of $96 million for the fiscal year beginning July 1, 2003. The self-insured indemnity program is nonetheless assumed to be unable to carry out its operations for the 2003-2005 biennium without increases in its current premium rates or a reduction in existing benefits or payments to health care providers or both. This assumption is further predicated upon the fact that the program's cost containment strategies (hospital DRG reimbursements, discounts on hospital outpatient services, pre-admission hospital testing, pre-admission hospital inpatient certification with length-of-stay approval, hospital bill audits, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, Medicare benefit "carve-outs", cost reduction contracts with participating physicians and other providers, a prescription drug benefit manager with manufacturer rebates from formularies, and fraud detection) are maintained and improved where possible. Current non-contributory premium rates are $186.04 monthly for employees whose primary payer of health benefits is Medicare and $244.38 per month for employees whose primary payer of health benefits is not Medicare. Fully contributory premium amounts for employee and child(ren) contracts are $115.78 monthly for children whose primary payer of health benefits is Medicare and $152.32 monthly for other covered children, and $277.68 per month for family contracts whose dependents have Medicare as the primary payer of health benefits and $365.36 per month for other family contract dependents. Claim cost trends are expected to increase 12% annually. Total enrollment in the program is expected to increase less than 1% annually over the next two years. The number of enrolled active employees is expected to show no increase over the next two years, whereas the growth in the number of retired employees is assumed to be 5% per year. The program is expected to have a 2% decrease in the number of active employee dependents per year whereas the number of retiree dependents is expected to increase 2% per year. Investment earnings are based upon a 4.5% return on available cash balances. The self-insured indemnity program maintains a claim stabilization reserve for claim cost fluctuations equal to 7.5% of annual claim payments without reserving additional funds for incurred but unreported claims.

Assumptions for the Self-Insured Indemnity Program's Mental Health and Chemical Dependency Benefits: The Teachers' and State Employees' Comprehensive Major Medical Plan pays for the mental health and chemical services of psychological associates with a masters degree in psychology if they are under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology.

During the last five fiscal years, the Plan's self-insured indemnity program made the following expenditures for mental health care.

Fiscal Year	Inpatient	Outpatient	Total	Percent of Total Plan Claims	Claim Costs Per Member Per Month
2001-2002					
Billed Charges	$11,776,951	$33,111,959	$44,888,910		
Allowed Charges	$10,873,408	$30,010,260	$40,883,668		
Claim Payments	$8,336,191	$15,082,340	$23,418,531	1.9%	$3.58

2000-2001					
Billed Charges	$10,268,718	$22,526,676	$32,795,394		
Allowed Charges	$9,564,414	$20,661,749	$30,226,163		
Claim Payments	$7,000,063	$12,261,303	$19,261,366	1.8%	$3.27
1999-2000					
Billed Charges	$7,825,317	$24,233,568	$32,058,885		
Allowed Charges	$7,446,010	$22,372,349	$29,818,359		
Claim Payments	$5,635,658	$15,234,099	$20,869,757	2.5%	$4.09
1998-99					
Billed Charges	$8,019,314	$22,783,617	$30,802,931		
Allowed Charges	$7,628,063	$21,239,082	$28,867,145		
Claim Payments	$5,543,950	$14,451,854	$19,995,804	2.8%	$4.10
1997-98					
Billed Charges	$7,999,928	$21,576,023	$29,575,951		
Allowed Charges	$7,627,455	$20,232,147	$27,859,602		
Claim Payments	$5,584,108	$13,678,255	$19,262,363	3.0%	$4.10

For the last five fiscal years, the Plan's self-insured indemnity program made the following expenditures for chemical dependency benefits.

Fiscal Year	Inpatient	Outpatient	Total	Percent of Total Percent of Total	Claim Costs Per Member Per Month
2001-2002					
Billed Charges	$2,907,890	$1,379,237	$4,287,127		
Allowed Charges	$2,818,432	$1,237,056	$4,055,488		
Claim Payments	$2,217,787	$711,737	$2,929,524	0.2%	$0.45
2000-2001					
Billed Charges	$2,218,931	$1,081,336	$3,300,267		
Allowed Charges	$1,859,108	$1,261,130	$3,120,238		
Claim Payments	$1,504,782	$825,933	$2,330,715	0.2%	$0.40
1999-2000					
Billed Charges	$1,907,960	$1,078,662	$2,986,622		
Allowed Charges	$1,857,322	$937,109	$2,794,431		
Claim Payments	$1,401,764	$580,022	$1,981,786	0.2%	$0.39
1998-99					
Billed Charges	$2,002,384	$1,081,200	$3,083,584		
Allowed Charges	$1,961,204	$957,444	$2,918,648		
Claim Payments	$1,471,812	$575,990	$2,047,802	0.3%	$0.42

Average charge, allowed charge, and paid charge data provided by the Plan on the number of outpatient psychiatric visits by provider and selected procedures for the Plan's active, non-Medicare retired, and continuation groups for the last two calendar years follows. This data for calendar year 2002 is:

Specialty	CPT Code	Number of Visits	Average Amount Billed	Average Amount Allowed	Average Amount Paid
Psychiatrist	90801	4,147	$167	$147	$68
Other Physicians	90801	3,042	$148	$124	$59
Psychologist	90801	2,855	$136	$126	$48
Clinical Social Worker	90801	1,246	$107	$103	$41
Licensed Professional Counselor	90801	973	$125	$120	$59
Pastoral Counselor	90801	141	$104	$97	$46
Psychiatric Nurse	90801	105	$116	$113	$43
Chemical Dependency Professional	90801	26	$93	$84	$35
Marriage & Family Therapist	90801	3	$123	$123	$94
Other Providers	90801	1	$135	$135	$96
Total	90801	12,539	$145	$129	$58
Psychiatrist	90805	11,949	$92	$83	$39
Other Physicians	90805	1,375	$81	$78	$37
Psychologist	90805	909	$86	$80	$35
Clinical Social Worker	90805	17	$95	$90	$39
Licensed Professional Counselor	90805	7	$91	$91	$61
Pastoral Counselor	90805	7	$91	$78	$25
Psychiatric Nurse	90805	3	$128	$97	$22
Total	90805	14,267	$90	$82	$39
Psychiatrist	90806	17,487	$102	$95	$54
Other Physicians	90806	16,500	$102	$93	$54
Psychologist	90806	53,571	$106	$100	$58
Clinical Social Worker	90806	29,320	$91	$88	$49
Licensed Professional Counselor	90806	16,296	$93	$90	$51
Pastoral Counselor	90806	2,460	$92	$88	$48
Psychiatric Nurse	90806	2,326	$93	$89	$50
Chemical Dependency Professional	90806	59	$75	$73	$35
Marriage & Family Therapist	90806	40	$99	$98	$72
Other Providers	90806	15	102	$101	66
Total	90806	138,074	$100	$94	$54
Psychiatrist	90807	19,331	$128	$120	$74
Other Physicians	90807	2,030	$131	$123	$72
Psychologist	90807	1,295	$126	$118	$74
Clinical Social Worker	90807	11	$110	$105	$46
Licensed Professional Counselor	90807	29	$94	$93	$50
Pastoral Counselor	90807	2	$70	$70	$44
Psychiatric Nurse	90807	1	$42	$42	$0
Total	90807	22,699	$128	$120	$74
Psychiatrist	90853	1,022	$73	$68	$38
Other Physicians	90853	1,881	$67	$54	$27
Psychologist	90853	1,368	$63	$54	$27
Clinical Social Worker	90853	606	$58	$57	$31

Licensed Professional Counselor	90853	325	$98	$70	$41
Pastoral Counselor	90853	13	$50	$49	$25
Psychiatric Nurse	90853	96	$32	$32	$12
Chemical Dependency Professional	90853	346	$108	$86	$54
Total	90853	5,657	$70	$60	$32
Psychiatrist	90862	20,528	$70	$61	$26
Other Physicians	90862	5,564	$70	$62	$27
Psychologist	90862	1,388	$83	$74	$36
Clinical Social Worker	90862	3	$68	$63	$39
Pastoral Counselor	90862	63	$90	$75	$41
Psychiatric Nurse	90862	1	$22	$22	$5
Chemical Dependency Professional	90862	2	$125	$85	$56
Total	90862	27,549	$71	$62	$26
Psychiatrist	99212	98	$40	$33	$16
Other Physicians	99212	3,824	$50	$41	$10
Psychologist	99212	1	$30	$30	$12
Other Providers	99212	28	$50	$41	$10
Total	99212	3,951	$50	$41	$10
Psychiatrist	99213	550	$96	$60	$27
Other Physicians	99213	15,555	$67	$54	$15
Other Providers	99213	34	$65	$57	$20
Total	99213	16,139	$68	$55	$15
All Providers	All Other	25,387	$119	$102	$54
All Providers	All	266,262	$99	$91	$49

Calendar year 2001 data reveals:

Specialty	CPT Code	Number of Visits	Average Amount Billed	Average Amount Allowed	Average Amount Paid
Psychiatrist	90801	3,901	$160	$143	$75
Other Physicians	90801	2,451	$132	$114	$60
Psychologist	90801	2,653	$132	$122	$59
Clinical Social Worker	90801	1,115	$105	$99	$46
Licensed Professional Counselor	90801	646	$124	$118	$63
Pastoral Counselor	90801	142	$101	$93	$40
Psychiatric Nurse	90801	99	$112	$111	$54
Chemical Dependency Professional	90801	22	$90	$73	$29
Total	90801	11,029	$138	$124	$63
Psychiatrist	90805	10,822	$88	$80	$45
Other Physicians	90805	1,295	$78	$74	$43
Psychologist	90805	586	$82	$78	$43
Clinical Social Worker	90805	10	$87	$82	$60

Pastoral Counselor	90805	29	$75	$75	$26
Psychiatric Nurse	90805	2	$109	$93	$35
[redacted]otal	90805	12,744	$87	$79	$45
Psychiatrist	90806	17,045	$100	$92	$60
Other Physicians	90806	13,568	$98	$91	$59
Psychologist	90806	52,151	$103	$97	$64
Clinical Social Worker	90806	25,969	$89	$85	$55
Licensed Professional Counselor	90806	13,987	$90	$87	$56
Pastoral Counselor	90806	2,695	$89	$84	$52
Psychiatric Nurse	90806	2,004	$91	$88	$56
Chemical Dependency Professional	90806	140	$81	$79	$46
Other Providers	90806	7	$91	$91	$71
Total	90806	127,566	$97	$92	$60
Psychiatrist	90807	18,164	$125	$117	$80
Other Physicians	90807	2,056	$127	$120	$79
Psychologist	90807	1,132	$121	$116	$81
Clinical Social Worker	90807	10	$92	$86	$48
Licensed Professional Counselor	90807	60	$97	$94	$71
Pastoral Counselor	90807	1	$70	$70	$48
Total	90807	21,423	$125	$117	$80
Psychiatrist	90853	905	$73	$65	$42
[redacted]ther Physicians	90853	2,118	$71	$57	$36
[redacted]sychologist	90853	1,123	$60	$53	$32
Clinical Social Worker	90853	643	$55	$54	$33
Licensed Professional Counselor	90853	128	$51	$49	$25
Pastoral Counselor	90853	13	$43	$43	$19
Psychiatric Nurse	90853	73	$33	$33	$16
Chemical Dependency Professional	90853	370	$103	$80	$54
Total	90853	5,373	$68	$58	$37
Psychiatrist	90862	19,000	$67	$58	$30
Other Physicians	90862	4,789	$64	$57	$30
Psychologist	90862	1,015	$84	$75	$44
Clinical Social Worker	90862	3	$102	$64	$43
Pastoral Counselor	90862	64	$74	$74	$40
Psychiatric Nurse	90862	1	$22	$22	$9
Chemical Dependency Professional	90862	190	$25	$25	$11
Total	90862	25,062	$67	$58	$31
Psychiatrist	99212	34	$29	$27	$12
Other Physicans	99212	3,646	$47	$39	$18
Other Providers	99212	28	$45	$39	$19
Total	99212	3,708	$47	$39	$18
[redacted]sychiatrist	99213	180	$45	$39	$24
Other Physicians	99213	12,664	$62	$51	$23

Psychologist	99213	3	$79	$69	$50
Chemical Dependency Professional	99213	1	$55	$54	$0
Other Providers	99213	38	$50	$45	$19
Total	99213	12,886	$62	$51	$23
All Providers	All Other	24,558	$112	$96	$61
All Providers	All	$244,349	$96	$88	$55

Current Procedural Terminology (CPT) code definitions used in the foregoing data are: psychiatric diagnostic interview (90801); individual psychotherapy with medical evaluation for 20-30 minutes (90805); individual psychotherapy for 45-50 minutes (90806); individual psychotherapy with medical evaluation for 45-50 minutes (90807); group psychotherapy (90853); pharmacologic psychiatric management (90862); office evaluation & management of an established patient (99212); expanded office evaluation & management of an established patient (99213).

Data provided by the Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill, shows the number of psychological associates active in each of North Carolina's counties.

County	1993	1994	1995	1996	1997	1998	1999	2000	2001
State Total	**817**	**850**	**942**	**939**	**942**	**938**	**969**	**927**	**946**
Alamance	6	3	4	4	4	3	5	5	4
Alexander	1	1	1	1	2	1	1	0	0
Alleghany	0	0	0	0	0	0	0	0	0
Anson	4	4	4	5	5	5	5	5	3
Ashe	0	0	2	2	2	1	2	2	2
Avery	4	4	4	5	4	4	4	3	3
Beaufort	4	5	4	3	5	4	3	4	4
Bertie	0	0	0	0	0	0	0	1	1
Bladen	1	1	1	1	1	1	1	1	1
Brunswick	1	2	1	4	7	6	4	3	4
Buncombe	39	44	53	49	53	53	55	57	57
Burke	37	38	42	44	43	42	39	40	46
Cabarrus	10	11	12	13	18	18	18	21	24
Caldwell	9	8	7	7	7	7	9	6	7
Camden	1	0	0	1	1	0	0	0	0
Carteret	2	3	3	4	4	2	2	1	1
Caswell	0	0	1	2	2	3	3	5	1
Catawba	12	12	17	17	16	22	24	19	19
Chatham	6	6	6	5	6	5	5	5	6
Cherokee	5	5	5	5	4	3	2	3	3
Chowan	0	1	1	1	1	1	1	1	1
Clay	2	2	2	2	2	2	2	2	2
Cleveland	11	11	15	16	16	15	13	10	9
Columbus	2	2	1	4	4	2	3	2	1

Craven	8	11	13	13	17	19	16	14	18
Cumberland	29	38	41	38	39	32	30	34	32
[illegible]urrituck	2	2	2	1	1	1	1	1	2
Dare	1	1	1	2	2	2	2	2	2
Davidson	7	8	9	8	8	7	7	7	8
Davie	0	0	0	1	1	0	1	2	1
Duplin	2	2	2	1	2	1	2	3	2
Durham	26	25	29	30	29	26	31	25	20
Edgecombe	4	5	5	6	7	5	4	4	4
Forsyth	35	36	33	39	33	34	31	29	30
Franklin	3	3	2	2	2	2	3	2	1
Gaston	14	15	14	16	14	15	17	13	14
Gates	0	0	0	0	0	0	0	0	0
Graham	1	1	1	0	1	0	0	0	0
Granville	21	21	29	25	21	28	29	23	24
Greene	2	3	5	3	3	4	4	4	3
Guilford	51	61	60	58	57	51	52	52	56
Halifax	5	6	4	5	5	7	6	3	2
Harnett	4	4	5	5	5	6	7	6	6
Haywood	6	5	5	5	5	4	4	7	8
Henderson	6	7	8	9	8	9	9	6	5
[illegible]ertford	2	2	2	2	2	2	3	6	7
[illegible]oke	5	6	8	4	5	4	4	3	4
Hyde	0	0	0	0	1	1	1	0	0
Iredell	9	11	12	11	9	13	15	12	12
Jackson	16	10	10	15	15	14	14	13	15
Johnston	11	11	13	12	9	11	14	15	13
Jones	0	0	0	0	0	0	0	0	0
Lee	1	3	3	2	2	2	2	4	4
Lenoir	14	14	17	14	14	15	12	10	14
Lincoln	3	3	4	3	3	2	2	3	3
McDowell	3	3	4	4	4	3	4	5	4
Macon	3	3	4	3	3	2	2	2	2
Madison	1	1	1	1	1	0	0	0	0
Martin	1	1	1	1	1	1	1	1	1
Mecklenburg	65	63	69	76	75	79	84	81	84
Mitchell	0	0	0	0	1	1	1	1	3
Montgomery	4	2	2	2	3	4	7	7	6
Moore	7	6	6	10	8	6	5	7	8
Nash	19	19	21	17	16	18	20	19	19
New Hanover	24	25	29	29	30	33	39	37	40
[illegible]orthampton	0	0	0	0	0	0	1	0	0
Onslow	7	8	8	9	7	6	7	8	8

Orange	24	18	23	17	16	16	17	18	23
Pamlico	0	0	0	0	1	1	1	2	1
Pasquotank	2	4	4	6	4	9	8	4	2
Pender	3	2	3	2	3	2	3	3	4
Perquimans	0	0	0	0	0	0	0	1	0
Person	1	1	2	1	1	0	0	0	1
Pitt	32	30	33	31	34	35	37	40	34
Polk	2	2	2	2	2	1	1	3	3
Randolph	5	5	5	6	9	7	7	8	8
Richmond	2	5	4	3	5	9	8	8	6
Robeson	8	5	5	9	8	7	7	5	6
Rockingham	1	1	1	1	2	2	2	2	2
Rowan	10	13	13	10	15	13	15	10	12
Rutherford	7	9	9	9	8	8	8	7	6
Sampson	1	1	2	2	3	3	2	2	2
Scotland	1	1	2	1	1	1	2	1	1
Stanly	3	3	5	5	3	6	4	6	5
Stokes	1	1	1	0	0	1	1	4	3
Surry	5	4	7	4	5	4	3	3	2
Swain	2	5	5	3	3	3	3	2	1
Transylvania	3	3	3	3	3	2	2	1	1
Tyrrell	0	0	0	0	0	0	0	0	0
Union	4	3	5	5	5	5	5	4	6
Vance	2	2	3	5	5	6	4	2	2
Wake	69	74	83	78	73	68	73	73	77
Warren	0	0	0	0	0	1	2	0	0
Washington	0	0	0	0	0	0	0	0	0
Watauga	12	10	10	12	10	8	9	6	7
Wayne	26	25	28	31	30	35	35	31	31
Wilkes	6	5	6	7	8	7	7	6	6
Wilson	4	5	5	5	4	5	5	5	8
Yadkin	0	3	3	3	4	2	2	2	1
Yancey	2	2	2	1	1	1	1	1	1

SOURCES OF DATA:

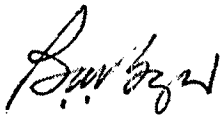
-Actuarial Note, Hartman & Associates, House Bill 1049, May 14, 2003, original of which is on file in the General Assembly's Fiscal Research Division.

-Actuarial Note, Aon Consulting, House Bill 1049, May 16, 2003, original of which is on file with the Comprehensive Major Medical Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.

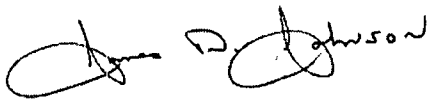
TECHNICAL CONSIDERATIONS: Conforming changes need to be made in the enabling legislation of the Comprehensive Major Medical Plan for Teachers and State Employees. Specifically, G.S. 135-40.7B(c)(6), G.S. 135-40.7B(c1)(1)e., and G.S. 135-40.7B(c1)(2)e. need conforming changes.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Sam Byrd



APPROVED BY: James D. Johnson, Director Fiscal Research Division



DATE: May 27, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1072
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLU-4 [v.12]

6/11/2003 12:44:13 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who engages in the business of reselling one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in G.S. 14-344(a), it shall be unlawful for any person to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person is registered as a ticket broker pursuant to the provisions of this Article.

(b) Charitable or non-profit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(c) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 66-259.3. Requirements for registration; issuance of registration; renewal; failure to comply; Ticker Brokers' Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of Crime Control and Public Safety on a form provided by the Secretary of Crime Control and Public Safety. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of Crime Control and Public Safety. The bond shall be executed in favor of this State for the

benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of Crime Control and Public Safety shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of Crime Control and Public Safety and pay a renewal fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(d) There is created the Ticket Brokers' Revenue Account within the Department of Crime Control and Public Safety. Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article.

"**§ 66-259.4. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full

refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.5. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 66-259.6. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 66-259.7. Violations.**

(a) Civil Penalties. – The Secretary of Crime Control and Public Safety may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of Crime Control and Public Safety. Orders issued by the Secretary of Crime Control and Public Safety may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of Crime Control and Public Safety

may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of Crime Control and Public Safety that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of Crime Control and Public Safety, the Secretary of Crime Control and Public Safety may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 66-259.8. Rules.**

The Secretary of Crime Control and Public Safety may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker registered under Article 32A of Chapter 66 of the General Statutes. For

the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-16 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, lines 11-18, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-17 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, line 1, by rewriting the line to read:
"(a) It shall be unlawful for any";

and on page 2, line 6, by rewriting the line to read:
"the provisions of this Article, except that it shall not be unlawful for any person, firm or corporation to resell, to offer for resale, to purchase, or to offer to purchase such a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

H 1

HOUSE BILL 1072

Short Title:	Regulate Ticket Brokers.	(Public)
Sponsors:	Representatives Miner, Gibson (Primary Sponsors); Barbee, Church, Sherrill, West, and Yongue.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.
"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who resells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets.**

(a) Except as otherwise provided in G.S. 66-259.3, it shall be unlawful for any person other than a ticket broker to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket. Notwithstanding G.S. 14-344(a), a ticket broker may charge a service fee not to exceed three dollars ($3.00) when tickets or other evidences of the right of entry are sold by a ticket sales agent authorized to do business by the municipality or county where the ticket sales agent's place of business is located. The owner, operator, lessee, or tenant of the property where the athletic contest or entertainment event is to be held or is being held or the promoter of the contest or event may charge or may authorize, in writing, any person to charge a service fee for the sale of any ticket, privilege, or license of admission in addition to the face value of the ticket. The writing granting authority to another to charge a service fee shall specify the amount of the service fee to be charged for the sale of each ticket, privilege, or license of admission.

(b) For any athletic contest or entertainment event described in G.S. 66-259.6, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 90-259.3. Exemptions.**

(a) Nothing in this Article or any other provision of law shall criminally prohibit a person who is the original purchaser of one or more tickets to an athletic contest or entertainment event covered under this Article and who purchased the tickets for personal use from reselling or offering for resale the tickets for any price. However, the person shall not sell or offer to sell the ticket within 1,500 feet of a ticket office for the contest or event or a public entrance to the contest or event.

(b) Nothing in this Article or any other provision of law shall criminally prohibit a person who, for personal use, purchases one or more tickets to an athletic contest or entertainment event from reselling or offering for resale any of the tickets in any zone within the restricted areas, as provided in this subsection or in G.S. 66-259.6(b), where the activity is authorized by the promoter of the contest or event and the owner or operator of the venue where the contest or event is being held or to be held.

(c) Charitable organizations and their employees and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or similar fund-raising activity for the benefit of the organization's charitable purposes.

"**§ 90-259.4. Requirements; issuance of registration; renewal; failure to comply.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of State on a form provided by the Secretary of State. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of State. The bond shall be executed in favor of this State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of State shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of State and pay a renewal fee not to exceed two thousand dollars ($2,000).

"**§ 66-259.5. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the

transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.6. County and municipal ordinances.**

(a) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, the municipal corporation where the contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact by ordinance regulations governing ticket brokers for the contest, event, or series of contests that are more restrictive than the provisions of this Article.

(b) The municipal corporation where an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact an ordinance prohibiting any person, whether a ticket broker or an original purchaser who purchased tickets for personal use, from reselling or offering for resale one or more tickets within 2,700 feet of a venue that seats or admits 15,000 or more persons.

"**§ 66-259.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 90-259.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 90-259.9. Violations.**

(a) Civil Penalties. – The Secretary of State may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of State. Orders issued by the Secretary of State may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of State may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of State that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of State, the Secretary of State may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 90-259.10. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not

exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to sales pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the net receipts of a person who is engaged in the business of ticket brokering as defined under Article 32A of Chapter 66 of the General Statutes. For the purposes of this subsection, "net receipts" means the gross receipts less the face value of the tickets sold.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the net receipts from the activities described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective July 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1072:
Regulate Ticket Brokers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson and Miner
Date:	June 11, 2003	**Analysis by:**	Martha Walston
Version:	H1072-CSLU-4 [v.12]		Committee Counsel

SUMMARY: House Bill 1072 creates a new Article under the Commerce and Business Chapter of the General Statutes that would regulate ticket brokers. The bill is in House Finance because it imposes a registration fee on the ticket brokers and assesses a 3% privilege tax on the brokerage fee charged by the ticket broker:

The 3% privilege tax becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of the bill is effective when it becomes law.

BILL ANALYSIS: House Bill 1072 creates a new Article 32A that regulates ticket brokers:

§66-259.1 defines the following terms: promoter, ticket, ticket broker, and ticket sales agent.

§66-259.2 makes it unlawful to resell any ticket of admission to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket UNLESS THE TICKET IS SOLD BY A REGISTERED TICKET BROKER. (See Section 2 of the bill)

Exempts charitable or non-profit organizations from the new article when the organization is selling tickets to a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

Authorizes a promoter to contractually restrict the resale of a ticket to a single athletic contest or entertainment event that occurs no more than once annually or to any series of athletic contest that occur no more than once annually and occur within a time period not exceeding 10 days. The owner, operator, lessee, or tenant of the property where the contest or event is held may contractually restrict the resale of the right of occupancy.

§66-259.3 sets out the following requirements for a person seeking to practice or engage in the business as a ticket broker:

- Maintain a permanent office or place of business in the State.
- File for registration as a ticket broker with the Secretary of Crime Control and Public Safety.
- Obtain a bond in the amount of $100,000.
- Pay a registration fee not to exceed $2,000. This fee must be paid to the Secretary. A renewal fee not to exceed $2,000 must be paid annually.

§66-259.4 requires the ticket broker to disclose the broker's refund policy, cancellation policy, and the difference between the face value of the ticket and the amount the broker charges for the ticket. A broker may only sell tickets at the broker's office or place of business.

§66-259.5 prohibits a ticket broker or the broker's employee from engaging in certain conduct.

§66-259.5 disqualifies a person from practicing as a ticket broker if the person has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

§66-259.7 authorizes the Secretary of Crime Control and Public Safety to punish a person who willfully violates the Article. The Secretary may order the person to cease from violating the Article, suspend or revoke the certificate of registration, or impose a civil penalty of up to $1,000 for each violation. A willful violation of the Article constitutes a Class 2 misdemeanor.

§66-259.8 authorizes the Secretary of Crime Control and Public Safety to adopt rules.

SECTION 2 OF THE BILL clarifies that the new Article is not applicable to current law set out in G.S. 14-344. This statue authorizes a person, firm, or corporation to add a reasonable service fee to the face value of a ticket sold. This service fee may not exceed $3.00 for each ticket, except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree on a fee greater than $3.00 for the first sale of tickets by the ticket sales agent

SECTION 3 OF THE BILL imposes 3% privilege tax on the brokerage fee charged by a ticket broker. A brokerage fee is the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket. A county or city may not levy a license tax on a ticket broker who is assessed the 3% privilege tax on the brokerage fee.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 16, 2003**

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: Ticket Brokers – HB 1072

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** Revenue Increase – See Assumptions ***				
Crime Control	*** Minimum $24,000 annually – See Assumptions ***				
EXPENDITURES					
Crime Control and Public Safety	$35,707	$33,722	$33,722	$33,722	$33,722

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, Crime Control and Public Safety.

EFFECTIVE DATE: October 1, 2003.

BILL SUMMARY: The legislation allows and regulates ticket brokering, and applies a 3% privilege tax on the service fees charged by these ticket brokers. As a part of the regulation, brokers are required to register with the Secretary of Crime Control and Public Safety and pay a $2,000 registration fee to offset the costs of the program. Bonds are also required.

Establishes a civil penalty of up to $1,000 and a Class 2 misdemeanor criminal penalty for violation of the act.

ASSUMPTIONS AND METHODOLOGY: There are two primary fiscal impacts related to the bill. The first relates to the tax while the second relates to the fee. In 2000-01, the Department of Revenue collected $27.6 million from the 3% privilege tax on amusements. Of this amount, approximately $6.67 million was drawn from amusements that could be impacted by the bill. The legislation does not jeopardize this revenue. Because this is a new tax, it will result in a revenue gain. Neither Tax Research nor Fiscal Research can estimate the exact amount. However, the increase is expected to be relatively small.

As far as the regulatory fee is concerned, according to the United States Ticket Brokers Association there are 788 bonded ticket brokers in the United States, 11 of which are currently in North Carolina. The National Association of Ticket Brokers boasts approximately 170 members nationwide, only one of which is in North Carolina. The registration of all current NC brokers would result in a revenue gain of approximately $24,000 (12 x $2,000). This creates the low end of the estimate. However, the actual amount of revenue increase will likely be higher as the number of ticket brokers is also likely to increase.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. The number of beds needed will always be equal to the projected number of inmates due to a bill.

Because the proposed bill creates a new offense, the Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. Only 12% (3,944) of total Class 2 misdemeanants convicted in 2002 (31,425) received active sentence. The average sentence is 23.4 days so time served will be in local jails and the Department of Correction (DOC) will not have to reimburse (only for misdemeanants with sentences over 30 days). (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because offenders serving active sentences of 90 days or less are housed in county jails, convictions under this bill would not be expected to have a significant impact on the prison population.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. AOC does not expect a significant increase in the number of charges for as a result of this bill given the relatively small number of ticket brokers operating in the state.

Department of Crime Control and Public Safety

Staff at the Department of Crime Control and Public Safety (CCPS) indicated that most likely this new function would be added to the responsibilities of the Alcohol Law Enforcement Division, which currently monitors bingo activities or to the duties of the Boxing Commission. The Department would handle the regulatory function such as issuing rules, registration of brokers, issuing notices of violation, etc. However, criminal enforcement activities would be the responsibility of local law enforcement agencies.

CCPS staff estimates that the rulemaking process will require 48 hours of work by a staff attorney, whose annual salary is $75,083, at a cost of $1,985 NR, including salary and benefits. This is a one-time cost in the first year to develop and issue rules.

The Department would add a Grade 61 administrative support position which will be responsible for registering ticket brokers, receiving complaints, issuing notices of violations, assessing fines, and referring complaints to local law enforcement agencies. The annual salary cost is estimated using the midpoint salary of $27,391 for a grade 61 position. The cost of benefits includes the state's share for FICA (7.65%), retirement (3.03%), and health insurance ($2,933). The combined annual salary and benefits are estimated to be $33,249 in fiscal year 2003-04. In addition, an annual amount of $500 is included for the costs of forms, supplies, equipment, postage, travel, etc.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE H1289-CSSVf-28 [v.3]

6/12/2003 11:53:09 AM

Short Title: Amend Private Protective Services Act/Fees. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) ~~The license shall be issued for a term of one year.~~Upon the issuance of a license, the licensee may elect a license term of two, three, or five years. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this

Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-9(e) reads as rewritten:

"(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ($250.00);

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~ a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~ a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);

(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);

(13) A branch office license fee not to exceed fifty dollars ($50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00)."

SECTION 7. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within ~~20~~30 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 8. G.S. 74C-12 reads as rewritten:

"§ 74C-12. **Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of

employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed any badge or shield that was not designed and approved by the Board.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days of any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. A failure to report shall be grounds for revocation of the license."

SECTION 9. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or an armed private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security ~~guard,~~guard or armed private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An armed security guard~~ A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which an

armed private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 10. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the

Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 11. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000);~~twenty-five thousand dollars ($25,000). provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 12. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1289

Short Title:	Amend Private Protective Services Act/Fees.	(Public)
Sponsors:	Representative Hackney.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) The license shall be issued for a term of ~~one year.~~two, three, or five years without a fee discount. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within 20 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 7. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) All licensees are required to report to the Board any criminal arrests for or charges or convictions of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. The Board must receive written notice of any arrest, charge, or criminal conviction within 30 days from the date of occurrence of any of these events. A failure to report shall be grounds for revocation of the license."

SECTION 8. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or a private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or a private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or a private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) An armed security guard firearm registration permit or private investigator firearm registration permit grants authority to the armed security ~~guard,~~guard or private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed security guard firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each private investigator firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the name of the private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If the holder of an armed security guard firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which a private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private

investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000)~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is

needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. This act is effective when it becomes law.

HOUSE BILL 1289:
Amend Private Protective Services Act/Fees.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 17, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H1289-CSSVf-28		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1289 amends various provisions relating to the private protective services profession and to the Private Protective Services Board, which regulates the profession, including the following:***

- ***Reducing from 14 to 9 the number of members on the Private Protective Services Board.***
- ***Extending the term of a license from one year to two, three, or five years, at the election of the licensee.***
- ***Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.***
- ***Authorizing the Board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.***
- ***Decreases the required minimum balance in the Private Protective Services Recovery Fund.***

The act would become effective when it becomes law.

CURRENT LAW: The Private Protective Services Board (Board) is an occupational licensing board within the Department of Justice. The purpose of the Board is to administer the licensing, education and training requirements to increase the level of integrity, competency and performance of the persons, firms, associations and corporations engaged in the private protective services profession within North Carolina in order to safeguard the public health, safety and welfare. The Board's responsibilities are generally divided into six categories:

1. Background investigation for licensing of 13 occupations
2. Registration of licensee employees
3. Conduct investigations of public complaints
4. Conduct compliance audits
5. Enforce law and rules through administrative disciplinary processes and criminal courts
6. Maintain required records

BILL ANALYSIS:

Sections 1 and 2 make definitional changes. Section 1 renames "counterintelligence service profession" as the "electronic countermeasures profession" to conform to a change in terminology made at the federal level. Section 2 amends the definition of "security guard and patrol profession" to include the protection of patrons and persons *being escorted between premises* of the entity that entered into the security services contract.

Section 3 reduces the membership of the Board from 14 to 9 members.

Section 4 expands the scope of the Board's powers by authorizing it to do the following:

- Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training.

- Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services.

Section 5 allows the licensee to choose the term of the license from among two, three or five years. This section also authorizes the Board to require a licensee to complete continuing education courses approved by the Board before a license may be renewed.

Section 6 makes conforming changes with Section 5 by clarifying that the license fee would be in an amount equal to the current annual fee multiplied by the number of years of the license term, as chosen by the licensee.

Section 7 extends from 20 to 30 days the period by which a licensee must register its employees who will be engaged in providing private protective services after employment begins. Section 7 also authorizes the Board to require that a registered, unarmed security guard complete continuing education courses approved by the Board before renewing the guard's registration.

Section 8 does four things:

- It provides as an additional ground upon which the Board may deny, suspend, or revoke a license that a licensee possessed or displayed a badge or shield that was not designed or approved by the Board.
- It requires licensees to report to the Board, within 30 days, any charges, arrests for, or convictions of a misdemeanor or felony for any of the following:

  (1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.
  (2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
  (3) Illegal use, carrying, or possession of a firearm.
  (4) Acts involving assault.
  (5) Acts involving unlawful breaking or entering, burglary, or larceny.
  (6) Any offense involving moral turpitude.

  A failure to report these arrests or convictions shall be grounds for revocation of the license.
- It makes clarifying changes to two other grounds for denial, suspension, or revocation of a license.
- It gives aggrieved persons 60 days to bring an administrative appeal of a denial, revocation, or suspension decision by the Board.

Section 9 does the following:

- It distinguishes private investigators from security guards for purposes of firearm registration permits. Under current law, "private detectives", who are defined to be synonymous with "private investigators" under this Chapter, are included within the definition of "armed security guards." Under the bill, the same permitting requirements would apply to both categories of private protective services professionals.
- It authorizes the Board to require a firearm registration permit holder and a certified firearms trainer to complete continuing education courses before renewing the holder's permit or the trainer's certification.
- It authorizes a private investigator to carry a concealed weapon during the performance of his duties upon doing all of the following:
  - Obtaining a concealed weapon's permit.

- Successfully completing the firearms training course approved by the Board and the Attorney General.
- Having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon.

Section 10 authorizes the Board to require completion of continuing education courses approved by the Board before the renewal of a license, registration, certificate, or permit issued by the Board. The Board would be required to establish, by rule, the number of hours of continuing education courses necessary for renewal and any other requirements for completion of continuing education courses. Under current law, licensees are not required to complete continuing education courses.

Section 11 reduces the minimum balance required to be maintained in the Private Protective Services Recovery Fund (Fund). This Fund is a special fund established within the Office of the State Treasurer that is used to satisfy claims by aggrieved persons who have suffered a direct monetary loss by reason of certain acts committed by a licensee. Under current law, if the balance in the Fund drops below a minimum of $100,000, then the Board is authorized to charge annually each licensee and trainee an additional amount, not to exceed $50.00. The amount assessed will only be so much as is needed to raise the level of the Fund to $100,000. Section 11 lowers the minimum fund balance from $100,000 to $25,000.

Under current law, the State Treasurer invests the monies in the Fund and the Board uses the proceeds of the investments to advance education and research in the private protective services field. Section 11 would authorize the Board to use any funds derived from investments or any funds in excess of the minimum Fund balance for those purposes. It also allows the Board to provide grant money to private individuals, associations, or corporations sponsoring educational courses to offset the actual cost of the courses. The Board would also be able to use funds in excess of $50,000 to offset the operating expenses of the Board, if there is a unanimous vote of the Board and the Board makes findings of fact supporting the need for the funds.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 17, 2003

TO: House Finance Committee

FROM: Chloe Gossage
Fiscal Research Division

RE: PCS H1289-CSSVf-28 [v.3] (Amend Private Protective Services Act/Fees)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES:					
Board Special Account (no General Fund impact)					
Sections 1-4, 7-10	No significant impact anticipated				
Sections 5 and 6	See assumptions and methodology				
Section 11	See assumptions and methodology				
EXPENDITURES:					
Board Special Account (no General Fund impact)					
Sections 1, 2, 4, 7-10	No significant impact anticipated				
Section 3	($14,000)	($14,000)	($14,000)	($14,000)	($14,000)
Sections 5 and 6	$ 5,000	Some savings possible after first year			
Section 11	See assumptions and methodology				
POSITIONS:	None				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Private Protective Services Board (in the Department of Justice)

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: This legislation would make changes to the Private Protective Services Act, including:

- Reducing from 14 to 9 the number of members on the Private Protective Services Board.
- Extending the term of a license from one year to two, three, or five years, at the election of the licensee.
- Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.
- Authorizing the board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.
- Decreasing the required minimum balance in the Private Protective Services Recovery Fund.

ASSUMPTIONS AND METHODOLOGY:
The Private Protective Services Board is supported entirely by receipts. As a result, changes to revenues or expenditures will not impact the General Fund.

Section 3: Reduction in Board Members. This section would reduce the number of public board members appointed by the Attorney General from two to one and the number appointed by the Senate President pro Tempore and the House Speaker from five each to three each. (See technical considerations) The elimination of five members will reduce the Board's annual operating expenses by approximately $14,000 due to decreased travel and per diem costs for six meetings per year.

Section 4: Approval of Badge/Shield Design. Section 8 prohibits designs that purport to represent law enforcement officers. The Board could incur minimal costs to review designs.

Sections 4, 5, 7, 8 and 9: Continuing Education Requirements. The Board anticipates minimal costs associated with reviewing courses for approval. Costs for continuing education courses would be borne by the industry.

Sections 5 and 6: Modification of License Terms. Licenses would be issued for two, three, or five years rather than one year, with no reduction in fees. Currently, a one-year basic license costs $200; the Board is authorized to charge up to $250 per year. Under this legislation, the licensee could choose a two-year, three-year, or five-year license. At the current rate, the cost would be $400, $600, or $1,000 respectively; at the maximum rate, the cost would be $500, $759, or $1,250. In the short term, this would accelerate revenue collections as licensees begin paying for multiple years up front. We cannot project the impact of this change in the fee structure on the number of current and future licensees. In addition, basic license holders may apply for additional licenses (i.e. counterintelligence) for $50 annually. It appears that the same multi-year licensing structure would apply to those licenses. Finally, Board staff estimate one-time expenditures of $5,000 to modify computer software, and potential workload reductions in later years due to less frequent renewals.

Section 7: Timeframe for New Employee Registration. Licensees would be required to register new employees within 30 days, rather than 20 days. The Board does not anticipate any fiscal impact from this change.

Section 8: Duty to Report Criminal Offenses. Licensees would be required to report to the Board within 30 days any criminal arrests, charges, or convictions for a range of offenses. Failure to do so would be grounds for license revocation. The Board has not identified any costs associated with this requirement.

Section 9: Firearm Registration Permits. The Board does not anticipate any fiscal impact due to including "armed private investigators" as firearm registration permitees.

Section 11: Private Protective Services Fund. The Fund is maintained for the purpose of paying claims against licensees. Claims are limited to $5,000 per obligation and $10,000 in aggregate against any one licensee within a year. The Board reports that, within the past five years, one claim – of less than $5,000 – was made against the Fund. Staff records indicate that this is the only claim paid since the Fund's inception in 1983.

Each new applicant for a license or training permit pays a fee of $50 into the Fund. For any year that the balance falls below the minimum, the Board is authorized to charge each licensee and trainee an additional fee (up to $50) in order to reach the minimum threshold. Under current law, the Fund balance must be at least $100,000. This bill would reduce the minimum balance to $25,000. Currently, the Fund balance is approximately $22,650. By reducing the minimum from $100,000 to $25,000, the Fund balance would be less than $3,000 below the minimum, and the Board would be able to charge a lower additional fee.

The funds are invested by the State Treasurer, and the Board may use the proceeds from its investments to fund education and research in the area of private protective services. This legislation would allow the Board to use all except $25,000 in the Fund for education and research purposes, and all except $50,000 to offset operating expenses. Currently, the balance is below $25,000, so no additional funds would be available for these purposes.

SOURCES OF DATA: Private Protective Services Board (within the Department of Justice)

TECHNICAL CONSIDERATIONS: This legislation is effective when it becomes law, and would eliminate five board member positions. At present, there is only one vacancy on the Board. However, one of the Attorney General's appointees is serving a term that expired June 30, 2001, and several of the House and Senate appointees are serving terms that expire June 30, 2003. If this legislation is enacted prior to June 30, 2003, there will still be people serving in several of the positions to be eliminated.

House Committee on Finance

Minutes

~

June 18, 2003

The House Committee on Finance met on Wednesday, June 18, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Martha Harris, Jim Klingler, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairwoman Howard called the meeting to order at 8:38 am and proceeded to recognize the five (5) pages present at the meeting: (1) Rebecca Badger of Craven County, sponsored by Representative Wainwright; (2) Jessica Barnes of Craven County, sponsored by Representative Wainwright; (3) Mollie Bowness of Moore County, sponsored by Speaker Morgan; (4) Annie McCollum of Wake County, sponsored by Representative G. Allen; and (5) Lindsay Weaver of Wake County, sponsored by Representative G. Allen.

As the first matter of business, Chairwoman Howard recognized Representative Luebke to explain his bill: **HB 1318 – REPEAL BILL LEE ACT & MAKE INCENTIVES WORK** (see attachment 3). Representative Allen was recognized by the Chair and moved adoption of the Proposed Committee Substitute (PCS) for HB 1318 for discussion purposes, which carried without objection. He explained that the bill acts to replace the Bill Lee jobs tax credit, investment tax credit, and worker training tax credit with a new Bill Lee program to target the Act's incentive dollars to the neediest areas of the State and to projects that would not otherwise occur (see bill analysis in attachment 3 for more specific details). Representative Luebke then requested that the Chairwoman recognize Mr. Bill Schweke, Research Director at the Center for Enterprise Development (CFED). Mr. Schweke then addressed the Committee members, stating that the focus of the Bill Lee Act was to create business opportunities in distressed/rural economic areas of the state. But, partly due to the fact that the receipt of Bill Lee incentives is based upon the State's "tier" system, the Act simply isn't working. Mr. Schweke, therefore, proposed a "modernized" Bill Lee Act that would restructure the tier system to better target the most economically needy areas. Following his presentation, Chairwoman Howard recognized Representative Holliman who expressed the terrible economic conditions in his district, that being the Davidson County area. He also spoke highly in favor of Representative Luebke's initiative to restructure the current Bill Lee Act. Representative Womble was recognized next by the Chair and asked Staff if the "modernized" version of the Act contained provisions to the economic problems that are located in only certain sectors of a city or community. He specifically cited an example within his district, within the inner city area of Winston-Salem where due to urban sprawl (among other factors) the economy has deteriorated drastically and remains in need of new economic options. Martha Harris from Staff responded that the new Act does, in fact, address these "pockets of poverty" in its provisions. Representative Luebke also noted to Representative Womble as well as the other members that the

modernized Bill Lee Act includes provisions to require "first-source" hiring in order to receive the associated grants that are made available to participating industries. First-source hiring requires that participating industries must consider applicants from the direct area to fill positions prior to consideration of other applicants. Following this explanation, Chairwoman Howard ruled to temporarily displace HB 1318, given the other pending matters of business before the Committee.

The Chair then addressed the Committee concerning **SB 934 – DWI PROVIDER AUTHORIZATION FEES** (see attachment 4). She noted that the bill had already been voted favorably out of the Committee (see minutes from the June 11, 2003 meeting), but was being recalled in the interest of possible improvements upon it. (As the bill summary denotes, this bill involves DWI offenders' use of assessment centers as a means to reduce their time without driving privileges. The bill specifically acts to increase the fees paid by these assessment centers throughout the state so that an acceptable level of quality care can be maintained through monitoring, which would be conducted by the Department of Health and Human Services.) Representative Capps was then recognized by the Chair for a motion to reconsider the earlier vote cast on SB 934, which carried without objection. Representative Capps was again recognized to send forth an amendment to the bill. Representative Capps explained that the amendment increases the fee for DWI Assessments charged to participants by $25.00, from $50.00 to $75.00. He noted that since the major focus of the bill was to increase the fees paid by the providers of these assessments (in order to ensure some level of quality), his amendment then simply allows the providers to regain some of their monies lost to these increased fees from those receiving the assessment services. Senator Kerr, the bill sponsor, was also present and was recognized by Chairwoman Howard to speak on the amendment. He stated his opposition to the amendment, noting his contention that the increase in fees to those participating was not fiscally responsible. Representative Ellis disagreed however, and upon being recognized by the Chair, stated that given the time involved for a quality assessment, the current fee of $50.00 was insufficient to cover the costs. The Chairwoman then recognized Representative Alexander who requested to hear from Mr. Frank M. Jolly, a certified substance abuse assessor working for ARP Phoenix and a representative of the DWI Providers of North Carolina. Mr. Jolly addressed the Committee in support of both Representative Capps' amendment as well as the DHHS monitoring proposed in the bill. Chairwoman Howard once again recognized Representative Capps, who moved adoption of his amendment. The Chair then recognized Senator Kerr who again spoke on the amendment, stating that the increased fees proposed in the amendment would raise some $650,000 in additional funds per year. He viewed these amounts as a tax, not a fee. Seeing no further discussion, Chairwoman Howard called Representative Capps' amendment to a vote, and with a clear majority, the amendment was adopted. The Chair then recognized Representative Blackwood who moved that a new House Committee Substitute on SB 934 be drafted, incorporating the adopted Capps' amendment, and that this new House Committee Substitute receive a favorable report and an unfavorable report as to the original bill. Seeing no further discussion or debate on the motion, Chairwoman Howard then called the vote and the motion carried by consent.

Chairwoman Howard next recognized Representative Holliman for explanation of **HB 1049 – LICENSED PSYCH. ASSOC./INSURANCE PAYMENTS** (see attachment 5). He explained the bill as simple and non-controversial. Specifically, the bill acts to permit licensed psychological associates to receive fees directly from insurers. It also allows the Psychology Practice Board to require applicants for licensure to pay the fee for the national written examination directly to the vendor. (The vendor shall also set the cost of the examination.) Finally, the bill increases the fee for a temporary license from $25 to $35. Following this explanation, Representative Womble

was recognized by the Chair to state a concern to the bill sponsor. He stated that he was aware that this bill had originally had some controversy. However, Representative Holliman assured him that all of the opposition to the bill had been addressed and that there was now full support on all sides of the issue. Chairwoman Howard then recognized Representative Womble once again for a motion of favorable report as to the existing Committee Substitute bill for HB 1049. Hearing no further discussion or debate, the Chair called the motion to a vote and it carried unanimously.

Chairwoman Howard then acted to replace **HB 1318 – REPEAL BILL LEE ACT & MAKE INCENTIVES WORK** (see attachment 3) before the Committee for continued debate. Chairwoman Howard recognized the bill sponsor, Representative Luebke, who then welcomed any questions on the bill from the Committee members. Representative Hill made a request that the Chair recognize Mr. Jim Fain, North Carolina Secretary of Commerce, for a question. The Chair then did recognize Mr. Fain and welcomed him to the House Committee on Finance. Representative Hill then inquired to the Secretary for his opinion on the current functioning of the Bill Lee Act in the state. Secretary Fain responded that it was difficult to "gauge" whether or not the tier system contained in the current Bill Lee Act was fair and that "obviously, it could be improved." Chairwoman Howard then immediately recognized Representative Wilson to send forth three (3) separate amendments. Representative Wilson explained that her first amendment increases the established cap under the new Bill Lee Act from $25 million to $29 million and provides that Tier 3 counties would be capped at $8 million rather than $3 million, Tier 4 counties would be capped at $6 million rather than $2 million, and Tier 5 counties would be capped at $5 million rather than $1 million. Having been assured by staff that these increases were very attainable, she then moved adoption of her amendment. Representative Luebke was then recognized to speak on the amendment and noted his support for the increased caps. Hearing no further discussion among the members, the Chair called the vote on Representative Wilson's first amendment and it was adopted by consent. Chairwoman Howard then again recognized Representative Wilson to send forth her second of three amendments. She explained that since the lower tiered counties receive the highest amount of incentives each year under the Bill Lee Act, this amendment would provide that any grant funds unused by the lower tiers in a given year, then the remaining monies would be dispersed among the other tiers levels. She further noted that this amendment gives priority to the lowest tiers (which, of course, need the most help), but also gives help to all areas of the state when possible. Representative Luebke was then briefly recognized and voiced his support of this amendment as well. Representative Hill was recognized and voiced his support of the bill for his district, specifically Columbus County. Hearing no further discussion or debate and Representative Wilson having then moved adoption of her second amendment, the Chair then called the vote. The second Wilson amendment was adopted with no known opposition. Once again, the Chair recognized Representative Wilson to send forth her third and final amendment. She explained briefly that this third amendment acts to delete a section from the bill that prohibits companies with contingency fee contracts from receiving grants under the Bill Lee Act. She noted that excluding these companies could result in the loss of a large number of jobs throughout the state. Chairwoman Howard, hearing no further discussion, then called Representative Wilson's third amendment to a vote and the amendment was adopted without objection. The Chair next recognized Representative Luebke who moved that the adopted amendments be incorporated into a new PCS for HB 1318 and that the new PCS receive a favorable report with recommendation that it be re-referred to the Committee on Appropriations. Representative Gibson, however, upon recognition from the Chair, then acted to offer a substitute motion that incorporated the newly adopted amendments into a new PCS and that the new PCS should be reported without prejudice with recommendation that it be re-referred to the Committee on Appropriations. Chairwoman Howard then acted to address

Representative Gibson's substitute motion first. Representative Luebke was recognized as the bill sponsor to speak on Representative Gibson's motion and voiced his opposition. The Chair then called the Gibson motion to a vote and the motion failed. Returning then to the motion made by Representative Luebke (for a favorable report), the Chairwoman Howard called the vote and the motion carried.

As the Committee's time had then expired, Chairwoman Howard adjourned the meeting at 9:54 am.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1318 (and related materials)
4. Senate Bill 934 (and related materials)
5. House Bill 1049 (and related materials)
6. House Bill 1072 (and related materials)**(not discussed)**
7. House Bill 1253 (and related materials)**(not discussed)**
8. House Bill 1289 (and related materials)**(not discussed)**
9. Senate Bill 993 (and related materials)**(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 18, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Howard

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1049 LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE
Rep. Holliman

HB 1072 REGULATE TICKET BROKERS *Reps. Miner and Gibson*

HB 1253 MODIFY FINANCE LAWS *Rep. McComas*

HB 1289 AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES
Rep. Hackney

HB 1318 REPEAL BILL LEE ACT & MAKE INCENTIVES WORK
Rep. Luebke

SB 934 DWI PROVIDER AUTHORIZATION FEES *Sen. Kerr*

SB 993 AN ACT TO SAFEGUARD CHILDREN *Sen. Garrou*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, June 17, 2003 3:24 PM
Subject: CORRECTED NOTICE House Finance Committee 6-18-2003
Importance: High

CORRECTED NOTICE:
SB 934 – CALENDARED FOR RECONSIDERATION

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE:	**Wednesday, June 18, 2003**
TIME:	**8:30 A.M.**
LOCATION:	**544 LOB**

The following bills will be considered:

HB 1049 – LICENSED PSYCH. ASSOC./INDEPENDENT PRACTICE – Rep. Holliman

HB 1072 – REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1253 – MODIFY FINANCE LAWS – Rep. McComas

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

HB 1318 – REPEAL BILL LEE ACT & MAKE INCENTIVES WORK – Rep. Luebke

SB 934 - DWI PROVIDER AUTHORIZATION FEES – Sen. Kerr

SB 993 – AN ACT TO SAFEGUARD CHILDREN – Sen. Garrou

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **3:30 P.M.** on **June 17, 2003**.

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 18, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

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HB 1253 – MODIFY FINANCE LAWS – Rep. McComas

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

HB 1318 – REPEAL BILL LEE ACT & MAKE INCENTIVES WORK – Rep. Luebke

SB 993 – AN ACT TO SAFEGUARD CHILDREN – Sen. Garrou

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **1:30 P.M.** on **June 17, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carlton E. Miles JR	NC PBSB
Elizabeth Jordan	NC Budget & Tax Center
Elaine Mejia	NC Budget & Tax Center
Bradsie Woo	CFED
MICHAEL GLASS	NC OWI PROVIDERS ASSOCIATION
FRANK JOLLY	ARP - Phoenix - Providers Assoc.
Bill Schwoche	CFED
CASANDRA SPENCER	CCPS
Camille Stell	KCLH
Stan Wall	Conservation Council
Greg Radford	Revenue

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lonnie Collins	DOR
Karl Knapp	DOR
Mark Bacon	Capitol Group
Charlie Dodd	NC Trucking Association
Rick Zechini	NC Assoc. of REALTORS
Leslie Bebergen	NCCBI
Judith Lyon	SBE
Angie Harris	Maupin Taylor
Charles McDaniels	NC Private Protective Services Bd.
Wayne Woodard	NC Dept of Justice - PPS
Eddie Caldwell	NC Sheriffs Assn / NC Law Enf Off Assn

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
NCDOC	DON HOBART
Smarkham	NC State Ports Authority
Chawler	EGHS
FRANK JOLLY	DWI Providers Assoc.
MICHAEL GLASS	DWI PROVIDERS ASSOC.
Rob Lamme	NC DHHS
Michael EISEN	NC DHHS
Sonya Brown	NC DHHS
Andy Romenat	NCLM.
RON AYCOCK	COUNTY COM. ASSOC
Ann McArthur	Governor's Ofc.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard O'Brien	PFFPNC
[illegible]	NCICU
Zeb Alley	Alley Associates Inc
Cam Cover	BPMHL
R. Paul Wilms	NCHBA
Sori Schmidt	NC Justice Center
W H Potter Jr	NCDS & NCPA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1318
PROPOSED COMMITTEE SUBSTITUTE H1318-CSLCxf-77 [v.10]

6/17/2003 1:55:47 PM

Short Title: Modernize Bill Lee Act. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE BILL LEE ACT AND REPLACE IT WITH MORE EFFECTIVE INCENTIVES TO BRING PROSPERITY TO DISTRESSED AREAS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds as follows:

(1) One of the primary objectives of the William S. Lee Act when it was enacted in 1996 was to encourage relatively more private investment and job growth in poorer and struggling rural areas of the State. This intent was extended to disadvantaged urban centers with the inclusion of the development zone incentives.

(2) Over the years, the Act has been expanded and refined and has received increasing funding, but it has remained focused on this key objective.

(3) The evidence clearly indicates that the large majority of investment and job creation credits are taken by companies locating in prosperous urban areas. This suggests that most of the credits represent a State subsidy for location decisions that would have been made in the absence of the Bill Lee Act.

(4) The annual cost to the State of the Bill Lee Act and related incentives that have been adopted since 1996 amounts to $142 million. These funds have become more precious as the State faces the most severe fiscal crisis in over five decades.

(5) The shift of North Carolina jobs to other countries that has begun in the last few years continues to spread from traditional manufacturing sectors to other manufacturing and to information processing. This trend shows no signs of abating as companies continue to strive to reduce labor costs.

(6) The movement of jobs to other countries has had a severe impact on certain industrial counties in the Piedmont and some small communities in the rural areas of the State. The lack of replacement employment opportunities will limit the careers of displaced workers in these counties, even with retraining efforts. In many cases, the current Bill Lee Act economic distress determination does not take into account these situations on a timely basis.

(7) This act is designed to address these issues by making the following changes:

a. Retaining those parts of the William S. Lee Act that are beneficial and effective.

b. Replacing the remaining parts of the William S. Lee Act with a program designed to address the unique challenges raised by current economic trends.

c. Providing a superior method for identifying the areas of relative economic health versus distress.

d. Better targeting the State's economic development dollars to projects that would not otherwise locate or expand without an incentive.

e. Providing a performance management information system that will allow the State to continually assess and evaluate its economic development tools and adjust them to reflect ongoing changes in the economy.

(8) This act is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina. This act will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.

SECTION 2. G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – G.S. 105-129.9A is repealed effective for business activities that occur on or after January 1, 2006. Except as provided in subsection (a1) of this section, the remainder of this~~This~~ Article is repealed effective for business activities that occur on or after January 1, ~~2006.~~2004."

SECTION 3. Chapter 105 of the General Statutes is amended by adding a new Article 3F entitled "Research and Development."

SECTION 4.(a) The following statutes in Article 3 of Chapter 105 of the General Statutes are amended as follows:

(1) G.S. 105-129.3 is recodified as G.S. 143B-437.5.

(2) G.S. 105-129.3A is recodified as G.S. 143B-437.6.

(3) G.S. 105-129.10(a) is recodified as G.S. 105-129.55.

(4) G.S. 105-129.10(b) is recodified as G.S. 105-129.56.

(5) G.S. 105-129.10(c) is repealed.

SECTION 4.(b) The Revisor of Statutes is authorized to change cross-references to these provisions wherever they may be found in the General Statutes in order to reflect the recodification.

SECTION 5. Part 2B of Chapter 143B of the General Statutes, as amended by this act, reads as rewritten:

"Part 2B. Economic Development Definitions and Standards.

"§ 143B-437.4. **Reserved.**

"**§ 143B-437.5 Enterprise tier designation.**

(a) Tiers Defined. – An enterprise tier one area is a county whose enterprise factor is one of the 10 highest in the State. An enterprise tier two area is a county whose enterprise factor is one of the next 15 highest in the State. An enterprise tier three area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier four area is a county whose enterprise factor is one of the next 25 highest in the State. An enterprise tier five area is any area that is not in a lower-numbered enterprise tier.

(b) ~~Annual Designation.~~Ranking. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the ~~preceding three years.~~most recent 12-month period for which data are available.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

(c) Annual Designation. – The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. An enterprise tier designation is effective only for the calendar year following the designation.

~~(b1)~~(d) Data. – In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer.

~~(c)~~(e) Exception for Enterprise Tier One and Two Areas. – Notwithstanding the provisions of this section, a county designated as an enterprise tier one area or an enterprise tier two area may not be redesignated as a higher-numbered enterprise tier area until it has been in its enterprise tier area for at least two consecutive years.

~~(d)~~(f) Exception for Two-County Industrial Park. – For the purpose of this ~~Article,~~Part, an eligible two-county industrial park has the lower enterprise tier designation of the designations of the two counties in which it is located if it meets all of the following conditions:

(1) It is located in two contiguous counties, one of which has a lower enterprise tier designation than the other.
(2) At least one-third of the park is located in the county with the lower tier designation.
(3) It is owned by the two counties or a joint agency of the counties.
(4) The county with the lower tier designation contributed at least the lesser of one-half of the cost of developing the park or a proportion of the cost of developing the park equal to the proportion of land in the park located in the county with the lower tier designation.

~~(e)~~(g) Exceptions for Certain Small Counties. – The following exceptions to the provisions of this section apply to small counties:

(1) A county that meets both of the conditions set out below is designated an enterprise tier one area:
a. Its population is less than 12,000.
b. More than sixteen percent (16%) of its population is below the federal poverty level according to the most recent federal decennial census.

(2) A county that meets both of the conditions set out below has an enterprise tier designation one level below the designation it would otherwise have under subsection (a) of this section:
a. Its population is less than 50,000.
b. More than eighteen percent (18%) of its population is below the federal poverty level according to the most recent federal decennial census.

(3) A county that has a population of less than 35,000 and that would otherwise be designated an enterprise tier four or five area under this section must be designated an enterprise tier three area.

"**§ 143B-437.6. Development zone designation.**

(a) Development Zone Defined. – A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) Every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State Planning Officer.
(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State Planning Officer.
(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.
(4) Every census tract and census block group in the zone meets at least one of the following conditions:
a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.

b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.

(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce.

(b) Designation. – Upon request of a ~~taxpayer~~person or a local government, the Secretary of Commerce shall designate whether an area is a development zone that meets the conditions of subsection (a) of this section. If the applicant is a ~~taxpayer, it~~person, the applicant must notify each city in which part of the zone is located. A development zone designation is effective for 24 months following the designation. The Department of Commerce must publish annually a list of all development zones with a description of their boundaries.

(c) ~~Relationship With Enterprise Tiers.~~Effect of Designation. – For the purpose of the wage standard ~~requirement of G.S. 105-129.4, the credit for investing in machinery and equipment allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S. 105-129.11, a development zone is considered an enterprise tier one area. For all other purposes, a development zone has the same enterprise tier designation as the county in which it is located.~~provided in this Part, a development zone is considered an enterprise tier one area.

(d) Parcel of Property Partially in a Development Zone. – For the purposes of this section, a parcel of property that is located partially within a development zone is considered entirely within the development zone if all of the following conditions are satisfied:

(1) At least fifty percent (50%) of the parcel is located within the development zone.

(2) The parcel was in existence and under common ownership prior to the most recent federal decennial census.

(3) The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary.

"**§ 143B-437.7. Standards.**

(a) Purpose. – This section establishes various standards to be applied in the State's economic development efforts to assure that incentives are used only for high-quality jobs that are beneficial to the citizens of the State.

(b) Wage Standard. – No wage standard applies to activities in an enterprise tier one or two area. Activities in an enterprise tier three, four, or five area must meet the wage standard provided in this subsection.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to one hundred ten percent (110%) of the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the

average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State.

The Department of Commerce must annually publish the wage standard for each county.

(c) Health Insurance Standard. – A project meets the health insurance standard if the employer provides health insurance for all of the full-time positions at the project location at the time an incentive is granted and during every year the incentive continues. For the purposes of this subsection, an employer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

(d) Environmental Impact Standard. – A project meets the environmental impact standard only if the applicant for an incentive certifies that, at the time of the application, the applicant has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Revenue and the Department of Commerce annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years.

(e) Safety and Health Programs Standard. – A project meets the safety and health programs standard only if the applicant for an incentive certifies that, at the time of the application, at the business location with respect to which the incentive is claimed, the applicant has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127. The Secretary of Labor must notify the Department of Revenue and the Department of Commerce annually of all employers who have had these citations become final orders within the past three years.

(b6) Overdue Tax Debts. – An applicant is not eligible for an economic development incentive if, at the time of the applicant or at the applicant claims an installment of the incentive, the applicant has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved."

SECTION 6. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2G. William S. Lee Quality Jobs Investment Grants.

"**§ 143B-437.70. Definitions.**

Except as otherwise provided in this section, the definitions in Part 2B of this Article and in G.S. 143B-437.51 apply in this Part. The following definitions apply in this Part:

(1) Agreement. – A Bill Lee agreement entered into under this Part.

(2) Committee. – The Bill Lee Committee created in this Part.

"**§ 143B-437.71. Legislative findings and purpose.**

The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) It is the purpose of this Part to carry out this policy by using State economic development resources to secure location and expansion of quality projects in the areas of the State in most need, whether due to chronic economic problems or sudden and severe dislocation.

(3) It is not the intent of the General Assembly that grants provided through this Part be used as venture capital funds, business incubator funds, or business start-up funds or to otherwise fund the initial capitalization needs of new businesses.

(4) Nothing in this Part constitutes a guarantee or an assumption by the State of any debt of any business or an authorization of a pledge of the taxing power or the full faith and credit of the State.

"**§ 143B-437.72. Quality Jobs Investment Grant Program.**

(a) Creation and Purpose. – There is established in the Department of Commerce the William S. Lee Quality Jobs Investment Grant Program to be administered by the Bill Lee Committee created in this Part. In order to foster job creation and investment in the economy of this State, the Committee may enter into negotiated agreements with businesses to provide grants in accordance with the provisions of this Part and may provide funding to local nonprofit or governmental economic development organizations for infrastructure and worker training projects. The purpose of this Part is to provide a more effective and efficient replacement for the tax credit incentives repealed effective January 1, 2004. The replacement must be targeted to the areas of the State most in need of incentives, as determined by the Committee.

(b) Evaluating Economic Distress. – This Part must be administered and interpreted in light of its purpose to bring healthy economic development to those areas of the State with the greatest economic needs. In determining the level of economic distress of an area, the Bill Lee Committee must initially evaluate the enterprise tier areas and development zones designated under Part 2B of this Article. For the purpose of applying the standards and requirements of this Part, a development zone is considered a tier one enterprise area.

The Committee may further determine the level of economic distress of an area by examining any relevant factors based on reliable data available for a census tract or larger geographic area, including the following: sudden or severe dislocation or job loss, workforce skills and educational attainment, infrastructure and other local resources, and ad valorem tax base.

(c) Criteria. – The Committee, in consultation with the Attorney General, must develop criteria to be used with respect to grants to businesses in determining whether the conditions of this Part are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

(1) The location or expansion the business will create net new jobs by the business and is expected to increase the size of the economic pie on a statewide basis.

(2) The proposed project will directly benefit and create opportunities in an area of the State that the Committee identifies as experiencing high unemployment, severe job losses, persistent blight, or other economic problems as compared to other areas of the State.

(3) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project.

(d) Ceilings. – The maximum amount of total annual liability for grants for agreements entered into in any single calendar year may not exceed twenty-five million dollars ($25,000,000). No agreement may be entered into that, when considered together with other existing agreements entered into during that calendar year, could cause the State's potential total annual liability for grants entered into in that calendar year to exceed this amount. Within this ceiling, a the following total annual maximums apply based on the location of the projects for which grants are made:

Tier	**Maximum**
1 & 2	none
3	$3,000,000
4	$2,000,000
5	$1,000,000

In addition, within the twenty-five million dollar ($25,000,000) ceiling, up to five million dollars ($5,000,000) may be used for projects that would otherwise not qualify based on the maximums provided in this subsection but that are located in areas of especially severe economic distress as determined by the Committee in accordance with subsection (b) of this section.

(e) Performance Management Information System. – Before entering into any agreements under this Part, the Committee must develop and implement a performance management information system that includes at least the following elements:

(1) Establishing goals of the program.

(2) Outlining each stage of the procedure for carrying out the goals of the program.

(3) Identifying all information necessary for decision making at each stage to achieve the program goals.

(4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.

(5) Establishing performance measures for predictive assessment and post decision review.

(6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program.

"**§ 143B-437.73. Eligible projects.**

(a) Minimum Number of Eligible Positions. – A business may apply to the Committee for a grant for any project that creates the minimum number of eligible positions as set out in the table below. If the project will be located in more than one enterprise tier area, the location with the highest enterprise tier area designation determines the minimum number of eligible positions that must be created.

Enterprise Tier Area	Number of Eligible Positions
Tier One	10
Tier Two	10
Tier Three	10
Tier Four	20
Tier Five	20

(b) Ineligible Businesses. – A project that consists solely of retail facilities is not eligible for a grant under this Part. If a project consists of both retail facilities and nonretail facilities, only the portion of the project consisting of nonretail facilities is eligible for a grant, and only the withholdings from employees in eligible positions that are employed exclusively in the portion of the project that represents nonretail facilities may be used to determine the amount of the grant. If a warehouse facility is part of a retail facility and supplies only that retail facility, the warehouse facility is not eligible for a grant. For the purposes of this Part, catalog distribution centers are not retail facilities.

A project that consists of a professional or semiprofessional sports team or club is not eligible for a grant under this Part.

(c) Health Insurance. – A business is eligible for a grant under this Part only if the business meets the health insurance standard established in Part 2B of this Article for all of the full-time employees of the project with respect to which the grant is made. Each year that a business receives a grant under this Part, the business must provide with the submission required under G.S. 143B-437.78 a certification that the business continues to meet the health insurance standard for all full-time employees of the project with respect to which the grant is made. If the business ceases to meet the health insurance standard for all full-time employees of the project with respect to which a grant is made, the Committee must amend or terminate the agreement as provided in G.S. 143B-437.79.

(d) Wage Standard. – In order for a business to be eligible for a grant under this Part, the average wage of all jobs at the location with respect to which a grant is made must meet the applicable wage standard set out in Part 2B of this Article. If a project is to be located at more than one location, the average wage of all jobs at a location must

meet the applicable wage standard in order for that location to be included in the agreement.

(e) Living Wage Standard. – In order for a business to be eligible for a grant under this Part, each eligible position must meet the living wage standard. A position meets the living wage standard if it pays a wage that on an annual basis exceeds two times the federal poverty level for a family of two, based on the federal poverty guidelines established by the United States Department of Health and Human Services, as revised each April 1. The Committee may waive this requirement in enterprise tier one and two areas and in areas of especially severe economic distress as determined by the Committee based on objective factors as provided in G.S. 143B-437.72(b).

(e) Safety and Health Programs. – In order for a business to be eligible for a grant under this Part, the business must meet the safety and health programs standard provided in Part 2B of this Article.

(f) Environmental Impact. – In for a business to be eligible for a grant under this Part, the business must meet the environmental impact standard provided in Part 2B of this Article.

(g) First Source Hiring. – In order for a business to be eligible for a grant under this Part, the business must have entered into a first source hiring contract to utilize the State employment security commission and any cooperating local agency as its first source for recruitment and referral of applicants for new and replacement employment. Under the contract, the business must allow the agency three days to refer applicants. Upon request of the business in the case of an emergency, the agency may waive the three-day period. Under the contract, the business must interview and consider qualified candidates referred by the agency before interviewing other candidates. The term of the first source contract must be at least as long as the term of the grant agreement under this Part. The Committee may waive this requirement for projects in enterprise tier one and two areas and in areas of especially severe economic distress, as determined by the Committee based on objective factors as provided in G.S. 143B-437.72(b).

(h) Contingency Fee Contracts. – In order for a business to be eligible for a grant under this Part, it must not have entered into a contingency fee contract with any party to provide services or representation to it in site selection, relocation, expansion, or negotiation regarding economic incentives. A contingency fee contract is one in which the fee for services or representation is measured by or contingent on the results produced.

"**§ 143B-437.74. Bill Lee Committee established.**

(a) Membership. – The Bill Lee Committee is established. The Committee consists of the following members:

(1) The Secretary of Commerce.

(2) The Secretary of Revenue.

(3) The Director of the Office of State Budget and Management.

(4) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(5) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The members of the Committee appointed by the General Assembly may not be members of the General Assembly. The members of the Committee appointed by the General Assembly serve two-year terms that begin upon appointment.

(b) Decision Required. – The Committee may act only upon a vote of five or more of its nine members.

(c) Conflict of Interest. – It is unlawful for a former member of the Committee to, within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part while the former member was serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court must also make a finding as to what compensation was received by the defendant for services in violation of this section and must order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part while the former member was serving on the Committee until two years after the person's conviction under this section.

(d) Public Notice. – The Committee must do both of the following at least 20 business days before the effective date of any criteria or amendments to criteria:

(1) Publish the proposed criteria on the Department of Commerce's web site.

(2) Provide notice to persons who have requested notice of proposed criteria.

In addition, the Committee must accept oral and written comments on the proposed criteria during the fifteen business days beginning on the first day that the Committee has completed the notifications required by subdivisions (1) and (2) of this subsection.

(e) Sunshine. – Meetings of the Committee are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. All documents of the Committee, including applications for grants, are public records governed by Chapter 132 of the General Statutes and any applicable provisions of the General Statutes protecting confidential information.

"**§ 143B-437.75. Applications; fees; reports; study.**

(a) Pre-application. – The Committee may develop a procedure to require a business to submit a pre-application before applying for a grant under this Article. The pre-application must be in the form prescribed by the Committee and must include all information required by the Committee to make an initial screening determination of whether the project is eligible under this Article and to make any other initial determinations it considers useful to evaluate potential applicants. The Committee may impose a pre-application fee not to exceed one hundred dollars ($100.00).

(b) Application. – To apply for a grant under this Article, a business must submit an application, under oath, to the Committee on a form prescribed by the Committee that includes at least all of the following:

(1) The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site or sites.

(2) The names and addresses of the principals or management of the business, the nature of the business, and the form of business organization under which it is operated.

(3) The financial statements of the business prepared by a certified public accountant and any other financial information the Committee considers necessary.

(4) The number of eligible positions proposed to be created during the base years and thereafter and the salaries for these positions.

(5) An estimate of the total withholdings.

(6) Certification that the business will provide health insurance to all full-time employees of the project.

(7) Information concerning other locations, including locations in other states and countries, being considered for the project and the nature of any benefits that would accrue to the business if the project were to be located in one of those locations.

(8) Information concerning any other State or local government incentives for which the business is applying or that it has an expectation of receiving.

(9) Any other information necessary for the Committee to evaluate the application.

(c) Application Fee. – When filing an application under this section, the business must pay the Committee a fee of five thousand dollars ($5,000). The fee is due at the time the application is filed. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited to offset the costs of evaluating applications and administering this Aritcle. The Committee may waive or refund all or part of this fee in its discretion for a project in enterprise tier one or two or in an area of severe economic distress, as determined by the Committee based on objective factors as provided in G.S. 143B-437.72(b).

(d) Annual Reports. – The Committee must publish a report on the William S. Lee Quality Jobs Investment Grant Program on or before April 30 of each year. The report must include the following:

(1) A listing of each Bill Lee agreement negotiated and entered into during the preceding calendar year, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, the term of the agreement, the percentage used to determine the amount of the grant, and the amount of the grant made under the agreement during that year.

(2) An update on the status of projects under agreements entered into before the preceding calendar year.

(3) The number and enterprise tier area of eligible positions created by projects with respect to which grants were awarded.

(4) The wage levels of all eligible positions created by projects with respect to which grants are awarded, aggregated and listed in increments of five thousand dollars ($5,000).

(5) The amount of new income tax revenue received from withholdings related to the projects for which grants were awarded.

(6) The criteria developed by the Committee, in consultation with the Attorney General, to implement this Part and any changes in those criteria from the previous calendar year.

(7) The effectiveness of the program in recruiting new and expanding businesses.

(8) The environmental impact of businesses that have received grants under the program.

(9) The geographic distribution of grants, by number and amount, awarded under the program.

(10) An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.

(11) A listing of all businesses making an application under this Part and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant for the project under this Part.

(12) The division and use of fees collected by the Committee under this section and under G.S. 143B-437.78.

(e) Quarterly Reports. – The Committee must publish a report on the William S. Lee Quality Jobs Investment Grant Program within two months of the end of each quarter. This report must include a listing of each Bill Lee agreement negotiated and entered into during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

(f) Cooperation. – The Committee must provide the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the House and Senate Committees on Finance and on Appropriations a monthly list describing the projects currently under consideration for a grant and a copy of detailed minutes of any meetings the Committee held in executive session.

(g) Study. – The Committee must conduct a study to determine the minimum funding level required to implement the William S. Lee Quality Jobs Investment Grant Program successfully. The Committee must report the results of this study to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, the

Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

"**§ 143B-437.76. Calculation of minimum and maximum grants; factors considered.**

(a) Percentage of Withholding. – Subject to the limitations of subsection (d) of this section, the amount of the grant awarded in each case shall be a percentage of the withholdings of eligible positions. The percentage shall be no less than ten percent (10%) and no more than seventy-five percent (75%) of the withholdings of the eligible positions for a period of years. The percentage used to determine the amount of the grant shall be based on criteria developed by the Committee, in consultation with the Attorney General, after considering at least the following:

(1) The number of eligible positions to be created.

(2) The expected duration of those positions.

(3) The type of contribution the business can make to the long-term growth of the State's economy.

(4) The amount of other financial assistance the project will receive from the State or local governments.

(5) The total dollar investment the business is making in the project.

(6) Whether the project utilizes existing infrastructure and resources in the community.

(7) Whether the project is located in a development zone.

(8) The number of eligible positions that would be filled by residents of a development zone.

(9) The extent to which the project will mitigate unemployment in the State and locality.

(b) Term. – The term of the grant shall not exceed 12 years starting with the first year a grant is made.

(c) Positions. – The grant may be based only on eligible positions created during the base years, unless the Committee makes an explicit determination that the grant will also be based on additional eligible positions created during the remainder of the term of the grant.

(d) Reduction in Tier Four and Five. – The percentage established in the agreement shall be reduced by one-fourth for any eligible position that is located in an enterprise tier four or five area.

(e) Combination with Other Grants. – A business that is receiving any other grant by operation of State law may not receive an amount as a grant pursuant to this Part that, when combined with any other grants, exceeds seventy-five percent (75%) of the withholdings of the business.

(f) Per Position Caps. – The amount of a grant associated with any specific eligible position may not exceed six thousand five hundred dollars ($6,500) in any year. In addition, the maximum amount provided under an agreement may not exceed thirty thousand dollars ($30,000) per eligible position over the life of the agreement.

"**§ 143B-437.77. Bill Lee agreement.**

(a) Terms. – Each Bill Lee agreement must include at least the following:

(1) A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
(2) The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
(3) The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
(4) The amount of the grant based on a percentage of withholdings.
(5) A method for determining the number of new employees hired during a grant year.
(6) A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
(7) A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
(8) A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
(9) A provision that requires the Committee to amend an agreement pursuant to G.S. 143B-437.79.
(10) A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
(11) A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
(12) A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.79, and under which grant funds may be recaptured by the Committee.
(13) A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.79, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
(14) A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.79.
(15) A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to

manipulate withholdings with the purpose of increasing the amount of the grant.

(16) A provision requiring that the business engage in fair employment practices as required by State and federal law and a provision encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.

(17) A provision encouraging the business to hire North Carolina residents.

(18) A provision encouraging the business to use the North Carolina State Ports.

(19) A provision stating that the State is not obligated to make any annual grant payment unless and until the State has received withholdings from the business in an amount that exceeds the amount of the grant payment.

(20) A provision describing the manner in which the amount of a grant will be measured and administered to ensure compliance with the provisions of G.S. 143B-437.72(d).

(21) A provision stating that any recapture of a grant and any amendment to an agreement reducing the amount of the grant or the term of the agreement must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred.

(22) A provision stating that any disputes over interpretation of the agreement must be submitted to binding arbitration.

(23) A provision stating that the business agrees to submit to an audit at any time that the Committee requires one.

(b) Approval of Attorney General. – The Attorney General must review the terms of all proposed agreements entered into by the Committee. To be effective against the State, an agreement entered into under this Part must be signed personally by the Attorney General.

"**§ 143B-437.78. Grant recipient to submit records.**

(a) No later than February 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part must submit to the Committee a copy of its State and federal tax returns showing business and nonbusiness income and a report showing withholdings. Submission of this information is a condition of the business's continuation in the grant program. In addition, the business must submit to the Committee an annual payroll report showing the eligible positions that are created during the base years and the new eligible positions created during each subsequent year of the grant. When making a submission under this section, the business must pay the Committee a fee of one thousand five hundred dollars ($1,500). The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited. The Committee may waive or

refund all or part of this fee in its discretion for a project in enterprise tier one or two or in an area of severe economic distress, as determined by the Committee based on objective factors.

(b) The Committee may require any information that it considers necessary to effectuate the provisions of this Part.

(c) The Committee may require any business receiving a grant to submit to an audit at any time.

"**§ 143B-437.79. Failure to comply with agreement.**

(a) If the business receiving a grant fails to meet or comply with any condition or requirement set forth in an agreement or with criteria developed by the Committee in consultation with the Attorney General, the Committee must amend the agreement to reduce the amount of the grant or the term of the agreement and may terminate the agreement. Any reduction of the grant is applicable to the grant year immediately following the grant year in which the Committee amends the agreement. The reduction in the amount or the term must, at a minimum, be proportional to the failure to comply measured relative to the condition or criterion with respect to which the failure occurred.

(b) If a business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with any condition of the agreement for any two consecutive years, the Committee must terminate the agreement.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if the Committee finds that the business has manipulated or attempted to manipulate employee withholdings with the purpose of increasing the amount of a grant, the Committee must immediately terminate the agreement and take action to recapture any grant funds disbursed in any year in which the Committee finds the business manipulated or attempted to manipulate employee withholdings with the purpose of increasing the amount of the grant.

"**§ 143B-437.80. Disbursement of grant.**

A business may not receive an annual disbursement of a grant if, at the time of disbursement, the business has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved. A business may receive an annual disbursement of a grant only after the Committee has certified to the State Controller that there are no outstanding overdue tax debts and that the business has met the terms and conditions of the agreement. No amount shall be disbursed to a business as a grant under this Part in any year until the Secretary of Revenue has certified to the Committee (i) that there are no outstanding overdue tax debts of the business and (ii) the amount of withholdings received in that year by the Department of Revenue from the business. A business that has met the terms of the agreement must make an annual certification of this to the Committee. The Committee must verify this information and certify to the State Controller that the terms of the agreement have been met. The Committee must further certify to the State Controller the amount of a grant for which the business is eligible under the agreement. The State Controller must remit a check to the business in the amount of the certified grant amount within 90 days of receiving the certification of the Committee.

"**§ 143B-437.81. Effective date and sunset.**

No grant funds may be disbursed under this Article before July 1, 2005. The authority of the Committee to enter into new agreements under this Part is repealed January 1, 2010."

SECTION 7. Article 3F of Chapter 105 of the General Statutes, as enacted by this act, reads as rewritten:

"Article 3F.

"Research and Development.

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) through (3) Reserved.

(4) Qualified North Carolina research expenses. – Qualified research expenses for research performed in this State.

"**§ 105-129.51. Administration; sunset.**

(a) Administration. – A taxpayer is eligible for the credits allowed in this Article if it satisfies the requirements of G.S. 143B-437.6(b), (c), (d), and (e) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively. The three credits allowed in this Article are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year. It may elect a different credit for expenses in a subsequent taxable year.

(b) Sunset. – This Article is repealed effective for research and development activities that occur on or after January 1, 2008.

"**§ 105-129.52. Tax election; cap.**

(a) Tax Election. – The credits allowed in this Article are allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years.

"**§ 105-129.53. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"§ 105-129.54. Reports.

The Department of Revenue must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

(1) The number of taxpayers that claimed each credit allowed in this Article.

(2) The amount of each credit claimed.

(3) The total cost to the General Fund of the credits claimed.

"§ 105-129.55. General ~~credit.~~credit for increasing research and development.

A taxpayer that claims for the taxable year a federal income tax credit under section 41(a) of the Code for increasing research activities is allowed a credit equal to five percent (5%) of the State's apportioned share of the taxpayer's expenditures for increasing research activities. The State's apportioned share of a taxpayer's expenditures for increasing research activities is the excess of the taxpayer's qualified research expenses for the taxable year over the base amount, as determined under section 41 of the Code, multiplied by a percentage equal to the ratio of the taxpayer's qualified North Carolina research expenses ~~in this State~~ for the taxable year to the taxpayer's total qualified research expenses for the taxable year.

"§ 105-129.56. Alternative ~~credit.~~credit for increasing research and development.

A taxpayer that claims the alternative incremental credit under section 41(c)(4) of the Code for increasing research activities is allowed a credit equal to twenty-five percent (25%) of the State's apportioned share of the federal credit claimed. The State's apportioned share of the federal credit claimed is the amount of the alternative incremental credit the taxpayer claimed under section 41(c)(4) of the Code for the taxable year multiplied by a percentage equal to the ratio of the taxpayer's qualified North Carolina research expenses ~~in this State~~ for the taxable year to the taxpayer's total qualified research expenses for the taxable year. For the purpose of this section, the amount of the alternative incremental credit claimed by a taxpayer is determined without regard to any reduction elected under section 280C(c) of the Code."

SECTION 8.(a) Grants from the One North Carolina - Industrial Recruitment Competitive Fund may be made only after the Department of Commerce has developed and implemented a performance management information system that includes at least the following elements:

(1) Establishing goals of the program.

(2) Outlining each stage of the procedure for carrying out the goals of the program.

(3) Identifying all information necessary for decision making at each stage to achieve the program goals.

(4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.

(5) Establishing performance measures for predictive assessment and postdecision review.

(6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program.

SECTION 8.(b) With respect to the One North Carolina - Industrial Recruitment Competitive Fund, the Department of Commerce must provide the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the House and Senate Committees on Finance and on Appropriations a monthly list describing the projects currently under consideration for a grant.

SECTION 9. G.S. 143B-437.52 is amended by adding a new subsection to read:

"(d) Performance Management Information System. – Before January 1, 2004, the Committee must develop and implement a performance management information system that includes at least the following elements:

(1) Establishing goals of the program.

(2) Outlining each stage of the procedure for carrying out the goals of the program.

(3) Identifying all information necessary for decision making at each stage to achieve the program goals.

(4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.

(5) Establishing performance measures for predictive assessment and post decision review.

(6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program."

SECTION 10. G.S. 143B-437.53 is amended by adding the following new subsections to read:

"(f) First Source Hiring. – In order for a business to be eligible for a grant under this Part, the business must have entered into a first source hiring contract to utilize the State employment security commission and any cooperating local agency as its first source for recruitment and referral of applicants for new and replacement employment. Under the contract, the business must allow the agency three days to refer applicants. Upon request of the business in the case of an emergency, the agency may waive the three-day period. Under the contract, the business must interview and consider qualified candidates referred by the agency before interviewing other candidates. The term of the first source contract must be at least as long as the term of the grant agreement under this Part. The Committee may waive this requirement for projects in enterprise tiers one and two and in areas of especially severe economic distress, as determined by the Committee.

(g) Contingency Fee Contracts. – In order for a business to be eligible for a grant under this Part, it must not have entered into a contingency fee contract with any party to provide services or representation to it in site selection, relocation, expansion, or negotiation regarding economic incentives. A contingency fee contract is one in which the fee for services or representation is measured by or contingent on the results produced."

SECTION 11. G.S. 143B-437.55 is amended by adding a new subsection to read:

"(d1) Cooperation. – The Committee must provide the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the House and Senate Committees on Finance and on Appropriations a monthly list describing the projects currently under consideration for a grant and a copy of detailed minutes of any meetings the Committee held in executive session."

SECTION 12. This act becomes effective October 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1318 DATE 6/18/03

S. B. No. _____ Amendment No. Wilson #1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSLCxf-77 (V.10)

(Rep.) Sen.) Wilson

moves to amend the bill on page 8, lines 21-22

( ) WHICH CHANGES THE TITLE

by deleting the words "twenty-five million dollars ($25,000,000)." and substituting the following: "twenty-nine million dollars ($29,000,000).";

and on page 8, lines 29-31 by rewriting the lines to read:

"3 $8,000,000
4 $6,000,000
5 $5,000,000";

and on page 8, line 32 by deleting "twenty-five million dollars ($25,000,000)" and substituting "twenty-nine million dollar ($29,000,000)";

SIGNED Connie Wilson

ADOPTED ✓ by consent FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. CSLCxf-77

H. B. No. 1318

S. B. No. _____

COMMITTEE SUBSTITUTE _____

DATE 6/18/03

Amendment No. Wilson #2
(to be filled in by Principal Clerk)

(Rep)) C Wilson
Sen.)

moves to amend the bill on page 8, lines 36-37

( ) WHICH CHANGES THE TITLE

by adding the following between the lines:

"If the annual ceiling has not been reached in any year, the remaining capacity carries over to the following year and, in the following year, is not subject to any maximum based on location of the project."

SIGNED Connie Wilson

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. CSLCxf-77

H. B. No. 1318

S. B. No. _____

COMMITTEE SUBSTITUTE ✓

DATE 6/18/03

Amendment No. Wilson #3
(to be filled in by Principal Clerk)

(Rep.) C Wilson
Sen.)

moves to amend the bill on page 10, lines 29-34

( ) WHICH CHANGES THE TITLE

~~by~~ and page 20, lines 39-44,

by deleting the lines and adding a quotation mark at the end of pg 20, line 38.

SIGNED Connie Wilson

ADOPTED ✓ by consent FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

HOUSE BILL 1318

Short Title: Repeal Bill Lee Act & Make Incentives Work. (Public)

Sponsors: Representatives Luebke; Insko, Miller, and Weiss.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE BILL LEE ACT AND REPLACE IT WITH MORE EFFECTIVE INCENTIVES TO BRING PROSPERITY TO DISTRESSED AREAS OF THE STATE.

Whereas, the General Assembly finds that incentives should be used only when they meet three standards: (i) they create net new jobs and increase the size of the economic pie on a national basis, (ii) they create opportunity in economically distressed areas, and (iii) they are defensible on an absolute basis without regard to competition with other states; and

Whereas, the General Assembly finds that the Bill Lee Act does not meet these standards and can be defended only on the basis of competition with other states; and

Whereas, reform of the State's incentive programs can target limited State resources to the most efficient economic development in those areas most in need; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – G.S. 105-129.9A is repealed effective for business activities that occur on or after January 1, 2006. Except as provided in subsection (a1) of this section, the remainder of this~~This~~ Article is repealed effective for business activities that occur on or after January 1, ~~2006.~~2004."

SECTION 2. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2G. William S. Lee Quality Jobs Investment Grants.

"**§ 143B-437.70. Definitions.**

The definitions in G.S. 105-129.2 and in G.S. 105-437.51 apply in this Part.

"**§ 143B-437.71. Quality Jobs Investment Grants Program.**

There is established in the Department of Commerce the William S. Lee Quality Jobs Investment Grant Program to be administered by the Economic Investment

Committee created in Part 2F of this Article. In order to foster job creation and investment in the economy of this State, the Committee may enter into negotiated agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, must develop criteria to be used in determining whether the conditions of this Part are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. The purpose of this Part is to provide a more effective and efficient replacement for the tax credit incentives repealed effective January 1, 2004. The replacement must be targeted to the areas of the State most in need of incentives, as determined by the Committee. Before entering into an agreement, the Committee must find that all the following conditions are met:

(1) The location or expansion the business will create net new jobs and increase the size of the economic pie on a national basis.

(2) The proposed project will directly benefit and create opportunities in an area of the State that the Committee identifies as experiencing high unemployment, severe job losses, persistent blight, or other economic problems as compared to other areas of the State.

(3) The grant under this Part is justifiable on an absolute basis and is not justified solely on the basis of competition with other states for the project.

(4) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project."

SECTION 3.(a) Grants from the One North Carolina - Industrial Recruitment Competitive Fund may be made only after the Department of Commerce has developed and implemented a performance management information system that includes at least the following elements:

(1) Establishing goals of the program.

(2) Outlining each stage of the procedure for carrying out the goals of the program.

(3) Identifying all information necessary for decision making at each stage to achieve the program goals.

(4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.

(5) Establishing performance measures for predictive assessment and postdecision review.

(6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program.

SECTION 3.(b) The Department of Commerce must report the following information regarding the One North Carolina - Industrial Recruitment Competitive Fund by the 15th day of each month to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the House and Senate Committees on Finance and on Appropriations:

(1) Each project under consideration during the preceding month for a grant, including name and address of the business, type and location of the project, projected new jobs and investment, and other factors qualifying the project for consideration.

(2) Each grant made during the preceding month, including name and address of the business, type and location of the project, projected new jobs and investment, other factors qualifying the project for a grant, the amount of the grant, and any conditions or clawbacks attached to the grant.

SECTION 4. G.S. 143B-437.52 is amended by adding a new subsection to read:

"(d) Performance Management Information System. – Before entering into an agreement under this Part, the Committee must develop and implement a performance management information system that includes at least the following elements:

(1) Establishing goals of the program.

(2) Outlining each stage of the procedure for carrying out the goals of the program.

(3) Identifying all information necessary for decision making at each stage to achieve the program goals.

(4) Developing methods to collect and process comprehensive data to provide relevant, accurate information on a timely basis and in a useable form.

(5) Establishing performance measures for predictive assessment and post decision review.

(6) Setting a schedule for periodically measuring, analyzing, and reporting performance of the program."

SECTION 5. G.S. 143B-437.55 is amended by adding a new subsection to read:

"(d1) Monthly Reports. – The Committee shall report the following information by the 15th day of each month to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chairs of the House and Senate Committees on Finance and on Appropriations:

(1) Each project under consideration during the preceding month for a grant, including name and address of the business, type and location of the project, projected new jobs and investment, and other factors qualifying the project for consideration.

(2) Each grant offer made during the preceding month, including the information described in subsection (d) of this section.

(3) Detailed minutes of all meetings held in executive session during the preceding month."

SECTION 6. This act becomes effective October 1, 2003.

HOUSE BILL 1318 (PCS): Modernize Bill Lee Act

BILL ANALYSIS

Committee: House Finance
Date: June 17, 2003
Version: Draft

Sponsor: Rep. Luebke
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Replaces the Bill Lee jobs tax credit, investment tax credit, and worker training credit with a new Bill Lee program to target incentive dollars to the neediest areas and to projects that would not otherwise occur. Modifies One North Carolina and JDIG grant programs as well.

Analysis: This bill would reform the Bill Lee Act with the intent of providing provide greater efficiency and effectiveness in State incentives. The bill retains the Research and Development Credit, moves it to anther section of the statutes, and delays its sunset until 2008 (Section 7, pages 18-19). The bill retains the Technology Commercialization Credit and the special provisions for Air Courier Hubs, with their existing sunset dates (Section 2, page 2). The bill retains the language for development zones, the wage standard, the health insurance standard, the environmental impact standard, the worker safety standard, and the overdue tax debt standard (Pages 4–6). The bill retains and modifies the formula for establishing enterprise tiers. The modification is that the formula will use unemployment data based on the most recent 12-month period rather than on the most recent three years. This will allow the formula to adjust promptly for sudden and severe dislocation. (Pages 3-4.)

The bill creates a new grant program called the William S. Lee Quality Jobs Investment Grant Program (Page 7). This program is similar the Job Development Investment Grant (JDIG) program enacted in 2002. It goes into effect July 1, 2005, and is sunset January 1, 2010 (Page 18).

The grant program is administered by a nine-member Bill Lee Committee, made up of the Secretary of Commerce, the Secretary of Revenue, the Director of OSBM, and six legislative appointees (Pages 10-11). Like JDIG, it provides grants measured as a percentage of the withholdings from new positions. The percentage may range from 10% to 75% and is reduced by one-fourth for projects in tier four or five (other than development zones). The amount of a grant cannot exceed $6,500 per position per year or $30,000 per position over the life of the grant agreement. The grants are administered pursuant to a Bill Lee Agreement and may be spread out for a period of up to twelve years. (Page 14.) There is also authorization for the Committee to provide funding to local nonprofit or governmental economic development organizations for infrastructure and worker training projects (Page 7).

Unlike under the current Bill Lee Act, the Bill Lee Grant program provides flexibility to target the incentives where they are most needed (Pages 7 – 8). The program starts with using the existing development zone definitions and the tier definitions modified as indicated above. Development zones are considered tier one for all purposes of the grant program. The program then gives the Bill Lee Committee the ability to further target areas of need by looking at smaller areas within a county that may be distressed, rather than just

considering the entire county as a whole. The program also allows the Bill Lee Committee to evaluate distress with flexibility by considering objective factors in addition to those that make up the tier and development zone formulas. Those factors may include sudden or severe job loss, workforce factors, local resources, and others the Committee considers relevant.

The Bill Lee Grant program uses caps to steer most of the grant money to areas identified as being most in need of business development. There is a $25 million annual cap on the program. Of this, most must go to tiers one and two, including development zones, and to areas the Committee determines to be experiencing especially severe economic distress. Areas that do not meet these conditions are limited to $3 million a year for tier three, $2 million a year for tier four, and $1 million a year for tier five. (Page 8)

The new grant program provides that projects must pay a "living wage" to be eligible for a grant. A living wage is defined as 200% of the federal poverty level for a family of two. The Bill Lee Committee may waive the living wage standard in tiers one and two and in areas of especially severe economic distress. (Page 10.)

Before entering into grants, the Committee must develop a performance management information system to establish goals, procedures for carrying out goals, and methods of identifying and gathering information necessary to evaluate performance. The system would include periodic assessment of the program's success and re-evaluations of economic development goals. (Pages 8-9.) The bill places a similar requirement on the existing One North Carolina/Industrial Recruitment Competitive Fund and the JDIG program (Sections 8(a) and 9, Pages 19-20).

Subject to waiver by the Committee in tiers one and two and in areas of especially severe economic distress, applicants must agree to cooperate with the ESC and a local agency in a first source hiring agreement. Under such an agreement, the ESC and local agency are given three days to recruit and refer applicants for new and replacement employment. The business must interview and consider qualified applicants from this pool before interviewing other candidates, but is not required to hire individuals referred by the ESC or local agency. (Page 10). The bill also adds this requirement to the existing JDIG program (Pages 20-21).

Under the Bill Lee Grant program, grants would not be available to businesses that have entered a contingency fee contract to pay a percentage to a company that negotiates incentives on their behalf (Page 10). The bill also adds this requirement to the existing JDIG program (Page 20).

The application process and fee will be the same in the Bill Lee Grant program as in the existing JDIG program. However, the Bill Lee Committee is also authorized to establish a pre-screening process. The fee for pre-screening may not exceed $100. (Pages 11-12.) The Bill Lee Grant program has the same informational requirements, disbursement procedure, and recapture provisions as the JDIG program.

In addition to quarterly and annual reports, the Bill Lee Committee must provide monthly briefings to the House and Senate leadership on pending proposals. It will not be required to disclosed identifying details on the applicants. (Page 13.) The bill also adds this requirement to the existing One North Carolina/Industrial Recruitment Competitive Fund and the JDIG program (Sections 8(b) and 11, Pages 20-21).

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 18, 2003

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: PCS for HB 1318-Modernize Bill Lee Act

FISCAL IMPACT ($MIL.)

Yes ( ) **No ( )** **No Estimate Available ( )**

	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08
REVENUES					
State General Fund					
Repeal Bill Lee Act:					
M&E Credit, Jobs Credit	**0.0**	**0.0**	**12.2**	**24.4**	**36.6**
R&D Credit	**0.0**	**0.0**	**0.0**	**-8.1**	**-8.4**
Worker Training Credit	**0.0**	**2.6**	**2.7**	**0.0**	**0.0**
Subtotal: Bill Lee Act Repeal	**0.0**	**2.6**	**14.9**	**16.3**	**28.2**
Quality Jobs Grants	**0.0**	**0.0**	**-12.0**	**-24.0**	**-36.0**

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue, Department of Commerce

ISSUE HISTORY: The Bill Lee Act is the package of state tax incentives that was first adopted in 1996 and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment, job creation, worker training, and research/development. The credits apply to activities undertaken by specifically named

industrial classifications. For many of the credits, the counties of the State are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth. The lower the tier of a county, the more favorable the incentive.

BILL SUMMARY:

Bill Lee Act Repeal

(1) Repeals the William S. Lee Act for business activities that take place on or after January 1, 2004. (Current law has a January 1, 2006 sunset.)

(2) Maintains the research and development credit and extends the sunset on the credit from January 1, 2006 to January 1, 2008.

(3) Continues the technology commercialization tax credit and the special provisions for air courier hubs and keeps their existing sunset dates.

Bill Lee Grants

(4) Establishes the William S. Lee Quality Jobs Investment Grant Program. Under this program, a Bill Lee Committee ("Committee") would be created and comprised of the following members:

Secretary of Commerce
Secretary of Revenue
Director of the Office of State Budget and Management
Appointee of President of Senate
Appointee of President of Senate
Appointee of President of Senate
Appointee of Speaker of the House
Appointee of Speaker of the House
Appointee of Speaker of the House

The Committee may enter into negotiated agreements with businesses to provide grants under the guidelines outlined in the bill. The grants are measured as a percentage of withholdings, ranging from 10% to 75% and reduced by 25% for projects in Tiers 4 and 5 (with the exception of development zones).

The grants are limited to $25 million per calendar year, allocated as follows:

- Up to $5 million for project in a sub-county area of severe economic stress, regardless of the tier of the county
- Up to $3 million in Tier 3
- Up to $2 million in Tier 4
- Up to $1 million in Tier 5
- Remainder in Tiers 1 and 2 and in development zones

The amount of the grant may not exceed $6,500 per position per year or $30,000 per position over the life of the grant agreement. The grants may be awarded for up to 12 years.

The Committee must determine the economic distress level of areas of the State by first evaluating enterprise tier areas and development zones. The tier and development zone determination is made in the same fashion as under the current Bill Lee Act except that the unemployment rate measure is based on the most recent 12 months instead of 36 months.

The program gives the Committee the ability to look at smaller areas within a county that may be distressed, rather than only considering the entire county as a whole. In addition, the Committee may evaluate distress by considering objective factors in addition to those that make up the tier and development zone formulas. Those factors may include sudden or severe job loss, workforce factors, local resources, and others the Committee considers relevant.

A business formally applying for a grant must pay a $5,000 fee. The allocation of the proceeds among the affected agencies is determined by the three Executive Branch appointees to the Committee. The Committee may develop a pre-application process for a business contemplating an application for a grant and assess a fee of up to $100 when the business sends in the prescreening information.

Extensive annual and quarterly reporting is included in the bill and monthly progress reports must be sent to the legislative leadership.

The new grant program provides that projects must pay a "living wage" to be eligible for a grant. A living wage is defined as 200% of the federal poverty level for a family of two. The Bill Lee Committee may waive the living wage standard in tiers one and two and in areas of especially severe economic distress.

Subject to waiver by the Committee in tiers one and two and in areas of especially severe economic distress, applicants must agree to cooperate with the ESC and a local agency in a first source hiring agreement. Under such an agreement, the ESC and local agency are given three days to recruit and refer applicants for new and replacement employment. The business must interview and consider qualified applicants from this pool before interviewing other candidates, but is not required to hire individuals referred by the ESC or local agency.

The earliest grant under the new program may not occur until July 1, 2005 and the program sunsets on January 1, 2010.

Prior to entering into an agreement, the Committee must develop and implement a performance management information system.

ASSUMPTIONS AND METHODOLOGY: The January 1, 2004, effective date for the repeal of the Bill Lee Act credits for investments in machinery and equipment, as well as job creation, will not affect General Fund revenue until the 2005-06 fiscal year. The reason is that the credits are not taken until the year after the activity takes place.

The Committee is allowed to provide the grants that replace the Bill Lee Act credits until July 1, 2005. This means that the cost of the grants will not show up until the 2005-06 fiscal year.

The research and development credit will continue. The primary impact on General Fund revenues will be due to the moving of the credit sunset from January 1, 2006, to January 1, 2008. This credit is taken in the year in which the eligible expenditures occur. Thus, the shift in the sunset will lead to an $8.1 million revenue loss in 2006-07 and $8.4 million in 2007-08. These costs were based on applying 4% growth to the estimated 2003-04 cost of $7.1 million. The 2003-04 estimate is tied to a 2003 Department of Revenue tabulation of Bill Lee Act credits taken during the 2002 tax year. Due to the sluggish economic recovery, the 2002 tax year amount was used for 2003.

The revenue gain from repealing the worker training tax credit is based on the actual credit usage as reported by the Department of Revenue. Due to the recession and the sluggish economic recovery, the $2.6 million amount for the most recent tabulation was used for 2005-06. For 2006-07, a 4% growth rate was used.

The cost of the new Bill Lee Grant Program depends on the economic recovery, decisions on the grant size made by the Bill Lee Committee, and the location decisions of companies. Based on six years of experience under the Bill Lee Act, it is likely that the full capacity of the Tiers 3-5 grants will be used for Tiers 1-2 and the sub-county targeted pot. It is very possible that the full amount of the allowable credits will not be used due to insufficient project levels. For purposes of this analysis, it is assumed that the grants in Tiers 1-2 plus the sub-county pot will equal the $6 million for Tiers 3-5. Thus, the total grant cost for the first year would be $12.0 million.

In addition, it is assumed that the grant period will amount to at least three years. In this case, the 2006-07 fiscal year loss is equal to a combination of the $12.0 million cost of the 2005 tax year grants plus $12.0 million for 2006. This creates a "stacking" or "pyramiding" impact similar to the multi-year credits under the Bill Lee Act.

The estimated revenue loss from the new grant program is conservative in light of the actual experience under the Bill Lee Act.

Winston-Salem Journal : Online

Rep. Luebke

Thomasville to cut 400 jobs, close plant in Winston-Salem

By Richard Craver and Fran Daniel
JOURNAL REPORTERS
Wednesday, June 18, 2003

Thomasville Furniture Industries Inc. said yesterday that it will close its Plant H manufacturing plant in Winston-Salem in October, cutting 400 jobs.

Thomas Tilley, the company's new chief executive, said that Thomasville Furniture is under pressure to remain competitive.

'Business conditions remain very challenging right now,' he said. 'We must align our capacity with the demand for our products and responsibly control the costs of running our business.'

The company regrets the hardship this change would cause the displaced employees, their families and the city, said Tilley, who recently replaced Chris Pfaff as the head of the company.

The plant at 1201 N. Patterson Ave. has made primarily wood bedroom and dining-room furniture since the early 1960s. Production will be moved to other Thomasville Furniture plants or to offshore sources, the company said.

The decision comes just 20 days after Hooker Furniture Corp. said that it would close its Kernersville plant and cut 270 jobs. Also this year, R.J. Reynolds Tobacco Holdings Inc. in Winston-Salem cut 635 jobs, or 8percent of the work force at the company and its main subsidiary, R.J. Reynolds Tobacco Co.

With the Thomasville Furniture plant closing, Forsyth County will be left with only one major furniture manufacturer - Grass America Inc., which employs 275 people at its furniture-component plant on N.C. 66 South in Kernersville.

The latest announcement didn't surprise Gayle Anderson, the president of the Greater Winston-Salem Chamber of Commerce.

'It's disappointing that the plant is closing, but not really unexpected given the massive closings we've seen in the textile and furniture industries,' she said.

'Unfortunately these unskilled jobs are going to places where the labor costs are significantly lower. This just adds urgency to our efforts to create more high-tech jobs and more jobs that are not candidates for being exported overseas, at least in the short run.'

Workers at the Thomasville Furniture plant were sent home before the closure was announced, but shock was evident on the face of Yanira Alvarenga, who works at a nearby grocery store that gets a lot of business from the plant's employees at lunchtime.

Alvarenga, who has five relatives working at the plant, including her father, said she had heard rumors that it was shutting down for just one week, but not for good.

'They didn't know,' she said.

Trouble, however, has been brewing at Thomasville Furniture and the rest of the industry for a long time. 'We've known we had too much capacity at our plants for more than a year,' Dave Masters, Thomasville's general manager, said.

'We evaluated our plants for flexibility and physical condition, and determined that the Winston-Salem plant was the one where we could most easily transfer production to other domestic plants or outsource production,' he said.

'This closing has absolutely nothing to do with the employees at that plant. They worked hard with us to find a way to keep the plant open, but it just couldn't be done.'

Masters said that Thomas-ville would begin phasing out production and jobs in early September, and expects that the plant will be closed in October.

Thomasville said it would pay bonuses to employees who agree to work until late October, conduct job fairs for the workers, provide medical-insurance coverage for up to 18 months and apply for extended unemployment benefits from the federal Trade Adjustment Assistance Act.

It is Thomasville's second plant-closing announcement since September. It shut down Plant B in its hometown of Thomasville, laying off 425 workers.

The proposed Winston-Salem closure would raise the number of furniture layoffs in the Triad to 2,030 since February 2002.

Davidson County has taken the brunt of those losses with 1,360, as prominent employers Lexington Home Brands, Stanley Furniture Co. Inc. and Thomasville Furniture closed plants because of imports, mainly from Asia.

North Carolina, meanwhile, has lost more than 5,700 furniture-manufacturing jobs since February 2002, according to the N.C. Employment Security Commission.

'This is certainly another sad day for the Triad's furniture-manufacturing base, although it certainly was not unexpected,' said Ken Smith, the director of furniture services for BDO Seidman LLP, a financial-services company.

Smith said that Furniture Brands International, the parent company of Thomasville, said recently that it plans to close more domestic plants within its six divisions as it becomes more of an international manufacturer.

'If furniture was doing better at retail, the industry might not be feeling the production pressures it is now,' Smith said. 'But you can afford to operate at low capacity and 32-hour workweeks for only so long before consolidation becomes inevitable.'

Masters said that Furniture Brands did not compel Thomas-ville to make the plant-closing decision.

'Furniture Brands doesn't tell us how to operate our business, but it does give us financial targets we have to hit,' Masters said. 'Right now, about 20 percent of our product is outsourced, but it's clear that trend will only increase more toward imports not only for Thomas-ville, but the industry as a whole.'

After the Winston-Salem closure, Thomasville will operate 25 other manufacturing plants in North Carolina and Virginia, employing about 5,400.

Curtis Mitchell, the manager of the Winston-Salem office of the N.C. Employment Security Commission, said that the office probably wouldn't see an increase in demand for job services and unemployment claims until the layoffs occur.

When that happens, he said: 'The office is going to be here. We'll have staff to handle this.'

Asked what the closing means to Winston-Salem, he said: 'It means we are still in a recession. We are seeing people being laid off every day in Forsyth County and in surrounding areas.'

Mitchell said that the layoffs should not have a marked effect on Forsyth County's unemployment rate, which fell to 4.9 percent in April from 5 percent in March.

'When it's put into the equation, you won't see it that greatly in the rate,' he said.

• Richard Craver can be reached at 727-7376 or at rcraver@wsjournal.com

• Fran Daniel can be reached at 727-7366 or at fdaniel@wsjournal.com

TESTIMONY ON H 1318 – REFORM OF WILIAM S. LEE ACT

By William Schweke, Corporation for Enterprise Development

June 18, 2003

I am the Research Director of the Corporation for Enterprise Development. CFED seeks to foster widely shared and sustainable economic well-being by promoting asset-building and economic opportunity strategies – primarily in low-income and distressed communities – that bring together community practice, public policy, and private markets in new and effective ways. Designing appropriate and well-delivered state and local economic development programs and more accountable, cost-effective, and transparent business incentives are two of our main areas of work.

What's Wrong With Business Incentives?

As a national nonprofit and given our mission, not surprisingly, we have a pretty negative view of what some call – "the economic war between the states."

The competition among states to recruit new companies or retain existing ones has never been more intense. Annually, states and localities across the country spend billions of public dollars on a variety of tax incentives and spending programs whose use has fueled a new incentives "arms race" among the states. This development strategy presents cities and states with a fundamental dilemma:

On the one hand, it appears that incentives can make a difference in the site selection process, particularly when the choice comes to two or three similar locations. Moreover, even if the economics are bad, political pressure makes it hard for governors and mayors to ignore the incentives sweepstakes. Indeed, how can any state or locality unilaterally disarm and miss the chance of landing a significant business prospect? Likewise, how can an elected official, such as a mayor or governor, avoid responding with public dollars and policy changes when a company, which has long operated in the state, threatens to leave and accept generous incentives from another jurisdiction?

On the other hand, most economists and policy analysts agree that incentives are not good development policy. In using them to attract businesses, cities and states: (1) waste scarce public dollars without creating net new jobs in the vast majority of cases; (2) subsidize the shareholders of these companies for the economic actions they would have taken anyway; (3) foster unfair competition by helping some firms and industries and not others; and (4) divert the attention of policymakers from other issues that could lead to additional job creation and a better business climate.

Neither business attraction nor incentive use should be seen as an utterly worthless exercise. Rather, the challenge for state and local governments is to find ways to make

their jurisdictions attractive without giving away the tax base, and to use incentives selectively and responsibly.

Now let's look at the current William S. Lee Act. Is it working or not?

A Critique of the William S. Lee Act

The William S. Lee Act was created in 1996 primarily to drive more private investment into the poorer and struggling rural counties of North Carolina.

During its history, the program has been refined and reformed, but its rationale still focuses on this goal, along with the objective of promoting development in economically disadvantaged urban communities.

Sadly, the evidence suggests that this has not happened. The large majority of investment and other tax credits are used by firms operating in the more affluent areas of the state. This is despite the fact that the level of subsidy in Tiers 1 and 2 dwarf those provided in the other Tiers.

But there is another problem. When the Lee Act was enacted in 1996, the economy and its fiscal base were both strong. Now, North Carolina is suffering from the national recession and major restructuring, dislocation, and job loss in its manufacturing economy.

Furthermore, the Lee Act's criteria for targeting its subsidies are principally focused on those areas that are chronically poor and depressed. Although in many ways this makes sense, it also means that it provides little aid to areas that are going through sudden and severe downturns.

At the same time, the cost of the Lee Act and similar incentives are increasing significantly each year and now amount to about $142 million. And even if the Lee Act is terminated today, its liabilities and costs will continue to rise for some time.

North Carolina's Economic Policy Challenges

Given this changing context, it is important to frame any analysis of the Lee Act with the right set of questions:

1. Does it encourage investment in those communities that are being hardest hit by economic restructuring and dislocation?
2. Does it improve the reemployment prospects of displaced workers?
3. Does it help the state's firms and sectors compete successfully on the basis of innovation, productivity, timeliness, flexibility, and quality in the new global economy?

4. Do development strategies help to ensure an adequate revenue base for financing essential public services?

How Could The Lee Act Be Improved?

To start, I believe that the whole tax credit approach should be questioned. Setting aside the research and development tax credit, for which, a strong market imperfection argument could be advanced, the rest of the program should be converted into grant or loan programs.

What's Wrong With Tax Incentives?

The problem with tax incentives or expenditures are as follows:

- They are less transparent than straight subsidies. Indeed, they are rather hidden in the tax code and therefore receive less scrutiny than on-budget expenditures.
- They are easier to design to benefit those least in need.
- They often reward behavior that would have already happened.
- Typically, they are usually entitlements and not subject to annual budgeting.
- Eliminating them is often regarded as a "tax increase." (Jean Ross: "This is the roach motel of tax policy – they go in the tax code – and never come out.")
- Overall, they make a tax code less horizontally equitable and transparent, thereby reducing the legitimacy of the tax code.

Their only real advantage is their ease of administration. But this virtue also opens up rampant opportunities for fraud and honest mistakes by those firms taking advantage of them.

Pick The Right Incentives

Since not all incentives are the same and since policymakers should only help firms if there is a larger public benefit, they must choose the best tool -- those that have the greatest potential accountability and are likely to provide the broadest benefits beyond the company aided. For example, investments in *training or physical infrastructure* accrue to the broader community and remain in a community, whether a particular company stays or not. Whenever possible, provide money in this form.

In fact, legislators should consider reinvesting some of the savings from reforming the Lee Act to finance a number of the proposals from the Rural Prosperity Task Force. Very few of its items, beyond the creation of Dogwood Equity and the digital divide recommendations, received any monies. The Rural Redevelopment Authority, which was created, has no board or appropriations still. It could be catalyzed by financing its endowment and creating a low-interest loan program for site improvements, water and sewer, and so forth. Similarly, North Carolina's community colleges could stand additional injections of finance.

By doing so, the state would be doing what it should be doing: *competing on its "fundamentals"* -- its "bread and butter" government services such as K-12 schools, roads and needed physical infrastructure, research and development, police, and higher education. What companies fundamentally need are customer-friendly services that are worth the taxes, and professional, predictable regulation.

Loans have the following advantage: they have to be paid back.

Cash grants, even though they have some merits relative to tax incentives, they belong to the business alone. So, be sure they are designed with strong accountability and performance mechanisms.

And this is what H 1318 tries to accomplish.

The Strengths of H 1318

The proposed bill has many of these elements and constitutes a break with the unsuccessful tax incentive strategies of the past.

Its merits include:

- The bill makes the state more of an investor, trying to ensure that public benefits accrue from public investments.
- It converts the Lee tax credits into more transparent subsidies.
- It seeks to help policymakers to become more prudent stewards of public funds by setting a ceiling on the maximum of spending annually and by limiting the amount of state monies spent per job created.
- It rethinks the Tier criteria so that Tiers 1 and 2 counties benefit further, as well as creates opportunities to aid communities undergoing sudden and severe economic dislocation.
- It enhances accountability and transparency through requiring a sunset, a declaration of performance benchmarks for assessing progress or failure, and better reporting to the governor, legislature, and the public. (In addition, it imposes many of these requirements on other business attraction grant funds.)
- It establishes job quality standards on financed projects.
- It links economic development more closely with workforce preparation and retraining by its proposed First Source Hiring agreements.

Conclusions

In summary, H 1318 appears to be an important step forward in getting the state's business incentive programs to meet the highest standards of accountability, cost-effectiveness, and impact.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1318 A BILL TO BE ENTITLED AN ACT TO REPEAL THE BILL LEE ACT AND REPLACE IT WITH MORE EFFECTIVE INCENTIVES TO BRING PROSPERITY TO DISTRESSED AREAS OF THE STATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(# ———),~~ ☐ ~~which changes the title~~, unfavorable as to the original bill, ~~(Committee Substitute Bill # ———),~~ and recommendation that the committee substitute bill ~~#———~~) be re-referred to the Committee on Appropriations.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 934
PROPOSED HOUSE COMMITTEE SUBSTITUTE S934-CSLA-25 [v.3]

6/10/2003 12:22:57 PM

Short Title: DWI Provider Authorization Fees. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142.1(a) reads as rewritten:

"(a) Services. – An area authority shall provide, directly or by contract, the substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6 as a condition for the restoration of a drivers license. A person may obtain the required services from an area facility, from a private facility ~~that has complied with this subsection,~~ authorized by the Department to provide this service, or, with the approval of the Department, from an agency that is located in another state. ~~Before a private facility located in this State provides the substance abuse services needed by a person to obtain a certificate of completion, the facility shall notify both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services and shall agree to comply with the laws and rules concerning these services that apply to area facilities.~~"

SECTION 2. G.S. 122C-142.1 is amended by adding a new subsection to read:

"(a1) Authorization of a Private Facility Provider. – The Department shall authorize a private facility located in this State to provide substance abuse services needed by a person to obtain a certificate of completion if the private facility complies with all of the requirements of this subsection:

(1) Notifies both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services.

(2) Agrees to comply with the laws and rules concerning these services that apply to area facilities.

(3) Pays the Department the applicable fee for authorizing and monitoring the services of the facility. The initial fee is payable at the time the facility notifies the Department of its intent to provide the services and by July 1 of each year thereafter. Collected fees shall be used by the Division for program monitoring and quality assurance. The applicable fee is based upon the number of assessments completed during the prior fiscal year as set forth below:

Number of Assessments	Fee Amount
0-24	$250.00
25-99	$500.00
100 or more	$750.00."

SECTION 3. This act becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 934

Short Title:	DWI Provider Authorization Fees.	(Public)
Sponsors:	Senator Kerr.	
Referred to:	Finance.	

April 3, 2003

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AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

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SECTION 1. G.S. 122C-142.1(a) reads as rewritten:

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(1) Notifies both the designated area facility for the catchment area in which it is located and the Department of its intent to provide the services.

(2) Agrees to comply with the laws and rules concerning these services that apply to area facilities.

(3) Pays the Department the applicable fee for authorizing and monitoring the services of the facility. The initial fee is payable at the time the

facility notifies the Department of its intent to provide the services and by July 1 of each year thereafter. The applicable fee is based upon the number of assessments completed during the prior fiscal year as set forth below:

Number of Assessments	Fee Amount
0-24	$250.00
25-99	$500.00
100 or more	$750.00."

SECTION 3. This act becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.

SENATE BILL 934:
DWI Provider Authorization Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 11, 2003	**Summary by:**	Martha Walston
Version:	S934-CSLA-25		Committee Counsel*

SUMMARY: ***Senate Bill 934 is an agency bill requested by the Department of Health and Human Services. It establishes an annual fee for private facilities that provide substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6. The amount of the fee varies depending on the number of assessments completed by the facility during the prior fiscal year. The bill becomes effective July 1, 2003, and applies to private facilities providing substance abuse services on or after that date.***

The proposed committee substitute adds language to clarify that the collected fees will be used by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department for program monitoring and quality assurance.

CURRENT LAW: A person whose license was revoked as a result of a conviction for driving while impaired must have a substance abuse assessment and obtain a certificate of completion of either an alcohol and drug education traffic school or a substance abuse treatment program before the person's license can be restored. The substance abuse treatment programs may be provided by an area facility or by a private facility authorized by the Department of Health and Human Services. To be authorized to provide this service, a private facility must notify the Department of its intent to provide the service and agree to comply with the laws and rules concerning the services. The Department must also monitor the facility to ensure that it complies with the laws and rules concerning the services it offers. The volume of applications and DWI certificate of completion forms the Department receives from private facilities continues to increase and, according to the Department, exceeds it capacity of present staffing. The Department is concerned that the facilities do not receive the level of monitoring required under the rules or the technical assistance and consultation necessary to ensure that the quality of services will serve to protect the public welfare.

BILL ANALYSIS: Senate Bill 934 would establish an annual fee to be paid by private facilities that want to be authorized to provide substance abuse services needed by a person to obtain a certificate of completion required under G.S. 20-17.6 as a condition for the restoration of a drivers license. The amount of the fee would vary depending upon the number of assessments completed by the facility during the prior fiscal year:

Number of Assessments	Fee Amount
0-24	$250
25-99	$500
100 or more	$750

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

The fee would be payable to the Department of Health and Human Services at the time the facility notifies the Department of its intent to provide the service and by July 1 of each year thereafter. The bill would become effective July 1, 2003, and would apply to private facilities providing substance abuse services on or after that date. The collected fees would be used by the Division of Mental health, Developmental Disabilities and Substance Abuse Services of the Department for program monitoring and quality assurance.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 934 (First Edition)

SHORT TITLE: DWI Provider Authorization Fees

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

(In Thousands)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**$111-$163**	**$117-$172**	**$122-$180**	**$128-$188**	**$133-$196**
EXPENDITURES	**$122**	**$127**	**$132**	**$136**	**$141**
POSITIONS: (cumulative)	**2**	**2**	**2**	**2**	**2**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: July 1, 2003

BILL SUMMARY:

Section 1 – Amends G.S. 122C-142.1 to require persons found guilty of Driving While Intoxicated (DWI) to seek treatment from an Area Mental Health Authority or a private facility authorized by the Department of Health and Human Services (DHHS) to provide DWI Certificate of Completions.

Under current statute, a DWI offender could seek service at any private DWI treatment provider who meets the standard of the statute. This bill would now require that the private provider be authorized by DHHS to provide the services.

This section of the bill also moves language regarding private facility requirements from subsection (a) of G.S. 122C-142.1 to a subsection (a1).

Section 2 – Establishes a new subsection (a1) in G.S. 122C-142.1. The proposed subsection will include language currently located in subsection (a) of the statute requiring private DWI service providers to notify their local area mental health programs before providing services and that the facilities adhere to all relevant rules and laws. These requirements are not changed from current statute.

The proposed bill also requires the private service facilities to pay a fee to DHHS to recover the cost associated with expanding the office that authorizes and monitors these facilities as required by 10 NCAC 14V .3806. The fee would be collected as a departmental receipt and would be retained by DHHS. This proposed annual fee is divided into three tiers based on the number of persons treated ("assessed") by the facility per year. This fee would only apply to facilities that serve DWI offenders seeking Certificates of Completion.

The bill identifies the following schedule:

	Assessments per Year:	Annual Fee:
Tier 1	1-24	$250.00
Tier 2	25-99	$500.00
Tier 3	100 or more	$750.00

ASSUMPTIONS AND METHODOLOGY:

Revenues – In calculating the fiscal impact, the following revenue assumptions were used:

- Currently, there are 210 Tier 1 providers, 110 Tier 2 providers, and 75 Tier 3 providers.
- Based on trend data from 1999-2002, the expected growth rate for private DWI service providers is 5%. This analysis assumes that facilities will continue to grow at 5%. This projection does not consider the impact of Mental Health Reform on the number of providers.
- For the upper bound of the annual revenue projections, current service providers in all three tiers were assumed to pay the fee.
- For the lower bound of the annual revenue projections, providers in Tier 1 were assumed to eliminate services to DWI offenders for the purpose providing Certificates of Completion. This fee represents 14% of the average income these facilities receive serving DWI offenders and DHHS has stated that some of the facilities are expected to cease providing these services.

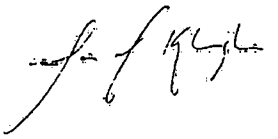
Anticipated Revenues for FY 2003-04*				
	Facilities	**Fee**	**Total Revenue FY 2003-04 (Lower Bound)**	**Total Revenue FY 2003-04 (Upper Bound)**
Tier 1	210	$250	None	$52,500
Tier 2	110	$500	$55,000	$55,000
Tier 3	75	$750	$56,250	$56,250
Total			**$111,250**	**$163,750**
** Service Providers are expected to grow by 5% in future years.*				

Expenditures – In calculating the fiscal impact, the following expenditure assumptions were used:

- According to DHHS, two positions will be needed to carry out the authorization and monitoring activities for these private facilities as required in 10 NCAC 14v .3806. Combined, the salaries and benefits associated with these positions will cost $122,565.
- The costs of the two positions were inflated according to the following schedule; FY 2005 (3.9%); FY 2006 (3.6%); FY 2007 (3.5%); FY 2008 (3.5%).
- DHHS has stated that any revenue collected in addition to the amount necessary for the two positions would be used to offset the cost of equipment, supplies, and travel for the two positions.
- DHHS assumes that there will be no costs associated with collecting this fee.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Klingler, Fiscal Analyst



APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 15, 2003

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 934

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S934-ALAf-11 [v.2]

Date 6/18/2003 ,2003

Comm. Sub. [YES]
Amends Title [YES]
S934-CSLA-25 [v.3]

Representative Capps

moves to amend the bill on page 1, line 3, by rewriting the line to read:
"OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS AND TO INCREASE THE FEE FOR A SUBSTANCE ABUSE ASSESSMENT CONDUCTED BY AN ASSESSING AGENCY.";

on page 1, lines 16 and 17, by adding the following between those lines:

SECTION 2. G.S. 122C-142.1(f) reads as rewritten:

"(f) Fees. – A person who has a substance abuse assessment conducted for the purpose of obtaining a certificate of completion shall pay to the assessing agency a fee of ~~fifty dollars ($50.00).~~seventy-five dollars ($75.00. A person shall pay to a treatment facility or school a fee of seventy-five dollars ($75.00). If the defendant is treated by an area mental health facility, G.S. 122C-146 applies after receipt of the seventy-five dollar ($75.00) fee.

A facility that provides to a person who is required to obtain a certificate of completion a substance abuse assessment, an ADET school, or a substance abuse treatment program may require the person to pay a fee required by this subsection before it issues a certificate of completion. As stated in G.S. 122C-146, however, an area facility may not deny a service to a person because the person is unable to pay.

An area facility shall remit to the Department five percent (5%) of each fee paid to the area facility under this subsection by a person who attends an ADET school conducted by the area facility. The Department may use amounts remitted to it under this subsection only to support, evaluate, and administer ADET schools.";

On page 1, line 17 by renumbering "Section 2" as "Section 3";

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 934

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S934-ALAf-11 [v.2]

and on page 2, lines 12-13, by rewriting those lines to read:

"**SECTION 4.** This act becomes effective July 1, 2003. Section 2 of this act applies to assessing agencies conducting substance abuse assessments on or after that date. Section 3 of this act applies to private facilities providing substance abuse services on or after that date."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 934 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A REGISTRATION FEE FOR THE AUTHORIZATION OF A PRIVATE FACILITY TO SERVE DWI OFFENDERS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#_____~~), ☒ which changes the title, unfavorable as to the original bill. (~~Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____ be re-referred to the Committee on_____.~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 1049
Committee Substitute Favorable 6/5/03

Short Title: Licensed Psych. Assoc./Insurance Payments. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW LICENSED PSYCHOLOGICAL ASSOCIATES TO RECEIVE PAYMENT FOR SERVICES FROM INSURERS AND TO INCREASE THE FEE THE PSYCHOLOGY BOARD MAY CHARGE FOR A TEMPORARY LICENSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-50-30(b) reads as rewritten:

"(b) For the purposes of this section, a "duly licensed psychologist" is ~~a~~ a:

(1) ~~licensed~~Licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology ~~Board.~~ Board; or

(2) Licensed psychological associate who holds permanent licensure."

SECTION 2. G.S. 135-40.7B(c) reads as rewritten:

"(c) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for mental health under this section:

(1) Psychiatrists who have completed a residency in psychiatry approved by the American Council for Graduate Medical Education and who are licensed as medical doctors or doctors of osteopathy in the state in which they perform and services covered by the Plan;

(2) Licensed or certified doctors of psychology;

(3) Certified clinical social workers and licensed clinical social workers;

(3a) Licensed professional counselors;

(4) Certified clinical specialists in psychiatric and mental health nursing;

(4a) Nurses working under the employment and direct supervision of such physicians, psychologists, or psychiatrists;

(5) Repealed by Session Laws 1997-512, s. 14.

(6) ~~Psychological associates with a masters degree in psychology under the direct employment and supervision of a licensed psychiatrist or~~

~~licensed or certified doctor of psychology;~~Licensed psychological associates;

(7), (8) Repealed by Session Laws 1997-512, s. 14.

(9) Certified fee-based practicing pastoral counselors;

(10) Licensed physician assistants under the supervision of a licensed psychiatrist and acting pursuant to G.S. 90-18.1 or the applicable laws and rules of the area in which the physician assistant is licensed or certified; and

(11) Licensed marriage and family therapists."

SECTION 3. G.S. 135-40.7B(c1) reads as rewritten:

"(c1) Notwithstanding any other provisions of this Part, the following providers and no others may provide necessary care and treatment for chemical dependency under this section:

(1) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager, in facilities described in subdivision (b)(2) of this section, in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of Chapter 122C of the General Statutes or in North Carolina area programs in substance abuse services are authorized to provide treatment for chemical dependency under this section:

a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);

b. Licensed or certified psychologists;

c. Psychiatrists;

d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;

e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;

f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;

g. Certified clinical social workers and licensed clinical social workers;

h. Certified clinical specialists in psychiatric and mental health nursing;

i. Licensed professional counselors;

j. Certified fee-based practicing pastoral counselors;

k. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes; and

l. Licensed marriage and family and therapists.

(2) The following providers with appropriate substance abuse training and experience in the field of alcohol and other drug abuse as determined by the mental health case manager are authorized to provide treatment for chemical dependency in outpatient practice settings:

a. Licensed physicians including, but not limited to, physicians who are certified in substance abuse by the American Society of Addiction Medicine (ASAM);

b. Licensed or certified psychologists;

c. Psychiatrists;

d. Certified substance abuse counselors working under the direct supervision of such physicians, psychologists, or psychiatrists;

e. ~~Psychological associates with a masters degree in psychology working under the direct supervision of such physicians, psychologists, or psychiatrists;~~ Licensed psychological associates;

f. Nurses working under the direct supervision of such physicians, psychologists, or psychiatrists;

g. Certified clinical social workers and licensed clinical social workers;

h. Certified clinical specialists in psychiatric and mental health nursing;

i. Licensed professional counselors;

j. Certified fee-based practicing pastoral counselors;

1. Substance abuse professionals certified under Article 5C of Chapter 90 of the General Statutes;

jl. Licensed marriage and family and therapists; and

k. In the absence of meeting one of the criteria above, the Mental Health Case Manager could consider, on a case-by-case basis, a provider who supplies:

1. Evidence of graduate education in the diagnosis and treatment of chemical dependency, and

2. Supervised work experience in the diagnosis and treatment of chemical dependency (with supervision by an appropriately credentialed provider), and

3. Substantive past and current continuing education in the diagnosis and treatment of chemical dependency commensurate with one's profession.

Provided, however, that nothing in this subsection shall prohibit the Plan from requiring the most cost-effective treatment setting to be utilized by the person undergoing necessary care and treatment for chemical dependency."

SECTION 4. G.S. 90-270.18 reads as rewritten:

"**§ 90-270.18. Disposition and schedule of fees.**

(a) ~~All~~Except as provided in subdivision (b)(2) of this section, all fees derived from the operation of this Article shall be deposited with the State Treasurer to the

credit of a revolving fund for the use of the Board in carrying out its functions. All fees derived from the operation of this Article shall be nonrefundable.

(b) Fees for activities specified by this Article are as follows:

(1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall not exceed one hundred dollars ($100.00).

(2) Fees for the national written examination shall be the cost of the examination ~~to the Board~~ as set by the vendor plus an additional fee not to exceed fifty dollars ($50.00). The Board may require applicants to pay the fee directly to the vendor.

(3) Fees for additional examinations shall be as prescribed by the Board.

(4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not exceed two hundred fifty dollars ($250.00) per biennium. This fee may not be prorated.

(5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be twenty-five dollars ($25.00).

(6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not exceed one hundred dollars ($100.00).

(7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be twenty-five dollars ($25.00).

(8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g), shall be ~~twenty-five~~ thirty-five dollars ~~($25.00).~~ ($35.00).

(9) Application fees for a health services provider certificate, per G.S. 90-270.20, shall be fifty dollars ($50.00).

(c) The Board may specify reasonable charges for duplication services, materials, and returned bank items in its rules."

SECTION 5. This act becomes effective January 1, 2004, and applies to services rendered by psychological associates on and after that date.

HOUSE BILL 1049:
Licensed Psych. Assoc./Insurance Payments

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Holliman
Date:	June 17 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: House Bill 1049 was given a favorable report in House Insurance and does the following:

- *Permits licensed psychological associates to receive fees directly from insurers.*
- *Allows the Psychology Practice Board to require applicants for licensure to pay the fee for the national written examination directly to the vendor. The cost of the examination shall be set by the vendor.*
- *Increases the fee for a temporary license from $25 to $35.*

The act becomes effective January 1, 2004, and applies to services rendered by psychological associates on and after that date.

BILL ANALYSIS: Section 1 –Current Law - G.S. 58-50-30(a1) provides that if a health benefit plan or policy of insurance under a Health Maintenance Organization provides coverage or payment for any service that is within the practice of certain providers, then the insured persons are entitled to coverage and to choose their providers. The providers are entitled to third party reimbursements for the services rendered. Duly licensed psychologists are among the listed providers.

HB 1049 expands definition of a duly licensed psychologist to include licensed psychological associates.

Sections 2 and 3 – Current Law - G.S. 135-40.7B provides the types of benefits for the treatment of mental illness and chemical dependency that are covered under the State Health Plan. A licensed psychological associate may not provide necessary care and treatment for mental health unless under the direct employment and supervision of a licensed psychiatrist or licensed or certified doctor of psychology. A licensed psychological associate may not provide necessary care and treatment for chemical dependency unless the associate has received the appropriate substance abuse training and experience and is working under the direct supervision of physicians, psychologists, or psychiatrists at the facility.

HB 1049 would allow licensed psychological associates to receive payment for necessary care and treatment of mental health and chemical dependency treatment under the State Health Plan.

Section 4 –Current Law - G.S. 90-270.18 provides the fees the Psychology Practice Board may charge to carry out its functions. The Board may charge the cost of the national written exam plus $50, and $25 for a temporary license.

HB 1049 – would allow the Board to have the fee for the national exam be set by the vendor and remitted directly to the vendor by the applicants. The PCS also allows a $10 increase in the fee for temporary licenses (from $25 to $35).

*Kory Goldsmith, counsel to House Insurance, contributed substantially to this summary.

BACKGROUND: Article 18A of Chapter 90 is the Psychology Practice Act. It governs the qualifications and licensure of persons who practice psychology in North Carolina.

The practice of psychology is defined as the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior or of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health. It includes: psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis, including etiology and prognosis, and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological and neuropsychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation.

In order to obtain licensure as a psychologist, an individual must be at least 18 years old, have good moral character, have received a doctoral psychology degree, have at least two years of supervised experience, and pass a licensure exam.

In order to obtain licensure as a psychological associate, an individual must be at least 18 years old, have good moral character, have received a master's psychology degree and pass a licensure exam. Under rules adopted by the Psychology Board, psychological associates must receive at least one hour per month of supervision from a licensed psychologist or other qualified professional.

As a general rule, insurance companies will not directly reimburse psychological associates for services rendered unless the psychological associate is employed and directly supervised by a psychologist or other professional.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 16, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 1049 – Licensed Psychological Associates/Insurance Payments

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Psychological Board	* Less than $100 revenue increase annually *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Psychological Board.

EFFECTIVE DATE: January 1, 2004 and applies to services rendered by psychological associates on and after that date.

BILL SUMMARY: The bill makes three changes to the law governing the practice of psychology. First, it allows licenses psychological associates to receive fees directly from insurers. Second, it authorizes the Psychological Practice Board to require applicants for licensure to pay their national exam fee directly to the vendor. Finally, it increases the fee for a temporary license from $25 to $35.

ASSUMPTIONS AND METHODOLOGY: According to the Psychological Practice Board, there are currently 1291 Licensed Psychological Associates in North Carolina. Often these practitioners must be directly under the employment and supervision of a licensed psychiatrist or certified doctor of psychology to receive third party payments. All these

individuals would now be able to receive payment from third party payers, including the state health plan. The impact this change will have on the state health plan is outlined in the associated actuarial note.

The second change in the bill relates to the fees assessed for the national exam. According to the Board, the actual cost of the examination is not anticipated to change. Currently, applicants pay "the cost of the examination to the Board" directly to the Board, and then the Board remits this amount to the national examination service. The proposed legislation would permit the Board to have the applicants pay the cost of the examination directly to the examination vendor. The current cost of each examination is $450.00, and approximately 110 applicants are sitting for the examination during a fiscal year.

The final change relates to the fee for a temporary license. The Board estimates that five (5) persons or less will be affected each fiscal year by the increase in the temporary license fee. If the maximum of five is reached, the Board would see a revenue increase from this portion of the bill of $50.00.

SOURCES OF DATA: NC Psychological Practice Board.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE ACTUARIAL NOTE

BILL NUMBER: House Bill 1049, Second Edition, Sections 2, 3, and 5

SHORT TITLE: Licensed Psychological Associates/Insurance Payments

SPONSOR(S): Rep. Holliman

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Comprehensive Major Medical Plan.

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts, premium payments for dependents by active and retired teachers and State employees, premium payments for coverages selected by eligible former teachers and State employees and premium payments for coverages selected by firefighters, rescue squad workers, and members of the National Guard.

BILL SUMMARY: The bill allows licensed psychological associates to provide mental health and chemical dependency benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan without being under the direct employment and supervision of a licensed psychiatrist or a licensed or certified doctor of psychology. Licensed psychological associates are masters level psychologists.

EFFECTIVE DATE: January 1, 2004.

ESTIMATED IMPACT ON STATE: Aon Consulting, consulting actuary for the Teachers' and State Employees' Comprehensive Major Medical Plan, projects that the bill will have a negligible cost impact upon the Plan. Hartman & Associates, consulting actuary for the General Assembly's Fiscal Research Division, estimates that the bill is not expected to have a significant financial impact on the Plan.

ASSUMPTIONS AND METHODOLOGY: The Comprehensive Major Medical Plan for Teachers and State Employees is divided into two programs. From October 1982, through June 1986, the Plan only had a self-funded indemnity type of program which covered all employees, retired employees, eligible dependents of employees and retired employees, and eligible former employees and their eligible dependents authorized to continue coverage past a termination of employment other than for retirement or disability purposes. A prepaid program of coverage by health maintenance organizations (HMOs) was offered in July 1986, as an alternative to the Plan's self-insured indemnity program. The benefits of the self-insured indemnity type of program are spelled out in Part 3 of Article 3 of Chapter 135 of the North Carolina General Statutes (i.e., $350 annual deductible, 20% coinsurance up to $1,500 annually, etc. paid by the program's members). HMOs are required to offer benefits that are comparable to those provided by the self-insured indemnity program. Beginning in July, 2000, firefighters, rescue squad workers, and members of the National Guard and their eligible dependents were allowed to voluntarily participate in the Plan on a fully contributory basis, provided they were ineligible for any other type of group health benefits and had been without such benefits for at least six months. Employer-paid non-contributory premiums are only authorized for the indemnity program's coverage for employees and retired employees. All other types of premium in the indemnity program are fully contributory, except for job-sharing public school teachers who are authorized partially contributory premiums at 50% of non-contributory rates. The Plan's Executive Administrator has set the premium rates for

firefighters, rescue squad workers, and members of the National Guard and their families at 20% more than the comparable rates charged for employees, retired employees, and their families. Premiums paid by employers to HMOs are limited to like amounts paid to the indemnity program with employees and retired employees paying any HMO amounts above the indemnity program's non-contributory rates. Both types of coverage continue to be available in the Plan; however none of the HMOs with certificates of authority to transact business in North Carolina have offered to participate in the Plan since September 30, 2001. The Plan's employees and retired employees select the type of program that they wish for themselves and their dependents during the months of August and September of each year for coverage beginning in October. The demographics of the Plan as of December 31, 2002, include:

	Self-Insured Indemnity Program	Alternative HMOs	Plan Total
Number of Participants			
Active Employees	280,065	-0-	280,065
Active Employee Dependents	137,841	-0-	137,841
Retired Employees	117,225	-0-	117,225
Retired Employee Dependents	18,999	-0-	18,999
Former Employees & Dependents with Continued Coverage	2,535	-0-	2,535
Firefighters, Rescue Squad Workers, National Guard Members & Dependents	7	-0-	7
Total Enrollments	556,672	-0-	556,672
Number of Contracts			
Employee Only	313,439	-0-	313,439
Employee & Child(ren)	40,978	-0-	40,978
Employee & Family	44,710	-0-	44,710
Total Contracts	399,127	-0-	399,127
Percentage of Enrollment by Age			
29 & Under	26.9%	-0-%	26.9%
30-44	20.9	-0-	20.9
45-54	20.9	-0-	20.9
55-64	16.2	-0-	16.2
65 & Over	15.1	-0-	15.1
Percentage of Enrollment by Sex			
Male	38.3%	-0-%	38.3%
Female	61.7	-0-	61.7

Assumptions for the Self-Insured Indemnity Program: For the fiscal year beginning July 1, 2002, the self-insured program started its operations with a beginning cash balance of $91.6 million. Receipts for the year are estimated to be $1.371 billion from premium collections and $7 million from investment earnings for a total of $1.378 billion in receipts for the year. Disbursements from the self-insured program are expected to be $1.335 billion in claim payments and $38 million in administration and claims processing expenses for a total of $1.373 billion for the year beginning July 1, 2002. For the fiscal year beginning July 1, 2002, the self-

insured indemnity program is expected to have a net operating gain of approximately $5 million for the year. Without reserving an additional $15 million for implementation of the claims data and privacy requirements of the federal Health Insurance Portability and Accountability Act (HIPPA) that take effect on and after April 14, 2003, the Plan's self-insured indemnity program is expected to have an available beginning cash balance of $96 million for the fiscal year beginning July 1, 2003. The self-insured indemnity program is nonetheless assumed to be unable to carry out its operations for the 2003-2005 biennium without increases in its current premium rates or a reduction in existing benefits or payments to health care providers or both. This assumption is further predicated upon the fact that the program's cost containment strategies (hospital DRG reimbursements, discounts on hospital outpatient services, pre-admission hospital testing, pre-admission hospital inpatient certification with length-of-stay approval, hospital bill audits, case and disease management for selected medical conditions, mental health case management, coordination of benefits with other payers, Medicare benefit "carve-outs", cost reduction contracts with participating physicians and other providers, a prescription drug benefit manager with manufacturer rebates from formularies, and fraud detection) are maintained and improved where possible. Current non-contributory premium rates are $186.04 monthly for employees whose primary payer of health benefits is Medicare and $244.38 per month for employees whose primary payer of health benefits is not Medicare. Fully contributory premium amounts for employee and child(ren) contracts are $115.78 monthly for children whose primary payer of health benefits is Medicare and $152.32 monthly for other covered children, and $277.68 per month for family contracts whose dependents have Medicare as the primary payer of health benefits and $365.36 per month for other family contract dependents. Claim cost trends are expected to increase 12% annually. Total enrollment in the program is expected to increase less than 1% annually over the next two years. The number of enrolled active employees is expected to show no increase over the next two years, whereas the growth in the number of retired employees is assumed to be 5% per year. The program is expected to have a 2% decrease in the number of active employee dependents per year whereas the number of retiree dependents is expected to increase 2% per year. Investment earnings are based upon a 4.5% return on available cash balances. The self-insured indemnity program maintains a claim stabilization reserve for claim cost fluctuations equal to 7.5% of annual claim payments without reserving additional funds for incurred but unreported claims.

Assumptions for the Self-Insured Indemnity Program's Mental Health and Chemical Dependency Benefits: During the last five fiscal years, the Plan's self-insured indemnity program made the following expenditures for mental health care.

Fiscal Year	Inpatient	Outpatient	Total	Percent of Total Plan Claims	Claim Costs Per Member Per Month
2001-2002					
Billed Charges	$11,776,951	$33,111,959	$44,888,910		
Allowed Charges	$10,873,408	$30,010,260	$40,883,668		
Claim Payments	$8,336,191	$15,082,340	$23,418,531	1.9%	$3.58
2000-2001					
Billed Charges	$10,268,718	$22,526,676	$32,795,394		
Allowed Charges	$9,564,414	$20,661,749	$30,226,163		
Claim Payments	$7,000,063	$12,261,303	$19,261,366	1.8%	$3.27
1999-2000					
Billed Charges	$7,825,317	$24,233,568	$32,058,885		
Allowed Charges	$7,446,010	$22,372,349	$29,818,359		
Claim Payments	$5,635,658	$15,234,099	$20,869,757	2.5%	$4.09

1998-99					
Billed Charges	$8,019,314	$22,783,617	$30,802,931		
Allowed Charges	$7,628,063	$21,239,082	$28,867,145		
Claim Payments	$5,543,950	$14,451,854	$19,995,804	2.8%	$4.10
1997-98					
Billed Charges	$7,999,928	$21,576,023	$29,575,951		
Allowed Charges	$7,627,455	$20,232,147	$27,859,602		
Claim Payments	$5,584,108	$13,678,255	$19,262,363	3.0%	$4.10

For the last five fiscal years, the Plan's self-insured indemnity program made the following expenditures for chemical dependency benefits.

Fiscal Year	Inpatient	Outpatient	Total	Percent of Total Percent of Total	Claim Costs Per Member Per Month
2001-2002					
Billed Charges	$2,907,890	$1,379,237	$4,287,127		
Allowed Charges	$2,818,432	$1,237,056	$4,055,488		
Claim Payments	$2,217,787	$711,737	$2,929,524	0.2%	$0.45
2000-2001					
Billed Charges	$2,218,931	$1,081,336	$3,300,267		
Allowed Charges	$1,859,108	$1,261,130	$3,120,238		
Claim Payments	$1,504,782	$825,933	$2,330,715	0.2%	$0.40
1999-2000					
Billed Charges	$1,907,960	$1,078,662	$2,986,622		
Allowed Charges	$1,857,322	$937,109	$2,794,431		
Claim Payments	$1,401,764	$580,022	$1,981,786	0.2%	$0.39
1998-99					
Billed Charges	$2,002,384	$1,081,200	$3,083,584		
Allowed Charges	$1,961,204	$957,444	$2,918,648		
Claim Payments	$1,471,812	$575,990	$2,047,802	0.3%	$0.42

Average charge, allowed charge, and paid charge data provided by the Plan on the number of outpatient psychiatric visits by provider and selected procedures for the Plan's active, non-Medicare retired, and continuation groups for the last two calendar years follows. This data for calendar year 2002 is:

Specialty	CPT Code	Number of Visits	Average Amount Billed	Average Amount Allowed	Average Amount Paid
Psychiatrist	90801	4,147	$167	$147	$68
Other Physicians	90801	3,042	$148	$124	$59
Psychologist	90801	2,855	$136	$126	$48
Clinical Social Worker	90801	1,246	$107	$103	$41
Licensed Professional Counselor	90801	973	$125	$120	$59
Pastoral Counselor	90801	141	$104	$97	$46
Psychiatric Nurse	90801	105	$116	$113	$43

Chemical Dependency Professional	90801	26	$93	$84	$35
Marriage & Family Therapist	90801	3	$123	$123	$94
Other Providers	90801	1	$135	$135	$96
Total	90801	12,539	$145	$129	$58
Psychiatrist	90805	11,949	$92	$83	$39
Other Physicians	90805	1,375	$81	$78	$37
Psychologist	90805	909	$86	$80	$35
Clinical Social Worker	90805	17	$95	$90	$39
Licensed Professional Counselor	90805	7	$91	$91	$61
Pastoral Counselor	90805	7	$91	$78	$25
Psychiatric Nurse	90805	3	$128	$97	$22
Total	90805	14,267	$90	$82	$39
Psychiatrist	90806	17,487	$102	$95	$54
Other Physicians	90806	16,500	$102	$93	$54
Psychologist	90806	53,571	$106	$100	$58
Clinical Social Worker	90806	29,320	$91	$88	$49
Licensed Professional Counselor	90806	16,296	$93	$90	$51
Pastoral Counselor	90806	2,460	$92	$88	$48
Psychiatric Nurse	90806	2,326	$93	$89	$50
Chemical Dependency Professional	90806	59	$75	$73	$35
Marriage & Family Therapist	90806	40	$99	$98	$72
Other Providers	90806	15	102	$101	66
Total	90806	138,074	$100	$94	$54
Psychiatrist	90807	19,331	$128	$120	$74
Other Physicians	90807	2,030	$131	$123	$72
Psychologist	90807	1,295	$126	$118	$74
Clinical Social Worker	90807	11	$110	$105	$46
Licensed Professional Counselor	90807	29	$94	$93	$50
Pastoral Counselor	90807	2	$70	$70	$44
Psychiatric Nurse	90807	1	$42	$42	$0
Total	90807	22,699	$128	$120	$74
Psychiatrist	90853	1,022	$73	$68	$38
Other Physicians	90853	1,881	$67	$54	$27
Psychologist	90853	1,368	$63	$54	$27
Clinical Social Worker	90853	606	$58	$57	$31
Licensed Professional Counselor	90853	325	$98	$70	$41
Pastoral Counselor	90853	13	$50	$49	$25
Psychiatric Nurse	90853	96	$32	$32	$12
Chemical Dependency Professional	90853	346	$108	$86	$54
Total	90853	5,657	$70	$60	$32
Psychiatrist	90862	20,528	$70	$61	$26
Other Physicians	90862	5,564	$70	$62	$27
Psychologist	90862	1,388	$83	$74	$36
Clinical Social Worker	90862	3	$68	$63	$39

Pastoral Counselor	90862	63	$90	$75	$41
Psychiatric Nurse	90862	1	$22	$22	$5
Chemical Dependency Professional	90862	2	$125	$85	$56
Total	90862	27,549	$71	$62	$26
Psychiatrist	99212	98	$40	$33	$16
Other Physicians	99212	3,824	$50	$41	$10
Psychologist	99212	1	$30	$30	$12
Other Providers	99212	28	$50	$41	$10
Total	99212	3,951	$50	$41	$10
Psychiatrist	99213	550	$96	$60	$27
Other Physicians	99213	15,555	$67	$54	$15
Other Providers	99213	34	$65	$57	$20
Total	99213	16,139	$68	$55	$15
All Providers	All Other	25,387	$119	$102	$54
All Providers	All	266,262	$99	$91	$49

Calendar year 2001 data reveals:

Specialty	CPT Code	Number of Visits	Average Amount Billed	Average Amount Allowed	Average Amount Paid
Psychiatrist	90801	3,901	$160	$143	$75
Other Physicians	90801	2,451	$132	$114	$60
Psychologist	90801	2,653	$132	$122	$59
Clinical Social Worker	90801	1,115	$105	$99	$46
Licensed Professional Counselor	90801	646	$124	$118	$63
Pastoral Counselor	90801	142	$101	$93	$40
Psychiatric Nurse	90801	99	$112	$111	$54
Chemical Dependency Professional	90801	22	$90	$73	$29
Total	90801	11,029	$138	$124	$63
Psychiatrist	90805	10,822	$88	$80	$45
Other Physicians	90805	1,295	$78	$74	$43
Psychologist	90805	586	$82	$78	$43
Clinical Social Worker	90805	10	$87	$82	$60
Pastoral Counselor	90805	29	$75	$75	$26
Psychiatric Nurse	90805	2	$109	$93	$35
Total	90805	12,744	$87	$79	$45
Psychiatrist	90806	17,045	$100	$92	$60
Other Physicians	90806	13,568	$98	$91	$59
Psychologist	90806	52,151	$103	$97	$64
Clinical Social Worker	90806	25,969	$89	$85	$55
Licensed Professional Counselor	90806	13,987	$90	$87	$56

Pastoral Counselor	90806	2,695	$89	$84	$52
Psychiatric Nurse	90806	2,004	$91	$88	$56
Chemical Dependency Professional	90806	140	$81	$79	$46
Other Providers	90806	7	$91	$91	$71
Total	90806	127,566	$97	$92	$60
Psychiatrist	90807	18,164	$125	$117	$80
Other Physicians	90807	2,056	$127	$120	$79
Psychologist	90807	1,132	$121	$116	$81
Clinical Social Worker	90807	10	$92	$86	$48
Licensed Professional Counselor	90807	60	$97	$94	$71
Pastoral Counselor	90807	1	$70	$70	$48
Total	90807	21,423	$125	$117	$80
Psychiatrist	90853	905	$73	$65	$42
Other Physicians	90853	2,118	$71	$57	$36
Psychologist	90853	1,123	$60	$53	$32
Clinical Social Worker	90853	643	$55	$54	$33
Licensed Professional Counselor	90853	128	$51	$49	$25
Pastoral Counselor	90853	13	$43	$43	$19
Psychiatric Nurse	90853	73	$33	$33	$16
Chemical Dependency Professional	90853	370	$103	$80	$54
Total	90853	5,373	$68	$58	$37
Psychiatrist	90862	19,000	$67	$58	$30
Other Physicians	90862	4,789	$64	$57	$30
Psychologist	90862	1,015	$84	$75	$44
Clinical Social Worker	90862	3	$102	$64	$43
Pastoral Counselor	90862	64	$74	$74	$40
Psychiatric Nurse	90862	1	$22	$22	$9
Chemical Dependency Professional	90862	190	$25	$25	$11
Total	90862	25,062	$67	$58	$31
Psychiatrist	99212	34	$29	$27	$12
Other Physicans	99212	3,646	$47	$39	$18
Other Providers	99212	28	$45	$39	$19
Total	99212	3,708	$47	$39	$18
Psychiatrist	99213	180	$45	$39	$24
Other Physicians	99213	12,664	$62	$51	$23
Psychologist	99213	3	$79	$69	$50
Chemical Dependency Professional	99213	1	$55	$54	$0
Other Providers	99213	38	$50	$45	$19
Total	99213	12,886	$62	$51	$23
All Providers	All Other	24,558	$112	$96	$61
All Providers	All	$244,349	$96	$88	$55

Current Procedural Terminology (CPT) code definitions used in the foregoing data are: psychiatric diagnostic interview (90801); individual psychotherapy with medical evaluation for 20-30 minutes (90805); individual psychotherapy for 45-50 minutes (90806); individual psychotherapy with medical evaluation for 45-50 minutes (90807); group psychotherapy (90853); pharmacologic psychiatric management (90862); office evaluation & management of an established patient (99212); expanded office evaluation & management of an established patient (99213).

Data provided by the Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill, shows the number of psychological associates active in each of North Carolina's counties.

County	1993	1994	1995	1996	1997	1998	1999	2000	2001
State Total	**817**	**850**	**942**	**939**	**942**	**938**	**969**	**927**	**946**
Alamance	6	3	4	4	4	3	5	5	4
Alexander	1	1	1	1	2	1	1	0	0
Alleghany	0	0	0	0	0	0	0	0	0
Anson	4	4	4	5	5	5	5	5	3
Ashe	0	0	2	2	2	1	2	2	2
Avery	4	4	4	5	4	4	4	3	3
Beaufort	4	5	4	3	5	4	3	4	4
Bertie	0	0	0	0	0	0	0	1	1
Bladen	1	1	1	1	1	1	1	1	1
Brunswick	1	2	1	4	7	6	4	3	4
Buncombe	39	44	53	49	53	53	55	57	57
Burke	37	38	42	44	43	42	39	40	46
Cabarrus	10	11	12	13	18	18	18	21	24
Caldwell	9	8	7	7	7	7	9	6	7
Camden	1	0	0	1	1	0	0	0	0
Carteret	2	3	3	4	4	2	2	1	1
Caswell	0	0	1	2	2	3	3	5	1
Catawba	12	12	17	17	16	22	24	19	19
Chatham	6	6	6	5	6	5	5	5	6
Cherokee	5	5	5	5	4	3	2	3	3
Chowan	0	1	1	1	1	1	1	1	1
Clay	2	2	2	2	2	2	2	2	2
Cleveland	11	11	15	16	16	15	13	10	9
Columbus	2	2	1	4	4	2	3	2	1
Craven	8	11	13	13	17	19	16	14	18
Cumberland	29	38	41	38	39	32	30	34	32
Currituck	2	2	2	1	1	1	1	1	2
Dare	1	1	1	2	2	2	2	2	2
Davidson	7	8	9	8	8	7	7	7	8
Davie	0	0	0	1	1	0	1	2	1
Duplin	2	2	2	1	2	1	2	3	2
Durham	26	25	29	30	29	26	31	25	20

Edgecombe	4	5	5	6	7	5	4	4	4
Forsyth	35	36	33	39	33	34	31	29	30
Franklin	3	3	2	2	2	2	3	2	1
Gaston	14	15	14	16	14	15	17	13	14
Gates	0	0	0	0	0	0	0	0	0
Graham	1	1	1	0	1	0	0	0	0
Granville	21	21	29	25	21	28	29	23	24
Greene	2	3	5	3	3	4	4	4	3
Guilford	51	61	60	58	57	51	52	52	56
Halifax	5	6	4	5	5	7	6	3	2
Harnett	4	4	5	5	5	6	7	6	6
Haywood	6	5	5	5	5	4	4	7	8
Henderson	6	7	8	9	8	9	9	6	5
Hertford	2	2	2	2	2	2	3	6	7
Hoke	5	6	8	4	5	4	4	3	4
Hyde	0	0	0	0	1	1	1	0	0
Iredell	9	11	12	11	9	13	15	12	12
Jackson	16	10	10	15	15	14	14	13	15
Johnston	11	11	13	12	9	11	14	15	13
Jones	0	0	0	0	0	0	0	0	0
Lee	1	3	3	2	2	2	2	4	4
Lenoir	14	14	17	14	14	15	12	10	14
Lincoln	3	3	4	3	3	2	2	3	3
McDowell	3	3	4	4	4	3	4	5	4
Macon	3	3	4	3	3	2	2	2	2
Madison	1	1	1	1	1	0	0	0	0
Martin	1	1	1	1	1	1	1	1	1
Mecklenburg	65	63	69	76	75	79	84	81	84
Mitchell	0	0	0	0	1	1	1	1	3
Montgomery	4	2	2	2	3	4	7	7	6
Moore	7	6	6	10	8	6	5	7	8
Nash	19	19	21	17	16	18	20	19	19
New Hanover	24	25	29	29	30	33	39	37	40
Northampton	0	0	0	0	0	0	1	0	0
Onslow	7	8	8	9	7	6	7	8	8
Orange	24	18	23	17	16	16	17	18	23
Pamlico	0	0	0	0	1	1	1	2	1
Pasquotank	2	4	4	6	4	9	8	4	2
Pender	3	2	3	2	3	2	3	3	4
Perquimans	0	0	0	0	0	0	0	1	0
Person	1	1	2	1	1	0	0	0	1
Pitt	32	30	33	31	34	35	37	40	34
Polk	2	2	2	2	2	1	1	3	3

Randolph	5	5	5	6	9	7	7	8	8
Richmond	2	5	4	3	5	9	8	8	6
Robeson	8	5	5	9	8	7	7	5	6
Rockingham	1	1	1	1	2	2	2	2	2
Rowan	10	13	13	10	15	13	15	10	12
Rutherford	7	9	9	9	8	8	8	7	6
Sampson	1	1	2	2	3	3	2	2	2
Scotland	1	1	2	1	1	1	2	1	1
Stanly	3	3	5	5	3	6	4	6	5
Stokes	1	1	1	0	0	1	1	4	3
Surry	5	4	7	4	5	4	3	3	2
Swain	2	5	5	3	3	3	3	2	1
Transylvania	3	3	3	3	3	2	2	1	1
Tyrrell	0	0	0	0	0	0	0	0	0
Union	4	3	5	5	5	5	5	4	6
Vance	2	2	3	5	5	6	4	2	2
Wake	69	74	83	78	73	68	73	73	77
Warren	0	0	0	0	0	1	2	0	0
Washington	0	0	0	0	0	0	0	0	0
Watauga	12	10	10	12	10	8	9	6	7
Wayne	26	25	28	31	30	35	35	31	31
Wilkes	6	5	6	7	8	7	7	6	6
Wilson	4	5	5	5	4	5	5	5	8
Yadkin	0	3	3	3	4	2	2	2	1
Yancey	2	2	2	1	1	1	1	1	1

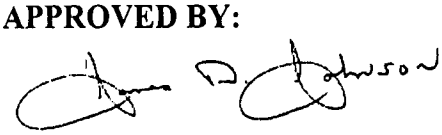
SOURCES OF DATA:

- Actuarial Note, Hartman & Associates, House Bill 1049, House Committee Substitute, June 4, 2003, original of which is on file in the General Assembly's Fiscal Research Division.
- Actuarial Note, Aon Consulting, House Bill 1049, House Committee Substitute, June 6, 2003, original of which is on file with the Comprehensive Major Medical Plan for Teachers and State Employees and the General Assembly's Fiscal Research Division.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Sam Byrd

APPROVED BY:



DATE: June 6, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1049 A BILL TO BE ENTITLED AN ACT TO ALLOW LICENSED PSYCHOLOGICAL ASSOCIATES TO RECEIVE PAYMENT FOR SERVICES FROM INSURERS AND TO INCREASE THE FEE THE PSYCHOLOGY BOARD MAY CHARGE FOR A TEMPORARY LICENSE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1072
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLU-4 [v.14]

6/18/2003 8:08:17 AM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA STATE BOXING COMMISSION, TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS, TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS, AND TO AUTHORIZE THE COMMISSION TO CONDUCT A STUDY ON THE EFFECTIVENESS OF REGULATING TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 68 of Chapter 143 of the General Statutes is amended by designating G.S. 143-650 through G.S. 143-658 as:

"Part 1. Boxing.".

SECTION 2. The title of Article 68 of Chapter 143 of the General Statutes reads as rewritten:

"Article 68.

North Carolina State Boxing and Entertainment Commission."

SECTION 3. G.S. 143-651(5) reads as rewritten:

"The following definitions apply in this Article:

...

(5) Commission. – The North Carolina State Boxing and Entertainment Commission.

...."

SECTION 4. G.S. 143-651(23b) reads as rewritten:

"The following definitions apply in this Article:

...

(23b) Sanctioned amateur match. – Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized and approved by the North Carolina State Boxing and Entertainment Commission.

...."

SECTION 5. G.S. 143-652(a) reads as rewritten:

"**§ 143-652. State Boxing and Entertainment Commission.**

(a) Creation. – The North Carolina State Boxing and Entertainment Commission is created within the Department of Crime Control and Public Safety to regulate in North Carolina live boxing and kickboxing matches, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than twenty-five dollars ($25.00). The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of Crime Control and Public Safety. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for

its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Crime Control and Public Safety. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of the Secretary of Crime Control and Public Safety."

SECTION 6. G.S. 143-655(c) reads as rewritten:

"(c) State Boxing and Entertainment Commission Revenue Account. – There is created the State Boxing and Entertainment Commission Revenue Account within the Department of Crime Control and Public Safety. ~~Monies [moneys]~~Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 7. Article 68 of Chapter 143 of the General Statutes is amended by adding the following new Part to read:

"Part 2. Ticket Brokers.

"**§ 143-659.1. Regulation of ticket brokers by Commission.**

In addition to regulating boxing pursuant to Part 1 of this Article, the North Carolina State Boxing and Entertainment Commission shall regulate those persons who engage in business as ticket brokers as provided in this Part of Article 68.

"**§ 143-659.2. Definitions.**

The following definitions apply in this Part:

(1) Commission. – The North Carolina State Boxing and Entertainment Commission within the Department of Crime Control and Public Safety.

(2) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(3) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(4) Ticket broker. – A person, firm, or corporation who engages in the business of reselling one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article. For purposes of this definition, all individuals engaging in business as ticket brokers within a firm or corporation must meet the requirements of registration and bonding as well as the firm or corporation itself.

(5) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 143-659.3. Powers and duties of Commission.**

(a) The Commission shall have the power and duty to:

(1) Adopt rules necessary to carry out the provisions of this Part in accordance with Chapter 150B of the General Statutes.

(2) Administer and enforce the provisions of this Part.

(3) Establish requirements for issuance of registrations required by this Part.

(4) Inspect the premises and records of ticket brokers registered pursuant to this Part.

(5) Receive and investigate complaints from members of the public.

(6) Conduct investigations for the purpose of determining whether violations of this Part or grounds for disciplining registrants exist.

(b) The Commission shall have the authority to inspect the premises and records of ticket brokers at any reasonable hour to determine compliance with the provisions of this Part pursuant to rules adopted by the Commission.

(c) The Commission shall keep a record of its proceedings relating to the issuance, renewal, denial, restriction, suspension, and revocation of registrations. This record shall also contain each registrant's name, business and home addresses, registration number, and the date the registration was issued.

(d) The Commission shall require each ticket broker to undergo an audit each year and submit a report of the audit to the Commission within 30 days after the audit is completed. The Commission shall adopt rules establishing guidelines for audits.

"**§ 143-659.4. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in G.S. 14-344(a), it shall be unlawful for any person to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person is registered as a ticket broker pursuant to the provisions of this Part.

(b) Charitable or non-profit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Part when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(c) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may

contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 143-659.5. Requirements for registration; issuance of registration; renewal; moneys credited to State Boxing and Entertainment Commission Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Commission on a form provided by the Commission. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of twenty-five thousand dollars ($25,000) and file a copy of the bond with the Commission. The bond shall be executed in favor of this State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Part. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Commission not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Commission shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Commission and pay a renewal fee established by the Commission not to exceed two thousand dollars ($2,000).

(d) Moneys collected pursuant to the provisions of this Part shall be credited to the State Boxing and Entertainment Commission Revenue Account pursuant to G.S. 143-655(c), and applied to the administration of this Part.

"§ 143-659.6. Disclosure; refunds.

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser, on the ticket or receipt, the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser, on the ticket or receipt, the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Part if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund, within 15 days from the date of purchase, any payment received for the purchase of a ticket under this Part if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"§ 143-659.7. Prohibited conduct.

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event. For purposes of this subdivision, a firm or corporation engaging in business as a ticket broker is limited to one percent (1%) of the total tickets allocated for any contest or event regardless of the number of ticket brokers employed by the firm or corporation.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a

ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 143-659.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 143-659.9. Violations.**

(a) Civil Penalties. – The Commission may issue an order against a registrant or any other person who willfully violates any provision of this Part or rules adopted by the Commission. Orders issued by the Commission may include the following:

(1) An order requiring the registrant or other person to cease and desist from violating any provision of this Part.

(2) An order suspending or revoking the ticket broker's registration.

(3) An order imposing a civil penalty of up to twenty-five thousand dollars ($25,000) for each violation of this Part.

No order under this subsection may be entered without giving the registrant or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Part shall constitute a Class 2 misdemeanor. The Commission may refer any available evidence concerning violations of this Part to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Commission that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Part or any rule adopted by the Commission, the Commission may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Part or any rule or order issued pursuant to this Part."

SECTION 8. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by

the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Part 2 of Article 68 of Chapter 143 of the General Statutes."

SECTION 9. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker registered under Part 2 of Article 68 of Chapter 143 of the General Statutes. For the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 10. The North Carolina State Boxing and Entertainment Commission, as renamed and enacted in Section 2 of this act, shall conduct a study to determine the effectiveness of its regulation of ticket brokers and address any issues that relate to the registration of ticket brokers, enforcement of the provisions of Part 2 of Article 68 of Chapter 143 of the General Statutes, enacted in Section 7 of this act, and any other issues the Commission deems necessary. The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 Session of the General Assembly and a final report to the 2005 General Assembly.

SECTION 11. Section 9 of this act becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1072
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLU-4 [v.12]

6/11/2003 12:44:13 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who engages in the business of reselling one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in G.S. 14-344(a), it shall be unlawful for any person to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person is registered as a ticket broker pursuant to the provisions of this Article.

(b) Charitable or non-profit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(c) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 66-259.3. Requirements for registration; issuance of registration; renewal; failure to comply; Ticker Brokers' Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of Crime Control and Public Safety on a form provided by the Secretary of Crime Control and Public Safety. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of Crime Control and Public Safety. The bond shall be executed in favor of this State for the

benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of Crime Control and Public Safety shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of Crime Control and Public Safety and pay a renewal fee established by the Secretary of Crime Control and Public Safety not to exceed two thousand dollars ($2,000).

(d) There is created the Ticket Brokers' Revenue Account within the Department of Crime Control and Public Safety. Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article.

"**§ 66-259.4. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full

refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.5. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 66-259.6. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 66-259.7. Violations.**

(a) Civil Penalties. – The Secretary of Crime Control and Public Safety may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of Crime Control and Public Safety. Orders issued by the Secretary of Crime Control and Public Safety may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of Crime Control and Public Safety

may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of Crime Control and Public Safety that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of Crime Control and Public Safety, the Secretary of Crime Control and Public Safety may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 66-259.8. Rules.**

The Secretary of Crime Control and Public Safety may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker registered under Article 32A of Chapter 66 of the General Statutes. For

the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

41595

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NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1072 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSLU-4

Rep.)
) Hackney
Sen.)

1 moves to amend the bill on page 2, line 18 and ~~18~~ 19
2 ( ) WHICH CHANGES THE TITLE
3 by adding the following new subsection
4 between those lines:
5
6 "(d) This Article does not apply
7 to college athletic events."
8
9
10
11
12
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14
15
16
17
18
19

SIGNED _____

ADOPTED FAILED TABLED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-16 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, lines 11-18, by deleting those lines.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1072

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1072-ASV-17 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
First Edition

Representative Hackney

moves to amend the bill on page 2, line 1, by rewriting the line to read:
"(a) It shall be unlawful for any";

and on page 2, line 6, by rewriting the line to read:
"the provisions of this Article, except that it shall not be unlawful for any person, firm or corporation to resell, to offer for resale, to purchase, or to offer to purchase such a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1072

Short Title:	Regulate Ticket Brokers.	(Public)
Sponsors:	Representatives Miner, Gibson (Primary Sponsors); Barbee, Church, Sherrill, West, and Yongue.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS AND TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 66 of the General Statutes is amended by adding a new Article to read:

"Article 32A.

"Ticket Brokers.

"**§ 66-259.1. Definitions.**

The following definitions apply in this Article:

(1) Promoter. – A person, firm, or corporation who assumes the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(2) Ticket. – A certificate or token showing that a fare or admission fee has been paid.

(3) Ticket broker. – A person, firm, or corporation who resells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted, and meets the requirements of registration and bonding pursuant to this Article.

(4) Ticket sales agent. – A person, firm, or corporation who sells one or more tickets of admission to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 66-259.2. Authority to resell tickets.**

(a) Except as otherwise provided in G.S. 66-259.3, it shall be unlawful for any person other than a ticket broker to resell or offer for resale any ticket of admission or other evidence of the right of entry to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket. Notwithstanding G.S. 14-344(a), a ticket broker may charge a service fee not to exceed three dollars ($3.00) when tickets or other evidences of the right of entry are sold by a ticket sales agent authorized to do business by the municipality or county where the ticket sales agent's place of business is located. The owner, operator, lessee, or tenant of the property where the athletic contest or entertainment event is to be held or is being held or the promoter of the contest or event may charge or may authorize, in writing, any person to charge a service fee for the sale of any ticket, privilege, or license of admission in addition to the face value of the ticket. The writing granting authority to another to charge a service fee shall specify the amount of the service fee to be charged for the sale of each ticket, privilege, or license of admission.

(b) For any athletic contest or entertainment event described in G.S. 66-259.6, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 90-259.3. Exemptions.**

(a) Nothing in this Article or any other provision of law shall criminally prohibit a person who is the original purchaser of one or more tickets to an athletic contest or entertainment event covered under this Article and who purchased the tickets for personal use from reselling or offering for resale the tickets for any price. However, the person shall not sell or offer to sell the ticket within 1,500 feet of a ticket office for the contest or event or a public entrance to the contest or event.

(b) Nothing in this Article or any other provision of law shall criminally prohibit a person who, for personal use, purchases one or more tickets to an athletic contest or entertainment event from reselling or offering for resale any of the tickets in any zone within the restricted areas, as provided in this subsection or in G.S. 66-259.6(b), where the activity is authorized by the promoter of the contest or event and the owner or operator of the venue where the contest or event is being held or to be held.

(c) Charitable organizations and their employees and volunteers shall not be subject to the provisions of this Article when offering for sale any tickets of admission in a raffle, auction, or similar fund-raising activity for the benefit of the organization's charitable purposes.

"**§ 90-259.4. Requirements; issuance of registration; renewal; failure to comply.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person seeking to practice or engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post-office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Secretary of State on a form provided by the Secretary of State. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of one hundred thousand dollars ($100,000) and file a copy of the bond with the Secretary of State. The bond shall be executed in favor of this State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Article. Any person claiming against the bond may maintain an action at law against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Secretary of State shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Secretary of State and pay a renewal fee not to exceed two thousand dollars ($2,000).

"**§ 66-259.5. Disclosure; refunds.**

(a) A ticket broker shall satisfy the following disclosure requirements:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser in writing the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the

transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Article if: (i) the purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and (ii) the return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker is required to refund any payment received for the purchase of a ticket under this Article if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 66-259.6. County and municipal ordinances.**

(a) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, the municipal corporation where the contest, event, or series of contests is to be held, or if the contest, event, or series of contests is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact by ordinance regulations governing ticket brokers for the contest, event, or series of contests that are more restrictive than the provisions of this Article.

(b) The municipal corporation where an athletic contest or entertainment event is to be held, or if the contest or entertainment event is to be held in an unincorporated area, the county of the unincorporated area is authorized to enact an ordinance prohibiting any person, whether a ticket broker or an original purchaser who purchased tickets for personal use, from reselling or offering for resale one or more tickets within 2,700 feet of a venue that seats or admits 15,000 or more persons.

"**§ 66-259.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent may not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

"**§ 90-259.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

"**§ 90-259.9. Violations.**

(a) Civil Penalties. – The Secretary of State may issue an order against a certificate holder or any other person who willfully violates any provision of this Article or rules adopted by the Secretary of State. Orders issued by the Secretary of State may include the following:

(1) An order requiring the certificate holder or other person to cease and desist from violating any provision of this Article.

(2) An order suspending or revoking the ticket broker's certificate of registration.

(3) An order imposing a civil penalty of up to one thousand dollars ($1,000) for each violation of this Article.

No order under this subsection may be entered without giving the certificate holder or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Article shall constitute a Class 2 misdemeanor. The Secretary of State may refer any available evidence concerning violations of this Article to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Secretary of State that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Article or any rule adopted by the Secretary of State, the Secretary of State may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Article or any rule or order issued pursuant to this Article.

"**§ 90-259.10. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 2. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not

exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to sales pursuant to Article 32A of Chapter 66 of the General Statutes."

SECTION 3. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the net receipts of a person who is engaged in the business of ticket brokering as defined under Article 32A of Chapter 66 of the General Statutes. For the purposes of this subsection, "net receipts" means the gross receipts less the face value of the tickets sold.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the net receipts from the activities described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 4. Section 3 of this act becomes effective July 1, 2003, and applies to tickets sold on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1072:
Regulate Ticket Brokers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson and Miner
Date:	June 11, 2003	**Analysis by:**	Martha Walston
Version:	H1072-CSLU-4 [v.12]		Committee Counsel

SUMMARY: House Bill 1072 creates a new Article under the Commerce and Business Chapter of the General Statutes that would regulate ticket brokers. The bill is in House Finance because it imposes a registration fee on the ticket brokers and assesses a 3% privilege tax on the brokerage fee charged by the ticket broker.

The 3% privilege tax becomes effective October 1, 2003, and applies to tickets sold on or after that date. The remainder of the bill is effective when it becomes law.

BILL ANALYSIS: House Bill 1072 creates a new Article 32A that regulates ticket brokers:

§66-259.1 defines the following terms: promoter, ticket, ticket broker, and ticket sales agent.

§66-259.2 makes it unlawful to resell any ticket of admission to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket UNLESS THE TICKET IS SOLD BY A REGISTERED TICKET BROKER. (See Section 2 of the bill)

Exempts charitable or non-profit organizations from the new article when the organization is selling tickets to a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

Authorizes a promoter to contractually restrict the resale of a ticket to a single athletic contest or entertainment event that occurs no more than once annually or to any series of athletic contest that occur no more than once annually and occur within a time period not exceeding 10 days. The owner, operator, lessee, or tenant of the property where the contest or event is held may contractually restrict the resale of the right of occupancy.

§66-259.3 sets out the following requirements for a person seeking to practice or engage in the business as a ticket broker:

- Maintain a permanent office or place of business in the State.
- File for registration as a ticket broker with the Secretary of Crime Control and Public Safety.
- Obtain a bond in the amount of $100,000.
- Pay a registration fee not to exceed $2,000. This fee must be paid to the Secretary. A renewal fee not to exceed $2,000 must be paid annually.

§66-259.4 requires the ticket broker to disclose the broker's refund policy, cancellation policy, and the difference between the face value of the ticket and the amount the broker charges for the ticket. A broker may only sell tickets at the broker's office or place of business.

§66-259.5 prohibits a ticket broker or the broker's employee from engaging in certain conduct.

§66-259.5 disqualifies a person from practicing as a ticket broker if the person has been convicted of a felony and has not been pardoned or had his or her civil rights restored.

§66-259.7 authorizes the Secretary of Crime Control and Public Safety to punish a person who willfully violates the Article. The Secretary may order the person to cease from violating the Article, suspend or revoke the certificate of registration, or impose a civil penalty of up to $1,000 for each violation. A willful violation of the Article constitutes a Class 2 misdemeanor.

§66-259.8 authorizes the Secretary of Crime Control and Public Safety to adopt rules.

SECTION 2 OF THE BILL clarifies that the new Article is not applicable to current law set out in G.S. 14-344. This statue authorizes a person, firm, or corporation to add a reasonable service fee to the face value of a ticket sold. This service fee may not exceed $3.00 for each ticket, except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree on a fee greater than $3.00 for the first sale of tickets by the ticket sales agent

SECTION 3 OF THE BILL imposes 3% privilege tax on the brokerage fee charged by a ticket broker. A brokerage fee is the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket. A county or city may not levy a license tax on a ticket broker who is assessed the 3% privilege tax on the brokerage fee.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 16, 2003**

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: Ticket Brokers – HB 1072

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** Revenue Increase – See Assumptions ***				
Crime Control	*** Minimum $24,000 annually – See Assumptions ***				
EXPENDITURES					
Crime Control and Public Safety	$35,707	$33,722	$33,722	$33,722	$33,722

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, Crime Control and Public Safety.

EFFECTIVE DATE: October 1, 2003.

BILL SUMMARY: The legislation allows and regulates ticket brokering, and applies a 3% privilege tax on the service fees charged by these ticket brokers. As a part of the regulation, brokers are required to register with the Secretary of Crime Control and Public Safety and pay a $2,000 registration fee to offset the costs of the program. Bonds are also required.

Establishes a civil penalty of up to $1,000 and a Class 2 misdemeanor criminal penalty for violation of the act.

ASSUMPTIONS AND METHODOLOGY: There are two primary fiscal impacts related to the bill. The first relates to the tax while the second relates to the fee. In 2000-01, the Department of Revenue collected $27.6 million from the 3% privilege tax on amusements. Of this amount, approximately $6.67 million was drawn from amusements that could be impacted by the bill. The legislation does not jeopardize this revenue. Because this is a new tax, it will result in a revenue gain. Neither Tax Research nor Fiscal Research can estimate the exact amount. However, the increase is expected to be relatively small.

As far as the regulatory fee is concerned, according to the United States Ticket Brokers Association there are 788 bonded ticket brokers in the United States, 11 of which are currently in North Carolina. The National Association of Ticket Brokers boasts approximately 170 members nationwide, only one of which is in North Carolina. The registration of all current NC brokers would result in a revenue gain of approximately $24,000 (12 x $2,000). This creates the low end of the estimate. However, the actual amount of revenue increase will likely be higher as the number of ticket brokers is also likely to increase.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. The number of beds needed will always be equal to the projected number of inmates due to a bill.

Because the proposed bill creates a new offense, the Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. Only 12% (3,944) of total Class 2 misdemeanants convicted in 2002 (31,425) received active sentence. The average sentence is 23.4 days so time served will be in local jails and the Department of Correction (DOC) will not have to reimburse (only for misdemeanants with sentences over 30 days). (Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because offenders serving active sentences of 90 days or less are housed in county jails, convictions under this bill would not be expected to have a significant impact on the prison population.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. AOC does not expect a significant increase in the number of charges for as a result of this bill given the relatively small number of ticket brokers operating in the state.

Department of Crime Control and Public Safety

Staff at the Department of Crime Control and Public Safety (CCPS) indicated that most likely this new function would be added to the responsibilities of the Alcohol Law Enforcement Division, which currently monitors bingo activities or to the duties of the Boxing Commission. The Department would handle the regulatory function such as issuing rules, registration of brokers, issuing notices of violation, etc. However, criminal enforcement activities would be the responsibility of local law enforcement agencies.

CCPS staff estimates that the rulemaking process will require 48 hours of work by a staff attorney, whose annual salary is $75,083, at a cost of $1,985 NR, including salary and benefits. This is a one-time cost in the first year to develop and issue rules.

The Department would add a Grade 61 administrative support position which will be responsible for registering ticket brokers, receiving complaints, issuing notices of violations, assessing fines, and referring complaints to local law enforcement agencies. The annual salary cost is estimated using the midpoint salary of $27,391 for a grade 61 position. The cost of benefits includes the state's share for FICA (7.65%), retirement (3.03%), and health insurance ($2,933). The combined annual salary and benefits are estimated to be $33,249 in fiscal year 2003-04. In addition, an annual amount of $500 is included for the costs of forms, supplies, equipment, postage, travel, etc.

HB 1072

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When it comes to ticket scalping, the Net's the Wild West

By Allan Drury, Gannett New Service

Scalping tickets for sporting events has spread from stadium parking lots to cyberspace.

A quick glance at eBay, the auction Web site, shows that sellers draw bids several times the face value of tickets. Law enforcement agencies say they monitor the sites to make sure prices are within legal limits, but admit online sales are difficult to police.

The NFL isn't amused by the burgeoning Internet market for tickets. Most teams print language on the back of their tickets warning buyers against unlawful resale, said Greg Aiello, a league spokesman.

"We view it as unethical and in some cases against the law," Aiello said. "It suggests a desire to profit personally and perhaps illegally on the coattails of either the NFL or the team."

State laws governing the resale of tickets are often murky. In New Jersey, it is illegal for a licensed broker or season ticket holder to sell a ticket to any event held in the state for more than 50% above the price the broker or season ticket holder paid.

Other sellers cannot charge a price more than 20% above face value, said Genene Morris, a spokeswoman for the New Jersey Division of Consumer Affairs.

The law applies even if the buyer and seller both live elsewhere, she said.

Some sellers on eBay post names that make it clear they are brokers. But it's difficult to tell whether others are brokers or season ticket holders and, thus, how much they can legally get for their tickets.

But of nine randomly chosen auctions to the Sept. 15 New York Jets- New England Patriots game, only one stopped before bidding topped 120% of the face value of the tickets.

The face value of the highest-priced Jets ticket, the mezzanine level, is $70.

The top bid in the nine auctions was $320 for a pair of lower level seats with a face value of $55 — meaning the winning bidder paid $160 per ticket.

An eBay education

EBay, based in San Jose, Calif., does its part to try to see that sellers follow the law by providing links to the rules in each state. EBay encourages sellers to include language on their postings explaining the rules that apply, said Kevin Pursglove, a spokesman.

But he conceded enforcement is nearly impossible and the company depends on sellers to abide by an honor system, he said.

"We don't make any pretense that we can be expert in every resale policy on a state-by-state basis," he said. "We feel our best role is to educate people."

Morris, the New Jersey consumer affairs spokesman, acknowledged the price caps, which were raised in April, are tough to enforce. Because most eBay sellers do not list their real name, phone number or address, it's difficult to identify them, though the site allows sellers to be reached by e-mail.

But Morris said the state has prosecuted several ticket agencies in recent years for violating the law.

The offenders paid fines and signed settlement agreements in which they agreed not to violate the caps again, she said.

"We generally don't comment on investigations, but as a matter of course we do monitor (Internet ticket sales)," she said.

Teams monitor sites

NFL teams are aware of the thriving online market and some are doing all they can to crush it.

Just ask John Reis of Warwick, R.I., a Patriots season ticket holder for 18 years who had his tickets taken away in June after his wife placed his three tickets to a game against the Green Bay Packers on eBay.

The team's cybersnoopers were able to tell the tickets belonged to Reis because the posting listed his name and address, he said.

Reis, a crime prevention officer in Rhode Island Attorney General Sheldon Whitehouse's office, said he knew he would be unable to attend the Packers game because it falls on his wedding anniversary.

He said the tickets, which had a face value of $99 each, drew a high bid of $851. But he said the high bidder never contacted him and the Patriots took his account before he even received his season tickets from the team.

"I've been a loyal season ticket holder," Reis said. "I've never been kicked out of a seat. I've never been late on a payment. If I had known I was jeopardizing my season ticket account, this wouldn't have happened."

A Patriots spokesperson would not comment on how much effort the team puts into monitoring online auctions.

The Jets monitor eBay and other online sites, said Robert Parente, the team's vice president of business operations. If they're able to identify a season ticket holder looking to sell, the Jets write the fan a letter, he said.

"We tell them they should cease and desist," he said. "When we talk to people, most people are reasonable and they take them off eBay."

Auction sales discouraged

The Jets do not want season ticket holders selling their tickets online at any price, even a price that complies with the law, he said.

The Jets have never yanked anyone's season tickets because they were reselling them, Parente said.

The team offers fans who can't use tickets they've purchased the chance to donate them to the United Way or to sell them at face value to a fan who's on a waiting list, he said.

But if the Web posting does not identify the seat or row, it can be difficult to tell who the seller is.

It's clear the Patriots and their new home, Gillette Stadium, are an irresistible draw. Of the 11 randomly chosen auctions for tickets to the home opener against the Pittsburgh Steelers, the lowest high bid for two tickets was $305.

A ticket broker paid the highest price for a pair of tickets to the rematch of last season's AFC championship game. He submitted the high bid of $610 for a pair of $75 end zone tickets about 25 rows off the field.

Massachusetts law seems particularly unclear. It allows licensed brokers to sell tickets at $2 more than face value plus the broker's cost of obtaining the ticket. The cost of obtaining the ticket can include expenses such as advertising, postage and payments to an employee who waited in line to buy the ticket, said Steven Osgood, general counsel for the Massachusetts Department of Public Safety.

He said his agency does "spot checks" of Web sites to enforce the law, but resources prevent the department from being more aggressive.

Compulsive behavior drives ticket buyers

The behavior of the buyers fascinates psychologists and marketing experts.

What is it about these sports fans anyway? Why are some otherwise rational people willing to click a mouse and tap a keyboard until they've spent the grocery money on a pair of tickets to a football game they could probably catch on television?

"My fiancee calls me OCD (for obsessive-compulsive disorder) because I'm always on the computer trying to get these tickets," said Seth Winkleman, a 30-year-old New Britain, Conn., man who regularly bids on Patriots tickets on eBay.

"When you get the tickets for a good price, it's a really good feeling," he said.

Dipankar Chakravarti, a professor of marketing at the University of Colorado, believes in the constructive processing theory. Bidders will continue raising their offers because they're competitive and abhor losing, not because they believe the tickets are worth what they're willing to spend.

Francis T. McAndrew, a psychology professor at Knox College in Galesburg, Ill., said a couple of other factors may inspire fans to keep bidding higher.

Even though bidders on eBay aren't identified until bidding is closed — and then only by the nicknames they choose — losing out in an online auction may feel like a public defeat, he said.

"To withdraw is an admission of defeat," he said. "People aren't going to want to do that publicly. It's self-perception. They'll think less of themselves if they do."

Allan Drury writes for The (Westchester, N.Y.) Journal News.

Find this article at:
http://www.usatoday.com/tech/webguide/internetlife/2002-10-07-e-scalping_x.htm

☐ Check the box to include the list of links referenced in the article.

WHY CAN'T I GET TICKETS?

REPORT ON TICKET DISTRIBUTION PRACTICES

BUREAU OF INVESTOR PROTECTION AND SECURITIES

MAY 27, 1999

Full Text | News Release | Summary | TOC |

EXECUTIVE SUMMARY

This report is intended to shed light on the largely underground and unexamined ticket distribution system in New York, a system which diverts the most desirable sports, concert and theatre tickets away from the general public.

The process by which tickets wend their way from the original issuer to the ultimate consumer is complex and often illegal. In the general case, the consumer walks up to the box office or telephones a ticket agent such as Telecharge or Ticketmaster (or uses one of their outlets), pays the price on the face of the ticket (with perhaps a small additional service charge) and obtains the ticket that he or she wants. Too often, however, the consumer finds that the desired ticket (e.g., to "The Lion King" or the Yankee playoffs or the Spice Girls) is unavailable within minutes after it goes on sale, and if there are any tickets left, they are at the rear of the house, the highest tier of the stadium or, in the case of a hit show, the wait can be for over a year. However, while a "sold-out" sign confronts the consumer at the box office, the newspapers nonetheless are filled with advertisements for the most sought after seats -- at prices, depending on the popularity of the event, ranging into the thousands of dollars. The Attorney General's investigation demonstrates that ticket distribution practices are seriously skewed away from ordinary fans and towards wealthy businesses and consumers.

This problem is not simply the result of the law of supply and demand. Rather, the availability of tickets and the outrageously high -- and illegal -- prices that brokers charge, to a large extent, can be laid at the door of illicit practices in the ticket industry and other practices that, although possibly not unlawful, are deceptive, unfair to the ticket buying public and supportive of the corrupt ticket distribution system.

Thus, the average disappointed consumer walks away with the suspicion that the tickets could not have all been sold, through the normal means, quite that fast. He or she often believes that someone, somewhere, had an "in," and that dutifully waiting on line or telephoning repeatedly was, in reality, an exercise in futility. To a large extent, that frustrated consumer is correct. This report attempts to explain why and highlights the myths, half truths, and outright criminality that causes the scarcity of tickets.

The entertainment industry is one of the core sources of revenue for New York. Just as we demand integrity of New York's financial institutions and its securities marketplace, New Yorkers have a right to expect integrity in the system through which tickets are distributed. New York's citizens and the millions of tourists who come to New York to attend entertainment and sporting events deserve to obtain tickets through a distribution system free of fraud and corruption.

A system that provides access to quality seating on the basis of bribes and corruption at the expense of the fans, without whose continued support the theatre could not survive, should not be tolerated. Indeed, Billy Joel stated in a recent interview that he would in fact stop doing live concerts because the system did not permit the "real fans" access to tickets.

He announced that he was going to stop touring in part because:

> I am tired of being part of the rip-off.
>
> * * *
>
> The brokers that drive the prices up are ripping me off because, I'm not getting the money... and they're ripping off the customer because the customer wants the ticket and they know that the market will bear a certain price.

The price that tickets to popular events command in the marketplace belongs to the performers, producers and investors who create the events, not the speculators who through illegality and deception take advantage of the excess demand in the system. Ticket scalping is sometimes referred to as a "victimless" crime. To the contrary, the victims of the current ticket distribution system are the fans, the producers and investors who create the events and the State of New York, which loses both tax revenues and credibility as the entertainment center of the world.

The facts and analysis set forth below have been collected through activities of the Attorney General's Office, including:

- The issuance of over 200 subpoenas for documents and testimony, 40% which were to New York ticket brokers (many asserted the privilege against self-incrimination; several failed to substantially comply with the subpoena), and concierges of nine major New York City hotels;
- The taking of testimony from or interviews of owners and management of major venues, representatives of ticketing agencies, concert promoters, group sales and theatre party agents, venue security personnel, clients of ticket brokers, business associates of ticket brokers, various state and city officials, and a number of confidential informants;
- The prosecution and conviction of the treasurer of the Jones Beach Marine Theatre on charges of larceny and computer tampering, and the trial of the owners of a ticket brokerage firm for ticket speculation;
- The execution of search warrants at two New York and two New Jersey ticket brokerage firms;
- The review of the records of six Broadway productions -- at least one in each of New York's three major theatre chains -- as well as those of a major not-for-profit theatre;
- The examination of computer print-outs of nine major concerts at Madison Square

Garden and the Nassau Coliseum, as well as the computer print-outs of all 37 concerts at the Jones Beach Marine Theatre in the summer of 1996;
- The review of subscription records for the Knicks and Rangers, and the United States Open ticket sales for 1997;
- Comparison of tickets purchased or seized from ticket brokers and scalpers against records of venues ;
- Surveys of ticket holders at the June 20-23, 1994 Barbra Streisand concerts at Madison Square Garden; the August 4, 1996 Hootie and the Blowfish concert, and the August 17, 1996 Alanis Morrisette concert at the Jones Beach Marine Theatre; and the July 1, 1998 Spice Girls concert at Madison Square Garden;
- Visits to over a dozen locations such as Ticketmaster outlets, entertainment venues, and ticket brokers.

In addition to addressing the endemic corruption in the ticket business through his criminal and civil enforcement powers, the Attorney General believes that nothing will change until the public knows how the system works and new legislation is enacted. Legislative and policy recommendations flow from this investigation, and are intended to improve the availability of entertainment tickets to consumers, as well as provide new powers to fight the illegal conduct. This report is intended to promote that process.

A. Corrupt Practices

Ticket brokers strive to monopolize the supply of tickets by paying illegal and substantial bribes (premiums over the face price of the ticket) to various persons who have control over tickets at the original point of sale. These persons with control over tickets include box office employees or their supervisors, managers of venues, ticketing agents (such as employees of Ticketmaster or Telecharge), concert promoters, security personnel, or a variety of house seat holders. The pay-offs made to a venue operator, agent or employee, (e.g., a box office employee), is historically known as "ice".

Ticket brokers must be licensed pursuant to New York's Arts and Cultural Affairs Law ("ACAL"). Under ACAL, the payment or receipt of ice is currently a crime, classified as a misdemeanor, and also subjects a ticket seller to revocation or suspension of his or her registration as a ticket distributor. Payments of premiums to individuals other than agents of the venue (such as promoters and house seat holders) are not specifically covered by ACAL, but can be covered by other provisions of the criminal law, such as commercial bribery. Such payments are hard to prove. They are almost always made in cash, not necessarily at the recipient's place of business, and generally occur between two people, without witnesses.

Brokers who pay ice must of course cover the cost of the bribe, which can range from 50 to 100 percent of the face price of the ticket. Therefore, they have to resell tickets substantially above the current legal maximum of an additional five dollars or ten percent of the face price (whichever is greater), and cannot operate within any reasonable cap. As such, these tickets are sold illegally, generally by out-of-state brokers to New York businesses -- such as securities firms that need tickets for clients. One major New York securities firm paid a New Jersey broker over $360,000 during 1994 to obtain for itself the finest seats at various venues, at clearly illegal prices, ranging from 150 to 600 percent above the face value of each ticket.

B. Unfair Practices

Aside from ice and bribery, huge numbers of tickets for popular events are diverted from sale to the public and are distributed through other channels. The extent to which tickets are channeled through this non-public system, and the persons and businesses that get their tickets through "connections," are subjects that have been shrouded in secrecy for many years. Whether in connection with illegal payments or not, the sheer number of seats withheld from public sale lends itself to manipulation and abuse. Such tickets are almost always the best seats in the house. Tickets set aside for theatre party or group sales agents wind up being resold by ticket brokers; house seats at theatres make up a great part of the ticket broker's stock in trade, as do tickets set aside by concert promoters.

Moreover, the failure of venues adequately to inform the public -- as to the number and location of seats available for public sale, the date on which a new batch of seats for a show or concert might go on sale, or when unpurchased house seats become available to the public -- goes hand-in-hand with the practices set forth above. For example, during the 1994 Barbra Streisand concerts at Madison Square Garden, approximately 50 percent of the seats never went on public sale, i.e., they were withheld for the "house" -- the producer, the promoter, the record company, the performer, or other such individuals. Had this been disclosed to the public in the advertising for the event, the public would have had more realistic expectations about their chances of obtaining a ticket through general sales. The Attorney General believes that most consumers would be surprised to learn that for most events, a very large percentage of all seats and most of the best seats for a particular event are in reality unavailable to the public.

C. The De Facto Framework

Ticket brokers converge just outside of New York's borders -- some, just minutes away -- to advertise and sell tickets to New Yorkers but generally claim -- incorrectly -- that they are not subject to New York laws. Box office employees and former box office employees either have special relationships with ticket brokers and scalpers or, eliminating the "middle man" entirely, are ticket brokers themselves. Concert promoters or their affiliates are also ticket brokers. And law enforcement is left to combat the problems of ticket diversion and commercial bribery with inadequate and outdated weapons.

Meanwhile, as more fully described in this report, insiders have little incentive to change the situation. The theatre and arena owners receive their flat fee rents and percentage of the gross no matter how or to whom the tickets are sold. Equally unaffected by ticket sales practices are the producers, promoters and star performers who receive a negotiated percentage of the gross. Group sales agents and licensed New York ticket brokers also do a substantial business with their respective share of the action. The latter group settles, by and large, for the hotel tourist trade and the less desirable seats. They work with unlicensed brokers, assisting them in "laying off" some of the risk of being left with unsold tickets. New York corporations and businesses have the ability to obtain the best seats on short notice for their clients and associates. The reason there are no good seats available at box office prices for the fans of New York sports teams or for the U.S. Open tennis matches is because, as the insiders say, they have all "gone corporate." The same is true for concerts. This has created a two-class system for access to sports and entertainment events.

Where, therefore, is the incentive for anyone in the business of sports and entertainment to change the system? Fans and theatre lovers -- those without special contacts or influence -- often turn to the Attorney General's Office for help.

D. How Illegal Brokers Get Tickets

How tickets wind up in the lucrative resale market rather than in the hands of fans is one of the subjects of this report. The following is a summary of the methods by which ticket brokers acquire tickets -- those they are willing to talk about, as well as the corrupt methods they are not willing to acknowledge.

1. The Acknowledged Methods

There are various methods by which ticket brokers claim to obtain their product legally.

- Brokers send "diggers" to stand on line at the box office.
- Brokers use high-speed dialing equipment and other methods to increase their chance of getting through by the telephone.
- Brokers buy tickets, for a legal premium, from fans who have been able to buy tickets.
- Brokers send in numerous mail orders for Broadway shows, generally in the individual names of employees or of surrogates, such as family and friends.

2. The Unacknowledged Methods

The Attorney General's investigation has uncovered illegal or corrupt methods by which ticket brokers consistently obtain the best seats to the most popular events in quantities that belie the "acknowledged" explanations as to their source.

- Brokers obtain seats from promoters, performers and representatives of venues (including box office treasurers and ticket sellers) by paying ice. In some instances, box office personnel have ownership interests in ticket brokers or have family members who are ticket brokers.
- Brokers obtain tickets from computer ticketing companies such as Ticketmaster, whose employees are skimming tickets for themselves and selling them to brokers (or from distant outlets less likely to have a great demand for a show in New York City). When additional dates are added for a performance for which there is a great demand, they may not be advertised, thus creating the opportunity for outlet operators to advise their "friends" when the additional tickets will go on sale. In one instance, a small video store with a Ticketmaster terminal is silently owned by a New Jersey ticket broker.
- Brokers obtain from the box office "house seats" that are not used by those persons entitled to use the house seats or that are held for performances at which such seats are released for theatre parties or large groups, or they obtain seats which were set aside for other promotional or marketing purposes (e.g., special agreements with credit card companies to hold a certain number of "best seats" for their gold or platinum card holders).

Brokers also buy from each other. One may have a "hook" (a contact) at one venue,

others may have different "hooks." Thus, there is a constant stream of faxes flowing between them showing the tickets available. As a result of the variety of contacts or "hooks" among ticket brokers, different brokers tend to become known as specializing in certain events (e.g., Knicks and Rangers, Phantom of the Opera, etc.) Actually, this "specialization" is nothing more than having a "hook" with whom a broker can transact illegal business.

Members of the organized ticket broker industry basically have one answer to the question of how they get their tickets: the use of "diggers." While they resist discussing the issue of the source of their supply, if pressed they almost always say that they send "diggers" to stand on line at the box office or, less frequently, that they buy from original purchasers or have techniques for getting in on the telephone. This answer begs the question of how the brokers obtain the best seats in the house -- the seats commanding huge prices and demanded by the brokers' business clientele, who expect large volume service on short notice -- in such large quantities.

In addition, diggers always seem to get the scarce number of high quality tickets available at the box office while the real fans are left "in the cold." Many such fans have called the Attorney General's Office to complain about and describe the chaotic scene outside a venue when numbered wrist-bands (presumably instituted to assure fairness) are distributed a day before or hours before an "on-sale." Fans also complain about standing on line or camping-out for hours, if not days, to buy tickets for concerts, just to be told that all tickets are sold out or that the best seats are not available because they are reserved for the "fan club" or "VIPS." Diggers however, somehow manage to buy seats that are not available to the fans.

E. Policy and Law

This is a huge business. Hundreds of ticket resellers who work out of offices, not on the street, make a substantial living from it, indeed, become wealthy from it, as do many of their suppliers at the original point of sale. The statutes we have to deal with this system are holdovers from a bygone era. The Attorney General's investigation has highlighted several short-comings in the existing law that ought to be remedied, as well as policies and rules that should be adopted by the industry. Following is a summary of these:

- The payment and receipt of ice, currently a misdemeanor if prosecuted under Article 25 of ACAL, should be a felony to provide a greater deterrent against such activity.
- The diversion of tickets from public sale to ticket brokers by employees or agents of a venue, without the express authorization of the owner or operator of the venue or of the producer or promoter, should be illegal even without proof of bribery.
- Currently the resale of one ticket for over the "maximum premium price" (the face price on the ticket plus five dollars or ten percent of the face price, whichever is greater) is a violation under ACAL; the resale of five or more tickets is a misdemeanor, whether as an isolated event or as part of the business of reselling tickets. The sale of 20 or more tickets or tickets in an amount totaling more than $1,000 over the statutory limit should be a Class E felony, similar to a larceny when the value of stolen property exceeds $1,000.
- The statutory cap on the price of tickets should be raised to permit licensed ticket brokers who do not pay bribes to make a reasonable profit.
- The identity of the individual ticket seller should be ascertainable either by requiring an identifying code printed on the face of the ticket or by requiring such identification to be retained in the computer.

- The ticket broker business is no longer conducted in a particular county, on the street or in an office, as when the law was written, but by telephone, fax and computer on a state-wide and inter-state basis. Therefore, centralized, state-wide licensing and other provisions reflecting the current state of the ticket resale business should be enacted.
- The investigation and enforcement provisions of the ticket resale law are currently inadequate to deal with the systemic corruption that underpins the ticket resale business. Civil and criminal penalties must be increased so that they are no longer seen as just a potential cost of doing business.
- The secrecy surrounding current ticket distribution practices should be lifted. The law should provide for increased disclosure as to the availability of tickets to the ultimate consumer.
- Ticket resale and the related payment of bribes to insiders has become part of a large underground economy that is depriving New York of lawful income and sales tax. Undeclared taxable income received by box office employees and others is a matter requiring increased enforcement activity. Requiring the payment of sales tax on the amount of the resale ticket price above the face price of the ticket must be expressly enacted into law.
- Consideration should be given to prohibiting the purchase of 20 or more tickets over a specified period of time for over the maximum premium price.

This report focuses not just on ticket scalping, but also on how tickets get from their original point of distribution to the resale market where they command such unconscionable and illegal prices, and how to assure increased access to tickets at reasonable prices to the large majority of the public who support, by their continued interest and enthusiasm, New York sports and entertainment events. The Attorney General's investigation into the institutionalized system of fraud and corruption surrounding the ticket distribution system is continuing. It is the hope of the Attorney General that the findings and recommendations discussed below will trigger corrective actions that could be taken now.

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THE FOLLY OF ANTI-SCALPING LAWS

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One of the basic principles in economics is that competititve markets generate price movements to bring quantities demanded into balance with quantities supplied so that queues will be quickly eliminated. Lines, therefore, are troubling to economists, especially when the lines appear repeatedly in what seem to be nonregulated markets. Why are price increases not more forthcoming?

Natural disasters create one such situation. Essentials like water are sold at ``below-market'' prices immediately after the disaster, as evidenced by long lines of consumers. A completely free-market solution would be to have many different firms supplying water at prices the market will bear. However, perceptions of fairness are so strong in natural disasters that price gouging is either illegal or heavily criticized by most consumers. Charging what the market will bear in the short run generates extremely adverse ``moral effects'' (Akerlof 1984) or ``reputation effects'' (Klein and Leffler 1981) in the long run. Because of consumer perceptions about fairness and moral treatment, below-market pricing continues--and queues remain for some time.

Another situation of persistent lines and strong feelings about equity is entertainment events such as major concerts or big-time sport championships. Well-known performers and certain games repeatedly have people lining up for tickets for the right to attend the live, one-time interactions. Again, why do promoters not raise prices at the time tickets first go on sale to prevent long lines? Are the lines rational in a market sense, helping to ration a scarce commodity? Further, why do many promoters and certain consumers become so outraged by the attempt to clear markets through ticket scalping? Currently 26 states, the District of Columbia, and most sports-league municipalities in the United States have some form of anti-scalping regulation, and three-quarters of the U.S. population resides in those locales. (See Table 1 for the states and cities involved.)

This paper examines the nature of major entertainment events, reviews the evolution of scalping statutes since 1918, describes various schemes for allocating tickets, considers the winners and losers in each scheme, and suggests some ideas about possible future scalping laws based on market principles.

The Nature of Entertainment Events

Entertainment events occur in specific locations at specific times. Such events include county fairs, open-air dances, and other situations in which the notion of capacity is relatively fluid. However, the focus in this paper is on events that take place in a concert hall, amphitheater, or stadium with a fixed seating capacity. Consequently, demand is the prime determinant of price. For such events, promoters or team owners must sell tickets in advance with a printed face value, much like firms issuing common

stock with a par value or a contract being sold in a futures market. Most critically, the events have a quality of uniqueness, such as a one-time concert appearance or a once-per-year rival football game.

Consumer Behavior

Consumers enjoy those unique, limited-seating, live events in part because of the performance on stage or on the field. There is something intriguing about observing the action firsthand. Some consumers may not even care whether anyone else is present. For them the thrill of the live performance is enough.

Other consumers, however, want more. Along with the performance itself, they want the ambience that comes from being part of a group. They like shared experiences such as doing the wave, lighting candles, or yelling at players or performers. The idea that group actions affect individual consumption behavior can be traced to the notions of Thornstein Veblen, snob appeal, and bandwagon effects (Leibenstein 1950). Recently, Roger Faith and Stephen Happel (1989) coined the term ``mob goods'' to describe concerts and sporting events in which expected attendance strongly influences demand by consumers.

The mob effect, or perhaps more appropriately the crowd effect, as suggested by Lawrence Ritter in reading an early draft of this paper, is crucial to understanding ticket scalping and related pricing behavior.[1] The crowd effect makes each event unique. There can never be duplication of an event with the same crowd even if essentially the same performance occurs. The ambience exists at the moment. The uniqueness, in turn, means that special memories are created for consumers. The memories can be drawn on over and over again, for example as consumers think about their first Super Bowl, World Series, or NBA finals.

The uniqueness and related memories explain why some consumers feel so strongly about attending such events and having ``fair'' access to tickets. Certain consumers are willing to wait in line because they believe that selling seats first-come, first-served at the printed face value of a ticket represents the best way to ration scarce seats. They trade their time in line for the money saved from having to pay a higher price. Further, they even may derive utility from the queue itself. There can be a crowd effect from waiting with a certain group of people, and anticipation may be heightened through the time spent in line. Lines seem perfectly rational to such consumers, and they detest the thought of paying any amount above the printed face value.

Producer Behavior

Producers, team owners, and concert promoters are profit maximizers. They have a certain degree of monopoly power for an event because of its uniqueness. In addition, they may exercise considerable monopoly power over selected seat locations because some locations (front-row center, club seats, suites) are preferred to others. Given this monopoly power, producers want to charge what the market will bear and to engage in price discrimination whenever possible.

At the same time, producers typically want sellouts. One reason for the full capacity desire centers on the demand dynamics associated with the crowd effect. The perception that an event will be a sellout attracts consumers into the ticket market who would not attend otherwise, and the ambience from a sellout may intensify the demand by consumers for future events. A second reason for promoter desire for a sellout is to maximize complementary revenues from parking, refreshments, and souvenir sales at the stadium or concert hall. There is also an important cost element. Typically, the marginal costs associated with additional attendees, after basic maintenance and staffing expenses are covered, are low until capacity is reached.

Promoter desire for a sellout often is combined with a preference about the mix of consumers actually attending the event. Owners and promoters may want true fans in the seats, or they may want to create a particular atmosphere, for instance an event for the entire family (Nager 1985). Creating a situation where not only the rich and powerful receive all the tickets generates positive morale effects. So producers often may want to control who among the public is buying tickets.

While producers have a degree of monopoly power, market and regulatory constraints limit firm behavior with respect to ticket pricing. Market constraints exist because fans can quickly lose interest in teams or artists whose performances do not meet expectations or who create perceptions of price gouging. Groups and performers go quickly from being ``in'' to being ``out.'' Both event attendance and complementary sales suffer as a result. Legal constraints include a multitude of state and local statutes prohibiting resale of tickets above face value or at given locations. Major sports franchises are prohibited by league rules from charging above a stipulated price for various seat designations, raising or lowering the per-game printed price of the ticket once they are set for the season, and actively engaging in ticket scalping.

Faced with market and legal constraints, producers may purposely set the price of certain seats low (often general admission) to induce a line. The low price signals consumers that there will be likely significant demand for tickets and that the event will be well-attended or sold out. Producers recognize that sizable numbers of consumers are willing to trade time in line for money to acquire tickets and that many of those consumers are strong fans whose support is needed for ongoing profits.

At the same time, producers may try to increase returns in selected seats through the widespread phenomenon of ``holds.'' Holds are the better seats kept back by producers from the public when general admission seats go on sale. Lines for the general admission seats can be used to determine the market value of the holds as separate from their printed face value. If the line is lengthy, then producers may request special favors from radio stations, local politicians, or other influential individuals as they are ``given'' tickets. Or producers may decide to sell the holds directly to ticket brokers if the market price becomes significant.

From both the producers' and consumers' perspectives, then, lines are rational for reasons not present in traditional demand models. In the case of high-demand, limited capacity events, lines do not necessarily represent miscalculations or errors in judgment. Instead, they are a rational part of a market structured around the importance of a queue.

TABLE 1:
ANTI-SCALPING REGULATION: STATE AND MUNICIPAL LEVEL

Form of Regulation	States Adopting	Municipalities Adopting [a]
Limits on resale price (include such limits as $1 above printed price; $3 service charge; percentage limitations)	Arkansas, California, Connecticut, Florida, Kentucky, Maryland, New York, Pennsylvania, Rhode Island, Tennessee, Wisconsin	Washington, D.C.
Owner/promoter authorization for resale above printed ticket price	Arizona, Connecticut, Michigan, Minnesota, Missouri, North Carolina	Ann Arbor, Atlanta, Detroit, Edmonton, Portland, Virginia Beach

Location restrictions on scalping (no sales at event site, on state property)	Arizona, California	Anaheim, Arlington, Atlanta, Chicago, Cincinnati, Dallas, Edmonton, Milwaukee, Washington, D.C.
Ticket sales and resales limited to printed price	Louisiana, Maryland	Anaheim, Ann Arbor, Atlanta, Baltimore, Denver, Edmonton, Green Bay, Joliet, Kansas City, Los Angeles, Seattle, St. Louis
Scalping prohibited only in certain events (e.g., athletics)	Georgia, New Mexico, South Carolina	Baltimore, Calgary, Cincinnati, Milwaukee, Minneapolis, New York, Washington, D.C.
Broker licensing	Alabama, Illinois, Massachusetts, New Jersey	Atlanta, Seattle, Virginia Beach
Municipalities to regulate	South Dakota, Virginia	
Charity/nonprofit exceptions for resale	Louisiana, Virginia	

[a] Those cities listed in more than one category have anti-scalping ordinances with multiple components. For example, Atlanta prohibits sales in excess of the printed ticket price unless such resales are for charity or are authorized by the owner or promoter. Further, Atlanta prohibits all resales of tickets within 20 feet of the event.

Ticket Scalping and Legal Responses

A secondary market for high-demand, limited-seating-event tickets always exists and creates the opportunity for ticket scalping. Ticket scalping is most frequently defined as buying (tickets) for later sale at higher than normal prices. ``Buying for later sale'' points to a third set of agents in the market along with consumers and producers. ``Higher'' is based on the often-held perception that tickets are resold only for more than was paid, but scalping in the broadest sense also encompasses the resale of tickets for less than paid. ``Normal'' harkens back to the notion that printed face value is the norm.

The secondary market occurs because seats are sold in advance of events. When a line is expected, ticket scalpers are present because time may not be a readily available commodity for some purchasers. Those buyers would prefer to pay with more money. Typically, those consumers have a high opportunity cost of time and view scalping as a legitimate market exercise. Scalpers are simply time brokers who perform a useful service.

However, it is crucial to recognize that even when a line is not expected when tickets first go on sale, either because an event is not a sellout or because the printed face value clears the market perfectly and a sellout is achieved, scalping is inevitable. Some consumers with tickets will decide not to attend. They want to get rid of their tickets. Others are in the market for (good) seats up to the time of the event. Reallocation is the natural outcome.

Producers, while wary of the process, must accept reallocation in some form. If the consumers who initially purchased the tickets from producers had to occupy seats or let them go empty, the advance demand for seats would drop considerably. Accordingly, producers accept ``giving away'' tickets to relatives, friends, or business acquaintances, and they generally see resale at printed face value for

sellouts as ``fair.'' But they dislike nonregulated scalpers for a number of reasons. When excess capacity exists and scalpers are outside the stadium selling tickets below face value, producers complain about the loss of revenue from the seats they are offering for sale at the box office that are going unsold because consumers are buying seats from scalpers. When tickets are sold by scalpers well above face value, producers complain about receiving none of the profit. And when scalpers are loud or aggressive, producers complain about nuisance effects.

Jerry Colangelo, president of the Phoenix Suns, spoke to a group of students at Arizona State University and indicated that he disliked scalpers because ``they made money off of him without his permission, and that was not right.'' He also did not want the problems associated with counterfeit seats sold by scalpers or fans being hassled coming to the game. Finally, he pointed to the fact that he paid taxes while scalpers did not.

The first legislative controls on unfair pricing practices were found in the Sherman and Clayton Acts (which in general terms controlled price fixing, tying contracts, etc.). The first legislation in the United States that focused specifically on ticket scalping appeared in 1918 in response to limited-access stage shows.[2] Then, with the rise in popularity of college football and major league baseball, large stadiums were built. Events like in-state rivalries and the World Series had fans lining up for blocks well before World War II.

The growth of population and per-capita income after World War II further intensified the demand for in-state rivalries, the World Series, and other such events. Accompanying this rise in popularity was an increase in season tickets. More season ticket holders means that fewer good seats are being sold on a per-game basis and that there are more event conflicts for consumers, resulting in a desire on their part to sell off tickets for certain games or shows. The impact is an increase in scalping along with more insider trading in which box-office employees take tickets (for good seats) and resell them at a substantial profit.

Regulation of ticket scalping has evolved and continues to be refined among the various states and municipalities. The first generation of anti-scalping statutes began by trying to curb the ``small-time'' activities of on-site scalpers. At both the state and local level, laws were passed to prohibit the resale of tickets above face value (with perhaps a nominal service fee), outlaw scalping on public property or within a certain distance of the event site, and require a license (see Table 1 for a listing of the types of anti-scalping regulations). A sizable number of statutes appear to have been passed to try to limit nuisance effects. But, in many cases, the effects went beyond on-site impacts, and in some instances, producers who were trying to protect profits played a prominent role in obtaining passage of regulations. All the early statutes made scalping a misdemeanor with fines, possible jail sentences, and confiscation.

The first generation of scalping laws continued as the primary form of regulation through the 1970s as legislative bodies tried to control price, location, and nuisance effects. Changes in regulations included increasing fines and jail sentences, and some localities turned scalping into a felony rather than a misdemeanor. Yet enforcement of all types of regulations remained sporadic and arbitrary. Large numbers of police officers were needed at major events to round up on-site scalpers. But it was difficult to prosecute scalpers because most people purchasing tickets from scalpers saw no reason to testify against them.

Over the past decade a second generation of scalping laws has emerged that carefully segments scalpers on the street from ticket brokers or agents operating on the behalf of producers (see Table 2). Some states and municipalities have modified first-generation prohibitions and now permit licensed brokers to operate and to charge a price that reflects their cost of acquiring tickets. Some statutes have legalized producers giving permission to their selected agents to sell seats above face value and on site. The

second generation of scalping laws has brought the resale market closer to a purely competitive situation.

Nevertheless, unregulated freelance scalping at the event is still illegal in most population centers. While enforcement remains sporadic and results in few convictions, there is something quite troublesome from a free-market perspective about restricting resale activities just before an event. The essence of the market for those types of limited-seating, one-time events is their here-and-now nature. The time when the greatest fluctuation in price is often most necessary is immediately before an event so that those who most want to attend and are most willing to pay can indeed get access.

TABLE 2
SECOND GENERATION REGULATION: STATES AND MUNICIPALITIES PERMITTING RESALE

Form of Regulation	States Adopting [a]	Municipalities Adopting
Owner permission	Arizona, California, Connecticut, Kentucky, Michigan, Minnesota, Missouri, New Mexico, North Carolina	Ann Arbor, Atlanta, Detroit, Edmonton, Portland, Virginia Beach
Ticket brokers permitted	Florida, Illinois, Massachusetts, New Jersey	Baltimore, Calgary, Cincinnati, Milwaukee, Minneapolis, New York, Washington, D.C.

[a] The earliest of the second-generation regulations was that of Connecticut, passed in 1983. The remaining states passed their new forms of regulation after 1988, with the majority passing the changes in 1990 or later.

Ticket Allocation Schemes

The most simplistic allocation scheme for an event is to have reserved seats go on sale at one box office location at one price starting on a given date. For example, in their national tour in 1989, the Rolling Stones charged the same price for all seats at all their concerts, and those seats were reserved. (If seats are not reserved seating, when purchased, then another line will develop at the time of the event as ticket holders jostle for the best seats; and given the safety difficulties with stampeding and trampling, most big time events have reserved seating.) Refinements on that scheme include having more than one box-office location and permitting phone orders in addition to on-site purchases.

Such an allocation scheme creates queues for major events. Scalpers or brokers will hire ``diggers'' or ``droids'' to stand in line or to make repeated phone calls to acquire tickets (Goodman 1991). Consumers who are fanatics or who have a relatively low opportunity cost of time will also be in line. Some will complain about scalpers or brokers squeezing them out of good seats even when restrictions are placed on the number of seats that can be purchased at one time. Some will also complain about related nuisance effects.[3]

Another refinement is to have consumers stand in line to draw a place in another line to buy tickets. Apparently, some producers feel that this scheme will minimize the time people must wait by sending signals about the actual chances of getting tickets. But it often increases the time involved because some

people line up very early for the draw line even if the allocation of places is random.

Faced with frequent long lines, producers may charge different prices for various seat locations. One approach is to have two sets of prices; for example, one for general admission and one for select seating. Scalping may be moderated if good seats are priced considerably more than general admission, but it will still occur, and those who can afford to pay the most will often end up with the very best seats.

That last outcome appears especially troublesome to some performers. For example, Bruce Springsteen felt that many of his true fans were not able to attend his concerts in New Jersey because scalpers were driving up prices by using diggers and box-office insider trading to acquire tickets (Bershad and Ensor 1985). Of course, many of his true fans who originally purchased tickets engaged in scalping as the market price went up. The only sure way to guarantee that fans willing to endure a long wait get good seats and actually occupy those seats is to make them go into the event immediately after acquiring a ticket with no chance for a resale. For big events the lines may form days in advance, but ardent consumers will get the best seats.

Recently, the phenomenon of ``scaling the house" has become more commonplace (Philips 1991). That pricing format is a method of price discrimination that charges a series of prices for different seat locations to increase profits and to fend off scalpers or brokers. One problem for the producer is to gather sufficient information about demand to charge the right prices. Another problem is that the better seats clearly will go to those with money.

A final scheme that avoids a precise knowledge of demand conditions for all seats at one time is a Dutch auction. That scheme begins by offering all seats at a very high price well in advance of the event and selling them first-come, first-served for a given time (say, a week). Prices then are lowered slightly, and this on-going price adjustment continues up to the time of the event. Scalpers will be present, but they will have to gauge the market more carefully than with one or two sets of prices. In such a setting scalpers may spend much of their time trading at prices below rather than above face value. The problem with the Dutch auction from the producer's perspective remains the public perception that only those who can afford to pay the most are getting into big events.

Future Generation of Scalping Laws

Several economic lessons are clear from our discussion of entertainment events and ticket sales. One is that continued trading of tickets is inevitable up to the time of the event, and so producers must live with the resale market. Another is that producers are often quite sensitive to certain consumers' perceptions of fair treatment in the marketplace. Finally, most producers and sizable numbers of consumers do not like scalpers. Even with the evolution toward legalized brokers and some on-site trading by permission of the producer, unrestricted scalping just prior to the event remains illegal in most locations.[4]

In this type of market, efficiency is sacrificed by regulation because information is being restricted at the very time it could be most beneficial. Consumers who have seats to sell are going to be reluctant to spend a great deal of time gathering price information for fear of legal reprisal. Thus they may sell to scalpers at below what the market is truly willing to bear. The scalpers then turn around and charge high prices to those seeking tickets.

Two points must be addressed before further suggestions are made. The first is whether the purchase of a ticket from a producer represents a licensed contract or a simple futures-like sale. Producers (like the Phoenix Suns) argue that the purchase of a season ticket is a license they have granted and can rescind any time the ticket is sold above face value. Their licensing interpretation serves to inhibit scalpers or

brokers and keep them from buying tickets in large amounts for resale. The argument is rejected by market advocates and runs contrary to the notion that a ticket purchase is similar to going long in a futures market, where individuals are rewarded for buying low and selling high.

The second point focuses on the issue of just how much scalpers, through diggers and droids, drive up prices and squeeze true fans out of good seats. If there are some diggers and droids in line, then certain fans will not get the seats they would have preferred; and if the event is a sellout, the scalpers can command higher prices. However, if it is known that scalping activities are widespread and that diggers and droids will descend in mass, then consumers may simply wait to buy tickets. As long as one or few scalpers are not buying all the tickets, this postponement can actually lead to lower prices. Whether there are higher or lower prices depends on the scalpers' collective ability to read the market relative to the producer's ability.

With a desire for market clearing, we now turn to a third generation of scalping regulations. Instead of trying to restrict scalping activities, particularly at the time of an event, scalping activities should be encouraged by having vendors operate in designated areas in booths immediately next to the stadium or concert hall.

To understand the need for this form of market clearing, suppose there are no anti-scalping restrictions. What happens for a major event? Vendors on event day operate in the vicinity of the stadium or concert hall. In some cases the vendor locations may even develop a sense of permanence, and some vendors may try to build a loyal clientele by establishing a company name.

A significant problem with this approach is the fragmentation of market information. Consumers must shop for price and will not be aware of all vendors in the market without extensive search. Also, there are the specific nuisance effects of people being hassled by scalpers either directly or by the traffic congestion that they can cause. Counterfeiting in such a fragmented market can become a major difficulty if scalpers are elusive.

A similar market-clearing scheme is found at Australian race tracks with touts or bookies. A consumer can place bets either with the track (the on-course totalizator) or with bookies who operate on site. The bookmakers must acquire a government license by paying a fee and undergoing background checks and verification of assets. The number of bookmakers on site may be substantial (25 or more), and they all operate in nearly identical booths. They post prices (odds) continuously, and unlike the track that pays out of the betting pool after the race is computed, bookies take bets at stated odds. Thus a potential wagerer can shop among bookies for the best odds or bet through the house, meaning arbitrage is on-going. At times bookmakers enjoy relatively large returns relative to the house, whereas at other times they suffer significant losses.

Similarly, concentrating scalpers in a designated area means those consumers who wish either to buy or to sell tickets have fewer search costs. Like the bookies, licensed scalpers or brokers could operate in booths. Depending on the broker, bid and ask prices may be posted for general locations (lower level, upper level, end zone), and they may be updated frequently. Two questions remain. What should the licensing requirements be and how are the booths to be allocated?

In licensing, one possibility is to require something analogous to the Australian tracks. Scalpers would have to pay a significant fee and go through detailed background checks. Such an approach makes it relatively easy to have scalpers operate in the designated area, because anyone caught selling tickets on game day outside the designated area would be arrested and fined or jailed, or both, with just cause. Market fragmentation is now minimized, as are nuisance effects. In addition, strict licensing discourages

counterfeiting.

But, at the same time, strict licensing creates effective barriers to entry and the possibility of monopolies or cartels. As a result, we reject strict licensing and instead suggest having relatively minor licensing requirements. For example, anyone interested in buying or selling tickets from a booth would simply show valid identification to an enforcement agent. The license would pledge that the person will not trade counterfeit tickets and will quickly settle buyer or seller disputes.

The booths themselves could be auctioned off the day of the event, and the proceeds could be used in a public manner. In the process, economic profits are extracted from scalpers, which seems to make many people happy. However, bidding for booths may cause problems because the number of booths has to be limited to generate profits, and the profits become highly visible. If the profits from bidding fall into the public domain, there are all the attendant problems of disclosure of committee decisions, proper accounting, and the actual creation of public welfare. If the bids fall into the promoters' domain, the public sees conspiracy and insider trading. Only by having free access to the booths in the designated areas is the public generally assured of high degrees of competition.

Therefore, we propose that the booths be randomly assigned on event day at a prearranged time. The designated area needs to be large enough to accommodate a significant number of booths, preferably as many as there are licensed agents who want to trade. When assigned to a booth, an agent could be given special envelopes with the printed booth number to give out to buyers and sellers of tickets as the trades occur. In that way counterfeiting and other shady trading activities could be monitored.

Our proposal of nonrestrictive licensing and open access to booths likely would result in some traders continuing to have a presence in the market while others would be afforded the opportunity to enter markets for a limited number of events. Naturally, there will still be scalpers who will try to trade on street corners away from the designated area. While the police could do periodic sweeps to arrest them, we believe that most consumers would be reluctant to buy from them without the knowledge of the centralized market or for fear of receiving counterfeit tickets.

Similarly, there will be some people at the designated area who will try to sell tickets without a license. We believe that they should be allowed to operate, but consumers buying from them will clearly have no guarantees about counterfeit tickets. Whether there is a large or small number of licensed traders in booths in a particular designated area will depend on the pricing practices of licensed traders and on consumers' preferences for convenience or avoidance of shady trading practices.

Insider Trading

A final issue that must be addressed is insider trading. Public tolerance of scalping at the time of an event stems from the notion that anyone can stand in line (or pay others to do so), acquire tickets, and then charge what the market will bear. However, if the public perceives that promoters are controlling or rigging not only initial sales but also the resale market, or if box-office employees are in league with scalpers to acquire choice seats, reaction is likely to be strong.

The public's concept of a free market traditionally does not cover those who obtain access or information by means not available to everyone. An analogy is the harsh sanctions against insider trading in securities. Anyone can spend the time and money to research a security and the offering company, but not everyone would have access to a lawyer at a firm that handles the company's security offerings. Insider access is the line of demarcation for public policy in free-market regulation. Anyone can spend the time to stand in line for tickets or pay the funds to hire others to do so or run ads seeking

tickets, but not everyone can gain access to a promoter or a box-office employee. Regulators thus must respond in some way to the public policy concern of the level playing field perceived to be lost if insider control of the secondary market is permitted.

With strict licensing, a possible means of control would be to require scalpers to disclose all ticket sources. In scalping, competitors and consumer groups might scrutinize sources. With minimal licensing and a large number of booths, as we have suggested, acquiring accurate disclosure forms from all vendors can be difficult. Actual control will depend on the extent to which local authorities are pressured by complaints of insider trading by box-office employees or by promoters. For some jurisdictions, the problem of perceived unfairness with insider trading may not be sufficiently compelling to require legislation or regulation.

Conclusion

Scalping is inevitable as long as there are advance ticket sales for big-time events and fan pressure to keep prices affordable to the general public. Our suggested legislative reforms recognize those market realities and push for legalized scalping at the event site. In most cases, the result of the reforms will be smaller economic profits for scalpers as competitive pressures and greater open-market access reduce the range between bid and ask prices. Through licensing, on-site nuisance effects would be restricted to a given area. Over time, the number of scalpers will be a function of the producer's ability to read the market at the time tickets go on sale and anticipate subsequent changes in consumer desires up to the time of the event.

Of course, many producers and certain consumers will resist the suggested changes. Consumers unwilling to pay higher than face-value prices will continue to complain about the inequities of the secondary market. That is the very time, however, that advocates of price adjustments as the best approach to scarcity must once again point to the folly of anti-scalping laws.

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Notes

[1] Stephen Happel and Marianne Jennings (1989) began with the notion of mob goods in providing reasons for low prices by promoters and in looking at general problems with the regulation of scalping. Gary Becker (1991) also assumed that demand is positively related to quantities demanded by other consumers to provide insights into pricing by successful restaurants, plays, and sporting events characterized by persistent excess demand. Roger Faith and Allan DeSerpa (forthcoming) focused on the idea of crowd reaction/noise in a further elaboration of mob goods, equilibrium queues, and welfare effects of ticket scalping.

[2] People ex rel. Cort Theater Co. I.C. Thompson, 283 sel. 87, 119 N.E. 41 (1918).

[3] Diggers or droids are frequently homeless people or substance abusers who may actually try to drive other people out of line when the number of tickets is restricted per box-office visit.

[4] The last time an anti-scalping ordinance was found unconstitutional was in 1973. See Estell v. Birmingham 286 So. 2d 872 (Ala. 1973).

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1253

Short Title:	Modify Finance Laws.	(Public)
Sponsors:	Representative McComas.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE STATE FINANCE LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. The State finance laws are amended.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE H1289-CSSVf-28 [v.3]

6/12/2003 11:53:09 AM

Short Title: Amend Private Protective Services Act/Fees. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) ~~The license shall be issued for a term of one year.~~Upon the issuance of a license, the licensee may elect a license term of two, three, or five years. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this

Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-9(e) reads as rewritten:

"(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ($250.00);

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~ a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~ a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);

(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);

(13) A branch office license fee not to exceed fifty dollars ($50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00)."

SECTION 7. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within ~~20~~30 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 8. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of

employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed any badge or shield that was not designed and approved by the Board.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days of any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. A failure to report shall be grounds for revocation of the license."

SECTION 9. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or an armed private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security ~~guard,~~guard or armed private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An armed security guard~~ A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which an

armed private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 10. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the

Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 11. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00):~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000),~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 12. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1289

Short Title:	Amend Private Protective Services Act/Fees.	(Public)
Sponsors:	Representative Hackney.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) The license shall be issued for a term of ~~one year.~~two, three, or five years without a fee discount. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within 20 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 7. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(e) If the holder of an armed security guard firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which a private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private

investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000);~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is

needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. This act is effective when it becomes law.

HOUSE BILL 1289:
Amend Private Protective Services Act/Fees.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 17, 2003	**Summary by:**	Trina Griffin Committee Counsel
Version:	PCS for 1st Edition H1289-CSSVf-28		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1289 amends various provisions relating to the private protective services profession and to the Private Protective Services Board, which regulates the profession, including the following:***

- ***Reducing from 14 to 9 the number of members on the Private Protective Services Board.***
- ***Extending the term of a license from one year to two, three, or five years, at the election of the licensee.***
- ***Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.***
- ***Authorizing the Board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.***
- ***Decreases the required minimum balance in the Private Protective Services Recovery Fund.***

The act would become effective when it becomes law.

CURRENT LAW: The Private Protective Services Board (Board) is an occupational licensing board within the Department of Justice. The purpose of the Board is to administer the licensing, education and training requirements to increase the level of integrity, competency and performance of the persons, firms, associations and corporations engaged in the private protective services profession within North Carolina in order to safeguard the public health, safety and welfare. The Board's responsibilities are generally divided into six categories:

1. Background investigation for licensing of 13 occupations
2. Registration of licensee employees
3. Conduct investigations of public complaints
4. Conduct compliance audits
5. Enforce law and rules through administrative disciplinary processes and criminal courts
6. Maintain required records

BILL ANALYSIS:

Sections 1 and 2 make definitional changes. Section 1 renames "counterintelligence service profession" as the "electronic countermeasures profession" to conform to a change in terminology made at the federal level. Section 2 amends the definition of "security guard and patrol profession" to include the protection of patrons and persons *being escorted between premises* of the entity that entered into the security services contract.

Section 3 reduces the membership of the Board from 14 to 9 members.

Section 4 expands the scope of the Board's powers by authorizing it to do the following:

- Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training.

- Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services.

Section 5 allows the licensee to choose the term of the license from among two, three or five years. This section also authorizes the Board to require a licensee to complete continuing education courses approved by the Board before a license may be renewed.

Section 6 makes conforming changes with Section 5 by clarifying that the license fee would be in an amount equal to the current annual fee multiplied by the number of years of the license term, as chosen by the licensee.

Section 7 extends from 20 to 30 days the period by which a licensee must register its employees who will be engaged in providing private protective services after employment begins. Section 7 also authorizes the Board to require that a registered, unarmed security guard complete continuing education courses approved by the Board before renewing the guard's registration.

Section 8 does four things:

- It provides as an additional ground upon which the Board may deny, suspend, or revoke a license that a licensee possessed or displayed a badge or shield that was not designed or approved by the Board.
- It requires licensees to report to the Board, within 30 days, any charges, arrests for, or convictions of a misdemeanor or felony for any of the following:

  (1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.
  (2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
  (3) Illegal use, carrying, or possession of a firearm.
  (4) Acts involving assault.
  (5) Acts involving unlawful breaking or entering, burglary, or larceny.
  (6) Any offense involving moral turpitude.

  A failure to report these arrests or convictions shall be grounds for revocation of the license.
- It makes clarifying changes to two other grounds for denial, suspension, or revocation of a license.
- It gives aggrieved persons 60 days to bring an administrative appeal of a denial, revocation, or suspension decision by the Board.

Section 9 does the following:

- It distinguishes private investigators from security guards for purposes of firearm registration permits. Under current law, "private detectives", who are defined to be synonymous with "private investigators" under this Chapter, are included within the definition of "armed security guards." Under the bill, the same permitting requirements would apply to both categories of private protective services professionals.
- It authorizes the Board to require a firearm registration permit holder and a certified firearms trainer to complete continuing education courses before renewing the holder's permit or the trainer's certification.
- It authorizes a private investigator to carry a concealed weapon during the performance of his duties upon doing all of the following:
  - Obtaining a concealed weapon's permit.

- Successfully completing the firearms training course approved by the Board and the Attorney General.
- Having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon.

Section 10 authorizes the Board to require completion of continuing education courses approved by the Board before the renewal of a license, registration, certificate, or permit issued by the Board. The Board would be required to establish, by rule, the number of hours of continuing education courses necessary for renewal and any other requirements for completion of continuing education courses. Under current law, licensees are not required to complete continuing education courses.

Section 11 reduces the minimum balance required to be maintained in the Private Protective Services Recovery Fund (Fund). This Fund is a special fund established within the Office of the State Treasurer that is used to satisfy claims by aggrieved persons who have suffered a direct monetary loss by reason of certain acts committed by a licensee. Under current law, if the balance in the Fund drops below a minimum of $100,000, then the Board is authorized to charge annually each licensee and trainee an additional amount, not to exceed $50.00. The amount assessed will only be so much as is needed to raise the level of the Fund to $100,000. Section 11 lowers the minimum fund balance from $100,000 to $25,000.

Under current law, the State Treasurer invests the monies in the Fund and the Board uses the proceeds of the investments to advance education and research in the private protective services field. Section 11 would authorize the Board to use any funds derived from investments or any funds in excess of the minimum Fund balance for those purposes. It also allows the Board to provide grant money to private individuals, associations, or corporations sponsoring educational courses to offset the actual cost of the courses. The Board would also be able to use funds in excess of $50,000 to offset the operating expenses of the Board, if there is a unanimous vote of the Board and the Board makes findings of fact supporting the need for the funds.

BILL SUMMARY: This legislation would make changes to the Private Protective Services Act, including:

- Reducing from 14 to 9 the number of members on the Private Protective Services Board.
- Extending the term of a license from one year to two, three, or five years, at the election of the licensee.
- Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.
- Authorizing the board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.
- Decreasing the required minimum balance in the Private Protective Services Recovery Fund.

ASSUMPTIONS AND METHODOLOGY:
The Private Protective Services Board is supported entirely by receipts. As a result, changes to revenues or expenditures will not impact the General Fund.

Section 3: Reduction in Board Members. This section would reduce the number of public board members appointed by the Attorney General from two to one and the number appointed by the Senate President pro Tempore and the House Speaker from five each to three each. (See technical considerations) The elimination of five members will reduce the Board's annual operating expenses by approximately $14,000 due to decreased travel and per diem costs for six meetings per year.

Section 4: Approval of Badge/Shield Design. Section 8 prohibits designs that purport to represent law enforcement officers. The Board could incur minimal costs to review designs.

Sections 4, 5, 7, 8 and 9: Continuing Education Requirements. The Board anticipates minimal costs associated with reviewing courses for approval. Costs for continuing education courses would be borne by the industry.

Sections 5 and 6: Modification of License Terms. Licenses would be issued for two, three, or five years rather than one year, with no reduction in fees. Currently, a one-year basic license costs $200; the Board is authorized to charge up to $250 per year. Under this legislation, the licensee could choose a two-year, three-year, or five-year license. At the current rate, the cost would be $400, $600, or $1,000 respectively; at the maximum rate, the cost would be $500, $759, or $1,250. In the short term, this would accelerate revenue collections as licensees begin paying for multiple years up front. We cannot project the impact of this change in the fee structure on the number of current and future licensees. In addition, basic license holders may apply for additional licenses (i.e. counterintelligence) for $50 annually. It appears that the same multi-year licensing structure would apply to those licenses. Finally, Board staff estimate one-time expenditures of $5,000 to modify computer software, and potential workload reductions in later years due to less frequent renewals.

Section 7: Timeframe for New Employee Registration. Licensees would be required to register new employees within 30 days, rather than 20 days. The Board does not anticipate any fiscal impact from this change.

Section 8: Duty to Report Criminal Offenses. Licensees would be required to report to the Board within 30 days any criminal arrests, charges, or convictions for a range of offenses. Failure to do so would be grounds for license revocation. The Board has not identified any costs associated with this requirement.

Section 9: Firearm Registration Permits. The Board does not anticipate any fiscal impact due to including "armed private investigators" as firearm registration permitees.

Section 11: Private Protective Services Fund. The Fund is maintained for the purpose of paying claims against licensees. Claims are limited to $5,000 per obligation and $10,000 in aggregate against any one licensee within a year. The Board reports that, within the past five years, one claim – of less than $5,000 – was made against the Fund. Staff records indicate that this is the only claim paid since the Fund's inception in 1983.

Each new applicant for a license or training permit pays a fee of $50 into the Fund. For any year that the balance falls below the minimum, the Board is authorized to charge each licensee and trainee an additional fee (up to $50) in order to reach the minimum threshold. Under current law, the Fund balance must be at least $100,000. This bill would reduce the minimum balance to $25,000. Currently, the Fund balance is approximately $22,650. By reducing the minimum from $100,000 to $25,000, the Fund balance would be less than $3,000 below the minimum, and the Board would be able to charge a lower additional fee.

The funds are invested by the State Treasurer, and the Board may use the proceeds from its investments to fund education and research in the area of private protective services. This legislation would allow the Board to use all except $25,000 in the Fund for education and research purposes, and all except $50,000 to offset operating expenses. Currently, the balance is below $25,000, so no additional funds would be available for these purposes.

SOURCES OF DATA: Private Protective Services Board (within the Department of Justice)

TECHNICAL CONSIDERATIONS: This legislation is effective when it becomes law, and would eliminate five board member positions. At present, there is only one vacancy on the Board. However, one of the Attorney General's appointees is serving a term that expired June 30, 2001, and several of the House and Senate appointees are serving terms that expire June 30, 2003. If this legislation is enacted prior to June 30, 2003, there will still be people serving in several of the positions to be eliminated.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 993
Judiciary I Committee Substitute Adopted 4/23/03

Short Title: An Act to Safeguard Children. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE ABILITY OF THE STATE BOARD OF EDUCATION TO SAFEGUARD SCHOOLCHILDREN THROUGH AUTOMATIC REVOCATION OF TEACHER CERTIFICATES UPON CONVICTION OF CERTAIN CRIMES, AND THE USE OF INVESTIGATIVE SERVICES AS NEEDED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(d) reads as rewritten:

"(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates.

(1) The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school administrator has received an unsatisfactory or below standard rating under G.S. 115C-333(d).

(2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6;

Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under either G.S. 14-318.2 or G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

(3) In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

~~(1)~~a. The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and

~~(2)~~b. The assistance team assigned to that school makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates. In addition, the Board shall have the authority to contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by certificated persons."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 993:
An Act to Safeguard Children

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Garrou
Date:	June 17, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: Senate Bill 993 would require the State Board of Education to automatically revoke the certificate of a teacher or school administrator upon receipt of proof that the person has been convicted of murder, rape or other serious felonies of sexual misconduct or child abuse.

Senate Bill 993 has been heard in Senate Judiciary 1 and House Education. House 1092 is a companion bill, sponsored by Rep. Linda Johnson.

CURRENT LAW: Current law does not specifically authorize the State Board of Election to revoke teacher or school administrator certification for conviction of certain crimes.

BILL ANALYSIS: Senate Bill 993 would amend the law that governs teacher and school administrator certification by the State Board of Election, to add as an additional ground for the revocation of a certificate the conviction of certain serious felonies and misdemeanors, including murder, rape, assault with a deadly weapon with intent to kill or inflict serious injury, kidnapping, abduction of children, crimes against nature, incest, sexual misconduct involving minors, sexual exploitation of a minor, indecent liberties with children and students, child abuse and misdemeanor assaults involving minors.

The bill requires before acting that the Board receive a certified copy of the criminal record showing the conviction, plea of guilty or nolo contendere, and verification that the record applies to the teacher or school administrator. Written notice to the teacher or school administrator that revocation action is being considered on the grounds set forth in the bill must be given, including notification that the person may challenge that the criminal record is for another person. If challenged, the Board may not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

The bill also authorizes the State Board to contract for any services necessary to comply with this subsection.

EFFECTIVE DATE: The bill becomes effective when it becomes law.

*Walker Reagan, counsel to Senate Judiciary I. contributed substantially to this summary.

North Carolina General Assembly

House Committee on Finance

Minutes

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June 19, 2003

The House Committee on Finance met on Thursday, June 19, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Hackney, Holliman, Jones, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Gerry Cohen, Trina Griffin, Martha Harris, Linda Millsaps, Mary Shuping, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 8:39 am and recognized the five (5) pages present at the meeting: (1) Rebecca Badger of Craven County, sponsored by Representative Wainwright; (2) Jessica Barnes of Craven County, sponsored by Representative Wainwright; (3) Mollie Bowness of Moore County, sponsored by Speaker Morgan; (4) Annie McCollum of Wake County, sponsored by Representative G. Allen; and (5) Lindsay Weaver of Wake County, sponsored by Representative G. Allen.

As the first matter of business, Chairman Luebke recognized Senator Garrou to explain her bill: **SB 993 – AN ACT TO SAFEGUARD CHILDREN** (see attachment 3). The Senator explained that within the last 10 years, the State Board of Education has experienced a nearly 4.000 percent increase in the number of educator's misconduct; from 7 allegations of misconduct in 1991 to 271 in 2002. She noted that many of these allegations involved "improper conduct" between teachers and children. SB 993 is an act that would require the State Board of Education to automatically revoke the certificate of a teacher or school administrator upon receipt of proof that the person has been convicted of murder, rape, or other serious felonies, such as sexual misconduct and child abuse. Following this explanation, Chairman Luebke recognized Representative Howard who then moved for a favorable report, after noting the excellent purpose of the bill. Following some brief discussion between the members and Senator Garrou, Representative Hackney inquired as to why this bill was in the House Finance Committee. Senator Garrou explained that an earlier version of the bill did have a fee, but was removed in an earlier committee. Seeing no further desire for discussion, Chairman Luebke then called Representative Howard's motion for a favorable report on SB 993 to a vote. The motion carried with no known opposition.

Chairman Luebke next recognized Representative Culpepper to explain **HB 751 – KITTY HAWK LAND CONVEYANCE** (see attachment 4). He explained the bill as a simple measure to require the State to convey a piece of property located adjacent to the Town of Kitty Hawk to the Town. He explained that the ocean had now come directly up against the beach road and the Town of Kitty Hawk is now working with the Department of Transportation to push the ocean back by pumping in sand to protect the road. Since the Town is paying for these efforts, it is also requesting ownership of the road, thus the need for this bill. Chairman Luebke then recognized Representative Holliman who moved for a favorable report to HB 751. Representative Creech, upon recognition of the Chair, asked Representative Culpepper how many private property owners were involved or going to have their property affected by this bill. Representative Culpepper responded that none were involved because the Town already owns all of the land around the areas addressed by the bill. Seeing no further discussion, the Chair then called Representative Holliman's motion of favorable report to a vote, and the motion carried my consent.

SB 655 – AMEND LOCKSMITH ACT/CRIMINAL CHECKS/FEES (see attachment 5), sponsored by Senator Metcalf, was the next bill heard by the Committee. Chairman Luebke recognized the Senator to explain the bill. Senator Metcalf briefly reminded the members that, last session, the General Assembly had passed the Locksmith Licensing Act into law. He explained that this bill simply tightens the provisions for enforcement of that Act (see bill analysis in attachment 5 for further details). Representative Hill was then recognized by the Chair and made a motion for a favorable report on SB 655. Seeing no further questions, the Chair then called the vote and the motion carried without objection.

Representative Hackney was recognized by the Chairman to explain the next bill under consideration: **HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES** (see attachment 6). The Chair recognized Representative Alexander who moved that the PCS for HB 1289 be adopted for purposes of discussion, and the motion carried without objection. Representative Hackney explained that the bill makes various changes to the existing Private Protective Services Act and amends a number of provisions related to the private protective services profession. Representative Decker was recognized and expressed particular concern with the language of the bill authorizing the Board to issue "badges," especially those in the shape of a shield. Representative Decker further stated that such badges or shields could possibly lead to instances of mistaken identity for "real" law enforcement officers. To address this concern, the Chair recognized Mr. Wayne Woodard, Director of the North Carolina Private Protective Services Board, who stated that the use of badges (or shields) added to the professionalism of the job. Mr. Charles McDarris, Attorney for the Board, was also recognized and spoke in support of the provisions of the bill allowing for the issuance of badges to private protective services workers. Representative Decker was once again recognized by Chairman Luebke and stated his desire to offer an amendment to the bill to restrict the Board from issuing badges in the shape of shields (due to his earlier concerns). However, Representative Hackney opposed such and an amendment to the bill. Representative Decker then stated his respect for Representative Hackney and agreed not to send forth his proposed amendment. Seeing no further debate, Chairman Luebke recognized Representative Alexander who moved that HB 1289 be given a favorable report as to the Proposed Committee Substitute (PCS) bill, and an unfavorable report as to the original bill. The motion carried with no known objection.

As the next matter of business before the Committee, Chairman Luebke recognized Representative McHenry, on behalf of Senator Hoyle, to explain **SB 475 – DALLAS ANNEXATION** (see attachment 7). Representative McHenry briefly explained that the bill is simple, non-controversial, and acts to annex certain described properties in to the Town of Dallas in Gaston County. (Please refer to the Bill Analysis in attachment 7 for further detail.) Representative Ellis was recognized following this explanation and moved for a favorable report on the bill. As Chair saw no further desire for discussion, the matter was called to a vote. The motion carried by consent and SB 475 will receive a favorable report.

Chairman Luebke then called upon Representative Frye to explain his bill, **HB 96 – AVERY COUNTY OCCUPANCY TAX** (see attachment 8). Representative Frye noted that the bill had been brought before the Committee at the May 22, 2003 House Finance meeting but was only discussed and not voted upon. He briefly reviewed the unanimous support of the Avery County community and requested that the Chair acknowledge Avery County Commissioners, Mr. Jake Owens and Ms. Phyllis Forbes, who both spoke very briefly in support of the bill. Representative McGee was then recognized and moved that HB 96 be given a favorable report. Hearing no further questions or concerns, Chairman Luebke called the vote and the motion carried without objection.

Chairman Luebke next recognized Representative Rayfield to explain **HB 677 – REDUCE SALES TAX ON FUNERALS** (see attachment 9). Representative Rayfield explained that the title of the bill speaks directly to its purpose. He also noted that while the bill would result in a revenue loss to the General Fund ($2.95 million in FY 2003-2004 alone), this bill offered a savings that all North Carolinians can benefit from. Representative McCombs was then recognized and stated that the only drawback he could see to the bill was the fact that you had to die to save money. He furthermore, after pausing for the Committee's laughter, moved that the bill receive a favorable report. Representative Howard, however, acted to send forth a simple amendment changing the effective date of the bill from July 1, 2003 to July 1, 2004. She explained that the purpose of the amendment was to allow ample time for and notice of the sales tax reduction throughout the state. Chairman Luebke then called the amendment to a vote and it was adopted by consent. Seeing no further discussion on the bill, Representative McCombs then moved that a new PCS for HB 677, incorporating the adopted amendment, be given a favorable report (with an unfavorable report as to the original bill). As there was no objection, the Chair called the vote and the motion carried without dissent.

Representative McComas was recognized next by the Chair to explain **HB 1290 – CONFORM BANK EXPENSE DEDUCTION** (see attachment 10) and **HB 1291 – SUBSIDIARY DIVIDEND TAX CHANGES** (see attachment 11). He explained that while a decision on these bills needed to be made as soon as possible, they were far too complex in nature and would require more discussion and debate than could be afforded by the Committee. As such, he further suggested that the Committee refer the two bills to the standing Revenue Laws Commission, which meets during the interim between sessions, so that they could receive the appropriate level of study. A great deal of discussion then ensued between staff and the members pertaining to the proper process by which to assign the bills to the Revenue Laws Commission. In the end, Representative McComas acted to withdraw the bills from the Committee's consideration and request that the Chairman of the Rules Committee, Representative Culpepper, refer the bills to the Revenue Laws Study Commission.

The final bill before the Committee at the meeting was **HB 1303 – NONPROFITS EXEMPT FROM ADMISSIONS TAX** (see attachment 12) sponsored by Representative Starnes. He explained that the bill acts to exempt youth athletic contests (where all participants are 19 years of age or less) with an admission price less than $5.00 (and that is sponsored by a person exempt from income tax) from the state's 3-percent privilege tax on gross receipts. He and fiscal staff person Linda Millsaps noted that the fiscal impact to the State Budget would be very small – at the extreme, $150,000. Representative Weiss was then recognized by the Chairman and requested to hear from a representative of the Department of Revenue (DOR). Mr. Greg Radford with DOR was then recognized and stated that the highly specific nature of the bill basically prohibited a large financial impact. Chairman Luebke again recognized Representative Weiss who stated that any tax exemption, regardless of its size, is a revenue loss to the State, which remains in a budget shortfall. The Chairman then recognized Representative McCombs who stated that the tax exemption in this bill would have no effect to the General Fund because no one is currently paying the tax anyway. He further moved that HB 1303 receive a favorable report. Hearing no further discussion, the Chair called the vote and the motion was adopted.

Having no further business before the Committee, Chairman Luebke adjourned the meeting at 9:50 am.

Respectfully submitted,

Paul Luebke

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 993 (and related materials)
4. House Bill 751 (and related materials)
5. Senate Bill 655 (and related materials)
6. House Bill 1289 (and related materials)
7. Senate Bill 475 (and related materials)
8. House Bill 96 (and related materials)
9. House Bill 677 (and related materials)
10. House Bill 1290 (and related materials)
11. House Bill 1291 (and related materials)
12. House Bill 1303 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

June 19, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order & Introduction of Pages

Bills:

HB 96 **AVERY COUNTY OCCUPANCY TAX** *Rep. Frye*

HB 677 **REDUCE SALES TAX ON FUNERALS** *Reps. Rayfield*

HB 751 **KITTY HAWK LAND CONVEYANCE** *Rep. Culpepper*

HB 1289 **AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES** *Rep. Hackney*

HB 1290 **CONFORM BANK EXPENSE DEDUCTION** *Rep. McComas*

HB 1291 **SUBSIDIARY DIVIDEND TAX CHANGES** *Rep. McComas*

HB 1303 **NONPROFITS EXEMPT FROM ADMISSIONS TAX** *Rep. Starnes*

SB 475 **DALLAS ANNEXATION** *Sen. Hoyle*

SB 655 **AMEND LOCKSMITH ACT/CRIMINAL CHECKS/FEES** *Sen. Metcalf*

SB 993 **AN ACT TO SAFEGUARD CHILDREN** *Sen. Garrou*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, June 18, 2003 1:33 PM
Subject: NOTICE House Finance Committee 6-19-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 19, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye

HB 677 – REDUCE SALES TAX ON FUNERALS – Rep. Rayfield

HB 751 – KITTY HAWK LAND CONVEYANCE– Rep. Culpepper

HB 1289 – AMEND PRIVATE PROTECTIVE SERVICES ACT/FEES – Rep. Hackney

HB 1290 – CONFORM BANK EXPENSE DEDUCTION – Rep. McComas

HB 1291 – SUBSIDIARY DIVIDEND TAX CHANGES – Rep. McComas

HB 1303 – NONPROFITS EXEMPT FROM ADMISSIONS TAX – Rep. Starnes

SB 475 – DALLAS ANNEXATION – Sen. Hoyle

SB 655 – AMEND LOCKSMITH ACT/CRIMINAL CHECKS/FEES – Sen. Metcalf

SB 993 – AN ACT TO SAFEGUARD CHILDREN – Sen. Garrou

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **1:30 P.M.** on **June 18, 2003**.

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 19, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Burns	Smith Moore LLP Two Hannover St Raleigh NC 27615
Donna Powell	NCDOR
Greg Radford	NCDOR
Andy Eabol	NCDOR
Amy Darden	NCBA
[illegible]	First Citizens Bank
Paul Stock	NC Bankers Assn.
Bill Scoggin	KCLH
L Haiber	Vandeventer Black LLP
Laura Busse	NC Locksmith Licensing Board
Ken Melton	Alley Associates

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 19, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Poyner + Spruill
Lucius Pullen	Counsel NCCA
Mack Donaldson	PPSB NC
Wayne Woodard	NC Dept. of Justice – PPS
Charles McDarris	NC Private Protective Services Board
Hack High	NC Private Protective Services Bd
Amy Dobson	NC State Watch.
Jake Owens	Avery County
Phyllis Forbes	Avery County
Eddie Caldwell	Hafer + Caldwell, P.A.
Jim Hobbs	NCHLA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 19, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carol Lamb	NC Travel & Tourism Coalition
John Burdick	Astra Zeneca
Cindy Leonard	NCLM
Sandy Sands	WCSR

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 993
Judiciary I Committee Substitute Adopted 4/23/03

Short Title: An Act to Safeguard Children. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE ABILITY OF THE STATE BOARD OF EDUCATION TO SAFEGUARD SCHOOLCHILDREN THROUGH AUTOMATIC REVOCATION OF TEACHER CERTIFICATES UPON CONVICTION OF CERTAIN CRIMES, AND THE USE OF INVESTIGATIVE SERVICES AS NEEDED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-296(d) reads as rewritten:

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(1) The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school administrator has received an unsatisfactory or below standard rating under G.S. 115C-333(d).

(2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6;

Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under either G.S. 14-318.2 or G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

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SECTION 2. This act is effective when it becomes law.

SENATE BILL 993:
An Act to Safeguard Children

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Garrou
Date:	June 17, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

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CURRENT LAW: Current law does not specifically authorize the State Board of Election to revoke teacher or school administrator certification for conviction of certain crimes.

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The bill requires before acting that the Board receive a certified copy of the criminal record showing the conviction, plea of guilty or nolo contendere, and verification that the record applies to the teacher or school administrator. Written notice to the teacher or school administrator that revocation action is being considered on the grounds set forth in the bill must be given, including notification that the person may challenge that the criminal record is for another person. If challenged, the Board may not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

The bill also authorizes the State Board to contract for any services necessary to comply with this subsection.

EFFECTIVE DATE: The bill becomes effective when it becomes law.

*Walker Reagan, counsel to Senate Judiciary I. contributed substantially to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 993 A BILL TO BE ENTITLED AN ACT TO ENHANCE THE ABILITY OF THE STATE BOARD OF EDUCATION TO SAFEGUARD SCHOOLCHILDREN THROUGH AUTOMATIC REVOCATION OF TEACHER CERTIFICATES UPON CONVICTION OF CERTAIN CRIMES, AND THE USE OF INVESTIGATIVE SERVICES AS NEEDED.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **2**

HOUSE BILL 751

Committee Substitute Favorable 4/29/03

Short Title: Kitty Hawk Land Conveyance. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE TITLE TO EXISTING LAND AND THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY HAWK IN THE COUNTY OF DARE AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE LIMITS OF THAT TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The following tract of land is hereby granted and conveyed by the State of North Carolina to the Town of Kitty Hawk in fee simple without reservation of any public trust rights:

All that certain tract or parcel of land lying and being on the Atlantic Ocean in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, bounded on the North by a parcel of land owned by Vincent R. Mascitti et ux, bounded on the East by the mean lower low water mark of the Atlantic Ocean, bounded on the South by a parcel of land owned by Pelican Perch, L.L.C., and bounded on the West by the East right-of-way margin of North Carolina Highway 12, also known as Virginia Dare Trail, and more particularly described as follows:

All that certain tract or parcel of land which now exists or after the completion of the Project will exist within the following boundaries: between the East right-of-way margin of North Carolina Highway 12, otherwise known as Virginia Dare Trail, and the mean lower low water mark of the Atlantic Ocean; and between the North boundary line of that certain lot or parcel lying in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and known and designated as Lot No. 13 of the Kitty Hawk Beach Terrace Subdivision, as shown and delineated on a map or plat of said subdivision made by J. L. Liverman, Registered Surveyor, dated June, 1946 and recorded in Map Book 1, Page 159, of the Dare County Registry, and as more particularly described in that certain deed from Janet L. Verscharen to Joseph W. Verscharen, dated June 26, 1995, and recorded in Book 1001, Page 892, of the Dare County Registry, and the South boundary line of that certain lot or parcel of land lying

in the Town of Kitty Hawk, Atlantic Township, Dare County, North Carolina, and located at 3955 North Virginia Dare Trail, and more particularly described as Tract IV in that certain deed from A. Toby Hedgepeth et ux, to Hedgepeth Enterprises, dated August 10, 1983, recorded in Book 352, Page 854, of the Dare County Registry.

SECTION 2. The State of North Carolina shall execute and deliver to the Town of Kitty Hawk a deed in recordable form for the property conveyed by Section 1 of this act.

SECTION 3. The corporate limits of the Town of Kitty Hawk are extended to include the tract described in Section 1 of this act.

SECTION 4. The grant and conveyance in Section 1 of this act includes all future made, constructed, or created land in the tract described in Section 1 of this act.

SECTION 5. The Town of Kitty Hawk shall maintain the tract described in Section 1 of this act for public use and benefit.

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 751:
Kitty Hawk Land Conveyance

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Culpepper
Date:	June 18, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 751 provides that the State will convey a certain described tract of land to the Town of Kitty Hawk in Dare County. The land will be included in the corporate limits of the Town, and the Town must maintain the land for public use and benefit.

House Bill 751 was given a favorable report in House State Government.

BILL ANALYSIS: The Town of Kitty Hawk is currently undertaking erosion control efforts on the tract to be conveyed by the State. Part of the land is under water and the Town is trying to build up the beach.

The corporate limits of the Town will be extended to include the tract.

The conveyance by the State will include all future made, constructed, or created land in the tract.

The Town must maintain the tract for public use and benefit.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 751 A BILL TO BE ENTITLED AN ACT RELATING TO THE TITLE TO EXISTING LAND AND THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF KITTY HAWK IN THE COUNTY OF DARE AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN AND ANNEXING A TRACT TO THE CORPORATE LIMITS OF THAT TOWN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 655

Commerce Committee Substitute Adopted 5/14/03
Finance Committee Substitute Adopted 5/28/03
Fourth Edition Engrossed 6/4/03

Short Title: Amend Locksmith Act/Criminal Checks/Fees. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING CHANGES TO THE DEFINITION OF LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT, TO AMEND THE POWERS OF THE NORTH CAROLINA LOCKSMITH LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY AND HAVE CONDUCTED CRIMINAL HISTORY RECORD CHECKS ON APPLICANTS, TO AMEND THE LOCKSMITH LICENSING ACT TO ALLOW THE BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT FEES, TO CLARIFY THE EXEMPTION FOR GENERAL CONTRACTORS, TO CLARIFY THE EXEMPTION FOR TOWING SERVICES UNDER THE ACT, AND TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE OR APPRENTICE DESIGNATION AS A LOCKSMITH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-4 is amended by adding a new subdivision to read:

"(01) Apprentice. – A person who has been issued an apprenticeship designation by the Board."

SECTION 2. G.S. 74F-4(5) reads as rewritten:

"(5) Locksmith services. – Repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, ~~safes,~~ vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians."

SECTION 3. G.S. 74F-6(4) reads as rewritten:

"(4) Issue, renew, deny, suspend, or revoke licenses or apprenticeship designations and conduct any disciplinary actions authorized by this Chapter."

SECTION 4. G.S. 74F-6 is amended by adding the following new subdivisions to read:

"The Board shall have the power and duty to:

...

(15) Employ an attorney to assist or represent the Board in enforcing this Chapter.

(16) Request that the Department of Justice conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to G.S. 114-19.8A."

SECTION 5. G.S. 74F-7 reads as rewritten:

"**§ 74F-7. Qualifications for license.**

An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

(1) Is of good moral and ethical ~~character.~~character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.

(2) Is at least 18 years of age.

(3) Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths.

(4) Pays the required fee under G.S. 74F-9."

SECTION 6. Chapter 74F of the General Statutes is amended by adding a new section to read:

"**§ 74F-7A. Apprentices.**

(a) An applicant may receive an apprentice designation if the applicant meets all of the following requirements:

(1) Is of good moral and ethical character, as evidenced in part by a criminal history record check conducted in accordance with G.S. 74F-18.

(2) Is at least 18 years of age.

(3) Pays the required fee under G.S. 74F-9.

(b) After an applicant has satisfied the requirements in subsection (a) of this section, the apprentice may practice as an apprentice locksmith under the supervision of a licensed locksmith. The Board shall issue each apprentice a colored badge card that identifies the individual as an apprentice and includes the apprentice designation. The Board shall establish requirements for apprentice supervision.

(c) An apprentice may have the apprentice designation for no longer than three years. On or before the three-year period expires, the apprentice shall take the locksmith licensure examination administered by the Board. If the apprentice fails to take the examination within the three-year period or fails the examination and does not retake the examination on or before the three-year period expires, the apprentice shall not receive licensure and shall not be granted another apprenticeship.

(d) If an apprentice terminates employment with a licensed locksmith under which the apprentice originally received his or her apprenticeship, the apprentice shall find employment with another licensed locksmith to maintain the apprentice designation and shall pay a transfer fee pursuant to G.S. 74F-9.

Each licensed locksmith shall have no more than two apprentices at one time. However, a licensed locksmith shall have a 90-day grace period within which to accommodate more than two apprentices if the apprentice is newly hired as a result of a previous termination of employment or the inability of a licensed locksmith to supervise the apprentice. The licensed locksmith shall contact the Board once the locksmith terminates the additional apprentice, and the licensed locksmith shall be legally responsible for the apprentice's work until the Board is notified otherwise."

SECTION 7. G.S. 74F-9 reads as rewritten:

"**§ 74F-9. Fees.**

The Board shall establish fees not exceeding the following amounts:

(1)	Issuance of a license	$100.00
(2)	Renewal of a license	$100.00
(3)	Examination	$200.00
(4)	Reinstatement	$150.00
(5)	Late fees	~~$150.00~~ $150.00
(6)	Apprentice fee	$100.00
(7)	Apprentice transfer fee	$25.00."

SECTION 8. G.S. 74F-15 reads as rewritten:

"**§ 74F-15. Disciplinary procedures.**

The Board may deny or refuse to renew, suspend, or revoke a license or apprenticeship designation if the ~~licensee~~ licensee, apprentice, or applicant:

(1) Gives false information to or withholds information from the Board in procuring or attempting to procure a license.

(2) Has been convicted of or pled guilty or no contest to ~~a crime that indicates that the person is unfit or incompetent to perform locksmith services, that involves moral turpitude, or that indicates the person has deceived or defrauded the public.~~ any of the crimes listed in G.S. 74F-18(a)(2).

(3) Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services.

(4) Has willfully violated any of the provisions of this Chapter."

SECTION 9. G.S. 74F-16(2) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

(2) A person working as an apprentice ~~under the supervision of a licensed locksmith while fulfilling the requirements for licensure when acting under the control and supervision of the licensed locksmith.~~ pursuant to G.S. 74F-7A."

SECTION 10. G.S. 74F-16(4) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

(4) An employee of a towing ~~service,~~service or an automotive repair business providing services in the normal course of its business, a repossessor, a taxi cab service, a motor vehicle dealer as defined in G.S. 20-286(11), or a motor club as defined in G.S. 58-69-1 when opening automotive locks in the normal course of their duties, so long as the employee does not represent himself or herself as a locksmith.

...."

SECTION 10.1. G.S. 74F-16(9) reads as rewritten:

"The provisions of this Chapter do not apply to:

...

(9) A general contractor licensed under Article 1 of Chapter 87 of the General Statutes when acting within the scope and course of the general contractor ~~license.~~ license, or an agent or subcontractor of a licensed general contractor when acting within the ordinary course of business."

SECTION 11. Chapter 74F of the General Statutes is amended by adding a new section to read:

"**§ 74F-18. Criminal history record checks of applicants for licensure or apprentice designation.**

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for licensure as a locksmith pursuant to G.S. 74F-7 or apprentice designation pursuant to G.S. 74F-7A.

(2) Criminal history. – A history of conviction of a state or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice locksmithing. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public

Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) All applicants for licensure or apprentice designation shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or apprentice designation to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

(c) If an applicant's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant's criminal history disqualifies the applicant for licensure, the Board may deny licensure or apprentice designation of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for

denying licensure or apprentice designation to an applicant based on information provided in the applicant's criminal history record check."

SECTION 12. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.12. Criminal record checks of applicants for locksmith licensure or apprentice designation.**

The Department of Justice may provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice under Chapter 74F of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 13. This act becomes effective July 1, 2003.

SENATE BILL 655:
Amend Locksmith Act/Criminal Checks/Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Metcalf
Date:	June 19, 2003	**Summary by:**	Mary Shuping
Version:	4th Edition		Legislative Analyst

SUMMARY: Senate Bill 665 does the following:

- ***Makes clarifying changes to the definition of "locksmith" and the exemption for towing services and general contractors.***
- ***Authorizes the Board to employ an attorney.***
- ***Authorizes criminal history record checks on applicants for licensure and apprenticeship.***
- ***Authorizes the Board to regulate and discipline apprentice locksmiths and establishes a fee.***

CURRENT LAW: Effective January 1, 2003, no person can perform locksmith services (as defined in the law) without being licensed. In order to be licensed, a person must be of good moral and ethical character, at least 18 years of age, and must have successfully completed a licensing exam administered by the Locksmith Licensing Board.

BILL ANALYSIS:

Clarifying Changes.

- ***Definition of Apprentice:*** Section 1 adds a definition of "apprentice."
- ***Definition of "Locksmith Services"*** -- Section 2 deletes the reference to "safes" under the definition of "Locksmith services."
- ***Towing Services:*** Section 10 clarifies that an employee of an automotive repair business providing services in the normal course of its business is exempt from licensure.
- ***General Contractors:*** Section 10.1 clarifies that an agent or subcontractor of a licensed general contractor is also exempt from licensure when acting within the ordinary course of business.

Board May Employ an Attorney. Section 4 authorizes the Board to employ an attorney to assist or represent the Board in the enforcement of its laws.

Criminal History Record Checks. Section 5 makes the criminal history check a condition for licensure. Sections 11 and 12 authorize criminal history record checks for applicants for licensure or apprenticeship designation.

- Authorizes the Board to request and the Department of Justice to provide the criminal history of an applicant
- Applicants are required to consent to a criminal history record check and refusal may constitute grounds for denial of licensure or apprentice designation.
- "Criminal history" is defined as a conviction of a state or federal crime, whether a misdemeanor or felony, that bears on the applicant's fitness for licensure to practice locksmithing. Section 7

provides a list of North Carolina crimes that have a bearing on the applicant's fitness. In addition, similar federal crimes or crimes in other states are also included.

- ❖ Convictions of listed crimes does not automatically bar licensure. The Board must consider the following factors in determining whether to grant or deny licensure:
  - o Seriousness of the crime.
  - o Date crime was committed.
  - o Age of person at time of conviction.
  - o Circumstances surrounding the conviction.
  - o Nexus between the criminal conduct and the duties of a locksmith.
  - o Person's prison, jail, probation, parole, rehabilitation and employment records since crime was committed.
  - o Subsequent commission of any listed crimes.
- ❖ An applicant who is denied licensure or apprenticeship designation based on a criminal history record check has the right to appear before the Board to appeal the denial

Apprenticeships. Section 6 adds new requirements for locksmith apprentices and Section 7 establishes apprenticeship fees.

- ❖ Apprenticeship Requirements:
  - o Apprenticeship applicants must be of good moral character as evidenced in part by the criminal history record check; be at least 18 years old; and pay a $100.00 fee.
  - o Apprentices may practice under the supervision of a licensed locksmith.
  - o An apprentice may have an apprenticeship designation for no more than 3 years. If the apprentice does not become licensed by the end of the 3 year period, the apprentice will not be granted another apprenticeship.
  - o An apprentice may transfer employment from one locksmith to another upon payment of a $25.00 transfer fee.
- ❖ Locksmith Supervision. A licensed locksmith may not supervise more than 2 apprentices at one time. However, a licensed locksmith has a 90-day grace period to supervise more than 2 apprentices if the apprentice is newly hired as a result of a previous termination of employment or the inability of a licensed locksmith to supervise the apprentice.
- ❖ Disciplinary Actions. Sections 3 and 8 provide that the Board may deny, suspend or revoke an apprenticeship designation. Section 8 also clarifies that a disciplinary action may be taken against a licensee, applicant, or apprentice for any of the crimes included in the criminal history check.
- ❖ Exemption from Licensure for Apprentices. Section 9 clarifies that a person who has been designated an apprentice by the Board is exempt from licensure.

EFFECTIVE DATE. The bill becomes effective July 1, 2003.

Walker Reagan, Staff Attorney, Research Division, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 655 (Third Edition)

SHORT TITLE: Amend Locksmith Act/Criminal Checks/Fees

SPONSOR(S): Senator Metcalf

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Special Fund					
Apprentice Fee	$3,000	$3,000	$3,000	$3,000	$3,000
Apprentice Transfer Fee	No estimate available				
Agency Receipts (SBI)	See Assumptions & Methodology				
EXPENDITURES					
Agency Receipts (SBI)	See Assumptions & Methodology				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Locksmith Licensing Board; Department of Justice – State Bureau of Investigation

EFFECTIVE DATE: The act becomes effective July 1, 2003.

BILL SUMMARY: The bill allows the Locksmith Licensing Board to do the following: 1) employ an attorney, 2) conduct criminal history record checks on applicants, 3) regulate apprentice locksmiths, 4) charge a fee to license apprentice locksmiths, and 5) exempt auto repair shop towing services from the act.

BACKGROUND: Governor Easley approved the bill creating the Locksmith Licensing Act on August 16, 2001. (HB 942 / SL 2001-ch.369) The Locksmith Licensing Board began operation in 2002.

ASSUMPTIONS AND METHODOLOGY:
Section 5 of the bill proposes a $100 apprentice fee and a $25 apprentice transfer fee. With only one year of operation, the Board has no record of the number of apprentice locksmiths working in the state. A spokesman for the Board estimates that 30 apprentice licenses will be issued each year. If it is assumed that the apprentice license has a one-time fee of $100, then the Board will receive $3,000 a year from this source. The Board has no estimate of apprentice transfer fees.

Sections 2, 7, and 8 deal with criminal record background checks. Since the applicant or licensee pays the State Bureau of Investigation (SBI) for the criminal record check, there is no fiscal impact on the Locksmith Licensing Board. The SBI is able to accommodate some increase in background checks within its existing staffing level. If the increase in workload due to new record checks is greater than the unit's capacity, the SBI could seek authorization from the Office of State Budget and Management for an additional position supported by the receipts collected from the applicants/ licensees.

As of May 23, 2002, there were 522 licensed locksmiths listed on the Locksmith Licensing Board website. In 2001, the North Carolina Locksmith Association estimated that the number of locksmiths would grow 5% a year. Given these factors, there would be background checks on approximately 26 new locksmiths each year. There will also be background checks on 30 apprentice locksmiths each year.

SOURCES OF DATA: Locksmith Licensing Board

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 27, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 655 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING CHANGES TO THE DEFINITION OF LOCKSMITH SERVICES UNDER THE LOCKSMITH LICENSING ACT, TO AMEND THE POWERS OF THE NORTH CAROLINA LOCKSMITH LICENSING BOARD TO ALLOW THE BOARD TO EMPLOY AN ATTORNEY AND HAVE CONDUCTED CRIMINAL HISTORY RECORD CHECKS ON APPLICANTS, TO AMEND THE LOCKSMITH LICENSING ACT TO ALLOW THE BOARD TO REGULATE APPRENTICE LOCKSMITHS AND COLLECT FEES, TO CLARIFY THE EXEMPTION FOR GENERAL CONTRACTORS, TO CLARIFY THE EXEMPTION FOR TOWING SERVICES UNDER THE ACT, AND TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS OF APPLICANTS FOR LICENSURE OR APPRENTICE DESIGNATION AS A LOCKSMITH.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1289
PROPOSED COMMITTEE SUBSTITUTE H1289-CSSVf-28 [v.3]

6/12/2003 11:53:09 AM

Short Title: Amend Private Protective Services Act/Fees. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) ~~The license shall be issued for a term of one year.~~Upon the issuance of a license, the licensee may elect a license term of two, three, or five years. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this

Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-9(e) reads as rewritten:

"(e) The Board is authorized to charge reasonable application and license fees as follows:

(1) A nonrefundable initial application fee in an amount not to exceed one hundred fifty dollars ($150.00);

(2) A new or renewal license fee in an amount not to exceed two hundred fifty dollars ($250.00) per year of the license term;

(3) A new or renewal trainee permit fee in an amount not to exceed two hundred fifty dollars ($250.00);

(4) A new or renewal fee for each license or duplicate license in addition to the basic license referred to in subsection (2) in an amount not to exceed fifty dollars ($50.00);

(5) A late renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the licensee;

(6) A new, renewal, replacement or reissuance fee for an unarmed registration identification card in an amount not to exceed thirty dollars ($30.00);

(7) An application fee for ~~an armed security guard~~ a firearm registration permit not to exceed fifty dollars ($50.00);

(8) A new, renewal, replacement, or reissuance fee for ~~an armed security guard~~ a firearm registration permit not to exceed thirty dollars ($30.00);

(9) An application fee for certification as a certified trainer not to exceed fifty dollars ($50.00);

(10) A renewal or replacement fee for certified trainer certification not to exceed twenty-five dollars ($25.00);

(11) A new nonresident temporary permit fee not to exceed one hundred dollars ($100.00);

(12) An unarmed registration transfer fee not to exceed fifteen dollars ($15.00);

(13) A branch office license fee not to exceed fifty dollars ($50.00); and

(14) A special limited guard and patrol license fee not to exceed one hundred dollars ($100.00)."

SECTION 7. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within ~~20~~30 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 8. G.S. 74C-12 reads as rewritten:

"§ **74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;

(15) Violated the firearm provisions set forth in this Chapter;

(16) Repealed by Session Laws 1989, c. 759, s. 10.

(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of

employment of the business entity's qualifying agent within the time set forth in this Chapter;

(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;

(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;

(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;

(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;

(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;

(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;

(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;

(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;

(26) Advertised or solicited business using a name other than that in which the license was issued;

(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(28) Possessed or displayed any badge or shield that was not designed and approved by the Board.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) A licensee shall report to the Board in writing within 30 days of any charge, arrest for, or conviction of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. A failure to report shall be grounds for revocation of the license."

SECTION 9. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or an armed private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or an armed private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or an armed private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) ~~An armed security guard~~ A firearm registration permit grants authority to the armed security ~~guard,~~guard or armed private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section to an armed security guard shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. ~~An armed security guard~~ A firearm registration permit issued to an armed security guard expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each firearm registration permit issued under this section to an armed private investigator shall be in the form of a pocket card designed by the Board and shall identify the name of the armed private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If ~~the holder of~~ an armed security guard ~~firearm registration permit~~ terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which an

armed private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 10. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the

Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 11. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

~~(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);~~

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000);~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 12. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1289

Short Title:	Amend Private Protective Services Act/Fees.	(Public)
Sponsors:	Representative Hackney.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74C-3(a)(3) reads as rewritten:

"...

(3) ~~"Counterintelligence service profession"~~"Electronic countermeasures profession" means any person, firm, association, or corporation which discovers, locates, or disengages by electronic, electrical, or mechanical means any listening or other monitoring equipment surreptitiously placed to gather information concerning any individual, firm, association, or corporation for a fee or other valuable consideration.

...."

SECTION 2. G.S. 74C-3(a)(6) reads as rewritten:

"...

(6) "Security guard and patrol profession" means any person, firm, association, or corporation that provides a security guard on a contractual basis for another person, firm, association, or corporation for a fee or other valuable consideration and performing one or more of the following functions:

a. Prevention or detection of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on private property;

b. Prevention, observation, or detection of any unauthorized activity on private property;

c. Protection of patrons and persons lawfully authorized to be on the premises or being escorted between premises of the person, firm, association, or corporation that entered into the contract for security services; or

d. Control, regulation, or direction of the flow or movement of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of properties.

...."

SECTION 3. G.S. 74C-4(b) reads as rewritten:

"(b) The Board shall consist of ~~14~~ nine members: the Attorney General or his designated representative, ~~two persons~~one person appointed by the Attorney General, one person appointed by the Governor, ~~five~~ three persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. All appointments by the General Assembly shall be subject to the provisions of G.S. 120-121, and vacancies in the positions filled by those appointments shall be filled pursuant to G.S. 120-122. One of those persons appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate and all ~~five~~ three persons appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall be licensees under this Chapter; all other appointees may not be licensees of the Board nor licensed by the Board while serving as Board members. All persons appointed shall serve terms of three years. With the exception of the Attorney General or his designated representative, no person shall serve more than eight consecutive years on the Board, including years of service prior and subsequent to July 1, 1983. Board members may continue to serve until their successors have been appointed."

SECTION 4. G.S. 74C-5 is amended by adding the following new subdivisions to read:

"...

(11) Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training described in this Chapter.

(12) Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services."

SECTION 5. G.S. 74C-9(b) reads as rewritten:

"(b) The license shall be issued for a term of ~~one year~~two, three, or five years without a fee discount. A trainee permit shall be issued for a term of one year. All licenses must be renewed prior to the expiration of the term of the license. Following issuance, the license shall at all times be posted in a conspicuous place in the licensee's principal place of business, in North Carolina, unless for good cause exempted by the Director. A license issued under this Chapter is not assignable. Before renewing a license, the Board may require a licensee to complete continuing education courses approved by the Board."

SECTION 6. G.S. 74C-11 reads as rewritten:

"**§ 74C-11. Registration of permanent and temporary employees; unarmed security guard required to have registration card.**

(a) All licensees shall register their employees who will be engaged in providing private protective services covered by this Chapter with the Board within 20 days after the employment begins, unless the Director, in his discretion, extends the time period, for good cause. To register an employee, a licensee must give the Board the following:

(1) Set(s) of classifiable fingerprints on standard F.B.I. applicant cards; recent photograph(s) of acceptable quality for identification; and

(2) Statements of any criminal records obtained from the appropriate authority in each area where the employee has resided within the immediately preceding 48 months.

(b) A security guard and patrol company may not employ an unarmed security guard unless the guard has a registration card issued under subsection (d) of this section. A person engaged in a private protective services profession may not employ an armed security guard unless the guard has a firearm registration permit issued under G.S. 74C-13.

(c) The Director shall be notified in writing of the termination of any employee registered under subsection (a) within 10 days after said termination.

(d) An unarmed security guard shall make application to the Director for an unarmed registration card which the Director shall issue to said applicant after receipt of the information required to be submitted by his employer pursuant to subsection (a), and after meeting any additional requirements which the Board, in its discretion, deems to be necessary. The unarmed security guard registration card shall be in the form of a pocket card designed by the Board, shall be issued in the name of the applicant, and may have the applicant's photograph affixed thereto. The unarmed security guard registration card shall expire one year after its date of issuance and shall be renewed every year. Before renewing a registration, the Board may require a registration holder to complete continuing education courses approved by the Board. If an unarmed registered security guard is terminated by a licensee and changes employment to another security guard and patrol company, the security guard's registration card shall remain valid, provided the security guard pays the unarmed guard registration transfer fee to the Board and a new unarmed security guard registration card is issued. An unarmed security guard whose transfer registration application and transfer fee have been sent to the Board may work with a copy of the transfer application until the registration card is issued.

(e) Notwithstanding the provisions of this section, a licensee may employ a person properly registered or licensed as an unarmed security guard in another state for a period not to exceed 10 days in any given month; provided the licensee, prior to employing the unarmed security guard, submits to the Director the name, address, and social security number of the unarmed guard and the name of the state of current registration or licensing, and the Director approves the employment of the unarmed guard in this State.

(f) Notwithstanding the provisions of this section, a licensee may employ a person as an unarmed security guard for a period not to exceed 30 days in any given calendar year without registering that employee in accordance with this section; provided that the licensee submits to the Director a quarterly report, within 30 days after the end of the quarter in which the temporary employee worked, which provides the Director with the name, address, social security number, and dates of employment of ~~such employee.~~the employee, along with evidence of completion of any training requirements imposed by the Board."

SECTION 7. G.S. 74C-12 reads as rewritten:

"**§ 74C-12. Denial, suspension, or revocation of license, registration, ~~or permit.~~permit; duty to report criminal arrests.**

(a) The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend or revoke a license, registration, or permit issued under this Chapter if it is determined that the applicant, licensee, registrant, or permit holder has:

(1) Made any false statement or given any false information in connection with any application for a license, registration, or permit or for the renewal or reinstatement of a license, registration, or permit;

(2) Violated any provision of this Chapter;

(3) Violated any rule promulgated by the Board pursuant to the authority contained in this Chapter;

(4) Repealed by Session Laws 1989, c. 759, s. 10.

(5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer of the United States, this State, any other state, or any political subdivision of a state;

(6) Engaged in or permitted any employee to engage in a private protective services profession when not lawfully in possession of a valid license issued under the provisions of this Chapter;

(7) Willfully failed or refused to render to a client service as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) Knowingly made any false report to the employer or client for whom information is being obtained;

(9) Committed an unlawful breaking or entering, assault, battery, or kidnapping;

(10) Knowingly violated or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(11) Repealed by Session Laws 1989, c. 759, s. 10.

(12) Undertaken to give legal advice or counsel or to in any way falsely represent that he is representing any attorney or he is appearing or will appear as an attorney in any legal proceeding;

(13) Issued, delivered, or uttered any simulation of process of any nature which might lead a person or persons to believe that such simulation – written, printed, or typed – may be a summons, warrant, writ or court process, or any pleading in any court proceeding;

(14) Failed to make the required contribution to the Private Protective Services Recovery Fund or failed to maintain the certificate of liability insurance required by this Chapter;
(15) Violated the firearm provisions set forth in this Chapter;
(16) Repealed by Session Laws 1989, c. 759, s. 10.
(17) Failed to notify the Director by a business entity other than a sole proprietorship licensed pursuant to this Chapter of the cessation of employment of the business entity's qualifying agent within the time set forth in this Chapter;
(18) Failed to obtain a substitute qualifying agent by a business entity within 30 days after its qualifying agent has ceased to serve as the business entity's qualifying agent;
(19) Been judged incompetent by a court having jurisdiction under Chapter 35A or former Chapter 35 of the General Statutes or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271;
(20) Failed or refused to offer a report to a client within 30 days of the client's written ~~request;~~request after the client has paid for services rendered;
(21) Been previously denied a license, registration, or permit under this Chapter or previously had a license, registration, or permit revoked for cause;
(22) Engaged in a private protective services profession under a name other than the name under which the license was obtained under the provisions of this Chapter;
(23) Divulged to any person, except as required by law, any information acquired by him except at the direction of the employer or client for whom the information was obtained. A licensee may divulge to any law enforcement officer or district attorney or his representative any information the law enforcement officer may require to investigate a criminal offense with the prior approval and consent of the client;
(24) Fraudulently held himself out as employed by or licensed by the State Bureau of Investigation or any other governmental authority;
(25) Intemperate habits or lacks good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision;
(26) Advertised or solicited business using a name other than that in which the license was issued;
(27) Worn, carried, or accepted any badge or shield purporting to indicate that the person is a ~~private detective or private investigator~~law enforcement officer while licensed under the provisions of this Chapter as a private investigator.

(b) The denial, revocation, or suspension of a license, registration, or permit by the Board shall be in writing, be signed by the Director of the Board, and state the grounds upon which the Board decision is based. The aggrieved person shall have the right to appeal from this decision as provided in Chapter 150B of the General Statutes. The aggrieved person must file the appeal within 60 days of receipt of the Board's decision.

(c) The following persons may not be issued a license, registration, or permit under this Chapter:

(1) A sworn court official.

(2) A holder of a company police commission under Chapter 74E of the General Statutes.

(d) All licensees are required to report to the Board any criminal arrests for or charges or convictions of a misdemeanor or felony for any of the following:

(1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.

(2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(3) Illegal use, carrying, or possession of a firearm.

(4) Acts involving assault.

(5) Acts involving unlawful breaking or entering, burglary, or larceny.

(6) Any offense involving moral turpitude.

The duty to report convictions includes findings of guilt, guilty pleas, and pleas of nolo contendere. The Board must receive written notice of any arrest, charge, or criminal conviction within 30 days from the date of occurrence of any of these events. A failure to report shall be grounds for revocation of the license."

SECTION 8. G.S. 74C-13 reads as rewritten:

"**§ 74C-13. Armed ~~security guard~~licensee or registered employee required to have firearm registration permit; ~~security guard~~firearms training.**

(a) It shall be unlawful for any person performing ~~the duties of an armed security guard~~private protective services duties to carry a firearm in the performance of those duties without first having met the qualifications as set forth in this section and having been issued a firearm registration permit by the Board. For the purposes of this section, the following terms are defined:

(1) "Armed security guard" means an individual employed by a contract security company or a proprietary security organization whose principal duty is that of an armed security watchman; armed armored car service guard; armed alarm system company responder; ~~private detective;~~ or armed courier service guard who at any time wears, carries, or possesses a firearm in the performance of duty.

(1a) "Armed private investigator" means a licensed private investigator who, at any time, wears, carries, or possesses a firearm in the performance of duty.

(2) "Contract security company" means any person, firm, association, or corporation engaging in a private protective services profession that provides services on a contractual basis for a fee or other valuable consideration to any other person, firm, association, or corporation.

(3) "Proprietary security organization" means any person, firm, association, or corporation or department thereof which employs security guards, alarm responders, armored car personnel, or couriers who are employed regularly and exclusively as an employee by an employer in connection with the business affairs of such employer.

(b) It shall be unlawful for any person, firm, association, or corporation and its agents and employees to employ an armed security guard or a private investigator and knowingly authorize or permit him to carry a firearm during the course of performing his duties as an armed security guard or a private investigator if the Board has not issued him a firearm registration permit under this section or if the person, firm, association, or corporation permits an armed security guard or a private investigator to carry a firearm during the course of performing his duties whose firearm registration permit has been suspended, revoked, or has otherwise expired:

(1) An armed security guard firearm registration permit or private investigator firearm registration permit grants authority to the armed security ~~guard,~~guard or private investigator, while in the performance of his duties or traveling directly to and from work, to carry ~~a standard .38 caliber or .32 caliber revolver or~~ any ~~other~~ firearm approved by the Board and not otherwise prohibited by law. The use of any firearm not approved by the Board is prohibited.

(2) All firearms carried by authorized armed security guards in the performance of their duties shall be owned or leased by the employer. Personally owned firearms shall not be carried by an armed security guard in the performance of his duties.

(c) The applicant for ~~an armed security guard~~ a firearm registration permit shall submit an application to the Board on a form provided by the Board.

(d) Each ~~armed security guard~~ firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the contract security company or proprietary security organization by whom the holder of the firearm registration permit is employed. An armed security guard firearm registration permit expires one year after the date of its issuance and must be renewed annually unless the permit holder's employment terminates before the expiration of the permit. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(d1) Each private investigator firearm registration permit issued under this section shall be in the form of a pocket card designed by the Board and shall identify the name of the private investigator. A private investigator firearm registration permit expires one year from the date of issuance and must be renewed annually. Before renewing a permit, the Board may require a permit holder to complete continuing education courses approved by the Board.

(e) If the holder of an armed security guard firearm registration permit terminates his employment with the contract security company or proprietary security organization, the firearm registration permit expires and must be returned to the Board within 15 working days of the date of termination of the employee.

(f) A contract security company or proprietary security organization shall be allowed to employ an individual for 30 days as an armed security guard pending completion of the firearms training required by this Chapter, if the contract security company or proprietary security organization obtains prior approval from the Director. The Board and the Attorney General shall provide by rule the procedure by which a private investigator, a contract security ~~company~~ company, or a proprietary security organization applicant may be issued a temporary firearm registration permit by the Director of the Board pending a determination by the Board of whether to grant or deny an applicant a firearm registration permit.

(g) The Board may suspend, revoke, or deny ~~an armed security guard~~ a firearm registration permit if the holder or applicant has been convicted of any crime involving moral turpitude or any crime involving the illegal use, carrying, or possession of a deadly weapon or for violation of this section or rules promulgated by the Board to implement this section. The Director may summarily suspend ~~an armed security guard~~ a firearm registration permit pending resolution of charges involving the illegal use, carrying, or possession of a firearm lodged against the holder of the permit.

(h) The Board and the Attorney General shall establish a firearms training program for ~~armed security guards~~licensees and registered employees to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General may approve training programs conducted by a contract security company and the security department of a proprietary security organization, if the contract security company or security department of a proprietary security organization offers the courses listed in subdivision (1) of this subsection and if the instructors of the training program are certified trainers approved by the Board and the Attorney General:

(1) The basic training course approved by the Board and the Attorney General shall consist of a minimum of four hours of classroom training which shall include:
   a. Legal limitations on the use of hand guns and on the powers and authority of an armed security guard,
   b. Familiarity with this section,
   c. Range firing and procedure and hand gun safety and maintenance, and
   d. Any other topics of armed security guard training curriculum which the Board deems necessary.

(2) An applicant for ~~an armed security guard~~ a firearm registration permit must fire a minimum qualifying score to be determined by the Board and the Attorney General on any approved target course approved by the Board and the Attorney General.

(3) ~~An armed security guard~~A firearms registrant must complete a refresher course and shall requalify on the prescribed target course prior to the renewal of his firearm registration permit.

(4) The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this section.

(i) The Board may not issue ~~an armed security guard~~ a firearm registration permit to an applicant until the applicant's employer submits evidence satisfactory to the Board that the applicant:

(1) Has satisfactorily completed an approved training course.

(2) Meets all the qualifications established by this section and by the rules promulgated to implement this section.

(3) Is mentally and physically capable of handling a firearm within the guidelines set forth by the Board and the Attorney General.

(j) The Board and the Attorney General are authorized to prescribe reasonable rules to implement this section, including rules for periodic requalification with the firearm and for the maintenance of records relating to persons issued ~~an armed security guard~~ a firearm registration permit by the Board.

(k) All fees collected pursuant to G.S. 74C-9(e)(7) and (8) shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering the firearms provisions of this Chapter.

(l) The Board and the Attorney General shall establish a training program for certified trainers to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board or the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(1) The Board and the Attorney General shall also establish renewal requirements for certified trainers. Before renewing a certification, the Board may require a certified trainer to complete continuing education courses approved by the Board.

(2) No certified firearms trainer shall certify ~~an armed security guard~~ a licensee or registrant unless the ~~armed security guard~~licensee or registrant has successfully completed the firearms training requirements set out above in subsection (h) of this section.

(m) The Board and the Attorney General shall establish a training program for unarmed security guards to be conducted by agencies and institutions approved by the Board and the Attorney General. The Board and the Attorney General shall have the authority to promulgate all rules necessary to administer the provisions of this subsection.

(n) A private investigator shall be permitted to carry a concealed weapon during the performance of his duties as a private investigator upon: (i) obtaining a concealed weapon's permit issued pursuant to G.S. 14-415.11; (ii) successfully completing the firearms training course approved by the Board and the Attorney General; and (iii) having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon. A private

investigator who does not carry a weapon during the course of his duties as a private investigator but who wishes to carry a concealed weapon while not engaged in private investigative duties shall be permitted to do so upon completion of the requirements set forth in Article 54B of Chapter 14 of the General Statutes."

SECTION 9. Article 1 of Chapter 74C of the General Statutes is amended by adding a new section to read:

"**§ 74C-22. Continuing education.**

Before renewing a license, registration, certificate, or permit issued pursuant to this Chapter, the Board may, as it deems necessary, require a licensee or registration, certificate, or permit holder to complete continuing education courses approved by the Board. The Board shall establish, by rule, the number of hours of continuing education necessary for renewal and any other requirements for completion of continuing education courses. The Board shall have the authority to approve continuing education courses and shall consider the continuing education course criteria, including the course curriculum, the qualifications of the instructor, the potential benefit to the industry, and any other criteria the Board deems appropriate."

SECTION 10. G.S. 74C-30 reads as rewritten:

"**§ 74C-30. Private Protective Services Recovery Fund created; payments to Fund; management; use of funds.**

(a) There is hereby created and established a special fund to be known as the "Private Protective Services Recovery Fund" (hereinafter Fund) which shall be set aside and maintained in the Office of the State Treasurer. Said Fund shall be used in the manner provided in this Article for the payment of claims where the aggrieved person has suffered a direct monetary loss by reason of certain acts committed by any person licensed under this Chapter.

(b) Nothing contained in this Article shall limit the authority of the Board to take disciplinary action against any licensee or trainee under this Chapter, nor shall the repayment in full or all obligations to the Fund by any licensee or trainee nullify or modify the effect of any other disciplinary proceeding brought under this Chapter.

(c) In addition to the fees provided for elsewhere in this Chapter, the Board shall charge the following fees which shall be deposited into the Fund:

(1) On July 1, 1983, the Board shall charge every licensee and trainee possessing a license or trainee permit on that date a fee of fifty dollars ($50.00);

(2) The Board shall charge each new applicant for a licensee or trainee permit fifty dollars ($50.00), provided that for purposes of this Article a new applicant is hereby defined as an applicant who did not possess a license or trainee permit on July 1, 1983; and

(3) The Board is authorized to charge each licensee and trainee an additional amount, not to exceed fifty dollars ($50.00), on July 1 of any year in which the balance of the Fund is less than ~~one hundred thousand dollars ($100,000)~~twenty-five thousand dollars ($25,000), provided that any amount so assessed will be only so much as is

needed to raise the level of the Fund to ~~one hundred thousand dollars ($100,000).~~twenty-five thousand dollars ($25,000).

(d) The State Treasurer shall invest and reinvest the moneys in the Fund in a manner provided by law, provided that sufficient liquidity shall be maintained to satisfy claims authorized by the Board. The proceeds from ~~such~~ the investments shall be deposited to the credit of the Fund. The Board in its discretion, may use any and all of the proceeds from ~~such~~ the investments or funds that exceed twenty-five thousand dollars ($25,000) for any of the following purposes:

(1) To advance education and research in the private protective services field for the benefit of those licensed under the provisions of this Chapter and for the improvement of the industry;

(2) To underwrite educational seminars, training centers and other educational projects for the use and benefit generally of licensees and trainees; and

(3) To sponsor, contract for and to underwrite any and all additional educational training and research projects of a similar nature having to do with the advancement of the private protective services field in North Carolina. The Board shall have the authority to sponsor courses given by private individuals, associations, or corporations. However, the Board shall only grant funds as necessary to offset the actual cost of the educational course. Any individual, association, or corporation receiving grant money from the Board shall make the course available to the industry at large. Any individual, association, or corporation receiving grant money from the Board and advertising the course to the industry is required to include in its advertising the following statement: 'The course is being given in whole or in part by a grant from the Private Protective Services Board.'.

(e) By a unanimous vote of the Board, funds in the Fund in excess of fifty thousand dollars ($50,000) may be converted to offset the operating expenses of the Board. However, in converting the funds, the Board shall make findings of fact by a written order or resolution supporting the need to make the conversion."

SECTION 11. This act is effective when it becomes law.

HOUSE BILL 1289:
Amend Private Protective Services Act/Fees.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hackney
Date:	June 17, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H1289-CSSVf-28		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1289 amends various provisions relating to the private protective services profession and to the Private Protective Services Board, which regulates the profession, including the following:***

- ***Reducing from 14 to 9 the number of members on the Private Protective Services Board.***
- ***Extending the term of a license from one year to two, three, or five years, at the election of the licensee.***
- ***Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.***
- ***Authorizing the Board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.***
- ***Decreases the required minimum balance in the Private Protective Services Recovery Fund.***

The act would become effective when it becomes law.

CURRENT LAW: The Private Protective Services Board (Board) is an occupational licensing board within the Department of Justice. The purpose of the Board is to administer the licensing, education and training requirements to increase the level of integrity, competency and performance of the persons, firms, associations and corporations engaged in the private protective services profession within North Carolina in order to safeguard the public health, safety and welfare. The Board's responsibilities are generally divided into six categories:

1. Background investigation for licensing of 13 occupations
2. Registration of licensee employees
3. Conduct investigations of public complaints
4. Conduct compliance audits
5. Enforce law and rules through administrative disciplinary processes and criminal courts
6. Maintain required records

BILL ANALYSIS:

Sections 1 and 2 make definitional changes. Section 1 renames "counterintelligence service profession" as the "electronic countermeasures profession" to conform to a change in terminology made at the federal level. Section 2 amends the definition of "security guard and patrol profession" to include the protection of patrons and persons *being escorted between premises* of the entity that entered into the security services contract.

Section 3 reduces the membership of the Board from 14 to 9 members.

Section 4 expands the scope of the Board's powers by authorizing it to do the following:

- Approve training schools, instructors, and course materials for any person, firm, association, or corporation wishing to provide training.

- Approve a design for a badge or shield that indicates a person is licensed to engage in private protective services.

Section 5 allows the licensee to choose the term of the license from among two, three or five years. This section also authorizes the Board to require a licensee to complete continuing education courses approved by the Board before a license may be renewed.

Section 6 makes conforming changes with Section 5 by clarifying that the license fee would be in an amount equal to the current annual fee multiplied by the number of years of the license term, as chosen by the licensee.

Section 7 extends from 20 to 30 days the period by which a licensee must register its employees who will be engaged in providing private protective services after employment begins. Section 7 also authorizes the Board to require that a registered, unarmed security guard complete continuing education courses approved by the Board before renewing the guard's registration.

Section 8 does four things:

- It provides as an additional ground upon which the Board may deny, suspend, or revoke a license that a licensee possessed or displayed a badge or shield that was not designed or approved by the Board.
- It requires licensees to report to the Board, within 30 days, any charges, arrests for, or convictions of a misdemeanor or felony for any of the following:

  (1) Crimes that have as an essential element dishonesty, deceit, fraud, or misrepresentation.
  (2) Illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.
  (3) Illegal use, carrying, or possession of a firearm.
  (4) Acts involving assault.
  (5) Acts involving unlawful breaking or entering, burglary, or larceny.
  (6) Any offense involving moral turpitude.

  A failure to report these arrests or convictions shall be grounds for revocation of the license.
- It makes clarifying changes to two other grounds for denial, suspension, or revocation of a license.
- It gives aggrieved persons 60 days to bring an administrative appeal of a denial, revocation, or suspension decision by the Board.

Section 9 does the following:

- It distinguishes private investigators from security guards for purposes of firearm registration permits. Under current law, "private detectives", who are defined to be synonymous with "private investigators" under this Chapter, are included within the definition of "armed security guards." Under the bill, the same permitting requirements would apply to both categories of private protective services professionals.
- It authorizes the Board to require a firearm registration permit holder and a certified firearms trainer to complete continuing education courses before renewing the holder's permit or the trainer's certification.
- It authorizes a private investigator to carry a concealed weapon during the performance of his duties upon doing all of the following:
  - Obtaining a concealed weapon's permit.

- Successfully completing the firearms training course approved by the Board and the Attorney General.
- Having a notation affixed to the face of the firearms registration card designating that the armed private investigator is allowed to carry a concealed weapon.

Section 10 authorizes the Board to require completion of continuing education courses approved by the Board before the renewal of a license, registration, certificate, or permit issued by the Board. The Board would be required to establish, by rule, the number of hours of continuing education courses necessary for renewal and any other requirements for completion of continuing education courses. Under current law, licensees are not required to complete continuing education courses.

Section 11 reduces the minimum balance required to be maintained in the Private Protective Services Recovery Fund (Fund). This Fund is a special fund established within the Office of the State Treasurer that is used to satisfy claims by aggrieved persons who have suffered a direct monetary loss by reason of certain acts committed by a licensee. Under current law, if the balance in the Fund drops below a minimum of $100,000, then the Board is authorized to charge annually each licensee and trainee an additional amount, not to exceed $50.00. The amount assessed will only be so much as is needed to raise the level of the Fund to $100,000. Section 11 lowers the minimum fund balance from $100,000 to $25,000.

Under current law, the State Treasurer invests the monies in the Fund and the Board uses the proceeds of the investments to advance education and research in the private protective services field. Section 11 would authorize the Board to use any funds derived from investments or any funds in excess of the minimum Fund balance for those purposes. It also allows the Board to provide grant money to private individuals, associations, or corporations sponsoring educational courses to offset the actual cost of the courses. The Board would also be able to use funds in excess of $50,000 to offset the operating expenses of the Board, if there is a unanimous vote of the Board and the Board makes findings of fact supporting the need for the funds.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 17, 2003

TO: House Finance Committee

FROM: Chloe Gossage
Fiscal Research Division

RE: PCS H1289-CSSVf-28 [v.3] (Amend Private Protective Services Act/Fees)

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES:					
Board Special Account (no General Fund impact)					
Sections 1-4, 7-10	No significant impact anticipated				
Sections 5 and 6	See assumptions and methodology				
Section 11	See assumptions and methodology				
EXPENDITURES:					
Board Special Account (no General Fund impact)					
Sections 1, 2, 4, 7-10	No significant impact anticipated				
Section 3	($14,000)	($14,000)	($14,000)	($14,000)	($14,000)
Sections 5 and 6	$ 5,000	Some savings possible after first year			
Section 11	See assumptions and methodology				
POSITIONS:	None				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Private Protective Services Board (in the Department of Justice)

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: This legislation would make changes to the Private Protective Services Act, including:

- Reducing from 14 to 9 the number of members on the Private Protective Services Board.
- Extending the term of a license from one year to two, three, or five years, at the election of the licensee.
- Requiring licensees to report within 30 days to the Board any arrests or convictions for certain misdemeanors and felonies.
- Authorizing the board to establish continuing education requirements for licensees, registered employees, firearms permit holders, and firearms trainers.
- Decreasing the required minimum balance in the Private Protective Services Recovery Fund.

ASSUMPTIONS AND METHODOLOGY:
The Private Protective Services Board is supported entirely by receipts. As a result, changes to revenues or expenditures will not impact the General Fund.

Section 3: Reduction in Board Members. This section would reduce the number of public board members appointed by the Attorney General from two to one and the number appointed by the Senate President pro Tempore and the House Speaker from five each to three each. (See technical considerations) The elimination of five members will reduce the Board's annual operating expenses by approximately $14,000 due to decreased travel and per diem costs for six meetings per year.

Section 4: Approval of Badge/Shield Design. Section 8 prohibits designs that purport to represent law enforcement officers. The Board could incur minimal costs to review designs.

Sections 4, 5, 7, 8 and 9: Continuing Education Requirements. The Board anticipates minimal costs associated with reviewing courses for approval. Costs for continuing education courses would be borne by the industry.

Sections 5 and 6: Modification of License Terms. Licenses would be issued for two, three, or five years rather than one year, with no reduction in fees. Currently, a one-year basic license costs $200; the Board is authorized to charge up to $250 per year. Under this legislation, the licensee could choose a two-year, three-year, or five-year license. At the current rate, the cost would be $400, $600, or $1,000 respectively; at the maximum rate, the cost would be $500, $759, or $1,250. In the short term, this would accelerate revenue collections as licensees begin paying for multiple years up front. We cannot project the impact of this change in the fee structure on the number of current and future licensees. In addition, basic license holders may apply for additional licenses (i.e. counterintelligence) for $50 annually. It appears that the same multi-year licensing structure would apply to those licenses. Finally, Board staff estimate one-time expenditures of $5,000 to modify computer software, and potential workload reductions in later years due to less frequent renewals.

Section 7: Timeframe for New Employee Registration. Licensees would be required to register new employees within 30 days, rather than 20 days. The Board does not anticipate any fiscal impact from this change.

Section 8: Duty to Report Criminal Offenses. Licensees would be required to report to the Board within 30 days any criminal arrests, charges, or convictions for a range of offenses. Failure to do so would be grounds for license revocation. The Board has not identified any costs associated with this requirement.

Section 9: Firearm Registration Permits. The Board does not anticipate any fiscal impact due to including "armed private investigators" as firearm registration permitees.

Section 11: Private Protective Services Fund. The Fund is maintained for the purpose of paying claims against licensees. Claims are limited to $5,000 per obligation and $10,000 in aggregate against any one licensee within a year. The Board reports that, within the past five years, one claim – of less than $5,000 – was made against the Fund. Staff records indicate that this is the only claim paid since the Fund's inception in 1983.

Each new applicant for a license or training permit pays a fee of $50 into the Fund. For any year that the balance falls below the minimum, the Board is authorized to charge each licensee and trainee an additional fee (up to $50) in order to reach the minimum threshold. Under current law, the Fund balance must be at least $100,000. This bill would reduce the minimum balance to $25,000. Currently, the Fund balance is approximately $22,650. By reducing the minimum from $100,000 to $25,000, the Fund balance would be less than $3,000 below the minimum, and the Board would be able to charge a lower additional fee.

The funds are invested by the State Treasurer, and the Board may use the proceeds from its investments to fund education and research in the area of private protective services. This legislation would allow the Board to use all except $25,000 in the Fund for education and research purposes, and all except $50,000 to offset operating expenses. Currently, the balance is below $25,000, so no additional funds would be available for these purposes.

SOURCES OF DATA: Private Protective Services Board (within the Department of Justice)

TECHNICAL CONSIDERATIONS: This legislation is effective when it becomes law, and would eliminate five board member positions. At present, there is only one vacancy on the Board. However, one of the Attorney General's appointees is serving a term that expired June 30, 2001, and several of the House and Senate appointees are serving terms that expire June 30, 2003. If this legislation is enacted prior to June 30, 2003, there will still be people serving in several of the positions to be eliminated.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1289 A BILL TO BE ENTITLED AN ACT AMENDING VARIOUS PROVISIONS UNDER THE PRIVATE PROTECTIVE SERVICES ACT, REDUCING THE NUMBER OF MEMBERS ON THE PRIVATE PROTECTIVE SERVICES BOARD, AUTHORIZING THE BOARD TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS, AND DECREASING THE REQUIRED MINIMUM BALANCE IN THE PRIVATE PROTECTIVE SERVICES RECOVERY FUND.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 475
Second Edition Engrossed 5/21/03

Short Title:	Dallas Annexation.	(Local)
Sponsors:	Senator Hoyle.	
Referred to:	Finance.	

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTIES TO THE TOWN OF DALLAS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Dallas are extended to include the following described area:

Located, lying in Dallas Township, Gaston County, N.C. on the north side of the Dallas-Cherryville HWY and more particularly described as follows:

Beginning at an old iron, said iron being the NE corner of the Wilbur Rankin property as described in deed book 2283 p.847, also the southern most corner of the Ronald Dixon property as described in deed book 1468 p.858, said corner also being a corner of the existing city limit line for the Town of Dallas, and running thence with the existing Town of Dallas city limit line and Wilbur Rankin's easterly property line: South 01 degrees 34 minutes 18 seconds West for a distance of 745.58 feet to a 0.5" iron pipe;

THENCE continuing with the aforesaid city limit line South 01 degrees 34 minutes 18 seconds West for a distance of 264.68 feet to an EIP on the southern margin of N.C. HWY 279; THENCE leaving the aforesaid city limit line and running with the southern R/W of HWY 279 North 87 degrees 26 minutes 31 seconds West for a distance of 924.97 feet to a R/W Monument; THENCE with the R/W North 87 degrees 09 minutes 54 seconds West for a distance of 454.38 feet to a point; THENCE along a curve to the right having a radius of 1726.80 feet and an arc length of 338.77 feet, being subtended by a chord of North 81 degrees 32 minutes 41 seconds West for a distance of 338.23 feet to a point; THENCE North 75 degrees 55 minutes 28 seconds West for a distance of 143.84 feet to a point; THENCE leaving the southern r/w of N.C HWY 279 North 11 degrees 13 minutes 53 seconds East for a distance of 105.03 feet to a RBR° on the northern r/w of HWY 279 common corner of Mary C. Buckner as recorded in DB 3111 Pg. 592 and Eden Glen Sub. As recorded in PB 57 Pg. 48; THENCE with the common line of Buckner and Eden Glen subdivision North 11 degrees 13 minutes 53 seconds East for a distance of 465.69 feet to a stone;

THENCE continuing with the common line of Buckner and Eden Glen subdivision South 86 degrees 13 minutes 05 seconds East for a distance of 151.67 feet to an EIP; THENCE continuing with Eden Glen subdivision and the common line of Marilyn Finger South 85 degrees 59 minutes 14 seconds East for a distance of 15.85 feet to an EIP, also a corner of Eric Bumgardner as recorded in DB 2568 Pg. 286 Tract I; THENCE with the common line of Eden Glen subdivision and Eric Bumgardner North 03 degrees 11 minutes 02 seconds East for a distance of 1335.87 feet to an EIP; THENCE continuing with Eden Glen subdivision and the common line of Robert Finger North 05 degrees 37 minutes 41 seconds West for a distance of 475.23 feet to an EIP, also a corner of Marilyn Finger as recorded in DB 1050 Pg. 750; THENCE continuing with the common line of Eden Glen subdivision and Marilyn Finger South 83 degrees 03 minutes 27 seconds West for a distance of 384.55 feet to an EIP, also a corner in the line of William Summey as recorded in DB 1946 Pg. 708; THENCE continuing with the common line of Eden Glen subdivision and William Summey South 05 degrees 34 minutes 51 seconds West for a distance of 1365.30 feet to an EIP; THENCE continuing with the common line of Eden Glen subdivision and William Summey South 06 degrees 47 minutes 47 seconds East for a distance of 265.43 feet to an EIP, also a corner in the line of Michael Pitsikoulis as recorded in DB 2733 Pg. 722; THENCE continuing with the common line of Eden Glen subdivision, Michael Pitsikoulis, and Margaret Ratchford DB 514 Pg. 460 South 65 degrees 55 minutes 27 seconds East for a distance of 190.00 feet to a one-inch iron pipe, a common corner of Eden Glen subdivision and Margaret Ratchford; THENCE continuing with the common line of Eden Glen subdivision and Margaret Ratchford South 10 degrees 05 minutes 24 seconds West for a distance of 489.26 feet to an IPS, also a corner in the line of the northern right of way line of NC HWY 279; THENCE continuing with the common line of Eden Glen subdivision and the northern right of way line of NC HWY 279 South 77 degrees 31 minutes 06 seconds East for a distance of 112.55 feet to an EIP, also a corner of Mary Buckner; THENCE South 11 degrees 13 minutes 53 seconds West for a distance of 105.03 feet to a point on the southern line of HWY 279; THENCE continuing with the southern line of HWY 279 North 75 degrees 55 minutes 28 seconds West for a distance of 759.91 feet to an EIP; THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 56 minutes 38 seconds West for a distance of 499.72 feet to an EIP; THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 52 minutes 35 seconds West for a distance of 200.03 feet to an EIP;

THENCE continuing with the southern R/W line of HWY 279 North 75 degrees 52 minutes 35 seconds West for a distance of 209.37 feet to a point; THENCE leaving the southern R/W line of HWY 279 North 10 degrees 55 minutes 38 seconds East for a distance of 100.09 feet to an EIP, also the corner of Summey-Knoll subdivision Phase 7 as recorded in PB 65 Pg. 73 and William Summey as recorded in DB 1946 Pg. 708; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 14 degrees 04 minutes 39 seconds East for a distance of 71.77 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey along a curve to the right having a radius of 225.00 feet and an arc length of 93.84 feet, being subtended by a chord of North 26

degrees 01 minutes 31 seconds East for a distance of 93.16 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 37 degrees 58 minutes 23 seconds East for a distance of 64.23 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey along a curve to the left having a radius of 300.00 feet and an arc length of 193.01 feet, being subtended by a chord of North 19 degrees 32 minutes 30 seconds East for a distance of 189.70 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 88 degrees 17 minutes 23 seconds East for a distance of 135.33 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 01 degrees 42 minutes 08 seconds West for a distance of 205.55 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey South 82 degrees 06 minutes 11 seconds East for a distance of 172.42 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 16 degrees 20 minutes 50 seconds East for a distance of 350.78 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 66 degrees 16 minutes 11 seconds West for a distance of 83.27 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and William Summey North 74 degrees 27 minutes 45 seconds West for a distance of 291.70 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7, William Summey, and Summey-Knoll subdivision Phase 6 as recorded in PB 61 Pg. 75;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 150.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 82 degrees 32 minutes 05 seconds West for a distance of 65.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 50.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 82 degrees 32 minutes 05 seconds East for a distance of 102.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 07 degrees 27 minutes 55 seconds East for a distance of 125.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 82 degrees 32 minutes

05 seconds West for a distance of 32.00 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 17 degrees 53 minutes 30 seconds West for a distance of 129.88 feet to a Point of Tangency, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the left having a radius of 225.00 feet and an arc length of 73.96 feet, being subtended by a chord of South 73 degrees 05 minutes 05 seconds West for a distance of 73.63 feet to a rebar; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 63 degrees 40 minutes 04 seconds West for a distance of 22.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 26 degrees 19 minutes 56 seconds West for a distance of 50.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 63 degrees 40 minutes 04 seconds East for a distance of 22.61 feet to a rebar; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the right having a radius of 275.00 feet and an arc length of 89.09 feet, being subtended by a chord of North 72 degrees 56 minutes 59 seconds East for a distance of 88.71 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 13 degrees 34 minutes 48 seconds West for a distance of 96.37 feet to an EIP; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 00 degrees 06 minutes 35 seconds East for a distance of 196.68 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 32 degrees 32 minutes 16 seconds East for a distance of 133.03 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 56 degrees 38 minutes 08 seconds West for a distance of 258.03 feet to a Point of Tangency; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the right having a radius of 225.00 feet and an arc length of 116.13 feet, being subtended by a chord of North 41 degrees 50 minutes 58 seconds West for a distance of 114.85 feet to a Point of Curvature; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 27 degrees 03 minutes 55 seconds West for a distance of 75.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey South 62 degrees 56 minutes 12 seconds West for a distance of 50.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and William Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 27

degrees 03 minutes 48 seconds West for a distance of 13.16 feet to a Point of Tangency, also a corner of Summey-Knoll subdivision Phase 6 and William Summey;

THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey along a curve to the left having a radius of 250.00 feet and an arc length of 99.99 feet, being subtended by a chord of North 38 degrees 31 minutes 24 seconds West for a distance of 99.32 feet to a Point of Curvature; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and William Summey North 49 degrees 58 minutes 53 seconds West for a distance of 44.24 feet to an IPS, also a corner of Summey-Knoll subdivision Phase 6, William Summey, Ralph Summey as recorded in DB 59 Pg. 63, and Summey-Knoll subdivision Phase 4 as recorded in PB 59 Pg. 63; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6 and Summey-Knoll subdivision Phase 4 South 12 degrees 02 minutes 42 seconds East for a distance of 7.71 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 6 and Summey-Knoll Phase 4; THENCE continuing with the common line of Summey-Knoll subdivision Phase 6, Summey-Knoll subdivision Phase 4, Summey-Knoll subdivision Phase 5 PB 63 Pg. 74, and Summey-Knoll subdivision Phase 3 as recorded in PB 58 Pg. 40 South 46 degrees 28 minutes 39 seconds West for a distance of 497.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3 South 73 degrees 40 minutes 22 seconds West for a distance of 53.35 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3 South 16 degrees 19 minutes 33 seconds East for a distance of 270.88 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5, Summey-Knoll subdivision Phase 3, and Summey-Knoll Phase subdivision 1 as recorded in PB 53 Pg. 89 South 11 degrees 43 minutes 58 seconds East for a distance of 378.24 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 1; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Summey-Knoll subdivision Phase 1 South 14 degrees 22 minutes 33 seconds West for a distance of 670.00 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5, Summey-Knoll subdivision Phase 1, and Bruce Guson as recorded in DB 2512 Pg. 12; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Bruce Guson South 75 degrees 31 minutes 59 seconds East for a distance of 46.37 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5, Bruce Guson, and Elizabeth Barker as recorded in DB 3479 Pg. 995; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Elizabeth Barker North 12 degrees 00 minutes 11 seconds East for a distance of 19.61 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 5 and Elizabeth Barker; THENCE continuing with the common line of Summey-Knoll subdivision Phase 5 and Elizabeth Barker South 70 degrees 46 minutes 44 seconds East for a distance of 409.27 feet to a rebar, also a corner of Elizabeth Barker; THENCE continuing with the common line of Elizabeth Barker North 02 degrees 51 minutes 04

seconds East for a distance of 216.07 feet to a rebar, also a corner of Elizabeth Barker and Summey-Knoll subdivision Phase 7; THENCE continuing with the common line of Elizabeth Barker and Summey-Knoll subdivision Phase 7 South 43 degrees 23 minutes 35 seconds East for a distance of 223.79 feet to a rebar, also a corner of Elizabeth Barker, Summey-Knoll subdivision Phase 7, and Ralph Summey as recorded in DB 2590 Pg. 580; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 01 degrees 44 minutes 14 seconds East for a distance of 184.92 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 7 and Ralph Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 16 degrees 21 minutes 33 seconds West for a distance of 174.76 feet to a rebar also a corner of Summey-Knoll subdivision Phase 7 and Ralph Summey; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and Ralph Summey South 08 degrees 48 minutes 38 seconds West for a distance of 205.02 feet to a rebar, also a corner of Summey-Knoll subdivision Phase 7, Ralph Summey, and the northern right of way line of NC HWY 279, Said iron also being South 86 degrees 32 minutes 42 seconds East at a distance of 360.77 feet from NCGS Marker "Downey" coordinates North 577,608.2024, East 1,341.239 NAD 83; THENCE continuing with the common line of Summey-Knoll subdivision Phase 7 and the northern right of way line of NC HWY 279 South 75 degrees 48 minutes 56 seconds East for a distance of 123.20 feet to an EIP, also a corner of Summey-Knoll subdivision Phase 7, the northern right of way line of NC HWY 279, and William Summey; THENCE South 10 degrees 55 minutes 38 seconds West for a distance of 100.09 feet to a point on the southern line of HWY 279; THENCE continuing with the southern line of HWY 279 North 75 degrees 54 minutes 35 seconds West for a distance of 1210.18 feet to a rebar; THENCE North 13 degrees 12 minutes 06 seconds East for a distance of 100.01 feet to a rebar (Camp Sertoma), also a corner of Gaston Skills as recorded in DB 906 Pg. 593 and Summey-Knoll subdivision Phase 2 as recorded in DB 57 Pg. 66; THENCE continuing with the common line of Summey-Knoll subdivision Phase 2, Gaston Skills, and Summey-Knoll subdivision Phase 1 North 13 degrees 12 minutes 06 seconds East for a distance of 1172.70 feet to an ECM, also a corner of Gaston Skills, Summey-Knoll subdivision Phase 1, and Gaston County as recorded in DB 986 Pg. 274; THENCE continuing with the common line of Summey-Knoll subdivision Phase 1, Gaston County, and Summey-Knoll subdivision Phase 3 North 16 degrees 19 minutes 37 seconds West for a distance of 704.38 feet to a planted stone, also a corner of Gaston County and Summey-Knoll subdivision Phase 3; THENCE continuing with the common line of Gaston County and Summey-Knoll subdivision Phase 3 North 37 degrees 55 minutes 33 seconds East for a distance of 307.72 feet to a planted stone, also a corner of Gaston County, Summey-Knoll subdivision Phase 3, and Ralph Summey; THENCE continuing with the common line of Gaston County and Ralph Summey North 73 degrees 53 minutes 16 seconds West for a distance of 152.62 feet to a pt, also a corner of Gaston County and Ralph Summey; THENCE continuing with the common line of Gaston County and Ralph Summey North 86 degrees 03 minutes 00 seconds West for a distance of 531.30 feet to a stone, also a corner of Gaston County and Ralph Summey; THENCE continuing with the

common line of Gaston County and Ralph Summey North 71 degrees 44 minutes 42 seconds West for a distance of 723.22 feet to a 1.5bentpipe, also a corner of Gaston County, Ralph Summey, and Independent Baptist Tabernacle as recorded in DB 1128 Pg.832; THENCE continuing with the common line of Ralph Summey and Independent Baptist Tabernacle North 71 degrees 01 minutes 40 seconds West for a distance of 115.64 feet to a rebar, also a corner of Ralph Summey and Independent Baptist Tabernacle; THENCE continuing with the common line of Ralph Summey and Independent Baptist Tabernacle North 49 degrees 45 minutes 20 seconds West for a distance of 214.08 feet to a stone, also a corner of Ralph Summey and Independent Baptist Tabernacle; THENCE continuing with the common line of Ralph Summey, Independent Baptist Tabernacle, and Venice Smithers as recorded in DB 1072 Pg 690 North 77 degrees 09 minutes 39 seconds West for a distance of 344.00 feet to a point in oak stump, also a corner of Ralph Summey, Venice Smithers, and in line with Larry Penley as recorded in DB 2117 Pg. 540, DB 2022 Pg. 041, DB 2157 Pg. 208; THENCE continuing with the common line of Ralph Summey and Larry Penley North 30 degrees 00 minutes 03 seconds East for a distance of 2524.61 feet to a 3/4pipe, also a corner of Ralph Summey and Larry Penley; THENCE continuing with the common line of Ralph Summey and Larry Penley North 53 degrees 35 minutes 10 seconds East for a distance of 453.61 feet to a nail at a two-inch iron pipe, also a corner of Ralph Summey, Larry Penley, and Mary Thornburg DB 3258 Pg. 459; THENCE continuing with the common line of Ralph Summey and Mary Thornburg North 20 degrees 59 minutes 49 seconds East for a distance of 213.02 feet to a 1.5PIPE, also a corner of Ralph Summey, Mary Thornburg, and Thornburg Meadows subdivision as recorded in PB 40 Pg. 41; THENCE continuing with the common line of Ralph Summey, Thornburg Meadows subdivision, and William Summey as recorded in DB 1946 Pg 708 South 78 degrees 40 minutes 24 seconds East for a distance of 741.85 feet to a one-inch iron pipe at a three foot diameter White Oak tree, also a corner of William Summey, Thornburg Meadows subdivision, and Marilyn Finger as recorded in DB 1462 Pg. 762, DB 1510 Pg. 252, DB 1770 Pg. 625, DB 1380.73; THENCE continuing with the common line of William Summey and Marilyn Finger South 13 degrees 30 minutes 46 seconds West for a distance of 2000.63 feet to an IPS, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 42 degrees 59 minutes 35 seconds East for a distance of 316.80 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 48 degrees 32 minutes 34 seconds East for a distance of 164.93 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger South 35 degrees 02 minutes 34 seconds East for a distance of 99.00 feet to an IPS, also a corner of William Summey, Marilyn Finger, and Ralph Summey; THENCE continuing with the common line of William Summey, Marilyn Finger, Scott Finger as recorded in DB 3227 Pg. 853, and Marilyn Finger as recorded in DB 1380 Pg. 73, DB 1050 Pg. 750 North 79 degrees 11 minutes 14 seconds East for a distance of 804.38 feet to an IPS, also a corner of William Summey, Scott Finger, and Marilyn Finger; THENCE continuing with the common line of William

Summey and Marilyn Finger South 68 degrees 16 minutes 25 seconds East for a distance of 531.84 feet to an IPS, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of William Summey and Marilyn Finger North 88 degrees 47 minutes 57 seconds East for a distance of 311.10 feet to an EIP, also a corner of William Summey and Marilyn Finger; THENCE continuing with the common line of Marilyn Finger North 01 degrees 40 minutes 12 seconds West for a distance of 462.12 feet to an IPS, also a corner of Marilyn Finger and in line with Grover Summey as recorded in DB 96E Pg. 149; THENCE continuing with the common line of Marilyn Finger and Grover Summey North 73 degrees 25 minutes 21 seconds East for a distance of 729.15 feet to a 1.5-inch iron pipe, also a corner of Marilyn Finger and Grover Summey; THENCE continuing with the common line of Marilyn Finger and Grover Summey North 73 degrees 41 minutes 02 seconds East for a distance of 10.16 feet to an EIP, also a corner of Marilyn Finger, in line with Grover Summey, and Thomas & Colleene McCall DB 3177 Pg. 611; THENCE continuing with the common line of Marilyn Finger and Thomas & Colleene McCall South 35 degrees 46 minutes 49 seconds East for a distance of 199.91 feet to a PIPE, also a corner of Marilyn Finger, Thomas & Colleene McCall, and Roccom & Sandra Vallum as recorded in DB 2910 Pg. 884; THENCE continuing with the common line of Marilyn Finger and Roccom & Sandra Vallum South 35 degrees 46 minutes 53 seconds East for a distance of 100.26 feet to an AXLE, also a corner of Marilyn Finger, Roccom & Sandra Vallum, and Alexander & Evelyn Puett as recorded in DB 474 Pg. 593; THENCE continuing with the common line of Marilyn Finger, Alexander & Evelyn Puett, Robert Holland as recorded in DB 2289 Pg. 109, Jane Kinley as recorded in DB 1404 Pg. 788, and David Hargett as recorded in DB 3364 Pg. 208 South 35 degrees 45 minutes 34 seconds East for a distance of 599.57 feet to a one-inch bent iron pipe, also a corner of Marilyn Finger, David Hargett, and College Park subdivision as recorded in PB 27 Pg. 50; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 35 degrees 41 minutes 28 seconds East for a distance of 294.83 feet to an EIP, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision North 82 degrees 17 minutes 14 seconds West for a distance of 107.78 feet to a nail at a 0.75-inch pipe, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 00 degrees 35 minutes 09 seconds West for a distance of 701.92 feet to a EIP, also a corner of Marilyn Finger and College Park subdivision; THENCE continuing with the common line of Marilyn Finger and College Park subdivision South 00 degrees 24 minutes 55 seconds West for a distance of 115.79 feet to an EIP, also a corner of Marilyn Finger, College Park subdivision, and Robert Finger as recorded in DB 752 Pg. 349, DB 2781 Pg. 828, DB 2393 Pg. 113; THENCE continuing with the common line of College Park subdivision and Robert Finger South 73 degrees 39 minutes 22 seconds East for a distance of 93.24 feet to a EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger South 73 degrees 39 minutes 22 seconds East for a distance of 85.81 feet to a EIP, also a corner of College Park subdivision and

Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger South 14 degrees 21 minutes 06 seconds East for a distance of 173.53 feet to an EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of College Park subdivision and Robert Finger North 88 degrees 06 minutes 43 seconds East for a distance of 7.87 feet to a EIP, also a corner of College Park subdivision and Robert Finger; THENCE continuing with the common line of Robert Finger South 03 degrees 42 minutes 51 seconds West for a distance of 351.41 feet to a EIP, also a corner of Robert Finger; THENCE continuing with the common line of Robert Finger South 03 degrees 39 minutes 32 seconds West for a distance of 408.71 feet to a EIP, also a corner of Robert Finger and Kay Hermann, William Best, and Thomas Best as recorded in DB2974 Pg. 172; THENCE continuing with the common line of Robert Finger and Kay Hermann, William Best, and Thomas Best South 58 degrees 48 minutes 46 seconds East for a distance of 380.89 feet to a EIP, also a corner of Kay Hermann, William Best, and Thomas Best and John Gibson as recorded in DB 1928 Pg. 751, DB 778 Pg. 164, DB 1936 Pg. 366; THENCE continuing with the common line of Kay Hermann, William Best, and Thomas Best and John Gibson South 58 degrees 36 minutes 33 seconds East for a distance of 371.55 feet to a EIP, also a corner of Kay Hermann, William Best, and Thomas Best, John Gibson, Vernon Clemmer as recorded in DB 838 Pg. 205, and Wilbur Rankin;

THENCE continuing with the common line of Wilbur Rankin and Vernon Clemmer South 58 degrees 55 minutes 50 seconds East for a distance of 104.60 feet to a EIP, also a corner of Wilbur Rankin, Vernon Clemmer, and Ronald Dixon as recorded in DB 1344 Pg. 863, DB 1458 Pg. 858; THENCE continuing with the common line of Wilbur Rankin and Ronald Dixon South 58 degrees 35 minutes 47 seconds East for a distance of 100.00 feet to a EIP, also a corner of Wilbur Rankin and Ronald Dixon; THENCE continuing with the common line of Wilbur Rankin and Ronald Dixon South 58 degrees 36 minutes 16 seconds East for a distance of 160.31 feet to a one-inch iron pipe, also a corner of Wilbur Rankin, Ronald Dixon, and Dean Carpenter;

Said property, oriented to NCGS Grid North NAD 83, contains 354.030 acres more or less as per unrecorded survey plat by John W. Lineberger PLS, dated 13-May-03.

SECTION 2. This act becomes effective June 30, 2003.

SENATE BILL 475:
Dallas Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hoyle
Date:	June 19, 2003	**Summary by:**	Trina Griffin*
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 475 annexes certain described properties into the Town of Dallas in Gaston County.***

CURRENT LAW: Under current law, a city may either annex contiguous property voluntary or involuntarily.

Voluntary Annexations: In order to annex contiguous property under a voluntary annexation, G.S. 160A-31 requires that the owners of all real property located within the proposed annexation area sign a petition requesting the annexation.

Involuntary Annexations: For involuntary annexations by cities with a population of less than 5,000, there are both area requirements and urban purposes requirements the city must meet prior to annexation:

Total Area Requirements

- Contiguity – the total area to be annexed must be contiguous to the municipality at the time annexation proceedings begin
- One-Eighth Requirement – at least 1/8 of the boundary must coincide with the existing city boundary.
- Not Part of Another Municipality – no part of the area to be annexed may be within the boundaries of another incorporated municipality.

Urban Use Requirements. The area to be annexed must be developed for "urban purposes" meaning that:

- Use Test: At least 60 percent of all lots and tracts be in urban uses, including residential, commercial, industrial, institutional or governmental uses; and
- Subdivision Test: At least 60 percent of the total acreage of land that is not being used for urban purposes as set out above be subdivided into lots or tracts of 3 acres or less.

BILL ANALYSIS: Senate Bill 475 annexes certain property into the Town of Dallas. This bill was requested by the Town for an area that is experiencing substantial residential growth. Because every property owner would be required to sign the annexation petition, it would be difficult for the Town to coordinate a mass voluntary annexation of the area. The Town is already providing water and sewer services to the area and in some cases, has provided police and fire responses as well. Also, the proposed annexation area is being developed under the Gaston County Land Development Code; however, the Town has recently adopted a Land Development Code that addresses areas not addressed by the county's code, including road maintenance, water and sewer maintenance, and electrical services. Finally, the Town currently does not meet the urban use requirements for involuntary annexation because many of the parcels of land are not yet developed. Thus, even though the land is slated for development as a subdivision and possibly a charter school, the Town is unable to utilize the statutory procedures for an involuntary annexation.

EFFECTIVE DATE: The bill is effective June 30, 2003.

Mary Shuping, Legislative Analyst, substantially contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 475 A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTIES TO THE TOWN OF DALLAS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 96

Short Title:	Avery County Occupancy Tax.	(Local)
Sponsors:	Representative Frye.	
Referred to:	Finance.	

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5

of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 6. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 96:
Avery County Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	June 5, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 96 creates a taxing district in Avery County that consists of the unincorporated areas of the county and authorizes the district to levy a room occupancy tax of up to 6%. The bill was given a favorable report by the Occupancy Tax Subcommittee.

CURRENT LAW: In 1993, the General Assembly authorized Avery County to levy a 3% occupancy tax. In 2000, the county repealed its occupancy tax, but it still had the legislative authority to levy the tax. Then in 2001, the General Assembly repealed the county's authority to levy the tax. All of the towns in Avery County currently have the authority to levy a 6% room occupancy tax.

BILL ANALYSIS: The bill creates the Avery County District U taxing district, which consists of the unincorporated areas of the county. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. The bill authorizes the district to levy a room occupancy tax of up to 6%. The district must remit the net proceeds of the tax on a quarterly basis to a Tourism Development Authority, which is required to be established under the bill. The Authority must use two-thirds of the net proceeds to promote travel and tourism and the remainder must be used for tourism-related purposes.

The provisions regarding Avery County District U meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 19, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 96 PCS – Avery County Occupancy Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No General Fund Impact ***				
Avery Co. TDA	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Avery County.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes one change to current occupancy taxes. It creates a taxing district, "Avery County District U", and authorizes that district to levy a room occupancy tax of up to 6%.

BACKGROUND: In 1983 the General Assembly authorized Avery County to levy a room occupancy tax of up to 3%. That tax was levied through 1999. In 2000, the local county commission repealed the room tax, and in 2001, the General Assembly repealed that

county's authority to levy an occupancy tax. Independent of these actions, all municipalities in Avery County are authorized to levy a room tax of up to 6%.

ASSUMPTIONS AND METHODOLOGY: The potential fiscal impact relates to Avery County. According to reports filed with the Tax Research Division of The NC Department of Revenue, Avery County municipalities levied and collected the following occupancy taxes in 2001-02:

Municipality	Rate	Revenue
Banner Elk	3%	54,338
Beech Mountain	3%	
Sugar Mountain*	3%	53,896

* Sugar Mountain's occupancy tax became effective January 1, 2002.

In 1999-00 Avery County collected $156,512 in occupancy taxes, using a 3% rate. Growing this forward to a 2001-02 occupancy tax estimate suggests that if a countywide tax were levied in that year it would yield approximately $162,272. However, as the above municipal revenue figures indicate, the vast majority of the revenues were drawn from incorporated areas, suggesting limited revenues from what now would be the Avery County District U. However, no exact fiscal estimate is available at this time.

SOURCES OF DATA: NC Department of Revenue.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 96 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 677

Committee Substitute Favorable 6/23/03

Short Title: Reduce Sales Tax on Funerals. (Public)

Sponsors:

Referred to:

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE SALES AND USE TAX ON FUNERAL EXPENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(18) reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

. . .

(18) Funeral expenses, including coffins and caskets, not to exceed ~~one~~ two thousand five hundred dollars ~~($1,500).~~($2,500). All other funeral expenses, including gross receipts for services rendered, ~~shall be~~are taxable at the general rate of tax set in G.S. 105-164.4. However, "services rendered" ~~shall~~ does not include those services ~~which~~ that have been taxed pursuant to G.S. 105-164.4(4), or ~~to~~ those services performed by any beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family or personal representative of a ~~deceased; and~~deceased. In addition, "funeral expenses" and "services rendered" ~~shall~~ do not include death certificates procured by or at the specific direction of the family or personal representative of a deceased. ~~Where~~ When coffins, ~~caskets~~ caskets, or vaults are purchased direct and a separate charge is paid for services, the provisions of this subdivision ~~shall~~ apply to the total for both."

SECTION 2. This act becomes effective July 1, 2004, and applies to sales made on or after that date.

HOUSE BILL 677

Short Title:	Reduce Sales Tax on Funerals.	(Public)
Sponsors:	Representatives Rayfield; Adams, B. Allen, Barbee, Barnhart, Blackwood, Blust, Bowie, Culp, Cunningham, Daughtridge, Daughtry, Eddins, Farmer-Butterfield, Gillespie, Gulley, Hilton, Howard, Hunter, Jeffus, L. Johnson, Jones, LaRoque, Lewis, McAllister, McCombs, McGee, McHenry, McMahan, Miller, Mitchell, Moore, Parmon, Preston, Ray, Rhodes, Ross, Sauls, Setzer, Sexton, Stam, Starnes, Stiller, Wainwright, Walend, Walker, K. Williams, C. Wilson, G. Wilson, Womble, and Wright.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE SALES AND USE TAX ON FUNERAL EXPENSES.

The General Assembly of North Carolina enacts:

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services, the provisions of this subdivision ~~shall~~ apply to the total for both."

SECTION 2. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1

H. B. No. 677 DATE 6/19/2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Rayfield Howard
)
Sen.)

1 moves to amend the bill on page 2, line 3
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "July 1, 2003" and substituting
4 ~~"October 1, 2003"~~.
5 July 1, 2004
6
7
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SIGNED _____

ADOPTED ✓ by Consent FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 677:
Reduce Sales Tax on Funerals

BILL ANALYSIS

Committee: House Finance
Date: June 18, 2003
Version: 1st Edition

Sponsor: Rep. Rayfield
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: House Bill 677 increases the amount of funeral expenses, including expenses for coffins and caskets, that are exempt from sales tax, effective July 1, 2003.

Under current law, funeral expenses, including coffins and caskets, receive a $1,500 sales tax exemption. This bill would increase the exempt amount from $1,500 to $2,500.

The General Assembly last increased the exemption from $150 to $1,500 in 1985. A sales tax exemption for coffins and caskets has been available since 1939. In 1957, the General Assembly began taxing funeral services and increased the exemption for "funeral expenses" from $100 to $150.

The current exemption for funeral services is directed to a class of goods and services, not to a particular class of retailers. Consequently, each retailer who provides taxable goods and services in respect to a decedent's funeral is entitled to the benefit of the exemption. For example, if a person purchases a vault or grave marker from a vendor as opposed to the funeral director, then the bill from the vendor as well as the bill from the funeral director will each reflect a $1,500 sales tax exemption.

The following charges may also be excluded from taxable receipts provided the charges are separately and accurately identified in the funeral director's records:

- Services that have been taxed under G.S. 105-164.4(a)(4) (laundry and dry-cleaning)
- Services performed by a beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family of the deceased
- Burial permit fees for interment in church cemeteries
- Stone deposits advanced to city and church cemeteries to guarantee the erection of a grave stone within a given time
- Transportation charges by common carriers for transporting the deceased from the place of death to the place of interment
- Honorariums
- Ambulance service in cases of final illness where the bill was not paid prior to death and is subsequently added to the funeral bill
- Cemetery lots
- Cash advances
- Grave opening fees

- Charges for telephone calls to friends and relatives of the deceased for the convenience of and at the request of the family of the deceased when billed separately to the family
- Charges for death certificates procured by the family of the deceased person
- Amounts paid directly to the funeral director by agencies of the federal government except death benefit payments by the Social Security Administration which require authorization of the surviving spouse.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 677 (First Edition)

SHORT TITLE: Reduce Sales Tax on Funerals

SPONSOR(S): Representative Rayfield

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General fund	($2,950,186)	($3,262,799)	($3,307,826)	($3,353,474)	($3,399,752)
Local Governments	($1,638,992)	($1,812,666)	($1,837,681)	($1,863,041)	($1,888,751)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue and Local Governments.

EFFECTIVE DATE: This act becomes effective July 1, 2003 and applies to sales made on or after that date.

BILL SUMMARY: The proposed bill changes the G.S. 105-164.13 (18) by increasing tax-exempt expenses on funeral to $2,500.

ASSUMPTIONS AND METHODOLOGY: Under current law the first $1,500 of funeral expenses are exempt, while the balance is taxed at the general rate of 7%. The National Funeral Directors Association (NFDA) reports that in 2000, the average cost for a burial was $2,832, which is a 3.19% increase from the year 1999. According to the NFDA, this reflects the general trend of annual estimated 3% increase of funeral costs.

The Board of Mortuary Science indicated that in 2001 there were 69,109 burials in North Carolina. At the same time, based on the North Carolina Center for Health Statistics, the absolute number of deaths in North Carolina from 1998 to 2001 had been increasing, on average, by 1.38% annually.

Assuming these rates remain the same, future state sales tax receipts for funerals are expected to be:

	2003-04	*2004-05*	*2005-06*	*2006-07*	*2007-08*
Status Quo					
General Fund	$5,033,527	$5,421,900	$5,830,347	$6,259,824	$6,711,332
Local Governments	$2,796,404	$3,012,166	$3,239,082	$3,477,680	$3,728,518
Revenue Under Proposed Change					
General Fund	$1,815,141	$2,159,101	$2,522,521	$2,906,350	$3,311,580
Local Governments	$1,008,412	$1,199,500	$1,401,401	$1,614,639	$1,839,767
Revenue Gain (Loss)					
General Fund	($3,218,385)	($3,262,799)	($3,307,826)	($3,353,474)	($3,399,752)

Because the bill does not become effective until July 1, 2003, there is no revenue impact until FY 2003-04. The first year estimates are adjusted to account for the July 1, 2003 effective date.

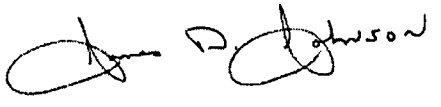
SOURCES OF DATA: National Funeral Directors Association, Board of Mortuary Science, North Carolina Center for Health Statistics.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Alexei Pavlichev and Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: April 30, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 677 A BILL TO BE ENTITLED AN ACT TO REDUCE THE SALES AND USE TAX ON FUNERAL EXPENSES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 1290

Short Title:	Conform Bank Expense Deduction.	(Public)
Sponsors:	Representatives McComas; Luebke and Insko.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO CONFORM STATE INCOME TAX ON BANKS TO FEDERAL INCOME TAX ON BANKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(2a) The portion of a financial institution's interest expense that is allocable to interest income exempt from taxation under this Part. The allocable portion of the interest expense is the portion for which deduction would be disallowed pursuant to section 265(b) of the Code if the interest income exempt from taxation under this Part were earned on tax-exempt obligations as defined in section 265(b) of the Code."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2003, and before January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

HOUSE BILL 1290:
Conform Bank Expense Deduction

BILL ANALYSIS

Committee: House Finance
Date: June 18, 2003
Version: 1st Edition

Sponsor: Rep. McComas
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: House Bill 1290 amends the corporate income tax law to provide that a bank is allowed to deduct interest expenses on tax-exempt income only to the extent it is allowable under federal tax law, effective beginning with the 2003 tax year.

House Bill 1290 would reverse a corporate income tax interpretation allowing corporations engaged in the banking business to deduct interest expenses incurred in producing tax-exempt interest income. Generally, other corporations are not allowed to deduct expenses incurred in producing tax-exempt income.

The North Carolina Corporation Income Tax Act provides in G.S. 105-130.5(a)(2) that interest paid in connection with tax-exempt income is not deductible. The statute makes no specific reference to financial institutions; however, in 1987, the Attorney General's Office issued an opinion interpreting the statute as not applying to corporations engaged in the banking business. Under this interpretation, banks and similar financial institutions are not required to include in taxable income interest expenses paid in connection with State tax-exempt income. One example of such expenses would be interest paid on deposits used to acquire federal obligations, the interest on which is exempt from State income tax.

Federal law formerly allowed the same special treatment to corporations engaged in the banking business but, since 1986, the deduction has been disallowed, with an exception for interest expenses in connection with tax-exempt obligations of qualified "small issuers."[1] This proposal would adopt the federal approach to deduction of interest expenses by corporations engaged in the banking business. Banking corporations would be required to allocate interest expenses between taxable and tax-exempt income based on a formula. Except as provided in the case of small issuers, those interest expenses allocable to exempt income would be includable in State net income; those interest expenses allocable to taxable income would be deductible.

The bill provides that no penalty for underpayment of estimated taxes would be imposed for 2003 tax years to the extent the underpayment was due to this bill.

[1] In general, an obligation is an obligation of a small issuer if, during the year the obligation is issued, the issuer is expected to issue no more than $10 million in obligations.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 12, 2003

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: House Bill 1290-Conform Bank Expense Deduction

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**(See Methodology and Assumptions)**				

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is administered by the Department of Revenue. The enactment of the bill is not expected to affect the budget requirements of the Department.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2003

BILL SUMMARY: Reverses a North Carolina corporate income tax interpretation allowing corporations engage in the banking business to deduct interest expenses incurred in producing tax-exempt interest income. An example would be the interest paid on deposits that are used to purchase federal obligations whose interest payments are exempt from the state income tax.

ASSUMPTIONS AND METHODOLOGY: In past years, the fiscal side of this issue had been reviewed by the Department of Revenue and a consultant used by the General Assembly. A January 15, 2002 memorandum from the Tax Research Division indicates that the annual revenue gain to the General Fund would amount to $12-15 million per year. This estimate was based on an analysis of two year of corporate tax returns of taxpayers subject to the banking privilege license tax.

TECHNICAL CONSIDERATIONS: The Revenue Department has indicated that most of the additional revenue would be paid by a small number of banks and that their investment portfolio decisions could have a major impact on the estimate. In addition, the estimate is subject to changes in the interest rate on federal obligations.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1291
PROPOSED COMMITTEE SUBSTITUTE H1291-CSLC-66 [v.2]

6/5/2003 2:18:22 PM

Short Title: Subsidiary Dividend Tax Changes. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.6A reads as rewritten:

"**§ 105-130.6A. Adjustment for expenses related to dividends.**

(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2.

(b) General Rule. – For corporations other than bank holding companies and electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of the dividends.

(c) Bank Holding Companies. – For bank holding companies the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part must be computed pursuant to guidelines adopted by the Department of Revenue. ~~may not exceed an amount equal to twenty percent (20%) of the dividends.~~

(d) Electric Power Holding Companies. – For electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of its total interest expenses.

~~(e) Cap for Bank Holding Companies. – After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.~~

~~The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.~~

~~If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. 105-241.1(e). The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236.~~

~~(f) Credits for Bank Holding Companies. – If the affiliated group of which a bank holding company is a member is eligible for the reduction provided in subsection~~

~~(e) of this section for a taxable year, the affiliated group is also eligible for a credit equal to two million dollars ($2,000,000). If the affiliated group of which a bank holding company is a member is not eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is eligible for a credit equal to the amount of additional tax that results from its expense adjustments in excess of the amount of additional tax that would result from the expense adjustments if the expense adjustment of any bank holding company in the group were equal to fifteen percent (15%) of the holding company's dividends for that taxable year.~~

~~A credit allowed by this subsection may be taken in four equal, annual installments beginning with the later of the following taxable year or the taxpayer's taxable year beginning in 2003. The members of the affiliated group may allocate a credit allowed by this subsection among themselves in their discretion.~~

(g) Credit for Electric Power Holding Companies. – After calculating the adjustment for expenses related to dividends under G.S. 105-130.5(c)(3), each electric power holding company must calculate the amount of additional tax under this Part that results from the expense adjustment for the taxable year. The electric power holding company is allowed a credit for the following taxable year equal to one-half of this amount of additional tax.

As an alternative to taking this credit against its own tax liability, an electric power holding company may elect to allocate the credit among the members of its affiliated group. In this case, the credit must be taken in four equal installments beginning in the later of the following taxable year or the taxable year for which the taxpayer's final return is due in 2004.

(h) Limitation on ~~Credits. The credits~~Credit. – The credit provided in this section ~~are~~ is allowed against the tax levied in this Part and the franchise tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.

In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.

A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2003, and before

January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1291

Short Title:	Subsidiary Dividend Tax Changes.	(Public)
Sponsors:	Representative McComas.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.6A reads as rewritten:

"**§ 105-130.6A. Adjustment for expenses related to dividends.**

(a) Definitions. – The ~~provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the~~ following definitions apply in this section:

~~(1) Affiliated group. – A group that includes a corporation, all other corporations that are affiliates or subsidiaries of that corporation, and all other corporations that are affiliates or subsidiaries of another corporation in the group.~~

(2) Bank holding company. – A holding company with an affiliate that is subject to the privilege tax on banks levied in G.S. 105-102.3.

(3) Dividends. – Dividends received that are not taxed under this Part.

(4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is subject to the franchise tax on electric power companies levied in G.S. 105-116.

(5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part.

(6) Holding company. – Defined in G.S. 105-120.2.

(b) ~~General~~ Uniform Rule. – ~~For corporations other than bank holding companies and electric power holding companies, the~~The adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part ~~may not exceed an amount equal to fifteen percent (15%) of the dividends.~~must be computed pursuant to guidelines adopted by the Department of Revenue. The guidelines adopted by the Department must

apply equally to bank holding companies, electric power holding companies, and other corporations.

~~(c) Bank Holding Companies. For bank holding companies the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to twenty percent (20%) of the dividends.~~

~~(d) Electric Power Holding Companies. For electric power holding companies, the adjustment under G.S. 105-130.5(c)(3) for expenses related to dividends not taxed under this Part may not exceed an amount equal to fifteen percent (15%) of its total interest expenses.~~

~~(e) Cap for Bank Holding Companies. After calculating the expense adjustment as provided in subsection (c) of this section, each bank holding company must calculate the amount of additional tax that results from the expense adjustments for the holding company and for every corporation in the holding company's affiliated group for the taxable year. If the expense adjustments result in additional tax exceeding eleven million dollars ($11,000,000) for a taxable year for the affiliated group, the affiliated group may reduce the amount of the expense adjustment so that the resulting additional tax does not exceed this maximum. This maximum applies once to each affiliated group each taxable year, whether or not the group includes more than one bank holding company.~~

~~The members of the affiliated group may allocate this reduction among themselves in their discretion. In order to take this reduction, each member of the affiliated group that is required to file a return under this Part and that has dividends for the taxable year must provide a schedule with its return that lists every member of the group that has dividends, the amount of the dividends, and whether the member is a bank holding company. In addition, the schedule must show the expense adjustments for those members whose additional tax as a result of the expense adjustment constitutes the maximum amount. In addition, each member must provide any other documentation required by the Secretary.~~

~~If the expense adjustment for an affiliated group is reduced under this subsection, and the return of a member of the group is later changed in a manner that reduces below the maximum the amount of additional tax for the group resulting from the expense adjustment, the Secretary may increase the expense adjustment for any member of the group in order to increase to the maximum the amount of additional tax for the group resulting from the expense adjustment. In this situation, the amount of the increase is considered a forfeited tax benefit with respect to the affiliated group for the purposes of G.S. 105-241.1(e). The date of the forfeiture is the date of the change that triggers the Secretary's authority to increase the expense adjustment. Any member whose expense adjustment the Secretary increases is liable for interest on the amount of the increase at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the expense adjustment had been calculated correctly on the original return. The amount of the increase and the interest are due 60 days after the date of the forfeiture. A taxpayer that fails to pay the amount of the increase and interest by the due date is subject to the penalties provided in G.S. 105-236.~~

~~(f) Credits for Bank Holding Companies. If the affiliated group of which a bank holding company is a member is eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is also eligible for a credit equal to two million dollars ($2,000,000). If the affiliated group of which a bank holding company is a member is not eligible for the reduction provided in subsection (e) of this section for a taxable year, the affiliated group is eligible for a credit equal to the amount of additional tax that results from its expense adjustments in excess of the amount of additional tax that would result from the expense adjustments if the expense adjustment of any bank holding company in the group were equal to fifteen percent (15%) of the holding company's dividends for that taxable year.~~

~~A credit allowed by this subsection may be taken in four equal, annual installments beginning with the later of the following taxable year or the taxpayer's taxable year beginning in 2003. The members of the affiliated group may allocate a credit allowed by this subsection among themselves in their discretion.~~

~~(g) Credit for Electric Power Holding Companies. After calculating the adjustment for expenses related to dividends under G.S. 105-130.5(c)(3), each electric power holding company must calculate the amount of additional tax under this Part that results from the expense adjustment for the taxable year. The electric power holding company is allowed a credit for the following taxable year equal to one-half of this amount of additional tax.~~

~~As an alternative to taking this credit against its own tax liability, an electric power holding company may elect to allocate the credit among the members of its affiliated group. In this case, the credit must be taken in four equal installments beginning in the later of the following taxable year or the taxable year for which the taxpayer's final return is due in 2004.~~

~~(h) Limitation on Credits. The credits provided in this section are allowed against the tax levied in this Part and the franchise tax levied in Article 3 of this Chapter. A taxpayer may claim a credit against only one of the taxes against which it is allowed. Each taxpayer must elect the tax against which the credit will be taken when filing the return on which the first installment of the credit is claimed. This election is binding. All installments and carryforwards of the credit must be taken against the same tax.~~

~~In order for a member of an affiliated group to take a credit, each member of the affiliated group that is required to file a return under this Part or under Article 3 of this Chapter must attach a schedule to its return that shows for every member of the group the amount of the credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In addition, each member must provide any other documentation required by the Secretary.~~

~~A credit allowed in this section may not exceed the amount of tax against which it is taken for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to succeeding taxable years.~~"

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2003. Notwithstanding G.S. 105-163.41, no addition to tax may be made

under that statute for a taxable year beginning on or after January 1, 2003, and before January 1, 2004, with respect to an underpayment of corporation tax to the extent the underpayment was created or increased by this act.

HOUSE BILL 1291 (PCS): Subsidiary Dividend Tax Changes

BILL ANALYSIS

Committee: House Finance
Date: June 18, 2003
Version: Draft

Sponsor: Rep. McComas
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Repeals the part of the 2002 legislation on dividend deductions that applies to bank holding companies, effective beginning with the 2003 tax year.

The proposed committee substitute for House Bill 1291 repeals part of legislation that was enacted in 2002 governing the corporate income tax treatment of deductible dividends. The 2002 law limited the amount of expenses that taxpayers must attribute to their deductible dividends, using caps and credits. The part of the 2002 law that this bill repeals is the part that applies to bank holding companies. As a result, bank holding companies will be governed by the 2001 law, which requires expense attribution without caps or credits. Other corporations will continue to be governed by the 2002 law.

This change becomes effective beginning with the 2003 tax year. The bill provides that no penalty for underpayment of estimated taxes would be imposed for 2003 tax years to the extent the underpayment was due to this bill.

Below is a summary of the 2001 and 2002 laws. The shaded portions of the 2002 law are the portions that this bill would repeal.

2001 Legislation: In 2001, the General Assembly enacted legislation conforming State law to the federal rules for the deduction of dividends received. This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction. Eliminating the adjustments also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income. As a result, expenses related to deductible dividends must be netted from those dividends.[1] The law did not provide guidelines for calculating the amount of expenses that are related to deductible dividends.

2002 Legislation: In 2002, the General Assembly enacted legislation to provide limits on the additional tax liability that a corporation would experience as a result of the 2001 legislation. The act stated the intent of the General Assembly that it would be effective during 2001 and 2002 but would be studied and might be revised effective beginning with the 2003 tax year. The study did not take place, however.

[1] North Carolina has an exception to its general law when federal and State laws differ regarding the taxability of an income item. Prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with deductible dividends earned from subsidiaries. The 2001 tax law change effectively eliminated the deduction of expenses associated with subsidiary dividends.

The 2002 legislation limited tax liability as follows:

- Placed the following caps on the amount of related expenses that must be netted from deductible dividends:
  - Most companies: 15% of dividends
  - Bank holding companies: 20% of dividends
  - Electric power holding companies: 15% of total interest expenses
- Limited the additional tax that a bank holding company and its related companies must pay as a result of the expense netting to a maximum of $11 million per corporate family.
- Provided a credit to bank holding company corporate families beginning in 2003. For bank corporate families that reach the $11 million maximum, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.
- Provided a credit to electric power holding companies in an amount equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If the electric power company makes this election, then the credit is spread out over four tax years, beginning in 2003.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 11, 2003

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: HB 1291 (Proposed Committee Substitute) – Subsidiary Dividend Tax Changes

---

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07
REVENUES	"See Assumptions and Methodology"				

PRINCIPAL DEPARTMENTS AFFECTED: The corporate income tax is collected by the Department of Revenue. The enactment of the bill will not affect the department's budget requirements.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2003.

ISSUE HISTORY:

2001 Legislation. The 2001 General Assembly adopted legislation conforming state law to the federal rules for the deduction of dividends received. This would apply, for example, to dividends received by a holding company from its subsidiaries. The 2001 change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction.

North Carolina has a general law that disallows the deduction of expenses incurred in earning income that is not taxable. However, there is an **exception to the rule** in cases where the federal and state laws differ regarding the taxability of an income item. Thus, prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with income earned from subsidiaries.

The 2001 session adoption of federal rules governing the deductibility of dividends effectively eliminated the deduction of expenses associated with subsidiary dividends. This meant that related expenses would have to be netted against the dividends that are deducted.

After the 2001 act was adopted, the Department of Revenue developed rules that companies could use to determine which expenses were associated with the deductible income. Since that time there has been much discussion about whether the Department's rules accurately attribute expenses incurred.

2002 Legislation. During the last session a bill was adopted to clarify the expense attribution rules and limit the indirect impact of the 2001 change on expense deductibility. Under the 2002 legislation, the new rules will be in effect for the 2001 and 2002 tax years. For future years, the bill stated the intent that the issue be studied during the interim and might be revised for the 2003 tax year. However, the study did not take place.

The new expense attribution rules are as follows:

1. The amount of related expenses that must be netted from deductible dividends is capped as follows:
   - Most companies — 15% of dividends
   - Bank holding companies — 20% of dividends
   - Electric power holding companies — 15% of total interest expenses

2. The additional tax that a bank holding company and its related companies must pay as a result of the expense netting is subject to a maximum of $11 million per corporate family.

3. Bank holding company corporate families receive a tax credit beginning in 2003. For bank corporate families that reach the $11 million cap, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.

Electric power holding companies receive a credit equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If this election is made, the credit is spread over four tax years, beginning in 2003.

BILL SUMMARY: Repeals the language in the 2002 legislation that limits the amount of additional tax liability for bank holding companies affected by the expense attribution change that resulted from the 2001 session legislation conforming State law to the federal rules for the deduction of dividends received.

METHODOLOGY: The subsidiary dividend legislation is very complex and requires a review of confidential tax return data and discussions with major taxpayers. For these reasons this analysis has been carried out by the research staff of the Department of Revenue during the last few years.

During the 2002 session analysis, the Department examined 2000 tax returns from a group of selected large corporations and a sample of several hundred smaller corporations. In addition, Department personnel have had conversations with affected parties. Finally, Fiscal Research was involved in numerous meetings on the issue with the Department of Revenue and the affected parties.

Shown below is a comparison of the General Fund revenue anticipated under the original 2001 bill, the 2002 re-estimate that was discussed in the process of adjusting the 2002-03 General Fund budget, and the 2002 legislation:

Additional General Fund Revenue ($Mil.)				
	01-02	02-03	03-04	04-05
2001 Legislation	30.8	32.3	33.6	34.5
2002 Re-Estimate*	30.8	82.3	83.6	84.5
2002 Legislation	30.8	82.7	61.8	64.9
*The actual impact per calendar year could be $120 million or more but is heavily dependent of the compliance of taxpayers affected by the 2001 change. The amount shown is the figure that was discussed during the 2002-03 budget deliberations.				

The enactment of the bill would take the subsidiary dividend issue back to the status prior to the 2002 legislation. According to 2002 session discussions with the Department of Revenue, the 2001 changes, coupled with the Department's rules implementing the changes, could lead to additional annual revenue from the 2001 change of up to $120 million. This amount would be almost $60 million higher than the current law estimate. The actual revenue gain from this legislation depends on the ability of the Department to collect the tax from large taxpayers who in the past have protested the Department's expense attribution rules implementing the 2001 legislation. The experience prior to the 2002 change indicated that many of these affected taxpayers were not remitting the tax due under the Department's rules.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1303
PROPOSED COMMITTEE SUBSTITUTE H1303-CSLA-33 [v.2]

6/18/2003 3:33:34 PM

Short Title: Nonprofits Exempt From Admissions Tax. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-40 is amended by adding a new subdivision to read:

"(6a) A youth athletic contest with an admissions price that does not exceed five dollars ($5.00) sponsored by a person exempt from income tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest means a contest in which each participating athlete is less than 19 years of age."

SECTION 2. This act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1303

Short Title:	Nonprofits Exempt From Admissions Tax.	(Public)
Sponsors:	Representatives Starnes; and Frye.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-40 is amended by adding a new subdivision to read:

"(6a) A youth athletic contest with an admissions price that does not exceed five dollars ($5.00) sponsored by a person exempt from income tax under Article 4 of this Chapter."

SECTION 2. This act becomes effective July 1, 2003.

HOUSE BILL 1303:
Nonprofits Exempt From Admissions Tax

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Starnes
Date:	June 8, 2003	**Analysis by:**	Martha Walston
Version:	CSLA-33		Committee Counsel

SUMMARY: House Bill 1303 would exempt the following amusement from the 3% privilege tax on gross receipts: a youth athletic contest with an admission price that does not exceed $5.00 and that is sponsored by a person exempt from income tax.

The proposed committee substitute defines "youth athletic contest" as a contest in which each participating athlete is less than 19 years of age.

CURRENT LAW: Under the current revenue laws, certain amusements are exempt from the 3% privilege tax that is imposed on the gross receipts of the activity. Included among the exempt amusements are all elementary and secondary school athletic contests.

BILL ANALYSIS: House Bill 1303 would also exempt from the privilege tax the gross receipts collected on an athletic contest when that contest meets the following conditions:

- The athletes participating in the contest are less than nineteen years of age.
- The admissions price does not exceed $5.00
- The sponsor of the contest is exempt from North Carolina income tax.

The act becomes effective July 1, 2003.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 19, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 1303 – PCS – Nonprofits Exempt from Admissions Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue.

EFFECTIVE DATE: July 1, 2003.

BILL SUMMARY: The bill exempts from the 3% gross receipts tax on amusements the gross receipts from youth athletic contests that meet the following criteria: 1) the athletes participating are all less than 19 years old, 2) the admission price is $5.00 or less, and 3) the sponsor of the contest is exempt from North Carolina income tax.

ASSUMPTIONS AND METHODOLOGY: Currently state high school championships and the national high school track events are exempt pursuant to GS 105-40(5). The legislation does not affect these events. However, Fiscal Research and the Department of Revenue believe the following list of events would currently be taxable, and exempted under

the legislation, if an admission fee in excess of 50 cents is charged (GS 105-37.1) unless they meet the exception in GS 105-40(6), which exempts the first $1,000 of gross receipts if the events are promoted and managed by a civic organization and the entire proceeds are used for civic and charitable purposes and not to defray the organization's expenses.

American Legion Baseball
PONY softball tournaments
Pop Warner football championships
Babe Ruth League championships
AAU events
Junior Olympics
Special Olympics
CASL special tournaments

The Department of Revenue indicates that in 2001-02 approximately $9.6 million was collected, in total, from the gross receipts tax on amusements. To date approximately $7.8 million has been collected in 2002-03, which excludes at least one month of ticket sales. The also indicate that in the most recent filing period approximately 450 different organization paid the gross receipts tax. However, the Department is unable to determine how many of those 450 organizations would indeed be exempt under the legislation, although the number is expected to be relatively small. In addition, the Department of Revenue is not certain that all the potentially impacted organizations are currently paying the tax owed. Therefore, no exact fiscal estimate is possible.

It should be noted if 1,000,000 tickets sold at the maximum rate were sold, the total revenue to the state would be $150,000 under current law. That same amount would be lost under the legislation.

SOURCES OF DATA: NC Department of Revenue

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1303 A BILL TO BE ENTITLED AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

House Committee on Finance

Minutes

~

June 24, 2003

The House Committee on Finance met on Tuesday, June 24, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, Gerry Cohen, Linda Millsaps, Alexi Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:33 am and proceeded to recognize the five (5) pages present: (1) Justin Edelman of Cumberland County, sponsored by Representative Glazier; (2) Jake Hollifield of Haywood County, sponsored by Representative Rapp; (3) Robert Jansen of Gaston County, sponsored by Representative Clary; (4) Shannon Savage of Cleveland Country, sponsored by Representative Clary; and (5) Cameron Young of Lincoln County, sponsored by Representative Kiser.

As the first matter of business, Chairman McComas called upon Senator Kerr to explain **SB 705 – UNC-NONAPPROPRIATED CAPITAL FUNDS** (see attachment 3). The Senator explained that the bill allows for projects inside of the University System to be completed using funds that are donated (or through bonds, lease financing, etc.). These funds are **not** appropriated through the General Fund. Following this explanation, Chairman McComas recognized Representative Hill who moved for a favorable report. Hearing no further questions, the Chair then called the vote and the motion carried without objection.

The Chairman again recognized Senator Kerr to explain his next bill: **SB 939 – EXTEND TRS SURCHARGE TO WIRELESS CONNECTIONS** (see attachment 4). He explained that the bill would enact a surcharge on wireless phone lines that would provide further access to the statewide "telecommunications relay service" (TRS) used by those North Carolinians who are hearing and visually impaired. Deputy Secretary to the North Carolina Department of Health and Human Services, Lanier Cansler, was present to address the Committee. He was recognized by the Chair and explained that the charge enacted by this bill is needed because the number of people in the state requiring the use of the TRS service is increasing and, thus, so are the costs. Representative Ellis was then recognized and asked if since the current TRS surcharge on a phone line was only 11 cents but could be raised to 25 cents per line, then could that 11-cent fee also be lowered if the total fees collected were not being used. Following this, Chairman McComas ruled to temporarily displace the bill from the Committee's consideration.

SB 89 – LAKE LURE MARINE COMMISSION (see attachment 5), sponsored by Senator Dalton, was the next bill up for consideration by the Committee. Senator Dalton briefly

explained that the bill authorized the Town of Lake Lure to create, by ordinance, the Lake Lure Marine Commission. Seeing questions from the members, Chairman McComas recognized Representative Carney who moved for a favorable report on SB 89. The Chair then called the motion to a vote and the motion carried without dissent.

Chairman McComas then replaced **SB 939 – EXTEND TRS SURCHARGE TO WIRELESS CONNECTIONS** (see attachment 4) before the Committee. Representative Ross was recognized and moved that the bill receive a favorable report (seconded by Alexander). Some discussion among the members then arose. Following this, the Chair called the motion for a favorable report and the motion carried by consent.

Senator Hartsell was present and was recognized by the Chair to explain the next bill before the Committee: **SB 529 – WATER & SEWER AUTHORITY SETOFF** (see attachment 6). The Senator explained that the bill would add Water and Sewer Authorities to the list of local governments allowed to submit debts to the Department of Revenue for collection under the Setoff Debt Collection Act. Chairman McComas then recognized Representative G. Allen who made a motion of favorable report. The motion carried by consent.

SB 497 – REVISE AND CONSOLIDATE MT. AIRY CHARTER (see attachment 7), sponsored by Senator Garwood, was then considered. As the bill had a Proposed Committee Substitute (PCS), Representative Alexander moved that the PCS be adopted for the purposes of discussion. The motion carried without objection. Senator Garwood was then recognized by Chairman McComas and explained that the bill had already been given a favorable report by the House Finance Subcommittee on Occupancy Taxes. Staff then provided a brief description of the bill's contents. Senator Garwood also noted that the proposed purpose for the increased occupancy tax was for the construction of additional public restrooms in the downtown area of Mt. Airy (a.k.a. Mayberry). Seeing no further questions, Chairman McComas recognized Representative Luebke who moved that the PCS for SB 497 receive a favorable report and that the original bill be reported unfavorably. The motion carried with no known objection.

Senator Berger was then recognized to explain **SB 408 – EDEN ANNEXATION CONTRACTS** (see attachment 8). The Senator explained that this bill was requested by the City of Eden to extend authority granted to it in 1993 to enter into contract in lieu of annexation. He noted that there were similar contracts in place with numerous other municipalities in the state and referred members to the Bill Analysis (see attachment 8) for further details. Representative Lewis was then recognized by the Chairman and moved for a favorable report on SB 408. Seeing no further discussion from the members, the Chair called the vote and the motion carried by consent.

Chairman McComas then recognized Representatives Stiller and Hill to explain **HB 757 – OAK ISLAND/ST. JAMES ANNEXATIONS** (see attachment 9). Representative Stiller explained that the bill simply allows the Town of Oak Island (in his district) and the Town of St. James (in Representative Hill's district) to obtain properties outside of their respective municipal boundaries that would be otherwise exempt. Representative Hill was then recognized and moved for a favorable report to the bill. As there were no comments or questions, the Chair called the vote and the motion carried without objection.

As the final matter of business before the Committee, Chairman McComas recognized Representative Tolson for the continued discussion of **HB 806 – REBATE AND GRANT**

PROGRAM FOR AFVs (see attachment 10). Representative Luebke was recognized and moved the adoption of the most current PCS for the purposes of discussion. The motion carried without objection. Representative Tolson then reviewed the purpose of the bill, stating that it would allow the state to move forward in the arena of alternative fuels. Chairman McComas then recognized members of the public who desired to address the Committee. Ms. Anne Tazwell with the Triangle J Council on Governments' "Clean Cities Croup" spoke in support of the bill, noting that the use of alternative fuels would help to address the increasing air quality problems of the state. Mr. Tom Bean with North Carolina Environmental Defense also spoke in favor of the bill. The Chair then recognized Representative Hackney, who also voiced his support of the bill and moved for a favorable report as to the PCS for HB 806, unfavorable as to the original bill. Representative Starnes was then recognized and asked why the proposed rebate in the bill applied to new car purchases only. Representative Tolson explained that this provision was put in place as a starting point for an AFV program, and that if/when the program substantially grew, these rebate benefits could be extended to used cars as well. Chairman McComas then recognized Representative Wainwright who asked what the amount of the proposed AFV rebate would be. Representative Tolson explained that the rebate would be offered on a graduated scale: the more the AFV costs, the higher the rebate amount. Representative Wilson was recognized next to send forth and move the adoption of an amendment. She explained that her amendment would not allow rebates to be granted on certain AFV purchases, which would result in increased emissions of nitrous oxides or increased production of ozone. A great deal of discussion arose from this amendment and when the Chair called the issue to a vote, the amendment failed: 13 ayes to 14 nays. Representative Ellis was then recognized to send forth another amendment. He explained that the amendment acted to make the AFV fee and rebate voluntary and to raise that fee from $1.00 to $2.00. Saying that it would basically "kill the bill," Representative Tolson strongly opposed the amendment, as did Representative Hackney. Representative Rayfield was recognized next and inquired to Ms Tazwell as to the number of AFVs that had already been purchased in North Carolina. That information, however, was unavailable at the time. Representative Rayfield then further stated that if there were only a small number of AFVs in the state, everyone should not be forced to pay increased fees for only a few citizens benefiting from the rebates. He then offered his support to Representative Ellis' amendment.

As the Committee's time had then expired, Chairman McComas acted to displace HB 806 once again and immediately adjourned the meeting at 9:58 am.

Respectfully submitted,

Danny McComas

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 705 (and related materials)
4. Senate Bill 939 (and related materials)
5. Senate Bill 89 (and related materials)
6. Senate Bill 529 (and related materials)
7. Senate Bill 497 (and related materials)
8. Senate Bill 408 (and related materials)
9. House Bill 757 (and related materials)
10. House Bill 806 (and related materials)

AGENDA

ATTACHMENT 1

House Finance Committee

June 24, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 757 **OAK ISLAND/ST. JAMES ANNEXATIONS** *Reps. Stiller and Hill*

HB 806 **REBATE AND GRANT PROGRAM FOR AFVs** *Rep. Tolson*

SB 89 **LAKE LURE MARINE COMMISSION** *Sen. Dalton*

SB 408 **EDEN ANNEXATION CONTRACTS** *Sen. Berger*

SB 497 **REVISE AND CONSOLIDATE MT. AIRY CHARTER** *Sen. Garwood*

SB 529 **WATER & SEWER AUTHORITY SETOFF** *Sen. Hartsell*

SB 705 **UNC – NONAPPROPRIATED CAPITAL PROJECTS** *Sen. Kerr*

SB 939 **EXTEND TRS SURCHARGE TO WIRELESS CONNECTIONS** *Sen. Kerr*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 19, 2003 5:19 PM
Subject: CORRECTED NOTICE House Finance Committee 6-24-2003
Importance: High

CORRECTED NOTICE:
HB 1293 – REMOVED FROM CALENDAR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 24, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 757 – OAK ISLAND/ST. JAMES ANNEXATIONS – Reps. Stiller and Hill

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

~~**HB 1293 – LOCAL OPTION PROJECT DEVELOPMENT FINANCING – Rep. Miner**~~

SB 89 – LAKE LURE MARINE COMMISSION – Sen. Dalton

SB 408 – EDEN ANNEXATION CONTRACTS – Sen. Berger

SB 497 – REVISE AND CONSOLIDATE MT. AIRY CHARTER – Sen. Garwood

SB 529 – WATER & SEWER AUTHORITY SETOFF – Sen. Hartsell

SB 705 – UNC – NONAPPROPRIATED CAPITAL PROJECTS – Sen. Kerr

SB 939 – EXTEND TRS SURCHARGE TO WIRELESS CONNECTIONS – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **5:20 P.M.** on

6/19/2003

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, June 19, 2003 5:13 PM
Subject: NOTICE House Finance Committee 6-24-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 24, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 757 – OAK ISLAND/ST. JAMES ANNEXATIONS – Reps. Stiller and Hill

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 1293 – LOCAL OPTION PROJECT DEVELOPMENT FINANCING– Rep. Miner

SB 89 – LAKE LURE MARINE COMMISSION – Sen. Dalton

SB 408 – EDEN ANNEXATION CONTRACTS – Sen. Berger

SB 497 – REVISE AND CONSOLIDATE MT. AIRY CHARTER – Sen. Garwood

SB 529 – WATER & SEWER AUTHORITY SETOFF – Sen. Hartsell

SB 705 – UNC – NONAPPROPRIATED CAPITAL PROJECTS – Sen. Kerr

SB 939 – EXTEND TRS SURCHARGE TO WIRELESS CONNECTIONS – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **5:15 P.M.** on **June 19, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
McNeil Chestnut	Spec. Dep. AG for the Comm BKs
Diane Johnson	DMV
Sharon Matthews	DOT/DMV
Adele Foschia	Easter Seals - Coalition 2001
Brad Dixon	specialist
Wes Gray	industrialist
Stella McKenney	NC DHHS
John Mathews	GOV OFFICE
John O'Hale	Gov's Office
Anne Winner	[illegible]
Lou Rubert	CYPC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Strond	State Energy Office
Tobin Freid	TJCOG
Anne Tazewell	TJCOG
[signature]	UNC
Dwayne Pinkney	UNC
[signature]	U.N.C
Ernestine Dorhman	Executive Intern - FLP / Rep. Gibson
DAVID BARNES	Poyner + Spruill
Julie Allen	NC Statewatch
John Bowdish	AstraZeneca
Mark Fleming	University System

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 705*
Second Edition Engrossed 6/9/03

Short Title:	UNC - Nonappropriated Capital Projects.	(Public)
Sponsors:	Senator Kerr.	
Referred to:	Finance.	

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina, of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Sections 1 and 6 of this act are as follows:

1	Appalachian State University	
	Athletic Facilities	35,800,000
	400-Space Parking Deck	5,000,000
2	East Carolina University	
	College Hill Residence Halls - Phase I	35,000,000
	Renovation of Clement, Greene, and White Residence Halls	4,950,000
3	North Carolina A&T State University	
	Renovation of the Memorial Student Union	2,700,000
4	North Carolina Central University	
	500-Space Parking Deck	5,000,000

5	North Carolina State University	
	Renovation of Berry, Becton, and	
	Bagwell Residence Halls	10,000,000
	E.S. King Village Community Center	2,000,000
	Student Fitness Center	12,000,000
	Partners V Building	18,000,000
	Renovations to Thompson Theatre,	
	Talley, Witherspoon and Price Music Center	6,000,000
	Derr Track, Softball, and Soccer Complex	1,000,000
	Renovations to Reynolds Coliseum	5,000,000
6	The University of North Carolina at Chapel Hill	
	Rizzo Center - Expansion	18,000,000
	McColl Building Addition	18,000,000
	Botanical Garden Visitor Education Center	6,000,000
	Ackland Art Museum - Expansion	16,000,000
	Printing Services	3,500,000
	ITS Building	12,300,000
	YMCA Renovation	3,500,000
	Student Family Housing	30,000,000
	Cobb Residence Hall - Renovation	9,884,000
	Parking Facilities	19,200,000
	Major Infrastructure Improvements	
	& Waste Remediation	52,000,000
7	University of North Carolina at Charlotte	
	Student Union	39,700,000
	Baseball Stadium Improvements	3,000,000
8	University of North Carolina at Greensboro	
	Exercise Track	1,000,000
	Ragsdale/Mendenhall, and	
	Weil/Winfeld Residence Halls - Renovations	3,300,000
	Elliot University Center Library Connector	1,500,000
	Gove Health Center	8,500,000
	Softball Field	3,000,000
9	Western Carolina University	
	New Student Residence Hall	13,161,000
	Residence Hall Renovation	10,264,700
	Parking Deck - 500 Spaces	6,250,000
	Dodson Cafeteria Renovation	4,927,400
	Softball Field and Stadium	2,320,000

SECTION 3. The capital improvements projects, and their respective costs, authorized by this act to be financed as provided in Section 1 and Section 5 of this act, are as follows:

1	The University of North Carolina at Chapel Hill	
	Burnett-Womack Building	7,395,000
	Beard Hall Renovations	2,394,000
	Science Complex, Phase I	8,854,000
	Manning Steam Plant	13,212,360
	Global and International Studies Facility	5,000,000
	Cogeneration-Turbine Improvements	24,000,000
2	The University of North Carolina at Pembroke	
	Auxiliary Services Building	1,500,000
	Improvements to Recreational, Athletic, and Physical Education Facilities	600,000

SECTION 4. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 5. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Sections 2 and 3 of this act plus fifteen million dollars ($15,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

SECTION 6. With respect to three projects at the University of North Carolina at Chapel Hill, the Rizzo Center Expansion, the Ackland Art Museum Expansion, and Student Family Housing, the institution may accomplish construction and financing through lease arrangements to and from nonprofit corporations as follows:

1. Rizzo Center through lease with the Kenan-Flagler Business School Foundation.
2. Ackland Art Museum through lease with the University of North Carolina at Chapel Hill Foundation, Inc.
3. Student Family Housing through lease with the University of North Carolina at Chapel Hill Foundation, Inc.

SECTION 7. This act is effective when it becomes law.

SENATE BILL 705:
UNC - Nonappropriated Capital Projects

BILL ANALYSIS

Committee: House Finance
Date: June 24, 2002
Version: 2nd Edition

Introduced by: Sen. Kerr
Summary by: Cindy Avrette
Staff Attorneys

SUMMARY: Senate Bill 705 authorizes the construction of numerous projects by The University of North Carolina. The projects will be financed through revenue bonds and special obligation bonds, not appropriations from the General Fund. It also authorizes the construction and financing of three capital projects at UNC-Chapel Hill through lease arrangements with nonprofit corporations.

CURRENT LAW: There are two types of self-liquidating bonds that may be issued by the Board of Governors of the University of North Carolina. Article 21 of Chapter 116 of the General Statutes authorizes the Board of Governors to issue revenue bonds for the types of projects enumerated in the article. The types of projects for which revenue bonds may be issued include educational buildings, dormitories, recreational facilities, dining facilities, student centers, health care buildings, parking decks, etc. The revenue bonds are payable from rentals, charges, fees, and other revenues generated by the facility. The bonds are not payable from tax revenues.

Article 3 of Chapter 116D of the General Statutes authorizes the Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The bonds are not payable from tax revenues.

BILL ANALYSIS: **Section 1** of the bill states the purpose of the act is to authorize the construction and financing of the capital improvements projects at various constituent institutions of The University of North Carolina. The projects authorized by the bill would not be financed with funds appropriated from the State's General Fund; but may be financed with gifts, grants, receipts, self-liquidating indebtedness, other funds available to the constituent institutions, or a combination of any of those financing methods.

Section 2 sets out the self-liquidating projects the Board of Governors plans to finance with revenue bonds. Although the UNC revenue bond act in Chapter 116 does not require the enactment of an appropriation bill, the customary practice for UNC system revenue bond issues has been legislation that lists the specific projects to be financed and their costs.

Section 3 sets out eight additional capital improvements projects and authorizes the financing of the costs of those projects with revenue and/or special obligation bonds. The eight projects set out in this section were previously authorized for construction in S.L. 2000-3 as part of the

earlier general obligation bond program. This bill would allow the projects to also be financed with special obligation bond proceeds.

Section 4 authorizes the Director of the Budget, at the request of the Board of Governors, to authorize cost increases or decreases, or changes in the method of financing for the projects authorized by the bill. The Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations, but consultation is not required.

The UNC special obligation bond act requires that the specific projects and their costs be set forth in legislation approved by the General Assembly and that the maximum amount of special obligation bonds to be issued to finance the specific projects listed be stated. **Sections 2 and 3** set forth the specific projects and their costs. **Section 5** expressly states that the maximum principal amount of special obligation bonds to be issued shall not exceed the amounts listed in Sections 2 and 3 plus $15 million for related additional costs for which bond proceeds are routinely used, such as issuance expenses, funding of reserve funds, and capitalized interest.

Section 6 authorizes the financing of three projects at UNC-Chapel Hill through lease arrangements with nonprofit corporations. Over the years, the University system has used lease arrangements with nonprofit corporations to construct facilities necessary to academic life, student support services, physical education and recreation, athletics, and other programs when the facilities are financed by major gifts. The process followed by the State is as follows:

- The State, following guidelines established by the Department of Administration and with Council of State approval, leases land to the nonprofit corporation for the period of time required for the construction of the facility.
- The nonprofit corporation, after review and approval of construction plans by the State Construction Office, builds the facility. All the projects are subject to the Department of Insurance review to ensure that they meet State Building Code requirements.
- When construction is completed and the facility has been deemed acceptable to the State, the lease expires and the land returns to the State's control, along with the newly constructed facility.

The difference between the three projects named in **Section 6** of the bill and the other projects constructed in this manner is that the bill authorizes the University to issue long-term debt as a means of financing the indebtedness. The three projects named in this section are the Rizzo Center, the Ackland Art Museum, and Student Family Housing.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 705 (First Edition)

SHORT TITLE: UNC - Nonappropriated Capital Projects

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
EXPENDITURES					
GENERAL FUND		$247,992	$482,432	$506,554	$531,882
POSITIONS: (cumulative)		12	12	12	12

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina General Administration

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the construction and financing, without appropriations from the General Fund, of capital improvement projects of the constituent institutions of the University of North Carolina.

ASSUMPTIONS AND METHODOLOGY: The charts on the following pages were compiled with the assistance of the Associate Vice President for Finance for the UNC Office of the President. The charts show the cost to construct and operate the proposed campus buildings and the source of funds for each facility. The University expects no increase in operating costs for renovations or for athletic facility improvement. The Rizzo Center Expansion and the McColl Building Addition at UNC-Chapel Hill are the only two projects that require General Fund appropriations for building operations. The effect of the bond debt on students is also shown.

Section 2						
Campus	**Project**	**Amount**	**Source of Funds**	**Effect of Debt on Students**	**Increase in Annual Operating Costs**	**Source of Operating Costs**
Appalachian State University	Athletic Facilities	$35,800,000	Debt Service Fee	$75/ yr.	$341,585	Athletic Receipts
	400-Space Parking Deck	$5,000,000	Parking Receipts		$385,910	Parking Receipts
East Carolina University	College Hill Residence Halls – Phase I	$35,000,000	Housing Receipts		$1,964,664	Housing Receipts
	Renovation of Clement, Greene, and White Residence Halls	$4,950,000	Housing Receipts		No increase	
North Carolina A&T State University	Renovation of the Memorial Student Union	$2,700,000	Debt Service Fee	$35/yr.	No increase	
North Carolina Central University	500-Space Parking Deck	$5,000,000	Parking Receipts		$320,153	Parking Receipts
North Carolina State University	Renovation of Berry, Becton and Bagwell Residence Halls	$10,000,000	Housing Receipts		No increase	
	E.S. King Village Community Center	$2,000,000	Housing Receipts		$47,031	Housing Receipts
	Student Fitness Center	$12,000,000	Debt Service Fee	$43/yr.	$447,595	Student Fee
	Partners V Building	$18,000,000	Rental Receipts		$1,001,811	Receipts
	Renovations to Thompson Theatre, Talley, Witherspoon and Price Music Center	$6,000,000	Debt Service Fee		No increase	
	Derr Track, Softball and Soccer Complex	$1,000,000	Athletic Receipts		No increase	
	Renovations to Reynolds Coliseum	$5,000,000	Athletic Receipts		No increase	

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
The University of North Carolina at Chapel Hill	Rizzo Center – Expansion	$18,000,000	Center Revenue		$558,279	General Fund
	McColl Building Addition	$18,000,000	Private Gifts		$558,279	General Fund
	Botanical Garden Visitor Education Center	$6,000,000	Private Gifts		$449,728	Receipts
	Ackland Art Museum – Expansion	$16,000,000	Private Gifts		$773,868	Receipts
	Printing Services	$3,500,000	Telecom Reserves		1,221,883	Telecom Reserves
	ITS Building	$12,300,000	Printing Receipts		(Included in Print service costs)	Printing Receipts
	YMCA Renovation	$3,500,000	Private Gifts		No increase	
	Student Family Housing	$30,000,000	Housing Receipts		$1,877,810	Housing Receipts
	Cobb Residence Hall – Renovation	$9,884,000	Housing Receipts		No increase	
	Parking Facilities	$19,200,000	Parking Receipts		No increase	
	Major Infrastructure Improvements & Waste Remediation	$52,000,000	Utilities Trust Fund & F&A Receipts		$229,999	Utilities Trust Funds
University of North Carolina at Charlotte	Student Union	$39,700,000	Debt Service Fee	$40/yr.	$1,318,965	Student Fee
	Baseball Stadium Improvements	$3,000,000	Private Gifts		No increase	
University of North Carolina at Greensboro	Exercise Track	$1,000,000	Debt Service Fee		No increase	
	Ragsdale/Mendenhall, and Weil/Winfield Residence Halls – Renovations	$3,300,000	Housing Receipts		No increase	
	Elliott University Center Library Connector	$1,500,000	Debt Service Fee		No increase	
	Gove Health Center	$8,500,000	Debt Service Fee	$45/yr.	$263,604	Student Fee
	Softball Field	$3,000,000	Debt Service Fee		$32,091	Student Fee

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
Western Carolina University	New Student Residence Hall	$13,161,000	Housing Receipts		$528,080	Housing Receipts
	Residence Hall Renovation	$10,264,700	Housing Receipts		$295,331	Housing Receipts
	Parking Deck – 500 Spaces	$6,250,000	Parking Receipts		$351,312	Parking Receipts
	Dodson Cafeteria Renovation	$4,927,400	Dining Receipts		$292,026	Dining Receipts
	Softball Field and Stadium	$2,320,000	Debt Service Fee	$28/yr.	$29,632	Student Fee

The eight projects in Section 3 of the bill were previously authorized by the 2000 General Assembly as part of the $3.1 billion bond program in SB 912 (S.L. 2000, Chapter 3). Operating costs are not shown because they were included in original estimates. These projects have received the following General Obligation bond funding:

Section 3					
Campus	**Project**	**Amount**	**Source of Funds**	**Effect of Debt on Students**	**GO Bonds Authorizations**
The University of North Carolina at Chapel Hill	Burnett-Womack Building	$7,395,000	Gifts		$24,848,000
	Beard Hall Renovations	$2,394,000	Gifts		$3,500,000
	Science Complex, Phase I	$8,854,000	F&A Receipts		$55,012,500
	Manning Steam Plant	$13,212,360	Utilities Trust Fund Receipts		$6,300,000
	Global and International Studies Facility	$5,000,000	Gifts		$20,000,000
	Cogeneration-Turbine Improvements	$24,000,000	Utilities Trust Fund Receipts		$2,625,000
The University of North Carolina at Pembroke	Auxiliary Services Building	$1,500,000	Bookstore Receipts		$2,696,000
	Improvements to Recreational, Athletic, and Physical Education Facilities	$600,000	Debt Service Fee	$14/yr.	$8,243,700

The following are summary details from the previous charts:

Cost of Construction = $490,712,460

Debt Payment Funding Methods

Housing Receipts = $118,559,700
Utilities Trust Funds = $79,216,000
Parking Receipts = $35,450,000
Receipts = $18,854,000
Center Revenue = $18,000,220
Athletic Receipts = $6,000,000
Telecomm Reserves = $3,498,740
Student Fees = $113,120,000
Private Gifts = $61,289,000
Facilities & Administrative
Rental Receipts = $18,000,220
Printing Receipts = $12,297,180
Dining Receipts = $4,927,400
Bookstore Receipts = $1,500,000

SOURCES OF DATA: Associate Vice President for Finance for the UNC Office of the President

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson Director, Fiscal Research Division

DATE: May 15, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 705 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 939
Finance Committee Substitute Adopted 5/28/03

Short Title: Extend TRS Surcharge to Wireless Connections. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SURCHARGE FOR THE TELECOMMUNICATIONS RELAY SERVICE TO INCLUDE WIRELESS COMMUNICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-157 reads as rewritten:

"**§ 62-157. Telecommunications relay service.**

(a) Finding. – The General Assembly finds and declares that it is in the public interest to provide access to public telecommunications services for hearing impaired or speech impaired persons, including those who also have vision impairment, and that a statewide telecommunications relay service for telephone service should be established.

(a1) Definitions. – For purposes of this section:

(1) 'CMRS' is as defined in G.S. 62A-21.

(2) 'CMRS connection' is as defined in G.S. 62A-21.

(3) 'CMRS provider' is as defined in G.S. 62A-21.

~~(1)~~(4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a local exchange telephone company, and includes local exchange company-provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the Commission.

~~(2)~~(5) "Local service provider" means a local exchange company, competing local provider, or telephone membership corporation.

(b) Authority to Require Surcharge. – The Commission shall require local service providers to impose a monthly surcharge on all residential and business local exchange access facilities to fund a statewide telecommunications relay service by which hearing impaired or speech impaired persons, including those who also have vision impairment, may communicate with others by telephone. This surcharge, however, may not be imposed on participants in the Subscriber Line Charge Waiver Program or the Link-up Carolina Program established by the Commission. This surcharge, and long distance

revenues collected under subsection (f) of this section, are not includable in gross receipts subject to the franchise tax levied under G.S. 105-120 or the sales tax levied under G.S. 105-164.4.

(c) Specification of Surcharge. – The Department of Health and Human Services shall initiate a telecommunications relay service by filing a petition with the Commission requesting the service and detailing initial projected required funding. The Commission shall, after giving notice and an opportunity to be heard to other interested parties, set the initial monthly surcharge based upon the amount of funding necessary to implement and operate the service, including a reasonable margin for a reserve. The surcharge shall be identified on customer bills as a special surcharge for provision of a telecommunications relay service for hearing impaired and speech impaired persons. The Commission may, upon petition of any interested party, and after giving notice and an opportunity to be heard to other interested parties, revise the surcharge from time to time if the funding requirements change. In no event shall the surcharge exceed twenty-five cents (25¢) per month for each exchange access facility.

(d) Funds to Be Deposited in Special Account. – The local service providers shall collect the surcharge from their customers and deposit the moneys collected with the State Treasurer, who shall maintain the funds in an interest-bearing, nonreverting account. After consulting with the State Treasurer, the Commission shall direct how and when the local service providers shall deposit these moneys. Revenues from this fund shall be available only to the Department of Health and Human Services to administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Commission may allow the Department of Health and Human Services to use up to four cents (4¢) per access line per month of the surcharge for the purpose of providing telecommunications devices for hearing impaired or speech impaired persons, including those who also have vision impairment, through a distribution program. The Commission shall prepare such guidelines for the distribution program as it deems appropriate and in the public interest. Both the Commission and the Public Staff may audit all aspects of the telecommunications relay service program, including the distribution programs, as ~~it does~~ they do with any public utility subject to the provisions of this Chapter. Equipment paid for with surcharge revenues, as allowed by the Commission, may be distributed only by the Department of Health and Human Services.

(e) Administration of Service. – The Department of Health and Human Services shall administer the statewide telecommunications relay service program, including its establishment, operation, and promotion. The Department may contract out the provision of this service for four-year periods to one or more service providers, using the provisions of G.S. 143-129.

(f) Charge to Users. – The users of the telecommunications relay service shall be charged their approved long distance and local rates for telephone services (including the surcharge required by this section), but no additional charges may be imposed for the use of the relay service. The local service providers shall collect revenues from the users of the relay service for long distance services provided through the relay service. These revenues shall be deposited in the special fund established in subsection (d) of

this section in a manner determined by the Commission after consulting with the State Treasurer. Local service providers shall be compensated for collection, inquiry, and other administrative services provided by said companies, subject to the approval of the Commission.

(g) Reporting Requirement. – The Commission shall, after consulting with the Department of Health and Human Services, develop a format and filing schedule for a comprehensive financial and operational report on the telecommunications relay service program. The Department of Health and Human Services shall thereafter prepare and file these reports as required by the Commission with the Commission and the Public Staff. The Department shall also be required to report to the Revenue Laws Study Committee.

(h) Power to Regulate. – The Commission shall have the same power to regulate the operation of the telecommunications relay service program as it has to regulate any public utility subject to the provisions of this Chapter.

(i) Wireless Surcharge. – A CMRS provider, as part of its monthly billing process, must collect the same surcharge imposed on each exchange access facility under this section for each CMRS connection. A CMRS provider may deduct a one percent (1%) administrative fee from the total amount of surcharge collected. A CMRS provider shall remit the surcharge collected, less the administrative fee, to the Wireless 911 Board in the same manner and with the same frequency as the local service providers remit the surcharge to the State Treasurer. The Wireless 911 Board shall remit the funds collected from the surcharge to the special account created under subsection (d) of this section."

SECTION 2. This act becomes effective January 1, 2004, and applies to bills issued on or after that date.

SENATE BILL 939:
Extend TRS Surcharge to Wireless Connections

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Kerr
Date:	June 24, 2003	**Summary by:**	Kory Goldsmith
Version:	2nd Edition		Cindy Avrette
			Committee Counsel

SUMMARY: ***Senate Bill 939 would extend to wireless phone customers the imposition of the surcharge for the statewide telecommunications relay service (TRS) for the hearing and speech-impaired persons. Landline customers currently pay a surcharge of 11¢ per line for the TRS. The surcharge on wireless customers would be collected by the wireless providers and remitted to the Wireless 911 Board. The bill would become effective January 1, 2004, and apply to bills dated on or after that date.***

CURRENT LAW: In 1989, the General Assembly of North Carolina established a statewide Telecommunications Relay System (TRS) to provide access to telecommunications services for deaf, hard of hearing, deaf-blind, and speech impaired individuals. The system is provided in compliance with 47 USC 225, which requires the Federal Communications Commission (FCC) to "ensure that interstate and intrastate telecommunications relay services are available to the extent possible and in the most efficient manner to hearing-impaired and speech-impaired individuals." The federal law requires all common carriers providing telephone service to comply with FCC regulations. A common carrier is considered in compliance if it complies with the State's certified program. A "State certified program" is one which makes available telecommunications relay services to hearing and speech impaired individuals in a manner that meets or exceeds FCC requirements. TRS is North Carolina's certified program.

Under the TRS program, the Utilities Commission is authorized to require local exchange companies and telephone membership corporations to impose a monthly surcharge on all residential and business local exchange access facilities ("land lines") to fund the program. The Commission sets the monthly surcharge based upon the amount of funding necessary to implement and operate the system, including a reasonable margin for a reserve. Although the Commission regulates the program, the Department of Health and Human Services, through the Division of Services for the Deaf and the Hard of Hearing, administers, operates, and promotes the program. The Division must give a comprehensive financial and operational report on the TRS program to both the Commission and the Revenue Laws Study Committee. Whenever the Division believes that its review of the funding requirements of the program exceeds the amount of revenue generated by the monthly surcharge, it may petition the Commission to change the amount of the monthly surcharge. The surcharge, which is currently 11¢, may not exceed 25¢ per access line per month.

In 1999, the NCGA amended G.S. 62-157 to allow DHHS to use up to four (4) cents per access line per month in the surcharge for distribution of telecommunications equipment to eligible North Carolinians. Wireless customers do not currently pay the surcharge, but they can access TRS services with their cell phones.

BILL ANALYSIS: Senate Bill 939 extends the current TRS surcharge imposed on landline phones to wireless phones.[1] The bill provides that a CMRS[2] provider must, as part of its monthly billing process, collect the same surcharge imposed on each landline phone from each CMRS connection. A CMRS connection means each mobile handset telephone number assigned to a CMRS customer with a place of primary use in North Carolina. The CMRS provider may deduct a 1% administrative fee from the surcharge collected.[3] The remainder must be remitted to the Wireless 911 Board in the same manner and on the same schedule as the funds are handled by the local service providers. The Board must remit the surcharge revenues collected to the State Treasurer to be credited to the interest-bearing, nonreverting account established to fund the TRS program.

BACKGROUND: Deaf and Hard of Hearing people comprise 8.6% of North Carolina's population. The Department of Health and Human Services expects that figure to increase due to a projected increase in the elderly population. In order for these individuals to use telephone services, they use a relay service which involves a box-like device called TTY or TDD to communicate with a Hearing person with the assistance of a Relay operator.

The program for overseeing the relay service, video relay service, and distribution of telecommunications equipment is called Telecommunication Access of North Carolina (TANC). The program overseeing the distribution of equipment is called the Telecommunications Equipment Distribution Program (TEDP). TEDP was implemented in July, 2000. Up to four (4) cents per access line per month in the surcharge is used to purchase and distribute equipment to eligible North Carolinians. At this time, less than one (1) percent of all eligible North Carolinians have received equipment.

The surcharge supports the following:

1. $4.5 million contract with Sprint to operate relay services in North Carolina (contract to be re-bid in 2004)
2. Four (4) full-time positions (TANC Administrator, TEDP Administrator, Office Assistant, TEDP Program Assistant)
3. Miscellaneous expenses (sign language interpreters, outreach activities and basic operations), and TEDP vendor contracts ($200,000 per annum)

Currently, Illinois, Indiana, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oregon, Texas and Vermont collect revenue from both land line and wireless service providers to provide relay and equipment services similar to those provided in North Carolina. Some of these states have been collecting from both types of phone customers since the beginning of their relay programs. The general trend in other states has been a decrease in the number of land lines and a corresponding increase in the number of wireless lines. Due to this trend, several states have enacted legislation mandating the inclusion of wireless service providers as a revenue source in order to maintain operation of telecommunications relay and equipment distribution services.

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[1] There are approximately 3.5 million wireless connections and approximately 5 million landline phones.

[2] Commercial mobile radio service. The term is defined in federal law and includes service provided by any wireless two-way voice communication device. The same definition is used for the imposition of the 911 surcharge.

[3] The current law allows the local service providers to be compensated for their expenses of collecting and remitting the surcharge. The Utilities Commission sets the rate of compensation for the local service providers. It is my understanding that the current administrative fee allowed to local service providers is one cent per access line per month.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 939 (2nd Edition)

SHORT TITLE: Extend TRS Surcharge to Wireless Connections

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ Millions) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
TRS/DHHS	**1.91**	**4.71**	**4.85**	**4.99**	**5.15**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services.

EFFECTIVE DATE: January 1, 2004.

BILL SUMMARY: The bill extends the telecommunications relay service (TRS) charge currently levied on landlines to wireless communication devises.

ASSUMPTIONS AND METHODOLOGY:

REVENUES: Currently wired telephone customers pay a monthly surcharge on their telephone bill to fund a statewide telecommunications relay service (TRS) by which hearing-impaired persons, including those who also have vision impairment, may communicate with others by telephone. The statute caps this charge at 25 cents per month, although they are currently charging a rate of 11 cents per month.

According to the Department of Health and Human Services (DHHS), the 11-cent charge on landlines generated $4,444,243.86 in 2001-02. During that same period, the program had cash disbursements of $4,662,235.94, drawing down their fund balance to $551,912.01.

Officials from the NC Wireless Board indicate a 2003-04 estimated number of wireless devises that would be subject to the surcharge at 3.5 million. Levying an 11cent per unit charge per month on these units, would yield approximately $4.62 million in new revenues from wireless customers. However, because the charge is not effective until January 1, 2004, actual 2003-04 revenues will be approximately $1.925 million. Using the 3% growth rate offered by staff of the NC Wireless Board suggests the following revenue stream:

Fiscal Year	Charge	Net to program after provider administrative fee
2003-04	1,925,000	1,905,750
2004-05	4,758,600	4,711,014
2005-06	4,901,358	4,852,344
2006-07	5,048,399	4,997,915
2007-08	5,199,851	5,147,852

As the estimate suggests, the wireless carriers can retain a 1% administrative fee. The estimate also assumes that the fee will remain at 11 cents per month over the course of five years, although the legislation allows a review of the rate after January 1, 2005.

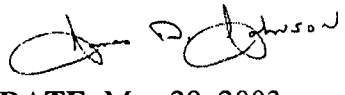
EXPENDITURES: There are two classes of expenditures related to this bill. First is the cost of collecting the surcharge on wireless customers. According to both DHHS and the E-911 Wireless Board, it is their intention to have the surcharge collected by the state's 911 Wireless Board in conjunction with their current surcharge collection efforts. Representatives of the Wireless Board indicate that the Board will be able to collect the TRS surcharge at no additional cost, so there is no fiscal cost associated with the collection of the wireless TRS surcharge.

The second set of expenditure issues relates to how DHHS plans to use the revenues from the extended surcharge. The Department believes they will have a number of costs to consider. First, the primary TRS piece is provided under a multiyear contract with one of the major telecommunications companies at a cost of $4.5 million. That contract will expire in 2004 and will require renegotiation. As a result, there is a potential the cost of this portion of the program could increase. In addition, the Department plans to expand the service to a greater number of individuals who are eligible for the program, but are not yet covered due to cost constraints. The Department, in response to comments from both the state Emergency Management program and the Federal Emergency Management Administration (FEMA), plans to develop an emergency warning program for the deaf and hard of hearing. (Such a program does not currently exist). The Department believes there is a possibility that the federal government may no longer cover the cost of Internet based telecommunication equipment for the deaf and hard of hearing. It is their desire that if this federal funding were terminated the state would be able to help provide these services. Finally, the Department would like to be able to maintain a fund balance that is in line with the requirements of G.S. 62-157.

SOURCES OF DATA: Department of Health and Human Services and the E-911 Wireless Board.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: May 29, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 939 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SURCHARGE FOR THE TELECOMMUNICATIONS RELAY SERVICE TO INCLUDE WIRELESS COMMUNICATIONS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 89

State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 5/14/03
Finance Committee Substitute Adopted 5/28/03

Short Title: Lake Lure Marine Commission. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LAKE LURE MARINE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a new Article to read:

"Article 7A.

"Lake Lure Marine Commission.

"**§ 77-80. Definitions.**

For purposes of this Article:

(1) "Board" means the Board of Commissioners of the Town of Lake Lure.

(2) "Commission" means the Lake Lure Marine Commission or its governing board, as the case may be.

(3) "Commissioner" means a member of the governing board of the Lake Lure Marine Commission.

(4) Lake Lure Reservoir, known for purposes of this Article as "Lake Lure" or "the waters of Lake Lure", means the body of water along the Broad River in Rutherford County, impounded by the dam at Tumbling Shoals, and lying below the 995-foot contour line above sea level.

(5) "Shoreline area" means the area submerged by the dam at Tumbling Shoals, lying below 955 feet above mean sea level of the normal full pond elevation of 992 feet above mean sea level, on Lake Lure.

(6) "Wildlife Commission" means the North Carolina Wildlife Resources Commission.

"**§ 77-81. Creation of Commission authorized.**

The Board of Commissioners of the Town of Lake Lure may by ordinance create the Lake Lure Marine Commission. The Board shall hold a public hearing on the ordinance to create the Commission. The location of the public hearing shall be determined by the Boards and established by resolution. The Board shall cause notice of the hearing to be published once a week for two successive calendar weeks in a newspaper of general circulation in Rutherford County. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. Upon its creation the Commission shall enjoy the powers and have the duties and responsibilities conferred upon it by the Lake Lure municipal ordinance, subject to the provisions of this Article and the laws of the State of North Carolina. The provisions of any ordinance may be modified, amended, or rescinded by a subsequent ordinance.

"**§ 77-82. Governing board.**

Upon its creation, the Commission shall have a governing board. The governing board shall, unless otherwise stated by ordinance, be the Board of Commissioners of the Town of Lake Lure.

"**§ 77-83. Compensation; budgetary and accounting procedures.**

The municipal ordinance shall state the terms relating to compensation to commissioners, if any, compensation of consultants and staff members employed by the Commission, and reimbursement of expenses incurred by commissioners, consultants, and employees. The Commission shall be governed by these budgetary and accounting procedures as may be specified by the municipal ordinance and the applicable laws of North Carolina.

"**§ 77-84. Organization and meetings.**

Upon creation of the Commission, its governing board shall meet at a time and place set by the Town of Lake Lure ordinance. Unless otherwise stated in the ordinance, the mayor of the Town of Lake Lure shall act as the presiding officer. The governing board shall adopt such rules and regulations as it may consider necessary, not inconsistent with the provisions of this Article or of any ordinance of the Town of Lake Lure or the laws of the State of North Carolina, for the proper discharge of its duties and for the governance of the Commission. In order to conduct business, a quorum must be present. The presiding officer may appoint those committees as may be authorized by such rules and regulations. The Commission shall meet regularly at those times and places as may be specified in its rules and regulations or in the Town of Lake Lure municipal ordinance. Special meetings may be called as specified in the rules and regulations. The provisions of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes, apply.

"**§ 77-85. Powers of Commission; administrative provision.**

(a) Within the limits of funds available to it, and subject to the provisions of this Article and of the Town of Lake Lure municipal ordinance, the Commission may:

(1) Hire and fix the compensation of permanent and temporary employees and staff as it may consider necessary in carrying out its duties;

(2) Contract with consultants for such services as it may require;

(3) Contract with the State of North Carolina or the federal government, or any agency or department or subdivision of them, for property or

services as may be provided to or by these agencies, and carry out the provisions of such contracts;

(4) Contract with persons, firms, and corporations generally as to all matters over which it has a proper concern, and carry out the provisions of such contracts;

(5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space for its employees and staff, and lease, rent, purchase, or otherwise obtain furniture, fixtures, vehicles, uniforms, and other supplies and equipment necessary or desirable for carrying out the duties imposed in or under the authority of this Article; and

(6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair, and replace, either on its own or in cooperation with other public or private agencies or individuals, any of the following: boat docks, navigation aids, waterway markers, public information signs and notices, and other items of real and personal property designed to enhance public recreation, public safety on the waters of Lake Lure and its shoreline area, or protection of property in the shoreline area, subject, however, to the provisions of Chapter 113 of the General Statutes and rules promulgated under that Chapter as to property within North Carolina.

(b) The Commission may accept, receive, and disburse in furtherance of its functions any funds, grants, services, or property made available by the federal government or its agencies or subdivisions, or by private and civic sources.

(c) The Board of Commissioners of the Town of Lake Lure may appropriate funds to the Commission out of surplus funds or funds derived from nontax sources. It may appropriate funds out of tax revenues and may also levy annually taxes for the payment of such appropriation as a special purpose, in addition to any allowed by the North Carolina Constitution or as provided by G.S. 160A-209.

(d) The Commission shall be subject to such audit requirements as may be specified in the municipal ordinance.

(e) In carrying out its duties, and either in addition to or in lieu of exercising various provisions of the above authorizations, the Commission may, with the agreement of the Board of Commissioners of the Town of Lake Lure, utilize personnel and property of or assign responsibilities to any officer or employee of the Town of Lake Lure. Such contribution in kind, if substantial, may with agreement between the Board and the Commission be considered to substitute in whole or in part for the financial contribution required of the Town in support of the Commission.

"**§ 77-86. Filing and publication of applicable municipal ordinances.**

(a) A copy of the initial municipal ordinance creating the Commission and of any ordinance amending or repealing the resolution creating the Commission shall be filed with:

(1) The Executive Director of the Wildlife Commission.

(2) The Secretary of State.

(3) The clerk to the Town of Lake Lure.

(4) The clerk of superior court of Rutherford County. Upon request, the Executive Director shall also send a certified single copy of any and all applicable ordinances to the chairman of the Commission.

(5) A newspaper of general circulation in Rutherford County.

(b) Unless the municipal ordinance specifies a later date, it shall take effect when the text has been submitted to the Secretary of State for filing. Certifications of the Board under the seal of the Commission as to the text or amended text of any municipal ordinance and of the date or dates of submission to the Secretary of State shall be admissible in evidence in any court. Certifications by the clerk of superior court of Rutherford County of the text of any certified ordinance filed with the clerk by the Board is admissible in evidence and the Board's submission of the resolution for filing to the clerk shall constitute prima facie evidence that such resolution was on the date of submission also submitted for filing with the Secretary of State. Except for the certificate of a clerk as to receipt and date of submission, no evidence may be admitted in court concerning the submission of the certified text of any ordinance by the Board to any person other than the Secretary of State.

"**§ 77-87. Regulatory authority.**

(a) Except as limited in subsection (b) of this section, by restrictions in any municipal ordinance, and by other supervening provisions of law, the Commission may make regulations applicable to Lake Lure and its shoreline area concerning all matters relating to or affecting the use of Lake Lure. These regulations may not conflict with provisions of general or special acts or of regulations of State agencies promulgated under the authority of general law. No regulations adopted under the provisions of this section may be adopted by the Commission except after public hearing, with publication of notice of the hearing in a newspaper of general circulation in Rutherford County at least 10 days before the hearing. In lieu of or in addition to passing regulations supplementary to State law and regulations concerning the operation of vessels on Lake Lure, the Commission may, after public notice, request that the Wildlife Resources Commission pass local regulations on this subject in accordance with the procedure established by appropriate State law.

(b) Violation of any regulation of the Commission commanding or prohibiting an act shall be a Class 3 misdemeanor.

(c) The regulations promulgated under this section take effect upon passage or upon such dates as may be stipulated in the regulations except that no regulation may be enforced unless adequate notice of the regulation has been posted in or on Lake Lure or its shoreline area. Ordinances providing regulations for specific areas shall clearly establish the boundaries of the affected area by including a map of the regulated area, with the boundaries clearly drawn, by setting out the boundaries in a written description, or by a combination of these techniques. Adequate notice as to a regulation affecting only a particular location shall be given in the following manner. When an ordinance providing regulations for a specific area is proposed, owners of the parcel of land involved as shown on the county tax listing, and the owners of land within 500 feet of the proposed area to be regulated, as shown on the county tax listing, shall be mailed a notice of the proposed classification by first-class mail at the last addresses listed for

such owners on the county tax abstracts. This mailing requirement does not apply in regulations affecting the entire lake. Notice shall also be given by a sign, uniform waterway marker, posted notice, or other effective method of communicating the essential provisions of the regulation in the immediate vicinity of the location in question. Where a regulation applies generally as to the waters of Lake Lure or its shoreline area, or both, there must be a posting of notices, signs, or markers communicating the essential provisions in at least three different places throughout the area, and it shall be printed in a newspaper of general circulation in Rutherford County.

(d) A copy of each regulation promulgated under this section must be filed by the Commission with the following persons:

(1) The Secretary of State;

(2) The clerk of superior court of Rutherford County;

(3) The Executive Director of the Wildlife Resources Commission; and

(4) The federal Energy Regulatory Commission licensee for Lake Lure, if other than the Town of Lake Lure.

(e) Any official designated in subsection (d) of this section may issue certified copies of regulations filed with the official under the seal of the official's office. Such certified copies may be received in evidence in any proceeding.

(f) Publication and filing of regulations promulgated under this section as required above are for informational purposes and are a prerequisite to their validity if they in fact have been duly promulgated, the public has been notified as to the substance of the regulations, a copy of the text of all regulations is in fact available to any person who may be affected, and no party to any proceeding has been prejudiced by any defect that may exist with respect to publication and filing. Rules and regulations promulgated by the Commission under the provisions of other sections of this Article relating to internal governance of the Commission need not be filed or published. Where posting of any sign, notice, or marker, or the making of other communication is essential to the validity of a regulation duly promulgated, it is presumed in any proceeding that prior notice was given and maintained, and the burden lies upon the party asserting to the contrary to prove lack of adequate notice of any regulation.

"**§ 77-88. Enforcement.**

(a) Where a municipal ordinance so provides, all law enforcement officers, or those officers as may be designated in the municipal ordinance, with territorial jurisdiction as to any part of the waters of Lake Lure or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of the waters of Lake Lure and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of this Article.

(b) Where a law enforcement officer with jurisdiction over any part of the waters of Lake Lure or its shoreline area is performing duties relating to the enforcement of the laws on the waters of Lake Lure or in its shoreline area, the officer shall have such extraterritorial jurisdiction as may be necessary to perform the officer's duties. These duties include investigations of crimes an officer reasonably believes have been, or are

about to be, committed within the area in question. This includes traversing by reasonable routes from one portion of this area to another although across territory not within the boundaries of the waters of Lake Lure and its shoreline area; conducting prisoners in custody to a court or to detention facilities as may be authorized by law, although this may involve going outside the area in question; execution of process connected with any criminal offense alleged to have been committed within the boundaries in question, except that this process may not be executed by virtue of this provision beyond the boundaries of Rutherford County. This also includes continuing pursuit of and arresting any violator or suspected violator as to which grounds for arrest arose within the area in question.

(d) Where law enforcement officers are given additional territorial jurisdiction under the provisions of this section, this shall be considered an extension of the duties of the office held, and no officer shall take any additional oath or title of office."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 89:
Lake Lure Marine Commission.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Dalton
Date:	June 24, 2003	**Summary by:**	H. Alan Pell
Version:	3rd Edition		Staff Attorney

SUMMARY: ***Senate Bill 89 would create a new Article 7 to Chapter 77 of the General Statutes. The act would allow the Board of Commissioners of the Town of Lake Lure to create, by ordinance, the Lake Lure Marine Commission. The bill specifies the organization, powers, and enforcement authority of the Commission. The bill is in Finance because it authorizes the Board of Commissioner to levy taxes for the purpose of appropriating funds to the Commission.***

BILL ANALYSIS: The bill creates a statutory scheme for the creation of a Lake Lure Marine Commission:

G.S. 77-80: Definitions. The "Lake Lure Reservoir" is defined, as well as the "shoreline area".

G.S. 77-81: Allows for the creation of the Commission after public hearing.

G.S. 77-82: Unless otherwise provided by an adopted ordinance, the Board of Commissioners of the Town of Lake Lure would constitute the Lake Lure Marine Commission.

G.S. 77-83: Provides that any compensation to the members, staff, or consultants is governed by ordinance, and applicable State laws.

G.S. 77-84: Provides that meetings are to be set by ordinance, and are subject to the Open Meetings Law, Article 33C of Chapter 143. Unless otherwise provided by ordinance, the Town Mayor is the presiding officer of the Commission.

G.S. 77-85: Provides for the powers of the Commission, including:

- Hire and fix the compensation of permanent and temporary employees
- Contract with consultants as required
- Contract with State or federal agencies, for property or services as may be provided to or by the agencies
- Contract with persons, firms or corporations
- Lease, rent, purchase, or obtain office space and other items necessary to carry out duties
- Lease, rent, purchase, operate, maintain and repair any docks, navigation aids, markers, public information signs, or other items to enhance public safety and recreation on the Lake or its shoreline. The Commission is specifically subject to any rules by the Dept. of Environment and Natural Resources, promulgated under Chapter 113 of the General Statutes.
- The Board of Commissioners of the Town of Lake Lure may appropriate funds out of surplus funds or funds derived from nontax sources. It may also appropriate funds out of tax revenues and may also levy annually taxes for the payment of the appropriation as a special purpose.

[OVER]

- The Commission is authorized to use Town personnel, and may constitute financial contribution.

G.S. 77-86: Requires filing and publication of ordinances, and provides for certifications of the text of the ordinances. Certifications to the Secretary of State are admissible as evidence in any court.

G.S. 77-87: Provides the regulatory authority of the Commission, to include:

- Provide regulations as to all matters affecting Lake Lure and its shoreline.
- Requires a public hearing prior to the adoption of a regulation.
- Regulations may not conflict with any general or special acts, or State regulations.
- Violation of any regulation commanding or prohibiting an act is a Class 3 misdemeanor.
- Provides notice requirements for regulations

G.S. 77-88: Provides that

- All law enforcement officers that have been provided with territorial jurisdiction by municipal ordinance over any part of the Lake or shoreline shall have enforcement authority over all of the waters and shoreline. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission satisfies the certification requirement.
- Law enforcement officers with jurisdiction are granted extraterritorial jurisdiction as necessary to perform duties. The duties include investigation of crimes an officer reasonably believes have been, or are about to be, committed within the area in question. The provisions allow activities that relate to the officers' territorial jurisdiction.

BACKGROUND:

Article 4, Chapter 77, provides for a Lake Wylie Marine Commission, composed of Commissioners from the Boards of Commission of Gaston, Mecklenburg, and York (S.C.) Counties.

Article 5, Chapter 77, provides for a High Rock Lake Marine Commission, composed of Commissioners from the Boards of Commission of Davidson and Rowan Counties.

Article 6, Chapter 77, provides for a Mountain Island Lake Marine Commission, composed of Commissioners from the Boards of Commission of Gaston, Lincoln, and Mecklenburg Counties.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 89 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE LAKE LURE MARINE COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 529

Short Title:	Water & Sewer Authority Setoff.	(Public)
Sponsors:	Senator Hartsell.	
Referred to:	Finance.	

March 25, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE WATER AND SEWER AUTHORITIES TO USE THE SETOFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105A-2(6) reads as rewritten:

"**§ 105A-2. Definitions.**

The following definitions apply in this Chapter:

. . .

(6) Local agency. – ~~A~~ Any of the following:

a. A county, to the extent it is not considered a State ~~agency,~~agency.

b. ~~or a~~A municipality.

c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes."

SECTION 2. This act becomes effective January 1, 2004, and applies to income tax refunds determined on or after that date.

SENATE BILL 529:
Water & Sewer Authority Setoff

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hartsell
Date:	June 24, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 529 would add Water and Sewer Authorities to the list of local governments allowed to submit debts to the Department of Revenue for collection under the Setoff Debt Collection Act. It would become effective January 1, 2004.

BILL ANALYSIS: Senate Bill 529 adds water and sewer authorities to the Setoff Debt Collection Act[1], under which the Department of Revenue diverts part or all of an individual's income tax refund to pay a debt the individual owes to a State or local agency. Thus, the debt the individual owes the agency is set off against the individual's income tax refund. Before January 1, 2001, the setoff program was open only to State agencies. Now, counties and municipalities participate through a clearinghouse[2] that submits debts on their behalf to the Department of Revenue. Because there are so many local agencies, funneling their claims through a clearinghouse avoids an undue administrative burden on the Department of Revenue.

This bill would allow water and sewer authorities to participate in the same manner as counties and cities. Like counties and cities, a water and sewer authority would be authorized to submit its debts for collection by setoff only after providing the debtor with notice, an opportunity to be heard before the authority, and an appeal process pursuant to the Administrative Procedure Act.

There are less than a dozen water and sewer authorities in the State at this time. A water and sewer authority may discontinue services to a customer whose account is delinquent for 30 days or more. However, this remedy is not sufficient when the customer moves out of the authority's service district or when the amount due is large enough that discontinuing the service would not result in the payment of the amount due.

BACKGROUND: There are several different mechanisms a county and city can use to address water and sewer needs. One such mechanism is the creation of a water and sewer authority. One or more counties, cities, sanitary districts, and other political subdivisions[3] may create a water and sewer authority by adopting resolutions stating their intent to do so. Each resolution must be adopted after notice is published and a public hearing is held on the issue. A political subdivision can withdraw from an authority at any time before obligations of the authority have been created. A water and sewer authority may issue revenue bonds; enter into installment finance contracts; impose rates, fees, and charges; and levy special assessments. Water and sewer authorities may also apply for grants from the Clean Water Revolving Loan and Grant Fund.

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[1] The Setoff Debt Collection Act applies only to a debt that is at least $50 and to a refund that is at least $50. Debts collected through the Setoff Debt Collection Act are subject to both a State collection assistance fee and a local collection assistance fee of $15. The amount of the State collection assistance fee is based on the Department's actual cost of collecting debts under the Act during the preceding year. The current amount of that fee is $4.32.

[2] The clearinghouse was established pursuant to an interlocal agreement adopted under Article 20 of Chapter 160A of the General Statutes.

[3] In certain circumstances, a nonprofit water company may also be a part of a water and sewer authority.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 529 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE WATER AND SEWER AUTHORITIES TO USE THE SETOFF DEBT COLLECTION ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 497
Second Edition Engrossed 5/7/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S497-CSSVx-31 [v.5]

6/18/2003 12:44:07 PM

Short Title: Mt. Airy Revisions/Blowing Rock Occup. Tax. (Local)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MOUNT AIRY, TO ANNEX CERTAIN DESCRIBED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY, TO MODIFY THE CITY OF MOUNT AIRY OCCUPANCY TAX PROVISIONS, AND TO AUTHORIZE THE TOWN OF BLOWING ROCK TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

MOUNT AIRY CHARTER REVISIONS

SECTION 1. The Charter of the City of Mount Airy is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MOUNT AIRY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Mount Airy, North Carolina, in Surry County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Mount Airy,' hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Mount Airy specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection.

Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Surry County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **City Governing Body Composition.** The Board of Commissioners, hereinafter referred to as the 'Board' and the Mayor shall be the governing body of the City.

"Section 2.2. **Board; Composition; Terms of Office.** The Board shall be composed of five members to be elected by all the qualified voters of the City voting at large for staggered terms of four years, or until their successors are elected and qualified. Two commissioners shall be residents of the ward currently designated as the 'North Ward,' two commissioners shall be residents of the ward currently designated as the 'South Ward,' and one commissioner shall be elected as at large.

"Section 2.3. **Mayor Term of Office, Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of City government and shall preside at all meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and Board members shall be in accordance with general law. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. The Mayor and the Board shall be elected by the nonpartisan primary and election method as provided in G.S. 163-279(a)(3) and G.S. 163-294. Board members shall be elected by all the qualified voters of the City and shall reside in the wards they represent.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2005 and quadrennially thereafter.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 2003 election and quadrennially thereafter, three commissioners shall be elected, the Commissioner-at-Large, one commissioner representing the North Ward for the term then expiring, and one commissioner

representing the South Ward for the term then expiring. In the 2005 election and quadrennially thereafter, two commissioners shall be elected, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring.

"Section 3.4. **Ward Boundaries.** The City shall be divided into two wards that are currently designated as the North Ward and the South Ward. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with general law.

"Section 3.5. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Board shall appoint a City Manager in accordance with G.S. 160A-147 and the provisions of Article V of this Charter.

"Section 4.3. **City Clerk.** The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties as required by law or as directed by the City Manager.

"Section 4.4. **Finance Director.** The City Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Manager.

"Section 4.5. **Tax Collector.** The City shall have a Tax Collector to collect all taxes owed to the City and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the City Manager. Notwithstanding G.S. 105-349, the City Manager shall have the power to appoint, suspend, and remove the Tax Collector in accordance with general personnel rules, regulations, policies, and ordinances as adopted by the Board.

"Section 4.6. **City Attorney.** The Board shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as directed by the Board. The Board may appoint one or more Assistant City Attorneys to assist the City Attorney and serve in his or her absence or incapacity and who shall have the same qualifications and duties as the City Attorney.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the City Manager and may organize the City government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. CITY MANAGER.

"Section 5.1. **Appointment, qualifications; term; compensation; oath.**

(a) The Board shall appoint a City Manager in accordance with Article IV of this Charter who shall be the administrative head of all departments of City government. The City Manager shall be appointed with regard to merit only and need not be a resident of the City when appointed. The Board may require the City Manager to reside within the City during the Manager's tenure of office. No Board member may be appointed or act as City Manager during the term for which the member was elected or within one year after the expiration of the member's term.

(b) Unless otherwise agreed upon by the Board and the City Manager, if the City Manager is involuntarily removed by the Board, except for good and just cause, the City Manager shall be forthwith paid any unpaid balance of salary, any accumulated and accrued job benefits, and salary for the three calendar months following the day of termination or for such other period as may be agreed upon in advance.

(c) Before entering upon the duties of office, the City Manager shall take and subscribe an oath to perform faithfully the duties of the office.

"Section 5.2. **Powers and Duties.** The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the Board, so far as authorized by general law, and the provisions of this Charter. Additionally, the City Manager shall have the following powers and duties:

(a) The City Manager may designate an assistant to perform the Manager's functions temporarily when the Manager is absent from the City, sick, or otherwise unable to act; and from time to time, with Board approval, may designate an assistant or assistants to perform the Manager's functions during any particular absence or disability. The person or persons so designated shall have all of the powers and duties of the City Manager when acting in the place of the City Manager.

(b) The City Manager may, when authorized by the Board, execute in the name and on behalf of the City, contracts, bonds, and other legal instruments, except deeds.

(c) The City Manager shall make and execute all contracts on behalf of the City in the manner authorized or provided by resolutions or ordinances adopted by the Board. The Board may, on such terms as it deems proper, allow the City Manager to authorize one or more designees to make and execute contracts.

(d) The City Manager may, when authorized by the Board, settle claims against the City for: (i) personal injuries or damages to property when the amount involved does not exceed the sum of ten thousand dollars ($10,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets, when the amount involved does not exceed ten thousand dollars ($10,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this subsection shall constitute a complete release of the City from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or taking complained of. All settlements and all releases shall be approved by the City Attorney.

(e) Unless excused by the Board, it shall be the duty of the City Manager to attend all meetings of the Board, with the right to take part in discussions and

recommend for adoption such measures as the City Manager deems expedient, but the City Manager shall not vote on any matters before the Board. The City Manager shall be entitled to notice of all special and emergency Board meetings.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the City Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the City, except the City Attorney and any other official whose appointment or removal is specifically vested in the Board by this Charter or general law. Neither the Board nor any of its members shall take part in the appointment or removal of department heads and employees in the administrative service of the City, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the City Attorney, the Board and its members shall deal with the administrative service solely through the City Manager, an acting City Manager, or an Interim City Manager, and neither the Board nor any of its members shall give any specific orders to any subordinates of the City Manager, an acting City Manager, or an Interim City Manager, either publicly or privately.

"ARTICLE VI. PUBLIC CONTRACTS.

"Section 6.1. **Award of Certain Contracts.**

(a) The City Manager may award, approve, and execute contracts or agreements of any kind or nature on behalf of the City when the amount of the contract or agreement does not exceed one hundred thousand dollars ($100,000) if the Board has approved the appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract or agreement. In addition, the City Manager, or the City Manager's duly authorized designee appointed in accordance with Section 5.2(a) of this Charter, may approve and execute amendments to contracts or agreements, including contracts initially approved solely by the Board when the amount in question does not exceed one hundred thousand dollars ($100,000).

(b) The City Manager, upon authorization by the Board, may award, approve, and execute contracts for the acquisition of or the construction and installation of water and sewer lines that will eventually become a part of the City utility system, regardless of the amount in question, where the construction and installation was or shall be the sole responsibility and expense of another person, firm, or corporation.

"Section 6.2. **Procedures.**

(a) The City Manager shall, within 45 days of the award of any contract described in Section 6.1 of this Charter, report such award to the Board. However, the City Manager shall not be required to report contracts in a minimum amount that may be set from time to time by the Board.

(b) In awarding, approving, and executing contracts described in this Article, the City Manager shall comply with all applicable provisions of this Charter and Article 8 of Chapter 143 of the General Statutes. The City Manager may take any action that the Board is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing contracts.

"ARTICLE VII. ACQUISITION OF PROPERTY.

"Section 7.1. **Delegation to City Manager.** The Board may delegate authority to the City Manager to purchase real property, any interest in real property, or personal property provided that: (i) the Board shall have approved the appropriation for the purchase in the annual budget for the current fiscal year; and (ii) the City Manager, within 45 days following the purchase shall submit to the Board a written report setting forth the names of the persons or entities from whom the real property or interest in real property was purchased, a general description of the property or interest in property acquired, the purchase price paid, and the intended use of the property or interest in property.

"ARTICLE VIII. DISPOSITION OF PROPERTY.

"Section 8.1. **General Provision.** Unless specifically provided otherwise, the provisions of Article 12 of Chapter 160A of the General Statutes shall not apply to the disposition of property pursuant to this Article. The authority contained in this Article is in addition to and not in limitation of any other authority granted by this Charter or general law.

"Section 8.2. **Disposition of Property.** The Board may, upon the affirmative vote of at least four members, publicly or privately sell, lease, rent, exchange, or otherwise convey or cause to be publicly or privately sold, leased, rented, exchanged, or otherwise conveyed any property, real or personal, or any interest in such property, belonging to the City.

"Section 8.3. **Conditions and Restrictions Authorized.** The Board may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to such covenants, conditions, and restrictions as the Board may deem to be in the public interest. The sale, exchange, or other transfer may be made pursuant to the provisions of this Charter, Article 12 of Chapter 160A of the General Statutes, or any other applicable provision of law, and the consideration received by the City, if any, for the sale, exchange, or transfer may reflect the restricted use of the property resulting from the covenants, conditions and restrictions. The City may invite bids or written proposals, including detailed development plans and site plans, for the purchase of any property or property interest, whether by sale, exchange, or other transfer, pursuant to such specifications as may be approved by the City. A sale, exchange, or other transfer of real property, or interest therein, pursuant to this section may be made contingent upon any necessary rezoning of the property.

"Section 8.4. **Disposition of Certain Property by City Manager.** The Board may authorize the City Manager to dispose of the following property by the methods indicated without obtaining Board approval for each disposition:

(a) Interests in real property by private negotiation or sale with respect to parcels having a fair market value of ten thousand dollars ($10,000) or less.

(b) Water or sewer easements, or similar interests in real property, as part of any exchange for other water and sewer easements or similar interests in property.

(c) Water or sewer easements, or similar interests in real property by private negotiation and sale, when the easement or similar interest in real property is no longer needed by the City.

"Section 8.5. **Disposition of Personal Property.** The City may sell any and all surplus personal property belonging to the City at private sale.

"Section 8.6. **Lease or Rental of Property.** Notwithstanding G.S. 160A-272, the Board may, in its discretion, lease City-owned property for such terms and upon such conditions as the Board may determine, including terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

"Section 8.7. **Documents of Conveyance.** Whenever a disposition of an interest in real property is authorized by the City pursuant to this Charter or otherwise, the instrument conveying such interest may be executed by the Mayor or the Mayor's designee and attested by the City Clerk or City Manager, with the official seal of the City affixed thereto. With respect to the sale of real property the City may execute deeds in the usual form and include therein full covenants of warranty.

"ARTICLE IX. ECONOMIC DEVELOPMENT.

"Section 9.1. **Promotion of the City.** The Board is authorized to appropriate annually reasonable sums for promoting the City.

"Section 9.2. **Encouraging Local Development.** The Board is authorized and empowered to annually set apart and appropriate funds and to expend the same for the purpose of aiding, assisting, and encouraging, by contract with independent contractors or otherwise, the location of manufacturing, industrial, and commercial plants, distribution centers, or businesses in the City and for advertising the advantages and resources of the City and for such purposes as will, in the discretion of the Board, increase the taxable value of property of the City and that will promote the general welfare of the City, which purposes are declared to be lawful public purposes of the City.

"Section 9.3. **Urban Development Projects.**

(a) The term 'urban development project' as used in this section means a capital project comprising the construction or renovation of one or more buildings or other improvements, including the provision for sidewalks and streets in conjunction therewith, of which part of the overall project is privately owned and part is publicly owned.

(b) The City may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an urban development project or specific facilities within the project, including the making of loans and grants from any moneys lawfully available for the project.

(c) The City may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating an urban development project. The contract may be entered into before acquisition of any real property necessary for the project. The contract may specify the following:

(1) The property interests of both the City and the developer. However, the property interests of the City shall be limited to facilities for a public purpose.

(2) The responsibilities of the City and the developer for construction of the project.

(3) The responsibilities of the City and the developers with respect to financing the project.

(d) An urban development project may be constructed on property acquired by the developer on property acquired by the City or on property acquired jointly by the City and the developer.

(e) The City may lease or convey interests in urban development project property or other property owned by it, including air rights over public facilities.

(f) The contract between the City and the developer with respect to construction of an urban development project may provide that the developer shall be responsible for: (i) construction of the entire project, reconstruction, or repair of the project or any part thereof subsequent to its initial construction; (ii) construction of any addition to the project, renovation of the project, or any part thereof, and (iii) purchase of apparatus, supplies, materials, or equipment for the project, whether during the initial equipping of the project or subsequent thereto. The contract shall include such provisions as the Board deems sufficient to assure that the public facility included in the project or added thereto, is constructed, reconstructed, repaired, or renovated, and that the apparatus, supplies, materials, and equipment are purchased at a reasonable price. The provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statues shall not apply to an urban development project if the City funds constitute no more than fifty percent (50%) of the total costs of the project. Federal funds available for loan to private developers in connection with a project shall not be considered City funds for purposes of this subsection.

(g) The City may contract for the operation of any public facility included in an urban development project by any person, partnership, firm or corporation, public or private.

(h) To assist in the financing of its share of the urban development project, the City may apply for, accept, and expend funds from the federal or state government or from any other lawful source.

(i) The authority granted by this section is in addition to and not in derogation of any other authority granted to the City by general law. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an urban development project.

"Section 9.4 **Incubator Facilities.** The Board may establish one or more incubator facilities within the City. For purposes of this section, the term 'incubator facility' shall mean a building or group of buildings that provides space and support services for small business concerns that are beginning operation. The Board may purchase or lease any real or personal property for incubator facility purposes and may lease or sublease any such property or any other real or personal property owned by the City. The Board may make grants or loans to any such corporation from funds lawfully available for such purpose subject to any rules, regulations, restrictions, and conditions that the Board deems to be in the public interest. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an incubator facility project.

"ARTICLE X. EXTENSION OF LIMITS.

"Section 10.1. **Annexation of Noncontiguous Areas.** G. S. 160A-58.1(b)(5) shall not apply to the City.

"ARTICLE XI. LAND USE.

"Section 11.1. **Planning Board and Zoning Board of Adjustment.** The membership and method of appointing the members of the City Planning Board and the City Zoning Board of Adjustment shall continue as provided in S.L. 2001-101.

"Section 11.2. **Reservation of Recreation Areas.** In adopting any subdivision control ordinance pursuant to the provisions of this Charter or G.S. 160A-372, the Board is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Board may determine to be the equivalent in value of such recreation area. The Board may use any moneys received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

Section 11.3. **Trees and Shrubs.** In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, the City may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipal boundaries and within its area of extraterritorial planning jurisdiction. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a registered forester. Prior to adopting an ordinance under this section, a public hearing shall be held before the Board. Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

"ARTICLE XII WATER AND SEWER.

"Section 12.1. **Operation Outside Corporate Limits.** In addition to any authority granted by general law, the City is authorized to acquire, construct, establish, enlarge, improve, maintain, own, operate, contract for the operation of, protect, and regulate water and sewer utilities outside the corporate limits of the City as the Board may deem appropriate, including the area encompassing the territory located within the Commonwealth of Virginia that lies between the northern boundary of Surry County, North Carolina, and the southern right-of-way line of the Blue Ridge Parkway.

"'Section 12.2. **Utility Bill Collection Procedures.** Whenever water or sewer utilities are provided by the City under authority of general law or this Charter, and the person legally responsible for payment of the rents, rates, fees, or charges for the service fails to pay the rents, rates, fees, or charges for more than 60 days after they became delinquent, the City may treat the amount due as if it were a tax due to the City and may proceed to collect the amount due through the use of levy on tangible personal property under G.S. 105-366 and G.S. 105-367.

"Section 12.3. **Dedication of Certain Water and Sewer Lines.** If any person, firm, or corporation connects any privately owned water or sewer lines to City-owned or operated lines without first dedicating, giving, granting, conveying, or otherwise contracting with respect to the lines, the act of connection shall be deemed a dedication, gift, grant, and conveyance of the lines to the City. The City may accept the lines or may reject them and order the lines disconnected.

"Section 12.4. **Special Assessments.** In exercising the authority granted under Article 16 of Chapter 160A of the General Statutes to extend and operate public enterprises outside the corporate limits, the City may specially assess all or part of the costs of installing, constructing, reconstructing, extending, building, or improving water supply and distribution systems or sewage collection and disposal systems outside the corporate limits of the city against property benefited from the systems. However, no special assessment shall be levied unless and until a valid petition for the improvements has been submitted to the City by the owners of the affected property. To be valid, the petition must be signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all of the lineal feet of frontage of the lands abutting the water or sewer improvement. Except as herein provided, special assessments levied pursuant to this section shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City upon property within the corporate limits. The effect of levying assessments under this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIII. STREETS AND SIDEWALKS.

"Section 13.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the City and to assess the total costs or a portion thereof against abutting property owners in accordance with the provisions of this Article.

"Section 13.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon a finding by the Board of one of the following:

(a) The street or part thereof is unsafe for vehicular traffic and it is in the public interest to make the improvement.

(b) It is in the public interest to connect two streets or portions of a street already improved.

(c) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the

City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 13.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Section 13.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the City, and to assess the total costs or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes. However, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 13.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided in Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 13.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIV. FIREFIGHTERS' SUPPLEMENTARY PENSION FUND.

"Section 14.1. **Continuation of Fund.** The Mount Airy Firefighters' Supplementary Pension Fund shall continue as authorized in Chapter 302 of the 1967 Session Laws, as amended by Chapter 12 of the 1969 Session Laws, Chapter 121 of the 1973 Session Laws, Chapter 165 of the 1995 Session Laws, S.L. 2000-22, and any subsequent acts of the General Assembly.

"ARTICLE XV. REGULATORY JURISDICTION.

"Section 15.1. **Speed Limits.** The Board may authorize the Chief of Police to establish speed limits pursuant to G.S. 20-141.

"Section 15.2. **Solicitation and Peddling.** The City may exercise the authority contained in G.S. 160A-178 and G.S. 160A-179 within its area of extraterritorial planning jurisdiction.

"Section 15.3. **Drainage.** The Board may forbid any obstruction or stopping on any natural drainway within the City or diverting the water therefrom and may require land owners desiring to construct or install pipes or culverts to carry water or other drainage off their land to construct and install the pipes or culverts according to plans and specifications adopted or approved by the Board.

"ARTICLE XVI. TOURISM DEVELOPMENT AUTHORITY.

"Section 16.1. **Occupancy Tax Authorized.** The Mount Airy Tourism Development Authority shall continue as authorized in S.L. 1997-410, as amended by S.L. 2001-7, and any subsequent acts of the General Assembly."

SECTION 2. The purpose of this act is to revise the Charter of the City of Mount Airy and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are expressly repealed:

Chapter 160 of the 1925 Private Laws, except for Section 1 and Section 4.
Chapter 27 of the 1927 Private Laws.
Chapter 89 of the 1927 Private Laws.
Chapter 191 of the 1937 Private Laws.
Chapter 35 of the 1939 Private Laws.
Chapter 710 of the 1943 Session Laws, as it applies to the City of Mount Airy.
Chapter 932 of the 1945 Session Laws, as it applies to the City of Mount Airy.
Chapter 244 of the 1949 Session Laws.
Chapter 709 of the 1949 Session Laws.
Chapter 1072 of the 1957 Session Laws.
Chapter 734 of the 1959 Session Laws.
Chapter 1005 of the 1961 Session Laws.
Chapter 120 of the 1963 Session Laws.
Chapter 285 of the 1963 Session Laws.
Chapter 521 of the 1963 Session Laws.
Chapter 630 of the 1963 Session Laws.
Chapter 652 of the 1963 Session Laws.
Chapter 46 of the 1969 Session Laws.
Chapter 291 of the 1969 Session Laws.
Chapter 426 of the 1971 Session Laws, except for Section 6.
Chapter 485 of the 1973 Session Laws, as it applies to the City of Mount Airy.
Chapter 75 of the 1977 Session Laws.
Chapter 416 of the 1989 Session Laws.
Chapter 793 of the 1991 Session Laws, as it applies to the City of Mount Airy.
Chapter 26 of the 1993 Session Laws.
Chapter 30 of the 1995 Session Laws.
S.L. 1999-232.
S.L. 1999-325.

SECTION 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

SECTION 6. No provision in this act is intended, nor shall be construed, to affect in any way, any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 7. No law heretofore repealed expressly or by implication, and no law granting authority that has been exhausted, shall be revived by: (i) the repeal herein of any act repealing such law, or (ii) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 8. All existing ordinances, resolutions, and other provisions of the City of Mount Airy not inconsistent with the provisions of this act shall continue in effect until repealed, modified, or amended.

SECTION 9. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision that is superseded or recodified.

MOUNT AIRY ANNEXATION

SECTION 11. The following described property is added to the corporate limits of the City of Mount Airy:

TRACT ONE

That portion of the property described in Deed Book 319, page 670, Surry County Registry containing 9.4 acres and designated as Surry County Tax Parcel Number 5939-09-07-7472 that is not already within the corporate limits.

TRACT TWO

The property described in Deed Book 629, page 420, Surry County Registry containing approximately 0.81 acre and designated as Surry County Tax Parcel Number 5021-12-85-6400.

TRACT THREE

The property described in Deed Book 625, page 398, Surry County Registry containing approximately 0.70 acre and designated as Surry County Tax Parcel Number 5929-10-45-8751.

MOUNT AIRY OCCUPANCY TAX REVISIONS

SECTION 12. Section 1 of S.L. 1997-410 reads as rewritten:

"Section 1. Mount Airy Occupancy Tax. (a) Authorization and scope. The Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to

accommodations furnished by nonprofit charitable, educational, or religious organizations or by nonprofit summer camps when the accommodations are furnished in furtherance of their nonprofit purpose.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The City of Mount Airy may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. The City of Mount Airy shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~only~~ to promote travel and tourism in the Mount Airy ~~area.~~ area and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~seven percent (7%) of the gross proceeds.~~three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. ~~Advertise and market activities, develop and distribute promotional materials,~~ To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, ~~and~~ or engage in other similar promotional activities that attract tourists or business travelers to the area. The term also includes administration of the Mount Airy Tourism Development Authority.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the city by attracting tourists or business travelers to the city. The term includes tourism-related capital expenditures."

BLOWING ROCK OCCUPANCY TAX REVISIONS

SECTION 13. Chapter 171 of the 1987 Session Laws reads as rewritten:

"**Section 1.** Occupancy tax. – (a) Authorization and scope. – The Blowing Rock Town Council may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the corporate

limits of the town that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3).~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Blowing Rock Town Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The Town of Blowing Rock may not levy a tax under this section unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~

(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act.~~The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six~~

~~months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and use of tax revenue. – The Town of Blowing Rock ~~shall retain from the gross proceeds of the tax an amount sufficient to pay its direct costs for administrative and collection expenses, not to exceed three percent (3%) of the gross proceeds. The town council shall, at least once annually, conduct a hearing on the proposed use of the net proceeds of the tax. The amount of the net proceeds shall be reported at the hearing. After the hearing, the town council may remit twenty percent (20%) of the net proceeds reported at the hearing to the Blowing Rock Chamber of Commerce. The Blowing Rock Chamber of Commerce may use the funds remitted to it pursuant to this subsection only to promote tourism within the Town of Blowing Rock. The remainder of the net proceeds may be used by the town to enhance the ability of the town to attract tourism, except that the town may not expend any of the net proceeds for general fund operating expenses that are not tourist-related or for water and sewer capital or operating expenses that are not tourist-related.~~shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Blowing Rock Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Blowing Rock and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 1.1. Blowing Rock Tourism Development Authority. – (a) Appointment and membership. – When the Blowing Rock Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Blowing Rock Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the

promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Blowing Rock shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the town.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Blowing Rock Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Blowing Rock Town Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. This act is effective upon ratification."

SECTION 14. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

SECTION 15. Section 11 of this act becomes effective June 30, 2003. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 497
Second Edition Engrossed 5/7/03

Short Title:	Revise and Consolidate Mt. Airy Charter.	(Local)
Sponsors:	Senator Garwood.	
Referred to:	Finance.	

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MOUNT AIRY, TO ANNEX CERTAIN DESCRIBED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY, AND TO MODIFY THE CITY OF MOUNT AIRY OCCUPANCY TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Mount Airy is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MOUNT AIRY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Mount Airy, North Carolina, in Surry County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Mount Airy,' hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Mount Airy specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Surry County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **City Governing Body Composition.** The Board of Commissioners, hereinafter referred to as the 'Board' and the Mayor shall be the governing body of the City.

"Section 2.2. **Board; Composition; Terms of Office.** The Board shall be composed of five members to be elected by all the qualified voters of the City voting at large for staggered terms of four years, or until their successors are elected and qualified. Two commissioners shall be residents of the ward currently designated as the 'North Ward,' two commissioners shall be residents of the ward currently designated as the 'South Ward,' and one commissioner shall be elected as at large.

"Section 2.3. **Mayor Term of Office, Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of City government and shall preside at all meetings of the Board, shall have the right to vote only when there is an equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and Board members shall be in accordance with general law. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. The Mayor and the Board shall be elected by the nonpartisan primary and election method as provided in G.S. 163-279(a)(3) and G.S. 163-294. Board members shall be elected by all the qualified voters of the City and shall reside in the wards they represent.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2005 and quadrennially thereafter.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 2003 election and quadrennially thereafter, three commissioners shall be elected, the Commissioner-at-Large, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring. In the 2005 election and quadrennially thereafter, two commissioners shall be elected, one commissioner

representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring.

"Section 3.4. **Ward Boundaries.** The City shall be divided into two wards that are currently designated as the North Ward and the South Ward. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with general law.

"Section 3.5. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Board shall appoint a City Manager in accordance with G.S. 160A-147 and the provisions of Article V of this Charter.

"Section 4.3. **City Clerk.** The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties as required by law or as directed by the City Manager.

"Section 4.4. **Finance Director.** The City Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Manager.

"Section 4.5. **Tax Collector.** The City shall have a Tax Collector to collect all taxes owed to the City and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the City Manager. Notwithstanding G.S. 105-349, the City Manager shall have the power to appoint, suspend, and remove the Tax Collector in accordance with general personnel rules, regulations, policies, and ordinances as adopted by the Board.

"Section 4.6. **City Attorney.** The Board shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as directed by the Board. The Board may appoint one or more Assistant City Attorneys to assist the City Attorney and serve in his or her absence or incapacity and who shall have the same qualifications and duties as the City Attorney.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the City Manager and may organize the City government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. CITY MANAGER.

"Section 5.1. **Appointment, qualifications; term; compensation; oath.**

(a) The Board shall appoint a City Manager in accordance with Article IV of this Charter who shall be the administrative head of all departments of City government. The City Manager shall be appointed with regard to merit only and need not be a

resident of the City when appointed. The Board may require the City Manager to reside within the City during the Manager's tenure of office. No Board member may be appointed or act as City Manager during the term for which the member was elected or within one year after the expiration of the member's term.

(b) Unless otherwise agreed upon by the Board and the City Manager, if the City Manager is involuntarily removed by the Board, except for good and just cause, the City Manager shall be forthwith paid any unpaid balance of salary, any accumulated and accrued job benefits, and salary for the three calendar months following the day of termination or for such other period as may be agreed upon in advance.

(c) Before entering upon the duties of office, the City Manager shall take and subscribe an oath to perform faithfully the duties of the office.

"Section 5.2. **Powers and Duties.** The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the Board, so far as authorized by general law, and the provisions of this Charter. Additionally, the City Manager shall have the following powers and duties:

(a) The City Manager may designate an assistant to perform the Manager's functions temporarily when the Manager is absent from the City, sick, or otherwise unable to act; and from time to time, with Board approval, may designate an assistant or assistants to perform the Manager's functions during any particular absence or disability. The person or persons so designated shall have all of the powers and duties of the City Manager when acting in the place of the City Manager.

(b) The City Manager may, when authorized by the Board, execute in the name and on behalf of the City, contracts, bonds, and other legal instruments, except deeds.

(c) The City Manager shall make and execute all contracts on behalf of the City in the manner authorized or provided by resolutions or ordinances adopted by the Board. The Board may, on such terms as it deems proper, allow the City Manager to authorize one or more designees to make and execute contracts.

(d) The City Manager may, when authorized by the Board, settle claims against the City for: (i) personal injuries or damages to property when the amount involved does not exceed the sum of ten thousand dollars ($10,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets, when the amount involved does not exceed ten thousand dollars ($10,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this subsection shall constitute a complete release of the City from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or taking complained of. All settlements and all releases shall be approved by the City Attorney.

(e) Unless excused by the Board, it shall be the duty of the City Manager to attend all meetings of the Board, with the right to take part in discussions and recommend for adoption such measures as the City Manager deems expedient, but the City Manager shall not vote on any matters before the Board. The City Manager shall be entitled to notice of all special and emergency Board meetings.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the City Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the City, except the City Attorney and any other official whose appointment or removal is specifically vested in the Board by this Charter or general law. Neither the Board nor any of its members shall take part in the appointment or removal of department heads and employees in the administrative service of the City, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the City Attorney, the Board and its members shall deal with the administrative service solely through the City Manager, an acting City Manager, or an Interim City Manager, and neither the Board nor any of its members shall give any specific orders to any subordinates of the City Manager, an acting City Manager, or an Interim City Manager, either publicly or privately.

"ARTICLE VI. PUBLIC CONTRACTS.

"Section 6.1. **Award of Certain Contracts.**

(a) The City Manager may award, approve, and execute contracts or agreements of any kind or nature on behalf of the City when the amount of the contract or agreement does not exceed one hundred thousand dollars ($100,000) if the Board has approved the appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract or agreement. In addition, the City Manager, or the City Manager's duly authorized designee appointed in accordance with Section 5.2(a) of this Charter, may approve and execute amendments to contracts or agreements, including contracts initially approved solely by the Board when the amount in question does not exceed one hundred thousand dollars ($100,000).

(b) The City Manager, upon authorization by the Board, may award, approve, and execute contracts for the acquisition of or the construction and installation of water and sewer lines that will eventually become a part of the City utility system, regardless of the amount in question, where the construction and installation was or shall be the sole responsibility and expense of another person, firm, or corporation.

"Section 6.2. **Procedures.**

(a) The City Manager shall, within 45 days of the award of any contract described in Section 6.1 of this Charter, report such award to the Board. However, the City Manager shall not be required to report contracts in a minimum amount that may be set from time to time by the Board.

(b) In awarding, approving, and executing contracts described in this Article, the City Manager shall comply with all applicable provisions of this Charter and Article 8 of Chapter 143 of the General Statutes. The City Manager may take any action that the Board is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing contracts.

"ARTICLE VII. ACQUISITION OF PROPERTY.

"Section 7.1. **Delegation to City Manager.** The Board may delegate authority to the City Manager to purchase real property, any interest in real property, or personal property provided that: (i) the Board shall have approved the appropriation for the purchase in the annual budget for the current fiscal year; and (ii) the City Manager,

within 45 days following the purchase shall submit to the Board a written report setting forth the names of the persons or entities from whom the real property or interest in real property was purchased, a general description of the property or interest in property acquired, the purchase price paid, and the intended use of the property or interest in property.

"ARTICLE VIII. DISPOSITION OF PROPERTY.

"Section 8.1. **General Provision.** Unless specifically provided otherwise, the provisions of Article 12 of Chapter 160A of the General Statutes shall not apply to the disposition of property pursuant to this Article. The authority contained in this Article is in addition to and not in limitation of any other authority granted by this Charter or general law.

"Section 8.2. **Disposition of Property.** The Board may, upon the affirmative vote of at least four members, publicly or privately sell, lease, rent, exchange, or otherwise convey or cause to be publicly or privately sold, leased, rented, exchanged, or otherwise conveyed any property, real or personal, or any interest in such property, belonging to the City.

"Section 8.3. **Conditions and Restrictions Authorized.** The Board may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to such covenants, conditions, and restrictions as the Board may deem to be in the public interest. The sale, exchange, or other transfer may be made pursuant to the provisions of this Charter, Article 12 of Chapter 160A of the General Statutes, or any other applicable provision of law, and the consideration received by the City, if any, for the sale, exchange, or transfer may reflect the restricted use of the property resulting from the covenants, conditions and restrictions. The City may invite bids or written proposals, including detailed development plans and site plans, for the purchase of any property or property interest, whether by sale, exchange, or other transfer, pursuant to such specifications as may be approved by the City. A sale, exchange, or other transfer of real property, or interest therein, pursuant to this section may be made contingent upon any necessary rezoning of the property.

"Section 8.4. **Disposition of Certain Property by City Manager.** The Board may authorize the City Manager to dispose of the following property by the methods indicated without obtaining Board approval for each disposition:

(a) Interests in real property by private negotiation or sale with respect to parcels having a fair market value of ten thousand dollars ($10,000) or less.

(b) Water or sewer easements, or similar interests in real property, as part of any exchange for other water and sewer easements or similar interests in property.

(c) Water or sewer easements, or similar interests in real property by private negotiation and sale, when the easement or similar interest in real property is no longer needed by the City.

"Section 8.5. **Disposition of Personal Property.** The City may sell any and all surplus personal property belonging to the City at private sale.

"Section 8.6. **Lease or Rental of Property.** Notwithstanding G.S. 160A-272, the Board may, in its discretion, lease City-owned property for such terms and upon such conditions as the Board may determine, including terms of more than 10 years without

the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

"Section 8.7. **Documents of Conveyance.** Whenever a disposition of an interest in real property is authorized by the City pursuant to this Charter or otherwise, the instrument conveying such interest may be executed by the Mayor or the Mayor's designee and attested by the City Clerk or City Manager, with the official seal of the City affixed thereto. With respect to the sale of real property the City may execute deeds in the usual form and include therein full covenants of warranty.

"ARTICLE IX. ECONOMIC DEVELOPMENT.

"Section 9.1. **Promotion of the City.** The Board is authorized to appropriate annually reasonable sums for promoting the City.

"Section 9.2. **Encouraging Local Development.** The Board is authorized and empowered to annually set apart and appropriate funds and to expend the same for the purpose of aiding, assisting, and encouraging, by contract with independent contractors or otherwise, the location of manufacturing, industrial, and commercial plants, distribution centers, or businesses in the City and for advertising the advantages and resources of the City and for such purposes as will, in the discretion of the Board, increase the taxable value of property of the City and that will promote the general welfare of the City, which purposes are declared to be lawful public purposes of the City.

"Section 9.3. **Urban Development Projects.**

(a) The term 'urban development project' as used in this section means a capital project comprising the construction or renovation of one or more buildings or other improvements, including the provision for sidewalks and streets in conjunction therewith, of which part of the overall project is privately owned and part is publicly owned.

(b) The City may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an urban development project or specific facilities within the project, including the making of loans and grants from any moneys lawfully available for the project.

(c) The City may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating an urban development project. The contract may be entered into before acquisition of any real property necessary for the project. The contract may specify the following:

(1) The property interests of both the City and the developer. However, the property interests of the City shall be limited to facilities for a public purpose.

(2) The responsibilities of the City and the developer for construction of the project.

(3) The responsibilities of the City and the developers with respect to financing the project.

(d) An urban development project may be constructed on property acquired by the developer on property acquired by the City or on property acquired jointly by the City and the developer.

(e) The City may lease or convey interests in urban development project property or other property owned by it, including air rights over public facilities.

(f) The contract between the City and the developer with respect to construction of an urban development project may provide that the developer shall be responsible for: (i) construction of the entire project, reconstruction, or repair of the project or any part thereof subsequent to its initial construction; (ii) construction of any addition to the project, renovation of the project, or any part thereof, and (iii) purchase of apparatus, supplies, materials, or equipment for the project, whether during the initial equipping of the project or subsequent thereto. The contract shall include such provisions as the Board deems sufficient to assure that the public facility included in the project or added thereto, is constructed, reconstructed, repaired, or renovated, and that the apparatus, supplies, materials, and equipment are purchased at a reasonable price. The provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statues shall not apply to an urban development project if the City funds constitute no more than fifty percent (50%) of the total costs of the project. Federal funds available for loan to private developers in connection with a project shall not be considered City funds for purposes of this subsection.

(g) The City may contract for the operation of any public facility included in an urban development project by any person, partnership, firm or corporation, public or private.

(h) To assist in the financing of its share of the urban development project, the City may apply for, accept, and expend funds from the federal or state government or from any other lawful source.

(i) The authority granted by this section is in addition to and not in derogation of any other authority granted to the City by general law. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an urban development project.

"Section 9.4 **Incubator Facilities.** The Board may establish one or more incubator facilities within the City. For purposes of this section, the term 'incubator facility' shall mean a building or group of buildings that provides space and support services for small business concerns that are beginning operation. The Board may purchase or lease any real or personal property for incubator facility purposes and may lease or sublease any such property or any other real or personal property owned by the City. The Board may make grants or loans to any such corporation from funds lawfully available for such purpose subject to any rules, regulations, restrictions, and conditions that the Board deems to be in the public interest. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an incubator facility project.

"ARTICLE X. EXTENSION OF LIMITS.

"Section 10.1. **Annexation of Noncontiguous Areas.** G. S. 160A-58.1(b)(5) shall not apply to the City.

"ARTICLE XI. LAND USE.

"Section 11.1. **Planning Board and Zoning Board of Adjustment.** The membership and method of appointing the members of the City Planning Board and the City Zoning Board of Adjustment shall continue as provided in S.L. 2001-101.

"Section 11.2. **Reservation of Recreation Areas.** In adopting any subdivision control ordinance pursuant to the provisions of this Charter or G.S. 160A-372, the Board is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Board may determine to be the equivalent in value of such recreation area. The Board may use any moneys received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

Section 11.3. **Trees and Shrubs.** In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, the City may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipal boundaries and within its area of extraterritorial planning jurisdiction. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a registered forester. Prior to adopting an ordinance under this section, a public hearing shall be held before the Board. Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

"ARTICLE XII WATER AND SEWER.

"Section 12.1. **Operation Outside Corporate Limits.** In addition to any authority granted by general law, the City is authorized to acquire, construct, establish, enlarge, improve, maintain, own, operate, contract for the operation of, protect, and regulate water and sewer utilities outside the corporate limits of the City as the Board may deem appropriate, including the area encompassing the territory located within the Commonwealth of Virginia that lies between the northern boundary of Surry County, North Carolina, and the southern right-of-way line of the Blue Ridge Parkway.

"'Section 12.2. **Utility Bill Collection Procedures.** Whenever water or sewer utilities are provided by the City under authority of general law or this Charter, and the person legally responsible for payment of the rents, rates, fees, or charges for the service fails to pay the rents, rates, fees, or charges for more than 60 days after they became delinquent, the City may treat the amount due as if it were a tax due to the City and may proceed to collect the amount due through the use of levy on tangible personal property under G.S. 105-366 and G.S. 105-367.

"Section 12.3. **Dedication of Certain Water and Sewer Lines.** If any person, firm, or corporation connects any privately owned water or sewer lines to City-owned or operated lines without first dedicating, giving, granting, conveying, or otherwise contracting with respect to the lines, the act of connection shall be deemed a dedication,

gift, grant, and conveyance of the lines to the City. The City may accept the lines or may reject them and order the lines disconnected.

"Section 12.4. **Special Assessments.** In exercising the authority granted under Article 16 of Chapter 160A of the General Statutes to extend and operate public enterprises outside the corporate limits, the City may specially assess all or part of the costs of installing, constructing, reconstructing, extending, building, or improving water supply and distribution systems or sewage collection and disposal systems outside the corporate limits of the city against property benefited from the systems. However, no special assessment shall be levied unless and until a valid petition for the improvements has been submitted to the City by the owners of the affected property. To be valid, the petition must be signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all of the lineal feet of frontage of the lands abutting the water or sewer improvement. Except as herein provided, special assessments levied pursuant to this section shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City upon property within the corporate limits. The effect of levying assessments under this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIII. STREETS AND SIDEWALKS.

"Section 13.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the City and to assess the total costs or a portion thereof against abutting property owners in accordance with the provisions of this Article.

"Section 13.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon a finding by the Board of one of the following:

(a) The street or part thereof is unsafe for vehicular traffic and it is in the public interest to make the improvement.

(b) It is in the public interest to connect two streets or portions of a street already improved.

(c) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 13.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the

acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Section 13.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the City, and to assess the total costs or a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes. However, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 13.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided in Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 13.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIV. FIREFIGHTERS' SUPPLEMENTARY PENSION FUND.

"Section 14.1. **Continuation of Fund.** The Mount Airy Firefighters' Supplementary Pension Fund shall continue as authorized in Chapter 302 of the 1967 Session Laws, as amended by Chapter 12 of the 1969 Session Laws, Chapter 121 of the 1973 Session Laws, Chapter 165 of the 1995 Session Laws, S.L. 2000-22, and any subsequent acts of the General Assembly.

"ARTICLE XV. REGULATORY JURISDICTION.

"Section 15.1. **Speed Limits.** The Board may authorize the Chief of Police to establish speed limits pursuant to G.S. 20-141.

"Section 15.2. **Solicitation and Peddling.** The City may exercise the authority contained in G.S. 160A-178 and G.S. 160A-179 within its area of extraterritorial planning jurisdiction.

"Section 15.3. **Drainage.** The Board may forbid any obstruction or stopping on any natural drainway within the City or diverting the water therefrom and may require land owners desiring to construct or install pipes or culverts to carry water or other drainage off their land to construct and install the pipes or culverts according to plans and specifications adopted or approved by the Board.

"ARTICLE XVI. TOURISM DEVELOPMENT AUTHORITY.

"Section 16.1. **Occupancy Tax Authorized.** The Mount Airy Tourism Development Authority shall continue as authorized in S.L. 1997-410, as amended by S.L. 2001-7, and any subsequent acts of the General Assembly."

SECTION 2. The purpose of this act is to revise the Charter of the City of Mount Airy and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are expressly repealed:

Chapter 160 of the 1925 Private Laws, except for Section 1 and Section 4.
Chapter 27 of the 1927 Private Laws.
Chapter 89 of the 1927 Private Laws.
Chapter 191 of the 1937 Private Laws.
Chapter 35 of the 1939 Private Laws.
Chapter 710 of the 1943 Session Laws, as it applies to the City of Mount Airy.
Chapter 932 of the 1945 Session Laws, as it applies to the City of Mount Airy.
Chapter 244 of the 1949 Session Laws.
Chapter 709 of the 1949 Session Laws.
Chapter 1072 of the 1957 Session Laws.
Chapter 734 of the 1959 Session Laws.
Chapter 1005 of the 1961 Session Laws.
Chapter 120 of the 1963 Session Laws.
Chapter 285 of the 1963 Session Laws.
Chapter 521 of the 1963 Session Laws.
Chapter 630 of the 1963 Session Laws.
Chapter 652 of the 1963 Session Laws.
Chapter 46 of the 1969 Session Laws.
Chapter 291 of the 1969 Session Laws.
Chapter 426 of the 1971 Session Laws, except for Section 6.
Chapter 485 of the 1973 Session Laws, as it applies to the City of Mount Airy.
Chapter 75 of the 1977 Session Laws.
Chapter 416 of the 1989 Session Laws.
Chapter 793 of the 1991 Session Laws, as it applies to the City of Mount Airy.
Chapter 26 of the 1993 Session Laws.
Chapter 30 of the 1995 Session Laws.
S.L. 1999-232.
S.L. 1999-325.

SECTION 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

SECTION 6. No provision in this act is intended, nor shall be construed, to affect in any way, any rights or interests, whether public or private:

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 7. No law heretofore repealed expressly or by implication, and no law granting authority that has been exhausted, shall be revived by: (i) the repeal herein of any act repealing such law, or (ii) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 8. All existing ordinances, resolutions, and other provisions of the City of Mount Airy not inconsistent with the provisions of this act shall continue in effect until repealed, modified, or amended.

SECTION 9. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision that is superseded or recodified.

SECTION 11. The following described property is added to the corporate limits of the City of Mount Airy:

TRACT ONE

That portion of the property described in Deed Book 319, page 670, Surry County Registry containing 9.4 acres and designated as Surry County Tax Parcel Number 5939-09-07-7472 that is not already within the corporate limits.

TRACT TWO

The property described in Deed Book 629, page 420, Surry County Registry containing approximately 0.81 acre and designated as Surry County Tax Parcel Number 5021-12-85-6400.

TRACT THREE

The property described in Deed Book 625, page 398, Surry County Registry containing approximately 0.70 acre and designated as Surry County Tax Parcel Number 5929-10-45-8751.

SECTION 12. Section 1 of S.L. 1997-410 reads as rewritten:

"Section 1. Mount Airy Occupancy Tax. (a) Authorization and scope. The Mount Airy Board of Commissioners may levy a room occupancy tax of up to ~~three percent (3%)~~six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations or by nonprofit summer camps when the accommodations are furnished in furtherance of their nonprofit purpose.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. The City of Mount Airy shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism Development Authority. The Authority shall use the funds remitted to it under this subsection only to promote travel and tourism in the Mount Airy area. The following definitions apply in this section:

(1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the gross proceeds.

(2) Promote travel and tourism. – Advertise and market activities, develop and distribute promotional materials, conduct market research, provide for the maintenance of facilities developed to promote tourism, support activities that attract tourists to the area, and engage in other similar promotional activities that attract tourists or business travelers to the area. The term also includes administration of the Mount Airy Tourism Development Authority.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in a county or to attract tourists or business travelers to a county, expenditures incurred by the City in collecting the tax, expenditures to construct, maintain, operate, or market a convention center or other facilities, and other expenditures determined by the Tourism Development Board to facilitate and support tourism."

SECTION 13. Section 11 of this act becomes effective June 30, 2003. The remainder of this act is effective when it becomes law.

SENATE BILL 497:
Revise & Consolidate Mt. Airy Charter

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Garwood
Date:	June 24, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 497 revises and consolidates the Charter of the City of Mt. Airy and annexes certain described "donut hole" property into the City of Mount Airy. The bill also modifies the Mount Airy and Blowing Rock occupancy tax provisions. The occupancy tax provisions were given a favorable report by the Occupancy Tax Subcommittee.***

BILL ANALYSIS:

Sections 1-10. Revise Mount Airy Charter. These sections revise and consolidate the Mount Airy Charter.

Section 11. "Donut" Annexation. This section annexes three unincorporated areas into the city, which were not included in prior annexations.

Section 12. Modify Mount Airy Occupancy Tax.

CURRENT LAW: In 1997, the General Assembly authorized the city of Mount Airy to levy an occupancy tax of up to 3%. The city is required to remit the net proceeds on a quarterly basis to the Mount Airy Tourism Development Authority. The Authority must spend the proceeds to promote travel and tourism in the Mount Airy area. The city of Mount Airy is located in Surry County, which does not have the authority to levy an occupancy tax.

BILL ANALYSIS: Section 13 does the following:

- Increases the city's maximum occupancy tax rate from 3% to 6%.
- Modifies the definitions of "net proceeds" and "promote travel and tourism", and adds the definition of "tourism-related expenditures" to conform to the uniform definitions under the occupancy tax guidelines followed by the House Finance Committee.

Currently, the City plans to use the additional proceeds from the occupancy tax to construct and maintain public restrooms in the downtown area.

Section 13. Modify Blowing Rock Occupancy Tax.

CURRENT LAW: In 1987, the General Assembly authorized the town of Blowing Rock to levy a 3% room occupancy tax. The legislation requires the town council to conduct a hearing at least once a year on the proposed use of the net proceeds of the tax. After the hearing, the town council may remit 20% of the net proceeds to the Blowing Rock Chamber of Commerce, which must use the funds to promote tourism within the town. The town may use the remainder of the proceeds to enhance the ability of the town to attract tourism. However, the town may not use any of the proceeds for general fund operating expenses that are not tourist-related. Currently, the town does not have a Tourism Development Authority.

BILL ANALYSIS: Section 13 of the bill authorizes the town of Blowing Rock to increase its room occupancy tax from 3% to 6%. It also conforms Blowing Rock's current legislation to both the uniform provisions concerning the levy, administration, collection, and repeal of the tax found in G.S. 160A-215 and the uniform provisions concerning the use and distribution of the proceeds.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 497 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MOUNT AIRY, TO ANNEX CERTAIN DESCRIBED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY, AND TO MODIFY THE CITY OF MOUNT AIRY OCCUPANCY TAX PROVISIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 408
Finance Committee Substitute Adopted 6/4/03

Short Title: Eden Annexation Contracts. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF EDEN TO NEGOTIATE ANNEXATION CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Eden may, by contract, provide that certain property described in the contract may not be annexed by the City under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes prior to December 31, 2013. Nothing in this act impairs the right of the General Assembly to annex any such property by specific local act.

SECTION 2. The City of Eden may accept, as consideration for such contract, "Payments in lieu of taxes".

SECTION 3. Payments in lieu of taxes under this act shall be annually computed based upon the tax valuations of the properties subject to contracts under Section 1 of this act as determined by the Rockingham County Tax Department, with the formula for making the computation being stated in each contract.

SECTION 4. Contracts under Section 1 of this act apply only to the following described properties:

PARKDALE DESCRIPTION

LYING AND BEING in Rockingham County, and beginning at a found iron marking the Northwest corner of that tract of land described in deed recorded in Deed Book 240, Page 406 to which reference is hereby made; thence North 55 degrees 04 minutes 20 seconds East 2,276.89 feet to a Spanish Oak in the West edge of what was formerly the old Marrowbone Road; thence North 35 degrees 02 minutes 30 seconds West 93.15 feet; thence North 55 degrees 04 minutes 20 seconds East 40 feet to a corner in North Carolina Highway No. 87; thence South 36 degrees 38 minutes 50 seconds East 93.15 feet to a point in the North Carolina Highway No. 87; thence South 36 degrees 38 minutes 50 seconds East 606.85 feet to a point: thence South 39 degrees 30 minutes East 511 feet to an iron on the West side of North Carolina Highway No. 87; thence South 49 degrees 57 minutes 40 seconds West 810.86 feet to a point; thence South 47

degrees 55 minutes 40 seconds West 1,651.87 feet to a found iron; thence North 32 degrees 02 minutes 30 seconds West 1,397.84 feet to the POINT OF BEGINNING, same being all of that parcel or tract of land conveyed by Carroll Knits, Inc. to Macfield by Deed dated October 7, 1976.

The above description taken from Deed Book 787, Page 790, Rockingham County Registry.

The above described property is further described pursuant to a more current survey as follows:

BEGINNING at an existing iron stake located within the right of way of NC Highway 87, said beginning point marking the northeast corner of Beatrice W. Austin (Book 596, Page 249); thence leaving NC Highway 87 South 50 degrees 16 minutes 46 seconds West 199.18 feet to an existing iron stake, South 50 degrees 7 minutes 39 seconds West 133.34 feet to an existing iron stake, South 50 degrees 14 minutes 49 seconds West 90.14 feet to an existing iron stake, South 50 degrees 13 minutes 58 seconds West 150.16 feet to an existing iron stake, South 50 degrees 21 minutes 28 seconds West 199.29 feet to an iron stake in old pine stump (control corner), South 48 degrees 15 minutes West 1411.70 feet to an iron stake (control corner), and South 47 degrees 54 minutes 17 seconds West 279.24 feet to an existing iron stake on the north right of way margin of SR 1560 and marking the southeast corner of Milton L. Overby (Book 781, Page 435); thence leaving SR 1560 and along the east line of Overby and Gordon C. Pruitt (Book 787, Page 790) North 31 degrees 48 minutes 51 seconds West 1397.10 feet to an existing iron stake; thence North 55 degrees 35 minutes 25 seconds East 323.76 feet to an existing iron stake; thence North 55 degrees 36 minutes 9 seconds East 223.96 feet to an existing iron stake; thence North 54 degrees 59 minutes 20 seconds East 348.35 feet to an existing iron stake; thence North 55 degrees 32 minutes 12 seconds East 530.77 feet to an existing iron stake; thence North 55 degrees 20 minutes 38 seconds East 630.59 feet to an existing iron stake; thence North 55 degrees 24 minutes 3 seconds East 218.0 feet to an oak tree; thence North 35 degrees 12 minutes 29 seconds West 95.25 feet to an existing iron stake; thence North 55 degrees 23 minutes 34 seconds East 39.98 feet to an existing iron stake within the right of way of NC Highway 87; thence within the right of way of Highway 87 South 36 degrees 21 minutes 6 seconds East 93.12 feet to an iron; thence South 36 degrees 26 minutes 53 seconds East 607.32 feet to an iron; thence South 39 degrees 17 minutes 59 seconds East 511.0 feet to an existing iron stake, THE POINT OF BEGINNING. This description as per as-built survey for Vintage Yarns by C. E. Robertson and Associates, RLS, dated May 28, 1990, to which reference is made for more specific description. Being the same property described in Deed Book 787, Page 790.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 408:
Eden Annexation Contracts

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Berger
Date:	June 23, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 408 extends the authority given by the General Assembly to the City of Eden in 1993 to enter into a contract with Parkdale, Inc., a textile manufacturer known as Unifi, Inc. in 1993, to accept annual payments in lieu of taxes and, as part of the contract, to agree not to annex the property described in the contract prior to December 31, 2013. The authority granted in 1993 expires on December 30, 2003. The bill is effective when it becomes law.***

CURRENT LAW: Chapter 418 of the 1993 Session Laws authorized the City of Eden to accept payments in lieu of taxes on certain property and to agree not to annex the property before December 30, 2003. This legislation was the first legislation enacted by the General Assembly authorizing a municipality to negotiate a contract to provide services to an area and to receive payments from the beneficiary of those services in lieu of not annexing the area for a certain amount of time. The 1993 legislation for the City of Eden included several tracts of land for Duke Power, Fieldcrest Cannon, Inc., Miller Brewing Company, and Unifi, Inc. Since 1993, the General Assembly has granted similar authority to City of Washington (1993), the Town of Stanley (1993), the City of Belmont (1997), the City of Hendersonville and the Town of Laurel Park (1997), the Town of Huntersville (1997), the City of Mount Holly (2000), the Town of Weldon (2001), and additional authority to the City of Eden (2002).

BILL ANALYSIS: Senate Bill 408 extends for an additional 10 years the authority originally given to the City of Eden in 1993 as it applies to the property owned by Unifi, Inc., now known as Parkdale, Inc. Like the 1993 legislation, this legislation provides that the payments in lieu of taxes must be annually computed based upon the tax valuations of the properties subject to the contracts as determined by the Rockingham County Tax Department. The formula for making the computation must be stated in the contract.

The General Assembly enacted similar legislation for the City of Eden last session in S. L. 2002-74 as the authorization applied to the property owned by Duke Power and Miller Brewing Company. Neither this bill nor S.L. 2002-74 includes the property described in the 1993 legislation owned by Fieldcrest Cannon.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 408 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF EDEN TO NEGOTIATE ANNEXATION CONTRACTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 757

Short Title:	Oak Island/St. James Annexations.	(Local)
Sponsors:	Representatives Stiller and Hill (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF OAK ISLAND AND THE TOWN OF ST. JAMES.

The General Assembly of North Carolina enacts:

SECTION 1. The provisions of G.S. 160A-58.1 shall not apply to the Town of Oak Island when the Town is annexing municipal property pursuant to G.S. 160A-58.7.

SECTION 2. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

~~This subdivision~~Subdivision (5) of this subsection does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford,

Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Oak Island, Swansboro, and Warsaw."

SECTION 3.(a) G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

~~This subdivision~~Subdivision (5) of this subsection does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, St. James, Swansboro, and Warsaw."

SECTION 3.(b) This section applies only to the Town of St. James.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 757:
Oak Island/St. James Annexations

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep Stiller and Hill
Date:	June 22, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House bill 757 is a local bill that does three things:

- *It exempts the Town of Oak Island from meeting the requirements for annexation of noncontiguous areas when annexing municipal property.*
- *It exempts the Town of Oak Island and the Town of St. James from the 10% cap on satellite annexations.*
- *It exempts the Town of St. James from the three- mile limit on satellite annexations.*

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: House Bill 757 would exempt the Town of Oak Island and St. James from the requirement in G.S. 160A-58.1(b)(5): that the area within the proposed satellite annexation, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing Town.

House Bill 757 would also exempt the Town of St. James from the requirement in G.S. 160A-58.1(b)(1): that the nearest point on the proposed satellite corporate limits must not be more than three miles from the primary corporate limits of the annexing Town.

Finally, House Bill 757 would exempt the Town of Oak Island from the statutory requirements for voluntary annexation of satellite areas when the Town is annexing municipal property under G.S. 160A-58.7. This statute provides:

> The city council may initiate annexation of property not contiguous to the primary corporate limits and owned by the city by adopting a resolution stating its intent to annex the property, in lieu of filing a petition. The property must satisfy the requirements of G.S. 160A-58.1. The resolution shall contain an adequate description of the property and fix a date for a public hearing on the question of annexation. Notice of the public hearing shall be published once at least 10 days before the date of the hearing. At the hearing, any resident of the city may appear and be heard on the question of the desirability of the annexation. If the council finds that annexation is in the public interest, it may adopt an ordinance annexing the property. The ordinance may be made effective immediately or on any specified date within six months from the date of passage.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 757 A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF OAK ISLAND AND THE TOWN OF ST. JAMES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 806
PROPOSED COMMITTEE SUBSTITUTE H806-CSSVf-26 [v.3]

6/10/2003 4:12:28 PM

Short Title: Rebate and Grant Program for AFVs. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall adopt rules implementing the program established in G.S. 113B-30.

(b) These rules shall be adopted after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in motor vehicle registration fees as provided in G.S. 20-87(b) and G.S. 20-88(i2).

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected under this section for the administration of the program.

(d) The State Energy Office may use up to ten percent (10%) of the funds collected under this section for education and awareness about the applications and advantages of alternative fuels and vehicles.

"**§ 113B-33. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund established.**

The Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund is created as a nonreverting account within the Department of Administration. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the purposes set out in this Article.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

(a) ~~These~~ There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

. . .

(b) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00

SECTION 3. G.S. 20-88 is amended by adding a new subsection to read:

"(i2) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to all other fees authorized

by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00"

SECTION 4. This act is effective when it becomes law. The State Energy Office shall adopt the rules to implement the program established by this act on or before January 1, 2004. This act shall expire on January 1, 2014.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Wilson
Sen.)

1 moves to amend the bill on page 2, line s. 2-3
2 ( ) WHICH CHANGES THE TITLE
3 by inserting between the lines:
4 "(d) The rules shall provide that State and
5 local government entities are not eligible
6 for rebates or grants under the Alternative
7 Fuel and Vehicle Rebate and Infrastructure
Grant Program."
9
10
11
12
13
14
15
16
17
18 12 Y 0 N
19 9 no

SIGNED Connie Wilson

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H806-ASVf-18 [v.1]

Date 6/17/03 ,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative C. Wilson

moves to amend the bill on page 2, lines 35-40, by rewriting the lines to read:
"(b) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 2, lines 42 through page 3, line 4, by rewriting the lines to read:
"(i2) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to all other fees authorized by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 3, line 7 by rewriting the line to read:
"before January 1, 2004. This act shall expire on January 1, 2007.".

SIGNED Connie Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806-CSSVf-26 DATE 6/24/2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Wilson
(Sen.)

moves to amend the bill on page 1, line 21

( ) WHICH CHANGES THE TITLE

by adding a sentence at the end of that line to read:

"Rebates shall not be granted under this program for incremental cost differences for alternative fueled or hybrid vehicles or State taxes paid on the incremental cost of alternative fuels that will result in increased emissions of oxides of nitrogen (NOx) or increased production of ozone."

13 YES
14 NO

SIGNED Connie Wilson

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(1)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. 3

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVF26

(Rep.) Ellis

Sen.)

moves to amend the bill on page 2, line 35-40

( ) WHICH CHANGES THE TITLE

by "(b) Upon initial registration or renewal, an owner shall have the option to pay ~~the following~~ an additional ~~fee~~ $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.";

P. 2, lines 42 through p. 3, line 4

"(i2) Upon initial registration or renewal, an owner shall have the option to pay an additional $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(2)

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSV8-26

Rep.) Ellis
Sen.)

moves to amend the bill on page 2, line 2-3

( ) WHICH CHANGES THE TITLE

by inserting the following new subsection between those lines:

"(e) The rules shall provide that a motor vehicle owner who elects not to pay the additional fee under G.S. 20-87(b) or G.S. 20-88(12) shall not be eligible for a grant or rebate under the Program.

~~and on page 2, lines 28-29 by inserting the following:~~

~~"(c) The Division of Motor Vehicles~~

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(3)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVf-26

(Rep.) Ellis
Sen.)

moves to amend the bill on page 3, line 4-5

( ) WHICH CHANGES THE TITLE

by inserting the following new section

"SECTION 3. G.S. 20-57 is amended by adding a new subsection to read:

"(b1) The registration card shall indicate whether the owner elected to pay the additional fee assessed under G.S. 20-87(b) or G.S. 20-88(i2) to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.";

and renumber remaining section.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Hill
)
Sen.)

moves to amend the bill on page 2, line 21-22

( ) WHICH CHANGES THE TITLE

by inserting the following between the lines

"§ 113-33.1 Exemptions.

U-drive-it vehicles as defined in G.S. 20-4.01(48a) are exempt from the additional motor vehicle registration fees paid under G.S. 20-87(6) and G.S. 20-88(12), and are not eligible for rebates or grants issued by the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

SIGNED Doug Hill

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 806

Short Title:	Rebate and Grant Program for AFVs.	(Public)
Sponsors:	Representatives Tolson; and Insko.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative fuel and vehicle rebate and infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall issue rules implementing the program established in G.S. 113B-30.

(b) These rules shall be issued after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

HOUSE BILL 806:
Rebate and Grant Program for AFVs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Tolson
Date:	June 23, 2003	**Summary by:**	Trina Griffin and Martha Walston
Version:	PCS for 1st Edition H806-CSSVf-26		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 806 creates the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program, funded by a $1.00 increase in vehicle registration fees for the first 3 years of the program, and by an additional $1.00 increase for the remaining 7 years of the program. The program would provide rebates to first-time purchasers of AFVs, rebates for State taxes paid on the incremental costs of alternative motor fuels, and grants for the construction of AFV infrastructure projects.***

The following amendments to the Proposed Committee Substitute were adopted in House Finance on June 17:

- ***A $1 fee will be paid to DMV upon initial registration or renewal of passenger vehicles and self-propelled property-hauling vehicles. This fee is in addition to the annual registration fees, and will be used to fund the alternative Fuel and Vehicle Rebate and Infrastructure Program. (The PCS provides that for the first 3 years of the Program, the additional fee would be $1; and for the remaining 7 years of the Program, the additional fee would be $2.)***
- ***The rules of the Program shall provide that State and local government entities are not eligible for rebates or grants under the Program.***
- ***The act shall expire on January 1, 2007. (The proposed committee substitute has a sunset of January 1, 2014.)***

CURRENT LAW: An alternative fuel vehicle is a vehicle that operates using a source other than gasoline or diesel fuel, such as electricity, natural gas, hydrogen, ethanol, methanol, or fuels derived from biological materials. There are currently no benefits provided by the State, such as tax credits or rebates, for the purchase or use of alternative fuel vehicles or for the use of alternative fuels. North Carolina does offer a corporate tax credit for building an alternative fuel generating facility, such as an ethanol or biodiesel plant.

BILL ANALYSIS:

Purpose of Program

House Bill 806 creates the "Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program" (Program). The State Energy Office, which is a division of the Department of Administration, would administer the Alternative Fuel Rebate and Infrastructure Grant Program. The bill authorizes the State Energy Office to issues rules that would govern the administration of the program. Among other things, the rules would establish the procedures for providing:

- Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.
- Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

- Grants for alternative motor fuel infrastructure projects.

Funding of Program

For the first 3 years of the program, the grants and rebates would be funded from a $1.00 increase in the vehicle registration fee for motor vehicles registered in this State. For the remaining 7 years of the program, it would be funded from an additional $1.00 increase, for a total of a $2.00 increase during those 7 years. **(See amendment which keeps the additional fee at $1.00).** However, commitments to rebates and grants may never exceed available funds. The bill directs the State Energy Office to establish a cap on the number and amounts of rebates based on the availability of funds. Up to 5% of the funds collected would be shared by both the State Energy Office and DMV for administrative costs. Up to 10% of the funds collected may be used for education and awareness of the applications and advantages of alternative fuels and vehicles.

Reporting Requirements

The Division of Motor Vehicles would be required to provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type. The State Energy Office would be required to provide an annual report on the expenditure of funds associated with the program and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee.

EFFECTIVE DATE: The bill becomes effective when it becomes law. The State Energy Office must issue rules to implement the program on or before January 1, 2004. The act would expire on January 1, 2014. **(See amendment which changes the sunset to January 1, 2007).**

H806-SMSV-001

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 23, 2003

TO: House Finance Committee

FROM: Bob Weiss and Richard Bostic
Fiscal Research Division

RE: House Bill 806
Rebate and Grant Program for AFV's
Proposed Committee Substitute H806-CSSVf-26 (v. 3) as amended

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
ALTERNATIVE FUEL AND VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM FUND					
REVENUES					
AFV Fee	$6,051,553	$8,068,737	$8,230,108	$4,197,355	
EXPENDITURES					
DMV					
Computer System Changes	$26,400				
State Energy Office					
Administration					
Personnel	$98,066	$196,132	$196,132	$98,066	
Other	$16,300	$32,600	$32,600	$16,300	
Education (10%)	$395,526	$806,874	$823,011	$419,736	
SEO Total	$509,892	$1,035,606	$1,051,743	$534,102	
Rebates and Grants	$3,418,970	$7,033,131	$7,178,365	$3,663,253	
POSITIONS (SEO): (does not include Education)	4.25	4.25	4.25	4.25	

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV); Department of Administration, State Energy Office (SEO)

EFFECTIVE DATE: The act is effective when it becomes law. Rules are to be adopted by SEO on or before January 1, 2004. The act expires January 1, 2007.

BILL SUMMARY:
The bill establishes an alternative fuel and alternative fuel vehicle rebate program to be administered by the State Energy Office in the Department of Administration. The program will provide partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles, limited rebates for State taxes paid on incremental costs of alternative motor fuels, and grants for alternative motor fuel infrastructure projects. The program would be funded by adding $1 to all vehicle registration fees for the three years of the program. A maximum of 5% of the funds collected can be used by the State Energy Office and DMV to administer the program. A maximum of 10% of the funds collected may be used by the State Energy Office for education and awareness about applications and advantages of alternative fuels and vehicles. The program is to include a cap on the number and amount of rebates and grants to limit them to the available funds. State and local governments are not eligible for grants or rebates from the program. The State Energy Office is to issue rules implementing the program on or before January 1, 2004.

ASSUMPTIONS AND METHODOLOGY:
Expenditures
DMV's expenditures during FY03-04 to prepare for the program include modifying the STARS (State Titling and Registration System) for plate fee calculation, updating the fiscal and other reports it prepares to capture the information required, and creation of the quarterly report specified in the bill. DMV estimates the cost of these activities as 300 professional hours times $80 per hour, or $24,000, plus computer overhead charges of $2,400, for a total of $26,400. During the actual operation of the program, DMV's costs are expected to be nominal and thus no estimate is shown.

During the first half of FY03-04, the State Energy Office (SEO) will be developing the rules for the program. SEO indicates that it can absorb the costs of the rule making process. Starting on January 1, 2004, when the rules have been adopted and the program is in operation, SEO estimates its expenditures as $228,732 per year for administration, as follows:

Program Manager	$50,000
Program Associate	40,000
Administrative Assistant	30,000
Accounting Technician	32,000
Public Info Officer (1/4 time)	11,000
Fringe Benefits	33,132
TOTAL PERSONNEL	$196,132
TRAVEL	$7,600
PRINTING and WEBSITE	$25,000
ADMINISTRATION GRAND TOTAL	$228,732

For FY 03-04, the total will be one half of this amount. The operating costs for DMV and SEO are within the 5% allotted by HB 806 for program administration. In addition, the bill provides that SEO may use up to 10% of the funds collected for education and awareness.

Revenues

DMV estimates that the $1 fee will affect 8,068,737 vehicles in the first full year and that the number of vehicles affected will increase by 2% per year. It will take DMV approximately two months to complete the programming on their STARS system to accommodate the $1 increase in registration fees. Assuming an August 1 enactment date, the collection of the additional dollar could begin on October 1, 2003. That would give the program nine months of revenue or $6,051,553 (75% X 8,068,737 vehicles X $1). Since the program ends on January 1, 2007, the FY 2006-07 revenue estimate is for the six months from July 1, 2006 to December 31, 2006.

SOURCES OF DATA: Division of Motor Vehicles; State Energy Office

TECHNICAL CONSIDERATIONS:

House Committee on Finance

Minutes

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June 25, 2003

The House Committee on Finance met on Wednesday, June 25, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, McCombs, McGee, Munford, Rayfield, Ross, Starnes, Weiss, C. Wilson, and Womble; and Ex-officio member, Representative Culpepper. Also present were Sergeant-at-Arms James Brewer, Bob Fowler, Bill Freeman, and Dusty Rhodes. Staff persons present included Cindy Avrette, Richard Bostic, Linda Millsaps, Alexi Pavlichev, Mary Shuping, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:33 am and proceeded to recognize the three (3) pages present: (1) Katie Bethune of Wilson County, sponsored by Representative Daughtry; (2) Caitlin Cauley of Pender County, sponsored by Representative Justice; and (3) Angela Hinton of Wake County, sponsored by Speaker Black.

As the Committee's first matter of business, Chairman Miner welcomed Senator Metcalf to the Committee and recognized him to explain **SB 668 – WINE SHIPPERS PERMITS** (see attachment 3). Representative Holliman moved that the Proposed Committee Substitute (PCS) for SB 668 be adopted for discussion purposes and his motion carried without objection. The Senator then explained that, currently, the State does not allow wine to be shipped across its borders; only wine produced here in the state can be shipped. However, due to recent Federal mandate, the State must now either allow out-of-state shipments or prohibit the shipment of wine altogether. Senator Metcalf also noted support of the bill from Biltmore Estate Wineries, the largest in North Carolina. Representative Holliman was then recognized for a question to the Senator. He asked if the bill could make it easier for minors to get alcohol. Senator Metcalf explained that it would not, as first, most wine is far too expensive for underage drinkers to purchase, and second, all wine shipments under the bill would require that the person delivering the wine verify proper identification. Representative Holliman was then again recognized and moved that SB 668 be given a favorable report as to the House PCS and an unfavorable report as to the Senate Committee Substitute bill. Representatives Gibson and Bordsen then voiced their support of the bill as well. Chairman Miner next recognized the Reverend Mark Creech, who spoke with passionate opposition to the bill. He noted that while this bill may not seem very serious, it amounted to "alcohol via mail" and could have significant effects on underage drinking, as wine makes up nearly 20 percent of the state's alcohol sales. Reverend Creech also stated that through the use of "fake IDs," teens would use the shipping system created by this bill to order cheap wines. Representative Gibson was then recognized by the Chair and stated his agreement with Reverend Creech that underage drinking could not be permitted in the state. He stated his disagreement with the Reverend, however, in that this bill took the proper steps to ensure no one underage would be allowed to receive a wine shipment. Representative Gibson then made a final comment that the state could not afford the

loss of agribusiness that could occur if the bill did not pass. Representative Ellis was next to be recognized by the Chair and stated that while he agreed with Reverend Creech's arguments, he believed they were more ideological than realistic. Representative Holliman then reiterated his earlier motion for a favorable report to the House PCS on SB 668 and the Chair called the vote. The motion carried with no known opposition.

SB 452 – UNION COUNTY LOCAL ACT-1 (see attachment 4), sponsored by Senator Schubert, was the next bill considered by the Committee. Representative Holliman moved that the House PCS for SB 452 be adopted for the purposes of discussion and his motion was adopted without objection. Senator Schubert then explained the bill as a local bill affecting only Union County involving several areas of satellite annexation. Representative Capps was then recognized and asked if all of the annexations contained in the bill were voluntary. The Senator responded that all of the proposed annexations were voluntary and by request. Chairman Miner then recognized Representative Blackwood who moved that SB 452 receive a favorable report as to the Proposed House Committee Substitute Bill, and an unfavorable report as to the Senate Committee Substitute bill. Seeing no further debate, the Chair then called the vote on the motion and it carried by consent.

On behalf Senator Hoyle, Chairman Miner next recognized Representative G. Allen to explain **SB 800 – LICENSING BOARD CHANGES** (see attachment 5). Representative Howard moved that the PCS for SB 800 be adopted for consideration by the Committee and her motion carried without dissent. Representative Allen, assisted by staff person Mary Shuping, then explained that the bill acts to raise the fees charged to dentists and dental hygienists for membership to the State's Dental Licensing Board. Chairman Wainwright was then recognized by Chairman Miner and, stating that there was no controversy on the bill to his knowledge, moved that SB 800 receive a favorable report as to the House Proposed Committee Substitute bill, and an unfavorable report as to the Senate Committee Substitute bill. Representative Hackney, however, was then immediately recognized by Chairman Miner to send forth a technical amendment to the PHCS, clarifying the effective date of the bill as August 1, 2003. He then moved adoption of his amendment. Upon the Chair's call, the amendment was adopted with no known opposition. A great deal of discussion among the members then arose concerning the level (seemingly high amounts) of the proposed fee increases. Dr. Gerry Oyster, Co-Chair of the North Carolina Dental Society, was present to discuss and explain the members' questions on the issue. Following this lengthy discussion, Chairman Miner once again recognized Representative Wainwright, who again moved that SB 800 be given a favorable report as to the House PCS, incorporating the new Hackney amendment, and an unfavorable report as to the Senate Committee Substitute. The Chair then called the vote and the motion carried without objection.

Chairman Miner then called upon Representative Fox to explain **HB 1301 – LOCAL GOVERNMENT ECONOMIC DEVELOPMENT TOOLS** (see attachment 6). Representative Weiss then moved that the Committee adopt the PCS for HB 1301 for the purposes of discussion. Her motion carried without objection. Representative Fox then explained that the bill would allow local governments to enter into agreements cooperatively and jointly for the benefit of economic development. Representative Weiss was then again recognized and moved for a favorable report on HB 1301. Representative Wilson, however, first inquired with staff if the bill would allow local governments from separate states (i.e. a NC county and a SC county) to enter into these agreements. Martha Harris (Staff) was then recognized by the Chair to respond and stated that

the bill did not provide for any inter-state agreements. Hearing no further questions, Chair Miner then called the motion for a favorable report (as above) and it carried without objection.

Chairman Miner next recognized Representative Nesbitt for explanation of **HB 1149 – NO SALES TAX ON FREE PUBLICATIONS** (see attachment 7). He explained that currently the large newspapers/publications in the state are exempt from paying sales tax, however, smaller, free publications are not. This bill, he explained, would provide an exemption for all free publications printed in the state. He also noted that the bill would cause an approximate $19 million loss to the General Fund but that a PCS was being prepared that would cut that loss to around $5 million. Following this explanation, the Chair recognized Representative Ellis who stated that the exemption provided to newspapers is justified because the return received on the exemption was far higher than the exemption itself. Mr. Rick Davis from the audience was present and Chairman Miner recognized him to speak on the bill. Mr. Davis, who stated he was from New Bern, noted that he personally published eight free community newspapers and shopping guides in the Carteret County vicinity. He spoke in high support of the bill, stating that the sales tax levied on free publications should be lifted. He noted finally that it was wrong that free publications such as his were taxed, while for-purchase newspapers were not. The Chair then recognized Representative Wainwright who stated his support of Mr. Davis' comments and the bill, and asked that the Committee vote on the bill. As there was a great deal of discussion remaining and as the completion of a PCS on the bill was awaiting completion, Chairman Miner then acted to temporarily displace the bill from the Committee's consideration.

The Chair then immediately recognized Senator Kerr to explain **SB 100 – STATE GOVT. SALES TAX EXEMPT** (see attachment 8). Representative Ellis was first recognized to move that the House Proposed Committee Substitute be adopted for discussion. The motion carried without dissent. Senator Kerr then explained that the bill would exempt purchases made by State Agencies from the State and Local sales taxes, as currently State agencies must apply for a refund of local sales taxes. Representative Howard was then recognized and pledging her support of the bill, moved that the House PCS for SB 100 be given a favorable report, with an unfavorable report as to the Senate Committee Substitute bill. Representative Ellis also noted his support of the bill, stating that it was ridiculous for the State to tax itself and then request a refund. The Chair then recognized Representative Hackney who requested to hear from the Department of Revenue (DOR) on the bill. Mr. Andy Sable with DOR's Sales and New Tax Division was present and stated that DOR supported the bill and could make the necessary changes with no significant costs being involved. Seeing no further discussion, Chairman Miner then called Representative Howard's motion (as above) to a vote, and the motion carried with no known opposition.

As the Committee's time had then expired, Chairman Miner promptly adjourned the meeting at 9:53 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 668 (and related materials)
4. Senate Bill 452 (and related materials)
5. Senate Bill 800 (and related materials)
6. House Bill 1301 (and related materials)
7. House Bill 1149 (and related materials) **(temporarily displaced)**
8. Senate Bill 100 (and related materials)
9. House Bill 1281 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

June 25, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1149 NO SALES TAX ON FREE PUBLICATIONS *Rep. Nesbitt*

HB 1281 AMEND FINANCE LAWS – 4 *Rep. Luebke*

HB 1301 LOCAL GOVERNMENT ECONOMIC DEVELOPMENT TOOLS
Reps. Fox and G. Allen

SB 100 STATE GOVT. SALES TAX EXEMPT *Sen. Kerr*

SB 452 UNION COUNTY LOCAL ACT-1 *Sen. Shubert*

SB 668 WINE SHIPPERS PERMITS *Sen. Metcalf*

SB 800 LICENSING BOARD CHANGES *Sen. Hoyle*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, June 24, 2003 11:37 AM
Subject: NOTICE House Finance Committee 6-25-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 25, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 1149 – NO SALES TAX ON FREE PUBLICATIONS– Rep. Nesbitt

HB 1281 – AMEND FINANCE LAWS - 4 – Rep. Luebke

HB 1301 – LOCAL GOVERNMENT ECONOMIC DEVELOPMENT TOOLS – Reps. Fox and G. Allen

SB 100 – STATE GOVT. SALES TAX EXEMPT – Sen. Kerr

SB 452 – UNION COUNTY LOCAL ACT-1 – Sen. Shubert

SB 668 – WINE SHIPPERS PERMITS – Sen. Metcalf

SB 800 - LICENSING BOARD CHANGES – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:45 A.M.** on **June 24, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	NCRA - RD
Adam Stallings	Hunton & Williams
Jim Evans	NC Rural Center
Ginny Hevener	NC Sentencing Commission
Susan Katzenelson	"
Brian Matthews	Town of Stallings P.O. Box 4030 Stallings NC 28106
REV. MARK CREECH	CAL
Bert Hornaday	NCPA
[signature]	NCDHA
Chris Valauri	NCBWWA
Becky Baron	NC Sentencing Commission
TOM BEAN	NC Envir. Defense

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lao Rubert	Com. Sent. Assoc
Bruce Cunningham	NC - FAMM
[signature]	SBE
Bill McNeil	NC DCA
Neil Mallory	KERR-TAR COG
[signature]	NC Statewatch
Edmestone Durham	Executive Intern, FRD & Rep. Gibson
John McMillan	MFDS
[signature]	NCPC
Lee-Ann Coe	LCGA
Michael Crowell	NC Beer & Wine Wholesalers

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Powell	OSC
Gwen Lawady	OSC
Rick Perringer	OSC
Randy Thomas	OSC
Ben McLawhorn	OSC
John McLawhorn	DST
Andy Sabol	NC DOR
Greg Radford	NC DOR
Mark Beason	Capitol Group
Robert Allen	NC Dept Treasury
Janice Burke	" " "

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marc Finlayson	Finlayson Consulting, LLC
Jenna Ashley	Carolina Journal
WENDY A. FRENCH	MGMT CONSULTANT - OSBM
CLEVELAND SIMPSON	DEPT OF COMMERCE
Dan Fulton	ABC Comm.
Tim Morse	ABC C
Tori Saylor	NCPA
Bill Bowman	Up+Coming Weekly Fay. NC
Stoux Watson	Independent Weekly
Rick Davis	Craven County Publications

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 668
Finance Committee Substitute Adopted 6/12/03
Third Edition Engrossed 6/18/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S668-CSLAf-36 [v.1]

6/24/2003 3:37:14 PM

Short Title: Wine Shippers Permits and Brewery Permits. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA, AND TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.
(2) Off-premises malt beverage permit – $400.00.
(3) On-premises unfortified wine permit – $400.00.
(4) Off-premises unfortified wine permit – $400.00.
(5) On-premises fortified wine permit – $400.00.
(6) Off-premises fortified wine permit – $400.00.
(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit – $400.00.
(9) Limited special occasion permit – $50.00.
(10) Mixed beverages permit – $1,000.
(11) Culinary permit – $200.00.
(12) Unfortified winery permit – $300.00.
(13) Fortified winery permit – $300.00.

(14) Limited winery permit – $300.00.
(15) Brewery permit – $300.00.
(16) Distillery permit – $300.00.
(17) Fuel alcohol permit – $100.00.
(18) Wine importer permit – $300.00.
(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Wine shipper permit – $100.00."

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.1 Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee.

Wine purchased by a resident of the State at the premises of the wine shipper permittee and shipped to an address in the State under G.S. 18B-109(b) shall not be included in calculating the total of 1,000 cases per year.

(c) The direct shipment of wine by wine shipper permittees made pursuant to this section shall be by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

(1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).

(2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.

(3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.

(4) Submit any other information that the Commission shall require.

All wine shipper permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue."

SECTION 3. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

(1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue.

(2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine."

SECTION 4. G.S. 18B-109 reads as rewritten:

"**§ 18B-109. Direct shipment of alcoholic beverages into State.**

(a) General Prohibition. – ~~No~~ Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces installation within this State if those alcoholic beverages are for resale on the installation.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit."

SECTION 5. G.S. 18B-1001 reads as rewritten:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres;
h. Wineries.

(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and

it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may also be issued for a winery for sale of its own unfortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

(5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Private clubs;
d. Community theatres;
e. Wineries;
f. Convention centers.

(6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

..."

SECTION 6. G.S. 18B-1101(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 7. G.S. 18B-1102(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~ State in accordance with the provisions of G.S.

18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 8. G.S. 105-113.68 is amended by adding a new subdivision to read:

"(15) 'Wine shipper permittee' means a winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

SECTION 9. G.S. 105-113.73 reads as rewritten:

"**§ 105-113.73. Misdemeanor.**

Except as otherwise expressly provided, violation of a provision of ~~the ABC law~~ this Article is a Class 1 misdemeanor."

SECTION 10. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes on wine levied under G.S. 105-113.80(b) shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the ~~wholesaler or importer.~~wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler or importer~~wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 11. G.S. 105-113.84 reads as rewritten:

"**§ 105-113.84. Report of resident brewery, resident winery, ~~or nonresident vendor.~~vendor, or wine shipper permittee.**

A resident brewery, resident winery, ~~and~~ nonresident ~~vendor~~ vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina ~~wholesalers and importers~~wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

SECTION 12. G.S. 105-164.3(9) reads as rewritten:

"(9) Engaged in business. – Maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this

State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail order sale, as defined in this section, if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1."

SECTION 13. G.S. 105-164.8(b) reads as rewritten:

"(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

(1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this ~~State;~~State.

(2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or ~~offices;~~offices.

(3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of ~~business;~~business.

(4) Repealed by Session Laws 1991, c. 45, s. 16.

(5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this ~~State;~~State.

(6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing ~~power; or~~power.

(7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.

(8) The retailer is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1."

SECTION 14. G.S. 18B-1104 reads as rewritten:

""**§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

(1) Manufacture malt beverages;

(2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;

(3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;

(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;

(5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(6) Give its products to its employees and guests for consumption on its premises;

(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~310,000 gallons~~50,000 barrels of malt beverages produced by it per year.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

SECTION 15. Sections 14 and 15 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 668

Finance Committee Substitute Adopted 6/12/03
Third Edition Engrossed 6/18/03

Short Title: Wine Shippers Permits. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.
(2) Off-premises malt beverage permit – $400.00.
(3) On-premises unfortified wine permit – $400.00.
(4) Off-premises unfortified wine permit – $400.00.
(5) On-premises fortified wine permit – $400.00.
(6) Off-premises fortified wine permit – $400.00.
(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit – $400.00.
(9) Limited special occasion permit – $50.00.
(10) Mixed beverages permit – $1,000.
(11) Culinary permit – $200.00.
(12) Unfortified winery permit – $300.00.
(13) Fortified winery permit – $300.00.
(14) Limited winery permit – $300.00.
(15) Brewery permit – $300.00.
(16) Distillery permit – $300.00.
(17) Fuel alcohol permit – $100.00.

(18) Wine importer permit – $300.00.
(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Wine shipper permit – $100.00."

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.1 Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee and shipped to an address in the State under G.S. 18B-109(b) shall not be included in calculating the total of 1,000 cases per year.

(c) The direct shipment of wine by wine shipper permittees made pursuant to this section shall be by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

(1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).

(2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.

(3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.

(4) Submit any other information that the Commission shall require.

All wine shipper permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue."

SECTION 3. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

(1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue.

(2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine."

SECTION 4. G.S. 18B-109 reads as rewritten:

"**§ 18B-109. Direct shipment of alcoholic beverages into State.**

(a) General Prohibition. – ~~No~~ Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces

installation within this State if those alcoholic beverages are for resale on the installation.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit."

SECTION 5. G.S. 18B-1001 reads as rewritten:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres;
h. Wineries.

(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may also be issued for a winery for sale of its own unfortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other

off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

(5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Private clubs;
d. Community theatres;
e. Wineries;
f. Convention centers.

(6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

..."

SECTION 6. G.S. 18B-1101(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 7. G.S. 18B-1102(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~ State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 8. G.S. 105-113.68 is amended by adding a new subdivision to read:

"(15) 'Wine shipper permittee' means a winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

SECTION 9. G.S. 105-113.73 reads as rewritten:

"**§ 105-113.73. Misdemeanor.**

Except as otherwise expressly provided, violation of a provision of ~~the ABC law~~ this Article is a Class 1 misdemeanor."

SECTION 10. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes on wine levied under G.S. 105-113.80(b) shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the ~~wholesaler or importer.~~wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler or importer~~wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 11. G.S. 105-113.84 reads as rewritten:

"**§ 105-113.84. Report of resident brewery, resident winery, ~~or~~ nonresident ~~vendor.~~vendor, or wine shipper permittee.**

A resident brewery, resident winery, ~~and~~ nonresident ~~vendor~~ vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina ~~wholesalers and importers~~wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

SECTION 12. G.S. 105-164.3(9) reads as rewritten:

"(9) Engaged in business. – Maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail

order sale, as defined in this section, if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1."

SECTION 13. G.S. 105-164.8(b) reads as rewritten:

"(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

(1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this ~~State;~~State.

(2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or ~~offices;~~offices.

(3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of ~~business;~~business.

(4) Repealed by Session Laws 1991, c. 45, s. 16.

(5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this ~~State;~~State.

(6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing ~~power; or~~power.

(7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.

(8) The retailer is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1."

SECTION 14. This act becomes effective October 1, 2003.

Senate Bill 668:
Wine Shippers Permits

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Metcalf
Date:	June 24, 2003	**Analysis by:**	Y. Canaan Huie
Version:	3rd Edition		Staff Attorney

SUMMARY: ***This bill would create a new permit under the ABC laws that would allow a winery to ship wine directly to individuals in North Carolina. The bill makes conforming changes to the ABC laws and provides a mechanism for the collection of excise and sales and use taxes on direct shipments of wine.***

BACKGROUND: After the end of Prohibition in the 1930's, North Carolina adopted laws to prohibit the importation of wine and other alcoholic beverages except through a highly regulated system. The structure of the ABC system is a three-tiered system. Under this system, an out-of-state producer of wine may sell its products in North Carolina to licensed wholesalers only. Wholesalers may in turn sell the products to other wholesalers or licensed retailers. Only licensed retailers may sell the products to consumers. In 1981, the General Assembly enacted an exception to this three-tiered structure. Under that exception, North Carolina wineries were allowed to sell and ship wine directly to North Carolina consumers. This exception did not extend to out-of-state wineries. In 2002, a federal district court held in Beskind v. Easley, 197 F.Supp.2d 464 (W.D. NC, 2002) that this exemption violated the Commerce Clause of the United States Constitution because it clearly favored in-state economic interests over out-of-state interests. The court further held that North Carolina's regulatory interests protected under the Twenty-first Amendment did not outweigh the federal government's interest in regulating interstate commerce in this instance. That court ordered the State not to enforce the ban on out-of-state shipments and to collect the excise tax due on the wine shipped from out of state. North Carolina appealed this decision to the federal Court of Appeals. That court upheld the finding that the exemption violates the Commerce Clause, but allowed the General Assembly to fashion an appropriate remedy. Beskind v. Easley, 325 F.3d 506 (4th Cir., 2003) In essence, the General Assembly was left with the option of repealing the exemption for in-state wineries or allowing shipments from out-of-state wineries on the same basis as for in-state wineries.

ANALYSIS: This bill would establish a structure through which out-of-state wineries would be allowed to ship wine directly to consumers in North Carolina. Under this bill, any winery that holds a federal basic wine manufacturer permit would be able to apply for a wine shipper's permit for a fee of $100.00. The renewal fee would be $25.00. The permit would authorize the shipment of brands of wine identified in the application. The wine shipper permittee could amend the brands identified in the permit. The wine shipper permittee would be required to notify any wholesale permittee that had been authorized to distribute those brands in this State of its application to become a wine shipper permittee. If the wine shipper permittee shipped more than 1000 cases[1] of wine to addresses in the State during a calendar year, the permittee would be required to appoint a wholesaler in State if any wholesaler in State wished to sell the products. A winery would not be required to obtain a wine shippers permit to ship to addresses in North Carolina wine that was bought on the premises of the winery.

[1] A case is defined as any combination of packages that contains not more than nine liters of wine.

A wine shipper permittee would be allowed to ship up to 2 cases of wine per month to any person in North Carolina to whom alcoholic beverages may be sold. Shipment of wine could be made by common carrier only. The common carrier would be required to have the recipient demonstrate that he or she was over the age of 21 and to sign an acknowledgement of receipt. The common carrier would be required to refuse delivery when the recipient appeared to be below 21 years of age and failed to provide sufficient identification.

This bill also establishes a mechanism for collecting the excise and use taxes due on the wine. Under this bill, a wine shipper would be required to pay the excise tax due on the wine and to collect the use tax due on the wine. Under the Twenty-first Amendment to the United State Constitution, the State has more authority to regulate alcoholic beverages than it generally has to regulate interstate commerce. Because of the greater authority granted to states under the Twenty-first Amendment, it is not as difficult to establish nexus when the product to be taxed is an alcoholic beverage. Because the State would be requiring the out-of-state wineries to obtain a permit to ship to North Carolina addresses, the State would have sufficient nexus with the winery to force the collection of the taxes.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 668 (Second Edition)

SHORT TITLE: Wine Shippers Permits

SPONSOR(S): Senator Metcalf

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Wine Shipper Permit	One –Time Revenue Gain - No Estimate Available				
Wine Excise Tax	Revenue Gain - No Estimate Available				
Sales Tax	Revenue Gain - No Estimate Available				
Local Governments					
Wine Excise Tax	Revenue Gain - No Estimate Available				
Sales Tax	Revenue Gain - No Estimate Available				
EXPENDITURES					
General Fund					
Dept. of Revenue	$75,000				
ABC	See Assumptions and Methodology				
AOC/DOC	No Estimate Available				
POSITIONS:					
ABC	See Assumptions and Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Alcoholic Beverage Control Commission; Department of Crime Control & Public Safety: Administrative Office of the Courts (AOC); Department of Correction (DOC)

EFFECTIVE DATE: This act becomes effective October 1, 2003.

BILL SUMMARY: This bill establishes a method for out-of-state wineries to ship wine directly to consumers in North Carolina. Under this bill, any winery that holds a federal basic wine manufacturing permit would be able to apply for a wine shipper's permit for a one-time fee of $100.00. A wine shipper permittee would be allowed to ship up to two cases of wine per month

to any person in North Carolina to whom alcoholic beverages may be sold. If the wine shipper permittee ships more than 1,000 cases of wine to addresses in the State during a calendar year, the permittee is required to appoint a wholesaler in the State to sell its products. A wine shipper permit is not required if a customer buys wine on the premises of the winery and ships it to their home address. The bill amends G.S. 105-113.73 to make it a Class 1 misdemeanor to violate a provision of Article 2C (Alcoholic Beverage License) of Chapter 105 (Taxation).

BACKGROUND: In 1981, the General Assembly allowed North Carolina wineries to sell and ship wine directly to North Carolina consumers. For out of state wineries, only North Carolina licensed retailers may sell their products to consumers. In 2002, a federal district court found this disparate treatment of wineries violated the Commerce Clause of the United States Constitution because it favored in-state economic interests over out-of-state interests. That federal court ordered the State not to enforce the ban on out-of-state shipments and to collect the excise tax due on the wine shipped from out of state. North Carolina appealed this decision to the federal Court of Appeals. The Court of Appeals upheld the finding that the exemption violates the Commerce Clause, but allowed the General Assembly to fashion an appropriate remedy. The General Assembly has the option of repealing the exemption for in-state wineries or allowing shipments from out-of-state wineries on the same basis as for in-state wineries.

ASSUMPTIONS AND METHODOLOGY:

General Fund Revenue

No estimate can be made on the amount of General Fund revenue the state will receive from the $100 permit in section 1 of this bill. There are 2,286 bonded wineries according to the May 2000 issue of *The Alcohol and Tobacco Newsletter* (published by the U.S. Department of Treasury's former Bureau of Alcohol, Tobacco and Firearms). WineAmerica has a list of 3,189 wineries they received from the U.S. Department Treasury's Alcohol and Tobacco Tax and Trade Bureau, but warns that this list might overstate the number of wineries. Based on these sources, there are between 2,000 and 3,000 wineries that could apply for the wine shipper permit in North Carolina. While the potential applicant pool is large, the number of wineries seeking a permit may be small. New Hampshire approved a $228 wine shipment permit on July 1, 1998, and had issued only 189 as of May 23, 2003 (Jim Barbutti, New Hampshire Liquor Commission).

No estimate can be made on the amount of General Fund revenue the state will earn from excise and sales taxes remitted by wineries with a wine shipper permit. The state and local governments should receive a revenue gain from the sales made by wineries that previously did not do business with the state. These wineries will collect the 21cents per liter excise tax on unfortified wine and the 24 cents per liter on fortified wine. Local governments receive 62% of the excise tax on unfortified wine and 22% of the excise tax on fortified wine. The wine shipper permittees will also collect and remit the state and local sales tax on the wine they sell. No estimate can be done on the volume of wine that will be sold directly to North Carolina customers.

Department of Revenue

The Director of the Department of Revenue's Corporate, Excise, & Insurance Tax Division estimates there will be little or no cost in establishing a registration process for out-of-state wineries. However, the Division Director anticipates significant cost will be incurred when

adding the nonresident shippers to the excise tax payment system. The Director estimates his Division will need up to $75,000 to implement this change in FY 2003-04. The Department of Revenue would like to be granted the authority to withhold up to $75,000 from excise tax collections to implement the law.

Alcoholic Beverage Control Commission
The Director of the Administration Division of the Alcoholic Beverage Control Commission (ABC) estimates this bill will have both one-time and recurring costs. The one-time cost in FY 2003-04 is $3,200 for 40 hours of computer programming to add the wine shipper permit to the agency's system. The recurring cost is approximately $33,000 for a Program Assistant V position to process the wine shipper permits. This expense is for a grade 61 position hired at the midpoint of the range plus benefits. Another $2,000 in one-time expenditures would be needed to equip the position with a desk, chair, computer and supplies.

Given the uncertainty of the number of wine shipper permits that will be issued, the request for a recurring position does not seem warranted. The Alcoholic Beverage Control Commission should be allowed to spend lapsed salaries or other available funds to hire temporary employees to handle the wine shipper permits.

Alcohol Law Enforcement
An official with the Department of Crime Control and Public Safety has determined that this bill has no direct fiscal impact for its Alcohol Law Enforcement Division (ALE). Unlike enforcement with a permittee at a physical location, ALE would not know when or where a lawful transaction might take place to ensure compliance with the laws. However, if information about a non-compliant shipper is received, an undercover operation could be run. For example, to investigate the shipment of wine to underage customers, ALE would require a budget for purchases, private Internet accounts, permission to use residences, underage signers to receive goods, and the time of agents involved.

Judicial Branch
The bill amends G.S. 105-113.73 to make a violation of a provision of Article 2C (Alcoholic Beverage License) of Chapter 105 (Taxation) a Class 1 misdemeanor. Current G.S. 105-113.73 makes a violation of a provision of the ABC law a Class 1 misdemeanor. As such, this amendment does not create new offenses but clarifies that the offense under G.S. 105-113.73 applies only to violations of Article 2C of Chapter 105.

The Administrative Office of the Courts (AOC) notes that data is unavailable concerning the number of charges that may result under this bill. For most criminal penalty bills, the AOC provides the General Assembly's Fiscal Research Division with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. New Class 1 misdemeanor cases could result from violations of the new regulations associated with the wine shippers permit or if common carriers deliver or allow a person under 21 years old to sign for wine deliveries sent by wine shipper permittees. For offenses that are brought to trial as Class 1 misdemeanors, the estimated court cost per trial is $3,144. For Class 1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $279.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.*

It is not known how many offenders might be sentenced under this bill. Since the proposed bill expands an existing offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. The Sentencing Commission notes that in FY 2001-02, 15.8 percent of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served was 35.2 days. Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days at a cost to the state of $18/day. Most Class 1 misdemeanants receive community or intermediate sanctions. In 2001-02, costs for these non-active sentences ranged from $1.83 to $11.47 per offender per day.

SOURCES OF DATA: Department of Revenue, Alcoholic Beverage Control Commission, U.S. Department of Treasury; Sentencing and Policy Advisory Commission; Administrative Office of the Courts

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic and Chloe Gossage

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 11, 2003

Biltmore Estate
BRANDS GROUP

Jerome B. Douglas
Senior Vice President

June 23, 2003

NC House of Representatives
Representative David M. Miner
2204 Legislative Office Building
Raleigh, NC 27601-1096

Dear Representative Miner:

When we opened the winery at Biltmore Estate in the mid 1980s, the idea that viticulture and winemaking could be a viable agricultural endeavor in North Carolina seemed implausible to many observers. Today, I'm happy to report Biltmore Estate Winery is the most visited winery in the United States. Additionally, there will soon be over 35 wineries in North Carolina and some 300 members of the North Carolina Grape Growers Association.

Viticulturalists and wine producers in our state have worked diligently to establish grape growing as an alternative cash crop to tobacco, with some success. I write today to ask that you help us assure the future of our industry by supporting S668, legislation which would allow North Carolina wineries to continue to ship wine directly to consumers in the state and allowing out-of-state wineries to do the same.

Without this legislation, grape growers and wine producers in the state will be penalized. S668 will allow those of us trying to move agri-tourism forward in North Carolina to benefit from the ability to capture the full, added value of a retail transaction. This is critical, of course, in supporting a cash intensive, long-term farming investment.

North Carolina farmers deserve a chance to succeed. When the Finance Committee considers this issue, please support S668 and allow North Carolina wineries the opportunity to enhance our state's reputation as a wine-producing region and a leader in agri-tourism.

Sincerely,

Jerome B. Douglas

One North Pack Square · Asheville, North Carolina 28801
828-255-1783 · Fax 828-255-1774 · jdouglas@biltmore.com

HEALY WHOLESALE CO., INC.

6/2/2003

Members of the North Carolina House of Representatives
State Legislative Building
Raleigh, NC 27601

~~Subject: S 750~~ S668

I am writing in support of S 750, a bill to Increase Permit Limit for Breweries. If enacted, this bill will permit small North Carolina breweries to grow beyond the current artificial low ceiling of 10,000 barrels a year. I do not believe this legislation will harm the state's three-tier system.

Some of the small breweries currently use wholesalers, while others find it more efficient to self-distribute.

Most if not all small breweries are small accounts, making it difficult for a wholesaler to achieve the efficiency we need. To my knowledge none of the small breweries have a major advertising budget to help get their product out the front door of another retailer.

However, I believe as those small breweries grow they will need wholesalers and we wholesalers will be competing to move their product, but for small breweries today, the economies of scale do not exist and they do not threaten the existing system. If we as wholesalers continue to our job, they will choose us to represent their products at retail.

With the budget crisis we are in in North Carolina, it seems crazy to me that we are trying to stifle economic growth. These breweries could easily cross the state lines and hire Virginia people, pay Virginia taxes and improve their economy.

Sincerely,

John "Mac" Healy
President

4021 Distribution Drive • P. O. Box 36157 • Fayetteville, North Carolina 28303-1157 • (910) 822-3827

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 668 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 452
Finance Committee Substitute Adopted 6/4/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S452-CSLAx-37 [v.2]

6/24/2003 5:11:42 PM

Short Title: Union County Local Act-1. (Local)

Sponsors:

Referred to:

March 18, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY MUNICIPALITIES IN UNION COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58(1) reads as rewritten:

"(1) "City" means any city, town, or village without regard to population. ~~population, except cities not qualified to receive gasoline tax allocations under G.S. 136-41.2.~~"

SECTION 2. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than ~~three~~ two miles from the primary corporate limits of the annexing ~~city.~~ city or must be contiguous to the satellite corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this ~~section.~~section and except that this subdivision does not apply if the area proposed for annexation is contiguous to the satellite corporate limits.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

~~(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.~~

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~twenty percent (20%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw."

SECTION 3. This act applies in Union County only.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 452
Finance Committee Substitute Adopted 6/4/03

Short Title: Union County Local Act-1. (Local)

Sponsors:

Referred to:

March 18, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY MUNICIPALITIES IN UNION COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58(1) reads as rewritten:

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(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this ~~section.~~section and except that this subdivision does not apply if the area proposed for annexation is contiguous to the satellite corporate limits.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

~~(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.~~

~~(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten~~

~~percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~"

SECTION 3. Sections 1 and 2 of S.L. 2002-140 are repealed.

SECTION 4. This act applies in Union County only.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 452:
Union County Local Act-1

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Shubert
Date:	June 24, 2003	**Summary by:**	Mary Shuping
Version:	Proposed House Committee Substitute		Legislative Analyst

SUMMARY: ***Senate Bill 452 modifies the requirements for satellite annexations for Union County.***

CURRENT LAW & BILL ANALYSIS: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. The PCS for SB 452 makes several changes to the satellite annexation law for Union County which are detailed in the chart below. It also modifies the definition of "city" for satellite annexation purposes to provide that an annexing city does not have to be eligible for Powell Bill Funds in order to annex non-contiguous property. Currently, Hemby Bridge, Mineral Springs, Unionville, and Wesley Chapel do not qualify for Powell Bill Funds and therefore, under current law, are not able to annex non-contiguous property. It also would allow exemptions from the statutory requirements if the proposed annexation of property is *contiguous to a pre-existing satellite of the municipality*. In Union County, there are some pre-existing satellites where a neighboring municipality *later* annexed the property *between* the first municipality and its satellite, thus G.S. 160A-58.1(b)(2) prevents the municipality from annexing *additional property contiguous to its satellite.* The municipalities in Union County include: Hemby Bridge, Indian Trail, Lake Park, Marshville, Marvin, Mineral Springs, Monroe, Stallings, Unionville, Waxhaw, Weddington, Wesley Chapel, and Wingate.

Following is a chart comparing the existing statutory law and the proposed changes for Union County.

G.S 160A-58.1(b) Requirements for Satellite Annexations	SB 452
Defines a "city" for purposes of satellite annexations as "any city, town, or village without regard to population, except cities not qualified to receive gasoline tax allocations" under the Powell Bill.	Revises the definition of "city" for satellite annexation purposes to remove the requirement that in order to annex non-contiguous property, the city must be eligible to receive Powell Bill Funds. ***Note: this change only governs satellite annexations and does not change the eligibility of a city to receive Powell Bill Funds.***
The nearest point on the proposed satellite annexation must not be more than 3 miles from the primary corporate limits of the annexing city	The nearest point on the proposed satellite corporate limits must be ❖ Not more than **2 miles** from the primary corporate limits of the annexing city; or ❖ Be **contiguous to the satellite corporate limits of the annexing city.**
No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.	This requirement would **not apply if the area proposed for annexation is contiguous to the satellite corporate limits.**

The annexing city must be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.	*No change*
If the area or any portion of the area proposed for annexation is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.	Deletes this language, thus only portions of a subdivision may be annexed.
The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.	The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed **20%** of the area within the primary corporate limits of the annexing city.

EFFECTIVE DATE: The act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 452 A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATIONS BY MUNICIPALITIES IN UNION COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 800
Finance Committee Substitute Adopted 5/28/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S800-CSSC-9 [v.2]

6/24/2003 11:56:19 AM

Short Title: Licensing Board Changes. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM FEES THAT THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS MAY ASSESS AND MAKE CHANGES TO THE MASSAGE AND BODYWORK THERAPY LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-39 reads as rewritten:

"**§ 90-39. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

(1)	Each application for general dentistry examination	~~$500.00~~	$1,200
(2)	Each general dentistry license renewal, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dentist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dentist	~~140.00~~	600.00
(2a)	Penalty for late renewal of any license or permit	~~50.00~~	100.00
(3)	Each provisional license	~~150.00~~	300.00
(4)	Each intern permit or renewal thereof	~~150.00~~	500.00
(5)	Each certificate of license to a resident dentist desiring to change to another state or territory	~~30.00~~	75.00
(6)	Repealed by Session Laws 1995, (Reg. Sess., 1996), c. 584, s. 1.		
(7)	Each license to resume the practice issued to a dentist who has retired from and returned to this State	~~300.00~~	500.00
(8)	Each instructor's license or renewal thereof	~~140.00~~	500.00

(9) With each renewal of a dentistry license, an annual fee to help fund special peer review organizations for impaired dentists ..... ~~50.00~~ 100.00
(10) Each duplicate of any license, permit, or certificate issued by the Board ..... ~~25.00~~ 75.00
(11) Each office inspection for general anesthesia and parenteral sedation permits ..... ~~350.00~~ 750.00
(12) Each general anesthesia and parenteral sedation permit application or renewal of permit ..... ~~50.00~~ 100.00
(13) Each application for license by credentials ..... ~~2,000.00~~ 3,000
(14) Each application for limited volunteer dental license ..... ~~100.00~~ 200.00
(15) Each limited volunteer dental license annual renewal ..... ~~25.00~~ 50.00."

SECTION 2. G.S. 90-232 reads as rewritten:

"**§ 90-232. Fees.**

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties devolving upon the North Carolina State Board of Dental Examiners, it is authorized to charge and collect fees established by its rules not exceeding the following:

(1) Each applicant for examination ..... ~~$125.00~~ $350.00
(2) Each renewal certificate, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dental hygienist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dental hygienist ..... ~~60.00~~ 250.00
(3) Each restoration of license ..... ~~60.00~~ 150.00
(4) Each provisional license ..... ~~60.00~~ 150.00
(5) Each certificate of license to a resident dental hygienist desiring to change to another state or territory ..... ~~25.00~~ 50.00
(6) Annual fee to be paid upon license renewal to assist in funding programs for impaired dental hygienists ..... ~~40.00~~ 80.00
(7) Each license by credentials ..... ~~1,000.00~~ 1,500.

In no event may the annual fee imposed on dental hygienists to fund the impaired dental hygienists program exceed the annual fee imposed on dentists to fund the impaired dentist program. All fees shall be payable in advance to the Board and shall be disposed of by the Board in the discharge of its duties under this Article."

SECTION 3. G.S. 90-626 is amended by adding the following new subdivisions to read:

"...

(14) Assess civil penalties pursuant to G.S. 90-634.1.
(15) Assess the costs of disciplinary actions pursuant to G.S. 90-634.1(d)."

SECTION 4. Article 36 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-634.1. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this

Article or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board."

SECTION 5. Sections 1, 2 and 5 of this act are effective when they become law. Sections 3 and 4 of this act are effective August 1, 2003, and apply to violations occurring on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS for 2nd

H. B. No. _____ DATE 6/25/03

S. B. No. 800 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney
Sen.)

moves to amend the bill on page 3, line ~~15-17~~ 16-18

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"SECTION 5. Sections 1 and 2 of this act are effective August 1, 2003. Sections 3 and 4 of this act are effective August 1, 2003 and apply to violations occurring on or after that date. The remainder of this act is effective when it becomes law."

(by consent)

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 800
Finance Committee Substitute Adopted 5/28/03

Short Title: Licensing Board Changes. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM FEES THAT THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS MAY ASSESS AND MAKE CHANGES TO THE MASSAGE AND BODYWORK THERAPY LAWS.

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(2)	Each general dentistry license renewal, which fee shall be annually fixed by the Board and not later than November 30 of each year it shall give written notice of the amount of the renewal fee to each dentist licensed to practice in this State by mailing such notice to the last address of record with the Board of each such dentist	~~140.00~~ 600.00
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(3)	Each provisional license.....	~~150.00~~ 300.00
(4)	Each intern permit or renewal thereof.....	~~150.00~~ 500.00
(5)	Each certificate of license to a resident dentist desiring to change to another state or territory	~~30.00~~ 75.00
(6)	Repealed by Session Laws 1995, (Reg. Sess., 1996), c. 584, s. 1.	
(7)	Each license to resume the practice issued to a dentist who has retired from and returned to this State.....	~~300.00~~ 500.00
(8)	Each instructor's license or renewal thereof.....	~~140.00~~ 500.00
(9)	With each renewal of a dentistry license, an annual fee to help fund special peer review organizations for impaired dentists	~~50.00~~ 100.00

(10) Each duplicate of any license, permit, or certificate issued by the Board ..... ~~25.00~~ 75.00

(11) Each office inspection for general anesthesia and parenteral sedation permits ..... ~~350.00~~ 750.00

(12) Each general anesthesia and parenteral sedation permit application or renewal of permit ..... ~~50.00~~ 100.00

(13) Each application for license by credentials ..... ~~2,000.00~~ 3,000

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(3) Each restoration of license ..... ~~60.00~~ 150.00

(4) Each provisional license ..... ~~60.00~~ 150.00

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SECTION 4. Article 36 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-634.1. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Article or the violation of any rules adopted by the Board. All civil penalties collected

by the Board shall be remitted to the school fund in the county in which the violation occurred.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Board.

(d) Costs. – The Board may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Board."

SECTION 5. Sections 1, 2 and 5 of this act are effective when they become law. Sections 3 and 4 of this act are effective August 1, 2003, and apply to violations occurring on or after that date.

SENATE BILL 800:
Licensing Board Changes.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hoyle
Date:	June 25, 2003	**Summary by:**	Mary Shuping
Version:	PCS for 2nd Edition		Legislative Analyst

SUMMARY: ***Senate Bill 800 raises the maximum fees that may be charged by the Board of Dental Examines. It also makes various changes to the massage and bodywork therapy laws, including authorizing the Board of Massage and Bodywork Therapy to charge disciplinary costs and assess a civil penalty of up to $1,000. The PCS clarifies that the civil penalties are remitted in accordance with the procedures set forth in G.S. 115C-457.2 governing the Civil Penalty and Forfeiture Fund.***

BILL ANALYSIS

Dental Fees: Sections 1 and 2 of the bill increase the maximum fees the Board may charge dentists and dental hygienists as follows:

Dentists:

Fee Type	Current Maximum Fee	Proposed Maximum Fee	Last Increase Enacted
Application for exam	$500	$1,200	1995
License Renewal	$140	$600	1995
Late renewal	$50	$100	1995
Provisional license	$150	$300	1995
Intern permit or renewal	$150	$500	1995
Certificate of license to resident dentist changing to another state	$30	$75	1995
License to resume practice for retiree	$300	$500	1995
Instructor's License	$140	$500	1995
Fee for special peer review organizations for impaired dentists	$50	$100	1993
Duplicate License	$25	$75	1995
Office inspection for anesthesia permit	$350	$750	1995
Anesthesia renewal permit	$50	$100	1995
License by credential	$2,000	$3,000	2002 enacted
Limited volunteer license	$100	$200	2002 enacted
Limited volunteer license renewal	$25	$50	2002 enacted

-Cont'd on next page-

Dental Hygienists

Fee Type	Current Maximum Fee	Proposed Maximum Fee	Last Increase Enacted
Application for exam	$125	$350	1987
License Renewal	$60	$250	1987
Restoration of license	$60	$150	1987
Provisional license	$60	$150	1987
Certificate of license to resident dental hygienist changing to another state	$25	$50	1987
Fee for special peer review organizations for impaired dental hygienists	$40	$80	1999
License by credential	$1,000	$1,500	2002 enacted

Current Law Governing the Procedure for Increasing Fees: Prior to the fee becoming effective, the Board must:

- Adopt the fee increase by administrative rule pursuant to G.S. 150B, Administrative Procedure Act.
- Consult with the Joint Legislative Commission on Governmental Operations pursuant to G.S. 12-3.1

Massage & Bodywork Licensure. Sections 3 and 4 allow the Board of Massage & Bodywork Therapy to assess civil penalties for violations of the statutes and Board rules and also allows the Board to recover costs incurred in disciplinary proceedings.

Civil Penalties: The bill authorizes the Board to assess a civil penalty. Under current law, several other licensing boards also have the authority to assess civil penalties. Specifically, the bill

- Allows the Board to assess a civil penalty *not to exceed $1,000* for violations of the statute or rules adopted by the Board.
- All civil penalties must be remitted to the school fund in the county in which the violation occurred.
- Before assessing a civil penalty, the Board must consider the following factors:
  - Nature, gravity, and persistence of the violation
  - Appropriateness of imposing a civil penalty when considered alone or in combination with other punishment
  - Whether other factors would tend to mitigate or aggravate the violations found to exist.
- The Board must also adopt and publish a schedule of civil penalties.

Disciplinary Costs: The bill authorizes the Board to assess the costs of disciplinary actions against a person found to be in violation of the law or rules adopted by the Board. Several other licensing boards also have the authority to assess costs for disciplinary actions. "Disciplinary actions" for which the Board can deny, suspend, revoke, or refuse to license a person are set forth in G.S. 90-633 and include the following:

- Use of fraud, deceit, or misrepresentation in obtaining or attempting to obtain a license.
- Use of drugs or alcohol to the extent it affects professional competency.

- Conviction of an offense involving use of narcotics or controlled substances.
- Conviction of a felony or other public offense involving moral turpitude.
- Adjudication of insanity or incompetency.
- Engaging in act or practice of violating Massage & Bodywork Therapy Act or rules of the Board, or aiding, abetting, or assisting any other person in violation of the Act or rules.
- Malpractice, gross negligence, or incompetence.
- Practicing without a valid license.
- Engaging in conduct that could result in harm to the general public.
- Use of fraud, deceit, or misrepresentation when communicating with the general public, health care professionals, or other business professionals.
- Falsely holding self out as licensed or certified in any discipline of massage and bodywork therapy without successfully completing Board-approved training in that specialty.

EFFECTIVE DATE: Sections 1 and 2 dealing with dental fees are effective when they become law. Sections 3 and 4 dealing with the Massage Therapy Board are effective August 1, 2003 and apply to violations occurring on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 800 (Second Edition)

SHORT TITLE: Licensing Board Changes

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Dental Examiners Special Revenue Fund	See Assumptions and Methodology				
Civil Penalty & Forfeiture Fund	No Estimate Available				
Board of Massage Special Revenue Fund	$12,000	$12,000	$12,000	$12,000	$12,000
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Board of Dental Examiners; Board of Massage and Bodywork Therapy

EFFECTIVE DATE: Section 3 (Massage Board civil penalty) is effective August 1, 2003 and applies to violations occurring on or after that date. The remaining sections of this bill are effective when they become law.

BILL SUMMARY: Sections 1 and 2 of the bill increase the maximum fees that the Board of Dental Examiners may charge. Section 3 allows the Board of Massage and Bodywork Therapy to assess a civil penalty of up to $1,000 for violating rules adopted by the Board and allows the Board to assess the costs of disciplinary actions against a person violating Board rules.

BACKGROUND: Dentistry fees (1) through (12) in section 1 of the bill were last increased in 1995 (1995 SL, ch. 584). Dentistry fees (13) through (15) were added in 2002 (SL 2002, ch. 37, s 5). Dental hygienist fees (1) through (5) in section 2 of the bill were last increased in 1987 (SL 1987, ch. 555). Dental hygienist fee (6) was added in 1999 (SL 1999, ch. 382) and hygienist fee (7) was added in 2002 (SL 2002, ch. 37, s 6).

ASSUMPTIONS AND METHODOLOGY:

Sections 1 & 2

The Board of Dental Examiners request an increase in the maximum amount they may charge in fees. The Board is charging the maximum in 15 of their 23 fees. In 2001, the Board's expenditures exceeded revenues by $133,940. Their fund balance in 2001 was $427,741, with $200,000 reserved for legal expenses. The Board wishes to raise its fees, but only seeks the maximum amounts so that it does not have to return to the General Assembly for a fee increase for a number of years. The Board's proposed fee schedule for 2004, shown in the chart below, raises only 4 of their 23 fees.

	Current Statutory Maximum	Actual Fee Charged 2002/2003	Proposed Statutory Maximum	Fees Proposed 2004
90-39 Fees				
Application for general dentistry examination	$500	$500	$1,200	$675
General dentistry license renewal	$140	$140	$600	$189
Penalty for late renewal of any license	$50	$50	$100	$50
Each Provisional License	$150	$100	$300	$100
Each Intern permit or renewal	$150	$150	$500	$150
Each certificate of license	$30	$25	$75	$25
Each license to resume practice.....	$300	$225	$500	$225
Each Instructors license.....	$140	$140	$500	$140
Peer review special fund.....	$50	$25	$100	$25
Each duplicate license, permit or certificate	$25	$25	$75	$25
Each office inspection general anesthesia.....	$350	$175 or $275	$750	$175 or $275
Each general sedation permit application/renewal	$50	$50	$100	$50
Each application License by credentials.....	$2,000	$0/$2000	$3,000	$2,000
Each application limited volunteer license.....	$100	$0/$100	$200	$100
Each limited volunteer license renewal	$25	$0/$25	$50	$25
90-232 Fees				
Each applicant for examination.....	$125	$125	$350	$170
Each renewal certificate.....	$60	$60	$250	$81
Each restoration of license.....	$60	$60	$150	$60
Each Provisional license.....	$60	$60	$150	$60
Each certificate of residency.....	$25	$25	$50	$25
Annual fee to impaired dental hygiene program	$40	$15	$80	$15
Each license by credentials	$1,000	$750	$1,500	$750

The Board's proposed 2004 fee schedule will raise $1.7 million, an increase of approximately $450,000 over 2002. If the Board chose to raise fees to the maximum, its revenue would equal $3.8 million (see chart below).

	No. Fees	Revenue Received 2002	Maximum Revenues	Difference
90-39 Fees				
Application for general dentistry examination	198	$99,000	$237,600	$138,600
General dentistry license renewal	4187	$586,180	$2,512,200	$1,926,020
Penalty for late renewal of any license	249	$12,450	$24,900	$12,450
Each Provisional License	20	$2,000	$6,000	$4,000
Each Intern permit or renewal	90	$13,500	$45,000	$31,500
Each certificate of license	85	$2,125	$6,375	$4,250
Each license to resume practice.....	14	$3,150	$7,000	$3,850
Each Instructors license.....	0	$0	$0	$0
Peer review special fund.....	4201	$105,025	$420,100	$315,075
Each duplicate license, permit or certificate	427	$10,675	$32,025	$21,350
Each office inspection general anesthesia.....	35	$7,125	$26,250	$19,125
Each general sedation permit application/renewal	224	$11,200	$22,400	$11,200
Each application License by credentials.....	0	$0	$0	$0
Each application limited volunteer license.....	0	$0	$0	$0
Each limited volunteer license renewal	0	$0	$0	$0
90-232Fees				
Each applicant for examination.....	279	$34,875	$97,650	$62,775
Each renewal certificate.....	4995	$299,700	$1,248,750	$949,050
Each restoration of license.....	11	$660	$1,650	$990
Each Provisional license.....	24	$1,440	$3,600	$2,160
Each certificate of residency.....	55	$1,375	$2,750	$1,375
Annual fee to impaired dental hygiene program	4757	$71,355	$380,560	$309,205
Each license by credentials	0	$0	$0	$0
		$1,261,835	$5,074,810	$3,812,975

Section 3

Sections 3 allows the Board of Massage and Bodywork Therapy to assess a penalty of up to $1,000 on those who violate Board rules. The proceeds of this penalty will be deposited into the Civil Penalty and Forfeiture Fund for the benefit of the state's public schools. The Board has no estimate of how many penalties it might assess in a given year.

Section 3 (d) allows the Board of Massage and Bodywork Therapy to assess the costs of disciplinary actions against a person violating Board rules. The Board's attorney estimates this section will allow the recoupment of $300 per hearing for 40 hearings a year. The Board would realize $12,000 in reimbursed expenditures.

SOURCES OF DATA: Board of Dental Examiners; Board of Massage and Bodywork Therapy

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 27, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 800 A BILL TO BE ENTITLED AN ACT TO INCREASE THE MAXIMUM FEES THAT THE NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS MAY ASSESS AND MAKE CHANGES TO THE MASSAGE AND BODYWORK THERAPY LAWS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1301
PROPOSED COMMITTEE SUBSTITUTE H1301-CSLC-73 [v.1]

6/10/2003 5:41:07 PM

Short Title: Interlocal Economic Development Cooperation. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS THAT ARE JOINTLY UNDERTAKING A DEVELOPMENT PROJECT TO ENTER INTO AGREEMENTS TO FINANCE THE PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 20 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-466. Revenue and expenditures for joint undertakings.**

When two or more units of local government are engaged in a joint undertaking, they may enter into agreements regarding financing, expenditures, and revenues related to the joint undertaking. Funds collected by any participating unit of government may be transferred to and expended by any other unit of government in a manner consistent with the agreement. An agreement regarding expenses and revenues may be of reasonable duration not to exceed 99 years."

SECTION 2. Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"**§ 158-7.3. Interlocal agreements concerning economic development.**

(a) Any two or more units of local government may enter into contracts or agreements to execute undertakings pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, under which each participating local government agrees to provide resources for the development of an industrial or commercial park or industrial or commercial site pursuant to G.S. 158-7.1. In consideration for that participation, the unit or units in which the park or site is located may agree to place the proceeds from some or all property taxes levied on the park or site into a common fund or transfer those proceeds to a nonprofit corporation or other entity. The proceeds placed into the common fund or transferred to the other entity may then be distributed among the participating local governments as provided in the contract or agreement.

(b) Any undertaking entered into pursuant to this section may be for that period that is agreed to by the participating local governments, up to a maximum of 40 years.

(c) Any undertaking entered into pursuant to this section is binding upon each participating local government for the duration of the contract or agreement. Any participating local government may bring an action to specifically enforce the contract or agreement."

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1301

Short Title:	Local Government Economic Development Tools.	(Public)
Sponsors:	Representatives Fox, G. Allen (Primary Sponsors); Tolson and L. Allen.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LOCAL GOVERNMENTS THAT ARE JOINTLY UNDERTAKING A DEVELOPMENT PROJECT TO ENTER INTO AGREEMENTS TO FINANCE THE PROJECT; TO AMEND THE NORTH CAROLINA CONSTITUTION; AND TO CREATE A LOCAL OPTION PARTIAL PROPERTY TAX EXCLUSION FOR IMPROVEMENTS TO PROPERTY LOCATED IN A REDEVELOPMENT AREA.

The General Assembly of North Carolina enacts:

SECTION 1. Part 1 of Article 20 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"**§ 160A-466. Revenue and expenditures for joint undertakings.**

When two or more units of local government are engaged in a joint undertaking, they may enter into agreements regarding financing, expenditures, and revenues related to the joint undertaking. Funds collected by any participating unit of government may be transferred to and expended by any other unit of government in a manner consistent with the agreement. An agreement regarding expenses and revenues may be of reasonable duration not to exceed 99 years."

SECTION 2. Article 2 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"**§ 158-7.3. Interlocal agreements concerning economic development.**

(a) Any two or more units of local government may enter into contracts or agreements to execute undertakings pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, under which each participating local government agrees to provide resources for the development of an industrial or commercial park or industrial or commercial site pursuant to G.S. 158-7.1. In consideration for that participation, the unit or units in which the park or site is located may agree to place the proceeds from some or all property taxes levied on the park or site into a common fund or transfer those proceeds to a nonprofit corporation or other entity. The proceeds placed into the

common fund or transferred to the other entity may then be distributed among the participating local governments as provided in the contract or agreement.

(b) Any undertaking entered into pursuant to this section may be for that period that is agreed to by the participating local governments, up to a maximum of 40 years.

(c) Any undertaking entered into pursuant to this section is binding upon each participating local government for the duration of the contract or agreement. Any participating local government may bring an action to specifically enforce the contract or agreement."

SECTION 3. Section 2(4) of Article V of the North Carolina Constitution reads as rewritten:

"(4) Special tax areas. Subject to the limitations imposed by Section 4, the General Assembly may enact general laws authorizing the governing body of any county, city, or town to define territorial areas and to levy taxes within those areas, in addition to those levied throughout the county, city, or town, in order to finance, provide, or maintain services, facilities, and functions in addition to or to a greater extent than those financed, provided, or maintained for the entire county, city, or town. The General Assembly may enact general laws authorizing the governing body of any county, city, or town to allow property tax incentives for redevelopment in defined special territorial areas established pursuant to general laws applicable throughout the State."

SECTION 4. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-277.14. Taxation of improvements in redevelopment areas.**

(a) Qualifying improvements on redevelopment area properties are designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and redevelopment areas established under G.S. 160A-503 are designated a special territorial area under Article V, Section 2(4) of the North Carolina Constitution. The governing body of a county or municipality may, by resolution, opt to appraise, assess, and tax qualifying improvements on redevelopment area properties in accordance with this section. The resolution must allow an owner of land the partial exclusion provided by this section for the first five taxable years beginning after completion of qualifying improvements made after a date specified in the resolution. In no case may the date specified in the resolution be earlier than the first day of the current fiscal year. After property has qualified for the exclusion allowed by this section, the assessor for the county in which the property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms 'qualifying improvements on redevelopment area properties' and 'qualifying improvements' mean improvements made to real property that is located within a redevelopment area as defined in G.S. 160A-503.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

Year	**Percent of Appraised Value Excluded**
Year 1	90%
Year 2	75%

Year 3	50%
Year 4	30%
Year 5	10%."

SECTION 5. The amendment set out in Section 3 of this act shall be submitted to the qualified voters of the State at the next statewide general election, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"**[ ] FOR [ ] AGAINST**

Constitutional amendment allowing local option property tax incentives for redevelopment in defined territorial areas established pursuant to general law".

SECTION 6. If a majority of votes cast on the question are in favor of the amendment set out in Section 3 of this act, the State Board of Elections shall certify the amendment to the Secretary of State whereupon the amendment shall become effective. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

SECTION 7. Section 4 of this act becomes effective for taxes imposed for the first taxable year beginning after the date of the certification required in Section 6 of this act. The remainder of this act is effective when it becomes law.

HOUSE BILL 1301:
Interlocal Development Cooperation

BILL ANALYSIS

Committee: House Finance
Date: June 24, 2003
Version: CSLC-73

Sponsor: Rep. Fox
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Authorize local governments that are jointly undertaking a development project to enter into agreements to fund the project.

Section 1 of the bill would amend the law on interlocal agreements to provide that if two or more local governments enter into a joint undertaking, they may adopt interlocal agreements authorizing the transfer of the units' revenues to other units of local government for expenditure on the joint undertaking pursuant to the agreement. The agreement may address other issues regarding expenditures and revenues related to the joint undertaking. The maximum length of such an agreement would be 99 years.

Section 2 of the bill would amend the law on local economic development to provide that local governments may enter into binding interlocal agreements under which they agree to provide resources to jointly develop industrial or commercial property for public purposes. In exchange for these resources, the unit of local government in which the property is located may agree to share among the participating local governments the proceeds from the property taxes on the developed property. The maximum term of the agreement would be 40 years.

Current law does not clearly authorize a unit of local government to share its revenues with other units of local government in this manner for regional economic development.

The bill does not authorize a unit of local government to pledge its tax revenues for the repayment of debt. Under the North Carolina Constitution, such a pledge can be made only after approval by the voters.

The bill would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1301 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE LOCAL GOVERNMENTS THAT ARE JOINTLY UNDERTAKING A DEVELOPMENT PROJECT TO ENTER INTO AGREEMENTS TO FINANCE THE PROJECT; TO AMEND THE NORTH CAROLINA CONSTITUTION; AND TO CREATE A LOCAL OPTION PARTIAL PROPERTY TAX EXCLUSION FOR IMPROVEMENTS TO PROPERTY LOCATED IN A REDEVELOPMENT AREA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 1149

Short Title:	No Sales Tax on Free Publications.	(Public)
Sponsors:	Representatives Nesbitt; and Luebke.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FREE CIRCULATION PUBLICATIONS FROM THE SALES TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(39) is reenacted and rewritten to read:

"(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free circulation publications and sales by printers of free circulation publications to the publishers of these publications. As used in this subdivision, the term 'free circulation publication' means a publication that is published on a periodic basis at recurring intervals and, without charge to the recipient, is mailed or is distributed house-to-house, by street distributors, in racks, or in any other manner at other locations."

SECTION 2. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1ST

H. B. No. 1149 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Luebke

moves to amend the bill on page 1, line 2

( ) WHICH CHANGES THE TITLE

by adding the word "CERTAIN" before the word "FREE";

and on page 1, lines 12-14, by rewriting the lines to read: "intervals monthly or more frequently and, without charge, is distributed by any manner other than by mailing."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 1149:
No Sales Tax on Free Publications

BILL ANALYSIS

Committee: House Finance
Date: June 24, 2003
Version: 1st Edition

Sponsor: Rep. Nesbitt
Analysis by: Martha Harris
Staff Attorney

SUMMARY: HB 975 exempts from the sales and use tax the sales of paper, ink, and other tangible personal property to commercial printers and publishers for use in free circulation publications and the sales by printers of the free circulation publications to the publishers.

CURRENT LAW: Under current law, supplies (paper, ink, and other tangible personal property) sold for free publications are subject to sales and use tax. Before October 1, 1999, there was a sales tax exemption for sales of paper, ink, and other tangible personal property to commercial printers and publishers for use as component parts in free circulation publications that contained advertising of a general nature. The exemption applied to general shoppers guides, but not to more specialized guides, such as real estate guides. (The statute specifically required that the free circulation publication contain advertising of a general nature.) The exemption was repealed because it was believed to be unconstitutional. The first amendment of the U.S. Constitution generally does not allow a state to discriminate between publications based on content. A 1987 U.S. Supreme Court decision confirmed that the constitution does not permit a tax break limited to certain publications based on their content.[1] To be constitutional, the exemption needed to be expanded to include all free circulation publications or it needed to be repealed. The 1999 General Assembly chose to repeal the sales tax exemption, effective October 1, 1999. The result was that supplies sold for all free publications became subject to sales tax on a uniform basis.

HOUSE BILL 1149: House Bill 1149 bill would reinstate the sales tax exemption on the supplies sold for free circulation publications and expand the exemption to include all free circulation periodical publications regardless of their content. The bill would define a free circulation publication as a publication that meets the following conditions:

- Is published on a periodic basis at recurring intervals.
- Is mailed or is distributed house-to-house, by street distributors, in racks, or in any other manner at other locations without the charge to the recipient.

[1] In *Arkansas Writer's Project, Inc. v. Ragland*, 481 US 221 (1987), the U.S. Supreme Court invalidated an Arkansas sales tax scheme that taxed general interest magazines but exempted single topic printed material. The N.C. tax exemption operated just the opposite: it taxed component parts used in single topic advertising publications but exempted component parts used in advertising publications that contained advertising of a general nature. Constitutionally, these distinctions appear meaningless.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1149 (First Edition)

SHORT TITLE: No Sales Tax on Free Publications

SPONSOR(S): Representatives Nesbitt and Luebke

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($million)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund *	(17.25)	(17.25)	(17.25)	(17.25)	(17.25)
Local Governments **	(10.78)	(10.78)	(10.78)	(10.78)	(10.78)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, Local Governments.

EFFECTIVE DATE: This act becomes effective July 1, 2003, and applies to sales made on or after that date.

* Assumes 4% state sales and use tax rate as of July 1, 2003.
** Assumes 2.5% local sales and use tax rate as of July 1, 2003.

BILL SUMMARY: This bill exempts from the state and local sales and use tax the paper, ink, and other ingredients used to produce free circulation publications published on a periodic basis at recurring intervals.

BACKGROUND: Prior law granted a sales tax exemption for sales of paper, ink, and other tangible personal property to commercial printers and publishers for use as component parts in free circulation publications that contained advertising of a general nature. The exemption applied to general shoppers guides but not to more specialized publications such as real estate guides. The First Amendment of the United States Constitution does not allow a state to discriminate between publications based on their content. The prior law exemption clearly violated this rule by exempting guides with general content but not those with narrower content. Section 10 of Senate Bill 1112 (S.L. 1999-438) repealed the exemption, effective October 1, 1999, so that supplies sold for all free publications are subject to tax on a uniform basis.

ASSUMPTIONS AND METHODOLOGY:

Prior to the 2000 Session of the General Assembly, Department of Revenue field auditors were asked to collect free publications from their regions and forward them by courier mail to the central office in Raleigh. These documents were used to estimate the annual statewide sales volumes of free publications. The Tax Research Division of the Department of Revenue used the estimated sales data for free publications, as well as sales and use tax collections data and information from the North Carolina Press Association to estimate the fiscal impact of this proposed tax exemption. Since the 2000 Legislative Session, the Department has studied a free publication court case in Florida and determined that periodic free publications also includes telephone books and items distributed by mail such as packages of coupons, business newsletters, manuals, catalogues, and other advertising. In an October 3, 2001, memo to the General Assembly's Fiscal Research Division, the Tax Research Division estimated the following General Fund revenue loss from exempting free circulation publications based on the 4.5% state sales tax:

	State Sales Tax (millions)
Items not distributed by mail	$ 5.6
Items distributed by mail	12.8
Telephone books	1.0
Total	$19.4

The Department of Revenue's Sales Tax Division was contacted on June 20, 2003, to learn whether its estimate on free publications had changed. An email from the Director of the Sales Tax Division on June 23, 2003, confirmed that the Department stands behind its original estimate. The Department offered that the revenue loss would be $12 million (at 4.5%) if a publication had to be published at least twice a month.

Given that the state sales tax will be 4% as of July 1, 2003, and no budget action has yet been taken to extend the 4.5% tax rate, this fiscal analysis will assume a 4% state sales tax rate. By July 1, 2003, all 100 counties will have adopted an additional half-cent sales tax, thus, a 2.5% local sales tax rate is used. No growth rate was assumed for future years due to the lack of market information for free publications. The revised cost of this bill is shown below using a 4% state sales tax rate and a 2.5% local rate.

	State Sales Tax (4%) (millions)	Local Sales Tax (2.5%) (millions)
Items not distributed by mail	$ 4.98	$3.11
Items distributed by mail	11.38	7.11
Telephone books	.89	.56
Total	$17.25	$10.78

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 24, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 100*
Finance Committee Substitute Adopted 3/25/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S100-CSRB-30 [v.3]

6/24/2003 6:26:12 PM

Short Title: State Govt Sales Tax Exempt/Sch Coop Refund. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN STATE GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR STATE AGENCIES INSTEAD OF A SALES AND USE TAX REFUND TO STATE AGENCIES AND TO ALLOW A SALES AND USE TAX REFUND TO SCHOOL BOARD COOPERATIVES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(51) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a State agency for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.

c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

SECTION 2. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal ~~property.~~ property and services, other than electricity and telecommunications service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

(1) A county.
(2) A city as defined in G.S. 160A-1.
(2a) A consolidated city-county as defined in G.S. 160B-2.
(2b) A local school administrative unit.
(2c) A joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf.
(3) A metropolitan sewerage district or a metropolitan water district in this State.
(4) A water and sewer authority created under Chapter 162A of the General Statutes.
(5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
(6) A sanitary district.
(7) A regional solid waste management authority created pursuant to G.S. 153A-421.
(8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
(9) A district health department, or a public health authority created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes.
(10) A regional council of governments created pursuant to G.S. 160A-470.
(11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
(12) A regional planning commission created pursuant to G.S. 153A-391.
(13) A regional sports authority created pursuant to G.S. 160A-479.

(14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.

(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.

(15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

(16) A local airport authority that was created pursuant to a local act of the General Assembly.

(17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.

(18) Repealed by Session Laws 2001-474, s. 7.

(19) Repealed by Session Laws 2001-474, s. 7.

(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.

(21) The University of North Carolina Hospitals at Chapel Hill.

(22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes."

SECTION 3. G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid ~~by a State agency on direct purchases of tangible personal property and local sales and use taxes paid~~ indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. ~~This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.

(2) The type of property purchased.

(3) The project for which the property was used.

(4) If the property was purchased in this State, the county in which it was purchased.

(5) If the property was not purchased in this State, the county in which the property was used.

(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 4. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. State government exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(51), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 5. The Office of State Budget and Management must reduce each State agency's certified budget for fiscal years 2003-2004 and 2004-2005 by an appropriate amount to reflect the tax savings generated by the sales and use tax exemption for State agencies allowed under this act.

SECTION 6. Section 2 of this act is effective for taxes paid on or after July 1, 2003. Section 4 of this act becomes effective January 1, 2004. The remainder of this act becomes effective July 1, 2004, and applies to sales made on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 100*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S100-ARB-27 [v.3]

Date _____,2003

Comm. Sub. [YES]
Amends Title [YES]
S100-CSRB-30

Representative G. Allen

moves to amend the bill on page 1, line 3, by adding the following at the end of that line: "AND LOCAL SCHOOL BOARDS";

and on page 1, line 5, by adding the following immediately after the word "AGENCIES": "AND LOCAL SCHOOL BOARDS";

and on page 1, line 27, by adding the following new section immediately after that line to read and by renumbering the remaining sections accordingly:

"**SECTION 2.** G.S. 105-164.13 is amended by adding a new subdivision to read:

'**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(52) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29A

b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased, or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.

c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number.'";

and on page 4, lines 6 - 17, by rewriting the lines to read:

"**SECTION 5.** Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-164.29A. State government and local school administrative unit exemption process.**

(a) State Government Application. – To be eligible for the exemption provided in G.S. 105-164.13(51), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Local School Administrative Unit Application. – To be eligible for the exemption provided in G.S. 105-164.13(52), a local school administrative unit must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local school administrative unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(c) Liability. – A State agency or local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid.'";

and on page 4, lines 22 – 24, by rewriting those lines to read:

"**SECTION 7.** Section 3 of this act is effective for taxes paid on or after July 1, 2003. Section 5 of this act becomes effective January 1, 2004. Section 2 of this act becomes effective July 1, 2005, and applies to sales made on or after that date. The remainder of this act becomes effective July 1, 2004, and applies to sales made on or after that date.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 100*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S100-ARB-27 [v.3]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 100*

Finance Committee Substitute Adopted 3/25/03

Short Title: State Govt. Sales Tax Exempt. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN STATE GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR STATE AGENCIES INSTEAD OF A SALES AND USE TAX REFUND TO STATE AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(51) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a State agency.

b. The items are purchased pursuant to a valid purchase order issued by the State agency that contains the exemption number of the agency and a description of the property purchased, or the items purchased are paid for with a State-issued check, electronic deposit, credit card, procurement card, or credit account of the State agency.

c. For all purchases other than by an agency-issued purchase order, the agency must provide to or have on file with the retailer the agency's exemption number."

SECTION 2. G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal ~~property.~~ property and services, other than electricity and

telecommunications service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

(1) A county.
(2) A city as defined in G.S. 160A-1.
(2a) A consolidated city-county as defined in G.S. 160B-2.
(2b) A local school administrative unit.
(3) A metropolitan sewerage district or a metropolitan water district in this State.
(4) A water and sewer authority created under Chapter 162A of the General Statutes.
(5) A lake authority created by a board of county commissioners pursuant to an act of the General Assembly.
(6) A sanitary district.
(7) A regional solid waste management authority created pursuant to G.S. 153A-421.
(8) An area mental health, developmental disabilities, and substance abuse authority, other than a single-county area authority, established pursuant to Article 4 of Chapter 122C of the General Statutes.
(9) A district health department, or a public health authority created pursuant to Part 1A of Article 2 of Chapter 130A of the General Statutes.
(10) A regional council of governments created pursuant to G.S. 160A-470.
(11) A regional planning and economic development commission or a regional economic development commission created pursuant to Chapter 158 of the General Statutes.
(12) A regional planning commission created pursuant to G.S. 153A-391.
(13) A regional sports authority created pursuant to G.S. 160A-479.
(14) A public transportation authority created pursuant to Article 25 of Chapter 160A of the General Statutes.
(14a) A facility authority created pursuant to Part 4 of Article 20 of Chapter 160A of the General Statutes.
(15) A regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes, or a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

(16) A local airport authority that was created pursuant to a local act of the General Assembly.
(17) A joint agency created by interlocal agreement pursuant to G.S. 160A-462 to operate a public broadcasting television station.
(18) Repealed by Session Laws 2001-474, s. 7.
(19) Repealed by Session Laws 2001-474, s. 7.
~~(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property acquired by it through the expenditure of contract and grant funds.~~
~~(21) The University of North Carolina Hospitals at Chapel Hill.~~
(22) A regional natural gas district created pursuant to Article 28 of Chapter 160A of the General Statutes."

SECTION 3. G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid ~~by a State agency on direct purchases of tangible personal property and local sales and use taxes paid~~ indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. ~~This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.
(2) The type of property purchased.
(3) The project for which the property was used.
(4) If the property was purchased in this State, the county in which it was purchased.
(5) If the property was not purchased in this State, the county in which the property was used.
(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 4. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. State government exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(51), a State agency must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 5. The Office of State Budget and Management must reduce each State agency's certified budget for fiscal years 2003-2004 and 2004-2005 by an appropriate amount to reflect the tax savings generated by the sales and use tax exemption for State agencies allowed under this act.

SECTION 6. Section 4 of this act becomes effective January 1, 2004. The remainder of this act becomes effective July 1, 2004, and applies to sales made on or after that date.

SENATE BILL 100 (PCS):
State Govt Sales Tax Exempt/Sch Coop Refund

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 25, 2003	**Summary by:**	Cindy Avrette
Version:	PCS for 2nd Edition S100-CSRB-30		Committee Counsel

SUMMARY: ***Senate Bill 100 would exempt purchases by State agencies from the State and local sales tax. State agencies must currently apply for a refund of local sales taxes. The exemption, versus the refund, would become effective July 1, 2004. The Proposed House Committee Substitute would allow a refund of State and local sales and use taxes by a joint agency created by interlocal agreement among local school administrative units to jointly purchase food service-related materials, supplies, and equipment on their behalf. The refund would become effective for taxes paid on or after July 1, 2003.***

STATE GOVERNMENT EXEMPTION: Currently, all major State agencies except the Department of Transportation[1], is subject to State and local sales taxes. However, the State receives a quarterly refund of the local sales taxes paid by its agencies[2], with the proceeds of the refund going to the General Fund. Refunds for purchases by the constituent institutions of the University of North Carolina paid for with contract and grant funds and the University of North Carolina Hospitals at Chapel Hill are made on an annual basis and refunded directly to the state agency.[3] The *proposed House committee substitute* does not change the refund status of these purchases at the suggestion of the Office of State Budget and Management.

The current refund process is time-consuming for both the Office of the State Controller, the agencies, and the Department of Revenue. To relieve the agencies of this burden, the Office of the State Controller recommends that the refund process be changed to a sales and use tax exemption for State agencies. The term "State agency" is currently defined for sales and use tax purposes as a unit of the executive, legislative, or judicial branch of State government, such as a department, commission, board, council, or The University of North Carolina. The term does not include local boards of education[4] or local boards of trustees for the community college system.

Senate Bill 100 would change the current refund process to an exemption for State agencies. To qualify for the exemption, the items must be purchased by a State agency and the purchase must meet one of the following conditions:

- The items are purchased pursuant to a purchase order of the State agency that contains the exemption number of the agency and a description of the items purchased.
- The items purchased are paid for by a State-issued check, electronic deposit, credit card, procurement care, or credit account of a State agency and the agency provides to or has on file with the retailer the agency's exemption number.

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[1] The Department of Transportation is exempt from State and local sales and use tax.

[2] Each State agency is suppose to file with the Secretary of Revenue a written application for a refund of the local sales taxes paid by it. The application is due within 15 days after the end of each calendar quarter. *GS 105-164.14(e).*

[3] GS 105-164.14(c)(20) and (21).

[4] Local school administrative units are allowed an annual refund of State and local sales taxes paid.

The bill incorporates all of the various payment and purchase mechanisms where accounting system controls are in place to verify purchases and prevent possible misuse of the agency's sales tax exemption by its employees. The only type of direct purchases not included within this exemption is employee expense reimbursements.

The sales tax exemption would apply only to direct purchases of tangible personal property. State agencies would continue to apply for refunds of local taxes paid on indirect purchases of building materials, supplies, fixtures, and equipment that become a part of a structure owned or leased by the State.

A state agency would be liable for items purchased with its exemption number that it does not use. The liability would include not only the tax that should have been paid on the items purchased, but also interest calculated from the date the tax would otherwise have been paid.

Section 4 of the bill would become effective January 1, 2004, so that State government agencies could begin the process of obtaining their exemption certificates from the Department of Revenue. Section 1 of the bill, granting the exemption, would become effective July 1, 2004, and apply to sales made on or after that date. Section 3 makes a conforming change and Section 5 provides that the Office of State Budget and Management must reduce each State agency's certified budget for fiscal years 2003-04 and 2004-05 by an appropriate amount to reflect the tax savings generated by the sales and use tax exemption allowed under this bill.

SALES TAX REFUND FOR SCHOOL BOARD COOPERATIVES: Under Chapter 160A of the General Statutes, units of local governments[5] may enter into contracts or agreements with each other in order to execute any undertaking. Since 1996, several boards of education in the eastern part of the State have participated in an agreement under the authority of Part 1 of Chapter 160A in order to operate a cooperative program known as the Southeast Cooperative Utilizing Resources Efficiently (SECURE). The purpose of SECURE is to coordinate the acquisition of food service related materials, supplies, equipment, and services. The school districts in SECURE now are Wayne, Pitt, Greene, Lenoir, Onslow, Sampson, New Hanover, Guilford, and Cumberland Counties and it is my understanding two or three more counties may join the agreement.

SECURE acts as a conduit that allows several districts to save money by allowing them greater purchasing power from vendors. SECURE does not make a profit or loss because food is passed on to the districts at cost and all the administrative expenses, interest income, rebates, and purchases of any kind are passed on to the districts. SECURE does not own any assets and it does not have any employees.[6] SECURE applied for a sales tax refund but the Department of Revenue found that it was not included in the list of entities entitled to a refund: SECURE is not a local board of education and it is not a charitable nonprofit organization.

The *proposed House committee substitute* adds a new Section 2 to the bill that would allow SECURE and any other joint agency created by interlocal agreement among local school administrative units to jointly purchase food service-related materials, supplies, and equipment on their behalf to qualify for an annual refund of State and local sales and use taxes paid by it. The refund request must be made in writing and must include any information and documentation required by the Secretary. This section would become effective for taxes paid on and after July 1, 2003.

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[5] G.S. 160A-460 includes a local board of education within its definition of "unit of local government".

[6] The manager and the administrative assistant of SECURE are paid by Greene County schools. SECURE reimburses Green County for all of the administrative person's salary and part of the manager's salary.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 24, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: SB 100 – PCS State Govt. Sales Tax Exempt

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ millions) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		(25.7)	(26.3)	(26.8)	(27.3)
EXPENDITURES					
State Agencies		(25.7)	(26.3)	(26.8)	(27.3)
Schools		* See Assumptions and Methodology *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State agencies, Office of State Budget, and the selected educational cooperatives.

EFFECTIVE DATE: Sales tax provisions become effective July 1, 2004. Associated administrative changes become effective January 1, 2004. The balance becomes effective when law.

BILL SUMMARY: Under current law purchases by all major state agencies but one are subject to state and local sales taxes, unless the item purchased is exempt from tax for all purchasers. (The Department of Transportation is exempt from all local and state tax). However, the State receives a refund of the local sales taxes paid by its agencies, with the

proceeds of this refund going to the general fund. Most state agencies file on a quarterly basis. Refunds of state and local taxes on purchases by the North Carolina Low Level Radioactive Waste Management Authority, the North Carolina Hazardous Waste Management Commission, constituent institutions of the University of North Carolina, and the University of North Carolina Hospitals at Chapel Hill are made on an annual basis and are refunded directly to the state agency. This bill exempts all state agencies from state and local sales tax. In order to qualify for the exemption a state agency must obtain a sales tax exemption number from the Department of Revenue. If the state agency does not use the items purchased with its number it is liable for the tax on that item. State agencies will continue to file quarterly for a refund of local sales taxes on indirect purchases. The Office of Management and Budget is charged with reducing 2004-05 agency allocations to reflect this change.

ASSUMPTIONS AND METHODOLOGY: This legislation will affect both revenues and expenditures.

REVENUES: According to the Department of Revenue, for FY 1999-00 state agency refunds of local taxes (excluding the UNC Hospitals) to the General Fund totaled $14.2 million. Based that refund data, Tax Research estimates that state agencies paid $42.6 million in state and local sales taxes in 1999-00. Due to continuing budget and agency allocation reductions, actual refunds for local sales taxes paid on agency direct purchases in 2001-02 dropped to approximately $8.5 million, suggesting that state agencies (excluding UNC Hospitals) paid a total of approximately $27.3 million in state and local sales taxes on direct purchases ($8.5 million in local taxes, $18.6 million in state taxes, $0.2 million in Mecklenburg additional ½ cent taxes). Given the current budget situation, it is assumed that agency purchases decline again in 2002-03 and 2003-04 and then slowly increase in the out years. Estimated potential state agency refunds for sales that occur in a given fiscal year are as follows:

	State	Local	Mecklenburg	TOTAL
2001-02	18,607,329	8,546,907	181,346	27,335,581
2002-03	18,269,013	9,134,507	172,279	27,575,799
2003-04	15,427,167	9,641,979	163,665	25,232,811
2004-05	15,735,710	9,834,819	166,938	25,737,467
2005-06	16,050,424	10,031,515	170,277	26,252,216
2006-07	16,371,433	10,232,146	173,682	26,777,261
2007-08	16,698,862	10,436,789	177,156	27,312,806

The amount for 2004-05 is the amount anticipated to be backed out of individual agencies by the Office of State Budget and Management in their budget certification process.

NOTE: Indirect purchases are not included in these estimates, as they are not affected by the legislation.

The second revenue impact associated with the bill relates to educational cooperatives. The legislation allows cooperatives formed by a group of public school systems to receive a sales tax refund. At this point Fiscal Research is only aware of one educational cooperative that would likely qualify for the new tax treatment. "SECURE", which stands for Southeast Cooperative Utilizing Resources Efficiently purchases food service related materials, supplies, equipment and services for nine Southeastern North Carolina county school systems. The exact annual revenue loss associated with this provision is unknown but is expected to be less than $20,000 per year. Because the organization would receive their first refund in November 2004 for purchases made in 2003-04, no 2003-04 impact is expected.

EXPENDITURES:

The primary impact of the legislation on expenditures is the reduction in agency budgets to reflect the sales tax exemption. Under the bill the Office of Management and Budget is directed to determine the amount of sales tax each agency would have spent and reduce their funding allocation by the amount. After the first year, this process will become unnecessary. This fiscal note assumes that the Office of Management and Budget will be able to back out the sales tax numbers and that 2003-04 and 2004-05 allocations will be reduced to reflect the reduced cost of doing business. Therefore, the net impact of the bill is no change to the General Fund.

SOURCES OF DATA: NC Department of Revenue, Office of State Budget and Management and Tax Research.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 100 A BILL TO BE ENTITLED AN ACT TO PROMOTE EFFICIENCY IN STATE GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR STATE AGENCIES INSTEAD OF A SALES AND USE TAX REFUND TO STATE AGENCIES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 1281
PROPOSED COMMITTEE SUBSTITUTE H1281-CSLCx-78 [v.8]

6/24/2003 10:49:44 AM

Short Title: New Prisons/Structured Sentencing. (Public)

Sponsors:

Referred to:

May 14, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE FROM THREE TO FIVE THE NUMBER OF PRISONS THE STATE IS AUTHORIZED TO FINANCE BY LEASE-PURCHASE AND TO MAKE THE FOLLOWING CHANGES TO THE STRUCTURED SENTENCING LAWS AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION: (1) REALLOCATE THREE MONTHS FROM THE MINIMUM SENTENCE OF CLASSES B1 THROUGH E TO THE MAXIMUM SENTENCE, (2) MAKE THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT, (3) INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS TO TWELVE MONTHS, AND (4) RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I AND TO EVEN OUT THE REMAINING RANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 148-37.2 reads as rewritten:

"**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells~~ described in subsection (a1) of this section to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the

Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

(1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.

(2) 2003 Facilities. – Two close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 2,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or both of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.

(b) Definitions. – The following definitions apply in this section:

(1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.

(2) Construction contract agreement. – ~~A~~ Either of the following:

a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.

b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.

(3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.

(4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.

(5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.

(6) Selected contractors. – One or more private firms selected to construct the Projects.

(7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance, and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects.~~Projects or, alternatively, the

construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

(1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.

(3) The lease-purchase agreement can be entered into on terms desirable to the State.

(4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

(e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:

(1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.

(2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for

breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.

(3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.

(4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.

(5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.

(6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the completed Projects to the special nonprofit ~~corporation for purchase,~~corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such~~

~~proposal,~~ this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. ~~87-1; provided that this~~87-1. This subsection ~~shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

SECTION 1.(b) The two 1000-cell close security prototypical prisons to be constructed in Greene County and Bertie County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before January 1, 2004. This subsection applies only if the construction documents have been reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Correction.

SECTION 2. G.S. 15A-1340.17(c) through (e1) read as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	~~240-300~~	~~288-360~~	~~336-420~~	~~384-480~~	~~Life Imprisonment Without Parole~~		~~Aggravated~~
~~B1~~	~~192-240~~	~~230-288~~	~~269-336~~	~~307-384~~	~~346-433~~	~~384-480~~	~~PRESUMPTIVE~~
	~~144-192~~	~~173-230~~	~~202-269~~	~~230-307~~	~~260-346~~	~~288-384~~	~~Mitigated~~
	240-300	276-345	317-397	365-456	Life Imprisonment Without Parole		Aggravated
B1	189-237	218-273	251-314	289-362	333-417	383-480	PRESUMPTIVE
	141-189	163-218	187-251	216-289	249-333	287-383	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~157-196~~	~~189-237~~	~~220-276~~	~~251-313~~	~~282-353~~	~~313-392~~	~~Aggravated~~
~~B2~~	~~125-157~~	~~151-189~~	~~176-220~~	~~201-251~~	~~225-282~~	~~251-313~~	~~PRESUMPTIVE~~
	~~94-125~~	~~114-151~~	~~132-176~~	~~151-201~~	~~169-225~~	~~188-251~~	~~Mitigated~~
	154-193	177-222	204-255	235-294	270-339	311-390	Aggravated
B2	122-154	141-177	162-204	187-235	216-270	248-311	PRESUMPTIVE
	91-122	105-141	121-162	140-187	161-216	186-248	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~73-92~~	~~100-125~~	~~116-145~~	~~133-167~~	~~151-188~~	~~168-210~~	~~Aggravated~~
~~C~~	~~58-73~~	~~80-100~~	~~93-116~~	~~107-133~~	~~121-151~~	~~135-168~~	~~PRESUMPTIVE~~
	~~44-58~~	~~60-80~~	~~70-93~~	~~80-107~~	~~90-121~~	~~101-135~~	~~Mitigated~~
	70-89	80-101	93-117	107-135	124-156	143-179	Aggravated
C	55-70	64-80	74-93	85-107	98-124	114-143	PRESUMPTIVE
	41-55	47-64	55-74	63-85	73-98	84-114	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~64-80~~	~~77-95~~	~~103-129~~	~~117-146~~	~~133-167~~	~~146-183~~	~~Aggravated~~
~~D~~	~~51-64~~	~~61-77~~	~~82-103~~	~~94-117~~	~~107-133~~	~~117-146~~	~~PRESUMPTIVE~~
	~~38-51~~	~~46-61~~	~~61-82~~	~~71-94~~	~~80-107~~	~~88-117~~	~~Mitigated~~
	61-77	70-89	81-102	94-118	108-136	125-157	Aggravated
D	48-61	56-70	64-81	75-94	86-108	100-125	PRESUMPTIVE
	35-48	41-56	48-64	55-75	64-86	74-100	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	~~25-31~~	~~29-36~~	~~34-42~~	~~46-58~~	~~53-66~~	~~59-74~~	~~Aggravated~~
~~E~~	~~20-25~~	~~23-29~~	~~27-34~~	~~37-46~~	~~42-53~~	~~47-59~~	~~PRESUMPTIVE~~
	~~15-20~~	~~17-23~~	~~20-27~~	~~28-37~~	~~32-42~~	~~35-47~~	~~Mitigated~~
	22-28	26-33	30-38	35-45	41-52	47-60	Aggravated
E	17-22	20-26	23-30	27-35	32-41	37-47	PRESUMPTIVE
	12-17	14-20	17-23	20-27	23-32	27-37	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION

	~~16-20~~	~~19-24~~	~~21-26~~	~~25-31~~	~~34-42~~	~~39-49~~	~~Aggravated~~
~~F~~	~~13-16~~	~~15-19~~	~~17-21~~	~~20-25~~	~~27-34~~	~~31-39~~	~~PRESUMPTIVE~~
	~~10-13~~	~~11-15~~	~~13-17~~	~~15-20~~	~~20-27~~	~~23-31~~	~~Mitigated~~
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	~~13-16~~	~~15-19~~	~~16-20~~	~~20-25~~	~~21-26~~	~~29-36~~	~~Aggravated~~
~~G~~	~~10-13~~	~~12-15~~	~~13-16~~	~~16-20~~	~~17-21~~	~~23-29~~	~~PRESUMPTIVE~~
	~~8-10~~	~~9-12~~	~~10-13~~	~~12-16~~	~~13-17~~	~~17-23~~	~~Mitigated~~
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	42-51
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

1	~~15-27~~	~~16-29~~	~~17-30~~	~~18-31~~	~~19-32~~	~~20-33~~	~~21-35~~	~~22-36~~
2	~~23-37~~	~~24-38~~	~~25-39~~	~~26-41~~	~~27-42~~	~~28-43~~	~~29-44~~	~~30-45~~
3	~~31-47~~	~~32-48~~	~~33-49~~	~~34-50~~	~~35-51~~	~~36-53~~	~~37-54~~	~~38-55~~
4	~~39-56~~	~~40-57~~	~~41-59~~	~~42-60~~	~~43-61~~	~~44-62~~	~~45-63~~	~~46-65~~
5	~~47-66~~	~~48-67~~	~~49-68~~	~~50-69~~	~~51-71~~	~~52-72~~	~~53-73~~	~~54-74~~
6	~~55-75~~	~~56-77~~	~~57-78~~	~~58-79~~	~~59-80~~	~~60-81~~	~~61-83~~	~~62-84~~
7	~~63-85~~	~~64-86~~	~~65-87~~	~~66-89~~	~~67-90~~	~~68-91~~	~~69-92~~	~~70-93~~
8	~~71-95~~	~~72-96~~	~~73-97~~	~~74-98~~	~~75-99~~	~~76-101~~	~~77-102~~	~~78-103~~
9	~~79-104~~	~~80-105~~	~~81-107~~	~~82-108~~	~~83-109~~	~~84-110~~	~~85-111~~	~~86-113~~
10	~~87-114~~	~~88-115~~	~~89-116~~	~~90-117~~	~~91-119~~	~~92-120~~	~~93-121~~	~~94-122~~
11	~~95-123~~	~~96-125~~	~~97-126~~	~~98-127~~	~~99-128~~	~~100-129~~	~~101-131~~	~~102-132~~
12	~~103-133~~	~~104-134~~	~~105-135~~	~~106-137~~	~~107-138~~	~~108-139~~	~~109-140~~	~~110-141~~
13	~~111-143~~	~~112-144~~	~~113-145~~	~~114-146~~	~~115-147~~	~~116-149~~	~~117-150~~	~~118-151~~
14	~~119-152~~	~~120-153~~	~~121-155~~	~~122-156~~	~~123-157~~	~~124-158~~	~~125-159~~	~~126-161~~
15	~~127-162~~	~~128-163~~	~~129-164~~	~~130-165~~	~~131-167~~	~~132-168~~	~~133-169~~	~~134-170~~
16	~~135-171~~	~~136-173~~	~~137-174~~	~~138-175~~	~~139-176~~	~~140-177~~	~~141-179~~	~~142-180~~
17	~~143-181~~	~~144-182~~	~~145-183~~	~~146-185~~	~~147-186~~	~~148-187~~	~~149-188~~	~~150-189~~
18	~~151-191~~	~~152-192~~	~~153-193~~	~~154-194~~	~~155-195~~	~~156-197~~	~~157-198~~	~~158-199~~
19	~~159-200~~	~~160-201~~	~~161-203~~	~~162-204~~	~~163-205~~	~~164-206~~	~~165-207~~	~~166-209~~
20	~~167-210~~	~~168-211~~	~~169-212~~	~~170-213~~	~~171-215~~	~~172-216~~	~~173-217~~	~~174-218~~
21	~~175-219~~	~~176-221~~	~~177-222~~	~~178-223~~	~~179-224~~	~~180-225~~	~~181-227~~	~~182-228~~
22	~~183-229~~	~~184-230~~	~~185-231~~	~~186-233~~	~~187-234~~	~~188-235~~	~~189-236~~	~~190-237~~
23	~~191-239~~	~~192-240~~	~~193-241~~	~~194-242~~	~~195-243~~	~~196-245~~	~~197-246~~	~~198-247~~
24	~~199-248~~	~~200-249~~	~~201-251~~	~~202-252~~	~~203-253~~	~~204-254~~	~~205-255~~	~~206-257~~
25	~~207-258~~	~~208-259~~	~~209-260~~	~~210-261~~	~~211-263~~	~~212-264~~	~~213-265~~	~~214-266~~
26	~~215-267~~	~~216-269~~	~~217-270~~	~~218-271~~	~~219-272~~	~~220-273~~	~~221-275~~	~~222-276~~
27	~~223-277~~	~~224-278~~	~~225-279~~	~~226-281~~	~~227-282~~	~~228-283~~	~~229-284~~	~~230-285~~
28	~~231-287~~	~~232-288~~	~~233-289~~	~~234-290~~	~~235-291~~	~~236-293~~	~~237-294~~	~~238-295~~
29	~~239-296~~	~~240-297~~	~~241-299~~	~~242-300~~	~~243-301~~	~~244-302~~	~~245-303~~	~~246-305~~
30	~~247-306~~	~~248-307~~	~~249-308~~	~~250-309~~	~~251-311~~	~~252-312~~	~~253-313~~	~~254-314~~
31	~~255-315~~	~~256-317~~	~~257-318~~	~~258-319~~	~~259-320~~	~~260-321~~	~~261-323~~	~~262-324~~
32	~~263-325~~	~~264-326~~	~~265-327~~	~~266-329~~	~~267-330~~	~~268-331~~	~~269-332~~	~~270-333~~
33	~~271-335~~	~~272-336~~	~~273-337~~	~~274-338~~	~~275-339~~	~~276-341~~	~~277-342~~	~~278-343~~
34	~~279-344~~	~~280-345~~	~~281-347~~	~~282-348~~	~~283-349~~	~~284-350~~	~~285-351~~	~~286-353~~
35	~~287-354~~	~~288-355~~	~~289-356~~	~~290-357~~	~~291-359~~	~~292-360~~	~~293-361~~	~~294-362~~
36	~~295-363~~	~~296-365~~	~~297-366~~	~~298-367~~	~~299-368~~	~~300-369~~	~~301-371~~	~~302-372~~
37	~~303-373~~	~~304-374~~	~~305-375~~	~~306-377~~	~~307-378~~	~~308-379~~	~~309-380~~	~~310-381~~
38	~~311-383~~	~~312-384~~	~~313-385~~	~~314-386~~	~~315-387~~	~~316-389~~	~~317-390~~	~~318-391~~
39	~~319-392~~	~~320-393~~	~~321-395~~	~~322-396~~	~~323-397~~	~~324-398~~	~~325-399~~	~~326-401~~
40	~~327-402~~	~~328-403~~	~~329-404~~	~~330-405~~	~~331-407~~	~~332-408~~	~~333-409~~	~~334-410~~
41	~~335-411~~	~~336-413~~	~~337-414~~	~~338-415~~	~~339-416~~			
42	12-27	13-28	14-29	15-30	16-32	17-33	18-34	19-35
43	20-36	21-38	22-39	23-40	24-41	25-42	26-44	27-45
44	28-46	29-47	30-48	31-50	32-51	33-52	34-53	35-54

36-56	37-57	38-58	39-59	40-60	41-62	42-63	43-64
44-65	45-66	46-68	47-69	48-70	49-71	50-72	51-74
52-75	53-76	54-77	55-78	56-80	57-81	58-82	59-83
60-84	61-86	62-87	63-88	64-89	65-90	66-92	67-93
68-94	69-95	70-96	71-98	72-99	73-100	74-101	75-102
76-104	77-105	78-106	79-107	80-108	81-110	82-111	83-112
84-113	85-114	86-116	87-117	88-118	89-119	90-120	91-122
92-123	93-124	94-125	95-126	96-128	97-129	98-130	99-131
100-132	101-134	102-135	103-136	104-137	105-138	106-140	107-141
108-142	109-143	110-144	111-146	112-147	113-148	114-149	115-150
116-152	117-153	118-154	119-155	120-156	121-158	122-159	123-160
124-161	125-162	126-164	127-165	128-166	129-167	130-168	131-170
132-171	133-172	134-173	135-173	136-176	137-177	138-178	139-179
140-180	141-182	142-183	143-184	144-185	145-186	146-188	147-189
148-190	149-191	150-192	151-194	152-195	153-196	154-197	155-198
156-200	157-201	158-202	159-203	160-204	161-206	162-207	163-208
164-209	165-210	166-212	167-213	168-214	169-215	170-216	171-218
172-219	173-220	174-221	175-222	176-224	177-225	178-226	179-227
180-228	181-230	182-231	183-232	184-233	185-234	186-236	187-237
188-238	189-239	190-240	191-242	192-243	193-244	194-245	195-246
196-248	197-249	198-250	199-251	200-252	201-254	202-255	203-256
204-257	205-258	206-260	207-261	208-262	209-263	210-264	211-266
212-267	213-268	214-269	215-270	216-272	217-273	218-274	219-275
220-276	221-278	222-279	223-280	224-281	225-282	226-284	227-285
228-286	229-287	230-288	231-290	232-291	233-292	234-293	235-294
236-296	237-297	238-298	239-299	240-300	241-302	242-303	243-304
244-305	245-306	246-308	247-309	248-310	249-311	250-312	251-314
252-315	253-316	254-317	255-318	256-320	257-321	258-322	259-323
260-324	261-326	262-327	263-328	264-329	265-330	266-332	267-333
268-334	269-335	270-336	271-338	272-339	273-340	274-341	275-342
276-344	277-345	278-346	279-347	280-348	281-350	282-351	283-352
284-353	285-354	286-356	287-357	288-358	289-359	290-360	291-362
292-363	293-364	294-365	295-366	296-368	297-369	298-370	299-371
300-372	301-374	302-375	303-376	304-377	305-378	306-380	307-381
308-382	309-383	310-384	311-386	312-387	313-388	314-389	315-390
316-392	317-393	318-394	319-395	320-396	321-398	322-399	323-400
324-401	325-402	326-404	327-405	328-406	329-407	330-408	331-410
332-411	333-412	334-413	335-414	336-416	337-417	338-418	339-419

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More. – Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the

minimum term of imprisonment, rounded to the next highest month, plus ~~nine~~ twelve additional months."

SECTION 3. G.S. 15A-1368(a)(5) reads as rewritten:

"(5) Maximum imposed term. – The maximum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms, the maximum imposed term, for purposes of this Article, is the sum of all maximum terms imposed in the court judgment or judgments, less ~~nine~~ 12 months for each of the second and subsequent sentences imposed for Class B through Class E felonies."

SECTION 4. G.S. 15A-1368.2 reads as rewritten:

"**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

(a) A prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~ 12 months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less ~~nine~~ 12 months.

(b) A prisoner shall not refuse post-release supervision.

(c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~ 12 months, unless the offense is an offense for which registration is required pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

(d) A supervisee's period of post-release supervision may be reduced while the supervisee is under supervision by earned time awarded by the Department of Correction, pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned time credit toward the period of supervision for compliance with reintegrative conditions described in G.S. 15A-1368.5.

(e) Repealed by Session Laws 1997-237, s. 7.

(f) When a supervisee completes the period of post-release supervision, the sentence or sentences from which the supervisee was placed on post-release supervision are terminated."

SECTION 5. G.S. 15A-1340.14(c) reads as rewritten:

"(c) Prior Record Levels for Felony Sentencing. – The prior record levels for felony sentencing are:

(1) Level I – ~~0 points.~~Not more than 2 points.

(2) Level II – At least ~~1,~~3, but not more than ~~4 points.~~ 6 points.

(3) Level III – At least ~~5,~~7, but not more than ~~8~~10 points.

(4) Level IV – At least ~~9,~~11, but not more than 14 points.

(5) Level V – At least 15, but not more than 18 points.

(6) Level VI – At least 19 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed."

SECTION 6. G.S. 15A-1340.17(c) reads as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	~~0 Pts~~ 0-2 Pts	~~1-4 Pts~~ 3-6 Pts	~~5-8 Pts~~ 7-10 Pts	~~9-14 Pts~~ 11-14 Pts	15-18 Pts	19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A 240-300	A 288-360	A 336-420	A 384-480	A Life Imprisonment Without Parole	A	DISPOSITION Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated

	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

SECTION 7. Section 1 of this act is effective when it becomes law. The remainder of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1281

Short Title:	Amend Finance Laws - 4.	(Public)
Sponsors:	Representative Luebke.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 14, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE FINANCE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. This act affects the borrowing and taxing power of the State.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1281 (PCS): New Prisons/Structured Sentencing

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Luebke
Date:	June 24, 2003	**Analysis by:**	Martha H. Harris
Version:	Draft		Staff Attorney

SUMMARY: Would authorize the State to enter into lease-purchase contracts to build two new prisons (Section 1) and would make the following changes to the Structured Sentencing Act effective December 1, 2003, as recommended by the North Carolina Sentencing and Policy Advisory Commission:

1. ***Calculate increases between record levels using a set percentage in order to provide proportionality to the increases in sentence lengths based on prior record levels, as provided in the Felony Punishment Chart (Section 2).***
2. ***Reallocate 3 months from the minimum sentence to the maximum sentence in felony classes B1 through E and builds those 3 months into the post-release supervision period by increasing that period from 9 to 12 months (Sections 2, 3, and 4).***
3. ***Restructure the prior record level point ranges by increasing the number of points required to move up to Level II, III, or IV (Sections 5 and 6).***

New Prisons: In 2001, the General Assembly authorized lease-purchase financing of three new 1000-cell close security prisons. Section 1(a) of this bill would authorize two more substantially identical prisons. Section 1(b) provides that if construction begins before January 1, 2004, and the plans have been approved by the Department of Insurance, the 1996-1999 version of the Building Code applies.

The State may first try to negotiate a contract for these new prisons with the same company that is building the 2001 prisons. If the Secretary of Administration and the Council of State find that the negotiations have failed to produce a reasonable price, the State would solicit the projects using a similar procedure as for the 2001 prisons.

Unlike with the 2001 prisons, the initial construction loan will not be obtained by the vendor on a private, taxable basis. The entire cost, including construction, will be financed by the State with tax-exempt obligations. The prisons are exempt from property taxes both during and after construction.

The bill provides that a nonprofit corporation controlled by the State will work with the Department of Correction to contract directly with the construction contractor for construction of the prisons and will lease the prisons to the State under a lease-purchase agreement. The nonprofit corporation would finance the costs by selling tax-exempt obligations known as certificates of participation (COPs). The COPs would represent interests in the nonprofit corporation's rights to receive the lease payments under the lease-purchase agreement with the State. The COPs would be secured by a

lien on the property, not by a pledge of the State's full faith and credit. The COPs would be paid from the State's lease-purchase payments over the course of 20 years.

Because the construction contract is technically between a private, nonprofit corporation and the construction contractor, the Attorney General's Office has determined that requirements for public bidding of construction would not apply. The new prisons are to be substantially identical to the 2001 prisons, so the State and the nonprofit corporation will first try to negotiate a contract with the existing construction contractor to build the two new prisons. If, in the opinion of the Secretary of Administration and the Council of State, the terms of the proposed negotiated contract are not favorable to the State, the Department of Correction will solicit for the construction of the two new prisons. In this situation, the Department of Correction would be required to consult with the Joint Legislative Commission on Governmental Operations before making a final award decision. The final award decision would also be subject to the approval of the Council of State.

The prisons would be required to be built in accordance with plans and specifications developed by the Department of Correction, and the Department of Correction and the State Construction Office would inspect and review the facilities during construction to ensure that they are suitable for use and acquisition by the State. The minority participation requirements of G.S. 143-128.2 apply to these projects.

The lease-purchase agreement would be between the nonprofit corporation and the State. Under the agreement, which must be approved by the Council of State and the State Treasurer, the State would make lease-purchase payments to the nonprofit corporation, which would use the funds to retire the COPs. The COPs would be secured by a lien on the property and the State's failure to make payments could result in its eviction from the property. The State Treasurer would determine the price to be paid for the COPs and the rate of interest to be paid on them. The State would retain the option of refinancing the debt if interest rates fall. The State would also retain the option of paying off its obligations and purchasing the property before the end of the lease-purchase period. Under the lease-purchase agreement, the State will own the facilities at the end of the lease term. The nonprofit corporation that issues the COPs would be subject to the Public Records Act and the Open Meetings Law.

Modify Sentence Lengths:

Part of the changes to G.S. 15A-1340.17(c) made by Section 2 of the bill restore proportionality to the increases in sentence lengths based on prior record levels, as provided in the Felony Punishment Chart. This is accomplished by using a set percentage increase across prior record levels. Level I minimum range sentence lengths would remain unchanged; the minimum range sentence lengths between each subsequent prior record level would be increased by 15% in all felony classes except Classes H and I. These changes should reduce sentences for a small percentage of offenders but for most offenders the sentences should remain the same or increase.

Extend Post-Release Supervision Period:

Under current law, post-release supervision is a 9-month mandatory period for felony classes B1 through E. If supervision is revoked, the offender is returned to custody for

the supervision period. Sections 2 through 4 of this bill would increase the post-release supervision period for these felonies to 12 months. This is done within the structured sentencing grid by reallocating 3 months from the minimum sentence to the maximum sentence and allowing those 3 months to be deducted from the maximum sentence, along with the existing 9 months, for release.

Restructure Prior Criminal Record Points: Under current law, the sentencing judge uses the offender's prior record level in the process of determining a sentence. The prior record level is based upon the number of "points" the offender has for prior convictions. The more points, the higher the level, and the longer the sentence. Sections 5 and 6 of this bill increase the number of points it takes to get to Levels II, III, and IV. Under current law, only offenders with no points qualify for Level I. Under the bill, an offender with up to 2 points stays in Level I rather than moving to Level II. Likewise, under the bill, an offender stays at Level II with up to 6 points, rather than moving to Level III with more than 4 points as under current law. Finally, under the bill, an offender with up to 10 points stays at Level III, rather than moving to Level IV with more than 8 points as under current law. The effect of these changes would be that some offenders could receive less active time due to being in a lower level than under current law.

Points for prior convictions are assigned according to the degree of the offense, as follows:

(1) For each prior felony Class A conviction, 10 points.
(1a) For each prior felony Class B1 conviction, 9 points.
(2) For each prior felony Class B2, C, or D conviction, 6 points.
(3) For each prior felony Class E, F, or G conviction, 4 points.
(4) For each prior felony Class H or I conviction, 2 points.
(5) For each prior misdemeanor conviction, 1 point.

A misdemeanor is defined as any Class A1 and Class 1 nontraffic misdemeanor offense, impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), but not any other misdemeanor traffic offense under Chapter 20 of the General Statutes.

ESTIMATED COST OF PROPOSED NEW PRISONS -- SCENARIO #1A

Negotiated Contract and COPS Issued Prior to Construction (State/Non-Profit finances construction)

2000 Beds (Prisons 4 and 5) COPS Issued July, 2003

	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	TOTAL L/P Debt $224.8.Million
E. Lease/Purchase	$-	$3.93	$14.25	$13.91	$13.57	$13.23	
F. Operating	$-	$-	$6.13	$27.27	$36.19	$36.19	
G. TOTAL	**$-**	**$3.93**	**$20.38**	**$41.18**	**$49.76**	**$49.42**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low-end negotiated cost of $150 million and interest rate of 4.5%

1. Operating figures are from DOC Feb. 21, 2003; construction cost estimates from DOC dated 3/17/03
2. Lease/Purchase figures assume issuance of COPS at 4.5% interest rate for two prisons at cost of $150 million.

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

3000 Beds (Prisons 4, 5, and 6) COPS Issued July 2003 and May 04 (#6)

E. Lease/Purchase	$-	$3.93	$23.60	$23.07	$22.48	$21.87	TOTAL L/P DEBT $363.87
F. Operating	$-	$-	$6.13	$37.12	$51.73	$54.28	
G. TOTAL	**$-**	**$3.93**	**$29.73**	**$60.19**	**$74.21**	**$76.15**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low end negotiated cost of $150 million for prisons 4 and 5. Assumes COPS issued May 1, 2004 for prisons # 6 at additional base cost of $84.25 million or $234.25 million construction cost for 3 new prisons (plus debt cost)

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 4.5% for two prisons and 6.15% for prison #6

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

NOTE: L/P cost over 20 years of $363.87 is approximately $27 million dollars below estimate of $391 M for vendor financed construction based solely on interest rate differences for long-term financing if COPS are issued this summer. Savings of up to a $50 million total are possible due to anticipated savings for the State in construction financing rates and issuance costs compared to a private vendor. Final costs dependent on negotiated contract price and interest rates at time of issuance (Treasurer's Office May 30, 2003)

FRD 6/24/03

HOUSE FINANCE COMMITTEE
June 2, 2003

Presentation to the House Finance Committee by Staff of the North Carolina Sentencing and Policy Advisory Commission

1. Introducing the NC Sentencing and Policy Advisory Commission:

   Established in 1990 to be an expert body on sentencing;
   Represents the broad spectrum of criminal justice practitioners, courts, defense and prosecution, corrections, victims, citizens.

   As directed by the General Assembly, it developed the blueprint for Structured Sentencing, which was enacted by the General Assembly in 1993 and implemented in 1994.

   Structured Sentencing, with a rational and structured approach, restored consistency, certainty and truth in sentencing, and prioritized the use of resources to incarcerate violent and repeat offenders.

2. The Sentencing Commission was created not only to recommend sentencing policy, but to monitor the resources needed to match these policies. It is mandated to produce (and update annually) long-range projections for correctional resource needs and report them annually to the General Assembly. (Accuracy: within 1/3-1/2 of one percent each year.)

   For several years, these forecasts were pointing to a looming shortage of prison beds needed within the next ten years. (On May 26, 2003 there were 33,514 offenders in prison + 939 backlogged in jail = 34,453, only 127 away from the 34,570 projected by the Sentencing Commission for June 30, 2003.) The projected bed need for 2012 is 42,413, approximately 7,700 beds short of the 34,729 bed capacity, which includes the three new prisons authorized and expected to come on line in 2004.

   The rational structure of Structured Sentencing and the ability to project resource needs are a mechanism that enables legislators and other policy makers to balance sentencing policy with financial resources.

3. In recognition of the availability of this planning tool, the General Assembly directed the Sentencing Commission in Section 25.8 of Session Law 2001-424 to review Structured Sentencing for inconsistencies in the law and its application, specifically "in view of the projected growth in the prison population by 2010." The Commission was further directed to "develop sentencing alternatives for consideration by the General Assembly."

4. The Sentencing Commission studied and deliberated the issues for over a year, taking into account public safety and the principles of fair and proportionate punishment, and voted to present, in a May 2002 report, six options for consideration by the General

Assembly. These six options, were they all passed into law, would reduce—but still not eliminate—the future need for additional beds. The projected savings by 2012 would be approximately 4,600 beds.

5. Following is a broad-brush description of the four options that would impact future prison resources:

- Restructure the way prior convictions impact an offender's current penalty — projected bed saving within 10 yrs.: 1,916.
- Make the punishment for current convictions increase more proportionately to prior convictions — projected bed saving within 10 yrs.: 1,306.
- Shift three months from the minimum sentence for violent offenders to extend their post-release supervision from nine months to a year, in order to facilitate their successful reentry into society — projected bed saving within 10 yrs.: 613.
- Preserve the habitual felon law and continue to require prison for all habitual felons. Punish habitual felons with a current violent offense at the existing level; punish habitual felons with a current non-violent offense at three offense levels higher than the underlying current offense — projected bed saving within 10 yrs.: 1,763.

6. These four options, as noted, would have sizeable impact on prison populations. While they would reduce the length of incarceration for some offenders, they would leave the vast majority of felons in cells providing either a mandatory or discretionary prison sentence. Based on estimates, of all violent felons currently sentenced to prison only four percent would become eligible for a discretionary community sentence (and only one percent of non-violent felons). The long-term bed savings would come from a change in the average time to be served by violent felons from 115 months to 98 months (from 14 months to 13 months for non-violent felons.)

Structured Sentencing is a rational system of sentencing North Carolina's offenders, and provides a powerful tool for you to weigh your options in allocating scarce resources — including additional prison construction and possible changes to sentencing policies as outlines in the Commission alternatives.

House Committee on Finance

Minutes

~

June 26, 2003

The House Committee on Finance met on Thursday, June 26, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Starnes, Weiss, C. Wilson, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Martha Harris, Linda Millsaps, Alexi Pavlichev, Mary Shuping, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:34 am and proceeded to recognize the six (6) pages present: (1) Caitlin Cauley of Pender County, sponsored by Representative Justice; (2) Justin Edelman of Cumberland County, sponsored by Representative Glazier; (3) Forrest Gilliam of Madison County, sponsored by Representative Rapp; (4) Robert Jansen of Gaston County, sponsored by Representative Clary; (5) Shannon Savage of Cleveland Country, sponsored by Representative Clary; and (6) Cameron Young of Lincoln County, sponsored by Representative Kiser.

As the first matter of business, Chairman Wainwright called upon Representative Tolson for the Committee's further discussion of **HB 806 – REBATE AND GRANT PROGRAM FOR AFVs** (see attachment 3). Representative Howard moved that the Committee adopt the Proposed Committee Substitute (PCS) for HB 806 for consideration and her motion carried without objection. As the bill was displaced intermittently during the June 24, 2003 meeting, Chairman Wainwright recognized Representative Ellis who had a pending amendment before the Committee. Upon being recognized, however, Representative Ellis acted to withdraw his pending amendment and send forth a new 5-page amendment. He then explained that the amendment acted to change the increased registration fee required by the bill to voluntary (similar to his earlier withdrawn amendment) and to create an incentive (tax credit) program for industries in the state that could produce alternative fuels. After this explanation, Representative Ellis then moved adoption of this amendment. Chairman Wainwright then called the matter to a vote. With a call for division among the members, the amendment failed 8 ayes to 10 nays. The Chair next recognized Representative Hill who sent forth a new amendment that acted to restrict rental car companies from receiving the AFV grants provided in the bill. Following some brief discussion on this amendment, Chairman Wainwright called this amendment to a vote. With division being requested once again, Representative Hill's amendment failed 11 ayes to 12 nays. Some discussion between the members and Ms. Sharon Stroud with the State Energy Office then arose. Following this, Chairman Wainwright then recognized Representative Miner, who moved that the PCS for HB 806, incorporating any adopted amendments at earlier meetings, be given a favorable report, and that the original bill be given an unfavorable report. The motion carried with no known dissent.

HB 1149 – NO SALES TAX ON FREE PUBLICATIONS (see attachment 4), sponsored by Representative Nesbitt, was the next bill considered by the Committee. Representative Luebke was recognized and moved that the new PCS for HB 1149 be adopted for the purposes of discussion and the motion carried without dissent. As this bill, too, was temporarily displaced at the June 25, 2003 meeting, the Chair recognized the bill sponsor to explain the new PCS. Representative Nesbitt explained that the new PCS makes provisions to exclude only certain free publications from sales tax, but does relieve the tax burden upon the smaller papers that are most burdened by the tax. He further explained that the need to revise the bill was to lessen the fiscal impact to the General Fund from some $19 million to roughly $5 million. Discussion among the members then ensued. Representative Luebke clearly voiced his support of the bill as currently the large papers are operating tax-free and the smaller papers are not. Representative Holliman was then recognized. He moved that HB 1149 be given a favorable report as to the PCS, an unfavorable report as to the original bill. Upon the Chair's call, the motion carried by consent.

Chairman Wainwright next recognized Senator Jenkins for explanation of **SB 592 – ENGINEERS/ACQUIRE PROPERTY/RAISE CIV. PENALTY** (see attachment 5). The Senator briefly noted that the bill was requested by the Board of Engineers, was non-controversial, and allowed the Board to acquire property as any other entity and raised the penalties associated with a breach of civil procedure. He also stated that the bill, once passed by the Legislature, required approval from both the Governor and the Council of State. Representative Gibson was recognized following the Senator's explanation and moved for a favorable report on SB 592. Representative Womble, however, was first recognized by Chairman Wainwright and expressed his concern over the doubling of the civil penalties and fees. Mr. Andy Ritter, Executive Director of the North Carolina Engineer's Examining Board, was present and addressed Representative Womble's concern, explaining that the penalties are set at an amount to make sure that the problem which occurred does not occur again. Representative Decker was also recognized and stated that high civil penalties additionally act as a deterrent from problems in the first place. Representative Gibson then reiterated his earlier motion and Chairman Wainwright called the motion to a vote. The motion carried.

The Chairman called upon Representative G. Allen, on behalf of Senator Hoyle, to explain **SB 679 – MODIFY STATE FINANCING LAWS** (see attachment 6). Representative Howard was first recognized and moved that the House PCS for SB 679 be adopted for discussion purposes. The motion carried without objection. As the bill was then properly before the Committee, Chairman Wainwright recognized Representative G. Allen to explain the bill. Representative G. Allen then deferred to Martha Harris (from Staff) who reviewed the Bill Analysis for the Committee members (see attachment 6). The Chair then once again recognized Representative G. Allen who acted to send forth a technical amendment and move its adoption. Without discussion, the Chair called the matter to a vote and the amendment was adopted by consent. Ms. Janice Burke, Deputy State Treasurer and Secretary of the Local Government Commission, was also recognized by the Chairman and spoke in high support of the bill. Following some other brief discussion, Representative Ross was recognized and moved that SB 679 be given a favorable report as to the House PCS and an unfavorable report as to the Senate Committee Substitute Bill. Chairman Wainwright then called the vote, and the motion carried by consent.

The Committee considered **HB 1072 – REGULATE TICKET BROKERS** (see attachment 7), sponsored by Representatives Miner and Gibson, next on its calendar. Chairman Wainwright recognized the sponsors for explanation of the bill. Representative Miner noted that a

great deal of work had gone into making this bill work well for as many parties as possible. Representative Gibson explained that the bill acts to provide regulation over ticket brokers (a.k.a. "scalpers") who participate in selling tickets for events throughout North Carolina. He further noted that the bill would require an official registration of brokers and charge a standard tax, to be collected for the State, on brokers for each ticket sold. Representative Gibson also confirmed the support of those involved in the industry, stating that they "want to do what's right." Chairman Wainwright recognized Representative Womble who proceeded to express his concern that this bill was doing nothing more than legalizing ticket scalping. He stated that he hoped the bill contained ample provisions to truly regulate those participating in ticket brokering/scalping. He also stated his concern, however, that despite this bill, even people who are not registered with the state could just continue to buy and then sell tickets anyway. Representative Hackney was then recognized and expressed similar concerns that large companies would be allowed to buy up large numbers of tickets and then sell them for whatever they wished. He was then recognized to send forth his first of three amendments. This amendment acted to exclude "college athletic events" from the provisions of the bill. Representatives Gibson and Creech were both recognized to speak against this amendment, noting that there were large amounts of money that the State could collect from the sale of tickets (and the taxes collected on those sold tickets). Chairman Wainwright then called Representative Hackney's first amendment to a vote and the amendment was adopted. The Chair once again recognized Representative Hackney to send forth his second amendment. He explained that this amendment acted to limit the brokerage fee that could be collected from the sale of tickets to a standard $5.00 fee, noting that his amendment's intent was to place a tight cap on the amount registered brokers could profit on the sale of a ticket. The current fee assessed on the sale of each ticket is only $3.00. The Chair then recognized Representative Ross who expressed her concern that the second Hackney amendment would end up costing everyone, even those persons purchasing tickets through "normal" channels such as Ticket master, more for each ticket. Acknowledging this point, the Chair again recognized Representative Hackney who moved then to delete the last four lines from his second amendment (striking the section from Page 9). He then moved adoption of this newly altered amendment. Without further discussion, Chairman Wainwright called the vote and the amendment was adopted. Representative Hackney was then recognized to send forth his third amendment, which acted to allow a "promoter" to restrict the presence of ticket brokers at their events. The Chair recognized Representative Munford who vehemently opposed the amendment, stating that ticket brokers are often the only means by which individuals can receive the better tickets; otherwise, those tickets would be exclusively reserved to the elite of society. Representative Hackney, however, stated that the promoters should have this right, as they have incurred the costs of arranging and hosting the event. Representative Creech was then recognized and spoke against the amendment, noting that should it pass, there would be no business available for brokers at many events. Chairman Wainwright then called the third Hackney amendment to a vote and the amendment was adopted. Representative Ross was recognized next to send forth yet another amendment, which would limit the amount a broker could charge for a ticket to 200 percent of the ticket's value. Representative Hackney was then recognized and stated his opposition to Representative Ross' amendment but offered a perfecting amendment to limit the amount that brokers could charge to 100 percent of the face value of a ticket. Upon the Chair's call, Representative Hackney's perfecting amendment was adopted. Chairman Wainwright then called Representative Ross' amendment to a vote, and the amendment was adopted as perfected. Final Debate on the bill was then called by the Chair. Representative Hackney was then recognized for his final comments on the bill. He stated his contention that the system was fine just as it is and that this bill acts only to interfere with event promoters' ticket distribution policies. The Chair also recognized Representative Starnes who stated his belief that this bill did nothing more than make

ticket scalping legal. Representative Gibson was recognized last and explained to the Committee that the only issue that should be under debate is whether or not ticket brokering should be regulated. He assured the members that indeed ticket scalping was a problem and regulation was needed. Representative Gibson then acted to move that HB 1072 receive a favorable report as to a new PCS, incorporating all adopted amendments, and an unfavorable report as to the existing Committee Substitute bill. Chairman Wainwright then called the motion to a vote and by 10 ayes to 13 nays, the motion failed. Thus, no report will be issued on HB 1072.

As the final matter of business on the Committee's agenda, Chairman Wainwright recognized Representative Luebke to speak on **HB 1281 – AMEND FINANCE LAWS-4** (LEASE-PURCHASE THREE NEW PRISONS) (see attachment 8). This bill was pulled as a section from the Senate budget into a separate bill (SB 227) and has been rewritten into a House PCS at the request of Representative Luebke. (The issue has also already been discussed at length by the Committee during the May 29, 2003 and June 2, 2003 meetings.) Chairman Wainwright then explained that the debate of this bill would be for discussion only and recognized Representative Alexander who moved that the PCS for HB 1281 be adopted for consideration. Her motion carried without objection. Representative Luebke then explained that his version of the bill was a "tough on crime bill" and a "wise on tax dollars" bill. He explained that through sentence restructuring, as recommended by the North Carolina Sentencing and Policy Advisory Commission (NCSPAC), the State could afford to build only two prisons instead of three. Representative Luebke then requested that the Chair recognize Staff as well as Ms. Susan Katzenelson, Executive Director of the NCSPAC, to further discuss the details of the bill.

In the midst of this discussion, Chairman Wainwright interjected to inform members of the Committee that a mandatory Caucus meeting had been called at 12:00 noon. As a result of this meeting and the convening of the House for session at 1:00 pm, Chairman Wainwright announced that the continued discussion of this matter would have to be rescheduled. Without delay, the Chair then adjourned the meeting at 11:41 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 806 (and related materials)
4. House Bill 1149 (and related materials)
5. Senate Bill 592 (and related materials)
6. Senate Bill 679 (and related materials)
7. House Bill 1072 (and related materials)
8. House Bill 1281 (and related materials)

AGENDA

ATTACHMENT 1

House Finance Committee

June 26, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 806 REBATE AND GRANT PROGRAM FOR AFVs *Rep. Tolson*

HB 1072 REGULATE TICKET BROKERS *Reps. Miner and Gibson*

HB 1149 NO SALES TAX ON FREE PUBLICATIONS *Rep. Nesbitt*

HB 1281 AMEND FINANCE LAWS – 4 *Rep. Luebke*

SB 592 ENGINEERS/ACQUIRE PROPERTY/RAISE CIV. PENALTY
Sen. Jenkins

SB 679 MODIFY STATE FINANCING LAWS *Sen. Hoyle*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, June 25, 2003 11:40 AM
Subject: NOTICE House Finance Committee 6-26-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 26, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 806 – REBATE AND GRANT PROGRAM FOR AFVs – Rep. Tolson

HB 1072 – REGULATE TICKET BROKERS – Reps. Miner and Gibson

HB 1149 – NO SALES TAX ON FREE PUBLICATIONS – Rep. Nesbitt

HB 1281 – AMEND FINANCE LAWS - 4 – Rep. Luebke

SB 592 – ENGINEERS/ACQUIRE PROPERTY/RAISE CIV. PENALTY – Sen. Jenkins

SB 679 – MODIFY STATE FINANCING LAWS – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:45 A.M.** on **June 24, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 26, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brent McAbee	City of Wilmington P.O. BOX 1810 WILMINGTON, N.C. 28402
Adam Stallings	Hunton & Williams
Tobin Freid	TJCOG
Anne Tazewell	TJCOG
Perry James	City of Raleigh PO Box 590 Raleigh 27602
S. Katzenelson	NC Sentencing Commission
Bill Bowman	Up & Coming Weekly Fayetteville, NC
Jim Stephenson	NC Coastal Federation
S Watson	Independent Weekly
Lew Rubert	Com. Sent Assoc.
R. Paul Wilms	NCHBA
Becky Ebner	NCSPAC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 26, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carlton Myrick	DOA
ROBERT ALLEN	Dept of Treasury
Andy Sabol	DOR
Greg Redford	DOR
Diane Johnson	DMV
Steve Wall	Conservation Council
Mark Beason	Capitol Group
Loris Colclough	City of Winston-Salem
Angie Connersky	Helms Mullins & Wilcox
WILLIAM H McBRIDE	HUNTON & WILLIAMS
Janice Burke	DST

7

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 26, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharon Stroud	State Energy Office
George Millsaps	Department of Administration
Larry Shirley	State Energy Office
Tayanda Etheridge	Sentencing Commission
Tom M Killian III	Moore + Van Allen
Mildred Spearman	Dept. of Correction
CASANDRA SKINNER	CCPS
JEANETTE KING	CCPS
KEVIN HUTCHINSON	GOV OFFICE
Grady McAdoo	N.C. Cont.
Gary Harris	NCPMA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 26, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Doug Howey	NCPMA
Charlie Diehl	NC Trucking Assoc.
Steve Woodson	NC Farm Bureau
DAVID BARNES	Poyner + Spruill
Elizabeth Gillikin	Poyner + Spruill
BILL SCOGGIN	KCLH
Lee-Ann Coe	LCGR
Ken Melton	Alley Associates, Inc.
Andy Romanet	NCLM
Camille Stell	KCLH
John McMillan	MF&S

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 26, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McLawhorn	DST
Elizabeth Dalton	[illegible] & Assoc.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 806
Committee Substitute Favorable 6/30/03

Short Title: Rebate and Grant Program for AFVs. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall adopt rules implementing the program established in G.S. 113B-30.

(b) These rules shall be adopted after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources, and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

(d) The rules shall provide that State and local government entities are not eligible for rebates or grants under the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in motor vehicle registration fees as provided in G.S. 20-87(b) and G.S. 20-88(i2).

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected under this section for the administration of the program.

(d) The State Energy Office may use up to ten percent (10%) of the funds collected under this section for education and awareness about the applications and advantages of alternative fuels and vehicles.

"**§ 113B-33. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund established.**

The Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund is created as a nonreverting account within the Department of Administration. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the purposes set out in this Article.

"**§ 113B-34. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report to the Joint Legislative Transportation Oversight Committee on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina."

SECTION 2. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

(a) ~~These~~ There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

...

(b) Upon initial registration or renewal, an additional one-dollar ($1.00) fee shall be paid to the Division in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30."

SECTION 3. G.S. 20-88 is amended by adding a new subsection to read:

"(i2) Upon initial registration or renewal, an additional one-dollar ($1.00) fee shall be paid to the Division in addition to all other fees authorized by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30."

SECTION 4. This act is effective when it becomes law. The State Energy Office shall adopt the rules to implement the program established by this act on or before January 1, 2004. This act shall expire on January 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 806
PROPOSED COMMITTEE SUBSTITUTE H806-CSSVf-26 [v.3]

6/10/2003 4:12:28 PM

Short Title: Rebate and Grant Program for AFVs. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall adopt rules implementing the program established in G.S. 113B-30.

(b) These rules shall be adopted after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in motor vehicle registration fees as provided in G.S. 20-87(b) and G.S. 20-88(i2).

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected under this section for the administration of the program.

(d) The State Energy Office may use up to ten percent (10%) of the funds collected under this section for education and awareness about the applications and advantages of alternative fuels and vehicles.

"**§ 113B-33. Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund established.**

The Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program Fund is created as a nonreverting account within the Department of Administration. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the purposes set out in this Article.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

(a) ~~These~~ There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of passenger vehicles, fees according to the following classifications and schedules:

. . .

(b) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00

SECTION 3. G.S. 20-88 is amended by adding a new subsection to read:

"(i2) Upon initial registration or renewal, the following additional fee shall be paid to the Division during the specified time periods in addition to all other fees authorized

by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30:

January 1, 2004-December 31, 2006	$1.00
January 1, 2007-December 31, 2013	$2.00"

SECTION 4. This act is effective when it becomes law. The State Energy Office shall adopt the rules to implement the program established by this act on or before January 1, 2004. This act shall expire on January 1, 2014.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H806-ASVf-18 [v.1]

Date 6/17/03 ,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative C. Wilson

moves to amend the bill on page 2, lines 35-40, by rewriting the lines to read:
"(b) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 2, lines 42 through page 3, line 4, by rewriting the lines to read:
"(i2) Upon initial registration or renewal, an additional $1.00 fee shall be paid to the Division in addition to all other fees authorized by this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program established in G.S. 113B-30.";

and on page 3, line 7 by rewriting the line to read:
"before January 1, 2004. This act shall expire on January 1, 2007.".

SIGNED Corrine Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED √ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/17/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Wilson
Sen.)

1 moves to amend the bill on page 2, line S: 2-3
2 ( ) WHICH CHANGES THE TITLE
3 by inserting between the lines:
4 "(d) The rules shall provide that State and
5 local government entities are not eligible
6 for rebates or grants under the Alternative
7 Fuel and Vehicle Rebate and Infrastructure
Grant Program."
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12 Y 0 N 0

SIGNED Connie Wilson

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(1)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVF-26

(Rep.) Sen.) Ellis

moves to amend the bill on page 2, line 35-40

( ) WHICH CHANGES THE TITLE

by "(b) Upon initial registration or renewal, an owner shall have the option to pay ~~the following~~ an additional ~~fee~~ $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.";

P. 2, lines 42 through p. 3, line 4

"(i2) Upon initial registration or renewal, an owner shall have the option to pay an additional $1.00 fee in addition to the fees authorized by subsection (a) of this section to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(2)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVS-26

Rep.)
) Ellis
Sen.)

1 moves to amend the bill on page 2, line 2-3
2 ( ) WHICH CHANGES THE TITLE
3 by inserting the following new subsection
4 between those lines.
5
6 "(e) The rules shall provide that
7 a motor vehicle owner who elects
8 not to pay the additional fee
9 under G.S. 20-87 (b) or G.S. 20-88 (12)
10 shall not be eligible for a grant
11 or rebate under the Program."
12 ~~and on page 2, lines 28-29 by inserting the~~
13 ~~following:~~
14 ~~"(c) The Division of Motor Vehicles~~
15
16
17
18
19

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

(3)

EDITION No. _____

H. B. No. 806 DATE 6/24/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVf-26

Rep.) Ellis
Sen.)

moves to amend the bill on page 3, line 4-5

( ) WHICH CHANGES THE TITLE

by inserting the following new section

" SECTION 3. G.S. 20-57 is amended by adding a new subsection to read:

"(b1) The registration card shall indicate whether the owner elected to pay the additional fee assessed under G.S. 20-87(b) or G.S. 20-88(i2) to fund the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program." ;

and renumber remaining section.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 806 DATE 6/26/03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) H.11
)
Sen.)

moves to amend the bill on page 2, line 21-22

( ) WHICH CHANGES THE TITLE

by inserting the following between the lines

"§ 113-33.1 Exemptions.

U-drive-it vehicles as defined in G.S. 20-4.01(48a) are exempt from the additional motor vehicle registration fees paid under G.S. 20-87(6) and G.S. 20-88(12), and are not eligible for rebates or grants issued by the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H806-ALAx-15 [v.1]

Date June 26 ,2003

Comm. Sub. [YES]
Amends Title [YES]
H806-CSSVf-26

Representative Ellis

moves to amend the bill on page 1, line 2 through page 3, line 7 by rewriting those lines to read:

"AN ACT TO ALLOW A TAX CREDIT FOR ALTERNATIVE FUEL VEHICLES AND ALTERNATIVE FUEL INFRASTRUCTURE PROJECTS.

The General Assembly of North Carolina enacts:

'**SECTION 1.** Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

'§105-130.45.1. Credit for alternative fuel vehicles.

(a) Credit. - Any corporation that purchases an alternative fuel vehicle for use in its business shall be allowed a credit against the tax imposed by this Part equal to the incremental cost difference for eligible alternative fuel vehicles. The credit may be claimed only by the first registered owner of the vehicle. This credit may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. If the credit allowed by this section exceeds the tax imposed by this Part, the excess may be carried forward for the succeeding five years.

(b) Definitions. – The following definitions apply in this section:

(1) Alternative fuel. – Any of the following:

a. Electricity.

b. Natural gas either as compressed natural gas or liquefied natural gas.

c. Propane.

d. Hydrogen.

e. Ethanol used separately or in mixtures of seventy percent (70%) or more by volume mixed with gasoline.

f. Fuels derived from biological materials, such as biodiesel and methanol additives.

(2) Alternative fuel vehicle. – A vehicle that has been developed for, and is intended to be operated using, one or more alternative fuels.

(3) Incremental cost. – The difference in price between an alternative fuel vehicle and a conventional vehicle of the same make and model as provided by the original equipment manufacturer.

'§105-130.45.2. Credit for alternative fuel infrastructure project.

(a) Credit. – A corporation that constructs or purchases an alternative fuel infrastructure project shall be allowed a credit against the tax imposed by this Part equal to twenty-five percent (25%) of the cost of the installation and equipment costs of construction paid during the taxable year. The credit may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. If the credit allowed by this section exceeds the tax imposed under this Part, the excess may be carried forward for the succeeding five years. The basis in any equipment for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Definitions. – The following definitions apply in this section:

(1) Alternative fuel infrastructure project. – Fueling stations, fueling tanks, charging stations, and other equipment used to fuel alternative fuel vehicles.

(2) Alternative fuel vehicle. – A vehicle that has been developed for, and is intended to be operated using, one or more alternative fuels.

(3) Alternative fuel. – Any of the following:

a. Electricity.

b. Natural gas either as compressed natural gas or liquefied natural gas.

c. Propane.

d. Hydrogen.

e. Ethanol used separately or in mixtures of seventy percent (70%) or more by volume mixed with gasoline.

f. Fuels derived from biological materials, such as biodiesel and methanol additives.'

SECTION 2. Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

'§105-151.29.Credit for alternative fuel vehicles

(a) Credit. - A taxpayer who purchases an alternative fuel vehicle shall be allowed a credit against the tax imposed by this Part equal to the incremental cost difference for eligible alternative fuel vehicles. The credit may be claimed only by the first registered owner of the vehicle. This credit may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. If the credits allowed by this section exceed the tax imposed by this Part, the excess may be carried forward for the succeeding five years.

(b) Definitions. – The following definitions apply in this section:

(1) Alternative fuel. – Any of the following:

a. Electricity.

b. Natural gas either as compressed natural gas or liquefied natural gas.

c. Propane.

d. Hydrogen.

e. Ethanol used separately or in mixtures of seventy percent (70%) or more by volume mixed with gasoline.

f. Fuels derived from biological materials, such as biodiesel and methanol additives.

(2) Alternative fuel vehicle. – A vehicle that has been developed for, and is intended to be operated using, ore or more alternative fuels.

(3) Incremental cost. – The difference in price between an alternative fuel vehicle and a conventional vehicle of the same make and model as provided by the original equipment manufacturer.

'§105-151.30.Credit for alternative fuel infrastructure project.

(a) Credit. – A taxpayer that constructs or purchases an alternative fuel infrastructure project shall be allowed a credit against the tax imposed by this Part equal

to twenty-five percent (25%) of the cost of the installation and equipments costs of construction paid during the taxable year. The credit may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. If the credits allowed by this section exceed the tax imposed by this Part, the excess may be carried forward for the succeeding five years. The basis in any equipment for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(b) Definitions. – The following definitions apply in this section:

(1) Alternative fuel infrastructure project. – Fueling stations, fueling tanks, charging stations, and other equipment used to fuel alternative fuel vehicles.

(2) Alternative fuel vehicle. – A vehicle that has been developed for, and is intended to be operated using, one or more alternative fuels.

(3) Alternative fuel. – Any of the following:

a. Electricity.

b. Natural gas either as compressed natural gas or liquefied natural gas.

c. Propane.

d. Hydrogen.

e. Ethanol used separately or in mixtures of seventy percent (70%) or more by volume mixed with gasoline.

f. Fuels derived from biological materials, such as biodiesel and methanol additives.'

SECTION 3. This act is effective for taxable years beginning on or after January 1, 2004."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H806-ALAx-15 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

84-10

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 806

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H806-ALA-16 [v.1]

Date June 26 ,2003

Comm. Sub. [YES]
Amends Title [NO]
H806-CSSVf-26

Representative Hill

moves to amend the bill on page 2, lines 21-22, by inserting the following between these lines:

"**§ 113-33.1. Exemptions**

U-drive-it vehicles as defined in G.S. 20-4.01(48a) are exempt from the additional motor vehicle registration fees paid under G.S. 20-87(b) and G.S. 20-88(i2), and are not eligible for rebates or grants issued by the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program."

SIGNED Gary G Hill
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

12 no
11 yes

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 806

Short Title:	Rebate and Grant Program for AFVs.	(Public)
Sponsors:	Representatives Tolson; and Insko.	
Referred to:	Finance.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113B of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program.

"**§ 113B-30. Alternative fuel and vehicle rebate and infrastructure Grant Program established.**

(a) There is created an alternative fuel and vehicle rebate and infrastructure grant program to be administered by the State Energy Office.

(b) The program shall provide for all of the following:

(1) Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.

(2) Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

(3) Grants for alternative motor fuel infrastructure projects.

(c) The program shall include a cap on the number and amounts of rebates and grants to limit them to the available funds. There shall be no entitlement to any rebate or grant under the program.

"**§ 113B-31. Implementation and administration.**

(a) The State Energy Office shall issue rules implementing the program established in G.S. 113B-30.

(b) These rules shall be issued after consultation with other State agencies, including the Departments of Transportation, Correction, Public Instruction, Revenue, and Environment and Natural Resources and interested organizations and businesses.

(c) These rules shall comply with environmental and energy regulations issued by the United States Department of Energy and the Environmental Protection Agency.

"**§ 113B-32. Funding.**

(a) The program established pursuant to G.S. 113B-30 shall be funded by an increase in all registration fees for motor vehicles registered in this State according to the following schedule:

(1) There shall be a one-dollar ($1.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the first three years of the existence of the program.

(2) There shall be a two-dollar ($2.00) increase in all registration fees collected by the Division of Motor Vehicles pursuant to any provision in Chapter 20 of the General Statutes for the fourth through the tenth year of the existence of the program.

(b) The funds collected by the Division of Motor Vehicles shall be transferred quarterly to a special account in the Department of Administration for the State Energy Office to administer the program and provide the rebates and grants.

(c) The State Energy Office and the Division of Motor Vehicles may use up to five percent (5%) of the funds collected pursuant to subsection (a) of this section for the administration of the program.

"**§ 113B-33. Reports.**

(a) The Division of Motor Vehicles shall provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type.

(b) The State Energy Office shall provide an annual report on the expenditure of funds associated with the program established by G.S. 113B-30 and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee."

SECTION 2. This act is effective when it becomes law. The State Energy Office shall issue the rules to implement the program established by this act on or before July 1, 2004. Upon final adoption of the rules, the Division of Motor Vehicles shall begin collecting the additional fees mandated by this act. This act shall expire on June 30, 2014.

HOUSE BILL 806:
Rebate and Grant Program for AFVs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Tolson
Date:	June 23, 2003	**Summary by:**	Trina Griffin and Martha Walston
Version:	PCS for 1st Edition H806-CSSVf-26		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 806 creates the Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program, funded by a $1.00 increase in vehicle registration fees for the first 3 years of the program, and by an additional $1.00 increase for the remaining 7 years of the program. The program would provide rebates to first-time purchasers of AFVs, rebates for State taxes paid on the incremental costs of alternative motor fuels, and grants for the construction of AFV infrastructure projects.

The following amendments to the Proposed Committee Substitute were adopted in House Finance on June 17:

- *A $1 fee will be paid to DMV upon initial registration or renewal of passenger vehicles and self-propelled property-hauling vehicles. This fee is in addition to the annual registration fees, and will be used to fund the alternative Fuel and Vehicle Rebate and Infrastructure Program. (The PCS provides that for the first 3 years of the Program, the additional fee would be $1; and for the remaining 7 years of the Program, the additional fee would be $2.)*
- *The rules of the Program shall provide that State and local government entities are not eligible for rebates or grants under the Program.*
- *The act shall expire on January 1, 2007. (The proposed committee substitute has a sunset of January 1, 2014.)*

CURRENT LAW: An alternative fuel vehicle is a vehicle that operates using a source other than gasoline or diesel fuel, such as electricity, natural gas, hydrogen, ethanol, methanol, or fuels derived from biological materials. There are currently no benefits provided by the State, such as tax credits or rebates, for the purchase or use of alternative fuel vehicles or for the use of alternative fuels. North Carolina does offer a corporate tax credit for building an alternative fuel generating facility, such as an ethanol or biodiesel plant.

BILL ANALYSIS:

Purpose of Program

House Bill 806 creates the "Alternative Fuel and Vehicle Rebate and Infrastructure Grant Program" (Program). The State Energy Office, which is a division of the Department of Administration, would administer the Alternative Fuel Rebate and Infrastructure Grant Program. The bill authorizes the State Energy Office to issues rules that would govern the administration of the program. Among other things, the rules would establish the procedures for providing:

- Partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles.
- Limited rebates for State taxes paid on the incremental costs of alternative motor fuels.

- Grants for alternative motor fuel infrastructure projects.

Funding of Program

For the first 3 years of the program, the grants and rebates would be funded from a $1.00 increase in the vehicle registration fee for motor vehicles registered in this State. For the remaining 7 years of the program, it would be funded from an additional $1.00 increase, for a total of a $2.00 increase during those 7 years. **(See amendment which keeps the additional fee at $1.00).** However, commitments to rebates and grants may never exceed available funds. The bill directs the State Energy Office to establish a cap on the number and amounts of rebates based on the availability of funds. Up to 5% of the funds collected would be shared by both the State Energy Office and DMV for administrative costs. Up to 10% of the funds collected may be used for education and awareness of the applications and advantages of alternative fuels and vehicles.

Reporting Requirements

The Division of Motor Vehicles would be required to provide to the State Energy Office quarterly reports of all registered motor vehicles identified by fuel type. The State Energy Office would be required to provide an annual report on the expenditure of funds associated with the program and the number of alternative fuel vehicles registered in North Carolina to the Joint Legislative Transportation Oversight Committee.

EFFECTIVE DATE: The bill becomes effective when it becomes law. The State Energy Office must issue rules to implement the program on or before January 1, 2004. The act would expire on January 1, 2014. **(See amendment which changes the sunset to January 1, 2007).**

H806-SMSV-001

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 23, 2003

TO: House Finance Committee

FROM: Bob Weiss and Richard Bostic
Fiscal Research Division

RE: House Bill 806
Rebate and Grant Program for AFV's
Proposed Committee Substitute H806-CSSVf-26 (v. 3) as amended

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
ALTERNATIVE FUEL AND VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM FUND					
REVENUES					
AFV Fee	$6,051,553	$8,068,737	$8,230,108	$4,197,355	
EXPENDITURES					
DMV					
Computer System Changes	$26,400				
State Energy Office					
Administration					
Personnel	$98,066	$196,132	$196,132	$98,066	
Other	$16,300	$32,600	$32,600	$16,300	
Education (10%)	$395,526	$806,874	$823,011	$419,736	
SEO Total	$509,892	$1,035,606	$1,051,743	$534,102	
Rebates and Grants	$3,418,970	$7,033,131	$7,178,365	$3,663,253	
POSITIONS (SEO): (does not include Education)	4.25	4.25	4.25	4.25	

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV); Department of Administration, State Energy Office (SEO)

EFFECTIVE DATE: The act is effective when it becomes law. Rules are to be adopted by SEO on or before January 1, 2004. The act expires January 1, 2007.

BILL SUMMARY:
The bill establishes an alternative fuel and alternative fuel vehicle rebate program to be administered by the State Energy Office in the Department of Administration. The program will provide partial rebates to first owners for incremental cost differences for eligible alternative fueled and hybrid vehicles, limited rebates for State taxes paid on incremental costs of alternative motor fuels, and grants for alternative motor fuel infrastructure projects. The program would be funded by adding $1 to all vehicle registration fees for the three years of the program. A maximum of 5% of the funds collected can be used by the State Energy Office and DMV to administer the program. A maximum of 10% of the funds collected may be used by the State Energy Office for education and awareness about applications and advantages of alternative fuels and vehicles. The program is to include a cap on the number and amount of rebates and grants to limit them to the available funds. State and local governments are not eligible for grants or rebates from the program. The State Energy Office is to issue rules implementing the program on or before January 1, 2004.

ASSUMPTIONS AND METHODOLOGY:
Expenditures
DMV's expenditures during FY03-04 to prepare for the program include modifying the STARS (State Titling and Registration System) for plate fee calculation, updating the fiscal and other reports it prepares to capture the information required, and creation of the quarterly report specified in the bill. DMV estimates the cost of these activities as 300 professional hours times $80 per hour, or $24,000, plus computer overhead charges of $2,400, for a total of $26,400. During the actual operation of the program, DMV's costs are expected to be nominal and thus no estimate is shown.

During the first half of FY03-04, the State Energy Office (SEO) will be developing the rules for the program. SEO indicates that it can absorb the costs of the rule making process. Starting on January 1, 2004, when the rules have been adopted and the program is in operation, SEO estimates its expenditures as $228,732 per year for administration, as follows:

Program Manager	$50,000
Program Associate	40,000
Administrative Assistant	30,000
Accounting Technician	32,000
Public Info Officer (1/4 time)	11,000
Fringe Benefits	33,132
TOTAL PERSONNEL	$196,132
TRAVEL	$7,600
PRINTING and WEBSITE	$25,000
ADMINISTRATION GRAND TOTAL	$228,732

For FY 03-04, the total will be one half of this amount. The operating costs for DMV and SEO are within the 5% allotted by HB 806 for program administration. In addition, the bill provides that SEO may use up to 10% of the funds collected for education and awareness.

Revenues

DMV estimates that the $1 fee will affect 8,068,737 vehicles in the first full year and that the number of vehicles affected will increase by 2% per year. It will take DMV approximately two months to complete the programming on their STARS system to accommodate the $1 increase in registration fees. Assuming an August 1 enactment date, the collection of the additional dollar could begin on October 1, 2003. That would give the program nine months of revenue or $6,051,553 (75% X 8,068,737 vehicles X $1). Since the program ends on January 1, 2007, the FY 2006-07 revenue estimate is for the six months from July 1, 2006 to December 31, 2006.

SOURCES OF DATA: Division of Motor Vehicles; State Energy Office

TECHNICAL CONSIDERATIONS:

Triangle Clean Cities Alternative Fuel Information

www.trianglecleancities.org

Fuel Type	Applications	Manufacturers	Vehicle costs	Approx. Fuel Cost*	Emission Reductions			Refueling Infrastructure
Biodiesel	Light duty (LD)and Heavy duty (HD) diesel vehicles	All diesel engine manufactures	No incremental cost	B20 +.15-.25 B100 +.50 Compared to pre-tax wholesale diesel costs		B20	B100	Easily blended in existing diesel pumps and tanks
					CO	12.6%	43.2%	
					HC	11%	56.3%	
					NOx	+1.2%	+5.8%	
					PM	15%	70%	
Compressed/ Liquefied Natural Gas CNG/LNG	LD fleet vehicles, buses, mid-HD trucks, LNG appropriate for HD long distance vehicles	All major OEMs of LD & HD vehicles offer bi-fuel & dedicated CNG models, engine retrofits common also	+$3,600 for Honda Civic to +$60,000 for 40 ft CNG/LNG transit bus	10-25% < than pre-tax wholesale gasoline Fed tax .11<per GGE	CO 90-97%			For home and small-med fleets- $1,000-$90,000 Large fleet refueling $250,000+
					HC 50-75%			
					NOx 35-60%			
					PM 90%-97%			
Electric- (EV) & Hybrid Electric (HEV)	Neighborhood Evs(NEVs) for campus & planned communities, alternative fuel HEV & Electric transit & shuttle	General Motors "GEM" Ebus Advanced Vehicle Systems Orion TransTeq	Range from $6,500 for GEM to $450,000 for Transteq 116 passenger CNG/hybrid electric bus	33% less no Fed & State tax	Potential zero emissions for EVs if solar charged, HEVs offer significant emission reductions over conventional models			NEVs are charged in 110 outlets. For transit application fast charge 220 volt available.
Ethanol (E-85)	Many LD vehicles available as flex –fuel (FFV) capable of running on either E-85 or gasoline	Diamler Chrysler mini vans, Ford Explorer, Taurus, Ranger, GM Suburban, Tahoe, Yukon, Chevy S10, GMC Sonoma	No incremental cost	10-20% >than pre-tax 93 octane gas. E10/E-85 have .053 excise tax reduction	CO 40%			Use existing infrastructure w/ modifications- e.g rubber hoses and nozzles to prevent corrosion
					VOCs 15%			
					NOx 10%			
					PM 20%			
Propane (LPG)	LD passenger- med duty delivery trucks	Ford F150 pickup Chevy Express & GMC Savanna vans	+$3000- $5000	Comparable to gasoline Fed tax .05 < than gasoline	CO 30-35%			$10-12,000 costs often paid for by fuel provider
					HC 20-40%			
					NOx 15-99%			
					PM 80-95%			

*Fuel prices subject to fluctuation. These numbers are estimations.

Re: H906

Rental Car Companies and Taxation

Rental car companies already pay $40.00 for tags versus $20.00 for personal vehicles.

Rental car customers pay 8% gross receipts tax for the Highway Trust Fund.

Rental car companies pay 3% gross receipts tax in lieu of property taxes for municipalities and counties.

Rental car customers pay additional taxes of 5% for mass transit in several urban counties, such as Wake, Orange, Durham, Guilford and Forsyth.

Rental car companies pay taxes to support airport operations if they are on site. It varies from airport to airport but an example is 11% at RDU.

Some counties already impose an additional tag fee on all vehicles, including rental vehicles.

The industry and our customers are subjected to many levels of taxation, which, all totaled, have negatively affected rental car businesses. Several major rental car companies have merged, been bought out, or have filed for bankruptcy due to reduced business activity.

State Energy Office Fiscal Overview
July 2000 to May 2003

	Balance from Commerce	FY 00-01 New Funds	FY 00-01 Disbursements	FY 00-01 Note	FY 01-02 New Funds	FY 01-02 Disbursements	FY 01-02 Note	FY 02-03 (Incomplete) New Funds	FY 02-03 (Incomplete) Disbursements	FY 02-03 (Incomplete) Note	Balance	
SEO Operations from USDOE	877,081.00	735,800.00	489,765.32	*	748,000.00	705,688.08		1,016,000.00	925,987.12		1,255,440.48	
USDOE Special Projects	168,750.00	38,368.50	119,693.81		555,543.50	187,642.14		260,899.27	181,534.51		534,690.81	**
SEO Diamond Shamrock		296,098.31	296,098.31		317,607.10	317,607.10		106,577.03	106,577.03		-	
Stripper Well SEO Projects	1,441,714.00		132,492.57			281,247.43			105,388.22		922,585.78	
Exxon SEO Projects	11,157,903.00		473,926.00			3,409,070.22			2,041,823.56		5,233,083.22	
TOTAL	13,645,448.00	1,070,266.81	1,511,976.01		1,621,150.60	4,901,254.97		1,383,476.30	3,361,310.44		7,945,800.29	
Stripper Well SEP Loan Fund	2,655,703.29	103,556.41		-Int & Repay	192,794.06	856.61	- Int & Repay	40,779.01		- Int & Repay	2,991,976.16	

* Numerous unfilled staff positions reflected in fewer active projects.
** All funds under contract.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G.Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 806 A BILL TO BE ENTITLED AN ACT TO ESTABLISH AN ALTERNATIVE FUEL AND ALTERNATIVE FUEL VEHICLE REBATE AND INFRASTRUCTURE GRANT PROGRAM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1149
PROPOSED COMMITTEE SUBSTITUTE H1149-CSLC-86 [v.3]

6/25/2003 11:28:15 AM

Short Title: No Sales Tax on Certain Free Publications. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN FREE DISTRIBUTION PUBLICATIONS FROM THE SALES TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(39) is reenacted and rewritten to read:

"(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term 'free distribution periodical' means a publication that is published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail."

SECTION 2. This act becomes effective July 1, 2004, and applies to sales made on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 1149

Short Title:	No Sales Tax on Free Publications.	(Public)
Sponsors:	Representatives Nesbitt; and Luebke.	
Referred to:	Finance.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FREE CIRCULATION PUBLICATIONS FROM THE SALES TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13(39) is reenacted and rewritten to read:

"(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free circulation publications and sales by printers of free circulation publications to the publishers of these publications. As used in this subdivision, the term 'free circulation publication' means a publication that is published on a periodic basis at recurring intervals and, without charge to the recipient, is mailed or is distributed house-to-house, by street distributors, in racks, or in any other manner at other locations."

SECTION 2. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

HOUSE BILL 1149 (PCS):
No Sales Tax on Certain Free Publications

BILL ANALYSIS

Committee: House Finance
Date: June 25, 2003
Version: Draft

Sponsor: Rep. Nesbitt
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The proposed committee substitute for HB 1149 would exempt from the sales and use tax paper, ink, and other tangible personal property used by commercial printers and publishers to print free distribution periodicals and the sales by printers of these free distribution periodicals to the publishers. It would become effective July 1, 2004.

CURRENT LAW: Under current law, supplies (paper, ink, and other tangible personal property) purchased to print free publications are subject to sales and use tax. Before October 1, 1999, there was a sales tax exemption for paper, ink, and other tangible personal property purchased by commercial printers and publishers for use as component parts in free circulation publications that contained advertising of a general nature. The exemption applied to general shoppers guides, but not to more specialized guides, such as real estate guides. (The statute specifically required that the free circulation publication contain advertising of a general nature.) The exemption was repealed because it was believed to be unconstitutional. The First Amendment of the federal Constitution generally does not allow a state to discriminate between publications based on content. A 1987 United States Supreme Court decision confirmed that the Constitution does not permit a tax break limited to certain publications based on their content.[1] To be constitutional, the exemption needed to be expanded to include all free circulation publications or it needed to be repealed. The 1999 General Assembly chose to repeal the sales tax exemption, effective October 1, 1999. The result was that supplies used to print all free publications became subject to sales tax on a uniform basis.

HOUSE BILL 1149: The proposed committee substitute for House Bill 1149 would reinstate the sales tax exemption on the supplies used to print free circulation publications and modify the exemption to include any free publication regardless of its content if it meets the following conditions:

- It is published on a periodic basis at monthly or more frequent intervals.
- It is distributed to the recipient in any manner other than by mail.

[1] In *Arkansas Writer's Project, Inc. v. Ragland*, 481 US 221 (1987), the U.S. Supreme Court invalidated an Arkansas sales tax scheme that taxed general interest magazines but exempted single topic printed material. The N.C. tax exemption operated just the opposite: it taxed component parts used in single topic advertising publications but exempted component parts used in advertising publications that contained advertising of a general nature. Thus, the N.C. exemption was apparently equally unconstitutional.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 25, 2003

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: HB 1149 PCS CSLC-86 [v.3]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($million)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund *	(4.98)	(4.98)	(4.98)	(4.98)	(4.98)
Local Governments **	(3.11)	(3.11)	(3.11)	(3.11)	(3.11)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, Local Governments.

EFFECTIVE DATE: This act becomes effective July 1, 2003, and applies to sales made on or after that date.

* Assumes 4% state sales and use tax rate as of July 1, 2003.
** Assumes 2.5% local sales and use tax rate as of July 1, 2003.

BILL SUMMARY: This bill exempts from the state and local sales and use tax the paper, ink, and other ingredients used to produce free circulation publications published on a periodic basis monthly or more frequently and is distributed in a manner other than mail.

BACKGROUND: Prior law granted a sales tax exemption for sales of paper, ink, and other tangible personal property to commercial printers and publishers for use as component parts in

free circulation publications that contained advertising of a general nature. The exemption applied to general shoppers guides but not to more specialized publications such as real estate guides. The First Amendment of the United States Constitution does not allow a state to discriminate between publications based on their content. The prior law exemption clearly violated this rule by exempting guides with general content but not those with narrower content. Section 10 of Senate Bill 1112 (S.L. 1999-438) repealed the exemption, effective October 1, 1999, so that supplies sold for all free publications are subject to tax on a uniform basis.

ASSUMPTIONS AND METHODOLOGY:
Prior to the 2000 Session of the General Assembly, Department of Revenue field auditors were asked to collect free publications from their regions and forward them by courier mail to the central office in Raleigh. These documents were used to estimate the annual statewide sales volumes of free publications. The Tax Research Division of the Department of Revenue used the estimated sales data for free publications, as well as sales and use tax collections data and information from the North Carolina Press Association to estimate the fiscal impact of a proposed tax exemption. The Department has studied a free publication court case in Florida and determined that periodic free publications also includes telephone books and items distributed by mail such as packages of coupons, business newsletters, manuals, catalogues, and other advertising. In an October 3, 2001, memo to the General Assembly's Fiscal Research Division, the Tax Research Division estimated the following General Fund revenue loss from exempting all free circulation publications based on the 4.5% state sales tax:

	State Sales Tax (millions)
Items not distributed by mail	$ 5.6
Items distributed by mail	12.8
Telephone books	1.0
Total	$19.4

Since this bill does not include items distributed by mail or items published less frequently than monthly, like phone books, then the fiscal impact is reduced to $5.6 million General Fund loss at a 4.5% tax rate. Given that the state sales tax will be 4% as of July 1, 2003, and no budget action has yet been taken to extend the 4.5% tax rate, this fiscal analysis will assume a 4% state sales tax rate. The bill also has a local government impact. By July 1, 2003, all 100 counties will have adopted an additional half-cent sales tax, thus, a 2.5% local sales tax rate is used. No growth rate was assumed for future years due to the lack of market information for free publications. The revised cost of this bill is shown below using a 4% state sales tax rate and a 2.5% local rate.

	State Sales Tax (4%) (millions)	Local Sales Tax (2.5%) (millions)
Exempt items not distributed by mail	$ 4.98	$3.11

SOURCES OF DATA: Department of Revenue

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1149 A BILL TO BE ENTITLED AN ACT TO EXEMPT FREE CIRCULATION PUBLICATIONS FROM THE SALES TAX.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 592
Finance Committee Substitute Adopted 4/10/03
Third Edition Engrossed 4/15/03

Short Title: Engineers/Acquire Property/Raise Civ.Penalty. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA STATE BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS TO ACQUIRE REAL PROPERTY, AND TO INCREASE THE CIVIL PENALTY ON ENGINEERS FROM TWO THOUSAND DOLLARS TO FIVE THOUSAND DOLLARS FOR VIOLATIONS OF THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT AND CLARIFYING THE REINSTATEMENT REQUIREMENTS UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 89C-10 is amended by adding the following new subsection to read:

"(i) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

SECTION 2. G.S. 89C-21(c) reads as rewritten:

"(c) The Board may levy a civil penalty not in excess of ~~two thousand dollars ($2,000)~~five thousand dollars ($5,000) for any engineer or not in excess of two thousand dollars ($2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3. G.S. 89C-17 reads as rewritten:

"**§ 89C-17. Expirations and renewals of certificates.**

Certificates for licensure of corporations and business firms that engage in the practice of engineering or land surveying shall expire on the last day of the month of

June following their issuance or renewal and shall become invalid on that date unless renewed. All other certificates for licensure shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. When necessary to protect the public health, safety, or welfare, the Board shall require any evidence necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed seventy-five dollars ($75.00). The secretary of the Board shall notify by mail every person licensed under this Chapter of the date of expiration of the certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate. Renewal shall be effected at any time during the month immediately following the month of expiration, by payment to the secretary of the Board of a renewal fee, as determined by the Board, which shall not exceed seventy-five dollars ($75.00). Failure on the part of any ~~registrant~~ licensee to renew the certificate annually in the month immediately following the month of expiration, as required above, shall deprive the ~~registrant~~ licensee of the right to practice until ~~renewal has been effected. Renewal may be effected at any time during the first 12 months immediately following its invalidation by payment of the established renewal fee and a late penalty of one hundred dollars ($100.00).~~ reinstatement of the license. The license may be reinstated at anytime during the first 12 months immediately following the date the license became invalid by payment of a reinstatement fee of one hundred dollars ($100.00) in addition to the established renewal fee. Failure of a licensee to ~~renew~~ reinstate the license ~~for a period of 12 months~~ during the first 12 months immediately following the date the license became invalid shall require the individual, prior to resuming practice in North Carolina, to submit an application on the prescribed form, and to meet all other requirements for licensure as set forth in Chapter 89C. The secretary of the Board is instructed to remove from the official roster of engineers and land surveyors the names of all licensees who have not effected their renewal by the first day of the month immediately following the renewal period. The Board may adopt rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the Board that the applicant has maintained active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsibility of each licensee to inform the Board promptly concerning change in address. A licensee may request and be granted inactive status. No inactive licensee may practice in this State unless otherwise exempted in this Chapter. A licensee granted inactive status shall pay annual renewal fees but shall not be subject to annual continuing professional competency requirements. A licensee granted inactive status may return to active status by meeting all requirements of the Board, including demonstration of continuing professional competency as a condition of reinstatement."

SECTION 4. This act is effective when it becomes law.

SENATE BILL 592:
Engineers/Acquire Property/Raise Civil Penalty

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Jenkins
Date:	June 25, 2003	**Summary by:**	Mary Shuping
Version:	3rd edition		Legislative Analyst

SUMMARY: ***Senate Bill 592 authorizes the Board of Examiners for Engineers and Surveyors to acquire real property, raises the civil penalty for engineers, and clarifies the late fee for reinstatement.***

BILL ANALYSIS:

Section 1. Acquisition of Real Property: Senate Bill 592 authorizes the Board to acquire, hold, rent, encumber, alienate and otherwise deal with real property in the same manner as a private person or corporation. However, prior to entering into any real property transactions, the Board is required to obtain approval from the Governor and the Council of State. Collateral pledged by the Board for encumbrance is limited to the assets, income, and revenues of the Board. This authority is identical to that given to several other occupational licensing Boards.

Section 2. Civil Penalty Increase: The bill increases the amount of civil penalty the Board may levy for engineers from $2,000 to $5,000. The bill maintains the current $2,000 cap for land surveyors. Civil penalties levied by occupational licensing boards vary in amount; however, several other boards have the authority to levy a $5,000 civil penalty, including the Geologists Licensing Board and the Board of Veterinary Medicine. Civil penalties levied by the Board are required to be remitted to the Civil Penalty and Forfeiture Fund.

Section 3. Reinstatement Late Fee: Currently, the Board requires licensees to renew their licensees annually by January 1st; however, the Board also grants a 30-day grace period. Renewal after the grace period requires the payment of an additional $100 "penalty" in addition to the renewal fee. The bill clarifies that the $100 payment is a reinstatement fee, rather than a penalty. The bill does **not** increase the current fee.

EFFECTIVE DATE: The act would become effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 592 (First Edition)

SHORT TITLE: Engineers/Acquire Property/Raise Civil Penalty

SPONSOR(S): Senator Jenkins

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Board Operating Account					
Section 1 (Property)	No fiscal impact				
Section 3 (Fee)	No fiscal impact				
Civil Penalty and Forfeiture Fund					
Section 2 (Civil Penalty)	No estimate available				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: N. C. State Board of Examiners for Engineers and Surveyors

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: Allows the North Carolina State Board of Examiners for Engineers and Surveyors to (1) purchase its own building, (2) raise the civil penalty from $2,000 to $5,000; and (3) change the name of the fee for a delinquent license renewal from penalty to reinstatement fee.

ASSUMPTIONS AND METHODOLOGY: Section 1 of the bill allows the North Carolina State Board of Examiners for Engineers and Surveyors (Board) to purchase or lease real property, subject to the approval of the Governor and the Council of State. In recent years, this authority to acquire property has been given to other professional boards such as the Licensing Board for General Contractors (1999) and the Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors (2001). The Board has one and a half years left on its office lease and wants flexibility in obtaining new office space. While this provision will have no fiscal impact on Board revenues, it could allow the Board to reduce its future costs for office space.

Section 2 increases the maximum civil penalty that the Board may impose from $2,000 to $5,000. This penalty was last increased in 1989 (from $500 to $2,000). Civil Penalty proceeds do not benefit the Board, but are deposited into the Civil Penalty and Forfeiture Fund for use by North Carolina public schools. In 2002, the Board deposited $17,000 into the Fund as a result of 14 disciplinary actions. The Board's executive director described 2002 as a typical year for infractions. In any given year, 100 to 125 cases are filed against licensees, 20 to 30 of these cases result in disciplinary actions and approximately 14 of those cases are assessed a civil penalty. No estimate of additional penalty revenue is possible since section 2 only increases the maximum penalty to $5,000 but does not require the Board to assess the higher penalty.

Section 3 renames the $100 fee for delinquent license renewal. Instead of a $100 late penalty, licensees will pay a $100 reinstatement fee. This section has no fiscal impact.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 7, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 592 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA STATE BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS TO ACQUIRE REAL PROPERTY, AND TO INCREASE THE CIVIL PENALTY ON ENGINEERS FROM TWO THOUSAND DOLLARS TO FIVE THOUSAND DOLLARS FOR VIOLATIONS OF THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT AND CLARIFYING THE REINSTATEMENT REQUIREMENTS UNDER THE ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 679
Finance Committee Substitute Adopted 4/30/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S679-CSLCx-68 [v.11]

6/25/2003 10:46:44 AM

Short Title: Modify State Financing Laws. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PUBLIC FINANCING LAWS OF THE STATE.

Whereas, the State Treasurer's Office formed a Public Finance Advisory Committee comprised of representative city and county governments, as well as the public finance bar and financial services sectors, to review and propose changes to the General Statutes dealing with public finance in an effort to strengthen, modernize, and provide for the most efficient method of issuing of public debt by local governments and other political subdivisions of the State; and,

Whereas, the Public Finance Advisory Committee has developed, and the State Treasurer's Office has reviewed, a set of recommendations to the General Assembly for specific changes to relevant General Statutes around which there is consensus that the proposed changes are beneficial to local governments in their issuance of public debt; and

Whereas, the Local Government Commission remains the statutorily designated entity to which all proposed issuances must be submitted for approval, and these recommendations in no way lower or lessen the level of due diligence performed in determining the appropriateness of a specific issuance; and

Whereas, for these reasons, this legislation is submitted for consideration by the General Assembly on behalf of the State Treasurer, the staff of the Local Government Commission, and the Public Finance Advisory Committee; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-89 reads as rewritten:

"**§ 159-89. Special covenants.**

A revenue bond order or a trust agreement securing revenue bonds may be between the State or the issuing municipality and a bank or trust company located within or without the State of North Carolina, and may contain covenants as to any of the following:

(1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the utility or enterprise of which the undertaking is to become a part.
(2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.
(3) The setting aside of debt service reserves and the regulation and disposition thereof.
(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of revenue bonds.
(5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied.
(6) Limitations or restrictions on the issuance of additional revenue bonds or notes; the terms upon which additional revenue bonds or notes may be issued and secured; or the refunding of outstanding or other revenue bonds.
(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.
(8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Article shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.
(9) The preparation and maintenance of a budget with respect to the expenses of the State or a municipality, as the case may be, for the operation and maintenance of revenue bond projects.
(10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects.
(11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm, or corporation, public or private.
(12) The acquisition and disposal of property for revenue bond projects.
(13) Provisions for insurance and for accounting reports and the inspection and audit thereof.
(14) The continuing operation and maintenance of the revenue bond project or the utility or enterprise of which it is to become a part."

SECTION 2. G.S. 159-65 reads as rewritten:

"**§ 159-65. Resolution fixing the details of the bonds.**

(a) After the bond order has been adopted, the board shall adopt a resolution fixing the details of the bonds. In fixing details of the bonds, the board is subject to these restrictions and directions:

(1) The ~~maturity~~ dates for payment of installments of principal shall not exceed the maximum periods of usefulness prescribed by the Commission pursuant to G.S. 159-122.

(2) Bonds authorized by two or more bond orders may be consolidated into a single issue.

(3) Bonds of each issue shall ~~mature~~ have principal paid in annual installments, the first of which shall be payable not more than three years after the date of the bonds, and the last within the maximum maturity period prescribed by regulation of the Commission under G.S. 159-122.

(4) No installment of principal for any issue may be more than four times as great in amount as the smallest prior installment of principal for the same issue.

(5) Bonds of each issue may be issued from time to time in series with different provisions for each series. Each series shall be deemed a separate issue for the purposes of this ~~section.~~section, except that two or more series may be considered to be a single issue under subdivision (3) of this subsection if issued on the same day or two consecutive days.

(6) Any bond may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any bond may be made subject to redemption prior to maturity, with or without premium, on such notice and at such time or times and with such redemption provisions as may be stated therein. When any such bond ~~shall have~~ has been validly called for redemption and provision ~~shall have~~ has been made for the payment of the principal thereof, any redemption premium, and the interest thereon accrued to the date of redemption, interest thereon shall cease.

(7) The bonds may bear interest at such rate or rates, payable semiannually or otherwise, may be in such denominations, and may be made payable in such kind of money and in such place or places within or without the State of North Carolina, as the board may determine.

(b) Subdivisions (a)(3) and (4) of this section ~~shall~~ do not apply to refunding bonds or to bonds purchased by a State or federal agency. ~~Such subdivisions (3)~~Subdivisions (a)(3) and (4) also ~~shall~~ do not apply to bonds the interest on which is or may be includable in gross income for purposes of federal income tax, ~~provided that~~as long as the dates for payment of principal on these bonds have been approved by the Commission. For the purposes of subdivisions (a)(3) and (4) of this section and for bonds the interest on which is or may be includable in gross income for purposes of federal income tax, payment of an installment of principal may ~~on which such bonds shall be stated to mature shall be approved by the Commission and the Commission may require that the payment of all or any part of the principal of and interest and any premium on such bonds~~ be provided for by the maturity of a bond, mandatory redemption of principal prior to maturity, a sinking fund, a ~~Credit Facility,~~credit facility

as defined in G.S. 159-79, or ~~such~~ any other means ~~as may be~~ satisfactory to the Commission."

SECTION 3. G.S. 160A-20 reads as rewritten:

"**§ 160A-20. Security interests.**

(a) Purchase. – ~~Units of local government, as defined in subsection (h),~~ A unit of local government may purchase, or finance or refinance the purchase of, ~~may purchase or finance the purchase of~~ real or personal property by installment contracts that create in some or all of the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Improvements. – ~~Units of local government, as defined in subsection (h),~~ A unit of local government may finance or refinance the construction or repair of fixtures or improvements on real property by contracts that create in some or all of the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for ~~such~~ the construction or repair.

(c) Accounts. – ~~Units of local government, as defined in subsection (h),~~ A unit of local government may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of ~~such~~ the advance funding are invested pending disbursement. A unit of local government may also use other accounts, such as debt service payment accounts and debt service reserve accounts, to facilitate transactions authorized by this section. To secure transactions authorized by this section, a unit of local government may also create security interests in these accounts.

(d) Nonsubstitution. – No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any fixture, improvement, project, or property ~~financed~~ financed, refinanced, or purchased pursuant to ~~such~~ the contract.

(e) Oversight. – A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

(1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3), or involves the construction or repair of fixtures or improvements on real property; and

(2) Is not exempted from the provisions of that Article by one of the exemptions contained in G.S. 159-148(b).

(e1) Public Hospitals. – A nonprofit ~~corporation or association~~entity operating or leasing a public hospital may ~~only~~ enter into a contract pursuant to this section only if the nonprofit ~~corporation or association~~ entity will have an ownership interest in the property being ~~financed,~~financed or refinanced, including a leasehold ~~interest, and the~~interest. The security interest granted in ~~such~~ the property ~~being financed shall only be~~ shall be only to the extent of ~~such~~ the nonprofit entity's property interest. In addition,

any contract entered into by a nonprofit ~~corporation or association~~ entity operating or leasing a public hospital pursuant to this section is subject to the approval of the city, county, hospital district, or hospital authority ~~which~~ that owns ~~such~~ the hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

(1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by ~~such~~ the nonprofit entity.

(2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated ~~bank eligible~~bank-eligible indebtedness under federal tax laws.

(3) The entering into of the contract would have a ~~material~~ material, adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or would otherwise materially interfere with an anticipated financing by ~~such~~ the nonprofit entity.

(f) Limit of Security. – No deficiency judgment may be rendered against any unit of local government in any action for breach of a contractual obligation authorized by this ~~section, and the~~section. The taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section.

(g) Public Hearing. – Before entering into a contract under this section involving real property, a unit of local government shall hold a public hearing on the contract. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

(h) Local Government Defined. – As used in this section, the term "unit of local government" means any of the following:

(1) A county.

(2) A city.

(3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

(3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.

(3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

(4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.

(5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.

(5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater

services off the airport premises before January 1, 1995, except that the authority granted by this subdivision may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.

(6) A local school administrative unit whose board of education is authorized to levy a school tax.

(6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.

(8) A consolidated city-county, as defined by G.S. 160B-2(1).

(9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.

(10) A regional natural gas district, as defined by Article 28 of this Chapter.

(11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

SECTION 4. Chapter 159 of the General Statutes is amended by adding a new Article to read:

"Article 13.

"Interest Rate Swap Agreements For Governmental Units.

"**§ 159-193. Definitions.**

The following definitions apply in this Article:

(1) Governmental unit. – Any of the following:

a. A unit of local government as defined in G.S. 159-44.

b. A municipality as defined in G.S. 159-81.

c. A joint agency as defined in G.S. 159B-3.

d. Any department, agency, board, commission, or authority of the State that is authorized by law to issue bonds.

e. The State Treasurer when participating in the issuance or incurrence of obligations for or on behalf of the State pursuant to an act of the General Assembly.

(2) Obligations. – Any of the following:

a. Bonds, notes, bond anticipation notes, or other evidences of indebtedness issued by a governmental unit.

b. Lease purchase or installment financing agreements entered into by a governmental unit.

(3) Swap agreement. – Any of the following:

a. An agreement, including terms and conditions incorporated by reference in the agreement, that is a rate swap agreement, basis swap, forward rate agreement, interest rate option, rate cap agreement, rate floor agreement, rate collar agreement, or other similar agreement, including any option to enter into or terminate any of the foregoing.

b. Any combination of the agreements described in sub-subdivision a. of this subdivision.

c. A master agreement for any of the agreements described in sub-subdivisions a. and b. of this subdivision, together with all supplements.

d. One or more transactions entered into pursuant to a master agreement.

"**§ 159-194. Swap agreements.**

(a) Subject to the provisions of this Article, a governmental unit may from time to time purchase, enter into, modify, amend, or terminate one or more swap agreements that it determines are necessary or desirable in connection with the issuance, incurrence, carrying, or securing of obligations. This authorization also includes the authority to enter into modifications or reversals of a swap agreement previously entered into by the governmental unit and the authority to enter into a swap agreement that modifies the interest rate payment calculation method under a swap agreement previously entered into to another interest rate calculation method or that reverses, in whole or in part, the effect of a prior swap agreement on the governmental unit's interest rate cost or risk. A swap agreement entered into by a governmental unit may contain any provisions, including provisions regarding payments, term, termination payments, security, default, and remedies, and may be with any parties, that the governmental unit determines are necessary or desirable.

(b) No governmental unit shall enter into a swap agreement pursuant to this Article other than for the primary purpose of managing interest rate risk on or interest rate costs of its obligations. A swap agreement may provide that the payments thereunder are based upon a fixed or variable interest rate calculation method. A governmental unit shall not engage in the business of acting as a dealer in swap agreements. A swap agreement may be entered into in connection with specific obligations of the governmental unit, which may consist of multiple series or issues of obligations as specified by the governmental unit. The swap agreement may be entered into at a time before, at the same time as, or after, the obligations are issued or incurred by the governmental unit. Each swap agreement may be entered for a notional amount up to, but not exceeding, the principal amount of the obligations with respect to which the swap agreement is entered. A swap agreement may have a term as long as, or less than, the term of the obligations with respect to which the swap agreement is entered.

(c) In connection with entering into a swap agreement, a governmental unit may enter into credit enhancement agreements to secure the obligations of the governmental unit under the swap agreement, with any payment, security, default, remedy, and other terms and conditions that the governmental unit determines, including entering into

binding agreements to deliver collateral, either at the time the swap agreement is entered into or at future times under conditions set forth in the swap agreement.

"**§ 159-195. Nature of duties of a governmental unit under a swap agreement.**

The duty of a governmental unit to make the payments required and to perform the other duties of the governmental unit under a swap agreement shall constitute a continuing contractual obligation of the governmental unit, enforceable in accordance with applicable law for the enforcement of contractual obligations of that governmental unit. A governmental unit may limit its duties under a swap agreement to designated property or a designated source of revenues or receipts of the governmental unit, such as the revenues of a specified utility or other public service enterprise system of the governmental unit. If a governmental unit enters into a swap agreement in connection with obligations that are secured by a designated form of security, then, subject to the terms of the bond order or resolution, trust indenture or trust agreement, installment contract or lease purchase agreement, or similar instrument pursuant to which the obligations are issued or incurred, the governmental unit may pledge, mortgage, or grant a security interest in the revenues of the utility or other public service enterprise system, program, receipts, property, or similar arrangement securing the obligations to secure the payment and performance of its duties under the swap agreement. Any pledge of revenues or receipts to secure the duties of a governmental unit under a swap agreement shall become effective in the same manner and to the same extent as a pledge of those revenues or receipts to secure the obligations with respect to which the swap agreement is entered.

"**§ 159-196. Approval by Commission.**

(a) Approval Required. – A governmental unit shall not enter into a swap agreement that meets either of the following conditions, unless the Commission first approves the governmental unit's entering into the swap agreement:

(1) The obligations with respect to which the swap agreement is entered into are lease-purchase or installment finance agreements under G.S. 160A-20.

(2) The sale, issuance, or incurrence of the obligations with respect to which the swap agreement is entered into is subject to the approval of the Commission.

(b) Factors. – The Commission may consider all of the following factors in determining whether to approve the swap agreement:

(1) The nature and amount of the outstanding debt of the governmental unit proposing to enter the swap agreement.

(2) The governmental unit's debt management procedures and policies.

(3) To the extent applicable, the governmental unit's compliance with the Local Government Budget and Fiscal Control Act.

(4) Whether the governmental unit is in default in any of its debt service obligations.

(c) Amendments. – If a swap agreement is subject to approval by the Commission pursuant to this section and is approved, then the governmental unit shall not enter into any amendment to the swap agreement that terminates or changes the time

period covered by the swap agreement, changes the interest rate calculation method under the swap agreement, or changes the notional amounts covered by the swap agreement without the prior approval of the Secretary of the Commission.

(d) Approval Not Required. – A swap agreement is not subject to approval by the Commission except as provided in this section. This section does not require the approval of the Commission of a swap agreement entered into by a private entity receiving the benefit of financing through the issuance of obligations by a governmental unit.

§ 159-197. Additional method.

This Article provides an additional and alternative method for the doing of the things authorized by it and is supplemental to powers conferred by other laws. This Article does not derogate any existing powers.

"**§ 159-198. Severability.**

If any provision of this Article or its application is held invalid, the invalidity does not affect other provisions or applications of this Article that can be given effect without the invalid provisions or application, and to this end the provisions of this Article are severable.

"**§ 159-199. Validation of preexisting swap agreements.**

All proceedings taken by the governing bodies of governmental units in connection with the authorization of swap agreements and all swap agreements entered into by governmental units before the effective date of this Article are ratified.

"**§ 159-200. Liberal construction.**

This Article, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect its purposes."

SECTION 5. This act is effective when it becomes law.

"Technical" amendment

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 679

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S679-ALC-33 [v.1]

Date June 26 ,2003

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative G. Allen

moves to amend the bill on page 8, lines 19 and 21,
by deleting the phrase "revenues or receipts" each place it appears and substituting the phrase "assets, revenues, or receipts";

and on page 8, lines 24 – 32, by rewriting the lines to read:
"(a) Approval Required. – A unit of local government shall not enter into a swap agreement unless the Commission first approves the unit's entering into the swap agreement.";

and on page 8, lines 41-42, by adding the following between the lines:
"(5) The credit rating of the governmental unit."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____
(by consent)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 679

Finance Committee Substitute Adopted 4/30/03

Short Title: Modify State Financing Laws. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PUBLIC FINANCING LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-89 reads as rewritten:

"**§ 159-89. Special covenants.**

A revenue bond order or a trust agreement securing revenue bonds may be between the State or the issuing municipality and a bank or trust company located within or without the State of North Carolina, and may contain covenants as to

(1) The pledge of all or any part of revenues received or to be received from the undertaking to be financed by the bonds, or the utility or enterprise of which the undertaking is to become a part.

(2) Rates, fees, rentals, tolls or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.

(3) The setting aside of debt service reserves and the regulation and disposition thereof.

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of revenue bonds.

(5) Limitations or restrictions on the purposes to which the proceeds of sale of revenue bonds then or thereafter to be issued may be applied.

(6) Limitations or restrictions on the issuance of additional revenue bonds or notes; the terms upon which additional revenue bonds or notes may be issued and secured; or the refunding of outstanding or other revenue bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the percentage of revenue bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.

(8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which revenue bonds issued under this Article shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

(9) The preparation and maintenance of a budget with respect to the expenses of the State or a municipality, as the case may be, for the operation and maintenance of revenue bond projects.

(10) The retention or employment of consulting engineers, independent auditors, and other technical consultants in connection with revenue bond projects.

(11) Limitations on or the prohibition of free service by revenue bond projects to any person, firm, or corporation, public or private.

(12) The acquisition and disposal of property for revenue bond projects.

(13) Provisions for insurance and for accounting reports and the inspection and audit thereof.

(14) The continuing operation and maintenance of the revenue bond project or the utility or enterprise of which it is to become a part."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 679 (PCS): Modify State Financing Laws

BILL ANALYSIS

Committee: House Finance
Date: June 25, 2003
Version: Draft

Sponsor: Sen. Hoyle
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The House Committee Substitute for SB 679 makes the following five changes to the State public financing laws, effective when the bill becomes law. All but the first change are being added in the House Committee Substitute. All of the changes were requested by the State Treasurer's Office.

- ***Authorizes the use of out-of-state banks as well as in-state banks as trustee under a revenue bond order or a trust agreement securing revenue bonds***
- ***Allows term bonds with sinking fund redemptions to satisfy the statutory requirements for maturities***
- ***Exempts refunding bonds from the "four times" rule***
- ***Allows local governments to use installment purchase debt to refinance debt for purposes for which installment debt is currently authorized***
- ***Clarifies and regulates the authority of a local government to enter into an interest rate swap agreement in connection with bond issuance***

Out-of-State Trustees: Section 1 of the bill is in response to the recent decline in the number of North Carolina financial institutions offering trustee services as a result of mergers and financial institutions selling their trust businesses. Allowing financial institutions outside of North Carolina to serve as trustee under a revenue bond order or a trust agreement securing revenue bonds gives issuers more choices and also would allow issuers to continue doing business with the same trustee staff person who becomes employed by an out-of-state trustee as a result of a merger or sale of a North Carolina financial institution's trust business.

Revenue bonds are bonds that are secured by and repaid from revenues generated by the facility being financed. For example, parking lots generate parking fees, dorms generate dorm fees, water and sewer infrastructure generates water and sewer fees, etc.

Term Bonds: Under current law, the Local Government Bond Act requires each issue of bonds to mature in annual installments with the first installment being paid no more than three years after the date of the bonds. This means that the only type of bonds that can be issued are serial bonds, in which some mature each year. Section 2 of the bill would change the requirement so that the bonds themselves do not have to mature in annual installments as long as the principal is paid in annual installments beginning within three years of the date of the bonds. Thus, the purpose of the requirement, to

provide for regular payments on the debt, is still met. This will allow a choice between serial bonds as under current law and term bonds with "sinking fund" redemptions. Underwriters have indicated that allowing term bonds in addition to serials would expand the investor base by attracting more institutional investors, thereby possibly resulting in lower rates to the issuer.

Four Times Rule: The four times rule provides that no principal installment may be more than four times as great as the smallest prior principal installment. The application of this rule to advance refundings where the refunded bonds are scheduled to mature several years from the issue date means that issuers are often forced to start the maturity of the refunding bonds sooner than would otherwise be required and also may be required to refund some non-callable bonds. This results in increased and unnecessary costs to issuers. Section 2 exempts refunding bonds from the four-times rule and also clarifies the language of the statute.

Installment Purchase Refinancings: Section 3 of the bill would amend the language of the installment purchase ("COPs") statute to clarify that local governments may use installment contracts to refinance debt originally incurred for purposes for which installment contracts are currently authorized.

Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local government's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

Interest Rate Swap Agreements: According to the State Treasurer's Office, some North Carolina local governmental units have entered into interest rate swap agreements in connection with the issuance of bonds. While there is no express statutory authority, most, if not all, law firms with a North Carolina bond counsel practice have concluded that local governmental units are authorized to enter into these agreements, based on their general power to contract. Several questions have remained, however, with respect to certain terms of the swap documentation required by financial institutions. Section 4 of the bill addresses those questions in two ways:

1. By specifically authorizing governmental units to enter into swap agreements in connection with the issuance of obligations.
2. By authorizing local governmental units to pledge collateral (concurrently with the entry into the swap transaction or in the future) to secure the local governmental unit's obligations under the swap agreement.

A swap agreement is subject to Local Government Commission approval if the related obligations are subject to its approval or if the related obligations are installment contract debt under G.S. 160A-20. Approval is not required for swap agreements relating to conduit financing, where a local government incurs debt on behalf of a private entity.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
S.B. 679 A BILL TO BE ENTITLED AN ACT TO MODIFY THE PUBLIC FINANCING LAWS OF THE STATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 1072
Committee Substitute Favorable 6/24/03
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLAxf-38 [v.5]

6/25/2003 5:59:51 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA STATE BOXING COMMISSION, TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS, TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS, TO AUTHORIZE A STUDY ON THE EFFECTIVENESS OF REGULATING TICKET BROKERS, AND TO MAKE IT UNLAWFUL TO USE ALTERED OR COUNTERFEIT ADMISSION TICKETS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 68 of Chapter 143 of the General Statutes is amended by designating G.S. 143-650 through G.S. 143-658 as:

"Part 1. Boxing.".

SECTION 2. The title of Article 68 of Chapter 143 of the General Statutes reads as rewritten:

"Article 68.

North Carolina State Boxing and Entertainment Commission."

SECTION 3. G.S. 143-651(5) reads as rewritten:

"The following definitions apply in this Article:

...

(5) Commission. – The North Carolina State Boxing and Entertainment Commission.

...."

SECTION 4. G.S. 143-651(23b) reads as rewritten:

"The following definitions apply in this ~~Article:~~Part:

...

(23b) Sanctioned amateur match. – Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized

and approved by the North Carolina State Boxing and Entertainment Commission.

...."

SECTION 5. G.S. 143-652(a) reads as rewritten:

"**§ 143-652. State Boxing and Entertainment Commission.**

(a) Creation. – The North Carolina State Boxing and Entertainment Commission is created within the Department of Crime Control and Public Safety to regulate ~~in North Carolina~~ live boxing and kickboxing ~~matches,~~ matches in this State as provided in this Part, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than ~~twenty-five dollars ($25.00).~~ twenty-five dollars ($25.00); and to regulate persons who are ticket brokers as provided in Part 2 of this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of Crime Control and Public Safety. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Crime Control and Public Safety. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of the Secretary of Crime Control and Public Safety."

SECTION 6. G.S. 143-655 reads as rewritten:

"**§ 143-655. Fees; State Boxing and Entertainment Commission Revenue Account.**

(a) License Fees. – The Commission shall collect the following license fees:

Announcer	$ 50.00
Contestant	$ 25.00
Judge	$ 50.00
Manager	$100.00
Matchmaker	$200.00
Promoter	$300.00
Referee	$ 50.00
Timekeeper	$ 50.00
Second	$ 25.00.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Commission may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	$100.00
2,000 – 5,000	$200.00
Over 5,000	$300.00.

(c) State Boxing and Entertainment Commission Revenue Account. – There is created the State Boxing and Entertainment Commission Revenue Account within the Department of Crime Control and Public Safety. ~~Monies [moneys]~~Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 7. Article 68 of Chapter 143 of the General Statutes is amended by adding the following new Part to read:

"Part 2. Ticket Brokers.

"**§ 143-659.1. Regulation of ticket brokers by Commission.**

The North Carolina State Boxing and Entertainment Commission shall regulate those persons who are ticket brokers as provided in this Part.

"**§ 143-659.2. Definitions.**

The following definitions apply in this Part:

(1) Commission. – The North Carolina State Boxing and Entertainment Commission.

(2) Promoter. – A person, firm, or corporation assuming the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(3) Ticket. – A certificate or token showing that a fare or admission fee has been paid and that gives the holder a revocable license to enter an event.

(4) Ticket broker. – A person, firm, or corporation engaging in the business of reselling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted and meets the requirements of registration and bonding pursuant to this Part. For purposes of this definition, a firm or corporation engaging in business as a ticket broker shall meet the requirements of registration and bonding and each individual engaging in business as a ticket broker and employed by a firm or corporation registered as a ticket broker shall meet the requirements of registration and bonding pursuant to this Part.

(5) Ticket sales agent. – A person, firm, or corporation engaging in the business of selling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 143-659.3. Powers and duties of Commission.**

(a) For purposes of this Part, the Commission has the following powers and duties:

(1) To adopt rules necessary to carry out the provisions of this Part.

(2) To administer and enforce the provisions of this Part.

(3) To establish requirements to register under this Part.

(4) To receive and investigate complaints from members of the public.

(5) To conduct investigations to determine whether violations of this Part or grounds for disciplining registrants exist.

(b) The Commission may inspect the premises and records of ticket brokers at any reasonable hour to determine compliance with the provisions of this Part.

(c) The Commission shall keep a record of its proceedings relating to the issuance, renewal, denial, restriction, suspension, and revocation of registrations. This

record shall also contain each registrant's name, business and home addresses, registration number, and the date the registration was issued.

(d) All ticket brokers shall perform an audit quarterly and submit a report of the audit to the Commission within 30 days after the audit is completed. The Commission shall adopt rules establishing guidelines for these audits.

"**§ 143-659.4. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in this section, it shall be unlawful for any person, firm, or corporation to resell or offer for resale any ticket to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person, firm, or corporation is registered as a ticket broker pursuant to the provisions of this Part.

(b) It shall not be unlawful for any person, firm, or corporation to resell, offer for resale, purchase, or offer to purchase a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).

(c) Charitable or nonprofit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Part when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(d) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 143-659.5. Requirements for registration; issuance of registration; renewal; moneys credited to State Boxing and Entertainment Commission Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person, firm, or corporation seeking to engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Commission on a form provided by the Commission. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.
3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker. In the case of a firm or corporation filing for registration as a ticket broker, the firm or corporation shall maintain at its location a listing of the names and addresses of all persons employed by the firm or corporation as registered ticket brokers.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of twenty-five thousand dollars ($25,000) and file a copy of the bond with the Commission. The bond shall be executed in favor of the State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Part. Any person claiming against the bond may maintain an action against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Commission not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Commission shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Commission and pay a renewal fee established by the Commission not to exceed two thousand dollars ($2,000).

(d) Moneys collected pursuant to the provisions of this Part shall be credited to the State Boxing and Entertainment Commission Revenue Account pursuant to G.S. 143-655(c), and applied to the administration of this Part.

"**§ 143-659.6. Disclosure; refunds.**

(a) A ticket broker shall:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser, on the ticket or receipt, the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser, on the ticket or receipt, the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Part if:

(1) The purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and

(2) The return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker shall refund, within 15 days from the date of purchase, any payment received for the purchase of a ticket under this Part if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 143-659.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event. For purposes of this subdivision, a firm or corporation engaging in business as a ticket broker is limited to one percent (1%) of the total tickets allocated for any contest or event regardless of the number of ticket brokers employed by the firm or corporation.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent shall not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(c) A promoter shall sell no more than five percent (5%) of the total tickets allocated for any contest or event directly to registered ticket brokers. A violation of this subsection shall not be a criminal violation. A promoter who violates this subsection shall be allowed to sell directly to registered ticket brokers no more than three percent (3%) of the total tickets allocated for the next contest or event of the same type.

(d) If a person, firm, or corporation joins with another person, firm, or corporation for the purpose of engaging in business as a ticket broker, the parties

collectively shall not acquire or resell in excess of one percent (1%) of the total tickets allocated for any contest or event.

"**§ 143-659.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had the person's civil rights restored.

"**§ 143-659.9. Violations.**

(a) Civil Penalties. – The Commission may issue an order against a registrant or any other person who willfully violates any provision of this Part or rules adopted by the Commission. Orders issued by the Commission may include the following:

(1) An order requiring the registrant or other person to cease and desist from violating any provision of this Part.

(2) An order suspending or revoking the ticket broker's registration.

(3) An order imposing a civil penalty of up to twenty-five thousand dollars ($25,000) for each violation of this Part.

No order under this subsection may be entered without giving the registrant or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Part shall constitute a Class 2 misdemeanor. The Commission may refer any available evidence concerning violations of this Part to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Commission that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Part or any rule adopted by the Commission, the Commission may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Part or any rule or order issued pursuant to this Part."

SECTION 8. Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-16.1. Altering, forging, restoring, or counterfeiting certain tickets.**

(a) It shall be unlawful for a person to:

(1) Alter, restore, or otherwise prepare in any manner any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to use or cause it to be used after it has already been used;

(2) Counterfeit, forge, or alter any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to

sell, utter, put off or pass the same, or cause or procure the same to be sold, uttered, or passed with the intent to defraud any person;

(3) Buy, sell, offer for sale, or possess any counterfeit, forged, or altered ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud any person, knowing the same to be counterfeit, forged, or altered.

(b) As used in this section, the term "counterfeit" means to manufacture, copy, reproduce, or forge a ticket, token, or paper that purports to be genuine, but is not, because it has been falsely copied, reproduced, forged, manufactured, embossed, encoded, duplicated, or altered.

(c) Any person who violates this section shall be guilty of a Class 2 misdemeanor."

SECTION 9. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Part 2 of Article 68 of Chapter 143 of the General Statutes."

SECTION 10. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker as defined in G.S. 143-659.2, whether or not registered. For the purposes

of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for resale of the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 11. The North Carolina State Boxing and Entertainment Commission, as renamed and enacted in Section 2 of this act, shall conduct a study to determine the effectiveness of its regulation of ticket brokers and address any issues that relate to the registration of ticket brokers, enforcement of the provisions of Part 2 of Article 68 of Chapter 143 of the General Statutes, enacted in Section 7 of this act, and any other issues the Commission considers necessary. The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and a final report to the 2005 General Assembly.

SECTION 12. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 13. This act becomes effective December 1, 2003, and applies to offenses committed and tickets sold on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS for 2nd ed

H. B. No. 1072 DATE 6/26/2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney
Sen.)

moves to amend the bill on page 5 of 7, lines 27 & 28

( ) WHICH CHANGES THE TITLE

by adding the following between those lines:

"(e) This Part does not apply to college athletic events."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1072 DATE 6/26/2003

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H1072-CSLAX-8-38

Rep.)
) Hackney
Sen.)

1 moves to amend the bill on page 5, line S 13-15

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting these lines to read

4 "(b) It shall be unlawful for

5 any person, firm or corporation registered

6 as a ticket broker under this Part

7 to resell or offer for resale

8 a ticket with a brokerage fee

9 that exceeds five dollars ($5.00);

10 deleted by request of sponsor

11 ~~and on page 9, lines 20 and 22~~

12 ~~by deleting the phrase "three~~

13 ~~dollars ($3.00)" and substituting~~

14 ~~the phrase "five dollars ($5.00)".~~

15

16

17

18

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SIGNED _____

ADOPTED ✓ (as related) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1072 DATE 6/26/2003

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H1072-CSLAxf-38

Rep.)
) Hackney
Sen.)

1 moves to amend the bill on page 5, line s 20-22

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting those lines to read:

4 "(d) A promoter of a contest"

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SIGNED Hackney

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS for 2nd ed

H. B. No. 1072 DATE 6/26/03

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Ross
) Sen.)

moves to amend the bill on page 7 b/t, lines ~~33-34~~ 33-34

( ) WHICH CHANGES THE TITLE

by inserting the following:

"(5) Resell or offer to resell any ticket ~~for~~ in excess of one ~~two~~ hundred percent 100 (~~200~~%) of the face value of the ticket."

changes per Hackney perfecting amendment

SIGNED [signature]

ADOPTED ✓ (as perfected) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1072
Committee Substitute Favorable 6/24/03
PROPOSED COMMITTEE SUBSTITUTE H1072-CSLAxf-38 [v.4]

6/25/2003 1:03:13 PM

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA STATE BOXING COMMISSION, TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS, TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS, TO AUTHORIZE A STUDY ON THE EFFECTIVENESS OF REGULATING TICKET BROKERS, AND TO MAKE IT UNLAWFUL TO USE ALTERED OR COUNTERFEIT ADMISSION TICKETS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 68 of Chapter 143 of the General Statutes is amended by designating G.S. 143-650 through G.S. 143-658 as:

"Part 1. Boxing.".

SECTION 2. The title of Article 68 of Chapter 143 of the General Statutes reads as rewritten:

"Article 68.

North Carolina State Boxing and Entertainment Commission."

SECTION 3. G.S. 143-651(5) reads as rewritten:

"The following definitions apply in this Article:

...

(5) Commission. – The North Carolina State Boxing and Entertainment Commission.

...."

SECTION 4. G.S. 143-651(23b) reads as rewritten:

"The following definitions apply in this ~~Article:~~Part:

...

(23b) Sanctioned amateur match. – Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized

and approved by the North Carolina State Boxing and Entertainment Commission.

...."

SECTION 5. G.S. 143-652(a) reads as rewritten:

"**§ 143-652. State Boxing and Entertainment Commission.**

(a) Creation. – The North Carolina State Boxing and Entertainment Commission is created within the Department of Crime Control and Public Safety to regulate ~~in North Carolina~~ live boxing and kickboxing ~~matches,~~ matches in this State as provided in this Part, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than ~~twenty-five dollars ($25.00).~~ twenty-five dollars ($25.00); and to regulate persons who are ticket brokers as provided in Part 2 of this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of Crime Control and Public Safety. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Crime Control and Public Safety. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of the Secretary of Crime Control and Public Safety."

SECTION 6. G.S. 143-655 reads as rewritten:

"**§ 143-655. Fees; State Boxing and Entertainment Commission Revenue Account.**

(a) License Fees. – The Commission shall collect the following license fees:

Announcer	$ 50.00
Contestant	$ 25.00
Judge	$ 50.00
Manager	$100.00
Matchmaker	$200.00
Promoter	$300.00
Referee	$ 50.00
Timekeeper	$ 50.00
Second	$ 25.00.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Commission may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	$100.00
2,000 – 5,000	$200.00
Over 5,000	$300.00.

(c) State Boxing and Entertainment Commission Revenue Account. – There is created the State Boxing and Entertainment Commission Revenue Account within the Department of Crime Control and Public Safety. ~~Monies [moneys]~~Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 7. Article 68 of Chapter 143 of the General Statutes is amended by adding the following new Part to read:

"Part 2. Ticket Brokers.

"**§ 143-659.1. Regulation of ticket brokers by Commission.**

The North Carolina State Boxing and Entertainment Commission shall regulate those persons who are ticket brokers as provided in this Part.

"**§ 143-659.2. Definitions.**

The following definitions apply in this Part:

(1) Commission. – The North Carolina State Boxing and Entertainment Commission.

(2) Promoter. – A person, firm, or corporation assuming the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(3) Ticket. – A certificate or token showing that a fare or admission fee has been paid and that gives the holder a revocable license to enter an event.

(4) Ticket broker. – A person, firm, or corporation engaging in the business of reselling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted and meets the requirements of registration and bonding pursuant to this Part. For purposes of this definition, a firm or corporation engaging in business as a ticket broker shall meet the requirements of registration and bonding and each individual engaging in business as a ticket broker and employed by a firm or corporation registered as a ticket broker shall meet the requirements of registration and bonding pursuant to this Part.

(5) Ticket sales agent. – A person, firm, or corporation engaging in the business of selling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 143-659.3. Powers and duties of Commission.**

(a) For purposes of this Part, the Commission has the following powers and duties:

(1) To adopt rules necessary to carry out the provisions of this Part.

(2) To administer and enforce the provisions of this Part.

(3) To establish requirements to register under this Part.

(4) To receive and investigate complaints from members of the public.

(5) To conduct investigations to determine whether violations of this Part or grounds for disciplining registrants exist.

(b) The Commission may inspect the premises and records of ticket brokers at any reasonable hour to determine compliance with the provisions of this Part.

(c) The Commission shall keep a record of its proceedings relating to the issuance, renewal, denial, restriction, suspension, and revocation of registrations. This

record shall also contain each registrant's name, business and home addresses, registration number, and the date the registration was issued.

(d) All ticket brokers shall perform an audit quarterly and submit a report of the audit to the Commission within 30 days after the audit is completed. The Commission shall adopt rules establishing guidelines for these audits.

"**§ 143-659.4. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in this section, it shall be unlawful for any person, firm, or corporation to resell or offer for resale any ticket to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person, firm, or corporation is registered as a ticket broker pursuant to the provisions of this Part.

(b) It shall not be unlawful for any person, firm, or corporation to resell, offer for resale, purchase, or offer to purchase a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).

(c) Charitable or nonprofit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Part when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(d) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 143-659.5. Requirements for registration; issuance of registration; renewal; moneys credited to State Boxing and Entertainment Commission Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person, firm, or corporation seeking to engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Commission on a form provided by the Commission. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.
3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker. In the case of a firm or corporation filing for registration as a ticket broker, the firm or corporation shall maintain at its location a listing of the names and addresses of all persons employed by the firm or corporation as registered ticket brokers.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of twenty-five thousand dollars ($25,000) and file a copy of the bond with the Commission. The bond shall be executed in favor of the State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Part. Any person claiming against the bond may maintain an action against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Commission not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Commission shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Commission and pay a renewal fee established by the Commission not to exceed two thousand dollars ($2,000).

(d) Moneys collected pursuant to the provisions of this Part shall be credited to the State Boxing and Entertainment Commission Revenue Account pursuant to G.S. 143-655(c), and applied to the administration of this Part.

"**§ 143-659.6. Disclosure; refunds.**

(a) A ticket broker shall:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser, on the ticket or receipt, the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser, on the ticket or receipt, the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Part if:

(1) The purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and

(2) The return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker shall refund, within 15 days from the date of purchase, any payment received for the purchase of a ticket under this Part if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 143-659.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event. For purposes of this subdivision, a firm or corporation engaging in business as a ticket broker is limited to one percent (1%) of the total tickets allocated for any contest or event regardless of the number of ticket brokers employed by the firm or corporation.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent shall not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(c) A promoter shall sell no more than five percent (5%) of the total tickets allocated for any contest or event directly to registered ticket brokers. A willful violation of this subsection shall not be a criminal violation.

(d) If a person, firm, or corporation joins with another person, firm, or corporation for the purpose of engaging in business as a ticket broker, the parties collectively shall not acquire or resell in excess of one percent (1%) of the total tickets allocated for any contest or event.

"**§ 143-659.8. Disqualification for felony conviction.**

No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had the person's civil rights restored.

"**§ 143-659.9. Violations.**

(a) Civil Penalties. – The Commission may issue an order against a registrant or any other person who willfully violates any provision of this Part or rules adopted by the Commission. Orders issued by the Commission may include the following:

(1) An order requiring the registrant or other person to cease and desist from violating any provision of this Part.

(2) An order suspending or revoking the ticket broker's registration.

(3) An order imposing a civil penalty of up to twenty-five thousand dollars ($25,000) for each violation of this Part.

No order under this subsection may be entered without giving the registrant or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Part shall constitute a Class 2 misdemeanor. The Commission may refer any available evidence concerning violations of this Part to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Commission that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Part or any rule adopted by the Commission, the Commission may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Part or any rule or order issued pursuant to this Part."

SECTION 8. Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-16.1. Altering, forging, restoring, or counterfeiting certain tickets.**

(a) It shall be unlawful for a person to:

(1) Alter, restore, or otherwise prepare in any manner any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to use or cause it to be used after it has already been used;

(2) Counterfeit, forge, or alter any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to sell, utter, put off or pass the same, or cause or procure the same to be sold, uttered, or passed with the intent to defraud any person;

(3) Buy, sell, offer for sale, or possess any counterfeit, forged, or altered ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud any person, knowing the same to be counterfeit, forged, or altered.

(b) As used in this section, the term "counterfeit" means to manufacture, copy, reproduce, or forge a ticket, token, or paper that purports to be genuine, but is not, because it has been falsely copied, reproduced, forged, manufactured, embossed, encoded, duplicated, or altered.

(c) Any person who violates this section shall be guilty of a Class 2 misdemeanor."

SECTION 9. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Part 2 of Article 68 of Chapter 143 of the General Statutes."

SECTION 10. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker as defined in G.S. 143-659.2, whether or not registered. For the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for resale of the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 11. The North Carolina State Boxing and Entertainment Commission, as renamed and enacted in Section 2 of this act, shall conduct a study to determine the effectiveness of its regulation of ticket brokers and address any issues that relate to the registration of ticket brokers, enforcement of the provisions of Part 2 of Article 68 of Chapter 143 of the General Statutes, enacted in Section 7 of this act, and any other issues the Commission considers necessary. The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and a final report to the 2005 General Assembly.

SECTION 12. The provisions of this act are severable. If any provision of this act is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 13. This act becomes effective December 1, 2003, and applies to offenses committed and tickets sold on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 1072

Committee Substitute Favorable 6/24/03

Short Title: Regulate Ticket Brokers. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA STATE BOXING COMMISSION, TO REGULATE PERSONS SEEKING TO ENGAGE IN BUSINESS AS TICKET BROKERS, TO APPLY THE PRIVILEGE TAX ON AMUSEMENTS TO SERVICES PROVIDED BY TICKET BROKERS, TO AUTHORIZE A STUDY ON THE EFFECTIVENESS OF REGULATING TICKET BROKERS, AND TO MAKE IT UNLAWFUL TO USE ALTERED OR COUNTERFEIT ADMISSION TICKETS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 68 of Chapter 143 of the General Statutes is amended by designating G.S. 143-650 through G.S. 143-658 as:

"Part 1. Boxing.".

SECTION 2. The title of Article 68 of Chapter 143 of the General Statutes reads as rewritten:

"Article 68.

North Carolina State Boxing and Entertainment Commission."

SECTION 3. G.S. 143-651(5) reads as rewritten:

"The following definitions apply in this Article:

...

(5) Commission. – The North Carolina State Boxing and Entertainment Commission.

...."

SECTION 4. G.S. 143-651(23b) reads as rewritten:

"The following definitions apply in this ~~Article:~~Part:

...

(23b) Sanctioned amateur match. – Any boxing or kickboxing match regulated by an amateur sports organization that has been recognized and approved by the North Carolina State Boxing and Entertainment Commission.

...."

SECTION 5. G.S. 143-652(a) reads as rewritten:

"**§ 143-652. State Boxing and Entertainment Commission.**

(a) Creation. – The North Carolina State Boxing and Entertainment Commission is created within the Department of Crime Control and Public Safety to regulate ~~in North Carolina~~ live boxing and kickboxing ~~matches,~~ matches in this State as provided in this Part, whether professional, amateur, sanctioned amateur, or toughman events, in which admission is charged for viewing, or the contestants compete for a purse or prize of value greater than ~~twenty-five dollars ($25.00).~~ twenty-five dollars ($25.00); and to regulate persons who are ticket brokers as provided in Part 2 of this Article. The Commission shall consist of six voting members and two nonvoting advisory members. All the members shall be residents of North Carolina and shall meet requirements for membership under the Professional Boxing Safety Act of 1996. The members shall be appointed as follows:

(1) One voting member shall be appointed by the Governor for an initial term of two years.

(2) One voting member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121.

(3) One voting member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year.

(4) Two voting members shall be appointed by the Secretary of Crime Control and Public Safety. One shall serve for an initial term of three years, and the other shall serve for an initial term of two years.

(4a) One member shall be appointed by the Tribal Council of the Eastern Band of the Cherokee for an initial term of three years.

(5) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

(6) One nonvoting advisory member shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate for an initial term of one year, in accordance with G.S. 120-121, from nominations made by the North Carolina Medical Society, which shall nominate two licensed physicians for the position.

The member appointed pursuant to subdivision (5) of subsection (a) of this section may serve on the Commission only if an agreement exists and remains in effect between the Tribal Council of the Eastern Band of the Cherokee and the Commission authorizing the Commission to regulate professional boxing matches within the Cherokee Indian Reservation as provided by the Professional Boxing Safety Act of 1996.

The two nonvoting advisory members appointed pursuant to subdivisions (6) and (7) of subsection (a) of this section shall advise the Commission on matters concerning the

health and physical condition of boxers and health issues relating to the conduct of exhibitions and boxing matches. They may prepare and submit to the Commission for its consideration and approval any rules that in their judgment will safeguard the physical welfare of all participants engaged in boxing.

Terms for all members of the Commission except for the initial appointments shall be for three years.

The Secretary of Crime Control and Public Safety shall designate which member of the Commission is to serve as chair. A member of the Commission may be removed from office by the Secretary of Crime Control and Public Safety. Each member before entering upon the duties of a member shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of these oaths shall be filed in the Department of the Secretary of Crime Control and Public Safety."

SECTION 6. G.S. 143-655 reads as rewritten:

"**§ 143-655. Fees; State Boxing and Entertainment Commission Revenue Account.**

(a) License Fees. – The Commission shall collect the following license fees:

Announcer	$ 50.00
Contestant	$ 25.00
Judge	$ 50.00
Manager	$100.00
Matchmaker	$200.00
Promoter	$300.00
Referee	$ 50.00
Timekeeper	$ 50.00
Second	$ 25.00.

The annual license renewal fees shall not exceed the initial license fees.

(b) Permit Fees. – The Commission may establish a fee schedule for permits issued under this Article. The fees may vary depending on the seating capacity of the facility to be used to present a match. The fee may not exceed the following amounts:

Seating Capacity	Fee Amount
Less than 2,000	$100.00
2,000 – 5,000	$200.00
Over 5,000	$300.00.

(c) State Boxing and Entertainment Commission Revenue Account. – There is created the State Boxing and Entertainment Commission Revenue Account within the Department of Crime Control and Public Safety. ~~Monies [moneys]~~Moneys collected pursuant to the provisions of this Article shall be credited to the Account and applied to the administration of the Article."

SECTION 7. Article 68 of Chapter 143 of the General Statutes is amended by adding the following new Part to read:

"Part 2. Ticket Brokers.

"**§ 143-659.1. Regulation of ticket brokers by Commission.**

The North Carolina State Boxing and Entertainment Commission shall regulate those persons who are ticket brokers as provided in this Part.

"**§ 143-659.2. Definitions.**

The following definitions apply in this Part:

(1) Commission. – The North Carolina State Boxing and Entertainment Commission.

(2) Promoter. – A person, firm, or corporation assuming the financial responsibilities of an athletic contest or entertainment event, including contracting with the principals, renting the site, and collecting the gate receipts.

(3) Ticket. – A certificate or token showing that a fare or admission fee has been paid and that gives the holder a revocable license to enter an event.

(4) Ticket broker. – A person, firm, or corporation engaging in the business of reselling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted and meets the requirements of registration and bonding pursuant to this Part. For purposes of this definition, a firm or corporation engaging in business as a ticket broker shall meet the requirements of registration and bonding and each individual engaging in business as a ticket broker and employed by a firm or corporation registered as a ticket broker shall meet the requirements of registration and bonding pursuant to this Part.

(5) Ticket sales agent. – A person, firm, or corporation engaging in the business of selling one or more tickets to live athletic contests, concerts, theatre performances, or other entertainments, amusements, or exhibitions where the general public is admitted.

"**§ 143-659.3. Powers and duties of Commission.**

(a) For purposes of this Part, the Commission has the following powers and duties:

(1) To adopt rules necessary to carry out the provisions of this Part.

(2) To administer and enforce the provisions of this Part.

(3) To establish requirements to register under this Part.

(4) To receive and investigate complaints from members of the public.

(5) To conduct investigations to determine whether violations of this Part or grounds for disciplining registrants exist.

(b) The Commission may inspect the premises and records of ticket brokers at any reasonable hour to determine compliance with the provisions of this Part.

(c) The Commission shall keep a record of its proceedings relating to the issuance, renewal, denial, restriction, suspension, and revocation of registrations. This record shall also contain each registrant's name, business and home addresses, registration number, and the date the registration was issued.

(d) All ticket brokers shall perform an audit each year and submit a report of the audit to the Commission within 30 days after the audit is completed. The Commission shall adopt rules establishing guidelines for these audits.

"**§ 143-659.4. Authority to resell tickets; exemptions; restrictions.**

(a) Except as otherwise provided in this section, it shall be unlawful for any person, firm, or corporation to resell or offer for resale any ticket to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket unless that person, firm, or corporation is registered as a ticket broker pursuant to the provisions of this Part.

(b) It shall not be unlawful for any person, firm, or corporation to resell, offer for resale, purchase, or offer to purchase a ticket for a price not to exceed the face value of the ticket, plus tax and a service fee of three dollars ($3.00).

(c) Charitable or nonprofit organizations and their employees or agents and volunteers shall not be subject to the provisions of this Part when offering for sale any tickets of admission in a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

(d) For any single athletic contest or entertainment event that occurs no more than once annually or any series of athletic contests that occur no more than once annually and occur within a time period not exceeding 10 days, a promoter of a contest or event may contractually restrict the resale of a ticket to that contest or event by giving notice of the restriction on the back of the ticket. An owner, operator, lessee, or tenant of the property where the contest or event is to be held or is being held may contractually restrict the resale of the right of occupancy of any specific suite, seat, or seating area by giving notice in writing of the restriction.

"**§ 143-659.5. Requirements for registration; issuance of registration; renewal; moneys credited to State Boxing and Entertainment Commission Revenue Account.**

(a) Before placing any advertisement or making any other representations to prospective buyers in this State, a person, firm, or corporation seeking to engage in business as a ticket broker shall satisfy the following:

(1) Maintain a permanent office or place of business in this State, excluding a post office box, for the purpose of engaging in the business of a ticket broker.

(2) File for registration as a ticket broker with the Commission on a form provided by the Commission. The filing shall contain the following:

a. The name and place of business of the ticket broker.

b. A statement describing the activities of the ticket broker, including that the ticket broker:

1. Engages in the resale of admission tickets on a regular and continuous basis from one or more permanent locations within the State.

2. Maintains as the principal place of business activity at those locations the resale of tickets.

3. Maintains at those locations a listing of the names and addresses of all persons employed by the ticket broker. In the case of a firm or corporation filing for registration as a ticket broker, the firm or corporation shall maintain at its location a listing of the names and addresses of all persons employed by the firm or corporation as registered ticket brokers.

(3) Obtain a bond issued by a surety company authorized to do business in this State in the amount of twenty-five thousand dollars ($25,000) and file a copy of the bond with the Commission. The bond shall be executed in favor of the State for the benefit of any person damaged by the ticket broker's breach of contract or any obligation arising from the breach or by any violation of this Part. Any person claiming against the bond may maintain an action against the ticket broker and the surety. The aggregate liability of the surety shall be for actual damages and shall not exceed the amount of the bond.

(4) Pay a registration fee established by the Commission not to exceed two thousand dollars ($2,000).

(b) Upon finding that a ticket broker has complied with the requirements of subsection (a) of this section, the Commission shall issue to the ticket broker a certificate of registration. The ticket broker shall display the certificate of registration prominently in the ticket broker's place of business.

(c) Ticket brokers shall renew their registration annually pursuant to rules adopted by the Commission and pay a renewal fee established by the Commission not to exceed two thousand dollars ($2,000).

(d) Moneys collected pursuant to the provisions of this Part shall be credited to the State Boxing and Entertainment Commission Revenue Account pursuant to G.S. 143-655(c), and applied to the administration of this Part.

"**§ 143-659.6. Disclosure; refunds.**

(a) A ticket broker shall:

(1) Post at the ticket broker's established place of business the terms of the purchaser's right to cancel the purchase of a ticket from a ticket broker.

(2) Disclose to the purchaser, on the ticket or receipt, the refund policy of the ticket broker if an athletic contest or entertainment event is canceled or not rescheduled.

(3) Disclose to the purchaser, on the ticket or receipt, the difference between the face value of the ticket and the amount that the ticket broker is charging for the ticket.

(4) Sell tickets only at the ticket broker's permanent office or place of business. However, delivery of one or more tickets after the transaction is completed to a place other than the ticket broker's office or place of business shall not violate this subdivision.

(b) Unless otherwise provided in a written agreement between a ticket broker and a purchaser, a ticket broker shall refund any payment received for the purchase of a ticket under this Part if:

(1) The purchaser returns the ticket and requests a cancellation of the sale within 36 hours from the time of purchase of the ticket; and

(2) The return is made more than 72 hours preceding the athletic contest or entertainment event.

(c) A ticket broker shall refund, within 15 days from the date of purchase, any payment received for the purchase of a ticket under this Part if the athletic contest or entertainment event is canceled or not rescheduled.

(d) If a ticket broker guarantees, in writing, the delivery of a ticket or tickets to an athletic contest or entertainment event to a purchaser and fails to complete the delivery, the ticket broker shall, within 15 days from the date of purchase, provide a full refund of any amount paid by the purchaser and pay the purchaser a refund fee of three times the amount paid by the purchaser for each ticket.

"**§ 143-659.7. Prohibited conduct.**

(a) A ticket broker or an employee or agent of a ticket broker is prohibited from engaging in any of the following:

(1) Employing any agent or employee for the purpose of making future purchases of tickets from the owner, operator, lessee, or tenant of the property where an athletic contest or entertainment event is to be held.

(2) Acquiring or reselling in excess of one percent (1%) of the total tickets allocated for any contest or event. For purposes of this subdivision, a firm or corporation engaging in business as a ticket broker is limited to one percent (1%) of the total tickets allocated for any contest or event regardless of the number of ticket brokers employed by the firm or corporation. No more than five percent (5%) of the total tickets allocated for any contest or event shall be purchased by ticket brokers.

(3) Reselling or offering for resale any ticket within 1,500 feet from the venue where an event or contest is to be held or is being held.

(4) Paying any consideration, directly or indirectly, to any promoter, operator, or ticket sales agent to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

(b) A promoter, operator, or ticket sales agent shall not receive any consideration, directly or indirectly, from any person, firm, or corporation to acquire or assist in the acquisition of a ticket, except for the actual face value of the ticket and any service fee authorized by G.S. 14-344(a).

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No person shall practice or engage in business as a ticket broker, or be employed as general manager for a person practicing or engaged in business as a ticket broker, who has been convicted of a felony and has not been pardoned or had the person's civil rights restored.

"**§ 143-659.9. Violations.**

(a) Civil Penalties. – The Commission may issue an order against a registrant or any other person who willfully violates any provision of this Part or rules adopted by the Commission. Orders issued by the Commission may include the following:

(1) An order requiring the registrant or other person to cease and desist from violating any provision of this Part.

(2) An order suspending or revoking the ticket broker's registration.

(3) An order imposing a civil penalty of up to twenty-five thousand dollars ($25,000) for each violation of this Part.

No order under this subsection may be entered without giving the registrant or other person 15 days' prior notice and an opportunity for a contested case hearing conducted pursuant to Article 3 of Chapter 150B of the General Statutes.

Proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Criminal Penalties. – A willful violation of any provision of this Part shall constitute a Class 2 misdemeanor. The Commission may refer any available evidence concerning violations of this Part to the proper district attorney who may, with or without reference, institute the appropriate criminal proceedings.

(c) Injunction. – Whenever it appears to the Commission that a person has engaged or is about to engage in an act or practice constituting a violation of any provision of this Part or any rule adopted by the Commission, the Commission may bring an action in any court of competent jurisdiction to enjoin those acts or practices and to enforce compliance with this Part or any rule or order issued pursuant to this Part."

SECTION 8. Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-16.1. Altering, forging, restoring, or counterfeiting certain tickets.**

(a) It shall be unlawful for a person to:

(1) Alter, restore, or otherwise prepare in any manner any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to use or cause it to be used after it has already been used;

(2) Counterfeit, forge, or alter any ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to sell, utter, put off or pass the same, or cause or procure the same to be sold, uttered, or passed with the intent to defraud any person;

(3) Buy, sell, offer for sale, or possess any counterfeit, forged, or altered ticket, token, or paper designed to entitle the holder to admission to any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud any person, knowing the same to be counterfeit, forged, or altered.

(b) As used in this section, the term "counterfeit" means to manufacture, copy, reproduce, or forge a ticket, token, or paper that purports to be genuine, but is not,

because it has been falsely copied, reproduced, forged, manufactured, embossed, encoded, duplicated, or altered.

(c) Any person who violates this section shall be guilty of a Class 2 misdemeanor."

SECTION 9. G.S. 14-344 reads as rewritten:

"**§ 14-344. Sale of admission tickets in excess of printed price.**

(a) Any person, firm, or corporation shall be allowed to add a reasonable service fee to the face value of the tickets sold, and the person, firm, or corporation which sells or resells such tickets shall not be permitted to recoup funds greater than the combined face value of the ticket, tax, and the authorized service fee. This service fee may not exceed three dollars ($3.00) for each ticket except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree in writing on a reasonable service fee greater than three dollars ($3.00) for the first sale of tickets by the ticket sales agent. This service fee may be a pre-established amount per ticket or a percentage of each ticket. The existence of the service fee shall be made known to the public by printing or writing the amount of the fee on the tickets which are printed for the event. Any person, firm or corporation which sells or offers to sell a ticket for a price greater than the price permitted by this section shall be guilty of a Class 2 misdemeanor.

(b) This section shall not apply to the resale of tickets pursuant to Part 2 of Article 68 of Chapter 143 of the General Statutes."

SECTION 10. G.S. 105-37.1 reads as rewritten:

"**§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments.**

(a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged in any of the following:

(1) Giving, offering, or managing a dance or an athletic contest for which an admission fee in excess of fifty cents (50¢) is charged.

(2) Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.

(3) Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.

(a1) Ticket Brokers. – A privilege tax is imposed on the brokerage fee charged by a ticket broker registered under Part 2 of Article 68 of Chapter 143 of the General Statutes. For the purposes of this section, 'brokerage fee' means the difference between the amount charged by the ticket broker for resale of the ticket and the face value of the ticket.

(b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the gross receipts from the activities described in subsection (a) of this ~~section.~~section and three percent (3%) of the brokerage fees described in subsection (a1) of this section. The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the ~~gross~~ receipts or fees received during the previous month.

(c) Advance Report. – A person who owns or controls a performance, show, or exhibition subject to the tax imposed by this section and who plans to bring the

performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the performance, show, or exhibition. The statement must be filed no less than five days before the first performance, show, or exhibition in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five dollars ($25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars ($25.00) for each day or part of a day the performance, show, or exhibition is given at each location.

Counties may not levy a license tax on a person taxed under subdivision (a)(1) or (a)(2) of this section. Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.

Neither a county nor a city may levy a license tax on a person taxed under subsection (a1) of this section."

SECTION 11. The North Carolina State Boxing and Entertainment Commission, as renamed and enacted in Section 2 of this act, shall conduct a study to determine the effectiveness of its regulation of ticket brokers and address any issues that relate to the registration of ticket brokers, enforcement of the provisions of Part 2 of Article 68 of Chapter 143 of the General Statutes, enacted in Section 7 of this act, and any other issues the Commission considers necessary. The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and a final report to the 2005 General Assembly.

SECTION 12. This act becomes effective December 1, 2003, and applies to offenses committed and tickets sold on or after that date.

HOUSE BILL 1072:
Regulate Ticket Brokers.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Gibson and Miner
Date:	June 25, 2003	**Summary by:**	Martha Walston
Version:	PCS for 2nd Edition H1072-CSSLAxf-38		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 1072 would do the following:

- *Amend Article 68 of Chapter 143 of the General Statutes to rename the North Carolina State Boxing Commission the "North Carolina State Boxing and Entertainment Commission."*
- *Create a new Part 2 in Article 68 regarding the regulation of ticket brokers by the Commission.*
- *Assess a 3% privilege tax on the brokerage fee charged by a ticket broker.*
- *Require ticket brokers to pay an annual registration fee not to exceed $2,000*
- *Direct a Commission study on the effectiveness of regulating ticket brokers.*
- *Create a Class 2 misdemeanor for any person to alter, restore or counterfeit admission tickets or to use or possess an altered, restored, or counterfeit ticket.*

House bill 1072 is in House Finance because of the 3% privilege tax on the brokerage fee and the $2,000 registration fee. The 2nd Edition of the bill was given a favorable report in House J IV.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1072 would amend Article 68 of Chapter 143 of the General Statutes as follows:

SECTIONS 1 THROUGH 6 would rename the North Carolina State Boxing Commission the North Carolina State Boxing **and Entertainment** Commission and make conforming changes to Article 68.

SECTION 7 would add a new Part to Article 68. This new Part would provide for the regulation of ticket brokers by the Commission.

§143-659.2 would define the following terms: commission, promoter, ticket, ticket broker, and ticket sales agent.

§143-659.3 would set out the powers and duties of the Commission when regulating ticket brokers.

§143-659.4 would make it unlawful to resell any ticket of admission to any athletic contest, concert, theatre performance, amusement, exhibition, or other entertainment event where the general public is admitted for a price in excess of the face value of the ticket UNLESS THE TICKET IS SOLD BY A REGISTERED TICKET BROKER OR UNLESS THE SALES PRICE DOES NOT EXCEED THE FACE VALUE OF THE TICKET, PLUS TAX AND A SERVICE CHARGE OF $3.00.

Charitable or non-profit organizations would be exempt from the new Part when the organization is selling tickets to a raffle, auction, or other fund-raising activity for the benefit of the organization's purposes.

A promoter could contractually restrict the resale of a ticket to a single athletic contest or entertainment event that occurs no more than once annually or to any series of athletic contest that occur no more than once annually and occur within a time period not exceeding 10 days. The owner, operator, lessee, or tenant of the property where the contest or event is held could contractually restrict the resale of the right of occupancy.

All ticket brokers must perform an audit quarterly and report the audit to the Commission.

§143-659.5 would set out the following requirements for a person seeking to practice or engage in the business as a ticket broker:

- Maintain a permanent office or place of business in the State.
- File for registration as a ticket broker with Commission.
- Obtain a bond in the amount of $25,000.
- Pay a registration fee not to exceed $2,000. This fee would have to be renewed annually, and the renewal fee may not exceed $2,000.

§143-659.6 would require the ticket broker to satisfy certain disclosure requirements. The ticket broker would have to post at the broker's place of business the purchaser's right to cancel the purchase. The broker would also have to disclose on the ticket the broker's refund policy and the difference between the face value of the ticket and the amount the broker charges for the ticket. A broker could only sell tickets at the broker's office or place of business (though delivery of the tickets could occur elsewhere).

§143-659.7 would prohibit a ticket broker or the broker's employee from engaging in certain conduct.

§143-659.8 would disqualify a person from practicing as a ticket broker if the person has been convicted of a felony and has not been pardoned or had the person's civil rights restored.

§143-659.9 would authorize the Commission to issue an order against a person who willfully violates the Part. The Commission could order the person to cease from violating the Part, suspend or revoke the certificate of registration, or impose a civil penalty of up to $25,000 for each violation. A willful violation of the Part would constitute a Class 2 misdemeanor. Before an order is entered, the registrant would have to be given 15 days' prior notice and an opportunity for a contested case hearing. The Commission could also seek an injunction.

SECTION 8 would create a new Class 2 misdemeanor offense by making it unlawful for any person to alter, restore, or otherwise prepare in any manner an admission ticket with the intent that it be used or to sell, use, or possess an altered, restored, or counterfeit ticket. A Class 2 misdemeanor is punishable by 1-60 days and a maximum $1,000 fine, depending on prior convictions.

SECTION 9 would clarify that the new Part is not applicable to current law set out in G.S. 14-344. This statute authorizes a person, firm, or corporation to add a reasonable service fee to the face value of a ticket sold. This service fee may not exceed $3.00 for each ticket, except that a promoter or operator of the property where the event is to be held and a ticket sales agency may agree on a fee greater than $3.00 for the first sale of tickets by the ticket sales agent

SECTION 10 would impose 3% privilege tax on the brokerage fee charged by a ticket broker whether or not the broker is registered. A brokerage fee is the difference between the amount charged by the ticket broker for the ticket and the face value of the ticket. A county or city may not levy a license tax on a ticket broker who is assessed the 3% privilege tax on the brokerage fee.

SECTION 11 would direct the Commission to conduct a study to determine the effectiveness of its regulation of ticket brokers and to make an interim report to the 2004 Regular Session and a final report to the 2005 General Assembly.

SECTION 12 contains a severability clause.

SECTION 13 would make the act effective December 1, 2003 and apply to offenses committed and tickets sold on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1072 (2nd Edition)

SHORT TITLE: Regulate Ticket Brokers

SPONSOR(S): Representatives Miner, Gibson

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* Revenue Increase – See Assumptions *				
Crime Control	$42,000	$42,000	$42,000	$42,000	$42,000
EXPENDITURES					
Crime Control and Public Safety	$36,734	$34,749	$34,749	$34,749	$34,749

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue; Crime Control and Public Safety; Correction; and Administrative Office of the Court

EFFECTIVE DATE: December 1, 2003.

BILL SUMMARY: The legislation allows and regulates ticket brokering, and applies a 3% privilege tax on the service fees charged by these ticket brokers. Requires that no more than 5 percent of tickets to an event may be sold to ticket brokers. Adds regulatory function to the responsibilities of the State Boxing Commission. Renames the State Boxing Commission as the "North Carolina State Boxing and Entertainment Commission." As a part of the regulation, brokers are required to register with the Secretary of Crime Control and Public Safety and pay an annual $2,000 registration fee. Bonds are also required. Makes it unlawful to resell tickets for a price in excess of the face value unless the ticket is sold by a registered ticket broker. Prohibits the use of altered or counterfeit admission tickets or re-use of admission tickets. Establishes a civil penalty of up to $25,000 and a Class 2 misdemeanor criminal penalty for violation of the act. Requires the Commission to conduct a study to determine the effectiveness of its regulation of ticket brokers and address any related issues. An interim study report is due during the 2004 Regular Session with a final report to be submitted to the 2005 General Assembly.

ASSUMPTIONS AND METHODOLOGY:

Tax Revenue

In 2000-01, the Department of Revenue collected $27.6 million from the 3% privilege tax on amusements. Of this amount, approximately $6.67 million was drawn from amusements that could be impacted by the bill. The legislation does not jeopardize this revenue. Because this is a new tax, it will result in a revenue gain. Neither Tax Research nor Fiscal Research can estimate the exact amount. However, the increase is expected to be relatively small.

Fee Receipts

According to the United States Ticket Brokers Association, there are 788 bonded ticket brokers in the United States, 11 of which are currently in North Carolina. The National Association of Ticket Brokers boasts approximately 170 members nationwide, only one of which is in North Carolina. Information provided by ticket brokers currently operating in North Carolina indicates that seven of the existing brokers would register under the new law with an average of three employees at each broker agency subject to the registration fee. The registration of existing North Carolina brokers would result in a revenue gain of approximately $42,000 (21 x $2,000).

Department of Crime Control and Public Safety Costs

The new regulatory function would be added to the duties of the NC State Boxing Commission within the Department of Crime Control and Public Safety (CCPS). The Commission would handle regulatory activities such as issuing rules, registration of brokers, issuing notices of violation, etc. However, criminal enforcement activities would be the responsibility of local law enforcement agencies.

CCPS staff estimates that the rulemaking process will require 48 hours of work by a staff attorney, whose annual salary is $75,083, at a cost of $1,985 NR, including salary and benefits. This is a one-time cost in the first year to develop and issue rules.

The Department would add a Grade 61 administrative support position which will be responsible for registering ticket brokers, receiving complaints, issuing notices of violations, assessing fines, and referring complaints to local law enforcement agencies. The annual salary cost is estimated using the midpoint salary of $27,391 for a grade 61 position. The cost of benefits includes the state's share for FICA (7.65%), retirement (3.03%), and health insurance ($2,933). The combined annual salary and benefits are estimated to be $33,249 in fiscal year 2003-04. In addition, an annual amount of $1,500 is included for the costs of forms, supplies, equipment, postage, travel, etc.

Department of Correction Costs

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five-year fiscal note horizon and beyond. The number of beds needed will always be equal to the projected number of inmates due to a bill.

Because the proposed bill creates new Class 2 misdemeanor criminal offenses, the Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. Only 12% (3,944) of total Class 2 misdemeanants convicted in 2002 (31,425) received active sentence. The average sentence is 23.4 days, so time served will be in local jails for which the Department of Correction (DOC) will not have to reimburse counties (DOC reimburses counties only for the cost of misdemeanants with sentences over 30 days. Active sentences between 1-90 days are served in local jails; the DOC reimburses counties for active sentences between 30-90 days). Because offenders serving active sentences of 90 days or less are housed in county jails, convictions under this bill would not be expected to have a significant impact on the prison population.

Judicial Branch Costs

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense. AOC does not expect a significant increase in the number of charges for as a result of this bill given the relatively small number of ticket brokers operating in the state.

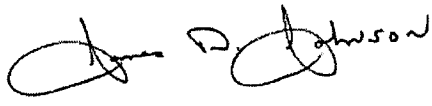
SOURCES OF DATA: Department of Crime Control and Public Safety; NC Sentencing and Policy Advisory Commission; Administrative Office of the Court;

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY:

Denise Thomas and Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: June 25, 2003

Re: H1072
Rep. Hackney

June 26, 2003

Dear Representative:

It is our goal as the operators of the RBC Center to provide the citizens of North Carolina with excellent entertainment value through Carolina Hurricanes games and other events at the arena that their tax dollars helped to build, as it is your goal to best serve their interests. House Bill 1072 is counterproductive to each of our goals. I strongly encourage you to reject this proposed legislation to legalize ticket scalping.

Ticket brokers would not assist the process of supply and demand, they would disrupt it. By purchasing and selling tickets to events that are not sold out, they would inhibit our ability to sell available inventory. As a result, we would be forced to increase ticket prices to events at the RBC Center to compensate for that lost revenue. Not only would lost revenue affect the direct patrons of the building, it could alter our rent payments to the Centennial Authority, which are predicated on gross revenues. Any change in those payments affects the city, county and state which receive a portion of that money from the Centennial Authority.

In addition, any attempts by officials to enforce ticket brokerage violations would be extremely difficult. Some lawmakers have argued that ticket scalping is a common practice anyway, and that consumers would be protected by legalizing the practice. That is faulty logic, because if the law advocates the ability of people to re-sell tickets at a profit, it is going to be that much more difficult to prosecute smaller individual scalpers and companies operating illegally. In addition, legalizing the practice would more than double the number of people purchasing tickets with the intention of re-selling them at a profit. That takes even more of the most desirable tickets out of the hands of direct consumers and places them in the hands of scalpers.

Beyond the direct economic and supply effects of legalizing ticket scalping, there are several operational and consumer protection issues that will arise. By legalizing their practice, ticket scalpers will increase in this area and more of them will be standing on the roads around the RBC Center and on the property. To gain admission to the building, everyday patrons will have to battle through more scalpers than ever before. Also, there will be enticement for ticket brokers to create favoritism or kick-back deals with promoters to ensure that their companies are able to acquire the best seats to events. Perhaps most importantly, citizens may view the ticket brokerages as an extension of the RBC Center and Centennial Authority, blaming those entities when an issue arises concerning any type of dispute with the broker, particularly refunds for cancelled events.

We hope that you will take time to think about the undesirable effects this bill will have on the people of North Carolina. While we do understand the benefit in terms of taxing the ticket brokers, the negative results will far outweigh any money gained from the brokers. This would have a serious effect on our ability to successfully conduct our business and our patrons' ability to take advantage of all that the RBC Center has to offer in a way that is affordable and enjoyable to them. Please reject House Bill 1072 to reject the legalization of an unfair and regressive business practice.

Sincerely,

Jim Rutherford
President and General Manager

FACT SHEET ON HOUSE BILL 1072

REGULATE TICKET BROKERS

Currently, the practice of ticket brokering occurs either in the form of persons who stand outside the entrance to sporting events and attempt to buy and sell tickets at a profit; or companies who sell packages to events which include the ticket and other services which many times are not needed or desired, but which are necessary for the ticket to be made available legally by the ticket broker. A person should have the ability to purchase a ticket at a price which he or she determines is fair for the type of event desired.

1. Did you know that it is illegal in North Carolina to re-sell a ticket to an athletic event for a price that exceeds $3.00 above the face value of the ticket?

Answer: Yes, this is true; and, you would be aiding and abetting the commission of a Class 2 Misdemeanor by merely purchasing such a ticket.

2. Did you know that the practice of re-selling tickets to popular sporting events at prices exceeding the face value goes on almost without interruption and that the amount being paid that exceeds the face value escapes taxation?

Answer: There is currently no tax that applies to that portion of the purchase price of such tickets that exceeds the face value, because most of such sales are illegal.

3. What amount of revenue is being lost by the State of North Carolina from the re-sales of tickets at prices exceeding the face value?

Answer: It is estimated that $300,000 would be generated by a 3% privilege tax on the price of the tickets above the face value (known as the brokerage fee). Two companies in Georgia paid a total of $250,000 last year. In addition, each registered ticket broker would pay an annual registration fee of $2,000.

4. Would the legalization of ticket brokering result in a reduction in the number of tickets that would otherwise be available?

Answer: They key word here is "available". Presently, tickets to many popular events aren't available to the average person at any price. But, House Bill 1072 would limit the number of tickets that could be purchased by a ticket broker and affiliates to 1% of the total tickets allocated, and to no more than 5% in total could be sold to ticket brokers.

5. Under the proposed law, would it be legal to re-sell tickets while standing next to the entrance of the event?

Answer: A registered ticket broker could stand no closer than 1,500 feet from the entrance. Persons could still re-sell tickets at the door for no more than face value plus $3.00. In addition, ticket brokers in North Carolina would be required to maintain an office in the State. Sales would occur over the internet, telephone or counter in advance of the event.

6. What are the penalties for violating the proposed registration laws or the regulatory provisions?

Answer: A civil penalty of up to $25,000or Cease and Desist Order; or conviction of a Class 2 Misdemeanor.

7. Has this ticket broker registration system been tried in any other state?

Answer: Yes, in the State of Georgia (home of the Atlanta Braves, Atlanta Falcons, Atlanta Hawks, The Masters and Atlanta Motor Speedway), a law is in effect which is practically identical to the proposal, and is working quiet well.

8. May the promoter of a contest or event restrict the resale of tickets?

Answer: Yes, for certain annual events by giving notice on the back of the ticket.

9. What are the other requirements for registration?

Answer: A registrant must post a $25,000 bond, pay an annual registration fee of $2,000 and have no serious criminal record.

10. What are some other consumer protection provisions in the bill?

Answer: (a) Exemption for charitable or non-profit organizations; (b) Disclosure of right to cancel, refund policy and markup amount; (c) Certain refund requirements; Quarterly audit requirement.

11. What is wrong with the reselling of a ticket at a price exceeding the face value?

Answer: Nothing. A willing buyer and a willing seller should be able to negotiate the price of a ticket to an entertainment event. For some popular events, unless a person or the corporation for which he works or does business, is a financial contributor of the event sponsor, tickets aren't available at any price.

House Bill 1072 provides for the registration of ticket brokers and a system of regulation through the Secretary of Crime Control and Public Safety. Criminal Enforcement would continue to be handled by local law enforcement. Unless there is some other written agreement, the broker must refund the full price upon request within 36 hours of purchase and at least 72 hours before the time of the event, or when events are cancelled. Failure to fulfill a guaranteed delivery time would result in a full refund and refund fee of three times the amount paid for the ticket.

This is a pro-consumer bill. Under House Bill 1072, the consumer will be protected while being afforded the opportunity to purchase tickets where they might not otherwise be available. We would appreciate your support for this legislation.

Southeast Ticketing Association
Represented by: Chip Killian and George Teague of Moore & Van Allen; and Zeb Alley and Ken Melton of Alley Associates

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 1281
PROPOSED COMMITTEE SUBSTITUTE H1281-CSLCx-87 [v.1]

6/25/2003 2:33:57 PM

Short Title: New Prisons/Structured Sentencing. (Public)

Sponsors:

Referred to:

May 14, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE FROM THREE TO FIVE THE NUMBER OF PRISONS THE STATE IS AUTHORIZED TO FINANCE BY LEASE-PURCHASE AND TO MAKE THE FOLLOWING CHANGES TO THE STRUCTURED SENTENCING LAWS AS RECOMMENDED BY THE NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION: (1) MAKE THE INCREASE IN SENTENCE LENGTHS BETWEEN PRIOR RECORD LEVELS MORE PROPORTIONATE USING A SET PERCENTAGE INCREMENT, (2) REALLOCATE THREE MONTHS FROM THE MINIMUM SENTENCE OF CLASSES B1 THROUGH E TO THE MAXIMUM SENTENCE AND INCREASE THE PERIOD OF POST-RELEASE SUPERVISION FROM NINE MONTHS TO TWELVE MONTHS, AND (3) RESTRUCTURE THE PRIOR RECORD LEVEL POINT RANGES IN ORDER TO EXPAND THE POINTS IN PRIOR RECORD LEVEL I AND TO EVEN OUT THE REMAINING RANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 148-37.2 reads as rewritten:

"**§ 148-37.2. Lease-purchase of ~~three~~ prison facilities.**

(a) Authorization. – The Secretary of Correction may, as provided in this section, enter contracts with private for-profit or nonprofit firms for the construction of ~~three~~ close security correctional facilities ~~totaling up to 3,000 cells~~ described in subsection (a1) of this section to be operated by the Department pursuant to a lease that contains a schedule for purchase of the facilities over a period of up to 20 years.

The State, with the prior approval of the Council of State and the State Treasurer as provided in this section, is authorized to execute and deliver one or more lease-purchase agreements with a special nonprofit corporation providing for the lease-purchase by the State of the Projects from the special nonprofit corporation in connection with and under an arrangement whereby certificates of participation are sold and delivered by the special nonprofit corporation in order to provide funds to pay the purchase price of the

Projects. The Projects will be constructed by selected contractors designated to the special nonprofit corporation by the State Property Office of the Department of Administration in consultation with the Department of Correction. ~~The selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.~~ The Projects will be sold to the special nonprofit corporation, with the purchase price paid by the special nonprofit corporation from the proceeds of the certificates of participation. The State may lease the real property upon which the Projects will be located, if owned by the State, to the selected contractors constructing the Projects and to the special nonprofit corporation for nominal consideration.

(a1) Facilities Authorized. – The following facilities are authorized under this section:

(1) 2001 Facilities. – Three close security correctional facilities totaling up to 3,000 cells.

(2) 2003 Facilities. – Two close security correctional facilities substantially identical to the facilities described in subdivision (1) of this subsection and totaling up to 2,000 cells. If the State and the special nonprofit corporation are able to negotiate a contract for one or both of these facilities with the construction contractor that constructed the facilities described in subdivision (1) of this subsection on terms that are reasonable and desirable to the State as determined by the State Treasurer, the Secretary of Administration, and the Council of State, then a request for proposals under subsection (c) of this section is not required. The remaining provisions of this section continue to apply.

(b) Definitions. – The following definitions apply in this section:

(1) Certificates of participation. – Certificates or other instruments delivered by a special nonprofit corporation as provided in this section evidencing the assignment of proportionate and undivided interests in the rights to receive lease payments to be made by the State pursuant to a lease-purchase agreement.

(2) Construction contract agreement. – ~~A~~ Either of the following:

a. A contract between the Department of Correction and the selected contractors for construction of the Projects, under which the selected contractors will be responsible for arranging for and obtaining their own construction financing, which will consist solely of private funds.

b. A contract between the special nonprofit corporation and the selected contractors for construction of the Projects, but only if the contract has provisions sufficient to carry out the requirements of the last paragraph of subsection (c) of this section. The Secretary of Correction shall determine the sufficiency of the contract and shall approve the contract only if it is sufficient.

(3) Lease-purchase agreement. – A lease-purchase agreement entered into pursuant to this section, under which the State will lease the Projects from the special nonprofit corporation, with option to purchase.

(4) Projects. – ~~Three close security correctional facilities providing up to 3,000 cells~~ Facilities described in subsection (a1) of this section to be constructed by selected contractors, sold to the special nonprofit corporation, and leased to the State pursuant to this section.

(5) Purchase agreement. – A contract under which the special nonprofit corporation will purchase the Projects from the selected contractors.

(6) Selected contractors. – One or more private firms selected to construct the Projects.

(7) Special nonprofit corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes and designated by the State Treasurer for entering into the transactions contemplated by this section.

(c) Request for Proposals. – The Secretary of Correction may issue a request for proposals to private firms for the private firms to construct the Projects in accordance with plans and specifications developed by the Department of Correction and reviewed by the Office of State Construction. ~~The request for proposals shall provide for the option of proposing on one or more of the facilities, and shall require each proposer to provide a separate proposal on a single facility of up to 1,000 cells. It is the intent of the General Assembly that the State may decide to accept proposals for only one, for two, or for all three facilities.~~

The Secretary of Correction shall make recommendations to the State Property Office of the Department of Administration on the final award decision. The Department of Correction and the State Property Office of the Department of Administration shall consult with the Joint Legislative Commission on Governmental Operations before making the final award decision. The Department of Administration shall make the final award decision, which shall then be subject to the approval of the Council of State. If the contract for construction of the 2003 facilities is entered into with the construction contractor who constructed the 2001 facilities as provided by subdivision (a1)(2) of this section, the general terms and conditions of the construction contract for the 2003 facilities shall be substantially similar to the terms and conditions of the construction contracts for the construction of the 2001 facilities, including, without limitation, terms and conditions regarding the activities, performance, and construction standards required of the contractor, the arrangements for selection and retention of subcontractors by the contractor, and the responsibility of the contractor for the performance by the selected subcontractors. The construction contract for the 2003 facilities may, however, contain any changes from the construction contracts for the 2001 facilities that may be necessary or desirable to reflect the financing arrangements for the 2003 facilities, including provisions for the periodic payment of construction costs based upon construction progress.

The Department of Correction will enter into a construction contract agreement with the selected contractors for the construction of the ~~Projects.~~Projects or, alternatively, the

construction contract may be entered into with the selected contractor by the special nonprofit corporation, with the approval of the Department of Correction. The special nonprofit corporation will enter into a purchase agreement with the selected contractors for the sale of the ~~constructed~~ Projects to the special nonprofit corporation. With respect to the 2003 facilities, the purchase agreement may provide for the periodic payment by the special nonprofit corporation to the selected contractor of portions of the purchase price during the construction of the 2003 facilities on the basis of construction progress, rather than a payment of the entire purchase price upon delivery of the 2003 facilities. The Department of Correction shall furnish plans and specifications for review by the State Construction Office. Construction contract agreements entered into under this section shall provide that the Department of Correction and the Office of State Construction shall inspect and review each facility during construction to ensure and determine jointly that the facility is suitable for use as a correctional facility and for future acquisition by the State. The Department of Correction may contract with a design consortium for construction administration services.

(d) Approval of Lease-Purchase Agreement. – A lease-purchase agreement may not be entered into pursuant to this section unless the following conditions are met before the lease-purchase agreement is entered into: (i) the Council of State, by resolution, approves the execution and delivery of the lease-purchase agreement, and (ii) the State Treasurer approves the lease-purchase agreement and all other documentation related to it, including any leasehold deed of trust or trust agreement in connection with it. The resolution of the Council of State may include any matters the Council of State determines. In determining whether to approve the lease-purchase agreement, the State Treasurer may consider any factors as the State Treasurer considers relevant in order to find and determine that all of the following conditions are met:

(1) The principal amount to be financed under the lease-purchase agreement is adequate and not excessive for the purpose of paying the cost of the Projects.

(2) The increase, if any, in State revenues necessary to pay the sums to become due under the lease-purchase agreement is not excessive.

(3) The lease-purchase agreement can be entered into on terms desirable to the State.

(4) The sale of certificates of participation will not have an adverse effect on any scheduled or proposed sale of obligations of the State or any State agency or of any unit of local government in the State.

(e) Terms and Conditions. – The following provisions apply to a lease-purchase agreement entered into under this section:

(1) In order to secure the performance by the State of its obligations under the lease-purchase agreement, the lease-purchase agreement may require the eviction of the State from the occupancy of one or more of the Projects in the event that the State breaches its obligations and agreements under the lease-purchase agreement.

(2) No deficiency judgment may be rendered against the State or any agency, department, or commission of the State in any action for

breach of any obligation contained in the lease-purchase agreement or any other related documentation, and the taxing power of the State or any agency, department, or commission of the State is not and may not be pledged to secure any moneys due under the lease-purchase agreement.

(3) The lease-purchase agreement shall not contain a nonsubstitution clause that restricts the right of the State to replace or provide a substitute for the Projects.

(4) The lease-purchase agreement may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the lease-purchase agreement.

(5) The lease-purchase agreement may contain any provisions for protecting and enforcing the rights and remedies of the special nonprofit corporation that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the State with respect to the Projects, which may include provisions relating to insuring, operating, and maintaining the Projects and the custody, safeguarding, investment, and application of moneys.

(6) The lease-purchase agreement may designate the lease payments to be paid by the State under it to be "principal components" and "interest components." Any interest component of the lease payments may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(7) The lease-purchase agreement may be entered into by the State, and certificates of participation may be delivered by the special nonprofit corporation, at any time, including at times prior to the delivery of the completed Projects to the special nonprofit ~~corporation for purchase,~~corporation, and the related delivery of occupancy of the Projects to the State by the special nonprofit corporation. The lease-purchase agreement may require the State to make prepayments of lease payments at a time prior to when the State accepts occupancy of the Projects. The lease-purchase agreement and related financing arrangements may provide for the funding of interest during construction from the proceeds of certificates of participation. The costs incurred in connection with the preparation of the lease-purchase agreement and related documents and the delivery of the certificates of participation may be paid from the proceeds of the certificates of participation.

(8) The State is authorized to agree in the lease-purchase agreement to indemnify the special corporation and its directors and agents for any liabilities that arise to the special corporation or directors or agents on account of their participation in the activities contemplated by this act.

(f) Faith and Credit Not Pledged. – The payment of amounts payable by the State under the lease-purchase agreement and other related documentation during any fiscal biennium or fiscal year is limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this section and no lease-purchase agreement creates any pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

(g) Certificates of Participation. – The State may cooperate as necessary to effectuate the delivery by the special nonprofit corporation of tax-exempt certificates of participation, including participating in the preparation of offering documents, the filing of required tax forms and agreeing to comply with restrictions on the use of the Projects as required in order for the interest component of the lease payments to be tax-exempt. Disclosures and compliance with other federal law requirements by the special nonprofit corporation shall be under the direction of the State Treasurer. Certificates of participation may be sold at the direction of the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this section. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special nonprofit corporation.

Certificates of participation may be delivered pursuant to a trust agreement with a corporate trustee approved by the State Treasurer. The corporate trustee may be any trust company or bank having the powers of a trust company within or without the State. A trust agreement may (i) provide for security and pledges and assignments with respect to the security as may be permitted under this section and further provide for the enforcement of any lien or security interest created pursuant to this section, and (ii) contain any provisions for protecting and enforcing the rights and remedies of the owners of any certificates of participation that are reasonable and proper and not in violation of law as determined by the State Treasurer. The State Treasurer shall designate the professionals providing legal or financial services relating to the lease-purchase agreement and the delivery of certificates of participation, including the provider of any credit facility and the underwriter or placement agent for any certificates of participation.

(h) Tax Exemption. – The lease purchase agreement and any certificates of participation relating to it shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, or gift taxes, income taxes on the gain from the transfer of the lease-purchase agreement and certificates of participation, and franchise taxes. The interest component of the lease payments made by the State under the lease-purchase agreement, including the interest payable with respect to any certificates of participation, is not subject to taxation as income.

(i) Licensing Requirements. – The private for-profit or nonprofit firms authorized to respond to requests for ~~proposal~~ proposals authorized by this section, or entitled to be a ~~Selected Contractor~~ selected contractor pursuant to ~~any response to such~~

~~proposal,~~ this section, need not be a licensed general contractor within the meaning of G.S. 87-1 so that providing a response to ~~such request for proposal~~ the request or entering a ~~Construction Contract Agreement or Purchase Agreement shall not be deemed~~ construction contract agreement or purchase agreement is not general contracting within the meaning of G.S. ~~87-1; provided that this~~87-1. This subsection ~~shall not be deemed to~~ does not remove the actual construction of any prison facility from the provisions of G.S. 87-1.

(j) Minority Business Participation. – G.S. 143-128.2 applies to the Projects authorized in this section."

SECTION 1.(b) The two 1000-cell close security prototypical prisons to be constructed in Greene County and Bertie County shall be constructed in accordance with the North Carolina State Building Code, 1996 Edition through 1999 revisions, if construction starts before January 1, 2004. This subsection applies only if the construction documents have been reviewed and approved by the Department of Insurance, the State Construction Office, and the Department of Correction.

SECTION 2. G.S. 15A-1340.17(c) through (e1) read as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	0 Pts	1-4 Pts	5-8 Pts	9-14 Pts	15-18 Pts	19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	~~240-300~~	~~288-360~~	~~336-420~~	~~384-480~~	~~Life Imprisonment Without Parole~~		~~Aggravated~~
~~B1~~	~~192-240~~	~~230-288~~	~~269-336~~	~~307-384~~	~~346-433~~	~~384-480~~	~~PRESUMPTIVE~~
	~~144-192~~	~~173-230~~	~~202-269~~	~~230-307~~	~~260-346~~	~~288-384~~	~~Mitigated~~
	237-297	273-342	314-394	362-453	Life Imprisonment Without Parole		Aggravated
B1	189-237	218-273	251-314	289-362	333-417	383-480	PRESUMPTIVE
	141-189	163-218	187-251	216-289	249-333	287-383	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~157-196~~	~~189-237~~	~~220-276~~	~~251-313~~	~~282-353~~	~~313-392~~	~~Aggravated~~
~~B2~~	~~125-157~~	~~151-189~~	~~176-220~~	~~201-251~~	~~225-282~~	~~251-313~~	~~PRESUMPTIVE~~
	~~94-125~~	~~114-151~~	~~132-176~~	~~151-201~~	~~169-225~~	~~188-251~~	~~Mitigated~~
	154-193	177-222	204-255	235-294	270-339	311-390	Aggravated
B2	122-154	141-177	162-204	187-235	216-270	248-311	PRESUMPTIVE
	91-122	105-141	121-162	140-187	161-216	186-248	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~73-92~~	~~100-125~~	~~116-145~~	~~133-167~~	~~151-188~~	~~168-210~~	~~Aggravated~~
~~C~~	~~58-73~~	~~80-100~~	~~93-116~~	~~107-133~~	~~121-151~~	~~135-168~~	~~PRESUMPTIVE~~
	~~44-58~~	~~60-80~~	~~70-93~~	~~80-107~~	~~90-121~~	~~101-135~~	~~Mitigated~~
	70-89	80-101	93-117	107-135	124-156	143-179	Aggravated
C	55-70	64-80	74-93	85-107	98-124	114-143	PRESUMPTIVE
	41-55	47-64	55-74	63-85	73-98	84-114	Mitigated
	A	A	A	A	A	A	DISPOSITION
	~~64-80~~	~~77-95~~	~~103-129~~	~~117-146~~	~~133-167~~	~~146-183~~	~~Aggravated~~
~~D~~	~~51-64~~	~~61-77~~	~~82-103~~	~~94-117~~	~~107-133~~	~~117-146~~	~~PRESUMPTIVE~~
	~~38-51~~	~~46-61~~	~~61-82~~	~~71-94~~	~~80-107~~	~~88-117~~	~~Mitigated~~
	61-77	70-89	81-102	94-118	108-136	125-157	Aggravated
D	48-61	56-70	64-81	75-94	86-108	100-125	PRESUMPTIVE
	35-48	41-56	48-64	55-75	64-86	74-100	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	~~25-31~~	~~29-36~~	~~34-42~~	~~46-58~~	~~53-66~~	~~59-74~~	~~Aggravated~~
~~E~~	~~20-25~~	~~23-29~~	~~27-34~~	~~37-46~~	~~42-53~~	~~47-59~~	~~PRESUMPTIVE~~
	~~15-20~~	~~17-23~~	~~20-27~~	~~28-37~~	~~32-42~~	~~35-47~~	~~Mitigated~~
	22-28	26-33	30-38	35-45	41-52	47-60	Aggravated
E	17-22	20-26	23-30	27-35	32-41	37-47	PRESUMPTIVE
	12-17	14-20	17-23	20-27	23-32	27-37	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION

	~~16-20~~	~~19-24~~	~~21-26~~	~~25-31~~	~~34-42~~	~~39-49~~	~~Aggravated~~
~~F~~	~~13-16~~	~~15-19~~	~~17-21~~	~~20-25~~	~~27-34~~	~~31-39~~	~~PRESUMPTIVE~~
	~~10-13~~	~~11-15~~	~~13-17~~	~~15-20~~	~~20-27~~	~~23-31~~	~~Mitigated~~
	16-20	19-23	21-27	25-31	28-36	33-41	Aggravated
F	13-16	15-19	17-21	20-25	23-28	26-33	PRESUMPTIVE
	10-13	11-15	13-17	15-20	17-23	20-26	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	~~13-16~~	~~15-19~~	~~16-20~~	~~20-25~~	~~21-26~~	~~29-36~~	~~Aggravated~~
~~G~~	~~10-13~~	~~12-15~~	~~13-16~~	~~16-20~~	~~17-21~~	~~23-29~~	~~PRESUMPTIVE~~
	~~8-10~~	~~9-12~~	~~10-13~~	~~12-16~~	~~13-17~~	~~17-23~~	~~Mitigated~~
	13-16	14-18	17-21	19-24	22-27	25-31	Aggravated
G	10-13	12-14	13-17	15-19	17-22	20-25	PRESUMPTIVE
	8-10	9-12	10-13	11-15	13-17	15-20	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

(d) Maximum Sentences Specified for Class F through Class I Felonies. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class F through Class I felonies. The first figure in each cell in the table is the minimum term and the second is the maximum term.

3-4	4-5	5-6	6-8	7-9	8-10	9-11	10-12
11-14	12-15	13-16	14-17	15-18	16-20	17-21	18-22
19-23	20-24	21-26	22-27	23-28	24-29	25-30	26-32
27-33	28-34	29-35	30-36	31-38	32-39	33-40	34-41
35-42	36-44	37-45	38-46	39-47	40-48	41-50	~~42-51~~
43-52	44-53	45-54	46-56	47-57	48-58	49-59	

(e) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms up to 339 Months. – Unless provided otherwise in a statute establishing a punishment for a specific crime, for each minimum term of imprisonment in the chart in subsection (c) of this section, expressed in months, the corresponding maximum term of imprisonment, also expressed in months, is as specified in the table below for Class B1 through Class E felonies. The first figure in each cell of the table is the minimum term and the second is the maximum term.

~~15-27~~	~~16-29~~	~~17-30~~	~~18-31~~	~~19-32~~	~~20-33~~	~~21-35~~	~~22-36~~
~~23-37~~	~~24-38~~	~~25-39~~	~~26-41~~	~~27-42~~	~~28-43~~	~~29-44~~	~~30-45~~
~~31-47~~	~~32-48~~	~~33-49~~	~~34-50~~	~~35-51~~	~~36-53~~	~~37-54~~	~~38-55~~
~~39-56~~	~~40-57~~	~~41-59~~	~~42-60~~	~~43-61~~	~~44-62~~	~~45-63~~	~~46-65~~
~~47-66~~	~~48-67~~	~~49-68~~	~~50-69~~	~~51-71~~	~~52-72~~	~~53-73~~	~~54-74~~
~~55-75~~	~~56-77~~	~~57-78~~	~~58-79~~	~~59-80~~	~~60-81~~	~~61-83~~	~~62-84~~
~~63-85~~	~~64-86~~	~~65-87~~	~~66-89~~	~~67-90~~	~~68-91~~	~~69-92~~	~~70-93~~
~~71-95~~	~~72-96~~	~~73-97~~	~~74-98~~	~~75-99~~	~~76-101~~	~~77-102~~	~~78-103~~
~~79-104~~	~~80-105~~	~~81-107~~	~~82-108~~	~~83-109~~	~~84-110~~	~~85-111~~	~~86-113~~
~~87-114~~	~~88-115~~	~~89-116~~	~~90-117~~	~~91-119~~	~~92-120~~	~~93-121~~	~~94-122~~
~~95-123~~	~~96-125~~	~~97-126~~	~~98-127~~	~~99-128~~	~~100-129~~	~~101-131~~	~~102-132~~
~~103-133~~	~~104-134~~	~~105-135~~	~~106-137~~	~~107-138~~	~~108-139~~	~~109-140~~	~~110-141~~
~~111-143~~	~~112-144~~	~~113-145~~	~~114-146~~	~~115-147~~	~~116-149~~	~~117-150~~	~~118-151~~
~~119-152~~	~~120-153~~	~~121-155~~	~~122-156~~	~~123-157~~	~~124-158~~	~~125-159~~	~~126-161~~
~~127-162~~	~~128-163~~	~~129-164~~	~~130-165~~	~~131-167~~	~~132-168~~	~~133-169~~	~~134-170~~
~~135-171~~	~~136-173~~	~~137-174~~	~~138-175~~	~~139-176~~	~~140-177~~	~~141-179~~	~~142-180~~
~~143-181~~	~~144-182~~	~~145-183~~	~~146-185~~	~~147-186~~	~~148-187~~	~~149-188~~	~~150-189~~
~~151-191~~	~~152-192~~	~~153-193~~	~~154-194~~	~~155-195~~	~~156-197~~	~~157-198~~	~~158-199~~
~~159-200~~	~~160-201~~	~~161-203~~	~~162-204~~	~~163-205~~	~~164-206~~	~~165-207~~	~~166-209~~
~~167-210~~	~~168-211~~	~~169-212~~	~~170-213~~	~~171-215~~	~~172-216~~	~~173-217~~	~~174-218~~
~~175-219~~	~~176-221~~	~~177-222~~	~~178-223~~	~~179-224~~	~~180-225~~	~~181-227~~	~~182-228~~
~~183-229~~	~~184-230~~	~~185-231~~	~~186-233~~	~~187-234~~	~~188-235~~	~~189-236~~	~~190-237~~
~~191-239~~	~~192-240~~	~~193-241~~	~~194-242~~	~~195-243~~	~~196-245~~	~~197-246~~	~~198-247~~
~~199-248~~	~~200-249~~	~~201-251~~	~~202-252~~	~~203-253~~	~~204-254~~	~~205-255~~	~~206-257~~
~~207-258~~	~~208-259~~	~~209-260~~	~~210-261~~	~~211-263~~	~~212-264~~	~~213-265~~	~~214-266~~
~~215-267~~	~~216-269~~	~~217-270~~	~~218-271~~	~~219-272~~	~~220-273~~	~~221-275~~	~~222-276~~
~~223-277~~	~~224-278~~	~~225-279~~	~~226-281~~	~~227-282~~	~~228-283~~	~~229-284~~	~~230-285~~
~~231-287~~	~~232-288~~	~~233-289~~	~~234-290~~	~~235-291~~	~~236-293~~	~~237-294~~	~~238-295~~
~~239-296~~	~~240-297~~	~~241-299~~	~~242-300~~	~~243-301~~	~~244-302~~	~~245-303~~	~~246-305~~
~~247-306~~	~~248-307~~	~~249-308~~	~~250-309~~	~~251-311~~	~~252-312~~	~~253-313~~	~~254-314~~
~~255-315~~	~~256-317~~	~~257-318~~	~~258-319~~	~~259-320~~	~~260-321~~	~~261-323~~	~~262-324~~
~~263-325~~	~~264-326~~	~~265-327~~	~~266-329~~	~~267-330~~	~~268-331~~	~~269-332~~	~~270-333~~
~~271-335~~	~~272-336~~	~~273-337~~	~~274-338~~	~~275-339~~	~~276-341~~	~~277-342~~	~~278-343~~
~~279-344~~	~~280-345~~	~~281-347~~	~~282-348~~	~~283-349~~	~~284-350~~	~~285-351~~	~~286-353~~
~~287-354~~	~~288-355~~	~~289-356~~	~~290-357~~	~~291-359~~	~~292-360~~	~~293-361~~	~~294-362~~
~~295-363~~	~~296-365~~	~~297-366~~	~~298-367~~	~~299-368~~	~~300-369~~	~~301-371~~	~~302-372~~
~~303-373~~	~~304-374~~	~~305-375~~	~~306-377~~	~~307-378~~	~~308-379~~	~~309-380~~	~~310-381~~
~~311-383~~	~~312-384~~	~~313-385~~	~~314-386~~	~~315-387~~	~~316-389~~	~~317-390~~	~~318-391~~
~~319-392~~	~~320-393~~	~~321-395~~	~~322-396~~	~~323-397~~	~~324-398~~	~~325-399~~	~~326-401~~
~~327-402~~	~~328-403~~	~~329-404~~	~~330-405~~	~~331-407~~	~~332-408~~	~~333-409~~	~~334-410~~
~~335-411~~	~~336-413~~	~~337-414~~	~~338-415~~	~~339-416~~			
12-27	13-28	14-29	15-30	16-32	17-33	18-34	19-35
20-36	21-38	22-39	23-40	24-41	25-42	26-44	27-45
28-46	29-47	30-48	31-50	32-51	33-52	34-53	35-54

36-56	37-57	38-58	39-59	40-60	41-62	42-63	43-64
44-65	45-66	46-68	47-69	48-70	49-71	50-72	51-74
52-75	53-76	54-77	55-78	56-80	57-81	58-82	59-83
60-84	61-86	62-87	63-88	64-89	65-90	66-92	67-93
68-94	69-95	70-96	71-98	72-99	73-100	74-101	75-102
76-104	77-105	78-106	79-107	80-108	81-110	82-111	83-112
84-113	85-114	86-116	87-117	88-118	89-119	90-120	91-122
92-123	93-124	94-125	95-126	96-128	97-129	98-130	99-131
100-132	101-134	102-135	103-136	104-137	105-138	106-140	107-141
108-142	109-143	110-144	111-146	112-147	113-148	114-149	115-150
116-152	117-153	118-154	119-155	120-156	121-158	122-159	123-160
124-161	125-162	126-164	127-165	128-166	129-167	130-168	131-170
132-171	133-172	134-173	135-173.	136-176	137-177	138-178	139-179
140-180	141-182	142-183	143-184	144-185	145-186	146-188	147-189
148-190	149-191	150-192	151-194	152-195	153-196	154-197	155-198
156-200	157-201	158-202	159-203	160-204	161-206	162-207	163-208
164-209	165-210	166-212	167-213	168-214	169-215	170-216	171-218
172-219	173-220	174-221	175-222	176-224	177-225	178-226	179-227
180-228	181-230	182-231	183-232	184-233	185-234	186-236	187-237
188-238	189-239	190-240	191-242	192-243	193-244	194-245	195-246
196-248	197-249	198-250	199-251	200-252	201-254	202-255	203-256
204-257	205-258	206-260	207-261	208-262	209-263	210-264	211-266
212-267	213-268	214-269	215-270	216-272	217-273	218-274	219-275
220-276	221-278	222-279	223-280	224-281	225-282	226-284	227-285
228-286	229-287	230-288	231-290	232-291	233-292	234-293	235-294
236-296	237-297	238-298	239-299	240-300	241-302	242-303	243-304
244-305	245-306	246-308	247-309	248-310	249-311	250-312	251-314
252-315	253-316	254-317	255-318	256-320	257-321	258-322	259-323
260-324	261-326	262-327	263-328	264-329	265-330	266-332	267-333
268-334	269-335	270-336	271-338	272-339	273-340	274-341	275-342
276-344	277-345	278-346	279-347	280-348	281-350	282-351	283-352
284-353	285-354	286-356	287-357	288-358	289-359	290-360	291-362
292-363	293-364	294-365	295-366	296-368	297-369	298-370	299-371
300-372	301-374	302-375	303-376	304-377	305-378	306-380	307-381
308-382	309-383	310-384	311-386	312-387	313-388	314-389	315-390
316-392	317-393	318-394	319-395	320-396	321-398	322-399	323-400
324-401	325-402	326-404	327-405	328-406	329-407	330-408	331-410
332-411	333-412	334-413	335-414	336-416	337-417	338-418	339-419

(e1) Maximum Sentences Specified for Class B1 through Class E Felonies for Minimum Terms of 340 Months or More. – Unless provided otherwise in a statute establishing a punishment for a specific crime, when the minimum sentence is 340 months or more, the corresponding maximum term of imprisonment shall be equal to the sum of the minimum term of imprisonment and twenty percent (20%) of the

minimum term of imprisonment, rounded to the next highest month, plus ~~nine~~ twelve additional months."

SECTION 3. G.S. 15A-1368(a)(5) reads as rewritten:

"(5) Maximum imposed term. – The maximum term of imprisonment imposed on an individual prisoner by a court judgment, as described in G.S. 15A-1340.13(c). When a prisoner is serving consecutive prison terms, the maximum imposed term, for purposes of this Article, is the sum of all maximum terms imposed in the court judgment or judgments, less ~~nine~~ 12 months for each of the second and subsequent sentences imposed for Class B through Class E felonies."

SECTION 4. G.S. 15A-1368.2 reads as rewritten:

"**§ 15A-1368.2. Post-release supervision eligibility and procedure.**

(a) A prisoner to whom this Article applies shall be released from prison for post-release supervision on the date equivalent to his maximum imposed prison term less ~~nine~~ 12 months, less any earned time awarded by the Department of Correction or the custodian of a local confinement facility under G.S. 15A-1340.13(d). If a prisoner has not been awarded any earned time, the prisoner shall be released for post-release supervision on the date equivalent to his maximum prison term less ~~nine~~ 12 months.

(b) A prisoner shall not refuse post-release supervision.

(c) A supervisee's period of post-release supervision shall be for a period of ~~nine~~ 12 months, unless the offense is an offense for which registration is required pursuant to Article 27A of Chapter 14 of the General Statutes. For offenses subject to the registration requirement of Article 27A of Chapter 14 of the General Statutes, the period of post-release supervision is five years. The conditions of post-release supervision are as authorized in G.S. 15A-1368.5.

(d) A supervisee's period of post-release supervision may be reduced while the supervisee is under supervision by earned time awarded by the Department of Correction, pursuant to rules adopted in accordance with law. A supervisee is eligible to receive earned time credit toward the period of supervision for compliance with reintegrative conditions described in G.S. 15A-1368.5.

(e) Repealed by Session Laws 1997-237, s. 7.

(f) When a supervisee completes the period of post-release supervision, the sentence or sentences from which the supervisee was placed on post-release supervision are terminated."

SECTION 5. G.S. 15A-1340.14(c) reads as rewritten:

"(c) Prior Record Levels for Felony Sentencing. – The prior record levels for felony sentencing are:

(1) Level I – ~~0 points.~~Not more than 2 points.

(2) Level II – At least ~~1,~~3, but not more than ~~4 points.~~ 6 points.

(3) Level III – At least ~~5,~~7, but not more than ~~8~~10 points.

(4) Level IV – At least ~~9,~~11, but not more than 14 points.

(5) Level V – At least 15, but not more than 18 points.

(6) Level VI – At least 19 points.

In determining the prior record level, the classification of a prior offense is the classification assigned to that offense at the time the offense for which the offender is being sentenced is committed."

SECTION 6. G.S. 15A-1340.17(c) reads as rewritten:

"(c) Punishments for Each Class of Offense and Prior Record Level; Punishment Chart Described. – The authorized punishment for each class of offense and prior record level is as specified in the chart below. Prior record levels are indicated by the Roman numerals placed horizontally on the top of the chart. Classes of offense are indicated by the letters placed vertically on the left side of the chart. Each cell on the chart contains the following components:

(1) A sentence disposition or dispositions: "C" indicates that a community punishment is authorized; "I" indicates that an intermediate punishment is authorized; "A" indicates that an active punishment is authorized; and "Life Imprisonment Without Parole" indicates that the defendant shall be imprisoned for the remainder of the prisoner's natural life.

(2) A presumptive range of minimum durations, if the sentence of imprisonment is neither aggravated or mitigated; any minimum term of imprisonment in that range is permitted unless the court finds pursuant to G.S. 15A-1340.16 that an aggravated or mitigated sentence is appropriate. The presumptive range is the middle of the three ranges in the cell.

(3) A mitigated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that a mitigated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the mitigated range is permitted. The mitigated range is the lower of the three ranges in the cell.

(4) An aggravated range of minimum durations if the court finds pursuant to G.S. 15A-1340.16 that an aggravated sentence of imprisonment is justified; in such a case, any minimum term of imprisonment in the aggravated range is permitted. The aggravated range is the higher of the three ranges in the cell.

PRIOR RECORD LEVEL

	I	II	III	IV	V	VI	
	~~0 Pts~~	~~1-4 Pts~~	~~5-8 Pts~~	~~9-14 Pts~~	15-18 Pts	19+ Pts	
	0-2 Pts	3-6 Pts	7-10 Pts	11-14 Pts			
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated

	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated"

SECTION 7. Section 1 of this act is effective when it becomes law. The remainder of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1281 DATE _____

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE X

(Rep.) Ellis
Sen.)

moves to amend the bill on page 1, lines 3-14

(✓) WHICH CHANGES THE TITLE

by rewriting the lines to read:

" THE STATE IS AUTHORIZED TO FINANCE BY LEASE-PURCHASE. ";

And on page 7, lines 16, Through page 14, line 35, by rewriting the lines to read:

" Section 2. This act is effective when it becomes law. "

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1281

Short Title:	Amend Finance Laws - 4.	(Public)
Sponsors:	Representative Luebke.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 14, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE FINANCE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. This act affects the borrowing and taxing power of the State.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1281 (PCS): New Prisons/Structured Sentencing

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Luebke
Date:	June 25, 2003	**Analysis by:**	Martha H. Harris
Version:	Draft		Staff Attorney

SUMMARY: Would authorize the State to enter into lease-purchase contracts to build two new prisons (Section 1) and would make the following changes to the Structured Sentencing Act effective December 1, 2003, as recommended by the North Carolina Sentencing and Policy Advisory Commission:

1. ***Calculate increases between record levels using a set percentage in order to provide proportionality to the increases in sentence lengths based on prior record levels, as provided in the Felony Punishment Chart (Section 2).***
2. ***Reallocate 3 months from the minimum sentence to the maximum sentence in felony classes B1 through E and builds those 3 months into the post-release supervision period by increasing that period from 9 to 12 months (Sections 2, 3, and 4).***
3. ***Restructure the prior record level point ranges by increasing the number of points required to move up to Level II, III, or IV (Sections 5 and 6).***

New Prisons: In 2001, the General Assembly authorized lease-purchase financing of three new 1000-cell close security prisons. Section 1(a) of this bill would authorize two more substantially identical prisons. Section 1(b) provides that if construction begins before January 1, 2004, and the plans have been approved by the Department of Insurance, the 1996-1999 version of the Building Code applies.

The State may first try to negotiate a contract for these new prisons with the same company that is building the 2001 prisons. If the Secretary of Administration and the Council of State find that the negotiations have failed to produce a reasonable price, the State would solicit the projects using a similar procedure as for the 2001 prisons.

Unlike with the 2001 prisons, the initial construction loan will not be obtained by the vendor on a private, taxable basis. The entire cost, including construction, will be financed by the State with tax-exempt obligations. The prisons are exempt from property taxes both during and after construction.

The bill provides that a nonprofit corporation controlled by the State will work with the Department of Correction to contract directly with the construction contractor for construction of the prisons and will lease the prisons to the State under a lease-purchase agreement. The nonprofit corporation would finance the costs by selling tax-exempt obligations known as certificates of participation (COPs). The COPs would represent interests in the nonprofit corporation's rights to receive the lease payments under the lease-purchase agreement with the State. The COPs would be secured by a

lien on the property, not by a pledge of the State's full faith and credit. The COPs would be paid from the State's lease-purchase payments over the course of 20 years.

Because the construction contract is technically between a private, nonprofit corporation and the construction contractor, the Attorney General's Office has determined that requirements for public bidding of construction would not apply. The new prisons are to be substantially identical to the 2001 prisons, so the State and the nonprofit corporation will first try to negotiate a contract with the existing construction contractor to build the two new prisons. If, in the opinion of the Secretary of Administration and the Council of State, the terms of the proposed negotiated contract are not favorable to the State, the Department of Correction will solicit for the construction of the two new prisons. In this situation, the Department of Correction would be required to consult with the Joint Legislative Commission on Governmental Operations before making a final award decision. The final award decision would also be subject to the approval of the Council of State.

The prisons would be required to be built in accordance with plans and specifications developed by the Department of Correction, and the Department of Correction and the State Construction Office would inspect and review the facilities during construction to ensure that they are suitable for use and acquisition by the State. The minority participation requirements of G.S. 143-128.2 apply to these projects.

The lease-purchase agreement would be between the nonprofit corporation and the State. Under the agreement, which must be approved by the Council of State and the State Treasurer, the State would make lease-purchase payments to the nonprofit corporation, which would use the funds to retire the COPs. The COPs would be secured by a lien on the property and the State's failure to make payments could result in its eviction from the property. The State Treasurer would determine the price to be paid for the COPs and the rate of interest to be paid on them. The State would retain the option of refinancing the debt if interest rates fall. The State would also retain the option of paying off its obligations and purchasing the property before the end of the lease-purchase period. Under the lease-purchase agreement, the State will own the facilities at the end of the lease term. The nonprofit corporation that issues the COPs would be subject to the Public Records Act and the Open Meetings Law.

Modify Sentence Lengths:

Part of the changes to G.S. 15A-1340.17(c) made by Section 2 of the bill restore proportionality to the increases in sentence lengths based on prior record levels, as provided in the Felony Punishment Chart. This is accomplished by using a set percentage increase across prior record levels. Level I minimum range sentence lengths would remain unchanged; the minimum range sentence lengths between each subsequent prior record level would be increased by 15% in all felony classes except Classes H and I. These changes should reduce sentences for a small percentage of offenders but for most offenders the sentences should remain the same or increase.

Extend Post-Release Supervision Period:

Under current law, post-release supervision is a 9-month mandatory period for felony classes B1 through E. If supervision is revoked, the offender is returned to custody for

the supervision period. Sections 2 through 4 of this bill would increase the post-release supervision period for these felonies to 12 months. This is done within the structured sentencing grid by reallocating 3 months from the minimum sentence to the maximum sentence and allowing those 3 months to be deducted from the maximum sentence, along with the existing 9 months, for release.

Restructure Prior Criminal Record Points: Under current law, the sentencing judge uses the offender's prior record level in the process of determining a sentence. The prior record level is based upon the number of "points" the offender has for prior convictions. The more points, the higher the level, and the longer the sentence. Sections 5 and 6 of this bill increase the number of points it takes to get to Levels II, III, and IV. Under current law, only offenders with no points qualify for Level I. Under the bill, an offender with up to 2 points stays in Level I rather than moving to Level II. Likewise, under the bill, an offender stays at Level II with up to 6 points, rather than moving to Level III with more than 4 points as under current law. Finally, under the bill, an offender with up to 10 points stays at Level III, rather than moving to Level IV with more than 8 points as under current law. The effect of these changes would be that some offenders could receive less active time due to being in a lower level than under current law.

Points for prior convictions are assigned according to the degree of the offense, as follows:

(1) For each prior felony Class A conviction, 10 points.
(1a) For each prior felony Class B1 conviction, 9 points.
(2) For each prior felony Class B2, C, or D conviction, 6 points.
(3) For each prior felony Class E, F, or G conviction, 4 points.
(4) For each prior felony Class H or I conviction, 2 points.
(5) For each prior misdemeanor conviction, 1 point.

A misdemeanor is defined as any Class A1 and Class 1 nontraffic misdemeanor offense, impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), but not any other misdemeanor traffic offense under Chapter 20 of the General Statutes.

ESTIMATED COST OF PROPOSED NEW PRISONS -- SCENARIO #1A

Negotiated Contract and COPS Issued Prior to Construction (State/Non-Profit finances construction)

2000 Beds (Prisons 4 and 5) COPS Issued July, 2003

	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	TOTAL L/P Debt $224.8.Million
E. Lease/Purchase	$-	$3.93	$14.25	$13.91	$13.57	$13.23	
F. Operating	$-	$-	$6.13	$27.27	$36.19	$36.19	
G. TOTAL	**$-**	**$3.93**	**$20.38**	**$41.18**	**$49.76**	**$49.42**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low-end negotiated cost of $150 million and interest rate of 4.5%

1. Operating figures are from DOC Feb. 21, 2003; construction cost estimates from DOC dated 3/17/03
2. Lease/Purchase figures assume issuance of COPS at 4.5% interest rate for two prisons at cost of $150 million.

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

3000 Beds (Prisons 4, 5, and 6) COPS Issued July 2003 and May 04 (#6)

E. Lease/Purchase	$-	$3.93	$23.60	$23.07	$22.48	$21.87	TOTAL L/P DEBT $363.87
F. Operating	$-	$-	$6.13	$37.12	$51.73	$54.28	
G. TOTAL	**$-**	**$3.93**	**$29.73**	**$60.19**	**$74.21**	**$76.15**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low end negotiated cost of $150 million for prisons 4 and 5. Assumes COPS issued May 1, 2004 for prisons # 6 at additional base cost of $84.25 million or $234.25 million construction cost for 3 new prisons (plus debt cost)

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 4.5% for two prisons and 6.15% for prison #6

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

NOTE: L/P cost over 20 years of $363.87 is approximately $27 million dollars below estimate of $391 M for vendor financed construction based solely on interest rate differences for long-term financing if COPS are issued this summer. Savings of up to a $50 million total are possible due to anticipated savings for the State in construction financing rates and issuance costs compared to a private vendor. Final costs dependent on negotiated contract price and interest rates at time of issuance (Treasurer's Office May 30, 2003)

FRD 6/24/03

Re: HB 1281

HOUSE FINANCE COMMITTEE
June 2, 2003

Presentation to the House Finance Committee by Staff of the North Carolina Sentencing and Policy Advisory Commission

1. Introducing the NC Sentencing and Policy Advisory Commission:

   Established in 1990 to be an expert body on sentencing;
   Represents the broad spectrum of criminal justice practitioners, courts, defense and prosecution, corrections, victims, citizens.

   As directed by the General Assembly, it developed the blueprint for Structured Sentencing, which was enacted by the General Assembly in 1993 and implemented in 1994.

   Structured Sentencing, with a rational and structured approach, restored consistency, certainty and truth in sentencing, and prioritized the use of resources to incarcerate violent and repeat offenders.

2. The Sentencing Commission was created not only to recommend sentencing policy, but to monitor the resources needed to match these policies. It is mandated to produce (and update annually) long-range projections for correctional resource needs and report them annually to the General Assembly. (Accuracy: within 1/3-1/2 of one percent each year.)

   For several years, these forecasts were pointing to a looming shortage of prison beds needed within the next ten years. (On May 26, 2003 there were 33,514 offenders in prison + 939 backlogged in jail = 34,453, only 127 away from the 34,570 projected by the Sentencing Commission for June 30, 2003.) The projected bed need for 2012 is 42,413, approximately 7,700 beds short of the 34,729 bed capacity, which includes the three new prisons authorized and expected to come on line in 2004.

   The rational structure of Structured Sentencing and the ability to project resource needs are a mechanism that enables legislators and other policy makers to balance sentencing policy with financial resources.

3. In recognition of the availability of this planning tool, the General Assembly directed the Sentencing Commission in Section 25.8 of Session Law 2001-424 to review Structured Sentencing for inconsistencies in the law and its application, specifically "in view of the projected growth in the prison population by 2010." The Commission was further directed to "develop sentencing alternatives for consideration by the General Assembly."

4. The Sentencing Commission studied and deliberated the issues for over a year, taking into account public safety and the principles of fair and proportionate punishment, and voted to present, in a May 2002 report, six options for consideration by the General

Assembly. These six options, were they all passed into law, would reduce—but still not eliminate—the future need for additional beds. The projected savings by 2012 would be approximately 4,600 beds.

5. Following is a broad-brush description of the four options that would impact future prison resources:

- Restructure the way prior convictions impact an offender's current penalty — projected bed saving within 10 yrs.: 1,916.
- Make the punishment for current convictions increase more proportionately to prior convictions — projected bed saving within 10 yrs.: 1,306.
- Shift three months from the minimum sentence for violent offenders to extend their post-release supervision from nine months to a year, in order to facilitate their successful reentry into society — projected bed saving within 10 yrs.: 613.
- Preserve the habitual felon law and continue to require prison for all habitual felons. Punish habitual felons with a current violent offense at the existing level; punish habitual felons with a current non-violent offense at three offense levels higher than the underlying current offense — projected bed saving within 10 yrs.: 1,763.

6. These four options, as noted, would have sizeable impact on prison populations. While they would reduce the length of incarceration for some offenders, they would leave the vast majority of felons in cells providing either a mandatory or discretionary prison sentence. Based on estimates, of all violent felons currently sentenced to prison only four percent would become eligible for a discretionary community sentence (and only one percent of non-violent felons). The long-term bed savings would come from a change in the average time to be served by violent felons from 115 months to 98 months (from 14 months to 13 months for non-violent felons.)

Structured Sentencing is a rational system of sentencing North Carolina's offenders, and provides a powerful tool for you to weigh your options in allocating scarce resources — including additional prison construction and possible changes to sentencing policies as outlines in the Commission alternatives.

Re: PCS to HB 1281
Rep. Luebke

SUMMARY OF N.C. PRISON POPULATION, PRISON BED CAPACITY, AND FISCAL ESTIMATES

Prison Population: 33,782 (June 23, 2003)

- Plus 814 DOC inmates backlogged in county jails, or 34,691inmates

Prison Bed Capacity: 31,969 *(Bed shortage projected to be approx. 2,600 at Expanded Operating Capacity by June 30, 2003; Bed* shortage made up by keeping inmates in county jails longer and use of temporary beds)

Prison Population Projections

	FY 2004	FY 2006	FY 2008	FY 2010
Population Projection*	35,851	37,739	39,557	41,068
Expanded Bed Capacity**	34,561	34,729	34,729	34,729
Bed Deficit	-1,290	-3,010	-4,828	-6,339

*Sentencing and Policy Advisory Commission Projections, January 03; Inmate population growth due to such factors as NC population growth, increased time served for pre-structured sentencing inmates and high level offenders under structured sentencing, and an increase in convictions for serious crimes in 2002

**Capacity figures by DOC Dec. 02; includes 3 new prisons opening in FY 04

Prison Population Characteristics

- Population was 55% A-E felons June 30, 02; projected to be 62% by 2007 and 65% by 2012. Was 36% in 1995
- A-D Felons drive population numbers; all receive active sentences and average time served is 134 months; will increase from 52% to 59% by 2012
- Class H & I Felons make up large percentage of population but will decline from 21% in 03 to 17% in 2012. Average time served is 10 months.

Examples of Ways to Generate Bed Capacity or Decrease Population

- Construction: Short-term need for close custody prisons/long term issue is whether more close or medium custody beds will be needed.

- Change in Prisons Operations: (Requires detailed study) (1) Continue use of some temporary beds (many temp beds are in dorm dayrooms) (2) Assign two inmates per cell at certain prisons with funding increases for security and programming, and potentially, infrastructure.

- Sentencing Policy Changes – Alternatives Proposed in Sentencing Commission report to General Assembly May 2002—House Bills 242, 243, 246, 247, and 264 save 1,454 *beds by 2006 and 3,137 by 2010 and 4,053 by 2012 (cumulative). Cost savings (cumulative by 2012) estimated at $543 million in operating costs and $361.37 million in foregone construction costs (excludes potential debt service cost).*

Bills in HB 1281 are HB 247, 264, 246. These bills save 1,037 beds by 2006, 2,369 by 2010 and 3,156 by 2012. Cost savings estimated at $432 million operating and $281 million in foregone construction costs. Issues are costs of new prisons versus other state budget needs, State's correction policy, and public safety.

- Parole of Pre-Structured Sentencing Inmates; 6,800-inmates/3,800 parole eligible at various times: Issue is early release of parole eligible vs. public safety. 39 % of parole eligible inmates were in minimum custody status early in 2003, but many are A-E felons.

- Buy Beds: Out of State or County Jails: Issues include types of beds available (minimum vs. close); control of NC inmates and sending money out of state vs. avoidance of construction costs

Cost of Prisons Under Construction and Proposed New Prisons

Three, 1,000 bed Close Custody Prisons Under Construction

- **Construction:** *$75 million per prison/$224 million total price (bid price)*
- **Debt Payments:** *$374 million principal and interest to lease prisons* over 20 years; assumes 4.5% interest rates (issuance of Certificates of Participation (COPS) August 2003, per Treasurer's Office 5/9/03)
- **Operating Costs:** *$18.2 million to operate each prison;* $54 million each by 2004-05; includes 410 positions per prison

Proposed New Prisons – 4, 5, and 6 (**Assumes "Negotiated" Contract/ State Non-Profit Finances Construction**/COPS issued July 2005 for prisons 4 and 5 and May 06 for # 6)*

- **Construction:** *$75 to $80 million per prison*; range of $150M to $160 for two prisons; #6 estimated at $84.25 million by DOC because of design issues and later start date. ***Total of $234.25 to $244.25 million for three prisons.***
- **Lease/Purchase Debt Payments: $363.87 million over 20 years for three prisons at 4.5 % interest for first two and 6.15% rate for the third; cost estimate for two prisons is $224.8 million over 20 years at 4.5% interest rate at time of issuance.** (Treasurers' Office 5/19/03)*
- **Operating Costs: $18.2 million each prison;** with startup costs of *$6.13 million in FY 04-05 for prisons 4 & 5.*

NOTE: Negotiated price is estimated "construction price" from vendor. Total Lease/purchase payments estimated above could save as much as $27 million over vendor financed construction. Savings could be as high as $50 million since the State would have a lower interest rate for financing than vendor and significantly less cost for issuing financing instruments. Final amount of savings to be determined through contract negotiation and approval by various agencies.

NOTE: All debt cost estimates are subject to change based on final contract price and on interest rates at time of COPS issuance

ESTIMATED COST OF PROPOSED NEW PRISONS -- SCENARIO #1A

Negotiated Contract and COPS Issued Prior to Construction (State/Non-Profit finances construction)

2000 Beds (Prisons 4 and 5) COPS Issued July, 2003

	FY 02-03	FY 03-04	FY 04-05	FY 05-06	FY 06-07	FY 07-08	TOTAL L/P Debt $224.8.Million
E. Lease/Purchase	$-	$3.93	$14.25	$13.91	$13.57	$13.23	
F. Operating	$-	$-	$6.13	$27.27	$36.19	$36.19	
G. TOTAL	**$-**	**$3.93**	**$20.38**	**$41.18**	**$49.76**	**$49.42**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low-end negotiated cost of $150 million and interest rate of 4.5%

1. Operating figures are from DOC Feb. 21, 2003; construction cost estimates from DOC dated 3/17/03
2. Lease/Purchase figures assume issuance of COPS at 4.5% interest rate for two prisons at cost of $150 million.

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

3000 Beds (Prisons 4, 5, and 6) COPS Issued July 2003 and May 04 (#6)

E. Lease/Purchase	$-	$3.93	$23.60	$23.07	$22.48	$21.87	TOTAL L/P DEBT $363.87
F. Operating	$-	$-	$6.13	$37.12	$51.73	$54.28	
G. TOTAL	**$-**	**$3.93**	**$29.73**	**$60.19**	**$74.21**	**$76.15**	

ASSUMPTIONS

Assumes COPS issued July 2003 based on low end negotiated cost of $150 million for prisons 4 and 5. Assumes COPS issued May 1, 2004 for prisons # 6 at additional base cost of $84.25 million or $234.25 million construction cost for 3 new prisons (plus debt cost)

1. Operating figures are from DOC Feb. 21, 2003
2. Lease/Purchase figures assume issuance of COPS at 4.5% for two prisons and 6.15% for prison #6

L/P figures could change based on final contract price and interest rate at time of issuance (Treasurer's Office 5/19/03)

NOTE: L/P cost over 20 years of $363.87 is approximately $27 million dollars below estimate of $391 M for vendor financed construction based solely on interest rate differences for long-term financing if COPS are issued this summer. Savings of up to a $50 million total are possible due to anticipated savings for the State in construction financing rates and issuance costs compared to a private vendor. Final costs dependent on negotiated contract price and interest rates at time of issuance (Treasurer's Office May 30, 2003)
FRD 6/24/03

Table : Impact of SB 207, 208, and 209 (HB 247,264,246) on State Prison Population

Fiscal Year	Restructure Prior Record Level	Proportional Sentence Length	Adjust B1-E Felony Penalties by Shifting 3 mos. Prison to Post Release	Combined Impact
2002-2003	0	0	0	0
2003-2004	0	0	0	0
2004-2005	-672	7	8	-651
2005-2006	-956	49	-90	-1037
2006-2007	-1095	18	-181	-1274
2007-2008	-1205	-43	-251	-1535
2008-2009	-1348	-187	-316	-1911
2009-2010	-1511	-434	-391	-2369
2010-2011	-1645	-696	-468	-2786
2011-2012	-1750	-948	-522	-3156
2012-2013	-1838	-1154	-575	-3427
2013-2014	-1916	-1306	-613	-3640

*Combined impact is impact of implementing SB 207, SB 208, & SB 209 (or House Companion bills);indiv. totals will not add up to combined totals

Source: Sentencing and Policy Advisory Commission March 2003

* For a full discussion of these sentencing alternatives, see The North Carolina Sentencing and Policy Advisory Commission's Report on Study of Structured Sentencing Pursuant to Session Law 2001-424 Section 25.8, May 2002.

NC Prison Population Changes with New Beds and/or with SB 207, 208, & 209 (House 247, 264, 246)

Fiscal Yr. Ending	Inmate Pop. Projection*	DOC Expan. Capacity**	**Prison Beds Over/Under w/no change**	Prison Beds Over/Under **w/2prisons*** **	Prison Beds Over/Under **w/3 prisons**** **	Prison Beds Over/under **w/3 Bills. & 2 prisons**	Prison Beds Over/Under **w/3 Bills & 3 prisons**
6/30/2003	34,570	31,969	**-2,601**	-2,601	-2,601	-2,601	-2,601
6/30/2004	35,851	34,561	**-1,290**	-1,290	-1,290	-1,290	-1,290
6/30/2005	36,787	34,729	**-2,058**	-2,058	-2,058	-1,407	-1,407
6/30/2006	37,739	34,729	**-3,010**	-1,282	-1,282	-245	-245
6/30/2007	38,687	34,729	**-3,958**	-2,230	-1,366	-956	-92
6/30/2008	39,557	34,729	**-4,828**	-3,100	-2,236	-1,565	-701
6/30/2009	40,345	34,729	**-5,616**	-3,888	-3,024	-1,977	-1,113
6/30/2010	41,068	34,729	**-6,339**	-4,611	-3,747	-2,242	-1,378
6/30/2011	41,768	34,729	**-7,039**	-5,311	-4,447	-2,525	-1,661
630/2012	42,413	34,729	**-7,684**	-5,956	-5,092	-2,800	-1,936

* Population Projections by Sentencing and Policy Advisory Commission, Jan. 2003

DOC Expanded Capacity as of Dec. 4, 2002 with 2,592 new beds. **Expanded Operating Capacity (EOC) (EOC) is one or two inmates per cell, or less than 50 square feet per inmate in dorms (35 sq ft is 130% of standard capacity)

*** "Prisons" assumes two new prisons with EOC of 1,728 new beds (FY 05-06) or 3 with 2,592 new beds (FY 06-07)

****SB 207, 208 & 209 are (1) Restructure Prior Record Points; (2) Proportionate Sentence Lengths & (3)Adjust B1-E Felonies

North Carolina House of Representatives

House Committee on Finance

Minutes

~

July 8, 2003

The House Committee on Finance met on Tuesday, July 8, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Weiss, C. Wilson, Womble, and Wood; and Ex-Officio members, Representatives Brubaker and Culpepper. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Earl Tharrington. Staff persons present included Richard Bostic, Erika Churchill, Gerry Cohen, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke, on behalf on Chairman Gordon Allen who was scheduled to arrive at approximately 9:00 am, called the meeting to order at 8:38 am and proceeded to recognize the six (6) pages present: (1) Jason Bowles of Davie County, sponsored by Representative Howard; (2) Kathryn Davis of Moore County, sponsored by Speaker Morgan; (3) Scott DiMaio of Moore County, sponsored by Speaker Morgan; (4) Brandon Jaklitsch of Mecklenburg County, sponsored by Speaker Black; (5) Lindsay Norris of Onslow Country, sponsored by Representative K. Williams; and (6) Ashley Williams of Onslow County, sponsored by Representative K. Williams.

As the first matter of business, Chairman Luebke recognized Representative L. Allen to explain **HB 182 – NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS** (see attachment 3). She noted that the bill made various changes to the areas suggested in its' title (see bill analysis for further details). Representative Luebke noted that the bill was before the Committee for a recommendation to the House of concurrence or non-concurrence of the Committee Substitute for the bill that was adopted in the Senate. Representative Creech was then recognized and moved that the Committee give a recommendation that the House do concur. Representative Womble was also recognized and posed several questions to Rep. L. Allen concerning the contracting sections of the bill and how those sections affected minority communities. Rep. L. Allen responded that she was uncertain of those provisions as Representative LaRoque offered that section of the bill. Chairman Luebke then acted to displace the bill in order that Representative LaRoque could be present to address the questions brought by Representative Womble.

HB 736 – DURHAM AUTO TAX (see attachment 4), sponsored by Representative Miller, was the next bill considered by the Committee. Chairman Luebke recognized Representative Alexander who moved that the Committee adopt the Proposed Committee Substitute (PCS) for HB 736 for the purposes of discussion and her motion carried without objection. Representative Miller

was then recognized to explain the bill. He explained that the bill was requested by the City Officials of Durham and only applies to that City. The bill acts to increase the general municipal vehicle tax from the current $5.00 to $10.00. It also would allow the City of Durham to enter into a joint agreement with the campus police of Duke University to extend the law enforcement authority of the campus police into the jurisdiction of the City under agreed upon terms. Following this explanation, Chairman Luebke recognized Mr. Howard Clement, Councilman to the City of Durham, who voiced his clear support of the bill. Representative Jones was then recognized and made a motion for a favorable report to the PCS for HB 736. Representative Womble was first recognized, however, for a question to Mr. Patrick Baker, Assistant City Attorney to Durham. He inquired whether the ability for private/campus police to utilize law enforcement powers was a regular occurrence. Mr. Baker noted that this arrangement was new to the City of Durham but stated the City's desire for the passage of the bill. Mr. Clement was recognized again and explained that Duke's campus officers (as well as NC Central University's officers) were already trained together at the same facility and in the same manner. Representative Capps was recognized next and voiced his opposition to the fee increase in the bill, stating that the funds from the increased amounts collected should be clearly specified. Representative Miller explained that the additional fees collected were committed to a specific purpose: a protected trust fund, the interest of which was devoted to public transportation. The Chair then recognized Representative Jones who reasserted his motion for a favorable report to the bill's PCS. Chairman Luebke then called the vote and the motion carried.

Chairman Gordon Allen, having arrived at the meeting, then assumed control of the Chair. He promptly recognized Representative Howard, the bill sponsor, to move the adoption of PCS to her bill, **HB 173 – COSMETIC ART/CONTINUING ED/PENALTY CHANGE** (see attachment 5). Her motion carried without objection. Chairman Allen then recognized Representative Howard to explain the bill. Representative Howard explained that the bill addresses an earlier bill considered by and passed out of the Committee, House Bill 971. It requires that, for licensure or license renewal, those participating in the various trades of Cosmetic Art be mandated to complete at least 8 hours of continuing education per year. She further noted that the this PCS lowered the age requirement from 65 to 62 years as set forth in the bill as well as those qualifying for exemption from the continuing education provisions. As a final note, she stated that this bill was being requested by those in the trade as an effort to make their profession more credible. She then made the motion that the PCS for HB 173 be given a favorable report. The Chair then entertained some brief discussion among the members. Following this, Chairman Allen called the matter to a vote and the majority carried the motion.

The next bill considered by the Committee was **HB 1256 – VOLUNTARY DNA DATABASE** (see attachment 6), sponsored by Representatives Miller and Walend. Representative Luebke moved that the PCS for the bill be adopted for discussion and his motion carried without dissent. Chairman Allen then recognized the bill sponsors to explain the bill. They explained that the bill directs the North Carolina Department of Health and Human Services to establish a DNA database for the recording of DNA data and related medical records submitted voluntarily by participants, for the purposes of advanced scientific study. The bill also assesses a fee to state-based research institutions for the operation and maintenance of the database. Representative Ross was then recognized by the Chair and asked Representative Miller a question concerning the confidentiality of the bill. Representative Miller then explained that while personal information on DNA donors was gathered during the collection process, that information was then removed from the sample once it was gathered to preserve complete anonymity. Representative Ross posed a follow-up question inquiring as to if the bill sponsors had considered the use of anonymous collection, similar to that used with HIV testing. Representative Walend responded that while that was an option, she did not see it necessary, as participation in the DNA database was totally

voluntary. The Chair next recognized Representative Lewis who voiced his support of the bill, noting that it gave the citizens of North Carolina an opportunity to participate in medical research, while charging bio-technical industries a reasonable fee. Chairman Allen then recognized Representative Miner who moved that the Committee give the PCS for HB 1256 a favorable report. Seeing no further discussion, the Chair then called the vote, and the motion carried by consent.

Chairman Allen then called upon Representative Daughtridge to explain **HB 313 – ROCKY MOUNT CHARTER REVISION** (see attachment 7). Representative Miner moved that the Committee adopt the PCS for discussion and his motion carried without objection. Representative Daughtridge explained simply that the bill acts to revise the City Charter of Rocky Mount. He noted that the bill was filed upon the request of the City because the current charter was out-dated and required the deletion/addition of various provisions. Following this explanation, Representative McCombs moved that HB 313 be given a favorable report. Seeing no discussion, Chairman Allen called the vote and the motion carried by consent.

The final bill considered by the Committee was **HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX** (see attachment 8). Representative Miner was recognized to make a motion that the Committee adopt the PCS on HB 759 for discussion. His motion passed with no opposition. Chairman Allen then recognized Representative Goforth, the bill sponsor, to provide an explanation of the bill. He stated that the bill acts to reduce the sales tax for purchases of light construction equipment. The reduction of tax would be at the regular state-rate of 4.5% (also, local sales tax exempt) and capped at $300 per item purchased. Although the Fiscal Research staff cannot exactly determine the fiscal impact on the bill, it would likely produce a noteworthy loss to the General Fund. However, Representative Goforth stated that the bill would help to keep the construction companies in the state competitive and would sunset in 2006 (due to the state's streamlined sales tax obligations). Chairman Allen then recognized Representative Blackwood who moved for a favorable report to the PCS on HB 759. However, some discussion among the members then commenced. Representative Bordsen was recognized and stated that since the bill causes a loss to the General Fund, if it is passed out of the Finance Committee, it should then be sent to the Committee on Appropriations. Representative Creech, upon recognition of the Chair, stated that the bill would help to increase jobs in the area of construction. Representative Luebke was recognized next and asked to hear from Mr. Andy Sabol with the North Carolina Department of Revenue (NCDOR). Mr. Sabol noted a potential problem in that "light construction equipment" as defined in the bill is far too general and could end up including far more equipment (and, thus, cost far more money) than intended by the bill. Representative Luebke was then again recognized and requested that the bill sponsor work with Mr. Sabol from DOR in an effort to more concisely define the bill's intent.

In the midst of this discussion, Chairman Allen noted the time of 9:53 am and acted to promptly adjourn the meeting.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 182 (and related materials)
4. House Bill 736 (and related materials)
5. House Bill 173 (and related materials)
6. House Bill 1256 (and related materials)
7. House Bill 313 (and related materials)
8. House Bill 759 (and related materials)
9. House Bill 440 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

July 8, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. G. Allen

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 173 DAVIDSON CO. LOCAL ACT-2 *Rep. Howard*

HB 182 NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS
Reps. L. Allen and Hunter

HB 313 CITY OF ROCKY MOUNT LOCAL ACT-2
Rep. Daughtridge

HB 440 WENTWORTH AGRI. ZONING/ECONOMIC DEV. DISTRICT
Rep. Sexton

HB 736 DURHAM AUTO TAX *Rep. Miller*

HB 759 REDUCE UTILITY EQUIPMENT SALES TAX *Rep. Goforth*

HB 1256 VOLUNTARY DNA DATABASE *Rep. Miller and Walend*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Monday, June 30, 2003 3:44 PM
Subject: NOTICE House Finance Committee 7-08-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 8, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 173 – DAVIDSON CO. LOCAL ACT-2 – Rep. Howard

HB 182 – NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS – Reps. L. Allen and Hunter

HB 313 – CITY OF ROCKY MOUNT LOCAL ACT-2 – Rep. Daughtridge

HB 440 – WENTWORTH AGRI. ZONING/ECONOMIC DEV. DISTRICT – Rep. Sexton

HB 736 – DURHAM AUTO TAX – Rep. Miller

HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX – Rep. Goforth

HB 1256 – VOLUNTARY DNA DATABASE – Rep. Miller and Walend

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:00 P.M.** on **June 30, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 8, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Howard Clement III.	Durham City Council 101 City Hall Plaza Durham, N.C. 27701
Julie Brennan	City of Durham 101 City Hall Plaza
Elizabeth Stocker	City of Durham 101 City Hall Plaza
Ellen Sung	News & Observer. 215 S. McDowell Raleigh 27601
John Rust	NCFPC
DAVID BARNES	Poyner + Spruill LLP
JOHN BOWDISH	ASTRAZENECA
Marc Finlayson	Finlayson Consulting, LLC
Paul Edmund	Carolina Hosiery Assn.
John Long	Martin Marietta
Genesha Dickson	Executive Intern, FRD / Rep. Gibson

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 8, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Patrick Baker	City of Durham 101 City Hall Plaza
Steve Irwin	City of Durham 101 City Hall Plaza Durham 27701
Don Donadio	Womble Carlyle Raleigh, NC 150 Fayetteville St Mall
Jim Lowry	NC Utility Contractors Assn
Andy Subol	NC DOR
Adam Schafer	NCEL
Sandy Sands	WCSR
Kevin G. Pennel	WCSR
John McMillan	MF&S
Amy Dobson	NC StateWatch
Ted Voorhees	City of Durham 101 City Hall Plaza Durham, NC 27701

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **2**

HOUSE BILL 182

Senate Rules and Operations of the Senate Committee Substitute Adopted 6/17/03

Short Title: Northampton/Duplin/Fayetteville Local Acts. (Local)

Sponsors:

Referred to:

March 4, 2003

A BILL TO BE ENTITLED

AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY, TO ALLOW DUPLIN COUNTY TO USE THE SINGLE-PRIME BIDDING METHOD FOR THE CONSTRUCTION OF DUPLIN COMMONS WITHOUT COMPLYING WITH CERTAIN STATUTORY REQUIREMENTS, AND CONCERNING THE INVESTMENT OF CERTAIN RETIREMENT AND EMPLOYEE BENEFIT FUNDS BY THE CITY OF FAYETTEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1997-275, as rewritten by Section 1 of S.L. 1998-130, reads as rewritten:

"**Section 1.** There is hereby created the '~~Halifax~~Halifax-Northampton Regional Airport Authority' (for brevity hereinafter referred to as the 'Airport Authority'), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly. For purposes of this act the word 'City' when used alone shall mean the City of Roanoke Rapids and the word 'County' when used alone shall mean either Halifax County or Northampton County."

SECTION 2. Section 15 of S.L. 1997-275, as rewritten by Section 8 of S.L. 1998-130, reads as rewritten:

"**Section 15.** The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Halifax County Board of Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council, and nothing in this act shall require the Board of Commissioners or City Council to make the initial appointments. It is the intent of this act to enable but not to require the formation of the ~~Halifax~~ Halifax-Northampton Regional Airport Authority."

SECTION 3. Duplin County may contract for the design and construction of the Duplin Commons project using the single-prime contract method described in G.S. 143-128(d) without requiring that all bidders identify on their bids the contractors they

have selected for the subdivisions for heating, ventilating, and air conditioning, plumbing, electrical, and general. However, the lowest responsible, responsive bidder shall provide to the county the names of the contractors selected for the subdivisions within 72 hours after this act is ratified. Nothing in this act prohibits Duplin County from rejecting any and all bids for the design and construction of the Duplin Commons project.

SECTION 4. Notwithstanding the provisions of G.S. 159-30, the City of Fayetteville, or any governing body, agency, person, or other corporation that contracts with the City of Fayetteville for the investment, care, or administration of monies of the Supplemental Employees' Retirement Plan of the Public Works Commission of the City of Fayetteville, or of employee benefit funds as may be designated from time to time by the City of Fayetteville City Council, may invest and reinvest those monies in one or more of the types of securities or other investment authorized by State law for the State Treasurer in G.S. 147-69.2.

SECTION 5. Section 3 of this act becomes effective April 29, 2003, and applies to bids advertised and submitted for the Duplin Commons project. Otherwise, this act is effective when it becomes law.

HOUSE BILL 182:
Northampton/Duplin/Fayetteville Local Acts

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. L. Allen and Hunter
Date:	July 1, 2003	**Summary by:**	R. Erika Churchill
Version:	Second Edition		Staff Attorney

SUMMARY: House Bill 182 does three things:

- ***Renames the Halifax Regional Airport Authority to the Halifax-Northampton Regional Airport Authority.***
- ***Permits Duplin County an exception from the bidding requirements with regard to one specified project.***
- ***Permits the City of Fayetteville's Public Works Commission to invest supplemental retirement funds as the State Treasurer invests idle funds in the Retirement System.***

THE BILL IS IN COMMITTEE FOR RECOMMENDATION FOR CONCURRENCE OR NON-CONCURRENCE.

CURRENT LAW and BILL ANALYSIS:

Sections 1 and 2. The Halifax-Roanoke Rapids Regional Airport Authority was created by the General Assembly in 1997 to maintain and operate the airport facilities. In 1998, the Authority was renamed the Halifax Regional Airport Authority. Sections 1 and 2 of House Bill 182 rename the Halifax Regional Airport Authority the "Halifax-Northampton Regional Airport Authority."

Section 3. G.S. 143-128(d) requires that when a unit of government is bidding a single-prime contract, all bidders are to identify on their bid the contractors they have selected for the subdivisions or branches of work for heating, ventilating, and air conditioning; plumbing; electrical; and general contracting. House Bill 182 would grant an exception to this provision for Duplin County in bidding the Duplin Commons project. The exception would require the bidder to provide the names of the sub-contractors within 72 hours of the bill's enactment. **EFFECTIVE April 29, 2003.**

Section 4. G.S. 159-30 controls investment of idle funds for local governments and public authorities, and such investment is restricted to certain types of securities and certificates of deposits, mainly those backed North Carolina, the United States or another unit of local government in North Carolina. House Bill 182 would allow the idle funds of the Fayetteville City Public Works Commissions' Supplemental Employees Retirement Plan to be invested in the same manner as the State Treasurer is allowed to invest retirement system funds and other special funds held by the State. Investment options would include: general obligations of the United States, other states, and cities, counties and special districts of North Carolina; asset backed securities; preferred or common stock of duly incorporated companies, provided the investments meet certain conditions.

BACKGROUND: Similar legislation has been enacted previously for entities such as Durham County (Community Health Trust Fund), Forsyth County (Community Health Special Reserve Fund), Pitt County (equity assets funds received from the transfer of Pitt County Memorial Hospital), City of Winston-Salem (Winston-Salem Police Officers Retirement Fund, employee benefits fund, risk reserve fund, Cemetery Perpetual Care Fund, Capital Reserves Fund).

EFFECTIVE DATE: Except as noted above for Section 3, the act is effective when it becomes law.

H182-SMST-001

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 736
PROPOSED COMMITTEE SUBSTITUTE H736-PCS70346-ST-55

Short Title: Durham Auto Tax. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT A GENERAL MUNICIPAL VEHICLE TAX OF UP TO TEN DOLLARS ON VEHICLES RESIDENT IN THE CITY AND TO AUTHORIZE THE CITY OF DURHAM TO ENTER INTO A JOINT AGREEMENT WITH A PRIVATE UNIVERSITY TO EXTEND THE JURISDICTION OF THE CAMPUS LAW ENFORCEMENT AGENCY OF THE PRIVATE UNIVERSITY INTO THE JURISDICTION OF THE CITY OF DURHAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ ten dollars ($10.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

SECTION 2. G.S. 116-40.5(b) reads as rewritten:

"(b) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or of a private university, having established a campus law enforcement agency pursuant to subsection (a) of this ~~section,~~ section or pursuant to the Chapter 74E of the General Statutes, may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted. While acting in a law enforcement capacity within the municipality's jurisdiction under authority of this section, campus law enforcement officers shall have the same powers, rights, privileges, and immunities (including those related to the defense of civil actions and the payment of judgments) as the law enforcement officers of the municipality, in addition to those powers the officers normally possess."

SECTION 3. This act applies to the City of Durham only. Any funds generated by a tax of over five dollars ($5.00) under Section 1 of this act shall be placed into a separate fund for public transportation within the City of Durham and the principal shall not be spent. The interest earned on those funds may be expended by the City of Durham solely for the purpose of public transportation.

SECTION 4. Section 1 of this act is effective when it becomes law and expires one year after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 736
PROPOSED COMMITTEE SUBSTITUTE H736-CSST-55 [v.2]

7/7/2003 11:21:41 AM

Short Title: Durham Auto Tax. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT A GENERAL MUNICIPAL VEHICLE TAX OF UP TO TEN DOLLARS ON VEHICLES RESIDENT IN THE CITY AND TO AUTHORIZE THE CITY OF DURHAM TO ENTER INTO A JOINT AGREEMENT WITH A PRIVATE UNIVERSITY TO EXTEND THE JURISDICTION OF THE CAMPUS LAW ENFORCEMENT AGENCY OF THE PRIVATE UNIVERSITY INTO THE JURISDICTION OF THE CITY OF DURHAM.

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SECTION 1. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ ten dollars ($10.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

SECTION 2. G.S. 116-40.5(b) reads as rewritten:

"(b) The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina, or of a private university, having established a campus law enforcement agency pursuant to subsection (a) of this ~~section,~~ section or pursuant to the Chapter 74E of the General Statutes, may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted. While acting in a law enforcement capacity within the municipality's jurisdiction under authority of this section, campus law enforcement officers shall have the same powers, rights, privileges, and immunities (including those related to the defense of civil actions and the payment of judgments) as the law enforcement officers of the municipality, in addition to those powers the officers normally possess."

SECTION 3. This act applies to the City of Durham only. Any funds generated by a tax of over five dollars ($5.00) under Section 1 of this act shall be placed into a separate fund for public transportation within the City of Durham and the principal shall not be spent. The interest earned on those funds may be expended by the City of Durham solely for the purpose of public transportation.

SECTION 4. Section 1 of this act is effective when it becomes law, and expires one year after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 736

Short Title:	Durham Auto Tax.	(Local)
Sponsors:	Representative Miller.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT A GENERAL MUNICIPAL VEHICLE TAX OF UP TO TEN DOLLARS ON VEHICLES RESIDENT IN THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ten dollars ($10.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

SECTION 2. This act applies to the City of Durham only.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 736:
Durham Auto Tax/Campus Law Enforcement.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Miller
Date:	July 8, 2003	**Summary by:**	R. Erika Churchill
Version:	H736-CSST-55v.2		Staff Counsel

SUMMARY: ***The proposed committee substitute for House Bill 736 would allow the City of Durham to increase its general municipal vehicle tax from $5 to $10 and allow the City to enter into a joint agreement with the campus police of a private institution to extend the law enforcement authority of the campus police into the jurisdiction of the City under agreed upon terms.***

CURRENT LAW and BILL ANALYSIS:

Section 1. Currently all municipalities are allowed to charge a general vehicle tax of up to $5 and the proceeds of that tax can be used for any lawful purpose. G.S. 20-97(b).

The proposed committee substitute for House Bill 736 would allow the City of Durham to charge up a $10 general vehicle tax for one year. However, any proceeds collected by the City of Durham over $5 would be placed in a separate fund for public transportation and only the interest could be spent by the City for transportation needs.

Section 2. Currently, The Board of Trustees of any constituent institution of The University of North Carolina, or of any teaching hospital affiliated with, but not part of any constituent institution of The University of North Carolina, having an established campus law enforcement agency may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into any or all of the municipality's jurisdiction and to determine the circumstances in which this extension of authority may be granted. G.S. 116-40.5 (b). Like authority is not granted to campus law enforcement agencies of private institutions.

The proposed committee substitute for House Bill 736 would allow private institutions the same authority granted to public institutions regarding agreements between campus law enforcement agencies and municipalities in the City of Durham.

EFFECTIVE DATE: The bill would become effective when it becomes law, and the authority to impose an additional $5.00 vehicle tax will expire one year from that date.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **July 7, 2003**

TO: House Finance Committee

FROM: Alexei Pavlichev, Linda Struyk Millsaps
Fiscal Research Division

RE: HB 736 - Durham Auto Tax - PCS

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES:					
City of Durham	$672,150				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: City of Durham. Winston-Salem

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 20-97(b) by authorizing the City of Durham to collect a general municipal vehicle tax of up to ten dollars on any vehicle resident in the city. The proceeds of this tax are to be used for transportation. This authority to levy a ten-dollar vehicle is valid for one year only, after wish the rate would revert to five dollars. The bill also authorizes the City of Durham to enter into a joint agreement with a private university to extend the jurisdiction of that private institution's law enforcement division into the City.

ASSUMPTIONS AND METHODOLOGY: For the City of Durham, the current general municipal vehicle tax rate is five dollars per vehicle. According to the Durham County Tax

Administration, at this tax rate, the total revenue from levying this tax constituted $672,150 for the past year. The city was able to collect 86 percent of this amount. The current bill proposes increasing the municipal vehicle tax rate in Durham to ten dollars per vehicle. This increase will double the revenue from levying the tax. As a result, the annual estimated revenue increase from the municipal vehicle tax change would constitute $672,150 for the City of Durham in 03-04.

The legislation also allows Durham to enter into an agreement with a private university to extend the police powers of that university into the city itself. While this action could reduce the workload on city officers, no exact fiscal information is available at this time.

SOURCES OF DATA: Durham County Tax Administration.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 736 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF DURHAM TO COLLECT A GENERAL MUNICIPAL VEHICLE TAX OF UP TO TEN DOLLARS ON VEHICLES RESIDENT IN THE CITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 173
PROPOSED COMMITTEE SUBSTITUTE H173-PCS70347-LUf-10

Short Title: Cosmetic Art/Continuing Ed/Penalty Change. (Public)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT AND CLARIFYING THE REMITTANCE OF CIVIL PENALTIES UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired ~~licenses.~~licenses; inactive status.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ license, ~~the teacher~~ a teacher, cosmetologist, esthetician, or manicurist shall annually complete ~~a minimum of~~ eight hours of Board-

approved continuing education ~~which shall be approved by the Board. Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at any time within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. A licensee who is in active practice as a cosmetologist, esthetician, or manicurist, has practiced for at least five consecutive years as a cosmetologist, esthetician, or manicurist, and is 55 years of age or older does not have to meet the continuing education requirements of this subsection, unless the licensee is a cosmetology teacher.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. G.S. 88B-29(a) reads as rewritten:

"(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. ~~All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred.~~ The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3. Section 1 of this act becomes effective October 1, 2003. Section 2 of this act is effective when it becomes law and applies to violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 173
PROPOSED COMMITTEE SUBSTITUTE H173-CSLUf-10 [v.4]

6/30/2003 1:08:39 PM

Short Title: Cosmetic Art/Continuing Ed/Penalty Change. (Public)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT REQUIRING THE CONTINUING EDUCATION OF PERSONS PRACTICING UNDER THE COSMETIC ART ACT AND CLARIFYING THE REMITTANCE OF CIVIL PENALTIES UNDER THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired ~~licenses.~~licenses; inactive status.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on or before October 1 of each year. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(d) Teacher licenses shall be renewed every two years on or before October 1. A late fee shall be charged for the renewal of licenses after that date. Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a ~~teacher's~~ license, ~~the teacher~~ a teacher, cosmetologist, esthetician, or manicurist shall annually complete ~~a minimum of~~ eight hours of Board-

approved continuing education ~~which shall be approved by the Board. Teachers~~ for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at any time within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. A licensee who is in active practice as a cosmetologist, esthetician, or manicurist, has practiced for at least five consecutive years as a cosmetologist, esthetician, or manicurist, and is 55 years of age or older does not have to meet the continuing education requirements of this subsection, unless the licensee is a cosmetology teacher.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees.

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section."

SECTION 2. G.S. 88B-29(a) reads as rewritten:

"(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars ($1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. ~~All civil penalties collected by the Board shall be remitted to the school fund of the county in which the violation occurred.~~ The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 3. Section 1 of this act becomes effective October 1, 2003. Section 2 of this act is effective when it becomes law and applies to violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 173

Short Title:	Davidson Co. Local Act-2.	(Local)
Sponsors:	Representative Howard.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 3, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE COUNTY OF DAVIDSON.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to Davidson County only.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 173:
Cosmetic Art/Continuing Ed/Penalty Change

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard
Date:	June 27, 2003	**Analysis by:**	Martha Walston
Version:	H173-CSLUf-10		Committee Counsel

SUMMARY: House Bill 173 amends the Cosmetic Art Act as follows:

- *Requires a teacher, cosmetologist, esthetician, or manicurist to annually complete 8 hours of Board-approved continuing education for each year of the licensing cycle. Current law only requires a teacher to complete the continuing education requirements.*
- *Allows a cosmetologist to complete up to 24 hours of the required continuing education at any time within the cosmetologist's three-year licensing cycle.*
- *Exempts a licensee, other than a licensed cosmetology teacher, from the continuing education requirements if the licensee meets all of the following conditions:*
  1. *Is in active practice as a cosmetologist, esthetician, or manicurist*
  2. *Has practiced for at least 5 consecutive years as a cosmetologist, esthetician, or manicurist*
  3. *Is 55 or older.*
- *Authorizes the Board to establish an inactive list of licensees and exempts inactive persons from the continuing education requirements.*
- *Clarifies that the proceeds of any civil penalty will be remitted to the civil Penalty and Forfeiture Fund established by the General Assembly.*

BILL ANALYSIS: Under current law, a cosmetology teacher, esthetician teacher, or a manicurist teacher must annually complete a minimum of eight hours of Board-approved continuing education before the teacher's license may be renewed. Licensed cosmetologists, estheticians, and manicurists are not required to complete continuing education. House Bill 173 would require a teacher as well as a cosmetologist, esthetician, or manicurist to complete eight hours of Board-approved continuing education for each year of the licensing cycle.[1]

House Bill 173 exempts the following licensees from the continuing education requirements: a licensee who (a) is in active practice as a cosmetologist, esthetician, or manicurist and who is not a cosmetology teacher, (2) has practiced for at least five consecutive years as a cosmetologist, esthetician, or manicurist, and (3) is at least 55 years old.

House Bill 173 authorizes the Board to establish an inactive list of licensees. The inactive licensee must be in good standing with the Board and may not practice cosmetic art for consideration. The inactive licensee is not required to complete continuing education requirements and may continue to purchase supplies as accorded an active licensee. The

[1] Cosmetologists' licenses must be renewed every three years. Teacher licenses must be renewed every two years. Esthetician and manicurist licenses must be renewed annually.

licensee must notify the Board when he or she desires to return to active status, pay the required fee, and complete any continuing education required by the Board.

House Bill 173 clarifies that the proceeds of any civil penalty assessed by the Board will be remitted to the Civil Penalty and Forfeiture Fund. This Fund is administered by the Office of State Budget and Management and consists of all civil penalties and civil forfeitures collected by a State agency. These proceeds are transferred to the State School Technology Fund and allocated to local school administrative units on the basis of average daily membership.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **June 30, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps and Alexei Pavlichev
Fiscal Research Division

RE: HB 173 – PCS – Cosmetic Art/Continuing Ed/Penalty Change

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: None

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-21 by requiring holders of cosmetologist's, esthetician's, or manicurist's licenses, prior to renewal of their licenses, to complete eight hours of continuing education for each year of the licensing cycle. This is an annual requirement. The continuing education program must be approved by the NC Board of Cosmetic Art Examiners (the Board). A cosmetologist may complete up to 24 hours of required continuing education at anytime within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. However, licensees who are 55 and have practiced for at least five years do not have to meet the continuing education requirement, unless the licensee is a cosmetic art teacher in active practice as a cosmetologist, esthetician,

or manicurist. Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of G.S. 88B-21. Finally, the legislation clarifies that all penalties assessed by the Board must be submitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

ASSUMPTIONS AND METHODOLOGY:

There are no accurate estimates available to evaluate fiscal impact of the proposed bill. Training and education for cosmetic art licensees is provided by different agencies and its costs vary broadly (generally between $50 and $180), based on the cosmetic specialty, length of training, and use of equipment. Table 1 presents summary of the data provided by the Board on the number of licenses of various cosmetic art specialists.

Table 1. Cosmetic Art Licenses

Specialty	Number of Licenses	Training Quantity and Frequency
Cosmetologist	45,679	24 hours within three years
Manicurist	8,149	8 hours annually
Esthetician	1,084	8 hours annually

It was impossible to determine the exact number of inactive licenses for each specialty. It was also impossible to determine the number of licenses that become inactive or return to active status on the annual basis. The Board does not monitor the number of licensees above 55 years of age.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

No estimate is available on the amount of civil penalties likely to be levied by the Board and submitted to the Fines and Forfeitures fund.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 173 A BILL TO BE ENTITLED AN ACT RELATING TO THE COUNTY OF DAVIDSON.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1256
Committee Substitute Favorable 5/22/03
PROPOSED COMMITTEE SUBSTITUTE H1256-CSLNf-32 [v.7]

7/7/2003 4:47:40 PM

Short Title: Voluntary DNA Database. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE SECRETARY OF HEALTH AND HUMAN SERVICES TO ESTABLISH A DNA DATABANK FOR THE VOLUNTARY SUBMISSION BY INDIVIDUALS OF DNA SAMPLES LINKED WITH THE INDIVIDUAL'S MEDICAL RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3of Chapter 143B of the General Statutes is amended by adding the following new Part to read:

"Part 34. Voluntary DNA/Medical Records Database.

"**§ 143B-216.68. Voluntary DNA Database established; purpose.**

(a) The Secretary shall establish the Voluntary DNA Database for the recording of DNA data and related medical records submitted voluntarily by individuals for the purposes authorized in this Part. DNA data and related medical records stored in the database shall be stripped of all information that would personally identify the individual submitting the data. The Secretary may maintain the database in the Department or another suitable location. The Secretary shall appoint the Director of the DNA database who shall be responsible for marketing the database to potential donors and companies that may wish to access the database. The Secretary shall select a public research institution to develop, implement, and maintain the database.

(b) The DNA database must be capable of classifying, matching, and storing the results of analyses of DNA and other biological molecules.

(c) The DNA database may contain DNA records and related medical records of individuals who have volunteered to provide the DNA sample and medical records. The Secretary may receive, analyze, store, and destroy a record, blood sample, or other specimen for the purposes described in subsection (d) of this section.

(d) The principal purpose of the Voluntary DNA Database is to advance scientific study of the links between genetics and common diseases in order to improve

diagnosis and treatment of the diseases, provided that DNA samples and related medical records may only be stored in the database if all personal identifying information is removed. The information contained in the database may not be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is authorized by this subsection.

(e) The Director may publish educational materials on the Voluntary DNA Database for dissemination to the general public. The materials shall describe the purposes for which data in the database will be used, who will have access to the database, the confidential nature of samples in the database, and other information.

"**§ 143B-216.69. Collection of DNA samples.**

(a) The Secretary shall adopt rules establishing procedures in accordance with this Part for the collection, preservation, analysis, and use of blood samples or other specimens in a manner that permits the exchange of DNA samples between DNA laboratories and the use of the data for the purposes authorized under this section.

(b) The Director of the DNA database may contract with a laboratory, other State agency, private entity, or institution of higher education for services to perform DNA analyses.

(c) The DNA database may not accept a blood sample taken from a person that is submitted voluntarily unless the sample is collected in a medically approved manner by a physician or registered nurse or other person who is trained to properly collect samples or other specimens and supervised by a licensed physician. A person collecting a blood sample or other sample or specimen under this section shall not be liable in any civil action if the person collects the sample or other specimen in a reasonable manner according to generally accepted medical or other professional practices. A person voluntarily submitting hair or saliva samples or specimens, or other samples or specimens except for blood, may send the hair, saliva, or sample or specimen other than blood directly to the research institution.

(d) The Director shall provide at no cost to the individual the specimen vials, mailing tubes and labels, report forms, and other instructions for collection of blood samples or other specimens from individuals voluntarily submitting DNA to the database.

(e) A person who collects a blood sample or other specimen under this section shall send the sample or specimen to the DNA database in accordance with instructions provided by the Director.

(f) A DNA laboratory may analyze a blood sample collected under this section or other DNA specimen only for the purposes authorized under this section.

"**§ 143B-216.70. Data collection.**

(a) The Director of the DNA database shall make available on the Internet or by mail a medical history questionnaire that shall be required as part of every voluntary submission to the database. Upon receipt of the completed questionnaire from the donor, the Department shall provide for a donor test kit to be mailed to the donor. The test kit, returned samples or specimens, and the completed questionnaire will be linked and uniquely identified by a bar code or other unique number in order to preserve the donor's anonymity. When a sample is mailed to the lab site for housing, the sample will

be transferred to a stain card for storage before any analysis of the sample is undertaken. The transfer to a stain card shall be in a manner and time period that preserves the integrity of the sample for future testing. The medical history questionnaire shall be developed by the Director, in consultation with the following persons, or their designees:

(1) The Director of the Genomic Science Program, North Carolina State University.

(2) The Chair of the Department of Genetics, University of North Carolina School of Medicine.

(3) The Director of the Biomedical/Biotechnology Research Institute, North Carolina Central University.

(4) The Chair of the Department of Pediatrics/Genetics, East Carolina University School of Medicine.

(5) The Director of the Genomic Science Program, Western Carolina University.

(b) The completed medical questionnaire shall be maintained in the database. After not fewer than one thousand samples have been collected, a medical marker DNA test shall be performed, computerized, and attached to the original completed medical questionnaire. Information from the completed medical questionnaire and the medical marker test shall be linked using the unique bar code or identifying number assigned. The Department may make available the information from each linked marker and questionnaire to North Carolina based biotechnology companies and research institutions.

"**§ 143B-216.71. Access to Voluntary DNA Database information.**

(a) The Secretary shall adopt rules:

(1) To prevent unauthorized access to the DNA database.

(2) To release DNA records, specimens, or analyses from the DNA database for authorized purposes.

(3) Relating to the internal disclosure, access, or use of a sample, specimen, or DNA record in the Department of Health and Human Services DNA laboratory.

(b) A DNA sample, analysis, or record, may be released only if personally identifiable information is removed, for:

(1) A population statistics database.

(2) Identification research and protocol development.

(3) Quality control.

(c) The Director may release a record of the number of requests made for a DNA record and the name of the requesting person. The Director shall maintain a record of requests made under this section.

"**§ 143B-216.72. Confidentiality of DNA records.**

(a) A DNA record stored in the Voluntary DNA Database is confidential and is not subject to disclosure except for the purposes authorized in this Part.

(b) A person who knowingly discloses information in a DNA record or information related to a DNA analysis of a blood specimen except as authorized by this Part is guilty of a Class 1 misdemeanor.

(c) A violation of this section constitutes official misconduct.

"**§ 143B-216.73. Segregation of records.**

The Secretary shall adopt rules providing for the segregation of DNA records created under this Part from records created under Article 13 of Chapter 15A of the General Statutes.

"**§ 143B-216.74. Fees; other funds.**

The Director shall charge to participating North Carolina-based biotechnology corporations and research institutions an equal portion of the cost to store and retrieve information in the database. The annual fee for each biotechnology corporation or research institution shall be twenty-five thousand dollars ($25,000) for the first year of operating the database. After the first year, the fee shall be adjusted based on the actual cost of maintaining the system. The Department of Health and Human Services, on behalf of the Voluntary DNA Database, may accept grants, contributions, devises, bequests, and gifts, which shall be kept in a separate fund, which shall be nonreverting, and shall be used to fund the implementation and continuing operation of the Voluntary DNA Database. The Department may also accept donations of equipment and storage facilities from a State, private, or public research institution to be used for the purposes of the DNA Database.

"**§ 143B-216.75. Definitions.**

As used in this Part, unless the context clearly requires otherwise:

(1) 'Database' or 'DNA database' means the Voluntary DNA Database established under this Part for the recording of DNA samples and related medical records voluntarily submitted by an individual.

(2) `Department' means the Department of Health and Human Services.

(3) 'Director' means the Director of the Voluntary DNA Database established under this Part.

(4) 'DNA' means deoxyribonucleic acid.

(5) 'DNA record' means DNA identification information stored in the Voluntary DNA Database for the purposes stated in this Part.

(6) 'DNA sample' means a blood sample or other specimen voluntarily submitted to the database by an individual.

(7) `Medical record' means the questionnaire completed and submitted by the individual volunteering to participate in the database.

(8) `Secretary' means the Secretary of Health and Human Services.

SECTION 2. This act becomes effective October 1, 2003. Nothing in this act obligates the General Assembly to appropriate funds to implement this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1256

Short Title:	Voluntary DNA Database.	(Public)
Sponsors:	Representatives Miller and Walend (Primary Sponsors).	
Referred to:	Science and Technology, if favorable, Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE SECRETARY OF COMMERCE TO ESTABLISH A DNA DATABANK FOR THE VOLUNTARY SUBMISSION BY INDIVIDUALS OF DNA SAMPLES LINKED WITH THE INDIVIDUAL'S MEDICAL RECORD.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by adding the following new Part to read:

"Part 19. Voluntary DNA/Medical Records Database.

"**§ 143B-472.85. Voluntary DNA Database established; purpose.**

(a) The Secretary of Commerce shall establish a DNA database for the recording of DNA data and related medical records submitted voluntarily by individuals for the purposes authorized in this Part. DNA data and related medical records stored in the database shall be stripped of all information that would personally identify the individual submitting the data. The Secretary may maintain the database in the Department of Commerce or another suitable location. The Secretary shall appoint the Director of the DNA database.

(b) The DNA database must be capable of classifying, matching, and storing the results of analyses of DNA and other biological molecules.

(c) The DNA database may contain DNA records and related medical records of individuals who have volunteered to provide the DNA sample and medical records. The Secretary may receive, analyze, store, and destroy a record, blood sample, or other specimen for the purposes described in subsection (d) of this section.

(d) The principal purpose of the Voluntary DNA Database is to advance scientific study of the links between genetics and common diseases in order to improve diagnosis and treatment of the diseases, provided that DNA samples and related medical records may only be stored in the database if all personal identifying information is removed. The information contained in the database may not be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is authorized by this subsection.

(e) The Director may publish educational materials on the Voluntary DNA Database for dissemination to the general public. The materials shall describe the purposes for which data in the database will be used, who will have access to the database, the confidential nature of samples in the database, and other information.

"**§ 143B-472.86. Collection of DNA samples.**

(a) The Secretary shall adopt rules establishing procedures for the collection, preservation, analysis, and use of blood samples or other specimens in a manner that permits the exchange of DNA samples between DNA laboratories and the use of the data for the purposes authorized under this section.

(b) The Director of the DNA database may conduct DNA analyses or contract with a laboratory, other State agency, private entity, or institution of higher education for services to perform DNA analyses.

(c) The Director of the DNA database may not accept a blood sample or other specimen taken from a person that is submitted voluntarily unless the sample or specimen is collected in a medically approved manner by a physician or registered nurse or other person who is trained to properly collect samples or other specimens and supervised by a licensed physician. A person collecting a blood sample or other specimen under this section shall not be liable in any civil action if the person collects the sample or specimen in a reasonable manner according to generally accepted medical or other professional practices.

(d) The Director shall provide at no cost to the individual the specimen vials, mailing tubes and labels, report forms, and other instructions for collection of blood samples or other specimens from individuals voluntarily submitting DNA to the database.

(e) A person who collects a blood sample or other specimen under this section shall send the sample or specimen to the Director of the DNA database.

(f) A DNA laboratory may analyze a blood sample collected under this section or other DNA specimen only for the purposes authorized under this section.

"**§ 143B-472.87. Access to Voluntary DNA Database information.**

(a) The Secretary shall adopt rules:

(1) To prevent unauthorized access to the DNA database.

(2) To release DNA records, specimens, or analyses from the DNA database for authorized purposes.

(3) Relating to the internal disclosure, access, or use of a sample, specimen, or DNA record in the Department of Commerce DNA laboratory.

(b) The Director may release a DNA sample, analysis, or record, only if personally identifiable information is removed, for:

(1) A population statistics database.

(2) Identification research and protocol development.

(3) Quality control.

(c) The Director may release a record of the number of requests made for a DNA record and the name of the requesting person. The Director shall maintain a record of requests made under this section.

"**§ 143B-472.88. Confidentiality of DNA records.**

(a) A DNA record stored in the Voluntary DNA Database is confidential and is not subject to disclosure except for the purposes authorized in this Part.

(b) A person who knowingly discloses information in a DNA record or information related to a DNA analysis of a blood specimen except as authorized by this Part is guilty of a Class 1 misdemeanor.

(c) A violation of this section constitutes official misconduct.

"**§ 143B-472.89. Segregation of records.**

The Secretary shall adopt rules providing for the segregation of DNA records created under this Part from records created under Article 13 of Chapter 15A of the General Statutes.

"**§ 143B-472.90. Fees.**

The Director may collect a reasonable fee for providing population statistics data or other research data as authorized by this Part. The Director shall charge to North Carolina-based biotechnology corporations and research institutions an equal portion of the cost to store and retrieve information in the database. The annual fee for each biotechnology corporation or research institution shall be twenty-five thousand dollars ($25,000) for the first year of operating the database. Thereafter, the charge to each corporation or research institution shall be based on the actual cost of maintaining the system, divided by the number of biotechnology corporations and research institutions that represents one half of the total number of biotechnology corporations and research institutions in the State.

"**§ 143B-472.91. Definitions.**

As used in this Part, unless the context clearly requires otherwise:

(1) 'Database' or 'DNA database' means the Voluntary DNA Database established under this Part for the recording of DNA samples and related medical records voluntarily submitted by an individual.

(2) 'Director' means the Director of the Voluntary DNA Database established under this Part.

(3) 'DNA' means deoxyribonucleic acid.

(4) 'DNA record' means DNA identification information stored in the Voluntary DNA Database for the purposes stated in this Part.

(5) 'DNA sample' means a blood sample or other specimen voluntarily submitted to the database by an individual."

SECTION 2. There is appropriated from the General Fund to the Department of Commerce the sum of three hundred thousand dollars ($300,000) for the 2003-2004 fiscal year and the sum of three hundred thousand dollars ($300,000) for the 2004-2005 fiscal year. These funds shall be used to establish the Voluntary DNA Database, including the purchase of computer equipment, in accordance with Section 1 of this act.

SECTION 3. This act becomes effective July 1, 2003. Section 1 of this act becomes effective only if funds are appropriated to implement this act.

HOUSE BILL 1256:
Voluntary DNA Database

BILL ANALYSIS

Committee:	House Finance	**Sponsors:**	Reps. Miller and Walend
Date:	July 8, 2003	**Analysis by:**	Martha Walston
Version:	H1256-CSLNf-32		Committee Counsel

SUMMARY: House Bill 1256 directs the Secretary of Health and Human Services to establish a DNA database for the recording of DNA data and related medical records submitted voluntarily by participants, for the purposes of advancing scientific study of the links between genetics and common diseases. The 2nd Edition was given a favorable report in the House Science and Technology Committee.

House Bill 1256 is in House Finance because the Director of the DNA database shall charge each participating North Carolina-based biotechnology corporation or research institution a fee of $25,000 for the first year of operating the database. This fee is for providing population statistics data or other research data and will cover the cost to store and retrieve information in the database. After the first year, the fee will be adjusted based on the actual cost of maintaining the system.

BACKGROUND: Deoxyribonucleic Acid (DNA) is the carrier of the genetic code for living organisms. In other words, it contains the blueprint for how humans, and other organisms, work. Advances in medicine, genetics, and forensic science can be attributed to the research done on DNA. In the late 1980s, DNA evidence began to play a major role in criminal trials. DNA testing has determined the innocence of accused persons and also verified the guilt of others.

BILL ANALYSIS: House Bill establishes a new Part under Article 3 (Department of Health and Human Services) within Chapter 143B of the General Statutes. Below is an analysis of the new Part 34. Voluntary DNA/Medical Records Database:

§143B-216.68 provides that the Secretary of Health and Human Services shall establish the Voluntary DNA Database. The database will contain DNA data and related medical records submitted voluntarily. The DNA data and related medical records will be stripped of any information that would personally identify the individual submitting the data. The Secretary's duties include: appointing the Director of the DNA database who will be responsible for marketing the database to potential donors and companies that may wish to access the database, and selecting a public research institution to develop, implement, and maintain the database. The Director may publish and disseminate educational materials on the database, describing the purposes for which the data will be used and describing the confidential nature of samples in the database.

The principal purpose of the Voluntary DNA Database is to advance scientific study of the links between genetics and common diseases in order to improve diagnosis and treatment of the

diseases. DNA samples and related medical records may only be stored if all personal identifying information is removed. The information in the database may NOT be collected, analyzed, or stored to obtain information about human physical traits or predisposition for disease unless the purpose for obtaining the information is authorized by the principal purpose of the database.

§ 143B-216.69 requires the Secretary to adopt rules establishing procedures for the collection, preservation, analysis, and use of blood samples or other specimens in a manner that permits the exchange of DNA samples between DNA laboratories and the use of the data for authorized purposes. The database may only accept voluntary blood samples that are collected in a medically approved manner by a physician or registered nurse or other properly trained person who is supervised by a licensed physician. A person who collects blood samples or other specimens under this section shall send the sample or specimen to the database in accordance with instructions provided by the Director. The Director shall provide at no cost to the individual the specimen vials, mailing tubes and labels, report forms and other instructions for collecting blood samples or other specimens. A person may send hair, saliva, or samples or specimens other than blood directly to the research institution.

§ 143B-216.70 requires the Director to develop a medical history questionnaire that must be completed by volunteers who submit information to the database. The questionnaire shall be made available on the Internet or by mail. Once the questionnaire is completed and returned, a donor test kit will be mailed to the donor. The Director will develop the questionnaire in consultation with five identified professionals from North Carolina State University, the University of North Carolina School of Medicine, North Carolina Central University, East Carolina University School of Medicine, and Western Carolina University.

§ 143B-216.71 requires the Secretary to adopt rules to prevent unauthorized access to the database, to release information from the database for authorized purposes, and to set out the procedure for internal use of a sample, specimen, or DNA record in the Department's DNA laboratory. A DNA sample, analysis, or record may be released (only if personally identifiable information is removed) for a population statistics database, identification research and protocol development, or quality control. The Director may release a record of the number of requests made for a DNA record and the name of the requesting person.

§ 143B-216.72 provides that a DNA record in the database is confidential and may only be disclosed for the purposes in Part 34. A person who makes an unauthorized disclosure is guilty of a Class 1 misdemeanor.

§ 143B-216.73 requires the Secretary to adopt rules providing for the segregation of DNA records created under Part 34 from records created under the Criminal Procedure Act in Article 13 of Chapter 15A.

§ 143B-216.74 requires the Director to charge the following fees to participating North Carolina-based biotechnology corporations and research institutions:

An annual fee of $25,000 shall be charged to each participating biotechnology corporation or research institution for the first year of operating the database.

In following years, the charge to each participating North Carolina-based biotechnology corporation and research institution shall be based on the actual cost of maintaining the system.

The Department may accept grants, contributions, devises, bequests, and gifts on behalf of the Voluntary DNA Database. These acquisitions shall be kept in a separate nonreverting fund and used to fund the implementation and continuing operations of the database. The Department may also accept donations of equipment and storage facilities from a State, private, or public research institution for the database.

§ 143B-216.75 sets out definitions for the following terms: database, Department, Director, DNA, DNA record, DNA sample, Medical record, Secretary.

SECTION 2 makes the act effective October 1, 2003 and specifies that the General Assembly is not obligated to appropriate funds to implement the act.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

BILL NUMBER: House Bill 1256 (House Committee Substitute)

SHORT TITLE: Voluntary DNA Database

SPONSOR(S): Representatives Miller and Walend

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
DHHS	See assumptions and methodology; Dependent on number of participating firms: first year each firm pays $25,000 and subsequent years the fee is based on actual costs associated with maintaining the database.				
EXPENDITURES					
DHHS	Costs range per sample depending on the contracting alternative chosen by DHHS; See assumptions and methodology *Note: DHHS could not provide fiscal impact estimates within the time available. Costs contained in this memo were developed with the Department of Commerce as the managing entity of the DNA database.*				
Correction	Exact amount cannot be determined				
Judicial	Exact amount cannot be determined				
ADDITIONAL PRISON BEDS*	No significant impact anticipated				
POSITIONS: (cumulative)	Dependent on DHHS contracting options.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services; Department of Correction; Judicial Branch

EFFECTIVE DATE: October 1, 2003

This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.

**Potential costs associated with the federal Health Insurance Portability and Accountability Act (HIPAA) are not included in this analysis. See assumptions and methodology.*

BILL SUMMARY: The proposed legislation adds new Part 34 to Article 3 of GS Ch. 143B to create a databank of DNA and related medical records in the Department of Health and Human Services (DHHS) for scientific research and study. The DNA databank will house voluntary submissions by individuals of DNA samples linked with each individual's medical record. The legislation states that the principal purpose of the DNA database is to advance scientific study of links between genetics and common diseases to improve diagnosis and treatment of these diseases. It contains provisions on the DHHS's responsibilities regarding collection of samples, access to database information, confidentiality of records, and segregation of records. It establishes a Class 1 misdemeanor offense for knowing, unauthorized disclosure of DNA information. Fees that DHHS may charge for providing data to corporations and research institutions are set. Departmental receipts stemming from the authorized fees, grants, gifts, and donations are the only funds available creating and operating the proposed DNA database. No general fund dollars are obligated in this act. The act becomes effective October 1, 2003.

ASSUMPTIONS AND METHODOLOGY:

Department of Health and Human Services

Revenues

The proposed legislation allows DHHS to collect reasonable fees equal to the cost of storing and retrieving information from the DNA database. North Carolina-based biotechnology corporations and research institutions participating in the database program will pay a fee of twenty-five thousand dollars ($25,000) for the first year of operating the database. Revenues associated with the DNA database will depend on the number of biotechnology corporations and research institutions choosing to participate. Fees in subsequent years will be based on the actual cost of maintaining the DNA database, as determined by DHHS. The bill allows for DHHS to collect grants, gifts, and other one-time donations for the purpose of operating the DNA database. These departmental receipts are the only funds available for the purpose of creating and managing the DNA database.

Expenditures

The total cost of establishing and maintaining a DNA database includes the cost of collecting and processing the DNA samples and medical records, storing the DNA samples, purchasing and maintaining the supplies and computer equipment necessary for the DNA database, and performing analysis and testing on the DNA samples. One alternative would be for DHHS to contract out for portions of the handling and testing of DNA samples, whether with a state university or with a biotechnology/research organization. Three options for in-house vs. contracting out are detailed below.

In calculating the expenditures for creating and managing the DNA database, potential costs associated with the federal Health Insurance Portability and Accountability Act (HIPAA) were not included. Although DHHS is a covered agency under HIPAA rules, it is unclear at this time whether the records in this database would be subject to HIPAA compliance. If DHHS later finds that these records fall under the HIPAA umbrella, compliance with federal rules could increase the cost of creating and maintaining the database. No estimates are currently available regarding HIPAA's impact.

The database implementation could be structured with three tiers of activities: 1) collection, storage and stain card transfer of DNA samples; 2) electronic transfer and testing of medical records and stain card samples; and 3) actual medical testing/research and usage of the DNA database. Funding levels could dictate the speed at which the DHHS DNA database effort progresses from one tier to another. The three options below are inclusive of all three tiers' activities.

Expenditures Relevant to All Options
It can be assumed that various media channels would pursue the DNA database because it is a new and emerging idea. However, DHHS would still require some funding for advertising to obtain volunteers for the database and promotion of the database for economic development purposes. **This fiscal note assumes approximately $10,000 for promotion and advertising.**

DHHS is granted the authority to adopt rules establishing the procedures for the collection of DNA samples from voluntary participants. Many alternatives exist for how to collect and handle the DNA. Individuals could volunteer to participate and be shipped individual collection kits or DHHS could establish collection sites across the State. This fiscal note assumes a single collection point where DHHS would establish an intake process for medical records and DNA samples, and individuals could volunteer to have a kit mailed to them to complete and return to DHHS.

A detailed medical interview/questionnaire must also be conducted while the DNA sample is being collected and/or submitted. If individuals are able to submit personal medical records with DNA samples, a detailed questionnaire and submission procedures must be established, taking into consideration individual privacy issues. It is assumed that a commission would be established for genomics institutions and researchers to participate in the formulation of the detailed medical questionnaire. Volunteers could request paper questionnaires and would then work with their physicians to fill out the detailed medical history. The paper questionnaire would then be returned to DHHS for inclusion in the DNA database. The paper responses would need to be input into the electronic database using a standard data entry FTE calculation. Each sample may require 20 to 30 minutes to enter electronically, depending on the level of information contained in the questionnaire. Costs of this alternative are listed in Option 1 below.

One alternative to the paper questionnaire may be to provide an online medical interview, which would allow for automated electronic data capturing. Without having detailed specifications, an initial estimate for software ranges between $5,000 and $15,000 with annual maintenance costs running around $2,000. The Information Systems Division (ISD) estimates that to write a custom application for this effort would involve a system analyst, programmer and database designer with average salaries of roughly $50 per hour. Design and implementation of such a project is

estimated to take approximately six weeks. Thus, on the outset a six-week project with an average salary of $1,200 per week per employee (three employees) would present a total project cost of $21,600. Depending on the involvement of the staff this cost could be between $15,000 and $30,000. **This fiscal note assumes the software and design of an online process for medical interviewing and data collection will cost approximately $30,000.**

Various DNA collection methods are available to be used, such as blood, cheek swab or hair root samples, each with varying costs. Blood samples are the only samples that require stain card transfers, which could be performed in-house or outsourced (see options below.) Blood samples are also the most reliable method to collect DNA and are the most enduring sample that can be taken. Costs to other state agencies for DNA collection kits range from $2 to $4.50 per kit based on method and volume, and it is assumed that collection kit costs for DHHS will be similar. Postage to mail the kits to/from individuals back to the State for tracking is $0.50 each. **This fiscal note assumes a kit collection cost of $5 per sample.**

Option 1
Option 1 assumes that DHHS retains ownership and maintenance of the DNA database and performs most activities in-house.

A special laboratory freezer is required to store the DNA samples once collected, and the cost for a freezer that holds 10,000 samples is approximately $10,000. The price is dependent on the size, temperature limits, alarm systems, and recording devices selected. **It is assumed that DHHS would only require one freezer for $10,000 during the initial stages of the database implementation.**

A computer database would be necessary to house the DNA sample data as well as electronic medical records for participating individuals. Information submitted on paper questionnaires must be converted to electronic form and entered into the database. DHHS must hire staff *or* contract with another organization to perform this conversion/data entry. The computer system is estimated to store approximately 20,000 electronic medical records along with the relevant DNA data; however, the estimate is based on the size of DNA samples in the State Bureau of Investigation DNA database. The information stored in the DHHS database will be different records of DNA strands that have coding for genetic traits, thus the sizing may be different. **The staffing requirements and computer equipment necessary to track and maintain the DHHS DNA database will be approximately $22,000.** If an online medical history submission database were to be created (see above), the total computer equipment cost for the database minus any data entry needs would be approximately $52,000 ($30,000 + $22,000.)

Lab space and a lab technician would be required to transfer the DNA samples to stain cards to preserve them prior to medical testing. DHHS must hire staff/secure space *or* contract with another organization to perform these activities. If medical testing was to occur immediately and it was not required to preserve the DNA samples for further research, the stain card transfer step would not be necessary. It would be necessary to secure a sterile environment for lab space that includes proper countertops and biological hoods to protect from airborne pathogens. It has been recommended that lab technicians who will perform the stain card transfers have at least a two-year degree in a biological science to understand the safety and procedural issues associated with

this process. **It is assumed that staffing for stain card transfers would require approximately $40,000 annually; however, equipment costs and lab space are unknown and are not calculated in this figure.**

To perform medical research testing in-house, whether for actual testing purposes or quality control checks, DHHS would need to purchase laboratory and analysis equipment, lease or purchase laboratory space, and hire a trained technician(s) to perform the testing. This effort would be substantial and costs would likely outweigh usefulness. Therefore, this fiscal note assumes that all analysis and testing of DNA samples will be outsourced to biotechnology corporations and research institutions in the State instead of performed at DHHS. The National Institute of Justice has negotiated a rate of approximately $50 per sample for the convicted offender DNA samples that many states outsource to private labs. **Due to volume considerations, it can be assumed that the DHHS DNA database testing would require higher outsourcing fees between $50 and $100 per sample.**

Option 2

Option 2 assumes that DHHS retains ownership and maintenance of the actual DNA database yet contracts out for storage, stain card transfer, and medical testing. The costs associated with computer equipment and data entry would be the same as those detailed in Option 1. DHHS would no longer require a freezer, lab space, or trained lab technician(s).

Option 2 assumes the stain card transfer, storage, analysis, and testing of the DNA samples will be wholly outsourced to biotechnology corporations and research institutions in the State instead of performed at DHHS. Contracting out the analysis testing would result in fewer in-house costs for DHHS. The National Institute of Justice has negotiated a rate of approximately $50 per sample for the convicted offender DNA samples that many states outsource to private labs. **Due to volume considerations and the additional storage and stain card activities, it can be assumed that the DHHS DNA database testing would require higher outsourcing fees between $75 and $150 per sample.**

Option 3

Option 3 assumes that DHHS wholly outsources the DNA database effort to biotechnology corporations and research institutions in the State instead of performing them in-house. DHHS would only be responsible for promoting the DNA database and coordinating the collection and medical record intake process. All DNA samples would be returned to the contracted organization for storage, computer entry, and medical testing. Due the to the privacy issues and scope of the effort, it can be assumed that the outsourcing fees would be higher than those associated with Option 2. **While no exact estimate can be established without entering into contract negotiations, it can be assumed that fees will be between $75 and $200 per sample.**

The tables below detail the three options as they relate to the Department's responsibilities:

Option 1 – Mostly in-house at DHHS		
Recurring / Non-Recurring	**Expenditure**	**Activities Required by DHHS**
Non-Recurring	• Software design - $30,000 • Storage freezer - $10,000 • Stain card transfer lab & equipment – *unknown* **TOTAL** - $40,000 *(+ Stain card lab and equipment costs)*	• Promotion and advertising • Detailed medical interview/questionnaire creation and data entry with online option • DNA collection kit process • DNA Computer Database requirements • Sample storage in freezer • Stain card transfer • Contract out for medical testing / usage
Recurring	• Database Staffing - $22,000 • Stain card transfer staffing - $40,000 • Promotional Activities - $10,000 **TOTAL** - $72,000 *(+ per-sample costs listed below)*	
Per-sample Recurring Expendtiures	*Per Sample* - • $5 / collection kit • $50-$100 / for testing & analysis	

Option 2 – Some in-house at DHHS; some outsourced		
Recurring / Non-Recurring	**Expenditure**	**Activities Required by DHHS**
Non-Recurring	• Software design - $30,000 **TOTAL** - $30,000	• Promotion and advertising • Detailed medical interview/questionnaire creation and data entry with online option • DNA collection kit process • DNA computer database requirements • Contract out for storage, stain card transfer, and medical testing / usage
Recurring	• Database Staffing - $22,000 • Promotional Activities - $10,000 **TOTAL** - $32,000 *(+ per-sample costs listed below)*	
Per-sample Recurring Expendtiures	*Per Sample* - • $5 / collection kit • $75-$150 / for storage, testing & analysis	

Option 3 – Fully outsourced		
Recurring / Non-Recurring	**Expenditure**	**Activities Required by DHHS**
Non-Recurring	• Software design - $30,000 **TOTAL** - $30,000	• Promotion and advertising • Detailed medical interview/questionnaire creation and data entry with online option • DNA collection kit process • DNA computer database requirements • Contract out for storage, stain card transfer, and medical testing / usage
Recurring	• Promotional Activities - $10,000 **TOTAL** - $10,000 *(+ per-sample costs listed below)*	
Per-sample Recurring Expendtiures	*Per Sample* - • $5 / collection kit • $75-$200 / for storage, testing, analysis & maintenance	

Department of Correction

Class 1 Misdemeanor Impact. The Sentencing and Policy Advisory Commission prepares inmate population projections annually.[1] Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five year Fiscal Note horizon and beyond.*

Because HB 1256 creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the prison population. On average, for every seven convictions of a Class 1 misdemeanor, one offender receives an active sentence averaging 35 days to be served in a local jail. For 30-90 day sentences in local jails, the Department of Correction reimburses the county $18/day. If sentencing practice for this offense is similar to that of other Class 1 misdemeanors, for every 7 convictions the cost to the State would average $630 (=35*18). In addition, 82 percent of Class 1 misdemeanor convictions resulted in community sentences, and two percent resulted in intermediate sentences. Average daily cost for supervised non-active punishments range from $1.83 to $11.47.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

HB 1256 creates a Class 1 misdemeanor offense for a person who knowingly discloses information in a DNA record or information related to a DNA analysis of a blood specimen except as authorized under the bill. Current G.S. 15A-266.11 makes the unauthorized use of the State DNA Database or Databank a Class 1 misdemeanor. Because the AOC does not have an offense code for current G.S. 15A-266.11, no data is available concerning the frequency of this offense under current law. The lack of an AOC offense code is some indication that these offenses are infrequently charged and/or infrequently result in convictions.

The AOC cannot estimate the number of new charges that would arise as a result of this bill. For Class 1 offenses that are brought to trial, the estimated court cost per trial is $3,144. For Class 1 offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $279.

SOURCES OF DATA: Department of Justice; Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; and, Office of State Construction.

[1] The projections used for incarceration fiscal notes and fiscal memos are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

TECHNICAL CONSIDERATIONS: There are three similar bills (HB 1254, HB 1255, HB 1256) that direct DHHS to establish a DNA database. Each bill has a corresponding fiscal note calculating the establishment of a DNA database separately. However, ultimately only one database would be required within DHHS to fulfill the legislative requirements.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stephanie Schmitt, Chloe Gossage, and Jim Klingler

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1256 A BILL TO BE ENTITLED AN ACT TO DIRECT THE SECRETARY OF COMMERCE TO ESTABLISH A DNA DATABANK FOR THE VOLUNTARY SUBMISSION BY INDIVIDUALS OF DNA SAMPLES LINKED WITH THE INDIVIDUAL'S MEDICAL RECORD.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the Committee Substitute Bill (# 2), ☒ which changes the title, unfavorable as to the ~~(original bill)~~ (Committee Substitute Bill # 1). ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 313
PROPOSED COMMITTEE SUBSTITUTE H313-PCS30371-STx-46

Short Title: Rocky Mount Charter Revision. (Local)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO CONSOLIDATE AND REVISE THE CHARTER OF THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Rocky Mount is revised and consolidated to read as follows:

"CHARTER OF THE CITY OF ROCKY MOUNT.

"CHAPTER I.

"GENERAL PROVISIONS.

"Section 1. **Definitions.** As used in this Charter, the following words are hereby defined to mean as set forth, unless otherwise clearly required by the context:

(a) City. The word "City" shall mean the City of Rocky Mount.

(b) City Council. The words "City Council" shall mean the City Council of the City of Rocky Mount.

"CHAPTER II.

"ORGANIZATION AND POWERS.

"ARTICLE I. CITY BOUNDARIES.

"Section 2. **Existing City Boundaries.** The boundaries of the City shall be those existing at the time of the effective date of this Charter until modified in accordance with law.

"Section 3. **Wards.** The City shall be divided into seven single-member electoral districts (referred to in this Charter as "wards"), each ward representing the same number of persons as nearly as possible. The City Council shall have the authority to revise the ward boundaries for the purposes of:

(1) Accounting for territory annexed to or excluded from the City; and

(2) Correcting population imbalances between the wards shown by a new federal census or caused by exclusions or annexations.

Changes in the ward boundaries shall be made by a five-sevenths vote of all the members of the City Council.

"ARTICLE II. CORPORATE POWERS.

"Section 10. **General Rights and Powers.** The inhabitants of the City are a body corporate and politic under the name City of Rocky Mount. The City has all of the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the Constitution of North Carolina and the General Statutes of North Carolina. In addition to the powers conferred as stated above, the City shall possess the following powers and authority:

(1) To regulate or prohibit the sale, use, and storage of gunpowder, dynamite, gasoline, naphtha, and all other dangerous, explosive or combustible substances within the corporate limits of the City, or within one mile thereof; to regulate or prohibit the discharge of firearms or the firing or setting off of fireworks or other explosives within such corporate limits or within one mile thereof.

(2) To regulate or prohibit all sports, theatrical exhibitions, agricultural or other fairs, circuses, tent revivals, and other public performances and exhibitions within the corporate limits of the City.

(3) To regulate public ways as follows: No person (natural or corporate) or combination or association of any such persons shall use the public streets, street rights-of-way, or alleys of the City for nonstreet or nonvehicular purposes, except upon the grant of a franchise, license, or easement by the City Council.

(4) To promote the right of gainful employment, industrial and commercial opportunities, and general welfare of the inhabitants of the City, either directly or through such instrumentalities or agencies as exist or may exist (including the City of Rocky Mount Business Development Authority) for the public purpose of alleviating unemployment with its resulting spread of indigence and economic stagnation, by fostering and promoting business and industry, and developing commerce and trade, and inducing the location of manufacturing, industrial and commercial enterprises in or about the City by advertising, establishing industrial parks, extending electric, natural gas, and water and sewer lines, and by acquiring real and personal property, owning, improving, equipping, and maintaining the same, and selling, leasing, exchanging, and conveying such property in furtherance of any such purposes.

(5) To regulate or prohibit junkyards and other places where junked automobiles, scrap metal, and other junk are dismantled or stored within the corporate limits of the City or within two miles thereof.

(6) To regulate or prohibit boxing and wrestling matches or exhibitions.

(7) To do any and all things as are deemed by the City Council necessary and requisite to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants.

(8) To regulate and control by ordinance the use of all lands owned by the City and any waters covering such lands either within or without the corporate limits, including, but not limited to, use by the public of any body of water covering lands owned by the City, wherever the same may be located.

"Section 11. **Form of Government.** The City shall operate under the council-manager form of government as provided in G.S. 160A-147, et seq.

"ARTICLE III. AMENDMENTS.

"Section 21. **How Charter Amended.** The Charter shall be amended only by an act of the General Assembly of North Carolina or as otherwise provided by law.

"CHAPTER III.

"GOVERNING BODY.

"ARTICLE I. CITY COUNCIL.

"Section 31. **Composition.** The City Council shall consist of seven members. One Council member shall be apportioned to each of the respective wards of the City. The qualified voters of each ward shall elect a Council member for the seat apportioned to that ward.

"Section 32. **City Council Members; Terms; Qualifications; Vacancies.**

(a) Terms of Office. Council members shall serve staggered terms of four years and until their successors are duly elected and qualified. The terms of the Council members in office on the effective date of this Charter shall not be affected by the adoption of this Charter.

(b) Qualifications. No person shall be eligible to file for, or be elected to, the City Council, or to serve thereon, unless such person is a qualified voter, 21 years of age, a resident of the City and of the ward from which he seeks to be elected, and has not been disqualified as provided in the Constitution of North Carolina.

(c) Change of Residence. If any elected Council member shall cease to reside in the ward from which elected, such Council member shall thereafter be disqualified from serving as a Council member from such ward, and the City Council shall name a successor; however, the provisions of this subsection shall not apply in the event of changes in the ward boundaries. Any Council member who becomes a resident of a different ward as a result of a relocation of boundaries shall continue to represent the ward from which elected until the expiration of the term for which he was elected.

"Section 33. **Organization, Powers, and Procedures of City Council Members.**

(a) Oath. Any Council member-elect who shall not be present at the organizational meeting of the City Council may take the oath of office at any time thereafter.

(b) Other Powers and Procedures. Except as otherwise specifically provided by this Charter, the City Council shall have authority to adopt rules of procedure and generally regulate the manner and method of the exercise of its powers. All meetings shall be held within the City of Rocky Mount, except in case of an emergency. If the City Council deems it desirable to hold a joint meeting with the governing body of another municipality or political subdivision of the State of North Carolina, the City

Council may at its election, meet with the other governing body at a designated place, within the area subject to the jurisdiction of the other governing body.

"Section 34. **Quorum, Votes, Attendance of Council Members.**

(a) Quorum; Attendance. A majority of the members elected to the City Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members by ordering them to be taken into custody.

(b) Ordinances. All ordinances offered for adoption shall be in writing, and no ordinance shall be passed finally on the date on which it is introduced unless by a vote of five-sevenths of the entire membership of the City Council or the unanimous consent of those present whenever there are less than five-sevenths of the membership present.

(c) Votes. All final votes of the City Council involving the making of assessments or levying of taxes, and all votes where requested by a Council member, shall be by roll call. The Mayor shall announce the result of each vote of the Council.

"Section 35. **Ordinances, Rules and Regulations.** In addition to the other powers conferred upon it by this Charter, the City Council may adopt and provide for the execution of such ordinances, rules and regulations not inconsistent with law, as may be necessary or appropriate for the preservation and promotion of the comfort, culture, economy, convenience, good order, better government, and general welfare of the City and its inhabitants.

"Section 36. **Removal of Council Members.** The City Council shall have the power on the vote of five-sevenths of its members to remove any one of its members for misfeasance, malfeasance, or nonfeasance of office, after a hearing of the matter before the City Council, at which time the subject of such hearing may be present and represented by counsel. Notice of such hearing shall be served on the subject thereof at least two weeks in advance of the hearing in person, if possible, and if not possible, by publication.

"ARTICLE II. MAYOR.

"Section 61. **Qualifications and Term of Office.**

(a) Term of Office. The Mayor shall serve a term of four years and until a successor is duly elected and qualified. The term of the Mayor in office on the effective date of this Charter shall not be affected by the adoption of this Charter.

(b) Qualifications. No person shall be eligible to be elected Mayor, or to serve as Mayor, unless such person is a qualified voter, 21 years of age, a resident of the City, and has not been disqualified as provided in the Constitution of North Carolina.

"ARTICLE III. CITY MANAGER.

"Section 81. **Appointment; Duties; Removal.**

(a) Appointment; Removal. The City Council shall appoint the City Manager, who shall be the administrative head of the City government and shall serve at the pleasure of the Council. In the event of removal, the City Manager may demand and shall be entitled to a public hearing thereon before the City Council prior to the date on which his final removal shall take effect and may there be represented by counsel; but the decision of the Council shall be final, and pending such hearing, the Council may suspend the City Manager from duty.

(b) Administrative Service. Except for the purpose of inquiry, the City Council and its members shall deal with the administrative service of the City through the City Manager. No member of the City Council shall give orders to or attempt to influence the action of any subordinate of the City Manager either publicly or privately. Where this Charter or any ordinance or statute gives to the City Manager the power to appoint or to employ persons in the administrative service of the City, neither the City Council nor any of its members shall attempt to in any manner influence the City Manager in the appointment or employment of any such person or persons. The City Manager shall have the power to suspend and dismiss any person appointed, and such action in every case shall be final.

(c) General Authority and Duties. The City Manager shall, except when clearly inconsistent with the provisions of this Charter, exercise supervision and control over all departments and divisions of the City. The City Manager shall keep the City Council at all times advised as to the conditions and efficiency of the various departments of the City under said City Manager's direction and control and of the needs and conditions of the City. The City Manager shall perform such other duties as may be prescribed by this Charter or be required by ordinance or resolution of the City Council.

"ARTICLE IV. CITY ATTORNEY.

"Section 90. **Appointment.** The City Council shall appoint an attorney or firm of attorneys to serve as City Attorney. The City Attorney shall be the City's legal advisor and shall hold office at the pleasure of the City Council.

"Section 91. **Other Attorneys.** The City Council or City Manager may employ such other attorneys as they deem advisable.

"ARTICLE V. CITY CLERK.

"Section 100. **Appointment; Powers and Duties.** The City Council shall appoint a City Clerk who shall hold office at the pleasure of the City Council. The City Clerk shall be the custodian of all records, documents, papers, and other articles committed to the office and shall surrender the same to any successor. The City Clerk shall be the custodian of the common seal of the City and shall attest the execution of and affix the common seal to all legal documents executed by the Mayor in behalf of the City and shall perform any other duties as may be prescribed by law or assigned by the Council.

"ARTICLE VI. CITY TREASURER.

"Section 110. **Appointment; Powers and Duties.** The City Council shall appoint from its membership a City Treasurer who shall hold office at the pleasure of the Council. All notes, bonds, or other evidences of indebtedness of the City shall bear the City Treasurer's signature, which, when authorized by the City Treasurer in writing, may also be by facsimile signatures.

"CHAPTER IV.

"POLICE DEPARTMENT.

"Section 140. **Appointment, Powers and Duties of Chief of Police and Police Officers.**

(a) Chief. The City Manager shall appoint the Chief of Police. The Chief of Police shall have immediate direction and control of the Police Department, subject to

the supervision of the City Manager, and to such rules, regulations, and orders as the City Manager may prescribe.

(b) General Powers. The Chief of Police and each member of the police force shall have, for the purpose of enforcing City ordinances and regulations, or preserving the peace of the City, and of suppressing disturbances, and apprehending offenders, the powers of peace officers vested in sheriffs and constables.

(c) Public Peace. The Chief of Police and other police officers of the City shall have the power, and it shall be their duty, to suppress all breaches of the public peace, and all disturbances of the quiet and good order of the City, and they may, with or without warrant, arrest, anywhere within the corporate limits of the City, or within one mile thereof, any person charged with the violation of any ordinance of the City, or with any other offense whatsoever against the public peace, and the quiet and good order of the community.

(d) Other Duties. In addition to the foregoing, the Chief of Police and other police officers shall perform such other duties as may from time to time be prescribed by the City Manager not inconsistent with the Constitution and laws of the State of North Carolina and the provisions of this Charter.

"Section 141. **Police Emergency Lines.** The Chief of Police or other police officer in charge at the scene of a parade, accident, disturbance, crime scene, natural or artificial disaster, or emergency, or any large gathering of people shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having official business at the scene to cross such a line without express permission of the police officer at the scene.

"CHAPTER V.

"FIRE DEPARTMENT.

"Section 150. **Appointment, Powers and Duties of Fire Chief.**

(a) Appointment; General Authority. The City Manager shall appoint a Fire Chief. The Fire Chief shall have immediate direction and control of the Fire Department, subject to the supervision of the City Manager and to such rules, regulations, and orders as the City Manager may prescribe.

(b) Destroying Property at Fires. The Fire Chief, and in the Fire Chief's absence, any assistant, may order the blowing up, tearing down, or other destruction of any building when it is deemed necessary to stop the progress of a fire. No person shall be held liable, civilly or criminally, for acting in obedience to their orders, nor shall the Fire Chief or any assistant, the City, the Mayor, the City Manager, or the City Council be held liable, civilly or criminally, for the giving of such orders or for damages to property ordered destroyed.

(c) Fire, etc., Emergency Lines. The Chief of Police or other police officer, or the Fire Chief or any assistant, in charge at the scene of a fire, accident, disturbance, natural or artificial disaster or emergency, or any large gathering of people, shall have authority to provide barricades, ropes, signs, or other means of restraint, and it shall be unlawful for any person other than a law enforcement officer, firefighter, or other person having

official business at the scene to cross such a line without express permission of the person in charge at the scene.

(d) Other Duties. The Fire Chief and other firefighters shall perform such other duties in addition to those provided in this Charter as may be prescribed by law or City ordinances, or that may from time to time be prescribed by the City Manager.

"CHAPTER VI.

"AUXILIARY POLICE OFFICERS AND FIREFIGHTERS.

"Section 160. **Authorized.** The City Council may provide for the organization, recruiting, training, equipping, and appointing of auxiliary police officers and auxiliary firefighters for the City.

"Section 161. **Civil Liability.** The City shall be entitled to the same immunities with respect to the action of auxiliary police officers and auxiliary firefighters in the performance of their duties or training or otherwise, to which it is entitled with respect to the actions of regular City police officers and firefighters in the performance of their duties.

"CHAPTER VII.

"SPECIAL PROCEDURES AND REGULATIONS.

"ARTICLE I. EMINENT DOMAIN.

"Section 360. **Condemnation Procedure.**

(a) Generally. The City shall possess the power of eminent domain and may acquire, either by purchase, gift, or condemnation, any real estate, right of access, right-of-way, water right, privilege, easement, restrictive covenant, or any other interest in or relating to real estate, water or improvements, either within or without the City limits, for any lawful public use or purpose. In the exercise of the power of eminent domain, the City is hereby vested with all power and authority now or hereafter granted by the laws of North Carolina applicable to the City, and the City shall follow the procedures now or hereafter prescribed by such laws; provided that, notwithstanding the provisions of G.S. 160A-240.1 and G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property or any interest in property to be used for streets and highways; water supply and distribution systems; sewage collection and disposal systems; electric power generation, transmission and distribution systems; and gas storage, transmission, and distribution systems, the City is hereby authorized to use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended or recodified; provided further, that whenever the words "Department of Transportation" appear in such Article 9 they shall be deemed to include the "City of Rocky Mount," and whenever the words "Secretary of Transportation" appear in such Article 9 they shall be deemed to include the "City Manager of the City of Rocky Mount." The powers granted to the City in this Charter for the purpose of acquiring property by eminent domain shall be in addition to and supplementary to those powers granted in any other local act or in any other general statute, and in any case in which the provisions of Article 9 of Chapter 136 are in conflict with the provisions of any local act or any other provision of any general statute, then the City Council may in its discretion proceed in accordance with the

provision of such local act or other general statute, or, as an alternative method of procedure, in accordance with this Charter provision and Article 9 of Chapter 136.

(b) Limitation. Nothing in this section shall be construed to enlarge the power of the City to condemn property already devoted to public use.

"ARTICLE II. LOCAL IMPROVEMENTS.

"Section 380. **Authority to Make Local Improvements.** The City Council shall have authority to make the local improvements described in this Charter or otherwise permitted by law, and to assess the cost against benefited property. The procedure set forth in this Article shall not be exclusive, but shall be in addition to any other procedures provided by the General Statutes of North Carolina or other provisions of law.

"Section 381. **Separate Proceeding Not Required.** One or more local improvements may be ordered in a single proceeding, and assessments for one or more local improvements may be combined.

"Section 382. **Definitions.** Certain words and phrases will be used with the following meanings with reference to local improvements, unless some other meaning is plainly intended:

(1) A "roadway" is the part of a street that is used, or to be used, for vehicular traffic.

(2) A "sanitary sewer" is an underground conduit for the passage of wastewater and may include a pumping station and force main.

(3) The word "sewer" includes both sanitary and storm sewers unless a contrary intention is shown.

(4) A "sewer lateral" is an underground conduit connecting a residential or nonresidential property to a sanitary sewer main.

(5) A "sidewalk" is the part of a street used, or to be used, for pedestrian traffic.

(6) A "storm sewer" is a conduit above or below ground for the passage of storm water, and may include natural and constructed channels, swales, ditches, drainage-ways, ponds, pipes, inlets, catch basins, headwalls, pumping stations, and other physical works needed to control, convey or carry off storm water.

(7) "Storm water" is rainfall or snowmelt that runs off the ground or impervious surfaces and drains into natural or manmade drainage-ways.

(8) A "street" is the entire width between property lines of every way or place, of whatever nature, when any part thereof is dedicated or open to the use of the public as a matter or right for the purpose of vehicular or pedestrian traffic.

(9) "Wastewater" is water containing solid and soluble wastes and other pollutants carried from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions together with any groundwater, surface water and storm water that may be

present that is collected for treatment at the wastewater treatment plant.

(10) A "water main" is an underground conduit for the transmission of potable water to public and private hydrants for public and private use and consumption.

(11) A "water service" is a pipe connecting a residential or nonresidential property to a water main and may include a meter and/or backflow prevention device.

"Section 383. **Improvements Described.** The City Council shall have authority to make the following local improvements:

(1) Roadway paving improvements, which shall include the grading, regrading, paving, repaving, and widening of roadways, or the improvement thereof with any treatment designed to provide an improved wearing surface, with necessary drainage, storm sewer inlets, manholes, and catch basins and the construction or reconstruction of retaining walls made necessary by any change of grade incident to such improvement, and in any case where the improvement is made upon petition if the petition so requests, or in any case where the improvement is made without petition if the City Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and sidewalks.

(2) Water main improvements, which shall include the following:

a. Laying or construction of water mains and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such improvements may, where the City Council so directs, include a tap for each lot shown on such map or plat except in cases where a tap has been previously constructed to serve such lot from another main;

b. The relaying where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;

c. In any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of water laterals.

(3) Sanitary sewer improvements, which shall include the following:

a. Laying or construction of a sanitary sewer main and, in cases where the property abutting such mains is divided into lots by map or plat which is either recorded in the office of the register of deeds of the county in which such land lies or is unrecorded but approved by the City of Rocky Mount Planning Board, such

improvements may, where the Council so directs, include a tap for each lot shown on such map or plat, except in cases where a tap has been previously constructed to serve such lot from another main;

b. The repairing where necessary of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such mains;

c. In any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of sanitary sewer laterals.

(4) Storm sewer improvements, which shall include the laying or construction of storm sewers, the relaying, where necessary, of parts of paved roadways and sidewalks torn up or damaged by the laying or construction of such sewers, and in any case where the improvement is made upon petition and the petition so requests, or in any case where the improvement is made without petition and the Council so directs, the laying of storm sewer laterals.

(5) Sidewalk improvements, which shall include the grading, regrading, construction, reconstruction and repair of paved or other improved sidewalks, the construction or reconstruction of retaining walls made necessary by and incident to such improvements, and in any case where the improvement is made without petition if the Council so directs, it may include the construction or reconstruction of curbs, gutters, drains, and retaining walls and the construction or reconstruction of all such portions of driveways as in the judgment of the Council ought to be laid in the street area.

(6) Grass plot improvements, which shall include the grading and planting of grass plots and medians in a street.

"Section 384. **Water and Sewer Mains Between Streets.** Whenever the City Council finds it in the public interest, water, sanitary sewer, or storm sewer mains, or all or any of these, may be constructed between streets rather than in a street and the cost of construction of such water or sewer mains and the laterals or storm sewer mains shall be assessed according to the street frontage in the same manner and to the same extent that it would be assessed if the improvements were constructed in a street; provided that the City shall provide the rights-of-way for construction and maintenance of such mains at its own expense without assessing the cost thereof.

"Section 385. **Assessment Against Property Abutting One Side of the Street.** Any proceeding may include making any one or more local improvements in or on a street or streets and for the assessment of the cost thereof wholly against the property abutting one side of such street or streets or otherwise against such abutting property as the City Council may determine in any of the following cases:

(1) In any case where there is park land or unimproved land abutting one side, or a part of one side, of a street.

(2) In any case where the land abutting one side, or a part of one side, of a street is of such a nature or is devoted to such a purpose that a special assessment against it cannot be made or, if made, would probably exceed the value of the land assessed.

(3) In any case where the owners of all the property to be assessed agree thereto.

"Section 386. **The Petition; Certificate of Sufficiency.**

(a) Petition. Except as otherwise provided in subsection (b) of this section, the petition for any local improvements shall designate by a general description the improvement proposed and shall request that such proportion of the cost of each of such improvements as may be specified in the petition be specially assessed against the property abutting on the street or part thereof in which or on which such improvements are proposed to be made. The petition shall be filed with the City Clerk.

(b) Assessments of Portions of Street. In any case where:

(1) The improvement is to be made on one side of a street only, the petition shall request that the assessment be made only against the property abutting that side of the street whereon the improvement is to be made.

(2) It is proposed to assess the cost of any local improvement covering the entire width of a street against the land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street, such petition shall designate the lands to be assessed.

(c) Signatures – Generally. Except as otherwise provided in subsection (d) of this section, the petition shall be signed by at least a majority in number of the owners, which majority must own at least a majority of all lineal feet of frontage of the lands abutting the street or streets or part of a street or streets proposed to be improved, excluding street intersections.

(d) Signatures – Portions of Streets. Any petition for the making of:

(1) Local improvements on one side of a street only need be signed only by a majority in number of the owners of land abutting the side of the street whereon such improvements are to be made, which majority must at least own a majority of all the lineal feet of frontage of the lands abutting such side of the street, excluding street intersections.

(2) Any improvements covering the entire width of a street and the assessment of the cost thereof against land abutting one side of the street only or against any lands less than all of those abutting the improved portion of the street shall be signed by all of the owners of the lands thus proposed to be assessed.

(e) Rules of Construction. For the purpose of:

(1) The petition, all owners of an undivided interest in any land shall be deemed and treated as one person and such land shall be sufficiently signed for when the petition is signed by one of the owners of such undivided interest.

(2) This section, the word "owner" shall be considered to include the owners of any life estate, of any estate by the entirety, or of the estate of inheritance and shall not include mortgagees, trustees of a naked trust, trustees under deeds of trust to secure the payment of money, lienholders, or persons having inchoate rights in the property.

(f) Sufficiency. Upon the filing of such petition, the City Clerk shall investigate the sufficiency of the petition and, if it is found to be sufficient, shall certify the same to the Council.

"Section 387. **When No Petition Shall be Necessary**. No petition shall be necessary for the following:

(1) Any local improvement for which the City bears the entire cost without assessment.

(2) In the cases set forth in subsections (3) through (8) of this section where in the judgment of the City Council the abutting property to be assessed will be benefited in an amount at least equal to such assessment.

(3) Street paving improvements: When in the judgment of the City Council:

a. Any street or part of a street is unsafe; or

b. The improvement of a street or part of a street not more than three blocks in length is necessary to connect streets already paved; or

c. The improvement of a street or part of a street is necessary to connect a paved street, or portion thereof, within the City with a paved highway beyond the City limits; or

d. The improvement of a street or part of a street is necessary to provide a paved approach to a railroad or street grade separation or any bridge; or

e. Any street or part of a street should be widened; or

f. The improvement of a street or part of a street should be made in the public interest.

(4) Water main improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate public water supply, and can be served, and water service should be provided in the public interest.

(5) Sanitary sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without an adequate public sanitary sewer system and can be served, and sanitary sewer service should be provided in the public interest.

(6) Storm sewer improvements: When in the judgment of the City Council any street or part of a street, or any property within the City, is without adequate storm sewer facilities, and can be served, and storm sewers should be provided in the public interest.

(7) Sidewalk improvements: When in the judgment of the City Council any street or part of a street is without sidewalks and sidewalks should be provided in the public interest or that any existing sidewalk is unsafe and should be repaired.

(8) Curb and gutter improvements: When in the judgment of the City Council any street or part of a street is without curb and gutter and curb and gutter should be provided in the public interest.

(9) In any other case when, in the judgment of the City Council, the abutting property to be assessed will be improved in an amount at least equal to such assessment.

"Section 388. **Notice of Hearing.**

(a) Preparation; Contents. Upon the presentation of a sufficient petition for local improvements, or when it is proposed to make improvements authorized to be made without petition, a notice shall be prepared by the City Clerk containing substantially the following:

(1) A statement that a sufficient petition has been filed for the making of the improvements or, if it is proposed to make the improvements without petition, a statement of the reasons proposed for the making thereof.

(2) A brief description of the proposed improvements.

(3) A statement of the proportion of the cost of the improvements to be assessed and the terms of payment.

(4) A statement of the time and place of a public hearing on the proposed improvements.

(5) A statement that all objections to the legality of the making of the proposed improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of the hearing and that any objections not so made will be waived.

(b) Publication; Service. The notice shall be published one time in a newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three public places in the City, the date of publication or posting to be not less than 10 days prior to the date fixed for the hearing. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all property subject to assessment if the project should be undertaken. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud. The word "owners" as used in this section has the same meaning as in Section 386.

"Section 389. **Public Hearing.** At the time for the public hearing, or at some subsequent time to which such hearing shall be adjourned, the City Council shall consider any objections to the improvements made in compliance with Section 388(a)(5), together with objections to the policy or expediency of the making of the improvements, and the Council shall thereafter determine whether it will order the making of the improvements. Any objections to the making of the improvements not

made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time or adjourned time of the hearing shall be considered as waived. If any such objection shall be made and shall not be sustained by the Council, the adoption of the resolution ordering the making of the improvements shall be the final adjudication of the issues presented, unless within 10 days after the adoption of the resolution proper steps shall be taken in a court of competent jurisdiction to secure relief.

"Section 390. **Resolution Ordering Improvements; Publication.** After the public hearing, if the City Council determines to make the improvements proposed, it shall adopt a resolution that shall contain:

(1) If the improvements are to be made by petition, a finding by the Council as to the sufficiency of the petition, which finding shall be final and conclusive.

(2) If the improvements are to be made without petition, a finding by the Council of such facts as are required in order to authorize improvements without petition.

(3) A general description of the improvements to be made and the designation of the street or streets or parts thereof where the work is to be done.

(4) If the improvement directed to be made is the paving of a roadway or part thereof wherein a railroad company has tracks, a direction that such company pave that part of the street occupied by its tracks, the rails of the tracks, and 18 inches in width outside such tracks, with such material and in such manner as the City Council may prescribe, and that unless such paving is completed on or before a day specified in the resolution, the City Council will cause the same to be done. Where such railroad company shall occupy such street or streets under a franchise or contract which provides otherwise, such franchise or contract shall not be affected by this section except insofar as it may be consistent with the provisions of such franchise or contract.

(5) If the improvement directed to be made includes the construction of water mains, sanitary sewers, or storm sewers and, in order to provide the mains or sewers in the street or streets to be improved, it is necessary to extend them beyond the limits of the street or streets, the resolution shall contain a provision for the necessary extension of such mains or sewers and a further provision that the cost of such extension shall eventually be assessed against the lots or parcels of land abutting the street or streets in which such extensions are made but that assessments shall not be made until such time as the City Council shall thereafter determine by appropriate resolution.

(6) If the improvement directed to be made is the paving of a roadway or part thereof, or the construction of sidewalks, the resolution may, but need not, contain a direction that the owner of each lot abutting the part of the street to be improved connect such lot with the water mains

or sewer pipes, or any one or more thereof, located in the street adjacent to his premises.

(7) A designation of the proportion of the cost of the improvements to be assessed against abutting property and of the number of equal annual installments in which assessments may be made.

(8) The resolution after its passage shall be published at least once in some newspaper published in the City that is qualified to carry legal notices, or, if there is no such newspaper, the resolution shall be posted in three public places in the City for at least five days; except that in any case where the Council directs that the notice should be mailed instead of being published, the resolution ordering the improvements need not be either published or posted.

"Section 391. **Determination as to Cost of Improvements.** Upon completion of the improvements, the City Council shall ascertain the total cost. In addition to other items of cost, there may be included therein the cost of all necessary legal services, the amount of interest paid during construction, the amount of damages paid or to be paid for injury to property by reason of any change of grade or drainage, including court costs and other expenses incidental to the determination of damages, and the cost of retaining walls, sidewalks, or fences built or altered in lieu of cash payment for property damage, including the cost of moving or altering any building. The determination of the Council as to the total cost of any improvement shall be conclusive.

"Section 392. **Preliminary Assessment.**

(a) Determination. Having determined the total cost, the Council shall make a preliminary assessment. The preliminary assessment shall be advisory only and shall be subject to modification. Except as otherwise provided in subsection (b) of this section, the preliminary assessment shall be as follows:

(1) Roadway paving: The total cost of any roadway paving improvement, excluding the cost incurred at street intersections, may be specially assessed against the lots and parcels of land abutting the street containing the roadway paved, according to the frontages thereon by an equal rate per foot of frontage, except that, where the petition so requested, the cost shall be assessed against the lands on one side of the street only or against such lands as were designated in the petition.

(2) Water mains, sanitary sewers, and storm sewers: The cost of water mains, sanitary sewers, and storm sewers in such amount as is determined by the Council within its discretion but according to a predetermined policy may be assessed against the abutting property. Such cost may be assessed against the lots and parcels of land according to their respective frontages thereon by an equal rate per foot of such frontage. If the resolution ordered the construction of any pumping station, outfall, septic tank, or disposal plant, no part of the cost of the same shall be specially assessed except when an outfall tap is permitted. Nothing contained in this subsection shall be construed to limit the power of the Council to contract with any property owner or

owners for the construction of any pumping station, outfall, septic tank, or disposal plant or for the construction of water mains or storm or sanitary sewers and for the assessment of the cost thereof according to the terms of such contract. The entire cost of each water and sewer lateral may be specially charged against the particular lot or parcel of land for or in connection with which it was constructed, except that the assessment shall be calculated as if the lateral were laid from the center of the street. The cost of installing storm sewers may, however, be assessed as part of the cost of roadway paving.

(3) Sidewalks: The total cost of constructing or reconstructing sidewalks may be assessed against the lots and parcels of land abutting that side of the street upon which the improvements are made according to their respective frontages thereon by an equal rate per foot of such frontage, the lots within a block being deemed to abut upon a sidewalk although the latter extends beyond the lot to the curb line of an intersecting street. The total cost of constructing portions of driveways within the street area may be assessed against the lots for which they are constructed.

(4) Grass plots: The entire cost of grading or otherwise improving or of planting the grass plots in any street or part thereof may be assessed against the lots and parcels of land abutting the street or part thereof where or whereon the improvements are made by an equal rate per front foot of such frontage; provided that this subsection shall be construed to mean that when a grass plot in any street is graded or planted or otherwise improved, the cost thereof may be assessed against all of the property abutting the side of the street within the block where such grass plot is located.

(b) Proportion of Cost. If the petition (or the resolution in those cases where the improvement was ordered made without petition) specified that there should be specially assessed against the abutting property a smaller proportion of the cost of any improvement than that set forth in subsection (a)(2) of this section, there shall be assessed against abutting property only the proportion of the cost as was specified in the petition (or in such resolution). No restriction or denial of access to an abutting street shall affect the levy or collection of any assessment for local improvements.

(c) State Property. The cost of paving, water, sewer, and sidewalk improvements upon, in, or to any portion of a right-of-way or any property owned by the State of North Carolina, or any agency or subdivision thereof, shall be assessed against the right-of-way or property and shall be paid by the State or any agency or subdivision thereof.

"Section 393. **Corner Lot Exemptions.** The City Council shall have authority to determine the amount and applicability of assessment exemptions for corner lots and to distinguish between different classifications of property uses. The exemptions for paving, sidewalk, storm sewer, water main, and sanitary sewer improvements shall be in accordance with the provisions of G.S. 160A-219. If the corner formed by two

intersecting streets is rounded into a curve or is foreshortened for the purpose of providing sight distance or for any other purpose of construction, the frontage for assessment purposes shall be calculated to the midpoint of the curve or foreshortened corner.

"Section 394. **Preliminary Assessment Roll.** The City Council shall cause to be prepared a preliminary assessment roll on which shall be entered a brief description of each lot or parcel of land assessed, the amount assessed against each lot, the name or names of the owner or owners of each lot (as defined in Section 386) as far as the same can be ascertained; provided, that a map of the improvements on which is shown the frontage and location of each affected lot, together with the amount assessed against each lot and the name or names of the owner or owners thereof, as far as the same can be ascertained, shall be a sufficient assessment roll. If the resolution directed the making of more than one improvement, a single preliminary assessment roll for all the improvements authorized by such resolution shall be sufficient, but the cost of each improvement to each lot affected shall be shown separately. After the preliminary assessment roll has been completed, it shall be filed in the office of the City Clerk, and there shall be published in some newspaper published in the City which is qualified to carry legal notices, or, if there is no such newspaper, the City Clerk shall cause to be posted in three places in the City a notice of the completion of the assessment roll, setting forth a description in general terms of the improvements, the amount of each assessment, and stating the time fixed for the meeting of the Council for the hearing of objections to the special assessment, such meeting to be not earlier than 10 days after the first publication or from the date of posting of such notice. Any number of assessment rolls may be included in one notice. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notice to be mailed to the owners, as shown on the county tax records, of all property subject to assessment. The certificate of the person designated to mail the notices that such notices were mailed shall be conclusive in the absence of fraud.

"Section 395. **Hearing; Revision; Confirmation; Lien.** At the time appointed for that purpose or at some other time to which it may adjourn, the City Council shall hear objections to the preliminary assessment roll of all persons interested who may appear and offer proof in relation thereto. Then or thereafter, the City Council shall either annul or sustain, or modify in whole or in part, the assessment either by confirming the preliminary assessment against any or all lots or parcels described thereon, or by canceling, increasing or reducing the same, according to the special benefits which the City Council decides that each of the lots or parcels has received or will receive on account of the improvements, except that assessments against railroads because of contract or franchise obligations shall be in accordance with such obligations. If any property is omitted from the preliminary roll, the Council may place it on the roll and levy the proper assessment. The Council may thereupon confirm the assessment roll, and assessments so confirmed shall be in proportion to the special benefits, except in the case of franchise obligations of railroads. Whenever the governing body shall confirm assessments for local improvements, the City Clerk shall enter on the Council minutes and on the assessment roll the date of confirmation, and from the time of confirmation,

the assessments shall be a lien on the property assessed of the same nature and to the same extent as County and City taxes and shall be superior to all other liens and encumbrances. After the assessment roll is confirmed, a copy shall be delivered to the City Collector of Revenue.

"Section 396. **Appeal to Superior Court.** If the owner of, or any person interested in, any lot or parcel of land against which an assessment is made is dissatisfied with the amount of the assessment, such person or owner may, within 10 days after the confirmation of the assessment roll, give written notice to the Council that an appeal will be made to the superior court of the county in which such land is situated, in which case such owner or person shall, within 20 days after the confirmation of the assessment roll, serve on the Mayor a statement of facts upon which the appeal is based. The appeal shall be tried as other actions at law. The remedy provided in this section for any person dissatisfied with the amount of the assessment against any property of which such person is the owner, or in which such person is interested, shall be exclusive.

"Section 397. **Power to Correct Error in Assessment.** If it shall appear after confirmation of any assessment roll that an error has been made, the City Clerk shall cause to be published one time in some newspaper published in the City, or, if there is no such newspaper, the City Clerk shall cause to be posted at three public places in the City, a notice referring to the assessment roll in which the error was made, naming the owner or owners of the lot or parcel of land affected by the error, if the same can be ascertained, and naming the time and place fixed for a hearing by the Council for the correction of the error, such meeting not to be earlier than 10 days from the publication or from the date of the posting of the notice. In addition, at least 10 days prior to the hearing, the City Clerk shall cause a copy of the notices to be mailed to the owners, as shown on the county tax records of all property affected by the error. At the time fixed in the notice or at some subsequent time to which the Council may adjourn, the Council, after giving the owner or owners of the property affected and other persons interested therein an opportunity to be heard, may proceed to correct the error, and the assessment then made shall have the same force and effect as if it had originally been properly made. No notice and hearing shall be necessary if the correction does not increase an assessment against any property not owned by the City or if all of the property owners affected by the correction waive notice in writing.

"Section 398. **Reassessment.** The City Council shall have the power, when in its judgment there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating thereto, to set aside the whole of the local assessment made by it, and thereupon to make a reassessment. In such case there shall be included, as a part of the cost of the improvement involved, all interest paid or accrued on notes or certificates of indebtedness or bonds issued by the City to pay the expenses of such improvement. The proceeding shall, as far as practicable, be in all respects as in the case of original assessments, and the reassessment shall have the same force as if it had originally been properly made.

"Section 399. **Publication of Notice of Confirmation of Assessment Roll.** After the expiration of 20 days from the confirmation of the assessment roll, the City Clerk shall cause to be published one time in some newspaper published in the City which is

qualified to carry legal notices or, if there is no such newspaper, shall cause to be posted at three public places in the City a notice of confirmation of the assessment roll and that assessments may be paid at any time before the expiration of 30 days from the date of publication or posting of the notice, without interest from the date of confirmation of the assessment roll, but that if such assessment is not paid in full within such time, all installments thereof shall bear interest at the rate provided by law from the date of confirmation of the assessment roll.

"Section 400. **Payment of Assessments in Cash or by Installments.** The property owner or railroad company assessed shall have the option of paying for improvements in cash or in not less than two, nor more than five, equal annual installments as may have been determined in the resolution ordering the improvement. If paid in installments, installments shall bear interest from the date of confirmation of the assessment roll at the rate provided by law. If any assessment is not paid in cash, the first installment, with interest, shall become due and payable 30 days after the publication or posting of the notice of confirmation, and one subsequent installment with interest shall be due and payable on the same day of the month in each successive year until the assessment is paid in full; provided, however, that if the City Council shall so direct, installments shall become due and payable on the same date when property taxes of the City are due and payable. If any installment with interest is not paid when due, it shall be subject to the same penalties as are prescribed by law for unpaid taxes, in addition to the interest herein provided for. The whole assessment may be paid at any time by the payment of the full amount due with accrued interest.

"Section 401. **Enforcement of Payment of Assessments.** Upon the failure of any property owner to pay any installment when due and payable, all of the installments remaining unpaid shall immediately become due and payable, and the property and rights-of-way may be sold by the City under the same rules and regulations, rights of redemption, and savings as are prescribed by law for the sale of land for unpaid taxes. Unpaid assessments, interest, and penalties owed by railroad companies and the State of North Carolina, its agencies, or subdivisions may be collected by writs of mandamus issued by the superior court of the county in which such land is situated. Collection of assessments with interest and penalties may also be made by the City by proceedings to foreclose the lien of assessments as a lien for mortgages is or may be foreclosed under the laws of the State, and it shall be lawful to join in any bill for foreclosure any one or more lots or parcels of land by whomsoever owned, if assessed for an improvement ordered by the same resolution, after default in the payment of any installments. The payment of such installment, together with interest and penalties due thereon, before the lot or parcel of land, against which the same is a lien, is sold or such lien is foreclosed shall bar the right of the City to sell the land or to foreclose the lien by reason of default.

"Section 402. **Assessment of Cost of Water Main, Sanitary Sewer, and Storm Sewer Extensions.** If the resolution ordering the making of any improvement or improvements included a provision for any necessary extension of a water main, sanitary sewer, or storm sewer beyond the limit of a street or streets, at such time after the completion of such extension or extensions as, in the judgment of the City Council, circumstances justify the assessment of the cost thereof, the City Council shall cause a

preliminary assessment to be made and the procedure thereafter to be followed with respect to such assessment, and the force and effect thereof shall be as already prescribed for other assessments.

"Section 403. **Apportionment of Assessments.** In any case where one or more special assessments have been made and property has been or is about to be subdivided, and it is desirable that the assessments be apportioned among the subdivisions of such property, the Council may, upon application by the owner or owners, apportion the assessments among the subdivisions. Thereafter, each subdivision shall be relieved of any part of the original assessment except the part apportioned to the subdivision, and the part of the original assessment apportioned to any subdivision shall be of the same force and effect as the original assessment.

"Section 404. **Change of Ownership.** No change of ownership of any property or interest therein after the passage of a resolution ordering the making of a local improvement shall affect subsequent proceedings, and the improvement may be completed and assessment made as if there had been no change in ownership.

"Section 405. **Lands Subject to Assessment.** No lands in the City, including railroad company lands and rights-of-way and property of the State of North Carolina, its agencies or subdivisions, shall be exempt from special assessments, except lands belonging to the United States which are exempt under provisions of federal statutes, and the officers, boards of directors, trustees, or other governing bodies of all incorporated or unincorporated bodies in whom is vested the right to hold and dispose of real property shall have the right by authority duly given to sign the petition for any local improvements.

"Section 406. **Proceedings In Rem.** All proceedings for special assessments shall be proceedings in rem, and no mistake or omission as to the name of any owner or person interested in any lot or parcel of land affected thereby shall be regarded as a substantial mistake or omission.

"Section 407. **Council May Hold Assessments in Abeyance.**

(a) Procedure. The owner of any abutting lot included on the preliminary assessment roll may file a petition with the City Clerk, not later than five days prior to the date fixed for the hearing, stating that the improvement will not be used by the owner and requesting that the assessment be held in abeyance. The City Council, after confirming such assessment, may, if it determines that the improvement will not be used, provide by resolution that the assessment be held in abeyance without the payment of interest thereon. The resolution shall require that the owner of the lot execute a statement, which shall be recorded in the office of the register of deeds of the county in which the property is located, acknowledging that an assessment has been confirmed against the property but is being held in abeyance until such time as the Council, upon not less than 10 days' prior written notice to the owner and following a public hearing, determines by resolution that the use, character, or ownership of the lot has changed. Upon such determination the assessment shall be paid in accordance with the terms set out in the confirming resolution. One or more of such assessments or any portion of a single assessment may be held in abeyance as provided in this section without holding all of such assessment or assessments in abeyance.

(b) Statutes of Limitations. All statutes of limitations are hereby suspended during the time that any assessment is held in abeyance without the payment of interest as provided in subsection (a) of this section. Such time shall not be a part of the time limit for the commencement of action for the enforcement of the payment of any such assessment, and such action may be brought at any time within 10 years from the date of the adoption of a resolution by the Council determining that the period of abeyance has ended, and the assessment shall be paid in accordance with the original resolution confirming it.

(c) Actions Barred. Nothing in this section shall be construed to revive any right of action that has heretofore been barred by the statute of limitation.

"Section 408. **Abutting Property Outside City Limits.** If any lots or parcels of land abutting any local improvements are located outside the City limits, the City Council may continue and delay the levy of assessments against such property until the City limits are extended to include such property, or the Council may provide that no water or sewer service connections shall be made to such property, pending the annexation thereof, until all assessments thereon are paid. Upon annexation, if not paid prior thereto, the City Council may levy assessments for such local improvements against such property, and the procedure shall be the same as provided in this Charter. Nothing contained in this section shall be construed to prohibit or restrict the City Council and a property owner from entering into an agreement for payments in lieu of assessments.

"Section 409. **Procedures Not Exclusive.** The procedures set forth in this article for making improvements shall not be exclusive but shall be in addition to the procedures for the same provided municipal corporations by the General Statutes of North Carolina as now existing or as may from time to time be amended or to any other procedure provided by law.

"ARTICLE III. FRANCHISES.

"Section 450. **Public Utility Franchises**. The City Council may grant franchises for the operation of public utilities within the City and for the use of the streets, street rights-of-way, and alleys of the City by such utilities for nonstreet and/or nonvehicular purposes for such terms and upon such conditions as the public welfare demands, and in its discretion may hold special elections on the question of granting franchises; provided, however:

(1) The terms of such franchises shall not exceed 60 years, unless renewed at the end of the period granted.

(2) All such franchises shall be revocable by the City Council for violation of their conditions by the franchisees if not corrected within a reasonable time after written notice from the City of such violation.

(3) No franchise so granted may be transferred without the prior approval of the City Council.

(4) Such franchises shall contain such reasonable provisions as the City Council in the exercise of its sound discretion deems proper, unless prohibited by law.

"Section 451. **Annexation and Expiration of Franchise.** In the event:

(1) There is annexed to the City an area within which a utility service is being furnished; or

(2) A public utility is operating within the City without previously having had a franchise granted to it by the City; or

(3) A public utility is operating within the City under a franchise granted by the City and such franchise expires and is not renewed or a new franchise is not granted to the utility by the City, and the City is at such time furnishing the same utility service to its residents or is allowed by law to and has elected to begin furnishing the same to its residents; the City may, at its election:

a. Acquire the facilities and properties of the public utility located within the corporate limits of the City used or useful in providing particular service from such public utility by negotiation and the payment of just compensation; or

b. Direct the public utility to remove such facilities and properties from the public streets, street rights-of-way, alleys, parks, or other rights-of-way belonging to the City, subject to the provisions of Section 452.

"Section 452. **Necessity of Franchise.** No public utility shall commence or continue to operate or do business in the City unless such utility shall have first had granted to it a franchise by the City under the provisions of this Charter, unless such public utility shall have in effect a valid and enforceable franchise granted by the City, in which event it shall not be necessary that it have granted to it a franchise under the provisions of this Charter until such previously granted franchise shall have expired; provided, however, if a public utility shall have been granted a franchise by the City and such franchise shall have expired, such public utility shall continue to operate under the terms of the expired franchise until:

(1) A new franchise is granted to the same public utility; or

(2) A franchise is granted to another public utility to furnish the same service; or

(3) The City elects to and is in a position to render the same service and the same is allowed by law.

If the City elects to grant a franchise under subsection (1) or (2) of this section, but the City and the public utility after due negotiation are unable to agree upon the terms thereof, the matter shall be submitted by both parties and heard by the North Carolina Utilities Commission under the provisions of Article 4 of Chapter 62 of the North Carolina General Statutes as if the parties thereto had agreed to such submission in writing.

"Section 453. **Applicability.** The provisions of this article shall apply to electric, natural gas, water and sewer, telephone, pay television, pay television antennae, intracity buses, ambulances, and all other public utilities for which the City may grant franchises.

"ARTICLE IV. TRAFFIC REGULATION.

"Section 460. **Authority of City Council to Adopt Regulations.**

(a) Generally. Subject to the provisions of subsection (b) of this section, the City Council may adopt ordinances regulating the speeds of vehicles upon any City streets and may establish truck routes (or other required routes for limited classes or vehicles or traffic) applicable to any City streets. As used in this section, the term "City streets" includes all public highways, roads, and streets within the City limits, including numbered State highways, and highways, roads, and streets maintained, repaired, constructed, reconstructed, or widened in whole or in part with State funds.

(b) Certification. All ordinances concerning vehicle speeds, truck routes, or other required routes that apply to numbered State highways shall not become effective until certified to the North Carolina Department of Transportation by the City Clerk after adoption; provided, however, all such ordinances shall be prima facie deemed to have been so certified by the City Clerk upon submission of an affidavit to that effect.

(c) General Law. The authority granted in this section to the City Council shall be in addition to any authority conferred by general law upon the City Council or the City to regulate vehicles, traffic, or the use of City streets.

"Section 461. **Power to Regulate Ambulances and Wreckers.** The City Council may establish regulations governing the operation of ambulances, wreckers, and other motor vehicles used in connection with emergencies, disasters, or accidents, and may provide for the operation of an ambulance service or a wrecker service, or may enter into a contract or contracts for the providing of such service by a private person or persons.

"Section 462. **Power to Regulate Obstruction of Alleys.** If, in the opinion of the City Council, a fire hazard is created by the obstruction of private alleys, the City Council may adopt regulations prohibiting the obstruction of private alleys, either by reason of the parking of motor vehicles or otherwise, but such regulations shall not be construed so as to restrict or limit the legal right of the owners of interests in a private alley to close the alley or to exercise other property rights therein.

"Section 463. **Location of Traffic Control Devices.** The City Council may authorize the City Manager to designate the location of official traffic control devices, upon a determination by the City Manager in writing certified to the City Council:

(1) That their installation at the location in question is necessary in order to control traffic congestion or is in the interest of public safety; or

(2) If such a device is to be moved or removed from a particular location, that the device is no longer required at such location for control of traffic congestion or in the interest of public safety.

An "official traffic control device" as used in this section is a sign, signal, stoplight, marking, or device, including a parking meter, which is intended to regulate vehicular or pedestrian traffic.

"Section 464. **Council May Accept Civil Fines in Lieu of Criminal Penalties for Traffic Violations.** Authority is hereby granted to the City Council, by ordinance, to accept civil fines in such amounts as may be deemed reasonable by the Council in lieu of satisfaction of the criminal penalties provided for the violation of traffic ordinances. The City shall pay no State taxes to the State of North Carolina for civil fines accepted

in lieu or satisfaction of the criminal penalties referred to in this section. All civil penalties so collected shall be paid into the General Fund of the City.

"ARTICLE V. FISCAL AFFAIRS.

"Section 471. **Director of Finance.** The City Manager shall appoint a Director of Finance who shall have all powers and perform all duties provided by law.

"Section 472. **Collector of Revenue.** The City Manager shall appoint a Collector of Revenue who shall serve under the direction of the Director of Finance. All funds, including tax funds, owed to the City shall be collected by the Collector of Revenue and delivered to the Director of Finance.

"Section 473. **Bonds.** The City Manager, Director of Finance, and Collector of Revenue and such other persons handling funds of the City as the City Council deems advisable shall, before entering upon their respective offices, give bonds payable to the City in such amounts, according to such terms and with such sureties as the Council shall direct. The premiums for all such bonds shall be paid by the City.

"ARTICLE VI. ORDINANCE PROCEDURE.

"Section 484. **Power to Adopt Ordinances.** In addition to the powers and authorities granted municipal corporations by the Constitution and General Statutes of North Carolina relative to the adoption of ordinances having the effect of law, the City Council is hereby authorized and empowered to enact ordinances having the effect of law for the government of the City, to establish, promote, advance, and maintain the general welfare, culture, and economy of the City, its environs and inhabitants and to maintain the public peace, quiet, and good order, such ordinances to be enforceable within the City and for a distance of one mile in all directions of the City limits, and to repeal or modify the same. The City Council may further provide for the enforcement of such ordinances as provided by law.

"Section 485. **Code of Ordinances.**

(a) Generally. The City Council may adopt and provide for the publication and distribution of a codification of the City ordinances, to be known and cited as the "Code of the City of Rocky Mount." Each Code shall consist of two separate parts. The first part shall be known as "General Ordinances", and shall include all ordinances not designated "Technical Ordinances." The second part shall be known as "Technical Ordinances", and shall include all ordinances regarding the construction of buildings, the installation of plumbing, the installation of electric wiring, the installation of oil appliances or gas appliances and equipment, and other technical ordinances designated as such by the City Council.

(b) Official Copy. The official copy of the Code of the City of Rocky Mount, including all ordinances amending or supplementing the Code, shall be kept in the office of the City Clerk.

"Section 486. **Codification of Certain Zoning, Traffic and Related Ordinances by Appropriate Entries Upon Official Map Books.**

(a) Generally. Every ordinance concerning the matters enumerated in subsections (b) and (c) of this section may be codified by appropriate entries upon official map books to be retained permanently in the office of the City Clerk. Such entries shall be made by or under the direction of the City Manager. In conjunction with the

introduction of every proposed ordinance concerning any of these matters, a map of the affected area shall be presented to the City Council.

(b) Zoning. The ordinances referred to in subsection (a) of this section include all ordinances establishing or amending boundaries of any district under zoning regulations.

(c) Vehicles. The ordinances referred to in subsection (a) of this section also include all ordinances:

(1) Designating the location of official traffic control devices;

(2) Designating areas or zones where restrictions, prohibitions, or other controls are applied with respect to parking, loading, bus stops, and taxicab stands;

(3) Establishing speed limits;

(4) Designating the location of through streets, stop intersections, yield right-of-way intersections, waiting lanes, one-way streets, and truck traffic routes; and

(5) Establishing restrictions, prohibitions, or other controls upon vehicle turns at designated locations.

"Section 487. **Ordinances of Limited Application.** The City Council shall have the power to enact ordinances which shall be effective only in certain districts or sections of the City, or ordinances which may except from their operations any districts or sections of the City, if in the judgment of the City Council the condition in such sections or districts requires them to be included in or excepted from the provisions of any such ordinance.

"ARTICLE VII. PERSONNEL.

"Section 490. **Appointment and Removal of Department Heads and Employees; Compensation; Duty of Council.**

(a) Appointments; Removals. The City Manager, except as otherwise provided in this Charter, shall appoint and may suspend and remove all City employees and heads of departments and, with the approval of the City Council, may employ consultants of any kind when needed. The City Manager shall report to the City Council every appointment and removal of a department head at the next City Council meeting following the appointment or removal.

(b) Compensation. All pay and compensation plans shall be approved by the City Council.

(c) Duty of Council. Neither the City Council nor any of its members shall take any part in the appointment or removal of department heads and employees in the administrative service of the City. The City Council and its members shall deal with the administrative service solely through the City Manager, and neither the City Council nor any member thereof shall give specific orders to any subordinates of the City Manager, be it publicly or privately.

"ARTICLE VIII. ULTIMATE STREET IMPROVEMENTS.

"Section 510. **Intent and Purpose.** It is the intent and purpose of this article to provide a method whereby the City of Rocky Mount may make provisions for the ultimate widening or extension, or both, of existing streets and highways and for the

opening of new streets and highways by the establishment of proposed street lines, and for the gradual acquisition of the lands necessary for such improvements.

"Section 511. **Platting of Street Lines.** From and after the time of adoption of a major transportation plan by the City Council and the North Carolina Department of Transportation pursuant to provisions of G.S. 136-66.2, the City Council shall have the power to request, make, or cause to be made, from time to time, surveys for the exact location of the lines of proposed extended, widened, or narrowed streets and highways in the whole or any portion of the City and the area within one mile outside of its corporate boundaries. Personnel making such surveys are empowered to enter upon lands, make examinations or surveys, and place and maintain necessary monuments thereon, at reasonable times and with due care for the property. A plat or plats of the area or areas thus surveyed shall be prepared on which are indicated the locations of the lines recommended as the planned or mapped lines of proposed streets, street extensions, street widening, or street narrowing. The preparation of such plat or plats shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Section 512. **Establishment of Proposed Street Lines.** Following the preparation of such plats, the City Council shall officially adopt a map or maps of planned proposed streets and highways, widening, narrowing, or vacations, within the City and the area within one mile outside of its corporate boundaries. Before taking any such action, the City Council shall hold a public hearing thereon, notice of the time and place of which shall have been given once a week for two successive weeks in a newspaper published in the City or, if there is no newspaper published in the City, by posting such notice at four public places in the City and at four public places within any affected area lying outside of the corporate boundaries. Such notice shall be published or posted for the first time not less than 15 days prior to the date fixed for such hearing. Following adoption of such a map or maps, the City Council shall certify a copy to the Register of Deeds of Nash or Edgecombe County as the case may be, which copy shall be duly filed. The placing of any street or street line upon this official map or maps shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street or the taking or acceptance of any land for street purposes.

"Section 513. **Right of City to Acquire Property Before Improvement.** From and after the time when any such map or maps shall have been adopted and certified to the Register of Deeds, it shall be unlawful to build upon any land within the lines of proposed streets shown thereon or to repair or otherwise improve any existing buildings within such lines until the City Council shall have been given an opportunity to purchase or otherwise acquire such property for street purposes as provided by this Article. To that end, any person proposing to build upon such land or to make repairs or improvements to any existing buildings on such land shall, in writing, notify the City Council of the nature and estimated cost of such buildings, repairs, or improvements. The City Council shall then determine whether it will take the necessary steps to acquire such land prior to the construction of such building or the making of such repairs or improvements. If it fails, within 60 days from the receipt of such notice, to acquire, adopt a formal resolution directing an appropriate officer to acquire, or institute

condemnation proceedings to acquire such property, the owner or other person giving notice may proceed to erect the building or to make the repair or improvements described in such notice.

"Section 514. **Owner Failing to Give Notice Cannot Recover for Value of Improvements.** If any person, firm, or corporation builds upon any land included with such proposed street lines, or repairs or otherwise improves that part of any existing building within such lines, without giving the City Council an opportunity to acquire such land free from such improvements, as provided in this Charter, the City Council shall not be required to pay for the value of such building, repairs, or improvements in any proceeding subsequently brought to acquire the land for the purpose shown on the officially adopted map.

"Section 515. **Failure of City to Act Does Not Limit Power Subsequently to Condemn.** The failure of the City Council to take action under section 513 within 60 days after notice shall not have the effect of limiting the right of the City Council at any subsequent time to condemn the same. But in such case, the owner shall be entitled to full compensation as now provided by law for the building, repair, or improvements made after the giving of notice required by Section 513.

"Section 516. **Powers Hereby Conferred Are Supplementary.** The powers granted in this Article to the City of Rocky Mount are supplementary to any powers heretofore or hereafter granted by general or special laws for the same or a similar purpose; and in any case where the provisions of this article conflict with or are different from the provisions of any other act, the City Council may in its discretion proceed in accordance with the provisions of either act."

SECTION 2. The purpose of this act is to revise the Charter of the City of Rocky Mount and to consolidate herein certain acts concerning the property, affairs, and government of the City.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 938, Session Laws of 1963
Chapter 545, Session Laws of 1965
Chapter 1068, Session Laws of 1965
Chapter 427, Session Laws of 1969
Chapter 943, Session Laws of 1973
Chapter 365, Session Laws of 1975
Chapter 122, Session Laws of 1983
Chapter 328, Session Laws of 1989
S.L. 2001-330

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the City of Rocky Mount and all existing rules or regulations of departments or agencies of the City of Rocky Mount not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the City of Rocky Mount or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superseded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superseded.

SECTION 10. This act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 313

Short Title:	City of Rocky Mount Local Act-2.	(Local)
Sponsors:	Representative Daughtridge.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CITY OF ROCKY MOUNT.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to the City of Rocky Mount only.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 313:
Rocky Mount Charter Revision.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Daughtridge
Date:	July 1, 2003	**Summary by:**	R. Erika Churchill
Version:	H313-PCS30371-STx-46		Staff Counsel

SUMMARY: ***The proposed committee substitute for House Bill 313 would make revise and consolidate the charter of the City of Rocky Mount.***

CURRENT LAW and BILL ANALYSIS: The City was incorporated in 1866, and the charter of the City of Rocky Mount has not been revised and consolidated since 1963. Since 1963, several amendments have been enacted to the charter. The proposed committee substitute would bring together the pieces of the charter into one document, and repeal the acts being incorporated into the complete document. The changes to the charter are as follows:

- Gender neutral language
- Removal of obsolete provisions, such as the Board of Elections (Municipal boards of election were abolished by the General Assembly in 2001.) and the Board of Health (Counties now provide this service.)
- Removal of provisions now covered by state statute, such as planning board composition (G.S. 160A-361 permits this to be done by local ordinance.)

EFFECTIVE DATE: The bill would become effective January 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 313 A BILL TO BE ENTITLED AN ACT RELATING TO THE CITY OF ROCKY MOUNT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 759
PROPOSED COMMITTEE SUBSTITUTE H759-CSLA-39 [v.1]

7/3/2003 11:08:25 AM

Short Title: Reduce Utility Equipment Sales Tax. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(17b) Light construction equipment. – Equipment that is self-propelled, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

SECTION 2. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) **(Effective until July 1, 2003)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective October 1, 2003, and applies to sales made on or after that date. This section is repealed effective for sales made on or after January 1, 2006. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any

refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 759

Short Title:	Reduce Utility Equipment Sales Tax.	(Public)
Sponsors:	Representatives Goforth; B. Allen, Bonner, Bordsen, Capps, Carney, Culp, England, Farmer-Butterfield, Gibson, Goodwin, Gorman, Gulley, Hall, Hilton, Holliman, Hunter, C. Johnson, L. Johnson, Jones, LaRoque, Lewis, Lucas, McHenry, Mitchell, Moore, Parmon, Rapp, Ray, Ross, Stam, Sutton, Tolson, Warner, K. Williams, C. Wilson, and Yongue.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(17b) Light construction equipment. – Equipment that is self-propelled, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

SECTION 2. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) **(Effective until July 1, 2003)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

HOUSE BILL 759:
Reduce Utility Equipment Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Goforth
Date:	July 8, 2003	**Analysis by:**	Martha Walston
Version:	H759-CSLA-39		Committee Counsel

SUMMARY: House Bill 759 reduces the sales tax owed on the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The sales tax would be at the general rate with a cap of $300 per article. The light construction equipment would be exempt from local sales tax.

The proposed committee substitute moves the effective date from July 1, 2003 to October 1, 2003, and repeals the tax effective for sales made on or after January 1, 2006. The repeal is necessary in order for North Carolina to conform to the Streamlined Sales Tax Agreement. Beginning January 1, 2006, the State and local sales tax base must be the same.

CURRENT LAW: Light construction equipment is subject to both the general sales tax rate of 4 ½% and the local sales tax rate.

BILL ANALYSIS: House Bill 759 would reduce the sales tax imposed on light construction equipment as follows:

- The equipment would be subject to the general sales tax rate (4 ½%) but with a $300 cap per article.
- The equipment would be exempt from local sales tax.[1]

Light construction equipment is defined as "equipment that is self-propelled, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

The act is repealed effective for sales made on or after January 1, 2006 in order to conform to the Streamlined Sales Tax Agreement. Beginning on that date the Agreement does not allow multiple tax bases and caps, except for boats, aircraft, and manufactured homes.

[1] The local sales tax applies only to sales of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b). House Bill 759 establishes a new subdivision G.S. 105-164.4(a)(8).

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 759 (1st Edition)

SHORT TITLE: Reduce Utility Equipment Sales Tax

SPONSOR(S): Rep. Goforth

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* Unknown Loss *			
Local Government		* Unknown Loss *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue and Local Governments

EFFECTIVE DATE: July 1, 2003 and applies to sales make on or after that date.

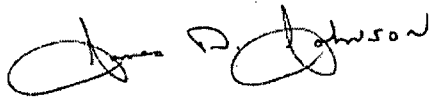
BILL SUMMARY: The legislation caps the sales tax levied on each piece of light construction equipment at $300.00.

ASSUMPTIONS AND METHODOLOGY: Examples of light construction equipment generally include skid loaders, telescopic handlers, asphalt pavers, compact excavators, compact track loaders, all-wheel-steer loaders, compact loaders, backhoes, compactors, skidsteers, generators, light towers, and dewatering pumps, to name a few. The bill caps total state and local sales taxes on the purchase of these items at $300. This suggests that the cap will affect all light construction equipment with a sales price greater than $4,285.71 ($4,285.71 x 7.0% tax = $300). A review of industry web sites suggests the price of these items vary from approximately $12,500 to $235,000 and higher (these include prices for used equipment). Thus, the revenue loss associated with the purchase of each item varies from $575 to upwards of $16,150 per item. However, because Fiscal Research cannot determine the total value of all light construction equipment sold in the state, no exact fiscal estimate is possible on the bill.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division



Date: May 1, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 440

Senate Finance Committee Substitute Adopted 6/5/03
Third Edition Engrossed 6/11/03

Short Title: Wentworth Agri. Zoning/Economic Dev. District. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF WENTWORTH TO EXEMPT AGRICULTURAL LAND USES WITHIN THAT JURISDICTION FROM ZONING AND TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Charter of the Town of Wentworth, being Chapter 76 of the Private Laws of 1798, as amended by S.L. 1997-322, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

SECTION 1.(b) This section applies only to the Town of Wentworth.

SECTION 2. Article 16 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

"Part 3. Economic Development and Training Districts.

"**§ 153A-317.11. Purpose for which districts may be created.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district any of the education, training, and related services, facilities, or functions that a county

or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county.

"**§ 153A-317.12. Definition of economic development and training district.**

(a) Standards. – The board of commissioners may by resolution establish an economic development and training district for an area or areas of the county that, at the time the resolution is adopted, meet the following standards:

(1) All of the real property in the district primarily is being used for, or is subject to, a declaration of covenants, conditions, and restrictions that limits its use primarily to biotech processing, chemical manufacturing, pharmaceutical manufacturing, electronics manufacturing, telecommunications manufacturing, and any allied, ancillary, or subordinate uses including, without limitation, any research and development facility, headquarters or office, temporary lodging facility, restaurant, warehouse, or transportation or distribution facility.

(2) The district includes at least two pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the district containing in the aggregate at least 425 acres owned by publicly held corporations.

(3) The bioprocessing and pharmaceuticals manufacturing facilities in the district employ in the aggregate at least 1,600 persons.

(4) The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.

(5) The district's zoning classifications permit the uses listed in this section.

(6) All real property in the district is either zoned for or is being used primarily for pharmaceutical, biotech, life sciences, chemical, telecommunications, or electronics manufacturing or processing or allied, ancillary, or subordinate uses.

(7) The district shall include a skills training center situated on a tract containing not less than eight acres, which facility shall be designed and staffed to provide relevant training to prepare existing or prospective employees of targeted industries for jobs in one or more of the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries and allied, ancillary, or subordinate industries. The training center shall be completed within a reasonable period after the creation of the district.

(8) At the date of creation, no part of the district lies within the boundaries of any incorporated city or town.

(9) There exists a uniform set of covenants, conditions, restrictions, and reservations that applies to all real property in the district other than property owned by the federal, State, or local government.

(10) There exists in the district an association of owners and tenants to which owners of real property representing at least fifty percent (50%) of the assessed value of real property in the district belong, which association can make the recommendations provided for in G.S. 153A-317.13.

(11) A petition requesting creation of the district signed by owners of real property in the district who own real and personal property representing at least fifty percent (50%) of the total assessed value of the real and personal property in the district has been presented to the board of commissioners. In determining the assessed value of real and personal property in the district and the owners of real property, there shall be excluded: (i) real property exempted from taxation and real property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. Assessed value shall mean the most recent values determined by the county for the imposition of taxes on real and personal property.

(b) Findings. – The board of commissioners may establish an economic development and training district if, upon the information and evidence it receives, the board determines that:

(1) The proposed district meets the standards set forth in subsection (a) of this section;

(2) Economic development of the county will be served by providing selected skills training in a facility designed specifically to address the needs of targeted industries such as pharmaceuticals, biotech processing, telecommunications, electronics, and allied, ancillary, or subordinate supplies or services to induce existing industries and targeted industries to improve and expand their facilities and new industries to locate facilities in the district, thereby providing employment opportunities for the residents of the county;

(3) It is impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent as such training services are intended to be furnished within the district; and

(4) It is economically feasible to provide the proposed training facilities and services in the district without unreasonable or burdensome tax levies.

(c) Report. – Before the public hearing required by subsection (d) of this section, the board of commissioners shall cause to be prepared a report containing all of the following:

(1) A map of the proposed district showing its proposed boundaries.

(2) A statement showing that the proposed district meets the standards set out in subsection (a) of this section.

(3) A plan for providing the skills training center and training services to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a map of the proposed district and a statement that the report required by subsection (c) of this section is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The resolution creating a district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board of commissioners.

"**§ 153A-317.13. Advisory committee.**

(a) Creation. – The board of commissioners, in the resolution establishing an economic development and training district, shall also provide for an advisory committee for the district. The committee shall consist of five members, serving terms as set forth in the resolution. The resolution shall provide for the appointment or designation of a chair. The board of commissioners shall appoint the members of the advisory committee as provided in this section.

(b) Membership. – Three of the five committee members shall represent the association of owners and tenants, as required by G.S. 153A-317.12(a)(10), and two members shall represent the county. Before making the appointments representing the association, the board of commissioners shall request the association to submit a list of persons to be considered for appointment to the committee. The association of owners and tenants shall submit at least two names for each appointment to be made and the board of commissioners shall make the appointments to the committee representing the association from the list of persons submitted to it by the association. Whenever a vacancy occurs on the committee in a position filled by an appointment by the board of commissioners representing the association of owners and tenants, the board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy, and the board shall fill the vacancy by appointing one of the persons so submitted.

(c) Advisory Duties. – Each year, before adopting the budget for the district and levying the tax for the district, the board shall request recommendations from the advisory committee as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years. The board of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory committee.

"**§ 153A-317.14. Extension of economic development and training districts.**

(a) Standards. – A board of commissioners may by resolution annex territory to an economic development and training district upon finding that:

(1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-317.12(a)(1) that apply to all real property in the district, other than property owned by the federal, State, or local government, also apply or will apply to the property, other than property owned by the federal government, to be annexed.

(2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.

(3) The district, following the annexation, will continue to meet the standards set out in G.S. 153A-317.12(a).

(4) The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the expanded area can be met by the skills training facility located in the district.

(5) The area to be annexed is either contiguous to a lot, parcel, or tract of land in the district or at least 500 acres in the aggregate counting all parcels proposed for annexation. A property shall, for purposes of this section, be deemed to be contiguous notwithstanding that it may be separated from other property by a street, road, highway, right-of-way, or easement.

(6) If any of the area proposed to be annexed to the district is wholly or partially within the extraterritorial jurisdiction of a municipality, then it shall be necessary to first obtain the affirmative vote of a majority of the members of the governing body of the municipality before the area can be annexed.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing all of the following:

(1) A map of the district and the territory proposed to be annexed showing the present and proposed boundaries of the district.

(2) A statement that the area to be annexed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the

mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board.

"**§ 153A-317.15. Required provision or maintenance of skills training center.**

(a) New District. – When a county creates a district, it shall provide, maintain, or let contracts for the skills training center for which the district is being taxed within a reasonable time, not to exceed one year, after the effective date of the creation of the district.

(b) Extended District. – When a territory is annexed to a district, the county shall provide, maintain, or let contracts for any necessary additions to the skills training center to provide the same training provided throughout the district to existing and new industries in the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

"**§ 153A-317.16. Abolition of economic development and training districts.**

A board of county commissioners may by resolution abolish a district upon finding that a petition requesting abolition, signed by at least fifty percent (50%) of the owners of real property in the district who own at least fifty percent (50%) of the real and personal property in the district based upon the most recent valuation thereof, has been submitted to the board and that there is no longer a need for such district. In determining the total real and personal property in the district and the number of owners of real and personal property, there shall be excluded: (i) property exempted from taxation and property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. The board shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall be published at least once not less than one week before the date of the hearing. The abolition of any district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

"**§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center provided therein in addition to or to a greater extent than worker training facilities provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars ($1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars ($100.00) value of property subject to taxation.

"**§ 153A-317.18. Annexation by municipality.**

No municipality may annex pursuant to Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes or under any procedure other than Part 1 or Part 4 of that Article any or all of the real property within an economic development and training district established under this Part."

SECTION 3.(a) If the board of commissioners of Johnston County elects to establish an economic development and training district under Part 3 of Article 16 of Chapter 153A of the General Statutes, as created by this act, the district as initially established shall consist of the following real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority:

(1) Bayer Corporation. – All of the property shown on those deeds recorded in Book 737, Page 179; Book 737, Page 180; Book 739, Page 96; Book 1328, Page 644; and Book 1328, Page 648 in the office of the Register of Deeds of Johnston County.

(2) Novo Nordisk Pharmaceutical Industries, Inc. – All of the property shown on those certain plats of survey recorded in Plat Book 34, Page 279 and Plat Book 46, Page 431 and as shown in that certain deed recorded in Book 1389, Page 114 in the office of the Register of Deeds of Johnston County.

(3) Fresenius Kabi Clayton, L.P. – All of the property shown on that plat of survey recorded in Plat Book 28, Page 173 in the office of the Register of Deeds of Johnston County.

(4) Johnston County Airport Authority. – All of that property known as North Aviation Industrial Park described in that certain deed recorded in Book 1433, Page 440 in the office of the Register of Deeds of Johnson County.

SECTION 3.(b) This section applies only to Johnston County.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 440:
Wentworth Agri. Zoning/Economic Dev. District.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sexton
Date:	July 8, 2003	**Summary by:**	Trina Griffin
Version:	3rd Edition		Committee Counsel

SUMMARY: House Bill 440 does the following:

- ***It would prohibit the Town of Wentworth from regulating or restricting agricultural land uses under its zoning ordinance.***
- ***It would authorize Johnston County to establish an economic development and training district for the purpose of providing a skills training center to prepare county residents to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries.***

THE BILL IS IN COMMITTEE FOR RECOMMENDATION FOR CONCURRENCE OR NON-CONCURRENCE.

BILL ANALYSIS: Section 1of House Bill 440 would amend the Charter of the Town of Wentworth to prohibit the town from regulating or restricting agricultural land uses under its zoning ordinance. Under current general law, a municipality may regulate agricultural uses of land as a part of its zoning ordinance.

Section 2 of the bill, which applies only to Johnston County, creates a new Part in Chapter 153A that authorizes a county to establish an economic development and training district.

Purpose of District. – The purpose of the district is to provide a skills training center to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries.

Standards for District. – Several standards must be met before the district may be established, including:

- All of the property in the proposed district is primarily being used for biotech processing, chemical, pharmaceutical, electronics, and telecommunications manufacturing.
- The district includes at least 2 pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the aggregate of at least 425 acres owned by publicly held corporations and employing at least 1,600 persons.
- The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.
- No part of the district lies within the boundaries of any incorporated city or town.
- There exists in the district an association of owners and tenants to which owners of real property representing at least 50% of the value of the real property in the district belong.
- There must be a petition signed by the owners of real property in the district representing at least 50% of the total assessed value of real and personal property in the district presented to the board of commissioners.

Findings Required Before Establishing District. – The board of commissioners may establish the district if it determines that:

- The proposed district meets the standards set out above.

- Economic development of the county will be served, specifically in the targeted industries, by providing selected skills training, thus inducing the expansion of existing industries and the location of new facilities, thereby providing employment opportunities in the district.
- It would be impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent the services are intended to be furnished within the district.
- It is economically feasible to provide the proposed training facilities and services without unreasonable or burdensome tax levies.

Hearing and Notice. – The board must provide notice and hold a public hearing before adopting a resolution defining a district.

Advisory Committee. – In the resolution establishing an economic development and training district, the board of commissioners shall provide for a five-member advisory committee, three of whom shall represent the association of owners and tenants and two of whom shall represent the county. The committee shall make recommendations to the board as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years.

Annexation by District. – The board of commissioners would be authorized to annex territory to the district, after giving notice and holding a public hearing, if certain findings exist, such as:

- The property to be annexed meets the same conditions, covenants, restrictions, and reservations as the primary district.
- 100% of the owners of real property in the area to be annexed have petitioned for annexation.
- The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the area can be met by the skills training facility located in the district.
- The area to be annexed is either contiguous to the district or at least 500 acres in the aggregate.
- If any of the area proposed to be annexed is within the extraterritorial jurisdiction of a municipality, then a majority of the members of the governing body of the municipality must vote in favor of annexation.

Abolition of District. – The board may abolish a district if a petition requesting abolition, signed by at least 50% of real property owners in the district who own at least 50% of the real and personal property in the district, has been submitted to the board and that there is no longer a need for the district. There must be notice and a public hearing prior to the adoption of a resolution abolishing a district.

Taxes Authorized. – The county would be authorized to levy property taxes within the district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within the district may be expended only to pay annual debt service on up to $1,200,000 of the capital costs of a skills training center and any other services or facilities provided by the county in response to a recommendation of the advisory committee. The additional property taxes within the district may not exceed a rate of 8¢ on each $100 value of property subject to taxation.

Property Within Initial District. – If the board of commissioners elects to establish an economic development and training district, then the district as initially established will consist of certain described real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority.

EFFECTIVE DATE: House Bill 440 would become effective when it becomes law.

North Carolina General Assembly

House Committee on Finance

Minutes

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July 9, 2003

The House Committee on Finance met on Wednesday, July 9, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Rayfield, Ross, Setzer, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, George Givens, Trina Griffin, Martha Harris, Jeff Hudson, Heather Martin, Linda Millsaps, Mary Shuping, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairwoman Howard called the meeting to order at 8:35 am and recognized the five (5) pages: (1) Natalie Baines of Gates County, sponsored by Representative Culpepper; (2) Jason Bowles of Davie County, sponsored by Chairwoman Howard; (3) Dane Hobbs of Gates County, sponsored by Representative Culpepper; (4) Chandler McLean of Cumberland County, sponsored by Representative Dickson; and (5) Ashley Williams of Onslow County, sponsored by Representative Keith Williams.

HB 182 – NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS (see attachment 3) was the first bill Chairwoman Howard called before the Committee. Bill Sponsor Representative L. Allen was recognized by the Chair for further consideration of the bill, as it was displaced during the July 8, 2003 House Finance meeting so that Representative Womble could have several concerns addressed. While Representative Womble was not then present at the meeting, Representative L. Allen as well as Staff informed the Chair that his concerns had already been properly addressed. Seeing no further queries, Chairwoman Howard reminded the members that the bill was before the Committee for a recommendation that the House do or do not concur. She then recognized Representative Blackwood who made a motion that the Committee offer a recommendation that the House do concur. The motion carried by consent.

Chairwoman Howard next recognized Representative Stiller, sponsor, for continued discussion of HB 758 – BAN SHRIMP NETS/INCREASE RCGL FEES (see attachment 4). Chair Howard noted that the bill had already been discussed once in the Committee during its' July 9, 2003 meeting but was displaced due to time limitations. Representative Stiller then explained to the Committee his desire to have the bill sent to a study commission during the interim prior to next session so that the bill could be further researched. Chairwoman Howard noted his request and thanked him for his time.

Representative Gibson, on behalf of Senator Hoyle, was recognized next to explain **SB 945 – AIR QUALITY PERMITS** (see attachment 5). Representative Gibson first moved the adoption of the Proposed Committee Substitute (PCS) for SB 745 for discussion purposes and his motion carried. He then explained that the bill acts to clarify the extent to which a prospective applicant for an air quality permit for a new facility may engage in construction prior to obtaining the air quality permit and specifies the circumstances under which a person who holds an air quality permit may alter or expand the existing facility. George Given, Research Staff, also explained further details of the bill to the Committee members, noting specifically that the bill did not change any existing air quality provisions, requirements, or limitations. Chairwoman Howard then recognized Mr. David Wright of the Sierra Club, who voiced his support of the compromises made to the bill in its PCS. Seeing no further discussion from the members, Chair Howard recognized Representative Creech who moved that the House PCS for SB 945 be given a favorable report and that the 2nd Senate Committee Substitute be given an unfavorable report. The motion carried without known opposition.

Chairwoman Howard then welcomed Senator Rand, bill sponsor for **SB 75 – LIFE SCIENCES REVENUE BOND AUTHORITY** (see attachment 6) to the House Committee on Finance. The Senator was recognized to explain the bill and noted simply that it establishes an Authority to study and make recommendations for creating a credit enhancement program for financing construction of infrastructure for life sciences manufacturing facilities. Senator Rand also stated that the bill required no appropriations and requested that the Chair recognize Dr. Charles Hamner, with the North Carolina Bio-Tech Industry Organization, who informed the members that North Carolina already had nearly 20,000 jobs produced from the bio-tech industry and that this bill would allow for a study of the prospective job possibilities in the growing industry. Chairwoman Howard then recognized Representative Hill who moved for a favorable report on SB 75. Representative Luebke was recognized for a question regarding the funding of the Authority's studies. Senator Rand responded that the seven, unpaid members of the Board would seek funding through grants and other private sources. He also noted that the Authority's study was to be completed by March 2004 so that the General Assembly could discuss their findings during next year's short session. Seeing no further debate, the Chair then called the vote on Representative Hill's motion for favorable report and the motion was adopted by consent.

HB 831 – COASTAL RECREATIONAL FISHING LICENSE/FUND, sponsored by Representative Gibson, was the final bill considered at the meeting. Representative G. Allen was recognized and moved adoption of the PCS for HB 861. His motion carried without objection. Chairwoman Howard then recognized Representative Gibson for explanation of the bill. Providing a brief summary of the bill he noted that the bill establishes general provisions governing a Coastal Recreational Fishing License (CRFL) and sets out a fee structure for the sale of these licenses. License fee exemptions are granted for certain classes of individuals. The bill creates a Marine Resources Restoration Fund in the North Carolina Department of Environment and Natural Resources (NCDENR) to hold the proceeds from the sale of CFRL's, and provides for the allocation of the proceeds. Representative Gibson further noted that the most current PCS for HB 831 decreased the fee for the license from $15.00 to $10.00. The Chair then recognized Representative McComas who inquired as to why the persons holding recreational fishing licenses were slated to be considered as confidential information when commercial fishing licenses were public record. The Chair recognized Mr. Preston Pate, Director of the Division of Marine Fisheries in NCDENR, to address this question. He explained that the idea for making the information contained on these recreational licenses confidential was to protect the privacy of the license holders, specifically avoiding product solicitations from businesses in the industry. Chairwoman Howard next recognized Representative McCombs who acted to send forth an amendment. He

explained that the amendment acted to require that the purchase of only one license (either freshwater or saltwater) be necessary in order to fish in both types of water. He noted that this would help keep North Carolina taxpayers from spending more than needed in order to enjoy fishing in this state. Representative Gibson was recognized next to request the fiscal impact of the amendment. Stephanie Schmidt, Fiscal Staff, responded that it was difficult to accurately gauge the fiscal impact without more time to scrutinize the amendment. Representative Gibson then voiced his clear opposition to the amendment, stating that it would essentially "gut" the bill. He stated that the decrease in funds would not leave an amount adequate to protect the coastal resources in the state (which was the intent of the bill). He also stated that pollution of the marine life is a growing problem in North Carolina and that this bill would provide for statistics to be gathered on who is fishing and what they are catching. Representative Rayfield was then recognized and requested that the Chair displace the bill from the day's calendar to allow for further digestion of the bill by the Committee members. Following this discussion, Chairwoman Howard called Representative McCombs' amendment to a vote and the amendment failed, 8 ayes to 14 nays. Representative McComas was then recognized and sent forth a simple amendment decreasing the age of exemption for a fishing license under this bill from 65 years to 62 years. He moved adoption of his amendment and, supported by the bill sponsor, it was adopted by consent. Representative Ellis was then recognized by the Chair and moved that a new PCS, incorporating the McComas amendment, on HB 831 be given a favorable report. The Chair called the vote and the motion carried.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:48 am.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 182 (and related materials)
4. House Bill 758 (and related materials)
5. Senate Bill 945 (and related materials)
6. Senate Bill 75 (and related materials)
7. House Bill 831 (and related materials)

AGENDA

ATTACHMENT 1

House Finance Committee

July 9, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Howard

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 182 NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS
Reps. L. Allen and Hunter

HB 758 BAN SHRIMP NETS/CERTAIN INLAND WATERS *Rep. Stiller*

HB 831 COASTAL RECREATIONAL FISHING LICENSE/FUND
Reps. Gibson and McComas

SB 75 LIFE SCIENCES REVENUE BOND AUTHORITY *Sen. Rand*

SB 945 AIR QUALITY PERMITS *Sen. Hoyle*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, July 08, 2003 12:16 PM
Subject: NOTICE House Finance Committee 7-9-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, July 9, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 182 – NORTHAMPTON/DUPLIN/FAYETTEVILLE LOCAL ACTS – Reps. L. Allen and Hunter

HB 758 – BAN SHRIMP NETS/CERTAIN INLAND WATERS – Rep. Stiller

HB 831 – COASTAL RECREATIONAL FISHING LICENSE/FUND – Reps. Gibson and McComas

SB 75 – LIFE SCIENCES REVENUE BOND AUTHORITY – Sen. Rand

SB 945 – AIR QUALITY PERMITS – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **12:20 P.M.** on **July 8, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 9, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JERRY SCHILL	NC Fisheries Assoc.
Charles Hamner	Hamner Adv. Services
Tony Laughrey	KBI, BioPharma, Inc.
Paula Wolf	Covenant W/NC's Children
Dave Hawkins	CCA
Hollis Smith	Shrimper
Jim Culpepper	SHRIMPER OCEAN ISLE N.C.
Bill Pittman	Pittman Law Firm, PLLC
Gary Hanson	EGHS
John McHugh	Gov Office.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **2**

HOUSE BILL 182

Senate Rules and Operations of the Senate Committee Substitute Adopted 6/17/03

Short Title: Northampton/Duplin/Fayetteville Local Acts. (Local)

Sponsors:

Referred to:

March 4, 2003

A BILL TO BE ENTITLED

AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY, TO ALLOW DUPLIN COUNTY TO USE THE SINGLE-PRIME BIDDING METHOD FOR THE CONSTRUCTION OF DUPLIN COMMONS WITHOUT COMPLYING WITH CERTAIN STATUTORY REQUIREMENTS, AND CONCERNING THE INVESTMENT OF CERTAIN RETIREMENT AND EMPLOYEE BENEFIT FUNDS BY THE CITY OF FAYETTEVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1997-275, as rewritten by Section 1 of S.L. 1998-130, reads as rewritten:

"**Section 1.** There is hereby created the '~~Halifax~~Halifax-Northampton Regional Airport Authority' (for brevity hereinafter referred to as the 'Airport Authority'), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly. For purposes of this act the word 'City' when used alone shall mean the City of Roanoke Rapids and the word 'County' when used alone shall mean either Halifax County or Northampton County."

SECTION 2. Section 15 of S.L. 1997-275, as rewritten by Section 8 of S.L. 1998-130, reads as rewritten:

"**Section 15.** The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Halifax County Board of Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council, and nothing in this act shall require the Board of Commissioners or City Council to make the initial appointments. It is the intent of this act to enable but not to require the formation of the ~~Halifax~~ Halifax-Northampton Regional Airport Authority."

SECTION 3. Duplin County may contract for the design and construction of the Duplin Commons project using the single-prime contract method described in G.S. 143-128(d) without requiring that all bidders identify on their bids the contractors they

have selected for the subdivisions for heating, ventilating, and air conditioning, plumbing, electrical, and general. However, the lowest responsible, responsive bidder shall provide to the county the names of the contractors selected for the subdivisions within 72 hours after this act is ratified. Nothing in this act prohibits Duplin County from rejecting any and all bids for the design and construction of the Duplin Commons project.

SECTION 4. Notwithstanding the provisions of G.S. 159-30, the City of Fayetteville, or any governing body, agency, person, or other corporation that contracts with the City of Fayetteville for the investment, care, or administration of monies of the Supplemental Employees' Retirement Plan of the Public Works Commission of the City of Fayetteville, or of employee benefit funds as may be designated from time to time by the City of Fayetteville City Council, may invest and reinvest those monies in one or more of the types of securities or other investment authorized by State law for the State Treasurer in G.S. 147-69.2.

SECTION 5. Section 3 of this act becomes effective April 29, 2003, and applies to bids advertised and submitted for the Duplin Commons project. Otherwise, this act is effective when it becomes law.

HOUSE BILL 182:
Northampton/Duplin/Fayetteville Local Acts

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. L. Allen and Hunter
Date:	July 1, 2003	**Summary by:**	R. Erika Churchill
Version:	Second Edition		Staff Attorney

SUMMARY: House Bill 182 does three things:

- ***Renames the Halifax Regional Airport Authority to the Halifax-Northampton Regional Airport Authority.***
- ***Permits Duplin County an exception from the bidding requirements with regard to one specified project.***
- ***Permits the City of Fayetteville's Public Works Commission to invest supplemental retirement funds as the State Treasurer invests idle funds in the Retirement System.***

THE BILL IS IN COMMITTEE FOR RECOMMENDATION FOR CONCURRENCE OR NON-CONCURRENCE.

CURRENT LAW and BILL ANALYSIS:

Sections 1 and 2. The Halifax-Roanoke Rapids Regional Airport Authority was created by the General Assembly in 1997 to maintain and operate the airport facilities. In 1998, the Authority was renamed the Halifax Regional Airport Authority. Sections 1 and 2 of House Bill 182 rename the Halifax Regional Airport Authority the "Halifax-Northampton Regional Airport Authority."

Section 3. G.S. 143-128(d) requires that when a unit of government is bidding a single-prime contract, all bidders are to identify on their bid the contractors they have selected for the subdivisions or branches of work for heating, ventilating, and air conditioning; plumbing; electrical; and general contracting. House Bill 182 would grant an exception to this provision for Duplin County in bidding the Duplin Commons project. The exception would require the bidder to provide the names of the sub-contractors within 72 hours of the bill's enactment. **EFFECTIVE April 29, 2003.**

Section 4. G.S. 159-30 controls investment of idle funds for local governments and public authorities, and such investment is restricted to certain types of securities and certificates of deposits, mainly those backed North Carolina, the United States or another unit of local government in North Carolina. House Bill 182 would allow the idle funds of the Fayetteville City Public Works Commissions' Supplemental Employees Retirement Plan to be invested in the same manner as the State Treasurer is allowed to invest retirement system funds and other special funds held by the State. Investment options would include: general obligations of the United States, other states, and cities, counties and special districts of North Carolina; asset backed securities; preferred or common stock of duly incorporated companies, provided the investments meet certain conditions.

BACKGROUND: Similar legislation has been enacted previously for entities such as Durham County (Community Health Trust Fund), Forsyth County (Community Health Special Reserve Fund), Pitt County (equity assets funds received from the transfer of Pitt County Memorial Hospital), City of Winston-Salem (Winston-Salem Police Officers Retirement Fund, employee benefits fund, risk reserve fund, Cemetery Perpetual Care Fund, Capital Reserves Fund).

EFFECTIVE DATE: Except as noted above for Section 3, the act is effective when it becomes law.

H182-SMST-001

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 182 A BILL TO BE ENTITLED AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY, TO ALLOW DUPLIN COUNTY TO USE THE SINGLE-PRIME BIDDING METHOD FOR THE CONSTRUCTION OF DUPLIN COMMONS WITHOUT COMPLYING WITH CERTAIN STATUTORY REQUIREMENTS, AND CONCERNING THE INVESTMENT OF CERTAIN RETIREMENT AND EMPLOYEE BENEFIT FUNDS BY THE CITY OF FAYETTEVILLE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 758
Committee Substitute Favorable 4/23/03
PROPOSED COMMITTEE SUBSTITUTE H758-CSSVf-30 [v.2]

6/16/2003 4:25:45 PM

Short Title: Ban Shrimp Nets/Increase RCGL Fees. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL FOR HOLDERS OF A RECREATIONAL COMMERCIAL GEAR LICENSE TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES, TO INCREASE THE FEES FOR A RECREATIONAL COMMERCIAL GEAR LICENSE, AND TO REQUIRE RECREATIONAL COMMERCIAL GEAR LICENSE HOLDERS TO REPORT TO THE DIVISION OF MARINE FISHERIES REGARDING THEIR CATCH.

The General Assembly of North Carolina enacts:

SECTION 1. It is hereby unlawful for the holder of a Recreational Commercial Gear License to take shrimp with a trawl net in the following described inland waters:

All inland waters (internal coastal fishing waters) in New Hanover and Brunswick Counties with the exception of those waters in the Cape Fear River south of a line beginning at a point on the west shore at 34° 04.6040'N - 77° 56.4780'W running easterly to a point on the east shore 34° 04.7920'N - 77° 53.3550'W. The following area in the Cape Fear River is also closed by this act. Those waters in the Cape Fear River bounded by a line beginning on the south side of the Spoil island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780'N - 77° 56.0010'W; running easterly to the east shore of the Cape Fear River at a point 34° 01.7230'N - 77° 55.1010'W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080'N - 77° 56.4120'W; running northerly to Bird Island at a point 33° 58.3870'N - 77° 56.5780'W; running northerly along the west shoreline of Bird Island and the Cape Fear River Spoil islands back to point of origin.

SECTION 2. Violation of Section 1 of this act shall constitute a violation of G.S. 113-187, and shall be punishable pursuant to that section.

SECTION 3. G.S. 113-173(f) reads as rewritten:

"(f) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be ~~thirty-five dollars ($35.00).~~ forty dollars ($40.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be ~~two hundred fifty dollars ($250.00).~~two hundred eighty-five dollars ($285.00)."

SECTION 4. G.S. 113-173(i) reads as rewritten:

"(i) Reporting Requirements. – The holder of a RCGL shall report monthly to the Division on a form provided by the Division regarding the type and amount of fish taken under the RCGL, including the type and amount of bycatch. The holder of a RCGL shall also comply with ~~the~~ other biological data sampling and survey programs of the Commission and the Division."

SECTION 5. This act becomes effective December 1, 2003. Section 2 of this act applies to offenses committed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 758
Committee Substitute Favorable 4/23/03

Short Title: Ban Shrimp Nets/Certain Inland Waters. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is hereby unlawful to take shrimp with a trawl net in the following described inland waters:

All inland waters (internal coastal fishing waters) in New Hanover and Brunswick Counties with the exception of those waters in the Cape Fear River south of a line beginning at a point on the west shore at 34° 04.6040'N - 77° 56.4780'W running easterly to a point on the east shore 34° 04.7920'N - 77° 53.3550'W. The following area in the Cape Fear River is also closed by this act. Those waters in the Cape Fear River bounded by a line beginning on the south side of the Spoil island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780'N - 77° 56.0010'W; running easterly to the east shore of the Cape Fear River at a point 34° 01.7230'N - 77° 55.1010'W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080'N - 77° 56.4120'W; running northerly to Bird Island at a point 33° 58.3870'N - 77° 56.5780'W; running northerly along the west shoreline of Bird Island and the Cape Fear River Spoil islands back to point of origin.

SECTION 2. Violation of this act shall constitute a violation of G.S. 113-187, and shall be punishable pursuant to that section.

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

HOUSE BILL 758:
Ban Shrimp Nets/Certain Inland Waters.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	July 9, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 2nd Edition		Committee Counsel

SUMMARY: ***House Bill 758 would make it unlawful for holders of a Recreational Commercial Gear License to take shrimp with a trawl net in certain inland waters in Brunswick and New Hanover Counties. Violation of this provision would be a Class A1 misdemeanor.***

The Proposed Committee Substitute adds two provisions:

- ***It increases the cost of a Recreation Commercial Gear License from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents.***
- ***It requires RCGL holders to report monthly to the Division of Marine Fisheries on the type and amount of fish taken under the RCGL, including the type and amount of bycatch.***

The act would become effective December 1, 2003.

THIS PCS WAS DISCUSSED IN THE HOUSE FINANCE COMMITTEE ON JUNE 17, 2003 BUT THERE WAS NO VOTE AT THAT TIME.

CURRENT LAW: A person may catch fish, including shrimp, in the inland waters subject to certain limitations and requirements set forth by the Division of Marine Fisheries (Division). A person who catches fish using certain commercial gear, but who does not plan to sell the fish commercially, must obtain a Recreational Commercial Gear License (RCGL). The RCGL is an annual license that allows recreational fishermen to use limited amounts of commercial gear to harvest seafood for their personal consumption. Seafood harvested under this license cannot be sold. Fishermen using this license will be held to recreational size and possession limits.[1] The license expires one year from the date of purchase. The cost of the license is $35 for North Carolina residents and $250 for nonresidents. Holders of an RCGL are required to comply with the biological data sampling and survey programs of the Marine Fisheries Commission and the Division of Marine Fisheries.

The Division of Marine Fisheries also issues a Standard Commercial Fishing License (SCFL) and a Retired Standard Commercial Fishing License (RSCFL).

BILL ANALYSIS:

Sections 1 and 2: Ban Shrimp Nets

Section 1 of the bill makes it unlawful for holders of a Recreational Commercial Gear License to take shrimp with a trawl net in the inland waters in New Hanover and Brunswick Counties. Any violation of this section is a Class A1 misdemeanor, effective for offenses occurring on or after December 1, 2003. A Class A1 misdemeanor is punishable by a minimum of 1-60 days or by a maximum of 1-150 days, depending on the number of prior convictions, plus a possible fine in an amount determined in the judge's discretion.

[1] Recreational size and possession limits, set out in the rules of the Marine Fisheries Commission, vary from species to species and also vary based on the time of year and geographic area.

Section 3: RCGL Fee Increase

Section 3 increases the cost of a Recreation Commercial Gear License from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents. These fees have not been increased since the license provisions were enacted by the General Assembly in 1997.

Section 4: RCGL Reporting Requirement

Section 4 requires the holder of an RCGL to report monthly to the Division of Marine Fisheries, on a form provided by the Division, regarding the type and amount of fish taken under the RCGL, including the type and amount of bycatch.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 26 2003

TO: Representative Stiller

FROM: Heather Martin
Fiscal Research Division

RE: HB 758 – Ban Shrimp Nets/Increase RCGL Fees

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Dept of Correction	Unable to determine exact amount; no significant impact anticipated.				
Judicial Branch	Unable to determine exact amount; no significant impact anticipated.				
DENR –DMF Advance License Sale Fund	$13,275*	$26,035	$25,530	$25,035	$24,550
EXPENDITURES					
General Fund					
DENR – DMF	$1,084,017*	$647,190	$661,025	$674,959	$689,379
POSITIONS:					
DENR					
Marine Patrol	2.7*	4.0	4.0	4.0	4.0
DMF	4.0*	6.0	6.0	6.0	6.0

* *Adjusted to reflect December 1, 2003 effective date.*

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources – Division of Marine Fisheries, Department of Corrections, and Judicial Branch.

EFFECTIVE DATE: December 1, 2003

BILL SUMMARY: HB 758 makes it unlawful for the holder of a recreational commercial gear license (RCGL) to take shrimp with a trawl net in certain inland waters located in Brunswick and New Hanover Counties. Violation of this ban would be a Class A1 misdemeanor. In addition, the cost for a RCGL will increase from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents. Holders of an RCGL will also be required to report monthly to the Division of Marine Fisheries (DMF) on a form provided by DMF regarding the type and amount of fish taken under the RCGL including the type and amount of bycatch.

ASSUMPTIONS AND METHODOLOGY:

Department of Environment and Natural Resources – Division of Marine Fisheries

Recreational Commercial Gear License Fee Increase

The fee to obtain a RCGL would increase from $35 to $40 for North Carolina residents and from $250 to $285 for non-residents. The RCGL is an annual license that allows recreational fishermen to use limited amounts of commercial gear to harvest seafood for their personal consumption. Seafood harvested under this license cannot be sold and is subject to recreational size and possession limits. In 2001 there were 6,126 resident and 76 non-resident RCGLs sold and in 2002 there were 5,304 resident and 17 non-resident RCGLs sold. **Factoring in a modest 2% decline for FY 2003-04 the total net revenue generated from a fee increase would be $13,275. For FY 2004-05 the total net revenue would be $26,035**. Since the fee increase would not take effect until December 1, 2003, the revenue for FY 2003-04 would be approximately half what it would be in subsequent years. The RCGL fee has not been increased since its inception in 1997.

Revenue from the RCGL goes into the DMF Advance License Sale Special Fund. This money is subsequently transferred to DENR's General Fund at sporadic intervals. It is still undetermined if there are any restrictions on how that money can be used once transferred.

Enforcement Costs

The North Carolina Marine Patrol is responsible for enforcing rules, regulations and statutes including trawling regulations as they apply to North Carolina's coastal waters. The Marine Patrol monitors commercial and recreational fishing, patrols coastal waterways, piers and beaches and inspects seafood houses, vehicles transporting seafood and restaurants to ensure compliance with fishery rules.

The District Three office which covers the southern area from Cape Carteret, New River, Cape Fear River, Wilmington and all areas south of Wilmington to the South Carolina state line would be responsible for enforcing HB 758. This ban would apply to approximately 225 miles of inland waters in New Hanover and Brunswick Counties except for certain parts of the Cape Fear River. According to the Division of Marine Fisheries, an additional 4 enforcement officers, 2 stationed in each affected county for day and night coverage, would be needed to enforce a shrimp net ban. These enforcement officers could also be used to monitor compliance for the new RCGL reporting requirements.

The estimated total salary and benefits per year for four new enforcement officers would be $175,248 ($43,812 per position) with adjustments for inflation in future years. Each DMF officer will require a boat and vehicle for enforcement purposes totaling $46,700 in FY 2003-04. There would also be additional fuel costs for existing boats, aircraft and helicopters totaling $7,000 per year.

Item	FY 2003-04*	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Enforcement Officer I (salary/benefits)	$29,208	$45,521	$47,159	$48,810	$50,518
Enforcement Boat	$40,000	$0	$0	$0	$0
Boat Maintenance/Fuel	$3,000	$3,000	$3,000	$3,000	$3,000
Vehicle Lease/Fuel	$6,700	$6,700	$6,700	$6,700	$6,700
Existing Boat Fuel	$2,000	$2,000	$2,000	$2,000	$2,000
Existing Aviation Fuel	$7,000	$7,000	$7,000	$7,000	$7,000
Total	***$87,908***	$64,221	$65,859.41	$67,509.99	$69,218
Total w/4 officers	**$351,632**	**$256,883**	**$263,438**	**$270,040**	**$276,872**

** FY 2003-04 adjusted to reflect Nov. 1, 2003 start date.*

To enforce a RCGL holder shrimp net ban, the impact to the state's General Fund would be $351,632 for FY 2003-04. The FY 2003-04 salary and benefits figure has been adjusted assuming a November 1, 2003 start date to begin enforcing the ban by December 1, 2003.

RCGL Reporting Requirement

According to the Division of Marine Fisheries there would be added personnel, operating, database development, and enforcement costs to implement the new RCGL reporting requirement (monthly catch totals including bycatch). Currently, DMF enforces reporting requirements through their Trip Ticket Program which is a mandatory trip level reporting program used to collect census level data on all fish harvested and landed by commercial fisherman. The costs associated with the Trip Ticket program were adjusted to estimate the costs for a new RCGL database. Currently, the Trip Ticket Program employs 15 individuals and monitors compliance for approximately 800 fish dealers who collect landing information from 9,000 commercial fish license holders.

A majority of the RCGL reporting requirement costs are associated with hiring six additional staff members and developing a new database. DMF would need to configure a new RCGL reporting database using Integration Build Environment for Application Management (IBEAM) which is a developmental infrastructure using web-base as the font-end data entry and Oracle database as the backend. DENR has indicated that IBEAM should be the infrastructure for new system development. The cost for developing and implementing the database will be $445,840 in FY 2003-04 and $94,800 in subsequent years.

RCGL Reporting Requirement Costs

Item	FY 2003-04*	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
6 Salaried Positions/Benefits	$129,745	$202,207	$209,487	$216,819	$224,407
IT Development/Maintenance	330,240	94,800	94,800	94,800	94,800
IT Hardware/Software	115,600	0	0	0	0
Printing and Binding	15,000	15,000	15,000	15,000	15,000
Motor Vehicle Lease	3,000	3,000	3,000	3,000	3,000
Boat Fuel	5,000	5,000	5,000	5,000	5,000
Truck	20,000	0	0	0	0
Boat engine and trailer	25,000	0	0	0	0
Transportation - ground	1,000	1,000	1,000	1,000	1,000
Lodging - in state	1,000	1,000	1,000	1,000	1,000
Meals - in state	500	500	500	500	500
Telephone	2,000	2,000	2,000	2,000	2,000
Computer Charges	15,000	15,000	15,000	15,000	15,000
Postage	10,000	10,000	10,000	10,000	10,000
Office Supplies	2,000	2,000	2,000	2,000	2,000
Training	1,000	1,000	1,000	1,000	1,000
Furniture	4,500	1,000	1,000	1,000	1,000
Computers	15,000	5,000	5,000	5,000	5,000
Other computer equipment	6,000	1,000	1,000	1,000	1,000
Contracts (equipment)	2,000	2,000	2,000	2,000	2,000
Rent ($4,800 per person)	28,800	28,800	28,800	28,800	28,800
Total	**$732,385**	**$390,307**	**$397,587**	**$404,919**	**$412,507**

Assuming the new reporting requirement would apply to approximately 6,500 current RCGL holders, the General Fund fiscal impact to implement a program that is similar to Trip Ticket would be $732,385 in FY 2003-04 and $390,307 in FY 2004-05. The position costs have been adjusted to reflect inflation and a November 1, 2003 start date.

Department of Corrections

Since the proposed bill creates a new offense, the North Carolina Sentencing and Policy Advisory Commission does not have any historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be sentenced under this bill. In FY 2001-02, 20% of Class A1 misdemeanor convictions resulted in active sentences. The average estimated time served was 55.1 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater

expenditures for jury fees and indigent defense. For offenses that are brought to trial as Class 1 misdemeanors, the estimated court cost per trial is $3,144. For Class 1 misdemeanor offenses not brought to trial, and where a guilty plea is entered, AOC estimates the cost per guilty plea at $279.

SOURCES OF DATA: Department of Environment and Natural Resources – Division of Marine Fisheries, Department of Corrections and Judicial Branch.

TECHNICAL CONSIDERATIONS: None.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 945

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/5/03
Finance Committee Substitute Adopted 6/23/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S945-PCS35340-RT-68

Short Title: Air Quality Permits. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE EXTENT TO WHICH A PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY ENGAGE IN CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT AND TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A PERSON WHO HOLDS AN AIR QUALITY PERMIT MAY ALTER OR EXPAND THE FACILITY UPON GIVING NOTICE TO THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE PUBLIC OF THE PERMITTEE'S INTENT TO APPLY FOR MODIFICATION OF THE PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a) reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained ~~from the Commission~~ a permit therefor from the Commission and has complied with any conditions of ~~this~~ the permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~ contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of construction or operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities; alteration or expansion of existing facilities.**

(a) New Facilities. – A person may not, without obtaining a permit under G.S. 143-215.108, construct or operate an air contaminant source, equipment, or associated air cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108. A person may, however, undertake the following activities prior to obtaining a permit if the person complies with the requirements of this section:

(1) Clearing and grading.

(2) Construction of access roads, driveways, and parking lots.

(3) Construction and installation of underground pipe work, including water, sewer, electric, and telecommunications utilities.

(4) Construction of ancillary structures, including fences and office buildings, that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of air contaminants. The permittee may not operate the altered, expanded, or additional air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. A permittee may, however, alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility permitted under G.S. 143-215.108 if the permittee complies with the requirements of this section. At least 15 days prior to commencing alteration or expansion under this subsection, the permittee shall give notice by publication and shall submit to the Commission a notice of the permittee's intent to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is to be located; shall be at the permittee's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (6) of this subsection. The permittee shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice of intent to the Commission shall include all of the following:

(1) The name and location of the facility and the name and address of the permittee.

(2) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(3) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(4) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.
(5) The air cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.
(6) The schedule for alteration or expansion of the facility associated with the proposed modification of the permit.
(7) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.
(8) An acknowledgment by the permittee that any alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or alteration or expansion of the facility.
(9) A certification under oath that all of the information contained in the notice of intent is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. –
(1) Upon receipt of a complete notice of intent required under subsection (b) of this section, the Commission shall determine whether:
a. The permittee is and has been in substantial compliance with other permits issued the permittee.
b. The facility will be altered or expanded so that it will be used for either the same or a similar use as the use already permitted.
c. The alteration or expansion will not result in a disproportionate increase in the size of the facility already permitted.
d. The alteration or expansion will result in the same or substantially similar emissions as that of the facility already permitted.
e. The alteration or expansion will not have a significant effect on air quality.
f. The Commission is likely to issue the permit modification.
(2) Within 15 days after the Commission receives a complete notice of intent required under subsection (b) of this section, the Commission shall notify the permittee of its determination as to whether each of the conditions set out in subdivision (1) of this subsection has or has not been met. If the Commission finds that all of the conditions have been met, the notice shall state that the alteration or expansion of the physical arrangement or operation of an air contaminant source,

equipment, or associated air cleaning device may begin. If the Commission finds that one or more of the conditions has not been met, the notice shall state that the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device may not begin.

(d) Order to Cease Construction, Alteration, or Expansion. – If at any time during the construction, alteration, or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device, the Commission determines that the permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may order that the construction, alteration, or expansion cease until the Commission makes a decision on the application for a permit or permit modification. If the Commission orders that construction, alteration, or expansion cease, then construction, alteration, or expansion may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the order to cease construction, alteration, or expansion have been adequately addressed or if the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction, alteration, or expansion to resume.

(e) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction, alteration, or expansion allowed under this section had not occurred. The Commission shall consider any written comment that it receives in response to a notice by publication given pursuant to subsection (b) of this section. No evidence regarding any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108. No evidence as to any determination or order by the Commission pursuant to subsection (c) or (d) of this section shall be admissible in any contested case or judicial proceeding related to any permit required under G.S. 143-215.108.

(f) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person, permittee, or owner of any facility pursuant to this section.

(g) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(h) Compliance With Other State Laws Not Affected. – This section does not relieve any person of the obligation to comply with any other requirement of State law,

including any requirement to obtain any other permit or approval prior to undertaking any activity associated with preparation of the site or the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility for which a permit is required under G.S. 143-215.108.

(i) Federal Air Quality Programs Not Affected. – This section does not relieve any person from any preconstruction or construction prohibition imposed by any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply to any construction, alteration, or expansion that is subject to requirements for prevention of significant deterioration or federal nonattainment new source review, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply if it is inconsistent with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112.

(j) Fee. – A permittee who submits a notice of intent under subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice of intent submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to the construction of any new facility and the alteration or expansion associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 945

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/5/03
Finance Committee Substitute Adopted 6/23/03

Short Title: Air Quality Permits. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE EXTENT TO WHICH A PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY ENGAGE IN CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT AND TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A PERSON WHO HOLDS AN AIR QUALITY PERMIT MAY ALTER OR EXPAND THE FACILITY UPON GIVING NOTICE TO THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE PUBLIC OF THE PERMITTEE'S INTENT TO APPLY FOR MODIFICATION OF THE PERMIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.108(a) reads as rewritten:

"(a) Except as provided in subsections (a1) and (a2) of this section, no person shall do any of the following things or carry out any of the following activities ~~which~~ that contravene or will be likely to contravene standards established pursuant to G.S. 143-215.107 or set out in G.S. 143-215.107D unless that person has obtained ~~from the Commission~~ a permit therefor from the Commission and has complied with any conditions of ~~this~~ the permit:

(1) Establish or operate any air contaminant ~~source;~~source, except as provided in G.S. 143-215.108A.

(2) Build, erect, use or operate any equipment ~~which~~ that may result in the emission of an air ~~contaminants~~ contaminant or ~~which~~ that is likely to cause air ~~pollution;~~pollution, except as provided in G.S. 143-215.108A.

(3) Alter or change the construction or method of operation of any equipment or process from which air contaminants are or may be ~~emitted;~~emitted.

~~(4) Enter into an irrevocable contract for the construction and installation of any air-cleaning device, or allow or cause such device to be constructed, installed, or operated.~~"

SECTION 2. G.S. 143-215.108(f) reads as rewritten:

"(f) An applicant for a permit under this section for a new facility or for the expansion of a facility permitted under this section shall request each local government having jurisdiction over any part of the land on which the facility and its appurtenances are to be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility or expansion would be consistent with the ordinance. The request to the local government shall be accompanied by a copy of the draft permit application and shall be delivered to the clerk of the local government personally or by certified mail. The determination shall be verified or supported by affidavit signed by the official designated by the local government to make the determination and, if the local government states that the facility is inconsistent with a zoning or subdivision ordinance, shall include a copy of the ordinance and the specific reasons for the determination of inconsistency. A copy of any such determination shall be provided to the applicant when it is submitted to the Commission. The Commission shall not act upon an application for a permit under this section until it has received a determination from each local government requested to make a determination by the applicant. If a local government determines that the new facility or the expansion of an existing facility is inconsistent with a zoning or subdivision ordinance, and unless ~~Unless~~ the local government makes a subsequent determination of consistency with all ordinances cited in the determination or the proposed facility is determined by a court of competent jurisdiction to be consistent with the cited ordinances, the Commission shall attach as a condition of the permit a requirement that the applicant, prior to construction or operation of the facility under the permit, comply with all lawfully adopted local ordinances, including those cited in the determination, that apply to the facility at the time of construction or operation of the facility. If a local government fails to submit a determination to the Commission as provided by this subsection within 15 days after receipt of the request, the Commission may proceed to consider the permit application without regard to local zoning and subdivision ordinances. This subsection shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance. This subsection shall not be construed to limit any opportunity a local government may have to comment on a permit application under any other law or rule. This subsection shall not apply to any facility with respect to which local ordinances are subject to review under either G.S. 104E-6.2 or G.S. 130A-293."

SECTION 3. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-215.108A. Control of sources of air pollution; construction of new facilities; alteration or expansion of existing facilities.**

(a) New Facilities. – A person may not, without obtaining a permit under G.S. 143-215.108, construct or operate an air contaminant source, equipment, or associated air cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108. A person may, however, undertake the following activities prior to obtaining a permit if the person complies with the requirements of this section:

(1) Clearing and grading.

(2) Construction of access roads, driveways, and parking lots.

(3) Construction and installation of underground pipe work, including water, sewer, electric, and telecommunications utilities.

(4) Construction of ancillary structures, including fences and office buildings, that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device for which a permit is required under G.S. 143-215.108.

(b) Permitted Facilities. – A person who holds a permit under G.S. 143-215.108 may apply to the Commission for a modification of the permit to allow the person to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of air contaminants. The permittee may not operate the altered, expanded, or additional air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of any air contaminant without obtaining a permit modification under G.S. 143-215.108. A permittee may, however, alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility permitted under G.S. 143-215.108 if the permittee complies with the requirements of this section. At least 15 days prior to commencing alteration or expansion under this subsection, the permittee shall give notice by publication and shall submit to the Commission a notice of the permittee's intent to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device. Notice by publication shall be in a newspaper having general circulation in the county or counties where the facility is to be located; shall be at the permittee's own expense; shall include a statement that written comment may be submitted to the Commission, that the Commission will consider any comment that it receives, and the Commission's address for submission of written comment; and shall include all the information required by subdivisions (1) through (6) of this subsection. The permittee shall submit a proof of publication of the notice to the Commission within 15 days of the date of publication. The notice of intent to the Commission shall include all of the following:

(1) The name and location of the facility and the name and address of the permittee.

(2) The permit number of each permit issued under G.S. 143-215.108 for the facility.

(3) The nature of the air contaminant sources and equipment associated with the proposed modification of the permit.

(4) An estimate of total regulated air contaminant emissions associated with the proposed modification of the permit.

(5) The air cleaning devices that are to be employed to address each of the air contaminant sources associated with the modification of the permit.

(6) The schedule for alteration or expansion of the facility associated with the proposed modification of the permit.

(7) An acknowledgment by the permittee that the air contaminant sources, equipment, and associated air cleaning devices may not be operated in a manner that alters the emission of any air contaminant until the permittee has obtained a modified permit under G.S. 143-215.108.

(8) An acknowledgment by the permittee that any alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device prior to the modification of a permit under G.S. 143-215.108 is undertaken at the permittee's own risk and with the knowledge that the permittee may be denied a modification of the permit under G.S. 143-215.108 without regard to the permittee's financial investment or alteration or expansion of the facility.

(9) A certification under oath that all of the information contained in the notice of intent is complete and accurate to the best of the permittee's knowledge and ability, executed by the permittee or, if the permittee is a corporation, by the appropriate officers of the corporation.

(c) Review and Determination by the Commission. –

(1) Upon receipt of a complete notice of intent required under subsection (b) of this section, the Commission shall determine whether:

a. The permittee is and has been in substantial compliance with other permits issued the permittee.

b. The facility will be altered or expanded so that it will be used for either the same or a similar use as the use already permitted.

c. The alteration or expansion will not result in a disproportionate increase in the size of the facility already permitted.

d. The alteration or expansion will result in the same or substantially similar emissions as that of the facility already permitted.

e. The alteration or expansion will not have a significant effect on air quality.

f. The Commission is likely to issue the permit modification.

(2) Within 15 days after the Commission receives a complete notice of intent required under subsection (b) of this section, the Commission shall notify the permittee of its determination that each of the conditions set out in subdivision (1) of this subsection have or have not been met and that the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device may or may not begin.

(d) Order to Cease Construction, Alteration, or Expansion. – If at any time during the construction, alteration, or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device, the Commission determines that the permittee will not qualify for a permit or permit modification under G.S. 143-215.108, the Commission may order that the construction, alteration, or expansion cease until the Commission makes a decision on the application for a permit or permit modification. If the Commission orders that construction, alteration, or expansion cease, then construction, alteration, or expansion may resume only if the Commission either makes a subsequent determination that the circumstances that resulted in the order to cease construction, alteration, or expansion have been adequately addressed or if the Commission issues a permit or permit modification under G.S. 143-215.108 that authorizes construction, alteration, or expansion to resume.

(e) Evaluation of Permit Applications; Administrative and Judicial Review of Permit Decisions. – The Commission shall evaluate an application for a permit or permit modification under G.S. 143-215.108 and make its decision on the same basis as if the construction, alteration, or expansion allowed under this section had not occurred. The Commission shall consider any written comment that it receives in response to a notice by publication given pursuant to subsection (b) of this section. No evidence regarding any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person or permittee who proceeds under this section without first obtaining a permit under G.S. 143-215.108 is admissible in any contested case or judicial proceeding involving any permit required under G.S. 143-215.108. No evidence as to any determination or order by the Commission pursuant to subsection (c) or (d) of this section shall be admissible in any contested case or judicial proceeding related to any permit required under G.S. 143-215.108.

(f) State, Commission, and Employees Not Liable. – Every person, permittee, and owner of a facility who proceeds under this section shall hold the State, the Commission, and the officials, agents, and employees of the State and the Commission harmless and not liable for any loss resulting from any contract entered into, financial investment made, construction, alteration, or expansion undertaken, or economic loss incurred by any person, permittee, or owner of any facility pursuant to this section.

(g) Local Zoning Ordinances Not Affected. – This section shall not be construed to affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or to affect the responsibility of any person to comply with any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance.

(h) Compliance With Other State Laws Not Affected. – This section does not relieve any person of the obligation to comply with any other requirement of State law, including any requirement to obtain any other permit or approval prior to undertaking any activity associated with preparation of the site or the alteration or expansion of the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device at a facility for which a permit is required under G.S. 143-215.108.

(i) Federal Air Quality Programs Not Affected. – This section does not relieve any person from any preconstruction or construction prohibition imposed by any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply to any construction, alteration, or expansion that is subject to requirements for prevention of significant deterioration or federal nonattainment new source review, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112. This section does not apply if it is inconsistent with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, as determined solely by the Commission or by a local air pollution control program certified by the Commission as provided in G.S. 143-215.112.

(j) Fee. – A permittee who submits a notice of intent under subsection (b) of this section shall pay a fee of two hundred dollars ($200.00) for each notice of intent submitted to cover a portion of the administrative costs of implementing this section."

SECTION 4. This act is effective when it becomes law and applies to the construction of any new facility and the alteration or expansion associated with the modification of a permit for an existing facility that commences on or after the date on which this act becomes law. This act does not apply to any application for a permit or permit modification under G.S. 143-215.108 that is submitted to the Environmental Management Commission prior to the date on which this act becomes law.

SENATE BILL 945:
Timely Environmental Permit Process.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hoyle
Date:	July 9, 2003	**Summary by:**	George Givens, Committee Counsel
Version:	Proposed Committee Substitute for 3rd Edition (S945-CS35340-RT-68)		Tim Dodge Research Assistant

SUMMARY: ***The Proposed Committee Substitute (PCS) for Senate Bill 945 would clarify the extent to which a prospective applicant for an air quality permit for a new facility may engage in construction prior to obtaining the air quality permit and would specify the circumstances under which a person who holds an air quality permit may alter or expand the facility. The PCS requires a person who holds an air quality permit to give notice to the Environmental Management Commission (EMC) and the public before altering or expanding the facility. The PCS also establishes an application fee and prohibits the use of economic and financial losses incurred by a person who proceeds without a permit or permit modification as evidence during administrative and judicial review of permit decisions. The PCS would become effective when it becomes law and would apply to construction of any new facility and alteration or expansion associated with the modification of a permit for an existing facility that commences on or after that date.***

BACKGROUND: G.S. 143-215.108 prohibits a person from carrying out activities that may contravene the air quality or emission control standards established by the EMC under G.S. 143-215.107 unless the person has applied for and received a permit from the EMC. These laws prohibit the construction, alteration, or entering into an irrevocable contract for the construction or installation of any air contaminant source without a permit from the EMC. In actual practice in the past, the point at which a permit was required varied among DENR regional offices. On February 8, 2001, the Attorney General issued an advisory opinion that interpreted G.S. 143-215.108 to require that a person secure a permit prior to the actual on-site assembling of materials that will constitute a "source."

During deliberations on Senate Bill 945 in the House, the bill was modified in order to reach a compromise between the Manufacturers and Chemical Industry Council, North Carolina Citizens for Business and Industry, the Department of Environment and Natural Resources (DENR), the environmental community, and the Governor's Office.

Senate Bill 945 is similar to Senate Bill 1037 (No Air Pmt. Req. Until Facility Operational), introduced by Senator Hoyle during the 2001 General Assembly. Senate Bill 1037 was modified extensively during deliberations, but was not enacted.

BILL ANALYSIS: The PCS for Senate Bill 945 modifies G.S. 143-215.108 (Sections 1 and 2) and adds a new G.S. 143-215.108A (Section 3) to clarify the extent to which a prospective applicant for an air quality permit for a new facility may engage in construction prior to obtaining the air quality permit and specifies the circumstances under which a person who holds an air quality permit may alter or expand the facility. The bill makes the following changes:

Consistency with local government ordinances:

Current law (G.S. 143-215.108(f)) requires facilities to be consistent with local ordinances **prior to construction or operation.** Section 2 of the bill amends G.S. 143-215.108(f) to require persons proposing to construct or expand to ensure the facility or expansion is consistent with local zoning or subdivision ordinances **prior to *operation***. Section 3 also adds a subsection (g) to the new G.S. 143-215.108A that provides that the new section does not affect the validity of any lawfully adopted franchise, local zoning, subdivision, or land-use planning ordinance or affect the responsibility of any person to comply with any local ordinance.

Procedures for construction of new air pollution facilities:

Subsection (a) of the new G.S. 143-215.108A prohibits the construction or operation of an air contaminant source, equipment, or associated air cleaning device at a site or facility where, at the time of the construction, there is no other air contaminant source, equipment, or associated air cleaning device for which a air permit is required. A person may, however, undertake the following activities prior to obtaining a permit if the person complies with the requirements of the new section:

1. Clearing and grading.
2. Construction of access roads, driveways, and parking lots.
3. Construction and installation of underground pipe work, including water, sewer, electric, and telecommunications utilities.
4. Construction of ancillary structures, including fences and office buildings, that are not a necessary component of an air contaminant source, equipment, or associated air cleaning device.

Procedures for facilities currently holding a permit:

Subsection (b) of the new G.S. 14-215.108A would require a permittee to submit a notice of intent to alter or expand the physical arrangement or operation of an air contaminant source, equipment, or associated air cleaning device in a manner that alters the emission of air contaminants at least 15 days prior to commencing alteration or expansion. The PCS would also require a permittee to submit a notice by publication in a newspaper having general circulation in the county or counties where the facility is to be located at the permittee's own expense. The notice of intent would include the following information:

1. The name and location of the proposed facility and the name and address of the permit applicant.
2. The current permit number.
3. The nature of the contaminant sources and equipment associated with the modification.
4. An estimate of regulated emissions under the proposed modification.
5. The air cleaning devices that will be employed to address each contaminant source.
6. The expected construction schedule.
7. An acknowledgement by the permittee that the actual air contaminant sources may not be operated in a manner that alters the permitted emissions until a modified permit is obtained.
8. An acknowledgement that any construction of an air contaminant source prior to the receipt of a modified operation permit will be performed at the permittee's own risk.

9. A certification under oath of the accuracy of the notice of construction or modification.

The bill would also require permittee to give notice by publication in a newspaper having general circulation in the county or counties where the facility would be located at least 15 days prior to alteration or expansion. The notice by publication would include the first six items listed above.

Review and Determination by the EMC:

Subsection (c) of the new G.S. 14-215.108A directs the EMC to made a determination within 15 days of receipt of a complete notice of intent whether the following conditions have been met:

1. The permittee is and has been in substantial compliance with other permits issued the permittee.
2. The facility will be altered or expanded so that it will be used for either the same or a similar use as the use already permitted.
3. The alteration or expansion will not result in a disproportionate increase in the size of the facility already permitted.
4. The alteration or expansion will result in the same or substantially similar emissions as that of the facility already permitted.
5. The alteration or expansion will not have a significant effect on air quality.
6. The EMC is likely to issue the permit modification.

If the EMC determines that all of the forgoing criteria have been met, it must notify the permittee that alteration or expansion may begin. If the EMC determines that one or more of the conditions has not been met, the EMC must notify the permittee that alteration or expansion may not begin.

Order to Cease Construction, Alteration, or Expansion:

Subsection (d) of the new G.S. 14-215.108A authorizes the EMC to order a permittee to cease construction, alteration, or expansion if the EMC determines that the permittee will not qualify for a permit or permit modification. If the EMC orders that construction, alteration, or expansion cease, then construction, alteration, or expansion may resume only if the EMC either makes a subsequent determination that the circumstances that resulted in the order to cease construction, alteration, or expansion have been adequately addressed or if the EMC issues a permit or permit modification that authorizes construction, alteration, or expansion to resume.

Administrative and Judicial Review of Permit Decisions:

Subsection (e) of the new G.S. 14-215.108A would prohibit the use of prior financial investment, construction, alteration, or expansion undertaken, or economic loss incurred as evidence by a person or permittee who proceeds with construction, alteration, or expansion without first obtaining a permit or permit modification. Under current law, a person or permittee may contest a decision based on dissatisfaction arising from any issue. The PCS also directs the EMC to consider any written comment that it receives in response to the notice by publication.

State, EMC, and Employees Not Liable:

Subsection (f) of the new G.S. 14-215.108A provides that the State, EMC, and their employees are not liable for any loss incurred by a person, permittee, or owner of a facility as a result of the enforcement of the provisions of the bill.

Compliance With Other State Laws Not Affected:

Subsection (h) of the new G.S. 14-215.108A provides that the new section does not relieve any person of the obligation to comply with any other requirement of State law.

Federal Air Quality Programs Not Affected:

Subsection (i) of the new G.S. 14-215.108A provides that the new section would not affect a person's duty to comply with any federal requirement, federal delegation, federally approved requirement in any State Implementation Plan, or federally approved requirement under the Title V permitting program, nor would G.S. 143-215.108A apply if it is inconsistent with any federal requirement. The bill would also not apply to any construction, alteration, or expansion that is subject to the requirements for prevention of significant deterioration or federal nonattainment new source review.

Fee:

Subsection (j) of the new G.S. 14-215.108A provides that an applicant or permittee shall pay a processing fee of two hundred dollars ($200.00) at the time of notification.

Effective Date:

The PCS would become effective when it becomes law and would apply to construction of any new facility and alteration or expansion associated with the modification of a permit for an existing facility that commences on or after that date.

S945-SMSY-003

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 945 (3rd Edition)

SHORT TITLE: Air Quality Permits

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES: DAQ: Non-Title V Air Permit Receipts	$80,000*	$80,000*	$80,000*	$80,000*	$80,000*
GENERAL FUND EXPENDITURES: DENR	No impact expected.				
POSITIONS:	No additional positions required.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources (DENR); DENR – Division of Air Quality (DAQ); Environmental Management Commission

EFFECTIVE DATE: The bill is effective when it becomes law and applies to construction of any new facility and construction associated with the modification of a permit for an existing facility that commences on or after that date.

**Maximum amount of fee revenue generated.*

BILL SUMMARY: The bill specifies activities that may be undertaken prior to securing an air quality permit required under GS 143-215.108. It also requires a permittee to provide published notice of intent to alter or expand physical arrangement or operation of permitted facilities at least 15 days prior to that action and specifies contents of notice. A permittee who submits a notice of intent must pay a $200 fee. The bill specifies criteria for the Environmental Management Commission to consider in review of such notices of intent and requires the Commission to notify the permittee within 15 days of its determination as to whether the criteria have been met and whether or not the proposed alteration or expansion can commence. This version also deletes provisions of the bill regarding departmental studies regarding permit processing times and Environmental Policy Act implementation.

ASSUMPTIONS AND METHODOLOGY: Section 3 of this bill requires the owner/applicant of a permitted facility submitting a "notice of intent" to pay a permit fee of $200 for each notice. The Division of Air Quality (DAQ) cannot easily estimate the number of notices of intent that will be submitted under Section 3 of the bill. The Division normally makes 300 to 400 air quality permit modification decisions per year. Thus, the maximum number of persons utilizing the notice of intent powers of SB 945 is 400 with resulting revenues of $80,000. However, the Division believes only a few notices will be issued because the majority of applicants will want to obtain their permits before doing any construction. The Division estimates only a few thousand dollars in fees from this new notice. DAQ is completely receipt-supported. ***Likewise, this fee revenue will go into the Division's Non-Title V Permit Fee Special Fund, not the General Fund.***

SOURCES OF DATA: Department of Environment and Natural Resources; Division of Air Quality

FISCAL RESEARCH DIVISION: **(919) 733-4910**

PREPARED BY: Jennifer Haygood Jennifer Haygood

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: June 26, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 945 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE EXTENT TO WHICH A PROSPECTIVE APPLICANT FOR AN AIR QUALITY PERMIT FOR A NEW FACILITY MAY ENGAGE IN CONSTRUCTION PRIOR TO OBTAINING THE AIR QUALITY PERMIT AND TO SPECIFY THE CIRCUMSTANCES UNDER WHICH A PERSON WHO HOLDS AN AIR QUALITY PERMIT MAY ALTER OR EXPAND THE FACILITY UPON GIVING NOTICE TO THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE PUBLIC OF THE PERMITTEE'S INTENT TO APPLY FOR MODIFICATION OF THE PERMIT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House Committee Substitute Bill, ~~(#),~~ ☐ ~~which changes the title,~~ unfavorable as to Senate Committee Substitute Bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 75
Finance Committee Substitute Adopted 6/12/03

Short Title: Life Sciences Revenue Bond Authority. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 159D of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Life Sciences Revenue Bond Authority.

"**§ 159D-65. Legislative findings.**

The General Assembly finds the following:

(1) The life sciences, including biology, zoology, agronomy, biochemistry, genetics, and molecular biology, have developed and are continuing to develop new commercially viable products designed to diagnose and treat diseases, produce therapeutic proteins and industrial enzymes, synthesize nutritional supplements and specialty chemicals in microorganisms, plants, and animals, and accomplish other beneficial purposes.

(2) The commercialization of life science products has provided, and will continue to provide, significant economic benefits for the citizens of North Carolina through increased business development and employment.

(3) North Carolina has a strong life sciences infrastructure in place, fostered over many years by the General Assembly, public and private universities, the North Carolina Biotechnology Center, life sciences companies and investors, and various State, regional, and local economic development initiatives.

(4) Nationally and within North Carolina, the life sciences industry has an immediate need for additional manufacturing capacity for the extraction, separation, purification, and packaging of products at various stages of the development, testing, and commercialization

process, and the demand for this manufacturing capacity is likely to increase significantly in the next three to five years.

(5) Employment opportunities created by life sciences manufacturing facilities are ideally suited for rural and urban regions of North Carolina currently undergoing significant economic challenges, and ancillary employment opportunities in construction, logistical support, transportation, raw material supply, and other fields will be enhanced through the construction and operation of life sciences manufacturing facilities in the State.

(6) A Life Sciences Revenue Bond Authority to help finance bioprocessing development facilities and bioprocessing manufacturing facilities addresses a critical need for companies that are formulating products, conducting field and clinical trials, and engaging in the production of new products.

(7) It is in the interest of the people of North Carolina that the State take steps to encourage the development of these facilities in the State and that the State seek to achieve a position of national leadership and innovation in the field of bioprocess manufacturing by facilitating the construction of economically sound and sustainable facilities in the State.

"**§ 159D-66. Definitions.**

The following definitions apply in this Article:

(1) Authority. – The Life Sciences Revenue Bond Authority.

(2) Board. – The Board of Directors of the Authority.

"**§ 159D-67. Creation and purposes of Life Sciences Revenue Bond Authority.**

(a) Creation. – The Life Sciences Revenue Bond Authority is created within the Department of State Treasurer for organizational and budgetary purposes only. The Authority shall be governed by a Board of Directors. The Board of Directors is authorized to administer the Authority independently in accordance with the requirements of this Article.

(b) Purposes. – The Authority has the following purposes:

(1) To examine alternatives for enhancing North Carolina's construction financing infrastructure for life sciences manufacturing facilities by credit enhancement vehicles such as revenue bonds.

(2) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(3) To identify prospective life sciences enterprises that might benefit from the establishment of credit enhancement vehicles.

(4) To advise and make recommendations to the General Assembly regarding further legislation to achieve the goals of the Authority.

(5) To serve as the central life sciences revenue bond policy planning body in the State through collaboration and coordination with State, regional, local agencies, The University of North Carolina System, the

North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

"**§ 159D-68. Board of Directors.**

(a) Members. – The Board of Directors consists of seven voting members, as follows:

(1) Two members appointed by the Governor.

(2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The State Treasurer of North Carolina or the Treasurer's designee.

(b) Terms. – The initial terms of office begin on the date of appointment and expire on June 30, 2005. Board members appointed for subsequent terms shall serve terms of three years. Board members may serve up to two full consecutive three-year terms. All members of the Board shall remain in office until their successors are appointed and qualify.

(c) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of the term. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(d) Chair. – The members of the Board shall elect a Chair from among their members. The Chair shall serve in that position at the pleasure of the Board.

"**§ 159D-69. Powers and duties of Authority.**

(a) Powers. – The Authority has all of the powers necessary or convenient to carry out this Article, including the following powers:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties.

(2) To adopt and modify an official seal.

(3) To maintain an office at any place within the State as it may determine.

(4) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties as provided in this Article.

(5) To employ, contract with, direct, and supervise all personnel and consultants and to enter into other contracts as necessary to accomplish the purposes of this Article, within the resources available to the Authority for that purpose.

(6) To review and recommend changes in laws, rules, programs, and policies of the State and its agencies and subdivisions to further the enhancement of the life sciences construction financing infrastructure within the State.

(b) Duties. – The Authority has the following duties:

(1) To establish an organizational structure and operational procedures to administer the Authority's programs.

(2) To examine various alternatives for encouraging the expansion of North Carolina's life sciences manufacturing industry by the use of credit enhancement vehicles such as revenue bonds and otherwise.

(3) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(4) To collaborate and coordinate with State, regional, and local agencies, The University of North Carolina System, the North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

(5) To develop the detailed procedures that could be employed to identify and qualify applicants for credit enhancement programs, including procedures to evaluate the scientific, business, and financial qualifications of these applicants.

(6) To receive and process test or pro forma applications from potential applicants for credit enhancement programs to demonstrate the need for the programs and to assess and collect fees from the potential applicants to cover the costs of processing and reviewing the applications."

SECTION 2. The Life Sciences Revenue Bond Authority created in this act shall provide a written report to the General Assembly by March 31, 2004, setting forth its findings regarding the steps required to encourage and foster the expansion of the North Carolina life sciences manufacturing industry, including proposed legislation if considered appropriate by the Authority.

SECTION 3. Nothing in this act requires the General Assembly to appropriate funds to implement it.

SECTION 4. This act is effective when it becomes law.

SENATE BILL 75:
Life Sciences Revenue Bond Authority

BILL ANALYSIS

Committee: House Finance
Date: July 8, 2003
Version: 2nd Edition

Sponsor: Sen. Rand
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Establishes an Authority to study and make recommendations for creating a credit enhancement program for financing construction of infrastructure for life sciences manufacturing facilities.

This bill would create a Life Sciences Revenue Bond Authority in the Department of State Treasurer, effective when the bill becomes law. It is step one of a two-step process. First, the Authority will study the best method for establishing a credit enhancement program for construction of infrastructure for life sciences manufacturing facilities. After the Authority reports its findings and recommendations to the General Assembly by March 31, 2004, the bill anticipates that in the second stage the Authority would administer any program enacted by the General Assembly.

This bill does not require an appropriation. The Authority is expected to perform its duties during the first phase using funds raised from private sources. In addition, the Authority is authorized to charge fees for one part of the study, in which it will accept test applications (pro forma applications) to evaluate the need for the proposed credit enhancement program. The bill directs the authority to cooperate with appropriate government agencies, the UNC system, the Biotechnology Center, and others in developing its recommendations.

One example of a credit enhancement vehicle would be revenue bonds. Under existing law, the State and local governments can issue tax-exempt industrial revenue bonds for manufacturing and pollution control facilities. The bonds are retired with payments from the private business that will use the facility. The private business benefits from paying tax-exempt rates, rather than the taxable rates it would pay if it borrowed the money itself. Under this bill, the Authority will consider using industrial revenue bonds and other approaches to credit enhancement in order to encourage the expansion of the life sciences manufacturing industry in this State.

The findings portion of the bill identifies the life sciences as including biology, zoology, agronomy, biochemistry, genetics, and molecular biology. The commercialization of life sciences products to diagnose and treat diseases and provide other benefits is identified as having significant economic benefit to the State. The stated intent is to encourage the development of the bioprocess manufacturing industries in order to achieve a position of national leadership and innovation in this field.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 75 A BILL TO BE ENTITLED AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 831*
Committee Substitute Favorable 5/20/03
PROPOSED COMMITTEE SUBSTITUTE H831-PCS30407-SB-45

Short Title: Coastal Recreational Fishing License/Fund. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE AND A MARINE RESOURCES RESTORATION FUND TO RESTORE, PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that coastal recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors

provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; and

Whereas, management of marine resources can achieve significant restoration of stocks as demonstrated by the role regulation of overfishing has played in restoring stocks of species such as striped bass; and

Whereas, implementing a system for licensing coastal recreational fishers and establishing a fund containing revenue generated by the licensing system would enable the Division of Marine Fisheries to better disseminate information to and gather information from recreational fishers, who are the largest marine resources user group in our State, and would enable the Division to better manage the marine resources of the State through habitat protection and research; and

Whereas, an objective poll conducted by North Carolina State University found that almost 80% of recreational fishers in North Carolina support the establishment of a system for licensing coastal recreational fishing, with the revenues from the license to be used to manage the marine resources of the State; and

Whereas, recreational fishers should help pay for the fishery regulation and management efforts of the State and should have a voice in this regulation and management; and

Whereas, North Carolina is the only coastal state between Delaware and Texas that is not benefiting from a system for licensing coastal recreational fishing; and

Whereas, the establishment of a system for licensing coastal recreational fishing and the revenue that such a license would generate for the protection, restoration, and enhancement of the marine resources of the State offer the best hope for the long-term health of the coastal tourism, boating, and fishing industries of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113 of the General Statutes is amended by adding two new Articles to read:

"Article 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means an individual who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:
a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.
b. Except as provided in G.S. 113-261.
(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing recreational licenses.**

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any individual to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize an individual who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. – A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for an individual to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. – The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a

copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. – It is unlawful for any individual to hold any license issued under this Article to the individual as a North Carolina resident if that individual holds any commercial or recreational fishing license issued by another state to the individual as a resident of that state.

(h) Limitations on Eligibility. – An individual is not eligible to obtain a license under this Article if, at the time the individual applies for the license, any other license or endorsement issued to the individual under this Article is suspended or revoked. An individual is not eligible to obtain a license under this Article if, within the three years prior to the date of application, the individual has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. – The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. An individual in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. – The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

(k) Confidentiality of Information. – Information collected pursuant to this Article, including the names and addresses of licensed individuals, is confidential and is not a public record under Chapter 132 of the General Statutes.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any individual to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any individual licensed under this section or fishing under a CRFL to possess fish in excess of recreational size or possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. – The Division shall issue the following CRFLs:

(1) Standard CRFL. – $10.00. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. – $5.00. This license is valid for a period of 10 days.

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a. Younger than 18 years of age $150.00

b. 18 years of age to younger than 62 years of age $200.00

(4) Disabled Individual CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is disabled as determined by the United States Social Security Administration. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains disabled.

(5) Disabled Veteran CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains fifty percent (50%) or more disabled.

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Exemptions. – An individual may engage in recreational fishing by means of recreational gear without holding a CRFL if the individual:

(1) Is under 16 years of age.

(2) Is 62 years of age or older.

(3) Holds a SCFL or a RSCFL.

(4) Holds a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b).

(5) Is fishing from a public bridge.

(e) Notwithstanding the fee for the Standard CRFL specified in subdivision (1) of subsection (c) of this section, if the Commission finds that a state has established a coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the Commission may increase the fee for the Standard CRFL applicable to residents of that state to an amount equal to the fee a North Carolina resident is required to pay for a coastal recreational fishing license in that state. The action of the Commission to

increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of Chapter 150B of the General Statutes. The action of the Commission to increase a fee pursuant to this subsection becomes effective on the date specified by the Commission.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. – Except as provided in subsection (e) of this section, it is unlawful for any individual to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational size and possession limits. It is unlawful for any individual licensed under this section or fishing under a RCGL to possess fish in excess of recreational size or possession limits.

(b) Authorized Commercial Gear. –

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational purposes.

(2) An individual who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two individuals who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of individuals aboard the vessel who hold a RCGL.

(c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. –

(1) An individual who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the individual is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the individual has in the

individual's possession a valid RCGL issued to the individual's parent, grandparent, or guardian.

(2) An individual may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) An individual who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another individual on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the individual who holds the valid RCGL or, if more than one individual on the vessel holds a RCGL, in excess of that authorized for use by those individuals.

(4) An individual using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) An individual may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms, and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license.

"Article 14C.

"Marine Resources Restoration Fund.

"**§ 113-175. Definitions.**

As used in this section:

(1) 'Board of Trustees' means the Board of Trustees of the Fund.

(2) 'Fund' means the Marine Resources Restoration Fund.

(3) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

"**§ 113-175.1. Marine Resources Restoration Fund.**

The Marine Resources Restoration Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

"**§ 113-175.2. Board of Trustees of the Marine Resources Restoration Fund.**

(a) Board of Trustees. – There is hereby established the Board of Trustees of the Marine Resources Restoration Fund. The Board of Trustees shall be independent, but for administrative purposes shall be located under the Department.

(b) Membership, Qualifications. – The Board of Trustees shall consist of seven members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Qualifications. – A person must hold a license issued under G.S. 113-174.2 at the time of appointment in order to be eligible for appointment to the Board of Trustees

under subsection (b) of this section. A person appointed under subsection (b) must continue to hold a license issued under G.S. 113-174.2 in order to remain eligible to serve on the Board of Trustees.

(d) Officers. – The Governor shall appoint the Chair and Vice-Chair of the Board of Trustees from among the persons appointed under subsection (b) of this section.

(e) Vacancies. – If a vacancy occurs for a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner.

(f) Meetings; Frequency. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members. Four members of the Board of Trustees shall constitute a quorum for the transaction of business.

(g) Per Diem and Expenses. – The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, travel, and subsistence expenses shall be paid from the Fund.

"**§ 113-175.3. Allocation of moneys from the Fund.**

The Secretary shall disburse moneys from the Fund only upon written direction from the Board of Trustees. The Board of Trustees shall use moneys that accrue to the Fund in each fiscal year for the administration of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. – Not less than thirty-five percent (35%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Marine fisheries research. – Not less than thirty-five percent (35%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(3) Administration. – Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(4) Public education and information. – Not less than five percent (5%) but no more than ten percent (10%) of the moneys in the Fund shall be used for public education and information.

(5) Grants. – Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

"**§ 113-175.4. Report.**

The Chair of the Board of Trustees shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by September 30 of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

SECTION 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 3. The catch line of G.S. 113-168.1 reads as rewritten:

"**§ 113-168.1. General provisions governing commercial licenses and endorsements.**"

SECTION 4. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 5. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 6. G.S. 113-172 is repealed.

SECTION 7. G.S. 113-173 is repealed.

SECTION 8. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear for purposes of implementing Article 14B of Chapter 113 of the General Statutes."

SECTION 9. In order to provide for a system of staggered three-year terms for members of the Board of Trustees of the Marine Resources Restoration Fund

established by G.S. 113-175.2, as enacted by Section 1 of this act, the following provisions shall apply:

(1) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(1) shall be five years and shall expire on July 1, 2009.

(2) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(2) shall be three years and shall expire on July 1, 2007.

(3) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(3) shall be four years and shall expire on July 1, 2008.

(4) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(4) shall be five years and shall expire on July 1, 2009.

(5) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(5) shall be three years and shall expire on July 1, 2007.

(6) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(6) shall be four years and shall expire on July 1, 2008.

(7) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(7) shall be five years and shall expire on July 1, 2009.

SECTION 10. The first report required by G.S. 113-175.4, as enacted by Section 1 of this act, shall be submitted by September 30, 2004.

SECTION 11. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 12. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 13. Sections 8, 11, 12, and 13 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2004.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. ~~Second~~

H. B. No. 831 DATE 7-9-03

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓ H831-CSSB-45 [v.5]

Rep.) Sen.) McCombs

moves to amend the bill on page ~~10~~ 11, line ~~29~~ 43

( ) WHICH CHANGES THE TITLE

by rewriting that line to read:

"Section 12. Holding a license issued under G.S. 113-174.2 satisfies the fishing license requirements of G.S. 113-270.1B and G.S. 113-271. Holding a license issued under G.S. 113-271 satisfies the fishing license requirements of G.S. 113-174.1 and G.S. 113-174.2. ~~and~~ Section ~~13~~ 14. Sections 9, ~~10~~ 11, ~~11~~ 12, ~~12~~ 13, and ~~13~~ 14 of this act are effective when this".

8 yes
14 no

SIGNED Eugene McCombs

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. H 831 - CSSB - 45 [v.5]

H. B. No. 831 DATE 7-9-03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) McComas
Sen.)

1 moves to amend the bill on page 5, lines 11 AND 33
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "65" and substituting "62"
4
5 on both lines.
6
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12
13
14
15
16
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19

SIGNED _____

ADOPTED ✓ (Withdrawn) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 831*

Committee Substitute Favorable 5/20/03

PROPOSED COMMITTEE SUBSTITUTE H831-CSSB-45 [v.5]

7/8/2003 5:26:36 PM

Short Title: Coastal Recreational Fishing License/Fund. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE AND A MARINE RESOURCES RESTORATION FUND TO RESTORE, PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.

Whereas, the State of North Carolina has one of the most diverse fisheries in the United States; and

Whereas, the General Assembly recognizes that for many citizens fishing is an important recreational activity and that coastal recreational fishing is a source of great personal enjoyment and satisfaction; and

Whereas, the General Assembly recognizes the importance of providing plentiful fishery resources to maintain and enhance tourism as a major contributor to the economy of the State; and

Whereas, the General Assembly recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State, nation, and world, and thereby properly earn a livelihood; and

Whereas, the General Assembly recognizes the economic contribution and important heritage of traditional full-time and part-time commercial fishing; and

Whereas, the General Assembly recognizes the need to protect our coastal fishery resources and to balance the commercial and recreational interests through better management of these resources; and

Whereas, the General Assembly is committed to the continued viability of both recreational and commercial fishing industries in the State; and

Whereas, the General Assembly intends that the commercial fishing industry be allowed to continue to take fish by means of all methods traditionally employed in commercial fishing operations, including the use of nets and trawls; and

Whereas, the General Assembly finds that in order to protect coastal fishery resources, it is essential that the recreational as well as the commercial fishing sectors

provide data on use of fishery resources for the development of scientifically valid plans to manage fishery resources; and

Whereas, the General Assembly finds that it is essential to the success of efforts to better manage fishery resources that both the recreational and commercial fishing sectors are involved in and support these efforts; and

Whereas, management of marine resources can achieve significant restoration of stocks as demonstrated by the role regulation of overfishing has played in restoring stocks of species such as striped bass; and

Whereas, implementing a system for licensing coastal recreational fishers and establishing a fund containing revenue generated by the licensing system would enable the Division of Marine Fisheries to better disseminate information to and gather information from recreational fishers, who are the largest marine resources user group in our State, and would enable the Division to better manage the marine resources of the State through habitat protection and research; and

Whereas, an objective poll conducted by North Carolina State University found that almost 80% of recreational fishers in North Carolina support the establishment of a system for licensing coastal recreational fishing, with the revenues from the license to be used to manage the marine resources of the State; and

Whereas, recreational fishers should help pay for the fishery regulation and management efforts of the State and should have a voice in this regulation and management; and

Whereas, North Carolina is the only coastal state between Delaware and Texas that is not benefiting from a system for licensing coastal recreational fishing; and

Whereas, the establishment of a system for licensing coastal recreational fishing and the revenue that such a license would generate for the protection, restoration, and enhancement of the marine resources of the State offer the best hope for the long-term health of the coastal tourism, boating, and fishing industries of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113 of the General Statutes is amended by adding two new Articles to read:

"Article 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means an individual who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:
a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.
b. Except as provided in G.S. 113-261.
(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.
(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing recreational licenses.**

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any individual to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize an individual who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value. Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. – A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for an individual to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. – The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a

copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. – It is unlawful for any individual to hold any license issued under this Article to the individual as a North Carolina resident if that individual holds any commercial or recreational fishing license issued by another state to the individual as a resident of that state.

(h) Limitations on Eligibility. – An individual is not eligible to obtain a license under this Article if, at the time the individual applies for the license, any other license or endorsement issued to the individual under this Article is suspended or revoked. An individual is not eligible to obtain a license under this Article if, within the three years prior to the date of application, the individual has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. – The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. An individual in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. – The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

(k) Confidentiality of Information. – Information collected pursuant to this Article, including the names and addresses of licensed individuals, is confidential and is not a public record under Chapter 132 of the General Statutes.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any individual to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any individual licensed under this section or fishing under a CRFL to possess fish in excess of recreational size or possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. – The Division shall issue the following CRFLs:

(1) Standard CRFL. – $10.00. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. – $5.00. This license is valid for a period of 10 days.

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a. Younger than 18 years of age $150.00

b. 18 years of age to younger than 65 years of age $200.00

(4) Disabled Individual CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is disabled as determined by the United States Social Security Administration. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains disabled.

(5) Disabled Veteran CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains fifty percent (50%) or more disabled.

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Exemptions. – An individual may engage in recreational fishing by means of recreational gear without holding a CRFL if the individual:

(1) Is under 16 years of age.

(2) Is 65 years of age or older.

(3) Holds a SCFL or a RSCFL.

(4) Holds a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b).

(5) Is fishing from a public bridge.

(e) Notwithstanding the fee for the Standard CRFL specified in subdivision (1) of subsection (c) of this section, if the Commission finds that a state has established a coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the Commission may increase the fee for the Standard CRFL applicable to residents of that state to an amount equal to the fee a North Carolina resident is required to pay for a coastal recreational fishing license in that state. The action of the Commission to

increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of Chapter 150B of the General Statutes. The action of the Commission to increase a fee pursuant to this subsection becomes effective on the date specified by the Commission.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. – Except as provided in subsection (e) of this section, it is unlawful for any individual to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational size and possession limits. It is unlawful for any individual licensed under this section or fishing under a RCGL to possess fish in excess of recreational size or possession limits.

(b) Authorized Commercial Gear. –

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational purposes.

(2) An individual who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two individuals who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of individuals aboard the vessel who hold a RCGL.

(c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. –

(1) An individual who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the individual is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the individual has in the

individual's possession a valid RCGL issued to the individual's parent, grandparent, or guardian.

(2) An individual may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) An individual who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another individual on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the individual who holds the valid RCGL or, if more than one individual on the vessel holds a RCGL, in excess of that authorized for use by those individuals.

(4) An individual using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) An individual may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms, and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license.

"Article 14C.

"Marine Resources Restoration Fund.

"**§ 113-175. Definitions.**

As used in this section:

(1) 'Board of Trustees' means the Board of Trustees of the Fund.
(2) 'Fund' means the Marine Resources Restoration Fund.
(3) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

"**§ 113-175.1. Marine Resources Restoration Fund.**

The Marine Resources Restoration Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

"**§ 113-175.2. Board of Trustees of the Marine Resources Restoration Fund.**

(a) Board of Trustees. – There is hereby established the Board of Trustees of the Marine Resources Restoration Fund. The Board of Trustees shall be independent, but for administrative purposes shall be located under the Department.

(b) Membership, Qualifications. – The Board of Trustees shall consist of seven members appointed to three year terms as follows:

(1) One member appointed by the Governor to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
(2) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
(3) One member appointed by the Governor to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
(4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
(5) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.
(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
(7) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.

(c) Qualifications. – A person must hold a license issued under G.S. 113-174.2 at the time of appointment in order to be eligible for appointment to the Board of Trustees under subsection (b) of this section. A person appointed under subsection (b) must continue to hold a license issued under G.S. 113-174.2 in order to remain eligible to serve on the Board of Trustees.

(d) Officers. – The Governor shall appoint the Chair and Vice-Chair of the Board of Trustees from among the persons appointed under subsection (b) of this section.

(e) Vacancies. – If a vacancy occurs for a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner.

(f) Meetings; Frequency. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members. Four members of the Board of Trustees shall constitute a quorum for the transaction of business.

(g) Per Diem and Expenses. – The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, travel, and subsistence expenses shall be paid from the Fund.

"**§ 113-175.3. Allocation of moneys from the Fund.**

The Secretary shall disburse moneys from the Fund only upon written direction from the Board of Trustees. The Board of Trustees shall use moneys that accrue to the Fund in each fiscal year for the administration of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. – Not less than thirty-five percent (35%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Marine fisheries research. – Not less than thirty-five percent (35%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(3) Administration. – Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(4) Public education and information. – Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund shall be used for public education and information.

(5) Grants. – Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

"**§ 113-175.4. Report.**

The Chair of the Board of Trustees shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by September 30 of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year."

SECTION 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 3. The catch line of G.S. 113-168.1 reads as rewritten:

"**§ 113-168.1. General provisions governing commercial licenses and endorsements.**"

SECTION 4. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 5. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 6. G.S. 113-172 is repealed.

SECTION 7. G.S. 113-173 is repealed.

SECTION 8. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear for purposes of implementing Article 14B of Chapter 113 of the General Statutes."

SECTION 9. In order to provide for a system of staggered three-year terms for members of the Board of Trustees of the Marine Resources Restoration Fund established by G.S. 113-175.2, as enacted by Section 1 of this act, the following provisions shall apply:

(1) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(1) shall be five years and shall expire on July 1, 2009.

(2) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(2) shall be three years and shall expire on July 1, 2007.

(3) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(3) shall be four years and shall expire on July 1, 2008.

(4) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(4) shall be five years and shall expire on July 1, 2009.

(5) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(5) shall be three years and shall expire on July 1, 2007.

(6) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(6) shall be four years and shall expire on July 1, 2008.

(7) The term of the member initially appointed to serve in the position established by G.S. 113-175.2(7) shall be five years and shall expire on July 1, 2009.

SECTION 10. The first report required by G.S. 113-175.4, as enacted by Section 1 of this act, shall be submitted by September 30, 2004.

SECTION 11. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 12. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 13. Sections 8, 11, 12, and 13 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 831*

Committee Substitute Favorable 5/20/03

Short Title: Coastal Recreational Fishing License/Fund. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE AND A MARINE RESOURCES RESTORATION FUND TO RESTORE, PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.

Whereas, the marine resources of North Carolina are in decline; based on present trends, recreational catch per trip will approach zero in thirty-six years; and some specific marine fisheries have experienced such a severe decline that recovery will take years of careful management; and

Whereas, management of marine resources can achieve significant restoration of stocks as demonstrated by the role regulation of overfishing has played in restoring stocks of species such as striped bass; and

Whereas, implementing a system for licensing coastal recreational fishers and establishing a fund containing revenue generated by the licensing system would enable the Division of Marine Fisheries to better disseminate information to and gather information from recreational fishers, who are the largest marine resources user group in our State, and would enable the Division to better manage the marine resources of the State through habitat protection, research, and law enforcement; and

Whereas, an objective poll conducted by North Carolina State University found that almost 80% of recreational fishers in North Carolina support the establishment of a system for licensing coastal recreational fishing, with the revenues from the license to be used to manage the marine resources of the State; and

Whereas, recreational fishers should help pay for the fishery regulation and management efforts of the State and should have a voice in this regulation and management; and

Whereas, at a time when the State faces a severe fiscal crisis, a $15.00 annual license for coastal recreational fishing would provide $6,000,000 to $8,000,000 per year in new funds for protection, restoration, and enhancement of fisheries habitat; fisheries research; public education; and enforcement of fisheries laws; and

Whereas, the State requires an individual to hold a license to engage in fishing in the inland, fresh waters of the State and charges the individual $15.00 for this license; there is no logic in requiring a license to fish in inland, fresh waters, but not in coastal, salt water; and

Whereas, North Carolina is the only coastal state between Delaware and Texas that is not benefiting from a system for licensing coastal recreational fishing; and

Whereas, the establishment of a system for licensing coastal recreational fishing and the revenue that such a license would generate for the protection, restoration, and enhancement of the marine resources of the State offer the best hope for the long-term health of the coastal tourism, boating, and fishing industries of North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 14B.

"Coastal Recreational Fishing Licenses.

"**§ 113-174. Definitions.**

As used in this Article:

(1) 'Commission' means the Marine Fisheries Commission.

(2) 'CRFL' means Coastal Recreational Fishing License.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(4) 'North Carolina resident' means an individual who is a resident within the meaning of G.S. 113-130(4).

(5) 'RCGL' means Recreational Commercial Gear License.

(6) 'Recreational fishing' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, by any means:

a. That does not constitute a commercial fishing operation as defined in G.S. 113-168.

b. Except as provided in G.S. 113-261.

(7) 'RSCFL' means Retired Standard Commercial Fishing License issued pursuant to G.S. 113-168.3.

(8) 'SCFL' means Standard Commercial Fishing License issued pursuant to G.S. 113-168.2.

"**§ 113-174.1. General provisions governing recreational licenses.**

(a) License Required to Engage in Recreational Fishing. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters without holding a license required by this Article. It is unlawful for any individual to engage in recreational fishing without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(b) Sale of Fish Prohibited. – A license issued under this Article does not authorize an individual who takes or lands any species of fish under the authority of the Commission to sell, offer for sale, barter, or exchange the fish for anything of value.

Except as provided in G.S. 113-168.4, it is unlawful for any individual who takes or lands any species of fish under the authority of the Commission by any means to sell, offer for sale, barter, or exchange these fish for anything of value.

(c) Assignment and Transfer Prohibited. – Except as provided in G.S. 113-174.3(e)(1), it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a license issued under this Article.

(d) Format. – A license issued under this Article shall be issued in the name of the applicant. A license shall show the type of license; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(e) Licenses Available for Inspection. – It is unlawful for any individual to engage in recreational fishing in coastal fishing waters in the State without having ready at hand for inspection all licenses required under this Article. It is unlawful for an individual to refuse to exhibit any license required by this Article upon the request of an inspector or other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(f) Replacement Licenses. – The Division shall issue a replacement license to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed five dollars ($5.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(g) No Dual Residency. – It is unlawful for any individual to hold any license issued under this Article to the individual as a North Carolina resident if that individual holds any commercial or recreational fishing license issued by another state to the individual as a resident of that state.

(h) Limitations on Eligibility. – An individual is not eligible to obtain a license under this Article if, at the time the individual applies for the license, any other license or endorsement issued to the individual under this Article is suspended or revoked. An individual is not eligible to obtain a license under this Article if, within the three years prior to the date of application, the individual has been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources. An applicant for a license under this Article shall certify that the applicant has not been determined to be responsible for four or more violations of State laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of

federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(i) Cancellation. – The Division may cancel a license issued on the basis of an application that contains false information supplied by the applicant. A cancelled license is void from the date of issuance. An individual in possession of a cancelled license shall surrender the cancelled license to the Division. It is unlawful to refuse to surrender a cancelled license upon demand of any authorized agent of the Division.

(j) Reporting Requirements. – The holder of a license issued under this Article shall comply with the biological data sampling and survey programs of the Commission and the Division.

"**§ 113-174.2. Coastal Recreational Fishing License.**

(a) License Required. – Except as otherwise provided in this Article, it is unlawful for any individual to engage in recreational fishing in coastal fishing waters by means of recreational gear without holding a CRFL issued under this section. It is unlawful for any individual licensed under this section or fishing under a CRFL to possess fish in excess of recreational size or possession limits.

(b) Purchase; Renewal. – Any license issued under this section may be purchased at designated offices of the Division or from the Division by mail. A license issued under subdivisions (1) and (2) of subsection (c) of this section may also be purchased through a license agent authorized under G.S. 113-174.5. Any license issued under this section may be renewed by mail.

(c) Types of CRFLs; Fees; Duration. – The Division shall issue the following CRFLs:

(1) Standard CRFL. – $15.00. This license is valid for a period of one year from the date of issuance.

(2) Ten-Day CRFL. – $5.00. This license is valid for a period of 10 days.

(3) Lifetime CRFL. – This license is valid for the lifetime of the licensee. The fee for the Lifetime CRFL, based on the age of the prospective licensee as of the date on which the application is filed with the Division, is:

a.	Younger than six years of age	$100.00
b.	Six years of age to younger than 11 years of age	$150.00
c.	11 years of age to younger than 17 years of age	$200.00
d.	17 years of age to younger than 70 years of age	$250.00
e.	70 years of age or older	$10.00.

(4) Disabled Individual CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is disabled as determined by the United States Social Security Administration. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains disabled.

(5) Disabled Veteran CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is a fifty percent (50%) or more disabled

veteran as determined by the United States Department of Veterans Affairs. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the individual so long as the individual remains fifty percent (50%) or more disabled.

(6) Legally Blind Lifetime CRFL. – An applicant for a license under this subdivision shall provide documentation to the Division to demonstrate that the applicant is legally blind. A license issued under this subdivision shall be issued without charge and is valid for the lifetime of the licensee.

(d) Charter/Head/Dive Boat Blanket CRFL. – A person who operates a charter boat, head boat, or dive boat may purchase a Charter/Head/Dive Boat Blanket CRFL. The Charter/Head/Dive Boat Blanket CRFL entitles all individuals on the boat who do not hold a CRFL to engage in recreational fishing by means of recreational gear. It shall be unlawful for the owner of a charter, head, or dive boat who does not hold a Charter/Head/Dive Boat Blanket CRFL to allow any individual on the boat who does not hold a CRFL to engage in recreational fishing by means of recreational gear. This license is valid for a period of one year from the date of issuance. The fee for a Charter/Head/Dive Boat Blanket CRFL is:

(1)	Vessel of 25 feet or less in length	$200.00
(2)	Vessel of greater than 25 feet in length	$400.00.

(e) Exemptions. – An individual may engage in recreational fishing by means of recreational gear without holding a CRFL if the individual:

(1) Is under 16 years of age.

(2) Holds a SCFL or a RSCFL.

(3) Holds a Lifetime Resident Comprehensive Fishing License under G.S. 113-271(d)(3) or a Lifetime Sportsman License under G.S. 113-270.1D(b).

(f) Notwithstanding the fee for the Standard CRFL specified in subdivision (1) of subsection (c) of this section, if the Commission finds that a state has established a coastal recreational fishing license fee that exceeds the fee for the Standard CRFL, the Commission may increase the fee for the Standard CRFL applicable to residents of that state to an amount equal to the fee a North Carolina resident is required to pay for a coastal recreational fishing license in that state. The action of the Commission to increase a fee pursuant to this subsection is not subject to the provisions of Article 2A of Chapter 150B of the General Statutes. The action of the Commission to increase a fee pursuant to this subsection becomes effective on the date specified by the Commission.

"**§ 113-174.3. Recreational Commercial Gear License.**

(a) License Required. – Except as provided in subsection (e) of this section, it is unlawful for any individual to engage in recreational fishing by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational size and possession limits. It is unlawful for any individual licensed under this section or fishing under a RCGL to possess fish in excess of recreational size or possession limits.

(b) Authorized Commercial Gear. –

(1) The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial fishing operation as defined in G.S. 113-168 and commercial gear used for recreational purposes.

(2) An individual who holds a RCGL may use up to 100 yards of gill net to take fish for recreational purposes. Two individuals who each hold a RCGL and who are fishing from a single vessel may use up to a combined 200 yards of gill net to take fish for recreational purposes. No more than 200 yards of gill net may be used to take fish for recreational purposes from a single vessel regardless of the number of individuals aboard the vessel who hold a RCGL.

(c) Purchase; Renewal. – A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-174.5. A RCGL may be renewed by mail.

(d) Duration; Fees. – The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(e) Exemptions. –

(1) An individual who is under 16 years of age may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if the individual is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the individual has in the individual's possession a valid RCGL issued to the individual's parent, grandparent, or guardian.

(2) An individual may engage in recreational fishing for crabs by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) An individual who is on a vessel may engage in recreational fishing by means of authorized commercial gear without holding a RCGL if there is another individual on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the individual who holds the valid RCGL or,

if more than one individual on the vessel holds a RCGL, in excess of that authorized for use by those individuals.

(4) An individual using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL.

(5) An individual may take fish for recreational purposes by means of a gig without holding a RCGL.

"**§ 113-174.4. Marine Resources Restoration Fund.**

(a) Definitions. – As used in this section:

(1) 'Fund' means the Marine Resources Restoration Fund.

(2) 'License revenues' means the net proceeds from the sale of licenses issued under G.S. 113-174.2 and interest earned from the investment of license proceeds. The term includes funds realized from the sale, lease, rental, or other grant of rights to real or personal property acquired or produced with license revenues and federal aid project reimbursements to the extent that license revenues originally funded the project for which the reimbursement is made.

(b) Marine Resources Restoration Fund Established. – The Marine Resources Restoration Fund is established as a special nonreverting fund within the Department. License revenues shall be deposited in the Fund. The State Treasurer shall invest the assets of the Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The Department shall administer the Fund with the advice of the Marine Fisheries Commission and the Marine Resources Restoration Advisory Committee.

(c) Allocation of Moneys From the Fund. – The Department shall use the moneys that accrue to the Fund in each fiscal year for the administration and enforcement of the provisions of Subchapter IV of Chapter 113 of the General Statutes related to marine fisheries as follows:

(1) Resource and habitat enhancement. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for resource and habitat enhancement, including, but not limited to, artificial reef construction, restoration and enhancement of submerged aquatic vegetation, acquisition of land or an interest in land that provides for the preservation of critical fisheries habitat, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(2) Marine fisheries research. – Not less than twenty-five percent (25%) of the moneys in the Fund shall be used for marine fisheries research, including, but not limited to, life history studies of commercially or recreationally significant marine and estuarine species or fisheries, sampling and statistical studies, data collection and analysis, fisheries habitat studies, commercial and recreational discard mortality studies, and studies used in the development of a Fishery Management Plan or a Coastal Habitat Protection Plan.

(3) Law enforcement. – Not less than twenty percent (20%), but no more than twenty-five percent (25%) of the moneys in the Fund shall be used for law enforcement.

(4) Administration. – Not more than ten percent (10%) of the moneys, exclusive of the license agent fees, in the Fund shall be used for administrative costs.

(5) Public education and information. – Not less than five percent (5%), but no more than ten percent (10%) of the moneys in the Fund shall be used for public education and information.

(6) Grants. – Not more than five percent (5%) of the moneys in the Fund shall be used to fund grants for coastal fishing programs, projects, and scholarships.

(d) Marine Resources Restoration Advisory Committee. – The Marine Resources Restoration Advisory Committee shall advise the Department on expenditure of license revenues from the Fund. The Advisory Committee shall consist of nine members as follows:

(1) The Governor shall appoint seven individuals, each of whom holds a CRFL at the time of appointment. An individual appointed under this subdivision must continue to hold a CRFL in order to remain eligible to serve on the Advisory Committee.

(2) The Director of the Division of Marine Fisheries or the Director's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(3) The Chair of the Marine Fisheries Commission or the Chair's designee shall serve as a nonvoting, ex officio member of the Advisory Committee.

(e) Report Required. – The Secretary shall submit to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by September 30 of each year a report on the Fund that shall include the source and amounts of all moneys credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

"**§ 113-174.5. License agents.**

(a) The Secretary shall designate license agents for the Department. At least one license agent shall be designated for each county that contains or borders on coastal fishing waters. The Secretary may designate additional license agents in any county if the Secretary determines that additional agents are needed to provide efficient service to the public. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission.

(b) The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may summarily suspend, revoke, or refuse to

renew a designation as a license agent and may impound or require the return of all licenses, moneys, record books, reports, license forms, and other documents, ledgers, and materials pertinent or apparently pertinent to the license agency. The Secretary shall report evidence of misuse of State property, including license fees, by a license agent to the State Bureau of Investigation as provided by G.S. 114-15.1.

(c) A license agent may deduct a fee of six percent (6%) from the amount collected for each license."

SECTION 2. G.S. 113-168(1) reads as rewritten:

"(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is ~~used or~~ used, (ii) the taking of fish under a ~~RCGL.~~ RCGL, or (iii) the taking of fish as provided in G.S. 113-261."

SECTION 3. The catch line of G.S. 113-168.1 reads as rewritten:

"**§ 113-168.1. General provisions governing commercial licenses and endorsements.**"

SECTION 4. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – ~~Except as provided in G.S. 113-173(f), all~~ All licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 5. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – ~~Except as provided in G.S. 113-173(d), the~~ The Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 6. G.S. 113-169.4 reads as rewritten:

"**§ 113-169.4. Licensing of ocean fishing piers; fees.**

(a) The owner or operator of an ocean fishing pier within the coastal fishing waters who charges the public a fee to fish in any manner from the pier shall secure a current and valid pier license from the Division. An application for a pier license shall disclose the names of all parties involved in the pier operations, including the owner of the property, owner of the pier if different, and all leasehold or other corporate arrangements, and all persons with a substantial financial interest in the pier.

(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license as provided in G.S. 113-168.1(h).

(c) Pier licenses are issued upon payment of ~~fifty cents (50¢)~~ four dollars ($4.00) per linear foot, to the nearest foot, that the pier extends into coastal fishing waters beyond the mean high waterline. The length of the pier shall be measured to include all extensions of the pier.

(d) The manager who secures the pier license shall be the individual with the duty of executive-level supervision of pier operations.

(e) A pier license entitles all individuals on the pier who do not hold a Coastal Recreational Fishing License issued under Article 14B of this Chapter to engage in recreational fishing, as defined in G.S. 113-174, by means of recreational gear."

SECTION 7. G.S. 113-172 is repealed.

SECTION 8. G.S. 113-173 is repealed.

SECTION 9. G.S. 143B-289.52(a) is amended by adding a new subdivision to read:

"(13) To adopt rules to define fishing gear as either recreational gear or commercial gear for purposes of implementing Article 14B of Chapter 113 of the General Statutes."

SECTION 10. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

SECTION 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

SECTION 12. Sections 9, 10, 11, and 12 of this act are effective when this act becomes law. All other sections of this act become effective March 1, 2004.

HOUSE 831:
Coastal Recreational Fishing License/Fund.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representatives Gibson and McComas
Date:	July 9, 2003		
Version:	Proposed Committee Substitute H831-CSSB-45 [v.5]	**Summary by:**	Jeff Hudson Staff Attorney

Differences between House Bill 831, Second Edition, and PCS H831-CSSB-45 [v.5]

The Proposed Committee Substitute for House Bill 831, H831-CSSB-45 [v.5], differs from the Second Edition of the bill as follows:

- Adds whereas clauses that recognize the importance of commercial and recreational fishing in North Carolina and deletes a whereas clause that recognizes a severe decline in fisheries (page 1, line 5 through page 2, line 5).

- Provides that information collected pursuant to the coastal recreational fishing license program, including the names and addresses of licensed individuals, is confidential and not a public record (page 4, lines 30 through 32).

- Reduces the fee for a Standard Coastal Recreational Fishing License from $15.00 to $10.00 (page 5, line 3).

- Changes the ages and fees for Lifetime Coastal Recreational License (page 5, lines 10 and 11).

- Deletes the Charterboat Blanket Coastal Recreational Fishing License (was at page 5, line 30) and the Pier Blanket Coastal Recreational Fishing License (was at page 10, line 39).

- Adds an exemption from license requirements for individuals 65 years of age or older (page 5, line 33) and for individuals fishing from a public bridge (page 5, line 38).

- Provides for a seven member Board of Trustees to administer monies in the Marine Resources Restoration Fund rather than the Department of Environment and Natural Resources. Three members of the Board are to be appointed by the Governor, two by the Speaker of the House, and two by the President Pro Tempore of the Senate (page 8, line 15 through page 9, line 22). Also provides for the staggering of terms of the members of the Board of Trustees (page 11, lines 4 through 28).

- The allocation formula for moneys contained in the Marine Resources Restoration Fund no longer includes law enforcement as a use for which moneys may be disbursed (was at page 9, line 33).

HOUSE BILL 831:
Coastal Recreational Fishing License/Fund.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representatives Gibson and McComas
Date:	July 9, 2003		
Version:	Second Edition	**Summary by:**	Jeff Hudson, Staff Attorney

Section 1 establishes a program for the licensing of coastal recreational fishing.

G.S. 113-174. – Definitions.

- Commission means the Marine Fisheries Commission.
- CRFL means Coastal Recreational Fishing License.
- Division means the Division of Marine Fisheries.
- RCGL means Recreational Commercial Gear License.
- Recreational fishing means any activity involved in taking fish regulated by the Commission that is not part of a commercial fishing operation or for scientific purposes.

G.S. 113-174.1 – General Provisions Governing Recreational Fishing Licenses.

- It is unlawful to engage in recreational fishing without complying with the new licensing requirements.
- A CRFL or RCGL does not authorize the license holder to sell fish taken under the license.
- Assignment or transfer of a CRFL or RCGL is prohibited.
- A CRFL or RCGL will show the name, mailing address, residence address, and date of birth of the licensee as well as the date the license was issued, the date it will expire, and any other information the Division or Commission determines to be necessary.
- An individual engaging in recreational fishing must have a CRFL or RCGL issued in the individual's name available for inspection.
- A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and must apply for a replacement license within 30 days of a change of name or address.
- An individual may not hold a recreational fishing license as a North Carolina resident and hold a commercial or recreational fishing license as a resident of another state.
- An individual isn't eligible to obtain a CRFL or a RCGL if any of the individual's coastal recreational licenses have been suspended or revoked or the individual has been responsible for four or more violations of marine fisheries laws in the three years prior to the date of application.
- The Division may cancel a CRFL or RCGL issued on the basis of false information.
- A CRFL or RCGL holder must comply with sampling and survey programs.

G.S. 113-174.2. – Coastal Recreational Fishing License

Any CRFL may be purchased from a Division office or from the Division by mail. The Standard and Ten-Day CRFL may be purchased from authorized license agents.

Types of CRFL's:

Standard CRFL	$15.00	One year duration
Ten-Day CRFL	$5.00	Ten day duration
Lifetime CRFL		Lifetime duration
Younger than 6 years of age	$100.00	
6 years of age to younger than 11 years of age	$150.00	
11 years of age to younger than 17 years of age	$200.00	
17 years of age to younger than 70 years of age	$250.00	
70 years of age or older	$10.00	
Disabled Individual CRFL	No charge	Duration of disability
Disabled Veteran CRFL	No charge	Duration of disability
Legally Blind Lifetime CRFL	No charge	Lifetime duration
Charterboat Blanket CRFL		One year duration
Vessel of 25 feet or less	$200.00	
Vessel of greater than 25 feet	$400.00	

Exemptions: An individual may engage in recreational fishing by means of recreational gear without holding a CRFL if the individual:

- Is under 16 years of age.
- Holds a Standard Commercial Fishing License or a Retired Standard Commercial Fishing License.
- Holds a Lifetime Resident Comprehensive Fishing License or a Lifetime Sportsman License.

Reciprocity: The Commission may increase the fee for a Standard CRFL for residents of another state to the level charged to North Carolina residents for a recreational license in that state.

G.S. 113-174.3. – Recreational Commercial Gear License (RCGL)

Recodified from existing G.S. 113-173 without substantive changes.

G.S. 113-174.4. – Marine Resources Restoration Fund

Establishes the Marine Resources Restoration Fund in the Department of Environment and Natural Resources to hold proceeds from the sale of CRFL's. The Department shall use moneys from the Fund as follows:

- Resource and habitat enhancement: Not less than 25%.
- Marine fisheries research: Not less than 25%.
- Law enforcement: Not less than 20%, but no more than 25%
- Administration: Not more than 10%.
- Public education and information: Not less than 5%, but no more than 10%.
- Grants for coastal fishing programs and scholarships: Not more than 5%.

The Department will be assisted by the Commission and the Marine Resources Restoration Advisory Committee. The Advisory Committee will be composed of nine members as follows:

- Seven members, each of whom holds a CRFL, to be appointed by the Governor.
- The Director of the Division or the Director's designee (*ex officio* and non-voting).
- The Chair of the Commission or the Chair's designee (*ex officio* and non-voting).

The Secretary of Environment and Natural Resources will report to the Joint Legislative Commission on Seafood and Aquaculture and the Joint Legislative Commission on Governmental Operations by September 30 of each year on the source and amounts of monies credited to the Fund and the purpose and amount of all expenditures from the Fund during the prior fiscal year.

G.S. 113-174.5. – License Agents

Recodified from existing G.S. 113-172 with the following substantive changes:

- License agents shall be compensated at a rate of 6% of the value of each license sold rather than $1.00 per license sold.
- The Secretary of Environment and Natural Resources is authorized rather than required to bond license agents.

Sections 2 through 5 and Sections 7 and 8 make technical, clarifying, and conforming changes.

Section 6 increases the fee for the existing pier license from 50¢ per linear foot to $4.00 per linear foot and provides that the pier license will entitle all individuals on the pier who do not hold CRFL's to engage in recreational fishing by means of recreational gear.

Section 9 directs the Commission to adopt rules to define recreational gear and commercial gear for purposes of implementing the new program for licensing coastal recreational fishing.

Section 10 authorizes every agency to which this act applies to adopt temporary rules until all rules necessary to implement the provisions of the act become effective.

Section 11 is a severability clause.

Section 12 provides that the licensing provisions become effective March 1, 2004.

H831-SMSB-003

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 831 (Second Edition)

SHORT TITLE: Coastal Recreational Fishing License / Fund

SPONSOR(S): Reps. Gibson and McComas

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2003-04	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
REVENUES					
Marine Resources Restoration Fund License Revenue	$3,404,992	$9,728,547	$9,728,547	$9,728,547	$9,728,547
DMF Agency Receipts	(5,587)	(11,174)	(11,174)	(11,174)	(11,174)
EXPENDITURES (General Fund)					
Wildlife Res. Comm.	500,000	-	-	-	-
DMF System Development and Administration	1,911,005	1,107,258	1,118,257	1,129,805	1,141,927
DMF Enforcement	842,200	454,950	472,950	491,850	511,695
Total Cost	**3,253,205**	**1,562,208**	**1,591,207**	**1,621,655**	**1,653,622**
TOTAL REQUIRED APPROPRIATION**	**$2,753,205**	**$134,403**	**$145,402**	**$156,950**	**$169,072**
POSITIONS: (cumulative)	13.2	16.0	16.0	16.0	16.0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: March 1, 2004. Section 9, 10, 11 and 12 are effective when the act becomes law.

FY03-04 includes an appropriation for start-up funds to plan, implement, and begin enforcement of the program before revenues are realized. Then revenues generated from the licensing program will be able to recover approximately $1.2 Million in costs in the first year. The bill has a cap specifying no more than 10% of the funds can be credited to the Marine Resources Restoration Fund to be used for administration and up to 25% of the funds can be used for enforcement. The administrative allowance will not be sufficient to cover total costs of the program. The enforcement allowance will not be sufficient to cover first-year costs; however, excess funds will remain in subsequent years. See page 10 of this note for details.

BILL SUMMARY: The bill establishes general provisions governing a Coastal Recreational Fishing License (CRFL) and sets out a fee structure for the sale of these licenses. License fee exemptions are granted for certain classes of individuals. It creates a Marine Resources Restoration Fund in the Department of the Environment and Natural Resources (DENR) to hold the proceeds from the sale of CRFL's, and provides for the allocation of the proceeds. The bill also recodifies the Recreational Commercial Gear License (RCGL) without substantive changes.

ASSUMPTIONS AND METHODOLOGY:

Revenues: The amount of revenue raised by the CRFL depends on two factors: the number of licenses sold and the type of license sold. At this time, there is no precise count of the number of recreational anglers in North Carolina. The best estimate available is based on an annual Marine Recreational Fishery Statistics Survey compiled by the Division of Marine Fisheries. The surveys include direct interviews with approximately 20,000 anglers at various public access points along the North Carolina coast, as well as telephone interviews with 20,000 additional, randomly selected persons.

Information obtained through the surveys is used to estimate the total number of marine or coastal anglers in North Carolina, the total number of coastal fishing trips annually and the mode of fishing (i.e. from a man-made structure, beach or bank, charter/head boat or private boats). The following two tables summarize the results of the annual survey over the last six years:

Table 1: Estimated Number of Marine Recreational Anglers in NC, 1997-2002

	Coastal Residents	Non-Coastal	Out-of State	Total Anglers
1997	329,909	166,104	859,110	1,355,123
1998	312,246	143,355	635,197	1,090,798
1999	324,091	164,398	804,561	1,293,051
2000	392,131	215,815	1,203,779	1,811,725
2001	448,272	248,311	1,281,925	1,978,508
2002	409,601	224,744	1,120,938	1,755,283
6 Year Average	377,268	199,325	1,009,280	1,547,415
Percentage of Total	24%	12%	64%	

Table 2: Estimated Marine Recreational Fishing Trips in NC, 1997-2002

	Beach/Bank	Charter Boats	Man-Made	Private Boats	Total
1997	1,772,884	295,820	1,252,716	1,570,089	4,891,509
1998	1,446,621	241,001	1,135,830	1,638,009	4,461,461
1999	1,459,571	221,369	1,013,535	1,860,564	4,555,039
2000	2,136,284	183,219	1,665,748	2,105,734	6,090,985
2001	2,409,723	197,710	1,809,738	2,142,621	6,559,792
2002	1,973,242	181,073	1,396,937	2,011,633	5,562,885
6 Year Average	1,885,088	204,874	1,404,358	1,951,712	5,353,612
Percentage of Total	34%	4%	26%	36%	

Based on the six-year average number of estimated marine anglers (Table 1), there are 1,547,415 potential licensees. However, the bill provides for a number of general exemptions and individual licenses at no charge, reducing the number of potential anglers subject to the Coastal Recreational Fishing License fees. Table 3 outlines the adjustments necessary to estimate the number of anglers who may be required to purchase a license.

Table 3: Calculation of Adjusted Total Number of Anglers

Total Number of Anglers, 6 year average:		**1,547,415**
General Exemptions, No Charge Licenses, Attrition		
1. Standard/Retired Standard Commercial Fishing License (SCFL/RSCFL count for FY2002. FY2003 sales are expected to be similar.)	7,307	
2. Wildlife Resources Commission – (Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders minus infant license holders; assume 90% are coastal anglers)	102,015	
Less SCFL/RSCFL, WRC Lifetime		109,322
Subtotal		**1,438,093**
3. Permanently Handicapped/Disabled, Disabled Veteran, Legally Blind, Attrition (Based on WRC disabled and blind licenses; assume 3% of anglers subtotal to capture persons eligible for no charge licenses and possible attrition)	43,143	
4. Persons < 16 Years of Age (2002 North Carolina Marine Recreational Fishery Statistics Survey indicates 7.07% of NC coastal anglers are under the age of 16; assume 7% of anglers subtotal will fall under this exemption)	100,666	
Less Other General Exemptions, No Charge Licenses, Attrition		143,809
Adjusted Total Number of Anglers		**1,294,284**

According to the Division of Marine Fisheries, applying the percentages associated with each type of fishing trip (Table 2) to the adjusted total number of anglers (Table 3) provides a rough estimate of the number of anglers engaging in that particular mode of fishing. Table 4 provides a breakdown of total anglers by type of fishing trip.

Table 4: Estimated Marine Recreational Anglers by Type of Fishing Trip

	Beach/Bank	Charter Boats	Man-Made	Private Boats	Total
Adjusted for no charge licenses, general exemptions and attrition	448,003	48,690	333,754	463,836	**1,294,284**

These numbers can be used to estimate the number of additional exemptions as specified in the bill and the number of anglers purchasing CRFLs as follows:

Table 5: Calculation of Anglers Purchasing Coastal Recreational Fishing License

Adjusted Total Number of Anglers		**1,294,284**
Blanket Licenses		
1. Charter/Head/Dive Boat Blanket (Assume 20% of charter boat fishermen will purchase a CRFL to fish using a different means; therefore 80% will fall under the blanket license.)	38,952	
2. Ocean Fishing Pier Blanket (Assume 30% of pier fishermen will purchase a CRFL to fish using a different means, therefore 70% of those persons fishing from man-made structures will fall under the blanket license.)	233,628	
Less Blanket Licenses		272,580
Adjusted Total Number of Anglers Purchasing CRFLs		**1,021,704**

The estimated revenue from the sale of the Coastal Recreational Fishing Licenses as outlined in the bill follows:

Table 6: Estimated Revenue Generated by Coastal Recreational Fishing License

License Type	License Fee	Estimated Sales	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Annual/Standard CRFL (40%)	$15.00**	404,595	$2,124,122	$6,068,919	$6,068,919	$6,068,919	$6,068,919
10 Day CRFL (60%)	5.00	606,892	1,062,061	3,034,459	3,034,459	3,034,459	3,034,459
		1,011,487					
Lifetime CRFL							
< 6 years of age	100.00	2,759	96,551	275,860	275,860	275,860	275,860
6 to 11 years of age	150.00	409	21,456	61,302	61,302	61,302	61,302
11 to 17 years of age	200.00	204	14,304	40,868	40,868	40,868	40,868
17 to 70 years of age	250.00	2,656	232,438	664,107	664,107	664,107	664,107
> 70 years of age	10.00	4,189	14,661	41,890	41,890	41,890	41,890
		10,217					
Charter/Head/Dive Boat Blanket CRFL							
Vessel 25 feet or less	200.00	52	3,640	10,400	10,400	10,400	10,400
Vessel > 25 ft	400.00	190	26,600	76,000	76,000	76,000	76,000
Ocean Fishing Pier Blanket CRFL	4/linear ft	26	26,500	75,712	75,712	75,712	75,712
Gross Revenue from CRFL Receipts			**$3,622,332**	**$10,349,518**	**$10,349,518**	**$10,349,518**	**$10,349,518**
Less License Agent Fee (6%)			($217,340)	($620, 971)	($620, 971)	($620, 971)	($620,971)
Net Revenue from CRFL Receipts -- Credited to the Marine Resources Restoration Fund			**$3,404,992**	**$9,728,547**	**$9,728,547**	**$9,728,547**	**$9,728,547**

** Note: The legislation allows for North Carolina to charge out-of-state residents a fee equal to the amount a North Carolina resident would have to pay for a Standard coastal recreational fishing license in that state. Some states charge more, while other states charge less, than the $15 fee identified in the legislation. It cannot be determined how much additional revenue will be generated by charging some applicants higher fees than identified in the legislation, nor how other state fees will change over time. **Fees generated from out-of-state residents purchasing Annual/Standard CRFLs would result in revenues higher than shown in Table 6 above.**

The revenue estimate is based on the following assumptions:

1. License sales are assumed to begin January 1, 2004, two months prior to the CRFL effective date of March 1, 2004. Consequently, license revenue for the last six months of the 2003-04 fiscal year is estimated to be 35% of the annual amount to align with current Marine Fisheries license sales in January - June. Even though the total number of anglers varies from year, the average has remained stable at approximately 1.4 million anglers since 1993. Consequently, no growth is assumed in projecting future revenues.

2. Lifetime licenses are assumed to be 1% of total sales. The sale of lifetime licenses sold to people under age 70 accounted for 1.23% of total Wildlife Resources Commission (WRC) license sales in recent years. The sale of lifetime CRFLs is anticipated to account for a lower percentage of total sales than Wildlife's experience, because HB 831 exempts persons holding a WRC lifetime license from the CRFL requirement, but does not exempt persons who hold a lifetime CRFL from the WRC freshwater license requirement. Consequently, lifetime anglers who fish in both fresh and salt water are likely to purchase the WRC license. However, the lifetime CRFL is cheaper than the WRC lifetime license so it is assumed that a small percentage of coastal anglers will purchase the cheaper license.

3. The distribution of lifetime CRFL sales among the various age groups is based on the sale of WRC lifetime licenses to similar age groups.

Age Distributions	Percent of total lifetime sales
< 6 years of age	27%
6 to 11 years of age	4%
11 to 17 years of age	2%
17 to 70 years of age	26%
> 70 years of age	41%

4. The distribution of license sales is based on the following assumptions: 1) 90% of the ten-day licenses will be sold to out-of-state anglers and 10 % sold to NC residents, and 2) 90% of the standard or annual licenses will be sold to NC residents and 10 % sold to out-of-state anglers (from whom the additional revenues discussed in the note above may be realized.)

5. According to Marine Fisheries, there are 242 known charter boat operations in North Carolina. Fifty-two of these vessels are 25 feet and less in length. This information may change next year once a new For-Hire Fishing Permit program is completely implemented.

6. According to Marine Fisheries, there are 26 known commercial fishing piers with an average pier length of 728 feet, ranging from a low of 378 feet to a high of 1,019 feet.

Other Revenue Issues
House Bill 831 also changes the amount of the fee to be retained by authorized license agents from the sale of Recreational Commercial Gear License (RCGL). Currently, agents are authorized to charge $1.00 in addition to the NC resident license fee of $35.00. The Division of Marine Fisheries retains the entire $35.00 license fee. The bill changes this practice to reimburse the agent six percent (6%) of the $35.00 license fee or $2.10 per license sold, thereby reducing the amount of revenue going to the Division. In 2002, agents sold a total of 5,321 RCGLs. Assuming that roughly the same number of licenses will be sold in subsequent years, **the Division will lose $11,174 in RCGL revenues annually**. Losses for the last six months of FY 2003-04 are estimated to be one-half of the annual amount.

Expenditures:

Wildlife Resources Commission
The Division of Marine Fisheries would like to take advantage of the automated licensing system operated by the Wildlife Resources Commission and the large network of WRC license agents to sell CRFLs. The WRC currently has an online license sales option available to customers only; however, a new WRC Internet sales system is scheduled to be released next year, and this medium will process *all* customer and agent license sales at that time.

The new Internet-based system can handle the required changes for the CRFLs with more flexibility than the current system. To accommodate the additional license types, the Wildlife system will require some modification and upgrades. The WRC estimates the cost for software modification, system upgrades to accommodate additional license agents and increased volume, training costs, and point of sale computer equipment provided to any new agent selling the CRFLs to be approximately $500,000. Funds are needed in the 2003-04 fiscal year to ensure that the system is complete and operational prior to March 1, 2004, when the CRFL goes into effect.

Division of Marine Fisheries

Administration: Integration of the Marine Fisheries licensing system with the Wildlife licensing system will also require upfront General Fund expenditures for system development. The Division estimates that $1 million will be required in the 2003-04 fiscal year for additional hardware, software development and related information technology expenses. Funds are needed in the 2003-04 fiscal year to ensure that the system is complete and operational prior to March 1, 2004, when the CRFL goes into effect.

The Division also anticipates requiring additional staff and operating support to administer the CRFL program. An administrative officer will oversee management of the license program and will serve as the primary contact with the WRC. A computer programmer will be responsible for system maintenance, quality control and data transfer. An accounting clerk will be responsible for tracking license sales, deposits and auditing sales records. Three processing assistants will issue licenses in-person and by phone, handle questions concerning license requirements and regulations, and data entry in the Morehead and Columbia offices. Operating support for the 2003-04 fiscal year is reduced proportional to effective starting dates.

In addition, the Division will pay a per transaction fee to the Wildlife Resources Commission to cover the Commission's costs for online support, training, technical support, hardware maintenance, and communication charges associated with the transfer of data to and from agents.

The actual transaction fee will be negotiated between DMF and WRC based on expected volume of license sales, technical specifications, and types of licenses sold online (see Technical Considerations #2.)

The WRC estimates the transaction fee per CRFL sold would be $2.00 for licenses sold by licensed agents. Fiscal Research projects this fee can be reduced for transactions occurring through the online sales option due to the equipment and technology used for bulk online transactions. In order to estimate a possible online fee amount, data were gathered on industry online transaction costs and comparable WRC transaction costs occurring online today. For direct customer sales via the Internet, the WRC pays an online transaction fee of 2% of the total cost of the transaction (i.e. $0.30 for a $15 license) for credit card processing. There is also a $0.41 ITS processing fee associated with each transaction that goes through the Common Payment Service. Fulfillment costs will also be calculated into the transaction fee, but because the new license processing will change, no exact estimate is available yet. This note assumes fulfillment costs of $0.20 per license sold for license stock and processing time. The table below shows the online transaction costs associated with the CRFL.

Table 7: Online Transaction Fees Associated with CRFL Sales

	Annual	10-Day	Lifetime (<6 yrs)	Lifetime (6-11 yrs)	Lifetime (11-17 yrs)	Lifetime (17-70 yrs)	Lifetime (>70 yrs)
Total Proposed CRFLs	404,595	606,892	2,759	409	204	2,656	4,189
Proposed Fee Amount	$15	$5	$100	$150	$200	$250	$10
2% Credit Card Fee	$0.30	$0.10	$2.00	$3.00	$4.00	$5.00	$0.20
Subtotal:	$121,378	$60,689	$5,517	$1,226	$817	$13,282	$838
$0.41 ITS Fee	$165,884	$248,826	$1,131	$168	$84	$1,089	$1,717
$0.20 Fulfillment Cost	$80,919	$121,378	$552	$82	$41	$531	$838
Totals	**$368,181**	**$430,893**	**$7,200**	**$1,476**	**$942**	**$14,902**	**$3,393**
Total Transaction Fees	**$826,987**						
Total CRFLs	**1,021,704**						
Average Fee / CRFL	**$0.81**						

The number of agent in-person sales vs. online sales will depend on the timing of the system modifications and how quickly CRFLs can be sold only via the Internet. The WRC is experiencing some movement toward its current Internet sales option with 10% of license sales occurring online. Once the new Internet system is in place, 100% of license sales will occur online, whether via an agent or direct customer sales. The table above projects transaction fees at 100% online sales. Administrative costs for fiscal year 2003-04 are estimated differently due to limited sales time and a mix of online and agent sales.

The administration estimate is based on the following assumptions:

1. All CRFL license types (annual, 10-day, and lifetime) will eventually be sold via the online Internet sales option.

2. Licensed agents will sell approximately 90% of all licenses sold in fiscal year 2003-04 at a $2.00 per license transaction rate.

3. The remaining 10% of licenses sold in fiscal year 2003-04 are estimated to be online sales at a $0.81 per license transaction rate.

4. Transaction costs for the last six months of FY 2003-04 are estimated to be 35% of the annual amount to align with typical license sales from January to June.

5. All licenses sold in future fiscal years are estimated to be online sales at a $0.81 per license transaction rate.

6. For the purposes of this analysis, the administrative officer and computer programmer positions are assumed to be effective August 1, 2003, to allow for program and system preparation. The remaining four positions are assumed to be effective September 1, 2003, or six months prior to the effective date of the licenses to allow for recruitment and training.

The total estimated budget for Marine Fisheries to administer the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 8: Division of Marine Fisheries, Budget Requirements for Administration

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Administrative Personnel					
Administrative Officer II	36,892	42,217	44,328	46,544	48,870
Applications Analyst Programmer II	58,175	66,573	69,901	73,396	77,065
Accounting Clerk IV	22,080	27,795	29,185	30,644	32,176
Processing Assistant IV (3 FTEs)	66,240	83,386	87,555	91,933	96,529
Total Salaries and Benefits	183,387	219,971	230,970	242,518	254,640
Positions	*5.2*	*6.0*	*6.0*	*6.0*	*6.0*
Operating Expenses for Admin.	47,000	21,000	21,000	21,000	21,000
Computer Expenses	1,008,000	39,300	39,300	39,300	39,300
Transaction Fee Paid to WRC	672,618	826,987	826,987	826,987	826,987
Total Requirements	**$1,911,005**	**$1,107,258**	**$1,118,257**	**$1,129,805**	**$1,141,927**

Enforcement: HB 831 makes it unlawful for any person to engage in recreational fishing without first holding a Coastal Recreational Fishing License. The Division of Marine Fisheries' Marine Patrol Section has the duty of enforcing all laws relating to conservation of marine and estuarine resources (G.S. 113-8). According to DMF, a total of 6,336 hours was spent checking recreational fishermen for catch and size limits in the year 2000. Based on the current workforce of 43 marine patrol officers, 6,336 hours equates to less than ten percent of their patrol time. With the implementation of the recreational saltwater fishing license, the Division anticipates placing more emphasis on recreational fishing.

To adequately enforce the estimated CRFL's projected to be sold, the Division estimates that it will need 10 additional marine patrol officers. These additional officers in combination with existing staff will allow the Division to check between 16 and 32 percent of the license holders on an annual basis. This assumes a work year of 230 days and an average of five to ten checks per hour per officer or 40 to 80 license checks per day per officer. [230 days x 40 to 80 license checks per day = 9,200 to 18,400 license checks per new officer x 10 FTEs = 92,000 to 184,000 license checks annually plus existing staff time of 6,336 hours or approximately 792 days x 40 to 80 license checks per day = 31,680 to 63,360 license checks annually with existing staff time for a total of 123,680 to 247,360 licenses checked annually.]

Each marine patrol officer currently employed by the Division is assigned a motor vehicle and marine patrol boat for duty. Based on this practice, each of the 10 new positions will require a motor vehicle, leased from motor pool at approximately $4,800 per year, and a marine patrol boat at approximately $45,000 per boat. Marine patrol boats are currently replaced every 5 to 6 years.

For the purposes of this analysis, the marine patrol officers are assumed to be effective September 1, 2003, or six months prior to the effective date of the licenses to allow for recruitment and training. Operating support for the 2003-04 fiscal year is reduced proportionally.

The total estimated budget for Marine Fisheries to enforce the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 9: Division of Marine Fisheries, Budget Requirements for Enforcement

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Enforcement Personnel					
Marine Enforcement Officer I (10 FTEs)	285,950	359,950	377,950	396,850	416,695
Operating Expenses for Enforcement	556,250	95,000	95,000	95,000	95,000
Total Requirements	**$842,200**	**$454,950**	**$472,950**	**$491,850**	**$511,695**
Positions	*8.0*	*10.0*	*10.0*	*10.0*	*10.0*

Appropriations

HB 831 authorizes up to 10% of the funds credited to the Marine Resources Restoration Fund to be used for administrative costs. Based on the revenue projections outlined on page 4 (Table 6), the allowance will not cover the required administrative expenditures beginning with the 2003-04 fiscal year. Administrative costs would be covered by a transfer of 56% of the net revenues in the Fund in fiscal year 2003-04 and approximately a 12-15% transfer of the Fund revenues in subsequent years. The first year is significantly higher due to the start-up costs associated with establishing the CRFL program. *Funds would need to be initially loaned or appropriated to establish the licensing effort before revenues would be realized and transferred to the program's administrative requirements.*

The bill also authorizes no less than 20% but no more than 25% of the funds credited to the Marine Resources Restoration Fund to be used for law enforcement costs. Based on the revenue projections outlined on page 4 (Table 6), the allowance will cover enforcement costs in whole. For fiscal year 2003-04 the entire 25% transfer would be required to cover start-up costs. *Again, start-up funds would need to be initially loaned or appropriated to enforce the program before revenues would be realized.* In future years, if the minimum 20% of Fund revenues is allocated for enforcement, there will be excess funds remaining in each subsequent fiscal year (see Technical Considerations #3.) The estimates indicate costs will be covered in whole with only approximately a 5-8% transfer of the Fund revenues in subsequent years. This fiscal note timeline does not consider the replacement of the new equipment, which occurs every 5 to 6 years and may increase the annual enforcement needs for a future fiscal year.

Assuming DENR authorizes the maximum 10% for administration in each fiscal year, 25% for enforcement in fiscal year 2003-04, and the minimum of 20% for enforcement in subsequent fiscal years, the General Fund allocations will be as follows:

Table 10: Appropriation Required/Remaining for License Implementation

		FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
1	Total Administrative Requirements	1,911,005	1,107,258	1,118,257	1,129,805	1,141,927
2	10% Admin Allowance, Fund Transfer	(340,499)	(972,855)	(972,855)	(972,855)	(972,855)
3	**Appropriation for Admin**	**1,570,506**	**134,403**	**145,402**	**156,950**	**169,072**
4	Total Enforcement Requirements	842,200	454,950	472,950	491,850	511,695
5	Enforcement Allowance, Fund Transfer (25% for 03-04 and 20% following years)	(842,200)	(1,945,709)	(1,945,709)	(1,945,709)	(1,945,709)
6	**Appropriation for Enforcement (or Excess)**	**0**	**(1,490,759)**	**(1,472,759)**	**(1,453,859)**	**(1,434,014)**
7	**Total Appropriation Required**	**$1,570,506***	**$134,403**	**$145,402**	**$156,950**	**$169,072**

*The actual first-year appropriation amount will be **$2,753,205** because costs will be incurred before revenues will be realized. (FY 03-04 lines 2 and 5 will be required up-front to implement the program but may be repaid after revenues are generated.)

SOURCES OF DATA: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

TECHNICAL CONSIDERATIONS:

1) The provisions of the Coastal Recreational Fishing License become effective March 1, 2004. In order to give the public time to purchase a license prior to the license requirement becoming effective, this analysis assumed that license sales would begin January 1, 2004, two months prior to the effective date. However, the bill is silent as to the date that license sales can begin.

2) The Division of Marine Fisheries and Wildlife Resources Commission expenditures associated with the implementation of the Coastal Recreational Fishing License may change once planning and technical specifications are further detailed. The Information Resource Management Commission (IRMC) must approve the business case and technical interfaces between the systems prior to funds being expended. The business case analysis will assist with cost estimates. Specifically, the programming and computer equipment costs may change once project specifications are mapped more thoroughly. As the project progresses from planning into implementation phases, the estimated transaction costs of $2 per license sold by an agent and $0.81 per license sold online may be changed due to the further development of the online licensing process.

3) The enforcement costs in the first fiscal year include start up costs for equipment that will not carry over into future fiscal years (aside from replacement costs.) The legislation authorizes between 20 and 25% of the Marine Resources Restoration Fund balance to be allocated towards enforcement costs, yet based on enforcement cost estimates, the allocation is more funding than is necessary for this effort. The legislation is unclear as to how the excess funds are to be administered or held.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stephanie Schmitt Stephanie Schmitt

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: July 8, 2003

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 9, 2003

TO: Representative Wainwright

FROM: Stephanie Schmitt
Fiscal Research Division

RE: HB 831 PCS 45 v.5 - Coastal Recreational Fishing License

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Marine Resources Restoration Fund License Revenue	$3,383,133	$9,666,096	$9,666,096	$9,666,096	$9,666,096
DMF Agency Receipts (RCGL fee change)	(5,587)	(11,174)	(11,174)	(11,174)	(11,174)
EXPENDITURES (General Fund)					
Wildlife Res. Comm.	500,000	-	-	-	-
DMF System Development and Administration	2,085,160	1,272,208	1,283,207	1,294,755	1,306,877
DMF Enforcement	842,200	454,950	472,950	491,850	511,695
Total Cost	**3,427,360**	**1,727,158**	**1,756,157**	**1,786,605**	**1,818,572**
TOTAL REQUIRED APPROPRIATION**	**$2,927,360**	**$760,548**	**$789,547**	**$819,995**	**$851,962**
POSITIONS: (cumulative)	13.2	16.0	16.0	16.0	16.0

(continued on next page)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

EFFECTIVE DATE: March 1, 2004. Section 8, 11, 12 and 13 are effective when the act becomes law.

FY03-04 includes an appropriation for start-up funds to plan, implement, and begin enforcement of the program before revenues are realized. Then revenues generated from the licensing program will be able to recover approximately $338,000 in administrative costs in the first year. The bill has a cap specifying no more than 10% of the funds can be credited to the Marine Resources Restoration Fund to be used for administration. The allowance will not be sufficient to cover total costs of the program. See page 10 of this note for details.

BILL SUMMARY: The bill establishes general provisions governing a Coastal Recreational Fishing License (CRFL) and sets out a fee structure for the sale of these licenses. License fee exemptions are granted for certain classes of individuals. Information collected about applicants is confidential and is not subject to the public records law. It creates a Marine Resources Restoration Fund in the Department of the Environment and Natural Resources (DENR) to hold the proceeds from the sale of CRFL's, and provides for the allocation of the proceeds. The bill also recodifies the Recreational Commercial Gear License (RCGL) without substantive changes.

ASSUMPTIONS AND METHODOLOGY:

Revenues: The amount of revenue raised by the CRFL depends on two factors: the number of licenses sold and the type of license sold. At this time, there is no precise count of the number of recreational anglers in North Carolina. The best estimate available is based on an annual Marine Recreational Fishery Statistics Survey compiled by the Division of Marine Fisheries. The surveys include direct interviews with approximately 20,000 anglers at various public access points along the North Carolina coast, as well as telephone interviews with 20,000 additional, randomly selected persons.

Information obtained through the surveys is used to estimate the total number of marine or coastal anglers in North Carolina, the total number of coastal fishing trips annually and the mode of fishing (i.e. from a man-made structure, beach or bank, charter/head boat or private boats). The following two tables summarize the results of the annual survey over the last six years:

Table 1: Estimated Number of Marine Recreational Anglers in NC, 1997-2002

	Coastal Residents	Non-Coastal	Out-of State	Total Anglers
1997	329,909	166,104	859,110	1,355,123
1998	312,246	143,355	635,197	1,090,798
1999	324,091	164,398	804,561	1,293,051
2000	392,131	215,815	1,203,779	1,811,725
2001	448,272	248,311	1,281,925	1,978,508
2002	409,601	224,744	1,120,938	1,755,283
6 Year Average	377,268	199,325	1,009,280	1,547,415
Percentage of Total	24%	12%	64%	

Table 2: Estimated Marine Recreational Fishing Trips in NC, 1997-2002

	Beach/Bank	Charter Boats	Man-Made	Private Boats	Total
1997	1,772,884	295,820	1,252,716	1,570,089	4,891,509
1998	1,446,621	241,001	1,135,830	1,638,009	4,461,461
1999	1,459,571	221,369	1,013,535	1,860,564	4,555,039
2000	2,136,284	183,219	1,665,748	2,105,734	6,090,985
2001	2,409,723	197,710	1,809,738	2,142,621	6,559,792
2002	1,973,242	181,073	1,396,937	2,011,633	5,562,885
6 Year Average	1,885,088	204,874	1,404,358	1,951,712	5,353,612
Percentage of Total	34%	4%	26%	36%	

Based on the six-year average number of estimated marine anglers (Table 1), there are 1,547,415 potential licensees. However, the bill provides for a number of general exemptions and individual licenses at no charge, reducing the number of potential anglers subject to the Coastal Recreational Fishing License fees. Table 3 outlines the adjustments necessary to estimate the number of anglers who may be required to purchase a license.

Table 3: Calculation of Adjusted Total Number of Anglers

Total Number of Anglers, 6 year average:		**1,547,415**
General Exemptions, No Charge Licenses, Attrition		
1. Standard/Retired Standard Commercial Fishing License (SCFL/RSCFL count for FY2002. FY2003 sales are expected to be similar.)	7,307	
2. Wildlife Resources Commission – (Lifetime Resident Comprehensive Fishing License and Lifetime Sportsman Combination License holders minus infant license holders; assume 90% are coastal anglers)	102,015	
Less SCFL/RSCFL, WRC Lifetime		109,322
Subtotal		**1,438,093**
3. Permanently Handicapped/Disabled, Disabled Veteran, Legally Blind, Attrition (Based on WRC disabled and blind licenses; assume 3% of anglers subtotal to capture persons eligible for no charge licenses and possible attrition)	43,143	
4. Persons < 16 Years of Age (2002 North Carolina Marine Recreational Fishery Statistics Survey indicates 7.07% of NC coastal anglers are under the age of 16; assume 7% of anglers subtotal will fall under this exemption)	100,666	
5. Persons Fishing from Public Bridges (Marine Fisheries estimates only 3 or 4 major bridges from which anglers recreationally fish. Currently a permit or license is not required to fish from public bridges; no impact is expected.)	0	
Less Other General Exemptions, No Charge Licenses, Attrition		143,809
Adjusted Total Number of Anglers		**1,294,284**

According to the Division of Marine Fisheries, applying the percentages associated with each type of fishing trip (Table 2) to the adjusted total number of anglers (Table 3) provides a rough estimate of the number of anglers engaging in that particular mode of fishing. Table 4 provides a breakdown of total anglers by type of fishing trip.

Table 4: Estimated Marine Recreational Anglers by Type of Fishing Trip

	Beach/Bank	Charter Boats	Man-Made	Private Boats	Total
Adjusted for no charge licenses, general exemptions and attrition	448,003	48,690	333,754	463,836	**1,294,284**

The estimated revenue from the sale of the Coastal Recreational Fishing Licenses as outlined in the bill follows:

Table 6: Estimated Revenue Generated by Coastal Recreational Fishing License

License Type	License Fee	Estimated Sales	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Annual/Standard CRFL (40%)	$10.00**	512,536	$1,793,877	$5,125,362	$5,125,362	$5,125,362	$5,125,362
10 Day CRFL (60%)	5.00	768,805	1,345,407	3,844,021	3,844,021	3,844,021	3,844,021
		1,281,341					
Lifetime CRFL							
< 18 years of age	150.00	4,271	177,010	640,670	640,670	640,670	640,670
18 to 65 years of age	200.00	3,365	185,950	673,027	673,027	673,027	673,027
≥ 65 years of age	exempt	5,307	0	0	0	0	0
		12,943					
Gross Revenue from CRFL Receipts			**$3,599,078**	**$10,283,080**	**$10,283,080**	**$10,283,080**	**$10,283,080**
Less License Agent Fee (6%)			($215,945)	($616,985)	($616,985)	($616,985)	($616,985)
Net Revenue from CRFL Receipts -- Credited to the Marine Resources Restoration Fund			**$3,383,133**	**$9,666,096**	**$9,666,096**	**$9,666,096**	**$9,666,096**

** Note: The legislation allows for North Carolina to charge out-of-state residents a fee equal to the amount a North Carolina resident would have to pay for a Standard coastal recreational fishing license in that state. Some states charge more, while other states charge less, than the $10 fee identified in the legislation. It cannot be determined how much additional revenue will be generated by charging some applicants higher fees than identified in the legislation, nor how other state fees will change over time. **Fees generated from out-of-state residents purchasing Annual/Standard CRFLs would result in revenues higher than shown in Table 6 above.**

The revenue estimate is based on the following assumptions:

1. License sales are assumed to begin January 1, 2004, two months prior to the CRFL effective date of March 1, 2004. Consequently, license revenue for the last six months of the 2003-04 fiscal year is estimated to be 35% of the annual amount to align with current Marine Fisheries license sales in January - June. Even though the total number of anglers varies from year, the average has remained stable at approximately 1.4 million anglers since 1993. Consequently, no growth is assumed in projecting future revenues.

2. Lifetime licenses are assumed to be 1% of total sales. The sale of lifetime licenses sold to people under age 70 accounted for 1.23% of total Wildlife Resources Commission (WRC) license sales in recent years. The sale of lifetime CRFLs is anticipated to account for a lower percentage of total sales than Wildlife's experience, because HB 831 exempts persons holding a WRC lifetime license from the CRFL requirement, but does not exempt persons who hold a lifetime CRFL from the WRC freshwater license requirement. Consequently, lifetime anglers who fish in both fresh and salt water are likely to purchase the WRC license. However, the lifetime CRFL is cheaper than the WRC lifetime license so it is assumed that a small percentage of coastal anglers will purchase the cheaper license.

3. The distribution of lifetime CRFL sales among the various age groups is based on the sale of WRC lifetime licenses to similar age groups.

Age Distributions	Percent of total lifetime sales
< 18 years of age	33%
18 to 65 years of age	26%
≥ 65 years of age	41%

4. The distribution of license sales is based on the following assumptions: 1) 90% of the ten-day licenses will be sold to out-of-state anglers and 10 % sold to NC residents, and 2) 90% of the standard or annual licenses will be sold to NC residents and 10 % sold to out-of-state anglers (from whom the additional revenues discussed in the note above may be realized.)

Other Revenue Issues

House Bill 831 also changes the amount of the fee to be retained by authorized license agents from the sale of Recreational Commercial Gear License (RCGL). Currently, agents are authorized to charge $1.00 in addition to the NC resident license fee of $35.00. The Division of Marine Fisheries retains the entire $35.00 license fee. The bill changes this practice to reimburse the agent six percent (6%) of the $35.00 license fee or $2.10 per license sold, thereby reducing the amount of revenue going to the Division. In 2002, agents sold a total of 5,321 RCGLs. Assuming that roughly the same number of licenses will be sold in subsequent years, **the Division will lose $11,174 in RCGL revenues annually**. Losses for the last six months of FY 2003-04 are estimated to be one-half of the annual amount.

Expenditures:

Wildlife Resources Commission

The Division of Marine Fisheries would like to take advantage of the automated licensing system operated by the Wildlife Resources Commission and the large network of WRC license agents to sell CRFLs. The WRC currently has an online license sales option available to customers only; however, a new WRC Internet sales system is scheduled to be released next year, and this medium will process *all* customer and agent license sales at that time.

The new Internet-based system can handle the required changes for the CRFLs with more flexibility than the current system. To accommodate the additional license types, the Wildlife system will require some modification and upgrades. The WRC estimates the cost for software modification, system upgrades to accommodate additional license agents and increased volume, training costs, and point of sale computer equipment provided to any new agent selling the CRFLs to be approximately $500,000. Funds are needed in the 2003-04 fiscal year to ensure that the system is complete and operational prior to March 1, 2004, when the CRFL goes into effect.

Division of Marine Fisheries

Administration: Integration of the Marine Fisheries licensing system with the Wildlife licensing system will also require upfront General Fund expenditures for system development. The Division estimates that $1 Million will be required in the 2003-04 fiscal year for additional hardware, software development and related information technology expenses. Funds are needed in the 2003-04 fiscal year to ensure that the system is complete and operational prior to March 1, 2004, when the CRFL goes into effect.

The Division also anticipates requiring additional staff and operating support to administer the CRFL program. An administrative officer will oversee management of the license program and will serve as the primary contact with the WRC. A computer programmer will be responsible for system maintenance, quality control and data transfer. An accounting clerk will be responsible for tracking license sales, deposits and auditing sales records. Three processing assistants will issue licenses in-person and by phone, handle questions concerning license requirements and regulations, and data entry in the Morehead and Columbia offices. Operating support for the 2003-04 fiscal year is reduced proportional to effective starting dates.

In addition, the Division will pay a per transaction fee to the Wildlife Resources Commission to cover the Commission's costs for online support, training, technical support, hardware maintenance, and communication charges associated with the transfer of data to and from agents. The actual transaction fee will be negotiated between DMF and WRC based on expected volume of license sales, technical specifications, and types of licenses sold online (see Technical Considerations #2.)

The WRC estimates the transaction fee per CRFL sold would be $2.00 for licenses sold by licensed agents. Fiscal Research projects this fee can be reduced for transactions occurring through the online sales option due to the equipment and technology used for bulk online transactions. In order to estimate a possible online fee amount, data were gathered on industry online transaction costs and comparable WRC transaction costs occurring online today. For direct customer sales via the Internet, the WRC pays an online transaction fee of 2% of the total

cost of the transaction (i.e. $0.20 for a $10 license) for credit card processing. There is also a $0.41 ITS processing fee associated with each transaction that goes through the Common Payment Service. Fulfillment costs will also be calculated into the transaction fee, but because the new license processing will change, no exact estimate is available yet. This note assumes fulfillment costs of $0.20 per license sold for license stock and processing time. The table below shows the online transaction costs associated with the CRFL.

Table 7: Online Transaction Fees Associated with CRFL Sales

	Annual	10-Day	Lifetime (<18 yrs)	Lifetime (18-65 yrs)	Lifetime (≥65 yrs)
Total Proposed CRFLs	512,536	768,804	3,372	2,656	4,189
Proposed Fee Amount	$10	$5	$150	$200	$0
2% Credit Card Fee	$0.20	$0.10	$3.00	$4.00	$0
Subtotal:	$102,507	$76,880	$12,813	$13,461	$0
$0.41 ITS Fee	$210,140	$315,210	$1,751	$1,380	$0
$0.20 Fulfillment Cost	$102,507	$153,761	$854	$673	$0
Totals	**$415,154**	**$545,851**	**$15,419**	**$15,513**	**$0**
Total Transaction Fees	**$991,937**				
Total CRFLs	**1,288,977**	(total less ≥65 yrs old exemption)			
Average Fee / CRFL	**$0.77**				

The number of agent in-person sales vs. online sales will depend on the timing of the system modifications and how quickly CRFLs can be sold only via the Internet. The WRC is experiencing some movement toward its current Internet sales option with 10% of license sales occurring online. Once the new Internet system is in place, 100% of license sales will occur online, whether via an agent or direct customer sales. The table above projects transaction fees at 100% online sales. Administrative costs for fiscal year 2003-04 are estimated differently due to limited sales time and a mix of online and agent sales.

The administration estimate is based on the following assumptions:

1. All CRFL license types (annual, 10-day, and lifetime) will eventually be sold via the online Internet sales option.

2. Licensed agents will sell approximately 90% of all licenses sold in fiscal year 2003-04 at a $2.00 per license transaction rate.

3. The remaining 10% of licenses sold in fiscal year 2003-04 are estimated to be online sales at a $0.77 per license transaction rate.

4. Transaction costs for the last six months of FY 2003-04 are estimated to be 35% of the annual amount to align with typical license sales from January to June.

5. All licenses sold in future fiscal years are estimated to be online sales at a $0.77 per license transaction rate.

6. For the purposes of this analysis, the administrative officer and computer programmer positions are assumed to be effective August 1, 2003, to allow for program and system preparation. The remaining four positions are assumed to be effective September 1, 2003, or six months prior to the effective date of the licenses to allow for recruitment and training.

The total estimated budget for Marine Fisheries to administer the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 8: Division of Marine Fisheries, Budget Requirements for Administration

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Administrative Personnel					
Administrative Officer II	36,892	42,217	44,328	46,544	48,870
Applications Analyst Programmer II	58,175	66,573	69,901	73,396	77,065
Accounting Clerk IV	22,080	27,795	29,185	30,644	32,176
Processing Assistant IV (3 FTEs)	66,240	83,386	87,555	91,933	96,529
Total Salaries and Benefits	183,387	219,971	230,970	242,518	254,640
Positions	*5.2*	*6.0*	*6.0*	*6.0*	*6.0*
Operating Expenses for Admin.	47,000	21,000	21,000	21,000	21,000
Computer Expenses	1,008,000	39,300	39,300	39,300	39,300
Transaction Fee Paid to WRC	846,773	991,937	991,937	991,937	991,937
Total Requirements	**$2,085,160**	**$1,272,208**	**$1,283,207**	**$1,294,755**	**$1,306,877**

Enforcement: HB 831 makes it unlawful for any person to engage in recreational fishing without first holding a Coastal Recreational Fishing License. The Division of Marine Fisheries' Marine Patrol Section has the duty of enforcing all laws relating to conservation of marine and estuarine resources (G.S. 113-8). According to DMF, a total of 6,336 hours was spent checking recreational fishermen for catch and size limits in the year 2000. Based on the current workforce of 43 marine patrol officers, 6,336 hours equates to less than ten percent of their patrol time. With the implementation of the recreational saltwater fishing license, the Division anticipates placing more emphasis on recreational fishing.

To adequately enforce the estimated CRFL's projected to be sold, the Division estimates that it will need 10 additional marine patrol officers. These additional officers in combination with existing staff will allow the Division to check between 16 and 32 percent of the license holders on an annual basis. This assumes a work year of 230 days and an average of five to ten checks

per hour per officer or 40 to 80 license checks per day per officer. [230 days x 40 to 80 license checks per day = 9,200 to 18,400 license checks per new officer x 10 FTEs = 92,000 to 184,000 license checks annually plus existing staff time of 6,336 hours or approximately 792 days x 40 to 80 license checks per day = 31,680 to 63,360 license checks annually with existing staff time for a total of 123,680 to 247,360 licenses checked annually.]

Each marine patrol officer currently employed by the Division is assigned a motor vehicle and marine patrol boat for duty. Based on this practice, each of the 10 new positions will require a motor vehicle, leased from motor pool at approximately $4,800 per year, and a marine patrol boat at approximately $45,000 per boat. Marine patrol boats are currently replaced every 5 to 6 years.

For the purposes of this analysis, the marine patrol officers are assumed to be effective September 1, 2003, or six months prior to the effective date of the licenses to allow for recruitment and training. Operating support for the 2003-04 fiscal year is reduced proportionally.

The total estimated budget for Marine Fisheries to enforce the Coastal Recreational Fishing License requirements is outlined in the following table:

Table 9: Division of Marine Fisheries, Budget Requirements for Enforcement

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
Enforcement Personnel					
Marine Enforcement Officer I (10 FTEs)	285,950	359,950	377,950	396,850	416,695
Operating Expenses for Enforcement	556,250	95,000	95,000	95,000	95,000
Total Requirements	**$842,200**	**$454,950**	**$472,950**	**$491,850**	**$511,695**
Positions	*8.0*	*10.0*	*10.0*	*10.0*	*10.0*

Board of Trustees – Marine Resources Restoration Fund

The bill provides for a Board of Trustees to oversee the disbursement of moneys from the Fund. Membership, terms, and meeting frequency are specified in the bill. The bill allows the use of Fund revenues to pay per diem, travel and subsistence expenses for Trustees. No exact estimate of expenses is available; however, there will not be a General Fund impact.

Appropriations

HB 831 authorizes up to 10% of the funds credited to the Marine Resources Restoration Fund to be used for administrative costs. Based on the revenue projections outlined on page 5 (Table 6), the allowance will not cover the required administrative expenditures beginning with the 2003-04 fiscal year. Administrative costs would be covered by a transfer of 56% of the net revenues in the Fund in fiscal year 2003-04 and approximately a 12-15% transfer of the Fund revenues in subsequent years. The first year is significantly higher due to the start-up costs associated with establishing the CRFL program. *Funds would need to be initially loaned or appropriated to establish the licensing effort before revenues would be realized and transferred to the program's administrative requirements.*

Assuming DENR authorizes the maximum 10% for administration in each fiscal year, the General Fund allocations will be as follows:

Table 10: Appropriation Required/Remaining for License Implementation

		FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
1	Total Administrative Requirements	$2,085,160	$1,272,208	$1,283,207	$1,294,755	$1,306,877
2	10% Admin Allowance, Fund Transfer	(338,313)	(966,610)	(966,610)	(966,610)	(966,610)
3	**Appropriation for Admin**	**1,746,847**	**305,598**	**316,597**	**328,145**	**340,267**
4	Total Enforcement Requirements	842,200	454,950	472,950	491,850	511,695
5	**Total Appropriation Required**	**$2,589,047***	**$760,548**	**$789,547**	**$819,995**	**$851,962**

*The initial first-year appropriation amount will be **$2,927,360** because costs will be incurred before revenues will be realized. (FY 03-04 line 2 will be required up-front to implement the program but may be repaid after revenues are generated.)

SOURCES OF DATA: Department of Environment and Natural Resources, Division of Marine Fisheries; Wildlife Resources Commission

TECHNICAL CONSIDERATIONS:

1) The provisions of the Coastal Recreational Fishing License become effective March 1, 2004. In order to give the public time to purchase a license prior to the license requirement becoming effective, this analysis assumed that license sales would begin January 1, 2004, two months prior to the March 1 effective date. However, the bill is silent as to the date that license sales can begin.

2) The Division of Marine Fisheries and Wildlife Resources Commission expenditures associated with the implementation of the Coastal Recreational Fishing License may change once planning and technical specifications are further detailed. The Information Resource Management Commission (IRMC) must approve the business case and technical interfaces

between the systems prior to funds being expended. The business case analysis will assist with cost estimates. Specifically, the programming and computer equipment costs may change once project specifications are mapped more thoroughly. As the project progresses from planning into implementation phases, the estimated transaction costs of $2 per license sold by an agent and $0.77 per license sold online may be changed due to the further development of the online licensing process.

3) The legislation authorizes up to 95% of the Marine Resources Restoration Fund balance to be allocated towards specific functions. The legislation is unclear as to how the excess funds are to be administered or held, although it could be assumed the Board of Trustees expenses are paid from the remaining 5%.

provided by:

Board of Commissioners
Bettie Bell, Chair
Doug Brady
Lynda Clay
Jack Dawsey
Raymond N. Muns
Jonathan Robinson, Vice-Chair
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CARTERET COUNTY BOARD OF COMMISSIONERS
RESOLUTION
OPPOSING SALT WATER RECREATIONAL FISHING LICENSE

WHEREAS, legislation requiring a salt water fishing license has been proposed and is currently being considered by the North Carolina General Assembly; and

WHEREAS, recreational salt water fishing is a proud tradition in Carteret County and is a leisure activity promoted and encouraged for all our citizens; and

WHEREAS, the fishing resources in North Carolina are held in public trust to be enjoyed by all the citizens of North Carolina, and

WHEREAS, Carteret County's tourism industry is substantially dependent on those who fish recreationally; and

WHEREAS, the proposed saltwater recreational fishing license would be a burden on local businesses and a detriment and added hardship for many of our visitors, and

WHEREAS, there is no biological benefit to implementing a salt water recreational fishing license and the regulation would serve only to create more bureaucracy.

NOW, THEREFORE BE IT RESOLVED that the Carteret County Board of Commissioners strongly opposes the creation and implementation of a salt water recreational fishing license in North Carolina.

ADOPTED, this the 2nd day of June, 2003.

Bettie H. Bell, Chair
Carteret County Board of Commissioners

Jeanette Deese, Deputy Clerk

CARTERET COUNTY
County Manager

Mary Ann Hinshaw

Courthouse Square
Beaufort, NC 28516

Bus: (252) 728-8450
Fax: (252) 728-2092

email: maryannh@co.carteret.nc.us

Re: HB 831

provided by:

Board of Commissioners
Bettie Bell, Chair
Doug Brady
Linda Clay
Jack Dawsey
Raymond N. Muns
Jonathan Robinson, Vice-Chair
David Wheatly

County Manager
Mary Ann Hinshaw
Tel: (252) 728-8450
Fax: (252) 728-2092
maryannh@co.carteret.nc.us
www.co.carteret.nc.us

CARTERET COUNTY BOARD OF COMMISSIONERS
RESOLUTION
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Bettie H. Bell, Chair
Carteret County Board of Commissioners

Jeanette Deese, Deputy Clerk

BROWN & WOOD

PONTIAC • CADILLAC • JEEP • GMC TRUCK

329 GREENVILLE BLVD. - GREENVILLE, NC 27834
(252) 355-6080

July 2, 2003

To: Mr. Chairmen, Distinguished Members of the House Finance Committee, Ladies and Gentlemen.

Subject: H831 Coastal Recreational Fishing License/Fund

I am Bill Brown, an automobile dealer and saltwater fisherman from Greenville, N. C. I am also past president of CCA-NC. I am here to endorse H831, the Coastal Recreational Fishing License/Fund both as a representative of the Coastal Conservation Association of North Carolina and as a saltwater fisherman.

I ask you to review the progress of the Department of Marine Fisheries in restoring our public trust resource of fisheries in North Carolina. **An updated recap of the Stock Status Reports that I took off the DMF website last week is prepared for your review-exhibit number 1.** The important fact is the downward trend of all categories of fisheries that are monitor by DMF. In 1997, the Fisheries Reform Act charged the Division of Marine Fisheries with the job of identifying, researching, and present to the Marine Fisheries Commission management plans for the Overfished and Concerned fish species. We are now 6 years into this new "proactive" approach to fisheries management. A grand total of 5 management plans have been implemented. At this rate, everyone in this room will be dead before the management plans are even started on the last fish species that is in the "Over fished" and "Concerned" stock status.

Distinguished Ladies and Gentlemen, I do not know how anyone can honestly say that the DMF has done a good job of managing our fishery stocks. But, DMF has not been given the funds or the personal to accomplish the job. It is very similar way the U. S. Congress has passed mandates to the states, but not provided the funding to implement the mandate.

According to MFC spokesperson, Nancy Fish, MFC estimated that two million (2,000,000) anglers will fish in North Carolina waters this year. According to her, that **represents a forty percent (40%) increase in the last four (4) years in the number of recreational anglers participating in the salt waters of North Carolina.**

If you review the stock status reports you will take note that most of the "Overfished" and "Concerned" fish stocks are much in demand by both the commercial and recreational fishermen. When you combine the greatly increased "efficiency" of the commercial fishing machines (boats) and the tremendous growth of the recreational anglers visiting the North Carolina coast, these fish stocks are going to face much greater pressures than ever before. **It is absolute critical that fishery management plans be implemented for the "Over fished" and "Concerned" species as soon as possible. IF NO ACTION IS TAKEN SOON, THEN YOU ARE GOING TO SEE SERIOUS ECONOMIC DAMAGE TO COMMERCIAL FISHING IN NORTH CAROLINA AND TO TOURISM IN NORTH CAROLINA due to the lack of fish.**

Sen. Basnight had voiced a concern about the ease of purchasing the license. There was mention of making this a "paperless" or very easy license to purchase. I want to call your attention to exhibit number 2. I am enclosing a list of "800" numbers of the other states that call be called 24 hours a day-365 days a year to purchase a hunting or fishing license. While North Carolina is not listed among these states, it certainly should be added. This is a true "paperless" license.

You distinguished ladies and gentlemen today face a budget crisis. Your preliminary budget calls for deep cuts in education and other budgets. **Recreational Fisherman stand before you today offer you $10,000,000 (with the important distinction the monies be dedicated to the uses as outlined in the bill) to operate the Division of Marine Fisheries. It will make the North Carolina Division of Marine Fisheries almost a self-funding department. If you combine the commercial ($2.5 million) and recreational license revenue (estimated $10 million based on 1.8 million anglers), then you are providing approximately 96% of the total state appropriated revenue necessary to operate the DMF. The balance of the $16,000,000 budget comes from federal funds, almost all of these coming from federal taxes on the recreational fishermen.**

The legislature created the Wildlife Resources Commission and provided is with the necessary licensing revenues to be a self-sufficient government department. It has used wildlife management plans that have been hugely successful. We do not have to reinvent the "wheel"; you have already created the model. Let's duplicate this success story.

This then frees up $10,000,000 that can be used to restore some of the cuts made in the education budget, for example.

Distinguished Ladies and Gentlemen of our Legislature, this is bill whose time has come. It is unique when a user group comes to the legislature as Recreational Fishermen are doing today and offer you $10,000,000 in dedicated funds to operate the Division of Marine Fisheries.

EXHIBIT #1

updated 6/18/03

NC DMF Stock Status Reports

1997 thru 2002

	Viable	Recovering	Concern	Overfished	Unknown
2002	28%	5%	28%	25%	15%
2001	25%	5%	30%	25%	15%
2000	22%	9%	21%	26%	22%
1999	26%	9%	15%	28%	22%
1998*	30%	12%	12%	15%	31%
1997*	31%	19%	11%	11%	29%

* NC DMF changed names on categories from Stressed Recovering to Recovering, Stressed Declining to Concern, and from Depressed to Overfished.

The most important fact is the downward trend of all categories. The Fisheries Reform Act of 1997 charged the DMF to implement Fisheries Management Plans to improve the status of our Public Trust Resource-Fishery Stocks.
But, one important part was omitted.
The Funding to carry out the charge!!!

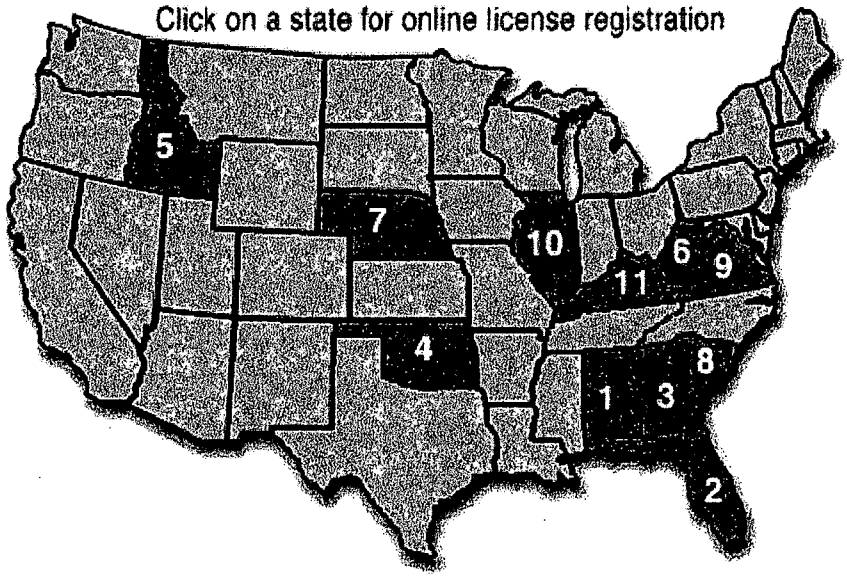
Source of data is taken from NCDMF website Stock Statue Reports

EXHIBIT #2

outdoorlicenses.com

Bass Pro Shops Outdoor World Tracker Marine OutdoorSite

1 Alabama
2 Florida
3 Georgia
4 Oklahoma
5 Idaho
6 West Virginia
7 Nebraska
8 South Carolina
9 Virginia
10 Illinois
11 Kentucky



On-Line or Phone Registration Available
24 Hour Phone Registration

EXHIBIT #2

outdoorlicenses.com

Bass Pro Shops Outdoor World Tracker Marine OutdoorSite

Bass Pro Shops Provides Instant 24 Hour Access to Hunting and Fishing Licenses

If you know any anglers or hunters who have hit the panic button in a frantic, pre-dawn search for a place to buy a freshwater or saltwater fishing or hunting license, tell them to relax. Now, both resident and non-resident anglers and hunters can conveniently purchase licenses via a convenient 24 hour per day, 365 days per year toll-free service before they head for those rich outdoor resources.

The toll-free numbers to call are as follows:

States Available	Fishing License	Hunting License	Controlled Hunting	HIP
Alabama	1-888-848-6887	1-888-848-6887		
Florida	1-888-347-4356	1-888-486-8356		
Georgia	1-888-748-6887	1-888-748-6887		
Oklahoma	1-800-223-3333	1-800-223-3333		
Idaho	1-800-554-8685	1-800-554-8685		
Illinois	1-888-673-7648	1-888-673-7648		
Kentucky	1-877-598-2401	1-877-598-2401		
Nebraska				1-888-403-2473
South Carolina	1-888-434-7472	1-888-434-7472		
Virginia	1-800-986-2628	1-800-986-2628		
West Virginia	1-800-992-4348	1-800-992-4348		

These numbers are accessible all over the United States and Canada. Sportsmen who call in will receive an instant, temporary license identification number which will represent the license they purchased. The temporary ID is effective immediately or for the date specified by the sportsman. The permanent license will be

EXHIBIT #2

mailed within 24 to 48 hours. There is a convenience fee charged for each license document. So, to minimize cost, sportsmen should order all the privileges they need when they call.

Master Card, Visa and Discover cards are accepted.

Click Here **to apply for the BassPro.com Newsletter.**

[Return to OutDoorLicenses.Com]

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2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 831 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A COASTAL RECREATIONAL FISHING LICENSE AND A MARINE RESOURCES RESTORATION FUND TO RESTORE, PROTECT, AND ENHANCE THE MARINE RESOURCES OF THE STATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the Committee Substitute Bill (# 2), ☐ ~~which changes the title,~~ unfavorable as to ~~(the original bill)~~ Committee Substitute Bill # 1. ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 10, 2003

The House Committee on Finance met on Thursday, July 10, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; Representatives Blackwood, Bordsen, Carney, Creech, Ellis, Glazier, Holliman, Jones, Lewis, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Cindy Avrette, Richard Bostic, Karen Cochrane-Brown, David Crotts, Martha Harris, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 8:37 am and recognized the three (3) pages serving during the meeting: (1) Austin Hester of Wake County, sponsored by Speaker Black; (2) Lindsay Norris of Onslow County, sponsored by Representative K. Williams; and (3) Rachel Zalph of Wake County, sponsored by Speaker Black.

The first matter of business called before the Committee was **SB 51 – AMEND FRANCHISE TAX LOOPHOLE** (see attachment 3), sponsored by Senator Clodfelter. Representative Howard was recognized to move that the Proposed Committee Substitute for SB 51 for adopted for the purposes of discussion. Her motion carried without objection. The Chair then recognized Representative Munford who spoke on behalf of the Senator. He reminded the Committee that the bill had originally been heard during the April 3, 2003 House Finance Meeting, but a report had not been issued due to some problems discovered in the bill after it was originally heard. Representative Munford explained that the PCS for the bill eliminates those concerns by deleting the "double attribution rules" contained in the original bill (see bill analysis in attachment 3 for further detail). Chairman Luebke, seeing no other discussion from the members, then recognized Representative Ellis who moved that SB 51 be given a favorable report as to the House PCS, and an unfavorable report as to the original bill. The Chair called the vote and the motion carried by consent.

Chairman Luebke called **SB 676 – REVISE THE BANKING LAWS OF NORTH CAROLINA** (see attachment 4), sponsored by Senator Hoyle, as the next bill to be considered by the Committee. Representative Hill, upon recognition of the Chair, moved that the PCS for SB 676 be adopted for the Committee's consideration. His motion carried by consent. Representative G. Allen was then recognized, in the stead of Senator Hoyle, to explain the bill. He deferred explanation to Ms. Karen Cochrane-Brown, Research Staff, who stated that the bill makes technical and clarifying changes to the banking laws of the State, many of which are intended to maintain

competitive equality among banks, regardless of whether they are chartered in North Carolina, another state, or the federal government. The bill also makes changes to the Mortgage Lending Act to enhance the Commissioner of Bank's enforcement authority and authorizes the Legislative Research Commission to study whether more comprehensive changes to the banking laws are warranted. Ms. Cochrane-Brown also explained that several sections of the original bill had been somewhat controversial and were deleted in the PCS, specifically those of critical concern to the real estate industry. Mr. Joe Smith, North Carolina Commissioner of Banks was then recognized by the Chair to address the Committee. He confirmed that the issues of controversy within the bill involving real estate had indeed been resolved and that a mutual compromise had been agreed upon. The Chair also recognized Ms. Stephanie Simpson with the North Carolina Association of Realtors who once again confirmed that all concerns on the bill had been properly addressed and further pledged her support of the bill. Seeing no further discussion, Chairman Luebke recognized Representative Holliman who moved that SB 676 be given a favorable report as to the House PCS and an unfavorable report as to the original bill. The motion carried by consent.

HB 1292 – TARGET INCENTIVES TO TRULY DISTRESSED AREAS (see attachment 5) was the next bill considered by the Committee. Chairman Luebke recognized Representative Holliman, the sponsor, to explain the bill. He explained that the purpose of the bill, as its' title suggests, is to change the formula for tier designation within the Bill Lee Act. Specifically, it requires that when ranking a county's economic distress, the Department of Commerce must use the unemployment rate for the most recent 12 months rather than the rate for the most recent three years. Representative Holliman explained that this would help target the aid and incentives available in the Bill Lee Act to those areas that have been hardest hit by the state's recent economic downturn (instead of the "chronically depressed" economic areas of the state). Chairman Luebke then recognized Representative Weiss who moved that HB 1292 be given a favorable report (seconded by Representative Howard). Representative Womble, however, was first recognized for several queries involving the "pockets of poverty" that are often present in areas that are otherwise economically stable. Martha Harris, Research Staff, informed Representative Womble that the bill did not directly address that issue. Mr. Don Hobart with the Department of Commerce was then recognized by the Chair to address the Committee briefly. He commended the members for their commitment to act on such an important issue, especially in these hard economic times. He also noted, similar to Representative Holliman, that this bill restructures the tiers of the Bill Lee Act so that they are based on more recent economic conditions rather than chronic problems. Representative Starnes was recognized following this and inquired with David Crotts, Fiscal Research Staff, as to how many of the state's counties would change/shift tiers due to this bill. Mr. Crotts explained that income per capita was only one factor used in determining tier designation and that some counties would move into a lower tier while others moved into a higher one. Representative Holliman was then recognized once again and reiterated the need for this bill. Seeing no further discussion, Chairman Luebke then called Representative Weiss' motion for a favorable report to a vote. The motion carried without objection.

Chairman Luebke welcomed Senator Hartsell, sponsor of **SB 97 – REVENUE LAWS TECHNICAL CHANGES** (see attachment 6), to the House Committee on Finance. Representative Bordsen was then recognized and moved that the Committee adopt the House PCS for SB 97 for the purposes of discussion. Her motion having been adopted by consent, the Chair recognized Senator Hartsell to explain the bill. The Senator explained that the bill makes technical and clarifying changes to the Revenue laws of the state and other related statutes as recommended by the Revenue Laws Study Commission. Mr. Richard Taylor, Executive Director of the North Carolina 911 Board, was also recognized and explained to the Committee that the bill also corrects a drafting error made in the budget, which inadvertently cut out the standard budgetary funds for the operation of 911 services. Mr. Andy Sabol, Director of the Sales and Use Tax Division of the North

operation of 911 services. Mr. Andy Sabol, Director of the Sales and Use Tax Division of the North Carolina Department of Revenue, noted too that the bill clarifies who exactly is required to pay the State's use tax. Finally, Linda Millsaps, Fiscal Research Staff, informed the Committee that none of the changes within the bill had an effect on the General Fund. Hearing no further discussion, Chairman Luebke then recognized Representative Glazier for a motion that the Committee offer a favorable report as to the House PCS for SB 97 and an unfavorable report as to the Senate Committee Substitute bill. The motion was adopted by a majority of the members.

Representative Pate was recognized next by Chairman Luebke to explain **HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX** (see attachment 7). Representative Gibson moved that the PCS for the bill be adopted for consideration and his motion carried without objection. Representative Pate then commenced in his explanation of the bill. He noted that the bill would modify the school admission requirements for children entering kindergarten by moving the cutoff date by which a child must turn five years old one month up from October 16th to September 16th. He further explained that by pushing this date back one month, the state would save the investment of the costs for approximately 11,000 children for one year's time. Representative Pate stated that these savings (around $40 million) could then be used to transit the school tax system from one of the "process refund" to" sales and use tax "exempt."

Chairman Luebke acted to interject during Representative Pate's explanation and then informed the members that due to a scheduled Democratic Caucus meeting, HB 1233 would be displaced until a later date and the meeting was promptly adjourned at 9:27 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 51 (and related materials)
4. Senate Bill 75 (and related materials)
5. House Bill 1292 (and related materials)
6. Senate Bill 97 (and related materials)
7. House Bill 1233 (and related materials)
8. House Bill 896 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

July 10, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 896 INCREASE COSMETIC ART FEES *Rep. Gibson*

HB 1233 EFFICIENCY: SCHOOL BOARD SALES TAX *Rep. Pate*

HB 1292 TARGET INCENTIVES TO TRULY DISTRESSED AREAS
Reps. Holliman and Luebke

SB 51 CLOSE FRANCHISE TAX LOOPHOLE *Sen. Clodfelter*

SB 97 REVENUE LAWS TECHNICAL CHANGES *Sen. Hartsell*

SB 676 REVISE THE BANKING LAWS OF NORTH CAROLINA
Sen. Hoyle

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, July 09, 2003 11:55 AM
Subject: NOTICE House Finance Committee 7-10-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 10, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX – Rep. Pate

HB 1292 – TARGET INCENTIVES TO TRULY DISTRESSED AREAS – Reps. Holliman and Luebke

SB 51 – CLOSE FRANCHISE TAX LOOPHOLE – Sen. Clodfelter

SB 97 – REVENUE LAWS TECHNICAL CHANGES – Sen. Hartsell

SB 676 – REVISE THE BANKING LAWS OF NORTH CAROLINA – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **12:00 NOON** on **July 9, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kinney Bloomer	NCAE — teacher (Penny Rd Elem)
Paul Stock	NC Bankers Assn.
Leanne Winner	NCSBA
[illegible]	Public School Forum
Michael Houser	N.CAE
Richard Taylor	State of NC/ITS Wireless 911 Board
Richard Bradford	N.C. Dept of Justice / Wireless 911 Bd
Ernestine Durham	Executive Intern, FRD / Rep. Gibson
[illegible]	GSIC
Evelyn Hawthorne	EHGR
Steve Woodson	NCFB

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carolyn McKinney	NCAE
Jim Dyer	SBE
Katherine Joyce	NCASA
Danny Liddy	ITS
Philip Penry	NC NENA
DEBBY HINES	NC NENA
Robby Robinson	NC NENA
RCraig Whittington	NC NENA
Lee Williams	NC St. Bd. of Cosmetology
Doug Van Essen	NC St. Bd of Cosmetic Art
Lennie Collins	DOR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Zinch	NCDOR
Andy Sabol	NCDOR
Mark Deason	Capitol Group
Tim Minor	NC Home Builders
Rick Zechini	NC Assoc of REALTORS (R)
Marcus Davis	NCAE
Jim Blackburn	NC Assoc. of County Commissioners
James Ramquist	NCATA
Fran Preston	NCRMA
Sam Harrison	WCPSS
[illegible]	Gov office

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McMillan	MF&S
Andy Ellen	NCRLMA
Fran Preston	NCRLMA
DAVID BARNES	Poyner + Spruill LLP
DON HOBART	DOC
DAVID ROSSI	ITS
Julie Allen	NC Statewide
Jessica Dandy	Covenant w/ NC's children
Steve Wall	Conservation Council
Randy Fraser	TWC
Hal Miller	NCACCT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	Alley Associates
Stephanie Simpson	NC Assn of RAHLTORS
Lucius Pullen	AHORNEY
Tim Crowley	UNCTU
John Bowdish	Astrazeneca
John McHugh	Gov Office
Zeb Alley	Alley Associates
Molly Ryan	NCSBA
ELLIS HANKINS	NCLM
Pam Killian	Moore & Van Allen
Andy Romeart	NCLM

VISITOR REGISTRATION SHEET

House Committee on Finance — July 10, 2003

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Katherine Davis	ElectriCities
Roz Savitt	NC CC Coalition

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 51
PROPOSED HOUSE COMMITTEE SUBSTITUTE S51-CSLCx-46 [v.4]

6/4/2003 11:44:02 AM

Short Title: Amend Franchise Tax Loophole. (Public)

Sponsors:

Referred to:

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES AND TO REMOVE PROVISIONS THAT COULD RESULT IN FRANCHISE TAXES ON UNRELATED LIMITED LIABILITY COMPANIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-114.1 reads as rewritten:

"**§ 105-114.1. Limited liability companies.**

(a) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

(1) Affiliated corporations. – Two or more corporations that are includible in the same affiliated group as defined in section 1504 of the Code.

(1b) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(2) Owned indirectly. – A person owns indirectly a percentage of the assets of a limited liability company if the limited liability company's governing law provides that ~~seventy percent (70%) or more~~ the percentage of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.

(3) ~~Principal corporation.~~Qualified limited liability company – A ~~corporation that is a member of a~~ limited liability company that is not treated as a partnership for federal income tax purposes. ~~or has a related member that is a member of a limited liability company.~~

(b) Controlled Companies. – ~~If~~ Except as provided in subsection (e) of this section, if a corporation owns indirectly, or two or more affiliated corporations ~~a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation~~ together own

~~indirectly~~ indirectly, seventy percent (70%) or more of ~~the~~ a qualified limited liability company's assets, then the following provisions apply:

(1) A percentage of the qualified limited liability company's income, assets, liabilities, and equity is attributed to ~~that principal~~ each corporation and must be included in the ~~principal~~ corporation's computation of tax under this Article.

(2) ~~The principal~~ Each corporation's investment in the qualified limited liability company is not included in the ~~principal~~ corporation's computation of tax under this Article.

(3) The ~~attributable~~ percentage attributable under subdivision (1) of this subsection is equal to the percentage of the qualified limited liability company's assets owned indirectly by ~~the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations.~~ each corporation.

(b1) Attribution. – For the purpose of applying this section, the following rules apply:

(1) Business trusts. – The direct or indirect ownership by a business trust of any qualified limited liability company assets is attributed to the owners of the beneficial interests in the business trust, according to their interests in the trust, and the trust itself is disregarded as a separate entity.

(2) Partnerships. – The direct or indirect ownership by a partnership of any qualified limited liability company assets is attributed to the partners according to their interests in the partnership, and the partnership itself is disregarded as a separate entity.

(3) Related entities. – The direct or indirect ownership by a non-corporate related entity of a corporation of any qualified limited liability company assets is attributed to the corporation in proportion to the actual aggregate percentage of stock ownership that establishes that the entity is a related entity of the corporation, and the related entity itself is disregarded as a separate entity.

(4) No double taxation. – If the same ownership interest is attributed to more than one corporation under this subsection, with the result that the same income, assets, liabilities, or equity must be included in more than one corporation's computation of tax under this Article, those corporations may proportionally reduce the amount included to the extent necessary to avoid double taxation, as prescribed by the Secretary.

(c) Other Companies. – In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a principal corporation under this Article.

(d) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7).

(e) Exception. – If a percentage of a qualified limited liability company's assets would otherwise be considered indirectly owned by one or more corporations as a result of attribution from a related entity pursuant to subdivision (b1)(3) of this section, the assets are not considered indirectly owned by the corporation if the corporation can demonstrate that no assets owned by the qualified limited liability company, and no predecessor assets of any assets owned by the qualified limited liability company, have ever been used by the corporation, used in connection with the corporation's business, or owned by the corporation."

SECTION 2. G.S. 105-130.7A(b)(4) reads as rewritten:

"(4) Related entity. – Any of the following:

a. A stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the Code, if the stockholder and the members of the stockholder's family own in the aggregate at least eighty percent (80%) of the value of the taxpayer's outstanding stock.

b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty percent (50%) of the value of the taxpayer's outstanding stock.~~are component members with respect to the taxpayer.~~

c. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Code, if the taxpayer owns at least eighty percent (80%) of the value of the corporation's outstanding stock."

SECTION 3. This act becomes effective January 1, 2004, and applies to taxes due on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 51

Short Title:	Close Franchise Tax Loophole.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-114.1 reads as rewritten:

"**§ 105-114.1. Limited liability companies.**

(a) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

(1) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(2) Owned indirectly. – A person owns indirectly assets of a limited liability company if the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.

(3) Principal corporation. – A corporation that is a member of a limited liability company or has a related member that is a member of a limited liability company.

(b) Controlled Companies. – If a corporation or a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation together own indirectly seventy percent (70%) or more of the limited liability company's assets, then the following provisions apply:

(1) A percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that principal corporation and must be included in the principal corporation's computation of tax under this Article.

(2) The principal corporation's investment in the limited liability company is not included in the principal corporation's computation of tax under this Article.

(3) The attributable percentage is equal to the percentage of the limited liability company's assets owned indirectly by the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations.

(b1) Attribution. – For the purpose of applying this section, any membership interest a business trust holds in a limited liability company is attributed to the owners of the beneficial interests in the business trust, according to their interests in the trust, and the trust itself is disregarded as a separate entity.

(c) Other Companies. – In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a principal corporation under this Article.

(d) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 2. This act becomes effective January 1, 2004, and applies to taxes due on or after that date.

SENATE BILL 51 (PCS): Amend Franchise Tax Loophole

BILL ANALYSIS

Committee: House Finance
Date: July 10, 2003
Version: PCS

Introduced by: Sen. Clodfelter
Summary by: Martha H. Harris
Staff Attorney

SUMMARY: Senate Bill 51 makes the following changes to 2001-2002 legislation that established attribution rules intended to close a loophole that allows corporations to escape franchise tax by transferring assets to a controlled limited liability company (LLC). The changes would become effective for taxes due on or after January 1, 2004:

- ***Limits attribution rules to assets owned by LLCs that are not treated as partnerships for federal income tax purposes. No attribution is required if the LLC is treated as a partnership (page 1, lines 21 – 24).***
- ***Attributes only a proportion of a related entity's LLC assets to the corporation, rather than all of the assets(page 1, line 15, through page 2, line 2, and page 2, lines 27 – 32).***
- ***Simplifies and corrects the definition of indirect ownership, which is the test for determining whether an LLC's assets are attributable to a corporation (page 1, lines 15 – 20).***
- ***Removes attribution for "related members" that are not related entities, thereby excluding relationships of less than 50% (was less than 20%) stock ownership between parties (page 1, lines 24 and 26 – 28).***
- ***Provides for attribution of assets owned through business trusts, and clarifies attribution for assets owned by partnerships and related entities (page 2, lines 18 – 32).***
- ***Corrects definition of related entity (page 3, Section 2) and removes membership in the LLC as an additional condition for attribution (page 1, lines 22 – 24).***
- ***Clarifies that an adjustment is allowed to avoid any potential double taxation (page 2, lines 33-39).***
- ***Creates an exception to the attribution requirement for related parties if the corporation can demonstrate that the LLC does not own any assets that were previously owned or used by the corporation (page 3, lines 4 - 11).***

CURRENT LAW: Under North Carolina law, limited liability companies[1] (LLCs) are not subject to the franchise tax. In 1997, the North Carolina law regarding LLCs was changed to allow for a single-member LLC. This change had the unintended

[1] A limited liability company is a business entity that is essentially a hybrid of a partnership and a corporation. Like a corporation, an LLC limits the liability of its owners. Like a partnership, an LLC is usually not subject to entity-level taxation.

consequence of allowing a corporation subject to North Carolina franchise tax to set up an LLC and transfer assets to the LLC in a tax-free transfer. The assets then held by the LLC would not be subject to the franchise tax. Thus, the corporation could avoid a significant portion of its franchise tax liability by transferring assets into a wholly owned LLC subsidiary without affecting its income tax liability.

In 2001, the General Assembly enacted S.L. 2001-327 to close this loophole. The 2001 legislation tried to address this problem by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned[2] at least 70% of the LLC's assets. Unfortunately, tax planners found that the tax could still be avoided by using an additional paper transaction. If the corporation interposed a partnership between itself and the LLC holding its assets, then technically the 2001 legislation would not apply and the assets would continue to escape franchise tax.

In 2002, the General Assembly enacted S.L. 2002-126 to tighten the 2001 legislation. The 2002 legislation included "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. "Related members" is a defined term and includes shareholders, partnerships, etc. If a corporation and its related members together indirectly own at least 70% of an LLC's assets, the 2002 legislation provides that each corporation pays franchise tax on its relative share of the LLC's assets. The relative share is calculated after excluding those related members who are not corporations. Thus, the entire assets are subject to franchise tax, with the tax burden shared proportionally by the corporations that are involved in the ownership scheme.

BILL ANALYSIS: Senate Bill 51 recognizes that there are other paper transactions that can be interposed between the corporation and the LLC in order to circumvent the applicability of the franchise tax to the assets of the corporation. One such entity is the business trust. A business trust is not considered a related member, as that term is defined in G.S. 105-130.7A, because it would be the corporation, not the shareholders, who forms the trust. Senate Bill 51 provides that for purposes of determining the ownership of an LLC's assets, any membership interest of a business trust would be attributed to the owners of the beneficial interest in the business trust, according to their interests in the trust, and the trust itself would be disregarded as a separate entity.

The proposed committee substitute for Senate Bill 51 also makes a number of changes to correct the law and to limit its application in situations where there is more risk that it will affect LLCs that were not created for tax avoidance purposes. Removing the attributions rules for related members that are not related entities means that the law will not affect situations where the relationships involve less than 50% stock ownership. Correcting the definition of indirect ownership and the formula for attribution also avoids the current law's potential effect of attributing all assets owned through an only partially owned related entity.

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[2] Indirect ownership of an LLC's assets is determined based on who is entitled to receive those assets upon dissolution of the LLC.

Under the proposed committee substitute, the attribution rules are limited to assets owned by LLCs that are not treated as partnerships under federal law. Under federal income tax law, an LLC can be treated as a corporation or a partnership, or it can be disregarded. Because franchise tax does not apply to assets owned by partnerships, the bill excludes from attribution assets owned by LLCs treated as partnerships.

The proposed committee substitute also specifically provides that an adjustment is allowed to correct any situation that may arise in which the same assets might be doubly attributed to different corporations for tax purposes. It also provides that no attribution is required from an LLC if the corporation can demonstrate that the LLC does not own assets previously owned or used by the corporation. This change will protect from attribution the situation where there has not been a shifting of assets from the corporation to the LLC.

BACKGROUND: The State franchise tax is among the oldest taxes in North Carolina. It is a tax on S Corporations and C Corporations for the privilege of doing business in the State. The tax rate is $1.50 per $1,000 of value of the greatest of (1) apportioned net book value of the corporation; (2) 55% of appraised value of real and tangible personal property in N.C.; or (3) total actual investment in tangible property in N.C.

The Department of Revenue, in its reports to the Revenue Laws Study Commission, noted that there exists a general franchise tax inequity because the imposition of the tax depends on the type of entity. The Governor's Commission to Modernize State Finances recommended that the State impose the franchise tax on all types of business entities, not just on traditional corporations. The Commission recommended that the revenues generated from this base broadening could be used to establish a minimum net worth threshold for payment of the tax.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: PCS for SB 51-Close Franchise Tax Loophole

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

PRINCIPAL DEPARTMENTS AFFECTED: The franchise tax is collected by the Department of Revenue. The enactment of the bill should not affect the budget requirements of the Department.

EFFECTIVE DATE: Applies to taxes due on or after January 1, 2004.

ISSUE BACKGROUND: Under North Carolina law, limited liability companies (LLCs) are not subject to the franchise tax. In 1997 single-member LLC'S were authorized in North Carolina. This allowed a corporation to set up an LLC and transfer assets to the LLC in a tax-free transfer. The assets then held by the LLC would not be subject to the franchise tax.

The 2001 General Assembly attempted to correct this situation by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned at least 70% of the LLC's assets. However, tax planners found that the tax could still be avoided by using an additional paper transaction. For example, if the corporation interposed a partnership between itself and the LLC holding its assets, the assets would continue to escape franchise tax.

In 2002, the General Assembly addressed this issue by including "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. If a corporation and its related members together indirectly own at least 70% of an LLC's assets, each corporation would pay the franchise tax on its relative share of the LLC's assets.

Since that time it has been discovered that there are other paper transactions that can be interposed between the corporation and the LLC to avoid the franchise tax. One example is a business trust. The tax does not apply in this situation because the trust is not considered a "related member".

SUMMARY OF BILL: Provides that for purposes of determining the ownership of an LLC's assets, any membership interest of a business trust would be attributed to the owners of the beneficial interest in the business trust, according to their interests in the trust, and the trust itself would be disregarded as a separate entity.

The bill also makes a number of technical changes to correct the law and to limit its application in situations where there is the strong possibility that it will affect LLCs that were not created for tax avoidance purposes

ASSUMPTIONS AND METHODOLOGY: A discussion with the Department of Revenue indicated that there is no data available on this issue.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 51 A BILL TO BE ENTITLED AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill ~~(# ———)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill # ———), (and recommendation that the committee substitute bill # ———) be re-referred to the Committee on ———.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 676
Finance Committee Substitute Adopted 5/13/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S676-CSRO-30 [v.2]

7/9/2003 5:23:01 PM

Short Title: Revise the Banking Laws of North Carolina. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-1(3a) reads as rewritten:

"(3a) Limited Service Facility. – The term "limited service facility" means ~~an office of a bank~~ a staffed physical location open to the public in this State in which ~~deposits are received, monies are paid, or other duties and functions of a teller are performed. Loan applications shall be taken in a limited service facility but notes may not be executed nor loan proceeds disbursed in a limited service facility.~~ a bank established under the laws of this State or a bank or other depository institution established under the laws of any other state conducts any activity of a "branch" set forth in subdivision (1a) of this section, but which is not considered a branch by virtue of the fact that the bank does not engage in all activities of a branch at the location. A location is a limited service facility of a bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the bank or in the bank's name; or (ii) is obligated to sell or otherwise transfer to the bank all or a substantial portion of the loan or deposit production of that location."

SECTION 2. G.S. 53-17.2(e) reads as rewritten:

"(e) In the absence of the ~~promulgation~~ adoption of rules under subsection (d), the conditions to be met for approval of the application for conversion should include the following:

(1) Condition. The applicant's general condition must reflect adequate capital, liquidity, reserves, earnings, and asset composition necessary for safe and sound operation of the resulting bank.

(2) Management. The management and the board of directors must be capable of supervising a sound banking operation and overseeing the changes that must be accomplished in the conversion from an association or savings bank to a bank.

(3) Public Convenience. The ~~Commission must determine that the~~ conversion will have a positive impact on the convenience of the public and will not substantially reduce the services available to the public in the market area.

(4) Transition. Within a reasonable time after the effective date of the conversion, the resulting bank must divest itself of all assets and liabilities that do not conform to State banking law or rules. The length of this transition period shall be determined by the Commissioner and shall be specified when the application for conversion is approved.

In evaluating each of these conditions, the ~~Commission~~ Commissioner shall consider a comparison of the relevant financial ratios of the applicant with the average ratios of North Carolina banks of similar asset size. The ~~Commission may~~ Commissioner shall not approve a conversion where the applicant presents an undue supervisory concern or has not been operated in a safe and sound manner."

SECTION 3. G.S. 53-17.2(f) reads as rewritten:

"(f) If the ~~State Banking Commission~~ Commissioner approves the plan of conversion, then the association or savings bank shall submit the plan to the stockholders or members as provided in subsection (g). After approval of the plan of conversion, the Commissioner of Banks shall supervise and monitor the conversion process and shall ensure that the conversion is conducted pursuant to law and the association's or savings bank's approved plan of conversion."

SECTION 4. G.S. 53-48 reads as rewritten:

"**§ 53-48. Limitation of loans.**

(a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed the greater of fifteen percent (15%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks in this State or by statute or regulation of the Comptroller of the Currency.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the ~~funds~~ loan or extension of credit outstanding shall not exceed the greater of ten percent (10%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks by statute or

regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subsection (a) ~~above.~~of this section.

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term "person" shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

SECTION 5. G.S. 53-62 reads as rewritten:

"**§ 53-62. Establishment of branches; limited service facilities; and off-premises customer-bank communications terminals.**

(a) The word "capital" as used in this section means capital stock and unimpaired surplus.

(b) ~~A bank doing business under this Chapter may establish branches or limited service facilities within this State after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks, in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find (i) that the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and (ii) that the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks~~

~~in said community.~~ A bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch or limited service facility; or

(2) Convert an existing limited service facility to a branch.

The application for approval to establish or convert a branch or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors, including the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository institutions in the community.

(c) (1) A branch or limited service facility of a bank shall be operated ~~as a branch or office of and under the name of the bank, and~~ under the control and direction of the board of directors and executive officers of the ~~bank.~~ bank and under the name of the bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner of Banks finds that the name will not result in confusion among customers of the bank or among the general public. The board of directors of the bank shall elect such officers as may be required to properly conduct the business of any branch or limited service facility.

(2) The Commissioner of Banks shall not authorize the establishment or conversion of a branch or limited service facility until he is satisfied that the applicant bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks, in his discretion, may require. In determining such ratio the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the bank's projected growth, (ii) the bank's earnings history and projected earnings, (iii) the quality of the bank's assets, (iv) compliance with the fixed asset limitation contained in ~~G.S. 53-43(3),~~ subsection (f) of this section and (v) the business experience and reputation of bank management.

~~(3) The Commissioner of Banks may, on written application by a bank, in his discretion authorize the bank to establish a limited service facility after considering the criteria and making the findings required in subsection (b).~~

(d) ~~A limited service facility, upon written request to the Commissioner of Banks, and after meeting the requirements of subsection (c) may convert to a branch. If branch status is granted then the branch shall be subject to all of the conditions and requirements of that type of banking office.~~

Upon 30 days written notice to the Commissioner of Banks, a bank may discontinue any limited service facility ~~operation; provided, however, if a limited service facility has within five years preceding the proposed closing date been a branch of any bank, it shall comply with the requirements of subsection (e) below before closing.~~ operation.

(d1) Subject to such rules and regulations as may be prescribed by the State Banking Commission with regard to their use, maintenance and supervision, any bank may establish off the premises of any principal office, branch or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a bank or other nonbank terminal; and the establishment and use of such a device or machine shall not be deemed a branch or limited service facility, and the capital requirements and standards for approval of a branch or limited service facility, all as set forth in subsections (b) and (c) of this section, shall not be applicable to the establishment of any such off-premises terminal device or machine.

(e) A bank may, upon resolution by the board of directors, discontinue a branch office subject to the following:

(1) The bank shall notify the Commissioner in writing of its intent to close a branch not later than 90 days prior to the proposed closing date. Such notice shall include a detailed statement of the reasons for the decision to close a branch and statistical or other information in support of such reasons.

(2) The bank shall provide a notice of its intent to close a branch to its customers. Such notice shall be posted in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, and shall either be included in at least one of any regular account statements mailed to customers of such branch, or in a separate mailing to such customers. The later notice shall be given at least 90 days prior to the proposed closing date.

No branch shall be closed until approved by the Commissioner of Banks, provided, however, the consolidation of two or more branches into a single location in the same vicinity shall not be considered a closure subject to the provisions of this subsection.

(f) Any action taken by the Commissioner of Banks pursuant to this section shall be subject to review by the State Banking Commission which shall have the authority to

approve, modify or disapprove any action taken or recommended by the Commissioner of Banks."

SECTION 6. G.S. 53-67 reads as rewritten:

"**§ 53-67. Banks controlled by boards of directors.**

The corporate powers, business, and property of banks doing business under this Chapter shall be exercised, conducted, and controlled by its board of directors, which shall meet at least quarterly. Such board shall consist of not less than five directors, to be chosen by the stockholders, and shall hold office for the term for which they are elected, and until their successors are elected and qualified. The annual meeting of stockholders for the election of directors shall be held at such time as may be designated by the charter or the bylaws of the bank but shall be held not later than ~~the thirtieth day of June in each year.~~ June 30 each year; provided, however, that any bank which has been open for business for fewer than 12 months as of June 30 of the current year shall hold its first annual meeting by not later than June 30 of the following year. In addition to the foregoing powers relating to the fixing of the number and the election of directors, the stockholders of a bank, at any stockholders' meeting, special or annual, may authorize not more than two additional directorships which may be left unfilled and to be filled in the discretion of the directors of the institution during the interval between such stockholders' meetings. Aside from the specific provisions of this section, the number, election, term and classification of the directors of banks doing business under this Chapter shall be governed by the provisions of the North Carolina Business Corporation Act."

SECTION 7. G.S. 53-99(b)(7b) reads as rewritten:

"(7b) Records of applications, ~~examinations~~ examinations, and investigations of ~~registrants~~ applicants, licensees, and exempt persons under the Mortgage Lending Act, Article 19A of this Chapter;".

SECTION 8. G.S. 53-115 reads as rewritten:

"**§ 53-115. State Banking Commission to ~~make rules and regulations.~~ adopt rules.**

(a) The State Banking Commission is hereby authorized, empowered and directed to make all necessary rules ~~and regulations, and to give all necessary instructions with respect to such actions of banking corporations which the Commissioner of Banks may authorize, permit and/or direct and require to be conducted under the provisions of G.S. 53-77, 53-114, 53-115, and 53-116. And it shall be the duty of all such banking corporations and their officers, agents and employees, to comply fully with any and all such rules, regulations and instructions, established and promulgated by the State Banking Commission with respect to such banking corporations under the terms of G.S. 53-77, 53-114, 53-115, and 53-116; and such orders, rules, and regulations shall have the same force and effect as rules, regulations and instructions promulgated under the existing banking laws.~~ with respect to the establishment, operation, conduct, and termination of any and all activities and businesses that are subject to licensing, regulation, supervision, or examination by the Commissioner of Banks under this Chapter.

(b) The rule-making authority conferred on the State Banking Commission by this section shall be in addition to and not in derogation of any specific rule-making authority by any other provision of this Chapter."

SECTION 9. G.S. 53-160 reads as rewritten:

"**§ 53-160. License to do business.**

Before any such bank or trust company is authorized to act in any fiduciary capacity without bond, it must be licensed by the Commissioner of Banks of the State. For such license the ~~licensee~~ licensee, for the purpose of defraying necessary expenses of the Commissioner of Banks and the Commissioner's agents in supervising and examining the licensee, shall pay to the ~~State Banking Commission an annual license fee of two hundred dollars ($200.00), which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks and trust companies acting in a fiduciary capacity, insofar as it may be necessary, and the surplus, if any, shall remain in the State treasury for the use of the general fund of the State:~~ Commissioner of Banks an annual license fee not to exceed five hundred dollars ($500.00) as required by rule of the State Banking Commission. ~~Provided, however, that a~~ A national bank which has been granted trust powers by the Comptroller of the Currency or his duly authorized agent shall be annually licensed as required in this section and shall be granted a certificate of solvency which will meet the provisions of G.S. 53-162 without examination by the Commissioner of Banks as required in G.S. 53-161."

SECTION 10. G.S. 53-208.12 reads as rewritten:

"**§ 53-208.12. Quarterly reports.**

A licensee shall file for each calendar quarter, no later than 60 days after the quarter has ended, a report which contains the total number of authorized delegates in this State. In addition, a licensee shall promptly provide any additional information regarding any or all of its current and prior authorized delegates requested by the Commissioner."

SECTION 11. G.S. 53-243.02(c) reads as rewritten:

"(c) The license of a loan officer is not effective during any period when that person is not employed by a mortgage broker or mortgage banker licensed under this Article. The license of an exclusive mortgage broker is not effective during any period when that person is not authorized to act as a single licensee or exempt person pursuant to G.S. 53-243.05(c)(1a).

When a loan officer ceases to be employed by a mortgage broker or mortgage banker licensed under this Article, the loan officer and the mortgage broker or mortgage banker licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. When the authority of an exclusive mortgage broker to act on behalf of the principal licensee or exempt person identified in G.S. 53-243.05(c)(1a) has been terminated, the exclusive mortgage broker and the licensee or exempt person for whom the exclusive mortgage broker is an agent shall promptly notify the Commissioner in writing. The mortgage broker, mortgage banker, or exempt person's notice shall include a statement of the specific reason or reasons for, as applicable, the termination of the loan officer's employment or exclusive mortgage broker's authority.

A loan officer shall not be employed simultaneously by more than one mortgage broker or mortgage banker licensed under this Article."

SECTION 12. G.S. 53-243.05(a)(6) reads as rewritten:

"(6) The applicant's consent to a federal and State criminal history record check and a set of the applicant's fingerprints in a form acceptable to the Commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each individual who has control of the applicant or who is the managing principal or a branch manager shall consent to a federal and State criminal history record check and submit a set of that individual's fingerprints pursuant to this subdivision. Refusal to consent to a criminal history record check ~~may constitute~~ constitutes grounds for the Commissioner to deny licensure to the ~~applicant.~~applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager."

SECTION 13. G.S. 53-243.06(b1) reads as rewritten:

"(b1) When required by the Commissioner, ~~the licensee~~ each individual described in G.S. 53-245.05(a)(6) shall furnish to the Commissioner ~~the licensee's~~ his or her consent to a criminal history record check and a set of the ~~licensee's~~ his or her fingerprints in a form acceptable to the Commissioner. Refusal to consent to a criminal history record check may constitute grounds for the Commissioner to deny renewal of ~~licensure to the licensee.~~the license of the person as well as the license of any other person by which he or she is employed, over which he or she has control, or as to which he or she is the current or proposed managing principal or a current or proposed branch manager."

SECTION 14. G.S. 53-243.11 is amended by adding a new subdivision to read:

"(12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605 and § 2609, and regulations adopted thereunder by the Secretary of the Department of Housing and Urban Development."

SECTION 15. G.S. 53-243.12(a)(2) reads as rewritten:

"(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, managing ~~broker,~~ principal, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:

a. Has filed an application for license that, as of its effective date or as of any date after filing, contained any statement that, in

light of the circumstances under which it was made, is false or misleading with respect to any material fact.

b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.

c. Has been convicted of any felony, or, within the past 10 years, has been convicted of any misdemeanor involving mortgage lending or any aspect of the mortgage lending business, or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage lending business.

e. Is the subject of an order of the Commissioner denying, suspending, or revoking that person's license as a mortgage broker or mortgage banker.

f. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage or mortgage banking industry denying or revoking that person's license as a mortgage broker or mortgage banking industry or denying or revoking that person's license as a mortgage broker or mortgage banker.

g. Does not meet the qualifications or the financial responsibility, character, or general fitness requirements under G.S. 53-243.05 or any bond or capital requirements under this Article.

h. Has been the executive officer or controlling shareholder or owned a controlling interest in any mortgage broker or mortgage banker who has been subject to an order or injunction described in sub-subdivision d., e., or f. of this subdivision.

i. Has failed to pay the proper filing or renewal fee under this Article. However, the Commissioner may enter only a denial order under this sub-subdivision, and the Commissioner shall vacate the order when the deficiency has been corrected."

SECTION 16. G.S. 53-243.12(g) reads as rewritten:

"(g) If the Commissioner has reasonable grounds to believe that a licensee or other person has violated the provisions of this Article or that facts exist that would be the basis for an order against a licensee or other person, the Commissioner may at any time, either personally or by a person duly designated by the Commissioner, investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of any licensee or other person relating to the complaint or matter under investigation. The Commissioner may require any licensee or other person to submit a consent to a criminal history record check and a set of that person's fingerprints in a form acceptable to the Commissioner in connection with any examination or

investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of this investigation or examination shall be charged against the licensee."

SECTION 17. G.S. 53-243.12(k) reads as rewritten:

"(k) If the Commissioner finds that the managing principal, branch manager, or loan officer of a licensee had knowledge of or reasonably should have had knowledge of, or participated in, any activity that results in the entry of an order under this section suspending or withdrawing the license of a licensee, the Commissioner may prohibit the branch manager, managing ~~broker~~ principal, or loan officer from serving as a branch manager, managing ~~broker~~ principal, or loan officer for any period of time the Commissioner deems necessary."

SECTION 18. G.S. 53-243.16 reads as rewritten:

"**§ 53-243.16. Criminal history record checks.**

(a) The Department of Justice may provide a criminal record check to the Commissioner for ~~a~~ any person who has applied for or holds a mortgage banker, mortgage broker, exclusive mortgage broker, or loan officer license through the Commissioner under this Article.

(b) In addition, if a person described in subsection (a) of this section is a corporation, partnership, limited liability company, association, or trust, the Department of Justice may provide a criminal record check to the Commissioner for any person who has control of that person, or who is the managing principal or a branch manager of that person.

(c) The Commissioner shall provide to the Department of Justice, along with the request, the fingerprints of the ~~applicant,~~ person, any additional information required by the Department of Justice, and a form signed by the ~~applicant~~ person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The ~~applicant's~~ person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Commissioner shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge a fee for each ~~applicant~~ person for conducting the checks of criminal history records authorized by this section."

SECTION 19. G.S. 53-257(6) reads as rewritten:

"(6) Reverse mortgage loan or loan. – A loan for a definite or indefinite term (i) secured by a first mortgage or first deed of trust on the principal residence of the ~~mortgagor,~~ mortgagor located in North Carolina, (ii) the proceeds of which are disbursed to the mortgagor in one or more lump sums, or in equal or unequal installments, either directly by the lender or the lender's agent, and (iii) that requires no

repayment until a future time, upon the earliest occurrence of one or more events specified in the reverse mortgage loan contract."

SECTION 20. G.S. 53-258 reads as rewritten:

"**§ 53-258. Authority and procedures governing reverse mortgage loans.**

(a) ~~No~~ Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized lender by the ~~Commissioner, unless the lender is the North Carolina Housing Finance Agency, or is a bank, savings institution, or credit union authorized to do business under the laws of this State or authorized to do business under the laws of the United States and chartered to do business in this State.~~Commissioner.

(b) An application for authorization to make reverse mortgage loans shall be in writing to the Commissioner and in the form prescribed by the Commissioner. The application shall contain the name and complete business address or addresses of the applicant. The application shall also include affirmation of financial solvency and all capitalization requirements that are required by the Commissioner. The application shall be accompanied by a nonrefundable fee, payable to the Commissioner, of five hundred dollars ($500.00).

(b1) Each of the following lenders shall be considered authorized to engage in the business of making reverse mortgage loans without being required to apply pursuant to subsection (b) of this section and may represent to the public that it is so authorized:

(1) The North Carolina Housing Finance Agency.

(2) A bank, savings institution, or credit union formed under the laws of this or any other state or of the United States.

(3) A wholly owned subsidiary of an entity described in subdivision (2) of this subsection.

Each lender listed in this subsection may, upon written request to the Commissioner of Banks, obtain written confirmation of its authority to engage in the business of making reverse mortgage loans. In the case of lenders listed in subdivisions (2) and (3) of this subsection, the request shall be accompanied by the fee set forth in subsection (d) of this section.

~~(c) The North Carolina Housing Finance Agency, and any bank, savings institution, or credit union that is not required to obtain authorization to make reverse mortgage loans under subsection (a) of this section, shall, prior to making any reverse mortgage loan, notify the Commissioner of its intent to make reverse mortgage loans. This notification shall be made on a form prescribed by the Commissioner and shall contain all information required by the Commissioner.~~

(d) The Commissioner shall, upon determination that ~~a lender~~ an applicant should be authorized to make reverse mortgage loans, issue notice of this authority to the lender. The authority to issue reverse mortgage loans is valid for the period of time specified by the Commissioner. A lender to whom a notice of authority is issued shall display the notice prominently in any and all offices of the lender that make reverse mortgage loans. Authorizations issued under this section are ~~nontransferable and subject to~~ nontransferable. Except for lenders described in subsection (b1) of this section, each

lender to which an authorization is issued shall pay an annual renewal fee of two hundred fifty dollars ($250.00)."

SECTION 21. G.S. 54B-4(b) is amended by adding the following new subdivision to read:

"(32b) "Limited service facility" means a staffed physical location open to the public in this State in which a State association conducts any activity of a "branch office" set forth in subdivision (7) of this subsection, but which is not considered a branch by virtue of the fact that the State association does not engage in all activities of a branch at the location. A location is a limited service facility of a State association notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State association pursuant to which the third party (i) takes deposits or offers loans as an agent of the State association or in the State association's name; or (ii) is obligated to sell or otherwise transfer to the State association all or a substantial portion of the loan or deposit production of that location."

SECTION 22. G.S. 54B-22 reads as rewritten:

"**§ 54B-22. Branch ~~offices.~~ offices and limited service facilities.**

~~(a) Any State association may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in such form as may be prescribed by the Commissioner of Banks and shall be accompanied by the proper branch application fee. Branch applications shall be approved or denied by the Commissioner of Banks within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000);~~

~~(2) The applicant has evidenced financial responsibility;~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of the applicant's withdrawable accounts;~~

~~(4) The applicant has an acceptable internal control system. Such a system would include certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant. Some of the factors which require extensive internal control requirements such as the use of the controller or internal auditor and more distinctive placement responsibilities include the applicant's size, number of personnel and history of and anticipated plans for expansion.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the association is~~

~~otherwise lawfully entitled to establish such branch office, then the administrator shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. Such notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall only receive information and hear testimony from the applicant and from any interested or affected party which is relevant to the branch application and the operation of the proposed branch office. The Commissioner of Banks shall issue his final decision on the branch application within 30 days following the hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue his final decision within 120 days of the filing of the application. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(g) to (i) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1238, s. 3.~~

~~(j) Any party to a branch application may appeal the final decision of the to the Commission at any time after final decision, but not later than 30 days after a written copy of the final decision is served upon the party and his attorney of record by personal service or by certified mail. Failure to file such appeal within the time stated shall operate as a waiver of the right of such party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State association, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule.

Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant association, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository institutions in the community.

(b) A branch or limited service facility of a State association shall be operated under the control and direction of the board of directors and executive officers of the State association and under the name of the State association as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State association or among the general public. The board of directors of the State association shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State association has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the association's projected growth, (ii) the association's earnings history and projected earnings, (iii) the quality of the association's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State association may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from an association or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch,

all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 23. G.S. 54C-4(18) reads as rewritten:

"(18) ~~Loan production office. – An office of a savings bank other than the principal or branch offices whose activities are limited to the generation of loans.~~

Limited service facility. – A staffed physical location open to the public in this State in which a State savings bank conducts any activity of a "branch office" set forth in subdivision (5) of this subsection, but which is not considered a branch by virtue of the fact that the State savings bank does not engage in all activities of a branch at the location. A location is a limited service facility of a State savings bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State savings bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the State savings bank or in the State savings bank's name; or (ii) is obligated to sell or otherwise transfer to the State savings bank all or a substantial portion of the loan or deposit production of that location."

SECTION 24. G.S. 54C-23 reads as rewritten:

"**§ 54C-23. Branch ~~offices.~~offices and limited service facilities.**

~~(a) A State savings bank may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in the form prescribed by the Commissioner of Banks and shall be accompanied by the proper branch application fee. The Commissioner of Banks shall approve or deny branch applications within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000).~~

~~(2) The applicant has evidenced financial responsibility.~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of deposit accounts.~~

~~(4) The applicant has an acceptable internal control system that includes certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the savings bank is otherwise lawfully entitled to establish the branch office, then the Commissioner of Banks shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. The notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall receive information and hear testimony only from the applicant and from any interested or affected party that is relevant to the branch application and the operation of the proposed branch office. The Commissioner of Banks shall issue the final decision on the branch application within 30 days following the hearing. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue the final decision within 120 days of the filing of the application. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(g) A party to a branch application may appeal the final decision of the Commissioner of Banks to the Commission at any time after the final decision, but not later than 30 days after a written copy of the final decision is served upon the party and the party's attorney of record by personal service or by certified mail. Failure to file an appeal within the time stated shall operate as a waiver of the right of the party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State savings bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant State

savings bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository instructions in the community.

(b) A branch or limited service facility of a State savings bank shall be operated under the control and direction of the board of directors and executive officers of the State savings bank and under the name of the State savings bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State savings bank or among the general public. The board of directors of the State savings bank shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State savings bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the State savings bank's projected growth, (ii) the State savings bank's earnings history and projected earnings, (iii) the quality of the savings bank's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State savings bank may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a savings bank or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch, all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 25. G.S. 54C-27 is repealed.

SECTION 26. The Legislative Research Commission shall undertake a comprehensive study of those laws, including Chapters 53, 54B, 54C, and 24 of the General Statutes, which affect the establishment and operation of banks in North Carolina and shall make recommendations to the 2003 General Assembly, prior to the convening of the 2004 Regular Session as to which laws (i) are obsolete, unnecessary or duplicative, (ii) are unnecessarily inconsistent in the treatment of banks, savings and loan associations, and savings banks, and (iii) unnecessarily restrict, impede, or prohibit activities of banks, savings and loan associations, and savings banks or the ability of the Commissioner of Banks to regulate banks and savings institutions in an effective, efficient, and equitable manner.

In preparing its recommendations, the Commission shall actively solicit and consider information received from representatives of banks, savings and loan associations, savings banks, the State Banking Commission, the Commissioner of Banks and the Commissioner's staff, other interested parties and the general public.

SECTION 27. Sections 26 and 27 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2003, and applies to acts occurring and transactions or agreements entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 676
Finance Committee Substitute Adopted 5/13/03

Short Title: Revise the Banking Laws of North Carolina. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-1(3a) reads as rewritten:

"(3a) Limited Service Facility. – The term "limited service facility" means ~~an office of a bank~~ a staffed physical location open to the public in this State in which ~~deposits are received, monies are paid, or other duties and functions of a teller are performed. Loan applications shall be taken in a limited service facility but notes may not be executed nor loan proceeds disbursed in a limited service facility.~~ a bank established under the laws of this State or a bank or other depository institution established under the laws of any other state conducts any activity of a "branch" set forth in subdivision (1a) of this section, but which is not considered a branch by virtue of the fact that the bank does not engage in all activities of a branch at the location. A location is a limited service facility of a bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the bank or in the bank's name; or (ii) is obligated to sell or otherwise transfer to the bank all or a substantial portion of the loan or deposit production of that location."

SECTION 2. G.S. 53-17.2(e) reads as rewritten:

"(e) In the absence of the promulgation of rules under subsection (d), the conditions to be met for approval of the application for conversion should include the following:

(1) Condition. The applicant's general condition must reflect adequate capital, liquidity, reserves, earnings, and asset composition necessary for safe and sound operation of the resulting bank.

(2) Management. The management and the board of directors must be capable of supervising a sound banking operation and overseeing the changes that must be accomplished in the conversion from an association or savings bank to a bank.

(3) Public Convenience. The ~~Commission must determine that the~~ conversion will have a positive impact on the convenience of the public and will not substantially reduce the services available to the public in the market area.

(4) Transition. Within a reasonable time after the effective date of the conversion, the resulting bank must divest itself of all assets and liabilities that do not conform to State banking law or rules. The length of this transition period shall be determined by the Commissioner and shall be specified when the application for conversion is approved.

In evaluating each of these conditions, the ~~Commission~~ Commissioner shall consider a comparison of the relevant financial ratios of the applicant with the average ratios of North Carolina banks of similar asset size. The ~~Commission may~~ Commissioner shall not approve a conversion where the applicant presents an undue supervisory concern or has not been operated in a safe and sound manner."

SECTION 3. G.S. 53-17.2(f) reads as rewritten:

"(f) If the ~~State Banking Commission~~ Commissioner approves the plan of conversion, then the association or savings bank shall submit the plan to the stockholders or members as provided in subsection (g). After approval of the plan of conversion, the Commissioner of Banks shall supervise and monitor the conversion process and shall ensure that the conversion is conducted pursuant to law and the association's or savings bank's approved plan of conversion."

SECTION 4. G.S. 53-43 reads as rewritten:

"**§ 53-43. ~~General powers.~~ Powers.**

~~In addition to the powers conferred by law upon private corporations, banks shall have the power:~~

~~(1) To exercise by its board of directors, or duly authorized officers and agents, subject to law, all such powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of indebtedness, by receiving deposits, by buying and selling exchange, coin, and bullion, and by loaning money on personal security or real and personal property. Such corporation at the time of making loans may not take and receive interest or discounts in advance where the effective rates of interest or discounts collected shall exceed the maximum rates of interest provided under this section, G.S. 24-1.1 and 24-1.2 if such interest or discount had not been collected in advance.~~

~~(2) To adopt regulations for the government of the corporation not inconsistent with the Constitution and laws of this State.~~

~~(3) To purchase, hold, and convey real estate for the following purposes:~~

~~a. Such as shall be necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and other spaces to rent as a source of income, which investment shall not exceed fifty percent (50%) of its unimpaired capital fund: Provided, that this fifty percent (50%) limitation shall not apply to banking houses, furniture and fixtures leased for the purposes set forth in this subdivision. Provided, further, that if any bank shall demonstrate to the satisfaction of the Commissioner of Banks that an investment of more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures, would promote the convenience of the general public in transacting its banking business and would not adversely affect the financial stability of the bank, the Commissioner of Banks may, in his discretion, authorize any bank to invest more than fifty percent (50%) of its unimpaired capital fund in its banking houses, furniture and fixtures.~~

~~b. Such as is mortgaged to it in good faith by way of security for loans made or moneys due to such banks.~~

~~c. Such as has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, or on judgments or decrees obtained and rendered for debts due to it, or in settlements affecting security of such debts. All real property referred to in this subdivision shall be sold by such bank within five years after it is acquired unless, upon application by the board of directors, the Commissioner of Banks extends the time within which such sale shall be made. Any and all powers and privileges heretofore granted and given to any person, firm, or corporation doing a banking business in connection with a fiduciary and insurance business, or the right to deal to any extent in real estate, inconsistent with this Chapter, are hereby repealed.~~

~~(4) Nothing contained in this section shall be deemed to authorize banking corporations to engage in the business of dealing in investment securities: Provided, however, that the term "dealing in investment securities" as used herein, shall not be deemed to include the purchasing and selling of securities without recourse, solely upon order, and for the account of, customers; and provided further, that "investment securities," as used herein, shall not be deemed to include obligations of the United States, or general obligations of any state or of any political subdivision thereof, or of cities, towns, or other corporate municipalities of any state or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the federal home loan banks or the Home Owner's Loan Corporation.~~

~~Any provision in conflict with this subdivision contained in the articles of incorporation heretofore issued to any banking corporation is hereby revoked.~~

~~(5) Repealed by Session Laws 1989, c. 187, s. 5.~~

~~(6) Maintain separate departments and deposit in its commercial department to the credit of its trust department all uninvested fiduciary funds of cash and secure, under rules and regulations of the State Banking Commission, all such deposits in the name of the trust department whether in consolidated deposits or for separate fiduciary accounts, by segregating and delivering to the trust department such securities as may be eligible for the investment of the sinking funds of the State of North Carolina, equal in market value to such deposited funds, or readily marketable commercial bonds having not less than a recognized "A" rating equal to one hundred and twenty-five per centum (125%) of such deposits. Such securities shall be held by the trust department as security for the full payment or repayment of all such deposits, and shall be kept separate and apart from other assets of the trust department. Until all of such deposits shall have been accounted for to the trust department or to the individual fiduciary accounts, no creditor of the bank shall have any claim or right to such security. When fiduciary funds are deposited by the trust department in the commercial department of the bank, the deposit thereof shall not be deemed to constitute a use of such funds in the general business of the bank and the bank in such instance shall not be liable for interest on such funds. To the extent and in the amount such deposits may be insured by the Federal Deposit Insurance Corporation, the amount of security required for such deposits by this section may be reduced.~~

~~The Banking Commission shall have power to make such rules and regulations as it may deem necessary for the enforcement of the provisions of the preceding paragraph, and such authority shall exist and is hereby conferred under the general authority heretofore conferred upon said Commission as well as by this paragraph.~~

~~(7) To issue, advise and confirm letters of credit authorizing the beneficiaries thereof to draw upon the institution or its correspondents.~~

~~(8) To receive money for transmission.~~

~~(9) To become a member of a clearinghouse association and to pledge assets required for its qualification.~~

~~(10) To provide for the performance of bank service corporation services, such as data processing services and bookkeeping, subject to such rules and regulations as may be adopted by the State Banking Commission.~~

(a) General Powers. – Except as otherwise specifically provided by this Chapter, a bank shall have the powers conferred upon corporations by the North Carolina Business Corporation Act, Chapter 55 of the General Statutes, including the power to:

(1) Carry on the business of banking.
(2) Make any investments authorized by G.S. 53-47 or any other section of this Chapter.
(3) Engage in any other activities approved by rule, order, or interpretation of the Commissioner of Banks.

For the purposes of this section, the "business of banking" includes, without limitation, discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of indebtedness; receiving deposits; issuing, advising, and confirming letters of credit; receiving money for transmission; and loaning money on personal security or real or personal property.

(b) Parity Powers. – A bank also has the power to engage:
(1) As principal in any activity permissible for a national bank under any law, including the National Bank Act, 12 U.S.C. § 21, as well as activities recognized as permissible for a national bank in any regulation, official circular, bulletin, order or written interpretation issued by the Office of the Comptroller of the Currency.
(2) As principal in any activity that is permissible, or determined by the Federal Deposit Insurance Corporation to be permissible, for a bank under the Federal Deposit Insurance Act, 12 U.S.C. § 1813, and regulations thereunder.
(3) As principal in any activity that is permissible for a savings and loan association or savings bank organized, respectively, under Chapters 54B and 54C of the General Statutes, or that is permissible for a federally chartered savings association or federally chartered savings bank under the Home Owners' Loan Act of 1933, 12 U.S.C. § 1461 through 1468 and regulations thereunder.
(4) In "trust business", as that term is defined by G.S. 53-301(50).
(5) In any activity other than as principal pursuant to the Federal Deposit Insurance Act, 12 U.S.C. § 1813, and regulations thereunder.

(c) Incidental Powers. – In addition to the other powers described in this section, a bank has the power to exercise all other powers that are reasonably necessary, convenient, or complementary to the exercise of the powers authorized in subsections (a) and (b) of this section.

(d) Prior Approval Required. – Except as provided in subsection (e) of this section, a bank which proposes to engage in any new activity shall apply to the Commissioner of Banks for approval to engage in the activity before its commencement. If the activity will be conducted in a subsidiary in which the bank intends to make an investment, the bank shall apply to the Commissioner of Banks for approval to engage in the activity before entering into the investment. The bank shall not engage in the activity or make the investment unless and until the Commissioner of Banks issues a written approval of the application. For the purpose of this subsection, the terms "subsidiary" and "investment" have the same meanings as set forth in G.S. 53-47.

An application for approval shall contain a description of the proposed activity and any other information required by the Commissioner of Banks. A copy of any notice or application the bank is required to file with any federal banking regulator shall also be provided to the Commissioner of Banks.

For the purposes of this section, a "new activity" is any business activity in which the bank is not currently engaged. The extension or relocation of an existing activity into a new department, division, or subsidiary of the bank shall not be considered a "new activity"; provided, however, that any investment in a subsidiary shall be subject to all applicable provisions of this Chapter pertaining to investments by banks, including G.S. 53-47.

(e) Exceptions. – No application for approval to engage in a new activity shall be required, provided all of the following conditions are met as of the date the activity is commenced:

(1) The activity is one described in subsection (a), (b), or (c) of this section.

(2) The bank has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with its most recent examination.

(3) No notice or application to engage in the activity is required to be filed by the bank with any federal banking regulator.

A bank commencing an activity without prior application and approval pursuant to this subsection shall notify the Commissioner of Banks in writing of the commencement of the activity no later than the 30th day after the earlier of (i) commencing the activity; or (ii) if applicable, making an investment in an entity through which the activity is to be conducted.

(f) Continuing Authority of the Commissioner of Banks. – Nothing in this section shall be construed as being in derogation of the Commissioner of Banks' ongoing authority under this Chapter to take corrective action regarding the activities of any bank which the Commissioner deems appropriate in order to ensure the continued integrity, safety, and soundness of an individual bank and the State banking system in general."

SECTION 5. G.S. 53-47 reads as rewritten:

"**§ 53-47. Limitations on ~~investments in stocks.~~subsidiary and other investments.**

(a) In addition to any powers or investments authorized by any other section of this Chapter, a bank may invest in the capital stock or other securities of any other state, national or foreign bank or trust company, and in any other industrial bank, savings bank, Morris Plan bank, savings and loan association, bankers' bank or other deposit taking entity chartered or existing under any federal, state, or foreign law including, but not limited to, the capital stock of clearing corporations defined in G.S. 25-8-102, the capital stock or other securities of central reserve banks whose capital stock exceeds one million dollars ($1,000,000) and the capital stock of an Edge or Agreement corporation. As used in this Chapter, the term "bankers' bank" means an insured depository financial institution, organized and chartered to do business exclusively with other banks and savings institutions, and the stock of which, or the stock of the holding company which

controls such bank, is owned exclusively (except to the extent directors' qualifying shares are required by law) by banks or savings institutions. To constitute a central reserve bank as contemplated by this Chapter, at least fifty percent (50%) of the capital stock of such bank shall be owned by other banks. The investment of any bank in the capital stock of such central reserve bank or bank organized under the "Edge Act", (12 U.S.C. § 611 et seq.) shall at no time exceed ten percent (10%) of the paid-in capital and permanent surplus of the bank making the investment.

(b) ~~A bank may invest, without limitation, in a corporation, firm, partnership, or company:~~

~~(1) Which is a bank operating subsidiary, or~~

~~(2) To protect the bank from loss.~~

A bank may make an investment in a subsidiary that will be operated as a bank operating subsidiary or as a DPC subsidiary. Investments made pursuant to this subsection shall not be subject to the seventy-five percent (75%) of unimpaired capital fund limit contained in subsection (c) of this section.

(c) ~~In addition to the foregoing, upon 30 days prior written notice to the Commissioner of Banks, providing such detail as the Commissioner may require, a~~ A bank may ~~invest,~~ invest up to, in the aggregate, ~~up to~~ seventy-five percent (75%) of its unimpaired capital fund in ~~the stock or assets of other corporations, firms, partnerships, or companies which are:~~ subsidiaries which are or will be primarily engaged in:

(1) ~~Primarily engaging in activities~~ Activities permissible for national banks or bank holding companies under applicable laws, rules, regulations or orders;

(2) ~~Primarily engaging in activities of a financial nature,~~ Activities that are financial in nature or incidental to a financial activity, including the transmission or processing of information or data relating to such activities. For the purpose of this subsection, activities ~~of a financial nature shall include, but not be limited to,~~ that are financial in nature include insurance activities, all forms of securities activities, including underwriting, distribution, and brokerage, ~~together with such~~ and any other activities as the Commissioner of Banks shall determine by ~~regulation~~ rule or order; or

(3) ~~Engaging in any other activity approved by the Commissioner of Banks.~~ Other activities determined by the Commissioner of Banks to be permissible for a bank or a bank operating subsidiary.

(c1) A bank operating subsidiary may make an investment of any size in a lower tier subsidiary.

(c2) A bank or bank operating subsidiary proposing to make an investment described in subsection (b), (c), or (c1) of this section shall give prior written notice to the Commissioner of Banks, providing such detail as the Commissioner may require. Unless the Commissioner of Banks, within 30 days following receipt of the notice, notifies the bank or bank operating subsidiary that the Commissioner objects to the proposed investment, the bank or bank operating subsidiary may complete the investment. However, the Commissioner of Banks may extend the period within which

to object to the proposed investment if the Commissioner determines that it raises issues which require additional information or additional time for analysis. If the objection period is so extended, the bank or bank operating subsidiary may proceed with respect to the proposed investment.

(d) Any state or national bank subsidiary which engages in an activity subject to licensure and/or regulation under other than Chapter 53 of the General Statutes shall be subject to licensure and/or regulation on a basis that does not arbitrarily discriminate by the appropriate regulatory agency which licenses and/or regulates nonbanks which engage in the same activity.

~~(e) Unless otherwise notified by the Commissioner within 30 days following receipt of the written notice, a bank may complete its investment in the stock or assets of the other corporation, firm, partnership, or company, or commence a new activity through an existing subsidiary. The Commissioner may extend the 30-day period if the Commissioner determines that the proposed investment or activity raises issues which require additional information or additional time for analysis. If the 30-day period is extended, the bank may proceed with respect to the proposed investment or activity only upon written approval of the Commissioner of Banks.~~

(f) The Commissioner of Banks shall monitor the impact of investment activities of banks under this section on the safety and soundness of such banks. Any stocks owned or hereafter acquired in excess of the limitations herein imposed shall be disposed of at public or private sale within six months after the date of acquiring the stocks, and if not so disposed of, they shall be charged to profit and loss account, and no longer carried on the books as an asset. The limit of time in which said stocks shall be disposed of or charged off the books of the bank may be extended by the Commissioner of Banks if in the Commissioner's judgment it is for the best interest of the bank that such extension be granted; provided that the limitations imposed in this section on the ownership of stock in or securities of corporations are suspended only to the extent that any bank operating under the supervision of the Commissioner of Banks may subscribe for and purchase shares of stock in or debentures, bonds, or other types of securities of any corporation organized under the laws of the United States for the purposes of insuring to depositors a part or all of their funds on deposit in banks where and to such extent as such stock or security ownership is required in order to obtain the benefits of such deposit insurance for its depositors.

(g) The prior notice requirement of subsection (c2) of this section shall not apply if:

(1) The bank has received a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System in connection with its most recent examination at the time of the investment; and

(2) Each activity of the subsidiary in which the investment is to be made is either:

a. One in which the bank is then engaged or has previously been engaged, directly or through a different subsidiary, and for which all necessary approvals of federal bank regulatory

agencies and of the Commissioner of Banks have previously been obtained and remain in effect; or

b. One for which no prior notice or application for approval to any federal banking regulator is required.

A bank that makes an investment pursuant to the exception created by this subsection shall nevertheless notify the Commissioner of Banks in writing of the investment within 30 days thereafter.

(h) A bank may invest through purchase, lease, or otherwise in any interest in bank premises, furniture, equipment, and fixtures as may be necessary for the convenient transaction of its business. The total of all investments authorized by this subsection shall not exceed fifty percent (50%) of the bank's unimpaired capital fund; provided, however, that the value of leased bank premises, furniture, equipment, and fixtures shall be included in the bank's total investments only to the extent that the related lease may be capitalized under current generally accepted accounting principles consistently applied.

If any bank demonstrates to the satisfaction of the Commissioner of Banks that an investment of more than fifty percent (50%) of its unimpaired capital fund in its bank premises, furniture, equipment, and fixtures would promote the convenience of the general public in transacting its banking business and would not adversely affect the financial stability of the bank, the Commissioner of Banks may authorize the bank to invest more than fifty percent (50%) of its unimpaired capital funds in its bank premises, furniture, equipment, and fixtures.

(i) A bank may purchase, hold, and convey real estate other than bank premises for the following purposes:

(1) As security for loans made or moneys due to it when that real estate has been mortgaged to it in good faith.

(2) When the real estate has been purchased at sales upon foreclosures of mortgages and deeds of trust held or owned by it, on judgments or decrees obtained and rendered for debts due to it, or in settlements affecting security of those debts. All real property referred to in this subdivision shall be sold by the bank within five years after it is acquired unless, upon application by the board of directors, the Commissioner of Banks extends the time within which the sale shall be made.

(j) Nothing in this section shall be construed as being in derogation of the Commissioner of Banks' ongoing authority under this Chapter to take corrective action regarding the activities of any bank which the Commissioner deems appropriate in order to ensure the continued integrity, safety, and soundness of an individual bank and the State banking system in general.

(k) The following definitions apply in this section:

(1) "Bank operating subsidiary" means a subsidiary which:

a. Is under the control of a bank; and

b. Engages only in activities in which a bank may engage pursuant to G.S. 53-43.

(2) "Bank premises" means any improved or unimproved real estate, whether or not open to the public, which is utilized, intended to be utilized, or has previously been utilized in connection with any activity or business in which the bank is or was engaged or intends to be engaged.

(3) "Control" means an ownership interest in a subsidiary which:

a. Constitutes more than fifty percent (50%) of the total ownership interests in the subsidiary; or

b. Constitutes fifty percent (50%) or less of the total ownership interests in the subsidiary but is required to be consolidated with the bank pursuant to generally accepted accounting principles.

(4) "DPC subsidiary" means any subsidiary in which the bank has acquired in good faith an ownership interest through foreclosure or other realization on collateral by way of a compromise of a disputed or contested claim or to avoid a loss in connection with a debt previously contracted.

(5) "Lower-tier subsidiary" means any bank operating subsidiary in which a bank operating subsidiary has an ownership interest.

(6) "Ownership interest" means any beneficial equity or similar interest, whether direct or indirect, including stock, limited or general partnership interests, or shares in a limited liability company.

(7) "Subsidiary" means any corporation, partnership, business trust, association, joint venture, pool, syndicate, limited liability company, or any other similar business organization in which a bank has an ownership interest."

SECTION 6. G.S. 53-48 reads as rewritten:

"**§ 53-48. Limitation of loans.**

(a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed the greater of fifteen percent (15%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks in this State or by statute or regulation of the Comptroller of the Currency.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the ~~funds~~ loan or extension of credit outstanding shall not exceed the greater of ten percent (10%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks by statute or regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subsection (a) ~~above.~~ of this section.

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term "person" shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

SECTION 7. G.S. 53-62 reads as rewritten:

"**§ 53-62. Establishment of branches; limited service facilities; and off-premises customer-bank communications terminals.**

(a) The word "capital" as used in this section means capital stock and unimpaired surplus.

(b) ~~A bank doing business under this Chapter may establish branches or limited service facilities within this State after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks, in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find (i) that the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and (ii) that the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks in said community.~~ A bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch or limited service facility; or

(2) Convert an existing limited service facility to a branch.

The application for approval to establish or convert a branch or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors, including the financial history and condition of the applicant association, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository institutions in the community.

(c) (1) A branch or limited service facility of a bank shall be operated ~~as a branch or office of and under the name of the bank, and~~ under the control and direction of the board of directors and executive officers of the ~~bank.~~ bank and under the name of the bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner of Banks finds that the name will not result in confusion among customers of the bank or among the general public. The board of directors of the bank shall elect such officers as may be required to properly conduct the business of any branch or limited service facility.

(2) The Commissioner of Banks shall not authorize the establishment or conversion of a branch or limited service facility until he is satisfied that the applicant bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks, in his discretion, may require. In determining such ratio the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the bank's projected growth, (ii) the bank's earnings history and projected earnings, (iii) the quality of the bank's assets, (iv) compliance with the fixed asset limitation contained in ~~G.S. 53-43(3),~~ subsection (f) of this section and (v) the business experience and reputation of bank management.

~~(3) The Commissioner of Banks may, on written application by a bank, in his discretion authorize the bank to establish a limited service facility~~

~~after considering the criteria and making the findings required in subsection (b).~~

(d) ~~A limited service facility, upon written request to the Commissioner of Banks, and after meeting the requirements of subsection (c) may convert to a branch. If branch status is granted then the branch shall be subject to all of the conditions and requirements of that type of banking office.~~

Upon 30 days written notice to the Commissioner of Banks, a bank may discontinue any limited service facility ~~operation; provided, however, if a limited service facility has within five years preceding the proposed closing date been a branch of any bank, it shall comply with the requirements of subsection (e) below before closing.~~ operation.

(d1) Subject to such rules and regulations as may be prescribed by the State Banking Commission with regard to their use, maintenance and supervision, any bank may establish off the premises of any principal office, branch or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a bank or other nonbank terminal; and the establishment and use of such a device or machine shall not be deemed a branch or limited service facility, and the capital requirements and standards for approval of a branch or limited service facility, all as set forth in subsections (b) and (c) of this section, shall not be applicable to the establishment of any such off-premises terminal device or machine.

(e) A bank may, upon resolution by the board of directors, discontinue a branch office subject to the following:

(1) The bank shall notify the Commissioner in writing of its intent to close a branch not later than 90 days prior to the proposed closing date. Such notice shall include a detailed statement of the reasons for the decision to close a branch and statistical or other information in support of such reasons.

(2) The bank shall provide a notice of its intent to close a branch to its customers. Such notice shall be posted in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, and shall either be included in at least one of any regular account statements mailed to customers of such branch, or in a separate mailing to such customers. The later notice shall be given at least 90 days prior to the proposed closing date.

No branch shall be closed until approved by the Commissioner of Banks, provided, however, the consolidation of two or more branches into a single location in the same vicinity shall not be considered a closure subject to the provisions of this subsection.

(f) Any action taken by the Commissioner of Banks pursuant to this section shall be subject to review by the State Banking Commission which shall have the authority to approve, modify or disapprove any action taken or recommended by the Commissioner of Banks."

SECTION 8. G.S. 53-64 reads as rewritten:

"**§ 53-64. Loans secured by bank's own stock or stock of parent bank holding company.**

(a) It shall be lawful for a bank to make a loan secured by the pledge of its own shares of stock or the stock of its parent holding company; provided that whenever any bank shall exercise its security interest in the shares of the bank or its parent holding company upon a loan default or other transfer, it shall dispose of all of such shares of stock within a period of six months. If such stock has not been disposed of within six months, the same shall be charged to profit and loss and no longer carried as an asset of the bank. The Commissioner may extend the six-month period not to exceed an additional six months.

(b) A bank may not make a loan to finance the purchase of or to carry its stock or the stock of its parent holding company. For purposes of this subsection, the phrase "to carry" shall have the meaning set forth in 12 C.F.R. Part 221, by the Board of Governors of the Federal Reserve System.

(c) A bank may not purchase any portion of its shares of stock, ~~nor the stock of its parent holding company, unless the same is purchased or pledged to the bank to prevent a loss upon a debt previously contracted in good faith. In the event the bank shall become the owner of its shares, or those of its parent holding company, the bank shall dispose of the same as provided in subsection (a) of this section.~~except with the prior approval of the Commissioner. The Commissioner shall not give approval for a bank to purchase any portion of its shares of stock unless the Commissioner determines the bank will remain well-capitalized following the purchase. In approving a purchase, the Commissioner may impose any conditions that are prudent and necessary to protect the interests of the shareholders and creditors of the bank."

SECTION 9. G.S. 53-67 reads as rewritten:

"**§ 53-67. Banks controlled by boards of directors.**

The corporate powers, business, and property of banks doing business under this Chapter shall be exercised, conducted, and controlled by its board of directors, which shall meet at least quarterly. Such board shall consist of not less than five directors, to be chosen by the stockholders, and shall hold office for the term for which they are elected, and until their successors are elected and qualified. The annual meeting of stockholders for the election of directors shall be held at such time as may be designated by the charter or the bylaws of the bank but shall be held not later than ~~the thirtieth day of June in each year.~~ June 30 each year; provided, however, that any bank which has been open for business for fewer than 12 months as of June 30 of the current year shall hold its first annual meeting by not later than June 30 of the following year. In addition to the foregoing powers relating to the fixing of the number and the election of directors, the stockholders of a bank, at any stockholders' meeting, special or annual, may authorize not more than two additional directorships which may be left unfilled and to be filled in the discretion of the directors of the institution during the interval between such stockholders' meetings. Aside from the specific provisions of this section, the number, election, term and classification of the directors of banks doing business under

this Chapter shall be governed by the provisions of the North Carolina Business Corporation Act."

SECTION 10. G.S. 53-99(b)(7b) reads as rewritten:

"(7b) Records of applications, ~~examinations~~ examinations, and investigations of ~~registrants~~ applicants, licensees, and exempt persons under the Mortgage Lending Act, Article 19A of this Chapter;".

SECTION 11. G.S. 53-115 reads as rewritten:

"**§ 53-115. State Banking Commission to make rules and regulations.**

(a) The State Banking Commission is hereby authorized, empowered and directed to make all necessary rules ~~and regulations, and to give all necessary instructions with respect to such actions of banking corporations which the Commissioner of Banks may authorize, permit and/or direct and require to be conducted under the provisions of G.S. 53-77, 53-114, 53-115, and 53-116. And it shall be the duty of all such banking corporations and their officers, agents and employees, to comply fully with any and all such rules, regulations and instructions, established and promulgated by the State Banking Commission with respect to such banking corporations under the terms of G.S. 53-77, 53-114, 53-115, and 53-116; and such orders, rules, and regulations shall have the same force and effect as rules, regulations and instructions promulgated under the existing banking laws.~~ with respect to the establishment, operation, conduct, and termination of any and all activities and businesses that are subject to licensing, regulation, supervision, or examination by the Commissioner of Banks under this Chapter.

(b) The rule-making authority conferred on the State Banking Commission by this section shall be in addition to and not in derogation of any specific rule-making authority by any other provision of this Chapter."

SECTION 12. G.S. 53-160 reads as rewritten:

"**§ 53-160. License to do business.**

Before any such bank or trust company is authorized to act in any fiduciary capacity without bond, it must be licensed by the Commissioner of Banks of the State. For such license the ~~licensee~~ licensee, for the purpose of defraying necessary expenses of the Commissioner of Banks and the Commissioner's agents in supervising and examining the licensee, shall pay to the ~~State Banking Commission an annual license fee of two hundred dollars ($200.00), which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks and trust companies acting in a fiduciary capacity, insofar as it may be necessary, and the surplus, if any, shall remain in the State treasury for the use of the general fund of the State:~~ Commissioner of Banks an annual license fee not to exceed five hundred dollars ($500.00) as required by rule of the State Banking Commission. ~~Provided, however, that a~~ A national bank which has been granted trust powers by the Comptroller of the Currency or his duly authorized agent shall be annually licensed as required in this section and shall be granted a certificate of solvency which will meet the provisions of G.S. 53-162 without examination by the Commissioner of Banks as required in G.S. 53-161."

SECTION 13. G.S. 53-208.12 reads as rewritten:

"**§ 53-208.12. Quarterly reports.**

A licensee shall file for each calendar quarter, no later than 60 days after the quarter has ended, a report which contains the total number of authorized delegates in this State. In addition, a licensee shall promptly provide any additional information regarding any or all of its current and prior authorized delegates requested by the Commissioner."

SECTION 14. G.S. 53-243.02(c) reads as rewritten:

"(c) The license of a loan officer is not effective during any period when that person is not employed by a mortgage broker or mortgage banker licensed under this Article. The license of an exclusive mortgage broker is not effective during any period when that person is not authorized to act as a single licensee or exempt person pursuant to G.S. 53-243.05(c)(1a).

When a loan officer ceases to be employed by a mortgage broker or mortgage banker licensed under this Article, the loan officer and the mortgage broker or mortgage banker licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. When the authority of an exclusive mortgage broker to act on behalf of the principal licensee or exempt person identified in G.S. 53-243.05(c)(1a) has been terminated, the exclusive mortgage broker and the licensee or exempt person for whom the exclusive mortgage broker is an agent shall promptly notify the Commissioner in writing. The mortgage broker, mortgage banker, or exempt person's notice shall include a statement of the specific reason or reasons for, as applicable, the termination of the loan officer's employment or exclusive mortgage broker's authority.

A loan officer shall not be employed simultaneously by more than one mortgage broker or mortgage banker licensed under this Article."

SECTION 15. G.S. 53-243.05(a)(6) reads as rewritten:

"(6) The applicant's consent to a federal and State criminal history record check and a set of the applicant's fingerprints in a form acceptable to the Commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each individual who has control of the applicant or who is the managing principal or a branch manager shall consent to a federal and State criminal history record check and submit a set of that individual's fingerprints pursuant to this subdivision. Refusal to consent to a criminal history record check ~~may constitute~~ constitutes grounds for the Commissioner to deny licensure to the ~~applicant.~~applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager."

SECTION 16. G.S. 53-243.06(b1) reads as rewritten:

"(b1) When required by the Commissioner, ~~the licensee~~ each individual described in G.S. 53-245.05(a)(6) shall furnish to the Commissioner ~~the licensee's~~ his or her consent to a criminal history record check and a set of the ~~licensee's~~ his or her fingerprints in a form acceptable to the Commissioner. Refusal to consent to a criminal history record check may constitute grounds for the Commissioner to deny renewal of

~~licensure to the licensee.~~the license of the person as well as the license of any other person by which he or she is employed, over which he or she has control, or as to which he or she is the current or proposed managing principal or a current or proposed branch manager."

SECTION 17. G.S. 53-243.11 is amended by adding a new subdivision to read:

"(12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605 and § 2609, and regulations adopted thereunder by the Secretary of the Department of Housing and Urban Development."

SECTION 18. G.S. 53-243.12(a)(2) reads as rewritten:

"(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, managing ~~broker,~~ principal, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:

a. Has filed an application for license that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.

b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.

c. Has been convicted of any felony, or, within the past 10 years, has been convicted of any misdemeanor involving mortgage lending or any aspect of the mortgage lending business, or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage lending business.

e. Is the subject of an order of the Commissioner denying, suspending, or revoking that person's license as a mortgage broker or mortgage banker.

f. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage or mortgage banking industry denying or revoking that person's license as a mortgage broker or mortgage banking industry or denying or revoking that person's license as a mortgage broker or mortgage banker.

g. Does not meet the qualifications or the financial responsibility, character, or general fitness requirements under G.S. 53-243.05 or any bond or capital requirements under this Article.

h. Has been the executive officer or controlling shareholder or owned a controlling interest in any mortgage broker or mortgage banker who has been subject to an order or injunction described in sub-subdivision d., e., or f. of this subdivision.

i. Has failed to pay the proper filing or renewal fee under this Article. However, the Commissioner may enter only a denial order under this sub-subdivision, and the Commissioner shall vacate the order when the deficiency has been corrected."

SECTION 19. G.S. 53-243.12(g) reads as rewritten:

"(g) If the Commissioner has reasonable grounds to believe that a licensee or other person has violated the provisions of this Article or that facts exist that would be the basis for an order against a licensee or other person, the Commissioner may at any time, either personally or by a person duly designated by the Commissioner, investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of any licensee or other person relating to the complaint or matter under investigation. The Commissioner may require any licensee or other person to submit a consent to a criminal history record check and a set of that person's fingerprints in a form acceptable to the Commissioner in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of this investigation or examination shall be charged against the licensee."

SECTION 20. G.S. 53-243.12(k) reads as rewritten:

"(k) If the Commissioner finds that the managing principal, branch manager, or loan officer of a licensee had knowledge of or reasonably should have had knowledge of, or participated in, any activity that results in the entry of an order under this section suspending or withdrawing the license of a licensee, the Commissioner may prohibit the branch manager, managing ~~broker~~ principal, or loan officer from serving as a branch manager, managing ~~broker~~ principal, or loan officer for any period of time the Commissioner deems necessary."

SECTION 21. G.S. 53-243.16 reads as rewritten:

"**§ 53-243.16. Criminal history record checks.**

(a) The Department of Justice may provide a criminal record check to the Commissioner for ~~a~~ any person who has applied for or holds a mortgage banker, mortgage broker, exclusive mortgage broker, or loan officer license through the Commissioner under this Article.

(b) In addition, if a person described in subsection (a) of this section is a corporation, partnership, limited liability company, association, or trust, the Department of Justice may provide a criminal record check to the Commissioner for any person who has control of that person, or who is the managing principal or a branch manager of that person.

(c) The Commissioner shall provide to the Department of Justice, along with the request, the fingerprints of the ~~applicant,~~ person, any additional information required by the Department of Justice, and a form signed by the ~~applicant~~ person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The ~~applicant's~~ person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Commissioner shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge a fee for each ~~applicant~~ person for conducting the checks of criminal history records authorized by this section."

SECTION 22. G.S. 53-257(6) reads as rewritten:

"(6) Reverse mortgage loan or loan. – A loan for a definite or indefinite term (i) secured by a first mortgage or first deed of trust on the principal residence of the ~~mortgagor,~~ mortgagor located in North Carolina, (ii) the proceeds of which are disbursed to the mortgagor in one or more lump sums, or in equal or unequal installments, either directly by the lender or the lender's agent, and (iii) that requires no repayment until a future time, upon the earliest occurrence of one or more events specified in the reverse mortgage loan contract."

SECTION 23. G.S. 53-258 reads as rewritten:

"**§ 53-258. Authority and procedures governing reverse mortgage loans.**

(a) ~~No~~ Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized lender by the ~~Commissioner, unless the lender is the North Carolina Housing Finance Agency, or is a bank, savings institution, or credit union authorized to do business under the laws of this State or authorized to do business under the laws of the United States and chartered to do business in this State.~~Commissioner.

(b) An application for authorization to make reverse mortgage loans shall be in writing to the Commissioner and in the form prescribed by the Commissioner. The application shall contain the name and complete business address or addresses of the applicant. The application shall also include affirmation of financial solvency and all capitalization requirements that are required by the Commissioner. The application shall be accompanied by a nonrefundable fee, payable to the Commissioner, of five hundred dollars ($500.00).

(b1) Each of the following lenders shall be considered authorized to engage in the business of making reverse mortgage loans without being required to apply pursuant to subsection (b) of this section and may represent to the public that it is so authorized:

(1) The North Carolina Housing Finance Agency.

(2) A bank, savings institution, or credit union formed under the laws of this or any other state or of the United States.

(3) A wholly owned subsidiary of an entity described in subdivision (2) of this subsection.

Each lender listed in this subsection may, upon written request to the Commissioner of Banks, obtain written confirmation of its authority to engage in the business of making reverse mortgage loans. In the case of lenders listed in subdivisions (2) and (3) of this subsection, the request shall be accompanied by the fee set forth in subsection (d) of this section.

~~(c) The North Carolina Housing Finance Agency, and any bank, savings institution, or credit union that is not required to obtain authorization to make reverse mortgage loans under subsection (a) of this section, shall, prior to making any reverse mortgage loan, notify the Commissioner of its intent to make reverse mortgage loans. This notification shall be made on a form prescribed by the Commissioner and shall contain all information required by the Commissioner.~~

(d) The Commissioner shall, upon determination that ~~a lender~~ an applicant should be authorized to make reverse mortgage loans, issue notice of this authority to the lender. The authority to issue reverse mortgage loans is valid for the period of time specified by the Commissioner. A lender to whom a notice of authority is issued shall display the notice prominently in any and all offices of the lender that make reverse mortgage loans. Authorizations issued under this section are ~~nontransferable and subject to~~ nontransferable. Except for lenders described in subsection (b1) of this section, each lender to which an authorization is issued shall pay an annual renewal fee of two hundred fifty dollars ($250.00)."

SECTION 24. G.S. 54B-4(b) is amended by adding the following new subdivision to read:

"(32b) "Limited service facility" means a staffed physical location open to the public in this State in which a State association conducts any activity of a "branch office" set forth in subdivision (7) of this subsection, but which is not considered a branch by virtue of the fact that the State association does not engage in all activities of a branch at the location. A location is a limited service facility of a State association notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State association pursuant to which the third party (i) takes deposits or offers loans as an agent of the State association or in the State association's name; or (ii) is obligated to sell or otherwise transfer to the State association all or a substantial portion of the loan or deposit production of that location."

SECTION 25. G.S. 54B-22 reads as rewritten:

"**§ 54B-22. Branch ~~offices.~~ offices and limited service facilities.**

~~(a) Any State association may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in such form as may be prescribed by the Commissioner of Banks and shall be accompanied by the proper~~

~~branch application fee. Branch applications shall be approved or denied by the Commissioner of Banks within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000);~~

~~(2) The applicant has evidenced financial responsibility;~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of the applicant's withdrawable accounts;~~

~~(4) The applicant has an acceptable internal control system. Such a system would include certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant. Some of the factors which require extensive internal control requirements such as the use of the controller or internal auditor and more distinctive placement responsibilities include the applicant's size, number of personnel and history of and anticipated plans for expansion.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the association is otherwise lawfully entitled to establish such branch office, then the administrator shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. Such notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall only receive information and hear testimony from the applicant and from any interested or affected party which is relevant to the branch application and the operation of the proposed~~

~~branch office. The Commissioner of Banks shall issue his final decision on the branch application within 30 days following the hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue his final decision within 120 days of the filing of the application. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(g) to (i) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1238, s. 3.~~

~~(j) Any party to a branch application may appeal the final decision of the to the Commission at any time after final decision, but not later than 30 days after a written copy of the final decision is served upon the party and his attorney of record by personal service or by certified mail. Failure to file such appeal within the time stated shall operate as a waiver of the right of such party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State association, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant association, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository instructions in the community.

(b) A branch or limited service facility of a State association shall be operated under the control and direction of the board of directors and executive officers of the State association and under the name of the State association as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State association or among the general public. The board of

directors of the State association shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State association has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the association's projected growth, (ii) the association's earnings history and projected earnings, (iii) the quality of the association's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State association may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from an association or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch, all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 26. G.S. 54C-4(18) reads as rewritten:

"(18) ~~Loan production office. – An office of a savings bank other than the principal or branch offices whose activities are limited to the generation of loans.~~

Limited service facility. – A staffed physical location open to the public in this State in which a State savings bank conducts any activity of a "branch office" set forth in subdivision (5) of this subsection, but which is not considered a branch by virtue of the fact that the State savings bank does not engage in all activities of a branch at the location. A location is a limited service facility of a State savings bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State savings bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the State savings bank or in the State savings bank's name; or (ii) is obligated to sell or otherwise transfer to the State savings bank all or a substantial portion of the loan or deposit production of that location."

SECTION 27. G.S. 54C-23 reads as rewritten:

"**§ 54C-23. Branch ~~offices.~~offices and limited service facilities.**

~~(a) A State savings bank may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in the form prescribed by the Commissioner of Banks and shall be accompanied by the proper branch~~

~~application fee. The Commissioner of Banks shall approve or deny branch applications within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000).~~

~~(2) The applicant has evidenced financial responsibility.~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of deposit accounts.~~

~~(4) The applicant has an acceptable internal control system that includes certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the savings bank is otherwise lawfully entitled to establish the branch office, then the Commissioner of Banks shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. The notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall receive information and hear testimony only from the applicant and from any interested or affected party that is relevant to the branch application and the operation of the proposed branch office. The Commissioner of Banks shall issue the final decision on the branch application within 30 days following the hearing. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue the final decision within 120 days of the filing of the application. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(g) A party to a branch application may appeal the final decision of the Commissioner of Banks to the Commission at any time after the final decision, but not later than 30 days after a written copy of the final decision is served upon the party and the party's attorney of record by personal service or by certified mail. Failure to file an appeal within the time stated shall operate as a waiver of the right of the party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State savings bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant State savings bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository instructions in the community.

(b) A branch or limited service facility of a State savings bank shall be operated under the control and direction of the board of directors and executive officers of the State savings bank and under the name of the State savings bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State savings bank or among the general public. The board of directors of the State savings bank shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State savings bank has sufficient capital to maintain a minimum capital to

asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the State savings bank's projected growth, (ii) the State savings bank's earnings history and projected earnings, (iii) the quality of the savings bank's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State savings bank may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a savings bank or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch, all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 28. G.S. 54C-27 is repealed.

SECTION 29. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a11) Notwithstanding the provisions of subsection (a) of this section, the State Banking Commission, in accordance with the provisions of Article 8 of Chapter 53 of the General Statutes, may adopt a temporary rule for one or more of the following reasons:

(1) To ensure the safe and sound management of the financial institutions under the Commissioner's supervision pursuant to Chapters 53, 54B, and 54C of the General Statutes.

(2) To implement any provision of State or federal law for which the Commissioner of Banks or the State Banking Commission has been authorized to adopt rules.

(3) To preserve the operational integrity of the system of regulated financial institutions serving the citizens of this State.

(4) To prevent catastrophic loss to the interests of depositors, creditors, stockholders, or the public in their relations with the system of regulated financial institutions.

After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Commission shall:

(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule;

(2) Accept oral and written comments on the proposed temporary rule; and

(3) Hold at least one public hearing on the proposed temporary rule.

When the State Banking Commission adopts a temporary rule pursuant to this subsection, the Commission shall submit the reference to this subsection as the agency's statement of need to the Codifier of Rules."

SECTION 30. The Legislative Research Commission shall undertake a comprehensive study of those laws, including Chapters 53, 54B, 54C, and 24 of the General Statutes, which affect the establishment and operation of banks in North Carolina and shall make recommendations to the 2003 General Assembly, prior to the convening of the 2004 Regular Session as to which laws (i) are obsolete, unnecessary or duplicative, (ii) are unnecessarily inconsistent in the treatment of banks, savings and loan associations, and savings banks, and (iii) unnecessarily restrict, impede, or prohibit activities of banks, savings and loan associations, and savings banks or the ability of the Commissioner of Banks to regulate banks and savings institutions in an effective, efficient, and equitable manner.

In preparing its recommendations, the Commission shall actively solicit and consider information received from representatives of banks, savings and loan associations, savings banks, the State Banking Commission, the Commissioner of Banks and the Commissioner's staff, and the general public.

SECTION 31. Section 30 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2003, and applies to acts occurring and transactions or agreements entered into on or after that date.

SENATE BILL 676:
Revise the Banking Laws of North Carolina.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hoyle
Date:	July 10, 2003	**Summary by:**	Karen Cochrane Brown
Version:	Proposed Committee Substitute S676-CSRO-30 [v.2]		Staff Attorney

SUMMARY: ***The Proposed House Committee Substitute for Senate Bill 676 makes technical and clarifying changes to the Banking Laws of the State. Many of the changes are intended to maintain competitive equality among banks, regardless of whether they are chartered by North Carolina, another state or the federal government. The bill also makes several changes to the Mortgage Lending Act to enhance the Commissioner of Banks' enforcement authority. The bill authorizes the Legislative Research Commission to study whether more comprehensive changes to the Banking Laws are warranted.***

This PCS deletes four sections from the second edition of the bill, including (Section 4) amendments to the section governing General Powers of a bank, (Section 5) amendments to the section governing limitations on subsidiary and other investments, (Section 8) amendments to the section governing loans secured by a bank's own stock, and (Section 29) granting the Banking Commission temporary rulemaking authority under the APA.

CURRENT LAW:

The State Banking Commission and the Office of Commissioner of Banks have supervisory authority to charter and regulate banks, thrifts and trust companies in North Carolina. In addition, the Commissioner licenses Consumer Finance companies, Check Cashers, Mortgage Lenders, Money Transmitters and approves Refund Anticipation lenders. The Commissioner is charged with ensuring the safety and soundness of these businesses.

BILL ANALYSIS:

State chartered banks. –The following sections of the bill make changes to the laws governing state banks.

- **Sec. 1.** Amends the definition of a "limited service facility" to allow these locations to be operated by third parties through an agreement with a bank. A limited service facility is a staffed physical location established by a bank which provides some but not all of the services of a branch.
- **Secs. 2. and 3.** Changes the approval authority from the State Banking Commission to the Commissioner of Banks for conversions of savings associations and savings banks to commercial banks.
- **Sec. 4.** Amends the provision that defines the limitations on loans extended by a state bank. This provision allows state banks to extend credit not to exceed the greater of the statutory limit or the percentage permitted for national banks.

- **Sec. 5.** Amends the provision relating to the establishment and conversion of branches and limited service facilities. A bank must obtain the approval of the Commissioner before making any such change. The Commissioner may also approve the operation of a branch or limited service facility under an assumed name so long as the name does not result in confusion to the public.
- **Sec. 6.** Allows a newly opened bank to delay the first annual meeting until no later than June 30, of the year following the year the bank opened.
- **Sec. 9.** Amends the law relating to licenses for banks and trust companies to act as fiduciaries. Under current law, a licensee must pay an annual fee of $200. This fee is used by the Commissioner for administrative costs and to the extent there is a surplus, these funds are available to the State general fund. This provision deletes the language relating to the reversion of surplus funds, and authorizes the Banking Commission to establish by rule an annual fee not to exceed $500.

Money Transmitter Act. Section 10 imposes additional reporting requirements on licensees under the Money Transmitter Act.

Mortgage Lending Act.

- **Sec. 7.** Includes applications, and investigations of applicants, licensees, and exempt persons under the Mortgage Lending Act, in the list of confidential records maintained by the Commissioner of Banks.
- **Sec. 11.** Requires an exclusive mortgage broker to notify the Commissioner when his authority is terminated. The section also requires that a mortgage broker or banker cite the reason for the termination of employment of a loan officer or the authority of an exclusive mortgage broker.
- **Secs. 12, 13, 16 and 18.** Expands and clarifies the authority to obtain criminal history checks under the Mortgage Lending Act.
- **Sec. 14.** Makes failure to comply with the federal law governing real estate closings a prohibited act under the Mortgage Lending Act.
- **Sec. 15 and 17.** Makes technical corrections.

Reverse Mortgages. Sections 19 and 20 amend the law governing reverse mortgages. Clarifies which lenders are exempt from the requirement of obtaining authority from the Commissioner of Banks.

Savings Associations and Savings Banks. Since 2001, these institutions have been under the supervision of the Commissioner of Banks. Sections 21 through 25 of this bill make changes in the laws governing these thrift institutions to conform the definition of a limited service facility and the establishment and conversion of branches and limited service facilities to the corresponding provisions in the law governing state banks. Section 28 repeals the provision authorizing loan production offices.

Rulemaking Authority. Section 8 clarifies that the State Banking Commission has general rulemaking authority in connection with all activities regulated by the Commissioner under Article 53 of the General Statutes.

Legislative Research Commission Study.

Section 26 authorizes the LRC to undertake a comprehensive study of the banking laws to determine whether further changes are needed to improve the ability of the Commissioner to regulate banks and

savings institutions in an effective, efficient and equitable manner. The LRC may report its recommendations to 2004 Session of the General Assembly.

Effective Date.

Section 26 and the effective date section would become effective when the act becomes law. The remainder of the act would become effective October 1, 2003, and apply to acts occurring and transactions and agreements entered on or after that date.

S676-SMRO-002

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 676 (Second Edition)

SHORT TITLE: Revise the Banking Laws of North Carolina

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Fiscal Impact				
Banking Commission Acct	No Fiscal Impact				
EXPENDITURES					
Agency Receipts (SBI)	See Assumptions & Methodology				
POSITIONS:					
SBI	See Assumptions & Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: State Banking Commission, Office of the Commissioner of Banks, Department of Justice - State Bureau of Investigation

EFFECTIVE DATE: Section 30 (LRC study) is effective when it becomes law. The remainder of this act becomes effective October 1, 2003, and applies to acts occurring and transactions or agreements entered into on or after that date.

BILL SUMMARY: This act makes statutory changes recommended by the Office of the Commissioner of Banks and directs the Legislative Research Commission (LRC) to study banking laws in the interim.

ASSUMPTIONS AND METHODOLOGY:
This analysis focuses on those sections of the bill that may have a fiscal impact on General Fund and Banking Commission revenues.

- The application fees mentioned in sections 7, 23, and 27 are authorized in existing law.
- Section 12 increases the annual license fee for a bank or trust company from $200 to an amount not to exceed $500. The Commission reported revenue of $6,200 in FY 2001-02

and $7,000 in FY 2002-03 from this license. The current statute states that any surplus must be given to the General Fund, but the proposed bill removes this language. This is a moot point since the current $200 fee does not cover the Banking Commission's actual expenditures and, thus, there is no excess for the General Fund. Despite the gap between revenues and expenditures from this license, the Commission does not anticipate increasing the fee for banks or trust companies. However, if the Commission were to increase the license fee to the maximum $500, it would gain approximately $10,500 per year.

- Sections 15 and 21 deal with criminal record background checks. Since the applicant or licensee pays for the criminal record check, there is no fiscal impact on the Banking Commission. However, there could be an impact on the State Bureau of Investigation (SBI), the agency that does the record checks. The Banking Commission reports that it currently receives approximately 80 applications per week, or 4,160 applications per year. If only one background check per application was required, and these checks were shifted from state-only record checks to state and national checks, the SBI would require an additional 78 hours to process the work. Sections 15 and 21 also expand the number of people for whom the Banking Commission can request a record check. Since more than one criminal record check may be required for corporations, partnerships, and limited liability companies, associations or trusts, there is no estimate for the number of criminal record checks per application. The SBI is able to accommodate some increase in background checks within its existing staffing level, and it may be able to shift some positions from other support services units to the unit that processes criminal record checks. If the increase in workload due to new record checks and the addition of national record checks are greater than the unit's capacity, the SBI would need authorization for at least one additional position supported by the receipts collected from the applicants/ licensees.

SOURCES OF DATA: Office of the Commissioner of Banks, Office of State Budget and Management.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic and Chloe Gossage

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 7, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 676 A BILL TO BE ENTITLED AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House Committee Substitute Bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate Committee Substitute Bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1292

Short Title: Target Incentives to Truly Distressed Areas. (Public)

Sponsors: Representatives Holliman, Luebke (Primary Sponsors); and Insko.

Referred to: Finance.

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BILL LEE ACT TIER DESIGNATION FORMULA TO ASSURE THAT ECONOMIC DEVELOPMENT EFFORTS ARE TARGETED TO TRULY DISTRESSED AREAS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.3(b) and (b1) read as rewritten:

"(b) ~~Annual Designation.~~Ranking. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the ~~preceding three years.~~most recent 12-month period for which data are available.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding three years.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest.

(b1) Annual Designation. – The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. An enterprise tier designation is effective only for the calendar year following the designation.

~~(b1)~~(b2) Data. – In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Planning Officer."

SECTION 2. This act is effective when it becomes law and applies to designations made on or after that date.

HOUSE BILL 1292:
Target Incentives to Truly Distressed Areas

BILL ANALYSIS

Committee: House Finance
Date: July 9, 2003
Version: 1st Edition

Sponsor: Rep. Holliman
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Provides that in ranking counties' economic distress, the Department of Commerce must use the unemployment rate for the most recent 12 months rather than the rate for the most recent three years.

Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. For many of the Bill Lee Act credits and for other incentives provided by law, the lower the tier of a county, the more favorable the incentive. The Department of Commerce must designate the counties' tier designations for the following year on or before December 31 of each year, based on the most recent data available. The unemployment and per capita income data is based on a three-year average rather than the most recent year. Using a three-year average for unemployment data results in some counties remaining in relatively higher tiers for longer periods even after experiencing sudden and severe job loss.

This bill would substitute data for the most recent year, rather than three years, so that the tier rankings can more accurately reflect recent changes in county unemployment rates. The bill would be effective when it becomes law and apply beginning with the next designation, to be made December 31, 2004.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: HB 1292: Target Incentives For Truly Distressed Areas

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue and Department of Commerce. The enactment of the bill is not expected to affect the budget requirements of either department.

EFFECTIVE DATE: Applies to the next designation, due December 31, 2003 and effective for jobs created and investments made during the 2004 calendar year.

ISSUE HISTORY: The Bill Lee Act is the package of state tax incentives that was first adopted in 1996 and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment, job creation, worker training, and research/development. The credits apply to activities undertaken by specifically named industrial classifications. For many of the credits, the counties of the State are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth. The lower the tier of a county, the more favorable the incentive.

BILL SUMMARY: The current tier ranking system uses the unemployment rate for the most recent three years as one of the three distress factors to rank counties. The bill would measure the unemployment rate on the basis of the most recent 12 months.

ASSUMPTIONS AND METHODOLOGY: The bill is effective for the tier determination due December 31, 2003. Thus, it would first apply to tax credits for economic activity taking place during the 2004 calendar year. For the machinery/equipment credit and the jobs credit, the taxpayer cannot claim the credit until the year following the activity year. This means that the change will first affect the 2005-06 state fiscal year. The bulk of the tier-sensitive credits fall into these two categories..

Under the current system, the 3-year average unemployment rate calculation stops with June of the year in which the determination is made. Discussions with the Department of Commerce indicate that the Department might consider advancing the end of the calculation period to a date closer to the determination month (December). In either case, the fiscal effect of the bill on the state General Fund as well as taxpayers depends on the unknown unemployment experience of individual counties for May and June of this year and possibly later months (if a later calculation period is used.).

In addition, the impact depends on how individual counties fare under the other two measures: per capita personal income and population growth. Under the tier designation formula, a ranking is developed for each factor and the rankings are added across the three factors. Then the counties are grouped into tiers based on the statutory guidelines (10 counties will be Tier 1, 15 counties will be Tier 2, etc.). Finally, there are exceptions to the general rule for certain situations (small population counties for example).

The overall impact of the proposal will be limited by the following factors:

(1) The unemployment rate is one of three equally weighted factors.

(2) The unemployment experience for the most recent 12 months is part of the current 3-year calculation.

(3) The movement of some counties to a higher tier may be offset by the shift of some other counties to a lower tier.

(4) The current law "exceptions" to the general tier rules may offset a move of some counties to a lower tier.

For these reasons, it is not possible at this time to estimate the impact to the State General Fund or the shift between counties.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1292 A BILL TO BE ENTITLED AN ACT TO MODIFY THE BILL LEE ACT TIER DESIGNATION FORMULA TO ASSURE THAT ECONOMIC DEVELOPMENT EFFORTS ARE TARGETED TO TRULY DISTRESSED AREAS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 97
Finance Committee Substitute Adopted 5/27/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S97-CSLAx-35 [v.3]

7/9/2003 5:05:39 PM

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10 of S.L. 2002-87 reads as rewritten:

"**SECTION 10.** Section 9 of this act is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that ~~date.~~date, except that if the amendments made by Section 9 would create an increase in tax for a decedent dying before August 22, 2002, then the tax may be calculated under the prior law. The remainder of this act is effective when it becomes law. Section 2 of this act applies to credits for buildings ~~that are awarded a federal credit allocation before January 1, 2003, and~~ for which a federal tax credit is first claimed for a taxable year beginning on or after January 1, 2002."

SECTION 2. S.L. 2002-172 is reenacted.

SECTION 3. G.S. 105-129.40 reads as rewritten:

"**§ 105-129.40. (See Editor's note for repeal) ~~Definitions applicable to Article.~~Scope and definitions.**

(a) Scope. – G.S. 105-129.41 applies to buildings that are awarded a federal credit allocation before January 1, 2003. G.S. 105-129.42 applies to buildings that are awarded a federal credit allocation on or after January 1, 2003.

(b) Definitions. – The definitions in section 42 of the Code and the following definitions apply in this Article:

(1) Housing Finance Agency. – The North Carolina Housing Finance Agency established in G.S. 122A-4.

(2) ~~Pass-Through Entity.~~Pass-through entity. – Defined in G.S. ~~105-129.35.~~ 105-228.90."

SECTION 4.(a) G.S. 105-163.010(7) reads as rewritten:

"(7) Pass-through entity. – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this Part, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~"

SECTION 4.(b) G.S. 105-163.1(9) reads as rewritten:

"(9) Pass-through entity. – Defined in ~~G.S. 105-163.010.~~ G.S. 105-228.90."

SECTION 4.(c) G.S. 105-129.35(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this section:

(1) Certified historic structure. – Defined in section 47 of the Code.

(2) Pass-through entity. – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~

(3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code."

SECTION 4.(d) G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

...

(4d) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws."

SECTION 5.(a) G.S. 105-130.4(a)(1) reads as rewritten:

"(1) ~~Business~~ 'Apportionable income' means all income that is apportionable under the United States Constitution."

SECTION 5.(b) G.S. 105-130.4(a)(5) reads as rewritten:

"(5) ~~'Nonbusiness~~ 'Nonapportionable income' means all income other than ~~business~~ apportionable income."

SECTION 5.(c) G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, dividends less the portion deductible under G.S. 105-130.7, patent and copyright royalties and other kinds of income, to the extent that they constitute ~~nonbusiness~~ nonapportionable income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 5.(d) G.S. 105-130.4(i) reads as rewritten:

"(i) All ~~business~~ apportionable income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. Provided, that where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one."

SECTION 5.(e) G.S. 105-130.4(j)(2) reads as rewritten:

"(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals except that subrentals shall not be deducted when they constitute ~~business~~ apportionable income. Any property under construction and any property the income from which constitutes ~~nonbusiness~~ nonapportionable income shall be excluded in the computation of the property factor."

SECTION 5.(f) G.S. 105-130.4(k)(1) reads as rewritten:

"(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the income year by the corporation as compensation, and the denominator of which is the total compensation paid everywhere during the income year. All compensation paid to general executive officers and all compensation paid in connection with ~~nonbusiness~~ nonapportionable income shall be excluded in computing the payroll factor. General executive officers shall include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officers serving in similar capacities."

SECTION 5.(g) G.S. 105-130.4(l)(1) reads as rewritten:

"(1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its

~~business~~ apportionable income but is taxable in another state only because of ~~nonbusiness~~ nonapportionable income, all sales shall be treated as having been made in this State."

SECTION 5.(h) G.S. 105-130.4(m) through (s) read as rewritten:

"(m) All ~~business~~ apportionable income of a railroad company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done within this State and the denominator of which is the "total railway operating revenue" from all business done by the company as shown by its records kept in accordance with the standard classification of accounts prescribed by the Interstate Commerce Commission.

"Railway operating revenue" from business done within this State shall mean "railway operating revenue" from business wholly within this State, plus the equal mileage proportion within this State of each item of "railway operating revenue" received from the interstate business of the company. "Equal mileage proportion" shall mean the proportion which the distance of movement of property and passengers over lines in this State bears to the total distance of movement of property and passengers over lines of the company receiving such revenue. "Interstate business" shall mean "railway operating revenue" from the interstate transportation of persons or property into, out of, or through this State. If the Secretary of Revenue ~~shall find,~~ finds. with respect to any particular company, that its accounting records are not kept so as to reflect with exact accuracy such division of revenue by State lines as to each transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations, based upon averages, as will approximate with reasonable accuracy the proportion of interstate revenue actually earned upon lines in this State. Provided, that where a railroad is being operated by a partnership which is treated as a corporation for income tax purposes and pays a net income tax to this State, or if located in another state would be so treated and so pay as if located in this State, each partner's share of the net profits shall be considered as dividends paid by a corporation for purposes of this Part and shall be so treated for inclusion in gross income, deductibility, and separate allocation of dividend income.

(n) All ~~business~~ apportionable income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.

(o) All ~~business~~ apportionable income of a motor carrier of property shall be apportioned by multiplying the income by a fraction, the numerator of which is the

number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company hauling property for a charge or traveling on a scheduled route.

(p) All ~~business~~ apportionable income of a motor carrier of passengers shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company carrying passengers for a fare or traveling on a scheduled route.

(q) All ~~business~~ apportionable income of a telegraph company shall be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

The property factor shall be as defined in subsection (j) of this section, the payroll factor shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in subsection (l) of this section.

(r) All ~~business~~ apportionable income of an excluded corporation and of all other public utilities shall be apportioned by multiplying the income by the sales factor as determined under subsection (l) of this section.

(s) All ~~business~~ apportionable income of an air or water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means one ton of passengers, freight, mail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds."

SECTION 5.(i) G.S. 105-130.8(a)(5) reads as rewritten:

"(5) For purposes of this section, any income item deductible in determining State net income under the provisions of G.S. 105-130.5 and any ~~nonbusiness~~ nonapportionable income not allocable to this State under the provisions of G.S. 105-130.4 shall be considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part."

SECTION 5.(j) G.S. 105-122(c)(1) reads as rewritten:

"(1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion ~~said~~ its capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its ~~business~~ apportionable income under ~~said~~ that Article. A corporation that is subject to franchise tax under this Article but is not subject to

income tax under Article 4 of this Chapter must apportion its capital stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

~~Provided, that although~~ Notwithstanding the foregoing, if a corporation is authorized by the Tax Review Board to apportion its ~~business~~ apportionable income by use of an alternative formula or method, the corporation may not use ~~such~~ this alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

~~Provided, further, that a~~ A corporation ~~which~~ that is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

SECTION 6. G.S. 105-129.42(a)(3) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(3) Qualified residential unit. ~~Residential Unit.~~ – A housing unit that meets the requirements of section 42 of the Code."

SECTION 7. G.S. 105-129.42(g) reads as rewritten:

"(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

(1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's eligible basis.

(2) Within 30 days after the date the development is placed in ~~service date.~~service."

SECTION 8. G.S. 105-129.42(i) reads as rewritten:

"(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest at the rate established under G.S. 105-241.1(i). The interest ~~rate~~ is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 9. G.S. 105-299 reads as rewritten:

"**§ 105-299. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal ~~agencies, for~~ agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes."

SECTION 10. G.S. 105-358(a) reads as rewritten:

"(a) Waiver. – A tax collector may, upon making a record of the reasons therefor, reduce or waive the ~~ten percent (10%)~~ penalty imposed on giving a worthless check under G.S. 105-357(b)(2)."

SECTION 11. G.S. 20-305.2(a)(7) reads as rewritten:

"**§ 20-305.2. Unfair methods of competition.**

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

...

(7) The ownership, operation, or control of a dealership that sells primarily recreational vehicles as defined in ~~[G.S.]~~ G.S. 20-4.01 by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or

distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) This section does not apply to manufacturers or distributors of trailers or semitrailers that are not recreational vehicles as defined in G.S. 20-4.01."

SECTION 12. Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-1.1. Supremacy of State Constitution.**

The State's power of taxation is vested in the General Assembly. Under Article V, Section 2(1), of the North Carolina Constitution, this power cannot be surrendered, suspended, or contracted away. In the exercise of this power, the General Assembly may amend or repeal any provision of this Subchapter in its discretion. No provision of this Subchapter constitutes a contract that the provision will remain in effect in future years, and any representation made to the contrary is of no effect."

SECTION 13. Section 3.1 of S.L. 2001-347 reads as rewritten:

"**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires January 1, 2006, unless one of the following occurs: (i) 15 states have ~~signed~~ adopted the Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined resident population equal to at least ten percent (10%) of the national resident population, as determined by the 2000 federal decennial census, have ~~signed~~ adopted the Agreement."

SECTION 14.(a) Section 1 of S.L. 1993-577 reads as rewritten:

"**Section 1.** This section applies only if Pender County has provided under G.S. 105-472 that revenues are to be distributed under subdivision (1) of that section. Revenues collected under ~~Articles 39, 40, and 42~~Subchapter VIII of Chapter 105 of the General Statutes which are received by Pender County and the municipalities within that county under G.S. 105-472, which were initially allocated to Pender County under ~~those Articles,~~that Subchapter other than revenues which are required by law to be used for certain purposes, may be redistributed among Pender County and those municipalities by agreement adopted under Article 20 of Chapter 160A of the General Statutes. The agreement is effective only if approved by Pender County and all the municipalities in that county entitled to a distribution of those funds for which Pender County determined the allocation method. An election to enter an agreement shall be made annually at the time the county makes its determination to the Department of Revenue for the method of local sales tax distribution under G.S. 105-472."

SECTION 14.(b) This section is effective on and after December 1, 2002.

SECTION 15. G.S. 105-130.7A(b)(4)b. reads as rewritten:

"(b) Definitions. – The following definitions apply in this section:

...

(4) Related entity. – Any of the following:

...

b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty

percent (50%) of the value of the taxpayer's outstanding stock. ~~are component members with respect to the taxpayer.~~"

SECTION 16.(a) G.S. 105-164.4C(f) reads as rewritten:

"(f) Call Center Cap. – The gross receipts tax on ~~interstate~~ telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars ($50,000) a calendar year. This cap applies separately to each legal entity."

SECTION 16.(b) G.S. 105-164.27A(b) reads as rewritten:

"(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases telecommunications service under a direct pay permit must file a return and pay the tax due monthly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service.

A call center that purchases ~~interstate~~ telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming."

SECTION 17. G.S. 105-164.6(f) reads as rewritten:

"(f) Before a person may engage in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department.

The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

SECTION 18.(a) The lead-in language of G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property and services is specifically exempted from the tax imposed by this Article:

..."

SECTION 18.(b) The lead-in language of G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~Article on direct

purchases of tangible personal property and services, other than electricity and telecommunications service, for use in carrying on the work of the nonprofit entity:

..."

SECTION 18.(c) The lead-in language of G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. ~~property.~~ Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

..."

SECTION 18.(d) G.S. 105-164.14(c)(20) reads as rewritten:

"(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds."

SECTION 18.(e). G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and services and of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.
(2) The type of property purchased.
(3) The project for which the property was used.
(4) If the property was purchased in this State, the county in which it was purchased.

(5) If the property was not purchased in this State, the county in which the property was used.

(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 19.(a) G.S. 105-187.18 reads as rewritten:

"**§ 105-187.18. Exemptions.**

(a) The taxes imposed by this Article do not apply to:

(1) Bicycle tires and other tires for vehicles propelled by human power.

(2) Recapped tires.

(3) Tires sold for placement on newly manufactured vehicles.

(b) ~~The~~ Except for the exemption for sales a state cannot constitutionally tax, the exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 19.(b) G.S. 105-187.23 reads as rewritten:

"**§ 105-187.23. Exemptions and refunds.**

(a) Exemptions. – Except for the exemption ~~provided in G.S. 105-164.13(17),~~for sales a state cannot constitutionally tax, the exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

SECTION 19.(c) G.S. 105-187.33 reads as rewritten:

"**§ 105-187.33. (Repealed effective January 1, 2010.) Exemptions and refunds.**

Except for the exemption for sales a state cannot constitutionally tax, the~~The~~ exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 20. G.S. 105-277(d) reads as rewritten:

"(d) All bona fide indebtedness incurred in the purchase of fertilizer and fertilizer materials owing by a taxpayer as principal debtor may be deducted from the total value of all fertilizer and fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year. ~~Provided, further, that from the total value of cotton~~

~~stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for the payment of which the cotton so purchased is pledged as collateral.~~"

SECTION 21. G.S. 105-164.13(5) reads as rewritten:

"(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered retailers or wholesale merchants, for the purpose of resale except as modified by G.S. ~~105-164.3(23).~~ 105-164.3(51). This exemption does not extend to or include retail sales to users or consumers not for resale."

SECTION 22. G.S. 105-164.13B(1) reads as rewritten:

"(1) The following items are subject to tax:

a. Alcoholic beverages, as defined in G.S. 105-113.68.

b. Dietary supplements.

c. Food sold through a vending machine."

SECTION 23. G.S. 105-164.14(c)(21) reads as rewritten:

"(21) The University of North Carolina ~~Hospitals at Chapel Hill.~~ Health Care System."

SECTION 24.(a) The caption of G.S. 105-164.6 reads as rewritten:

"**§ 105-164.6. Imposition of use tax.**"

SECTION 24.(b) The caption of G.S. 105-164.8(a) reads as rewritten:

"~~Sales Tax.~~Obligation."

SECTION 24.(c) The caption of G.S. 105-164.8(c) reads as rewritten:

"~~Use Tax.~~Local Tax."

SECTION 25. G.S. 143B-437.54(c) reads as rewritten:

"(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that ~~was~~ is awarded a grant under this Part while the ~~former~~ member ~~was~~ is serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part while the ~~former~~ member was serving on the Committee until two years after the person's conviction under this section."

SECTION 26. Section 45.12 of S.L. 2003-284 reads as rewritten:

"**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections ~~45.8~~45.9 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law."

SECTION 27.(a) G.S. 105-469, as amended by S.L. 2003-284, reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary ~~must~~ must, on a monthly basis, distribute local taxes levied on food to the taxing counties ~~in accordance with G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.~~ as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).

(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-98 fiscal year under Article 39 of this Chapter relative to the total amount of sales tax on food collected in all taxing counties in the 1997-98 fiscal year under Article 39 of this Chapter.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 27.(b) Section 45.11.(c) of S.L. 2003-284 reads as rewritten:

"**SECTION 45.11.(c)** The first paragraph of Section 9 of Chapter 1096 of the 1967 Session Laws, as amended, is amended by adding the following sentence immediately after the first sentence in that paragraph:

"The Secretary of Revenue shall distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and municipalities within Mecklenburg County in accordance with ~~G.S. 105-472 by including the taxes on food with local tax revenue that is not attributable to a particular county.~~ G.S. 105-469(a)."

SECTION 28. The Department of Revenue may draw up to twenty-five thousand dollars ($25,000) for the 2003-04 fiscal year from the local taxes collected on food to pay for the programming costs associated with the distribution of the local taxes collected on food.

SECTION 29.(a) Section 2.2(h) of S.L. 2003-284 reads as rewritten:

"**SECTION 2.2.(h)** Notwithstanding the provisions of G.S. 62A-22(c), 62A-24(d), ~~62A-25, and 62A-26,~~ and 62A-25, the following shall be transferred from Wireless Fund created in G.S. 62A-22(c) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2005 fiscal biennium: (i) sums equal to the lesser of thirty-three million dollars ($33,000,000) or the aggregated ~~all~~ service charges remitted to the Wireless Fund during the 2003-2004 fiscal ~~year;~~ year less the administrative fee allowed under G.S. 62A-26; and (ii) the sum of twenty-five million dollars ($25,000,000) from ~~the services charges remitted to~~ the Wireless Fund during the 2004-2005 fiscal year."

SECTION 29.(b) G.S. 62A-23(b) reads as rewritten:

"(b) The service charge may be adjusted by the Board beginning July 1, 2000 and every two years thereafter. The Board is to set the service charge at such a rate as to

ensure full recovery for CMRS providers and for PSAPs, over a reasonable period of time, of the costs associated with developing and maintaining a wireless Enhanced 911 system. If necessary to ensure full recovery of costs for both CMRS providers and PSAPs over a reasonable period of time, the Board ~~may, at the time it adjusts the service charge, also~~ may adjust the allocation percentages set forth in G.S. 62A-25(a) and G.S. ~~62A-25(b).~~62A-25(b), or reallocate funds comprising the Wireless Fund, provided however, that any adjustment or reallocation shall be consistent with the requirements of the FCC Order."

SECTION 30. Section 27 of this act becomes effective October 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 97
Finance Committee Substitute Adopted 5/27/03

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

February 19, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 10 of S.L. 2002-87 reads as rewritten:

"**SECTION 10.** Section 9 of this act is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that ~~date.~~date, except that if the amendments made by Section 9 would create an increase in tax for a decedent dying before August 22, 2002, then the tax may be calculated under the prior law. The remainder of this act is effective when it becomes law. Section 2 of this act applies to credits for buildings ~~that are awarded a federal credit allocation before January 1, 2003, and~~ for which a federal tax credit is first claimed for a taxable year beginning on or after January 1, 2002."

SECTION 2. S.L. 2002-172 is reenacted.

SECTION 3. G.S. 105-129.40 reads as rewritten:

"**§ 105-129.40. (See Editor's note for repeal) ~~Definitions applicable to Article.~~Scope and definitions.**

(a) Scope. – G.S. 105-129.41 applies to buildings that are awarded a federal credit allocation before January 1, 2003. G.S. 105-129.42 applies to buildings that are awarded a federal credit allocation on or after January 1, 2003.

(b) Definitions. – The definitions in section 42 of the Code and the following definitions apply in this Article:

(1) Housing Finance Agency. – The North Carolina Housing Finance Agency established in G.S. 122A-4.

(2) ~~Pass-Through Entity.~~Pass-through entity. – Defined in G.S. ~~105-129.35.~~ 105-228.90."

SECTION 4.(a) G.S. 105-163.010(7) reads as rewritten:

"(7) Pass-through entity. – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint~~

~~venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this Part, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~"

SECTION 4.(b) G.S. 105-163.1(9) reads as rewritten:

"(9) Pass-through entity. – Defined in ~~G.S. 105-163.010.~~ G.S. 105-228.90."

SECTION 4.(c) G.S. 105-129.35(c) reads as rewritten:

"(c) Definitions. – The following definitions apply in this section:

(1) Certified historic structure. – Defined in section 47 of the Code.

(2) Pass-through entity. – Defined in G.S. 105-228.90. ~~An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws.~~

(3) Qualified rehabilitation expenditures. – Defined in section 47 of the Code."

SECTION 4.(d) G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

...

(4d) Pass-through entity. – An entity or business, including a limited partnership, a general partnership, a joint venture, a Subchapter S Corporation, or a limited liability company, all of which is treated as owned by individuals or other entities under the federal tax laws, in which the owners report their share of the income, losses, and credits from the entity or business on their income tax returns filed with this State. For the purpose of this section, an owner of a pass-through entity is an individual or entity who is treated as an owner under the federal tax laws."

SECTION 5.(a) G.S. 105-130.4(a)(1) reads as rewritten:

"(1) ~~'Business'~~ 'Apportionable income' means all income that is apportionable under the United States Constitution."

SECTION 5.(b) G.S. 105-130.4(a)(5) reads as rewritten:

"(5) ~~'Nonbusiness'~~ 'Nonapportionable income' means all income other than ~~business~~ apportionable income."

SECTION 5.(c) G.S. 105-130.4(c) reads as rewritten:

"(c) Rents and royalties from real or tangible personal property, gains and losses, interest, dividends less the portion deductible under G.S. 105-130.7, patent and copyright royalties and other kinds of income, to the extent that they constitute ~~nonbusiness~~ nonapportionable income, less related expenses shall be allocated as provided in subsections (d) through (h) of this section."

SECTION 5.(d) G.S. 105-130.4(i) reads as rewritten:

"(i) All ~~business~~ apportionable income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. Provided, that where the sales factor does not exist, the denominator of the fraction shall be the number of existing factors and where the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction shall be the number of existing factors plus one."

SECTION 5.(e) G.S. 105-130.4(j)(2) reads as rewritten:

"(2) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals except that subrentals shall not be deducted when they constitute ~~business~~ apportionable income. Any property under construction and any property the income from which constitutes ~~nonbusiness~~ nonapportionable income shall be excluded in the computation of the property factor."

SECTION 5.(f) G.S. 105-130.4(k)(1) reads as rewritten:

"(1) The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the income year by the corporation as compensation, and the denominator of which is the total compensation paid everywhere during the income year. All compensation paid to general executive officers and all compensation paid in connection with ~~nonbusiness~~ nonapportionable income shall be excluded in computing the payroll factor. General executive officers shall include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller, and any other officers serving in similar capacities."

SECTION 5.(g) G.S. 105-130.4(l)(1) reads as rewritten:

"(1) The sales factor is a fraction, the numerator of which is the total sales of the corporation in this State during the income year, and the denominator of which is the total sales of the corporation everywhere during the income year. Notwithstanding any other provision under this Part, the receipts from any casual sale of property shall be excluded from both the numerator and the denominator of the sales factor. Where a corporation is not taxable in another state on its ~~business~~ apportionable income but is taxable in another state only

because of ~~nonbusiness~~ nonapportionable income, all sales shall be treated as having been made in this State."

SECTION 5.(h) G.S. 105-130.4(m) through (s) read as rewritten:

"(m) All ~~business~~ apportionable income of a railroad company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the "railway operating revenue" from business done within this State and the denominator of which is the "total railway operating revenue" from all business done by the company as shown by its records kept in accordance with the standard classification of accounts prescribed by the Interstate Commerce Commission.

"Railway operating revenue" from business done within this State shall mean "railway operating revenue" from business wholly within this State, plus the equal mileage proportion within this State of each item of "railway operating revenue" received from the interstate business of the company. "Equal mileage proportion" shall mean the proportion which the distance of movement of property and passengers over lines in this State bears to the total distance of movement of property and passengers over lines of the company receiving such revenue. "Interstate business" shall mean "railway operating revenue" from the interstate transportation of persons or property into, out of, or through this State. If the Secretary of Revenue ~~shall find,~~ finds, with respect to any particular company, that its accounting records are not kept so as to reflect with exact accuracy such division of revenue by State lines as to each transaction involving interstate revenue, the Secretary of Revenue may adopt such regulations, based upon averages, as will approximate with reasonable accuracy the proportion of interstate revenue actually earned upon lines in this State. Provided, that where a railroad is being operated by a partnership which is treated as a corporation for income tax purposes and pays a net income tax to this State, or if located in another state would be so treated and so pay as if located in this State, each partner's share of the net profits shall be considered as dividends paid by a corporation for purposes of this Part and shall be so treated for inclusion in gross income, deductibility, and separate allocation of dividend income.

(n) All ~~business~~ apportionable income of a telephone company shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is gross operating revenue from local service in this State plus gross operating revenue from toll services performed wholly within this State plus the proportion of revenue from interstate toll services attributable to this State as shown by the records of the company plus the gross operating revenue in North Carolina from other service less the uncollectible revenue in this State, and the denominator of which is the total gross operating revenue from all business done by the company everywhere less total uncollectible revenue. Provided, that where a telephone company is required to keep its records in accordance with the standard classification of accounts prescribed by the Federal Communications Commission the amounts in such accounts shall be used in computing the apportionment fraction as provided in this subsection.

(o) All ~~business~~ apportionable income of a motor carrier of property shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number

of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company hauling property for a charge or traveling on a scheduled route.

(p) All ~~business~~ apportionable income of a motor carrier of passengers shall be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in this State and the denominator of which is the total number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company carrying passengers for a fare or traveling on a scheduled route.

(q) All ~~business~~ apportionable income of a telegraph company shall be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

The property factor shall be as defined in subsection (j) of this section, the payroll factor shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in subsection (l) of this section.

(r) All ~~business~~ apportionable income of an excluded corporation and of all other public utilities shall be apportioned by multiplying the income by the sales factor as determined under subsection (l) of this section.

(s) All ~~business~~ apportionable income of an air or water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means one ton of passengers, freight, mail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds."

SECTION 5.(i) G.S. 105-130.8(a)(5) reads as rewritten:

"(5) For purposes of this section, any income item deductible in determining State net income under the provisions of G.S. 105-130.5 and any ~~nonbusiness~~ nonapportionable income not allocable to this State under the provisions of G.S. 105-130.4 shall be considered as income not taxable under this Part. The amount of the income item considered income not taxable under this Part is determined after subtracting related expenses for which a deduction was allowed under this Part."

SECTION 5.(j) G.S. 105-122(c)(1) reads as rewritten:

"(1) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as provided herein, every corporation permitted to allocate and apportion its net income for income tax purposes under the provisions of Article 4 of this Chapter shall apportion ~~said~~ its capital stock, surplus and undivided profits to this State through use of the fraction computed for apportionment of its ~~business~~ apportionable income under ~~said~~ that Article. A corporation that is subject to franchise tax under this Article but is not subject to income tax under Article 4 of this Chapter must apportion its capital

stock, surplus, and undivided profits to this State by using the apportionment formula that would apply to the corporation if it were subject to Article 4.

~~Provided, that although~~ Notwithstanding the foregoing, if a corporation is authorized by the Tax Review Board to apportion its ~~business~~ apportionable income by use of an alternative formula or method, the corporation may not use ~~such~~ this alternative formula or method for apportioning its capital stock, surplus and undivided profits unless specifically authorized to do so by order of the Tax Review Board.

~~Provided, further, that a~~ A corporation ~~which~~ that is required to pay an income tax to this State on its entire net income shall apportion its entire capital stock, surplus and undivided profits to this State."

SECTION 6. G.S. 105-129.42(a)(3) reads as rewritten:

"(a) Definitions. – The following definitions apply in this section:

...

(3) Qualified residential unit. ~~Residential Unit.~~ – A housing unit that meets the requirements of section 42 of the Code."

SECTION 7. G.S. 105-129.42(g) reads as rewritten:

"(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

(1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's eligible basis.

(2) Within 30 days after the date the development is placed in ~~service date.~~service."

SECTION 8. G.S. 105-129.42(i) reads as rewritten:

"(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as

a result of the credit plus interest at the rate established under G.S. 105-241.1(i). The interest ~~rate~~ is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 9. G.S. 105-299 reads as rewritten:

"**§ 105-299. (Effective for taxes imposed for taxable years beginning on or after July 1, 2003) Employment of experts.**

The board of county commissioners may employ appraisal firms, mapping firms or other persons or firms having expertise in one or more of the duties of the assessor to assist the assessor in the performance of these duties. The county may also assign to county agencies, or contract with State or federal ~~agencies, for~~ agencies for, any duties involved with the approval or auditing of use-value accounts. The county may make available to these persons any information it has that will facilitate the performance of a contract entered into pursuant to this section. Persons receiving this information are subject to the provisions of G.S. 105-289(e) and G.S. 105-259 regarding the use and disclosure of information provided to them by the county. Any person employed by an appraisal firm whose duties include the appraisal of property for the county must be required to demonstrate that he or she is qualified to carry out these duties by achieving a passing grade on a comprehensive examination in the appraisal of property administered by the Department of Revenue. In the employment of these firms, primary consideration must be given to the firms registered with the Department of Revenue pursuant to G.S. 105-289(i). A copy of the specifications to be submitted to potential bidders and a copy of the proposed contract may be sent by the board to the Department of Revenue for review before the invitation or acceptance of any bids. Contracts for the employment of these firms or persons are contracts for personal services and are not subject to the provisions of Article 8, Chapter 143, of the General Statutes."

SECTION 10. G.S. 105-358(a) reads as rewritten:

"(a) Waiver. – A tax collector may, upon making a record of the reasons therefor, reduce or waive the ~~ten percent (10%)~~ penalty imposed on giving a worthless check under G.S. 105-357(b)(2)."

SECTION 11. G.S. 20-305.2(a)(7) reads as rewritten:

"**§ 20-305.2. Unfair methods of competition.**

(a) It is unlawful for any motor vehicle manufacturer, factory branch, distributor, distributor branch, or subsidiary thereof, to directly or indirectly through any subsidiary or affiliated entity, own any ownership interest in, operate, or control any motor vehicle dealership in this State, provided that this section shall not be construed to prohibit:

...

(7) The ownership, operation, or control of a dealership that sells primarily recreational vehicles as defined in ~~[G.S.]~~ G.S. 20-4.01 by a manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, if the manufacturer, factory branch, distributor, or distributor branch, or subsidiary thereof, owned, operated, or controlled the dealership as of October 1, 2001.

(b) This section does not apply to manufacturers or distributors of trailers or semitrailers that are not recreational vehicles as defined in G.S. 20-4.01."

SECTION 12. Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-1.1. Supremacy of State Constitution.**

The State's power of taxation is vested in the General Assembly. Under Article V, Section 2(1), of the North Carolina Constitution, this power cannot be surrendered, suspended, or contracted away. In the exercise of this power, the General Assembly may amend or repeal any provision of this Subchapter in its discretion. No provision of this Subchapter constitutes a contract that the provision will remain in effect in future years, and any representation made to the contrary is of no effect."

SECTION 13. Section 3.1 of S.L. 2001-347 reads as rewritten:

"**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires January 1, 2006, unless one of the following occurs: (i) 15 states have ~~signed~~ adopted the Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined resident population equal to at least ten percent (10%) of the national resident population, as determined by the 2000 federal decennial census, have ~~signed~~ adopted the Agreement."

SECTION 14.(a) Section 1 of S.L. 1993-577 reads as rewritten:

"**Section 1.** This section applies only if Pender County has provided under G.S. 105-472 that revenues are to be distributed under subdivision (1) of that section. Revenues collected under ~~Articles 39, 40, and 42~~Subchapter VIII of Chapter 105 of the General Statutes which are received by Pender County and the municipalities within that county under G.S. 105-472, which were initially allocated to Pender County under ~~those Articles,~~that Subchapter other than revenues which are required by law to be used for certain purposes, may be redistributed among Pender County and those municipalities by agreement adopted under Article 20 of Chapter 160A of the General Statutes. The agreement is effective only if approved by Pender County and all the municipalities in that county entitled to a distribution of those funds for which Pender County determined the allocation method. An election to enter an agreement shall be made annually at the time the county makes its determination to the Department of Revenue for the method of local sales tax distribution under G.S. 105-472."

SECTION 14.(b) This section is effective on and after December 1, 2002.

SECTION 15. G.S. 105-130.7A(b)(4)b. reads as rewritten:

"(b) Definitions. – The following definitions apply in this section:

...

(4) Related entity. – Any of the following:

...

b. A stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, and corporations own in the aggregate at least fifty percent (50%) of the value of the taxpayer's outstanding stock. ~~are component members with respect to the taxpayer.~~"

SECTION 16.(a) G.S. 105-164.4C(f) reads as rewritten:

"(f) Call Center Cap. – The gross receipts tax on ~~interstate~~ telecommunications service that originates outside this State, terminates in this State, and is provided to a call center that has a direct pay permit issued by the Department under G.S. 105-164.27A may not exceed fifty thousand dollars ($50,000) a calendar year. This cap applies separately to each legal entity."

SECTION 16.(b) G.S. 105-164.27A(b) reads as rewritten:

"(b) Telecommunications Service. – A direct pay permit for telecommunications service authorizes its holder to purchase telecommunications service without paying tax to the seller and authorizes the seller to not collect any tax on a sale to the permit holder. A person who purchases telecommunications service under a direct pay permit must file a return and pay the tax due monthly to the Secretary. A direct pay permit issued under this subsection does not apply to any tax other than the tax on telecommunications service.

A call center that purchases ~~interstate~~ telecommunications service that originates outside this State and terminates in this State may apply to the Secretary for a direct pay permit for telecommunications service. A call center is a business that is primarily engaged in providing support services to customers by telephone to support products or services of the business. A business is primarily engaged in providing support services by telephone if at least sixty percent (60%) of its calls are incoming."

SECTION 17. G.S. 105-164.6(f) reads as rewritten:

"(f) Before a person may engage in business in this State selling or delivering tangible personal property for storage, use, or consumption in this State, the person must obtain a certificate of registration from the Department. To obtain a certificate of registration, a person must register with the Department.

The holder of the certificate of registration must pay the tax levied under this Article. A certificate of registration is valid unless it is revoked for failure to comply with the provisions of this Article or becomes void. A certificate issued to a retailer becomes void if, for a period of 18 months, the retailer files no returns or files returns showing no sales."

SECTION 18.(a) The lead-in language of G.S. 105-164.13 reads as rewritten:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property and services is specifically exempted from the tax imposed by this Article:

..."

SECTION 18.(b) The lead-in language of G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity included in the following list is allowed a semiannual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service, for use in carrying on the work of the nonprofit entity:

..."

SECTION 18.(c) The lead-in language of G.S. 105-164.14(c) reads as rewritten:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this ~~Article, except under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c),~~ Article on direct purchases of tangible personal property and services, other than electricity and telecommunications service. ~~property.~~ Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

..."

SECTION 18.(d) G.S. 105-164.14(c)(20) reads as rewritten:

"(20) A constituent institution of The University of North Carolina, but only with respect to sales and use tax paid by it for tangible personal property or services that are eligible for refund under this subsection acquired by it through the expenditure of contract and grant funds."

SECTION 18.(e). G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes paid by a State agency on direct purchases of tangible personal property and services and of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. This subsection does not apply to purchases for which a State agency is allowed a refund under subsection (c) of this section.

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.
(2) The type of property purchased.
(3) The project for which the property was used.
(4) If the property was purchased in this State, the county in which it was purchased.
(5) If the property was not purchased in this State, the county in which the property was used.
(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 19.(a) G.S. 105-187.18 reads as rewritten:

"**§ 105-187.18. Exemptions.**

(a) The taxes imposed by this Article do not apply to:

(1) Bicycle tires and other tires for vehicles propelled by human power.

(2) Recapped tires.

(3) Tires sold for placement on newly manufactured vehicles.

(b) ~~The~~ Except for the exemption for sales a state cannot constitutionally tax, the exemptions in G.S. 105-164.13 and the refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 19.(b) G.S. 105-187.23 reads as rewritten:

"**§ 105-187.23. Exemptions and refunds.**

(a) Exemptions. – Except for the exemption ~~provided in G.S. 105-164.13(17),~~ for sales a state cannot constitutionally tax, the exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article.

(b) Refunds. – The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article. A person who buys at least 50 new white goods of any kind in the same sale or purchase may obtain a refund equal to sixty percent (60%) of the amount of tax imposed by this Article on the white goods when all of the white goods purchased are to be placed in new or remodeled dwelling units that are located in this State and do not contain the kind of white goods purchased. To obtain a refund, a person must file an application for a refund with the Secretary. The application must contain the information required by the Secretary, be signed by the purchaser of the white goods, and be submitted by the date set by the Secretary."

SECTION 19.(c) G.S. 105-187.33 reads as rewritten:

"**§ 105-187.33. (Repealed effective January 1, 2010.) Exemptions and refunds.**

Except for the exemption for sales a state cannot constitutionally tax, the ~~The~~ exemptions in G.S. 105-164.13 do not apply to the taxes imposed by this Article. The refunds allowed in G.S. 105-164.14 do not apply to the taxes imposed by this Article."

SECTION 20. G.S. 105-277(d) reads as rewritten:

"(d) All bona fide indebtedness incurred in the purchase of fertilizer and fertilizer materials owing by a taxpayer as principal debtor may be deducted from the total value of all fertilizer and fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year. ~~Provided, further, that from the total value of cotton stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for the payment of which the cotton so purchased is pledged as collateral.~~"

SECTION 21. G.S. 105-164.13(5) reads as rewritten:

"(5) Manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered retailers or wholesale merchants, for the purpose of resale except as modified by G.S. ~~105-164.3(23).~~ 105-164.3(51). This exemption does not extend to or include retail sales to users or consumers not for resale."

SECTION 22. G.S. 105-164.13B(1) reads as rewritten:

"(1) The following items are subject to tax:

a. Alcoholic beverages, as defined in G.S. 105-113.68.

b. Dietary supplements.

c. Food sold through a vending machine."

SECTION 23. G.S. 105-164.14(c)(21) reads as rewritten:

"(21) The University of North Carolina ~~Hospitals at Chapel Hill.~~ Health Care System."

SECTION 24. This act is effective when it becomes law.

SENATE BILL 97:
Revenue Laws Technical Changes

BILL ANALYSIS

Committee: House Finance
Date: July 9, 2003
Version: PCS to 2nd Edition

Sponsor: Sen. Hartsell
Analysis by: Finance Team

SUMMARY: Senate Bill 97 makes technical and clarifying changes to the Revenue and related statutes. The first 12 sections were in the original bill recommended by the Revenue Laws Study Committee.

Section	Explanation
1 & 3	Section 1 clarifies that the 2002 law modifying the estate tax formula for estates with property in more than one state does not apply to the extent it would create a retroactive increase for estates of decedents dying between January 1, 2002, and the date the act became law. Sections 1 and 3 clarify the effective date of the Low-Income Housing Tax Credit.
2	Re-enacts a session law that did not receive three roll-call readings on adoption of the conference report.
4	Moves the definition of "pass through entity" to the general definitions section and makes appropriate cross-reference changes.
5	Modernizes terminology by changing the word "business" to "apportionable" as it relates to the apportionment of corporate income tax.
6	Correct capitalization.
7	Makes a grammatical change.
8	Clarifies that interest, not the interest rate, for the low income housing tax credit is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency.
9	Makes a punctuation change.
10	Clarifies that the entire penalty may be waived for the nonpayment of taxes. G.S. 105-357(b)(2) imposes a penalty for nonpayment of taxes of the greater of 10% or $25. However, currently G.S. 105-358(a) authorizes waiver of only the 10% penalty.
11	Supplies missing language.
12	Clarifies that the Constitution prohibits the General Assembly from contracting away its taxing power.
13	Conforms effective date language to reflect that adoption of the Streamlined Sales Tax Agreement may be other than by signature.
14	Conforms local law relating to local sales tax distribution to reflect additional local option sales tax enacted in 2001.
15	Undoes drafting error that substituted for a stock ownership test the similar requirements for controlled group membership. The substituted language is not workable because, unlike the stock ownership test, it does not cover non-corporate entities.
16	Conforms terminology to reflect definition changes enacted in 2002.

17	Restores a provision that was deleted in 1997.
18	Conforms sales tax exemption and refund statutes to reflect that exemptions and refunds extend to some taxable services.
19	Sets out in statute the prohibition against levying the scrap tire, white goods or dry-cleaning solvent tax on sales the State cannot constitutionally tax
20	Deletes a provision regarding the property tax value of cotton that is obsolete because cotton is covered by the exemption for inventories.
21	Corrects a cross-reference.
22	Adds "G.S." before a statutory citation
23	Corrects name of UNC Health Care System
24	Amends the captions to fit the text of the statutes
25	Clarifies that the conflict of interest language applies to current members as well as former members of the Economic Investment Committee. This committee administers the Job Development Investment Grant Program.
26	Corrects an effective date for a section of the streamlined provisions in the 2003 Budget Bill.
27	Revises the distribution formula for the local sales tax on food, as requested by the NC League of Municipalities and the NC Association of County Commissioners. The modified distribution formula will more accurately reflect the current distribution of those revenues.
28	Allows a one-time withholding of $25,000 from the local taxes collected on food in order to cover the Department of Revenue's programming costs associated with the distribution of the local taxes collected on food.
29	Under the 2003 Budget bill, $33 million is transferred from the Wireless Fund to the General Fund for the 2003-04 fiscal year and $25 million for the 2004-05 fiscal year. This section gives the Wireless 911 Board the discretion to reallocate monies within the current fund to meet the specified amounts rather than diverting fund receipts. A diversion of the fund receipts could render the public safety agency that receives incoming 911 calls ineligible for Phase II, which centers on automatic location identification.
30	Section 27 becomes effective October 1, 2004. The remainder of the act is effective when it becomes law.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **July 9, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: SB 97 – Revenue Laws Technical Changes - HCS

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No Fiscal Impact ***				
Local Governments	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, local tax offices.

EFFECTIVE DATE: Section 27 becomes effective October 1, 2004. The remainder is effective when law.

BILL SUMMARY: The bill makes numerous technical and administrative changes to G.S. 105 and related statutes. The Revenue Laws Study Committee recommended sections 1 – 12.

ASSUMPTIONS AND METHODOLOGY:

Sections 1 & 3 – Clarifies that the 2002 law modifying the estate tax formula for estates with property in more than one state does not apply to the extent that it would create a retroactive

increase. It also clarifies the effective date of the Low-Income Housing credit. Both of these changes reflect current Department practices and will have no fiscal impact.

Section 2 – Re-enacts S.L. 2002-172 (H.B. 1734), which did not receive three roll call readings on the adoption of the conference report. This bill was last session's economic incentive bill which included modifications to the Bill Lee Credit, creation of the Job Development Investment Grant program (JDIG), changes in the Film Industry Credit, alteration of the North Carolina Railroad's condemnation authority, a modification of the public hearing requirements financing of industrial and pollution control facilities, and capital planning authority for the State Board of Community Colleges, the Board of Governors of the University of North Carolina system, and the North Carolina Biotechnology Center to develop a new biopharmaceutical/bioprocess manufacturing training center and related regional training centers. It appears to Fiscal Research that all the requirements of this bill are being carried out. Therefore, there is no fiscal impact associated with this portion of the legislation, as it only codifies existing practices.

Section 4 – This section moves the location of a definition and makes conforming changes. No fiscal impact is expected.

Section 5 – The section substitutes the word "apportionable" for the word "business" in the phrase "business income". This conforms to the language used in recent court decisions and should have no impact on the bill.

Sections 6, 7, 9 11, 14, 21, and 22 – Makes grammatical and punctuation changes, fills in missing statute references, and replaces inaccurate statute references. These sections will have no fiscal impact.

Section 8 – Clarifies that the interest amount, not the interest rate, is factor to use when determining the value of the low income housing tax credit. This change follows the original intent of the bill and will have no fiscal impact.

Section 10 – Gives local tax collectors the ability to reduce or waive the entire penalty imposed on a worthless check. Current law only allows the tax collector to waive the 10% penalty. The Department indicates that this may result in some revenue loss for local units, but that the loss should be minimal.

Section 12 – Clarifies that the General Assembly cannot surrender, suspend, or contract away their taxing power. It also clarifies that no provision of the tax statutes constitutes a contract that the provision will remain in effect in future years. No immediate fiscal impact is expected, although the language change may have some impact in future court decisions.

Section 13 – Makes appropriate wording change to clarify that a set number of states must adopt the Streamline Sales Tax Agreement. Current law says the states must sign, not adopt, the agreement. No fiscal impact is expected.

Section 15 – Alters the related entity definition to correct a drafting error. No fiscal impact is expected.

Section 16 – Deletes the word "interstate" from the term "interstate telecommunications" in selected statutes. This change is made to reflect the 2002 tax law change that removed the distinction between interstate and intrastate telecommunication for tax purposes. No fiscal impact is expected.

Section 17 – Returns to statute language that was deleted in 1997. At that time, the language was considered redundant, but the Department would like the language returned to further clarify their current practices.

Section 18 – Conforms the language allowing sales tax refunds to selected government agencies and nonprofits to include sales taxes levied on the sale of services, except telecommunications and electricity. As a matter of administrative practice, the Department has always refunded sales taxes paid directly by an eligible entity on accommodations and dry cleaning. Because these are the only services currently subject to a sales tax other that telecommunications and electricity, the bill only puts into statute the current practice of the Department. As such, there is no fiscal impact associated with this portion of bill.

Section 19 – Sets out in statute a prohibition against levying the scrap tire or white goods tax on sales that the state cannot statutorily tax.

Section 20 - Removes the language that specifically exempts stored cotton from property tax, as it is already exempt under the inventory exemption. No fiscal impact is expected because of either change.

Section 23 – Corrects the name of the UNC Health Care System in particular statutes. No fiscal impact is expected.

Section 24 – Rewrites the caption in the statute to reflect what is now in that portion of the law. No fiscal impact is anticipated.

Section 25 – Clarifies that the conflict of interest language for former members of the Economic Investment Committee also applies to current members of that group.

Section 26 – Corrects the effective date for some of the Streamline Sales Tax provisions.

Section 27 – Revises the distribution of local sales taxes levied on food. HB 397 (the budget bill) included language that allowed the local sales tax on food to be collected as if it was a state tax, to avoid difficulties with the Streamlined Sales Tax program. Under that legislation, the funds are to be distributed to locals on the same basis as the overall local sales tax, ½ on a per capita basis and on ½ on a point of origin base for all sales. The bill modifies this distribution by changing the point of origin allocation from an overall basis to the point of origin of the food tax in 1997-98 (this is the last year for which individual food tax point of origin numbers are available). This change from the budget bill will have the

net effect of shifting some sales tax revenues away from the larger counties, but will more closely align with the actual origin of the food tax revenue. Thus, the bill will result in a redistribution of some sales tax revenue among the counties and their associated cities.

Section 28 – This section allows the Department of Revenue to draw $25,000 from the local taxes collected on food to cover the programming costs associated with the changes in Section 27. This is a one-time authorization.

Section 29 – This section relates to the E-911 fund. That fund finances local government and telephone company equipment changes to allow the physical origin of a wireless 911 call to be identified. The fund currently has a fund balance of approximately $56 million, most of which was expected to be allocated to telephone companies. In HB 397, the entire revenue stream of $33 million is transferred from the E-911 fund to the General Fund in 03-04. An additional $25 million of incoming revenue is transferred in 04-05. This section clarifies that the Wireless 911 Board (which oversees the fund) can reallocate the existing fund balance between both local governments and telephone carriers, as long as the overall requirements of the Federal Communications Commission are met.

In closing it should be noted that all Department of Revenue Division Directors were asked to examine Sections 1 - 22 to determine if it would have a fiscal impact on the state. (The remaining sections were not available in time to allow a full departmental review). The directors for Corporate Income, Individual Income, Sales, and Property taxes all indicated that they did not see a fiscal impact from Sections 1 - 22 that would affect state revenues.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 97 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House Committee Substitute Bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate Committee Substitute Bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 1233
PROPOSED COMMITTEE SUBSTITUTE H1233-CSSV-33 [v.3]

7/9/2003 11:07:15 PM

Short Title: Efficiency: School Board Sales Tax. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL BOARDS INSTEAD OF A SALES AND USE TAX REFUND TO LOCAL SCHOOL BOARDS AND TO MODIFY THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT ALL STUDENTS ARE READY TO ENTER KINDERGARTEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(53) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased, or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.

c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number."

SECTION 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local school administrative unit exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(53), a local school administrative unit must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local school administrative unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(b) Liability. – A local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 3. The General Assembly finds that allowing a sales and use tax exemption instead of a sales and use tax refund for local school administrative units is the first step toward eventually allowing a sales and use tax exemption for cities and counties. It is, therefore, the intent of the General Assembly to enact legislation in a future session to continue this administrative trend by also allowing cities and counties to qualify for a sales and use tax exemption instead of a sales and use tax refund.

SECTION 4. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before ~~October 16~~ September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before ~~October 16~~September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any

public school may require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

SECTION 5. Section 1 of this act becomes effective July 1, 2005, and applies to sales made on or after that date. Section 3 of this act becomes effective July 1, 2005. The remainder of this act becomes effective January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1233

Short Title:	Efficiency: School Board Sales Tax.	(Public)
Sponsors:	Representatives Pate; Sauls and Insko.	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL BOARDS INSTEAD OF A SALES AND USE TAX REFUND TO LOCAL SCHOOL BOARDS AND TO MODIFY THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT ALL STUDENTS ARE READY TO ENTER KINDERGARTEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(51) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased, or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.

c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number."

SECTION 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local school administrative unit exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(52), a local school administrative unit must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local school administrative unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(b) Liability. – A local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 3. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before ~~October 16~~ September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before ~~October 16~~September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school may require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and

that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

SECTION 4. Section 1 of this act becomes effective July 1, 2004, and applies to sales made on or after that date. Section 3 of this act becomes effective July 1, 2004. The remainder of this act becomes effective January 1, 2004.

HOUSE BILL 1233:
Efficiency: School Board Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Pate
Date:	July 10, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H1233-CSSV-33 [v.3]		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 1233 does the following two things:

- ***It would exempt purchases by local school administrative units from the State and local sales and use tax. The local school units must currently apply for an annual refund of sales taxes. The exemption, versus the refund, would become effective July 1, 2005.***
- ***It would modify the school admission requirements for children entering kindergarten by moving the cutoff date by which a child must turn five years old from October 16 to September 16.***

BILL ANALYSIS:

Sections 1-3: Change Refund Process to an Exemption[1] for Local School Administrative Units

Currently, all local school administrative units are subject to State and local taxes. However, the units receive an annual refund of State and local sales taxes paid.

House Bill 1233 would change the current refund process to an exemption for local school administrative units. To qualify for the exemption, the items must be purchased by a local school administrative unit and the purchase must meet one of the following conditions:

- The items are purchased pursuant to a purchase order issued by the unit that contains the exemption number of the unit and a description of the items purchased.
- The items purchased are paid for by a check, electronic deposit, credit card, procurement card, or credit account of the unit and the unit provides to or has on file with the retailer the unit's exemption number.

The bill incorporates all of the various payment and purchase mechanisms where accounting system controls are in place to verify purchases and prevent possible misuse of the unit's sales tax exemption by its employees. The only type of direct purchases not included within this exemption is employee expense reimbursements.

The sales tax exemption would apply only to direct purchases of tangible personal property. Local school units would continue to apply for refunds of State and local taxes paid on indirect purchases of building materials, supplies, fixtures, and equipment that become a part of a structure owned or leased by the unit.

A unit would be liable for items purchased with its exemption number that it does not use. The liability would include not only the tax that should have been paid on the items purchased, but also interest calculated from the date the tax would otherwise have been paid.

[1]Senate Bill 100, which has passed the Senate and is currently scheduled to be on the House floor on July 15, 2003, makes a similar change by allowing *State agencies* a sales and use tax exemption instead of a refund.

Section 3 of the bill indicates that it is the intent of the General Assembly to eventually enact legislation that would also allow the cities and counties to be eligible for an exemption of sales and use tax rather than a refund.

These sections would become effective July 1, 2005.

Section 4: Modify the kindergarten admission requirements

Under current law, a child who has reached or will reach the age of 5 on or before October 16 of that school year is entitled to entry into the public schools. A child who has not reached the age of 5 by October 16, but has been attending school during that school year in another state in accordance with the laws of that State before moving to North Carolina may also enter the public schools.

Under House Bill 1233, the date for qualification for entry into kindergarten is moved back from October 16 to September 16.

This section of the bill would become effective January 1, 2005.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps, Adam Levinson, and Lisa Hollowell.
Fiscal Research Division

RE: HB 1233 – PCS – Efficiency: School Board Sales Tax

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available ( )

($ Millions)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Transition			(36.7)	*	*
Interest Income			(2.8)	(2.9)	(3.2)
TOTAL			(39.5)	(2.9)	(3.2)
Local Governments			(24.5)		
Public Schools					
Transition			61.2		
Interest Income			2.8	2.9	3.2
EXPENDITURES					
General Fund					
Dept. of Public Instruction			(44.6)		
More at Four			1.5		
Smart Start			* See Assumptions and Methodology *		
County Governments			1.5		

*** The intent language suggests a potential and significant out year cost.**

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: NC Department of Revenue, NC local governments, NC school administrative units, More at Four, Smart Start.

EFFECTIVE DATE: Section 1 becomes effective July 1, 2005 and applies to sales made on or after that date. Section 2 (certification process) becomes effective January 1, 2005. The remainder becomes effective July 1, 2005.

BILL SUMMARY: The legislation moves the school administrative units from a sales tax refund to a sales tax exemption. This shift affects both state and local sales taxes. The bill also outlines the process for certification for an exemption. The bill shifts back by one month the date by which a child must be five years old to enter kindergarten. Finally, the bill indicates the General Assembly's intent to shift the counties and cities from a sales tax refund to an exemption.

ASSUMPTIONS AND METHODOLOGY: The legislation creates six fiscal impacts, three related to the sales tax and three related to the change in the kindergarten date.

Sales Tax

In terms of the sales tax issues, the shift from a refund to an exemption would reduce interest income for the State and add to investment earnings of local units. This would be a recurring loss/gain. The shift is because refunds are paid the year after the purchase is made. A review of the refunds paid by month for a recent fiscal year indicates that the average refund to local units is paid in November of the fiscal year following the purchase. In analyzing the cost of the exemption, it was assumed that exempt purchases would be made at an even rate throughout the year. Thus, the "average purchase" is made around January 1. This means that a sales tax exemption, rather than a refund, would accelerate sales tax relief from November back to January, a period of 11 months. The assumed interest rate used for the calculation of the interest income loss to the State (and gain to local units) was 5.25%, based on a recent estimate by the Office of the State Treasurer for the 2001-02 fiscal year. This means that the effective interest loss is equal to 4.8125% (5.25% for 11 months) times the exemption amount.

The actual refunds paid to local schools in recent years are as follows:

Fiscal Year of Purchases	Total Refund Amount
1999-00	33,303,389
2000-01	43,600,000
2001-02	46,700,000

Analysis of school refund requests filed to date and conversations with school officials suggest that the amount of refunds will continue to rise by approximately 7.0%. Using this 7.0% rate as a proxy for future growth suggests the following refund request stream:

2002-03	49,969,000

2003-04	53,466,830
2004-05	57,209,508
2005-06	61,214,174
2006-07	65,499,166
2007-08	70,084,107

Because refunds for purchases made in each of fiscal years above are paid in the following fiscal year, the actual cost to the state of these refunds are borne in the next fiscal year. The resulting interest losses to the general fund, taking into account the effective date of the bill, are below.

Fiscal Year	Interest
2004-05	2,573,091
2005-06	2,753,208
2006-07	2,945,932
2007-08	3,152,147

This amount is a loss to the state and a gain to school units.

The second sales tax related fiscal impact relates to the one time transition cost. Under the state constitution, the state general fund budget must be prepared on a cash basis. Refunds to local units are made in the year after the actual purchases. The combination of these factors mean that in the first year the exemption is granted the state has to pay both the refund and the exemption amounts (current year exemptions plus refunds for previous year purchases). Because the exemption becomes effective July 1, 2005, the transitional cost will occur in 2005-06. The actual cost is divided between the state and local governments.

The bill also addresses the issue of transitioning counties and cities from a sales tax refund to an exemption. Actual historical sales tax refunds to these local units have been as follows:

Fiscal year	Counties	Municipalities
1993-94	$14,239,995	$22,476,829
1994-95	NA	NA
1995-96	20,122,552	26,436,834
1996-97	20,388,158	29,777,918
1997-98	22,541,073	30,641,945
1998-99	26,880,204	31,356,402
1999-00	26,975,128	30,977,212
2000-01	26,487,706	34,066,525
2001-02	29,284,899	35,381,885

Shifting these units from a refund to an exemption would result in a one-time transition cost similar to the loss encountered with shifting the schools. Using straight trend line analysis and

the historic state/local division of the cost associated with city and county refunds, suggests the following potential state losses:

Fiscal year	State
2004-05	48,921,503
2005-06	50,832,626
2006-07	52,743,749
2007-08	54,654,872
2008-09	56,565,995
2009-10	58,477,118

It should be noted that only one year of transition cost would actually occur. However, because Fiscal Research cannot determine in which year the General Assembly will actually make this change, we cannot identify the pertinent year and refund amount.

Kindergarten Date

Moving up by one month the date by which children must have turned five years old in order to enter kindergarten for the 2005-06 school year will render newly ineligible those children whose birthdays fall between September 17 and October 16, 2005.[1] Based on birth rates and other historical data regarding kindergarten enrollment the NC Department of Public Instruction (DPI) predicts that approximately 9,290 children will be affected by the policy. The one-time cost savings to the State associated with this many fewer children attending kindergarten in 2005-06 is calculated using the following assumptions:

- Average State appropriation per pupil in kindergarten is $5,000 (Source: DPI).
- Four% of the affected children will in fact enroll in kindergarten under the auspices of the statutory provision for early entry for "gifted" and "mature" children.[2]
- The State will save money only in the first year the policy is implemented because that is the only year in which fewer children than expected will be eligible for kindergarten entry. The savings derives from serving only eleven months' worth of children rather than the typical twelve months' worth.[3] In 2006-07 and subsequent years, a full twelve months' worth of children will once again be eligible each year.

The policy change will therefore produce a one-time reduction in expenditures from the State Public School Fund of $44,592,000 (=(9,290-371 students) X $5,000).

More At Four

[1] These children are eligible for kindergarten under current statute (G.S.115C-364).

[2] G.S. 115C-364(d)

[3] Children who reach the age of five years from September 17-October 16, 2005 will be ineligible for kindergarten in 2005-06, but those who reached that age during that time period in 2004 are still eligible for entry in 2004-05 and are assumed to enter for that school year. The cohort of children entering in 2005-06 therefore have birthdays spread over only eleven rather than twelve months.

The More At Four program will be impacted by the change of the enrollment date for kindergarten. The number of students currently enrolled in the More At Four program, whose birthdays fall between September 17 and October 16, 2004, is 425. This number is used as a proxy for the same cohort in 2005. The state program costs associated with serving these students for an additional year is $3,500 per student on average. The total fiscal impact to the state-funded More At Four program is $1.5 million for FY05.

The More At Four program pays 50% of the cost of the classroom education for the at-risk four-year-olds with county governments or other entities providing a 50% match; therefore, there is an additional $1.5 million impact for entities providing the required match.

The final impact relates to Smart Start. Because more children will likely remain in daycares that receive funding through Smart Start in 2005-06, there may be additional financial demands on that program. However, Fiscal Research cannot quantify the exact nature of that potential increase in demand. Therefore, no estimate is possible on this portion of the bill.

SOURCES OF DATA: NC Department of Revenue, NC Department of Public Instruction, North Carolina More At Four Program

TECHNICAL CONSIDERATIONS: Potentially the bill could result in the elimination of approximately 525 kindergarten teacher positions, for one year, assuming the state maintains the current ratios. However, the bill does not specifically address how this issue will be handled.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 896*
PROPOSED COMMITTEE SUBSTITUTE H896-CSLAf-40 [v.2]

7/9/2003 4:43:36 PM

Short Title: Increase Cosmetic Art Fees. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00 per year.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 44.00 every two years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 22.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 44.00 every two years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 44.00 every two years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 44.00 every two years

(6) Cosmetic art shop ~~per active booth~~ with ..... ~~$ 3.00 per year~~

one to two booths ..... $ 15.00 per year

three to ten booths ..... $ 30.00 per year

eleven or more booths ..... $ 55.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal ..... ~~$ 10.00~~$ 50.00

(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00

(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:

(1) Document request ..... $ 10.00

(2) Mailing list ..... $ 20.00

(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired licenses.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every ~~three years beginning October 1, 1998. A late fee shall be charged for renewals after that date.~~two years. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) ~~Apprentice, esthetician, and manicurist~~ Apprentice licenses shall be renewed annually on or before October 1 of each year. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(d) ~~Teacher~~ Teacher, esthetician, and manicurist licenses shall be renewed every two years on or before October 1. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a teacher's license, the teacher shall annually complete a minimum of eight hours of continuing education which shall be approved by the Board. Teachers shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license

has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees."

SECTION 3. This act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 896*

Short Title:	Increase Cosmetic Art Fees.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Finance.	

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 60.00 every 2 years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 30.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 50.00 every 2 years

(6) Cosmetic art shop per active booth ..... ~~$ 3.00 per year~~$ 45.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00

(9) Inactive license ..... $ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late

renewal ..... ~~$ 10.00~~$ 50.00
(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00
(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:
(1) Document request ..... $ 10.00
(2) Mailing list ..... $ 20.00
(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 896:
Increase Cosmetic Art Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson
Date:	July 9, 2003	**Analysis by:**	Martha Walston
Version:	H896-CSLAf-40		Committee Counsel

SUMMARY: House Bill 896 authorizes the North Carolina Board of Cosmetic Art Examiners to establish new fees and to increase existing fees. Senate Bill 757, sponsored by Senator Garrou, is a companion bill.

BILL ANALYSIS: House Bill 896 authorizes the North Carolina board of Cosmetic Art Examiners to establish the following new fees:

Inspection of a newly established school	$120
Certification of records	$ 25
Continuing education provider	$100 per year
Document request	$ 10
Mailing list	$ 20
License listing	$ 15 per list

House Bill 896 authorizes the Board to increase the following existing fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE
Inspection of newly established Cosmetic art shop	$25	$70
Reciprocity applicant	$15	$30
Cosmetologist license	$39 every 3 years	$44 every 2 years
Apprentice	$10 per year	$44 every 2 years
Esthetician	$10 per year	$44 every 2 years
Manicurist	$10 per year	$44 every 2 years
Teacher	$10 every 2 years	$44 every 2 years
Cosmetic art school	$50 per year	$120 per year
Duplicate license	$1	$10
Apprentice, cosmetologist, esthetician, Manicurist, and teacher late renewal	$10	$50
Cosmetic art schools and shops Late renewal	$10	$35
Reinstatement – schools and shops	$25	$75

Cosmetic art shop per active booth $3 per year

House Bill 896 amends the cosmetic art shop booth fee as follows:

NUMBER OF BOOTHS	PROPOSED FEE
One to two booths	$15 per year
Three to ten booths	$30 per year
Eleven or more booths	$55 per year

House Bill 896 makes conforming changes to the license renewal periods in G.S. 88B-21.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps and Alexei Pavlichev
Fiscal Research Division

RE: House Bill 896 (Proposed House Finance Committee Substitute)

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Cosmetic Art Examiners	$1,515,906	$1,515,906	$1,515,906	$1,515,906	$1,515,906
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners
EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-20 by establishing new fees and increasing certain current license fees under the Cosmetic Art Act.

ASSUMPTIONS AND METHODOLOGY:

License Fees Overview

The NC Board of Cosmetic Art Examiners (Board) has not implemented any changes in fees for several decades. Table 1 shows the year of last fee change, current fees, proposed fees, and amounts the current fees were equal to in the year they were established, adjusted for inflation.

Table 1. Analysis of Proposed Fee Changes

Fee	Year of Last Fee Change	Current Fee	Proposed Fee	Current Fees if Adjusted for Inflation
Application Fees				
Inspection of newly established shop	1976	$25	$70	$80.93
Inspection of newly established school	New Fee	N/A	$120	N/A
Reciprocity applicant under G.S. 88B-13	1963	$15	$30	$90.29
Certification of Records	New Fee	N/A	$25	N/A
Continuing Education Provider	New Fee	N/A	$100/year	N/A
License Fees				
Cosmetologist	1985	$13/year	$22/year	$22.25
Apprentice	1995	$10/year	$22/year	$12.09
Esthetician	1998	$10/year	$22/year	$11.30
Manicurist	1995	$10/year	$22/year	$12.09
Teacher	1984	$10/2 years	$22/years	$17.73
Cosmetic Art Shop	1976	$3/chair/year	1-2 chairs $15 3-10 chairs $30 11+ chairs $55	$27.87
Cosmetic Art School	1973	$50/year	$120/year	$207.43
Duplicate Fee	1975	$1	$10	$3.42
Late Fees and Reinstatement Fees				
Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal	1985	$10	$50	$17.12
Schools and shops late renewal	1976	$10	$35	$32.37
Reinstatement – schools and shops	1975	$25	$75	$85.59
Document Request	New Fee	N/A	$10	N/A
Mailing List	New Fee	N/A	$20	N/A
License Listing	New Fee	N/A	$15/list	N/A

The NC Board of Cosmetic Art Examiners (Board) estimates that the following licenses are in effect each year:

Esthetician	1,084	Manicurist	8,149
Cosmetic Art		Cosmetic Art Shops	11,737

Teacher	838		
Apprentice		Cosmetologist	45,679
Cosmetologist	863	Cosmetic Art Schools	121

Revenues

Based on the above information, Table 2 provides estimates on the current annual revenue generated from issuing the licenses, anticipated annual revenue after fee increases, and annual revenue gain for the Board.

Table 2 Affect of the Major Fee Changes on the Board Revenues

	Current Estimated Revenue	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologist	$593,827	$1,004,938	$411,111
Manicurist	$81,490	$179,278	$97,788
Esthetician	$10,840	$23,848	$13,008
Apprentice	$8,630	$18,986	$10,356
Teacher	$4,190	$18,436	$14,246
Total	*$698,977*	*$1,245,486*	*$546,509*
Shops	$109,561	$255,900	$146,339
Schools	$6,050	$14,520	$8,470
Grand Total	**$814,588**	**$1,515,906**	**$701,318**

The number of cosmetology professionals will likely increase in the future, which will affect the Board revenues. However no growth estimate is available to be included in the analysis.

Expenses

The Board estimates its annual expenses as they appear in Table 3. The Board estimates annual three-percent growth in their expenses.

Table 3. Estimated Monthly and Annual Expenses of the Board

Type of Expenses	2003-04	2004-05	2005-06	2006-07	2007-08
Personal Expenses	$106,090	$109,273	$112,551	$115,927	$119,405
Purchased Expenses	$41,200	$42,436	$43,709	$45,020	$46,371
Supplies	$2,060	$2,122	$2,185	$2,251	$2,319
Fixed Expenses	$5,150	$5,305	$5,464	$5,628	$5,796

Property, Plant, & Equip.	$2,060	$2,122	$2,185	$2,251	$2,319
Miscellaneous Expenses	$1,545	$1,591	$1,639	$1,688	$1,739
Monthly Expenses	$158,105	$162,848	$167,734	$172,766	$177,949
Annual Expenses	$1,897,260	$1,954,178	$2,012,803	$2,073,187	$2,135,383

Average Monthly Expenses: $167,880
Average Annual Expenses: $2,014,562

According to the Board, OSBM advises it to hold a minimum reserve of three months operating expenses. Based on the average monthly expenses of $167,880, the amount of three-months reserve would be $503,641.

The Board plans to address the discrepancy between proposed estimated revenues (Table 2) and estimated expenses (Table 3) by charging application fees as well as late and reinstatement fees that appear in Table 1.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners; *CPI Inflation Calculator.*

TECHNICAL CONSIDERATIONS: None.

2003

HOUSE FINANCE

COMMITTEE MINUTES

House Committee on Finance

Minutes
February 27, 2003

The House Committee on Finance met on Thursday, February 27, 2003, at 8:30 A.M. in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Allen, Howard, Luebke, McComas, Miner and Wainwright; Vice-Chairs Alexander, Gibson and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Dusty Rhoades, Bill Freeman and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Mary Shuping, and Martha Walston; and Committee Assistant Nancy Brantley. The Agenda and Visitor Registration Sheet are attached and incorporated into the minutes as Attachments 1 and 2.

Chairman Allen opened the meeting and welcomed Pages Jordon Cline from Davie County, sponsored by Representative Howard, and Kyle Hensley from Madison County, sponsored by Representative Rapp.

Chairman Allen greeted the new members on the Finance Committee and had each member, old and new, introduce him/herself.

State Revenue Sources. Richard Bostic, Fiscal Analyst in the Fiscal Research Division, made a power point presentation on State Revenue Sources (see Attachment 3) and answered questions posed by the members.

2002 Tax Law Changes. Cindy Avrette, staff attorney in the Research Division, then made a presentation on the 2002 Tax Law Changes and the Revenue Laws Study Committee Report to the 2003 General Assembly (see Attachments 4 and 5). Because of the time constraints, Ms. Avrette was asked to return to the next meeting of the Committee to continue her presentation and answer questions from the Committee members.

Chairman Allen adjourned the meeting at 9:50 A.M.

Respectfully submitted,

Representative Gordon P. Allen
Presiding Chair

Nancy G. Brantley
Committee Assistant

Attachments:
Visitor Registration Sheet
Agenda
Handouts

AGENDA

House Finance Committee

February 27, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

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1. **OPENING REMARKS**

2. **INTRODUCTION OF COMMITTEE MEMBERS**

3. **INTRODUCTION OF STAFF**

   - Martha Walston, Staff Attorney, Fiscal Research
   - Trina Griffin, Staff Attorney, Research Division
   - Cindy Avrette, Staff Attorney, Research Division
   - Richard Bostic, Fiscal Analyst, Fiscal Research
   - David Crotts, Fiscal Analyst, Fiscal Research
   - Martha Harris, Staff Attorney, Bill Drafting
   - Canaan Huie, Staff Attorney, Bill Drafting
   - Linda Millsaps, Fiscal Analyst, Fiscal Research
   - Mary Shuping, Legislative Analyst, Research Division

4. **INTRODUCTION OF CLERK & SERGEANT-AT-ARMS**

5. **INTRODUCTION OF PAGES**

6. **PRESENTATION ON STATE REVENUE SOURCES** – Richard Bostic

7. **PRESENTATION ON 2002 TAX LAW CHANGES** – Cindy Avrette

8. **ADJOURNMENT**

Attachment 2

VISITOR REGISTRATION SHEET

Finance
Name of Committee

2-27-03
Date

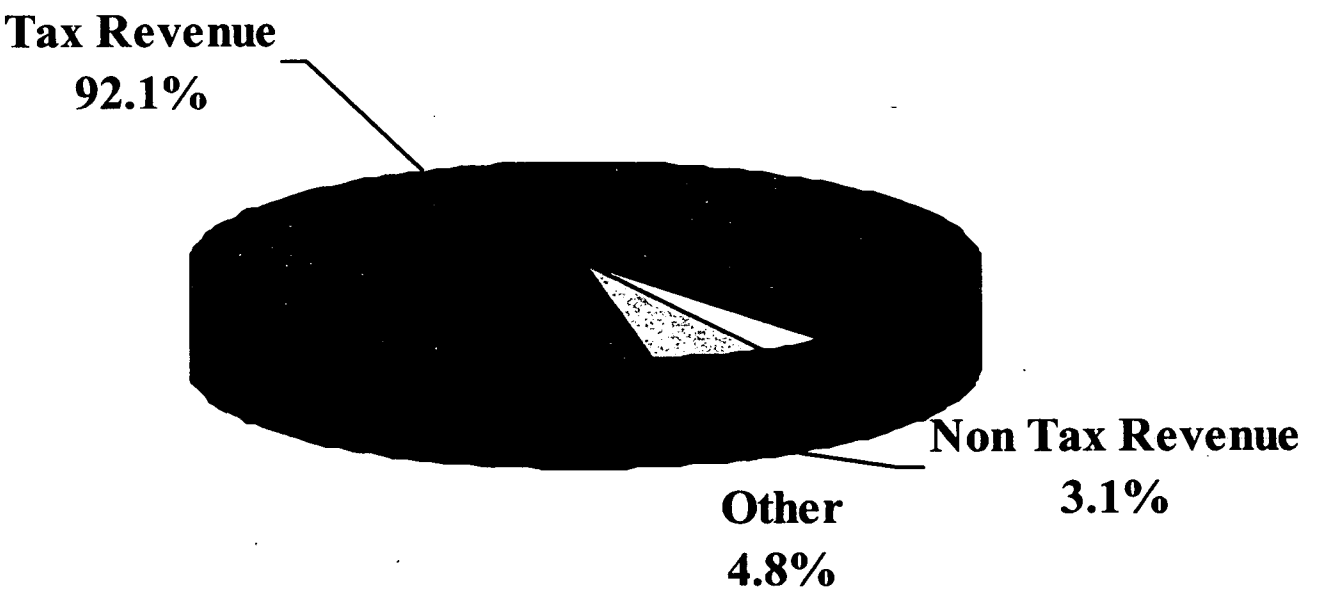
VISITORS:. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Camille Stell	Kennedy Covington
[illegible]	NCRA
Chris Nichols	Hunton + Williams
Marcus Davis	NCAE
Michael Houser	NCAE
HUGH TILSON	NCHA
John McHugh	GOV OFFICE
Katherine Joyce	Electric Cooperatives
ANDY LORE	DUHS
[illegible]	
Gordon McKinnon	N.C. Consumer Network
Paul Stoel	NC Bankers Assn.
Andy Ellen	NC Retail Merchants
Tom Sri	NC Retail Merchants
Bill Rowe	NC Justice Center
DAVID BARNES	Payne + Spruill LLP
Ken Melton	Alley Associates, Inc.
John Rustin	NCFPC
Paul Dudley	NCATL
James Ramquist	NCATR
Betty Turner	Bank of America
KEVIN LEONARD	NCDOL
S. Henri McClees	McClees Consulting, Inc.

Richard Bostic

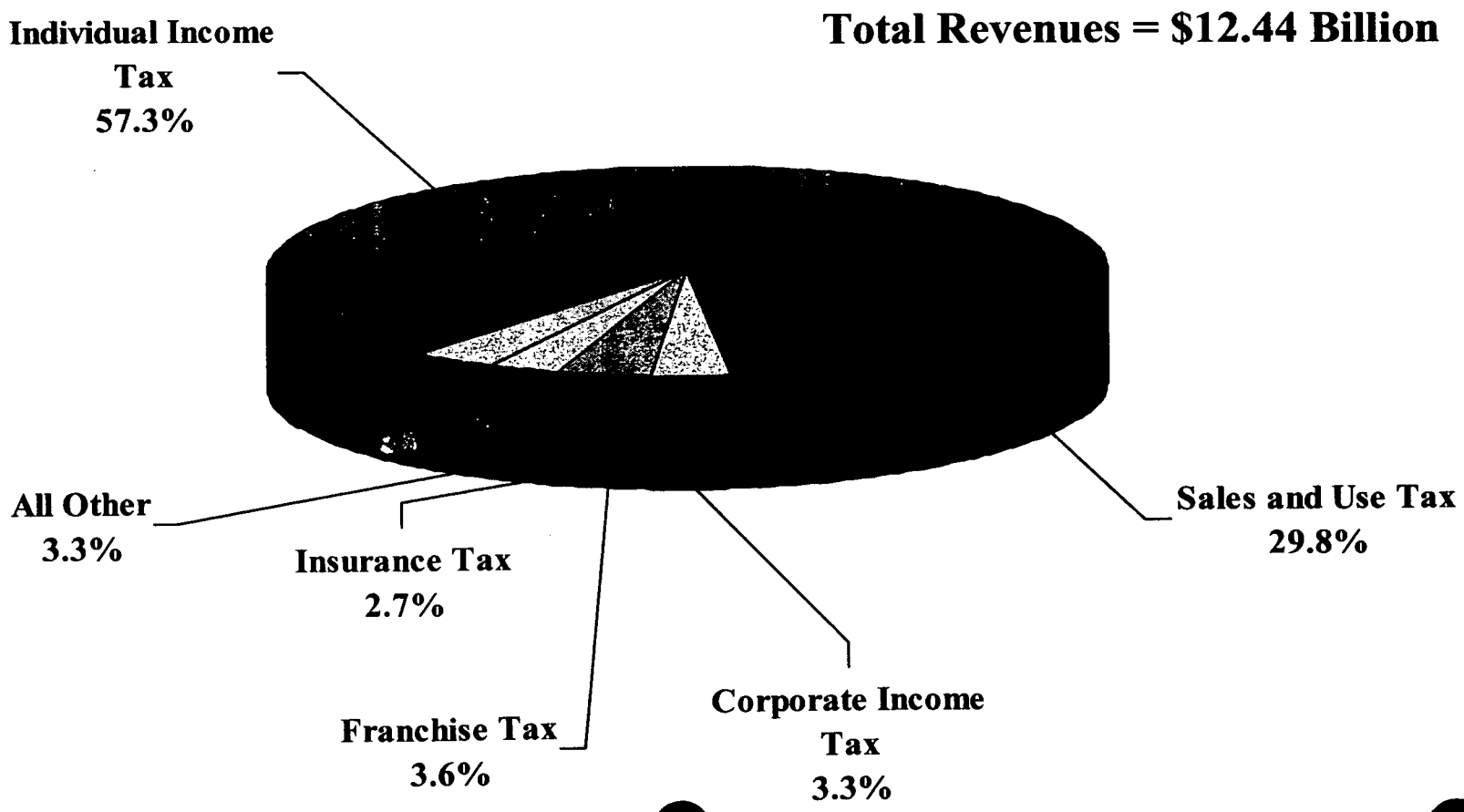
General Fund Revenue Categories (FY 2001-02)

Total Revenues = $13.51 Billion

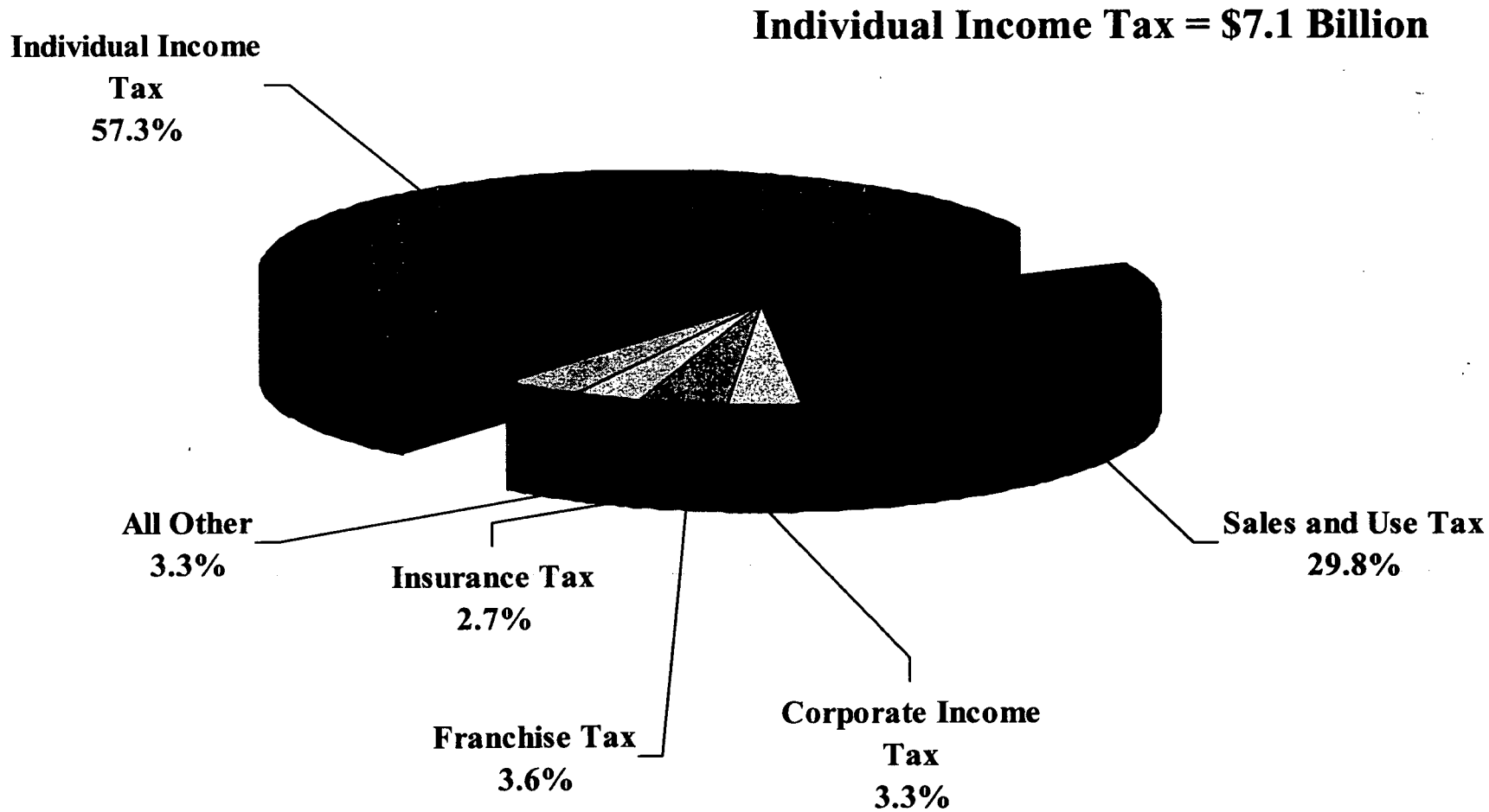


Attachment 3

General Fund Revenue
Major Tax Sources (FY 2001-02)



General Fund Revenue Major Tax Sources (FY 2001-02)



Individual Income Tax

- Imposed since 1921 (state administered)
- Basis of tax is federal taxable income (since 1989)
- Reference to Internal Revenue Code updated annually (current to May 1, 2002)
- No indexing of standard deduction and personal exemption

Individual Income Tax

	Tax Year 2002	
Standard Deduction	**State**	**Federal**
Single	$3,000	$4,700
Head of Household	4,400	6,900
Married Filing Jointly*	5,000	7,850
Married Filing Separately	2,500	3,925
Dependent	500	750
Personal Exemption	2,500	3,000
>7.75% Tax Rate	2,000	3,000

*State rate scheduled to increase to $5,500 in 2003 and to $6,000 in 2004

Individual Income Tax

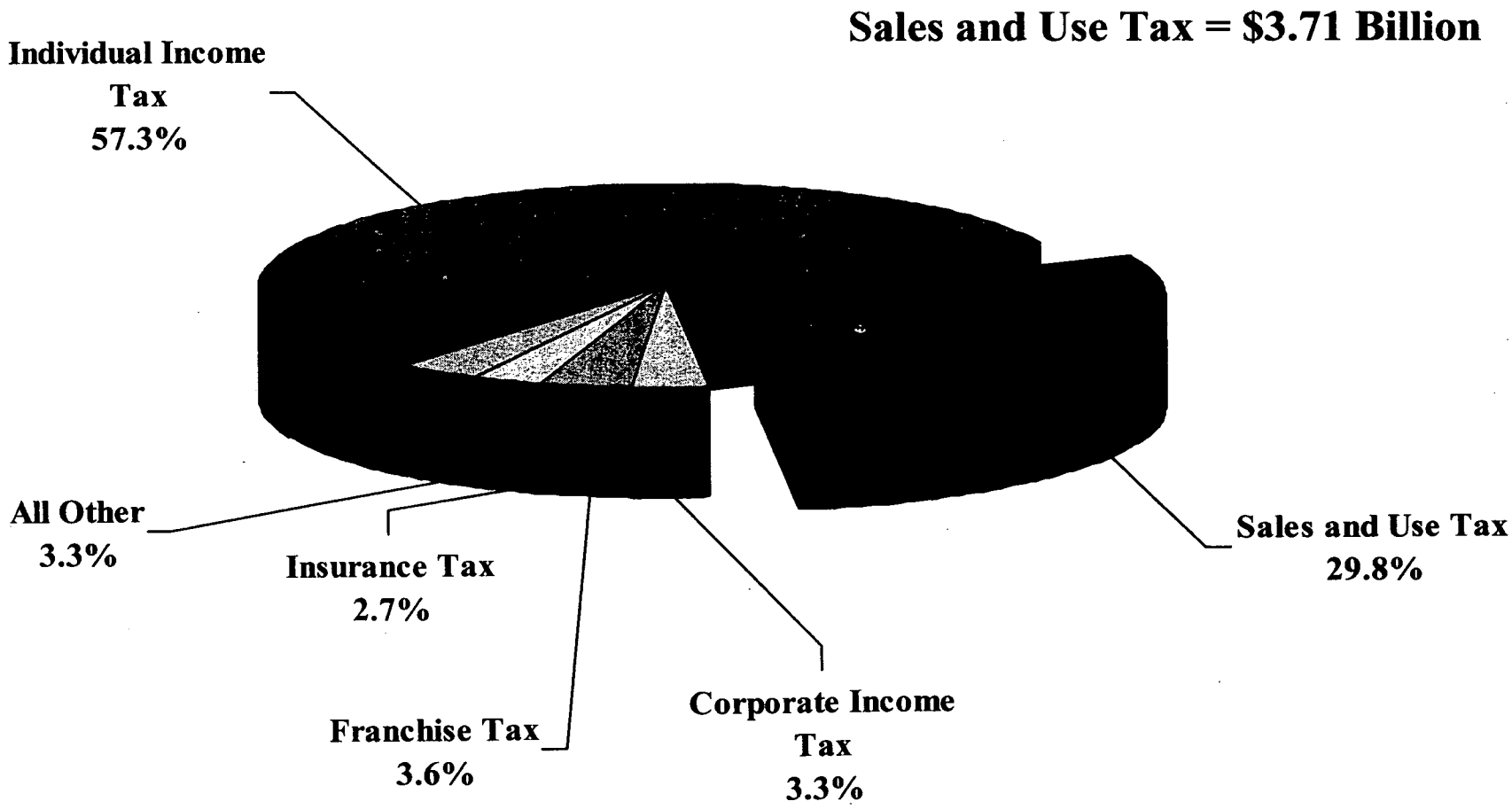
Tax Rates	**Taxable Income**			
	6%	**7%**	**7.75%**	**8.25%***
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

Individual Income Tax
Tax Year 2000

Tax Returns	Taxable Return	Non Taxable Return	Total
Single	1,193,754	222,846	1,416,600
Married Filing Jointly	1,324,491	147,250	1,471,741
Married Filing Separately	103,771	13,048	116,819
Head of Household	465,629	130,033	595,662
	3,087,645	513,177	3,600,822

General Fund Revenue
Major Tax Sources (FY 2001-02)



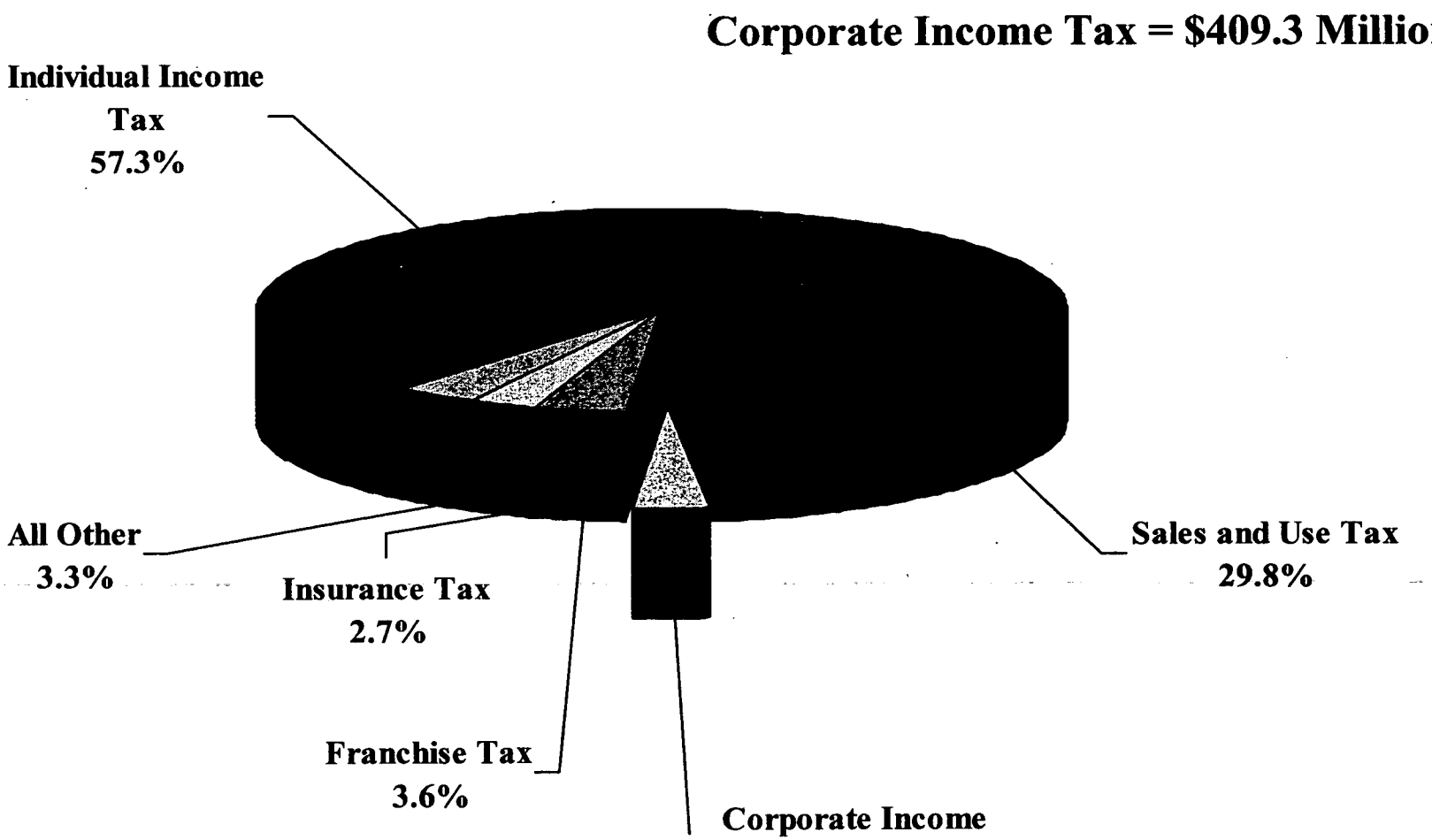
Sales and Use Tax

- Imposed since 1933
- Base state rate is 4.5% (4% after July 1, 2003); local rate is 3% in Meck., 2.5% in 87 counties, and 2% in 12 counties (6 more go to 2.5% on 7/1/03)
- Tax levied on purchases of tangible commodities, room and cottage rentals, and laundry and cleaning services
- Aircraft, boats, railroad cars or locomotives taxed at 3%, $1,500 maximum
- Motor vehicles taxed under Highway Use Tax

Sales and Use Tax (continued)

- Manufactured homes taxed at 2%, $300 maximum
- 1% tax, $80 cap on machinery and equipment
- 6.0% tax on all telecommunications; prepaid phone cards taxed at point of sale
- 2.83% tax on electricity to farmers and dry cleaners; rate based on megawatts used for manufacturers (.17% to 2.25%)
- Refund tax to nonprofits; schools, local govts
- Exemption of food for home consumption - 2%

General Fund Revenue
Major Tax Sources (FY 2001-02)



Corporate Income Tax

- Imposed since 1921
- All domestic and foreign corporations doing business in North Carolina are subject to the tax
- Doing business in North Carolina
  - Maintenance of office or place of business
  - Maintenance of inventory of merchandise for sale, distribution or manufacture
  - Selling of merchandise to customers in North Carolina from company owned vehicle

Corporate Income Tax (continued)

- Rendering of service to clients by agents or employees of a foreign corporation
- Owning, renting or operating business or income producing property

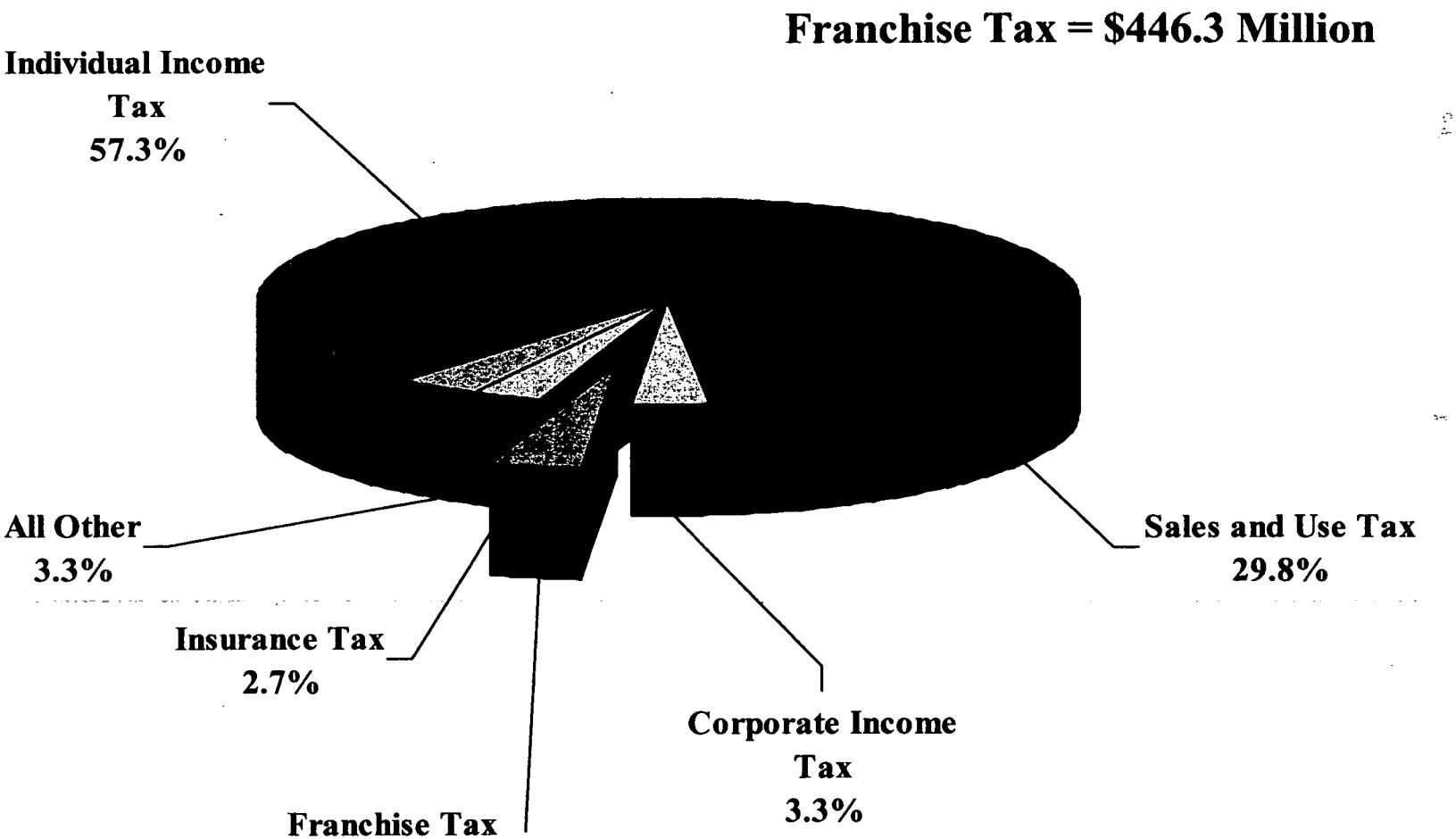
•Exempt -

- S corporations
- Insurance Companies (subject to gross premium tax)
- Telephone and electric membership corporations
- Cooperative board without capital stocks
- Nonprofits

Corporate Income Tax (continued)

- Tax on state net income = federal taxable income
- Tax rate 6.9%
- Tax credits include low income housing, state port usage, Bill Lee Act tax incentives for new and expanding businesses, and cigarette manufacturing for export
- Apportionment formula - property plus payroll plus twice the sales divided by four
- New corporate incentive in 2003 is job development investment grants based on percentage of personal income tax withholdings of employees hired in new facility

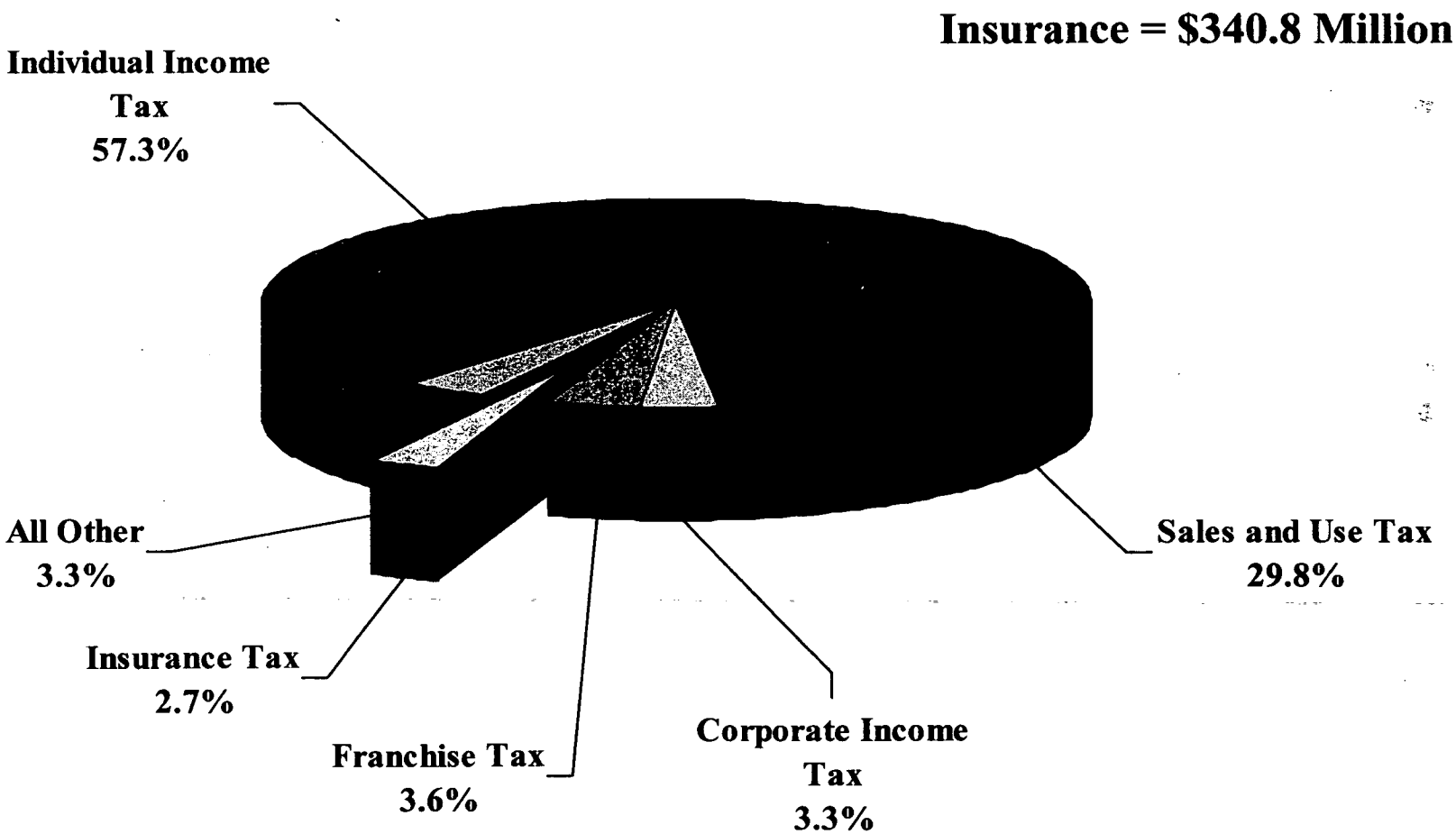
General Fund Revenue
Major Tax Sources (FY 2001-02)



Franchise Tax

- Privilege or excise tax imposed on domestic and foreign corporations for the privilege of doing business and existing as a corporation under North Carolina law
- The franchise tax is measured by whichever of the following bases is greatest in amount:
  - (1) capital stock, surplus and undivided profits allocated to North Carolina
  - (2) 55% of the appraised value of real and tangible property or
  - (3) investment in tangible property in North Carolina
- Tax is $1.50 per $1,000; Minimum tax is $35
- Closed loophole in 2001 and 2002 on the transfer of corporate assets to wholly owned LLC subsidiaries

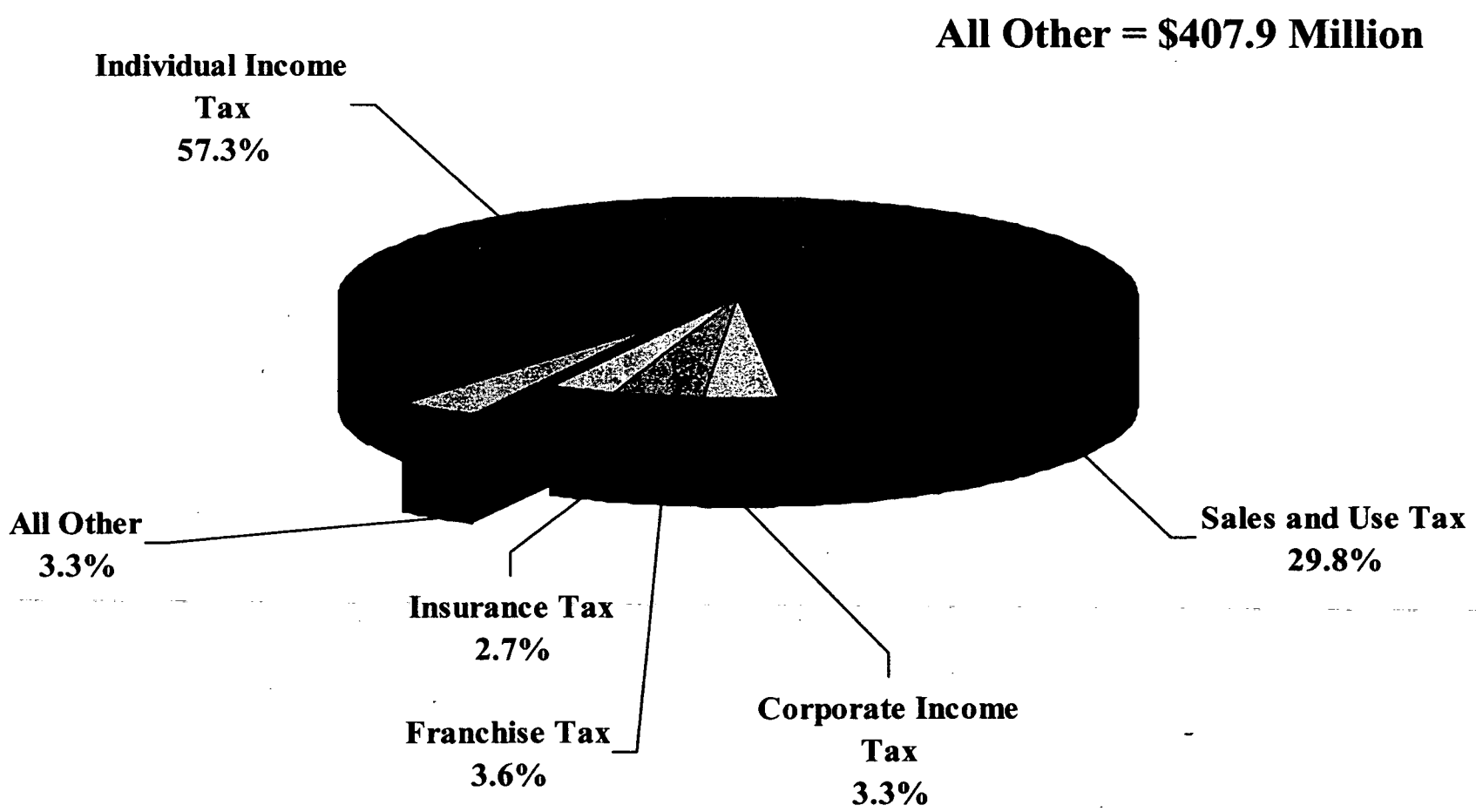
General Fund Revenue
Major Tax Sources (FY 2001-02)



Insurance Premiums Tax

- Tax on gross premiums of life insurance policies covering North Carolina residents and gross premiums of other insurance policies covering risks in North Carolina
- 2.5% tax rate on Workers' Compensation insurance
- 1% Blue Cross Blue Shield and Delta Dental
- 1.9% on annuities and all other insurance contracts
- Additional 1.33% on fire and lightning coverage (except marine and auto)

General Fund Revenue
Major Tax Sources (FY 2001-02)



Gift Tax

- Spouse is exempt
- Three classes of rates

A = Lineal (child, stepchild, adopted child)	1% to 12%
B = Brother, Sister, Aunt, Uncle	4% to 16%
C = All Others	8% to 17%

- $11,000 exclusion annually (indexed to federal)
- $100,000 per donor lifetime exemption
- $13.4 million in FY 2001-02

Alcoholic Beverage Tax

• Spirituous liquors*	25% of retail price
• Malt beverage	53.177¢ per gallon
• Fortified wines	24¢ per liter
• Unfortified wines	21¢ per liter
• $174.6 million in FY 2001-02	

*Effective December 1, 2001, also pay 6% state sales tax

Cigarette and Tobacco Products Tax

- 5¢ per package of 20 (2 1/2 mills per cigarette)
- Third lowest tax rate behind Virginia (2.5¢) and Kentucky (3¢)
- Other tobacco products = 2% of cost price of products
- $41.5 million in FY 2001-02

Realty Transfer Tax

- $1 is levied on each $500 of property conveyed to another person
- Exemptions for transfers (1) by operation of law, (2) by lease for a term of years, (3) by will, (4) by intestacy, (5) by gift, (6) by merger, conversion, or consolidation, (7) by instruments securing indebtedness, (8) by governmental unit, or (9) where no consideration in property or money is due or paid by transferee to transferor
- $35.3 million in FY 2001-02 (75% to Parks and Recreation Trust Fund and 25% to Natural Heritage Trust Fund)

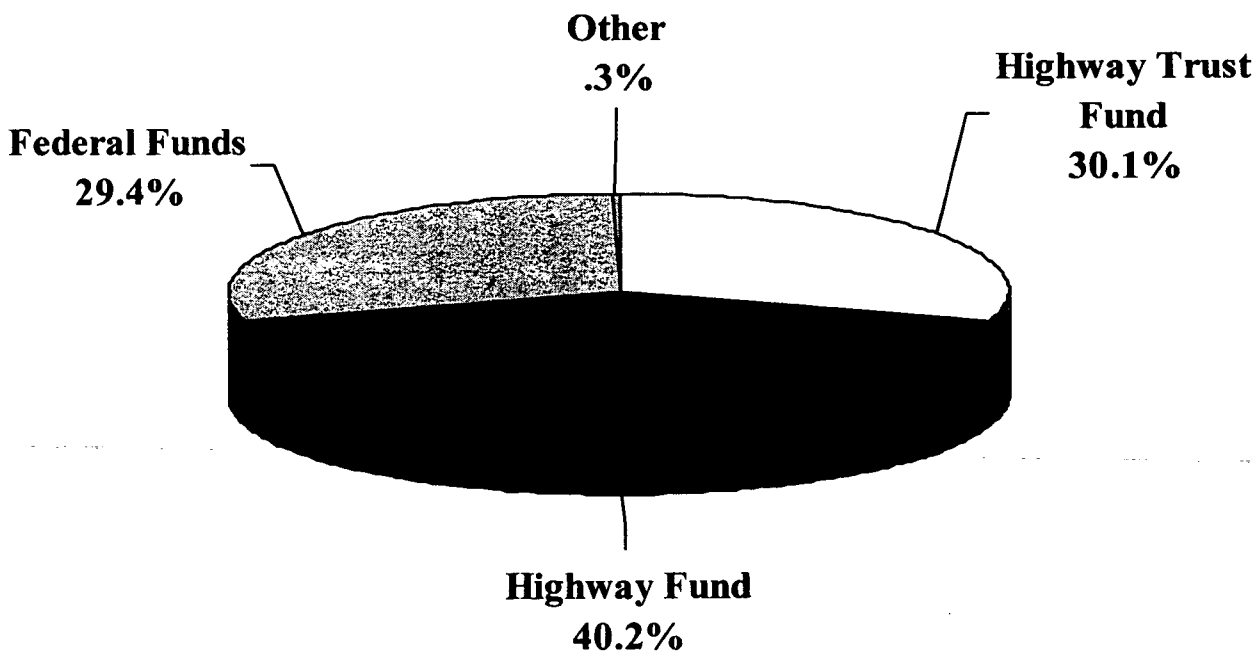
Inheritance (Estate Tax) ← pick-up tax

- Repealed effective January 1, 1999
- Estate tax imposed in amount equal to federal state death tax credit
- In 2002, conformed to federal exemption limits but not federal phase out of the tax until January 1, 2004
- $104.8 million in FY 2001-02

need to make decision this yr. on this - feds. phasing out.

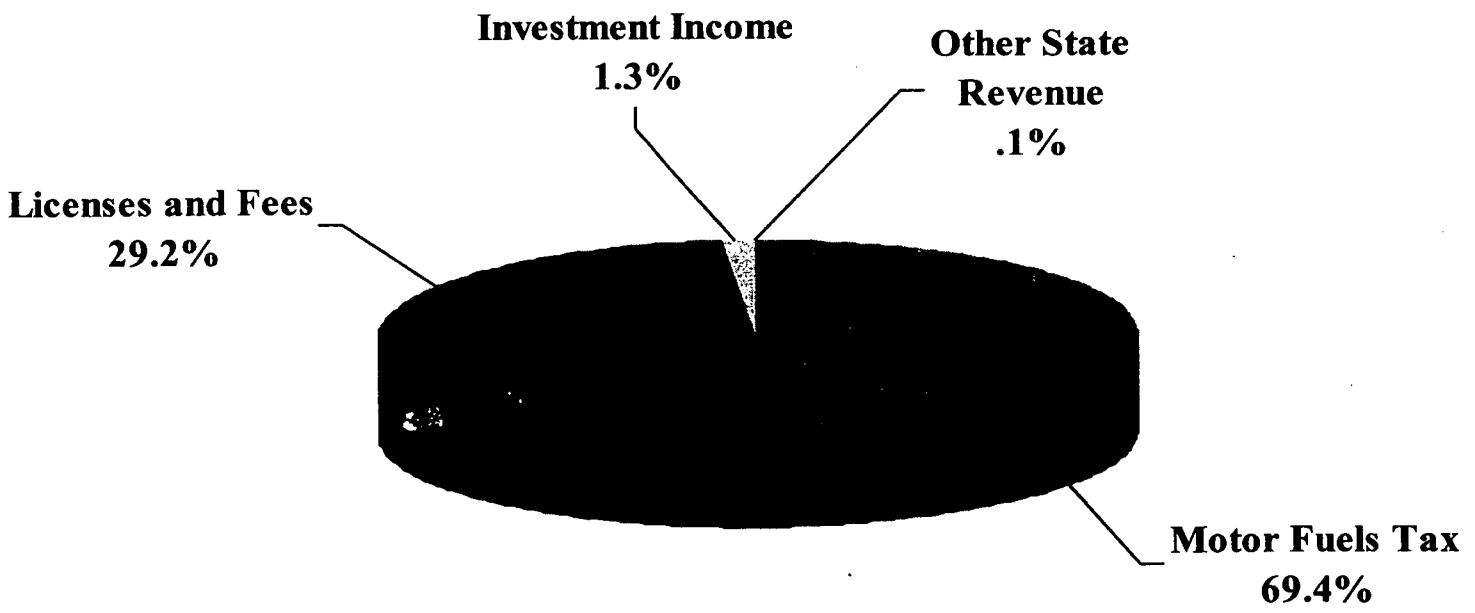
Transportation Funds Categories (FY 2001-02)

$3.2 Billion



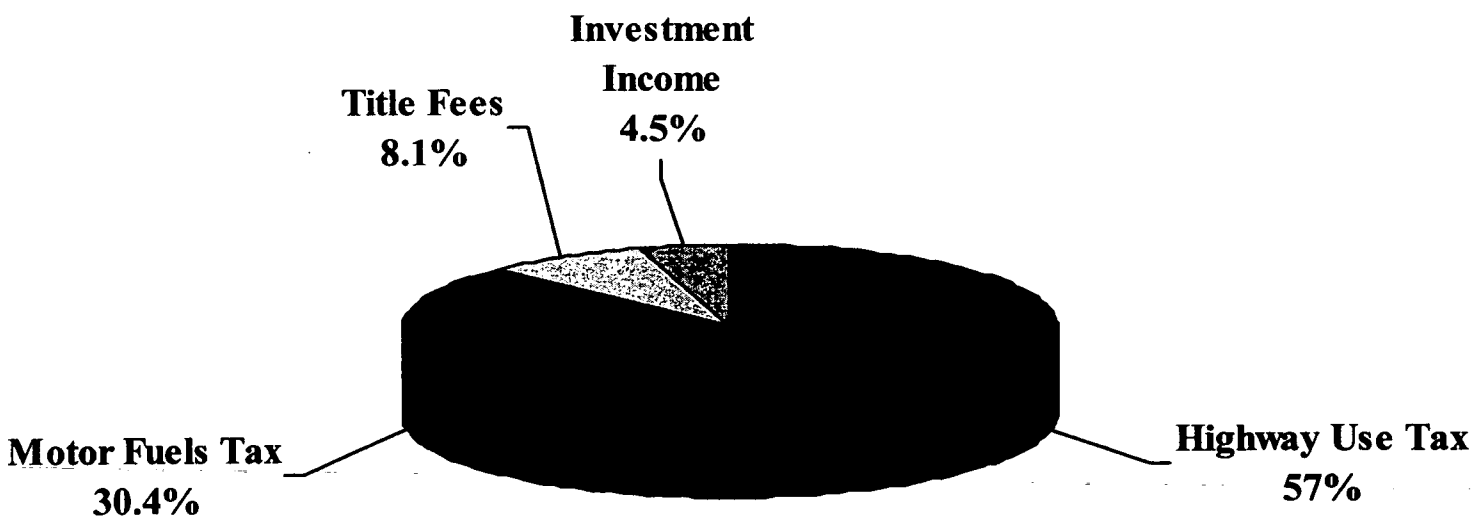
Highway Fund Sources (FY 2001-02)

$1.3 Billion



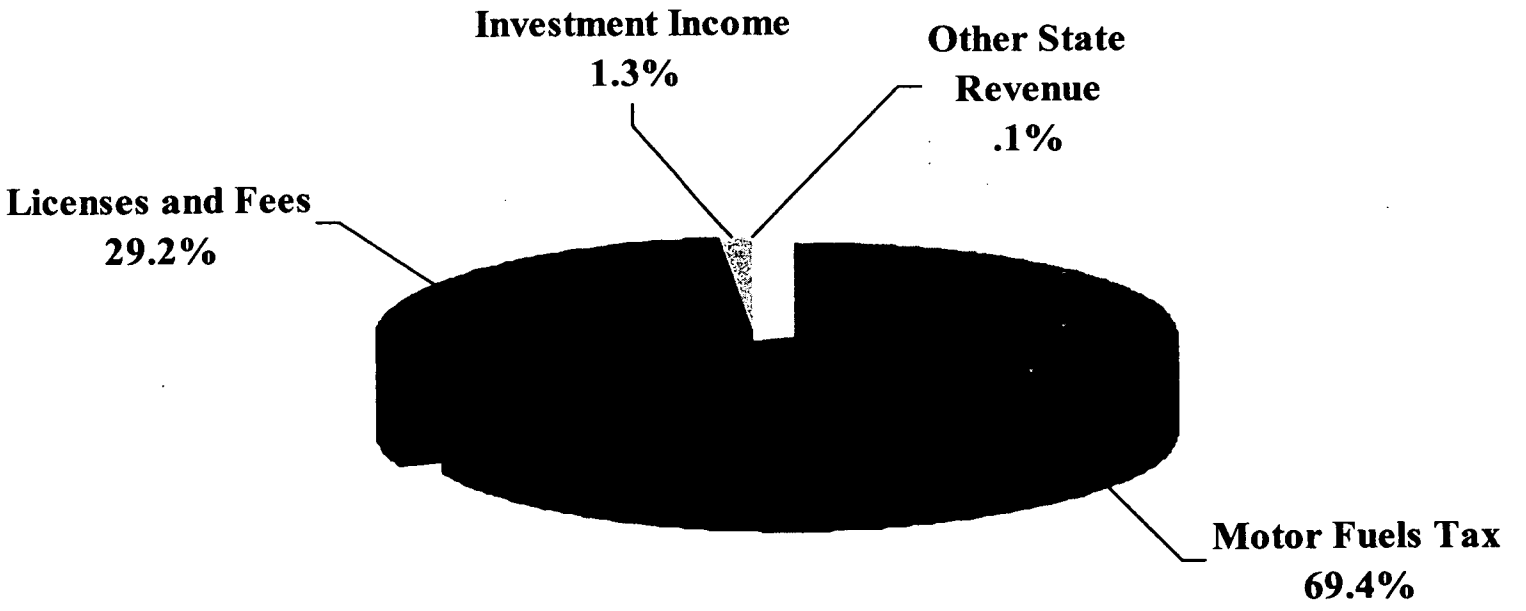
Highway Trust Fund Sources (FY 2001-02)

$974.1 Million



Highway Fund Sources (FY 2001-02)

Motor Fuels Tax = $901 Million

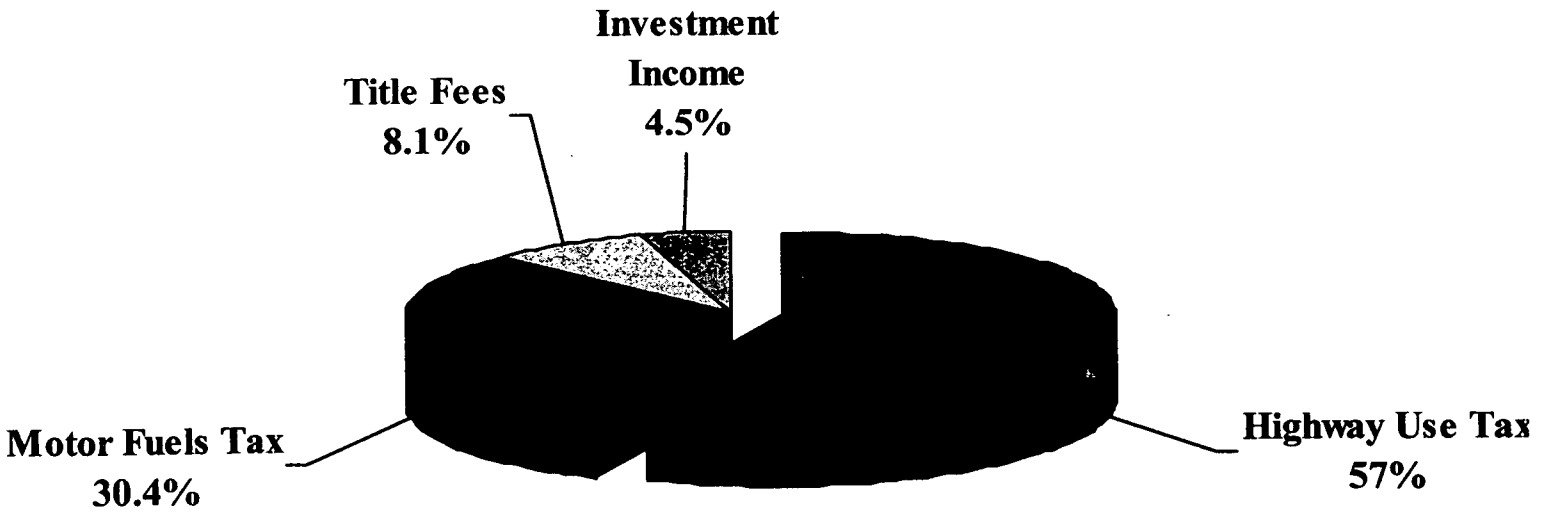


Motor Fuel Excise Tax

- Imposed on gasoline, kerosene, diesel, ethanol
- Taxed at the oil terminal rack
- 17.5¢/gallon plus the greater of 7% of the average wholesale price of motor fuel or 3.5¢/gallon
- Current tax rate is 23.4¢
- 1 3/4 cents goes to cities (Powell Bill)
- Three-fourths of tax goes to Highway Fund and one-fourth to Highway Trust Fund

Highway Trust Fund Sources (FY 2001-02)

Highway Use Tax = $555.3 Million



Highway Use Tax

- 1989 - replaced 2% sales tax on vehicle
- 3% of the retail value of a motor vehicle
- $1,000 cap on Class A and B commercial vehicles
- $1,500 cap on recreational vehicles
- Paid when vehicle is purchased or titled in North Carolina
- $170 million transferred each year to the General Fund (additional $205 million transferred in FY 02-03)

Attachment 4

2002

TAX LAW CHANGES

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2002 Tax Law Changes

Remove Scrap Tire Tax Sunset

Session Law	Bill #	Sponsor
S.L. 2002-10	HB 1578	Representative Gibson

AN ACT TO REMOVE THE SUNSET ON THE SCRAP TIRE DISPOSAL TAX.

OVERVIEW: This act removes the sunset on a 1993 provision that increased the scrap tire disposal tax from 1% to 2% for tires for car, vans, and pick-up trucks, as recommended by the Environmental Review Commission.

FISCAL IMPACT: Because none of the tax proceeds goes to the General Fund, this act has no impact on the General Fund. Removing the sunset is expected to generate about $5.35 million annually that would have otherwise been eliminated by the sunset on the higher tax rate. The tax proceeds are distributed among the Scrap Tire Disposal Account, the Solid Waste Management Trust Account, and counties.

EFFECTIVE DATE: June 27, 2002.

ANALYSIS: The scrap tire disposal tax was enacted in 1989. It applies to tires sold at retail and to tires sold for placement on vehicles to be sold or leased at retail. In 1993, the tax rate on tires with a bead diameter of less than 20 inches was increased from 1% to 2%. Bead diameter is the width of the inside opening of the tire. Tires for cars, vans, and pick-up trucks have a bead diameter of less than 20 inches.

The increase in the tax rate for these smaller tires was set to sunset on June 30, 2002, which would have reduced the rate back to 1%. This act deleted the sunset so the tax rate will remain at 2% on tires with a bead width of less than 20 inches.

The net proceeds of the scrap tire disposal tax are distributed as follows: 27% to the Scrap Tire Disposal Account[1], 5% to the Solid Waste Management Trust Fund, and 68% to the counties on a per capita basis. Counties may use the proceeds of the scrap tire disposal tax distributed to them only for the disposal of scrap tires or for the abatement of nuisance tire collection sites. The Department of Environment and Natural Resources may use up to 50% of the revenue in the Scrap Tire Disposal Account for grants to local governments to assist in the disposal of scrap tires and may use up to 40% of the amount in the Account for grants to encourage the use of processed scrap tire materials. The remaining funds in the Account

[1] Section 2.2(j) of the Current Operations and Capital Improvement Appropriations Act of 2001 provided that the net proceeds of the Scrap Tire Disposal tax collected in 2001-02 would be credited to the General Fund instead of the Scrap Tire Disposal Account.

may be used for assistance to local governments in managing scrap tire programs, and to clean up nuisance scrap tire collection sites if no other funds are available for that purpose. The Department of Environment and Natural Resources must report to the Environmental Review Commission each year on the balances in the Account and the use of the money in the Account. The money in the Solid Waste Management Trust Fund is used to fund activities of the Department of Environment and Natural Resources to promote waste reduction and recycling, to fund research on the solid waste stream in North Carolina, to fund activities related to the development of secondary materials markets, to fund demonstration projects, and to fund research by in-State colleges and universities.

Conform Mobile Telecommunications Sourcing

Session Law:	*Bill #*	*Sponsor*
S.L. 2002-16	HB 1521	Representative Allen

AN ACT TO CONFORM SOURCING OF MOBILE TELECOMMUNICATIONS SERVICES TO THE FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT AND TO CODIFY THE SOURCING PRINCIPLES FOR OTHER TELECOMMUNICATIONS SERVICES.

OVERVIEW: This act conforms State sales tax law to the federal Mobile Telecommunications Sourcing Act and codifies the sourcing rules for other types of telecommunications, as recommended by the Revenue Laws Study Committee.

FISCAL IMPACT: While this legislation may redistribute tax revenue between jurisdictions because of changes in sourcing, the total amount available to local governments will not change.

EFFECTIVE DATE: Most of the act became effective for taxable services reflected on bills dated on or after August 1, 2002. This effective date corresponds with the effective date of the federal Mobile Telecommunications Sourcing Act. Two provisions are delayed until January 1, 2004: a new sourcing principle for private lines and a requirement that postpaid calling service be sourced based on the origination point of the signal.

ANALYSIS:

Prior Law: In 2001, the General Assembly simplified the taxation of telecommunications services by providing one tax at one rate for all telecommunication services, including interstate telecommunications service. Under the law, mobile telecommunications service is considered to be taxable in this State if the customer's service address is in this State and the call originates or terminates in this State. However, under the federal Mobile Telecommunications Act, mobile telecommunications service is taxable by the state of the customer's place of primary use, regardless of whether or not the call originates or terminates in the state. A mobile customer's service address and place of primary use are the same: the residential street address or the primary business street

address of the customer that is within the licensed service area of the service provider. Therefore, it is the requirement that the call originate or terminate in the State that must be changed to conform to the federal mobile telecommunications sourcing rules.

Background. "Sourcing" is the determination of the jurisdiction within which a transaction is considered to take place for tax purposes. Jurisdictions that tax interstate and international telecommunications generally follow the "*Goldberg* Rule", which is based on an Illinois tax that was upheld by the U.S. Supreme court in *Goldberg v Sweet*, 488 U.S. 252 (1989). Under the *Goldberg* Rule a jurisdiction may tax a telephone call if the call meets one of the following two criteria:

- It both originates and terminates in that jurisdiction.
- It originates *or* terminates in that jurisdiction *and* is charged to a service address in that jurisdiction.

Because of the complexity of identifying the source of mobile telecommunications, federal legislation was enacted effective August 1, 2002, that sources mobile telecommunications transactions at the place of primary use, which is the same as the service address – the residential address or business premises of the purchaser.

Under the federal legislation, states may furnish service providers with a database[2] matching street addresses with taxing jurisdictions.[3] Service providers would be held harmless for any errors resulting from their use of the database. If a database is not provided for a state, then the service provider may determine the appropriate taxing jurisdiction by using an enhanced zip code[4] to assign each street address to a specific taxing jurisdiction in that state. Service providers would be held harmless from any tax liability that otherwise would be incurred solely as a result of an assignment of a street address to an incorrect taxing jurisdiction under this method. The accuracy of the method used is important to protect the tax base of local taxing jurisdictions. The hold harmless provision is important to service providers who provide service in a state with multiple taxing jurisdictions.

The Streamlined Sales Tax Project is working with the telecommunications industry on uniform provisions for sourcing as well as refund limitation provisions based upon the hold harmless provisions in the federal Mobile Telecommunications Sourcing Act. The Streamlined Sales Tax Project and the implementing states[5] have adopted principles for sourcing. The principles do not differ from North Carolina's current sourcing principles. This act codifies those principles. The Streamlined Sales Tax Project has not yet completed its work on the refund limitation provisions. Since North Carolina does not have multiple

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[2] The Multi-State Tax Commission and the Federation of Tax Administrators are currently involved in a project to specify the format of the database.

[3] Some states allow local governments to impose a tax on telecommunications services, resulting in multiple taxing jurisdictions within a state.

[4] The level of accuracy for the nine-digit zip code ranges from 85% to 99%. A more accurate system may be developed using a geographic mapping system. The federal law gives each state the ability to develop a more accurate system if it so chooses.

[5] There are 27 states that have enacted legislation based on either the Uniform Sales and Use Tax Administration Act or the Simplified Sales and Use Tax Administration Act: AR, FL, IL, IN, KY, LA, ME, MD, MI, MN, NE, NV, NJ, NC, ND, OH, OK, RI, SD, TN, TX, UT, WA, WI, WV, WY, and the District of Columbia.

taxing jurisdictions[6], it does not currently need these provisions. Therefore, this act does not include any provisions on this issue.

SECTION-BY-SECTION ANALYSIS: This act conforms North Carolina's sourcing of mobile telecommunications to the federal Mobile Telecommunications Sourcing Act and codifies the sourcing principles adopted by the Streamlined Sales Tax Project and the 27 implementing states, as follows:

Sections 1, 3, and 15: Replace the term "service address" and "billing address" with the term "place of primary use" because that is the terminology used in the federal Mobile Telecommunications Sourcing Act.

Sections 2, 8, 12, and 13: Change the term "prepaid telephone calling arrangement" to the term "prepaid telephone calling service" so that the terminology is consistent with the other forms of telecommunication services.

Sections 4 and 5: Prepaid telephone calling services are taxed as tangible personal property, not as a telecommunications service. Section 4 removes the sourcing language from the statute that sets the sales tax rates and Section 5 modifies the sourcing principles that apply to tangible personal property to accommodate the taxation of prepaid telephone calling services.

Section 6: Deletes the sentence that sources mobile telecommunications based on the call originating or terminating in this State because it conflicts with the sourcing principle in the federal Mobile Telecommunications Sourcing Act. It also specifies that mobile telecommunications services are taxed in accordance with federal law. This reference alerts the reader that there is applicable federal law on this issue.

Sections 7 and 11: Under the federal Mobile Telecommunications Sourcing Act and the Streamlined Sales Tax Project, telecommunications service is sourced based on the type of service provided rather than the type of call. These sections define the different types of services and repeal the terms associated with the types of calls.

Sections 9 and 10: Set forth the mobile telecommunications sourcing principle in the federal Mobile Telecommunications Sourcing Act, and codify the principles currently used by the State to source other telecommunications services. Section 10 rewrites the sourcing principles for private telecommunications service in a more understandable format and adds a sourcing principle that is not currently applicable to private lines in the State, but may be

[6] North Carolina distributes a portion of the State-imposed telecommunications tax to the cities.

applicable in the future. The principles codified are the same principles adopted by the Streamlined Sales Tax Project and the implementing states in March of 2002. Under the act, at the request of the telecommunications industry, the new sourcing principle applicable to private telecommunications service does not become effective until January 1, 2004.

Sections 9 and 14: Under the Streamlined Sales Tax Project, postpaid calling service will be sourced based on the origination point of the telecommunications signal as first identified by the seller's telecommunications system. However, not every company in the telecommunications industry has the capability to determine the origination point of the signal. The act gives the seller two options to source postpaid calling service until 2004; beginning in 2004, the seller must source based on the origination point of the telecommunications signal.

Certain Counties Delinquent Taxes

Session Law	Bill #	Sponsor(s)
S.L. 2002-51	HB 1533	Representative Hunter

AN ACT TO AUTHORIZE CERTAIN COUNTIES TO REQUIRE THE PAYMENT OF DELINQUENT PROPERTY TAXES BEFORE RECORDING DEEDS CONVEYING PROPERTY AND TO MODIFY THE TIMETABLE FOR STOKES COUNTY OR ANY OF ITS MUNICIPALITIES TO ADOPT A SCHEDULE OF DISCOUNTS FOR PREPAYMENT OF PROPERTY TAXES.

OVERVIEW: S.L. 2002-51 authorizes the county commissioners in Bertie, Clay, Durham, Henderson, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania Counties to require the register of deeds to refuse to register a deed unless the county tax collector has certified that no delinquent taxes are due on the property. In addition, this act allows the governing body of Stokes County or any of its municipalities to provide a schedule of discounts for property taxes paid prior to November 1, 2002.

FISCAL IMPACT: This act has no impact on the General Fund.

EFFECTIVE DATE: This act became effective when it became law, July 30, 2002.

ANALYSIS: Since 1963, the General Assembly has prohibited the register of deeds in several counties and municipalities from recording deeds unless the tax collector certifies that no delinquent taxes are due: Avery County (1963); Mitchell County (1987); Ashe County (1993); the Towns of Newland and Spruce Pine and Alleghany County (1997); the Town of Banner Elk (1998); and the Town of Bakersville (1999).

In 2001, the General Assembly gave the county commissioners in 35 counties the authority to adopt a resolution requiring the county tax collector to certify that no delinquent taxes the collector is charged to collect are due on the property before a deed transferring the property can be recorded. S.L. 2001-464 gave this authority to the following 25 counties: Alleghany, Anson, Beaufort, Cabarrus, Camden, Cherokee, Chowan, Currituck, Forsyth, Graham, Granville, Harnett, Haywood, Jackson, Lee, Madison, Montgomery, Pasquotank, Perquimans, Pitt, Stanley, Swain, Vance, Warren, and Yadkin Counties. S.L. 2001-513 gave this authority to the following 10 counties: Carteret, Cleveland, Davidson, Gaston, Iredell, Martin, Person, Rockingham, Rowan, and Washington Counties. Unlike the previous local acts, the authority given by these two 2001 acts is permissive. To use this collection tool, the board of county commissioners must adopt a resolution on the matter. The resolution may describe the form the certification must take.

S.L. 2002-51 extends to the following 10 counties the permissive authority given to the 35 counties in 2001: Bertie, Clay, Durham, Henderson, Hertford, Macon, Northampton, Polk, Rutherford, and Transylvania Counties.

In addition, S.L. 2002-51 allows Stokes County and it municipalities to institute, without the approval of the Department of Revenue, a schedule of discounts to be applied to property taxes paid prior to November 1, 2002. The governing body that adopts the resolution must submit a certified copy to the Department of Revenue and must publish the discount schedule at least once in a newspaper of general circulation in the taxing unit. In general, under G.S. 105-360(c), a county or municipality that levies a property tax may adopt a resolution or ordinance to establish a schedule of discounts for taxes paid prior to the due date. In order to exercise this authority, the county or municipality must 1) adopt the resolution or ordinance specifying the schedule of discounts prior to May 1, 2) submit the resolution or ordinance to the Department of Revenue for approval, and 3) upon approval of the resolution or ordinance, publish the discount schedule at least once in a newspaper of general circulation in the taxing unit.

Revenue Laws Technical Changes

Session Law	Bill #	Sponsor
S.L. 2002-72	SB 1160	Senator Hartsell

AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO PROVIDE A ONE-TIME EXTENSION TO THE TIME PERIOD IN WHICH A TAXPAYER MAY SIGN A LETTER OF COMMITMENT WITH THE DEPARTMENT OF COMMERCE TO QUALIFY FOR A LOWER TIER DESIGNATION.

OVERVIEW: Senate Bill 1160 makes numerous technical and clarifying changes to the revenue laws and related statutes. It also makes one substantive change. The original bill was a recommendation of the Revenue Laws Study Committee.

FISCAL IMPACT: Section 1 of this act, which allows a one-time exception to the requirement that a letter of commitment be signed before year's end, has an annual cost to the General Fund of $725,000 through the 2006-2007 fiscal year and an annual cost of $25,000 for three years thereafter. The remainder of this act has no fiscal impact.

EFFECTIVE DATE: Except for Section 9 of the bill, which conforms the payment date for the insurance regulatory charge on HMOs to the date they file their premium tax returns and which becomes effective for taxable years beginning on or after January 1, 2003, this act became effective when it became law on August 12, 2002.

ANALYSIS:

SUBSTANTIVE CHANGE: Section 1 of the bill was introduced by Senator Soles as Senate Bill 1344. It allows a taxpayer that signed a letter of commitment with the Department of Commerce on or before February 28, 2002, to calculate its Bill Lee jobs creation tax credit and machinery and equipment investment tax credit based on the location's enterprise tier and development zone designation for 2001 rather than 2002. This change would benefit taxpayers creating jobs or making eligible investments in areas whose tier designations increased for the calendar year 2002.

Under the Bill Lee Act, all counties are divided into five enterprise tiers, ranked by economic distress as measured by a formula that combines unemployment, per capita income, and population growth. The Department of Commerce must designate the counties' tier designations for the following year on or before December 31 of each year, based on the most recent data available. The Department of Commerce did not make the counties' tier designations for the 2002 calendar year until April 2002. It appears some taxpayers signed letters of commitment by February 28, 2002, under the belief they would be able to calculate the credit for which they qualified based on the location's enterprise tier designation for 2001. However, this was not possible under then existing law for locations whose tier designation changed for 2002.

Section 1 of this bill allows a taxpayer that signed a letter of commitment with the Department of Commerce during January or February 2002 for future planned expansion to calculate its Bill Lee jobs creation tax credit and investment tax credit based on the location's enterprise tier designation for 2001 rather than 2002. Because this section is permissive, its effect is to benefit taxpayers creating jobs or making eligible investments in areas whose designations increased for the calendar year 2002. The Department of Commerce reports that it has eight letters of commitment signed on or before February 28, 2002, in counties whose tier designations increased from 2001 to 2002.[7] The following chart shows the counties that will be affected by this section and the difference the section will make in the credit amounts the taxpayers qualify for:

[7] Although the bill also applies to areas designated as a development zone, it has no practical application for development zones because there were no letters of commitment signed with the Department of Commerce for a project in a development zone on or before February 28, 2002.

COUNTY[8]	# LETTERS OF COMMITMENT SIGNED BY 2/28/02	2001 TIER DESIGNATION *The credit and threshold amounts the taxpayer will receive under this section.*	2002 TIER DESIGNATION *The credit and threshold amounts the taxpayer would have received if this act had not been enacted.*
Columbus	3	Tier 1: Jobs tax credit = $12,500 Threshold amount = $0	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000
Richmond	1	Tier 1: Jobs tax credit = $12,500 Threshold amount = $0	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000
Montgomery	1	Tier 2: Jobs tax credit = $4,000 Threshold amount = $100,000	Tier 3: Jobs tax credit = $3,000 Threshold amount = $200,000
Cumberland	1	Tier 3: Jobs tax credit = $3,000 Threshold amount = $200,000	Tier 4: Jobs tax credit = $1,000 Threshold amount = $500,000
Franklin	2	Tier 4: Jobs tax credit = $1,000 Threshold amount = $500,000	Tier 5: Jobs tax credit = $500 Threshold amount = $1,000,000

TECHNICAL CHANGES: the Revenue Laws Study Committee recommended The Revenue Laws Technical Changes bill. The following table provides a section-by-section analysis of the technical changes.

SECTION	G.S./S.L.	EXPLANATION
2	S.L. 1967-1096, as amended by S.L. 2001-414	Corrects a grammatical error.
3	S.L. 2001-264	Clarifies S.L. 2001-264, An Act To Provide Uniform Penalties For Local Meals Taxes. That act made all local meals tax penalties uniform by applying the existing State sales and use tax penalties to meals taxes. The act was intended to improve tax administration by making uniform the tax penalties for each local meals tax. After the act became law, staff noticed that its language might not be sufficiently clear to assure that the penalties will be uniform in each jurisdiction. This section adds language to clarify that additional or higher local penalties are repealed.
4	S.L. 2001-414	Corrects an incorrect cross-reference.
5	S.L. 2001-472	Corrects a typographical error. Although Section 3(a) of S.L. 2001-427 purports to amend just subsection (a) of G.S. 105-472, it actually amends the entire statute. This section conforms the law to accurately state that it amends the entire statute.
6	G.S. 20-10.1	Updates a cross-reference to a definition.

[8] Onslow County moved from a Tier 2 county designation in 2001 to a Tier 3 county designation in 2002. However, it is not affected by this act because there were no letters of commitment signed with the Department of Commerce for a project located in that county on or before February 28, 2002.

SECTION	G.S./S.L.	EXPLANATION
7	G.S. 20-17.4	Adds a missing phrase.
8	G.S. 20-87	Restores language intended to be enacted in 2001 but omitted due to a redlining error.
9	G.S. 58-6-25	Conforms the payment date of the insurance regulatory charge on HMOs to the date they file their premiums tax return. This has no substantive effect because the dates are the same in current law.
10	105-116	Deletes an obsolete cross-reference to a tax credit that is no longer allowed against franchise tax.
11	G.S. 105-127	Repeals two obsolete subsections. These subsections exempt certain stock from property tax. All stock is now exempt from property tax under G.S. 105-275(31).
12	G.S. 105-129.4	Corrects an incorrect word.
13	G.S. 105-129.12A	Conforms terminology to a change in procedure that was enacted in 2001.
14	G.S. 105-130.5	Clarifies that the corporate income tax deduction for 911 charges applies only if the taxpayer included the charges in federal taxable income. Without this correction, there could be an unintended double deduction for these charges.
15	G.S. 105-130.34 and G.S. 105-151.12	Clarifies that the credit for conservation donations applies only if the interest in real property is donated in perpetuity. This conforms the statute to interpretations by DOR and DENR[9]. Comparable federal law requires that a donation be (1) the entire interest of the donor, (2) a remainder interest, or (3) a restriction in perpetuity. This provision was introduced as Sections 1 and 2 of Senate Bill 1252, recommended by the Environmental Review Commission.
16	G.S. 105-163.7	Repeals an obsolete subsection. The Industrial Commission receives the same information from another source now and no longer wants to get it from the Department of Revenue
17	G.S. 105-164.23	Conforms and updates language.
18	G.S. 105-164.27A	Deletes extra language intended to be deleted in 2001 but retained due to a redlining error.
19	G.S. 105-187.1, 20-4.01, 20-116, & 20-305.2	Conforms the definition of "recreational vehicle" in the highway use tax to the definition in the motor vehicles law, and eliminates inconsistent usage of the term. Also, clarifies and reorganizes the statute governing vehicle length.
20	G.S. 105-269.14	Conforms the use tax distribution percentage to reflect past and future rate changes.
21	G.S. 159I-1	Conforms the statutory short title in G.S. 159I-1 to match the title of G.S. Chapter 159I, which was amended in 2001.

[9] Under 15A NCAC 1F .0001 through .0006, DENR will certify donated property for the credit only if it provides a perpetual public benefit.

Housing Tax Credit Chngs/Estate Tax Chngs

Session Law	Bill #	Sponsor
S.L. 2002-87	SB 1416	Senator Kerr

AN ACT TO IMPROVE THE LOW-INCOME HOUSING TAX CREDIT BY MAKING IT SIMPLER AND LESS COSTLY WHILE PROVIDING THE SAME LEVEL OF INCENTIVES FOR THE CONSTRUCTION OF LOW-INCOME HOUSING AND TO MODIFY THE FORMULA FOR CALCULATING NORTH CAROLINA ESTATE TAX ON ESTATES WITH PROPERTY IN MORE THAN ONE STATE.

OVERVIEW: This act modifies the low-income housing tax credit to make it simpler and more efficient and modifies the formula for calculating estate tax on estates with property in more than one state.

FISCAL IMPACT:
The projected revenue impact of the housing tax credit changes are as follows:

FY 2004-05	- $8 million
FY 2005-06	- $9.8 million
FY 2006-07	$2.9 million
FY 2007-08	$24.5 million

The other sections of the act are assumed to have little or no impact on the General Fund.

EFFECTIVE DATE: The low-income housing tax credit changes became effective beginning with the 2002 tax year for the existing credit and in 2003 for buildings that are awarded a federal credit allocation on or after January 1, 2003. The estate tax change became effective for the estates of decedents dying on or after January 1, 2002.

ANALYSIS:
LOW-INCOME HOUSING TAX CREDIT: Congress enacted the Low Income Housing Tax Credit in 1986 to fund housing for low- and moderate-income households. Each state receives a limited amount of credit each year. The IRS allocates the per capita low-income housing tax credit to state housing agencies, such as the North Carolina Housing Financing Agency, who in turn allocate the credit to project developers who agree to lower project rents for low-income tenants. In 1999, North Carolina authorized a State income tax credit equal to a percentage of the developer's federal tax credit for low income housing constructed in North Carolina. A project developer sells the tax credits to receive funds to finance the project. Developers indicate that the State tax credit sells for no more than 45 cents on the dollar.

During the 2002 session, the General Assembly became aware of several concerns with the low-income housing tax credit:

- The sale of a dollar tax credit for less than 45 cents is an inefficient use of State tax expenditures.

- The process of selling the tax credits is complex. It involves finding investors, negotiating prices, and completing legal documents.
- The pool of investors interested in purchasing the credit is limited and is diminishing.

This act addresses these concerns in two ways:

- To address the short-term problem of utilizing the tax credits allocated to developers, the act reduces the tax basis required of a purchaser from 100% to 40%.
- To address the long-term problem of the complexity and inefficiency of the credit, the act converts the State credit, which is sold to investors, to a refundable credit, received directly by the owner and invested directly in the project.

New, Refundable Credit for Housing with Federal Allocations beginning 1/1/03: A taxpayer who is allocated a federal low-income housing tax credit is allowed a credit equal to a percentage of the development's eligible basis. Unlike the existing credit that must be taken over five years, the new refundable credit is taken in one year. The existing State credit is a percentage of the federal credit and the percentage varies depending on the tier designation of the county. The new refundable credit is a percentage of the basis for which a federal credit is allowed and the percentage varies depending on the type of development. The eligibility of a development is based upon two factors:

- Income designation of the county or city in which it is located. – The designation of a county or city as "low income", "moderate income", or "high income" is made by the North Carolina Housing Finance Agency ("HFA") in accordance with the Qualified Allocation Plan in effect as of the time the federal credit is allocated. The Qualified Allocation Plan is adopted annually. The Governor must approve it after a public hearing and publication in the North Carolina Register. A change in the income designation does not affect the developer's eligible basis for which a credit is allowed.

- Affordability requirements. – The affordability requirements are set in the statute and apply for the duration of the federal tax credit compliance period. If in any year a taxpayer fails to meet these affordability requirements, the credit is forfeited.

The chart below sets out the percentage of the developer's eligible basis for which a credit is allowed:

Type of Development	Percentage of Basis for which Credit is Allowed
• Units are in a "low income" county or city • 40% of the qualified residential units are affordable to households whose income is 50% or less of area median income	30%
• Units are in a Moderate Income county or city • 50% of the qualified residential units are affordable to households whose income is 50% or less of the area median income	20%

Type of Development	Percentage of Basis for which Credit is Allowed
• Units are in a High Income county or city • 50% of the qualified residential units are affordable to households whose income is 40% or less of the area median income	10%
• Units are in a High Income county or city • 25% of the qualified residential units are affordable to households whose income is 30% or less of the area median income	10%

Credit Election: A taxpayer entitled to the new, refundable low-income housing tax credit may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the HFA. Neither a direct tax refund nor a loan received as a result of the transfer of the credit is considered taxable income by the State. The IRS would consider a direct tax refund taxable. A letter ruling will be submitted to the IRS to clarify whether the loan proceeds would be taxable. The initial indication is that the proceeds would not be taxable.

If a taxpayer chooses the loan method for receiving the credit, the Secretary must transfer to the HFA the amount of credit allowed the taxpayer. The HFA must loan the amount of the credit to the taxpayer on terms consistent with the Qualified Allocation Plan. The HFA is not required to make the loan until the Secretary transfers the credit amount to it.

If a taxpayer chooses the direct tax refund method for receiving the credit, the Secretary must transfer to the HFA the refundable excess of the credit allowed the taxpayer. The HFA holds the refund in escrow, with no interest accruing to the taxpayer during the escrow period. The HFA must release the refund to the taxpayer upon the occurrence of the earlier of the following:

- The HFA determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least 50% of the activities included in the development's eligible basis.
- The expiration of 30 days after the development's placed in service date.

Forfeiture: If a taxpayer fails to meet the State's affordability requirements for the duration of the federal tax credit compliance period, the State credit is forfeited. If the taxpayer is required to recapture all or part of the federal credit with respect to a qualified North Carolina low-income development, the State credit is also forfeited. A taxpayer that forfeits all or part of the State credit is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest. This amount is payable 30 days after the date the credit is forfeited. The interest is computed from the date the Secretary transferred the credit amount to the HFA.

A taxpayer that is required to recapture all or part of the federal credit with respect to a qualified North Carolina low-income development does not forfeit the corresponding State credit amount in the following circumstances:

- The recapture is the result of an event that occurs in the sixth or subsequent calendar year after the calendar year in which the development was awarded a federal credit allocation.
- The taxpayer elected to transfer the State credit amount to the HFA and received a loan from the HFA for that amount.

Report: The Department of Revenue must report to the Revenue Laws Study Committee and the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding April 1:

- The number of taxpayers that claimed the low-income housing credit.
- The location of each qualified North Carolina low-income building or housing development for which a credit was claimed.
- The total cost to the General Fund of the credits claimed.

Sunset: Like the existing low-income housing tax credit, this new refundable credit is repealed effective January 1, 2006.

Modifications for Existing Credit for Housing with Federal Allocations before 1/1/03: Often the investment group financing a low-income housing project is a pass-through entity. In 2001, the General Assembly provided that the low-income housing credit could be allocated among any of the entity's owners, in the entity's discretion, as long as the amount of credit allocated did not exceed the owner's adjusted basis in the pass-through entity. This tax basis requirement means the investor must invest $1 into the project for each $1 of the State credit received. However, the General Assembly determined in 2002 that the market rate for the credit was about 45 cents for each $1 of State credit. The pool of investors willing and able to meet the tax basis requirement was smaller than the need for investment. Without a change in the tax basis requirement, many developers with projects underway may have lost money on those projects. To encourage more investment immediately, the act reduced the tax basis required of a purchaser from 100% to 40%.

The act also addresses the issue of forfeiture of the existing credit by providing that the taxpayer does not forfeit the State credit if a recapture of the federal credit occurs after the State five-year credit period has expired. The federal credit is taken over a 10-year period.

ESTATE TAX CHANGES: Section 9 of the act incorporates a proposal from the Estate Tax Section of the North Carolina Bar Association.[10] It changes the calculation of estate tax due when property is located in more than one state from a net value ratio to a gross value ratio. Before this act became law, North Carolina was one of only three states that prorated based on the net value of the federal taxable estate. At least 36 states prorate based on gross values, including the neighboring states of South Carolina and Virginia.

For estates with property only in North Carolina, the North Carolina estate tax equals the credit for state death taxes allowed on the federal estate tax return.[11] If an estate has property in more than one state, the federal credit must be prorated between North Carolina and the other states in which the estate has property. Under prior law, the percentage of the

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[10] Representative Haire introduced a bill on this issue in 2001, House Bill 276.

[11] The credit for state death taxes allowed on the federal estate tax return is being phased out over the next four years. As a result of legislation enacted in 2002 (S.L. 2002-126), North Carolina does not conform to the phase-out of this credit for 2002 and 2003.

federal credit allocated to North Carolina was determined by dividing the net value of the property in North Carolina by the total net value of the property in the estate.

Net value equals the gross value of the property less any debts associated with the property, such as a mortgage. The prior law was attempting to allocate the credit based on the value of the property that was includible in the taxable estate for federal purposes. The federal estate tax is calculated on the taxable estate, which is the gross estate less allowable deductions such as debts.

The Estate Tax Section of the North Carolina Bar Association asserted that a state's share of federal estate tax is more appropriately based on the gross property located in a state whether or not the property generates any federal estate tax. It proposed that this approach is fair because each state has a responsibility for protecting and supervising the distribution of property regardless of whether it generates federal tax. Also, the use of a net value calculation sometimes results in a North Carolina resident paying more tax than 100% of the amount of the credit.[12] In other instances it may result in a loss of revenue to North Carolina[13]; this may be particularly true in estates in which property qualifies for the marital deduction.

Extend Qualified Business Venture Tax Credit

Session Law	Bill #	Sponsor
S.L. 2002-99	HB 1520	Representative Allen

AN ACT TO EXTEND THE SUNSET ON TAX CREDITS FOR QUALIFIED BUSINESS INVESTMENTS, TO AMEND THE DEFINITION OF QUALIFIED GRANTEE BUSINESS, TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT, AND TO CLARIFY AND AMEND THE NORTH CAROLINA STATE PORTS AUTHORITY'S FEE-SETTING AUTHORITY.

OVERVIEW: This act extends the tax credit on qualified business investments and the State ports tax credit from January 1, 2003 to January 1, 2004, and revises the definition of "qualified grantee business" to alleviate a constitutional concern by replacing specific named entities with general descriptions of entities. The act also clarifies that the North Carolina State Ports Authority has fee-setting authority for its rates and tariffs, gives the Authority guidelines to use in setting those fees, requires the Authority to report to the Joint Legislative Commission on Governmental Operations no later than 30 days after it establishes or

[12] A Charlotte resident has a gross estate worth $10,000,000, including a $2,000,000 home in South Carolina with a $1,000,000 mortgage. The South Carolina portion of the credit is 20% because South Carolina uses a gross value calculation: 2,000,000 divided by 10,000,000. The North Carolina portion of the credit is 88%: 8,000,000 divided by 9,000,000.

[13] A Charlotte resident has a gross estate worth $10,000,000, including a $2,000,000 home in South Carolina. The North Carolina property has a $1,000,000 mortgage. The South Carolina portion of the credit continues to be 20%. However, the North Carolina portion of the credit is reduced to 77%: 7,000,000 divided by 9,000,000.

increases a fee, and exempts the Authority's fee-setting from the rule-making portion of the Administrative Procedure Act.

FISCAL IMPACT: The amount of the tax credit on qualified business investments that is given each year is capped at $6 million. Because requests for credits have exceeded this cap for four out of the last five years, it is likely that the $6 million annual cost of the program will continue until its sunset in 2004. The General Fund impact due to the extension of this tax credit will occur in the 2003-2004 fiscal year because the investments made in 2003 will be awarded credits on returns filed in the spring of 2004. The extension of the State Ports Authority tax credit is estimated to cost the General Fund $650,000 in the 2003-2004 fiscal year. The changes to the State Ports Authority fee-setting power have no fiscal impact.

EFFECTIVE DATE: The change to the definition of "qualified grantee business" is effective January 1, 2003. The remainder of this act became effective August 29, 2002.

ANALYSIS:

QUALIFIED BUSINESS INVESTMENT TAX CREDIT: The qualified business investment tax credit was enacted in August 1987 to promote economic development for North Carolina businesses. The initial credits applied to both corporations and individual taxpayers, and there was a $12 million cap on the total amount of all tax credits. In response to a 1996 United States Supreme Court decision in Fulton Corp. v. Faulkner, the General Assembly reduced the $12 million cap to $6 million, limited the credit to individuals and small pass-through entities, and removed the requirement that the qualified businesses be headquartered or operating in North Carolina. The credit was to expire for investments made on or after January 1, 1999. In 1998, as part of the appropriations bill, the credit was extended for four additional years until January 1, 2003. This act extends the sunset for one additional year until January 1, 2004.

Explanation of the credit: The qualified business investment tax credit is allowed for an individual taxpayer who purchases the equity securities or subordinated debt of a qualified business venture or a qualified grantee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. The credit may not be taken in the year the investment is made. Instead, the credit is taken in the year following the calendar year in which the investment was made, but only if the taxpayer filed an application with the Secretary of State. The unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed with the Secretary of State. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $6 million in tax credits in proportion to the size of the credit claimed by each taxpayer. In general, a taxpayer forfeits the credit if the taxpayer

transfers the securities within one year or the qualified business redeems the securities purchased by the taxpayer within five years after the investment was made.[14]

Impact of Fulton Corp. v. Faulkner: Under the 1996 Fulton case, the original credit provisions clearly violated the interstate commerce clause of the federal constitution because they reduced a taxpayer's tax liability by an amount equal to 25% of the cost of purchasing stock in either a North Carolina business or an investment company whose purpose is to invest in North Carolina businesses, while no tax reduction was allowed for purchasing similar stock in out-of-state businesses or investment companies whose purpose is to invest in businesses that may not be North Carolina businesses. In response to the Fulton case, the Revenue Laws Study Committee discussed this credit, along with several others, at great length. The original proposal of the Committee was to repeal all qualified business investment credits, effective January 1, 1997. In response to appeals to the Committee and to the General Assembly, the credit was expanded to include investments in businesses located both inside and outside North Carolina. However the credit was no longer allowed for investments in investment companies and was limited to investments made by individuals and small pass-through entities under the theory that these investors are not likely to invest outside a 50-mile radius of their homes.

Amendment to definition of "qualified grantee business": In order to be a business in which investments are eligible for a credit, the business must be either a "qualified business venture" or a "qualified grantee business." Both types of businesses must be registered with the Secretary of State. The definition of "qualified business venture" includes several general requirements related to the line of business, gross revenues of the business, and the organization date of the business. Prior to this act, the definition of "qualified grantee business" included a requirement that the business have received a grant or other funding in at least one of the three previous years from one of several named entities. Arguably, this definition violated the rule of uniformity since a credit is allowed only for investments in businesses that have received a grant from one of several specifically named entities, and not for investments in similar businesses that have received grants from similar entities. To address this constitutional issue, the act amends the definition of "qualified grantee business" by replacing the named entities with descriptions that would encompass the following previously named entities: the North Carolina Biotechnology Center, MCNC, and the Kenan Institute for Engineering, Technology, and Science. The only previously named entity that these descriptions do not encompass is the Technological Development Authority. It is unknown if any other entity qualifies under these descriptions.

STATE PORTS TAX CREDIT: This act extends the sunset on the tax credit for North Carolina State Ports Authority wharfage, handling, and throughput charges for one year, from January 1, 2003 to January 1, 2004. When first enacted, this credit was effective for taxable years beginning on or after March 1, 1992, and ending on or before February 28, 1996. The sunset has been extended four times.

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[14] There are two exceptions to this forfeiture provision. First, if the transfer occurs as a result of the death of the taxpayer, the liquidation of the taxpayer, or certain reorganizations of the qualified business, within the one-year period, the transfer does not require forfeiture. Second, the 1998 legislation created an exception to this forfeiture provision for projects in the film industry, since it is unusual for a project in that industry in which a person might invest to last for more than five years.

Explanation of the credit: The State Ports Authority tax credit is allowed to a taxpayer who loads or unloads waterborne cargo from an ocean carrier at the State-owned port terminal at Wilmington or Morehead City. The credit is allowed against the taxpayer's income tax. The taxpayer may be either an individual (G.S. 105-151.22) or a corporation (G.S. 105-130.41). The amount of the tax credit is equal to the amount of wharfage, handling, and throughput charges paid to the North Carolina State Ports Authority in the taxable year that exceeds the average amount of charges paid to the Authority for the current tax year and the two previous tax years. The credit is limited to 50% of the tax imposed on the taxpayer for the taxable year. Any excess credit may be carried forward and applied to the taxpayer's income tax liability for the next five years. The maximum cumulative credit that one taxpayer may claim is $2 million.

In 1992 the General Assembly enacted the State Ports income tax credit to encourage exporters to use the two State-owned port terminals in Wilmington and Morehead City. When enacted, the credit applied to amounts paid by a taxpayer on any cargo exported at either port. In 1994, the General Assembly expanded the credit to include all amounts assessed on exported cargo, regardless of who paid the shipping costs. In 1995, the General Assembly expanded the credit to include some imports by allowing a credit for break-bulk cargo and container cargo imported at either Wilmington or Morehead City and for bulk cargo imported at Morehead City. It did not allow a credit for bulk cargo imported at Wilmington. In addition, the credit for bulk exports was then limited to bulk exports at only the Morehead City terminal. In 1996, the General Assembly expanded the State ports income tax credit to include the importing and exporting at either terminal of one specific type of bulk cargo: forest products. All imports and exports of bulk cargo at the Morehead City terminal were already covered, so the effect of this change was to allow a credit for forest product imports and exports at the Wilmington terminal. In 1997, the General Assembly extended the sunset of the State ports income tax credit from February 28, 1998 to the taxable year ending on or before February 28, 2001, and increased the maximum cumulative credit from $1 million to $2 million per taxpayer. In 2001, the General Assembly extended the sunset to January 1, 2003.

Although not defined by the relevant statutes, the various types of cargo differ as follows:

- Bulk cargo is a type of commodity that is loose and usually stockpiled. Examples of this type of commodity include coal, grain, salt, and wood chips.
- Break-bulk cargo consists of commodities that are packaged and stored on pallets or in cases that must be handled and stacked onto a ship by hand, crane, etc. Break-bulk cargo also includes machinery.
- Container cargo consists of commodities that are packaged in a metal trailer box that can be locked onto a tractor-trailer chassis and then detached and put on a ship without any other handling.

NORTH CAROLINA STATE PORTS AUTHORITY: This act clarifies and amends the fee-setting power of the North Carolina State Ports Authority in the following ways:

- Clarifies that the Authority has fee-setting authority for its services.
- Sets out statutory guidelines that the Authority must consider in setting fees for its services. These guidelines include the cost of providing service, revenue

requirements, the cost of similar services at other seaports in the South Atlantic region, and any other factors the Authority considers relevant.

- Requires the Authority to report to the Joint Legislative Commission on Governmental Operations no later than 30 days after the Authority establishes or increases a fee.[15]
- Exempts the Authority's fee-setting power from the rulemaking portion of the Administrative Procedure Act.

Amend Pollution Abatement Tax Exclusion

Session Law	Bill #	Sponsor
S.L. 2002-104	SB 1253	Senator Odom

AN ACT TO PROVIDE THAT CERTAIN ANIMAL WASTE MANAGEMENT SYSTEMS SHALL NOT QUALIFY FOR SPECIAL PROPERTY CLASSIFICATION AND EXCLUSION FROM THE TAX BASE PURSUANT TO G.S. 105-275(8) AND TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO STUDY ISSUES RELATED TO THE TAX EXCLUSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

OVERVIEW: This act provides that an animal waste management system may not qualify for property tax exclusion as a pollution control device unless it eliminates or substantially eliminates certain discharges, emissions, and contamination. The act also requires the Revenue Laws Study Committee to study property tax exemptions for pollution control equipment. The act was recommended by the Environmental Review Commission.

FISCAL IMPACT: The State General Fund is not affected. The legislation will affect revenue from the property tax base in each county. There are currently no exclusions that have been granted to facilities, thus there are no changes in current county revenues. However, had the legislation not been enacted, potential revenue losses would have been split among counties based on the number of animal waste management systems maintained in each county. Potential losses were estimated using the total property value of the swine, poultry, and turkey facilities in a county. The potential property tax revenue losses statewide could have totaled approximately $9.9 million per fiscal year.

EFFECTIVE DATE: Property tax years beginning on or after July 1, 2002.

ANALYSIS: Since 1955, North Carolina has excluded from property taxes property used exclusively for pollution control or waste disposal. The statute specifies waste lagoons as one

[15] In S.L. 2001-427, the General Assembly increased its oversight of agency setting and raising of fees by requiring an agency that wishes to establish or increase any fee to have either express authorization from the General Assembly for the amount of the fee or general authorization and to consult the Joint Legislative Commission on Governmental Operations **prior** to putting the new fee into effect. S.L. 2002-99 allows the State Ports Authority to report to Governmental Operations **after** increasing or establishing a fee.

type of property that may qualify for property tax exclusion. Before property could qualify for exclusion, the law as of 2001 required that the Environmental Management Commission (EMC) certify that the property complies with all EMC requirements, is operated in accordance with its permit, and has as its primary purpose the reduction of pollution.

As the entity responsible for certifying property for the tax exclusion, the EMC approached the Environmental Review Commission requesting clarification of the policy conflict between the potential property tax exclusion for swine waste lagoons and spray fields and the moratorium the General Assembly has placed on constructing swine waste lagoons and spray fields unless they comply with strict environmental standards. The Environmental Review Commission recommended that the General Assembly act on this issue in 2002.

To evaluate the issue, the General Assembly sought input from the EMC, individual taxpayers, the Attorney General's Office, the Department of Revenue, and other interested parties. There was testimony from experts that in the 1950s when the statute was enacted, there was much less use of animal waste lagoons and spray fields than there is today, indicating that the policy established in the 1950s may no longer be appropriate. The Department of Revenue noted that spray fields are not used exclusively for waste disposal and thus appear to be ineligible for the property tax exclusion. The Southern Environmental Law Center commented that, because waste lagoons do not reduce pollution and in fact accelerate air pollution, they do not meet the statutory requirement for exclusion that their primary purpose is the reduction of pollution. The EMC pointed out that since 1997 the General Assembly has maintained a moratorium on the construction of swine waste lagoons and spray fields with an exception only for swine waste management systems that meet the following environmental performance standards:

1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. Substantially eliminate atmospheric emissions of ammonia.
3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. Substantially eliminate the release of disease-transmitting vectors and airborne pathogens.
5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.

The General Assembly resolved the conflict between the moratorium and the tax exclusion by providing in this act that an animal waste management system may not qualify for the property tax exclusion unless the EMC determines that it meets the same five standards listed above. This requirement will ensure that the property tax exclusion is allowed only for animal waste management systems that meet strict environmental performance standards. This change becomes effective beginning with the 2002 property tax year.

The act also directs the Revenue Laws Study Committee to study the property tax exclusions for various types of property used for environmental reasons, in consultation with representatives of cities and counties. The Committee is directed to report the results of its study to the 2003 General Assembly.

Revenue Law Enforcement Enhancements

Session Law	Bill #	Sponsor
S.L. 2002-106	SB 1218	Senator Dalton

AN ACT TO IMPROVE THE ENFORCEMENT OF TAX LAWS BY CRIMINALIZING OR INCREASING THE PENALTY FOR CERTAIN FORMS OF TAX FRAUD AND BY ALLOWING THE DEPARTMENT OF REVENUE TO DISCLOSE CERTAIN INFORMATION TO LAW ENFORCEMENT AGENCIES.

OVERVIEW: This act improves the enforcement of tax laws by allowing for enhanced punishment when an income tax return preparer aids or assists in the filing of false or fraudulent documents with the Department of Revenue, by creating an offense for fleecing taxpayers, and by allowing the Department of Revenue to share information concerning the commission of any offense with appropriate state or federal law enforcement agencies. This act was a recommendation of the Revenue Laws Study Committee.

FISCAL IMPACT: The cost of additional court trials and prison beds due to the increased felonies is as follows:

FISCAL YEAR	COST
2002-2003	$ 9,035
2003-2004	$ 94,395
2004-2005	$204,839
2005-2006	$294,200
2006-2007	$388,752

EFFECTIVE DATE: The sections allowing for enhanced punishment and creating a new offense become effective December 1, 2002, and apply to actions committed on or after that date. The section allowing disclosure between the Department of Revenue and appropriate State or federal law enforcement agencies became effective September 6, 2002.

ANALYSIS: Under sections 1 through 3 of this act, beginning December 1, 2002, an income tax return preparer who aids or assists in the filing of false or fraudulent documents will be guilty of a Class F felony, if the amount of tax fraudulently avoided in one taxable year on all returns is less than $100,000. If the total amount of tax fraudulently avoided in one taxable year on all returns equals or exceeds $100,000, the income tax return preparer will be guilty of a Class C felony. These punishments are the same as the punishments for embezzlement under Article 18 of Chapter 14 of the General Statutes. The act incorporates the definition of "income tax return preparer" used under the Internal Revenue Code, and makes a conforming change in G.S. 105-159.1(e) to incorporate this definition.

Under the law in effect until December 1, 2002, it is a Class H felony to aid, assist, procure, counsel, or advise the preparation, presentation, or filing of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter. The Department of Revenue requested the enhanced punishment because of the increasing number of

fraudulent return cases involving an income tax return preparer. According to the Department, these cases generally involve income tax return preparers that intentionally inflate the itemized deductions claimed on a return or include fictitious business losses on the return. This fraud is carried out in order to reduce taxable income, thereby reducing tax liability. The Department has also noticed an increase in the number of fictitious returns. These are returns that are based on fictitious wage and tax statements.

Under section 4 of this act, beginning December 1, 2002, it will be a Class F felony for a person to receive money from a taxpayer with the understanding that the person would remit the money to the Secretary of Revenue for application on a tax liability and then willfully fail to remit the money to the Secretary. The Department reported that several times a year it will have a situation where an accountant receives money from a taxpayer to satisfy a sales or withholding tax liability. The accountant then files a fraudulent return showing reduced or zero tax due and then pockets the taxpayer's money. Although the Department can and does bring charges against the accountant for filing a fraudulent return, the taxpayer still owes the money that he or she has lost. The taxpayer must then get the local district attorney to file embezzlement charges. The district attorneys have indicated that they prefer that the Department handle this situation since it involves taxes and since the Department is already involved. By creating the offense for fleecing taxpayers, this act places the remedy with the Department. The penalty is the same as for embezzlement totaling less than $100,000.

Section 5 of this act allows the Department of Revenue to share information it discovers during a criminal investigation of a taxpayer with appropriate State or federal law enforcement agencies. Under prior law, the Department could only provide information concerning a tax imposed by Article 2A, 2C, or 2D of the revenue laws to law enforcement agencies. These Articles deal with the tobacco products tax, alcoholic beverage license and excise taxes, and unauthorized substance taxes. However, the Criminal Investigation Division of the Department occasionally discovers evidence of criminal activity unrelated to the taxes imposed in these Articles. Under prior law, the Department was not allowed to disclose that information to law enforcement. This act alleviates this prohibition.

Contracts to Reimburse Fuel Tax/Fuel Tax Chg.

Session Law	Bill #	Sponsor
S.L. 2002-108	SB 1407	Senator Kerr

AN ACT TO ESTABLISH A CONTRACT RIGHT REGARDING THE TIMING OF PAYMENTS UNDER CONTRACTS REQUIRING REIMBURSEMENT OF FEDERAL FUEL EXCISE TAXES AND TO MAKE VARIOUS MOTOR FUEL EXCISE TAX CHANGES.

OVERVIEW: This act gives local distributors a contract right to delay reimbursing federal fuel tax to the supplier until one day before the supplier is required to remit the tax to the federal government. The act also converts the local government fuel tax refund to an exemption and makes several other changes to the motor fuel tax laws.

FISCAL IMPACT: The only provision with a fiscal impact is the one converting the local government fuel tax refund to an exemption. The exemption will be slightly revenue positive for local governments because of the interest earned on funds that once went to fuel tax payments before being refunded. Based on refund amounts for past years, Fiscal Research estimates the annual float gain for locals would have been $227,030 for fiscal year 2000-01 and $252,860 for fiscal year 1999-00.

EFFECTIVE DATE: The contract right provision became effective September 1, 2002. The motor fuel tax provisions become effective January 1, 2003.

ANALYSIS:

Contract Rights Regarding Tax Reimbursements

The State and federal motor fuel excise taxes are payable by the distributor, but collected and remitted to the respective tax collection agencies by the supplier. G.S. 105-449.91 gives the distributor the right to defer the remittance of any state tax to the supplier until the date the supplier, as trustee, must pay the tax to this State or to another state. This allows the distributor to retain the interest on the state tax monies until they are due for payment. Federal law does not address the distributor's right to defer the remittance of any federal tax due. The distributor's right as to the timing of the remittance of the federal tax due to the supplier is subject to the terms of the contract between the distributor and the supplier.

Section 1 of this act provides that a contract subject to North Carolina law must afford the distributor the same election for the timing of federal tax remittance that the distributor has for state tax remittance. It provides that the distributor may elect to remit the federal tax due to the supplier one day before the tax is due to the federal Internal Revenue Service. Exercising this option allows the distributor to receive the benefit of any float associated with the federal tax monies. To exercise this right, the distributor must notify the supplier in writing of the intent to make this election and the effective date of the election. The effective date cannot be earlier than the beginning of the next federal tax quarter or 30 days after the notice of intent is received, whichever is later. To secure the receipt of the tax monies, the supplier can require security for the payment of the taxes in proportion to the amount the taxes represent compared to the security required on the contract as a whole.

In practice, this change in the law will not affect contracts between suppliers and distributors for branded fuel[16] when the contract names another state as the controlling state law. Currently, Georgia, Alabama, Mississippi, and Tennessee[17] have similar statutes. If no particular state's law is designated as controlling in the contract, then this State's law will control. If a supplier offers unbranded fuel[18] at a North Carolina terminal and a distributor lifts from that terminal rack, North Carolina law will control because the contract for the fuel is accepted in North Carolina.

This section of the act became effective September 1, 2002, and applies to contracts entered into or renewed on or after that date and to all continuing contracts that are in effect on that

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[16] Branded fuel is fuel supplied to a distributor pursuant to a contract.

[17] Tennessee collects federal and state excise tax at the rack like North Carolina.

[18] Unbranded fuel is fuel offered by a supplier at the terminal rack to any distributor who wishes to purchase it.

date and have no expiration date. It does not apply to a contract in effect on September 1, 2002 that, by its terms, will terminate on a later date; nor does it impair the obligation arising under any contract executed before September 1, 2002. Because the act did not become law until September 6, the constitutional prohibition against impairing contracts would prevent it from applying to contracts executed between September 1 and September 6 that have an expiration date.

Motor Fuel Enforcement Tax Changes

Section 2 of this act repeals the Class 1 misdemeanor for willfully and knowingly making a false statement for the purposes of obtaining or assisting someone else to obtain a credit, refund, or reduction of motor fuel tax liability. Repeal of this statute means that the general penalties in G.S. 105-236 will apply. It is a Class H felony under G.S. 105-236(7) to attempt to willfully evade a tax and it is a Class H felony under G.S. 105-236(9a) to willfully help someone else evade a tax.

A motor carrier subject to the International Fuel Tax Agreement must register with the carrier's base state and a motor carrier not subject to that Agreement must register with the Secretary of Revenue. It is unlawful for a motor carrier to operate motor vehicles in the State unless the motor carrier is registered. To indicate to enforcement officers that the carrier is properly registered, the vehicles must display identification markers, or decals. Section 3 of this act requires a motor carrier to keep records of the decals issued to it and to be able to account for those decals. Section 4 of this act establishes a civil penalty for unaccounted for decals and for decals unlawfully obtained. The penalty for being unable to account for decals is $100 per decal. The penalty for displaying a decal unlawfully obtained is $1,000 per decal. The motor carrier whose vehicles display the decal and the motor carrier who obtained the decals are jointly and severally liable for the penalty.

Section 15 of this act simplifies the penalty for transporting motor fuel without a shipping document or with a false or an incomplete shipping document and the penalty for delivering motor fuel to a destination state other than the one shown on the shipping document. Under prior law, the amount of the penalty depended on whether the person against whom the penalty is assessed had previously been assessed a penalty under this statute. If the answer is "no", the amount of the penalty was $1,500. If the answer is "yes", the amount of the penalty was $7,500. To determine whether the person has previously been assessed a penalty under this statute required the enforcement officer to obtain detailed information, which the officer forwarded to the Motor Fuels Tax Division so that the Division could check its records and then assess the correct penalty. The penalty was seldom imposed because the enforcement officers could not enforce the penalty at the time the offense occurred. This section enables the enforcement officer to immediately assess the penalty by providing a flat penalty amount of $5,000.

Section 16 of this act will enable the Motor Fuels Tax Division to be able to track motor fuel transported by a tank wagon after the fuel has left the terminal. A tank wagon is a truck that has a compartment designed or used to carry at least 1,000 gallons of motor fuel.[19] Under

[19] Section 6 amends the term "tank wagon" to require that it be used to carry at least 1,000 gallons of motor fuel. This modification exempts trucks carrying less than that amount from the requirements imposed by this Section 16.

this section, a person may not transport motor fuel by tank wagon unless the person has an invoice, bill of sale, or shipping document that contains the following information: the name and address of the person from whom the motor fuel was received, the date the fuel was loaded, the type of fuel, and the gross number of gallons loaded. The person must carry this documentation when transporting the fuel and show the documentation upon request. These requirements are similar to, but less onerous than, the requirements for motor fuel transported by a railroad tank car or transport truck.[20] A violation of this statute would be grounds for a civil penalty in the amount of $1,000.

Section 17 simplifies the penalty for dispensing, or allowing to be dispensed, non-tax-paid fuel into a highway vehicle. Currently, the amount of the penalty varies depending upon the number of gallons dispensed. However, it is often impossible to know how many gallons have been dispensed. This section simplifies the penalty by providing a fixed penalty amount of $250 per occurrence.

Biodiesel and Fuel Alcohol Tax Law Changes

Before this act went into effect, North Carolina's motor fuel tax laws addressed fuel alcohol, but not biodiesel. Both types of fuel are special fuels that may be used to operate a motor vehicle. Biodiesel fuel is a mixture of fuels derived in whole or in part from agricultural products or animal fats or wastes from these products or fats. The General Assembly became aware of a person planning to produce biodiesel fuel in North Carolina using, among other fats, discarded french fry grease from fast food restaurants. Sections 6 and 7 make existing fuel tax provisions applicable to biodiesel, and also provide that small providers of biodiesel and fuel alcohol are not subject to the bonding requirements applicable to refiners.

Under existing law, a person who produces fuel that can be used to operate a motor vehicle is considered a refiner and is subject to a $2 million bonding requirement. There are no refiners in North Carolina. However, it was anticipated that this definition and the large bonding requirement might become applicable to providers of fuel alcohol and biodiesel because it is possible that a vehicle can be operated with biodiesel alone or with fuel alcohol alone. To avoid subjecting small producers of biodiesel and fuel alcohol to the large surety bond requirements for refiners, this act provides a smaller surety bond requirement for smaller producers of biodiesel and fuel alcohol. To accomplish this, Section 6 defines a biodiesel provider and a fuel alcohol provider as a person who produces an average of no more than 500,000 gallons of biodiesel or fuel alcohol a month during a calendar year. It also excludes from the definition of "refiner" these biodiesel providers and fuel alcohol providers. Under Section 7, biodiesel providers and fuel alcohol providers are subject to a bonding requirement of no less than $2,000 and no more than $250,000. The amount of the bond is determined by the provider's average expected monthly tax liability.

Section 6 adds biodiesel to the definition of diesel fuel and adds biodiesel providers to the definition of supplier. These changes bring biodiesel within the scope of the existing fuel tax laws.

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[20] Tank wagons would not be required to be registered, to have a tax responsibility statement, to have a machine-printed shipping document, or to have a destination state. Also, the penalty imposed on a tank wagon for failure to have the proper documentation is $1,000 as opposed to $5,000.

Special Mobile Equipment

Special mobile equipment is a vehicle that has a permanently attached crane, mill, ditch-digging apparatus, or similar attachment. The vehicle is driven on the highway only to get to and from a non-highway job. It is not designed or used primarily for the transportation of persons or property. Under prior State law, special mobile equipment was allowed to use dyed (untaxed) diesel fuel. However, federal law prohibited special mobile equipment from using dyed diesel fuel. This contradiction caused confusion and, as a result, operators of special mobile equipment were sometimes assessed federal penalties. Section 10 conforms North Carolina law to the federal law. Special mobile equipment will continue to be entitled to a quarterly refund of motor fuel tax paid to operate the equipment off-highway.[21]

Diverted Fuel

A person may not transport motor fuel by railroad tank car or by truck unless the person has a shipping document indicating, among other things, the destination state of the motor fuel. The tax on the motor fuel is collected at the rack based on the motor fuel tax rate of the state named on the shipping document as the destination state. The person transporting the motor fuel must deliver it to the state printed on the shipping document.

If the fuel is diverted to another state, the person transporting the fuel must notify the Secretary of Revenue of the diversion and receive a confirmation number authorizing the diversion. The state tax is owed on the fuel changes when the fuel is diverted to a different state. Under prior law, the distributor would notify the supplier of the diversion and the supplier would make the correction based on its business practices. The diversion could be accounted for in several different ways on one of four different motor fuel tax forms. The supplier's responsibility for making the correction was inconsistent with the fact that the supplier is not the party responsible for paying the tax; the supplier's tax collection obligations ended once the fuel left the terminal.

Section 10 clarifies that North Carolina motor fuel excise tax is due on motor fuel that is diverted to this State. It also specifies that the person who authorizes the fuel to be diverted to a different state is liable for the tax owed to that state; likewise the person is entitled to a refund of the North Carolina tax paid on the fuel. The diversion corrections must be made on the backup tax form.

Motor Fuel Tax Exemption for Local Governments

Under prior law, counties and municipalities were entitled to a quarterly refund of motor fuel excise taxes paid by them during the preceding quarter. The refund was calculated at the rate equal to the amount of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which the refund was claimed, less one-cent per gallon. This act gives counties and cities an exemption in lieu of a refund. Section 11 removes counties and municipalities from the list of entities entitled to a refund and Section 13 adds them to the list of entities exempted from the motor fuel excise tax. Other entities exempted from the

[21] G.S. 105-449.106(c).

tax include the federal government, the State government, local boards of education, charter schools, and community colleges.

Administrative and Technical Changes

A refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, and a distributor must file a bond with the Secretary in order to be licensed. The bond is conditioned upon compliance with the motor fuel tax laws. Whenever a license holder changes bonding companies or decides to go out of business, the license holder must notify the Secretary. After determining that all taxes and penalties due under the motor fuel tax laws have been paid, the Secretary must return the previously filed bond and notify both the bonding company and the license holder that the person is released from liability on the bond. The Motor Fuels Tax Division often receives returned mail on the notice sent to the license holder because the license holders have moved. Section 8 relieves the Division from the requirement that it notify the license holder; it need only return the previously filed bond and the notice of release from liability to the bondholder.

The Motor Fuels Tax Division must keep a record of all the license holders under the fuel tax statutes and it must send this list to all the license holders along with a monthly update. Many license holders have expressed a desire not to receive the list this often. Section 9 relieves the Division of the necessity of sending the monthly updates to all license holders. Under this section, the Division must send an annual list to each license holder of all the license holders. Thereafter, the Division need send a monthly update only to each licensed refiner or licensed supplier and to any other license holder that requests a copy of the list.

Section 6 includes within the definition of "motor fuel transporter" a person who transports motor fuel by pipeline. Sections 12 and 14 correct incorrect terminology.

Secure Local Revenues

Session Law	*Bill #*	*Sponsor*
S.L. 2002-120, as amended by Section 65 of S.L. 2002-159	HB 1490	Representative Gibson

AN ACT TO PROVIDE THAT LOCAL REVENUES MAY NOT BE WITHHELD OR IMPOUNDED BY THE GOVERNOR AND TO CLARIFY THE FRANCHISE TAX ON ELECTRIC POWER COMPANIES.

OVERVIEW: This act provides that certain shared tax revenues are local revenues and may not be withheld or reduced by the Governor and that funds otherwise committed to local governments may not be reduced unless all other revenue sources, including treasury surplus, have been exhausted. The act also clarifies that an electric power company that pays the annual franchise or privilege tax is not subject to an additional franchise or privilege tax imposed by a city or county.

FISCAL IMPACT: No estimate available. This legislation has no direct impact on the budget passed by the General Assembly, as these shared revenues have not been used in the legislative process for state expenditures. However, the legislation could limit the options available to the Governor in future years.

EFFECTIVE DATE: This act became effective September 24, 2002. It applies prospectively only and does not apply to pending litigation or claims that accrued prior to September 24, 2002.

BACKGROUND: For the last two years, the Governor has withheld reimbursement funds from local governments, and he recommended suspending additional reimbursement funds for fiscal year 2002-03 as well. Specifically, in fiscal year 2000-2001 the Governor placed in escrow $95 million of inventory tax reimbursement funds, representing one-half of the total annual payment, in anticipation of a budget shortfall. These funds were later released, however, to local governments. In fiscal year 2001-2002, the Governor again withheld $95 million in inventory tax reimbursement funds plus $114 million in state-shared taxes and the homestead reimbursement in order to balance the budget as of June 30, 2002.

By withholding these funds despite the statutory directive to distribute the funds to local governments, the Governor has invoked his constitutional authority pursuant to Section 5(3) of Article III of the North Carolina Constitution to balance the budget. Section 5(3) of Article III of the North Carolina Constitution sets out the Governor's budgetary duties. Specifically, it directs the Governor to prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. Furthermore, it provides that the State may not operate at a deficit during the fiscal period covered by a budget. To ensure that the State does not incur a deficit, the Constitution requires the Governor to continually survey the collection of revenue. If, as a result of his surveys, he determines that actual receipts for the fiscal period, when added to the surplus remaining in the State Treasury, will not be sufficient to pay budgeted expenditures, the Governor must effect the necessary economies in State expenditures to keep the deficit from occurring. Arguably, the distribution of monies to local governments is a "State expenditure," and the Governor's constitutional obligation to maintain a balanced budget overrides the statutory directive to distribute the funds.

Based on the current information available, it is unclear whether this legislation will be effective in preventing the Governor from withholding these funds from local governments. If the Governor withholds the funds despite the enactment of this legislation, enforcement of this limitation on the Governor's authority may have to be resolved by a court. As of October 2002, several counties and municipalities have initiated or are considering initiating lawsuits challenging the Governor's withholding of funds.[22]

ANALYSIS: Sections 1 through 7 of this act limit the Governor's budgetary authority to withhold or reduce local revenues and to reduce certain State expenditures as follows:

Tax-Sharing Statutes

Sections 1 through 6 of this act amend the tax-sharing statutes by characterizing the portion of the revenue distributed to cities and counties as distributions of "local revenue" rather

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[22] As of November 2002, one of the pending cases is *Cabarrus County, et al. v Tolson*, Wake County Superior Court Case No. 02 CVS 12518.

than "State expenditures" for purposes of interpreting Section 5(3) of Article III of the North Carolina Constitution. Section 5(3) of Article III of the North Carolina Constitution sets out the Governor's duties and the scope of authority with regard to balancing the budget. Arguably, since the Constitution authorizes the Governor to reduce only "State expenditures," the classification of these shared tax revenues as "local revenues" prohibits the Governor from reducing or withholding the distributions. Moreover, each of the tax-sharing statutes has been amended to expressly state that the Governor may not reduce or withhold these distributions.

Tax-sharing statutes are a source of "financial aid" for local governments. Under these tax-sharing statutes, cities or counties, or both, receive a portion of certain taxes levied by the State. The shared tax revenues are derived from the levy of the following taxes:

- Beer and wine taxes[23]
- Franchise gross receipts tax[24]
- Piped natural gas tax[25]
- Sales tax on telecommunications[26]
- Powell bill funds[27]

Funds Appropriated or Otherwise Committed to Local Governments

Section 7 of the act limits the Governor's authority to reduce funds that the General Assembly has "appropriated or otherwise committed to local governments" by amending the Executive Budget Act to require that the Governor exhaust all other sources of revenue first, including any surplus in the treasury at the beginning of the fiscal period. This section takes a different approach than the sections dealing with the tax-sharing statutes. Under this section, the Governor is required when balancing the budget to prioritize the reduction of certain State expenditures by reducing the funds distributed to local governments only as a last resort. Under the previous sections, the General Assembly removed the local portion of

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[23] Cities and counties in which beer and wine may be sold receive a portion of the State excise tax levied on beer and wine. They receive a percentage of the net amount of excise taxes collected, and the percentage depends on the type of beverage sold: 23 ¾% for beer, 62% for unfortified wine, and 22% for fortified wine. The local governments that share in the proceeds do so on a per capita basis, with counties receiving credit for their nonmunicipal population only.

[24] The State levies a gross receipts tax on electric power companies at a rate of 3.22%. From these proceeds, each city or town is entitled to an amount equal to 3.09% of gross receipts arising from sales within that city or town. Most cities receive their share of franchise tax revenue under G.S. 105-116.1. However, there are approximately 51 cities that own their own electric generation and distribution systems. These cities pay tax and receive their distribution under a separate statute - G.S. 159B-27 - but at the same rate as other cities.

[25] The State levies an excise tax on piped natural gas, and the rate is based on the monthly volume of natural gas received by the final user. The rate decreases as the amount of therms of piped gas consumed in a month increases. Cities receive 50% of the proceeds of the tax attributable to that city.

[26] The State imposes a 6% sales tax on telecommunications. The cities receive 18.26% of the net proceeds of the taxes collected minus a "freeze deduction" amount totaling $2,620,948.

[27] North Carolina's state gasoline tax is 17 ½ cents per gallon, plus the greater of 7% of the average wholesale price or 3.5 cents per gallon. Of this, an amount equal to the proceeds of 1.75 cents per gallon plus an additional 6.5% of the net proceeds of the North Carolina Highway Trust Fund is distributed among North Carolina's cities and towns. The legislation that first established this distribution system is known as the *Powell Bill*, after its principal sponsor, and the monies distributed to the cities and towns are generally known as Powell Bill funds. The use of these funds by municipalities is restricted to maintaining, repairing, constructing, reconstructing or widening streets, sidewalks, bridges, curbs and gutters, bikeways, and other necessary appurtenances within the corporate limits of the municipality.

shared tax revenues from the scope of the Governor's budgetary authority by stating they are not "State expenditures," and thus not capable of being reduced by the Governor under any circumstances.

Section 7 of this act was primarily intended to restrict the Governor's ability to withhold reimbursement money. State reimbursements are amounts distributed to local units to compensate them for revenue lost as the result of the removal by the General Assembly of property from the local sales and use tax base, the property tax base, or the intangibles tax base. The reimbursement programs include reimbursements for the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the homestead exemption from property tax, and the repeal of local sales and use taxes on food purchased with food stamps. However, Section 30A.1 of The Current Operations, Capital Improvements, and Finance Act of 2002. (S.L. 2002-126) repeals all of the State reimbursement payments to local governments, effective July 1, 2002. Nevertheless, funds "appropriated or otherwise committed to local governments" would also include:

- Low wealth school money.
- Earmarking of corporate income tax money for Public School Building Capital Fund.
- Scrap tire disposal tax.
- White goods disposal tax proceeds.
- Aid to public libraries.
- Certain grant monies.

Clarify Taxation of Electric Power Companies

Section 8 of this act clarifies that an electric power company that has collected and remitted to the State the annual franchise gross receipts tax may not be subject to any additional franchise or privilege tax imposed upon it by any city or county.

This clarification was primarily the result of responses by some cities to the seizure by the Governor of funds that would have otherwise been distributed to the cities as shared tax revenues. In response to the seizure, some cities enacted ordinances imposing their own franchise or privilege tax on electric power companies to recapture their lost revenue. This provision is intended to prevent the electric power companies from being taxed by both the State and the municipalities.

Local Sales Tax Acceleration

Session Law	Bill #	Sponsor
S.L. 2002-123	SB 1292	Senator Kerr

AN ACT TO ACCELERATE THE ADDITIONAL ONE-HALF CENT LOCAL OPTION SALES AND USE TAX AND TO MAKE CONFORMING AND TECHNICAL CHANGES.

OVERVIEW: This act accelerates the effective date of the third half-cent local option sales tax from July 1, 2003, to December 1, 2002.

FISCAL IMPACT: There is no General Fund impact. The total estimated potential revenue available to local governments from this additional half-cent if all 100 counties were to enact the tax in December 2002 is approximately $188.1 million. After deductions for administration by the Department of Revenue, the amount is reduced to $187.8 million. However, since the act is permissive and counties can decide to enact the tax at any time, no exact fiscal estimate is possible.

EFFECTIVE DATE: The act became effective September 26, 2002, but local units cannot levy the sales tax itself until December 1, 2002.

ANALYSIS: In 2001, the General Assembly authorized counties to levy additional local sales taxes of ½%, effective July 1, 2003. Under this act, the tax may become effective as early as December 1, 2002. To accomplish the sales tax acceleration, the act provides for the following:

- It allows the counties to enact the tax for the first two months (December 2002 and January 2003) with a shortened notice to the Department of Revenue. Under general law, a county must give the Secretary of Revenue at least 90 days' advance notice of a new tax levy or tax rate change; and a new tax levy or a tax rate change may become effective only on January 1 or July 1. This act provides for an expedited levy. If the county enacts the tax to become effective on or before January 1, 2003, the county must give the Secretary only 30 days' advance notice of the tax levy. Thereafter, the current law requirements of 90 days' notice and a January 1 or July 1 effective date are reinstated.
- It authorizes the Department of Revenue to withhold up to $275,000 for 2002-2003 to cover its excess nonrecurring costs for implementing the new sales tax on short notice.
- It exempts the Department of Revenue from the public contract bidding requirements for the procurement of supplies, materials, equipment, and contractual services related to the provision of notice and the development of computer software necessitated by the expedited provisions of the act.
- It provides that a retailer is not liable for the additional ½% tax levied by counties effective December 1, 2002, that it fails to collect from purchasers due to an inadvertent error during the month of December 2002 if the retailer can demonstrate to the Secretary the reason for the inadvertent error.

The act does not make the following changes to the law:

- It does not accelerate the State ½% sales tax repeal that is effective July 1, 2003. Therefore, there may be a 7% sales and use tax rate in counties that impose the additional ½% sales tax rate from December 1, 2002, until July 1, 2003.
- It does not accelerate the local sales tax distributions from quarterly to monthly. Under current law, counties are authorized to levy up to 2% local sales and use taxes[28]. All counties levy the maximum rate. The State collects the tax and distributes it quarterly to the counties and municipalities. In 2001, the General Assembly provided that local sales taxes must be distributed monthly rather than quarterly, effective July 1, 2003.
- This act does not provide a local government hold-harmless provision. Section 30A.1 of The Current Operations, Capital Improvements, and Finance Act of 2002. (S.L. 2002-126) repealed all of the State's reimbursement payments to local governments, effective

[28] Mecklenburg County is authorized to levy up to 2 ½% local sales and use taxes.

beginning with the 2002-2003 fiscal year.[29] The 2001 legislation provided local governments "hold harmless" payments beginning in 2003-2004 if the amount they could potentially realize from the levy of the half-cent sales tax was less than the amount they would lose from the reimbursements. This act neither accelerates the hold harmless provision nor provides another.

Current Operations, Capital Improvements, and Finance Act of 2002

Session Law	Bill #	Sponsor
S.L. 2002-126	SB 1115	Senator Plyler

AN ACT TO MODIFY THE CURRENT OPERATIONS APPROPRIATIONS ACT OF 2001 AND TO MAKE OTHER CHANGES IN THE BUDGET OPERATION OF THE STATE.

OVERVIEW, DESCRIPTION, EFFECTIVE DATES, AND FISCAL IMPACT:

Section #	Description and Effective Dates	Fiscal Impact
30A.1	**Local Government Revenues** Accelerates the repeal of the tax reimbursements from July 1, 2003, to July 1, 2002. Also authorizes local governments to raise or lower property taxes between July 1 and the following January 1 to account for unanticipated revenue increases or decreases.	This will produce a General Fund revenue gain of $333.4 million per year beginning in FY 2002-03.
30B.1	**Delay 2001 Tax Break: Elimination of Marriage Penalty for Standard Deduction** Delays the enactment by one year of the tax break enacted in 2001 eliminating the marriage penalty in the standard deduction, originally effective beginning with the 2002 tax year. Now, the standard deduction for married filing jointly taxpayers will increase from $5,000 to $5,500 in tax year 2003, and then to $6,000 in tax year 2004.	The net gain to the General Fund as the result of delaying the first $500 increase is $31.9 million for FY 2002-03. For the $6,000 standard deduction delayed until 2004, the General Fund will gain $12.6 million that year.
30B.2	**Delay 2001 Tax Break: Increase of Tax Credit for Children**	The delay will eliminate the $19.8 million General Fund

[29] The Appropriations Act of 2001 (S.L. 2001-424, Section 34.15) provided that the reimbursements would be repealed effective for the 2003-04 fiscal year. The Current Operations, Capital Improvements, and Finance Act of 2002 (S.L. 2002-126, Section 30A.1) accelerated that repeal.

Section #	Description and Effective Dates	Fiscal Impact
	Delays the enactment by one year of the increased tax credit for children enacted in 2001. Beginning with tax year 2003, the tax credit for children is increased from $60 to $75 per child and then to $100 in tax year 2004.	loss originally projected for FY 2002-03 and result in a General Fund revenue gain of an equal amount. There will be a revenue gain of $34.9 million in FY 2003-04.
30C.1	**Update IRC Reference** Updates the Internal Revenue Code reference from January 1, 2001 to May 1, 2002, with exceptions for accelerated depreciation and the estate tax credit. This update conforms North Carolina law to federal law with regard to recent pension tax changes, education initiatives, the increased estate tax exemption limitations, and the extension of the carryback period for net operating losses for tax years ending 2001 and 2002.	The following General Fund revenue loss is expected[30]: FY2002-03 $16.9 million FY2003-04 $25.5 million FY2004-05 $49.7 million FY2005-06 $76.9 million FY2006-07 $77.3 million
30C.2	**Accelerated Depreciation Provisions** Decouples North Carolina law from federal law by requiring taxpayers to add back to federal taxable income a percentage of the additional 30% accelerated depreciation allowed under federal law, effective for taxable years beginning on or after January 1, 2002. Taxpayers will continue to be able to deduct the same amount of an asset's basis under both federal and State law, but the timing of the deduction will differ.	The impact of the changes is essentially revenue neutral over the long-term since the conformity deals with an acceleration of depreciation, not the total amount of the deduction over the life of an asset. Thus, there will be substantial revenue losses starting in FY 2006-07. The General Fund impact is estimated as follows: FY2002-03 $38.2 million FY2003-04 $8.6 million FY2004-05 -$60.8 million FY2005-06 - 0 - FY2006-07 - 0 -
30C.3	**Estate Death Tax Credit Provision** Decouples North Carolina law from the phase-out of the state death tax credit under federal law, effective for estates of decedents dying on or after January 1, 2002. This provision sunsets for decedents dying on or after January 1, 2004.	Although decoupling from the phase-out of the state death tax credit avoids the loss of revenue from full conformity to the federal phase-out of the credit for state death taxes, there is an overall net loss because the act conforms

[30] These estimates do not reflect conformity to the increased estate tax exemption limitations. See summary for Section 30C.3 of S.L. 2002-126 for fiscal impact of the estate tax law changes.

Section #	Description and Effective Dates	Fiscal Impact
		North Carolina estate tax law to the increased federal estate tax exemptions: FY2002-03 $5.5 million FY2003-04 $7.3 million FY2004-05 $3.8 million FY2005-06 $0
30C.5	**Federal Gift Tax Annual Exclusion** Conforms the North Carolina gift tax exclusion to the federal inflation-adjusted gift tax exclusion used by the federal government, effective January 1, 2002.	The General Fund revenue loss is estimated as follows: FY2002-03 $0.2 million FY2003-04 $0.2 million FY2004-05 $0.2 million FY2005-06 $0.4 million FY2006-07 $0.4 million
30D.	**Unauthorized Substance Tax Expenses** Provides that local governments will bear 70% of the State's expenses in collecting the unauthorized substance tax, effective June 30, 2002. The expenses are drawn from local sales tax distributions. This section does not, however, change the amounts that are distributed to local law enforcement agencies.	The General Fund will be reimbursed for 70% of the Unauthorized Substance Tax Division's operating expenses resulting in an annual gain of $900,000.
30E.	**Insurance Regulatory Charge** Sets the insurance regulatory charge, which is assessed on the premiums tax paid by insurers, at 6.5% for the 2002 calendar year. The revenue generated by this charge is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the industry.	The charge is expected to generate $25 million for FY 2002-03.
30F.	**Regulatory Fee for Utilities Commission** Sets the public utility regulatory fee at 0.1% for FY 2002-03. It also sets the electric membership corporation regulatory fee at $200,000 for FY2002-03. These are the same as the 2001 rates.	This fee, which funds the operations of the Utilities Commission and the Public Staff, is expected to produce $11,700,238 for FY 2002-03.
30G.1	**Close Corporate Tax Loophole: Broaden Definition of Business Income** Broadens the definition of "business income" to include all income that states can apportion for corporate income tax	The General Fund revenue gain is estimated as follows: FY2002-03 $70.0 million FY2003-04 $50.0 million FY2004-05 $53.7 million FY2005-06 $56.7 million

Section #	Description and Effective Date	Fiscal Impact
	purposes under the U.S. Constitution, effective with taxable years beginning on or after January 1, 2002.	FY2006-07 $59.5 million
30G.2	**Close Corporate Tax Loophole: Equalize Franchise Tax on Corporate-Affiliated LLCs** Tightens 2001 legislation intended to close a loophole that allows corporations to escape franchise tax by transferring assets to a controlled LLC, effective beginning with payments due in March 2003.	The General Fund revenue gain is estimated as follows: FY2002-03 $20.0 million FY2003-04 $21.2 million FY2004-05 $22.5 million FY2005-06 $23.8 million FY2006-07 $25.2 million
30H.	**Housing Tax Credit** Enlarges the class of taxpayers eligible for an enhanced credit for investing in low-income housing in a county that sustained severe or moderate damage from a hurricane in 1999 by backdating the effective date for eligibility from 2001 to 2000.	Assuming the project investors use 100% of the available tax credit, the annual General Fund loss is $2.15 million for Fiscal Years 2002-03 to 2006-07.
30I.	**No Estimated Income Tax Penalty for 2002 Tax Year** Provides that no estimated income tax penalty applies for the 2002 tax year to the extent the underpayment was created or increased by a provision of this act	

ANALYSIS:

LOCAL GOVERNMENT REVENUES

In 2001, the General Assembly repealed all of the State's reimbursement payments to local governments, effective beginning with the 2003-2004 fiscal year. Part 30A accelerates the repeal, effective July 1, 2002.

State reimbursements are amounts distributed to local units to compensate them for revenue lost as a result of the removal by the General Assembly of property from the local sales and use tax base, the local property tax base, or the intangibles tax base. State reimbursements consist of reimbursements for the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the "homestead exclusion" from property tax, and the repeal of local sales and use taxes on food purchased with food stamps. This act does not repeal or reduce the distribution of local government tax-sharing revenues: excise tax on beer and wine, franchise tax on electricity, gross receipts tax on piped natural gas, sales tax on telecommunications service, and the Powell bill revenues.

Part 30A also allows counties and cities to amend their budget ordinances between July 1st and the following January 1st to increase or reduce their property tax levy to account for unanticipated revenue increases or decreases.

DELAY 2001 TAX BREAKS

Last session, the General Assembly enacted two income tax breaks to become effective for the 2002 tax year[31]: elimination of the marriage tax penalty in the standard deduction[32] and an increased tax credit for children. Part 30B of this act delays the enactment of these tax benefits.

Delay Elimination of Marriage Tax Penalty for the Standard Deduction: Last session, the General Assembly reduced North Carolina income taxes on married couples that claim the standard deduction[33] by increasing the amount of the standard deduction for married filers so that it would be twice that of a single taxpayer. Since 1989, the basic standard deduction for a single person in North Carolina has been $3,000 while that for a married couple filing jointly has been $5,000. The increase in the deduction enacted in 2001 was to be phased in over the 2002 and 2003 tax years. The standard deduction for married persons filing separately is one-half that for a married couple filing jointly, so the 2001 act also phased it up from $2,500 to $3,000 over the 2002 and 2003 tax years. Part 30B of this act delays by one year the phase-in of the increased deduction, so that it will occur over the 2003 and 2004 tax years.

Delay Increase in Tax Credit for Children: In 2001, the General Assembly increased the $60 tax credit per child to $75 for the 2002 tax year and to $100 for the 2003 tax year. Part 30B of this act delays the phase-in of the credit increase until the 2003 and 2004 tax years. The 1995 General Assembly enacted the tax credit of $60 per child for taxpayers who have dependent children and have family adjusted gross income below $100,000 for a married couple and $80,000 for a head of household. Neither the 2001 act nor this act changes the income thresholds. The credit is in addition to the federal and state tax credits or exclusions for child care expenses. The credit is allowed for each dependent child for whom the eligible taxpayer could take a federal personal exemption under section 151(c)(1)(B) of the Internal Revenue Code. That Code section allows an exemption for each dependent child who either is less than 19 years old at the end of the taxable year or is a student and is less than 24 years old at the end of the taxable year. A child is a son, stepson, daughter, or stepdaughter. A dependent child is a child over half of whose support is provided by the taxpayer.

UPDATE IRC REFERENCE

North Carolina's tax law tracks many provisions of the federal Internal Revenue Code, by reference to the Code.[34] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[35] Updating the Internal Revenue Code reference

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[31] S.L. 2001-424, as amended by S.L. 2001-476, 2001-497, and 2001-489.

[32] The so-called married tax penalty is the result of a tax system that recognizes that a married couple's living expenses are less than the expenses of two single people living separately but more than the expenses of one single person. In addition, if one spouse is not employed full-time, a married couple's income would be less than that of two comparable single people who work full-time, but more than that of one single person. The tax law addresses these situations through the tax brackets, the personal exemptions, and the standard deduction. The result of these tax provisions is that a married couple with only one spouse working experiences a tax reduction when they marry, a married couple where one spouse earns substantially more than the other experiences no tax reduction or increase when they marry, and a married couple with both spouses earning roughly the same amount experience a tax increase when they marry.

[33] Roughly 70% of North Carolina taxpayers claim the standard deduction.

[34] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[35] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of

makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made.

Congress enacted two bills that have changed the Code significantly since January 1, 2001:

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), enacted on June 7, 2001, includes numerous changes to the taxation of pension benefits, accounts, distributions, and rollovers; of education initiatives; and of estates. All of the provisions of EGTRRA will expire on December 31, 2010, unless the provisions are renewed or modified by Congressional action.[36]

The federal Job Creation and Worker Assistance Act of 2002, enacted March 9, 2002, includes an accelerated 30% bonus depreciation allowance for certain assets placed in service after September 10, 2001, and before September 11, 2004, and an extension of the carryback period for net operating losses occurring in tax years ending in 2001 and 2002 from two years to five years.

Both of these acts will substantially affect a taxpayer's federal taxable income. Since North Carolina begins its corporate and individual income tax calculations with federal taxable income, these acts also have a substantial impact on North Carolina's tax revenues to the extent the State chooses to conform to those changes.

Part 30C of this act rewrites the definition of the Code to change the reference date from January 1, 2001, to May 1, 2002. It then provides that a taxpayer must add to federal taxable income the amount allowed as an accelerated depreciation deduction under section 168(k) or 1400L of the Code and that a taxpayer's estate tax liability is determined without regard to the phase-out of the state death tax credit. In effect, Part 30C would do the following:

- Conform to all of the pension tax changes in the Code.
- Conform to all of the education initiatives in the Code.
- Conform to the increased estate tax exemption limitations.
- Not conform to the phase-out of the state death tax credit.
- Conform to the extension of the carryback period for net operating losses occurring in tax years ending in 2001 and 2002.
- Delay the accelerated 30% bonus depreciation allowance.

Pension Tax Provisions: Part 30C conforms North Carolina's tax treatment of pension benefits and distributions to federal law. EGTRRA made the following notable changes to the pension laws:

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taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[36]The Congressional Budget Act of 1974 mandates this sunset provision.

- It allows taxpayers to contribute more to their tax-deferred retirement accounts. It gradually increases the amount that may be contributed to a 401(k), 403(b), and 457 accounts between 2002 and 2006. The contribution limit will increase to $15,000 in 2006. Starting in 2007, the limit will be indexed for inflation in $500 increments. It also allows persons who are 50 or older to make an additional catch-up contribution to their tax-deferred retirement accounts.
- It increases the amounts that may be contributed to both traditional IRAs and Roth IRAs from $2,000 in 2001 to $3,000 in 2002. This amount gradually increases to $5,000 for 2008. After 2008, this amount will be indexed annually for inflation. It also allows people over the age of 50 to make catch-up contributions to an IRA.
- It modifies the distribution rules for governmental 457 plan participants so that their deferred compensation funds will be taxed when they receive the distribution, not when it is made available to them.
- It repeals the coordination of deferrals between 457 and other elective deferral plans. Under former law, the maximum deferral amount for a 457 plan was reduced dollar for dollar by any contribution made to other types of retirement plans. The tax law change means that a person may defer the maximum annual contribution limit to a 457 plan as well as the maximum amount in a 401(k) or 403(b) plan.
- It expands the types of eligible tax-free rollover distributions to include distributions from qualified plans, 403(b) annuities, and 457 plans to other such plans and distributions from IRAs to qualified plans, 403(b) annuities, and 457 plans.
- It allows a surviving spouse to roll over distributions from a deceased spouse's plan to his or her own plan. Prior to this change, the tax-free rollover had to be made to an IRA.

Education Tax Provisions: Part 30C conforms North Carolina tax law on education incentives to the federal changes enacted last year. The more notable tax changes affecting education incentives include:

- It increases the annual maximum contribution limit to an Education IRA from $500 to $2,000 per beneficiary.
- It allows education IRA dollars to be used to cover expenses of students in grade, middle, and high schools.
- It eases the restrictions and limitations when using an Education IRA with other education initiatives, such as the Hope or Lifetime Learning tax credit.
- It moves the annual contribution deadline for Education IRAs from December 31 to April 15 of the following year.
- It provides that distributions from Section 529 Plans will be income-tax free up to the amount that is used to pay qualified higher education expenses.[37] Under former law, participants enjoyed only the benefit of tax-deferred contributions and investment growth.
- It allows a person to transfer 529 plan credits from one program to another for the benefit of the same beneficiary without incurring a taxable event.
- It extends the deduction for employer-paid college expenses to include graduate courses.

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[37] North Carolina currently allows tax-free distributions for North Carolina plans. Section 30C.4 of this act repeals the State deduction.

Estate Tax Provisions: North Carolina repealed its inheritance tax in 1998, effective for deaths occurring on or after January 1, 1999. It replaced its inheritance tax with an estate tax that is equivalent to the federal state death tax credit allowed on a federal estate tax return. This type of state estate tax is known as a "pick-up" tax because it picks up for the state the amount of federal estate tax that would otherwise be paid to the federal government.[38] EGTRRA made two changes that affect the estate tax:

- It phases out the estate tax over the next eight years by increasing the exclusion amount from $675,000 in 2001 to $1 million in 2002-03, $1.5 million in 2004-05, $2 million in 2006-08, and $3.5 million in 2009. There is no need for an exemption amount after 2009 since the tax is repealed in 2010. However, the tax is scheduled to reapply in 2011 unless a future Congress makes the repeal permanent. If the tax were reinstated in 2011, the exclusion amount would be $1 million. This act conforms North Carolina's exemption limits to the federal exemption limits to ensure that estates in North Carolina do not have to pay State tax if there is no federal tax due.
- It phases out the state death tax credit over the next four years by reducing it 25% in 2002, 50% in 2003, and 75% in 2004, and by repealing it entirely in 2005. This act does NOT conform to the phase out of the state death tax credit for two years.[39] Therefore, under this act an estate of a decedent dying on or after January 1, 2002, and before January 1, 2004, would owe North Carolina estate tax to the same extent that it would be owed without regard to the phase-out of the credit. The January 1, 2004, sunset ensures that the State will have to revisit this issue next year.

Because North Carolina's estate tax is based upon the federal credit for state death taxes, the repeal of the state death tax credit in 2005 and the ultimate repeal of the federal estate tax in 2010 will mean that the State must decide whether to replace or repeal its estate tax in the future.

Accelerated Depreciation Provisions: Under the Job Creation and Worker Assistance Act of 2002, a taxpayer is allowed an accelerated 30% bonus depreciation allowance for certain assets placed in service after September 11, 2001, and before September 11, 2004. The taxpayer is still entitled to the normal first-year depreciation on the remaining basis of the asset after reducing the basis by the bonus depreciation. This provision affects both corporate and individual income taxpayers.

The change in federal law results in a taxpayer recovering the basis in the asset sooner than under former law; however, over the life of the asset the taxpayer still receives the same benefit. This act does not conform State law to the accelerated depreciation schedule allowed under federal law.[40] However, under this act a taxpayer will continue to be able to

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[38] As of July 1, 2002, 37 other states, plus the District of Columbia, impose only the "pick-up tax".

[39] As of October 2, 2002 the following 10 states, in addition to North Carolina, have acted to decouple from the phase-out of the state death tax credit: Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, Pennsylvania, Rhode Island, Vermont, and Wisconsin. The following 5 states, plus the District of Columbia, will remain decoupled automatically under their current law unless they take legislative action: Kansas, New York, Oregon, Virginia, and Washington.

[40] As of September 26, 2002, the following 23 states, plus the District of Columbia, which previously followed federal depreciation rules, are now decoupled as the result of explicit legislative action: Arizona, Connecticut, Georgia, Hawaii, Illinois, Indiana, Iowa, Maryland, Massachusetts, Minnesota, Mississippi (per ruling of state tax commissioner), Missouri (for one year), Nebraska, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont (for corporate income tax filers only), Virginia, and Wisconsin. In

deduct the same amount of an asset's basis under both federal and State law; it is just that the timing of the deduction will differ. To accomplish this decoupling from the federal accelerated bonus depreciation, the act does two things:

- For the first three years of the federal accelerated depreciation, it provides that a taxpayer must add back to federal taxable income a percentage of the additional 30% accelerated depreciation in the year the accelerated depreciation is claimed for federal purposes.[41] The percentage is 100% for the 2001 and 2002 taxable years and 80% for the 2003 taxable year. There is no add-back for the 2004 taxable year. The add-back for the first three years of the accelerated depreciation means that for State tax purposes, a taxpayer would deduct less in tax years 2001-2003 than the taxpayer would have deducted if the State conformed to the accelerated depreciation law. The amount of the deduction will be the normal first year depreciation on the remaining basis of the asset after reducing the basis by the bonus depreciation amount allowed under federal law plus 30% of the bonus depreciation in 2003. In 2004, the State will have in effect conformed to the federal law and the entire bonus depreciation may be deducted.

- In tax years beginning on or after January 1, 2005, it provides that the taxpayer may deduct from federal taxable income the total amount of the add-backs required in earlier years, divided into five equal installments. This means that for State tax purposes, a taxpayer would be allowed to deduct a greater depreciation amount in the outlying tax years – the normal depreciation amount plus 20% of the accelerated depreciation amount the taxpayer had to add back. The purpose of this recovery provision is to enable the taxpayer to have the same basis in assets for federal and State purposes. Without this deduction provision, a taxpayer would have a different basis in the depreciable asset for State and federal purposes and would have to keep separate books and records for State and federal purposes until the disposal of the asset. In effect, the add-back and subsequent deduction will affect the timing of the impact of bonus depreciation on the State but it will not increase or decrease the total amount of revenue the State receives over the affected years.

Gift Tax Change: North Carolina imposes a gift tax on property transferred during the life of a donor. Gifts to a spouse are exempt from tax. The gift tax law allows an annual exclusion of $10,000.

The federal gift tax annual exclusion is more complex. Since 1998, the $10,000 federal gift tax annual exclusion has been subject to an inflation adjustment. The adjustment happens only in increments of $1,000 however. From 1998 until 2001, inflation had not grown enough to reach the first $1,000 increment. In 2002, that threshold was reached and the federal annual exclusion increased to $11,000. This amount won't increase to $12,000 until the cumulative inflation adjustment is at least 20%.

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addition, New York City has decoupled from the bonus depreciation allowance. Six other states are decoupled automatically under pre-existing tax law: Arkansas, Idaho, Kentucky, New Hampshire, South Dakota, and Texas.

[41] For tax years beginning before January 1, 2002, the add-back must be taken in the first taxable year beginning on or after January 1, 2002, so that the taxpayer will not recognize any retroactive tax increase.

Part 30C amends North Carolina's gift tax annual exclusion to piggyback the federal amount, effective January 1, 2002.

UNAUTHORIZED SUBSTANCE TAX EXPENSES

Part 30D of this act allocates to local governments 70% of the State's expenses in collecting the unauthorized substance tax. The expenses would be drawn from local sales tax revenues. Under existing law, the following expenses are deducted from local sales tax distributions: costs of the Property Tax Division within the Department of Revenue, costs of the Property Tax Commission, the costs of the Institute of Government in operating a training program in property tax appraisal and assessment, and the costs of the Local Government Commission.

The General Assembly first imposed the unauthorized substances tax in 1989 to generate revenue for State and local law enforcement agencies and for the General Fund. Seventy-five percent of the tax collected is distributed to the State or local law enforcement agency that conducted the investigation that led to the tax assessment. The remaining 25% is credited to the General Fund. This act does not change this revenue allocation.

INSURANCE REGULATORY CHARGE[42]

Part 30E of this act sets the insurance regulatory charge at the same rate as last year's rate: 6.5% for the 2002 calendar year. The insurance regulatory charge is a fee that was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's premiums tax liability. The insurance regulatory charge is imposed on insurance companies, health maintenance organizations, and medical service corporations. For health maintenance organizations and medical service corporations, the fee is levied on each company's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The hypothetical calculation is necessary because medical service corporations and health maintenance organizations pay premiums tax at a lower rate.

REGULATORY FEE FOR UTILITIES COMMISSION

Part 30F of this act sets the tax rate for the public utility regulatory fee for the 2002-2003 tax year at the same rate as last year's rate: 0.1%. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is revenue derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair, and equitable

[42] See the summary for S.L. 2002-144 for additional changes made to the insurance regulatory charge.

rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 30F also sets at $200,000 for the 2002-2003 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale. This is the same rate that was in effect for the 2001-2002 fiscal year. The North Carolina Electric Membership Corporation is the only electric membership corporation that fits this description. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, the 1999 legislation levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale, as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Corporation will be passed on to its member electric membership corporations.

CLOSE CORPORATE TAX LOOPHOLES

This Part closes two corporate tax loopholes that allow some corporate profits to escape taxation and give corporate tax planners an opportunity to avoid existing taxes on corporate income and assets. The first loophole is caused by the definition of business income used in the corporate income tax law; the second loophole is caused by the different franchise tax treatment of corporations and limited liability companies.

Definition of Business Income: The first section of this Part amends the definition of "business income" to include all income that is apportionable under the U.S. Constitution, effective for taxable years beginning on or after January 1, 2002.

Corporations that do business in more than one state divide up their income among those states for income-tax purposes. Business income is apportioned based on a formula that takes into account how much sales, property, and payroll the corporation has in each state. Nonbusiness income is allocated to a state based on its connection with that state. In the most basic terms, nonbusiness income could be described as income that is earned in an unrelated sideline activity of the corporation.

As an analogy, each interstate corporation's income is in two "pies" – a business income pie that is divided up among the states in which it does business, and a nonbusiness income pie that is given entirely to the state it is connected to.

In an ideal system, all states would follow the same rules for dividing up interstate corporations' income for tax purposes, so that no more and no less than 100% of every corporation's net income would be subjected to state income tax. However, different states have different laws and even when the laws are the same, they may be interpreted differently. In theory, this can result in the taxation of more than 100%, as well as less than 100%, of a corporation's net income. In practice, corporate tax planners take the opportunity to create "nowhere" income – income that no state can tax. Instead of each state receiving its piece of the business income pie, some pieces are thrown away. Thus, although a corporation may do substantial business in North Carolina, much of its otherwise taxable business income may be characterized as nonbusiness, so that North Carolina gets no piece of it.

These tax avoidance schemes are possible not only because different states have different laws, but also because states have laws that are vague or too narrow. In North Carolina, before this act, income was defined as business income if it related to the regular trade or business of the taxpayer. This definition is vague and narrower than what is allowed under the United States Constitution. If North Carolina was entitled to tax a significant percentage of a corporation's business income, the corporation could try to shift much of its income into the nonbusiness pie, which North Carolina does not share in. This could be true even though the corporation had deducted as a business expense the same items that it later claimed were not business items when the time came to pay tax on profits. Court decisions in North Carolina upheld this tax avoidance technique under the law prior to this act. Examples of the types of business income that corporations most often recharacterize are rents, royalties, gain or loss from the sale of property, interest, and dividends.

This Part changes the definition of business income to include any income that the United States Constitution allows a state to treat as business income. This change eliminates the prior statute's vagueness and narrowness, which allowed it to be used by corporations to create "nowhere" income that should otherwise be taxable in North Carolina. One effect of this change is to include income from extraordinary events, such as a liquidation of a division, in apportionable income. This effect is consistent with the Department of Revenue's historical position, as illustrated by its administrative rules, before the North Carolina Supreme Court's decision in *Lenox v Tolson*.[43] A corporation's income earned out of state from unrelated business activity that makes up a discrete business enterprise will continue to be nonbusiness income that cannot be apportioned – it would continue to be allocated to the state to which it is connected.

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[43] 353 N.C. 659, 548 S.E.2d 513 (S.Ct. 2001). In this case, Lenox, a New Jersey-based corporation, disposed of a subsidiary, ArtCarved, by selling all of its assets. Lenox did not retain any of the liquidation proceeds for use in its ongoing operations but distributed all of those proceeds to its sole shareholder. Lenox classified the gain from the sale as "nonbusiness income" on its North Carolina tax return and therefore did not pay taxes on the gain. The NC Department of Revenue reclassified the gain as business income and assessed corporate income tax. Lenox paid the tax under protest and sought a refund. Of the two tests used to determine business income, only the "functional test" applied to this transaction. The functional test focuses on income from property if the acquisition, management, and/or disposition of the property was an integral part of the corporation's regular business operations. The Court concluded that, under this test, a liquidation was an extraordinary event and not a recurring transaction made in the regular course of business. The Court further held that when a transaction involves a complete or partial liquidation and cessation of a company's particular line of business, and the proceeds are distributed to shareholders rather than reinvested in the company, any gain or loss generated from that transaction is nonbusiness income. In so holding, the Court expressly disavowed statements by the Court three years earlier in *Polaroid v Offerman* with regard to its interpretation of the functional test.

Before this act, North Carolina was one of 26 states that used the vague, unnecessarily narrow definition of business income. Eighteen states have a broader definition of business income. Five other states have the same law as enacted by this Part (define business income as all that the U.S. Constitution allows state to apportion). Thirteen states apportion all corporate income. A state using this approach receives less revenue than if it used the approach taken by this Part, because it relinquishes the right to tax true nonbusiness income of businesses headquartered in the state. The 13 states include Georgia, South Carolina, and Virginia.

LLC Franchise Tax: In 2001, the General Assembly enacted S.L. 2001-327 to close a loophole that allowed corporations to avoid franchise tax on their assets by transferring their assets to a controlled limited liability company (LLC). Corporations pay franchise tax on their assets but LLCs do not pay franchise tax on their assets. Tax planners helped many corporations avoid most of the franchise tax they would otherwise owe by setting up an LLC for the purpose of holding the assets on behalf of the corporation. Although the corporation's business continued in the same way, the corporation eliminated most of its franchise tax through this paper transaction.

The 2001 legislation tried to address this problem by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned[44] at least 70% of the LLC's assets. Unfortunately, tax planners found that the tax could still be avoided by using an additional paper transaction. If the corporation interposed a partnership between itself and the LLC holding its assets, then technically the 2001 legislation would not apply and the assets would continue to escape franchise tax.

The second section of this Part broadens the approach of the 2001 legislation to include "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. This section is effective beginning with payments due in March 2003. "Related members" is a defined term and includes shareholders, partnerships, etc.

If a corporation and its related members together indirectly own at least 70% of an LLC's assets, this Part provides that each corporation pays franchise tax on its relative share of the LLC's assets. The relative share is calculated after excluding those related members who are not corporations. Thus, the entire assets are subject to franchise tax, with the tax burden shared proportionally by the corporations that are involved in the ownership scheme.

Here is an example:

A parent corporation, its subsidiary, and a major shareholder of the parent form a partnership to own an LLC that will own assets on behalf of the parent and subsidiary. The LLC's documents provide that upon dissolution its assets are distributed as follows:

Parent Corporation:	20%
Subsidiary Corporation:	45%
Shareholder:	35%

Under prior law, the assets would remain free of franchise tax. Under the changes in this Part, the parent corporation will pay franchise tax on 31% of the assets and the subsidiary

[44] Indirect ownership of an LLC's assets is determined based on who is entitled to receive those assets upon dissolution of the LLC.

corporation will pay franchise tax on 69% of the assets. Those are their relative shares of the total once you exclude the non-corporate owner.

The approach taken by this Part is much broader than the 2001 legislation and is intended to anticipate the creative paper relationships tax planners may devise to try and avoid the franchise tax. The breadth of the provision is such that it could apply to a "legitimate" situation, such as an individual who is the sole shareholder of a corporation and who later forms an LLC with an associate. Under this Part, the corporation would pay tax on the LLC's assets. Unfortunately, there does not appear to be a way to distinguish this type of situation from one in which the corporation is manipulating relationships to avoid its franchise tax. With different tax treatment of similar entities, tax planners can try to manipulate relationships to fall into the untaxed category. Because corporations and LLCs are similar, there may not be a strong policy reason to treat them differently for franchise tax purposes.

HOUSING TAX CREDIT EFFECTIVE DATE CHANGE[45]

Part 30H of this act enlarges the class of taxpayers eligible for an enhanced credit for investing in low-income housing in a county that sustained severe or moderate damage from a hurricane in 1999. In 1999, the General Assembly enacted a new tax credit for rehabilitating or constructing low-income housing. The credit is equal to a percentage of the amount of the taxpayer's federal credit for low-income housing with respect to eligible North Carolina low-income housing. The credit is 75% for buildings located in tier one or two counties and 25% for buildings located in other tiers. In 2000, the General Assembly enacted legislation providing that the 75% credit is also allowed for buildings located in one of 26 counties that sustained severe or moderate damage from a hurricane in 1999. This increase in the amount of the credit was made effective for buildings that are allocated a federal credit on or after January 1, 2001. The federal tax credits are allocated in December of each year. Thus, those taxpayers who made investments in hurricane counties and were allocated federal credits in December 2000 are not eligible for the enhanced State credit. This act backdates the effective date for eligibility for the enhanced State credit from 2001 to 2000, thereby including those who were allocated federal credits for investments in hurricane counties during 2000.

Subsidiary Dividend Changes

Session Law	Bill #	Sponsor(s)
S.L. 2002-136	HB 1670	Representative Luebke

AN ACT TO CLARIFY THE EXPENSE ATTRIBUTION LAW AS IT APPLIES TO DEDUCTIBLE DIVIDENDS AND TO PROVIDE LIMITS ON THE POTENTIAL TAX LIABILITY.

OVERVIEW: This act provides certainty and clarity to the expense attribution law as it applies to deductible dividends and provides limits on the potential tax liability.

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[45] See the summary for S.L. 2002-87 for a more complete explanation of the substantive changes made to the housing tax credit.

FISCAL IMPACT: The act assures the State of the revenues relied upon in its budget availability estimates for 2001 and 2002. Under the act, the State may expect to receive approximately $57 million a year for 2001, 2002, and 2003 from the taxation of subsidiary dividends. Of this amount, the State expects to receive approximately $80 million in availability for the 2002-03 budget.

EFFECTIVE DATE: The act becomes effective for taxable years beginning on or after January 1, 2001.

BACKGROUND: The 2001 General Assembly enacted legislation conforming State law to the federal rules for the deduction of dividends received. This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction. Eliminating the adjustments also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income. As a result, expenses related to deductible dividends must be netted from those dividends.[46] The law did not provide guidelines for calculating the amount of expenses that are related to deductible dividends.

Without knowing exactly how to determine the amount of related expenses, taxpayers were faced with uncertainty and potentially greater liability than they had anticipated when the legislation was debated. The new law was expected to have an especially significant impact on bank holding companies and electric power holding companies, because federal law requires them to have multiple subsidiaries.

ANALYSIS: The act provides clarity to the expense attribution law as it applies to deductible dividends and provides limits on the additional tax liability. These limits were calculated so that the act should yield revenue at least equal to what had been included in budget availability estimates based on the 2001 law.[47] The act states the intent of the General Assembly that it will be effective during 2001 and 2002 but will be studied and may be revised effective beginning with the 2003 tax year. However, the act does not sunset.

In summary, the act limits tax liability as follows:

- There are caps on the amount of related expenses that must be netted from deductible dividends as follows:
    - Most companies: 15% of dividends
    - Bank holding companies: 20% of dividends
    - Electric power holding companies: 15% of total interest expenses

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[46] North Carolina has an exception to its general law where federal and State laws differ regarding the taxability of an income item. Prior to the 2001 changes, companies were able to use the exception to deduct expenses associated with deductible dividends earned from subsidiaries. The 2001 tax law change effectively eliminated the deduction of expenses associated with subsidiary dividends.

[47] After many discussions with the Department of Revenue and the interested parties about the impact of the expense attribution rules, it became clear that the 2001 estimate of $32.8 million understated the impact of the indirect change in the expense attribution rules. The reason for the under-estimate is that the Department of Revenue's analysis of the 2001 legislation, which used confidential tax returns for the 1994 tax year and an update of the 1994 data, did not include financial institutions. The budget enacted by the 2002 General Assembly included $50 million in additional budget availability from a re-estimate of the 2001 legislation.

- The additional tax that a bank holding company and its related companies must pay as a result of the expense netting is subject to a maximum of $11 million per corporate family.
- Bank holding company corporate families also receive a credit beginning in 2003. For bank corporate families that reach the $11 million maximum, the credit is $2 million. For other bank corporate families, the credit is equal to the amount of tax reduction that would result if bank holding companies were subject to a 15% cap rather than a 20% cap. These credits may be taken against income tax or franchise tax and are spread out over four tax years beginning in 2003.
- Electric power holding companies receive a credit equal to one-half of the additional tax that each must pay as a result of the expense netting. The credit is taken in the following year. The credit may be taken against income tax or franchise tax. As an alternative, an electric power holding company may elect to allocate the credit among the members of its affiliated group. If the electric power company makes this election, then the credit is spread out over four tax years, beginning in 2003.

SECTION-BY-SECTION ANALYSIS:

Section 1:	For federal tax purposes, dividends are deductible with no adjustment for related expenses. For State tax purposes, no deduction is allowed for expenses related to nontaxable income. Therefore, for State tax purposes, an adjustment must be made to federal taxable income to add-back any related expenses that were included in the federal deduction. This section provides that not all of the expenses must be added back by establishing a different adjustment for expenses related to dividends received that are not taxed.
Section 2:	This section establishes the adjustment for expenses related to dividends received that are not taxed, by providing a cap on the amount of tax payable: 15% of nontax dividends for most companies; 20% of nontax dividends for bank holding companies; and 15% of total expenses for electric power holding companies. The act also provides a credit for bank holding companies and electric power companies. Any unused portion of the credit may be carried forward to succeeding taxable years.
Section 3:	A conforming change to ensure that related expenses are deducted only once when calculating a corporation's net economic loss.
Section 4:	A conforming change that provides the same tax treatment for foreign source dividends as domestic source dividends.
Section 5:	States the intent of the General Assembly to address the issues raised by this act during the 2003 Regular Session. The Revenue Laws Study Committee is to study the treatment of expenses related to dividends received and other income not taxed, and the taxation of affiliated corporations, of holding companies, and of financial institutions under current law. The Committee must report its recommendations to the 2003 General Assembly.
Section 6:	Provides that a taxpayer will not be subject to additional tax or to penalties for underpayment of a tax to the extent the underpayment was created or increased by Section 3 of S.L. 2001-327 if the taxpayer pays all

	tax due that was created or increased by Section 3 of S.L. 2001-327 within 15 days after the date this act became law, October 3, 2002.

Insurance Regulatory Fund Changes

Session Law	Bill #	Sponsor
S.L. 2002-144	HB 1105	Representative Hurley

AN ACT TO FUND THE OPERATIONS OF THE DEPARTMENT OF INSURANCE FOR THE FISCAL YEAR 2002-2003 THROUGH THE INSURANCE REGULATORY FUND BY EXPANDING THE PURPOSES FOR WHICH THE FUND MAY BE USED AND BY CREDITING VARIOUS FEES COLLECTED BY THE DEPARTMENT AND OTHER AGENCIES UNDER THE DEPARTMENT INTO THE FUND FOR FISCAL YEAR 2002-2003, AND TO RESTORE THE 2002-2003 BUDGET REDUCTIONS SUSTAINED BY THE DEPARTMENT OF INSURANCE.

OVERVIEW: This act makes two changes relating to the Department of Insurance:

- It restores the $1.8 million budget cut the Department sustained for the 2002-2003 fiscal year in the Current Operations, Capital Improvements, and Finance Act of 2002. The increased appropriation from the General Fund will be reimbursed from the Insurance Regulatory Fund, which has a sufficient surplus.
- It provides that for the 2002-2003 fiscal year, certain fees collected by the Department of Insurance will no longer be retained as part of the Department's budget but will be credited to the Insurance Regulatory Fund and used to reimburse the General Fund for the Department of Insurance's expenses. The act was intended to appropriate to the Department for 2002-2003 the amount by which the fee changes reduce its budget, $3.2 million, but the appropriation was omitted by oversight. The Department is expected to receive these funds, however, through authorization from the legislative leadership.

FISCAL IMPACT: See Overview.

EFFECTIVE DATE: The act is effective for the 2002-2003 fiscal year only.

ANALYSIS: The two changes made by this act are not related, although both affect the Department of Insurance. Sections 9 and 10 of the act restore the $1.8 million budget cut the Department sustained for the 2002-2003 fiscal year in the Current Operations, Capital Improvements, and Finance Act of 2002. This restoration does not affect the General Fund. Although the Department of Insurance's budget is appropriated from the General Fund, the Insurance Regulatory Fund reimburses the General Fund for the appropriation. The additional $1.8 million is available as a surplus in the Insurance Regulatory Fund to

reimburse the General Fund for the additional appropriation. Thus, neither the cut nor its restoration affected the General Fund.

The Department of Insurance regulates the insurance industry and other industries. Insurance companies pay an annual insurance regulatory charge that is measured as a percentage of each company's gross premiums tax. The proceeds of the charge are credited to the Insurance Regulatory Fund. Other industries regulated by the Department of Insurance also pay fees that are credited to the Insurance Regulatory Fund. The Fund is used to pay for the part of the Department's budget that goes to regulating the insurance industry and other industries. The funds are not paid to the Department of Insurance directly from the Insurance Regulatory Fund. Instead, the Department's budget is appropriated from the General Fund, and the Insurance Regulatory Fund reimburses the General Fund for the Department's costs of regulating the industries whose fees are credited to the Insurance Regulatory Fund.

In addition to regulating industries, the Department of Insurance has other functions relating to various State boards and commissions: the North Carolina Manufactured Housing Board, the State Fire and Rescue Commission, the Building Code Council, the North Carolina Code Officials Qualification Board, the Public Officers and Employees Liability Insurance commission, the North Carolina Home Inspector Licensure Board and the Volunteer Safety Workers Compensation Board. The Department's budget for these activities is supported by fees. The fees are collected and retained by the Department and used to cover these costs – there is no General Fund appropriation for these costs.

Sections 1 through 8 of this act change the way this part of the Department's budget is handled for the 2002-2003 fiscal year. Instead of retaining the fees, the Department of Insurance will deposit the fees in the Insurance Regulatory Fund. This eliminates the fee proceeds that would have been available to the Department to support these activities. The act was intended to appropriate additional funds from the General Fund to the Department of Insurance to support these activities. The additional appropriation would have been reimbursed to the General Fund from the Insurance Regulatory Fund, so there would have been no net fiscal impact, just an accounting change. Due to an oversight, the act failed to appropriate the additional funds to the Department of Insurance. The Department is expected to receive these funds, however, through authorization from the legislative leadership.

The act amends the Insurance Regulatory Fund statute to expand the purposes for which the Fund can be used for the 2002-2003 fiscal year, to cover not just regulating the insurance industry and other industries, but also carrying out other functions relating to boards and commissions. The insurance regulatory charge and the other fees paid into the Fund are not segregated from one another. Thus, a fee paid by one industry may end up being used for a function of the Department that relates to another industry. This pooling of the fees calls into question whether they can continue to be characterized legally as fees.

The issue of whether the insurance regulatory charge is a fee or a tax was raised in a recent case, *State Farm Mut. Auto. Ins. Co. v. Long*, 129 N.C.App. 164, 497 S.E.2d 451 (1998), aff'd 350 N.C. 84, 511 S.E.2d 303 (1999). In this case, the court evaluated the insurance regulatory charge under a three-part test used to distinguish a tax from a fee: (1) is it imposed by a

legislative body or an administrative body; (2) is it imposed on a broad class or a narrow class of citizens; and (3) is it used for general public purposes, or used for the regulation or benefit of the parties upon whom the assessment is imposed. The court found that under the first two factors, the insurance regulatory charge could be either a fee or a tax. It held that the third factor was dispositive: the charge was a fee because it was credited to a segregated account and used only to regulate the insurance industry. Because this act broadens the purposes for which the charge may be used to include activities of the Department of Insurance that are not related to regulating the insurance industry, if the issue is raised in subsequent litigation, a court may find that the act changed the nature of the charge from a fee to a tax.

If the charge were ruled to be a tax rather than a fee, it would reduce the amount of revenue North Carolina receives as a result of the retaliatory premiums tax. The retaliatory premiums tax is imposed on foreign insurance companies doing business in North Carolina and is equal to the amount by which the NC premiums tax imposed on the company is less than the amount of premiums tax the company's home state would impose on an equivalent NC company doing business there. Because the insurance regulatory charge is considered a fee and not a tax, it is not added to the amount of NC tax used to calculate the retaliatory tax due. The lower the NC tax, the more retaliatory tax due.

Interstate Air Couriers - Bill Lee

Session Law	Bill #	Sponsor
S.L. 2002-146	HB 1665	Representative Gray

AN ACT TO AMEND TAX LAWS RELATED TO INTERSTATE AIR COURIERS AND TO AMEND THE WAGE STANDARD UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT TO ACCOUNT FOR THE VALUE OF HEALTH INSURANCE TO PART-TIME JOBS.

OVERVIEW: This act rewrites the wage standard under the William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) to allow part-time jobs for which the taxpayer provides health insurance to be counted as having wages at least equal to the standard multiplied by the applicable average weekly wage for the county in which the jobs will be located. The act also makes the following changes to the Bill Lee Act as it applies to air courier hubs:

- Rewrites the definition of interstate air courier hub to conform to industry practice.
- Extends the Bill Lee Act sunset of January 1, 2006, to January 1, 2010, for an interstate air courier that enters into a major real estate lease on or before January 1, 2006, with an airport authority.
- Allows an interstate air courier that has, or is constructing, a hub in North Carolina to qualify for enhanced incentives if the courier makes an investment of $150 million or more within a seven-year period.

- Extends the sunset on the Piedmont Triad Airport Authority's exemption from the bidding laws from January 1, 2008, to January 1, 2010.

FISCAL IMPACT: The initial estimates of the impact of the Fed Ex incentives in 1998 have not changed with the delay in the project. The 1998 estimates indicated that the lower sales tax rate on handling and storage equipment would amount to $.4 million for the first two years that the project is getting started and $.1 million per year thereafter. The impact of the sales tax exemption for lubricants and repair parts comes into play after the facility is up and running. The estimate for this incentive is $.2 million a year. The uncertainty surrounding the timing of the project means that it is impossible to predict which year the impacts begin. Under current scheduling, the first year of the handling and storage equipment incentive could be 2005-06. The costs of the sales tax incentives will not occur until at least 2005-06.

In addition, the extension of the Bill Lee Act's sunset from 2006 to 2010 for interstate air couriers will allow Fed Ex and other eligible taxpayers to take tax credits under the Act during the 2006-09 period. Data from the State's 1998 offer of financial benefits to Fed Ex indicated that Bill Lee Act credits of $2 million would be taken over a four-year period.

EFFECTIVE DATE: The air courier hub definition rewrite became effective October 1, 2002, and applies to sales made on or after that date. The bidding law exemption effective date change became effective when the act became law, October 7, 2002. The remaining provisions in the act are effective for tax years beginning on or after January 1, 2002.

BACKGROUND: The Bill Lee Act was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. Counties are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth of the county. For many of the credits, the lower the tier of a county, the more favorable the incentive. The Act requires the Department of Commerce and the Department of Revenue to report periodically on the credits allowed by the Act.

Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the Bill Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. In 1997, the General Assembly amended the Bill Lee Act to make interstate air couriers[48] an eligible business under the Act. In 1999, the General Assembly extended the 2002 sunset to 2006.

To be eligible for the credits under the Bill Lee Act, jobs must meet the applicable wage standard. There is no wage standard for jobs located in tiers one and two.[49] The wage

[48] An air courier is an air carrier that delivers individually addressed letters, parcels, and packages. Examples of air couriers include UPS and Federal Express.

[49] S.L. 2002-172 eliminated the wage standard in tiers one and two.

standard for tiers three through five is 110% of the applicable average weekly wage for the county. For the credit for worker training or the credit for creating new jobs, the average wage of the jobs for which a credit is claimed and the average wage of all jobs at the location are required to meet the applicable wage standard. For the credit for investing in machinery and equipment, the credit for research and development, and the credit for investing in central office and aircraft facility property, the average wage of all jobs at the location with respect to which a credit is claimed are required to meet the applicable wage standard.

In 1998, the General Assembly provided sales tax and property tax reductions for interstate air couriers in order to encourage the development of air courier hubs in North Carolina. Effective January 1, 2001, sales to an interstate air courier of equipment for handling and storing materials at its hub became subject to a reduced sales tax of 1%, capped at $80 per item. In addition, interstate air couriers enjoy a sales tax exemption for purchases of aircraft lubricants, aircraft repair parts, and aircraft accessories for use at the air courier's hub in this State. Effective beginning with the 2001 property tax year, there is a property tax exemption for aircraft owned by an air courier and apportioned for property tax purposes to the courier's hub in this State.

ANALYSIS: Section 1 of this act amends the definition of "hub" for interstate air couriers and recodifies the definition of "interstate air couriers" for sales tax purposes. The amendment to the definition of "hub" was needed because the prior definition did not accurately describe hubs. The prior definition stated, in part, that a hub is the airport in the State where the air courier has allocated at least 60% of its aircraft value apportioned to this State. Aircraft value is apportioned based on revenues generated and on the amount of time the aircraft is on the ground. In the case of air couriers, revenue is generated at the customer site, not at the hub. Additionally, aircraft spend very little time on the ground at the hub. For these two reasons, the definition of an air courier hub formerly in the statutes did not fit the factual situation. This act defines a hub as the primary airport in the State for sorting and distributing packages from which the air courier has, or expects to have, at least 150 departures a month. This definition is similar to the definition of "hub" under South Carolina law, but is a more stringent test as South Carolina requires only 25 departures a month.

The definition of "interstate air courier" is not substantively amended. Currently, for sales tax purposes, the definition of interstate air courier refers to the definition used in the Bill Lee Act. In this act, the definition of "interstate air courier" for sales tax purposes is made a stand-alone definition. There is no substantive change to the definition.

Section 2 of this act extends the sunset date on the Bill Lee Act until January 1, 2010, for certain interstate air couriers and Sections 4 through 7 of the act increase various time frames in the act from two years to seven years. The interstate air courier industry, and the construction of a hub in particular, face many regulatory, administrative, and legal hurdles not generally faced by other industries. Due to these extra burdens, time frames in this industry are generally longer than in other industries. There is generally a longer period between the time that a project is announced and a location is selected and the time the facility is placed in service. Due to these longer time frames, it was argued that an extension of the sunset and extensions of various time frames are needed to accommodate these projects.

Section 3 of this act amends the wage standards under the Bill Lee Act for all taxpayers. Currently, in order to be eligible for any of the credits under the Bill Lee Act, the average wage of all jobs at the location must meet or exceed the wage standard for the county in which the jobs are located.[50] Included in this calculation are part-time jobs, converted to a full-time equivalency. Some interested parties argued that because part-time jobs are not eligible for a credit for job creation, they should not be considered in this calculation. The inclusion of part-time jobs can disqualify a project since part-time jobs generally pay less than full-time jobs.

This act takes a middle ground. All part-time jobs must still be considered when the wage calculation is made. However, any part-time job for which the taxpayer provides health insurance will be considered to have a wage that at least meets the applicable average weekly wage. If a part-time job with health insurance has a wage that is less than the applicable average weekly wage, the applicable average weekly wage will be used in making the calculation. If a part-time job with health insurance has a wage that is greater than the applicable average weekly wage, the actual wage of the job will be used in making the calculation.

Section 8 of this act provides an extension of the bidding law exemption for the Piedmont Triad Airport Authority. When the General Assembly enacted certain tax incentives for interstate air couriers in 1998, one provision of that act granted a bidding law exemption for the Piedmont Triad Airport Authority. The exemption became effective beginning January 1, 1999, and applies to design and construction of an air freight distribution facility on airport property, and related supplies, equipment, and services. S.L. 2001-476 (Senate Bill 748) provided an extension of this exemption from January 1, 2004, to January 1, 2008. Upon the request of Fed Ex, this act extends the exemption to January 1, 2010. With this extension, the bidding law exemption would sunset at the same time as the Bill Lee Act for certain interstate air couriers.

Amend Property Tax Laws

Session Law	Bill #	Sponsor
S.L. 2002-156	HB 1523	Representative Hill

AN ACT TO AMEND VARIOUS PROPERTY TAX LAWS.

OVERVIEW: This act is a recommendation of the Revenue Laws Study Committee based on proposals by the North Carolina Association of Assessing Officers and the Department of Revenue. It makes the following changes to the property tax law:

- Increases the minimum penalty for a worthless check from $1 to $25 and provides that the tax collector may waive or reduce the penalty. This change became affective when the act became law, October 9, 2002.

[50] As mentioned above, for the credits for job creation and for worker training, the average wage of the particular jobs for which the credit is claimed must also meet or exceed the applicable average weekly wage.

- Provides a uniform procedure for appeals regarding taxation of personal property and authorizes the board of equalization and review to meet year round to hear these appeals. These changes are effective beginning with the 2003 property tax year.
- Delays from 2002 until 2003 the effective date of a 2001 law that defined certain single-section manufactured homes as real property for tax purposes.
- Adds an additional collection assistance fee of $15 to debts owed to local governments and collected by the Department of Revenue through tax refund setoff, effective January 1, 2003. The fee will be used to pay local governments' costs of submitting debts for collection by setoff.

FISCAL IMPACT: Two provisions of the act are likely to have a fiscal impact. Increasing the minimum charge for a returned check will likely increase local fee revenues. However, granting the assessor the authority to waive the fee will offset some of the increase. The exact amount of this revenue change is unknown. The second potential impact relates to the debt setoff program. The act will reduce the cost of debt collection for local governments and will likely increase program usage. However, no firm estimate is available on the total financial impact for local governments.

EFFECTIVE DATE: See Overview.

ANALYSIS: This act makes a number of changes to the property tax laws. First, it modifies the penalty for giving a worthless check. It increases the minimum penalty from $1 to $25. The penalty is 10% of the amount of the check, subject to the minimum and to a maximum of $1,000. It also authorizes the tax collector to waive the worthless check penalty. Tax collectors do not have the general authority to waive property tax penalties. By comparison, the Secretary of Revenue has general authority to waive tax penalties.

Second, the act provides a uniform procedure and timetable for appeals relating to personal property, effective beginning with the 2003 property tax year. Under prior law, the statutes specified the procedure and timetable for real property appeals but not for personal property appeals; as a result, different counties had adopted different procedures and timetables. This act provides a uniform system: the taxpayer may appeal value, situs, or taxability within 30 days after receiving notice of value. The notice must inform the taxpayer of the 30-day period. The assessor is required to respond to each appeal and the taxpayer has 30 days to appeal the assessor's final decision to the board of equalization and review or the board of county commissioners. The act authorizes boards of equalization and review to sit year-round to hear personal property appeals. In 2001, the General Assembly authorized boards of equalization in review to sit year-round to hear appeals relating to discovered property, motor vehicle taxation, and annual audits of whether property qualifies for special tax treatment.

Third, the act delays from 2002 to 2003 the effective date of 2001 legislation that changed the way manufactured homes are classified for property tax purposes. A manufactured home is defined in G.S. 143-143.9 as:

> A structure, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent

chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Since 1987, North Carolina law had provided that a manufactured home was considered real property for property tax purposes if it (i) consisted of two or more sections; (ii) had its hitch, wheels, and axles removed; and (iii) was placed upon a permanent foundation on land owned by the owner of the manufactured home. In 2001, the General Assembly removed the requirement that the home consist of two or more sections, effective beginning with the 2002 tax year. After the 2001 act became law, county assessors realized they would not have time to review all the manufactured homes in each county to determine which ones should be reclassified as real property for the 2002 tax year. The assessors had requested an extension until the 2004 tax year, but this act delays the change only until the 2003 tax year.

Fourth, the act imposes an additional collection assistance fee of $15 on debts owed to local governments and collected by the Department of Revenue through tax refund setoff. Under the Setoff Debt Collection Act, the Department of Revenue diverts the income tax refund of an individual who owes money to a State or local agency to pay the debt owed to that agency. The debt the individual owes the agency is set off against the individual's income tax refund. Under existing law, a collection assistance fee of no more than $15 is imposed on debts (other than child support debts) collected by setoff, to reimburse the State for its costs of operating the setoff debt collection program. This act adds an additional collection fee of $15 for debts (other than child support debts) owed to local governments and collected by setoff, effective January 1, 2003. The Department of Revenue will collect the fee as part of the setoff process and remit the fee to the clearinghouse that submits local debts on behalf of local governments. The purpose of the fee is to recover the cost to local governments of submitting debts for collection by setoff. The clearinghouse that submits debts on behalf of local governments was created through a joint agreement between cities and counties; the local governments have also contracted with a third party to process and compile local debts for setoff.

NC Economic Stimulus and Job Creation Act

Session Law	Bill #	Sponsor
S.L. 2002-172	HB 1734	Representative Owens

AN ACT TO ESTABLISH AND MODIFY VARIOUS ECONOMIC INCENTIVE PROGRAMS FOR BUSINESS AND INDUSTRY; TO AMEND PROVISIONS RELATING TO INDUSTRIAL AND POLLUTION CONTROL FACILITIES FINANCING; TO AUTHORIZE PLANNING AND DEVELOPMENT FOR A BIOPHARMACEUTICAL TRAINING CENTER AND A CANCER REHABILITATION TREATMENT CENTER; AND TO MAKE TECHNICAL AND CONFORMING CHANGES.

OVERVIEW: There are six parts to this act. Part 1 of this act amends the Bill Lee Act by scaling back the credit for machinery and equipment in tiers three, four, and five, by eliminating the wage standard in tiers one and two and in development zones, and by eliminating the wage standard for the credit for worker training. Part 2 of the act creates the Jobs Development Investment Grant Program, a discretionary program that awards grants to businesses based on a percentage of employee withholdings over a number of years. Part 3 of the act requires production companies to spend at least $1 million in North Carolina to be eligible for a grant from the Film Industry Development Account. Part 4 of the act makes a technical change to the North Carolina Railroad's condemnation authority. Part 5 of the act eases the public hearing requirements for Industrial Development Bonds to facilitate bonds for smaller manufacturers. Part 6 of the act provides authorization to initiate planning and development of a new biopharmaceutical training center and a cancer rehabilitation treatment center.

FISCAL IMPACT: The Bill Lee Act changes will generate approximately $3.45 million for fiscal year 2003-04, $7 million for fiscal year 2004-05, and $10.56 million for fiscal year 2005-06. No fiscal impact is expected from the changes to the film industry incentives. The Jobs Development Investment Grant Program represents a significant change from the structure of the Bill Lee Act incentives. It is impossible to determine the exact dollar cost of the Program. However, the Program is limited to 15 projects per year and $10 million in grants per year, and it sunsets on January 1, 2005. Thus the maximum grant amount that may be awarded during the 13 years the Program is in effect is $240 million.

EFFECTIVE DATE: See Analysis.

ANALYSIS: There are six main components to this act: changes to the William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act)[51], the establishment of a new economic development grant program for new and expanding businesses, changes to film industry incentives, changes to the condemnation authority of a railroad company, changes to industrial and pollution control facilities financing law, and authorization to initiate planning and development of a new biopharmaceutical training center and a cancer rehabilitation treatment center.

Part 1. Bill Lee Act: Part 1 makes the following substantive changes to the Bill Lee Act:
Machinery and Equipment. A taxpayer is allowed a credit for the cost of machinery and equipment placed into service during a taxable year that exceeds the applicable threshold based on the location where the machinery and equipment are placed into service. Under prior law, the amount of the credit was equal to 7% of the cost of the machinery and equipment in excess of the applicable threshold. Section 1.1 of this act makes two changes to this credit. First, the amount of the credit is reduced in enterprise tiers three, four, and five. In those areas, the amount of the credit is reduced to 6%, 5%, and 4%, respectively, of the cost of the machinery and equipment in excess of the applicable threshold. Second, the amount of the threshold is increased in enterprise tiers four and five. In enterprise tier four, the threshold is increased from $500,000 to $1,000,000. In enterprise tier five, the threshold is increased from $1,000,000 to $2,000,000. This section is effective for taxable years

[51] For background on the Bill Lee Act, see the summary for S.L. 2002-146.

beginning on or after January 1, 2003, and applies to business activities that occur on or after that date, but does not apply to business activities that occur on or after January 1, 2003, that are subject to a letter of commitment signed before January 1, 2003.

Overdue Tax Debts. If the Secretary of Revenue discovers that any tax is due from a taxpayer, the Secretary must notify the taxpayer in writing of the Secretary's intent to assess the taxpayer for the tax. The notice must describe the basis for the assessment, the amount of tax to be assessed and any interest and penalties due. If the taxpayer disagrees with the assessment, the taxpayer has 30 days to request a hearing before the Secretary. The Secretary must then schedule a hearing to occur within 90 days of the request. Within 90 days after the hearing, the Secretary must issue a decision on the hearing. If the taxpayer does not request a hearing within the 30 days allowed, or if the Secretary finds that the tax is due after the hearing, the proposed assessment becomes a final assessment. If a taxpayer disagrees with a final assessment, the taxpayer may appeal the decision to the Tax Review Board, and then on to superior court, the Court of Appeals, and the Supreme Court. A tax debt is a final assessment after all possibilities for appeal have been exhausted. An overdue tax debt is any part of a tax remaining after 90 days. Section 1.2 would make a taxpayer ineligible for a credit under the Bill Lee Act if the taxpayer had any overdue tax debts. Section 1.5 defines an overdue tax debt. These two sections are effective for taxable years beginning on or after January 1, 2003.

Wage Standard. A taxpayer is eligible for a credit under the Bill Lee Act only if the jobs provided by the taxpayer meet a wage standard. Under prior law, the wage standard was 110% (100% in an enterprise tier one area or a development zone) of the applicable average weekly wage. The jobs that are included in calculating the wage standard vary depending on the particular credit.

Section 1.3 of this act makes three substantive changes to the wage standard. The changes are effective for taxable years beginning on or after January 1, 2003. First, this section eliminates the wage standard in enterprise tier one and two areas. Since the wage standard for a business located in a development zone is the same as for tier one counties, this section also eliminates the wage standard for a development zone area.

Second, this section eliminates the wage standard for the credit for worker training. In order to be eligible for the credit for worker training, the employee who is being retrained must either (i) occupy a job for which the taxpayer is eligible to claim a credit for creating jobs, or (ii) be trained to operate machinery and equipment for which a taxpayer is eligible to claim a credit for investing in machinery and equipment. Thus, the jobs for which the credit for worker training may be claimed have already been included in a larger group of jobs that has met the wage standard. Often the specific jobs for which worker training is required are lower-paying jobs that could not themselves meet the wage standard. This change allows the credit for worker training to be taken by more taxpayers.

Third, this section makes an allowance for a taxpayer that has a taxable year other than a calendar year. To perform the wage standard test, the taxpayer compares the average weekly wage of certain jobs to the wage standard determined on an annual basis. The test is performed for the calendar year that jobs are created or for which worker training is provided. However, performing a wage standard test based on a calendar year is not feasible because many companies have taxable years that do not coincide with the calendar year. Consequently, the taxpayer can engage in activity that qualifies for a credit during a taxable

year that spans two calendar years. If the taxpayer creates jobs in different calendar years, it must compute the combined average weekly wage of the jobs created during its taxable year and compare this average to the county wage standard to determine if it qualifies for a tax credit. It cannot, however, compute this average "for the calendar year the jobs are created" as required by the prior law because the jobs are created over the course of two calendar years. Under this act, the wage standard test is based on the taxpayer's taxable year and not the calendar year. When a taxable year spans two calendar years, the applicable wage standard is that of the earlier calendar year. In addition to correcting a practical problem, this change generally will be favorable for taxpayers because county wage standards generally trend upward.

Development Zones. In 1998, the General Assembly amended the Bill Lee Act to provide additional incentives for businesses that locate or expand in development zones, which are economically distressed areas located within cities. The statutory conditions for qualifying as a development zone are designed to target only these relatively small, economically distressed areas.

A development zone is defined as an area that meets all of the following conditions: (1) it consists of one or more contiguous census tracts, block groups, or both, (2) it has a population of 1,000 or more, at least 20% of whom are below the poverty level, (3) it is located at least partly in a city with a population over 5,000, (4) every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of the city, (5) every census tract and census block group in the zone has more than 10% of its population below the poverty level, or is immediately adjacent to a tract or group that has more than 20% of its population below the poverty level, and (6) none of the census tracts or census block groups is located in another development zone.

This act expands this definition of development zone to include all of a parcel of land that is located partially within the zone if all of the following conditions are met:

- At least 50% of the parcel is located within the zone.
- The parcel was in existence and under common ownership prior to the previous decennial federal census.
- The parcel is a portion of land made up of one or more tracts or tax parcels of land that is surrounded by a continuous perimeter boundary.

The following enhanced incentives apply in development zones: If a business locates in a development zone, its maximum worker training credit is $1,000 rather than $500, it receives an additional $4,000 per job on its jobs tax credit, and the credit for investing in machinery and equipment is calculated as if the zone were in a tier one county. In addition, a business located in a development zone does not have to meet a wage standard to be eligible for the credits. This section is effective for taxable years beginning on or after January 1, 2003.

Part 2. Job Development Investment Grant Program. Part 2 of this act creates a new economic development tool for new and expanding businesses in North Carolina. This tool would be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses. This part became effective October 31, 2002.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard, as amended by this act. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

Unlike under the Bill Lee Act, there are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State.
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[52]. The members appointed by the General Assembly serve two-year terms. The Committee may act only upon a decision of at least three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are

[52] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at that other location.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related businesses involved in a project may submit a joint application for a grant under this program.

Any application for a grant must be accompanied by a fee in the amount of $5,000. This fee will be allocated by the Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management among their agencies.

The Committee will evaluate applications to determine which businesses will receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee is required to develop criteria for evaluating applications. These criteria must take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is required to be somewhat selective in choosing projects to receive a grant. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term

of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[53].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement must include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in setting the percentage that determines the amount of a grant under an agreement. The Committee must develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant cannot exceed 12 years.
- The percentage used to determine the amount of the grant must be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.
- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in additional years during the term of the agreement, the amount of the grant is calculated based only on eligible positions created during the base years (the first two years) of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholding of eligible positions.
- The amount of a grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.

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[53] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant fund by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[54] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[55] Funds in the Utility Account may be used to assist local governments in tiers one, two, and three in constructing or improving utility lines or equipment, including telecommunications and high-speed, broadband lines and equipment.[56]

Terms of agreement. The Committee has a great deal of flexibility in negotiating agreements. However, the legislation does require the agreements to include certain provisions, such as information on the new jobs created and a method to verify the positions, reporting requirements, and the reasons for which an agreement may be amended or terminated and the benefits recaptured. In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Followup on grantee businesses. This act provides for monitoring of grantee businesses in several ways and requires the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

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[54] Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

[55] The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

[56] Part 2 of this act amended the law regarding the Industrial Development Fund and the Utility Account.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for two consecutive years, the Committee must terminate the agreement. In addition, the Committee must include a provision in each agreement describing the conditions that will lead to recapture of a grant made in an earlier year.

As with the Bill Lee Act, as amended by this act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The act requires the Committee to report quarterly and annually.[57] The annual report must include information on the agreements entered into during the year as well as an update on the status of projects for which an agreement was entered into in the past. Additionally, the reports must provide information on the number of jobs created and the tax benefit derived from those positions, the types of jobs created, and the geographic distribution of the grants.

The authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This sunset will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

Miscellaneous changes associated with the program. Section 2.2 of this act makes two significant changes to the Industrial Development Fund and to the Utility Account, which is part of that Fund. The Industrial Development Fund provides assistance to local governments for improvements to infrastructure to enable the locality to attract new businesses. Usually, this assistance is provided to make general improvements, such as improvements to or development of industrial parks, and is not tied to luring a specific project.

First, the purposes for which funds in both the Fund and the Account may be used are expanded to allow expenditures for telecommunications and high-speed broadband lines and equipment. Currently, funds under both the Fund and the Account may be used for construction of and improvements to water, sewer, gas, and electricity lines and equipment. This change recognizes the growing importance to industry of telecommunications and high-speed broadband.

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[57] The Committee must report by April 30th of each year.

Second, under current law, funds in the Utility Account may be used to assist local governments located in enterprise tiers one and two only. This act would expand the focus of the Account to allow funds in the Account to be used to assist local governments in enterprise tier three as well.

Section 2.3 allows an exemption from the confidentiality requirements of the Department of Revenue. Generally, the Department of Revenue must keep confidential all information it receives in the course of administering the tax laws. There are numerous, specific exceptions to this requirement. This act would allow the Department of Revenue to share information with the Economic Investment Committee relating to businesses that are applying for a grant or that are subject to an agreement.

Section 2.4 of this act corrects a statutory reference in two laws dealing with the purposes for which a local government may levy a property tax.

Section 2.5 prohibits a member of the General Assembly from serving on the Economic Investment Committee. Under the constitutional doctrine of separation of powers, legislators cannot serve on executive boards exercising executive functions.

Section 2.6 of this act exempts the Economic Investment Committee from the rule-making process under the Administrative Procedure Act. However, Section 2.1, in G.S. 143B-437.48(d) as enacted by this act, requires the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to persons who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

Section 2.7 of this act requires the Revenue Laws Study Committee to study the use, the effectiveness, and the cost versus benefit of the Job Development Investment Grant Program, the Bill Lee Act, and the Industrial Recruitment Competitive Fund. Given that the Job Development Investment Grant Program is just starting up, the time frame for the study is longer than usual. Revenue Laws may report to the 2004 Regular Session of the General Assembly and a final report is due by March 15, 2005, to the 2005 General Assembly.

Part 3. Film Industry Incentives. Part 3 of this act amends the Film Industry Development Account to require a minimum expenditure in North Carolina before a project may be eligible for a grant from the Account. The Film Industry Development Account was established in 2000 with the intent of providing economic incentives to production companies for operations in North Carolina. Under the account, a production company is eligible for a grant based on expenditures made in the State. The grant may not exceed fifteen percent of those expenditures. The grant is not available for political or issue advertising or for any production that is considered obscene under G.S. 14-190.1. The amount of the grant may not exceed $200,000. This section adds an additional requirement that the production company have expenditures of at least $1 million in the State. This more narrowly targets this incentive to large productions.

Section 3.2 directs the Revenue Laws Study Committee to study other incentives for the film industry and to report to the 2003 General Assembly. This part became effective October 31, 2002.

Part 4. North Carolina Railroad Condemnation Authority. Part 4 of this act makes a technical correction to the condemnation authority of a railroad. In 1998, State

responsibility for railroad regulation was moved from the Utilities Commission to the Department of Transportation. At that time, G.S. 62-232 was repealed. This section deletes a cross-reference to that statute. This does not appear to have any substantive effect on the power of a railroad to condemn property. This part became effective October 31, 2002.

Part 5. Industrial and Pollution Control Facilities Financing. The Department of Commerce hopes to reinstate a program begun in the late 1980's that would permit small companies to take advantage of industrial development bond financing by grouping several small loans into a single bond issue. In order to make that program workable, the process needs to be as streamlined as much as possible. As currently written, bonds issued under Article 1 of Chapter 159D (for industrial projects) require a public hearing at the local level - that is, by the county commissioners of the county in which the facility will be located. In addition, for those bonds the federal tax exemption rules require a hearing at the state level by the agency, with the result that there would be two public hearings. Bonds issued under Article 2 of Chapter 159D (which are special purpose projects and educational facilities) require a public hearing by the North Carolina Capital Facilities Finance Agency (NCCFFA), with notice to the governing bodies of the localities in which the facilities will be located.

Part 5 of this act modifies Article 1 of Chapter 159D so that the public hearing for a bond issue dealing with multiple projects would take place at a location determined by the NCCFFA – most likely at its headquarters in Raleigh. This change simply removes the requirement of multiple public hearings throughout the State for one bond issue. The local government would still have to approve the project in its jurisdiction under a different section of the statute. This change would not affect bond issues involving a single project.

This part also makes a conforming change to Article 1 of Chapter 159D. In both Chapter 159C (relating to industrial development bonds through local authorities) and Chapter 159D, Article 2 (relating to special purpose projects and educational facilities) the Local Government Commission is permitted to take into consideration credit enhancement when determining whether a project is feasible. That language was omitted from Article 1 of Chapter 159D. There appears to be no reason to treat an industrial development project differently when it comes through a local authority rather than the NCCFFA. Part 5 of this act becomes effective January 1, 2003.

Part 6. Capital Planning Costs for Biopharmaceutical Training Center and Cancer Rehabilitation Treatment Center. Part 6 of the act authorizes the initial planning and development of two capital projects, effective October 31, 2002. It authorizes the State Board of Community Colleges, the Board of Governors of the University of North Carolina, and the North Carolina Biotechnology Center to initiate planning and development of a new biopharmaceutical/bioprocess manufacturing training center to be centrally located and of related training facilities to be located at various community colleges. The State has invested greatly through the North Carolina Biotechnology Center to bring close to 150 biotechnology companies to the State over the past 15 years. The biopharmaceutical and bioprocessing industry anticipates the need for 3,000 to 5,000 new employees each year for the foreseeable future. These workers will require training and education at a variety of levels in biotechnology, bioprocessing, and biomanufacturing. An Alliance Council, representing the universities, community colleges, and biomanufacturing companies, will develop a comprehensive training and education program capable of training 3,000 to 5,000 people for the industry annually through a combination of large-scale equipment training

and academic programs at a Central Training Center and programs at the Regional Training Centers.

It also authorizes the Board of Directors of the University of North Carolina Health Care System to initiate planning and development of a new cancer rehabilitation and treatment center to be located at the University of North Carolina Hospitals at Chapel Hill. The UNC Health Care System provides services for patients with cancer in the Gravely Building, a building that opened in 1953 as a tuberculosis sanitarium. This nearly 50-year-old facility has been remodeled to its fullest extent, and can no longer meet the needs of modern-day programs and services required to treat patients with cancer. The Gravely Building is also inadequate for the support of UNC's clinical research mission for clinical trials and for testing new medications that are essential for enhancing treatment options and increasing the knowledge base for new treatment opportunities. The UNC Health Care System proposes a replacement to the North Carolina Clinical Cancer Center to address these deficiencies and to provide a more appropriate environment for patients with cancer.

Amend Use Value Statutes and Other Tax Laws

Session Law	Bill #	Sponsor
S.L. 2002-184	SB 1161	Senator Hartsell

AN ACT TO AMEND THE PRESENT-USE VALUE STATUTES, TO CREATE A PROPERTY TAX SUBCOMMITTEE OF THE REVENUE LAWS STUDY COMMITTEE, TO CLARIFY THE SALES AND USE TAX EXEMPTION REGARDING CERTAIN AGRICULTURAL SUBSTANCES, AND TO MAKE VARIOUS ADMINISTRATIVE CHANGES IN THE TAX LAWS.

OVERVIEW: Sections 1 through 7 of this act amend the present-use value law to provide an updated method for calculating the value of farmland in its present use, to clarify the sound management requirement for qualifying for use value taxation, to allow land subject to a conservation easement to continue to qualify for use value taxation, and to make numerous clarifying and procedural changes. Most of the changes to the use value law were recommended by the Revenue Laws Study Committee.

Section 8 of the act establishes a property tax subcommittee of the Revenue Laws Study Committee.

Sections 9 through 12 of the act make changes to the administration of various sales tax laws. These changes were recommended by the Revenue Laws Study Committee.

FISCAL IMPACT: The provision related to the sales taxes on plant inhibitor equipment is likely to create a small but undefined revenue gain. The change in sales tax payment dates will result in a small revenue loss due to the loss of the float, but no exact estimate is possible. The use value changes will affect local governments, but data are not available to

calculate the amount of the impact. The remaining items will all result in a slight but undefined loss or no loss to the General Fund.

EFFECTIVE DATE: The changes to the present-use value law are effective beginning with the 2003 property tax year. The remaining changes became effective in October 2002.

ANALYSIS:

Use Value Changes. This act provides for more accurate determination of the present use value of farmland. Since 1973, the General Assembly has provided that farmland (agricultural land, horticultural land, and forestland) may be appraised, assessed, and taxed at its present-use value, as opposed to its fair market value. The present-use value classification helps preserve farmland by insulating it from the rising property tax values caused by competing market pressures to develop farmland for commercial and residential purposes.

The difference between the taxes due based on the present use value and the taxes that would have been payable based on market value, together with any interest, penalties, or costs, are a lien on the property. This difference in taxes is carried forward in the records of the taxing unit as deferred taxes. The deferred taxes for the preceding three years become payable whenever the property loses its eligibility for the benefit of the special use value law.

In 1985, the General Assembly enacted the most recent methodology for calculating present-use value: The value was required to be based on capitalization of net income at the rate of 9%; for agricultural land, the net income was to be based on average corn and soybean yields. The Department of Revenue was required to prepare and distribute annually to each tax assessor a present-use value manual to assist in appraising and assessing farmland. A four-member Use-Value Advisory Board, under the supervision of the Agricultural Extension Service of North Carolina State University, would submit a recommended manual to the Department each year. The present-use value manual is advisory only, and each county remains free to develop its own present-use value schedules. Until several years ago, all counties used the manual. By 2002, an increasing number of counties were not using the manual because the present-use values in the manual could not be supported by credible market evidence. For example, corn and soybeans, which are used to determine net income for agricultural land, no longer represent the typical crops grown in the State and are not the major money crops. Using a method that did not result in realistic values was eroding the intent to foster uniformity and creating equity problems between similar types of properties.

This act updates the method of determining the present-use value of farmland in several ways. First, it changes the capitalization rate used to capitalize net income into value for agricultural and horticultural land. Instead of 9%, the rate to be used will be set by the Use-Value Advisory Board at a level between 6% and 7%. The Board will also recommend annually to the General Assembly whether this range should be changed. The capitalization rate for forestland will stay at 9%.

Second, the act changes the method the Board will use to set the net income for farmland. Instead of corn and soybean yields for agricultural land and horticultural product yields for horticultural land, the Board is required to use estimated cash rental rates for various classes of soil or for geographic areas. The Department of Revenue is given the responsibility of

conducting studies of cash rents for agricultural land on a regional basis and providing this information to the Board. For forestland, the Board is required to use ranges furnished by the NC Cooperative Extension Service based on up to six classes of land within each region designated by the federal Soil Conservation Service. This requirement reflects the current practice of the Board with respect to forestland.

Third, the act caps the value the Board may establish for the best agricultural land at a maximum of $1,200 per acre. The Board will recommend annually to the General Assembly whether this maximum should be changed.

Fourth, the act adds five new members to the Use-Value Advisory Board. Under existing law, there were four members: The director of the Agricultural Extension Service at NCSU, a Department of Agriculture representative, a Forest Resources Division representative, and a representative of the Agricultural Extensions Service at N.C.A.&T. This act adds the director of the Property Tax Division of the Department of Revenue and one representative of each of the following four groups: the Farm Bureau, the Association of Assessing Officers, the Association of County Commissioners, and the Forestry Association.

To qualify for use value taxation, farmland must be in active commercial production under a sound management program, which is defined as a program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. The act makes two changes relating to sound management. First, it provides that woodland that is part of agricultural or horticultural land is not required to be under a sound management program if it meets either of the following conditions:

1. It is less than 20 acres.
2. Its best use is as a barrier to wind erosion, a natural water purifier, or a buffer for hog or poultry operations.

Second, it specifies factors any one of which is sufficient to demonstrate that farmland is under a sound management program. For agricultural or horticultural land, these factors include compliance with an agency-administered management program, with a set of best management practices, or a minimum gross income test; evidence of net income from farming or that farming is the operator's principal source of income; and certification by a recognized local agency. For forestland, compliance with a written sound forest management plan for production and sale of forest products is sufficient.

In order to qualify for use value taxation, in addition to being in active production, the land must meet minimum income requirements and must satisfy certain conditions regarding ownership. This act creates an exception to these requirements and conditions for property that was being taxed at its present use value as farmland and then becomes subject to a conservation easement that dedicates it for conservation purposes in the hands of the State, a local government, or a nonprofit conservation organization.

The remaining changes the act makes relating to use value are procedural and technical.

County assessors are required to annually review 1/8 of the county's use value parcels to verify that they continue to qualify for use value taxation. This act clarifies that the 1/8 is a minimum – an assessor may review more than 1/8 in a year. This act also authorizes the

assessor to request assistance in carrying out the review, clarifies the information that the assessor may require the owner to submit and the information that the assessor must consider as part of the review, and clarifies that the review is based on data for a three-year period. In addition, this act authorizes the county to assign county agencies or contract with federal agencies for any duties relating to use value accounts.

In order to qualify for use value taxation, the farmland must be owned by certain qualifying individuals, family business entities, or trusts. This act clarifies that the farmland may qualify if it is owned jointly by any of these owners as tenants in common. The act also clarifies an exception to the ownership requirements. Individual owners must live on the land or have owned the land in their family for four years. There is an exception if use value land is transferred to a person who continues to use it as farmland and meets the other conditions for use value treatment. This act clarifies that the deferred taxes that accrued while the land was owned by the first owner continue as a lien on the property in the hands of the new owner. In addition, the new owner must file an application for use value treatment within 60 days after acquiring the land, certifying that the present use will continue and that the new owner will be liable for the deferred taxes if the land is later disqualified. The act makes technical and conforming changes relating to the application for use value treatment.

To qualify for use value treatment, farmland must be part of a farm unit. This act defines the term "unit" to include one or more tracts under common ownership. If the tracts are in separate counties, they must share the same type of classification or the same equipment or labor force, and must be within 50 miles of a tract that meets the minimum size and income requirements for use value treatment.

Property Tax Subcommittee. Section 8 of the act creates a property tax subcommittee of the Revenue Laws Study Committee. The subcommittee will have six members and will study use value taxation and existing and potential tax incentives for farm use, conservation, and environmental protection of land.

Administrative Changes. The remaining sections of this act are administrative changes to the sales tax law. These changes were originally introduced in House Bill 1509 as a recommendation of the Revenue Laws Study Committee.

Section 9 of the act clarifies the sales and use tax exemption for certain agricultural substances. Included among the agricultural group of sales and use tax exemptions is an exemption for plant growth inhibitors, regulators, or stimulators when purchased for use on plants held or produced for commercial purposes. In a recent case, *American Ripener Company, Inc. v. Secretary of Revenue*,[58] the court ruled that the exemption for these substances could extend to generators used to control the release of the substance. The Department requested that the statute be clarified because the exemption was not intended to include any hardware or machinery, such as generators, used to apply the exempted substances. Section 9 clarifies that the exemption does not apply to any equipment or devices used to dispense the substances listed in the exemption.

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[58] 147 N.C. App. 142 (2001), cert. denied, 355 N.C. 210 (2002)

Section 10 of this act changes the due date for quarterly sales tax returns from the 15th of a month to the end of a month. In 2001, the General Assembly lowered the threshold for monthly payments of withheld taxes from $500 to $250. Monthly withholding returns are due on the 15th of the month, the same day as monthly and quarterly sales and use tax returns. The withholding tax threshold change moved approximately 25,000 employers from a quarterly to a monthly filing status. As a result, the Department was receiving 25,000 additional returns in eight of the twelve months of the year. This act's change of the sales tax due date from the 15th to the end of the month will enable the Department to spread its work more evenly throughout the month. As of 2002, there were 91,000 quarterly sales tax filers. The change also makes the due date for quarterly sales tax returns consistent with the due date for quarterly withholding tax returns. This change went into effect October 1, 2002; it does not affect the timing of local sales and use tax distributions, nor does it shift any funds from one fiscal year to the next.

Section 11 of the act amends the method for calculating the underpayment penalty for semimonthly sales taxpayers, to conform to the requirements of the Streamlined Sales Tax Project. A taxpayer who is consistently liable for at least $10,000 a month in State and local sales and use taxes must pay the tax twice a month and file a return on a monthly basis. A payment is required for each semimonthly period. The first semimonthly payment covers the period from the first day of the month through the 15th day of the month, and the second semimonthly payment covers the period from the 16th day of the month through the last day of the month. The monthly return covers both semimonthly payment periods including any additional amount due and must be filed by the 20th day of the following month. Under prior law, a taxpayer was not subject to interest or penalties for an underpayment for a semimonthly payment period if the taxpayer timely paid at least 95% of the amount due for that payment period and included the underpayment with the monthly return for both payment periods.

A requirement of the Streamlined Sales Tax Project, in which North Carolina has participated since 2000, is that if the State requires more than one remittance per return, the amount of the additional remittance must be determined through a calculation method rather than actual collections. Effective October 1, 2002, Section 11 brings the underpayment penalty calculation for semimonthly sales taxpayers in line with the Project by providing an additional method of calculating the estimated tax liability: neither interest nor penalties will apply to the underpayment of sales tax remitted on a semimonthly basis if the taxpayer timely pays at least 95% of the lesser of (i) the amount due for the semimonthly payment period; or (ii) the average semimonthly payment for the prior calendar year. Just as under the prior law, the taxpayer must also include the underpayment with the monthly return for those semimonthly payment periods.

Section 12 of the act codifies a longstanding practice of the Department of Revenue which requires that a purchaser of tangible personal property that is exempt from sales tax or subject to a preferential rate of sales tax must obtain an exemption certificate from the Department in order to receive the exemption or preferential rate. The Department of Revenue administers many of the sales and use tax exemptions and preferential rates targeted at certain industries, such as farming and manufacturing, through the use of an exemption certificate. Prior to this change, the statutes did not address exemption certificates, except in the penalty provisions in G.S. 105-236(5a), which authorize the

Secretary to assess a penalty for the misuse of an exemption certificate. The Department recommended that the practice of using exemption certificates be incorporated into the statutes to avoid any questions about the ability of taxpayers to claim exemptions through this method.

APPENDICES

Appendix A:	*Final Disposition of Bills Recommended by the Revenue Laws Study Committee - 2002*
Appendix B:	*Table of Contents Sorted by Bill #*
Appendix C:	*Table of Contents Sorted by Short Title*
Appendix D:	*Table of Contents Sorted by Sponsor*

FINAL DISPOSITION OF BILLS RECOMMENDED BY THE REVENUE LAWS STUDY COMMITTEE - 2002 REGULAR SESSION

SHORT TITLE	SENATE SPONSORS	HOUSE SPONSORS	BILL #	FINAL STATUS*
Revenue Laws Technical Changes	Hartsell		S1160	Enacted* SL 2002-72
Conform Mobile Telecommunications Sourcing		Allen	H1521	Enacted SL 2002-16
Revenue Administrative Changes		Holliman	H1509	Original bill not enacted. The provisions were put into SB 1161, which was enacted, SL 2002-184
Revenue Laws Enforcement Enhancements	Clodfelter		S1218	Enacted SL 2002-106
Amend Property Tax Laws		Hill	H1523	Enacted* SL 2002-156
Amend Use Value Statutes	Hartsell		SB 1161	Enacted* SL 2002-184
Disclose Social Security # to Tax Collector				The proposal was not introduced as a bill.
Extend Qualified Business Venture Tax Credit	Hoyle	Allen	SB 1223 HB 1520	Enacted SL 2002-99

* Bills were modified prior to enactment.

TABLE OF CONTENTS
(Sorted by Bill #)

SESSION LAW #	*BILL #*	*SHORT TITLE*	*SPONSOR*	*PAGE*
SL 2002-144	HB 1105	Insurance Regulatory Fund Changes	Rep. Hurley	47
SL 2002-120 as amended by § 65 of SL 2002-159	HB 1490	Secure Local Revenues	Rep. Gibson	26
SL 2002-099	HB 1520	Extend Qualified Business Venture Tax Credit	Rep. Allen	14
SL 2002-016	HB 1521	Conform Mobile Telecommunications Sourcing	Rep. Allen	2
SL 2002-156	HB 1523	Amend Property Tax Laws	Rep. Hill	52
SL 2002-051	HB 1533	Certain Counties Delinquent Taxes	Rep. Hunter	5
SL 2002-010	HB 1578	Remove Scrap Tire Tax Sunset	Rep. Gibson	1
SL 2002-146	HB 1665	Interstate Air Couriers - Bill Lee	Rep. Gray	49
SL 2002-136	HB 1670	Subsidiary Dividend Changes	Rep. Luebke	44
SL 2002-172	HB 1734	NC Economic Stimulus & Job Creation Act	Rep. Owens	54
SL 2002-126	SB 1115	Modify Appropriations Act of 2001-1	Sen. Plyler	31
SL 2002-072	SB 1160	Revenue Laws Technical Changes	Sen. Hartsell	6
SL 2002-184	SB 1161	Amend Use Value Statutes & Other Tax Laws	Sen. Hartsell	65
SL 2002-106	SB 1218	Revenue Law Enforcement Enhancements	Sen. Dalton	20
SL 2002-104	SB 1253	Amend Pollution Abatement Tax Exclusion	Sen. Odom	18
SL 2002-123	SB 1292	Local Sales Tax Acceleration	Sen. Kerr	29
SL 2002-108	SB 1407	Contracts to Reimburse Fuel Tax/Fuel Tax Chg	Sen. Kerr	21
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T.S.I.

An Investigation of Selected Tax Legislation Enacted During 2001 and 2002

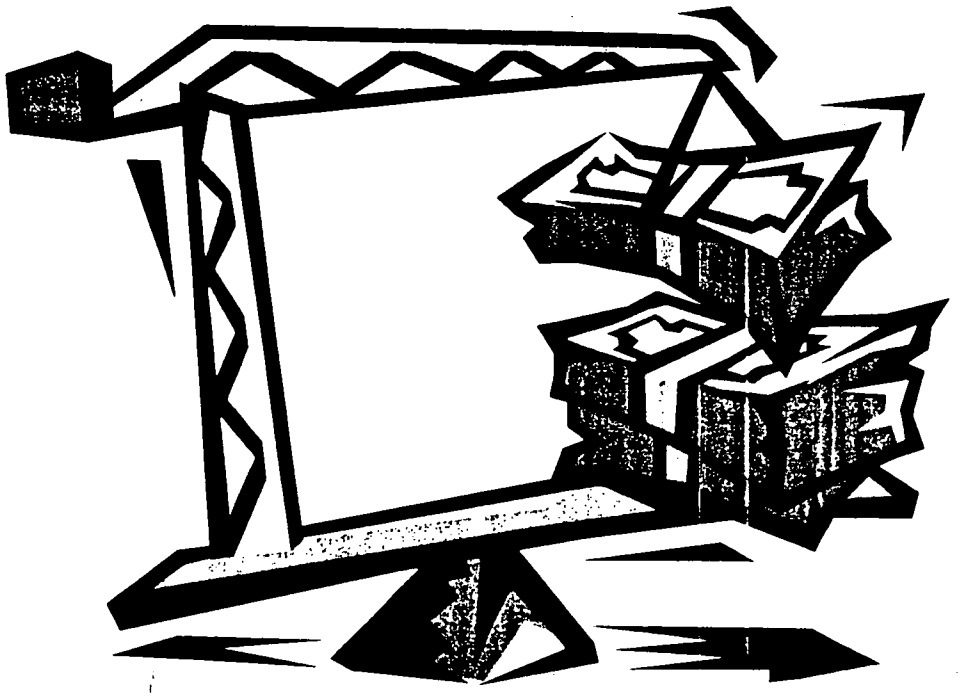
By: Cindy Avrette

February 25, 2003

Attachment 5

Selected Legislation

- Closure of Tax Loopholes
- Sales Tax Changes
- Income Tax Changes
- Collection Enhancements



Closure of Tax Loopholes

- **Royalty Reporting Options**
  S.L. 2001-327
- **Equalize Franchise Tax on Corporate Affiliated LLCs**
  S.L. 2001-327 and S.L. 2002-12
- **Subsidiary Dividend Deduction Changes**
  S.L. 2001-327 and S.L. 2002-13

Royalty Reporting Option

- **Clarifies that income from using trademarks in NC is taxable to NC**
- **Gives taxpayers an option on how to file returns involving royalty income**

Franchise Tax on Corporate Affiliated LLCs

Problem: LLCs are not subject to franchise tax. Some corporations avoid a significant portion of their franchise tax by transferring assets into a wholly owned LLC subsidiary.

2001 Session

Provided that franchise tax applies equally to corporate assets held by a LLC if corporation owns at least 70% of LLC assets

2002 Session

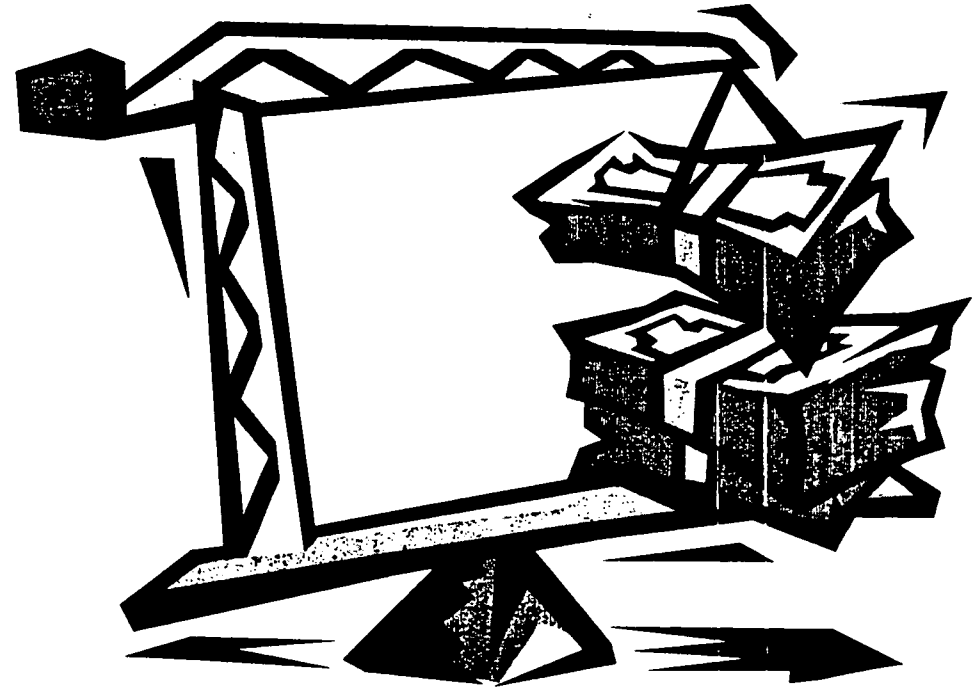
Provided that franchise tax applies equally to corporate assets held by a LLC if related members own at least 70% of LLC assets

Subsidiary Dividend Deduction Changes

- In 2001, conformed State law to the federal rules for the deduction of dividends received.
- This change eliminated the adjustments that had previously been required to reflect differences between the federal and State dividends deduction.
- It also made the dividends subject to the general State law that expenses related to untaxed income cannot be deducted from taxable income.
- In 2002, enacted legislation limiting the additional tax liability.

Selected Legislation

- *Closure of Tax Loopholes*
- **Sales Tax Changes**
- *Income Tax Changes*
- *Collection Enhancements*



Sales Tax Rate Changes
2001

Increased State sales tax ½% for the period October 16, 2001, to July 1, 2003

Authorized an additional ½% local sales tax, effective July 1, 2003

Repealed the State reimbursements to local governments, effective July 1, 2003

Provided hold harmless to those local governments whose gain from a ½% local sales tax increase less than 100% of their loss from the repealed State tax reimbursements

Sales Tax Rate Changes
2002

Increased State sales tax ½% for the period October 16, 2001, to July 1, 2003

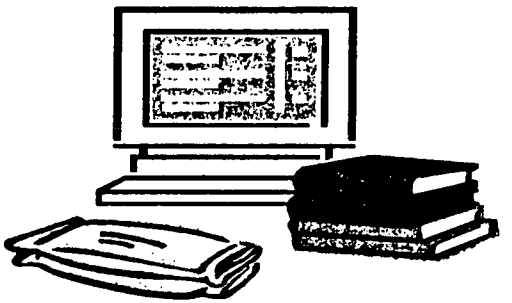
Authorized an additional ½% local sales tax, effective *December 1, 2002*

Repealed the State reimbursements to local governments, effective *July 1, 2002*

Hold harmless NOT accelerated. First hold harmless payments will be received in 2003-04.

Streamlined Sales and Use Tax Agreement
S.L. 2001-347

Enables NC to enter into the Streamlined Sales and Use Tax Agreement



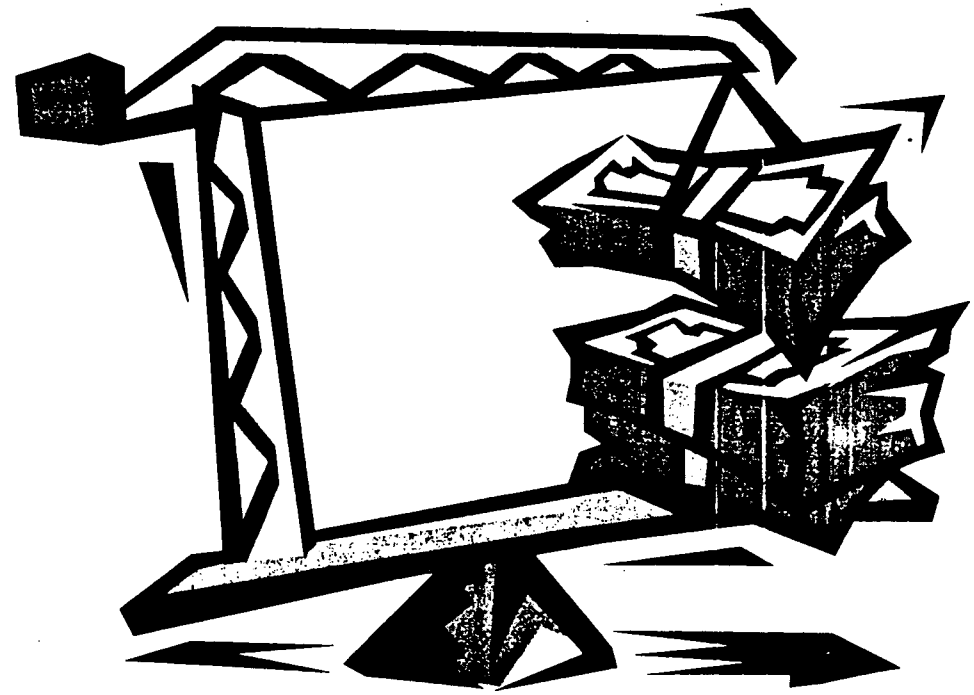
Simplifies the sales and use tax laws

Helps equalize the playing field between remote vendors and Main Street merchants

35 implementing states

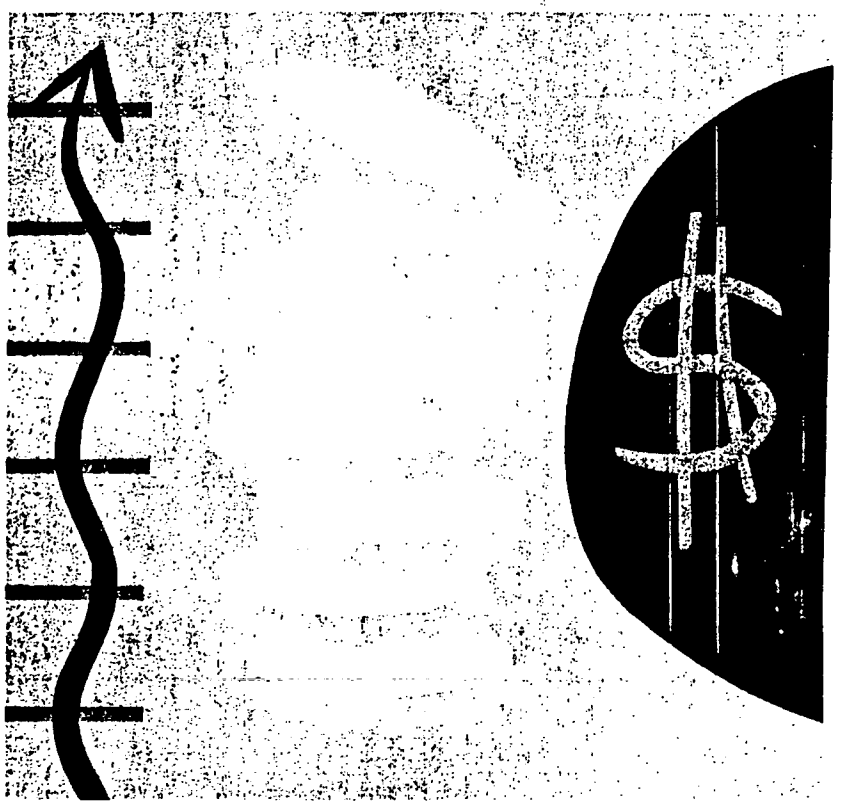
Selected Legislation

- *Closure of Tax Loopholes*
- *Sales Tax Changes*
- **Income Tax Changes**
- *Collection Enhancements*



Income Tax Changes 2001

- **Added a new tax bracket of 8.25% on taxable income over $200,000 for 2001, 2002, and 2003**
- **Eliminated the Marriage Tax Penalty over 2002-03**
- **Increased Child Tax Credit over 2002-03**



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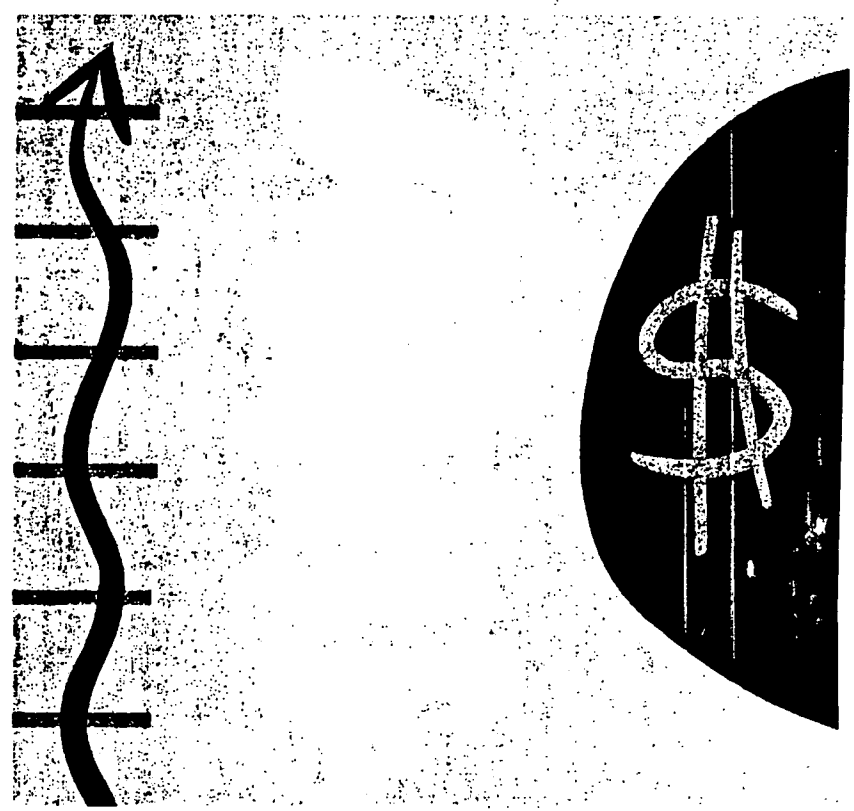


Conformity to Federal Law
S.L. 2002-125

- Updates State tax law to conform to federal changes in EGTRRA and Job Creation and Worker Assistance Act
- Conforms to gift tax annual exclusion amount
- Decouples from accelerated depreciation provisions
- Decouples from federal tax credit provision

Federal "Pick-Up" Tax Credit

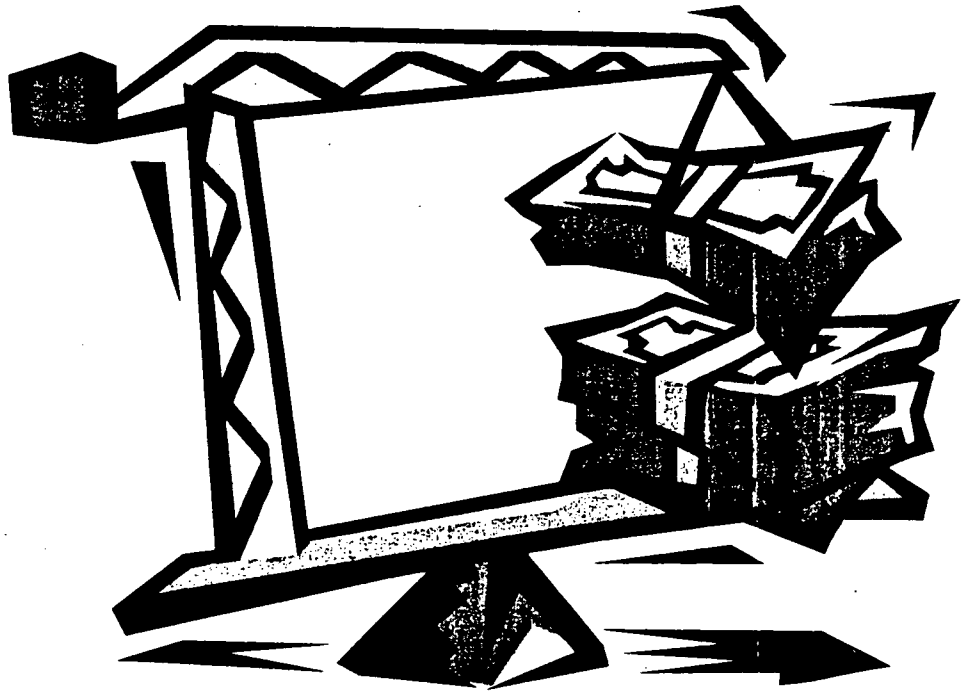
- Estate tax being phased-out
- NC conforms to the increased exemption amounts
- Federal "pick-up" tax credit being phased-out
- **NC does not conform to the phase out of the federal credit for 2002 and 2003 – Amount of the credit remains the amount as it existed in 2001**
- ***General Assembly will have to re-visit the issue again in 2003***

Estate Tax Options

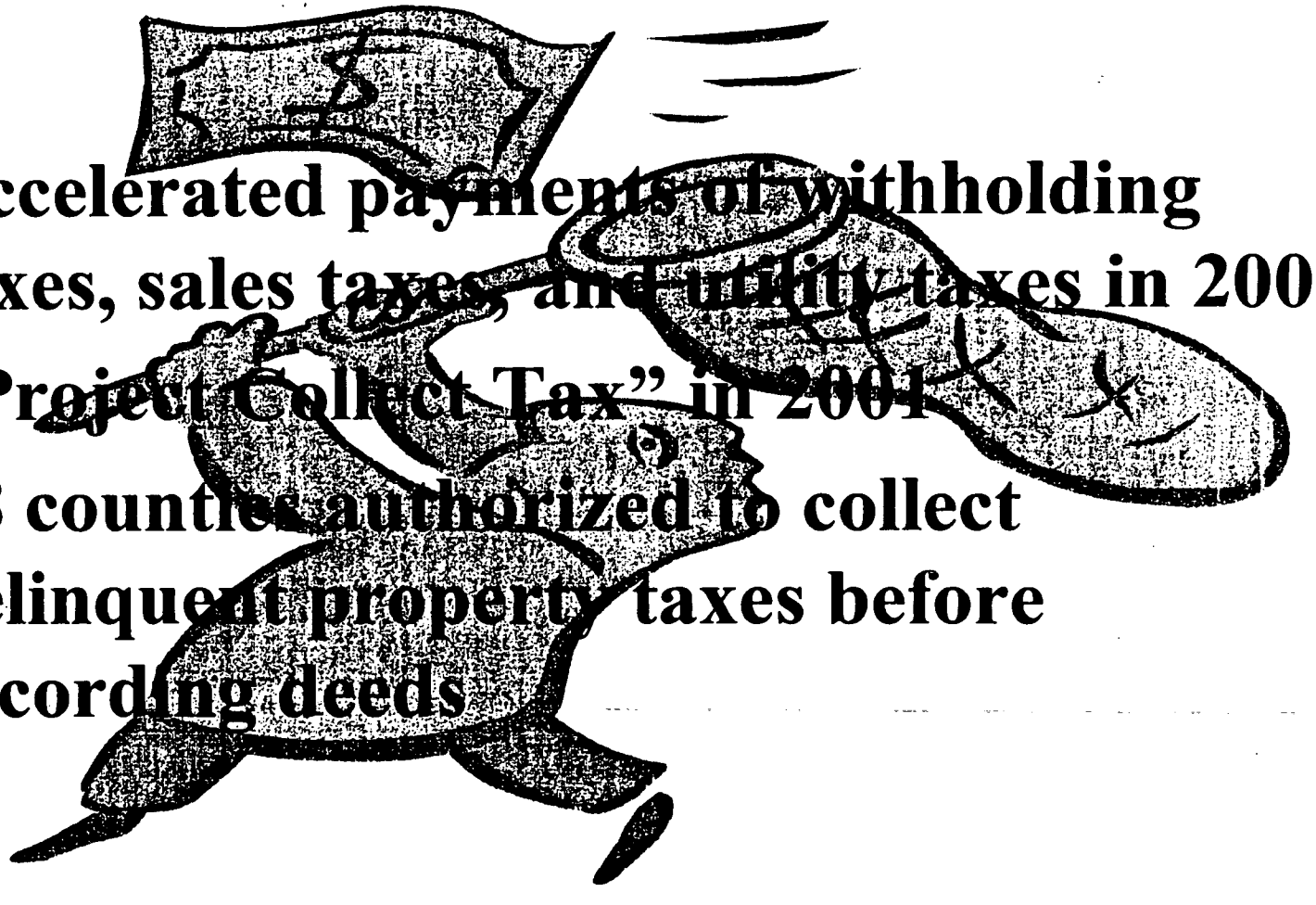
- **Extend or remove sunset on the decoupling of the phase-out of the federal credit**
- **Take no action**
- **Establish a stand-alone estate tax**
- **Fully conform to federal changes**
- **Repeal the estate tax**

Selected Legislation

- *Closure of Tax Loopholes*
- *Sales Tax Changes*
- *Income Tax Changes*
- **Collection Enhancements**



Collection Enhancements



- Accelerated payments of withholding taxes, sales taxes, and utility taxes in 2001
- "Project Collect Tax" in 2001
- 48 counties authorized to collect delinquent property taxes before recording deeds

That Concludes
our ...

T.S.I. For 2001-02

House Committee on Finance

Minutes
March 6, 2003

The House Committee on Finance met on Thursday, March 6, 2003, at 8:30 A.M. in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Gibson and Hill, and Representatives Blackwood, Bordsen, Capps, Carney, Cunningham, Ellis, Glazier, Holliman, Lewis, McGee, Munford, Rayfield, Ross, Weiss and Womble. Also present were Sergeants-at-Arms Bob Fowler, Bill Freeman, Dusty Rhoades and Walter Spell. Staff persons present were Richard Bostic, Trina Griffin, Martha Walston and Evan Rodewald.

Rep. Luebke, Presiding Chair, called the meeting to order by determining a final seating arrangement for committee members and by introducing the page from Mitchell County, Angelina Keath, sponsored by Rep. Phillip Frye.

The agenda did not include any bills for consideration, but staff members, David Crotts, Martha Walston and Trina Griffin, made presentations as follows:

REPORT OF FEBRUARY REVENUES – David Crotts (see attachments)

PRESENTATION ON FISCAL CONDITIONS IN OTHER STATES AND TYPES OF FEDERAL ASSISTANCE REQUESTED BY GOVERNORS AND LEGISLATORS

THE ESTATE TAX QUESTION

STAFF RESPONSE TO MEMBER QUESTIONS - Martha Walston (see attachments)

- **Tax treatment of agriculture**
- **Highway Trust Fund court case**
- **Estate tax issue and impact on General Fund for FY 03-04**
- **Corporate income tax as a percentage of General Fund revenue**

Trina Griffin also presented an update on the Goldston Case.

The meeting adjourned at 9:50 a.m. to reconvene on Tuesday, March 11, at 8:30 a.m.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Joyce T. Harris
Committee Assistant

ATTACHMENTS:

Agenda
Visitor Registration Page
Staff Presentations

AGENDA

House Finance Committee

March 6, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Report on February revenues
David Crotts

Presentation on fiscal conditions in other states and types of federal assistance requested by governors and legislators
David Crotts

Staff response to member questions
Martha Walston, Trina Griffin, and David Crotts

- *Corporate income tax as a percentage of General Fund revenue*
- *Estate tax issue and impact on General Fund for FY 03-04*
- *Highway Trust Fund court case*
- *Tax treatment of agriculture*

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 6 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	NCRP
Duke Chew	Intern
Warren Plonk	OSBM
John McAt	COU OFFICE
Michelle Frazier	NC Bar Ass'n
Paul Zigi	OSBM
Dean Plunkett	NC Beer & Wine
Kevin Leonard	NCDOL
Dan Kane	NCO
Benny Scarb	NCHC
Mark Beason	Capitol Group

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 6 2003

Name of Committee — **Date**

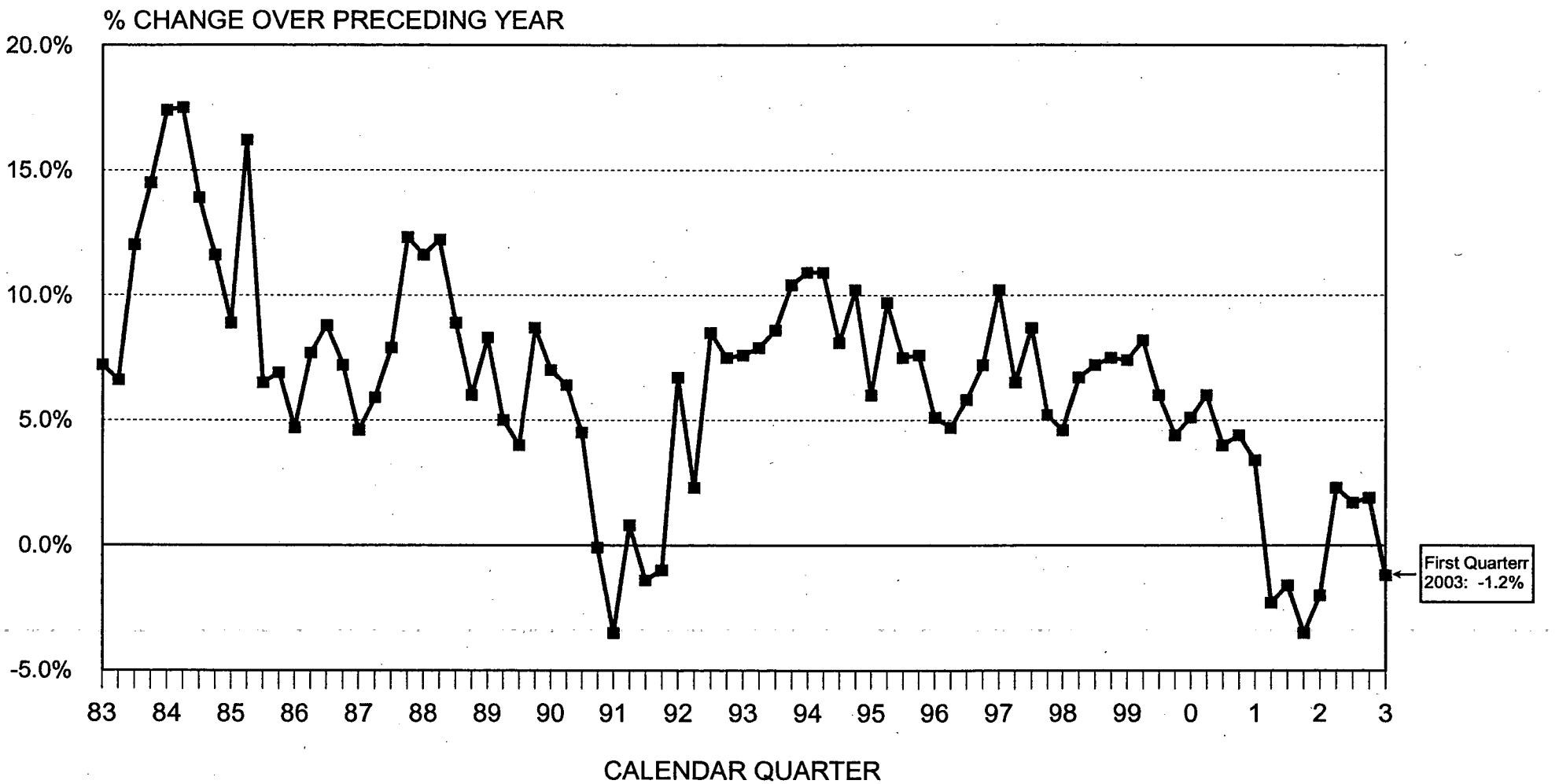
VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marcos Arellano	Intern for Rep. Luebke
Ron Aycock	County Comm. Assoc
Betty Turner	Bank of America
[illegible]	NCCCS
Lauren Harper	SEANC
[illegible]	CCNC
Gary Harris	NCPMA
Doug Howey	NCPMA

MISCELLANEOUS FISCAL INFORMATION

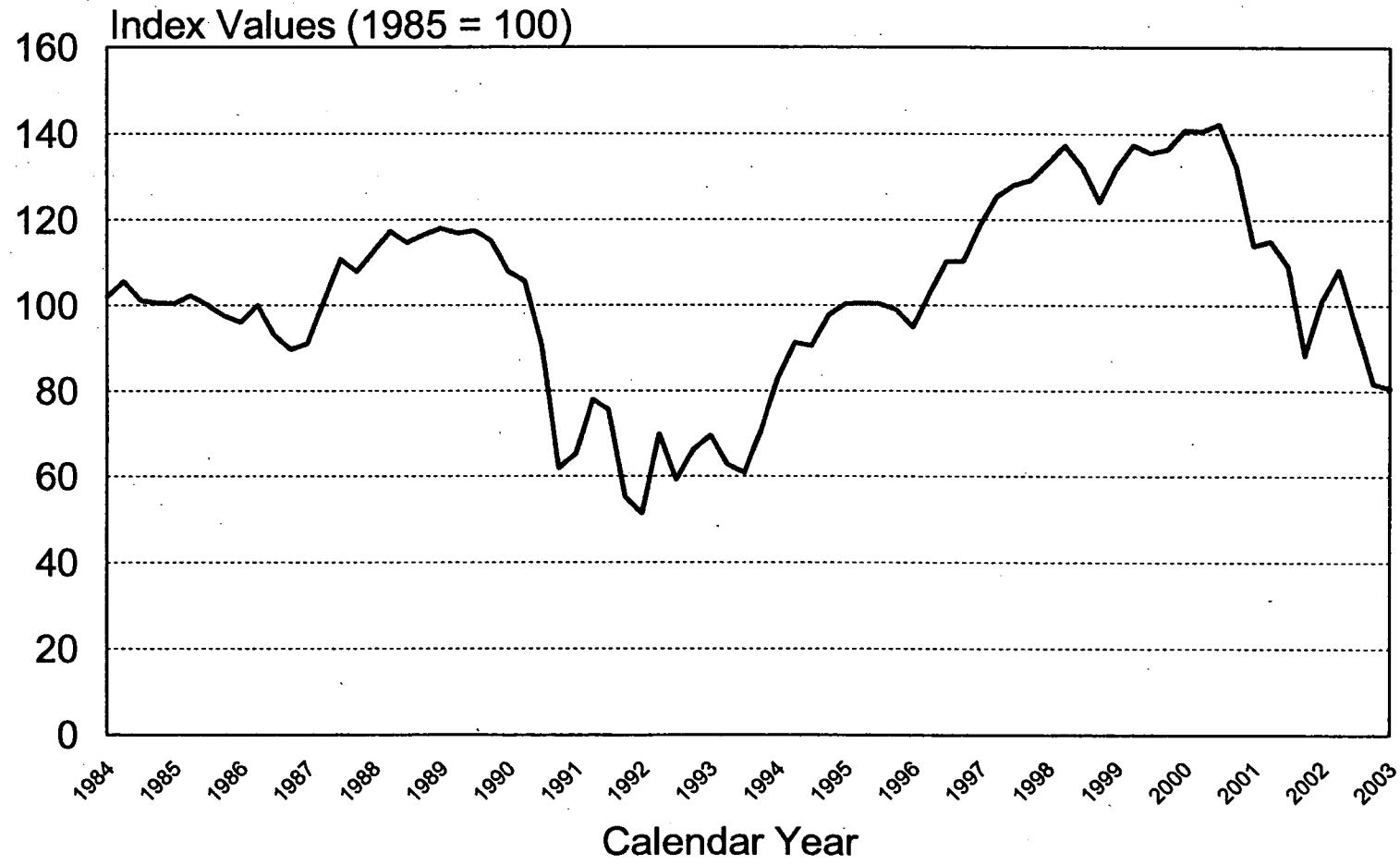
Fiscal Research Division
March 6, 2003

THE MODEST RECOVERY IN STATE AND LOCAL SALES TAX REVENUES IS BEING SHORT-CIRCUITED BY PRE-WAR JITTERS



NOTE: Data has been adjusted for tax law changes. Data for the current quarter is based on January and February only.

Consumer Confidence



Source: Conference Board

How Does North Carolina's Plight Compare to Other States?

- ✓ Many states adopted 02-03 budget prior to bad April and June numbers last year and used revenue growth rates of 3-6% (versus 1.09% in North Carolina). Thus, North Carolina is one of 10 states that does not have a revenue shortfall of spending overrun (Medicaid) for the current year.
- ✓ Some states still have budget reserves to use.
- ✓ Our FY 04 budget gap of 10-15% of the budget is about average.
- ✓ Some states will consider revenue-raising measures already used by North Carolina in 2001 and 2002.
- ✓ Our economy went into a recession sooner but may be recovering more quickly than most other states. In general, the high-tech states crashed later but are still mired in a recession. Military deployment could place an additional burden on North Carolina in the short-run.

North Carolina Has Not Been Alone in Using One-Time Budget Fixes

- Governors and legislative leaders of both parties do not want to hurt classroom.
- Advocacy groups resist human services cuts.
- Medicaid cuts are difficult to achieve (services to elderly, payments to providers)
- Competitive politics rules out broad-based tax hikes in many states.
- These constraints have forced states to be creative in uncovering one-time resources to "plug" the budget hole on a temporary basis. In many cases, states are mortgaging many future years. This contrasts with the use of more permanent solutions back in 1991.

Examples of One-Time Fixes Being Used by States

- ✓Securitize tobacco settlement funds
- ✓Issue bonds to fund capital needs
- ✓Issue bonds to fund pension responsibilities
- ✓Divert highway monies
- ✓Hold local revenue sharing funds
- ✓Divert pension contributions
- ✓Move special fund balances into General Fund
- ✓Move June 30 paydate
- ✓Roll payment of bills into following year
- ✓Divert tobacco settlement funds

Examples of One-Time Fixes Being Used by States
(continued)

- ✓Accelerate tax payments
- ✓Divert disaster relief funds
- ✓ Draw down rainy-day fund
- ✓Delete programmed capital funding
- ✓Sell physical assets
- ✓Adopt tax amnesty programs

State Concerns about Federal Budget Actions

- ✓ Delays in getting federal terrorism funding assistance
- ✓ Need for additional help in Medicaid (federal mandates)
- ✓ Concerns about nature of federal tax cuts (conformity issue)
  - 2001 income tax actions (IRA's, 401-K's, education incentives)
  - 2001 estate tax actions
  - 2002 stimulus package (bonus depreciation)
  - 2003 proposed package (dividend exclusion, capital expensing rules)
- ✓ E-commerce taxation
- ✓ Fiscal squeeze on discretionary portion of federal budget (includes state and local aid) due to higher defense spending and federal tax cuts

North Carolina General Assembly
Legislative Services Office

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March 6, 2003

MEMORANDUM

TO: Members of House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

SUBJECT: Estate Tax Question

During last week's state revenue sources briefing, a question was raised concerning the reduction in state General Fund revenue if the 2003 General Assembly takes no action on the 2004 sunset on the proposal to temporarily fix to the estate tax conformity issue. A brief explanation of the issue may help.

In 1998, North Carolina followed the earlier lead of most other states by repealing the regular death tax (estate or inheritance tax) and replacing it with an "estate tax" that is equal to the amount of the federal credit for state death taxes. The reason for keeping a "pickup tax" is that if a state does not levy a tax in an amount equal to the federal credit, the credit remains unused on the federal estate tax return and the dollars go to Washington instead of the state capital.

In a surprise move in March 2002, the Congress phased out the state death tax credit over four years, beginning January 1, 2002, in order to finance other parts of the federal stimulus package. The action was a surprise because it had not been discussed in the stimulus packages debated soon after the events of September 11.

Due to difficult budget outlooks and concerns about how states were being treated under federal budget decisions, many states chose not to conform to the federal changes and continued levying the pickup tax on the prior federal base. North Carolina's compromise solution was to decouple from the federal phase-out to the death tax credit for two years (January 1, 2002 - January 1, 2004) but to adjust the North Carolina tax to account for the higher federal estate tax exemptions that were being

(over)

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

phased in. This "partial conformity" solution sunsets on January 1, 2004. If no action is taken on the issue by the 2003 General Assembly, the North Carolina tax reverts to the phase-out schedule that was part of the 2002 federal tax package.

The impact on the General Fund from the various proposals is shown below:

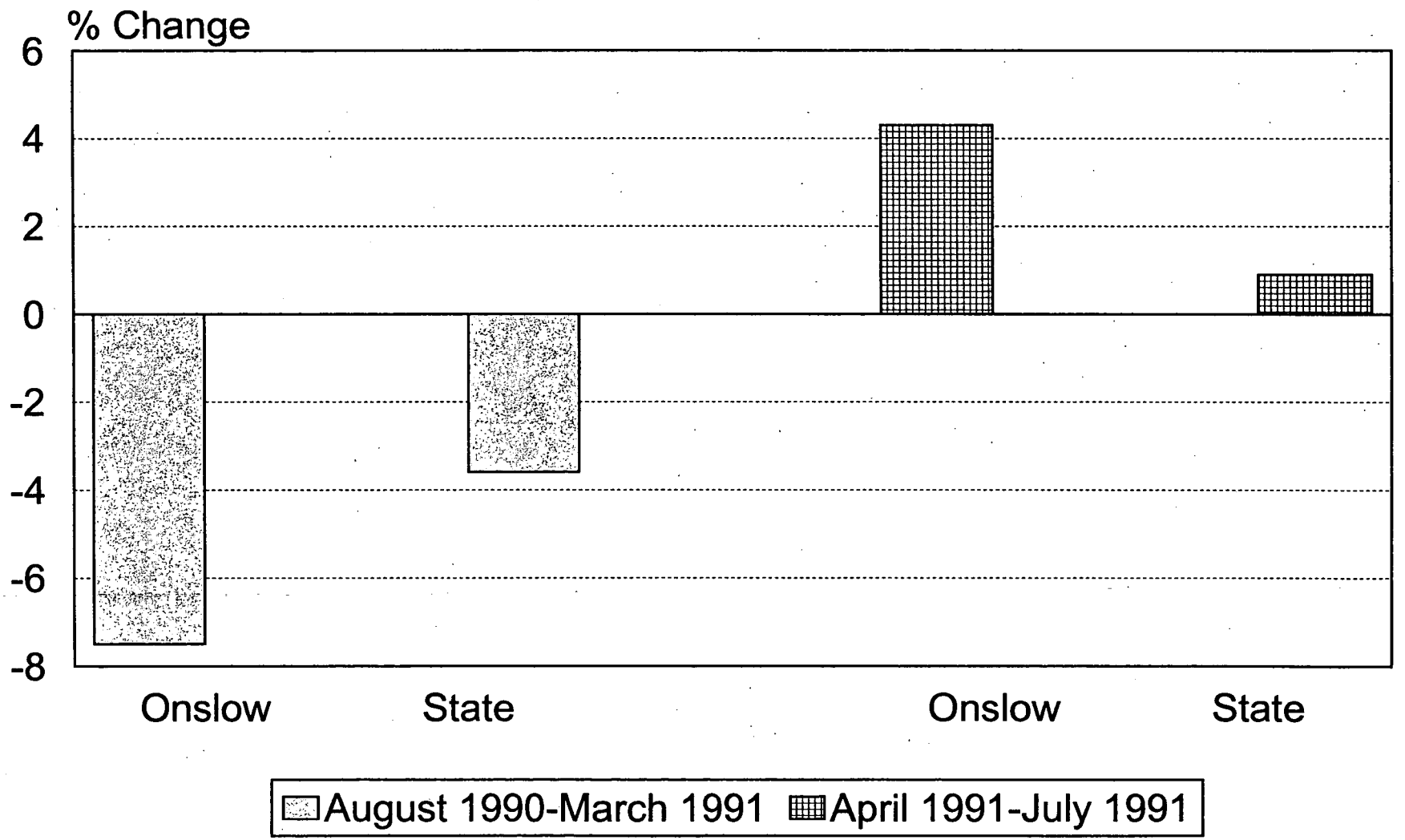
General Fund Revenue Loss ($mil)			
State Fiscal Year	**Original Full Conformity Option**	**2002 Partial Conformity Solution***	**No Action Scenario****
2002-03	-31.3	-5.5	-
2003-04	-68.2	-7.3	-
2004-05	-96.1	-3.8	-92.3
2005-06	-111.9	-	-111.9
2006-07	-143.8	-	-143.8

*A two-year package that conforms North Carolina estate tax to phase-up of higher federal estate tax exemptions, but not the phase-out of the state death credit.

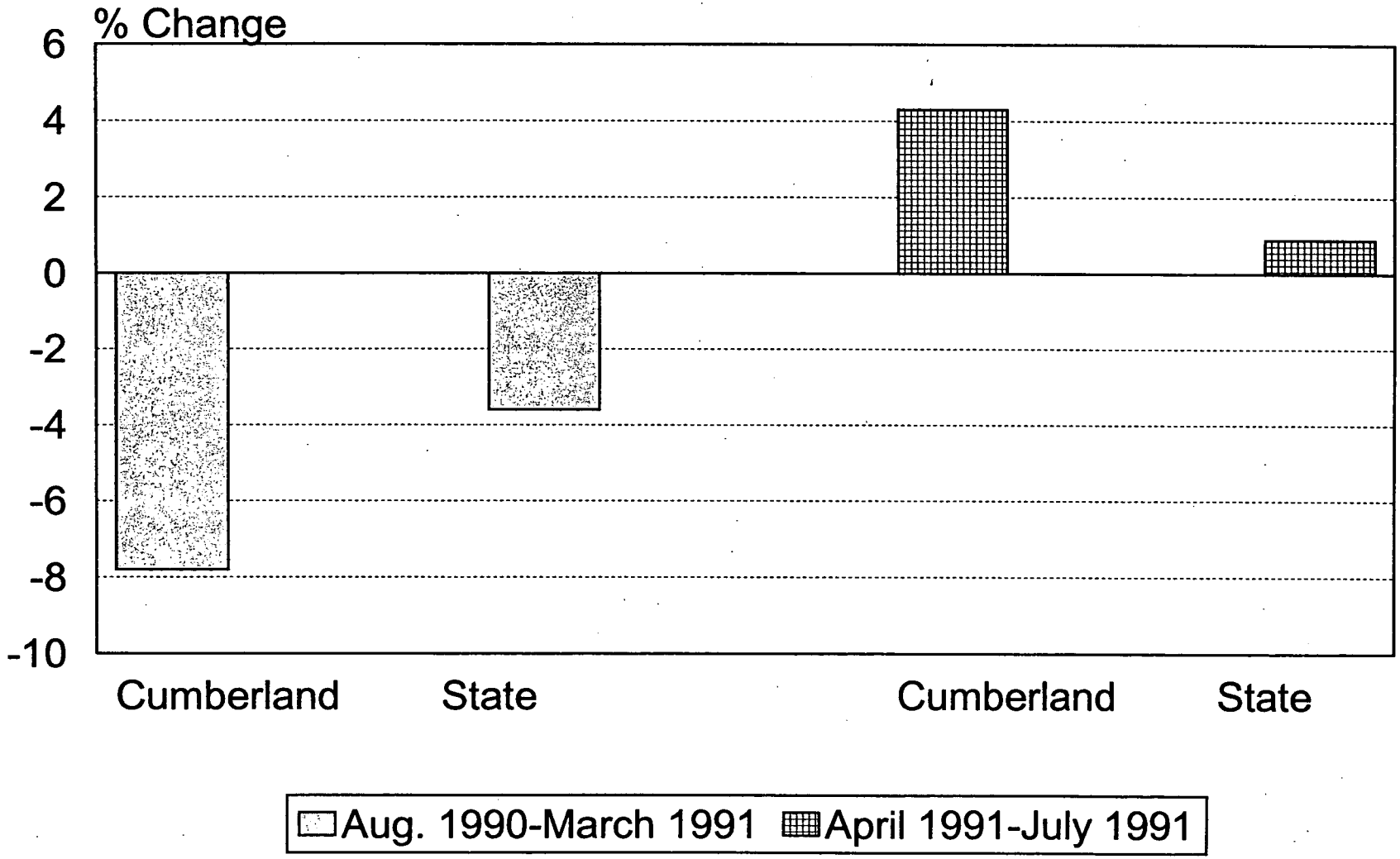
**If no 2003 session action occurs, the North Carolina tax would revert to conformity to phase-out of federal credit for state death taxes.

For the most recent 12-month period, a total of 2,575 estate tax returns were filed in North Carolina

State Sales Tax Collections
Onslow County vs. State Average



State Sales Tax Collections
Cumberland County vs. State Average



- Over -

TAX TREATMENT OF AGRICULTURE
Prepared by Martha Walston, staff attorney to House Finance
March 6, 2003

Sales Tax preferential rates (G.S. 105-164.4)
The following sales are subject to a sales tax rate lower than the general rate of 4 ½ %):[1]

- The rate of 1% applies to the sales price of the following articles:
    1. horses or mules
    2. semen used for the artificial insemination of animals
    3. sales of fuel, other than electricity, to farmers for any farm use other than preparing food, heating dwellings, and other household purposes.
- The rate of 1%, subject to a maximum of $80 per article, is imposed on the sales price of the following:
    1. farm machinery, parts, and accessories[2] for the machinery for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops, or in the production of dairy products, eggs, or animals.
    2. bulk tobacco barns and racks, parts, and accessories sold to farmers for the curing and drying of any farm produce.
    3. grain, feed or soybean storage facilities and accessories sold to farmers.
    4. containers sold to farmers or producers for use in the planting, producing, harvesting, curing, marketing, packaging, sale, or transporting or delivery of their products when the containers do not go with and become part of the product sold at wholesale or retail.
- The rate of 2.83% applies to the sales price of electricity sold to farmers for any farm use other than preparing food, heating dwelling, or other household purposes. (G.S. 105-164.4(a)(1f)a.)[3]

Sales Tax exemptions (G.S. 105-164.13)
The following agricultural products are exempted from the State sales and use tax:

- Commercial fertilizer, lime, land plaster, and seeds sold to a farmer for agricultural purposes.
- Any of the following substances when purchased for use on animals or plants held or produced for commercial purposes:[4]

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[1] The general State sales and use tax rate of 4 ½ % is effective until July 1, 2003. After this date, the general rate returns to 4%).
[2] The term "accessories" does not include electricity. (G.S. 105-164.4(a)(1d)).
[3] A rate of 2.83% is also imposed on the following: (a) sales of electricity to commercial laundries and dry-cleaning establishments and (b) sales of electricity to manufacturing industries and plants for use in the operation of the industry or plant, if the industry or plant received 900,000 or less megawatt hours of qualified electricity during the proceeding year. A rate of .17% is imposed on the sales price of electricity sold to manufacturing industries and plants for use in the operation of the industry or plant, if the industry or plant received more than 900,000 megawatt hours of qualified electricity during the previous year. "Qualified electricity is electricity that is measured by a separate meter or another separate measuring device and is sold to a manufacturing industry or manufacturing plant for use in the operation of the industry or plant. The rates change effective July 1, 2005.
[4] This exemption does not apply to any equipment or devices used to dispense the substances listed in this exemption

1. remedies, vaccines, medications, litter materials, and feeds for animals
2. rodenticides, insecticides, herbicides, fungicides, and pesticides
3. defoliants for use on cotton or other groups
4. plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.

- Products of forests and mines in their original or unmanufactured state when such sales are made by the producer in the capacity of producer.
- Cotton, tobacco, peanuts, or other farm products sold to manufacturers for further manufacturing or processing.
- Baby chicks and poults sold for commercial poultry or egg production.
- Products of a farm sold in their original state by the producer if that producer is not primarily a retail merchant.
- Ice used to preserve agriculture, aquaculture, and commercial fishery products until the products are sold at retail.
- Commercially manufactured facilities, equipment, parts and accessories, building materials, supplies and fixtures used for the commercial housing, raising, or feeding of animals, or related equipment.
- The lease or rental of tobacco sheets used in handling and transporting tobacco.

Income tax credits

The following income tax credits are available to both individual and corporate taxpayers unless otherwise noted:

- Credit for conservation tillage equipment – equal to 25% of the cost of conservation tillage equipment purchased by a taxpayer for use in a farming business, including tree farming. The credit may not exceed $2,500 for any taxable year, may be carried forward for five years, and is claimable only by the first purchaser.(G.S. 105-130.36 and G.S. 105-151.13)[5]
- Credit for gleaned crops - equal to 10% of the market price of the quantity of gleaned corps. Gleaned crops are those harvested and donated to a nonprofit organization for distribution to individuals or other nonprofit organizations. The credit may be carried forward for the next five years. (G.S. 105-130.37 and G.S. 105-151.14)[6]
- Credit for construction of a poultry composting facility - equal to 25% of the construction cost of a poultry composting facility constructed by a taxpayer for the composting of whole, unprocessed poultry carcasses from commercial operations in which poultry is raised or produced.[7] The credit may not exceed $1,000 for any single installation. (G.S. 105-130.44 and G.S. 105-151.25).

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[5] "Conservation tillage equipment" means a planter (commonly known as a "no-till" planter) designed to minimize disturbance of the soil in planting crops or trees or designed to minimize disturbance of the soil in reforestation site preparation.

[6] The credit for gleaned crops may not be claimed unless the taxpayer adds the market price of the gleaned crop to taxable income.

[7] "Poultry composting facility" means a structure in which whole, unprocessed poultry carcasses are decomposed by a natural process into an organic, biologically safe by-product that can be used for plant food. (G.S. 106-549.51)

- Credit for property taxes paid on farm machinery – credit allowed for local property taxes paid on farm machinery and attachments and repair parts, up to a maximum of $1,000. This credit is allowed only to individual income taxpayers and an individual shareholder of an S Corporation engaged in the business of farming. (G.S. 105-151.21)

Corporate Income Tax Exemption
The following organizations are exempt from income tax (G.S. 105-130.11(8)):

- Farmers', fruit growers', or like organizations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less necessary selling expenses, on the basis of the quantity of product furnished by them.
- Agricultural cooperative and marketing associations.

Motor fuel tax refunds
A person who purchases and uses motor fuel in the following vehicles may receive an annual refund for the motor fuel excise tax paid on the fuel. The amount of the refund allowed is 33 1/3% of the following: the sum of the flat cents-per gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents-per-gallon rates in effect during that year, less the sales and use tax due:

- A bulk feed vehicle that delivers feed to poultry or livestock and used a power takeoff to unload the feed.
- A vehicle that delivers lime or fertilizer in bulk to farms and uses a power takeoff to unload the lime or fertilizer.
- A commercial vehicle that delivers and spreads mulch, soils, composts, sand, sawdust, and similar materials and that uses a power takeoff to unload, blow, and spread the materials.

Property tax preferential treatment
The following deduction is allowed for property tax purposes (G.S. 105-277):

- Indebtedness owed by the taxpayer for the purchase of fertilizer may be deducted from the total value of the fertilizer if held by the taxpayer for his own used in agriculture during the current year.

The following property is taxed at its present use as opposed to its fair market value

- Agricultural land that is part of a farm unit, actively engaged in commercial production under a sound management plan, and individually owned.
- Horticultural land that is part of a horticultural unit, actively engaged in commercial production under a sound management plan, and individually owned.
- Forestland that is part of a forest unit, actively engaged in commercial production under a sound management plan, and individually owned.

Property tax exemptions
The following property is exempt from property taxes (G.S. 105-275):

- Property used exclusively for pollution control or waste disposal. This exemption includes an animal waste management system if the EMC determines it meets certain environmental performance standards.

- Poultry and livestock and feed used in the production of poultry and livestock.
- Standing timber, pulpwood, seedlings, saplings, and other forest growth (Purpose of this classification is to encourage property forest management practices and to develop and maintain the forest resources of the state.)
- Inventories owned by wholesale and retail merchants (Inventories includes crops and other agricultural or horticultural products held for sale, whether in process or ready for sale.)

HIGHWAY TRUST FUND
(Prepared March 5, 2003)*

The Highway Trust Fund was established in 1989 for the purpose of funding highway construction. The 2001 General Assembly permitted the use of $680 million of Trust Fund cash balances over three fiscal years for additional purposes, primarily maintenance. The Trust Fund's primary revenue sources are ¼ of the motor fuel tax, a 3% Highway Use Tax, title fees and various registration fees, and interest earned on cash balances. The law has required that $170 million be transferred each year from the Highway Trust Fund to the General Fund. As a result of a change in the law in 2001, this statutory transfer in FY 2002-03 is $172.4 million and will grow over time. In addition to this statutory transfer, the Governor transferred $80 million in FY 2001-02, and the Budget for FY 2002-03 transfers $205 million to the General Fund. The $205 million, and an additional $80 million to be transferred in FY 2003-04, are to be paid back to the Highway Trust Fund starting in FY 2004-05.

At the end of January 2003, the cash balance in the Highway Trust Fund was $213 million (down by $372.8 million from one year ago). The balance in the Highway Fund was $385.5 million (up by $117.5 million from one year ago). The total was $598.5 million (down by $255.3 million from one year ago).

Attached are the following:

- Copy of G.S. 136-176. This statute creates the Highway Trust Fund, sets out its revenue sources, and how the revenue is spent.
- Chart comparing the Highway Fund and the Highway Trust Fund.
- Highway Trust Fund Budget for 2002-03

*Fiscal Analysts Evan Rodewald and Bob Weiss provided information for this handout

§ 136-176. (For contingent repeal see editor's note) Creation, revenue sources, and purpose of North Carolina Highway Trust Fund.

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

(1) Motor fuel, alternative fuel, and road tax revenue deposited in the Fund under G.S. 105-449.125, 105-449.134, and 105-449.43, respectively.

(2) Motor vehicle use tax deposited in the Fund under G.S. 105-187.9.

(3) Revenue from the certificate of title fee and other fees payable under G.S. 20-85.

(4) Repealed by Session Laws 2001-424, s. 27.1.

(5) Interest and income earned by the Fund.

(a1) The Department shall use two hundred twenty million dollars ($220,000,000) in fiscal year 2001-2002, two hundred twelve million dollars ($212,000,000) in fiscal year 2002-2003, and two hundred fifty-five million dollars ($255,000,000) in fiscal year 2003-2004 of the cash balance of the Highway Trust Fund for the following purposes:

(1) For primary route pavement preservation. – One hundred seventy million dollars ($170,000,000) in fiscal year 2001-2002, and one hundred fifty million dollars ($150,000,000) in each of the fiscal years 2002-2003 and 2003-2004. Up to ten percent (10%) of the amount for each of the fiscal years 2001-2002, 2002-2003, and 2003-2004 is available in that fiscal year, at the discretion of the Secretary of Transportation, for:

a. Highway improvement projects that further economic growth and development in small urban and rural areas, that are in the Transportation Improvement Program, and that are individually approved by the Board of Transportation; or

b. Highway improvements that further economic development in the State and that are individually approved by the Board of Transportation.

(2) For preliminary engineering costs not included in the current year Transportation Improvement Program. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(3) For computerized traffic signal systems and signal optimization projects. – Fifteen million dollars ($15,000,000) in each of the fiscal years 2001-2002, 2002-2003, and 2003-2004.

(4) For public transportation twenty million dollars ($20,000,000) in fiscal year 2001-2002, twenty-five million dollars ($25,000,000) in fiscal year 2002-2003, and seventy-five million dollars ($75,000,000) in fiscal year 2003-2004.

(5) For small urban construction projects. – Seven million dollars ($7,000,000) in fiscal year 2002-2003.

(a2) Repealed by Session Laws 2002-126, s. 26.4(b), effective July 1, 2002.

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed four and one-half percent (4.5%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due.

(b1) The Secretary may authorize the transfer of funds allocated under subdivisions (1) through (4) of subsection (b) of this section to other projects that are ready to be let and were to be funded from allocations to those subdivisions. The Secretary shall ensure that any funds transferred pursuant to this subsection are repaid promptly and in any event in no more than four years. The Secretary shall certify, prior to making any transfer pursuant to this subsection, that the transfer will not affect the delivery schedule of Highway Trust Fund projects in the current Transportation Improvement Program. No

transfers shall be allowed that do not conform to the applicable provisions of the equity formula for distribution of funds, G.S. 136-17.2A. If the Secretary authorizes a transfer pursuant to this subsection, the Secretary shall report that decision to the next regularly scheduled meetings of the Joint Legislative Commission on Governmental Operations, the Joint Legislative Transportation Oversight Committee, and to the Fiscal Research Division.

(c) If funds are received under 23 U.S.C. Chapter 1, Federal-Aid Highways, for a project for which funds in the Trust Fund may be used, the amount of federal funds received plus the amount of any funds from the Highway Fund that were used to match the federal funds may be transferred by the Secretary of Transportation from the Trust Fund to the Highway Fund and used for projects in the Transportation Improvement Program.

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143-28.1 only for the two bienniums following the year in which the contract is let. (1989, c. 692, s. 1.1; c. 770, ss. 68.2, 74.6; 1989 (Reg. Sess., 1990), c. 1024, s. 46(a), (b); 1991, c. 193, s. 9; c. 280, s. 1; c. 689, s. 62; 1995, c. 390, s. 27; 1995 (Reg. Sess., 1996), c. 590, s. 6; 1996, 2nd Ex. Sess., c. 18, s. 19.4(a); 1998-212, s. 27.2; 1999-237, s. 27.1; 2000-140, s. 31; 2001-424, ss. 27.1, 27.23(d), 27.23(e), 27.23(f); 2002-126, ss. 26.4(a), 26.4(b), 26.9(b); 2002-133, s. 3; 2002-159, s. 41.5.)

	Highway Fund	Highway Trust Fund
Budget FY02-03	$1.3 billion	$975 million
Major Funding Sources	Motor Fuel Tax $875 million Licenses and Fees $390	Motor Fuel Tax $300 million Highway Use Tax $580 Title Fees $93
Major Uses	Maintenance $595 Construction $135 State Highway Patrol $133 DMV $111 Powell Bill $87 Public Transportation $75	Construction $531 Transfer to Gen. Fund $377* **(Up from $172 in FY01-02)* Powell Bill $34 Administration $32
Status of FY02-03 Revenues	On budget	Within 2% of budget
Method of Allocation	Appropriation; some by statutory formula	Statutory formulas; individual projects by Board

Highway Trust Fund Budget for 2002-03

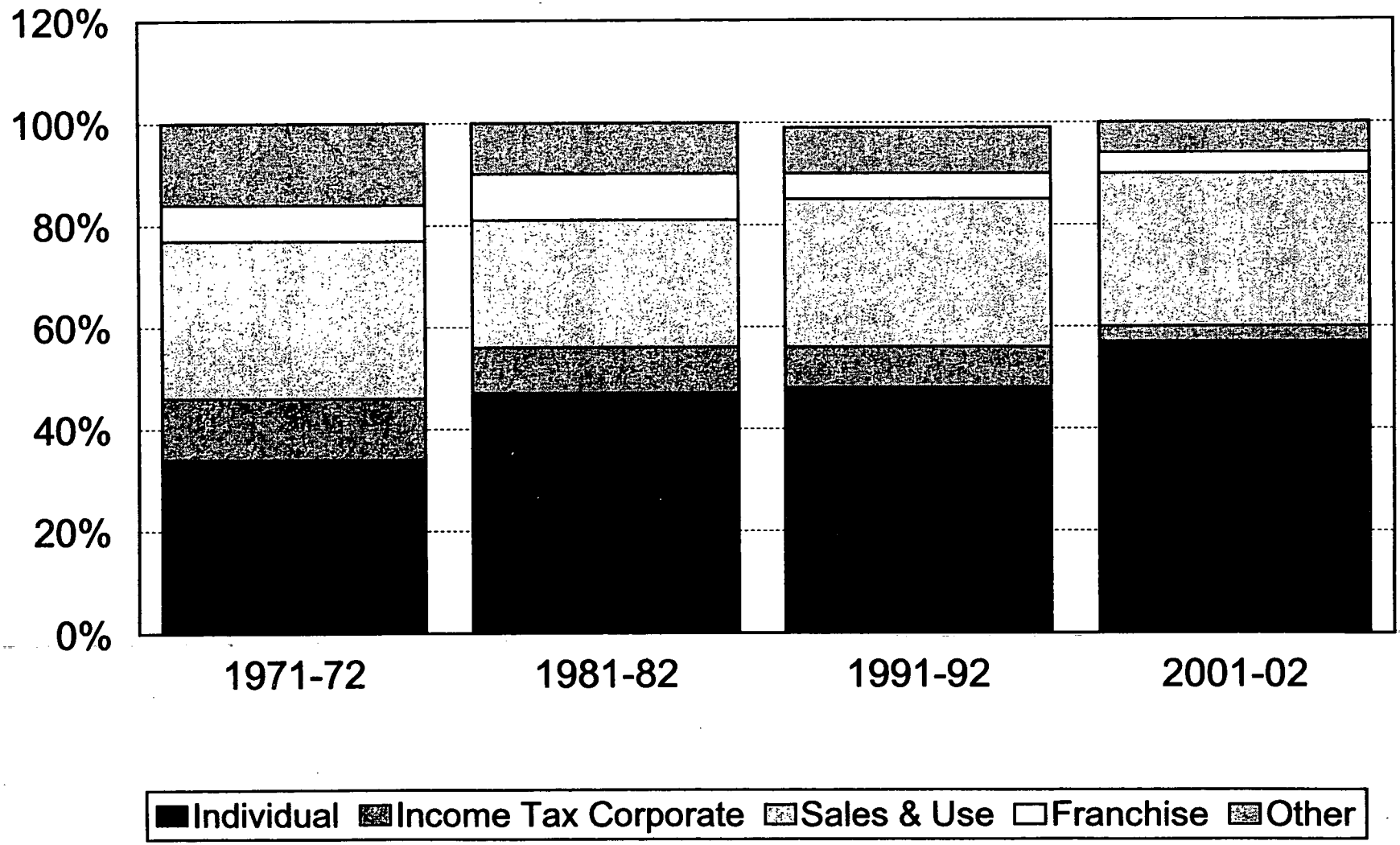
	Budget 2002-2003
Revenue	
Highway Trust Fund Revenue	974,830,000
Statutory Transfer to General Fund	(172,400,000)
Additional Recurring Transfer (through 2003-04)	(80,000,000)
Additional Nonrecurring Transfer	(125,000,000)
Revenue Available for Transportation	**597,430,000**
Appropriations	
Intrastate System (State network of four-lane highways. Eligible projects specified in G.S. 136-179)	328,765,110
Secondary Roads	69,230,843
Urban Loops (Projects specified in G.S. 136-180)	132,938,918
Aid to Municipalities/Powell Bill	34,495,129
Program Administration	32,000,000
Grand Total/Highway Trust Fund Appropriations	**597,430,000**

6-Sep-02

Question: Are sales taxes paid on materials and supplies for manufactured homes?

Answer: Under G.S. 105-164.13(8), sales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured is exempt from sales and use tax. Example: If a manufacturer of a manufactured home sells the finished product to a customer, the manufacturer does not pay sales and use tax on the materials and supplies that go into the manufactured home. However, if a person acts as a contractor to construct a manufactured home for another person, then the contractor is generally liable for sales and use tax on the materials and supplies that go into the construction of the home.

Actual Tax Revenue Collected by Major Schedules



House Finance Committee
March 6, 2003

Update on the *Goldston* Case

The Case

On November 14, 2002, former state Transportation Secretary James E. Harrington and former state Senator William Goldston, who were both instrumental in developing the Highway Trust Fund[1], filed suit in Wake County Superior Court against Governor Mike Easley and the General Assembly, claiming that the Governor and the Legislature violated the North Carolina Constitution by diverting approximately $205 million[2] from the Highway Trust Fund to the General Fund last year in order to balance the budget.

Plaintiffs' Request for Preliminary Injunction

The State Budget Office has been transferring the funds in quarterly installments. In January of 2003, after two payments had been made, the plaintiffs sought a preliminary injunction to prohibit the State Budget Office from making the remaining two payments. Retired Wake County Superior Court Judge Robert Farmer, who has been assigned to the case, denied the request for a preliminary injunction and the decision was not appealed.

Current Status

At the present time, there is one more payment to be made. The parties are in the process of trying to stipulate all factual issues, and hearings on dispositive motions may be scheduled as early as April 2003. The main issue to be resolved in the case is whether the scope of the Governor's constitutional authority to balance the budget included authority to transfer funds from the Highway Trust Fund to the General Fund.[3] The plaintiffs assert that the Governor's authority is limited to adjusting expenditures. A secondary issue is whether the Governor violated the constitutional provision stating that a tax shall not be applied for any other purpose than that for which it was levied.[4]

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[1] The Highway Trust Fund was created by the General Assembly in 1989 and is funded by the highway use tax, the motor fuels tax, and title and registration fees. The Fund was designed to build a system of intrastate highways and seven urban loops, provide assistance to cities, and accelerate secondary road paving.

[2] Traditionally, the Department of Transportation transfers approximately $172 million a year from the Highway Trust Fund to the General Fund. Last year, the budget called for an additional $205 million to be transferred from the Highway Trust Fund, of which $125 million is characterized as a loan required to be repaid to the General Fund at a later date.

[3] The Governor's authority to balance the budget is derived, in part, from Section 5 of Article III of the N.C. Constitution which states: "To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures."

[4] N.C. CONST. art. V, sec. 5.

North Carolina General Assembly

House Committee on Finance

Minutes

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March 13, 2003

The House Committee on Finance met on Thursday, March 13, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, and Hill; Representatives Blackwood, Bordsen, Carney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Ross, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:35 am and recognized the two (2) pages present: (1) Jennifer Gold of Cleveland County, sponsored by Representative Moore, and (2) Joanna Izguierdo of Wake County, sponsored by Representative Weiss.

The first order of business was the continuation from the previous meeting of the overview of the Jobs Development Investment Grant Program by Canaan Huie (see attachment 3). After one hour, due to time constraints on Carol Shaw, Mr. Huie was asked to continue his overview at the next meeting

Chairman Miner then called upon Carol Shaw to give a brief overview of the Medicaid program (see attachment 4).

As there was no other business before the Committee at that time, Chairman Miner adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Susan D. Phillips
Clerk, House Committee on Finance

Attachments:
1. Agenda

2. Visitor Registration Sheet
3. Overview of the Jobs Development Grant Program
4. Overview of Medicaid

North Carolina General Assembly

House Committee on Finance

Minutes

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Presiding Chair

Susan D. Phillips
Clerk, House Committee on Finance

Attachments:
1. Agenda

2. Visitor Registration Sheet
3. Overview of the Jobs Development Grant Program
4. Overview of Medicaid

AGENDA

House Finance Committee

March 13, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Continuation of the Overview of the Jobs Development Investment Grant Program
Canaan Huie

Overview of Medicaid
Carol Shaw

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 13, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DON HOBART	DOC
Duke Ch	Intern
T Jum	NCRA
Elizabeth Jordan	Budget & Tax Center
Mark Brown	Capitol Group
Warren Glomb	OSBM
Paul Lyzin	OSBM
Ron Aycock	County Comm. Assoc
Leon Killian	Moore + Van Allen
Ken Melton	Alley Associates
Sandy Sash	WCSR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 13, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McKay	GOV OFFICE
Kevin Leonard	NCDOL
Brian Lewis	Planned Parenthood Health Sys.
Laura Harper	SEANC lharper@seanc.org
[signature]	NCAEC
[signature]	NCMS
[signature]	
Barbara Crawley	
Stacy Ramsey	NCHCFA
Scott Herman	Cabarrus County SWCD Vice Chairman
Paula L. Hoyt	Covenant w/ NC's Children

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

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2002 Tier Designations

TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
ALLEGHANY	ANSON	ALEXANDER	BRUNSWICK	ALAMANCE
ASHE	BLADEN	AVERY	BURKE	BUNCOMBE
BEAUFORT	COLUMBUS	CASWELL	CALDWELL	CABARRUS
BERTIE	DUPLIN	CHOWAN	CARTERET	CATAWBA
CAMDEN	GREENE	CLEVELAND	CRAVEN	CHATHAM
CHEROKEE	HOKE	CURRITUCK	CUMBERLAND	DAVIDSON
CLAY	LENOIR	DARE	GRANVILLE	DURHAM
EDGECOMBE	MADISON	DAVIE	HARNETT	FORSYTH
GRAHAM	MITCHELL	GASTON	LEE	FRANKLIN
HALIFAX	PAMLICO	GATES	LINCOLN	GUILFORD
HERTFORD	PASQUOTANK	HAYWOOD	PITT	HENDERSON
HYDE	RICHMOND	JACKSON	ROWAN	IREDELL
JONES	ROBESON	MACON	SAMPSON	JOHNSTON
MARTIN	ROCKINGHAM	MCDOWELL	STOKES	MECKLENBURG
NORTHAMPTON	RUTHERFORD	MONTGOMERY	SURRY	MOORE
PERQUIMANS		NASH	WILKES	NEW HANOVER
SCOTLAND		ONSLOW	YADKIN	ORANGE
SWAIN		PENDER		RANDOLPH
TYRRELL		PERSON		UNION
VANCE		POLK		WAKE
WARREN		STANLY		
WASHINGTON		TRANSYLVANIA		
YANCEY		WATAUGA		
		WAYNE		
		WILSON		

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DEPARTMENT OF HEALTH & HUMAN SERVICES

MEDICAID PROGRAM OVERVIEW

FISCAL RESEARCH DIVISION
February 2003

Medicaid Program Overview

- Purpose of Medicaid
- Impact of Medicaid
  - On the State Economy
  - On State Government
  - On the State Budget
  - On Local Government
- Medicaid Services
- Medicaid Recipients
- Policy Changes Since 1990
- Cost Containment Efforts

Medicaid Program

THREE PROGRAMS IN ONE

- HEALTH INSURANCE
- LONG TERM CARE FOR THE ELDERLY
- SERVICES FOR PEOPLE WITH DISABILITIES

Medicaid Program

MEDICAID VS. MEDICARE

Medicaid is health care for certain groups of poor persons, including single parent families, persons over age 65 and the disabled. Coverage is based on a person falling into one of the target groups and passing income and resources tests. Medicaid is administered by states and counties and financed with federal, state and county funds.

Medicare is health care for persons over age 65 and for the disabled who receive Social Security payments. Medicare is administered by the Health Care Financing Administration and financed by employer/employee contributions to the Social Security Trust Fund.

Medicaid Program

ENTITLEMENT STATUS

Medicaid is a federal entitlement program. Entitlement means that any individual who is found eligible for Medicaid has a legal right to receive services under the Medicaid Program and cannot be denied coverage.

Implications for State Government

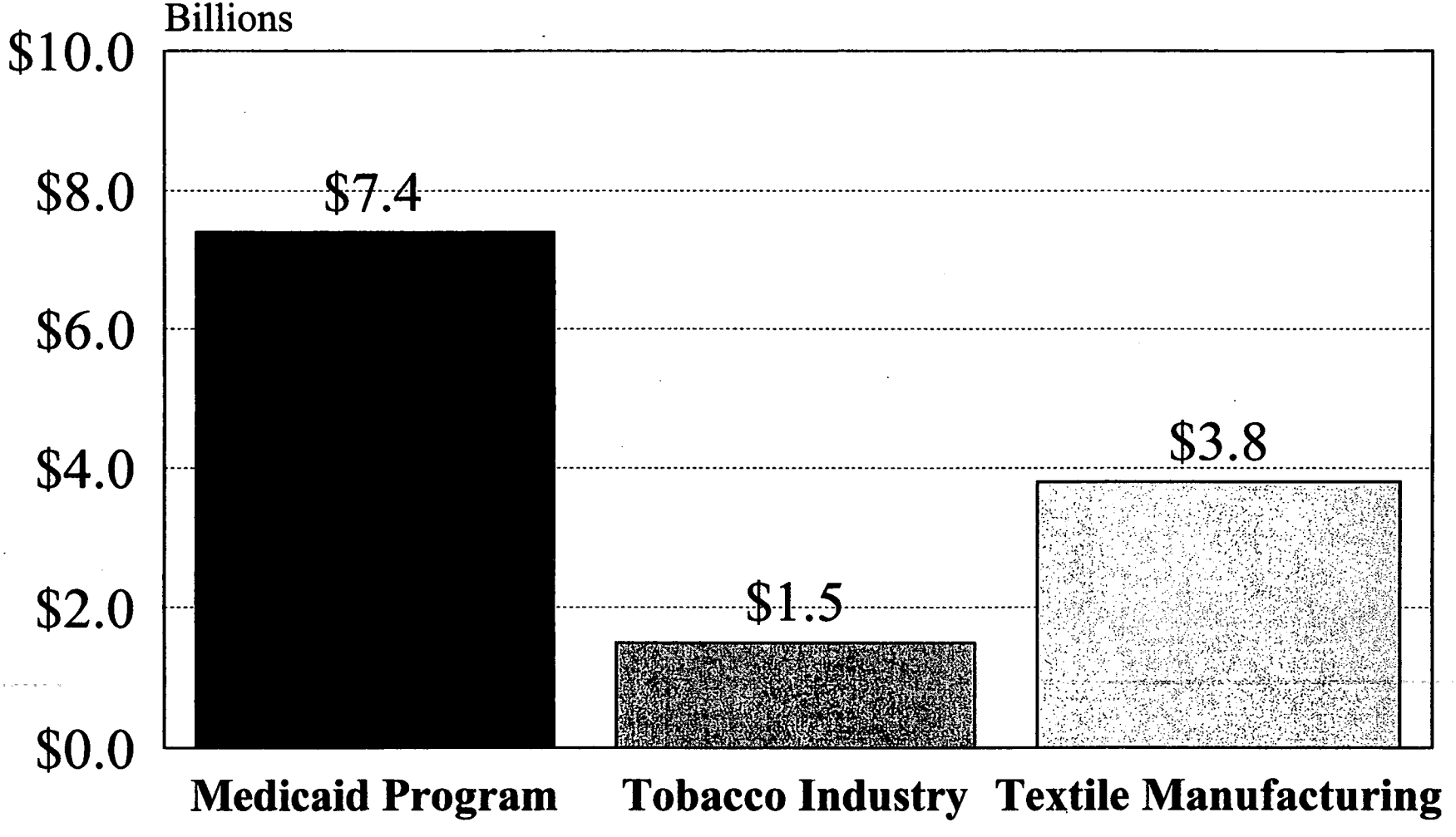
- ✓ **All eligible persons who apply for Medicaid must be served.**
- ✓ **The medical bills for Medicaid eligibles must be paid.**
- ✓ **If the appropriations for the Medicaid Program are inadequate, eligible persons must be served even if the funding must come from other areas of State government.**

IMPACT OF MEDICAID

- ✓ On the State Economy
- ✓ On State Government
- ✓ On the State Budget
- ✓ On Local Government

Medicaid Program

ROLE IN STATE ECONOMY



NOTE: Tobacco Industry includes the value of the 2002 crop and the estimated 2002 salaries and wages for tobacco manufacturing. Textile Manufacturing includes the estimated salaries and wages for the industry for 2002.

Medicaid Program

OTHER COMPARISONS

- The SFY 2002 Medicaid Program expenditures are equal to the estimated total income of the citizens of Cumberland County for 2000.

- Assuming an average private sector salary of $31,621 for 2002, SFY 2002 Medicaid expenditures would pay the salary of 232,950 employees in the private sector.

Medicaid Program

N. C. MEDICAID SNAPSHOTS

- Covered 1.4 Million state residents in SFY 2002 -- 17% of N.C.'s population
- Covered over 800,000 children during SFY 2002 - 57.7% of Medicaid eligibles
- Covers 45% of the babies born each year
- 30.8 % of recipients consume 71.1% of resources -- includes aged, blind, and disabled

Medicaid Program

N. C. MEDICAID SNAPSHOTS

- Inpatient care consumes 36.8% of expenditures for services -- includes hospitals, nursing homes, and mental retardation centers.

- Expenditures for drugs began to exceeded $1 Billion in SFY 2002.

- 66.5% of the state's 40,000 nursing home beds are funded through Medicaid.

- 14% of N. C. hospital charges are paid by Medicaid -- 49% are paid by Medicare.

Medicaid Program

IMPACT ON STATE AND LOCAL AGENCIES

- The Medicaid Program supplies significant support to State and Local agencies that provide medical services to Medicaid recipients.

- The following State and Local Agencies receive reimbursement from Medicaid: Mental Retardation Centers, State Psychiatric Hospitals, Special Care Center, UNC Hospitals, Area Mental Health Agencies, Alcohol and Drug Treatment Centers, Public Health Departments, Social Services Departments, County Owned Home Health Agencies, County Owned Ambulance Services and Local Education Agencies.

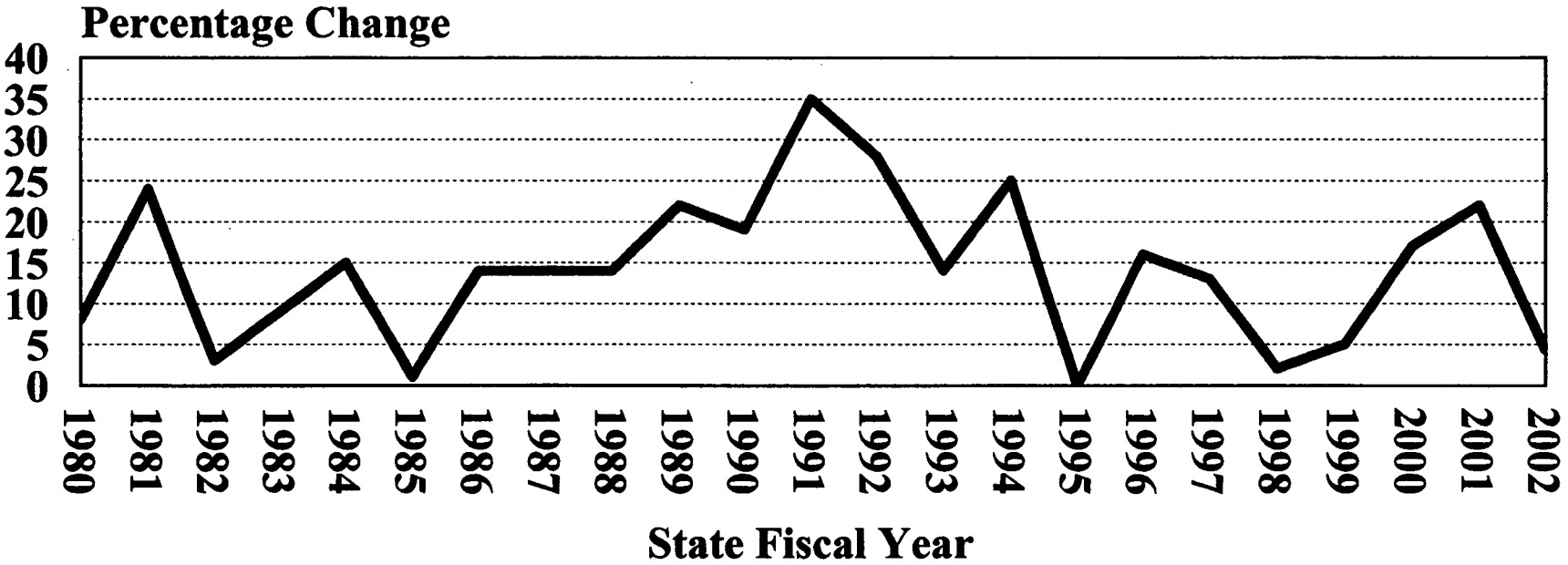
Medicaid Program

HISTORY OF TOTAL EXPENDITURES

STATE FISCAL YEAR	TOTAL EXPENDITURES
1979-80	$410,053,625
1989-90	$1,427,672,567
1999-00	$5,789,133,085
2001-02	$7,366,129,429

Medicaid Program

RATE OF GROWTH

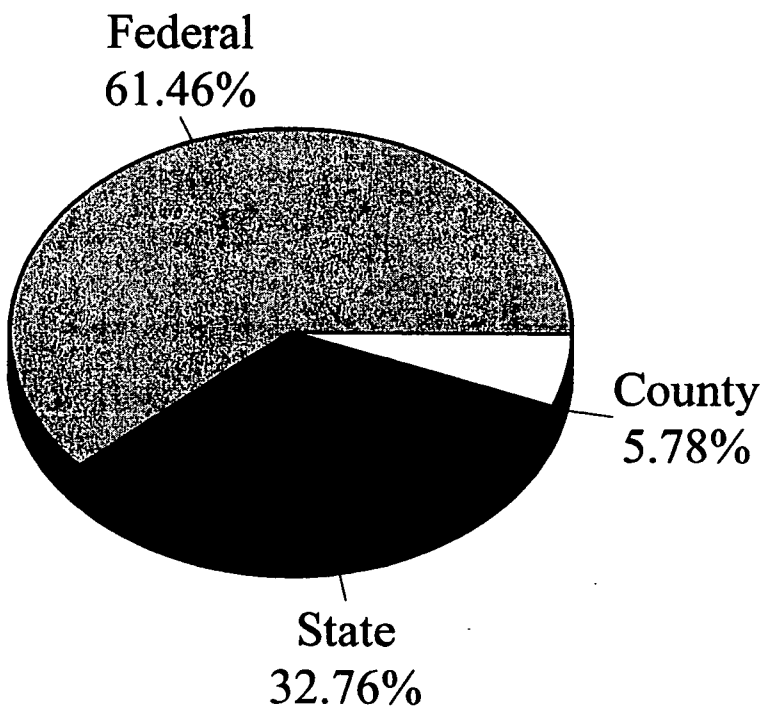


- ✓ During the past twenty years, the rate of growth for Medicaid expenditures has varied considerably - ranging from 0% to 35%.
- ✓ Higher rates of growth have occurred during years of economic distress or when major Medicaid expansions have been authorized.
- ✓ Lower rates of growth have occurred during years when the Medicaid population has been stable or declining.

Medicaid Program

FEDERAL FINANCIAL PARTICIPATION

Medical Benefits



SFY 2002

Other Matching Rates

Family Planning

Federal	90%
State	8.5%
County	1.5%

Administration - Skilled Medical Personnel & MMIS

Federal	75%
NonFederal	25%

Administration - All Other

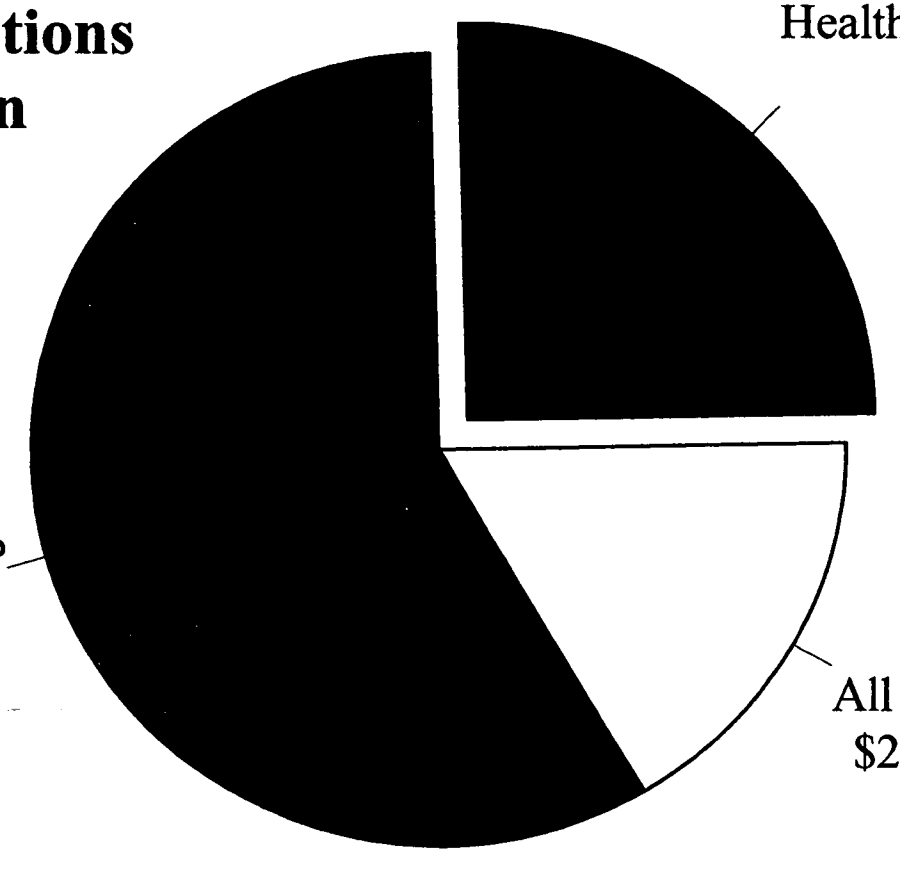
Federal	50%
NonFederal	50%

Medicaid Program

HHS SHARE OF GENERAL FUND APPROPRIATIONS

SFY 2003

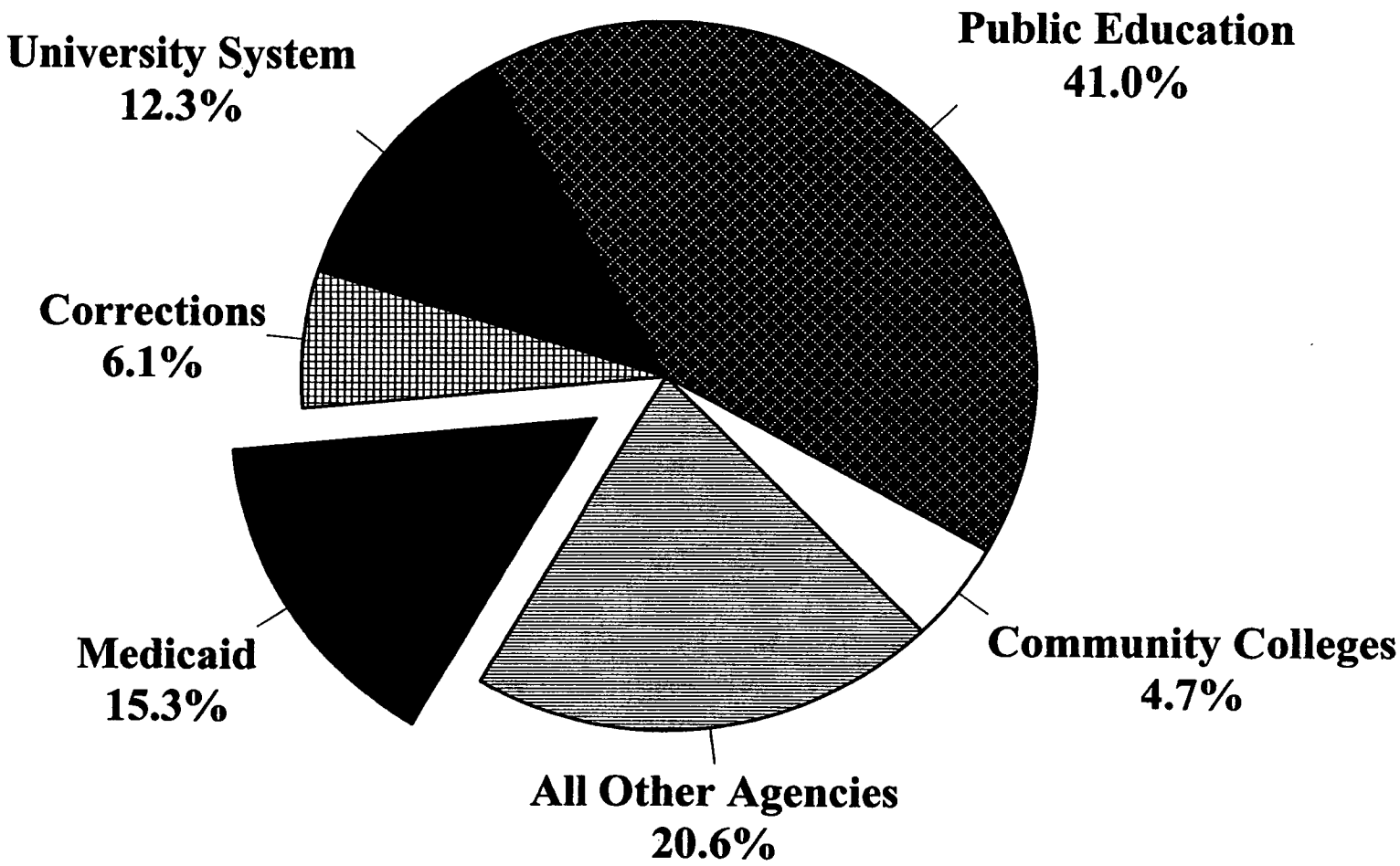
Total Appropriations
$14.35 Billion



Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

GENERAL FUND APPROPRIATIONS BY MAJOR PROGRAM AREA
SFY 2003



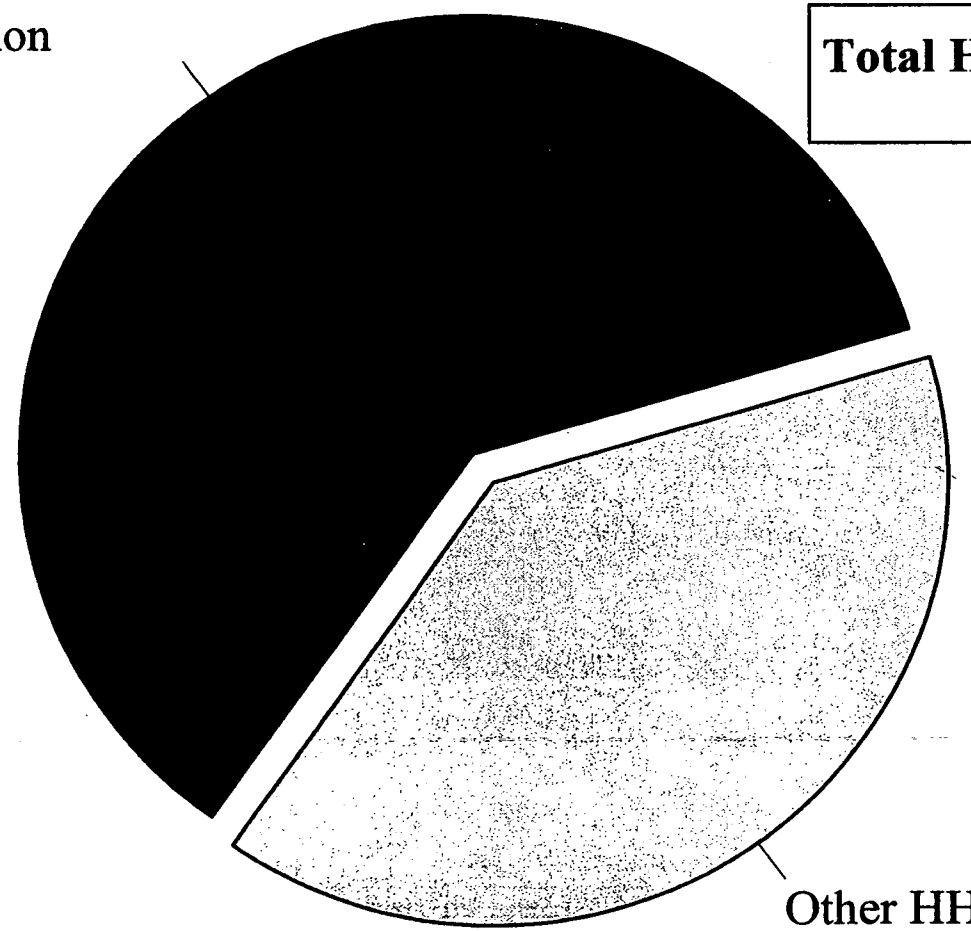
Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

MEDICAID'S SHARE OF HHS GENERAL FUND APPROPRIATIONS FOR SFY 2003

Medicaid Program 60.8%
$2.19 Billion

Total HHS Appropriations
$3.6 Billion

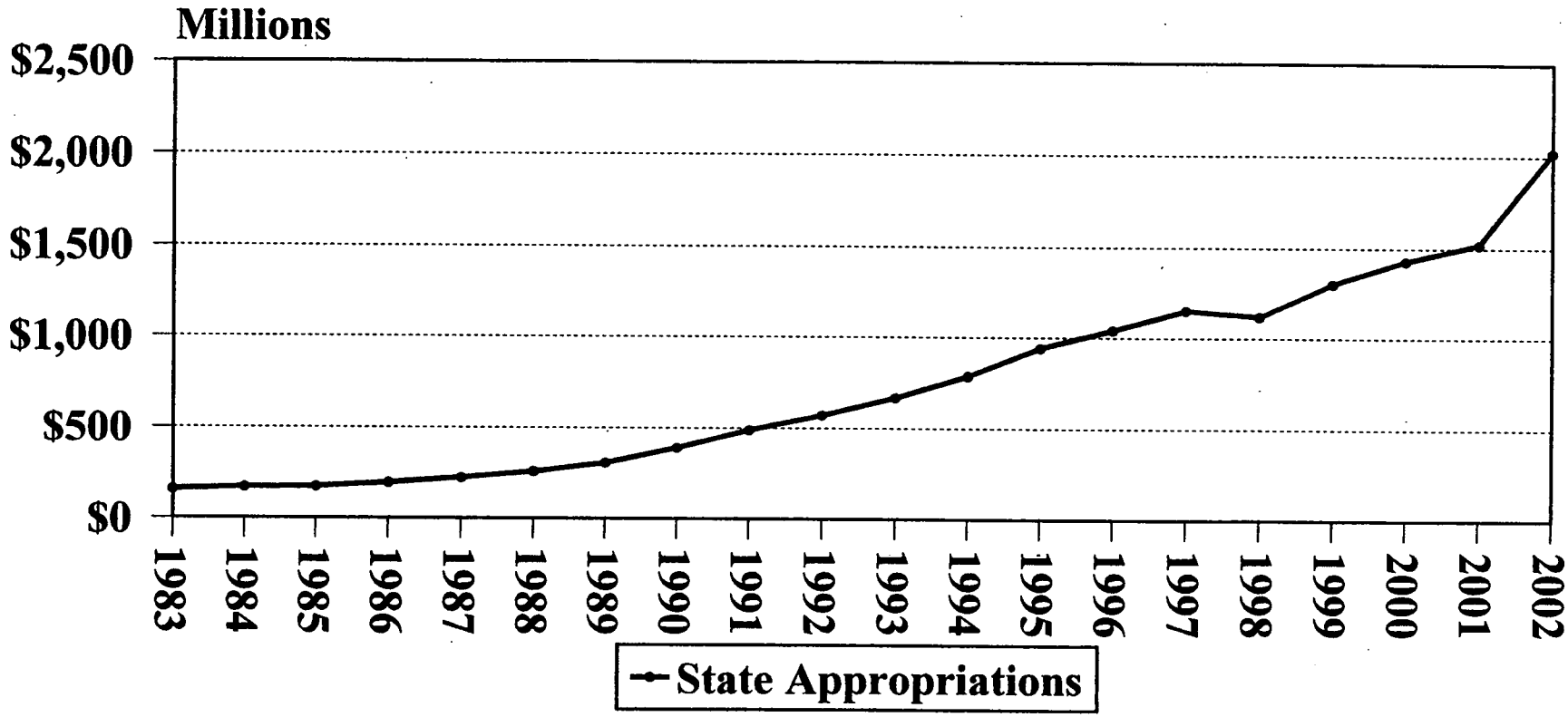


Other HHS Programs 39.2%
$1.41 Billion

Source: NC General Fund Operating Appropriations SFY 2003

Medicaid Program

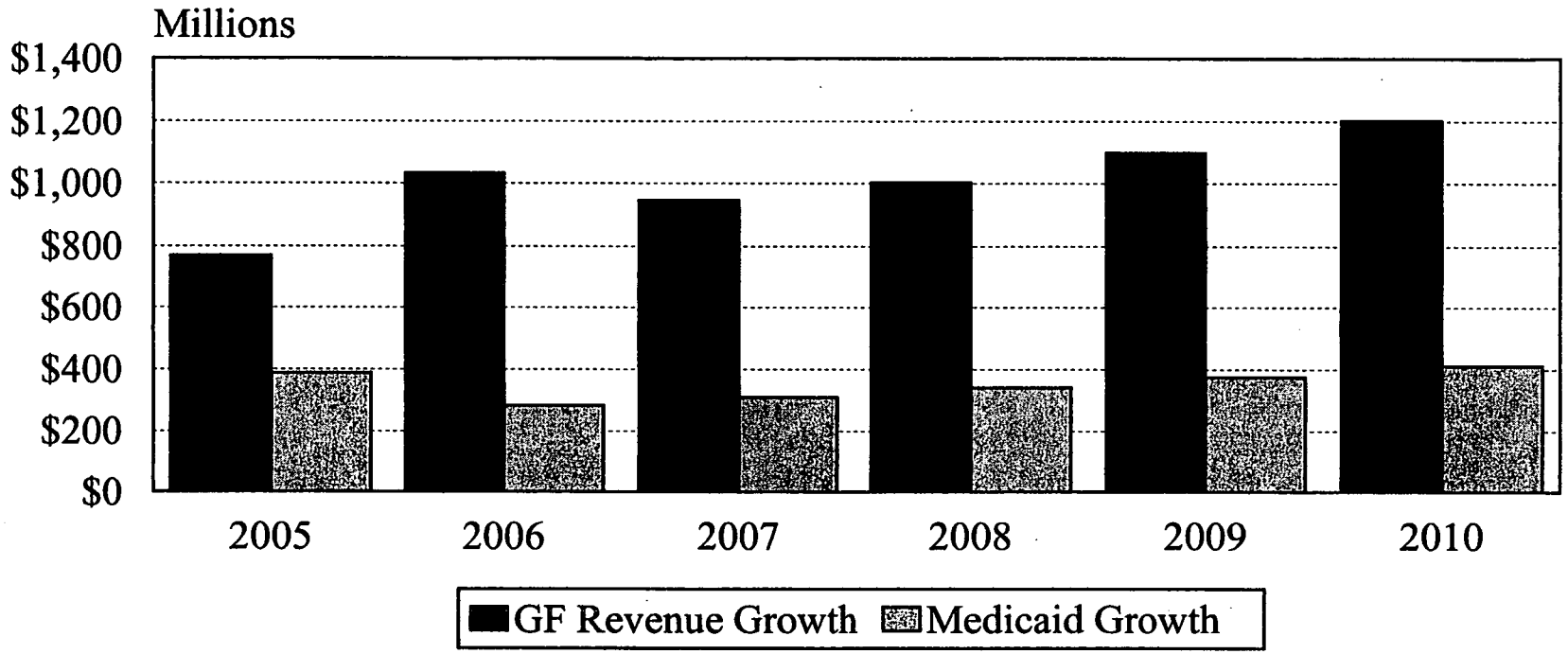
HISTORY OF STATE APPROPRIATIONS



- ✓ 10 years ago, Medicaid was 8.2% of the General Fund operating budget; today it is 15.3%.
- ✓ A 1% increase in the Medicaid Budget equals an $22 Million increase in General Fund requirements.

Medicaid Program

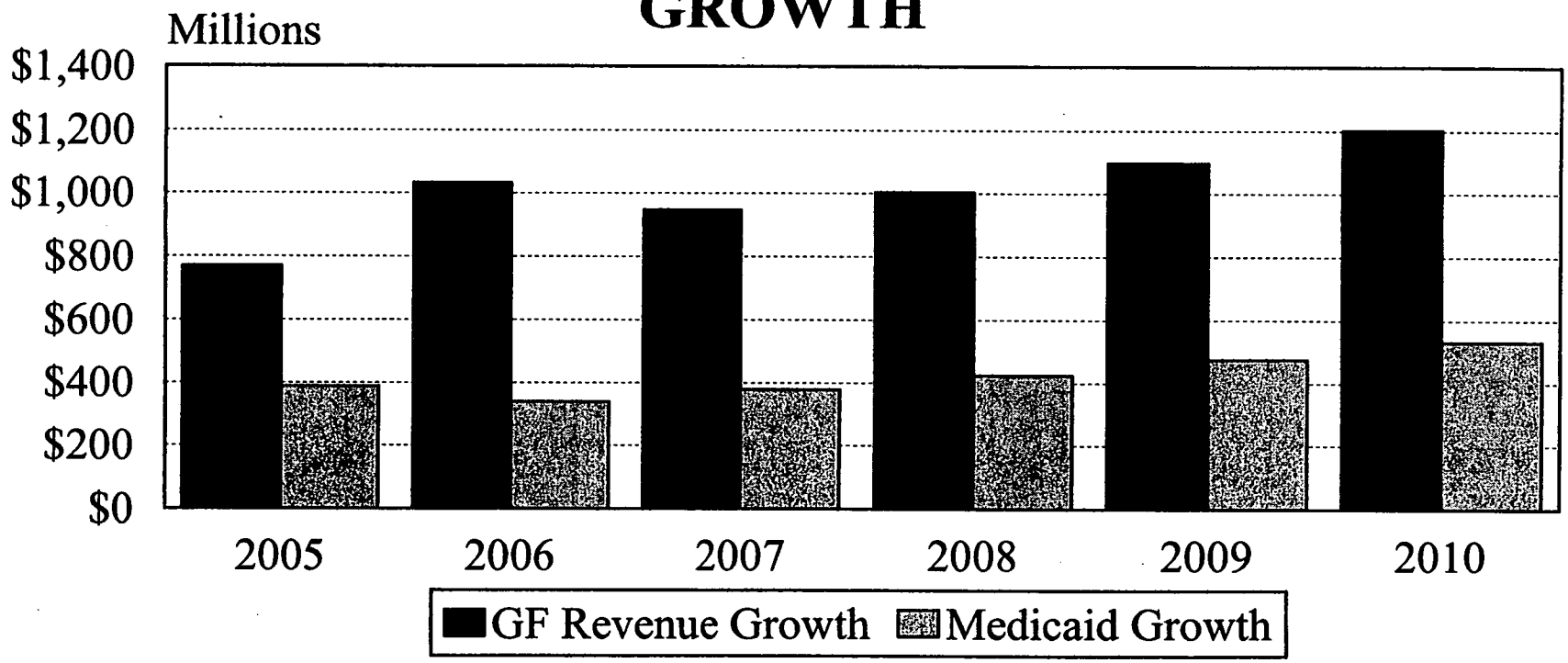
MEDICAID GROWTH VS. GENERAL FUND REVENUE GROWTH



If Medicaid expenditures increase 10% annually, growth in General Fund expenditures for Medicaid will consume 34% of new General Fund revenues by SFY 2010.

Medicaid Program

MEDICAID GROWTH VS. GENERAL FUND REVENUE GROWTH



If Medicaid expenditures increase 12% annually, growth in General Fund expenditures for Medicaid will consume over 44% of new General Fund revenues by SFY 2010.

Medicaid Program

IMPACT ON COUNTIES

- State law requires counties to pay 15% of the nonfederal share of Medicaid Services and 100% of the nonfederal share for County Medicaid Administration.

- For SFY 2003, counties are projected to pay $388 million for Medicaid Services or 5.66% of the expenditures for Medicaid Services.

- For SFY 2003, counties are also projected to pay $63 million for County Medicaid Administration or 50% of the expenditures for County Medicaid Administration.

Medicaid Program

COUNTY PARTICIPATION IN OTHER STATES

Nineteen states require county financial participation for paying the administrative and/or service cost of their Medicaid Programs.

- ✓ Three states require county financial participation for paying for the cost of Medicaid administration: Colorado, Indiana, and Wisconsin.
- ✓ Four states require county financial participation for paying for the cost of Medicaid services: Arizona, Florida, Iowa, and Michigan.
- ✓ Eleven states require county financial participation for paying for the cost of Medicaid administration and services: Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Virginia, and Washington.

MEDICAID SERVICES

Medicaid Program

Mandatory Services and Eligibles

Under federal law, all states operating a Medicaid Program are required to provide certain services and serve specific categories of eligibles. The services and eligibles are **mandatory** and must be included in order to receive federal reimbursement.

Medicaid Program

Mandatory Services

- Health Check Services (ESPDT)
- Family Planning Services
- Federally Qualified Health Centers
- Hearing Aids (children)
- Home Health Services (includes Durable Medical Equipment)
- Inpatient Hospital Services
- Outpatient Hospital Services
- Physicians
- Laboratory & X-Ray Services
- Nurse Midwives
- Nurse Practitioners
- Nursing Facilities
- Prenatal Care
- Rural Health Clinics
- Specialty Hospitals
- Transportation
- Vaccines for Children

Medicaid Program

Optional Services and Eligibles

- Current federal law also will provide federal reimbursement for other services and eligibles that are discretionary, but are allowed under federal law. Each state is allowed to choose which optional services it wants to provide and optional categories of eligibles it wants to serve.

- The North Carolina Medicaid Program covers 28 of the 34 optional Medicaid services.

Medicaid Program

Optional Services

- Ambulance Transportation
- Case Management Services
- Chiropractors
- Clinic Services
- Community Alternatives Programs (CAP)
- Dental Care Services (Dentures)
- Diagnostic, Screening, Preventative Services
- Emergency Hospital Services
- Eyeglasses
- Hospice
- Intermediate Care Facilities for the Mentally Retarded (ICF-MR)
- Mental Hospitals (Age 65 and over)
- Impatient Psychiatric Care (Under age 21)
- Occupational, Physical, and Speech Therapies
- Optometrists
- Personal Care Services
- Podiatrists
- Prescription Drugs
- Prosthetics (children)
- Private Duty Nursing Services
- Rehab. Services (Mental Health)

Medicaid Program

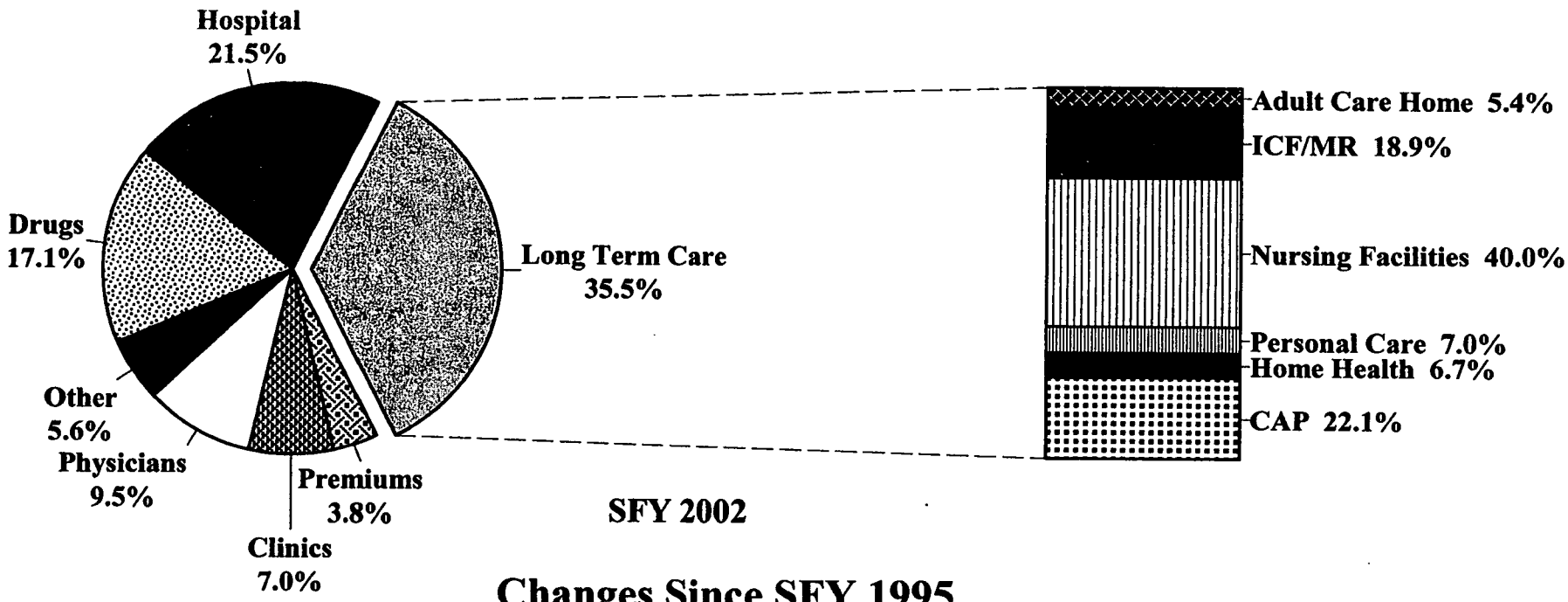
EXPENDITURES FOR SERVICES

- Total expenditures for services and premiums was $6.2 Billion for SFY 2002.

- 96.2% of expenditures for services paid for direct medical services while the remaining 3.6% paid for Medicare and HMO premiums.

Medicaid Program

EXPENDITURES FOR SERVICES

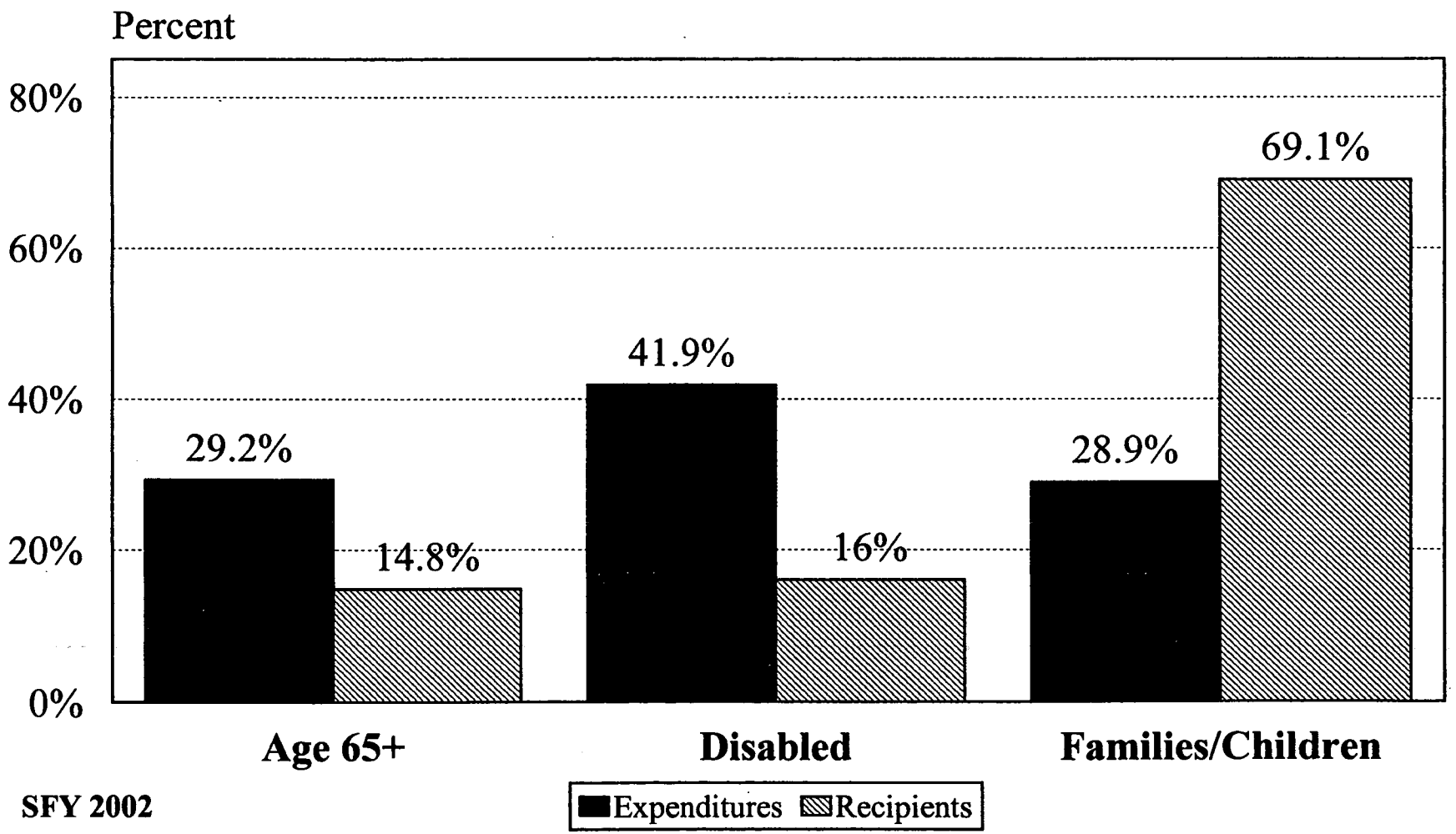


Changes Since SFY 1995

- ✓ **Long-Term Care expenditures continue to decline - 40.4% to 35..5%.**
- ✓ **In-Home Services are an increasing share of Long-Term Care expenditures - 18.5% to 35.8%**
- ✓ **Hospital expenditures have also declined - 26.9% to 21.5 %.**
- ✓ **Drug expenditures have doubled - 8.2% to 17%.**

Medicaid Program

EXPENDITURES AND RECIPIENTS



SFY 2002

Medicaid Program

EXPENDITURES AND RECIPIENTS

SFY 2002

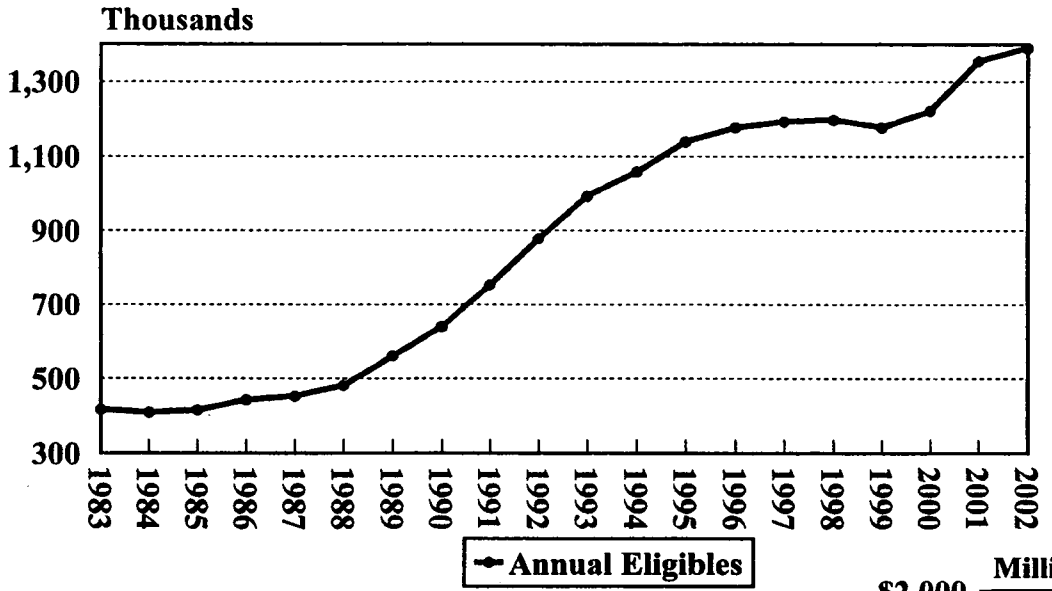
Eligibility Category	Number of Recipients	Expenditures	Annual Cost Per Recipient
Elderly	208,109	$1,804,543,711	$8,687
Aged	160,845	$1,783,081,503	$10,799
Medicare-Aid	47,264	$21,462,207	$473
Disabled	223,225	$2,590,740,655	$10,645
Families & Children	954,340	$1,753,986,603	$1,639

NOTE: The Aged and Medicare-Aid categories are subsets of the Elderly category.

MEDICAID RECIPIENTS

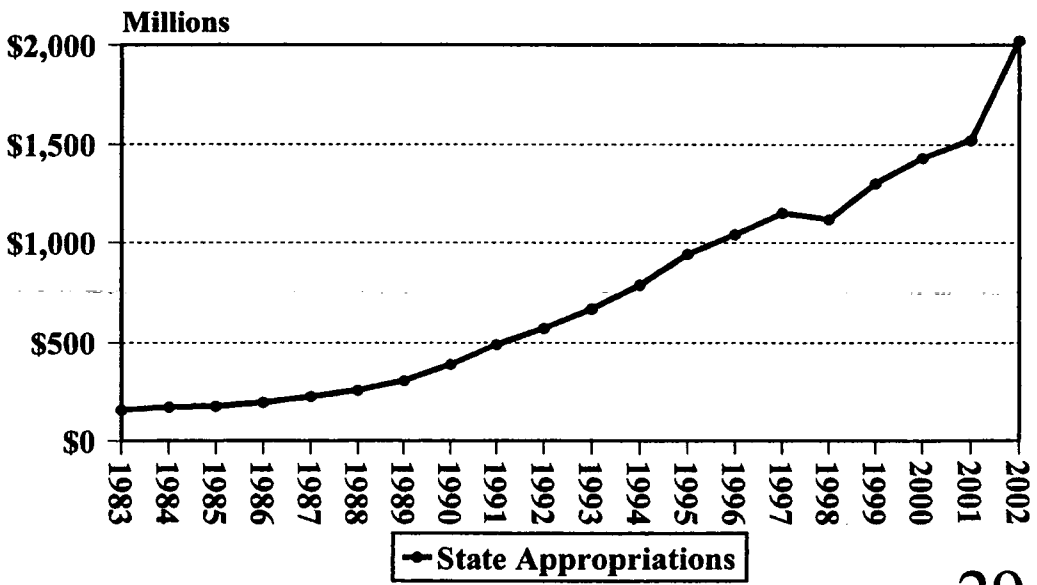
Medicaid Program

GROWTH IN ELIGIBLES AND EXPENDITURES



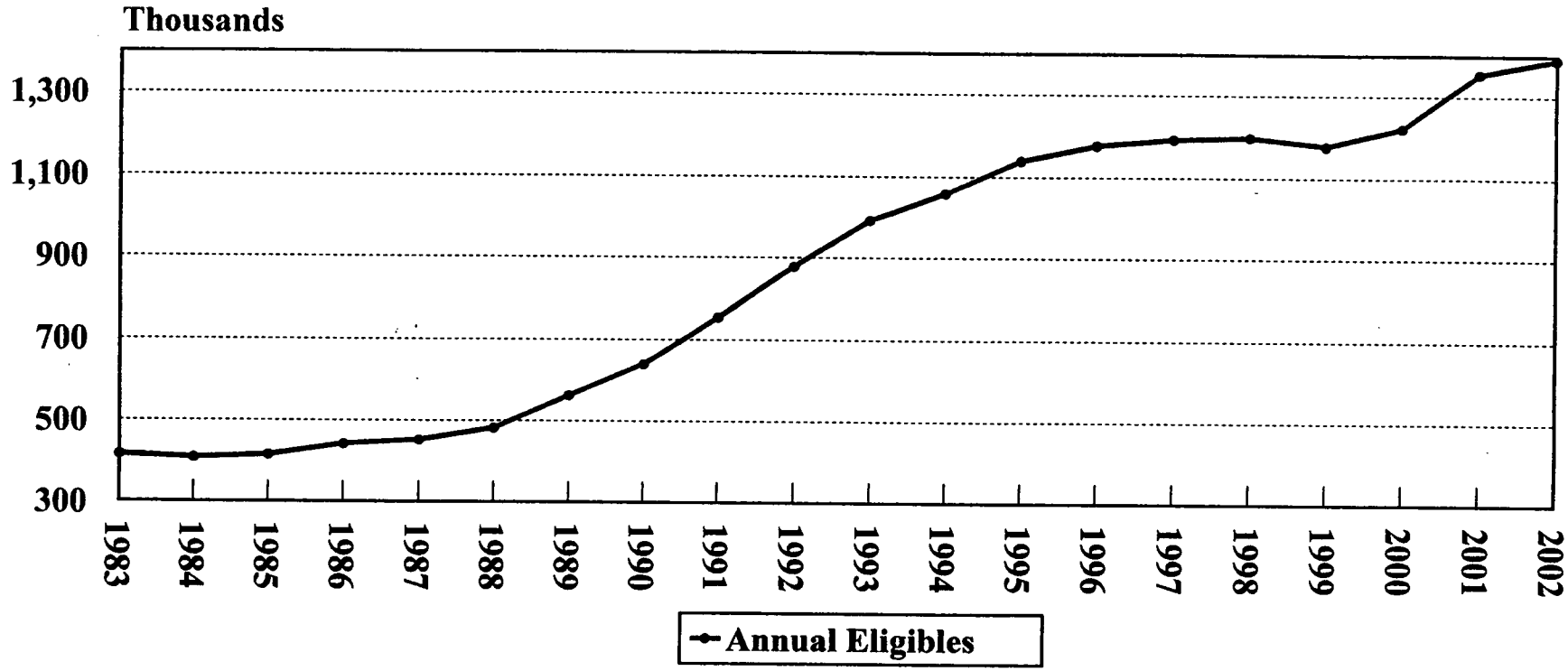
During the early 1980s, the number of eligibles did not grow significantly, and the rate of growth in expenditures for Medicaid was moderate.

Beginning in 1987, a series of mandated and optional eligibility expansions occurred and expenditures for Medicaid began to grow rapidly.



Medicaid Program

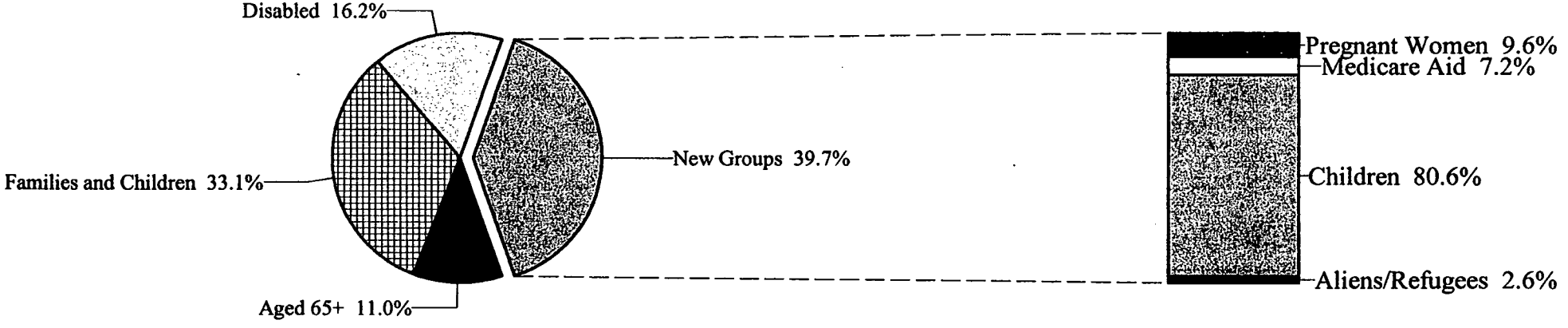
HISTORY OF ANNUAL ELIGIBLES



Growth in the number of annual eligibles began to plateau in SFY 1996 as welfare caseloads began to significantly decline and actually decreased in SFY 1999. The number of annual eligibles grew 11% in SFY 2001 because the decline in welfare caseloads slowed and other eligibility groups continued to grow. Growth in SFY 2002 slowed to 2.6%

Medicaid Program

NEW GROUPS SINCE 1987



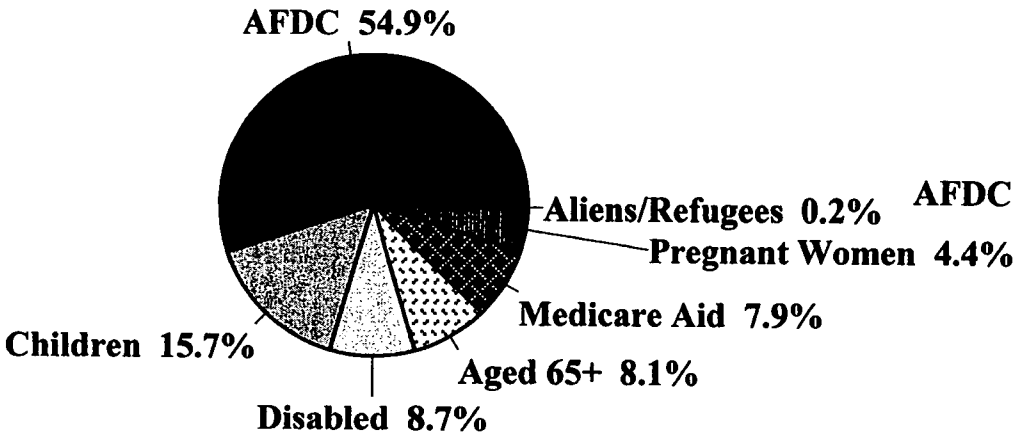
SFY 2002

When Medicaid began, the program focused on providing medical care for the disabled, aged, and families receiving welfare. Since 1987, Medicaid eligibility has been expanded to cover children, pregnant women, qualified Medicare beneficiaries, and aliens/refugees.

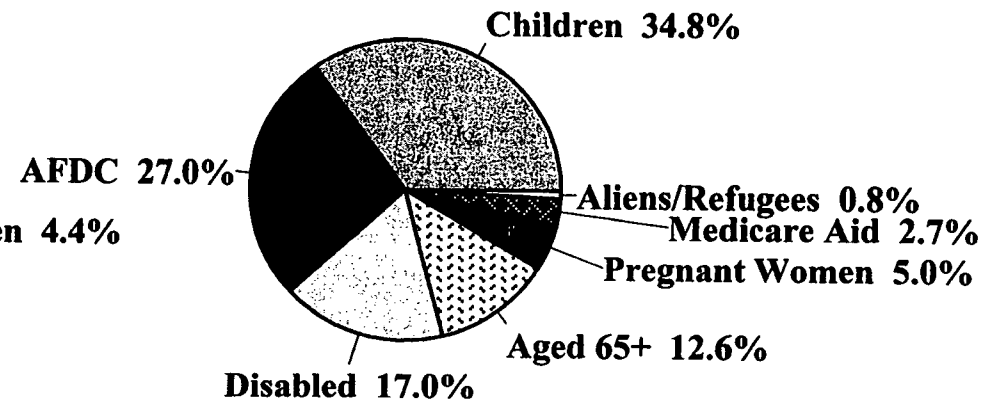
Medicaid Program

MEDICAID ELIGIBLES

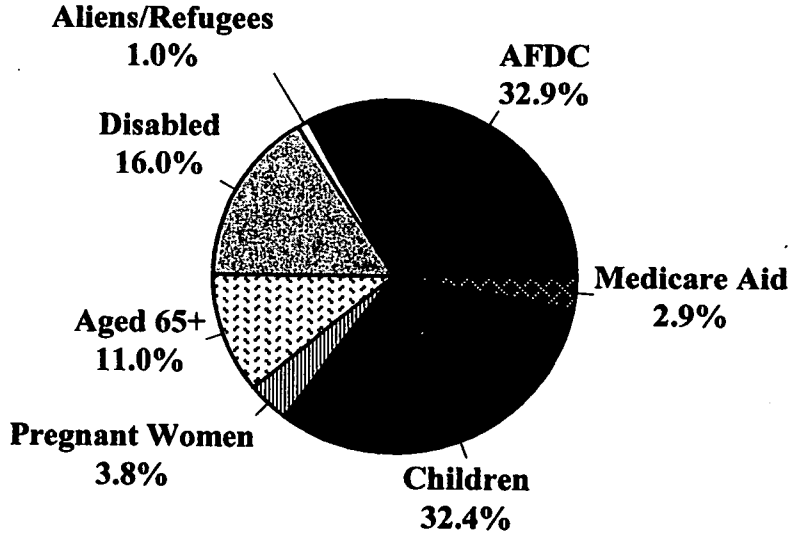
SFY 1994



SFY 2000



SFY 2002



Medicaid Program

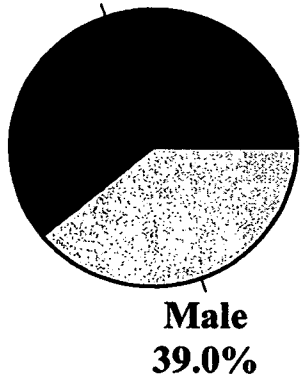
CHANGING MEDICAID ELIGIBLES

- ✓ In SFY 1994, the welfare caseload reached 581,000 people and welfare recipients were the largest group of eligibles.
- ✓ In SFY 2000, welfare reform reduced the welfare caseload to 330,000 people and children became the largest group of eligibles.
- ✓ In SFY 2002, welfare recipients are again the largest group of eligibles due to the poor economy and the expansion of Transitional Medicaid.
- ✓ In SFY 2000, the 1998 expansion of Medicaid to aged, blind, and disabled persons with incomes up to a 100% of the federal poverty level doubled the number of aged, blind and disabled eligibles.
- ✓ In SFY 2002, the number of aged, blind, and disabled eligibles has stabilized.

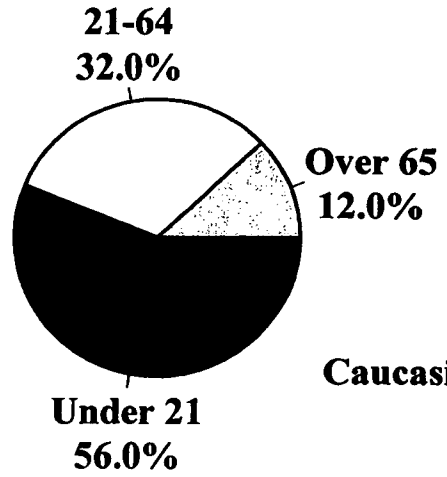
Medicaid Program

RECIPIENT INFORMATION

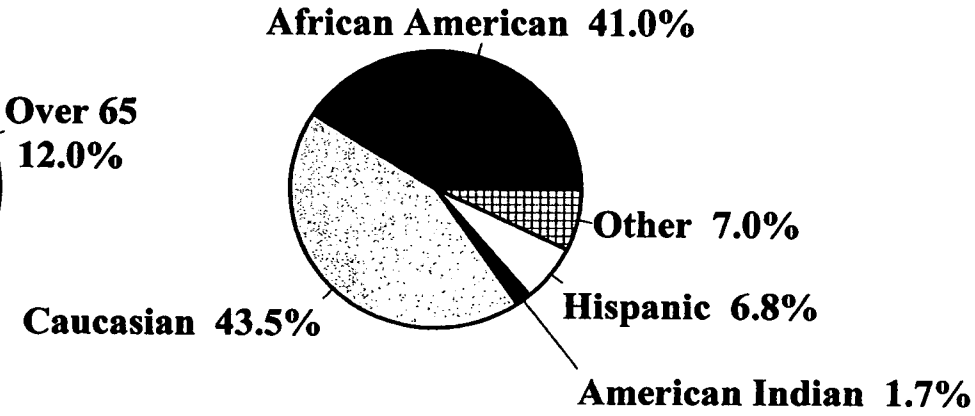
BY GENDER



BY AGE



BY RACE



SFY 2002

Medicaid Program

MANDATORY ELIGIBILITY GROUPS

- Low Income Families and Children (Based on the AFDC State Plan as of July 16, 1996)
- Aged, Blind, and Disabled SSI Recipients
- Infants born to Medicaid eligible women (to 150% of FPL)
- Children under age 6 (to 133% of FPL)
- Pregnant Women (to 150% of FPL)
- All Children born after 9/30/83 (to 100% of FPL)
- Recipients of Adoption Assistance and Foster Care
- Certain Medicare Recipients
  - Dual Eligibles
  - Qualified Medicare Beneficiaries
  - Specified Low-Income Medicare beneficiaries
  - Qualified Disabled and Working Individuals

Note: FPL is the Federal Poverty Level

Medicaid Program
OPTIONAL ELIGIBILITY GROUPS

- Infants born to Medicaid eligible women (150% to 185% of FPL)
- Pregnant Women (150% to 185% of FPL)
- Children age 18, 19, and 20 meeting AFDC income standards
- Special Needs Adoptive Children
- Recipients of State/County Special Assistance
- Recipients of State Assistance to the Blind
- Persons receiving care under home and community-based waivers
- Aged, Blind, and Disabled persons presumed eligible for but not receiving SSI
- Aged, Blind, and Disabled persons with non-SSI income (to 100% of the FPL)
- Medically Needy Persons
- Transitional Medicaid (Additional 12 months of coverage)
- Women with Breast and Cervical Cancer (to 185% of FPL)

Note: FPL is the Federal Poverty Level

PROGRAM CHANGES SINCE 1990

Medicaid Program

PROGRAM CHANGES SINCE 1990

Eligibility Expansions

- **Mandated**

  - ✓ Increase children ages 11 to 19 coverage to 100% of FPL - Effective 7/1/94
  - ✓ Increase children ages 1 to 6 coverage to 133% of FPL - Effective 10/1/90

- **Optional**

  - ✓ Increase pregnant women and infant coverage to 150% of FPL - Effective 1/1/90
  - ✓ Increase pregnant women and infant coverage to 185% of FPL - Effective 10/1/90
  - ✓ Add adoptive children with special rehabilitative needs - Effective 10/1/94
  - ✓ Automatic coverage of SSI eligible aged, blind and disabled persons - Effective 1/1/95
  - ✓ Add non-SSI eligible aged, blind, and disabled persons to 100% of FPL - Effective 1/1/99
  - ✓ Increase transitional TANF coverage from 12 to 24 months - Effective 10/1/99
  - ✓ Add women with breast and cervical cancer coverage to 185% of FPL -Effective 10/1/01

Note: FPL is the Federal Poverty Level

Medicaid Program

PROGRAM CHANGES SINCE 1990

Managed Care Initiatives

- ✓ Carolina ACCESS began implementation - Effective 4//91
- ✓ Carolina Alternatives was implemented - Effective 1/94
- ✓ Health Care Connections was implemented in Meclenburg County -Effective 6/96
- ✓ ACCESS II and ACCESS III demonstration was implemented - Effective 7/98
- ✓ Carolina ACCESS implemented statewide - Effective 12/98
- ✓ Carolina Alternatives terminated - Effective 6/99
- ✓ Health Care Connections terminated and replaced with Carolina ACCESS II - Effective 10/01
- ✓ Carolina ACCESS II and III demonstration expansion began and is ongoing - Effective 11/02

Medicaid Program

PROGRAM CHANGES SINCE 1990

Federal Revenue Maximization Efforts

- ✓ Intermediate Care Facilities for the Mentally Retarded
- ✓ Thomas S program (lawsuit)
- ✓ Willie M program (lawsuit)
- ✓ Adult Care Home Personal Care Services
- ✓ DSH Payments
- ✓ Health Departments & Area Mental Health Programs
- ✓ Health Related Services In Schools

Medicaid Program

COST CONTAINMENT EFFORTS 2001 AND 2002

- **Prescription Drugs**
  - ✓ Prior Authorization Program
  - ✓ State "Maximum Allowable Cost" Drug List
  - ✓ Limit most drugs to a 34-day supply
  - ✓ Increase use of generic drugs
  - ✓ Voluntary Preferred Drug List
  - ✓ Increase copayments for brand name drugs ($1 to $3)
  - ✓ Reduce dispensing fees for brand name drugs ($5.60 to $4.00)

- **Provider Rates**
  - ✓ Reduce Physician rates from 100% of Medicare rates to 95%.
  - ✓ Eliminate inflationary increases for SFY 2003
  - ✓ Reduce rates by 5% for the following providers: private duty nursing, home infusion therapy, home health supplies, durable medical equipment, optical service, ambulatory surgical centers, and high risk intervention
  - ✓ Reduce hospital payments by .5 %
  - ✓ Limit Medicare crossover claims to Medicaid rates
  - ✓ Apply Medicaid medical policy to Medicare crossover claims

Medicaid Program
COST CONTAINMENT EFFORTS 2001 AND 2002

- **Recipients**
  - ✓ Apply federal transfer of asset policies to real property excluded as "income producing" under Title XIX.
  - ✓ Apply transfer of asset policies to persons receiving personal care services while residing in their homes
  - ✓ Adopt the SSI method for considering equity value in income-producing property for aged, blind and disabled persons
  - ✓ Modify policy for determining eligibility for pregnant women coverage for minors by counting parental income

- **Services**
  - ✓ Reduce monthly limit for Personal Care Services from 80 hours to 60 hours
  - ✓ Limit Personal Care Services to 3.5 hours per day
  - ✓ Eliminate optional circumcision procedures except in cases of medical necessity
  - ✓ Reduce case management services for adults and children by reducing rates, streamlining services, and eliminating duplicated services

- **Managed Care**
  - ✓ Expand Carolina ACCESS II/III activities including reducing hospital admissions, reducing ER visits, using best prescribing practices, increasing generic prescribing, implementing polypharmacy review, reducing therapy visits, and better management of high risk/high cost patients.

House Committee on Finance

Minutes

March 11, 2003

The House Committee on Finance met on March 11, 2003 at 8:30 AM in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Howard, Luebke, McComas, Miner and Wainwright; Vice-Chairs Alexander, Decker, and Hill; Representatives Blackwood, Bordsen, Capps, Carney Glazier, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson, Womble, and Wood and Cunningham. Staff persons present included Cindy Avrette, David Crotts, Trina Griffin, Canaan Huie and Martha Walston. The Sargent at Arms staff included Dusty Rhodes, Bob Fowler, Walter Spell and Bill Freeman. The agenda and visitor registration sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:32 AM. He then recognized the pages for the meeting. Two pages were in attendance; Crystal Hammond from Harnett County and Adrienne Farmer from Person County.

The Chairman announced that we had two bills on the agenda and then Mr. Canaan Huie would do overviews of the William S. Lee Act and the Jobs Development Investment Grant Program (JDIG).

As the first bill on the agenda, the Chair recognized Representative Nye to explain House Bill 29 – BLADENBORO SATELLITE ANNEXATION (see attachment 3). Without objection, Representative Glazier moved for adoption. Representative Nye explained that this bill allowed the Town of Bladenboro to voluntarily annex an area and the bill is needed because we have guidelines on what you can annex and this goes beyond the guidelines. Representative Hill then moved for adoption and a favorable report. Representative Luebke than asked for Representative Nye to explain which exception was involved necessitating a special bill. Representative Nye stated that he thought a city was allowed to go 10% of their property outside the city limits and this goes beyond that and takes in more than 10%. A member of staff indicated that this was correct. Representative Luebke then asked Representative Nye if there were any local objections to this bill. Representative Nye reiterated that this was voluntary and that the corporation people are asking for it. The Chair hearing no further questions called for a vote and the motion carried.

The next item on the agenda was House Bill 135 – ROANOKE RAPIDS ANNEXATION (see attachment 4). The Chair called on Representatives Allen and Hall to explain the bill. Representative Lucy Allen stated she is happy to offer this bill because Roanoke Rapids is doing an outstanding job in planning for future growth and in

sound economic development. The annexation request is voluntary but the area is not developed in an urban manner so it has to come before the legislature. The area is 318 acres, 314 of which are in the hands of one owner who wishes to develop the state certified site. The other occupants of the property, a church, one occupied house and one unoccupied house, are also in favor of the annexation. There are no objections. Growth and economic development in this area will provide the jobs the North Carolinians there need. This requested annexation is in the primary growth corridor where there is a great deal of development in the works. It is contiguous to the city limits and will allow the city to grow in a sensible manner and also develop the local economy. The Chair asked if the main thrust of this bill was for economic development and to make it easier to install the infrastructure for industrial sites. Representative Allen stated that this was so. Representative Howard then moved for a favorable report.

Representative Luebke stated that he supported this bill but had questions. He asked why an industrial prospect would want to come to a place where they would have to pay city and county taxes. Representative Allen stated there is not a specific prospect for the property but it is the owner of the property who wants this and the city intends to market and offer incentives for the area so will be acting as an economic developer for the property owner and will have an offsetting rate structure, the in town rates for water, that will make a difference as far as the taxes go. The economic development arm of Halifax Co. will be in partnership with any prospect that comes. Representative Rayfield than asked if the subject property was in the sanitary district. Representative Allen stated that the sanitary district provides the services for the city. Representative Rayfield asked if Roanoke Rapids was in a position to offer the incentives /infrastructure that this property would require. Representative Allen was not sure.

Chairman McComas than called on Mr. Andy Romenet, General Counsel of the League of Municipalities. He stated he did not have all the specifics about this particular property. He stated that the League has had many situations in the past where the property owner wants the property to be in the city limits for development and other purposes and he could see a joint city/county operation for the City of Roanoke Rapids and for Roanoke Rapids to participate if they want the property in the city limits. Mr. Romenet had heard of no opposition from anyone.

The Chair recognized Representative Capps who had questions for Martha Walston. He asked if this bill would be a modification of Chapter 168. Ms. Walston stated it was not really a modification because the annexation did not meet the statutory requirement because the property has been developed for urban purposes. They are going before the General Assembly to get the annexation. This is the usual way of doing this when you don't meet the statutory requirements. Representative Capps then asked if this was a local bill. Ms. Walston stated that it is.

Representative Howard moved for a favorable report. Hearing no further questions, the vote was taken and the bill passed.

Chair McComas stated that the next item on the agenda was an overview on the William S. Lee Act (see attachment 5). He called on Mr. Canaan Huie who referred members to two documents in their folders on the presentations he was going to give. This included two summaries, one of the Bill Lee Act and one of the Job Development Investment Grant Program (JDIG). The summaries are rather long and detailed but Mr Huie gave the broad strokes of the two programs. The folder also contained the county tier designations for 2002 (see attachment 7).

Mr. Huie began with discussion of the Bill Lee Act and indicated he would be willing to take questions at any time.

Representative Luebke then asked about the Governor's Walk Around money or the One North Carolina Fund. Mr. Huie stated that he had not planned on touching on that. Representative Luebke asked Mr. Huie to prepare something on the One North Carolina/Walk Around Fund. Chair McComas also asked for information on the situation on the Film Incentive Grants, the half-million dollars in the pending lawsuit. The Chairman stated that he put in a bill for that money last year and was fortunate to see it come to fruition.

Mr. Huie stated that the Bill Lee Act is a collection of tax credits dealing primarily with job creation, worker training, research and development expenditures and investment in real property and machinery and equipment. The Act was created in 1996. Up until that time North Carolina had not had much of a problem in attracting new and expanding industry but it was felt that a new economic development tool was needed to remain competitive in attracting those industries. For most taxpayers the Bill Lee Act will sunset as of January 1, 2006. There is one exception. During the last Session, the General Assembly enacted an exception to that sunset for certain interstate air couriers that had already taken a number of steps towards the completion of a project.

Mr. Huie stated that he would discuss the general administration of the Act, the focus of the basic eligibility requirements of the Act and a brief overview of the credits

Following Mr. Huie's presentation, Representative Blackwood inquired as to the effectiveness this Act had been in getting new jobs, etc. Mr. Huie indicated that the Department of Commerce is required to commission a study every two years on the Bill Lee Act. That report is due April 1st, 2003. The report will look at the use of the Bill Lee Act in recruiting new and expanding businesses and also whether there should be changes to the Act and issues of tax equity. Representative Blackwood then asked if, going back to the last report, is the Bill Lee Act working and have there been new jobs.

Chair McComas announced that Secretary Fain was here and welcomed him to shed some more light for the benefit of the newcomers.

Mr. Fain stated that the last study done of the Bill Lee Act and its impact indicated that the Act was performing well in some areas and the results in other areas needed more study. Based on the study, the General Assembly made some changes in

the Act last year that will make it more efficient. One misconception is that it does not assist existing companies and the study shows clearly that the majority of credits taken for investment in machinery and equipment were taken by existing companies and that those were taken in heavy measure in traditional industries which indicated they were investing in modernization which is one of the purposes of the Act. In that regard it has been very successful. One can also infer from the data that the tiering system has induced more investment proportionately in Tier 1 which is the less prosperous group of counties than one would expect in the absence of the Act. The study also showed a preponderance of the credits, particularly for machinery and equipment, were taken in more prosperous counties. That is to be expected because that is where the existing businesses are. Some of challenges are taking tax data, which is confidential, from the Department of Revenue and limited, therefore, in terms of how far we can "drill down" to make meaningful conclusions about who is taking the credits and what the real impact is. The Department of Commerce continually works with the Department of Revenue and their consultants to better glean meaningful data so realistic conclusions can be made.

Chair McComas recognized Representative Blackwood who asked specifically how many jobs have been created. Mr. Fain believes the credits were instrumental in many cases in not only creating new jobs and through the modernization program sustaining some companies and their ability to employ. Mr. Fain did not have the figures but he promised to send the study that shows the number of jobs created and correlations can be made from the report.

Representative Lewis asked Mr. Fain to describe Gross Premiums Tax. Mr. Fain stated that it was a tax placed on insurance companies instead of an income tax.

The Chair then recognized Representative Jones for a question of Mr. Fain. He asked whether the Department was able to isolate the 20% of the individuals or families below the poverty level to determine whether their status improved under this program. Mr. Fain stated the data does not lend itself to making that determination. The Department has talked with members of the General Assembly to determine how to reshape the developments and credits in a way that better encourages employment of people who live in development zones.

The Chair next recognized Representative Decker who asked if the report Secretary Fain had referred to was the "Lugar Report." Secretary Fain stated that the report required by the General Assembly is contracted to Professor Lugar in the Office of Economic Development at UNC, Chapel Hill. At the same time there were several other reports done, including one by the Department of Commerce and one done by the Department of Revenue that drew various conclusions.

Mr. Huie stated this concluded his presentation on the Bill Lee Act and volunteered to take any questions.

The Chair recognized Representative Holliman who had a question for Secretary Fain. He stated that his county, Davidson, had many losses of jobs in furniture and

textiles and that the county continued be ranked in a Tier 5 category. Mr. Fain said that this was a perennial challenge as we try to figure out the factors that best judge the situation in each county. Professor Lugar is currently doing a study that would evaluate the effectiveness of the current system.

Representative Jones had a question regarding Professor Lugar's study. He asked whether Secretary Fain's department can identify the 20% low income individuals or geographical areas to determine whether there has been a measurable economic impact in a positive way on that category of people. Mr. Fain stated that that is outside the scope of the study. He indicated that other studies could be done to see what correlations could be established. Representative Jones suggested identifing the geographical areas and then find a way to get new employees as a result of the programs.

Representative Howard referred to a discussion last year regarding eliminating the wage standards in Tiers 1 and 2 and her understanding that there was going to be a detailed report to show either a negative impact or a positive impact. She questioned why we would eliminate those wage standards in the two lowest tiers in the State. Secretary Fain stated he did not remember the specifics but indicated that any data we have can be used to make a determination. Representative Howard requested that a report be given soon.

Representative Glazier then asked if there was a new due date when the data report could be expected. Mr. Huie said the data report is due from the Department of Revenue rather than the Department of Commerce. The report was due March 1st. Mr. Huie indicated he would follow-up on the report and see when it might be available.

Representative Decker inquired as to the total amount of tax credit taken under the Bill Lee Act and the most recent year we have that data. Mr. Huie believes the total amount of Business Incentives totals about $175 million per year. That includes not only the Bill Lee Act credits but some of the credits that have been associated with him over the years.

Representative Ross asked how much of the $175,000,000 had been taken in Economic Development Zones. Mr. said a total credit for the 03-04 fiscal including the original Bill Lee Act from 1996 as well as the additional credits is anticipated at $202.9 million. About 60% of those are the traditional Bill Lee Act credits from 1996. All of these numbers are subject to change once the Lugar Report comes out.

The Chairman recognized Mr. Huie to overview the Job Development Investment Program (JDIG) (see attachment 6). The JDIG Program was created in 2002. There are very significant differences between this program and the Bill Lee Act. This program is not a tax credit or tax incentive; it is based in part on personal income tax withholdings. This is a discretionary grant program. The grants are awarded based on a percentage of the personal income tax withholdings of employees of the business. The program was designed as a tool of last resort. There must be an explicit finding by the Economic Investment Committee that a business would not be locating or expanding in North Carolina without the incentive provided by this program. The authority to enter into

agreements under this program began January 1, 2003 and sunsets January 1, 2005. No agreements have been entered into and the committee has not received any applications.

Mr. Huie then reviewed the basic eligibility requirements for the program, limitations, the program structure and the follow-up requirements. Each of the aforementioned topics are noted in detail on the attached summary.

Chairman McComas noted that there were about three more minutes left of meeting time. Representative Luebke suggested that Mr. Huie should not rush through the completion of his overview of the program as it was so controversial and he recommended that the discussion be continued at the next regularly scheduled meeting of the Finance Committee. The Chair agreed and noted this was an appropriate time to adjourn

The Chairman announced that there would be a joint meeting with the Senate Finance Committee at 12:30 in Room 544. It is a presentation of Streamline Sales Tax by Andy Sobel at the Department of Revenue. There will also be a report on Modernization of State Finances.

The Chair adjourned the meeting at 9:56 AM.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Judy Lowe
Finance Committee Clerk

Attachments:
1. Agenda
2. Visitor Registration Sheet
3. House Bill 29 (and related materials)
4. House Bill 135 (and related materials)
5. Summary of the William S. Lee Quality Jobs and Business Expansion Act
6. Summary of the Job Development Investment Grant Program (JDIG)
7. 2002 Tier Designations

AGENDA

House Finance Committee

March 11, 2003
8:30 a.m.
Room 544 LOB

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills

▪ **HB 29**	**Bladenboro Satellite Annexations**	*Rep. Nye*
▪ **HB 135**	**Roanoke Rapids Annexation**	*Reps. L. Allen and Hall*

Overview of the William S. Lee Act
Canaan Huie

Overview of the Jobs Development Investment Grant Program
Canaan Huie

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Mark	SMC
Elizabeth Jordan	Budget & Tax Center Raleigh
DON HOBART	NC DOC
DAVID BARNES	Poyner + Spruill LLP
Mark Benton	Capitol Group
Duke Chen	Intern
Warren Plonk	OSBM
Paul Gwin	OSBM
Andy Romanet	OSBM
Jim Fain	NCDOC
Ken McMinn	Allen Associates

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 11, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stephanie Simpson	NCAR
Melissa Board	NCSS
Dan Lee	NCO
Paul Stock	NC Bankers Assn.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 29
PROPOSED COMMITTEE SUBSTITUTE H29-PCS80095-LA-1

Short Title: Bladenboro Satellite Annexations. (Local)

Sponsors:

Referred to:

February 17, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF BLADENBORO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 29:
Bladenboro Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Nye
Date:	March 11, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***House Bill 29 adds the Town of Bladenboro to the list of cities and towns that do not have to meet one of the statutory standards required for voluntary satellite annexation in G.S. 160A-58.1(b). The Town of Bladenboro would not have to meet the standard that limits the size of the area within the satellite corporate limits. The original bill added Bladenboro to the 2002 Session Law that exempted certain towns and cities from the statutory standard. Since the list of exempt towns and cities includes 10 or more cities and towns, the list was codified in G.S. 160A-58.1(b). The proposed committee substitute amends this statute (instead of the 2002 Session Law) to add Bladenboro to the list of exempt towns and cities.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a city of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

Claremont, Concord, Conover, Newton, Sanford, Southport, Maiden, Midland, Swansboro, and Warsaw were exempted from the 5th standard in S.L. 2002-121. Marion, Oxford Rockingham, Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville were exempted from the 5th standard in S.L. 2001-38.

BILL ANALYSIS: The proposed committee substitute for House Bill 29 amends G.S. 160A-58.1(b) by adding the Town of Bladenboro to the list of cities and towns that do not have to meet the 5th statutory standard required for voluntary satellite annexation. This means that the noncontiguous property to be annexed does not have to be within the statutory size limit.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 29

Short Title:	Bladenboro Satellite Annexations.	(Local)
Sponsors:	Representative Nye.	
Referred to:	Finance.	

February 17, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE TOWN OF BLADENBORO.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2002-121 reads as rewritten:

"**SECTION 1.** G.S. 160A-58.1(b)(5) does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, and Southport, and the Towns of Bladenboro, Maiden, Midland, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

HOUSE BILL 135*

Short Title:	Roanoke Rapids Annexation.	(Local)
Sponsors:	Representatives L. Allen and Hall (Primary Sponsors).	
Referred to:	Finance.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Roanoke Rapids are extended to include the following described area:

"That certain tract or parcel of land lying and being situate in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows: Beginning at a point on the eastern edge of the right-of-way for N. C. Highway 125 and at the southwest corner of Lot No.4 Chockoyotte Professional Park Subdivision, (See Plat Cabinet 5, Slide 129, Halifax Public Registry); thence from said point of beginning and along the lines of Lot No.4, N. 56-02-10 E. 244.73 feet and N. 28-33-40 W. 266.56 feet to a point at the southeast corner of Lot No.3, the same being the southwest corner of Lot No.2, Chockoyotte Professional Park Subdivision; thence along the south line of Lot No.3, N. 62-56-55 E. 241.51 feet to a point on the west side of a 50 foot right-of-way for Gregory Drive; thence crossing the right-of-way for Gregory Drive, N. 61-35-23 E. 50.00 feet; thence, along the eastern right-of-way line for Gregory Drive, N. 28-14-41 W. 17.30 feet and N. 28-05-32 W. 19.22 feet to a point in the eastern right-of-way line and at the southwest corner of Lot No.1, Chockoyotte Professional Park Subdivision; thence with the south line of Lot No.1, N. 56-02-14 E. 457.96 feet to a point in the centerline run of Chockoyotte Creek, at a point in the western boundary line of lands belonging to Halifax Regional Medical Center; thence with and along the centerline run of Chockoyotte Creek and the western line of Halifax Regional Medical Center the following courses and distances: S. 00-20-37 E. 237.36 feet, S. 49-24-11 E. 60.74 feet, S. 00-19-41 E. 164.22 feet, S. 62-29-49 E. 238.91 feet, S. 21-23-44 E. 325.11 feet, S. 39-05-52 E. 269.31 feet, S. 57-59-24 E. 225.40 feet, S. 33-00-24 E. 228.39 feet, S. 42-50-33 E. 147.61 feet, S. 24-27-36 E. 135.61 feet, S. 22-48-10 E. 113.15 feet, S. 52-24-35 E. 126.25 feet, S. 32-27-16 E. 431.17 feet, S. 43-05-55 E. 361.65 feet to the northwestern side of the right-of-way for Old Farm Road Extension,

thence continuing across the right-of-way for Old Farm Road Extension, S. 43-05-55 E. 164.56 feet, and S. 25-53-13 E. 42.90 feet to a point in the southeastern side of the right-of-way for Old Farm Road Extension, thence continuing and along the centerline run of Chockoyotte Creek, which is also the western boundary lines of properties standing in the name of Roanoke Valley Rentals and Roanoke Meadowbrook LLC, the following courses and distances: S. 25-53-13 E. 351.36 feet, S. 46-01-36 E. 145.57 feet, S. 52-28-32 E. 404.56 feet, S. 26-47-11 E. 220.22 feet, S. 08-53-56 W. 161.79 feet, and S. 22-19-21 E. 157.68 feet to the northeastern corner of lands standing in the name of Blackwell B. Pierce, a point in the centerline run of Chockoyotte Creek and in the western line of lands standing in the name of Roanoke Meadowbrook LLC; thence leaving Chockoyotte Creek with and along the northern boundary of lands of Blackwell B. Pierce, S. 83-25-53 W. 1553.94 feet to a point in the southeastern right-of-way line of Old Farm Road Extension; thence turning in a southerly direction along the southeastern right-of-way of Old Farm Road Extension and along the line of Blackwell B. Pierce, S. 21-57-39 W. 668.90 feet, and S. 20-36-16 W. 319.77 feet to a point in the southeastern right-of-way line of N. C. Highway 125 (where it merges with Old Farm Road Extension), thence turning across the right-of-way for N. C. Highway 125, N. 71-44-18 W. 60.00 feet to a point on the northwestern edge of the right-of-way for N. C. Highway 125, thence turning along the northwestern edge of the right-of-way for N. C. Highway 125 the following courses and distances: N. 18-15-42 E. 207.03 feet, N. 14-37-29 E. 124.75 feet, and N. 06-00-45 E. 169.13 feet to a point at the northeast corner of properties now or formerly belonging to the June Long Estate, and turning from said point and on a common boundary with those lands now or formerly belonging to the June Long Estate, with and along the main run of a swamp, the following courses and distances: S. 63-00-00 W. 119.58 feet, N. 85-00-00 W. 182.00 feet, S. 51-00-00 W. 257.00 feet, S. 50-00-00 W. 238.00 feet, S. 46-30-00 W. 184.00 feet, S. 65-00-00 W. 156.00 feet, S. 58-30-00 W. 226.00 feet, S. 38-30-00 W. 169.00 feet, S. 24-30-00 W. 179.00 feet, and S. 39-15-00 W. 312.00 feet to the southwest corner of the June Long Estate property the same being the northeast corner of property now or formerly belonging to Eddie Jones on the main run of the swamp and at the southwest corner of the tract herein described; thence, with and along the northeast boundary of the Eddie Jones land, the J. R. Crew Estate lands, and the Alonzo Pierce lands, N. 45-00-00 W. 164.00 feet, N. 46-21-23 W. 727.63 feet, N. 25-15-00 W. 432.00 feet, N. 23-00-00 W. 389.00 feet, and N. 25-15-00 W. 103.50 feet to the southwest corner of a lot belonging to Howard Owen Andleton and wife, as described in Deed Book 1452, Page 33, Halifax Public Registry, said point also being located at the center of a farm path; thence with and along the Andleton property boundary, N. 50-19-49 E. 200.00 feet, N. 25-15-00 W. 435.60 feet, and S. 50-13-00 W. 200.10 feet to the line of property now or formerly belonging to Benjamin Adams and at the northwest corner of the Andleton lot; thence, continuing with and along the common line with Benjamin Adams and the J. R. Crew Estate lands in a northwesterly direction, N. 25-15-00 W. 688.31 feet, N. 25-15-00 W. 479.00 feet, and N. 76-45-00 W. 56.00 feet to a corner in the line of lands now or formerly belonging to Jesse H. Powell Sutton; thence, with and along the property line of the Sutton land and the lands now or formerly belonging to R. L. Powell, the

following courses and distances: N. 58-15-00 E. 664.00 feet, N. 27-45-00 E. 250.00 feet, N. 33-15-00 E. 100.00 feet, N. 22-15-00 E. 82.00 feet, N. 00-30-00 W. 240.00 feet, N. 42-30-00 W. 241.00 feet, N. 62-45-00 W. 341.00 feet, and N. 55-15-00 W. 550.92 feet to a point on the south side of a 60 foot right-of-way for N. C. State Road 1686 (Smith Church Road), and at the northeast corner of the R. L. Powell lands; thence, in an easterly direction with and along the southern right-of-way of N. C. State Road 1686, N. 70-30-52 E. 511.34 feet to a point at the centerline of the old road; thence, leaving N. C. State Road 1686 and continuing in an easterly direction with the centerline of the old road, N. 76-30-00 E. 320.00 feet to the northwestern corner of that certain 25.61 acre tract of land conveyed to Charles M. Edwards by Wiley N. Gregory, et al, under deeds of record at Deed Book 650, Page 3, and Deed Book 650, Page 4, Halifax Public Registry, said corner being at the center of the old road; thence, with and along the lines of the 25.61 acre Edwards tract, S. 07-55-01 E. 663.22 feet, S. 62-34-00 E. 390.10 feet, N. 63-54-00 E. 752.20 feet, and N. 41-31-00 E. 359.65 feet to the southwest side of the 60 foot right-of-way for N. C. Highway 125 and at the southeast corner of the 25.61 acre Edwards tract; thence, turning along the southwestern edge of N. C. Highway 125, N. 33-34-05 W. 133.46 feet and N. 30-17-04 W. 69.45 feet, thence turning across the right-of-way for N. C. Highway 125, N. 70-54-14 E. 61.16 feet to the point of beginning, containing 318.31 acres, more or less, and as shown on that certain plat entitled "Annexation Plat - Lands Along N. C. 125 South - City of Roanoke Rapids, North Carolina" done by Burr & Associates, P. A., and dated May 16, 2000, and revised December 13, 2002."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 135:
Roanoke Rapids Annexation

BILL ANALYSIS

Committee: House Finance
Date: March 11, 2003
Version: 1st Edition

Sponsor: Rep. L. Allen and Hall
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 135 authorizes the annexation of certain described property to the corporate limits of the City of Roanoke Rapids without the City having to meet the statutory requirements for annexation. SB 106, introduced by Senator Holloman, is a companion bill. The act is effective when it becomes law.

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary. A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 135 would annex 318.31 acres to the corporate limits of the City of Roanoke Rapids without the City having to meet the statutory requirements for annexation. The Town Manager has indicated that the area does not qualify for involuntary annexation because it does not meet the statutory requirement that it be developed for urban purposes. Approximately 314 of the 318 acres to be annexed consist of vacant property. The owner of the 314 acres has requested the annexation. Included within the 314 acres are 200 acres that have been certified by the North Carolina Department of Commerce as an industrial site. The remaining property to be annexed is occupied by a church and two residential houses, one of

which is vacant. None of the owners object to the annexation. The owner of the 314 acres is in the process of marketing the industrial site to industries. The city plans to help with the marketing and development and to offer incentives for new industries. The area to be annexed is located in the City's primary growth quarter and is contiguous to the city limits.

Summary of the William S. Lee Quality Jobs and Business Expansion Act (Bill Lee Act).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Corrected Copy. - Current as of February 24, 2003

The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. Counties are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth of the county. For many of the credits, the lower the tier of a county, the more favorable the incentive. The Act requires the Department of Commerce and the Department of Revenue to report periodically on the credits allowed by the Act.

Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the Bill Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. In 2000, the General Assembly extended the sunset on the act until January 1, 2006.[1]

General Administration.

By December 31 of each year, the Department of Commerce is required to assign a tier designation to each of the 100 counties in the State. In order to make these assignments, the Department of Commerce must rank all 100 counties based on the following three factors: the rank of the county in a ranking of counties by average rate of unemployment over the preceding three years from lowest to highest, the rank of the county in a ranking of counties by average per capita income over the proceeding three years from highest to lowest, and the rank of the county in a ranking of counties by percentage growth in population from highest to lowest. Each of these factors is given equal weight. The Secretary of Commerce is required to use the latest data available in making these calculations. Counties with one of the 10 highest rankings are designated enterprise tier one, the next 15 counties are enterprise tier two, the next 25 counties are enterprise tier 3, the next 25 counties are enterprise tier 4, and the remaining counties are enterprise tier 5. There are numerous exceptions to this formula. A county designated as enterprise tier one or two may not be designated a higher tier until it has been at its current tier for at

[1] Interstate air couriers are eligible to claim the credits for business activity that occurs on or before January 1, 2010, provided that the interstate air courier entered into a real estate lease on or before January 1, 2006 with an airport authority that provides for the lease of at least 100 acres of land for a term of at least 15 years.

least two consecutive years. There are also exceptions for certain lower-population counties which could result in those counties receiving a lower designation.

The Department of Commerce is also responsible for designating development zones. Development zones are areas of higher poverty within urban centers. In order to be designated as a development zone, the area must satisfy all of the following conditions: every census tract or block group in the zone is located in a city with a population of at least 5,000, the zone has a population of at least 1,000, more than 20% of the population of the zone is below the poverty level, every census track or block group in the zone has more than 10% of its population below the poverty level or is immediately adjacent to a census tract or block group that has more than 20% of its population below the poverty level, and no census tract or block group in the zone is located in another development zone. Designation as a development zone is effective for two years. Location in a development leads to more favorable treatment for the taxpayer with regards to the wage standard, the credit for creating new jobs, the credit for investing in machinery and equipment, and the credit for worker training.

All of the credits are allowed against either the franchise tax levied in Article 3 of Chapter 105, the income taxes levied in Article 4 of Chapter 105, or the gross premiums tax levied in Article 8B of Chapter 105. In general, a taxpayer may take a credit against only one of these taxes.[2] The taxpayer must elect against which tax the credit will apply when filing the return on which the first installment of the credit is claimed. Once this election has been made it is irrevocable. Any carryforwards of a credit must also be claimed against the same tax.

The total amount of credits allowed under the act may not exceed 50% of the tax against which they are claimed reduced by the sum of all other credits for the taxable year. This cap applies to the cumulative amount of credits for the current year and carryforwards of credits from previous years.

In general any unused credit may be carried forward for the succeeding five years. There are numerous exceptions to this. Credits with respect to large investments may be carried forward for 15 years and credits with respect to other significant investments may be carried forward for 10 years.[3] Additionally, several of the specific credits have longer carry forward periods.

When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit, the taxpayer must submit a fee of $500 for each credit the taxpayer intends to claim up to a maximum of $1500. However, this fee is not

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[2] For the technology commercialization credit allowed under G.S. 105-129.9A, the taxpayer may split the credit between any of the three taxes.

[3] A "large investment" is one in which the Secretary of Commerce makes a written determination that the taxpayer will invest at least $150 million in the project within a two-year period. Though not defined as "other significant development", a taxpayer is eligible for the 10-year carryforward period if the Secretary of Commerce makes a written determination that the taxpayer will invest at least $50 million in the project within a two-year period. For interstate air couriers, the relevant time periods are seven years rather than two years.

due if the activity for which the taxpayer is claiming a credit occurred in a development zone. The fee is to be divided between the Department of Revenue and the Department of Commerce and is to be used to offset the costs of administering the Bill Lee Act.

Each taxpayer claiming a credit under the Bill Lee Act must provide any information required by the Secretary of Revenue to evaluate the eligibility of the taxpayer for the credit claimed.

The Department of Revenue and the Department of Commerce are required to make several reports on the Bill Lee Act. By each March 1, the Department of Revenue must publish information itemized by credit and by taxpayer relating to the amount and enterprise tier of new jobs, new real property, new machinery and equipment, new worker training, and new research and development. The Department of Commerce is required to make biennial reports on tax equity and the impact of the Bill Lee Act.

Bill Lee Act credits cannot be taken more than six months after the deadline for filing the tax return (including extensions) on which they are claimed. This is more restrictive than is generally the case under North Carolina law. In general, an overpayment may be refunded only if the discovery is made or the written request for a refund made within 3 years of the date set by statutes for filing the return or within 6 months of the date of the overpayment, whichever is later.

Basic Eligibility

Type of Business. In order to be eligible for a credit under the Bill Lee Act, a taxpayer must meet the eligibility requirements with regard to type of business. Business-type eligibility depends of several factors including the primary business of the taxpayer as a whole, the primary business of the particular establishment[4], the location of the establishment, and the number of new jobs created. The following types of business are eligible under the Bill Lee Act:

- Air courier services, if the primary business of the taxpayer is air courier services.
- Data processing, if the primary business of the taxpayer is data processing.
- Manufacturing, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is manufacturing.
- Warehousing, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is warehousing, or if the primary activity of an establishment is warehousing, the establishment is located in an enterprise tier 1-3 area, and the establishment serves 25 or more establishments of the taxpayer.
- Wholesale trade, if the primary business of the taxpayer is manufacturing, warehousing, or wholesale trade and the primary activity of the establishment is wholesale trade.

[4] An "establishment" is defined by NAICS (North American Industry Classification System) as the smallest operating entity for which records provide information on the cost of resources – materials, labor, and capital – employed to produce the units of output. In the United States, an establishment is generally a single physical location; although there are many exceptions to this generality.

- Computer services, if the primary activity of the establishment is computer services.
- Electronic mail order house, if the primary activity of the establishment is an electronic mail order house and the electronic mail order house is located in an enterprise tier 1-3 area and creates at least 250 new jobs.
- Customer service center, if the primary business of the taxpayer is financial services or telecommunications, the primary activity of the establishment is a customer service center, and the center is located in an enterprise tier 1-3 area.

Wage Standard. A taxpayer is eligible for a credit under the Bill Lee Act only if the jobs provided by the taxpayer meet a wage standard. Legislation in 2002 eliminated the wage standard in enterprise tier one and two areas. Since the wage standard for a business located in a development zone is the same as for tier one counties, that legislation also eliminated the wage standard for a development zone area. For enterprise tier areas three through five, the jobs provided by the taxpayer must pay at least 110% of the applicable average weekly wage. The applicable average weekly wage of the county is the lowest of the following: the average weekly wage for all insured private employers in the county, the average weekly wage for all insured private employers in the State, and the average weekly wage for all insured private employers in the county multiplied by the county income/wage adjustment factor.[5]

For the credit for job creation, the average weekly wage of the jobs for which the credit is claimed and the average weekly wage of all jobs at the location with respect to which the credit is claimed must meet the relevant wage standard. For the other credits, the average weekly wage of all jobs at the location with respect to which the credit is claimed must meet the relevant wage standard. There is no independent wage standard test for the credit for worker training. By definition, the taxpayer may only claim a credit for worker training if the taxpayer is eligible for the credit for creating jobs or the credit for investing in machinery and equipment.

All jobs, including part-jobs, must be included in the wage standard calculation. However, part-time jobs that also provide health insurance are considered to have an average weekly wage at least equal to the relevant wage standard. For the purpose of calculating the wage standard, the weekly wage of a part-time job is converted to a full-time equivalency. All jobs that were filled for at least 1600 hours during the year in which the taxpayer engaged in the activity for which a credit is claimed must be included in the wage standard calculation even if those jobs are not filled at the time the taxpayer claims the credit.

Health insurance. A taxpayer must provide health insurance for all full-time jobs associated with the project in order to be eligible for a credit under the Bill Lee Act. The taxpayer must, for all full-time employees at the location with respect to which is claimed, pay at least 50% of the premiums for health insurance that meets at least the

[5] The county income/wage adjustment factor is county income/wage ratio divided by the State income/wage ratio. The income/wage ratio is determined by dividing the average per capita income in the relevant jurisdiction by the annualized average wage for all insured private employers in the jurisdiction.

minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. Each year that a taxpayer claims an installment or carryforward of a credit, the taxpayer must provide certification that it continues to provide health insurance for all full-time employees. If the taxpayer ceases to provide health insurance, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit.

Environmental Impact. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any pending administrative, civil, or criminal enforcement action based on alleged significant violation of any program implement by an agency of the Department of Environment and Natural Resources or if the taxpayer has had any final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources in the last five years. The Secretary of Environment and Natural Resources must notify the Department of Revenue of all persons who currently have any of these pending actions or who have had any of these final determinations in the past three years.

Safety and Health Programs. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any outstanding violations under the Occupational Safety and Health Act that have become a final order for "willful serious" or "failure to abate serious" violations within the past three years. The Department of Labor must notify the Department of Revenue of all employers who have had these citations become final orders in the past three years.

Overdue Tax Debts. A taxpayer is ineligible for a credit under the Bill Lee Act if the taxpayer has any overdue tax debts. An overdue tax debt is any part of a tax remaining after 90 days. A tax debt is a final assessment after all possibilities for appeal have been exhausted.

If the Secretary of Revenue discovers that any tax is due from a taxpayer, the Secretary must notify the taxpayer in writing of the Secretary's intent to assess the taxpayer for the tax. The notice must describe the basis for the assessment, the amount of tax to be assessed and any interest and penalties due. If the taxpayer disagrees with the assessment, the taxpayer has 30 days to request a hearing before the Secretary. The Secretary must then schedule a hearing to occur within 90 days of the request. Within 90 days after the hearing, the Secretary must issue a decision on the hearing. If the taxpayer does not request a hearing within the 30 days allowed, or if the Secretary finds that the tax is due after the hearing, the proposed assessment becomes a final assessment. If a taxpayer disagrees with a final assessment, the taxpayer may appeal the decision to the Tax Review Board, and then on to superior court, the Court of Appeals, and the Supreme Court.

Expiration. Generally, if a credit expires, the taxpayer may not continue to take installments of the credit, but may continue to take carryforwards of installments that

accrued in previous years[6]. Credits may expire under the act for several reasons. If the taxpayer is no longer engaged in an eligible type of business or if the number of jobs of an eligible business falls below the minimum number required, the credit expires. The credit for creating jobs and the credit for investing in machinery and equipment expire if the jobs or machinery and equipment are no longer filled or used in an eligible business. The credit does not expire if the enterprise tier designation of an eligible taxpayer changes after the credit is first claimed.

Forfeiture. A taxpayer forfeits a credit if the taxpayer was not eligible for the credit in the year in which the taxpayer engaged in the activity for which the credit was claimed. A taxpayer forfeits a credit for technology commercialization or for substantial investment in other property if the taxpayer does not make the required level of investment in the relevant time period. Similarly, a taxpayer forfeits the large investment enhancement of a tax credit if the taxpayer does not make the required level of investment in the relevant time period. A taxpayer that forfeits a credit is liable for all past taxes avoided as a result of the credit plus interest. The past taxes and interest are due 30 days after the date the credit is forfeited. If a taxpayer forfeits a credit for creating jobs, a credit for investing in machinery and equipment, or a technology commercialization credit, any corresponding credit for worker training is also forfeited.

Specific Credits.

Credit for creating jobs, G.S. 105-129.8. A taxpayer is allowed a credit for creating new jobs. In order to be eligible for this credit, the taxpayer must have five or more full-time employees in the State and hire an additional full-employee. The amount of the credit varies depending on the enterprise tier designation of the area in which the job is located. A job is located in an area if 50% or more of the employee's duties are performed in the area. The full amount of the credit may not be taken in the first year, but must instead be taken in four equal installments beginning with the taxable year following the year in which the employee was hired. Jobs transferred from one part of the State to another do not qualify for the credit. For a job that is located in a development zone the amount of the credit is increased by $4,000. The amount of the credit is equal to the amounts in the following table based on the enterprise tier area in which the job is located:

Area Enterprise Tier	Amount of Credit
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

If in one of the four years in which the installment of a credit accrues, the jobs with respect to which the credit was taken are unfilled, the credit expires and the taxpayer may not take any remaining installments of the credit. If, in one of the four years in which an installment of the credit accrues, a job that qualified for the credit is subsequently

[6] Expiration of a credit because the taxpayer ceases to provide health insurance is an exception to this general rule. In that case, the taxpayer may not claim installments or carryforwards after the credit expires.

transferred to another area, the remaining installments of the credit must be calculated as if the job had been initially located in the later area.

A taxpayer that will create at least 20 new jobs in a specific area within two years[7] may sign a letter of commitment with the Department of Commerce in order to lock-in the current year's enterprise tier and development zone designations for the purposes of this credit. If the taxpayer creates the jobs within the two-year period, the taxpayer may compute the amount of the credit based on the designations in effect in either the year in which the letter of commitment was signed or the year in which the jobs were created. If the taxpayer does not create the jobs in the two-year period, the taxpayer may still claim a credit under the existing tier designation if the jobs are later created.

Credit for investing in machinery and equipment, G.S. 105-129.9. A taxpayer is allowed a credit for the cost of the eligible investment amount of machinery and equipment placed into service during a taxable year that exceeds the applicable threshold based on the location where the machinery and equipment are placed into service. The eligible investment amount is the lesser of (i) the cost of the eligible machinery and equipment and (ii) the net increase in eligible machinery and equipment over the base year (the year of the preceding three years in which the taxpayer had the largest amount of machinery and equipment in service in the State). The credit must be taken in seven equal installments, beginning the year after the equipment is placed in service. The amount of the credit is equal to a percentage of the eligible investment amount of the machinery and equipment in excess of the applicable threshold. If the taxpayer places eligible machinery and equipment into service in more than establishment during a year, the threshold applies separately to each establishment. If a taxpayer places eligible machinery and equipment in service at an establishment over a two-year period, the amount of the threshold for the second year is reduced by the eligible investment amount for the previous taxable year. The following table sets out the relevant percentage and threshold for each enterprise tier area:

Enterprise Tier	Threshold	Credit Percentage
Tier One	$ -0-	7%
Tier Two	100,000	7%
Tier Three	200,000	6%
Tier Four	1,000,000	5%
Tier Five	2,000,000	4%

If in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was taken are disposed of, moved out of State, or taken out of service, the credit expires and the taxpayer may not take any remaining installments of the credit unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in machinery and equipment. If eligible machinery and equipment that qualifies for a credit is subsequently transferred to another area, the remaining installments of the credit must be calculated as if the machinery and equipment had been initially located in the later area

[7] In the case of an interstate air courier the relevant time period is seven years rather than two years.

A taxpayer that will place specific machinery and equipment in service at a specific location within two years[8] may sign a letter of commitment with the Department of Commerce in order to lock-in the current year's enterprise tier and development zone designations for the purposes of this credit. If the taxpayer places the eligible machinery and equipment in service within the two-year period, the taxpayer may compute the amount of the credit based on the designations in effect in either the year in which the letter of commitment was signed or the year in which the machinery and equipment were placed in service. If the taxpayer does not place the machinery and equipment in service in the two-year period, the taxpayer may still claim a credit under the existing tier designation if the equipment and machinery is later placed in service.

Technology commercialization credit, G.S. 105-129.9A. This credit is an alternative to the credit for investing in machinery and equipment. The technology commercialization credit applies only to investments in machinery and equipment used in production based on technology licensed from a research university. In addition, to qualify, the machinery and equipment must be located in a tier one, two, or three enterprise area. Finally, the taxpayer's investment must equal at least $10 million during the taxable year, and must total at least $100 million over a five-year period. If the investment totals between $100 million and $150 million over five years, the technology commercialization credit is equal to 15% of the amount invested. If the investment equals or exceeds $150 million over five years, the technology commercialization credit is equal to 20% of the amount invested. The technology commercialization credit remains available for 10 years of investments at a single location. The taxpayer's eligibility for the technology commercialization credit is based on the Secretary of Commerce's determination that the taxpayer will invest either $100 or $150 million over five years. If the taxpayer does not achieve the certified level of investment, the credit is forfeited.

The technology commercialization credit is more generous than the credit for investing in machinery and equipment in the following ways:

- The technology commercialization credit may be taken in the year the investment is placed in service. The credit for investing in machinery and equipment must be taken in seven annual installments.
- The technology commercialization credit is not required to be offset by machinery and equipment sold to another taxpayer if the new owner keeps the machinery and equipment in service in North Carolina. In addition, this new investment tax credit is not required to be offset by machinery and equipment the taxpayer takes out of service if it was in service at a separate location and was used in a business that is not competitive with the technology commercialization business.
- The technology commercialization credit may be taken against income tax, gross premiums tax, and franchise tax. The taxpayer must determine what percentage of the credit will be taken against each tax, and must maintain the same percentage for the purpose of carryforwards. If new investment is made in a second or subsequent tax year, the taxpayer may elect a different percentage with respect to the credit for each tax year. The election is binding.

[8] In the case of an interstate air courier the relevant time period is seven years rather than two years.

- The technology commercialization credit may be carried forward for 20 years.

Credit for research and development, G.S. 105-129.10. The research and development tax credit uses the federal credit as its starting point. The credit is equal to 5% of the State's apportioned share of the taxpayer's expenditures for increasing research and development. The credit is based on the federal credit as of January 1, 1999. In the past, the federal credit had expired and then been renewed retroactively, creating uncertainty for taxpayers. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications. This credit has a carryforward period of 15 years rather than the standard 5-year period.

Credit for worker training, G.S. 105-129.11. A taxpayer that provides worker training for five or more of its eligible employees during the taxable year is allowed a credit equal to the wages paid to the employee during the training. Wages paid to an employee for performing his or her job while being trained are not eligible for the credit. The maximum amount of the credit is $1,000 per employee trained in an enterprise tier one area and $500 per employee trained in an enterprise tier two through five area. As with the credit for creating jobs, an employee is located in an area if more than 50% of his or her duties are performed in that area. In order to be eligible for the credit, the employee must be in a full-time position not exempt under the Fair Labor Standards Act and must be either (i) in a position for the taxpayer qualifies for the credit for creating jobs or (ii) being trained to operate machinery and equipment for which the taxpayer qualifies for a credit for investing in machinery and equipment.

Credit for investing in central office or aircraft facility property, G.S. 105-129.12. A taxpayer who purchases or leases real property to be used as central administrative office or aircraft facility property, is eligible for a credit under the Bill Lee Act. The amount of the credit is equal to 7% of the eligible investment amount. The eligible investment is the lesser of: (1) the cost of the property or (2) the cost of the taxpayer's total North Carolina property used as central administrative offices or aircraft facilities on the last day of the taxable year minus the cost of the taxpayer's total North Carolina property used as central administrative offices or aircraft facilities on the last day of the base year. The base year is that year, of the three immediately preceding taxable years, in which the taxpayer was using the most property as central administrative offices or aircraft facilities in this State. For leased property, the cost of the property equals the lease payments over a seven-year period, plus any expenditures made by the taxpayer to improve the property before it is used as the taxpayer's central administrative office or aircraft facility if the expenditures are not reimbursed or credited by the lessor. The tax credit for investing in central administrative office or aircraft facility property may not exceed $500,000, and is taken in equal installments over the seven years following the taxable year in which the property is first used as a central administrative office or aircraft facility. If the property ceases to be used as a central administrative office or aircraft facility during the seven-year period, then the credit expires and the taxpayer may not take any remaining installment of the credit.

Credit for substantial investment in other property, G.S. 105-129.12A. This credit is modeled upon the credit for investment in central office or aircraft facility property. There are, however, some notable differences between the two credits. In order for the taxpayer to claim the credit for substantial investment in other property, the Secretary of Commerce must make a written determination that the taxpayer is expected to invest at least $10 million in real property at a location within a three-year period and that the location will create at least 200 new jobs within two years of the time that the property is first used in an eligible business. The taxpayer may begin to claim the credit once the property is first used in an eligible business. The amount of the credit for substantial investment in other property is equal to 30% of the eligible investment amount and must be taken in installments over a seven-year period. There is no ceiling on the amount of the credit. The credit for substantial investment in other property expires if the number of people employed at the location falls below 200. The carryforward period for the credit for substantial investment in other property is 20 years, rather than the standard five-year carryforward period. A taxpayer may not claim both the credit for substantial investment in other property and the credit for investing in central office or aircraft facility property with respect to the same property.

Credit for development zone projects, G.S. 105-129.13. A taxpayer is allowed a credit for contributions of cash or property to certain nonprofit agencies to be used for an improvement project in a development zone. An improvement project is a project to construct or improve real property for community development purposes or to acquire real property and convert it for community development purposes. The credit allowed is 25% of the amount contributed by the taxpayer. The total amount of credits that may be allowed in a taxable year is capped at $4 million. Taxpayers are required to apply to the Secretary of Revenue for these credits. If the total amount applied for in a year exceeds $4 million, the Secretary will reduce each applicant's credit proportionally.

The credit is allowed for contributions to a development zone agency, defined as a community action agency, a community-based development organization, a community development corporation, a community development financial institution, a community housing development organization, or a local housing authority. To qualify for the credit, all of the following conditions must be met:

- The agency must contract in writing to use the contribution for an improvement project in a development zone and to repay the taxpayer with interest if the contribution is not so used.
- The Department of Commerce must certify that the agency will undertake an improvement project in a development zone.[9] To support this certification, the agency must provide the Department documentation establishing the identity of the agency, the nature of the project, and that the project is for a community development purpose in a development zone.
- The taxpayer must be unrelated to the agency and must not control, be controlled by, or be under common control with the agency.

[9] The Secretary of Commerce may not certify a development zone agency if it, any of its officers or directors, or any partner of the agency has ever used part of an improvement project contribution for any purpose other than the improvement project.

- The taxpayer must not receive anything of value for the contribution.

A taxpayer forfeits the tax credit for a contribution to the extent the development zone agency uses the contribution for anything other than an improvement project in a zone. Development zone agencies are required to file with the Department of Commerce annual, audited financial statements. If the Department of Commerce finds that any part of a contribution was used for a purpose other than an improvement project, it must notify the Department of Revenue of the resulting forfeiture.

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

2002 Tier Designations

TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
ALLEGHANY	ANSON	ALEXANDER	BRUNSWICK	ALAMANCE
ASHE	BLADEN	AVERY	BURKE	BUNCOMBE
BEAUFORT	COLUMBUS	CASWELL	CALDWELL	CABARRUS
BERTIE	DUPLIN	CHOWAN	CARTERET	CATAWBA
CAMDEN	GREENE	CLEVELAND	CRAVEN	CHATHAM
CHEROKEE	HOKE	CURRITUCK	CUMBERLAND	DAVIDSON
CLAY	LENOIR	DARE	GRANVILLE	DURHAM
EDGECOMBE	MADISON	DAVIE	HARNETT	FORSYTH
GRAHAM	MITCHELL	GASTON	LEE	FRANKLIN
HALIFAX	PAMLICO	GATES	LINCOLN	GUILFORD
HERTFORD	PASQUOTANK	HAYWOOD	PITT	HENDERSON
HYDE	RICHMOND	JACKSON	ROWAN	IREDELL
JONES	ROBESON	MACON	SAMPSON	JOHNSTON
MARTIN	ROCKINGHAM	MCDOWELL	STOKES	MECKLENBURG
NORTHAMPTON	RUTHERFORD	MONTGOMERY	SURRY	MOORE
PERQUIMANS		NASH	WILKES	NEW HANOVER
SCOTLAND		ONSLOW	YADKIN	ORANGE
SWAIN		PENDER		RANDOLPH
TYRRELL		PERSON		UNION
VANCE		POLK		WAKE
WARREN		STANLY		
WASHINGTON		TRANSYLVANIA		
YANCEY		WATAUGA		
		WAYNE		
		WILSON		

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MINUTES

HOUSE COMMITTEE ON FINANCE
March 18, 2003

The House Committee on Finance met at 8:30 a.m. on Tuesday, March 18, 2003 in Room 544 of the Legislative Office Building. Members present were: Chairmen Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, Womble and Wood. Staff persons present included: Trina Griffin, Canaan Huie, Linda Millsaps, Martha Walston, and Committee Assistants Nancy Brantley, Blinda Edwards, Judy Lowe, Mary Marchman, and Susan Phillips. Sergeants-at-Arms included Dusty Rhodes, Walter Spell, Bob Fowler, and Bill Freeman. The Agenda and Visitor Registration Sheet are incorporated into the minutes as **Attachments 1 and 2.**

Representative Wainwright called the meeting to order. He welcomed the Pages, Eric McCombs of Wake County, and Will Lane of Nash County. The Committee considered the following bills.

SENATE BILL 235- A BILL TO BE ENTITLED AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES. This bill would allow a retailer who leases motor vehicles to begin paying the highway use tax on the gross receipts derived from leasing the vehicles even though the retailer had previously paid the 3% highway use tax on these vehicles. The Chair recognized Representative Cole to explain the bill. Linda Millsap of Fiscal Research stated that the bill would have no impact on the Highway Trust Fund or the General Fund. Representative Allen made a motion for a favorable report of the bill. The motion carried and the bill was given a favorable report. **The Bill, Bill Analysis, Fiscal Note, and Committee Report are included in Attachment 3.**

HOUSE BILL 320-A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS. This bill was a recommendation of the Revenue Laws Study Committee. The Chair recognized Representative Luebke to explain the bill. Representative Luebke asked staff person, Trina Griffin, to comment on the bill. Mrs. Griffin explained that the legislation originated as an effort to head off a constitutional challenge to the clergy housing exclusion in a case before the Ninth Circuit Court of Appeals, Warren v. Commissioner of Internal Revenue 282 F.3d 1119, (9th Cir. 2002). Congress passed the Clergy Housing Allowance Clarification Act of 2002 in an effort to preserve the law exempting the provision of residential housing for clergy from federal income tax. Under current federal law, the rental allowance is

excluded to the extent that is it used to rent or provide a home for the minister and to the extent that it does not exceed the fair market rental value of the home. Representative Luebke made a motion to give the bill a favorable. The motion carried and the bill was given a favorable report. **The Bill, Bill Analysis, Fiscal Note, and Committee Report are included in Attachment 4.**

Canaan Huie of Bill Drafting was recognized to continue his discussion of the Job Development Investment Grant Program (JDIG). His comments were on the structure of the program, including the application process, use of the funds and terms of the agreement. He stated that no business had been selected for the program and that the committee was considering one application. His comments are included in **Attachment 5.**

Martha Walston of Fiscal Research was recognized to give an overview of the One NC Fund. She stated that the Industrial Recruitment Competitive Fund (aka One NC Fund) was enacted in Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424). The purpose of the fund was to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that were making significant efforts to establish or expand in North Carolina. The committee had requested a listing of the amount appropriated to different industries. That information was not complete, and would be provided tat a later date. Her comments are included in **Attachment 6.**

Mr. Don Hobart and Secretary Jim Fain of the Department of Commerce were recognized to address the committee. Mr. Hobart stated that money in the fund was available for modernization and expansion of existing facilities. He further stated that the guidelines are extensive and are on the Department's website. The assessment process has a number of factors. The size of the funds has changed over the years. There was a carry forward of about $18 million from last year. A portion of those funds is committed funds. The Department administers and treats the funds as performance base funds, which means that funds are not disbursed until the projects have created jobs. As a result, there are funds that are held and are identified for particular projects and particular counties that are waiting for the completion of the performance criteria to be distributed. There are also funds reserved for projects that the State is attempting to bring to North Carolina. Secretary Fain stated that the appropriation that was allotted to the One NC Fund in 2001 allowed the Department to allure new jobs and to retain old jobs. Secretary Fain stated that the names of companies and the amounts allotted to them could be made available on the Department's website. The law requires that the General Assembly receive a quarterly report. If the project is active, the name is not disclosed, and remains nameless. He presented a document that had the names of the companies who were participating in the fund. That document is attached as **Attachment 7.**

Trina Griffin was recognized to give an overview of the Film Industry Development Account. She stated that S. L. 2000-153 created the Film Industry

Development Account within the Department of Commerce, Division of Travel and Tourism. The program provides annual grants to production companies that engage in production activities in this State. A lawsuit had been filed by Edward Jones of Wake County and the Wake County Taxpayers' Association against the North Carolina Department of Commerce, Secretary James Fain, and Lyn Minges, Executive Director of the Division of Tourism, Film, and Sports Development. The complaint alleged that the program violated the "public purpose" clause of the North Carolina Constitution, and asked that the statute be declared unconstitutional. The Department is preparing a response to the complaint. Please refer to **Attachment 8** for further information regarding this issue.

The Chair announced that the joint meeting of the House and Senate Finance Committee was cancelled for the House members, and the Finance committee would not meet on Wednesday, March 19, 2003. He adjourned the meeting at 9:35 a.m.

Respectfully submitted,

Blinda Edwards, Committee Assistant

Representative William Wainwright

ATTACHMENT 1

AGENDA

House Finance Committee

March 18, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills

- **HB 320** **IRC Update** — *Reps. McComas, G. Allen, Hill, Holliman, Luebke, and Wainwright*
- **SB 235** **One-Time Rental Car Tax Election Exception** — *Sen. Hoyle*

Continuation of Discussion on the Jobs Development Investment Grant Program (JDIG)
Canaan Huie

Overview of the One NC Fund
Martha Walston

Overview of the Film Industry Development Account
Trina Griffin

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sandy Sands	WCSR
Dave Powell	NCDOR
Eddie Zinch	NCDOR
Elizabeth Jordan	NC Budget & Tax Center
LYMAN COOPER	C.S.X CORP.
Marcos Arellano	NCGA intern for Rep. Luebke
Duke Chen	Intern
Andy Sobul	NCDOR
MAX NICHOLSON	GOODYEAR SPRING HOPE
KATIE DEREN	GOODYEAR STATESVILLE
Grant McKinnon	Kelly Springfield Tire - Fayetteville

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 18, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jo B. Andrews	Goodyear-Asheboro wire plant
Trinna Ware	Goodyear - Spring Hope plant
Richard Evans	Goodyear (Kelly-Springfield) Fayetteville
Warren Cobb	OSBM
DAVID BARNES	Poyner + Spruill LLP
Matt Beason	Capitol Group

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 235

Short Title:	One-Time Rental Car Tax Election Exception.	(Public)
Sponsors:	Senators Hoyle and Berger.	
Referred to:	Finance.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the provisions of G.S. 105-187.5 to the contrary, a retailer that leases or rents motor vehicles and that has paid the tax on the motor vehicles imposed pursuant to G.S. 105-187.3 may elect to pay the tax imposed pursuant to G.S. 105-187.5 in addition to the taxes previously paid. This election must be submitted to the Division of Motor Vehicles and Secretary of Revenue in writing and must specifically identify the motor vehicles to which the election applies, the date upon which the retailer will begin to collect the additional taxes, and any additional information needed to collect the tax. An election made under this act is irrevocable and does not relieve the taxpayer of liability for a tax previously imposed. An election under this act must be made prior to July 1, 2003.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 235:
One-Time Rental Car Tax Election Exception

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hoyle
Date:	March 18, 2003	**Summary by:**	Martha Walston
Version:	1st Edition		Committee Counsel*

SUMMARY: ***Senate Bill 235 would allow a retailer who leases motor vehicles to begin paying the highway use tax on the gross receipts derived from leasing the vehicles even though the retailer has previously paid the 3% highway use tax on these vehicles. The retailer's election to begin paying the gross receipts tax must be made by July 1, 2003, and once made it is irrevocable. The election does not relieve the retailer of liability from a tax previously imposed. The bill becomes effective when it becomes law. House Bill 168 is a companion bill and has also been referred to House Finance.***

CURRENT LAW: ***In 1989, the General Assembly enacted the highway use tax to provide a major source of revenue for the Highway Trust Fund.[1] The tax rate is 3% of the retail value of a motor vehicle for which a certificate of title is issued. The Division of Motor Vehicles collects this tax. A retailer that leases or rents motor vehicles may elect not to pay the highway use tax. Instead, the retailer may pay an 8% tax on the gross receipts of the short-term lease or rental or a 3% tax on the gross receipts of long-term rentals.[2] Although the gross receipts tax is imposed on the retailer, it is added to the lease or rental price of the vehicle and thereby paid by the person who leases or rents the vehicle. The Department of Revenue collects the gross receipt tax. The tax levied at 3% is credited to the Highway Trust Fund and the tax levied at 8% is credited to the General Fund.[3]***

BILL ANALYSIS: Senate Bill 235 would allow a retailer who leases motor vehicles and who elected to pay the highway use tax on the retail value of the vehicles at the time the retailer obtained a certificate of title for them to begin collecting the alternate gross receipts tax on the vehicles. In order to begin collecting the gross receipts tax on these vehicles, a retailer would have to submit a written request to do so to the Division of Motor Vehicles and the Department of Revenue by July 1, 2003. The request must specifically identify the vehicles to which the election applies, the date upon which the retailer will begin to collect the additional taxes, and any information needed to collect the tax. An election to begin paying the gross receipts tax made under this act is irrevocable and does not relieve the taxpayer of liability for a tax previously imposed.

*Staff attorney, Cindy Avrette, contributed substantially to this summary.

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[1] The General Assembly created the Highway Trust Fund as a source of revenue to build a system of intrastate highways and seven urban loops, provide assistance to cities, and accelerate secondary road paving.

[2] A long-term lease or rental is one made under a written agreement to the same person for a period of at least 365 continuous days.

[3] Prior to 1989, NC levied a sales tax on motor vehicles and credited the revenue to the General Fund. To offset the loss of revenue to the General Fund, the Highway Trust Fund must transfer $170,000,000 annually to the General Fund. In 2001, the General Assembly provided for a small annual adjustment in this amount. Last session, the General Assembly increased this amount by $80,000,000 for 2002-03 and for 2003-04. It also transferred $125,000,000 from the Trust Fund to the General Fund, but this amount is to be paid back over a 5-year period, beginning 2004-05, with interest.

BACKGROUND: The norm in the rental car industry is to pay the highway use tax on the gross receipts of the rentals and the norm among states that tax the leasing of vehicles is to impose a gross receipts tax. However, there is at least one rental car retailer that has elected to pay the highway use tax at the time the retailer obtained the certificates of title for its fleet. To be consistent with other companies in the industry and to be consistent among the various states in which the retailer leases its motor vehicles, this retailer would like to begin collecting the gross receipts tax on its rentals. Although there are other methods besides the one proposed in this bill to accomplish this purpose, this method is the least cumbersome, both financially and administratively, to the retailer and it provides some additional revenue to the General Fund for this fiscal year.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: S.B. 235 (1st Edition)

SHORT TITLE: One-Time Rental Car Tax Election Exception

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Trust Fund	*** No Fiscal Impact ***				
General Fund	*** See Assumptions and Methodology ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: Under current law retailers who lease motor vehicles can choose to pay either a 3% highway use tax on the purchase of a vehicle at acquisition or an 8% tax on the gross receipts generated from the lease of that vehicle. The retailer must choose which tax they elect to pay when they purchase the vehicle. That election is irrevocable for the life of the vehicle. The bill allows a retailer who has paid the 3% use tax to also pay the 8% gross receipts tax. The decision to also pay the 8% gross receipts tax must be made by July 1, 2003 and does not relieve that retailer of their liability for the tax previously imposed.

ASSUMPTIONS AND METHODOLOGY: Because the bill will not change the payment of highway use taxes, there is no impact on the Highway Trust Fund. Because taxes would potentially be paid on more vehicles – those that are currently not paying into the General Fund because they paid the highway use tax – there could be a General Fund increase. The Department of Revenue is only aware of one retailer that is interested in paying the additional tax. This retailer acquired another retailer that paid the 3% tax up front, while the parent company pays the 8% gross receipts tax, creating some administrative issues for the company as a whole. It is not anticipated that a significant number of retailers would be interested in changing their tax designation as is contemplated by the bill, as it effectively means they would be voluntarily offering to pay taxes twice on the same vehicle. These factors, combined with the July 1, 2003 sunset on the bill, suggest the revenue increase to the General Fund would be small.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **REPRESENTATIVES ALLEN, HOWARD, LUEBKE, MCCOMAS, MINER, AND WAINWRIGHT** (Chair/Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 235 A BILL TO BE ENTITLED AN ACT TO ALLOW A RETAILER THAT LEASES MOTOR VEHICLES AND THAT HAS PAID THE HIGHWAY USE TAX ON THE MOTOR VEHICLES TO PAY AN ADDITIONAL GROSS RECEIPTS TAX ON THE MOTOR VEHICLES.

☑ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/06/03

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps, Bob Weiss

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: March 5, 2003

ATTACHMENT 4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 320*

Short Title:	IRC Update.	(Public)
Sponsors:	Representatives McComas, G. Allen, Hill, Holliman, Luebke, Wainwright; and Alexander.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2002,~~January 1, 2003, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. Notwithstanding Section 1 of this bill, any amendments to the Internal Revenue Code enacted in 2002 that increase North Carolina taxable income for the 2002 taxable year become effective for taxable years beginning on or after January 1, 2003.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 320: IRC Update

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. McComas, G. Allen, Hill, Holliman, Luebke, Wainwright
Date:	March 18, 2003		
Version:	1st Edition	**Summary by:**	Trina Griffin* Committee Counsel

SUMMARY: ***House Bill 320, which is a recommendation of the Revenue Laws Study Committee, updates to January 1, 2003 the reference to the Internal Revenue Code used in defining and determining certain state tax provisions. This bill is effective when it becomes law.***

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code, by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law previously tracked federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Under current law, the reference date to the Code is May 1, 2002.

BILL ANALYSIS: This bill would update the reference to the Code to January 1, 2003. Congress enacted one bill between May 1, 2002, and January 1, 2003 that would affect State tax provisions. The Clergy Housing Allowance Clarification Act of 2002, P.L. 107-181, enacted on May 20, 2002, clarifies the amount that may be excluded from gross income by a minister for a rental allowance paid to the minister as part of the minister's compensation. Under previous federal law, the rental allowance was excluded to the extent that the allowance was used to rent or provide a home for the minister.[3] Under current federal law, the rental allowance is excluded to the extent that it is used to rent or provide a home for the minister and to the extent that it does not exceed the fair market rental value of the home.

This change could have the effect of increasing taxable income for some taxpayers and is therefore required to be roll-called on separate days pursuant to Section 23 of Article II of the North Carolina Constitution.

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[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

[3] Specifically, the housing allowance exclusion was limited to the smaller of the actual housing expenses or the amount designated by the church board. In 1971, the IRS issued a Revenue Ruling adding one additional limitation based on the fair market rental value of the home.

The federal change became effective for taxable years beginning on or after January 1, 2002. Since this change could have the effect of increasing taxable income for some taxpayers, it could not become effective for taxable years that have already ended. Section 2 of this bill ensures that this change will not increase North Carolina taxable income for any person for the 2002 taxable year.

BACKGROUND: This legislation originated as an effort to head off a constitutional challenge to the clergy housing exclusion in a case before the Ninth Circuit Court of Appeals, Warren v. Commissioner of Internal Revenue, 282 F.3d 1119, (9th Cir. 2002). In this case, Reverend Rick Warren had purchased a home and for three years excluded a portion of his compensation from his church on the basis of the exclusion in section 107(2) of the tax code. The IRS determined that, pursuant to a 1971 Revenue Ruling, the amount excluded should have been limited to the fair market rental value of his home and assessed a deficiency. Rev. Warren contested the deficiency. In May 2000, the United States Tax Court ruled that the IRS erred in finding that Rev. Warren's housing allowance exclusion was limited to the fair market rental value of his home. The government appealed the Tax Court decision to the Ninth Circuit Court of Appeals. Although neither party raised a constitutional issue on appeal, the Ninth Circuit, on its own, queried whether section 107 of the Code violated the Establishment Clause of the United States Constitution and requested the parties to submit briefs on that issue. This prompted the introduction of the Clergy Housing Allowance Clarification Act of 2002 as an effort by Congress to preserve the 81-year-old law exempting the provision of residential housing for clergy from federal income tax. The legislation moved swiftly through Congress, and two days after the President signed the measure, both parties in the case requested a dismissal of the appeal. The Ninth Circuit panel dismissed the case three months later in August 2002.

*Canaan Huie, Staff Attorney, substantially contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: H.B. 320 (1st Edition)

SHORT TITLE: **IRC Update**

SPONSOR(S): **Rep. McComas**

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		Gain of < $30,000 each year			
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: This bill updates the statutory reference to the Internal Revenue Code used in defining and determining certain state income tax provisions. The referenced date is changed from May 1, 2002 to January 1, 2003.

BACKGROUND: Ordained ministers, rabbis, and cantors do not pay income tax on housing allowances received as part of their compensation for ministerial duties. However, the housing allowance is subject to Social Security and Medicare taxes under the Self-Employment Contributions Act. To remain tax free, the housing allowance must be used to pay rent, to make a down payment on a house, to pay mortgage installments, or to pay utilities, interest, tax, and house repair expenses. The church or local congregation must designate the part of the minister's compensation that is a housing allowance. This designation of the allowance amount must be made in advance of any payments.

The housing allowance is also given to ministers working as teachers or administrators for a parochial school, college, or theological seminary, to retired ministers if furnished in recognition of past services, and to traveling evangelists to maintain a permanent home. Ordained ministers that work as executives of nonreligious organizations are generally barred from using the allowance. Non-ordained church officers such as minister of music and minister of education do not qualify for a housing allowance.

ASSUMPTIONS AND METHODOLOGY: The effect of this bill is to conform to a change approved by Congress on May 20, 2002 in the Clergy Housing Allowance Act of 2002 (PL 107-181). This law clarified that the clergy housing allowance is excluded from income tax to the extent that it does not exceed the fair market value of the housing unit. For those that had been claiming housing allowances greater than the fair market value for their property, their taxable income will increase in 2003. The Bureau of Labor Statistics in the US Department of Labor reports 450 clergy in North Carolina making an average salary of $36,640 and 100 directors of religious activities and education making an average salary of $27,910. However, there is no data on housing allowances claimed by North Carolina clergy.

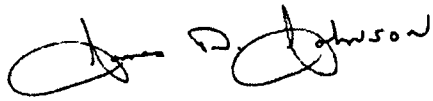
The Congressional Joint Committee on Taxation estimated that clergy nationwide would pay an additional $1million in federal income tax each year beginning in 2004 due to the law change. The amount of additional tax would increase to $2 million in 2006, $3 million in 2007, and $4 million in 2008. Since North Carolina taxable income is based on the federal taxable income, North Carolina will gain a small amount of revenue from this change. State income tax collections divided by national tax collections equals approximately .723%. Using this percentage times the national estimate for the tax change equals the following North Carolina General Fund revenue increase:

FY 2003-04	$7,230
FY 2004-05	$7,230
FY 2005-06	$14,460
FY 2006-07	$21,690
FY 2007-08	$28,920

SOURCES OF DATA: Congressional Joint Committee on Taxation; Bureau of Labor Statistics

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic, Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division



DATE: March 17, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **REPRESENTATIVES ALLEN, HOWARD, LUEBKE, MCCOMAS, MINER, AND WAINWRIGHT** (Chair/Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 320 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

☑ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/06/03

Summary of the Job Development Investment Grant Program (JDIG).

Prepared by Y. Canaan Huie
Legislative Drafting Division, North Carolina General Assembly
Current as of February 24, 2003

S.L. 2002-172 created a new economic development tool for new and expanding businesses in North Carolina. This tool will be used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amount of the grants would be based on income tax withholdings from new jobs created by the businesses.

Which projects are eligible for a grant? In order to be eligible for a grant under this program, the business must create a minimum number of new jobs. The number of new jobs that must be created varies based on the enterprise tier designation of the location where the jobs will be located. For projects located in enterprise tiers one through three, the project must create at least 10 new full-time positions. For projects located in enterprise tiers four and five, the project must create at least 20 new full-time positions. If a project is located in more than one location, the enterprise tier designation of the location in the highest enterprise tier area determines the number of new jobs that must be created.

As with the Bill Lee Act, a business must provide health insurance for all full-time jobs associated with the project in order to be eligible for this new program. The test is the same as under the Bill Lee Act – the business must, for all full-time employees of the project, pay at least 50% of the premiums for health insurance that meets at least the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee. In addition, the average wage of all jobs at the location with respect to which a grant is sought must meet the Bill Lee wage standard. Finally, as with the Bill Lee Act, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the previous three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made.

There are few restrictions based on the industry in which the business is engaged. There are only two types of projects that are ineligible for consideration under this program: retail facilities and professional and semiprofessional sports teams and clubs.

More generally, the project must satisfy the following conditions in order to be eligible for a grant:

- The project will result in net new employment in the State by the business.
- The project will benefit the people of the State by increasing employment opportunities and strengthening the State's economy.
- The project is consistent with economic development goals for the State.
- A grant is needed in order to secure the project for the State
- The total benefits of the project to the State outweigh the costs associated with the project.

How a grant is obtained? In order to obtain a grant under this program, the business must apply to the Economic Investment Committee for consideration. The Economic Investment Committee is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate[1]. The members appointed by the General Assembly serve two-year terms. The Committee may only act upon a decision of three of its five members. The Committee is subject to the open meetings law and the public records law. Members of the Committee are forbidden to work for a business that receives a grant under this program for at least two years after the member is no longer on the Committee. A former member of the Committee who violates this prohibition against working for a business that receives a grant under this program must forfeit any compensation received for that work and is prohibited for an additional two years from working for a business that receives a grant under this program.

The application for a grant must be under oath, be on a form prescribed by the Committee, and contain any information required by the Committee. At a minimum, the application must contain the following information:

- The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site.
- The names and addresses of the principals or management of the business, and the nature of the business, and the form of business organization under which the business is operated.
- The financial statements of the business prepared by a certified public accountant.
- The number of new jobs proposed to be created by the project.
- An estimate of the withholdings of personal income tax of employees of the project.
- Information concerning other possible locations of the project, and the benefits, including tax benefits or grants, associated with locating the project at those other locations.
- Information concerning other State grants for which the business is applying or that it expects to receive.
- Certification that the project will provide health insurance to all full-time employees.

A group of related business involved in a project may submit a joint application for a grant under this program.

A fee in the amount of $5,000 must accompany any application for a grant. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management will allocate this fee among their agencies.

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[1] The members of the Committee appointed by the General Assembly may not be members of the General Assembly.

The Committee will evaluate applications to determine which businesses shall receive grants under this program. The awarding of a grant is solely in the discretion of the Committee. The Committee shall develop criteria for evaluating applications. These criteria shall take into consideration the economic impact of the project; the strategic importance of the project to the State, region, or locality; the quality of the jobs to be created; the quality of the industry and the project; the environmental impact of the project; and the degree to which the use of the program has been geographically dispersed throughout the State.

The Committee is exempt from the rule-making process in developing criteria related to this program. However, the statutes do require the Committee to publish the proposed criteria on the Department of Commerce's web site at least 15 business days prior to the adoption of or an amendment to any proposed criteria. The Committee must also provide notice to people who have requested notice of proposed criteria and it must accept oral and written comments on the proposed criteria.

The Committee is required to be somewhat selective in which projects with which it chooses to enter into an agreement. The Committee may not enter into more than 15 agreements in any calendar year. However, there may be significantly more than 15 agreements outstanding at any time because the term of an agreement may be as long as 12 years. In addition, the Committee may not commit more than $10 million dollars annually with agreements entered into in any calendar year[2].

How is the amount of a grant determined? If the Committee approves a business's application, the Committee will then negotiate and enter into a community economic development agreement with the business. The agreement is a binding commitment on the part of the State to provide the grant for a set number of years, subject to the Committee's right or duty to amend or terminate the agreement under certain circumstances. Each agreement shall include a description of the project, the term of the agreement, the number of positions expected to be subject to the grant and a method for determining the number of positions that are subject to the grant, and the amount of the grant as a percentage of the withholdings of personal income tax from eligible positions. The Committee has wide discretion in determining the percentage that determines the amount of a grant under an agreement. The Committee shall develop criteria to be used when negotiating the appropriate percentage. At a minimum, the following conditions apply:

- The amount of the grant may not be less than ten percent (10%) or more than seventy-five percent (75%) of the withholdings associated with new jobs at the project.
- The term of the grant shall not exceed 12 years.
- The percentage used to determine the amount of the grant shall be reduced by one-fourth for any eligible position located in an enterprise tier four or five area.

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[2] The total annual commitment may be much more than $10 million dollars. For example, agreements entered into during each of the 2003 and 2004 calendar years could each make commitments of up to $10 million annually, for a total annual commitment of up to $20 million.

- Unless the Committee makes a specific determination that the grant should be calculated based on eligible positions created in any year during the term of the agreement, the amount of the grant shall be calculated based only on eligible positions created during the base years, the first two years, of the agreement.
- Unless the Committee makes an explicit finding otherwise, the total amount of all grants provided by the State may not exceed seventy-five (75%) of the withholdings of eligible positions.
- The amount of grant associated with any specific position may not exceed $6,500 in a year.

In addition, the Committee must consider at least the following factors when negotiating a percentage to be used in determining the amount of a grant:

- The number of eligible positions to be created.
- The expected duration of those positions.
- The type of contribution the business can make to the long-term growth of the State's economy.
- The amount of other financial assistance the project will receive from the State or local governments.
- The total dollar investment the business is making in the project.
- Whether the project utilizes existing infrastructure.
- Whether the project is located in a development zone.
- The number of eligible positions that will be filled by residents of a development zone.
- The extent to which the project will mitigate unemployment in the State and locality.

Use of funds? There are no restrictions on the use of the grant funds by the business. South Carolina has a similar grant program. Under the South Carolina program, grant funds may be used for certain specific purposes only, such as worker training, worker relocation, purchase or construction of real property, and construction or repairs to certain transportation-related real property.

The withholdings retained by the State would be used in two different ways. First, the withholdings in excess of the percentage negotiated in the agreement would flow to the General Fund.[3] Second, the withholdings that are included in the agreement, but that are excluded from the grant because the percentage was reduced by one-fourth because the eligible position is located in an enterprise tier four or five area, would be transferred to the Utility Account of the Industrial Development Fund.[4] Funds in the Utility Account

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3 Even though the maximum percentage that may be used to determine the amount of a grant is 75%, there may be no additional revenue from these positions that would flow to the General Fund. This is because most taxpayers over-withhold, meaning that more taxes are withheld than are actually due, resulting in a refund to the taxpayer. Because of this, a grant based on the maximum percentage of 75% could result in a net loss to the General Fund.

4 The following example will clarify this. Assume a project that is located in an enterprise tier five area is allowed a grant based on 75% of the withholdings of the eligible positions. Because those positions are located in an enterprise tier five area, that percentage is reduced by one-fourth, so that the business is

may be used to assist local governments in enterprise tier areas one through three in constructing or improving utility lines or equipment.

Terms of agreement. Since the Committee has a great deal of flexibility in negotiating agreements, the statutes give some direction on terms that must be included in each agreement. At a minimum, each agreement must contain the following:

- A detailed description of the proposed project that will result in job creation and the number of new employees to be hired in the base years and later years.
- The term of the grant and the criteria used to determine the first year for which the grant may be claimed.
- The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.
- The amount of the grant based on a percentage of withholdings.
- A method for determining the number of new employees hired during a grant year.
- A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.
- A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.
- A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.
- A provision that permits the Committee to amend an agreement pursuant to G.S. 143B-437.59.
- A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant at its discretion if the business does not remain at the site for the required term.
- A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base years.
- A provision establishing the conditions under which the grant agreement may be terminated, in addition to those under G.S. 143B-437.59, and under which grant funds may be recaptured by the Committee.
- A provision stating that unless the agreement is amended or terminated pursuant to G.S. 143B-437.59, the agreement is binding and constitutes a continuing contractual obligation of the State and the business.
- A provision setting out any allowed variation in the terms of the agreement that will not subject the business to amendment or termination of the agreement under G.S. 143B-437.59.
- A provision that prohibits the business from manipulating or attempting to manipulate employee withholdings with the purpose of increasing the amount

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allowed a grant equal to 56.25% of the withholdings of eligible positions. (75% multiplied by ¾ equals 56.25%.) Twenty-five percent of the withholdings of eligible positions would flow to the General Fund, 56.25% would be given to the business in the form of a grant, and 18.75% would be transferred to the Utility Account of the Industrial Development Fund.

of the grant and that requires the Committee to terminate the agreement and take action to recapture grant funds if the Committee finds that the business has manipulated or attempted to manipulate withholdings with the purpose of increasing the amount of the grant.

- A provision requiring that the business engage in fair employment practices as required by State and federal law and encouraging the business to use small contractors, minority contractors, physically handicapped contractors, and women contractors whenever practicable in the conduct of its business.
- A provision encouraging the business to give priority consideration to hiring North Carolina residents.
- A provision encouraging the business to use the North Carolina State Ports.
- A provision stating that the State is not obligated to make any annual grant payment until the State has received an amount of withholdings that exceeds the amount of the grant payment.
- A provision describing the manner in which the amount of a grant might be reduced to ensure compliance with the $10 million annual
- A provision requiring that all disputes involving interpretation of the agreement must be submitted to binding arbitration.

In addition, the Attorney General must review the terms of all proposed agreements and must personally sign each agreement.

Follow-up on grantee businesses. The statutes provide for monitoring of grantee businesses in several ways and require the Committee to amend or terminate agreements if the business fails to live up to the terms of the agreement or the requirements of this new program.

The business must submit annual reports to the Committee. In addition, the Committee may audit at any time a business receiving a grant. At a minimum, the business must submit a copy of its federal and State income tax returns which show business and nonbusiness income, a report that shows withholdings, and a payroll report. This annual submission must also include any additional information the Committee considers necessary to implement the grant program.

This annual submission must be accompanied by a fee of $1,500. The Committee shall allocate the fee among the agencies responsible for evaluating the submission.

The Committee must also obtain information from the Department of Revenue before the disbursement of a grant. The Department of Revenue must certify the amount of withholdings from the eligible business.

The Committee is required to amend or terminate the agreement and to recapture all or part of a grant made in previous years under certain circumstances. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee, the Committee must amend the agreement and may terminate the agreement. This amendment may take the form of a lower percentage being used to determine the amount of the grant or of a shorter term for the agreement. The reduction must be proportional to the failure to comply with the agreement. If the business fails to meet or comply with any term of the agreement or with criteria developed by the Committee for

two consecutive years, the Committee must terminate the agreement. In addition, in each agreement the Committee must include a provision describing the conditions that will lead to recapture of a grant made in an earlier year.

Like with the Bill Lee Act, a business that has an overdue tax debt is penalized. A business that has an overdue tax debt may not receive an annual disbursement of a grant so long as that overdue tax debt is not satisfied or otherwise resolved.

Program evaluation. The Committee is required to make annual reports regarding the program and the funding needed to implement the program. By April 30 of each year, the Committee must publish the following information:

- A listing of each agreement entered into during the previous fiscal year, the cost/benefit analysis conducted with respect to each agreement, a description of each project, and the amount of the initial grant.
- An update on the status of projects under agreements entered into in earlier fiscal years.
- The number and enterprise tier levels of eligible positions created by projects with respect to which grants were awarded.
- The wage levels of eligible positions created by projects with respect to which grants were awarded, aggregated and listed in increments of $5,000.
- The amount of new income tax revenue received by the State related to the projects.
- The criteria developed by the Committee to implement the grant program and changes in those criteria over the previous year.
- The effectiveness of the program in recruiting new and expanding businesses.
- The environmental impact of businesses that have received grants.
- The geographic distribution of grants, by number and amount.
- An explanation of whether the projects with respect to which agreements are entered into involve new businesses in the State or expanding existing businesses in the State.
- A listing of all businesses making an application for a grant and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant.
- A report on the division and use of fees collected under G.S. 143B-437.55 and G.S. 143B-437.58.

Additionally, the Committee shall publish quarterly reports on the program within two months of the end of each fiscal quarter. These reports shall contain information on agreements entered into within the last fiscal quarter including the name of the business, the cost/benefit analysis conducted by the Committee, a description of the project, and the amount of the grant expected to be made under the agreement during the current fiscal year.

In addition, the Committee shall conduct a study annually to determine the amount of funding needed to successfully implement the grant program. The results of that study must be reported to the House of Representatives Finance Committee, the Senate Finance Committee, the House of Representatives Appropriations Subcommittee on Natural and

Economic Resources, the Senate Appropriations Committee on Natural and Economic Resources, and the Fiscal Research Division no later than March 1 of each year.

Finally, the authority of the Committee to enter into additional agreements begins as of January 1, 2003, and expires as of January 1, 2005. This will allow the General Assembly an opportunity to review the program after it has been in effect for a few years in order to determine if the program is meeting its objectives.

House Finance Committee
March 18, 2003

Overview of the Industrial Recruitment Competitive Fund (aka One NC Fund)

In Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424) the following provision for the Industrial Recruitment Competitive Fund was enacted:

"**SECTION 20.3.(a)** Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Moneys allocated from the Fund shall be used for the following purposes:

1. Installation or purchase of equipment;
2. Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
3. Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 20.3.(b) The Department of Commerce shall report on or before January 1, 2002, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund."

History of Appropriations

FY 1993-94	$5,000,000	
FY 1994-95	$7,000,000	
FY 1995-96	$2,000,000	
FY 1996-97	$1,000,000	
FY 1997-98	$1,000,000	
FY 1998-99	$1,000,000	*plus $2M appropriated for Wisconsin Tissue deal that fell through; $1,285,000 to IDF Utility Account, $715,000 used for other recruitment purposes
FY 1999-00	$2,000,000	
FY 2000-01	$2,000,000	
FY 2001-02	$15,000,000	

Attachment 7

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
11991	1/10/2000	Morrison Mgmt Spec.	Mecklenburg	C	2/10/2000	T5-No		1,3	N	$ 5,600,000	40	$40,000.00
2512	3/27/2000	Broyhill Furniture Ind.	Rutherford	AW	3/30/2000	T3-Yes		1	N	$ 14,300,000	520	$75,000.00
2051	5/7/1999	Sara Lee Bakery(amended 10/26/99)	Edgecombe	GT	5/26/2000	T1-Yes-DZ		1	E	$ 20,000,000	200	$125,000.00
3732	5/23/2000	Rampage Yachts(balance due)	Brunswick	SE	5/26/2000	T3-Yes		3	N	$ 10,000,000	300	$16,550.00
3354	5/25/2000	Commonwealth Aluminum	Cleveland	C	6/6/2000	T3-Yes		1,2,3	N	$ 4,525,000	40	$40,000.00
2439	5/9/2000	Southeastern Materials (balance due)	Columbus	SE	6/23/2000	T1		1,2	E	$ 4,000,000	70	$32,000.00
31181	7/20/2000	Poppies International	Nash	GT	8/4/2000	T4-No		1	N	$ 10,000,000	60	$50,000.00
2542	8/16/2000	Impressions Mktg Group(bal. due)	Beaufort	NE	9/5/2000	T1-Yes-DZ		1	N	$ 5,000,000	150	$30,500.00
5122	6/26/2000	Bindley Western Ind., Inc.	Cleveland	C	9/5/2000	T3		1	E	$ 3,300,000	33	$33,000.00
3732	11/23/1999	Davis Boat Works, Inc.	Dare	NE	10/2/2000	T4-No		1,2	E	$ 2,100,000	110	$50,000.00
3083	10/9/2000	UPM-Raflatac, Inc.	Henderson	AW	10/11/2000	T5-No		1	E	$ 45,000,000	120	$50,000.00
2675	10/19/2000	Pactiv Corp.(balance due)	Pitt	GT	10/23/2000	T4		1,2	E	$ 1,650,000	31	$12,000.00
2254	11/6/2000	Gildan Activewear, Inc.	Rockingham	P	11/8/2000	T3		1,2	N	$ 8,500,000	236	$75,000.00
2879	11/13/2000	Syngenta(Novartis Crop Prot. Inc.)	Guilford	P	11/15/2000	T5		1,2	E	$ 2,000,000	110	$350,000.00
3357	11/28/2000	Times Fiber Communications	Randolph	P	12/1/2000	T5		1	N	$ 14,500,000	100	$50,000.00
315211	11/16/2000	MFS, Inc.	Northampton	NE	12/1/2000	T1		2	N	$ 500,000	52	$10,000.00
3624	1/16/2001	H-Power	Union	C	1/23/2001	T5		1,2	N	$ 5,000,000	50	$50,000.00
2611	6/6/2000	Buckeye Lumberton, Inc.	Robeson	SE	1/31/2001	T2		1	E	$ 9,900,000	40	$40,000.00
2521	2/20/2001	Crown Mfg(Bladen Industries)(bal. due)	Bladen	SE	3/2/2001	T2		1	N	$ 2,075,000	50	$7,000.00
3452	1/22/2001	NVR, Inc.	Cleveland	C	3/6/2001	T3		1	N	$ 7,000,000	200	$75,000.00
2834	3/15/2001	Econ Pharma, LLC	Wilson	GT	4/5/2001	T3		3	N	$ 25,500,000	135	$75,000.00
4222	1/16/2001	Atlantic Cold Storage	Davie	P	5/25/2001	T5		3	N	$ 11,000,000	60	$50,000.00
3643	6/4/2001	The Pantry	Lee	RT	6/28/2001	T5		1,2	E	$ 950,000	100	$45,000.00
3316	6/28/2001	Carolina Aluminum(balance due)	Robeson	SE	7/12/2001	T2/$433	$435.76	1	N	$ 1,500,000	25	$2,000.00
5122	12/3/2001	LEK Services, Inc.	New Hanover	SE	12/12/2001	T5/$565	$2,800.00	1	N	$ 120,000	12	$12,000.00
325228	9/21/2001	BSH Home Appliances Corp.	Craven	GT	12/12/2001	T4-DZ/$470	$550.40	1	E	$ 93,758,000	650	$400,000.00
5099	5/29/2001	Lowe's Corporation	Northampton	NE	12/19/2001	T1/$411	$460.00	1	N	$ 60,000,000	300	$125,000.00
2759	12/13/2001	Flower City Printing, Inc.	Forsyth	P	12/19/2001	T5/$636	$636.00	1,2	N	$ 3,200,000	30	$30,000.00
35631	9/21/2001	Ingersoll-Rand	Davie	P	2/5/2002	T5/$498	$638.40	1,2,3	E	$ 6,250,000	60	$50,000.00
3363	11/4/2001	B/E Aerospace	Forsyth	P	2/5/2002	T5/$636	$2,280.00	1,2	E	$ 1,133,500	37	$150,000.00
3699	12/14/2001	Flextronics	Franklin	RT	2/12/2002	T4/$528	$620.00	1,2,3	N	$ 20,000,000	1500	$500,000.00
2844	1/14/2002	Del Laboratories	Pender	SE	3/7/2002	T4/$406	$418.80	1,2	E	$ 14,000,000	484	$325,000.00
511210	2/19/2002	ENI-NET, Inc.	Chowan	NE	3/7/2002	T3/$452	$560.00	1	N	$ 5,250,000	25	$25,000.00
2034	1/7/2002	Unilever Bestfoods (balance)	Randolph	P	3/7/2002	T5/$540	$596.00	1,2	E	$ 6,000,000	55	$12,500.00
2834	12/19/2001	Abbott Labs	Nash	GT	3/22/2002	T4-DZ/$513	$584.00	1,2,3	E	$ 16,000,000	50	$50,000.00

3/18/2003

Source: Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2281	6/5/2002	Parkdale Mills(balance)	Rutherford	AW	7/22/2002	T2/$518	$520.93	1,2,3	N	$ 2,750,900	160	$175,000.00
3713	12/20/2001	Thomas Built Buses	Randolph/ Guilford	P	7/22/2002	T5/$540	$684.40	1,3	N	$ 68,000,000	178	$1,500,000.00
2221	3/28/2002	Cedar Creek Fibers(balance)	Cumberland	SE	7/22/2002	T4/$502	$692.30	1,3	N	$ 4,000,000	170	$204,705.98
3323	4/19/2002	Millennium Mfg	Caldwell	AW	6/17/2002	T4/$535	$553.59	2	E	$ 2,800,000	60	$60,000.00
2241	7/11/2002	Elastic Fabrics, LLC	Cleveland	C	8/28/2002	T3/$540	$540.00	1,2	N	$ 4,550,000	110	$100,000.00
49311	5/17/2002	Ford Motor Company	Alamance	P	8/28/2002	T5/$583	$760.00	1,3	N	$ 9,500,000	70	$250,000.00
3594	8/15/2002	Frisby Aerospace, Inc.	Forsyth	P	9/5/2002	T5/$659	$680.00	2	E	$ 9,000,000	90	$200,000.00
3089	10/24/2001	The Ullman Company	Pender	SE	9/5/2002	T3/$428	$480.00	1,2	N	$ 3,000,000	125	$175,000.00
3732	3/18/2002	HC Composites LLC (balance)	Edgecombe	GT	9/6/2002	T1/$344	$580.00	2	N	$ 2,600,000	46	$3,260.80
3089	8/15/2002	Liquidlogic, LLC	Henderson	AW	10/21/2002	T5/$580	$670.00	3	N	$ 2,950,000	25	$25,000.00
32541	8/15/2002	Embrex, Inc.	Scotland	SE	10/24/2002	T1/$458	$781.20	1,2	N	$ 13,000,000	13	$40,000.00
2499	7/30/2002	Fraternal Composite Specialties, Inc.	Jackson	AW	11/1/2002	T3/$436	$447.60	1	N	$ 5,000,000	110	$125,000.00
3568	1/31/2002	Borg-Warner Cooling	Henderson	AW	12/2/2002	T5/$574	$593.00	1	E	$ 4,673,000	50	$125,000.00
2399	9/21/2001	DSM High Perf. Fib.	Pitt	GT	12/2/2002	T4/$487	$540.00	1	N	$ 47,500,000	75	$80,000.00
3732	11/15/2002	Tracker Marine	Rutherford	AW	12/2/2002	T2/$518	$13.10	1,2,3	N	$ 1,500,000	300	$300,000.00
2844	6/3/2002	Natural Care Labs, LLC	Rockingham	P	12/2/2002	T2/$490	$490.00	1,2,3	N	$ 3,000,000	46	$300,000.00
363	1/31/2002	Prettl	Beaufort	GT	12/10/2002	T4-DZ/$470	$520.00	1	N	$ 8,000,000	77	$450,000.00
3524	12/3/2002	Honda Power Equipment Mfg., Inc.	Alamance	P	1/6/2003	T5/$583	$669.00	1,3	E	$ 25,617,000	199	$250,000.00
3089	3/1/2002	Wirthwein AG (Johnson)	Craven	GT	Gov Ltr	T4/$517	$550.00	1	N	$ 11,000,000	70	$450,000.00
313311	8/28/2002	Edenton Dyeing & Finishing, LLC(bal)	Chowan	NE	1/13/2003	T3/$455	$460.00	1,2,3	N	$ 5,000,000	150	$5,000.00
551114	11/19/2002	Blue Rhino	Forsyth	P	1/13/2003	T5/$659	$1,375.00	1,3	E	$ 9,000,000	100	$200,000.00
2033	8/15/2002	Yankee Commodity Foods of Seagrove	Randolph	P	1/13/2003	T5/T5/552	$552.00	3	E	$ 2,200,000	94	$150,000.00
2295	4/11/2002	Sandusky/Athol Intern	Granville	RT	3/4/2003	T4/$$530	$591.11	3	E	$ 6,000,000	200	$100,000.00
33121	**4/23/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$428**	**$430.00**		**N**	**$ 100,000**	**50**	**$50,000.00**
311999	**4/23/2002**	**Confidential**	**Hyde**	**NE**	**P2001-2002**	**T1/$294**	**$300.00**		**N**	**$ 55,000,000**	**105**	**$105,000.00**
311911	**5/24/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$426**	**$430.00**		**E**	**$ 2,000,000**	**40**	**$40,000.00**
493120	**5/17/2002**	**Confidential**	**Martin**	**NE**	**P2001-2002**	**T1/$426**	**$440.00**		**N**	**$ 5,000,000**	**50**	**$50,000.00**
3231	**5/20/2002**	**Confidential**	**Pasquotank**	**NE**	**P2001-2002**	**T2DZ/$413**	**$440.00**		**N**	**$ 6,300,000**	**200**	**$200,000.00**
226	**8/6/2002**	**Confidential**	**Gaston**	**C**	**P2002-2003**	**T3/$584**			**N**	**$ 33,000,000**	**226**	**$190,000.00**
2253	**8/15/2002**	**Confidential**	**Rutherford**	**AW**	**P2002-2003**	**T2/$518**	**$524.00**		**N**	**$ 22,200,000**	**600**	**$500,000.00**
2493	**8/15/2002**	**Confidential**	**Nash**	**GT**	**P2002-2003**	**T3/$601**	**$680.00**		**N**	**$ 35,000,000**	**170**	**$250,000.00**
3089	**8/15/2002**	**Confidential**	**Halifax, etc.**	**NE**	**P2002-2003**				**N**	**$ 15,000,000**	**100**	**$100,000.00**
332510	**8/28/2002**	**Confidential**	**Bertie**	**NE**	**P2002-2003**	**T1/$371**	**$372.00**		**E**	**$ 750,000**	**40**	**$40,000.00**
	9/11/2002	**Confidential**	**Lenoir**	**GT**	**P2002-2003**	**T2DZ/$467**	**$600.00**		**N**	**$ 5,000,000**	**100**	**$100,000.00**

3/18/2003

Source: NC Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2834	11/6/2002	Confidential	Transylvania	AW	P2002-2003	T3DZ/4573	$769.20		E	$ 528,000	27	$54,000.00
3344	1/17/2003	Confidential	Wake	RT	P2002-2003	T5/$659	$1,634.00		N	$ 5,480,000	335	$30,000.00
3714	11/25/2002	Confidential	Catawba	C	P2002-2003	T5/$596	$720.00	1,3	E	$ 74,800,000	84	$76,000.00
3621	12/9/2002	Confidential	Bladen	SE	P2002-2003	T2/$457	$720.00		N	$ 10,000,000	47	$100,000.00
	12/17/2002	Confidential	Wake	RT	P2002-2003	T5/$659	$659.00		N	$ 85,000,000	400	$500,000.00
	1/30/2003	Confidential	Wilson	GT	P2002-2003	T3DZ/$553			N	$ 14,000,000	300	$300,000.00
	1/30/2003	Confidential	Lenoir	GT	P2002-2003	T2/$513					100	$100,000.00
325211	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$594.22		N	$ 20,000,000	75	$75,000.00
32521	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$680.00		E	$ 130,000,000	50	$100,000.00
		Confidential	Lenoir		P2002-2003	T2/$513						$250,000.00
										Total		$11,540,516.78
										Budget 2002-2003		*$18,900,000.00*
										Disbursements from 2002-2003		*$664,773.22*
										Encumbered		*$11,540,516.78*
										Balance		*$6,694,710.00*

3/18/2003

Source: Department of Commerce

Attachment 8

Overview of the Film Industry Development Account

S.L. 2000-153 created the Film Industry Development Account within the Department of Commerce, Division of Travel and Tourism. The purpose of the Account is to provide annual grants to production companies that engage in production activities in the State. The grant may not exceed 15% of the amount the production company spends for goods and services in the State during a calendar year, and the grant may not exceed $200,000 per production. In 2002, the General Assembly amended the act to require that a production company have at least $1,000,000 in expenditures in this State before it can be eligible for a grant from this account.

There was no funding for this program until last year when $500,000 was appropriated to the Department of Commerce to fund the Account. However, the program has been inactive since its creation and, to date, no grant applications have been filed, nor have any grants been awarded.

On February 20, 2003, Edward Jones, a citizen of Wake County, and the Wake County Taxpayers' Association filed a lawsuit against the North Carolina Department of Commerce, Secretary of Commerce James Fain, and Lynn Minges, Executive Director of the Division of Tourism, Film, and Sports Development, seeking to have the statute authorizing the program declared unconstitutional. The complaint alleges that the program violates the "public purpose" clause of the North Carolina Constitution.

The public purpose doctrine restricts the power of the General Assembly and local governmental units to raise revenue through taxes and to appropriate tax and nontax revenues of the State or governmental unit. In accordance with this doctrine, taxes may be levied only for a public purpose and funds may be appropriated only for a public purpose. The public purpose doctrine is found, in part, in Article V, Section 2(1) of the North Carolina Constitution, which states "The power of taxation shall be exercised in a just and equitable manner, for public purposes only, and shall never be surrendered, suspended, or contracted away." Judicial interpretations of this provision supply additional guidance on the limitation. However, neither the United States Supreme Court nor the North Carolina Supreme Court has formulated a definition of public purpose. Instead, the determination is made on a case-by-case basis.

The Department is currently working on its response to the complaint, which is not due until next week.

143B-434.3. Film Industry Development Account.

(a) Creation and Purpose of Account. - There is created in the Department of Commerce, Division of Tourism, Film, and Sports Development, the Film Industry Development Account to provide annual grants as incentives to production companies that engage in production activities in this State. The Division of Tourism, Film, and Sports Development shall administer this program in accordance with the following provisions:

(1) To be eligible for a grant, a production company must engage in production activities in this State with expenditures in this State of at least one million dollars ($1,000,000). A grant may not be used for political or issue advertising.

(2) A grant may not exceed fifteen percent (15%) of the amount the production company spends for goods and services in this State during the calendar year.

(3) A grant may not exceed two hundred thousand dollars ($200,000) per production.

(b) Production Company Defined. - As used in this section, the term "production company" has the meaning provided in G.S. 105-164.3.

(c) Limitation on eligibility. - No production company shall be eligible for a grant under this section if an original motion picture, television, or radio image for theatrical, commercial, advertising, or educational purposes made by that company contains material that is considered obscene, as defined by G.S. 14-190.1(b).

(d) Reports. - The Department of Commerce shall report annually to the General Assembly concerning the applications made to the account, the payments made from the account, and the effect of the payments on job creation in the State. The Department of Commerce shall also report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the use of the moneys in the account, including information regarding to whom payments were made and in what amounts. (2000-140, s. 79(c); 2000-153, ss. 1, 6; 2002-172, s. 3.1.)

House Committee on Finance

Minutes
March 25, 2003

The House Committee on Finance met on Tuesday, March 25, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander and Hill; and Representatives Blackwood, Bordsen, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Presiding Chairman Gordon Allen called the meeting to order at 8:40 am and then introduced Pages Johnathan Stowe and Phillip Ingram, both from Forsyth County, sponsored by Representative Earline Parmon. Chairman Allen also introduced the new Committee Assistant to the House Finance Committee, Jason Cannon and a new Staff Research Assistant in Fiscal Research, Alexei Pavlichev.

As the first order of business, the Chair recognized the Bill Sponsor, Representative Cole, to explain HB 237: Nurses' Special Registration Plate (see attachment 3). This bill acknowledges the celebration of the nation's first Nursing Association by providing for the issuance of a specialized vehicle license plate. A motion was then made by Representative Howard to adopt the Proposed Committee Substitute (PCS) of HB 237 for discussion. The motion carried without dissent. Having no discussion, Representative Weiss then promptly moved for a favorable report on the Proposed Committee Substitute. The motion carried. Copies of the PCS, Bill, Bill Summary, and Fiscal Note are attached as part of these minutes.

Next, the Chair recognized Representative Adams, sponsor of HB 482: Alpha Kappa Alpha License Plate, to offer an explanation (see attachment 4). This bill, similar to HB 237 (above), provides for the issuance of a special vehicle license plate to include the Alpha Kappa Alpha Sorority's greek-letter symbol. The plate would honor the 50-year anniversary celebration of the North Carolina Chapter of the all-black Alpha Kappa Alpha Sorority. Representative Howard then moved that the Proposed Committee Substitute (PCS) of HB 482 be adopted for discussion. The motion carried. Short discussion ensued followed by a motion by Representative Womble for a favorable report on the PCS (secondary motions by Representatives Wainwright, Luebke, and Ross). The motion carried. Copies of the PCS, Bill, Bill Summary, and Fiscal Note are attached as part of these minutes.

Chairman Allen then recognized Martha Walston to continue her informational discussion of the One NC Fund. The Fund involves the appropriation of monies by the Department of Commerce for the creation of industry and jobs in various areas throughout the state. (Please see attachments 5 and 6.) Department of Commerce spokesman Don Hobart and Staffperson Martha Walston then fielded questions for the Committee members.

The Chair next recognized Linda Millsaps for an informational Power Point Presentation on a summary of the North Carolina sales tax (see attachments 7, 8, and 9). Overall, the presentation focused on a comparison of North Carolina to other state's tax coverage as well as a breakdown of the current and historical tax rates in North Carolina. During the presentation, the Chair, for a question in regard to the Governor's Tax Commission, recognized Representative Luebke who further commented that he was on a "hunt" for revenues for the state. Chairman Allen, a member of the Commission, explained that the intent of the Commission was to broaden the tax on services as a means to lower state sales taxes.

When continuing her presentation, Ms. Millsaps received a request from Representative Jones for staff to provide further information on the use of the property tax in North Carolina prior to 1933 (when the sales tax was initially implemented). The conclusion of the presentation discussed possible tax revenues from Internet and catalog orders. Chairman Allen added that North Carolina loses approximately $450 million annually due to lost taxes on such orders.

The Chair then announced that the remainder of the agenda, specifically Cindy Avrette's presentation on the Streamlined Sales Tax Project would be discussed at a later meeting date. (The handout for this presentation, although not discussed, is included in these minutes as attachment 10.) As a reminder to Committee members, Chairman Allen then noted the next Committee meeting date to be held on Wednesday, March 26, 2003 at 8:30 am in Room 544 when the State Treasurer, Richard Moore, will visit the Committee to discuss the State's fiscal situation.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 10:04 am.

Respectfully submitted,

Representative Gordon P. Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1.	Visitor Registration Sheet
2.	Agenda
3.	House Bill 237 (and related materials)
4.	House Bill 482 (and related materials)
5 & 6.	Handouts on One NC Fund
7, 8, & 9.	Handouts on Overview of State Sales Tax
10.	Handouts on Streamlined Sales Tax Project (not discussed)

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AGENDA

House Finance Committee

March 25, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills

- **HB 237** **Nurses' Special Registration Plate** *Rep. Cole*
- **HB 482** **Alpha Kappa Alpha License Plate** *Rep. Adams*

Continuation of Discussion on the One NC Fund
Martha Walston

Overview of Sales Tax and Streamlined Sales Tax Project
Cindy Avrette and Linda Millsaps

Adjournment

Next Meeting: Tomorrow, Wednesday, March 26 at 8:30 am
Briefing from the Treasurer's Office

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joanne Stevens	nursing
Joan Spencer	Alpha Kappa Alpha Sorority, Inc.
Jim Blackburn	NC Association of County Commissioners
Anna Pope	NC Dept of Revenue
Brian Lewis	Planned Parenthood Health Systems
Paige Johnson	Planned Parenthood Central North Carolina
Tim Minton	NC Home Builders Associated
[illegible]	OSBM
[illegible]	DOC
Patricia Camp	ACLU
[illegible]	ACLU
Sharon Matthews	DOT - DMV

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — March 25, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken McHon	Alley Associates, Inc.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 237*
PROPOSED COMMITTEE SUBSTITUTE H237-CSLAf-2 [v.2]

3/23/2003 12:22:38 PM

Short Title: Nurses' Special Registration Plate. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28g) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "First in Nursing" and a representation relating to nursing."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
Nurses	$25.00

Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0

Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
Nurses	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b24) Nurses. – The Division must receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually."

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 237:
Nurses' Special Registration Plate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Cole
Date:	March 25, 2003	**Analysis by:**	Martha Walston
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: House Bill 237 authorizes the Division of Motor Vehicles to issue a special plate to the owner of a motor vehicle that bears the phrase "First in Nursing" and a representation relating to nursing. There will be a $25 fee in addition to the regular $20 registration fee. Of the $25 additional fee, $10 will go into the Special Registration Plate Account, and $15 will go into the NC Foundation for Nursing for nursing scholarships for North Carolina citizens to be awarded annually. 300 applications must be received before the plate can be issued. SB 295 is a companion bill.

CURRENT LAW: G.S. 20-79.4 through G.S. 20-81.12 deal with special registration plates. For most of these plates, there is an additional charge of $10 for the plate that is credited to the Special Registration Plate Account (SRPA). Some of the special plates carry an additional charge that is applied to the Collegiate and Cultural Attraction Plate Account (CCAPA) or the Natural Heritage Trust Fund (NHTF). The money in the CCAPA is transferred quarterly to a fund or account for the benefit of the particular activity or cause. The money in the NHTF may be used to acquire land that represents the ecological diversity of North Carolina, land that is added to the system of State parks, and land that contributes to the development of a State program of historic properties.

Funds in the Special Registration Plate Account may be used only for the following purposes:

- After the deduction for costs associated with the plates, such as issuance, handling, and advertising, the sum of $525,000 is annually appropriated from the SRPA to provide operating assistance for the following seven Visitor Centers:
  a. on U.S. Highway 17 in Camden County ($75.000)
  b. on U.S. Highway 17 in Brunswick County ($75,000)
  c. on U.S. Highway 441 in Macon County ($75,000)
  d. in the Town of Boone, Watauga County ($75,000)
  e. on U.S. Highway 29 in Caswell County ($75,000)
  f. on U.S. Highway 70 in Carteret County ($75,000)
  g. on U.S. Highway 64 in Tyrrell County $75,000)

- The remaining revenue in the SRPA is transferred quarterly as follows:
  a. 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
  b. 50% to DOT for beautification of highways other than those designated as interstate.
  c. 17% to the account of DHHS to promote travel accessibility for disabled persons

Free special registration plates: One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of War.

Special registration plates exempt from additional fee: Active Member of the National Guard, Legion of Valor, Purple Heart Recipient, or Silver Star Recipient.

BILL ANALYSIS: House Bill 237 authorizes the DMV to issue a specialized "First in Nursing" license plate if there are 300 applications. The recipient of the plate must pay the regular registration fee plus an additional $25 fee. The additional fee will be distributed as follows:

- $10 to the Special Registration Plate Account (SRPA)
- $15 to the Collegiate and Cultural Attraction Plate Account (CCAPA) to be transferred quarterly to the NC Foundation for Nursing for nursing scholarships for North Carolian citizens. The scholarships will be awarded annually.

The proposed committee substitute adds language that the plate will bear a representation related to nursing in addition to the phrase "First in Nursing".

This year North Carolina is celebrating the first 100 years of nursing. In 1903, Governor Charles Aycock signed the first Nursing Practice Act in the country into law. Currently there are 114,000 nurses in the State.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 237 (1st Edition)

SHORT TITLE: **Nureses' Special Registration Plate**

SPONSOR(S): **Representative Nelson Cole**

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Highway Fund	* No Highway Fund Impact *				
Special Plate Fund	**$3,000**	**$3,000**	**$3,000**	**$3,000**	**$3,000**
Collegiate & Cultural Fund	**$4,500**	**$4,500**	**$4,500**	**$4,500**	**$4,500**
EXPENDITURES					
Special Plate Fund	**$1,000**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Transportation.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles to issue special registration plate for nurses. Those requesting the plate will be charged an additional $25, with part of the processes going to the special plate account, and the balance going to the NC Foundation for Nursing to provide nursing scholarships.

ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000.

The bills require an additional payment of $25, with the proceeds flowing to both the special registration plate account ($10) and the collegiate and cultural attraction plate account ($15). The proceeds in to the collegiate and cultural attractions plate account derived from the nurses plate will be transferred to the NC Foundation for Nursing for nursing scholarships.

SOURCES OF DATA: NC Department of Transportation.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 237*

Short Title:	Nurses' Special Registration Plate.	(Public)
Sponsors:	Representatives Cole; Alexander, Allred, Bordsen, England, Fox, Gillespie, Goforth, Insko, McLawhorn, Munford, Pate, Setzer, Sutton, and A. Williams.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28c) Nurses. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12(b24). The plate shall bear the phrase "First in Nursing"."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00

Nurses	$25.00
Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0

In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
Nurses	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b24) Nurses. – The Division shall receive 300 or more applications for a Nurses plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Nurses plates to the NC Foundation for Nursing for nursing scholarships for citizens of North Carolina to be awarded annually."

SECTION 5. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative **G. Allen, Howard, Luebke, McComas, Miner, Wainwright** (Chair) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 237 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to ~~(~~the original bill~~) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on ,)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

JBLIC BILL
ROLL CALL
= S295

H.B. 0237

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES TO SUPPORT NURSING SCHOLARSHIPS IN NORTH CAROLINA.

Introduced by Representative(s): Cole Allred

Verla Insko | Gillespie | Alice L Bordsen | Louis Pate
DON MUNFORD | Stan Fox | Sutton | Setzer
Bruce Ayroth | Arthur Williams | Alexander
McLawhorn
Bob Emlen

Principal Clerk's Use Only

ED 1st READING
MAR 6 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 482
PROPOSED COMMITTEE SUBSTITUTE H482-CSLAf-3 [v.1]

3/23/2003 12:21:03 PM

Short Title: Alpha Kappa Alpha License Plate. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1c) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's symbol and name. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 482:
Alpha Kappa Alpha License Plate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Adams
Date:	March 25, 2003	**Analysis by:**	Martha Walston Committee Counsel
Version:	Proposed Committee Substitute		

SUMMARY: House Bill 482 authorizes the Division of Motor Vehicles to issue a special plate to the owner of a motor vehicle that bears the symbol and name of the Alpha Kappa Alpha Sorority. There will be a $10 fee in addition to the regular $20 registration fee. The $10 fee will go into the Special Registration Plate Account. 300 applications must be received before the plate can be issued. Senate Bill 397 is a companion bill.

CURRENT LAW: G.S. 20-79.4 through G.S. 20-81.12 deal with special registration plates. For most of these plates, there is an additional charge of $10 for the plate that is credited to the Special Registration Plate Account (SRPA). Some of the special plates carry an additional charge that is applied to the Collegiate and Cultural Attraction Plate Account (CCAPA) or the Natural Heritage Trust Fund (NHTF). The money in the CCAPA is transferred quarterly to a fund or account for the benefit of the particular activity or cause. The money in the NHTF may be used to acquire land that represents the ecological diversity of North Carolina, land that is added to the system of State parks, and land that contributes to the development of a State program of historic properties.

Funds in the Special Registration Plate Account may be used only for the following purposes:

- After the deduction for costs associated with the plates, such as issuance, handling, and advertising, the sum of $525,000 is annually appropriated from the SRPA to provide operating assistance for the following seven Visitor Centers:
  a. on U.S. Highway 17 in Camden County ($75.000)
  b. on U.S. Highway 17 in Brunswick County ($75,000)
  c. on U.S. Highway 441 in Macon County ($75,000)
  d. in the Town of Boone, Watauga County ($75,000)
  e. on U.S. Highway 29 in Caswell County ($75,000)
  f. on U.S. Highway 70 in Carteret County ($75,000)
  g. on U.S. Highway 64 in Tyrrell County $75,000)
- The remaining revenue in the SRPA is transferred quarterly as follows:
  a. 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
  b. 50% to DOT for beautification of highways other than those designated as interstate.
  c. 17% to the account of DHHS to promote travel accessibility for disabled persons

Free special registration plates: One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of War.

Special registration plates exempt from additional fee are: Active Member of the National Guard, Legion of Valor, Purple Heart Recipient, or Silver Star Recipient.

If the statute does not set out an additional registration fee or it specifically exempts the special plate from a fee, then the additional fee is $10. This $10 fee goes into the SRPA.

BILL ANALYSIS: House Bill 482 authorizes the DMV to issue a specialized license plate that bears the symbol and name of the Alpha Kappa Alpha Sorority if there are at least 300 applications. The recipient of the special plate must pay the regular registration fee plus an additional $10 fee. The $10 fee will go into the SRPA.

Under current law only one other special plate has been authorized for a fraternity or sorority. The proposed committee substitute conforms to the language of this plate by authorizing the plate to bear the sorority's symbol in addition to the sorority's name.

BACKGROUND: In 1908, Alpha Kappa Alpha Sorority became America's first Greek-letter organization established by Black college women. In 2002, AKA built and dedicated nine additional schools in South Africa and contributed $25,000 to the National Council of Negro Women's Mortgage Liquidation Fund. In 2001, the Sorority contributed over $25,000 for Sickle Cell Anemia. Currently there are North Carolina chapters in the following locations: Winston-Salem, Rocky Mount, Durham, Raleigh, Charlotte, Wilmington, Greensboro, Wilson, Asheville, Salisbury, Goldsboro, Elisabeth City, Gastonia, Kinston, Fayetteville, High Point, New Bern, Greenville, Garysburg, Williamston, Chapel Hill, Creedmoor, Ahoskie, Hickory, Lexington, Southern Pines, Burlington, Norlina, Clinton, Fairmont, Roxboro, Cary, Jacksonville, Washington, Cullowhee, Elon College, Boone, and Maxton.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 482 (1st Edition)

SHORT TITLE: Alpha Kappa Alpha License Plate

SPONSOR(S): Representative Adams

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Highway Fund	* No Highway Fund Impact *				
Special Plate Acct.	**$3,000**				
EXPENDITURES					
Special Plate Acct.	**$1,000**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles to issue an Alpha Kappa Alpha sorority special registration plate.

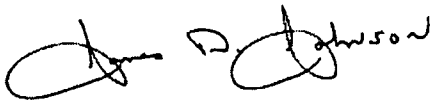
ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000. Under current statutes, all special plate registrations are charged an additional $10. Assuming 300 plates, the bill raises $3,000 for the special plate account.

SOURCES OF DATA: NC Department of Transportation.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: March 21, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 482

Short Title:	Alpha Kappa Alpha License Plate.	(Public)
Sponsors:	Representatives Adams; Parmon and Wainwright.	
Referred to:	Finance.	

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1a) Alpha Kappa Alpha Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words 'Alpha Kappa Alpha'. The Division must receive 300 or more applications for the plate before it may be developed."

SECTION 2. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By SRepresentatives **G. Allen, Howard, Luebke, McComas, Miner, Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 482 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to (the original bill) ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on :)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

BLIC BILL

ROLL CALL

ICI= S397

H.B. 0482

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN ALPHA KAPPA ALPHA SORORITY SPECIAL REGISTRATION PLATE.

Introduced by Representative(s): Adams and Parmon.

Wainwright			

Principal Clerk's Use Only

RECEIVED 1st READING
MAR 13 2003
AND REFERRED TO COMMITTEE
ON Finance

House Finance Committee
March 18, 2003

Overview of the Industrial Recruitment Competitive Fund (aka One NC Fund)

In Sec. 20.3 of the 2001 Appropriations Act (S.L. 2001-424) the following provision for the Industrial Recruitment Competitive Fund was enacted:

"**SECTION 20.3.(a)** Funds appropriated in this act to the Department of Commerce for the Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina. Moneys allocated from the Fund shall be used for the following purposes:

1. Installation or purchase of equipment;
2. Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
3. Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 20.3.(b) The Department of Commerce shall report on or before January 1, 2002, and quarterly thereafter to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the Industrial Recruitment Competitive Fund."

History of Appropriations

FY 1993-94	$5,000,000	
FY 1994-95	$7,000,000	
FY 1995-96	$2,000,000	
FY 1996-97	$1,000,000	
FY 1997-98	$1,000,000	
FY 1998-99	$1,000,000	*plus $2M appropriated for Wisconsin Tissue deal that fell through; $1,285,000 to IDF Utility Account, $715,000 used for other recruitment purposes
FY 1999-00	$2,000,000	
FY 2000-01	$2,000,000	
FY 2001-02	$15,000,000	

Explanation of One NC Fund Spreadsheet

Column 5: "Region"

- C = Carolina's Partnership (Charlotte)
- AW = Advantage West (Western)
- GT = Global TransPark (Eastern)
- SE = Southeastern
- NE = Northeast
- RT = Research Triangle
- P = Piedmont Triad

Column 7: "County Rank/Wage"

- T1-T5 = Tiers 1-5
- "No" = County not considered economically distressed (Tier 4 or 5)
- "Yes" = County is considered economically distressed (Tier 1, 2, or 3)
- DZ = Development Zone
- $XXX = number represents the weekly wage figure needed to meet the "wage test"

Column 8: "Company Wages"

- Represents the weekly wages paid by the company.

Column 9: "Use"

- 1 = Installation or purchase of new equipment.
- 2 = Structural repairs, improvements or renovation of existing buildings to be used for expansion.
- 3 = construction of or improvement to new or existing water, sewer, gas or electric utility distribution lines or equipment for existing buildings and/or new buildings.

Column 10: "New/Exp."

- Exp. = Expansion

One North Carolina Fund/Ind[redacted]ial Recruitment Competitive Fund
Pending [redacted]r Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	New/ Use*	Exp.	Current Investment	Jobs	$ Committed from Fund
11991	1/10/2000	Morrison Mgmt Spec.	Mecklenburg	C	2/10/2000	T5-No		1,3	N	$ 5,600,000	40	$40,000.00
2512	3/27/2000	Broyhill Furniture Ind.	Rutherford	AW	3/30/2000	T3-Yes		1	N	$ 14,300,000	520	$75,000.00
2051	5/7/1999	Sara Lee Bakery(amended 10/26/99)	Edgecombe	GT	5/26/2000	T1-Yes-DZ		1	E	$ 20,000,000	200	$125,000.00
3732	5/23/2000	Rampage Yachts(balance due)	Brunswick	SE	5/26/2000	T3-Yes		3	N	$ 10,000,000	300	$16,550.00
3354	5/25/2000	Commonwealth Aluminum	Cleveland	C	6/6/2000	T3-Yes		1,2,3	N	$ 4,525,000	40	$40,000.00
2439	5/9/2000	Southeastern Materials (balance due)	Columbus	SE	6/23/2000	T1		1,2	E	$ 4,000,000	70	$32,000.00
31181	7/20/2000	Poppies International	Nash	GT	8/4/2000	T4-No		1	N	$ 10,000,000	60	$50,000.00
2542	8/16/2000	Impressions Mktg Group(bal. due)	Beaufort	NE	9/5/2000	T1-Yes-DZ		1	N	$ 5,000,000	150	$30,500.00
5122	6/26/2000	Bindley Western Ind., Inc.	Cleveland	C	9/5/2000	T3		1	E	$ 3,300,000	33	$33,000.00
3732	11/23/1999	Davis Boat Works, Inc.	Dare	NE	10/2/2000	T4-No		1,2	E	$ 2,100,000	110	$50,000.00
3083	10/9/2000	UPM-Raflatac, Inc.	Henderson	AW	10/11/2000	T5-No		1	E	$ 45,000,000	120	$50,000.00
2675	10/19/2000	Pactiv Corp.(balance due)	Pitt	GT	10/23/2000	T4		1,2	E	$ 1,650,000	31	$12,000.00
2254	11/6/2000	Gildan Activewear, Inc.	Rockingham	P	11/8/2000	T3		1,2	N	$ 8,500,000	236	$75,000.00
2879	11/13/2000	Syngenta(Novartis Crop Prot. Inc.)	Guilford	P	11/15/2000	T5		1,2	E	$ 2,000,000	110	$350,000.00
3357	11/28/2000	Times Fiber Communications	Randolph	P	12/1/2000	T5		1	N	$ 14,500,000	100	$50,000.00
315211	11/16/2000	MFS, Inc.	Northampton	NE	12/1/2000	T1		2	N	$ 500,000	52	$10,000.00
3624	1/16/2001	H-Power	Union	C	1/23/2001	T5		1,2	N	$ 5,000,000	50	$50,000.00
2611	6/6/2000	Buckeye Lumberton, Inc.	Robeson	SE	1/31/2001	T2		1	E	$ 9,900,000	40	$40,000.00
2521	2/20/2001	Crown Mfg(Bladen Industries)(bal. due)	Bladen	SE	3/2/2001	T2		1	N	$ 2,075,000	50	$7,000.00
3452	1/22/2001	NVR, Inc.	Cleveland	C	3/6/2001	T3		1	N	$ 7,000,000	200	$75,000.00
2834	3/15/2001	Econ Pharma, LLC	Wilson	GT	4/5/2001	T3		3	N	$ 25,500,000	135	$75,000.00
4222	1/16/2001	Atlantic Cold Storage	Davie	P	5/25/2001	T5		3	N	$ 11,000,000	60	$50,000.00
3643	6/4/2001	The Pantry	Lee	RT	6/28/2001	T5		1,2	E	$ 950,000	100	$45,000.00
3316	6/28/2001	Carolina Aluminum(balance due)	Robeson	SE	7/12/2001	T2/$433	$435.76	1	N	$ 1,500,000	25	$2,000.00
5122	12/3/2001	LEK Services, Inc.	New Hanover	SE	12/12/2001	T5/$565	$2,800.00	1	N	$ 120,000	12	$12,000.00
325228	9/21/2001	BSH Home Appliances Corp.	Craven	GT	12/12/2001	T4-DZ/$470	$550.40	1	E	$ 93,758,000	650	$400,000.00
5099	5/29/2001	Lowe's Corporation	Northampton	NE	12/19/2001	T1/$411	$460.00	1	N	$ 60,000,000	300	$125,000.00
2759	12/13/2001	Flower City Printing, Inc.	Forsyth	P	12/19/2001	T5/$636	$636.00	1,2	N	$ 3,200,000	30	$30,000.00
35631	9/21/2001	Ingersoll-Rand	Davie	P	2/5/2002	T5/$498	$638.40	1,2,3	E	$ 6,250,000	60	$50,000.00
3363	11/4/2001	B/E Aerospace	Forsyth	P	2/5/2002	T5/$636	$2,280.00	1,2	E	$ 1,133,500	37	$150,000.00
3699	12/14/2001	Flextronics	Franklin	RT	2/12/2002	T4/$528	$620.00	1,2,3	N	$ 20,000,000	1500	$500,000.00
2844	1/14/2002	Del Laboratories	Pender	SE	3/7/2002	T4/$406	$418.80	1,2	E	$ 14,000,000	484	$325,000.00
511210	2/19/2002	ENI-NET, Inc.	Chowan	NE	3/7/2002	T3/$452	$560.00	1	N	$ 5,250,000	25	$25,000.00
2034	1/7/2002	Unilever Bestfoods (balance)	Randolph	P	3/7/2002	T5/$540	$596.00	1,2	E	$ 6,000,000	55	$12,500.00
2834	12/19/2001	Abbott Labs	Nash	GT	3/22/2002	T4-DZ/$513	$584.00	1,2,3	E	$ 16,000,000	50	$50,000.00

3/12/2003

Source: NC Department of Commerce

One North Carolina Fund/Industrial Recruitment Competitive Fund
Pending and/or Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2281	6/5/2002	Parkdale Mills(balance)	Rutherford	AW	7/22/2002	T2/$518	$520.93	1,2,3	N	$ 2,750,900	160	$175,000.00
3713	12/20/2001	Thomas Built Buses	Randolph/ Guilford	P	7/22/2002	T5/$540	$684.40	1,3	N	$ 68,000,000	178	$1,500,000.00
2221	3/28/2002	Cedar Creek Fibers(balance)	Cumberland	SE	7/22/2002	T4/$502	$692.30	1,3	N	$ 4,000,000	170	$204,705.98
3323	4/19/2002	Millennium Mfg	Caldwell	AW	6/17/2002	T4/$535	$553.59	2	E	$ 2,800,000	60	$60,000.00
2241	7/11/2002	Elastic Fabrics, LLC	Cleveland	C	8/28/2002	T3/$540	$540.00	1,2	N	$ 4,550,000	110	$100,000.00
49311	5/17/2002	Ford Motor Company	Alamance	P	8/28/2002	T5/$583	$760.00	1,3	N	$ 9,500,000	70	$250,000.00
3594	8/15/2002	Frisby Aerospace, Inc.	Forsyth	P	9/5/2002	T5/$659	$680.00	2	E	$ 9,000,000	90	$200,000.00
3089	10/24/2001	The Ullman Company	Pender	SE	9/5/2002	T3/$428	$480.00	1,2	N	$ 3,000,000	125	$175,000.00
3732	3/18/2002	HC Composites LLC (balance)	Edgecombe	GT	9/6/2002	T1/$344	$580.00	2	N	$ 2,600,000	46	$3,260.80
3089	8/15/2002	Liquidlogic, LLC	Henderson	AW	10/21/2002	T5/$580	$670.00	3	N	$ 2,950,000	25	$25,000.00
32541	8/15/2002	Embrex, Inc.	Scotland	SE	10/24/2002	T1/$458	$781.20	1,2	N	$ 13,000,000	13	$40,000.00
2499	7/30/2002	Fraternal Composite Specialties, Inc.	Jackson	AW	11/1/2002	T3/$436	$447.60	1	N	$ 5,000,000	110	$125,000.00
3568	1/31/2002	Borg-Warner Cooling	Henderson	AW	12/2/2002	T5/$574	$593.00	1	E	$ 4,673,000	50	$125,000.00
2399	9/21/2001	DSM High Perf. Fib.	Pitt	GT	12/2/2002	T4/$487	$540.00	1	N	$ 47,500,000	75	$80,000.00
3732	11/15/2002	Tracker Marine	Rutherford	AW	12/2/2002	T2/$518	$13.10	1,2,3	N	$ 1,500,000	300	$300,000.00
2844	6/3/2002	Natural Care Labs, LLC	Rockingham	P	12/2/2002	T2/$490	$490.00	1,2,3	N	$ 3,000,000	46	$300,000.00
363	1/31/2002	Prettl	Beaufort	GT	12/10/2002	T4-DZ/$470	$520.00	1	N	$ 8,000,000	77	$450,000.00
3524	12/3/2002	Honda Power Equipment Mfg., Inc.	Alamance	P	1/6/2003	T5/$583	$669.00	1,3	E	$ 25,617,000	199	$250,000.00
3089	3/1/2002	Wirthwein AG (Johnson)	Craven	GT	Gov Ltr	T4/$517	$550.00	1	N	$ 11,000,000	70	$450,000.00
313311	8/28/2002	Edenton Dyeing & Finishing, LLC(bal)	Chowan	NE	1/13/2003	T3/$455	$460.00	1,2,3	N	$ 5,000,000	150	$5,000.00
551114	11/19/2002	Blue Rhino	Forsyth	P	1/13/2003	T5/$659	$1,375.00	1,3	E	$ 9,000,000	100	$200,000.00
2033	8/15/2002	Yankee Commodity Foods of Seagrove	Randolph	P	1/13/2003	T5/T5/552	$552.00	3	E	$ 2,200,000	94	$150,000.00
2295	4/11/2002	Sandusky/Athol Intern	Granville	RT	3/4/2003	T4/$$530	$591.11	3	E	$ 6,000,000	200	$100,000.00
33121	4/23/2002	Confidential	Martin	NE	P2001-2002	T1/$428	$430.00		N	$ 100,000	50	$50,000.00
311999	4/23/2002	Confidential	Hyde	NE	P2001-2002	T1/$294	$300.00		N	$ 55,000,000	105	$105,000.00
311911	5/24/2002	Confidential	Martin	NE	P2001-2002	T1/$426	$430.00		E	$ 2,000,000	40	$40,000.00
493120	5/17/2002	Confidential	Martin	NE	P2001-2002	T1/$426	$440.00		N	$ 5,000,000	50	$50,000.00
3231	5/20/2002	Confidential	Pasquotank	NE	P2001-2002	T2DZ/$413	$440.00		N	$ 6,300,000	200	$200,000.00
226	8/6/2002	Confidential	Gaston	C	P2002-2003	T3/$584			N	$ 33,000,000	226	$190,000.00
2253	8/15/2002	Confidential	Rutherford	AW	P2002-2003	T2/$518	$524.00		N	$ 22,200,000	600	$500,000.00
2493	8/15/2002	Confidential	Nash	GT	P2002-2003	T3/$601	$680.00		N	$ 35,000,000	170	$250,000.00
3089	8/15/2002	Confidential	Halifax, etc.	NE	P2002-2003				N	$ 15,000,000	100	$100,000.00
332510	8/28/2002	Confidential	Bertie	NE	P2002-2003	T1/$371	$372.00		E	$ 750,000	40	$40,000.00
	9/11/2002	Confidential	Lenoir	GT	P2002-2003	T2DZ/$467	$600.00		N	$ 5,000,000	100	$100,000.00

3/12/2003

Sou[redacted] NC Department of Commerce

One North Carolina Fund/Ind[redacted]al Recruitment Competitive Fund
Pending [redacted]r Outstanding
(Internal Use Only)

SIC #	Cmt. App. Pre-App	Company Name	County	Region	Gov Sign Date	County Rank/Wage	Company Wages	Use*	New/ Exp.	Current Investment	Jobs	$ Committed from Fund
2834	11/6/2002	Confidential	Transylvania	AW	P2002-2003	T3DZ/4573	$769.20		E	$ 528,000	27	$54,000.00
3344	1/17/2003	Confidential	Wake	RT	P2002-2003	T5/$659	$1,634.00		N	$ 5,480,000	335	$30,000.00
3714	11/25/2002	Confidential	Catawba	C	P2002-2003	T5/$596	$720.00	1,3	E	$ 74,800,000	84	$76,000.00
3621	12/9/2002	Confidential	Bladen	SE	P2002-2003	T2/$457	$720.00		N	$ 10,000,000	47	$100,000.00
	12/17/2002	Confidential	Wake	RT	P2002-2003	T5/$659	$659.00		N	$ 85,000,000	400	$500,000.00
	1/30/2003	Confidential	Wilson	GT	P2002-2003	T3DZ/$553			N	$ 14,000,000	300	$300,000.00
	1/30/2003	Confidential	Lenoir	GT	P2002-2003	T2/$513					100	$100,000.00
325211	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$594.22		N	$ 20,000,000	75	$75,000.00
32521	2/12/2003	Confidential	Brunswick		P2002-2003	T4/$503	$680.00		E	$ 130,000,000	50	$100,000.00
		Confidential	Lenoir		P2002-2003	T2/$513						$250,000.00
										Total		$11,540,516.78
										Budget 2002-2003		*$18,900,000.00*
										Disbursements from 2002-2003		*$664,773.22*
										Encumbered		*$11,540,516.78*
										Balance		*$6,694,710.00*

3/12/2003

Source: NC Department of Commerce

GUIDELINES AND PROCEDURES

FOR COMMITMENT OF FUNDS FROM

THE ONE NORTH CAROLINA FUND

1.0 GENERAL ADMINISTRATION

1.1 Authority

The guidelines, criteria and procedures set forth herein are established pursuant to N.C. Sess. Laws 2001-424, Section 20.3 ("the Act") ("The Governor shall adopt guidelines and procedures for the commitment of moneys from the [Industrial Recruitment Competitive] Fund.").

1.2 Popular Name

The Fund formally designated in the Act as the "Industrial Recruitment Competitive Fund" will be known publicly and referred to for clarity and ease of reference as the "One North Carolina Fund."

All references in these guidelines, criteria and procedures to the "One North Carolina Fund" are intended to be references to the "Industrial Recruitment Competitive Fund."

1.3 Scope and Purpose of Guidelines

These guidelines, criteria and procedures apply to funds appropriated or otherwise deposited, granted or allocated to the Industrial Recruitment Competitive Fund.

They are designed to provide internal direction and guidance to state officials responsible for administering the Fund and negotiating the financial terms and arrangements under which moneys may be allocated from it.

1.4 Amendments

The Governor, in his discretion, may change these guidelines, criteria and procedures from time to time as the size and nature of the fund or the economic circumstances and condition of the State may warrant.

1.5 Administration

The Secretary of Commerce administers the One North Carolina Fund on behalf of the Governor. Administrative support for the Fund will be provided by the Commerce Finance Center ("CFC") or any successor division performing a comparable function.

2.0 FUND MISSION AND GUIDING PRINCIPLES

2.1 Purpose of Fund

The State of North Carolina seeks to grow economically, to achieve uniformly regional prosperity throughout the state, and to differentiate itself in economic development by recruiting and expanding quality jobs in high value-added, knowledge-driven industries. The Industrial Recruitment Competitive Fund (One North Carolina Fund) plays a key role in that effort.

Pursuant to the terms of the Act, the One North Carolina Fund shall be used to "provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina."

"Moneys allocated from the Fund shall be used for the following purposes:

(1) Installation or purchase of equipment;

(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and

(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

"Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations."

The Fund currently consists of nonrecurring appropriations made by the General Assembly and intended to be immediately available to the Governor for use on an "as needed" basis. It is intended to provide the State of North Carolina with a flexible and discretionary tool that can be used in situations in which North Carolina must respond quickly to enable job creation and growth and expansion of economic infrastructure with its borders. It is intended to enable the state to respond quickly and effectively to the dynamic forces of the state's economy and to the competitive nature of industrial recruitment and retention among the various states.

In performing this function, the Fund seeks to encourage and attract sustainable investments and new jobs to North Carolina communities, to stimulate state and local economies, and to provide resources to enable North Carolina communities to improve their economic development infrastructure, expand their tax base, and improve their general economic health and welfare.

Moneys allocated from this Fund are the result of negotiation and agreement between state and local governments and private businesses or industries. These guidelines and criteria are intended to provide direction to those responsible for administering the fund in negotiating the financial arrangements under which moneys will be disbursed.

2.2 Recipients of Moneys Allocated from Fund

Moneys from the One North Carolina Fund will be allocated to local units of government for use in connection with efforts to secure commitments from and to enable businesses and industries to undertake new expansion or locate new operations in the state.

2.3 Entities in Default Barred From Receiving Funds

Pursuant to the specific terms of N.C. Gen. Stat. Section 143B-431.2, the Department of Commerce may not make a loan nor award a grant to any individual, organization, or governmental unit that is currently in default on any loan or grant previously made by the Department.

2.4 New and Existing Industry Projects to be Treated the Same

For purposes of allocating moneys from the Fund, projects involving businesses or industries with an existing presence in North Carolina that seek to expand operations or locate new operations in the state (existing businesses and industries) will be eligible for consideration and funding in the same manner and under the same criteria as projects involving businesses or industries with no existing presence in North Carolina (new businesses and industries).

2.5 Form of Financial Assistance Provided From Fund

Financial assistance provided by the One North Carolina Fund will take the form of negotiated challenge grants, reflecting the long-standing practice of the Fund and the general needs of the economic development community.

The Governor and the Secretary of Commerce reserve the right to structure other forms of financial assistance from the fund in the future should circumstances and conditions warrant them.

2.6 Local Government Match Requirement

Moneys will be allocated from the One North Carolina Fund to those local units of government that match the grants allocated to them. Local governments will be required to document their match. A local government's match must equal the value of the grant from the Fund and may take a variety of different forms, including

1. Cash,
2. Fee waivers,
3. In-kind services,
4. Donation of land, buildings or other assets,
5. Provision of infrastructure.

A combination of the preceding different forms may be used to achieve a local match.

Local funds used to match other non-CFC sources of funding may also be used to match funds from the One North Carolina Fund. Funds used to match other programs of the Commerce Finance Center, however, may not be used to match grants from the One North Carolina Fund.

Guidelines for the local match requirement may be set out in more detail in the Local Government Application.

2.7 Provisions to Ensure Performance and Recapture Funds

It is the intent of this program to ensure accountability for funds disbursed under it. To that end, local units of government and businesses or industries associated with the program are to allow the State of North Carolina and the Department of Commerce, or its agents, access to all records necessary to confirm compliance with program guidelines and with terms of agreements negotiated and executed under them. Such agreements are to include provisions adequate to protect the state's interests in the funds and to require return of funds in cases of failure to comply with performance standards agreed to between the parties.

2.8 Relationship of Funding to Environmental Obligations

The fact that the Department of Commerce may approve or endorse funding for an application for a particular project has no bearing on and in no way mitigates the obligation of the business or industry associated with that project to comply with existing state environmental statutes and regulations.

Release of grant funds is contingent on the company receiving all of its required environmental permits.

2.9 Overdue Tax Debts

Companies with overdue tax debts to the State of North Carolina, as defined in N.C.G.S. 105-243.1, are not eligible for grants until the debts are paid.

3.0 PROCEDURE FOR COMMITMENT, AWARD AND DISBURSEMENT OF FUNDS

3.1 Assignment of Business & Industry Division Personnel

Projects appropriate for funding may be brought to the attention of the Governor and the Department of Commerce in a variety of different ways. As a general rule, when a project is first identified, it will be assigned to an economic developer with the Department's Business & Industry Division. That person will typically be responsible for coordinating negotiations and ensuring that the various steps in the application process are followed by the parties involved.

3.2 Step One: Pre-Application Form

At the time a project has been identified as one for which funding may be appropriate, a pre-application form may be filled out. This form will solicit a variety of different types of information regarding the project. It is designed to assist the Secretary in making a preliminary determination as to whether a portion of the Fund should be reserved for the project in question.

The ability of the Secretary of reserve funds under such circumstances is essential for proper administration and management of the Fund.

Approval of an amount and reservation of funds at this stage does not represent a binding commitment to grant funds. Evaluation of the project and negotiation of terms under which grants may be issued may continue after the initial approval and reservation are made.

Should it be determined that a project will not proceed to the formal application stage, the reserved funds for that project will become generally available for allocation to other projects.

3.3 Step Two: Formal Application

Local units of government seeking moneys from the One North Carolina Fund are required to submit a formal application to the Commerce Finance Center. The application will consist of a cover sheet and three primary components: a local government application, a company application, and a Department of Commerce Developer Form. The application is designed to aid the Secretary of Commerce in making an assessment of whether a project involves a business or industry vital to a healthy and growing State economy, whether the business or industry intends to undertake a significant effort to establish or expand in North Carolina. whether the project is one for which a grant would be necessary to enhance the competitiveness of North Carolina's business and industrial recruitment and retention efforts and needed to enable the project to go forward in the state, and whether the project is consistent with Fund guidelines. It is designed to aid in the evaluation and negotiation of financial arrangements under which moneys from the Fund may be allocated.

The local government application will solicit information regarding the project from the local unit of government. It will solicit, among other things, information necessary to confirm the local match and information concerning incentives offered by other states competing for the project.

The business or industry associated with the project will provide a Company Application to be submitted to the Department of Commerce as part of the formal application. The Company Application will seek detailed information relating to the project, including, among other things: investment amounts, timing and numbers of new full time jobs to be created, average wages for all full time jobs at the facility, health insurance to be provided, the financial condition of the business or industry associated with the project, and other states competing for the project and incentives offered.

The economic developer with the Department's Business & Industry Division who is responsible for monitoring the project should also submit a DOC Developer Form and Cover Sheet. These portions of the application provide information regarding the progress of the application, as well as any information the developer possesses regarding the impact of the project, local government involvement, and other states or countries competing for the project and any incentives they may have offered.

The forms that make up the application are to be submitted to the Department of Commerce at least 30 days prior to the date by which a decision on the grant request is needed. A full and complete application, including all necessary

supporting documentation, must be submitted and approved prior to a formal project announcement.

Applications not submitted in the proper timeframe and applications not properly completed may be denied for that reason by the Department of Commerce. The Department of Commerce reserves the right to reject any application associated with a project that issues a formal announcement prior to the date on which a final decision is made concerning the award of moneys from the One North Carolina Fund.

3.4 Step Three: Governor's Letter

If the application received from the local government is approved, a letter will be prepared for the Governor's signature announcing that the local government is eligible for an award of a specified dollar amount. The award of any grant funds, however, will be contingent upon the local unit of government and the business or industry entering into a satisfactory, negotiated Company Performance Agreement, the local unit of government entering into a satisfactory Local Government Grant Agreement with the Department of Commerce, and the ultimate performance of the business or industry under the terms of these agreements. Disbursement of any funds to the local government will be in increments over time and contingent upon submission of proper documentation of the necessary performance.

In the Governor's absence and at the direction of his Office, the Secretary of Commerce may prepare and send the letter in question.

3.5 Step Four: Execution of Appropriate Contracts

The local unit of government and the business or industry must enter into a satisfactory, negotiated Company Performance Agreement that includes the performance criteria necessary for funds to be released. The local unit of government must also enter into a satisfactory Local Government Grant Agreement with the Department of Commerce.

3.6 Step Five: Submission of Proof of Performance

Funds should ordinarily be disbursed from the One North Carolina Fund in 25% increments based on incremental progress toward the specified performance criteria. For the funds to be disbursed, the local unit of government must submit proof to the Commerce Finance Center that the performance criteria for a particular installment of funds have been met, including documentation that the required jobs have been created. The local unit of government must also provide a statement from any entity that will receive and apply the funds verifying the uses to which the funds will be put and attesting that those uses are consistent with those purposes for which funds may be granted under these

Guidelines and the Act. If the appropriate performance criteria have been met, a check will be issued for the installment.

3.7 Step Six: Confirmation of Receipt, Deposit and Disbursement

When funds are actually applied by the local government, the local government must then submit proof of receipt, deposit, and proper disbursement of the funds.

3.8 Procedures to be Applied Consistently

The general procedure outlined in these Guidelines is intended to be applied consistently to all projects. Significant deviations in procedure should occur only when, in the exercise of discretion and considering the particular and unusual circumstances, it is concluded that the best interests of the State and the purposes of the Fund will be advanced. Such deviations should be noted when they occur.

4.0 INFORMATION REQUESTED FOR ALLOCATION DECISIONS

4.1 Information to be Collected

The information to collected in the process of application for grants from the One North Carolina Fund may include:

1. The weighted hourly average wage for the group of new full time jobs being created.
2. The weighted hourly average wage for the full time jobs at the entire facility.
3. Confirmation that any jobs used as a basis for computing the allocation of moneys from the Fund are in fact net new jobs to the business or industry's operations in the state and are not jobs or positions transferred from operations in one part of the state to another.
4. Timing of new jobs to be created.
5. Confirmation and details of health insurance provided for employees at the facility.
6. Nature of business activity associated with the project.
7. Types, amounts, and timing of the business or industry's financial investment in the project.
8. Details relating to job transfer and plant closings. If the business or industry has previously announced the closing of a facility that is still in operation at the time of the agreement, but scheduled to close in the near future, details regarding how the facility and expansion are related must be provided.

9. Information necessary to assess the economic strength, capacity and sustainability of the business or industry associated with the project.
10. Information relating to the environmental record and practices of the business or industry associated with the project.
11. Information regarding local incentives offered.
12. Information regarding incentives offered by any other states or countries competing for the project.
13. Additional information needed to evaluate the criteria for allocating funds to particular projects set out in Section 6.0.
14. Such other information as the Governor and/or the Secretary may deem necessary.

4.2 Ability to Request Additional Information

The Governor or the Secretary may require additional information to be provided from a local unit of government or from a business or industry beyond that which may be contained in the application forms.

4.3 Failure to Provide Information

Failure to provide information requested, as well as failure to provide requested information in sufficient detail, may serve as grounds for rejecting an application.

5.0 ALLOCATION DECISIONS

5.1 Review Procedure

The Department of Commerce will review a formal application and make a recommendation on funding to the Governor. The review in question will be conducted by the Secretary of Commerce, who may draw upon the expertise and assistance of the Assistant Secretary of Economic Development, the Director of the Commerce Finance Center and the Assistant Secretary of Administration. The Secretary may also consult such other members of his staff as he deems necessary to develop recommendations. The Secretary will make his recommendation to the Governor who renders the final decision on allocation prior to sending the Governor's Letter.

6.0 CRITERIA FOR ALLOCATING FUNDS TO PROJECTS

6.1 Threshold Statutory Criteria For Awarding Funds

Moneys from the Fund shall be awarded to local governments for those economic development projects that involve businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that agree to make a significant effort to establish or expand in North Carolina.

Consistent with the Fund's statutory name, moneys from the Fund shall be used in connection with projects for which participation by the state government is needed for the project to go forward in the state and for which it is necessary to enhance the competitiveness of North Carolina's industrial recruitment and retention efforts. Projects eligible for moneys from the Fund may include those described under N.C. Gen. Stat. 105-129.4(e).

6.2 Wage Test and Health Benefits

For a project to be eligible for a grant from the Fund, wages for the project should meet the wage test set out in the William S. Lee Act (or any successor program performing a similar function) at the time of application and should provide the level of health insurance benefits required for the William S. Lee Act (or any successor program performing a similar function) at the time of application.

The projected wages and health insurance for the project should meet the appropriate wage and health insurance standard at the time of application, and the actual jobs should meet that wage and health insurance standard when finally created.

Exceptions to this criterion may be approved only by the Governor and only in exceptional cases involving factors such as an unusually strong benefits package, unusually severe economic hardship, and/or unusual circumstances of local or regional distress.

6.3 Net New Jobs

For a project to be eligible to receive and retain a grant from the Fund, the new jobs used as the basis for this application should be net new positions to the company's operations in the state and not jobs transferred from any existing North Carolina operations of the company or a related entity.

6.4 Factors to be Considered in Allocation and Award Decisions

In exercising the discretion required to negotiate, award and allocate grants from the One North Carolina Fund, the following criteria may be considered:

1. Economic Impact of Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Impact on gross regional product and gross state product.
b. Costs and benefits of the project to the state, including the expected return on investment made in the project by the state.
c. Number of direct jobs that will be created by the project, the wages of those jobs, and the total payroll for the project.
d. Number of induced, short-term, project-related jobs expected to be generated by the project as well as the number of long-term permanent jobs expected to be created indirectly in the economy as a result of the project.
e. Dollar value of the investment, including the size of investment in real versus personal property and expected depreciation rates.
f. Economic circumstances of the county and region, including the extent to which the project will serve to mitigate unemployment.
g. To the extent not otherwise addressed in other factors, the expected time frame during which the project is expected to payback in state tax revenues the amount of any grants paid out under the One North Carolina Fund.
h. To the extent not otherwise addressed in other factors, the economic demands the project is expected to place upon the community or communities in which it will locate.
i. Whether the project is located in a development zone and the degree to which the project is likely to draw employees from a development zone.

Projects in which total benefits provided through the Commerce Finance Center exceed $1,000,000 should be accompanied by a completed economic impact analysis.

2. Strategic Importance of the Project to the State, Region or Locality

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of business activity associated with the project.
b. Extent to which the project builds or enhances a business or industrial cluster.
c. Extent to which project falls within a classification of business and industry that the Department of Commerce regards as a target for growth and expansion in the state.
d. Ability of the project to attract follow-on investment in the state by suppliers and vendors.
e. Extent to which the project serves to maintain and grow jobs in the state in a business undergoing an internal restructuring or "rationalization" process.
f. Extent to which the project mitigates unemployment in distressed areas.
g. Extent to which the project can be expected to contribute significantly to and support the local community.
h. Degree to which project can be identified as at risk of being developed or located in another state and degree to which use of moneys from the Fund plays a role in any final decision to develop or locate the project in North Carolina.

3. Quality of Jobs

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Wage level and status of the jobs to be created.
b. Quality and value of benefits offered by the company (e.g., child care benefits, health and dental benefits, 401(k) plans, defined benefit plans, etc.)
c. Potential for employee advancement.
d. The extent of training programs offered by the company.
e. Sustainability of the jobs in future.

4. Quality of Industry and Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of the project and project's relationship to the larger business of the company.
b. Nature of the industrial classification of the project and of the company undertaking it.
c. Long-term prospects for growth at the project site or sites.
d. Long-term prospects for growth of company and industry within the United States.

e. Financial stability of company associated with the project.

5. Environmental Impact of Project

In evaluating a project under this criterion, the following factors are among those that may be considered:

a. Nature of business to be conducted at site.
b. Ability of project to satisfy state, federal and local environmental laws and regulations.

Special consideration may be given to companies that locate or expand in rural areas or areas that have experienced sudden and severe economic disruptions, projects that will create an unusually large number of jobs, companies that have agreed to negotiate special hiring arrangements for lower income persons in connection with a project; projects that bring an exceptional new technology to the state, and projects involving company a that is a recognized national or international leader in its industry.

A Bergman Evaluation System Form should be completed for each project. It should be included with materials to be considered when making a recommendation and considered as part of a final decision to award funds.

7.0 TERMS TO BE INCLUDED IN CONTRACTUAL ARRANGEMENTS

7.1 Company Performance Agreement

The basic form of the Company Performance Agreement between a local unit of government and a business or industry associated with a particular project will be prescribed by the Department of Commerce and will include, among other terms, the following:

1. A commitment to create the agreed-upon level of jobs and any required investment at the agreed-upon location in North Carolina within the specified time period.
2. The conditions with which the business or industry must comply to receive the benefits of grants made to local units of government under the Fund.
3. The terms under which a business or industry will be deemed to have met or failed to meet the terms of a commitment.

4. The procedure by which any previously disbursed funds may be recaptured by the unit of local government or the State under circumstances in which the business or industry has ultimately failed to meet its commitments.
5. The number of jobs that must be sustained beyond the initial period of time in which they must be created and the lengths of time those jobs must be sustained to avoid an obligation to reimburse the Fund.
6. An obligation to provide proof of new jobs created and new investment made.
7. A right on the part of the State or local unit of government to inspect all records that may be used to confirm compliance with terms of any agreements.
8. An acknowledgement that participation by the State is necessary to enable the project to go forward in North Carolina.
9. An agreement that the funds received may be used only to offset statutorily authorized expenses.

Ordinarily, a business or industry that creates jobs or makes investments as part of this program must do so within a three year period and maintain at least 90% of the jobs for a period of two years following the time at which the grant is closed out by the Department.

7.2 Local Government Grant Agreement

The form of the Local Government Grant Agreement between the local unit of government and the Department of Commerce will be prescribed by the Department of Commerce and will include, among other terms, the following:

1. An agreement to comply with the terms of the local unit of government's application.
2. An agreement to take all steps necessary to ensure and establish to the Department that required levels of jobs and investments are made and that no grant funds are further disbursed by the local unit of government until necessary performance criteria have been met.
3. An agreement to recapture all disbursed funds to which the local unit of government has the right to be reimbursed.
4. An agreement to otherwise reimburse the Department for any funds improperly disbursed.
5. An agreement to permit the Department to offset other state funds due to the local governments to recover any funds improperly disbursed and not reimbursed.
6. An agreement to permit the Department access to all records necessary to evaluate compliance with the program guidelines and all agreements executed under them.

8.0 DISBURSEMENT OF FUNDS

8.1 Quarterly Dispersal

Ordinarily, local units of government that receive grants from the One North Carolina Fund will receive those funds over a period of three years following the date of the Governor's Letter in four increments as each quarter (25%) of the total number of required new jobs for which funds were allocated are created.

Deviations in this schedule should occur only when, in the exercise of discretion and considering the particular and unusual circumstances, it is concluded that the best interests of the State and the purposes of the Fund will be advanced. Any such deviation should be reflected in the necessary agreements.

8.2 Proof of Required Job Creation

Before funds are disbursed, the Department of Commerce must be provided with proof that the required jobs have been created.

This proof should take two forms.

First, the business or industry must attest that the jobs created are net new positions for the company's operations in the state and are not jobs transferred from any existing North Carolina operations of the company.

Second, the business or industry must provide documentary proof that it has experienced a net increase in jobs.

8.3 Forms of Documentary Proof

For funding to be released for projects involving a business or industry with a *single facility* in North Carolina, a copy of that business or industry's Employer's Quarterly Tax and Wage Report (Form NCUI 101 filed with the N.C. Employment Security Commission) must be submitted to the Department of Commerce. If this form is discontinued or modified, a successor form performing a comparable function must be submitted.

For funding to be released for projects involving a business or industry with *multiple facilities* in North Carolina, a copy of that business or industry's Multiple Worksite Report (Form BLS 3020 filed with the N.C. Employment Security Commission) must be submitted to the Department of Commerce. If this form is discontinued or modified, a successor form performing a comparable function must be submitted.

Where funding is provided for a project involving a business or industry that is *expanding* existing North Carolina operations, a copy of the business or industry's most recent relevant report to the N.C. Employment Security Commission *prior to the expansion* must be submitted to the Department of Commerce, in addition the quarterly reports required thereafter.

The Department of Commerce may request further proof of performance in a particular case when, in the exercise of its judgment, such proof is needed to confirm performance.

8.4 Proof of Required Job Creation to Precede Disbursement by Department

The preceding documentation must be received before each installment of funding will be disbursed to the local unit of government.

8.5 Local Government's Responsibilities in Disbursement

The local unit of government is responsible for any further disbursement of the funds, in a timely fashion and consistent with the Local Government Budget and Fiscal Control Act. The unit of government must account to the Department of Commerce for its receipt, deposit and disbursement of the funds in question.

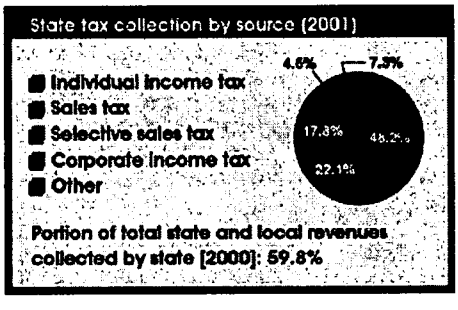
NC State Sales Tax: History, Exemptions, and Issues

Linda Struyk Millsaps
Fiscal Research
March 25, 2003

State Sales Tax

- Outlined in G.S. 105-164
- Purpose of the Tax:
  - "... provide revenue for the support of the public school system of this State and for other necessary uses and purposes of the government and State of North Carolina." G.S. 105-164.2
  - "generate revenue for the state ... a tax imposed upon the retail merchant as a privilege tax for the right to engage in that business ... designed to be passed on to the consumer ... equalize the tax burden on all State residents" In re Assessment of Additional N.C. & Orange County Use Taxes (1985)
  - Generally levied on the sale of tangible personal property.

Sales Tax as Revenue Source



Sales Taxes and Other States

- Levied in 46 states (45 at state level, one at local only).
- 30 states allow local option sales tax.
- Combined rates vary from a high of 9.75% to 4.0%.
- 27 states exempt food.
- All but Illinois exempt prescription drugs.

State Sales Tax Rates

- 4.5% - General Rate, when in effect, local tax applies.
- 2%, $300 cap – Manufactured Homes.
- 3%, $1,500 cap – Aircraft, boats, railway cars, or locomotives; mobile classroom or office.
- 1% - Horses, mules, animal semen, sales to freezer locker plants, and fuel (other than electricity) sold to farmers, manufacturers, laundries, and dry cleaners.
- 1%, $80 cap – Farm machinery, mill machinery, telephone company property, other machinery and equipment.

State Sales Tax Rates

- 2.83% - Electricity sold to farmers, dry cleaners, and manufacturers that use 900,000 megawatt hours or less a year.
- 0.17% - Electricity sold to manufacturers that use over 900,000 megawatt hours per year.
- 3% - Electricity not taxed at a lower rate.
- 6% - Telecommunications and liquor.
- 5% - Satellite television.

History

1933
Sales tax created.
- Certain staples were exempted as they were deemed essential articles of food.

Manny special rates included for farmers and manufacturers.

Gross receipts tax levied at 3% on amusements.

1935
Food tax exemption repealed.

1937
Food exemption reinstated and expanded.

1939
Use tax created.

History

1957
Extensive rewrite of the sales tax laws including:
- Exemptions for school food, sales by blind merchants, newspapers, vending, some advertising, some machinery sales not already exempt, eyeglasses, and false teeth.

1961
- Exemption for food eliminated.
- Several refunds were authorized including those for non-profit hospitals, educational institutions, and churches.
- Printed advertising became taxable.

History

1971
- 1% local tax authorized, made the combined rate 4%.

1983
- Additional ½ cent local authorized, combined rate to 4.5%. Some revenue earmarked.

1986
- Additional ½ cent local authorized, combined rate to 5%.

1991
- State sales tax increased 1%, combined rate at 6%.

1996
- State begins eliminate of the tax on food, 1% a year.

History

1998
- Eliminate the remaining 2% on food.
- Refunds granted to public schools.
- Create a new excise tax for piped gas, eliminate other taxes.

2000
- NC begins participation in the Streamlined Sales Tax Project.

2001
- State sales tax increases ½%, combined rate 6.5%. Local sales tax swap authorized.

2002
- Sales tax "swap" accelerated, combined rate 7.0% until 7/2003.

Issue: Services

- North Carolina levies a sales tax on three services:
  1. *Dry cleaning – Revenue goes to specific fund for clean-up.*
  2. *6% Gross receipts tax on all telecommunication services.*
  3. *Temporary lodging.*
- 11 states do not tax any services.
- 3 states tax almost all services.
- 1986 Florida enacted sweeping sales tax on services. Repealed within a year.
- Currently several states exploring imposing tax on services.
- Recommended by Governor's Commission to Modernize State Finances.

Issue: Internet and Catalog Sales

- Becoming one of the "hot" issues in taxation policy.
- Studies based on work at Univ. of Tennessee suggest $200-$300 million of state revenue loss.
- NCACC estimates local loss of $148 million in 2003.
- Recently several major remote retailers have voluntarily begun to collect sales tax for North Carolina.

•Streamlined Sales Tax Project designed to address this area of state and local revenue loss.

States' Sales Tax Treatment of Services

North Carolina only has three taxes on services: 1) sales tax on the gross receipts from services rendered by any business in the industry of dry cleaning, pressing, or hat-blocking; 2) a uniform tax rate of 6% on gross receipts from all telecommunications services; and 3) temporary lodging, with local government authority. Rentals of tangible personal property (i.e. formal ware and videos) are considered a sale in North Carolina, therefore taxable.

Total number of states where services are not taxed - 11

Possible options for taxation on services from other states, broken down by category:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)
- Alterations / repairs on furniture (4 states: AR, CN, IA, MS)
- Alterations / repairs on electrical appliances, including radio and television (4 states: AR, CN, IA, MS)

Transportation

- Transportation services (5 states: GA, HI, ID, MO, WY)
- Transportation / delivery of money, armored car services (5 states: AR, CN, IA, MD, MN)
- Private car lines / limousine services (4 states: AZ, IA, OK, WI)
- Motor vehicle parking, other than metered space, in a lot having 30 or more spaces (significant exclusions) (4 states: CN, LA, SD, TX)
- Rental or lease of an automobile; an alternative highway use tax may apply (3 states: ME, SD, WI)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Communications

- Telecommunications services; some cellular services (12 states: LA, ME, MD, NC, NY, SC, SD, TN, TX, VT, WI, WY)
- Prepaid calling arrangements (3 states: ME, MD, WI)

Recreation

- Admissions to amusements; 1% or 3% gross receipts tax may apply (6 states: LA, SD, TX, UT, VT, WI)
- Cable television services (5 states: ME, MS, SD, TX, WI)
- Dues or fees to clubs (4 states: KS, OK, SD, WI)
- Golf, county clubs, commercial recreation, bowling/billiards (3 states: IA, KS, MS)
- Bingo rights (2 states: AR, WI)

- Pay-per-view television services (2 states: IA, MD)
- Campgrounds (2 states: IA, SD)
- Subscriber radio and television services (2 states: KS, MS)
- Professional sporting events (2 states: WA, WI)
- Rental of video tapes and video equipment (2 states: ME, **NC**)
- Dance schools and studios (1 state: IA)
- Film developing (1 state: MS)
- Internet access service (1 state: TX)

General Professional Services

- Laundry, cleaning, pressing and dyeing services (16 states: IA, KS, LA, MD, MI, MN, MS, **NC**, NY, OH, PA, SC, SD, TN, UT, WI)
- Hotel, other overnight stay rental accommodations (11 states: LA, ME, **NC?**, SC, TN, SD, UT, VA, WA, WI, WY)
- Paging and telephone answering (8 states: AR, CN, IA, KS, MD, MS, TX, WI)
- Computer and data processing, stenographic services, secretarial services (6 states: CN, ME, MS, OH, PA, TX)
- Printing services (6 states: LA, NY, OH, PA, SD, WI)
- Lease or rental of tangible personal property (6 states: CN, IA, KS, **NC**, NY, SD)
- Employment agencies (4 states: CN, IA, OH, PA)
- Fabrication services (4 states: ME, MD, OH, WI)
- Business analysis, management consulting, public relations, and lobbying (3 states: CN, PA, SD)
- Engineering (3 states: NY, SD, WI)
- Advertising agency (2 states: CN, DE)
- Real estate broker (2 states: DE, SD)
- Taxidermy services (2 states: IA, WI)
- Collection agencies (2 states: DE, SD)
- Hospital charges for patient care services (1 state: CN)
- Auctioneer, commercial leaser, broker (1 state: DE)
- Test laboratories (1 state: IA)
- Service charges of all financial institutions (1 state: IA)
- Funeral services and crematories, with a cap of $1500 (1 state: SD)
- Appraiser services (1 state: SD)
- Accounting (1 state: SD)
- Legal services (1 state: SD)

Labor Services

- Lawn care and landscaping services (10 states: AR, CN, IA, MN, MS, OH, PA, SD, WA, WI)
- Cleaning of a commercial or industrial building (10 states: AR, CN, IA, MD, MN, OH, PA, SD, UT, WA)
- Parking lot or garage operators (8 states: DE, IA, MS, NY, OK, TN, WA, WI)
- Extermination services (7 states: CN, FL, IA, MN, MS, PA, SD)
- Distribution, generation or transmission of electricity is considered tangible personal property subject to tax (6 states: CN, ME, MS, SC, SD, WY)
- Construction, welding, well-drilling, tin and sheet metal repair (4 states: IA, MS, SD, WA)
- Transportation for the transmission, distribution, or delivery of electricity or natural gas (4 states: MD, MS, SD, WY)

- Storage of household goods, mini-storage (3 states: IA, MS, PA)
- Plumbing services (2 states: IA, MS)
- Moving services (2 states: DE, IA)
- Wrecking services, towing (2 states: IA, WA)
- Locksmith services (1 state: CN)
- Window cleaning services (1 state: CN)
- Water conditioning and softening (1 state: IA)
- Electrical services (1 state: MS)
- Cold storage space (1 state: LA)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)
- Health spas, fitness clubs (4 states: AR, MN, OH, WA)
- Massage salons (except services provided by licensed massage therapists) (3 states: CN, IA, MN)
- Photographer (3 states: DE, SD, WI)
- Indoor tanning (3 states: AR, IA, WA)
- Swimming pool cleaning and servicing (3 states: AR, CN, IA)
- Dating and escort services (2 states: IA, WA)
- Storing personal property in and renting safe deposit boxes (2 states: NJ, NY)
- Barber and beauty services (2 states: IA, SD)
- Painting, interior decorating (2 states: IA, NY)
- Investment counseling (1 state: IA)
- Rental of furniture (1 state: ME)

General

- Performance of services for consideration in the state are taxed (1 state: NM)
- All services except professional or personal services and those furnished by corporations subject to the Public Service commission (1 state: WV)
- Sales and use tax apply to any services that are a part of a sale (1 state: KY)

Those items taxed by more than five (5) states:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)

Transportation

- Transportation services (5 states: GA, HI, ID, MO, WY)
- Transportation / delivery of money, armored car services (5 states: AR, CN, IA, MD, MN)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Communications

- Telecommunications services; some cellular services (12 states: LA, ME, MD, **NC**, NY, SC, SD, TN, TX, VT, WI, WY)

Recreation

- Admissions to amusements; 1% or 3% gross receipts tax may apply (6 states: LA, SD, TX, UT, VT, WI)
- Cable television services (5 states: ME, MS, SD, TX, WI)

General Professional Services

- Laundry, cleaning, pressing and dyeing services (16 states: IA, KS, LA, MD, MI, MN, MS, **NC**, NY, OH, PA, SC, SD, TN, UT, WI)
- Hotel, other overnight stay rental accommodations (11 states: LA, ME, **NC?**, SC, TN, SD, UT, VA, WA, WI, WY)
- Paging and telephone answering (8 states: AR, CN, IA, KS, MD, MS, TX, WI)
- Computer and data processing, stenographic services, secretarial services (6 states: CN, ME, MS, OH, PA, TX)
- Printing services (6 states: LA, NY, OH, PA, SD, WI)
- Lease or rental of tangible personal property (6 states: CN, IA, KS, **NC**, NY, SD)

Labor Services

- Lawn care and landscaping services (10 states: AR, CN, IA, MN, MS, OH, PA, SD, WA, WI)
- Cleaning of a commercial or industrial building (10 states: AR, CN, IA, MD, MN, OH, PA, SD, UT, WA)
- Parking lot or garage operators (8 states: DE, IA, MS, NY, OK, TN, WA, WI)
- Extermination services (7 states: CN, FL, IA, MN, MS, PA, SD)
- Distribution, generation or transmission of electricity is considered tangible personal property subject to tax (6 states: CN, ME, MS, SC, SD, WY)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)

Repairs, security, luxury services:

Repairs

- Installing or repairing tangible personal property (11 states: KS, LA, NJ, NY, OH, PA, TN, TX, UT, WI, WY)
- Alteration / repairs / services on motor vehicles (including cars, aircraft, farm machinery, boats, machinery, bicycles) (8 states: AR, CN, IA, MN, MS, OH, PA, SD)
- Alterations / repairs on shoes, clothing (5 states: AR, IA, MS, NY, SD)
- Alterations / repairs on furniture (4 states: AR, CN, IA, MS)
- Alterations / repairs on electrical appliances, including radio and television (4 states: AR, CN, IA, MS)

Security

- Security businesses, burglar protection (7 states: DE, FL, IA, MD, MS, OH, TX)
- Private investigation, detective services (5 states: CN, FL, MN, NY, OH)

Luxury Services

- Pet grooming and boarding (5 states: IA, MN, SD, TN, WI)
- Health spas, fitness clubs (4 states: AR, MN, OH, WA)
- Massage salons (except services provided by licensed massage therapists) (3 states: CN, IA, MN)
- Photographer (3 states: DE, SD, WI)
- Indoor tanning (3 states: AR, IA, WA)
- Swimming pool cleaning and servicing (3 states: AR, CN, IA)
- Dating and escort services (2 states: IA, WA)
- Storing personal property in and renting safe deposit boxes (2 states: NJ, NY)
- Barber and beauty services (2 states: IA, SD)
- Painting, interior decorating (2 states: IA, NY)
- Investment counseling (1 state: IA)
- Rental of furniture (1 state: ME)

NC TAX PREFERENCES ($ MILLION)				
GS 105	**Description**	**Current Law**	**Options**	**Fiscal Effect**
	SALES & USE TAX - Rates			
164.4(a)(1a)	Manufactured homes; each section of a home transported separately to a site is an article to be taxed	2%,$300 limit per article	2%, no limit 3%, no limit 4%, no limit	13.8 30.4 46.9
164.4(a)(1b)	Boats, aircraft,railway cars, locomotives	3%, $1,500 limit	4%, no limit	5.9
164.4(a)(1c)	a. Horses or mules b. Animal semen for artificial insemination c. Sale of fuel for farm purposes d. Sale of fuel to manufacturers e. Sale of fuel to commercial laundries f. Sale of supplies to freezer locker plants	1%	4%	NA
164.4(a)(1d) & 164.4A (1, 3-11)	Farm machinery, telephone company property, laundry machinery, tobacco equipment, broadcasting machinery, farm containers, farm storage facilities, freezer plant machinery, recycling facility equipment, and air courier equipment.	1%, $80 limit	1%, $280 limit 1%, $700 limit 1%, no limit 2%, $240 limit 3%, no limit 4%, no limit	2.1 5.5 21.0 39.4 132.0 178.5
164.4(a)(1e)	Mobile office or mobile classroom sold at retail	3%, $1,500 limit per article	3%, no limit 4% no limit	NA NA
164.4(a)(1f)	Electricity to farmers and commercial laundries and cleaners	2.83%	4%	NA
164.4(a)(1g)	Electricity to manufacturers	2.83% 900,000 megawatts or less .17% over 900,000 megawatts (additional rates in 2005)	4%	NA
164.4(a)(4c)	Telecommunications service	6% on gross receipts (shared with local)	6.5% (= to combined sales tax rate)	
164.4(a)(6)	Direct to home satellite service	5% on gross receipts - state only	6.5% (share with local)	
164.4(a)(7)	Spirituous liquor other than mixed beverages	6% on gross receipts - state only	6.5% (share with local)	
164.13(5a) & 164.4A (2)	Manufacturing machinery	1%, $80 limit	Becomes excise tax on January 1, 2006	
164.4A(12)	Passenger air carriers & air couriers - flight crew training simulators at hub	1%, $80 limit	4%	0.4
	SALES & USE TAX - Exemptions			
164.3(16)(b)	Finance charges, service charges, or interest from credit extended under conditional sales contracts or other conditional contracts providing for deferred payments of the purchase price	Exempt from sales price	Include in price	NA
164.4(a)(4)	Receipts from coin-operated washing machines	Exempt	4%	2.3

ATTACHMENT 9

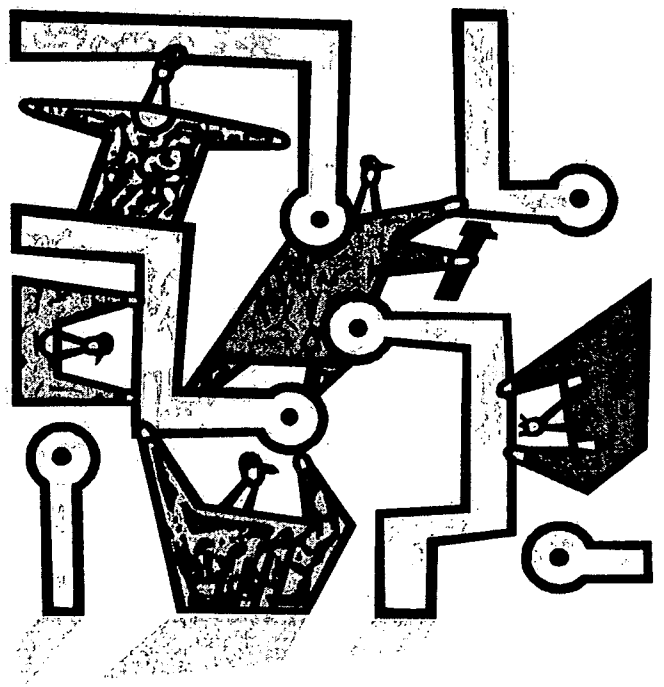
GS 105	Description	Current Law	Options	Fiscal Effect
	Agricultural Group			
164.13 (1)	Commercial fertilizer, lime, land plaster, and seeds sold to a farmer for agricultural purposes.	Exempt	4%	6.8
164.13 (2a)	Vaccines, feed, insecticides	Exempt	4%	NA
164.13 (3)	Forest, mining products sold by original producer	Exempt	4%	NA
164.13(4)	Cotton, tobacco, peanuts or other farm products sold to manufacturers for further manufacturing or processing	Exempt	4%	NA
164.13(4a)	Baby chicks and poults for commercial poultry or egg production	Exempt	4%	NA
164.13(4b)	Farm products sold by farmer	Exempt	4%	0.9
164.13(4c)	Swine, livestock, poultry production equipment	Exempt	4%	2.2
164.13(4d)	Tobacco sheets	Exempt	4%	NA
	Industrial Group			
164.13(5)	Manufactured products produced and sold to other manufacturers for the purpose of resale	Exempt	4%	NA
164.13(7)	Seafood sold in original unmanufactured condition	Exempt	4%	2.5
164.13(8)	Tangible personal property sold to manufacturer and becomes component of manufactured product.	Exempt	4%	NA
164.13(8a)	Sale of fuel to small power production facility	Exempt	4%	NA
164.13(9)	Boats and fishing supplies sold to commercial fishermen	Exempt	4%	NA
164.13(10)	Laundry and dry cleaning supplies sold to commercial laundries	Exempt	4%	0.3
	Motor Fuels Group			
164.13(10a)	Sales of lubricants, materials, parts and supplies to major recycling facility	Exempt	4%	NA
164.13(10b)	Sales of electricity to major recycling facility	Exempt	4%	0.07
164.13(11)	Motor fuel and alternative fuel	Exempt, but subject to motor fuels tax		
164.13(11a)	Sale of diesel fuel to railroad companies for use in rolling stock	Exempt	4%	NA
	Medical Group			
164.13(12 & 13)	Prescription medicine and medical devices	Exempt	4%	64.3
	Printed Materials Group			
164.13(14)	Public school books	Exempt	4%	10.9
164.13(33a)	Printed materials sold out-of-state	Exempt	4%	0.8
	Transactions Group			
164.13(15)	Items that are taxed, then considered worthless and charged off against income tax.	Exempt	4%	NA
164.13(16)	Items repossessed by vendor if tax paid on sales price of article	Exempt	4%	NA
	Exempt Status Group			
164.13(17)	Sales prohibited from taxation by the state or US constitutions.	Exempt	Exemption cannot be changed by legislative act.	
	Unclassified Group			
164.13(18)	Funeral expenses	First $1500 is exempt	Repeal exemption	8.0
164.13(20)	Blind merchant sales	Exempt	4%	0.2
164.13(21)	Lease of films for exhibition	Exempt	4%	2.3

GS 105	Description	Current Law	Options	Fiscal Effect
164.13(22)	Lease of films to radio and television stations	Exempt	4%	Insignificant
164.13(22a)	Audiovisual masters	Exempt	4%	1.7
164.13(23)	Packaging materials	Exempt	4%	NA
164.13(24)	Fuel to ocean vessels	Exempt	4%	0.2
164.13(25)	Sales by merchants on the Cherokee Indian Reservation	Exempt	4%	NA
164.13(26)	Public school breakfasts & lunches	Exempt	4%	5.0
164.13(26a)	Food sold by school to child care center that participates in DPI food program	Exempt	4%	NA
164.13(27)	College dining room food	Exempt	4%	3.2
164.13(28)	Newspapers and magazines sold by street vendors, door-to-door, and vending machines	Exempt	4%	4.4
164.13(29)	N.C. Museum of Art purchases from donated funds	Exempt	4%	Insignificant
164.13(30)	Sales from vending machines with items valued at 1 cent per sale	Exempt	4%	Insignificant
164.13(31)	Meals-on-Wheels meals	Exempt	4%	NA
164.13(31a)	Food sales by nonprofit religious groups when proceeds used for religious purposes	Exempt	4%	Insignificant
164.13(32)	Motor vehicle body mounted on chassis that is not titled	Exempt	4%	NA
164.13(33)	Export sales	Exempt	4%	0.2
164.13(33a)	Tangible personal property sold in NC for delivery by US Postal Service or common carrier to out of state destination and not used in state.	Exempt	4%	NA
164.13(34)	Nonprofit sales to benefit the state or state agencies	Exempt	4%	NA
164.13(35)	Sales during annual fundraising drives by nonprofit groups	Exempt	4%	NA
164.13(36)	Newspaper advertising inserts	Exempt	4%	1.1
164.13(38)	Food purchased with food stamps	Exempt	4%	30.0
164.13(40)	Sales to the Department of Transportation	Exempt, but DOT pays $13.6 million to General Fund in lieu of tax		
164.13(41)	Sales of mobile classrooms to local school boards	Exempt	4%	NA
164.13(42)	Inventory donated to nonprofit organization or government entity	Exempt	4%	0.6
164.13(43)	Custom computer software	Exempt	4%	5.2
164.13(44)	Piped natural gas	Exempt, but excise tax imposed under Article 5E		
164.13(45)	Passenger air carriers, aircraft lubricants, parts, and accessories for use at an air courier hub	Exempt	4%	1.2
164.13(46)	Sales of electricity by a city whose only wholesale supplier of electric power is a federal agency and is required by that agency to make payments in lieu of taxes.	Exempt from sales price	4%	NA
164.13(47)	Amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which are refundable or creditable to vendors	Exempt from sales price	4%	NA

GS 105	Description	Current Law	Options	Fiscal Effect
164.13(48)	Deposits on aeronautic, automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees.	Exempt from sales price	4%	0.8
164.13(49)	Installation charges when the charges are stated separately.	Exempt from sales price	4%	NA
164.13(50)	Vending machines	Currently sales tax on sales made through vending machine are reduced by 50% (except closed container soft drinks and tobacco products)	4%	6.0 (Loophole Commission)
164.13A	Service charges on food, beverages, and meals	Exempt tips that do not exceed 20% of the sales price of food, beverages, and meals; are stated separately on bill; and turned over directly to personnel.	4%	0.4
164.13B	Food for home consumption	Exempt (still subject to 2% local sales tax)	4%	392.4
164.13C	Sales Tax Holiday	Three day weekend in August that exempts clothes and school supplies under $100, sports equipment under $50 and computers under $3,500	Abolish holiday	8.4
164.4	Cable TV	Exempt (up to 5% local franchise tax)	4%	15.1
164.4	Services: Professional Nonprofessional	 Exempt Exempt	 4% 4%	 201.5 86.4
	SALES & USE TAX - Refunds			
164.14(a)	Interstate carriers - fuel, lubricants, repair parts, and accessories purchased in the state for motor vehicles, locomotives and airplanes but used in other states.	Refund	4%	NA
164.14(b)(1-3)	Nonprofit educational institutions, churches, hospitals, charities	Refund	4%	136.9
164.14(b)(4)	Nonprofit retirement homes	Refund	4%	5.1
164.14(c)(1)	Counties	Refund	4%	18.0
164.14(c)(2)	Municipalities	Refund	4%	20.7
164.14(c)(2a)	Consolidated city-county government	Refund	4%	NA
164.14(c)(2b)	Local school administrative unit	Refund	4%	22.2
164.14(c)(3-20,22)	Other governmental entities	Refund	4%	10.9
164.14(c)(21)	N.C. Memorial Hospital	Refund	4%	1.9
164.14(g)	Major recycling facility - building materials, supplies, and fixtures	Refund	4%	1.33 (one-time)
164.14(h)	Machinery & equipment for firms in Tier 1 and 2 counties	Refund	4%	0.1
164.14(i)	Nonprofit insurance companies - materials, supplies, fixtures, and computer equipment	Refund expires 1/1/2008	4%	1.2
Sales and Use Tax Total Impact				**Range = $1,107.3 to $1,316.8**
	INDIVIDUAL INCOME TAX			

Streamlined Sales Tax Project

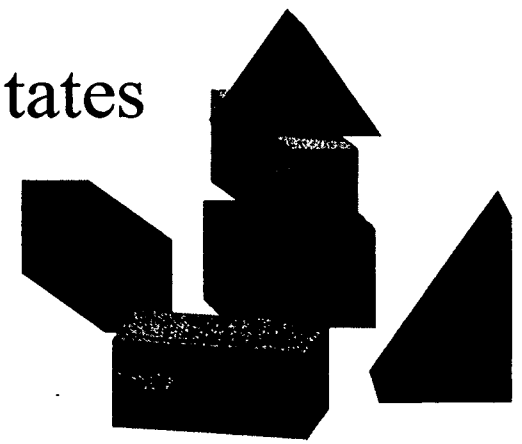
- Modernize & simplify sales and use tax laws
- Encourage sellers to voluntarily collect use tax
- Lead Congress to grant states the authority to require collection



ATTACHMENT 10

History of Use Tax Collection

- 1967: National Bellas Hess case
- 1992: Quill Corporation case
- 1998: Internet Tax Freedom Act
- 2000: SSTP organized
- 2000: Draft Act and Agreement
- 2001: Meeting of Implementing States
- 2002: Agreement Finalized
- 2003: Moratorium Expires



Principles of SSTP

- Uniformity in major tax base definitions
- Uniformity in State and local tax bases
- Simplification in State and local tax rates
- State level administration of taxes
- Protection of consumer privacy
- Central, electronic registration system
- Uniform sourcing rules
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances
- Preservation of individual state taxing authority

How will it work?

- Participation by vendors is voluntary
- Central, online registration system
- Limited amnesty provisions
- Methods of remittance
  - MODEL 1: Select a CSP to collect & remit tax
  - MODEL 2: Select a CAS to use to calculate tax
  - MODEL 3: Use own certified CAS

Requirements to Participate

- State level administration
- ***Common local tax base***
- Online registration system
- Notice of State tax changes
- Notice of local rate changes
- Develop address-based system for assigning taxing juris
- Relieve participating sellers from liability relying on CSP or CAS

Requirements to Participate

- ***No multiple State rates after 12/31/ 2005***
- One local rate
- Uniform sourcing rule
- Uniform telecommunications sourcing rule
- ***Uniform definitions***
- Uniform tax returns
- Uniform rules for remittances of funds
- Uniform rules for recovery of bad debts
- ***No caps or thresholds after 12/31/2005***
- Direct pay certificates

2003 Required Changes

- Uniform local tax base: Food must either be subject to the tax or exempt
- Modifications to the taxation of candy, soft drinks, and prepared food
- Change due date on a monthly return
- Amnesty for a seller who voluntarily registers to collect tax for period prior to registration

2003 Required Changes

- 120-day notification of local tax changes
- Modifications to definitions
- Sales tax holiday exemptions need to be amended before the August 2004 holiday

Effective Date of Agreement

- Minimum number of states = 10
- Percent of the "sales tax" population = 20%
- 7 states enacted legislation
- 20 states have pending legislation

House Committee on Finance

Minutes

~

March 26, 2003

The House Committee on Finance met on Wednesday, March 26, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Weiss, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Presiding Chairman Julia Howard called the meeting to order at 8:30 am and then introduced Pages Phillip Ingram and Johnathan Stowe, both from Forsyth County, sponsored by Representative Earline Parmon.

As the first order of business, Chairman Howard recognized Rep. George Holmes to explain **HB 326: Jonesville Annexation** (see attachment 3). This bill involved the voluntary annexation of property located just outside the corporate limits of Jonesville. All parties involved have consented to this action per the expiration of a 10-year agreement amongst those parties. Jonesville seeks this annexation in an effort to begin to collect taxes for city services from the property owned by the Phillips-Van Heusen Corporation. Having no discussion, the Chairwoman Howard recognized Representative Holliman who then moved for a favorable report. The motion carried with no known dissention.

Chairwoman Howard then moved to the next matter on the agenda and recognized the State Treasurer, the Honorable Richard Moore for an informational presentation; however, the Chair was promptly informed that the Treasurer would not be present until approximately 8:45 am. The Chair then left the Committee members "at ease" for approximately ten (10) minutes until the Treasurer's arrival.

Following the short break, State Treasurer Richard Moore did arrive in the Committee Room. Chairwoman Howard then recalled the meeting to order and welcomed the Treasurer for his presentation. The Treasurer's presentation was focused on a one and one-half year project – a Debt Affordability Study, which is a comprehensive look at the debt status of the state. Overall, the presentation provided a "snapshot" of the state's debt/investment status and plans for the future (see attachments 4 & 5). Several pertinent facts provided in the presentation are provided below:

- ❖ Most of North Carolina's outstanding debt is at 4% interest or less.
- ❖ The Treasurer's Office has accumulated a savings of over $100 million in state revenues through refinancing efforts, more accountability on the issuance of debt, etc...
- ❖ The Treasurer has recommended that new legislation be put into place for the creation of two new committees: (1) a committee, composed of General Assembly members, formed to decide what are the best debt investments for the state; and (2) a committee composed of business and other professionals who can best pinpoint the critical financial issues of the state and present them before the General Assembly.

Following Treasurer Moore's presentation, the Chair recognized members for questions. Several questions arose as to the current status of the State Retirement System. In response to questions from Representatives Luebke and Weiss, Treasurer Moore stated that the retirement system is actuarially sound despite low returns from the market and weak state contributions to the plan. He also stated that, with the support of state employees on retirement committees, a 1% increase from the Legislature seems to be acceptable currently, so long as Legislators are prepared to repay the funds borrowed from the Retirement Fund and to strengthen future investments. He also noted that the Retirement Fund and the state's outstanding debts are separate financial matters.

Having no further questions, Chairwoman Howard thanked Treasurer Moore for his presentation and promptly adjourned the meeting at 9:45 a.m.

Respectfully submitted,

Representative Julia C. Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments: 1. Agenda
2. Visitor Registration Sheet
3. House Bill 326 (and related materials)
4 & 5. Handouts on State Treasurer's Fiscal Presentation

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Representative Julia C. Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments: 1. Agenda
2. Visitor Registration Sheet
3. House Bill 326 (and related materials)
4 & 5. Handouts on State Treasurer's Fiscal Presentation

ATTACHMENT 1

AGENDA

House Finance Committee

March 26, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Julia Howard

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 326 Jonesville Annexation *Rep. Holmes*

Briefing from the Treasurer's Office
Treasurer Moore and Staff

Adjournment

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 3-26-2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Ouzts	NCPIRG
Rob Dickson	NC StateWatch, Inc
Paul Zepin	OSBM
Ken Melton	Alley Associates, Inc.
Tim Minton	NC Home Builders Association
Duke Cher	Intern
John Bowdish	AstraZeneca
Angie McMillan	TNC
Janice Burke	NC Dept of State Treasurer
David Knight	TPL
John McLawhorn	Dept of State Treas.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 3-26-2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rob McBright	Intern (Rep. Hackney)
Marcos Arellano	Intern (Rep. Luebke
MIKE WATERS	NCRPS
Estherine Davis	Electri Cities
Don Holm	CUMTF
Laura DeVino	DENR
Steve Wall	Conservation Council
Susan Valen	Nationwide

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 326*

Short Title:	Jonesville Annexation.	(Local)
Sponsors:	Representative Holmes.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF JONESVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Jonesville:

BEGINNING at a concrete monument located in the eastern right-of-way line of Interstate Highway 77, said concrete monument having North Carolina grid coordinates Y=908249.375 and X=1464613.800; thence, from said point and place of BEGINNING North 48° 54' 32" East 184.82 feet to a concrete monument; thence, North 21° 23' 24" East 321.90 feet to a concrete monument; thence, North 54° 34' 21" East 293.27 feet to a concrete monument; thence North 00° 39' 00" 171.55" to a concrete monument; thence, North 55° 50' 25" East 148.30 feet to a concrete monument; thence, North 83° 39' 53" East 94.81 feet to a point in the western line of a proposed 60-foot right-of-way; thence, crossing said proposed 60-foot right-of-way North 83° 39' 53" East 60.38 feet to a point located in the eastern line of said proposed right-of-way; thence, on a new line North 83° 39' 53" East 336.42 feet to a concrete monument; thence, South 85° 13' 43" East 334.44 feet to a concrete monument; thence, North 79° 08' 26" East 208.13 feet to a concrete monument; thence, South 05° 19' 10" West 143.00 feet to a point; thence, South 04° 46' 41" West 907.32 feet to a concrete monument; thence, South 04° 46' 41" West 195.75 feet to an iron pin; thence, South 04° 32' 35" West 892.20 feet to an iron pin; thence, South 68° 43' 39" West 769.81 feet to an iron pin; thence, North 55° 25' 55" West 155.98 feet to an iron pin; thence, North 73° 32' 19" East 160.44 feet to an iron pin; thence, North 36° 02' 14" West 182.55 feet to an iron pin; thence, North 16° 51' 10" West 155.88 feet to an iron pin; thence, South 41° 27' 04" West 86.59 feet to an iron pin; thence, North 24° 30' 31" West 204.34 feet to an iron pin; thence, North 01° 14' 31" East 223.49 feet to an iron pin; thence, North 31° 41' 43" West 253.16 feet to an iron pin; thence, South 78° 08' 29" West 78.52 feet to an iron pin; thence, North 16° 49' 27" West 171.70 feet to an iron pin; thence, South 83° 45' 41" West 119.10 feet to an iron

pin; thence, North 13° 30' 46" West 115.54 feet to a concrete monument; thence, South 78° 52' 11" West 20.65 feet to a concrete monument; thence, North 13° 34' 19" West 272.00 feet to a concrete monument; THE POINT AND PLACE OF BEGINNING, and containing 61.614 acres more or less as shown on the survey of the property for PHILLIPS-VAN HEUSEN CORPORATION prepared by Foothills Forestry and Surveying, dated November 18, 1992, and updated December 7, 1992, Job No. 92-2223, reference to which is hereby made for a more particular description.

SECTION 2. This act becomes effective June 30, 2003.

HOUSE BILL 326:
Jonesville Annexation

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Holmes
Date:	March 26, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 326 authorizes the satellite annexation of certain described property to the corporate limits of the Town of Jonesville without the Town having to meet the statutory requirements of annexation. The act becomes effective June 30, 2003. SB 328 is a companion bill.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a city of noncontiguous property. All property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: House bill 326 annexes 61.614 acres more or less to the corporate limits of the Town of Jonesville. This property is owned by Phillips-Van Heusen Corporation and contains a warehouse and distribution center. The property is located approximately 825 feet outside the city limits. According to the Town Manager of Jonesville, this property meets the above five statutory standards, except that Phillips-Van Heusen has not signed a petition to annex the property.

On May 3, 1993, Yadkin County, the Town of Jonesville, the Town of Arlington, and Phillips-Van Heusen entered into an Agreement for Economic Development Assistance.[1] Under the terms of this Agreement, Phillips-Van Heusen agreed to construct the warehouse and distribution center and to provide on average 125 positions for employment for 10 years. In

[1] The Towns of Jonesville and Arlington merged in 2001. (See S.L. 2001-16)

return, the Towns of Jonesville and Arlington agreed (1) that they would not involuntarily annex the property for a period of ten years from the date of the Agreement and (2) that they would not discuss a voluntary annexation with Phillips-Van Heusen for a period of eight years from the date of the Agreement. Other incentives provided to Phillips-Van Heusen were:

- Yadkin County and the Yadkin County Economic Development District agreed to finance a portion of the infrastructure and site improvements to the property.
- Jonesville agreed to finance the design and construction of water and sanitary sewer lines from Jonesville to the property.
- Jonesville agreed to provide free police and fire protection to the property.

The Town of Jonesville has requested annexation of the Phillips-Van Heusen property effective ten years from the date the Agreement was signed. Currently the company does not pay taxes on the property but continues to receive free fire and police protection. The Town pays $6,000 a year on funds it borrowed to furnish water and sewer to the property.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 326 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF JONESVILLE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

State of North Carolina

Debt Affordability Study

March 2003

The Honorable Richard H. Moore
State Treasurer

Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385
Phone: 919-508-5176
www.treasurer.state.nc.us

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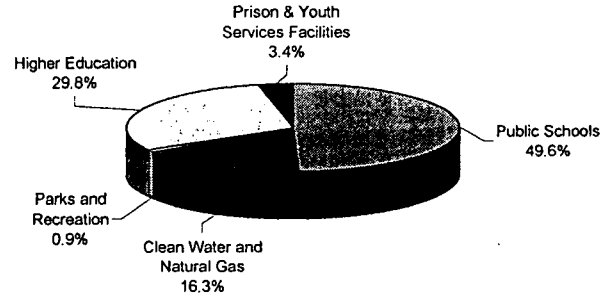
EXECUTIVE SUMMARY

The North Carolina Department of State Treasurer hereby presents the first State of North Carolina (the "State") Debt Affordability Study. This Study has been prepared for the purpose of creating a management tool available to the people of North Carolina and their representatives for analyzing and managing debt capacity. The Study contains an evaluation of the State's current and projected debt burden, using indicators such as tax-supported debt to personal income, debt per capita, debt service to tax revenue and rapidity of principal repayment ratios, and several recommendations based on the results of the Study.

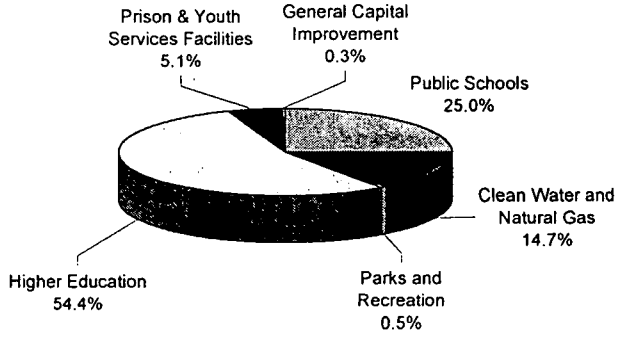
Currently, all of the State's debt ratios are below median levels both for all fifty states, as compiled by Moody's Investors Service, and for a peer group of eight states rated triple-AAA by all three credit rating agencies. Thus, North Carolina's debt is considered low and is manageable at the current level. Expected future debt issuances over the next four years total $3.3 billion, with $2.55 billion or 77% issued for Higher Education purposes. The chart below on the left depicts the State's outstanding debt by programmatic use while the chart on the right shows the breakdown of the State's outstanding debt plus expected issuances by programmatic use.

Figure 1

State of North Carolina Outstanding Debt by Program



State of North Carolina Debt by Program Outstanding plus Unissued Debt



Due to the projected issuance of $3.3 billion of tax-supported debt over the next 4 years, all the State's debt ratios are expected to increase over this period. The debt service to tax revenue ratio is projected to rise from 2.3% at the end of Fiscal Year 2002 to 3.8% at the end of Fiscal Year 2006 and the ratio of debt to personal income is projected to rise from 1.4% at the end of Fiscal Year 2002 to 2.2% by Fiscal Year 2006, while the debt per capita ratio is projected to rise from $395 to $641 by Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher than national medians, debt to personal income is projected to be below the national median in Fiscal Year 2006. The State's debt ratios are also projected to be below the median level for the peer group of eight triple-AAA rated states.

Establishing guidelines for future debt issuance is a critical part of prudent debt management and can keep the debt burden from becoming excessive. The following guidelines for the State's debt ratios are recommended.

- For net tax-supported debt to personal income, a target level of 2.5% with a ceiling of 3.0% is recommended.
- For debt service to revenues, a target of 4.0% and a ceiling of 4.75% are recommended.
- For the ten-year payout ratio, a target of 55% and a floor of 50% are recommended.
- In addition, as the State rebuilds its reserve funds from their current levels, a target unreserved general fund balance of 8% is recommended, with a floor of 6%.
- The State should establish the upper limits of the debt to personal income level and the debt service ratio -- 3.0% and 4.75% respectively -- as levels that would be changed only in extraordinary circumstances.

Assuming a net tax-supported debt to personal income target of 2.5%, the State is projected to have an additional $745 million in debt capacity in Fiscal Year 2006. Assuming the debt service to revenues target of 4.0%, the State is projected to have an additional $350 million in debt capacity in Fiscal Year 2006. Although the debt to personal income ceiling of 3.0% suggests that $2.0 billion in debt capacity is available in Fiscal Year 2006, fiscal prudence suggests a more conservative debt capacity estimate of $1.35 billion based upon the debt service to revenues ceiling of 4.75%. If this entire capacity were to be utilized in Fiscal Year 2006, the debt service to revenues ratio would be 4.75% compared to 2.3% in Fiscal Year 2002, while the debt to personal income ratio would be 2.7% compared to 1.4% in Fiscal Year 2002. These projections are summarized in the table below.

Figure 2

	Current Ratio	Projected by the end of FY 2006	Projected Debt Ratio After Issuance of Additional $350 Million	Additional $745 Million	Additional $1.35 Billion	Additional $2.0 Billion
Debt to Personal Income	1.4%	2.2%	2.3%	2.5%*	2.7%	3.0%**
Debt Service to Revenues	2.3%	3.8%	4.0%*	4.3%	4.75%**	5.2%

* Suggested Target Ratio ** Suggested Ceiling Ratio

Our guidelines must strike the proper balance. Guidelines that are too low or restrictive do not provide enough debt capacity to finance needed infrastructure, while imposing no limit on debt issuance could reduce future budgetary flexibility by creating an excessive debt service burden and lead to a deteriorating credit position.

If tax revenues decline and new borrowing programs are added, debt ratios will further increase, both on an absolute and relative basis. If these ratios reach a level considered excessive, it could have an adverse effect on the State's bond ratings. In these circumstances, the State may reduce or delay its capital program, increase the use of "pay-as-you-go" funding or raise revenues. On the other hand, should our revenue picture improve and North Carolina continues to experience rapid growth, we must have guidelines flexible enough to prudently service the needs of our people.

As we look to the future and the need to prioritize capital projects, the State may want to consider either of the approaches that the states of Minnesota and Nebraska have developed and implemented. Minnesota has developed criteria to prioritize capital projects on a statewide basis while Nebraska uses its criteria guidelines specifically for its higher education capital projects.

Either approach can provide an additional tool to assist the State in the decision-making process for capital projects. Furthermore, the State may want to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

It would be considered a "best practice" for the State to annually update this debt study. A Debt Affordability Study undertaken regularly allows the State to continually evaluate its fiscal health and credit quality and compare itself to other highly rated states. The State should also consider establishing a debt affordability advisory committee, such as the states of Maryland and Virginia --both triple-AAA-- have done, to assist in the preparation of the study. The committee could assist in determining when circumstances indicate a change in the limits on the key ratios, as discussed above, should be made.

INTRODUCTION

The North Carolina Department of State Treasurer has developed this Debt Affordability Study to provide a methodology for measuring, monitoring and managing the State's debt capacity. Debt capacity is a limited and scarce resource. It should be used only after evaluating the expected results and foregone opportunities. The Debt Affordability Study will enable the State to structure its future debt issuances within existing and future resource constraints by providing a comparison of its current debt position to relevant industry standards and by evaluating the impact of new debt issuances as well as changes in the economic climate on the State's debt position. The Debt Affordability Study thereby can be used to help develop and implement the State's capital budget. The study is premised on the concept that resources as well as needs should drive the State's debt issuance program.

A Debt Affordability Study can further serve as a vehicle to evaluate the effect of such debt issuances on its credit standing. The study, together with stated policy goals, can help the State protect its credit ratings of AAA/Aa1/AAA since debt is one of four main factors, along with economy, administration/management and, most importantly, financial condition, which rating agencies analyze in assigning credit ratings. A Debt Affordability Study is considered a positive factor by the rating agencies when they evaluate issuers and assign credit ratings. As evidence, Standard and Poor's stated in a June 2002 report, "Capital planning and, more recently, debt affordability models or guidelines that evaluate capital requirements and funding sources and assess the future impact of current bond programs are strong management tools."

The process of analyzing the State's debt position also helps integrate debt management practices (an Executive Branch function) with capital spending decisions (a Legislative Branch function). The information produced by the Debt Affordability Study and annual updates can be used by policymakers to evaluate the long-term impact of financing decisions and assist in prioritizing capital spending.

The results of the study can be used by the State to establish priorities during the capital planning process. State policymakers will have current information available when making critical decisions regarding borrowing. In addition, as the State considers new financing initiatives, the long-term financial impact of any proposal on debt capacity can be evaluated upon request. The information generated by this analysis is important for policymakers to consider because their decisions on additional borrowing can affect the fiscal health of the State.

The key debt ratios of net tax-supported debt to personal income and debt service to general fund revenues, along with reserve fund levels, have an impact on bond ratings, which in turn affect the cost of borrowing. In addition, the level of financial resources is a critical credit consideration. Establishing an acceptable range for the selected ratios will allow the State to monitor periodically its financial and debt positions and provide a framework for calculating theoretical debt capacity, assisting in the capital budgeting process, prioritizing capital spending and evaluating the impact of each debt issue. Thus, in conjunction with the Debt Affordability Study, the State should develop debt and financial policies that establish prudent financial ratios.

REVIEW OF CREDIT RATINGS

Credit ratings are the rating agencies' assessment of a governmental entity's ability and willingness to repay debt on a timely basis. Credit ratings are an important factor in the public credit markets and can influence interest rates a borrower must pay. Each of the rating agencies believes that debt management generally and the Debt Affordability Study in particular are

positive factors in assigning credit ratings. There are several factors which rating agencies analyze in assigning credit ratings: financial factors, economic factors, debt factors, and administrative / management factors.

Weakness in one area may well be offset by strength in another. However, significant variations in any single factor, such as the economy, can influence a bond rating. North Carolina's economy was challenged by the combined impact of a slowing national economy followed by the terrorist attacks on September 11, 2001. General Fund revenues decreased by $46.0 million, or 0.2%, from Fiscal Year 2001 to 2002. Moreover, spending needs have increased due to rising enrollment in the public schools and higher education systems and increased health and human services. General Fund expenditures increased by $366.4 million, or 1.7%, from Fiscal Year 2001 to 2002. The combination of these events caused Moody's to downgrade the State's rating in August 2002 from Aaa to Aa1. However, the outlook for the State's credit rating is stable. Factors contributing to North Carolina's stable rating outlook are low debt levels and strong financial management.

Figure 3

State of North Carolina Credit Ratings as of December 31, 2002		
	Rating	Outlook
Fitch Ratings	AAA	Not Applicable
Moody's Investors Service	Aa1	Stable
Standard & Poor's Ratings Services	AAA	Stable

The State's general obligation bonds are rated AAA by Fitch Ratings ("Fitch"), Aa1 with a "stable" outlook by Moody's Investors Service ("Moody's") and AAA with a "stable" outlook by Standard & Poor's Ratings Services ("S&P"). All three agencies base their prime ratings on the State's strong, diverse economic base, its sound financial management and low debt levels. They also place emphasis on consistently maintaining adequate fund balances and overcoming the fiscal challenge posed by the current national recession and local spending pressures.

STATE DEBT OUTSTANDING

To calculate net tax-supported debt, credit analysts take into account all debt supported by general tax revenues. This debt position shows the amount of indebtedness serviced from an issuer's General Fund; that is, it reflects the debt service payments made directly from tax revenues and is known as net tax-supported debt. Although a consensus appears to exist among credit analysts as to the appropriateness of using net tax-supported debt as the standard for determining an issuer's debt position, there is less unanimity about the precise calculation. The inclusion of indirect obligations in a net tax-supported debt measure depends to some degree on the judgment of each credit analyst. The State's net tax-supported debt position as of June 30, 2002 is shown in the table on the following page.

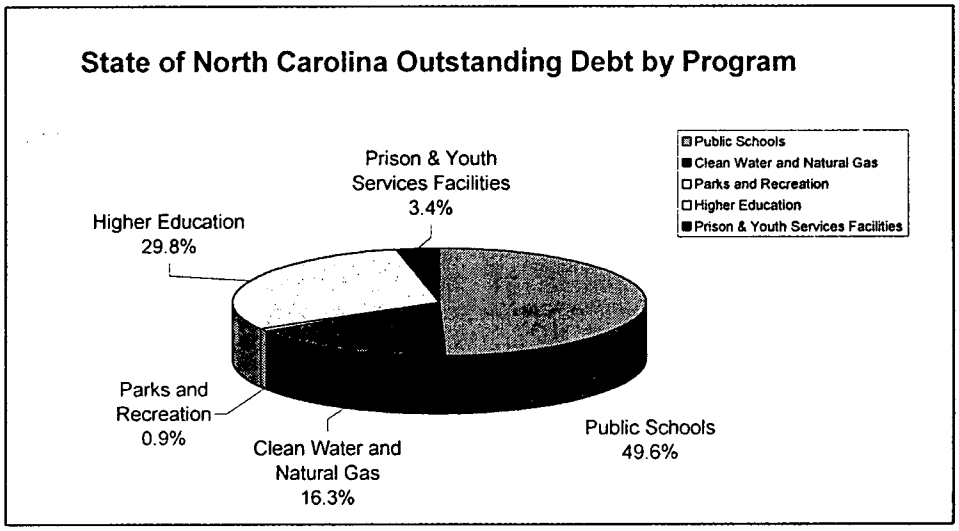
The State had total general obligation debt outstanding of approximately $3.47 billion at June 30, 2002 including highway construction debt of $183.3 million that is supported by separate taxes. Although S&P and Fitch include highway construction bonds in their calculation of the State's debt position, Moody's does not. We have followed Moody's approach because the debt is self-supporting and its inclusion does not have a material impact in calculating debt ratios.

Figure 4

State of North Carolina Net Tax-Supported Debt As of June 30, 2002 ($ in thousands)	
General Obligation Bonds	
Payable from General Fund Revenues	$3,274,944,986
Payable from Highway Trust Fund Revenues	183,300,000
Notes Payable	11,753,000
Gross Tax-Supported Debt	$3,469,997,986
Less: Self-Supporting Debt	(183,300,000)
Net Tax-Supported Debt	$3,286,697,986

The chart below illustrates the State's outstanding debt broken down by use of proceeds. The largest investment financed with bonds is for public school facilities with $1.6 billion or approximately 50% of total debt outstanding devoted to public school infrastructure.

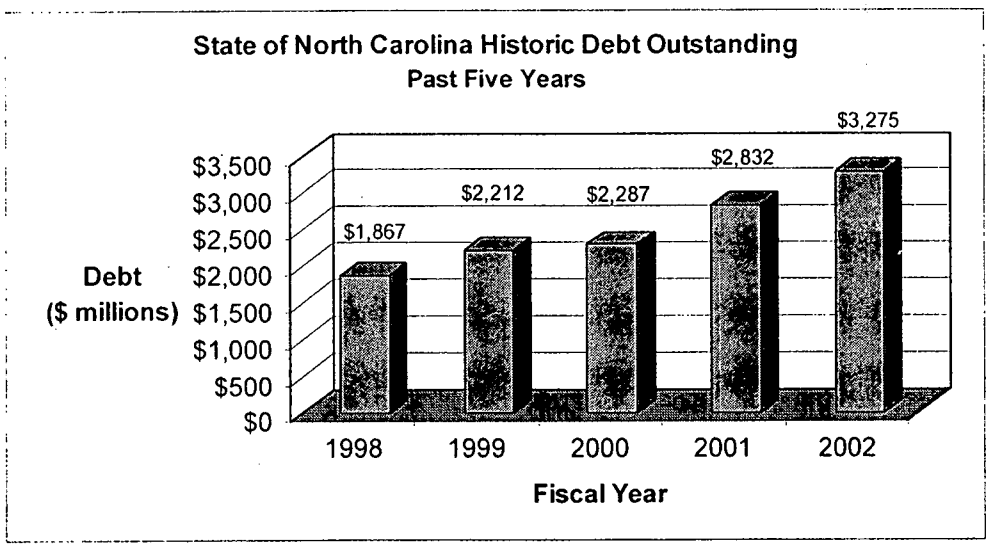
Figure 5



GROWTH IN STATE DEBT

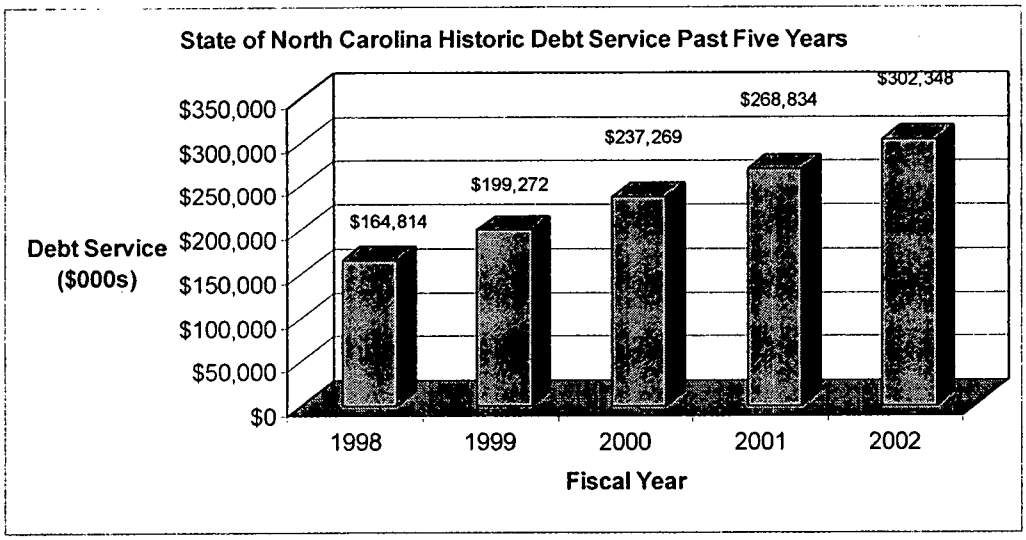
Trends in debt are an integral part of evaluating the State's debt levels. The State has made a substantial investment in infrastructure over the years, addressing the requirements of a growing population for education and other capital needs. Total general fund supported debt grew 75.4% during the last five years, increasing by $1.4 billion from approximately $1.87 billion on June 30, 1998 to approximately $3.29 billion on June 30, 2002, at an average annual growth rate of 17.0%. Included in the total is $355 million of variable rate debt, approximately 11% of total outstanding debt. The chart on the following page graphically illustrates the growth in total State net tax-supported debt outstanding over the last five years.

Figure 6



Growth in annual debt service mirrors the growth in debt outstanding. The chart below depicts the increase in annual debt service payments over the last five years.

Figure 7



The State's annual debt service payments have doubled over the last five years, rising from $165 million in 1998 to approximately $302 million in 2002 at an average annual growth rate of 16.4%. This measure is important from a credit perspective because it indicates how much of the State's budget is devoted to the fixed burden of debt service and thus the degree of flexibility in the State's budget.

STATE DEBT RATIOS

In addition to examining an issuer's total debt position, credit analysts review its debt ratios and their change over time. Credit analysts use the following key ratios to assess the financial burden of outstanding debt on a state: (i) debt as a percentage of personal income, (ii)

debt per capita and (iii) debt service as a percentage of General Fund revenues. Debt to personal income indicates the burden a state's debt places on the income tax base, the main source of revenue for most state-level general obligation issuers. Debt per capita assesses the relative magnitude of an entity's debt position compared to other issuers. The level of debt service to General Fund revenues is an important ratio because it indicates the amount of flexibility that the issuer has in its budget. Rating analysts also consider the rapidity with which an entity repays its debt obligations. Payment of 25% in five years and 50% in 10 years is considered average for general obligation issuers.

Below is a presentation of the State's indebtedness and debt ratios as of June 30, 2002, compared to June 30, 1998. As can be seen, the State's net debt outstanding increased by $1.4 billion or 75.0% from 1998 to 2002. The State's debt ratios also rose during this period as resources did not increase as rapidly as debt did. Debt to personal income increased 40% from 1.0% to 1.4%, while debt per capita increased by $114, from $281 to $395, and debt service to revenues rose 54% from 1.5% to 2.3%.

Figure 8

State of North Carolina
Fiscal Year 2002 versus Fiscal Year 1998 Debt Ratios

	Debt Outstanding (000's)	Net Tax-Supported Debt to Personal Income	Net Tax-Supported Debt Per Capita	Debt Service to General Fund Tax Revenue
FY 1998	$1,878,110	1.0%	$248	1.5%
FY 2002	$3,286,698	1.4%	$395	2.3%

As previously mentioned, credit analysts also examine the rapidity of debt repayment ratio. At the end of FY 2002, the State's general obligation debt had a rapidity of repayment ratio of 28.8% in five years and 57.4% in ten years, indicating that debt is being paid more quickly than the general obligation issuer average of 50% in 10 years. The State's repayment ratio is above average and is also a positive consideration.

COMPARISON OF DEBT RATIOS TO SELECTED MEDIANS

A comparison to national and peer group medians are helpful because absolute values are more useful with a basis for comparison. In May 2002, Moody's published the "2002 State Debt Medians" report with its annual analysis of state debt medians. As shown in the table on the following page, the State's net tax-supported debt to personal income ratio, the net tax-supported debt per capita ratio, the debt service to revenues ratio and the rapidity of repayment are all significantly better than the Moody's median levels.

Figure 9

Comparison with Moody's 2002 Median Ratios for States and Other Benchmarks
State of North Carolina Ratios as of June 30, 2002

Net Tax-Supported Debt to Personal Income			Debt Service as a % of Tax Revenues		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Median	Ratio of the State to Median
1.4%	2.3%	0.61x	2.3%	3.5%*	0.66x
Net Tax-Supported Debt Per Capita			**Principal Payout Percentage in 10 Years**		
North Carolina	2002 Medians	Ratio of the State to Median	North Carolina	Benchmark Average	Ratio of the State to Benchmark
$395	$573	0.69x	57.4%	50.0%**	1.15x

* Last published in 1996
** Rule of Thumb

The table below details the peer group comparison for the three debt ratios evaluated. The peer group, states rated triple-A by all three credit rating agencies, include the states of Delaware, Georgia, Maryland, Minnesota, Missouri, South Carolina, Utah and Virginia. The debt to personal income and debt per capita ratios are taken from Moody's "2002 State Debt Medians" report while the debt service ratio has been calculated from the most recent Comprehensive Annual Financial Report available for each state. As seen below, North Carolina has the lowest debt service ratio of any of the peer group and the second lowest debt per capita and debt to personal income ratios while all debt ratios are below the median levels. Thus, the State's debt ratios compare very favorably to the highest rated states.

Figure 10

North Carolina Debt Ratios
versus Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

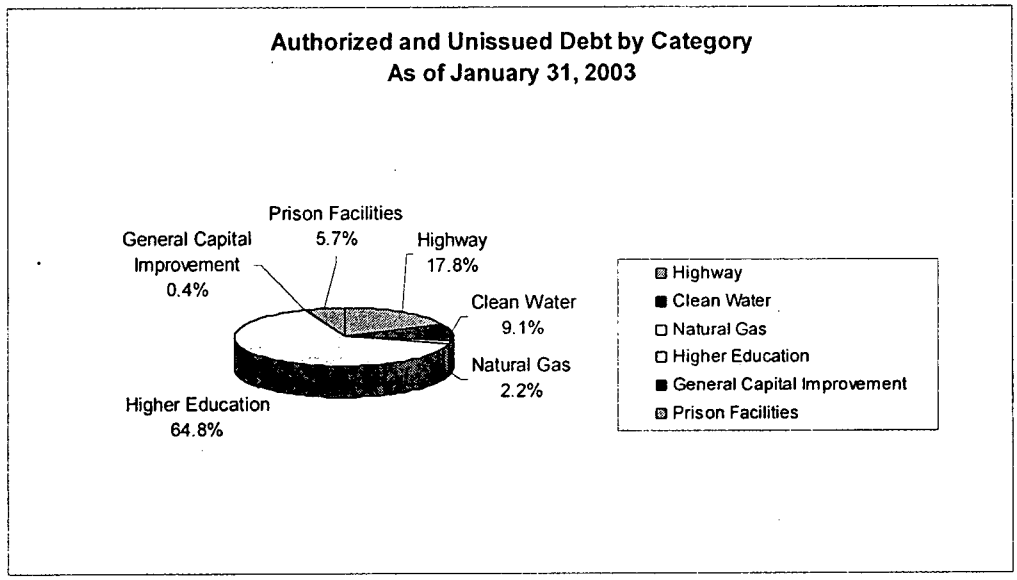
* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

PROJECTED DEBT ISSUANCE

As of the end of Fiscal Year 2002, the amount of authorized but unissued bonds totaled $3.8 billion, including $2.5 billion Higher Education Bonds, $380 million Clean Water Bonds, $135 million Natural Gas Bonds and $700 Highway Construction Bonds. $225 million of certificates of participation to fund prison facilities and $17.5 million of certificates of participation to fund wildlife conservation facilities have also been authorized. The increase in projected debt issuance over the next four years is primarily due to higher education bonds, with $2.55 billion, or approximately 65% of projected debt issuance, to be issued for these programs. The State plans to issue all of the authorized capacity by the end of Fiscal Year 2006.

Figure 11



The table below represents the projected debt issuance over the next four years for each of the State's currently authorized bonding programs backed by general fund revenues, excluding Highway debt.

Figure 12

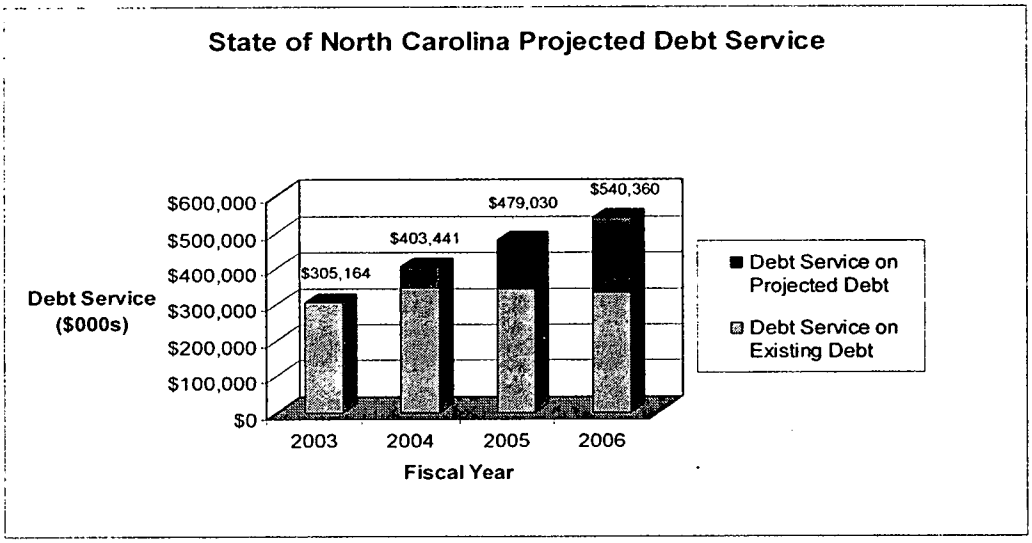
State of North Carolina Proposed Net Tax-Supported Debt Issuance Next Four Years

	Fiscal Year 2003 (est)	Fiscal Year 2004 (est)	Fiscal Year 2005 (est)	Fiscal Year 2006 (est)	Total 2003-2006
Clean Water & Natural Gas Bonds	$145,755,000	$146,550,000	$52,700,000	$169,995,000	$515,000,000
University & Community College Bonds	600,000,000	600,000,000	700,000,000	650,000,000	2,550,000,000
Certificates of Participation	17,500,000	225,000,000	-	-	242,500,000
	$763,255,000	$971,550,000	$752,700,000	$819,995,000	$3,307,500,000

PROJECTED DEBT SERVICE

Annual debt service excluding Highway debt service is estimated to grow to $540.4 million by Fiscal Year 2006 assuming projected bond issuance of $3.3 billion. The chart below shows projected debt service over the next four years, including debt service on outstanding and projected debt.

Figure 13



RESOURCES EXPECTED TO BE AVAILABLE TO MEET FUTURE DEBT OBLIGATIONS

Capacity to support debt obligations is increased by demographic and economic growth to the extent that new resources can be captured through higher tax revenues. Because any projection is uncertain, it is important in planning for future debt capacity to make prudent assumptions about future growth in resources and to develop sensitivity analyses about other assumptions to ensure that an excessive level of obligations is not created.

Another source from which the State obtains debt capacity is the retirement of outstanding debt. As the State retires debt, this amount becomes a resource for new debt issuance without adding to the State's existing debt position. Shown in the table on the following page are scheduled retirements on the State's net direct tax-supported debt as of December 31, 2002, indicating that the State will free up $911 million in debt capacity between FY 2003 and FY 2006 from retirements of existing obligations.

Figure 14

State of North Carolina
Retirement of Net Tax-Supported Debt
($ in thousands)

Fiscal Year	General Obligation Bonds
2003	$150,176
2004	219,496
2005	258,977
2006	282,248
Total	$910,898

Another consideration that affects future debt service capacity is the use of "pay-as-you-go" ("PAYGO") funding of capital projects. By using current revenues to fund a portion of a capital plan, the State can reduce future debt service and retain debt capacity. For example, if the State funded a capital project with $50 million as PAYGO rather than financing it through a $50 million 20 year bond issue, the State would save approximately $20.9 million in total interest payments over the life of the issue assuming current market conditions. Although rating agencies do not set specific guidelines for determining an acceptable level of PAYGO, the consensus is that the use of current revenues for capital projects reduces future debt obligations and is therefore a positive credit factor.

EFFECT OF NEW DEBT - BASE SCENARIO

In order to fund its capital needs, the State plans to issue $3.3 billion net tax-supported debt backed by general fund revenues from Fiscal Years 2003 to 2006, as indicated above. This level of issuance, after taking into account $911 million of retirements of currently outstanding and of projected long-term net tax-supported debt, increases outstanding net tax-supported debt by $2.4 billion, or 73%, at the end of 2006. The table on the following page reflects issuances and retirements for this period. The following assumptions were used in the Base Scenario:

- Average interest rate of 3.50%, which approximates the current triple-A rate scale plus 30 basis points, for fixed rate debt to be issued through March 2003, 4.00% for debt issued by the end of calendar 2003 and 5.50% for 2004 through 2006
- Interest rate of 4.0% for variable rate debt.
- 20-year amortization for all issues including Higher Education Bonds, except for Natural Gas Bonds (five year amortization), with overall level principal as projected by the State.
- Outstanding and projected Highway Debt not included.

Figure 15

State of North Carolina
Projected Changes in Net Tax-Supported Debt
As of December 31, 2002
($ in thousands)

	FY 2003	FY 2004	FY 2005	FY 2006	Total Change in Debt FY 2003-2006
Debt at Beginning	$3,286,698	$3,899,777	$4,651,830	$5,151,003	
Planned Issuances	763,255	971,550	752,700	819,995	$3,307,500*
Retirements	(150,176)	(219,496)	(258,977)	(282,248)	(910,898)
Debt at End	$3,899,777	$4,651,830	$5,145,553	$5,683,300	$2,396,602

* Includes $21.7 million Clean Water Bonds and $50 million Natural Gas Bonds issued so far in Fiscal Year 2003

The effect on the State's debt ratios of issuing $3.3 billion of new debt over the next four years has also been analyzed by reviewing the resources projected to be available, as shown below. In addition to the assumptions for future bond issuances outlined previously, the following assumptions were used in this Base Scenario:

- No growth in tax revenue projected in Fiscal Year 2003, with 3.0% annual growth beginning in Fiscal Year 2004
- Projected annual personal income growth of 3.0%
- Annual population growth of 1.57%

Using the Base Scenario assumptions listed above, the table below outlines projected debt ratios from FY 2003 to FY 2006. The ratio of net tax-supported debt to personal income is projected to increase from 1.4% in FY 2002 to 2.2% in FY 2006. The ratio of net tax-supported debt per capita is projected to rise from $395 in FY 2002 to $641 in FY 2006. The ratio of debt service to revenues is projected to increase from 2.3% in FY 2002 to 3.8% in FY 2006, but the rate of principal payout falls from 57.4% to 54.1% by FY 2006.

Figure 16

State of North Carolina
Effect of the New Debt Issuance on Debt Ratios – Base Scenario

	Median	Fiscal Year 2002	Projected End of Fiscal Year 2003	2004	2005	2006	Ratio of the State to Median
Net Tax-Supported Debt to Personal Income	2.3%	1.4%	1.7%	1.9%	2.1%	2.2%	0.96x
Net Tax-Supported Debt Per Capita	$573	$395	$461	$542	$590	$641	1.12x
GO Debt Service to Revenues	3.5%	2.3%	2.3%	3.0%	3.4%	3.8%	1.09x
Principal Payout in 10 Years	50.0%	57.4%	56.1%	54.8%	53.7%	54.1%	1.08x

As can be seen, the Base Scenario results in ratios higher than Fiscal Year 2002 levels in Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher than the medians, debt to personal income is projected to be below the median in Fiscal Year 2006. In addition, as seen in the table on the following page, the State's debt ratios are projected to be lower than the current median for the peer group of triple-AAA rated states.

Figure 17

Projected North Carolina Debt Ratios for 2006
versus Actual Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina Projections for 2006	**AAA/AAA/Aa1**	**2.2%**	**$641**	**3.8%**
	Ratio to Median	0.88 x	0.97 x	0.81 x

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

The projected ratios for the State, in our opinion, indicate that this level of debt issuance over the next four years is manageable and should not impair the State's high bond ratings, particularly since the debt to personal income ratio remains below the median. We do recommend, however, that the State continue to control its debt as in the past, annually publish a Debt Affordability Study and take corrective action by raising revenues or delaying debt issuance if an economic slowdown or some other outside factor causes the debt ratios to exceed the targeted levels.

TARGET DEBT RATIOS

Although the State's currently contemplated level of issuance over the next four fiscal years is manageable, establishing guidelines for future debt issuance and financial performance is a critical part of prudent debt management and can keep the debt burden from becoming excessive. An excessive debt burden reduces the State's budget flexibility and impairs its credit position. Debt and financial management policies create a framework for ensuring that the issuance of additional debt will not harm the State's financial position. While the State currently has several legal constraints on the amount of debt that can be issued, it should consider establishing policy guidelines for debt issuance in terms of the effect of such issuance on debt ratios. Firm guidelines as to the issuance of future debt would help protect and perhaps enhance the State's credit ratings, particularly in view of recent revenue weakness. Care must be taken, however, to achieve a balance between fiscal flexibility and infrastructure investment. Guidelines that are too low or restrictive do not provide enough debt capacity to finance needed infrastructure while relaxing the constraints to impose no limit on debt issuance could reduce future budgetary flexibility by creating an excessive debt service burden and lead to a deteriorating credit position.

Debt policies could establish maximum debt ratios (ceilings or floors) and target debt ratios over a period of time to demonstrate that there is a limit above which the State does not expect to issue additional debt in order to control its debt service burden. By setting maximum debt ratios, the State will be committing to either decrease capital spending or to find other funding sources rather than create an excessive debt burden on future budgets. While these guidelines should be placed at a level that will enable North Carolina to fund vital capital

projects, they should be kept in place over a reasonable period of time to show stability of debt management. The debt and financial management policies should be developed for net overall tax-supported debt, as rating agencies compare states and calculate debt medians on the basis of overall debt. We must note, however, that debt is only one of four factors considered by rating analysts, others factors being financial condition, economic base and management factors. Debt ratios are a tool used to measure the debt factor and are applied as part of the overall analysis in arriving at an issuer's bond ratings.

The following ratios should be considered in establishing debt management policies:

- *Net Tax-Supported Debt to Personal Income*. This ratio is important because it measures debt levels against the taxpayer base that generates the tax revenues that are the main source of debt repayment. The State's debt to personal income ratio is projected to increase from 1.4% in Fiscal Year 2002 to 2.2% in Fiscal Year 2006, just below the median of 2.3% for this indicator. A target level of 2.5% is suggested, with a ceiling of 3.0%. The debt capacity available within the target of 2.5% debt to personal income ratio at the end of Fiscal Year 2006 is projected to be $745 million. The debt capacity available within the ceiling of 3.0% debt to personal income ratio at the end of Fiscal Year 2006 is projected to be $2.0 billion.

- *Debt service to revenues ratio*. This is a ratio where policymakers control both variables affecting it. By measuring what portion of the State's resources is consumed by long-term fixed cost, this ratio reflects the State's budgetary flexibility to change spending and respond to economic downturns. Over time, the State can both change its tax levies to adjust its tax revenue and modify debt issuance plans in order to adjust debt service. The State's current ratio of 2.3% is projected to increase to 3.8% by FY 2006 as a result of expected debt issuances for capital improvement purposes.

  A target level of 4.0% and a ceiling of 4.75% is recommended for this ratio so as to provide the State with adequate capital funding while maintaining budget stability. The debt capacity available at the end of Fiscal Year 2006 within the target of 4.0% is projected to be approximately $350 million. The debt capacity available at the end of Fiscal Year 2006 within the 4.75% ceiling is projected to be approximately $1.35 billion.

  It would be considered a "best practice" for the State to maintain a balanced use of PAYGO funding and debt financing within the parameters discussed here. If the debt service ratio rises sharply as a result of an economic slowdown or other outside factor, the State should act to raise revenues or reduce debt issuance to ensure the debt service burden does not become excessive and threaten the State's high bond ratings.

- *Ten-year payout ratio*. A faster payout is considered to be a positive credit attribute. The State's level on June 30, 2002 was 57.4%. The State should maintain a floor for its ten-year payment of 50% and set a target of 55%.

We recommend taking into account two measures in setting debt guidelines -- debt to personal income and the ratio of debt service to revenues. With regard to the ratio of debt to personal income, we recommend a ceiling level of 3.0% that would not be breached without the approval of the Legislature. With regard to the debt service ratio, a ceiling of 4.75% is recommended that will not be exceeded without the approval of the Legislature. If either of the State's debt ratios approaches those levels, the State should take action to maintain the ratios under the ceiling. Specifically, the State should reduce its capital program, increase PAYGO funding, raise revenues or take a combination of these actions.

LEVEL OF RESERVES

As previously mentioned, the State's credit ratings are based on a variety of factors, with indebtedness only one of the items examined by credit analysts. A very important consideration is stability of financial operations as measured by the unreserved General Fund balance since these funds serve as a source of flexibility in times of economic and fiscal stress. A contingency or "rainy day" fund plus undesignated fund balance comprising 5.0% of revenues was previously used by analysts as a standard for the appropriate minimum level of contingency, but many entities concluded that this level was inadequate to carry them through the recession of the early 1990s. Many issuers have therefore set a target to protect financial stability based on the levels needed to weather a severe economic downturn without completely depleting balances and thus incurring a deficit.

Because of the importance of financial condition to the rating agencies, the study also includes an analysis of General Fund balances and reserves. Available reserves indicate financial stability, flexibility and the capacity to meet financial obligations, especially debt service payments, in a timely manner. The ratio commonly used to measure available reserves is unreserved General Fund balance as a percentage of General Fund revenues or expenditures. The State's unreserved General Fund balance at the end of FY 2002 was ($576.3) million. Historic General Fund Balances and Unreserved Fund Balance as a percentage of tax revenues for the past five years are shown in the following two charts.

Figure 18

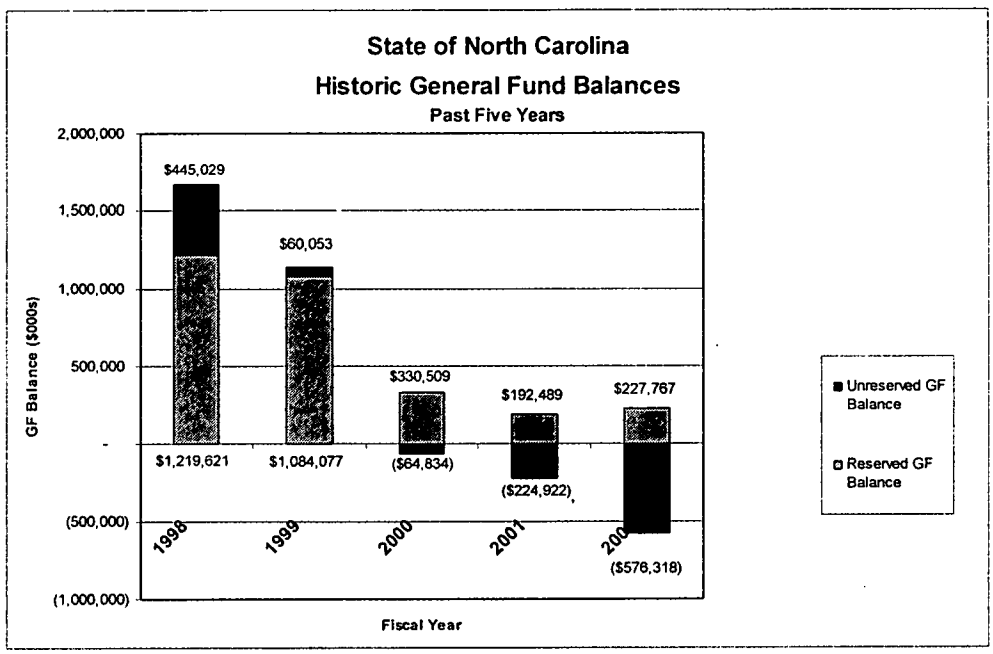
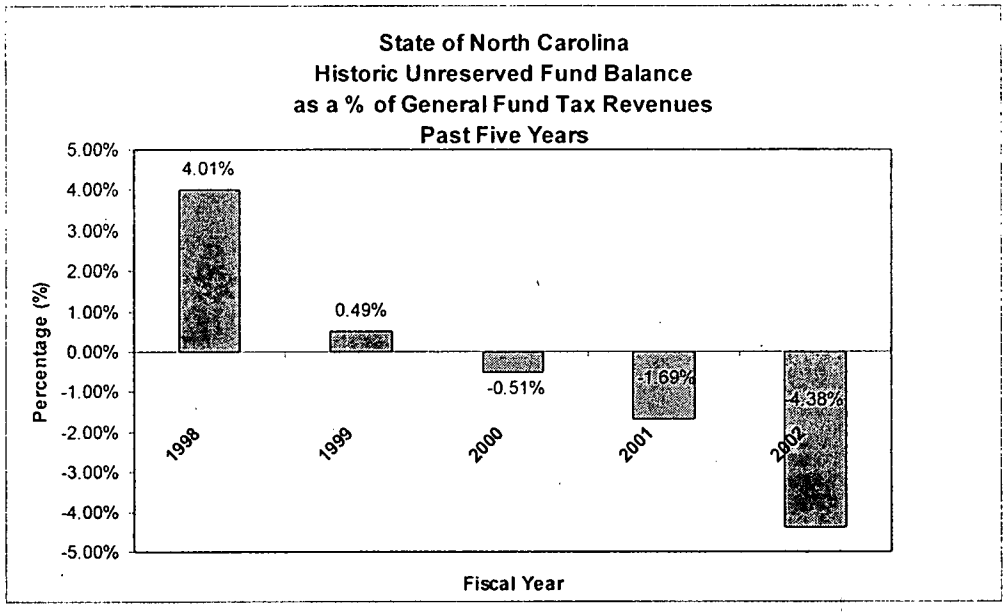


Figure 19



Reserves were drawn down during Fiscal Year 2002, reducing the General Fund balance to ($348.6) million at fiscal year-end. General Fund balances were used to mitigate the impact of budget cuts due to revenue shortfalls projected for the current fiscal year. Moreover, the State's Savings Reserve Account was used to balance the Fiscal Year 2002, resulting in a zero balance at the end of Fiscal Year 2002. Under the Governor's Executive Order, a $215.6 million Reserve Fund has been established to help manage any budget shortfall in Fiscal Year 2003.

The reversal of the General Fund balance from a positive $445 million in Fiscal Year 1998 to a negative $576.3 million in Fiscal Year 2002 was specifically cited by Moody's as a key factor in their decision to downgrade the State from Aaa to Aa1 in August 2002. Therefore, in addition to the suggested targets for the State's debt ratios, the State should consider evaluating the General Fund reserve policy in view of its importance as to its credit standing.

- *Unreserved General Fund balance*. The suggested target level of unreserved General Fund Balance to General Fund Revenues is 8% and the floor is 6%. The target would allow for a cushion in the event of future economic downturns in excess of one month's average receipts. The floor of 6% is roughly equivalent to the decline in reserves that the State has experienced in the current recession.

CAPITAL PROJECT PRIORITIZATION

The process of prioritizing proposed capital projects varies widely among states. The states listed below have some method of prioritizing capital projects. Two of these two states, Minnesota and Nebraska, have developed detailed criteria and a point system to determine which capital projects will be funded. A summary of their approaches and criteria used can be found on the following pages.

Figure 20

States that Prioritize Capital Projects

▪ Delaware	▪ Nebraska
▪ Illinois	▪ Oklahoma
▪ Michigan	▪ Texas
▪ Minnesota	▪ Wyoming

State of Minnesota: Minnesota has developed a scoring system to assist the Governor and Legislature determine which capital projects will be funded. The capital projects are evaluated based on two criteria categories (described below): (i) *critical criteria,* with capital projects in this category evaluated based on their urgency in the current legislative session; and (ii) *strategic criteria*, with capital projects within this category evaluated based on their strategic need and value. A capital project could receive a maximum of 700 points each based on the two criteria categories. The criteria categories are described in more detail below.

Critical Criteria: The criteria Minnesota uses to determine if a capital project requires immediate funding are as follows:

Critical Life Safety Emergency: If a project requires immediate attention such as a roof has deteriorated to the point of collapse, it would qualify under this criterion and would receive 700 points.

Critical Legal Liability: If the project has an existing and documented legal liability, such as citations by building or fire inspectors, it would qualify under this criterion, with qualified projects receiving 700 points.

Prior Binding Commitment: If a project has no other funding alternative and a previous legislative action created a binding commitment, such as construction project that has already been partially funded and is under construction, the project would qualify under this criterion, with qualified projects receiving 700 points.

Strategic Criteria: The criteria Minnesota uses to evaluate each project's strategic need and value are set out below. Projects may receive from 0 to 700 points depending on how closely each capital project meets the following criteria.

Strategic Linkage: A project is evaluated using this criterion based on how closely the project is connected to a particular agencies strategic plan, state statutes or other identifiable state policy; projects are evaluated on a low, medium and high basis and may receive 0, 40, 80 or 120 points.

Safety Concerns: A project is evaluated using this criterion based on how safety issues are addressed. These safety issues are not necessarily as urgently needed as those discussed in the critical criteria category. An example would be clean up of a closed landfill or security improvements at a correctional facility. Projects are evaluated on a low, medium and high basis and may receive 0, 35, 70 or 105 points.

Customer Services and Statewide Significance: A project is evaluated based upon how it improves service for all citizens of the state. Projects with statewide impact and which provide customer service to the greatest number of people receive the most points. Projects with regional significance or which provide modest level of customer service receive medium points. Projects with local significance and modest customer service improvements receive the fewest. Projects will receive 0, 35, 70 or 105 points.

Agency Priority: This criterion measures how important a project is for a particular agency. Points are based on the ranking of the project on the agency's overall priority project list. The total number of requests for each agency are divided by four to establish agency quartiles in order to award the following points: 25, 50, 75 or 100.

User or Non-State Financing: 0 to 100 points are awarded to projects depending on the percentage of user financing, non-state funding, private contributions or matching funds that can be used to fund project costs.

Asset Maintenance: Requests for funding for the maintenance and repair of the state's land, facilities and equipment are evaluated on a low, medium or high basis and awarded 0, 20, 40 or 60 points.

Operating Savings or Efficiencies: 0, 20, 40 or 60 points are awarded to projects which produce operating savings or improve operating efficiencies.

Projects Contained in Six-Year Plan: If a project has been included either in a previous state agency six-year strategic plan or obtained previous state funding, it would receive 25 points. If both are applicable, the project may receive 50 points. Projects that have received past state funding but were not part of an agency's priority list may receive only 25 points.

State of Nebraska: Nebraska through its Coordinating Commission (the "Commission") for Post-Secondary Education is statutorily responsible for recommending to the Governor and Legislature a prioritized list of approved capital projects that should receive funding for higher education projects. The Commission's prioritization process involves the use of ten individual criteria, weighted using a 100-point system to assist it qualify capital projects and determine the order of funding and are described below.

Statewide Facilities Category Ranking: The Commission rank the type of facility based on overall statewide needs according to 11 different categories. For example, the Commission places a high priority on the safety of building occupants and maintaining the state's assets and, therefore, projects that are safety related receive a maximum of 30 points while a project such as land acquisition for future expansion of a project would receive a maximum of 3 points. Projects that combine two or more of the 11 categories are weighted to attain a point total.

Sector Initiatives: This criterion addresses how well the proposed capital project addresses a specific strategic or programmatic initiative with a maximum of 10 points awarded. An example of a sector initiative is the designation of a specific academic program or service offered by one or more institutions.

Strategic and Long-Term Planning: This criterion measures the degree to which a capital construction request addresses long-term planning efforts with a maximum of 10 points awarded.

Immediacy of Needs: This criterion measures the degree of urgency for the project. Projects intended to meet existing needs are given higher priority than long range needs. A maximum of 10 points are awarded depending on the degree of the need for the project.

Quality of Facility: This criterion measures how the capital project will improve an existing facility. A maximum of 5 points are awarded, depending on the facility condition.

Avoid Unnecessary Duplication: A maximum of 10 points is awarded for this criterion depending upon the degree to which the project minimizes unnecessary duplication.

Appropriate Quality of Space: This criterion measures the degree to which the project effectively uses space, a maximum of 5 points is awarded.

Statewide Role and Mission: The Commission considers the project from a statewide perspective based upon four subcategories: undergraduate instructional and student space; graduate or professional instructional and research space; public service and applied research space; and administrative or operational support space. Projects that include combinations of two or more of the four subcategories are weighted to attain a point total.

Building Maintenance Expenditures: This measures the cost of maintaining a facility based on dollars expended for maintenance per square foot compared to similar projects. A maximum of 5 points is awarded.

Ongoing Costs: This criterion measures the degree to which the project will reduce the incremental increase of state funding for its operation and maintenance. A maximum of five points are awarded.

Summary: Two different examples of the ways in which states use criteria for prioritizing capital projects have been presented. The state of Minnesota attempts to define basic evaluation criteria to be used statewide in order to address competing capital requests while the state of Nebraska has developed detailed criteria for a specific category of capital, its higher education projects. Our research indicates that the scores for Minnesota capital projects do not produce automatic funding decisions but rather are designed as a tool, much like a debt affordability study, to assist in the decision making process with regard to capital projects. The State of North Carolina may wish to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

CONCLUSION

Currently, all of the State's debt ratios are below median levels both for all fifty states and for a group of eight states with comparable credit standing. Thus, North Carolina's debt is considered low and is manageable at the current level. Expected future debt issuances over the next four years total $3.3 billion, with $2.55 billion, or 77%, issued for Higher Education purposes. Due to this projected issuance, all the State's debt ratios are expected to increase over the next four years. The debt service to tax revenue ratio is projected to rise from 2.3% at the end of Fiscal Year 2002 to 3.8% at the end of Fiscal Year 2006 and the ratio of debt to personal

income is projected to rise from 1.4% at the end of Fiscal Year 2002 to 2.2% by Fiscal Year 2006, while the debt per capita ratio is projected to rise from $395 to $641 by Fiscal Year 2006. Although the debt per capita ratio and the debt service ratio are projected to be slightly higher in Fiscal Year 2006 than the current medians for all fifty states, debt to personal income is projected to be below the national median in Fiscal Year 2006. The State's projected debt ratios are also lower than current medians for the peer group of triple-AAA rated states.

The State may want to consider developing and implementing a formal capital project prioritization process comparable to the procedures in place in the states of Minnesota and Nebraska. Furthermore, the State may want to consider the establishment of a board to develop and implement criteria to assist in prioritizing capital projects.

It would be considered a "best practice" for the State to annually update this debt affordability study along with a review of other highly rated states. A Debt Affordability Study undertaken regularly would allow the State to continually evaluate its fiscal health and credit quality. The State should also consider establishing a debt affordability advisory committee, such as the states of Maryland and Virginia have done, to assist in the preparation of the study.

State of North Carolina

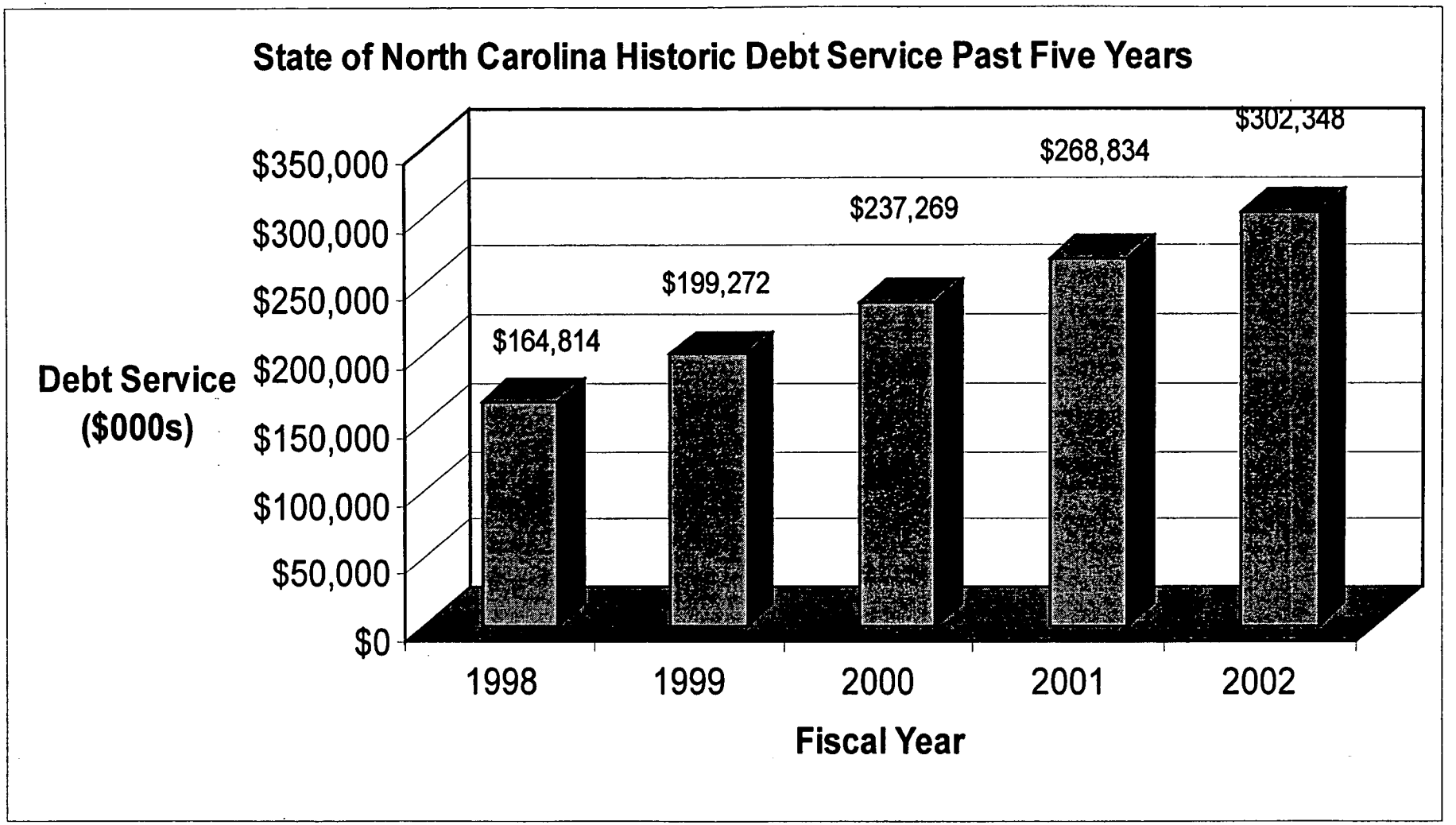
Debt Affordability Study

Selected Charts and Graphs

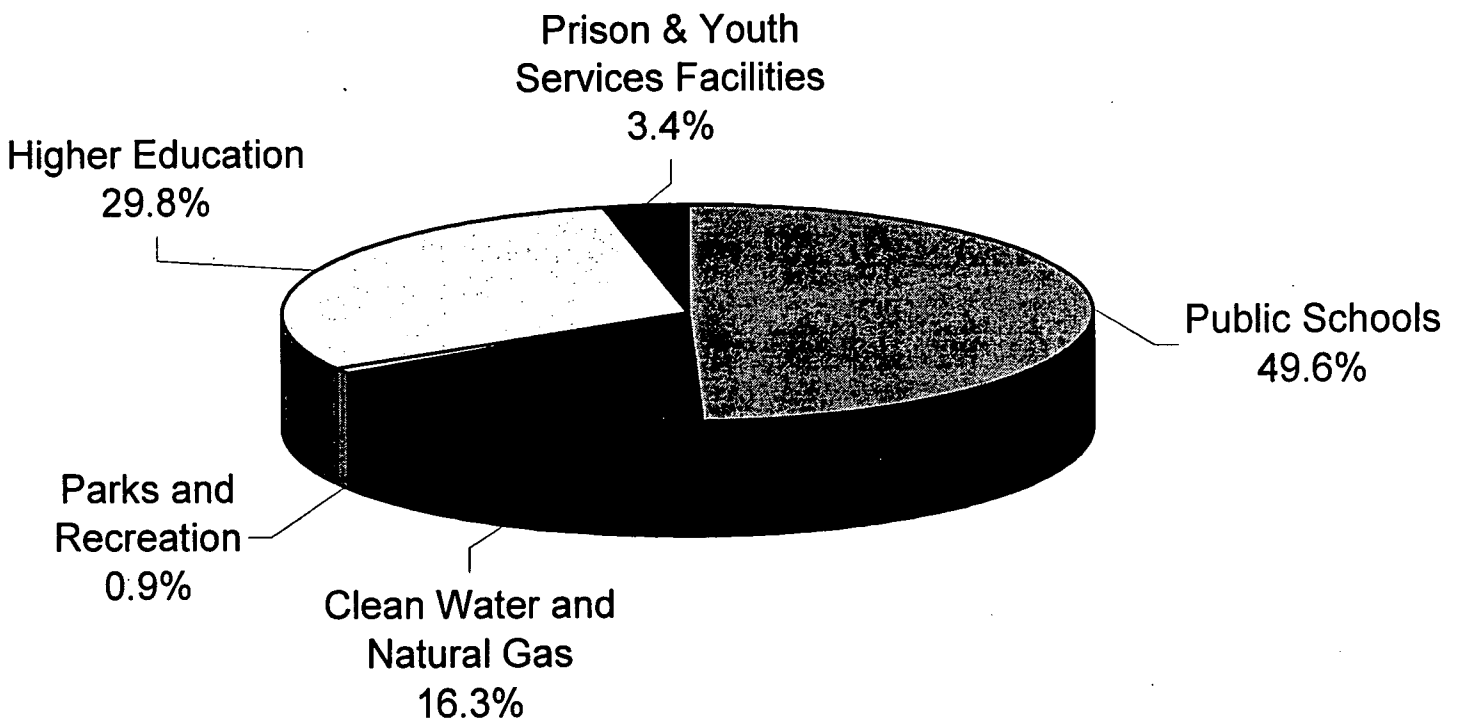
The Honorable Richard H. Moore
State Treasurer

ATTACHMENT 5

State of North Carolina Net Tax-Supported Debt As of June 30, 2002 ($ in thousands)	
General Obligation Bonds	
Payable from General Fund Revenues	$3,274,944,986
Payable from Highway Trust Fund Revenues	183,300,000
Notes Payable	11,753,000
Gross Tax-Supported Debt	$3,469,997,986
Less: Self –Supporting Debt	(183,300,000)
Net Tax-Supported Debt	$3,286,697,986


State of North Carolina Historic Debt Service Past Five Years
Debt Service ($000s)
$350,000
$300,000
$250,000
$200,000
$150,000
$100,000
$50,000
$0
$164,814
$199,272
$237,269
$268,834
$302,348
1998
1999
2000
2001
2002
Fiscal Year

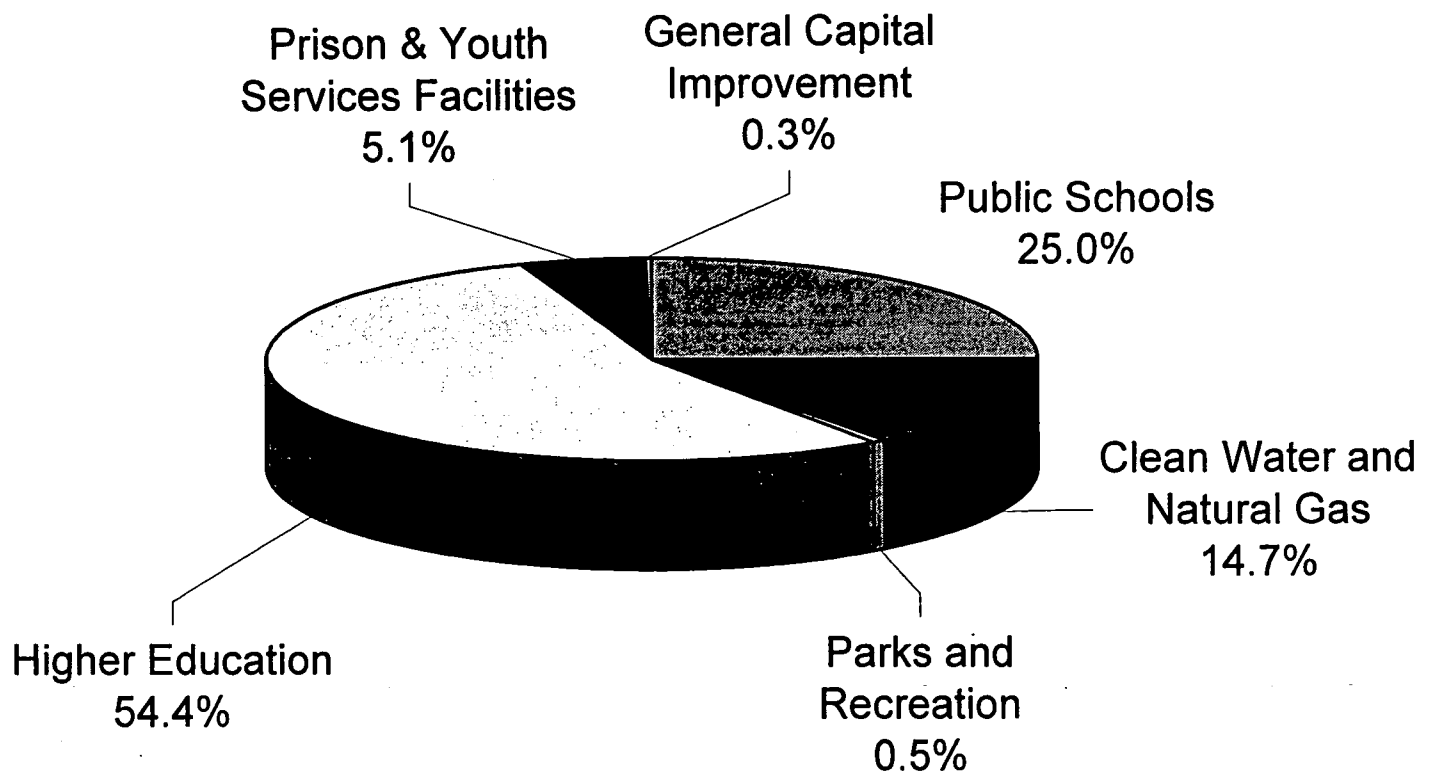
State of North Carolina Outstanding Debt by Program



State of North Carolina Proposed Net Tax-Supported Debt Issuance Next Four Years

	Fiscal Year 2003 (est)	Fiscal Year 2004 (est)	Fiscal Year 2005 (est)	Fiscal Year 2006 (est)	Total 2003-2006
Clean Water & Natural Gas Bonds	$145,755,000	$146,550,000	$52,700,000	$169,995,000	$515,000,000
University & Community College Bonds	600,000,000	600,000,000	700,000,000	650,000,000	2,550,000,000
Certificates of Participation	17,500,000	225,000,000	-	-	242,500,000
	$763,255,000	$971,550,000	$752,700,000	$819,995,000	$3,307,500,000

State of North Carolina Debt by Program
Outstanding plus Unissued Debt



State of North Carolina
Projected Changes in Net Tax-Supported Debt
As of December 31, 2002
($ in thousands)

	FY 2003	FY 2004	FY 2005	FY 2006	Total Change in Debt FY 2003-2006
Debt at Beginning	$3,286,698	$3,899,777	$4,651,830	$5,151,003	
Planned Issuances	763,255	971,550	752,700	819,995	$3,307,500*
Retirements	(150,176)	(219,496)	(258,977)	(282,248)	(910,898)
Debt at End	$3,899,777	$4,651,830	$5,145,553	$5,683,300	$2,396,602

* Includes $21.7 million Clean Water Bonds and $50 million Natural Gas Bonds issued so far in Fiscal Year 2003

North Carolina Debt Ratios versus Ratios for Other Highly Rated States				
	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina	**AAA/AAA/Aa1**	**1.4%**	**$395**	**2.3%**
	Ratio to Median	**0.56 x**	**0.60 x**	**0.49 x**

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

State of North Carolina
Effect of the New Debt Issuance on Debt Ratios – Base Scenario

	Median	Fiscal Year 2002	Projected End of Fiscal Year 2003	2004	2005	2006	Ratio of the State to Median
Net Tax-Supported Debt to Personal Income	2.3%	1.4%	1.7%	1.9%	2.1%	2.2%	0.96x
Net Tax-Supported Debt Per Capita	$573	$395	$461	$542	$590	$641	1.12x
GO Debt Service to Revenues	3.5%	2.3%	2.3%	3.0%	3.4%	3.8%	1.09x
Principal Payout in 10 Years	50.0%	57.4%	56.1%	54.8%	53.7%	54.1%	1.08x

Projected North Carolina Debt Ratios for 2006 versus Actual Ratios for Other Highly Rated States

	Ratings (Fitch/S&P/Moody's)	Debt to Personal Income*	Debt per Capita*	Debt Service as a % of Tax Revenue **
Delaware	AAA/AAA/Aaa	5.3%	$1,650	6.0%
Georgia	AAA/AAA/Aaa	2.9	804	5.0
Maryland	AAA/AAA/Aaa	2.6	879	6.5
Minnesota	AAA/AAA/Aaa	1.8	576	3.2
Missouri	AAA/AAA/Aaa	1.3	347	2.8
South Carolina	AAA/AAA/Aaa	2.5	615	4.7
Utah	AAA/AAA/Aaa	3.0	708	4.7
Virginia	AAA/AAA/Aaa	1.8	566	3.2
	Peer Group Median	2.5%	$662	4.7%
North Carolina Projections for 2006	**AAA/AAA/Aa1**	**2.2%**	**$641**	**3.8%**
	Ratio to Median	0.88 x	0.97 x	0.81 x

* Ratios for peer group as calculated by Moody's in its "2002 State Debt Medians" report published May 2002.

** Calculated from Fiscal Year 2002 CAFRs for Utah and Virginia and Fiscal Year 2001 CAFRs for Delaware, Georgia, Maryland, Minnesota, Missouri and South Carolina

	Current Ratio	Projected by the end of FY 2006	Projected Debt Ratio After Issuance of			
			Additional $350 Million	Additional $745 Million	Additional $1.35 Billion	Additional $2.0 Billion
Debt to Personal Income	1.4%	2.2%	2.3%	2.5%*	2.7%	3.0%**
Debt Service to Revenues	2.3%	3.8%	4.0%*	4.3%	4.75%**	5.2%

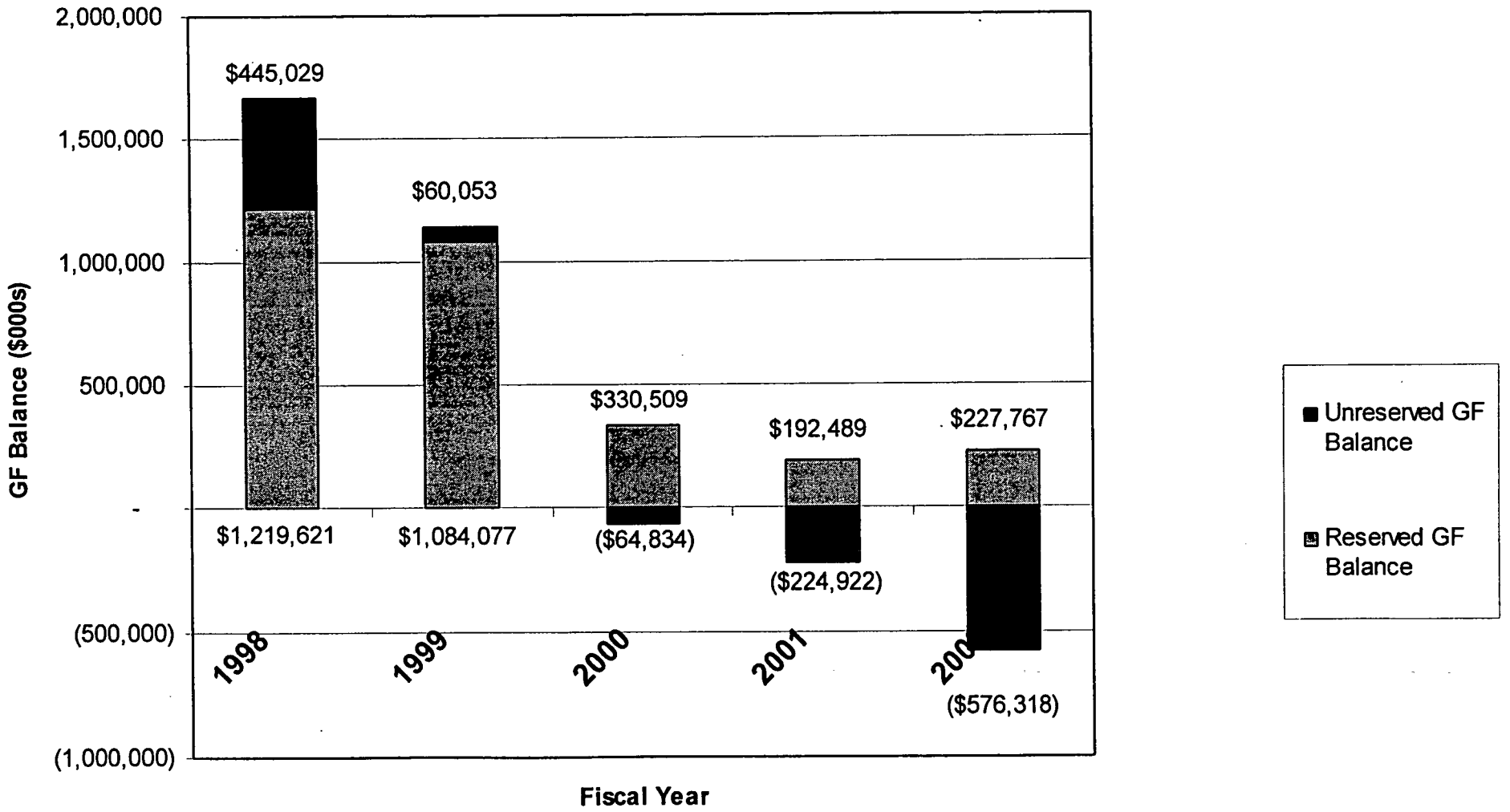
* Suggested Target Ratio

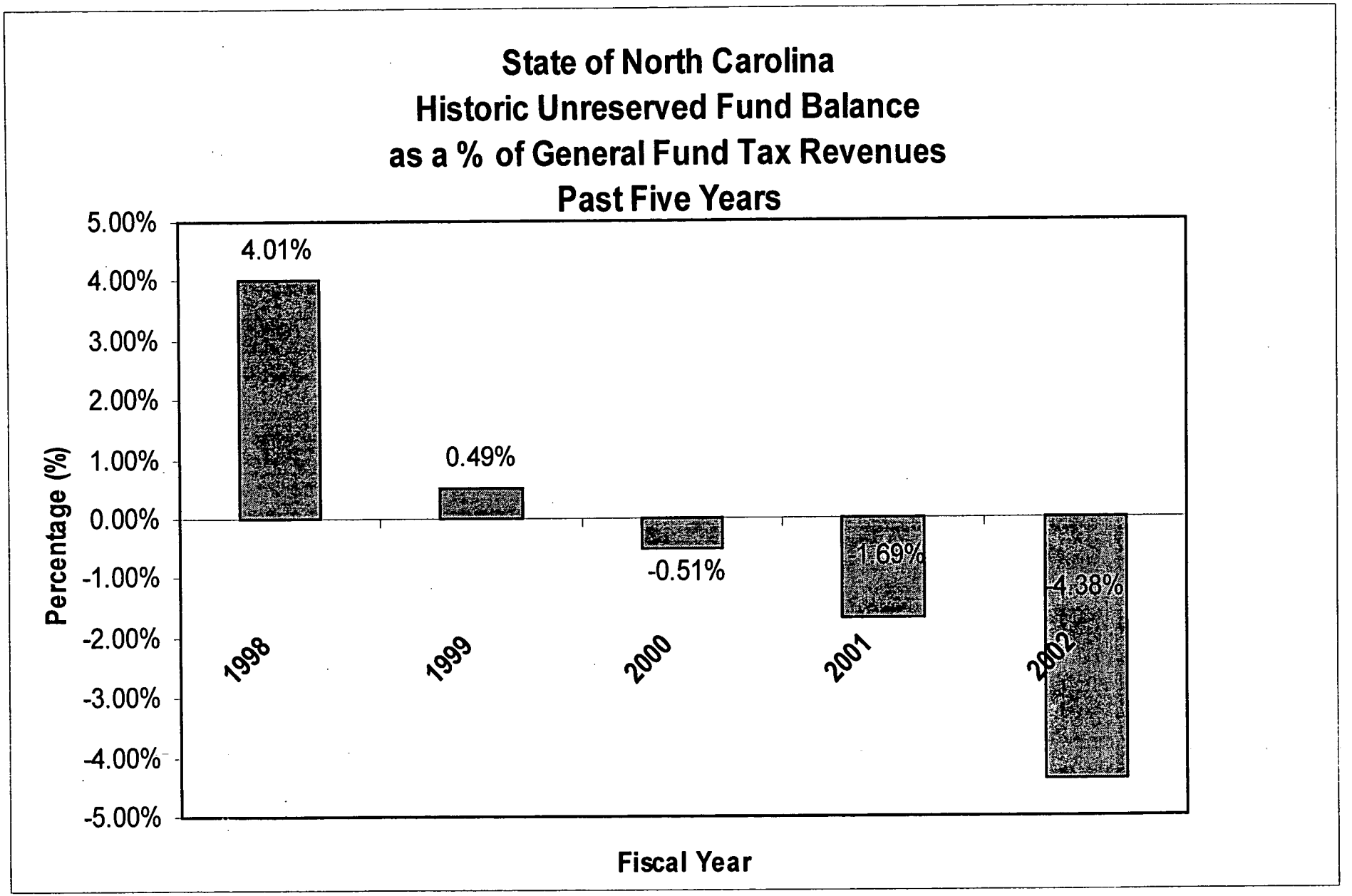
** Suggested Ceiling Ratio

State of North Carolina

Historic General Fund Balances

Past Five Years




State of North Carolina
Historic Unreserved Fund Balance
as a % of General Fund Tax Revenues
Past Five Years
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
-1.00%
-2.00%
-3.00%
-4.00%
-5.00%
Percentage (%)
4.01%
0.49%
-0.51%
-1.69%
-4.38%
1998
1999
2000
2001
2002
Fiscal Year

House Committee on Finance

Minutes

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April 1, 2003

The House Committee on Finance met on Tuesday, April 1, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, and Weiss. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 8:35 a.m. and welcomed the members and staff. He then recognized the Pages for the meeting. There were two young ladies present: Ms. Sarah Robertson of Stokes County, sponsored by Representative Rex Baker and Ms. Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Chairman Luebke also announced the formation of the annual Subcommittee on the Occupancy Tax and announced the appointed members to the subcommittee, those being Representatives Alexander (Chair), Munford, and McGee.

The Chair then recognized staffperson Cindy Avrette who offered an updated presentation of the Streamlined Sales Tax Project to the committee members (see attachment 3). The presentation, shown on PowerPoint, included a discussion of the state losing tax dollars from Internet orders and to provide for a uniformity of tax rates (to some degree) among all states. It also overviewed the progress of the project in North Carolina and nationwide since year 2000. Ms. Avrette noted that North Carolina must make several changes in 2003 in order to continue to participate in the project. Two of these changes include:

1. The State must develop a uniform local tax base. For instance, food must either be subject to tax or exempt. It cannot be at a lower rate than other items as it is presently.
2. Modification of candy, soft drinks, and prepared food is necessary. North Carolina must make a decision whether or not to continue to exempt these foods from tax.

Ms. Avrette also informed members that presently, under a Supreme Court ruling, companies without a physical location in North Carolina are not required to collect sales tax for the State [i.e. Barnes and Noble.com (website) vs. Barnes and Noble Stores (physical location)]. The legislature must decide now whether to implement such a tax on Internet companies.

The Chair then recognized Representative Howard for a question to Ms. Avrette on whether the Department of Revenue was prepared to collect these additional tax dollars without huge expense in developing methods of collection. Ms. Avrette stated that it would be the responsibility of the merchants to develop these methods, thus the costs would not be levied on the state.

Overall, a great deal of discussion ensued about what items will or will not be taxed and the decisions, which must be made soon in that regard in order for North Carolina to continue its' participation in the Streamlined Sales Tax Project. Discussion of how taxes collected would be distributed was also in depth. There was a question from Representative Hackney concerning whether taxpayers making orders in their home areas would be required to provide their zip codes and four-digit zip extensions (i.e. 27601-1092) or list their county of residence so that collected tax dollars can be reallocated to the appropriate areas locally. The Represenative was informed that currently, the plan is for a "zip plus four" system. For status of the Project nationwide, information is available via the World Wide Web at http://www.elaonline.com/govtrelations/state/streamometer

Chairman Luebke then thanked Ms. Avrette for her presentation and next recognized staffperson Richard Bostic for a presentation on the North Carolina Individual Income Tax. He presented a slide show (see attachment 4) that outlined the history of the income tax in North Carolina from 1850 to present. Due to time, however, the Chair stopped Mr. Bostic's presentation and asked that he continue at the Committee's next meeting on Thursday. He also stated that David Crotts' presentation on the North Carolina Corporate Income Tax would commence on Thursday as well.

The Chair then recognized members for a few short questions and adjourned the meeting at 9:50 a.m., reminding members that the Committee would next meet on Thursday of the week, March 3, 2003, at 8:30 am in the same location.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Handouts on Streamlined Sales Tax Project
4. Handout on North Carolina Individual Income Tax
5. Handout on North Carolina Wireless 911 Board (not discussed)
6. Spreadsheet Handout entitled "Value of Property Exempted from County Tax Base (2001-02)" (not discussed)
7. Report on Bill Lee Act from Department of Revenue (not discussed)

House Committee on Finance

Minutes

~

April 1, 2003

The House Committee on Finance met on Tuesday, April 1, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, and Weiss. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 8:35 a.m. and welcomed the members and staff. He then recognized the Pages for the meeting. There were two young ladies present: Ms. Sarah Robertson of Stokes County, sponsored by Representative Rex Baker and Ms. Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Chairman Luebke also announced the formation of the annual Subcommittee on the Occupancy Tax and announced the appointed members to the subcommittee, those being Representatives Alexander (Chair), Munford, and McGee.

The Chair then recognized staffperson Cindy Avrette who offered an updated presentation of the Streamlined Sales Tax Project to the committee members (see attachment 3). The presentation, shown on PowerPoint, included a discussion of the state losing tax dollars from Internet orders and to provide for a uniformity of tax rates (to some degree) among all states. It also overviewed the progress of the project in North Carolina and nationwide since year 2000. Ms. Avrette noted that North Carolina must make several changes in 2003 in order to continue to participate in the project. Two of these changes include:

1. The State must develop a uniform local tax base. For instance, food must either be subject to tax or exempt. It cannot be at a lower rate than other items as it is presently.
2. Modification of candy, soft drinks, and prepared food is necessary. North Carolina must make a decision whether or not to continue to exempt these foods from tax.

Ms. Avrette also informed members that presently, under a Supreme Court ruling, companies without a physical location in North Carolina are not required to collect sales tax for the State [i.e. Barnes and Noble.com (website) vs. Barnes and Noble Stores (physical location)]. The legislature must decide now whether to implement such a tax on Internet companies.

The Chair then recognized Representative Howard for a question to Ms. Avrette on whether the Department of Revenue was prepared to collect these additional tax dollars without huge expense in developing methods of collection. Ms. Avrette stated that it would be the responsibility of the merchants to develop these methods, thus the costs would not be levied on the state.

Overall, a great deal of discussion ensued about what items will or will not be taxed and the decisions, which must be made soon in that regard in order for North Carolina to continue its' participation in the Streamlined Sales Tax Project. Discussion of how taxes collected would be distributed was also in depth. There was a question from Representative Hackney concerning whether taxpayers making orders in their home areas would be required to provide their zip codes and four-digit zip extensions (i.e. 27601-1092) or list their county of residence so that collected tax dollars can be reallocated to the appropriate areas locally. The Represenative was informed that currently, the plan is for a "zip plus four" system. For status of the Project nationwide, information is available via the World Wide Web at http://www.elaonline.com/govtrelations/state/streamometer

Chairman Luebke then thanked Ms. Avrette for her presentation and next recognized staffperson Richard Bostic for a presentation on the North Carolina Individual Income Tax. He presented a slide show (see attachment 4) that outlined the history of the income tax in North Carolina from 1850 to present. Due to time, however, the Chair stopped Mr. Bostic's presentation and asked that he continue at the Committee's next meeting on Thursday. He also stated that David Crotts' presentation on the North Carolina Corporate Income Tax would commence on Thursday as well.

The Chair then recognized members for a few short questions and adjourned the meeting at 9:50 a.m., reminding members that the Committee would next meet on Thursday of the week, March 3, 2003, at 8:30 am in the same location.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Handouts on Streamlined Sales Tax Project
4. Handout on North Carolina Individual Income Tax
5. Handout on North Carolina Wireless 911 Board (not discussed)
6. Spreadsheet Handout entitled "Value of Property Exempted from County Tax Base (2001-02)" (not discussed)
7. Report on Bill Lee Act from Department of Revenue (not discussed)

ATTACHMENT 1

AGENDA

House Finance Committee

April 1, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Paul Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Update on Streamlined Sales Tax Project
Cindy Avrette

Overview of the NC Individual Income Tax
Richard Bostic

Overview of the NC Corporate Income Tax
David Crotts

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roz Sawitt	NC Child Care Coalition
Mike Watson	NCRPS
Barbara Cansler	MFSS
[illegible]	Bank Coalition Strategy
Katherine Daing	Electric Cities
Henry Hutaps	N.C.S.D.A.
Butch Gunnells	NCSDA
Ed Regan	N.C.A.C.C.
Andy Sasol	NCDOR
Louise Fisher	Wake AMI. + MHANC
Dick Carlton	Carlton + Alexander

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Warren Plonk	OSBM
Paul Zepin	OSBM
Marcos Arellano	Intern (Rep Luebke)
Ron Aycock	County Com.
[illegible]	NCRA
Paul Meyer	NCACC
Ken Melton	Alley Associates
Don Hubbert	DOC
Roger Bone	Bone + Assoc
Amy Gardner	N+O
Doug Carter	NCSTA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Ellen	NC Retail Merchants
Andy Romanet	NCLM
Duke Chen	Intern
Steve Wall	Conservation Council
Mark Beason	Capitol Group
VLM McBride	NCTA
Steve Woodson	NCFB
Fran Preston	NCRMA
[illegible]	EGHS
Rob Ducablon	NC State Water
Sharon Matthews	DOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 1, 2003

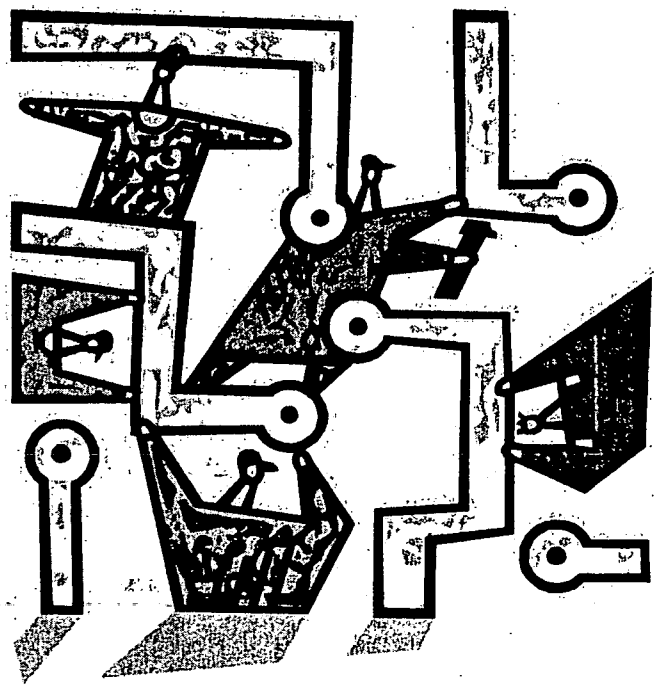
Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Thompson	MCIC
Cam Cree	BPMHL

Streamlined Sales Tax Project

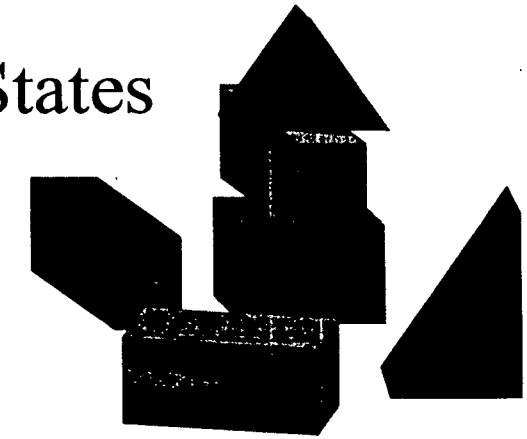
- Modernize & simplify sales and use tax laws
- Encourage sellers to voluntarily collect use tax
- Lead Congress to grant states the authority to require collection



ATTACHMENT 3

History of Use Tax Collection

- 1967: National Bellas Hess case
- 1992: Quill Corporation case
- 1998: Internet Tax Freedom Act
- 2000: SSTP organized
- 2000: Draft Act and Agreement
- 2001: Meeting of Implementing States
- 2002: Agreement Finalized
- 2003: Moratorium Expires



Principles of SSTP

- Uniformity in major tax base definitions
- Uniformity in State and local tax bases
- Simplification in State and local tax rates
- State level administration of taxes
- Protection of consumer privacy
- Central, electronic registration system
- Uniform sourcing rules
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances
- Preservation of individual state taxing authority

How will it work?

- Participation by vendors is voluntary
- Central, online registration system
- Limited amnesty provisions
- Methods of remittance
  - MODEL 1: Select a CSP to collect & remit tax
  - MODEL 2: Select a CAS to use to calculate tax
  - MODEL 3: Use own certified CAS

Requirements to Participate

- State level administration
- ***Common local tax base***
- Online registration system
- Notice of State tax changes
- Notice of local rate changes
- Develop address-based system for assigning taxing juris
- Relieve participating sellers from liability relying on CSP or CAS

Requirements to Participate

- ***No multiple State rates after 12/31/ 2005***
- One local rate
- Uniform sourcing rule
- Uniform telecommunications sourcing rule
- ***Uniform definitions***
- Uniform tax returns
- Uniform rules for remittances of funds
- Uniform rules for recovery of bad debts
- ***No caps or thresholds after 12/31/2005***
- Direct pay certificates

Effective Date of Agreement

- Minimum number of states = 10
- Percent of the "sales tax" population = 20%
- 7 states enacted legislation
- 20 states have pending legislation

2003 Required Changes

- Uniform local tax base: Food must either be subject to the tax or exempt
- Modifications to the taxation of candy, soft drinks, and prepared food
- Change due date on a monthly return
- Amnesty for a seller who voluntarily registers to collect tax for period prior to registration

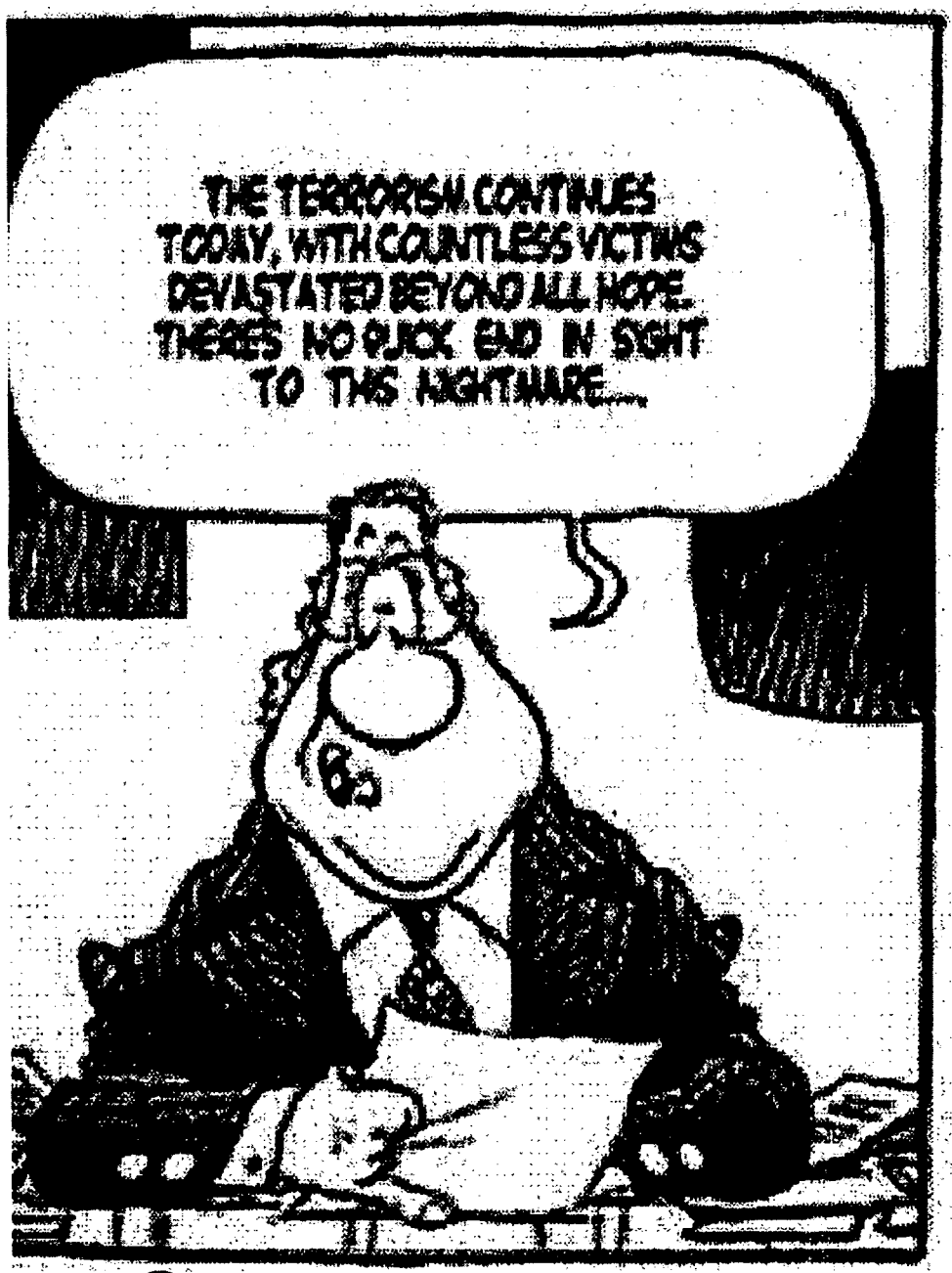
2003 Required Changes

- 120-day notification of local tax changes
- Modifications to definitions
- Sales tax holiday exemptions need to be amended before the August 2004 holiday

North Carolina Individual Income Tax

Fiscal Research Division

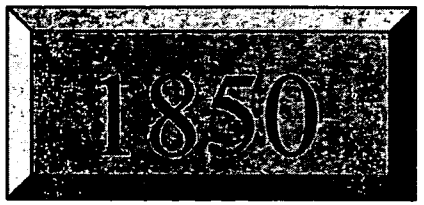
ATTACHMENT 4


THE TERRORISM CONTINUES TODAY, WITH COUNTLESS VICTIMS DEVASTATED BEYOND ALL HOPE. THERE'S NO QUICK END IN SIGHT TO THIS NIGHTMARE...

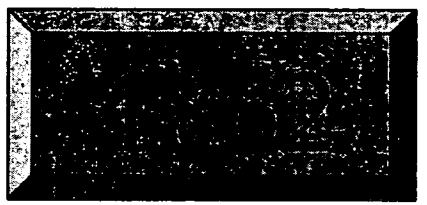
GORRELL
BUT ENOUGH ABOUT THE IRS!
APRIL 15

JEFF PARKER
DIST. BY
Y'KNOW I USED TO THINK THAT DEATH AND TAXES THING WAS JUST A JOKE...
POINK POINK POINK
TAX DEADLINE
IRAQ

- Established income tax
- 3¢ per dollar of interest and profit from slave trade, shipping and stocks/corporate shares
- $3 on salaries over $500
- Physicians, dentists, lawyers exempt for first 5 years of practice
- Sheriff collects taxes



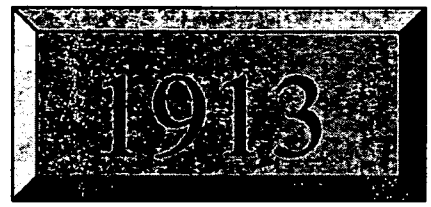
- Amended so that $3 on first $500 in salaries and $2 for every additional $500



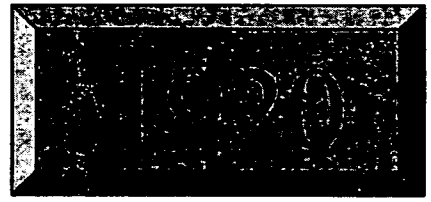
- U.S. approves income tax to support Civil War effort

WORK SHOP
ALL BUSINESS
AT A STAND
STILL
MONEY-MANIAC
BY CONGRESS.
TWEED-IZATION,
BY NOT PAYING
OUR DEBTS,
OUR CREDIT
DOWN WITH
CAPITAL
UP WITH
TAXES.
MODERN
THE SLAVE OF LIBERTY
HARPWEEK

MILLIONAIRE
BUSINESS MAN
WAGE EARNER
PROPOSED INCOME TAX
· NIL · FISHER ·



- Constitutional amendment failed – Amendment to end statewide property tax and switch to alternative taxes (income, inheritance, etc.)



- Constitutional amendment approved-Permit taxation of all income, including income from property

- General Assembly enacted state administered income tax
- Rates were 1% on first $2500 of net taxable income up to 3% on excess over $10,000

  (5 rate brackets)

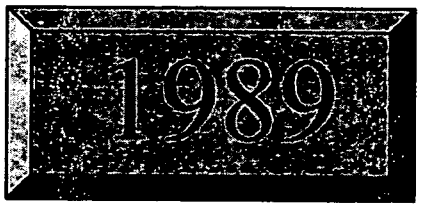
- Increased tax rates
- 3% on net income up to $2,000

  4% on next $2,000

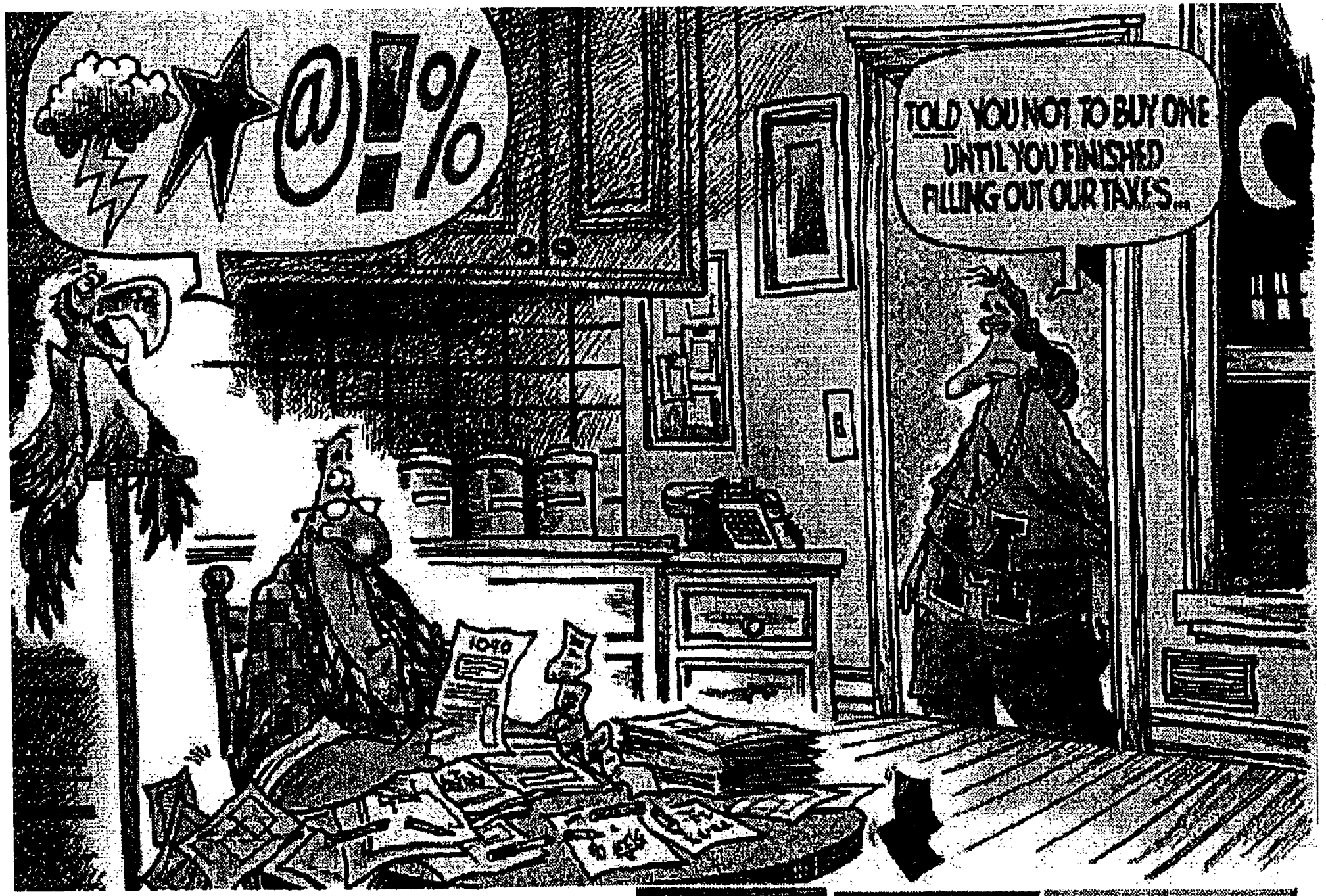
  5% on next $2,000

  6% on next $4,000

  7% on amount greater than $10,000

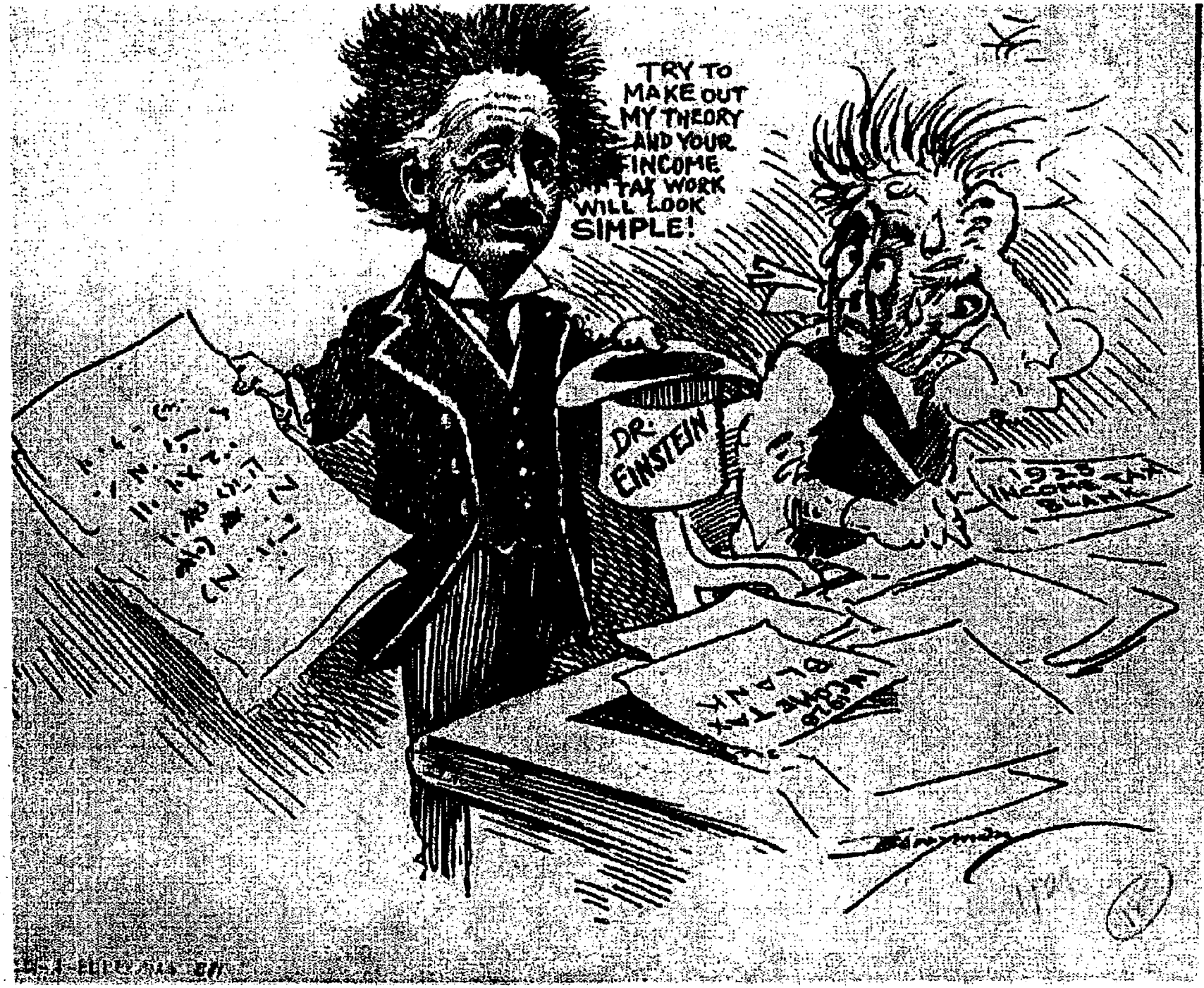


- Tax Fairness Act approved
- Adopted the federal definition of taxable income as the base for state income tax
- Allowed married couple to file a joint return for the first time.
- New tax rates of 6% and 7%
- Exemption $2,000 standard deduction $5,000 (married filing jointly)



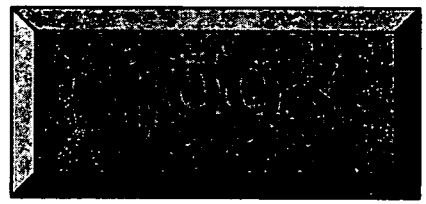
Mike Thompson, Detroit, Michigan, The [redacted] 03/28/03 Get Image

OF COURSE YOU CAN'T READ IT... WHY DO YOU THINK THEY CALL IT A CODE?
TAXES
A to 9.62
Vol. B
VOL. 114b

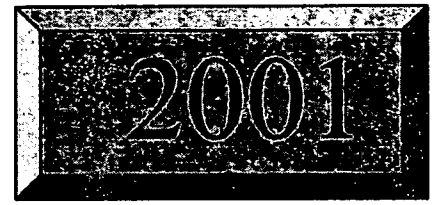


"Try to Make Out My Theory and Your Income Tax Work Will Look Simple!"

- Added 7.75% tax rate



- Increase personal exemption to $2,500
  (keep at $2,000 for high income tax payers)



- Added 8.25% tax rate (temporary)
- Increase standard deduction for married filing jointly to $6,000 in 2003

John Trever, New Mexico, The Albuquerque Journal

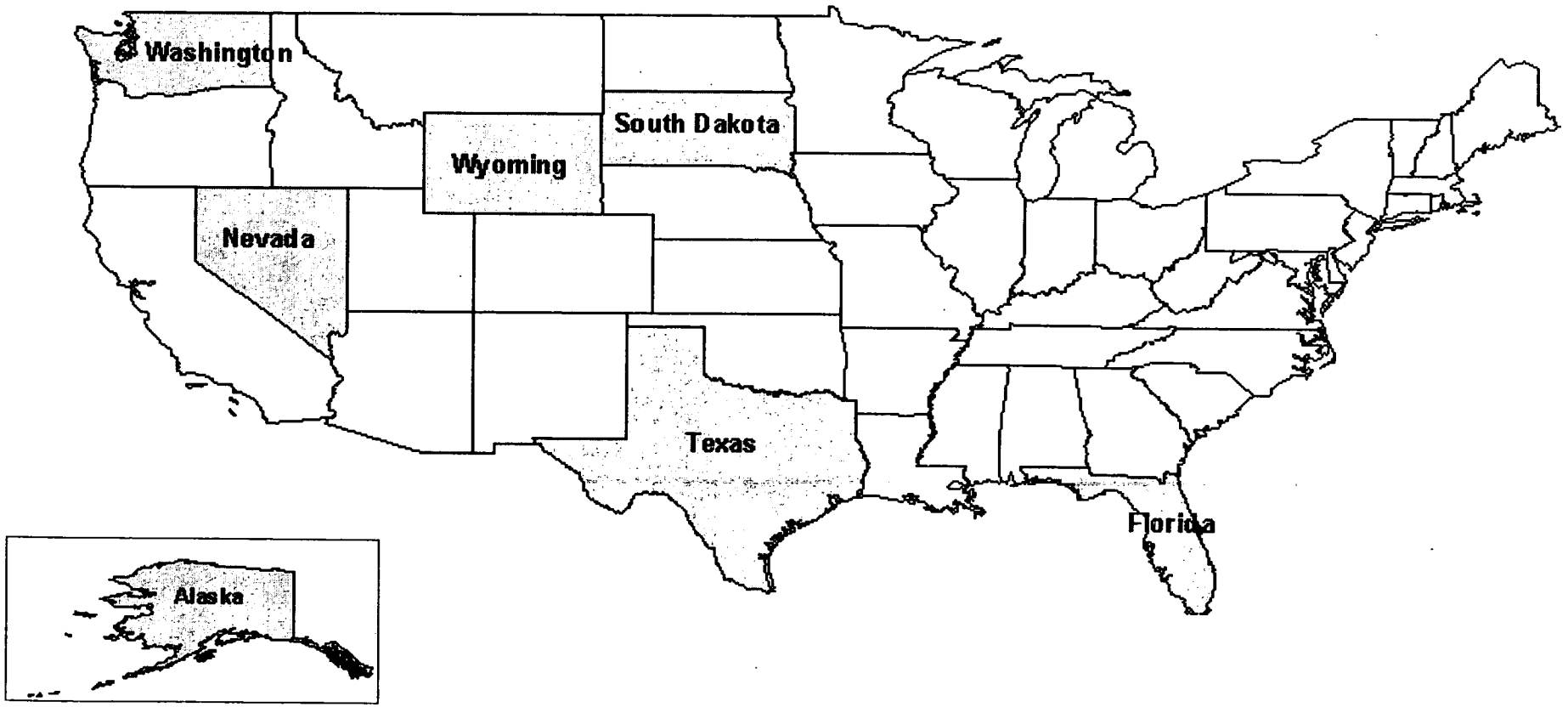
03/28/03

Individual Income Tax Rates

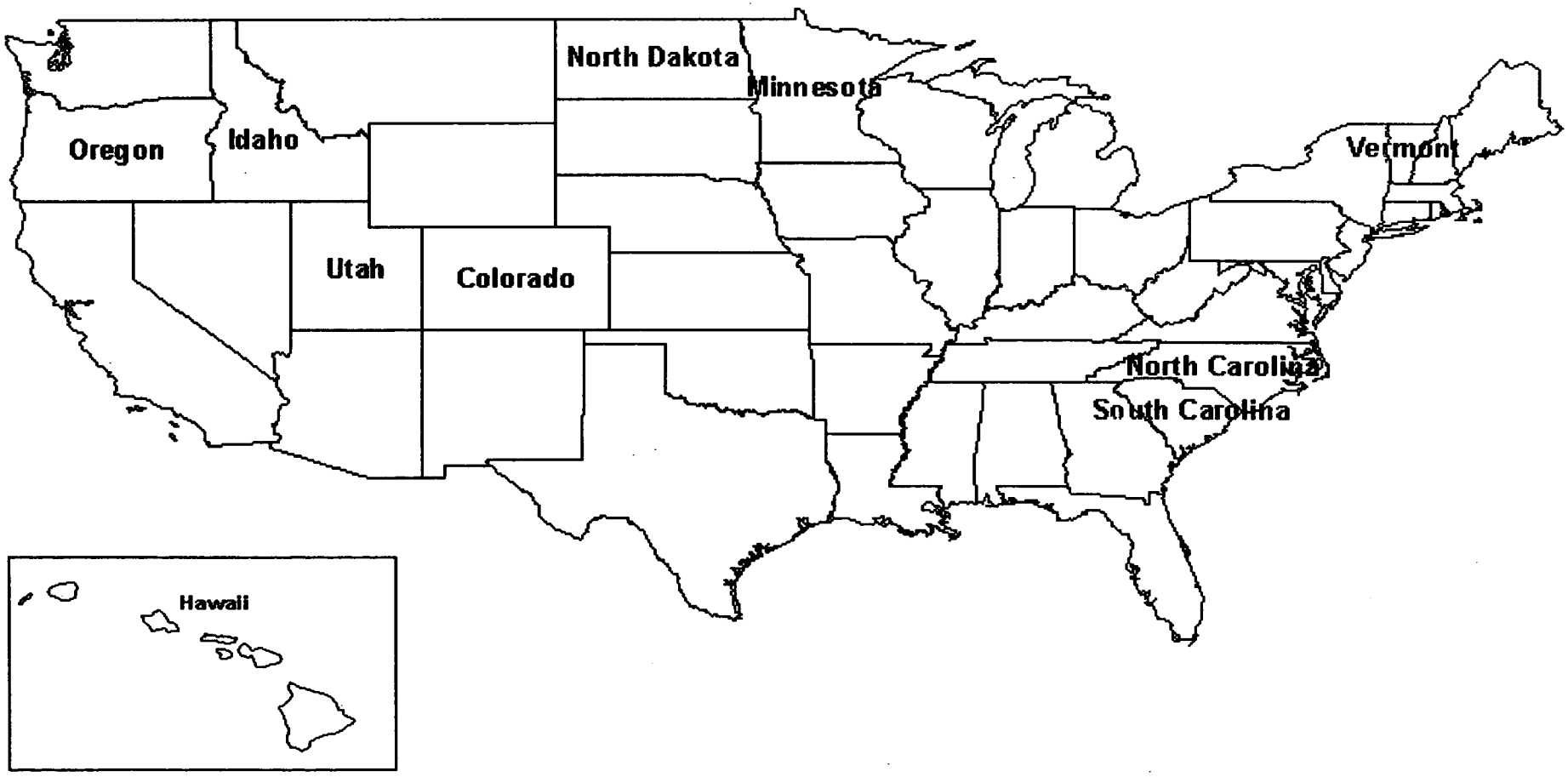
Tax Rates	**Taxable Income**			
	6%	**7%**	**7.75%**	**8.25%***
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

States with No Income Tax

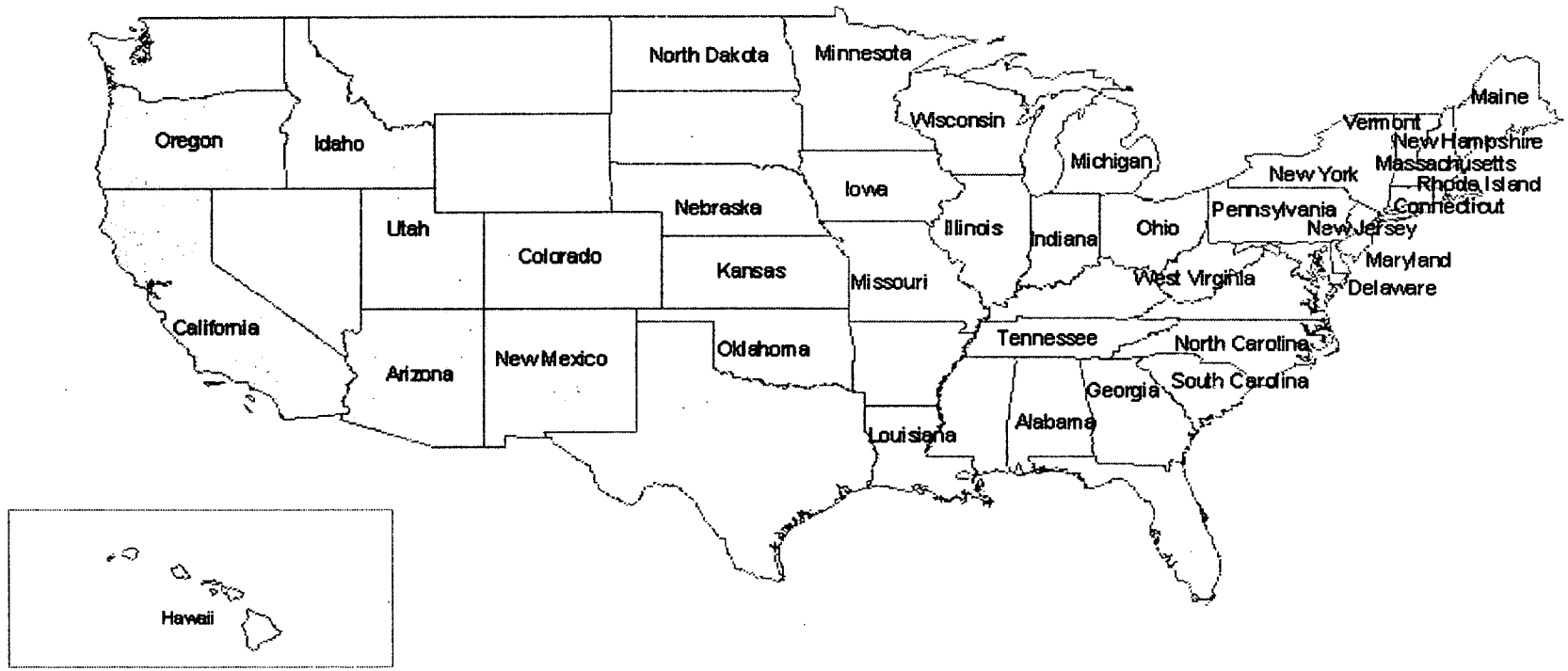


Starting Point = Taxable Income



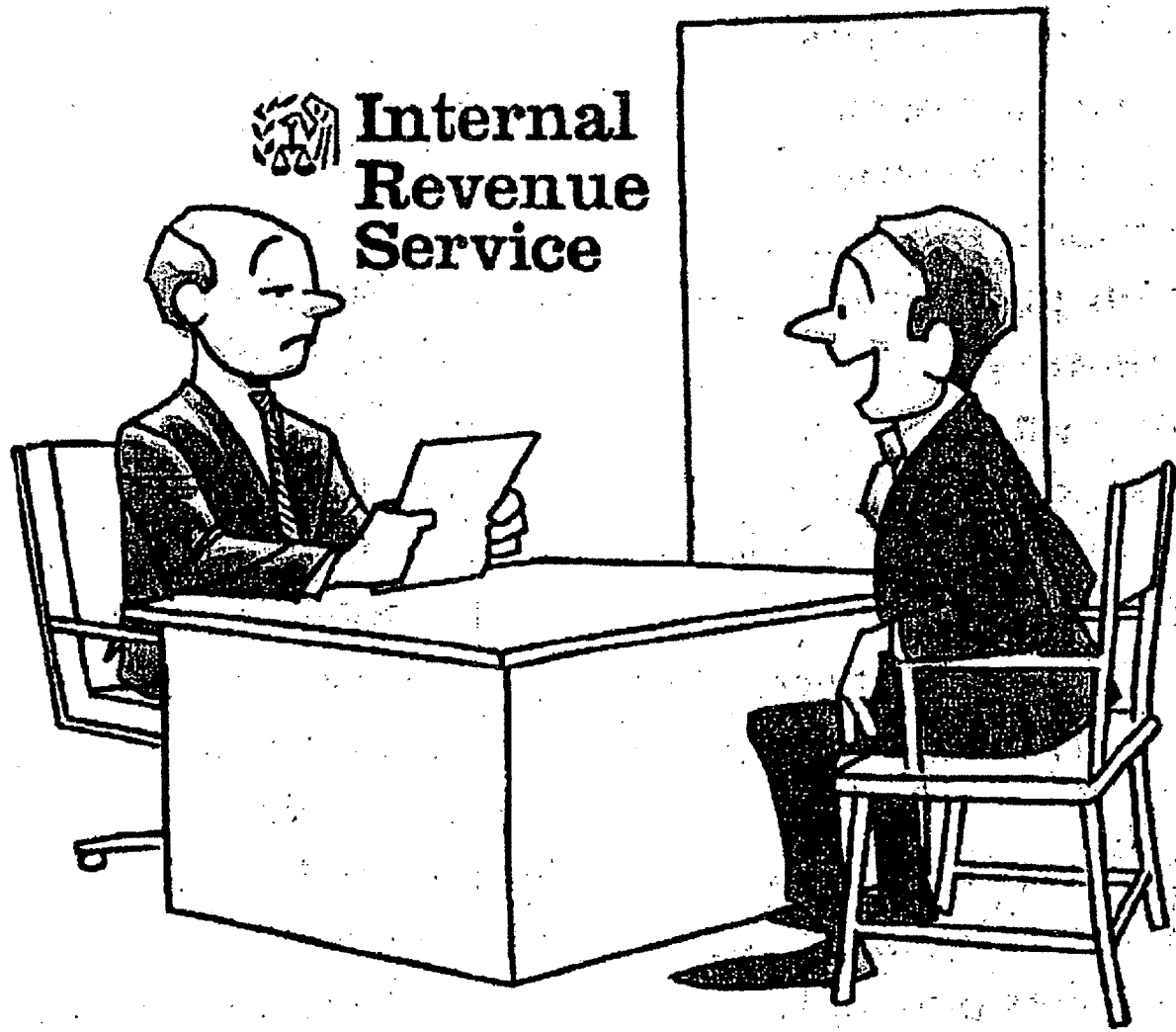
Starting Point = Federal AGI

Joint Filing for Married Couples



Exemptions/Exclusions

- Social Security
- Retirement income = $4,000 for public retirees and $2,000 for private retirees
- Retirement income = 100% exclusion for those vested in local, state and federal retirement system by August 12, 1989.
- Up to $35,000 in severance pay

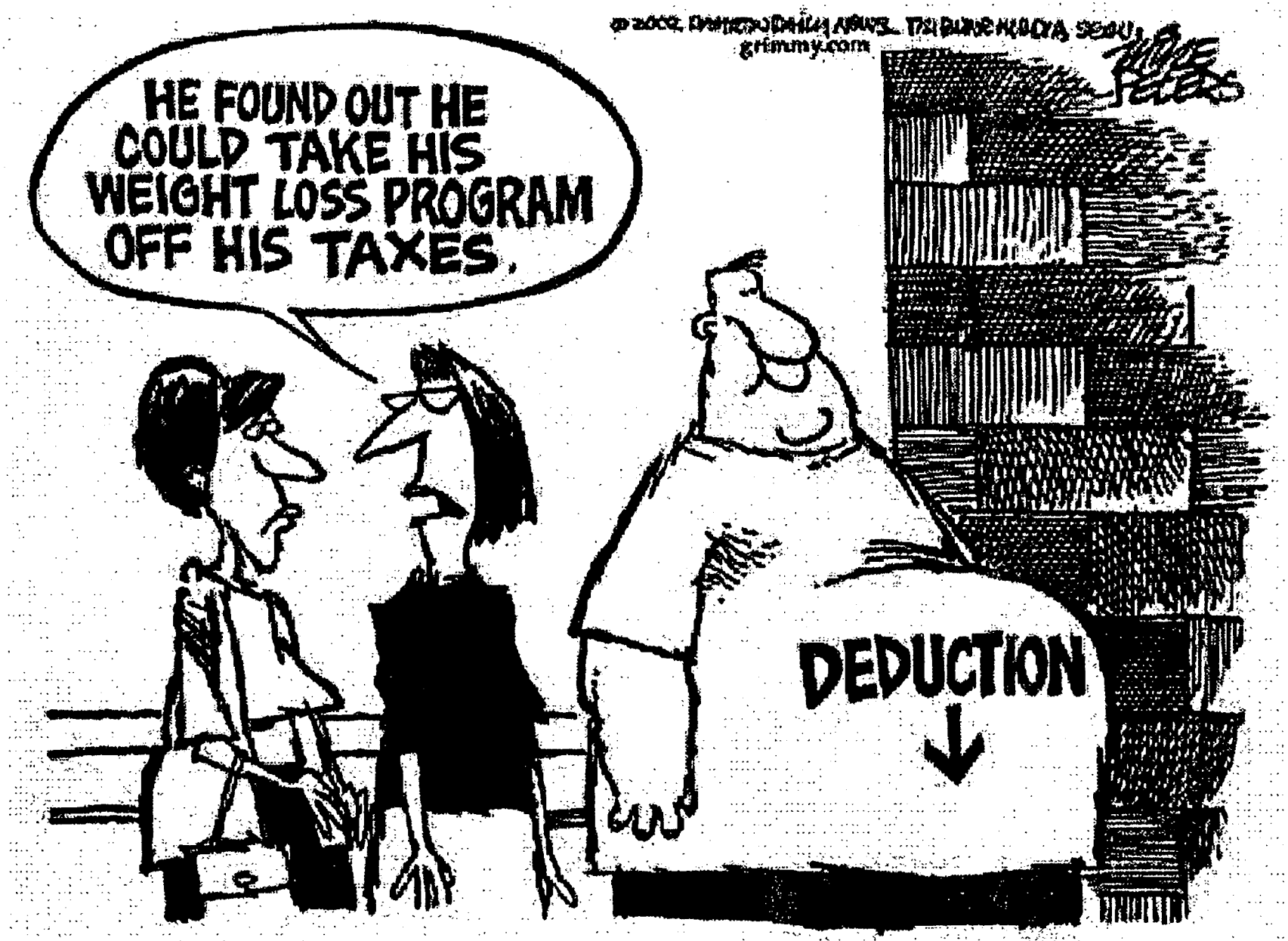


"I work religiously, so I thought my income was tax-exempt."

Deductions

- Interest income from U.S. and state obligations
- Local, state, or foreign tax refunds included in gross income
- Income earned on federally recognized Indian reservation
- Hurricane Floyd relief payments
- Distributions from Parental Savings Trust Fund (529 Plan)

MIKE PETERS **4/6/02**



Credits

- Child care and employment related expenses
- Dependent child = $60
- Disabled taxpayer = 1/3 of federal
- Long term care insurance
- Non-itemized charitable contributions
- Taxes paid to other states or countries

Credits - Housing

- Handicapped dwelling units
- Historic structure rehabilitation
- Low income housing

Credits - Agriculture

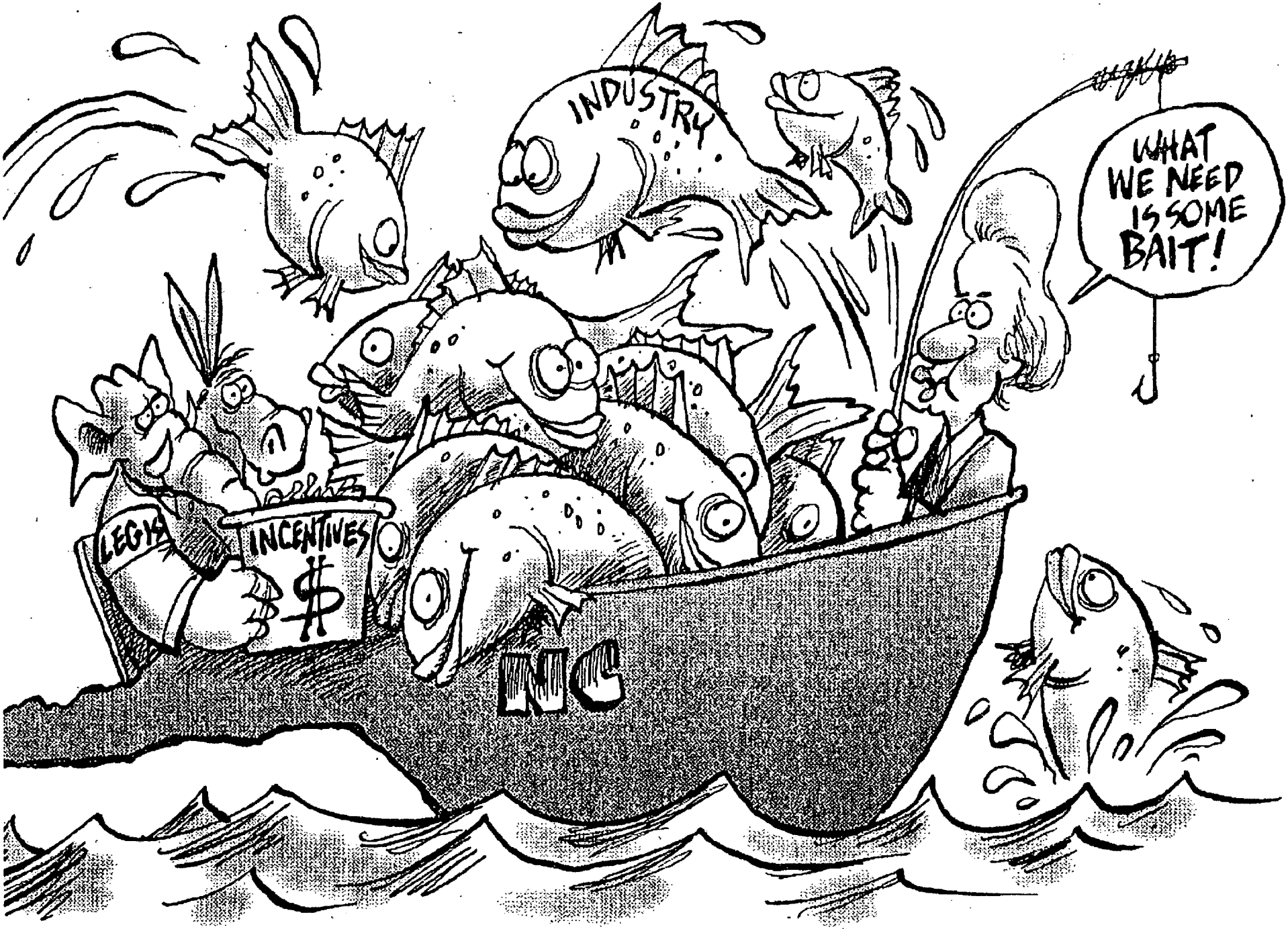
- Conservation tillage equipment
- Gleaned crops
- Property tax paid on farm machinery
- Poultry composting facility

Credits - Environment

- Renewable energy property
- Non-hazardous dry cleaning equipment
- Large or major recycling facility
- Certain real property donations

Credits – Economic Development

- Job creation
- Machinery and equipment
- Technology commercialization
- Research and development
- Worker training
- Central administrative office or aircraft facility property
- Purchase or lease of real property
- Development zone projects
- Recycling facility transport expenses
- State ports wharf fees
- Qualified business investments


INDUSTRY
WHAT WE NEED IS SOME BAIT!
LEGIS
INCENTIVES
$
NC

Individual Income Tax as % of State Tax Collections - 2001

North Carolina	48.2%
Georgia	48.2%
South Carolina	34.6%
Tennessee	2.5%
Virginia	55.2%
United States	37.1%

North Carolina
WIRELESS 911 BOARD

George Bakolia, Chair

Carolyn H. Carter, Vice Chair

March 24, 2003

To: Linda Milsaps, Fiscal Analyst

From: Richard Taylor, Executive Director

Subject: Interim Executive Summary

At the request of the Fiscal Research Division of the General Assembly, this Interim Executive Summary is being submitted regarding the activity of the North Carolina Wireless 911 Board during calendar year 2002.

Background

On September 25, 1998, the 1998 Session of the General Assembly of North Carolina approved Senate Bill 1242, G.S. 62a, Enhanced 911 Wireless Fund. The objectives of the act include providing for a Enhanced Wireless 911 System for the use of wireless telephone customers. The act provides for a service charge of $ .80 per month on each commercial mobile radio service (CMRS) connection. These funds are disbursed as provided by statute to CMRS providers and public safety answering points (PSAPs) in North Carolina.

The Board is staffed by an Executive Director and an accountant within the Office of Information Technology Services. The Board consists of 13 members and meets monthly, or as required, to identify, discuss and act upon those issues concerning the Enhanced Wireless 911 Fund.

Calendar year 2002 Financial Data

Total revenue collected by the CMRS providers was $ 35,649,090.91.

Total expenditures were:

Administration	$	155,244.34
CMRS Providers	$	12,045,284.33
PSAPs	$	13,283,619.80
Total Expenditures	$	25,484,148.47

The fund balance as of December 31, 2002, including interest, was $ 49,828,726.84

www.wireless911.its.state.nc.us
PO Box 17209 • Raleigh, North Carolina 27619-7209
Tel: (252) 672-7580 • Fax: (252) 672-7582 • State Courier 51-01-11
An Equal Opportunity/Affirmative Action Employer

In April of 2002, the Office of State Budget and Management, under the authority of Governor Easley, transferred $ 2,500,000 from the Enhanced Wireless 911 Fund to assist the State in its current budget crisis. These funds were paid from the CMRS portion of the fund balance.

As of December 31, 2002, 123 PSAPs have been certified as being capable of receiving and utilizing Phase I (call back number and cellsite) data from the CMRS providers. The state has a 76% Phase I coverage deployed by the wireless carriers.

Fourteen counties were not receiving any Phase I data in 2002. Yancey County does not have enhanced wireline 911 and does not receive funding from the Enhanced Wireless 911 fund. Northampton and Hertford Counties were upgrading their 911 equipment and were expected to be receiving Phase I data by the first quarter of 2003. The remaining eleven counties, Anson, Cherokee, Clay, Graham, Jackson, Macon, Madison, Mitchell, Swain, Transylvania, and Union were in the process of resolving connectivity issues with their respective Local Exchange Carriers (LEC) with anticipated resolution by the end of the first quarter of 2003.

As of December 31, 2002, 30 PSAPs have requested Phase II (actual location identification) service from the CMRS providers. Only one carrier, Sprint PCS, had deployed Phase II technology in one county (Johnston County) by the end of the 2002 calendar year.

Of the eleven wireless carriers operating in North Carolina, three have submitted initial Phase II cost elements. For the next three years, Phase II deployment costs for these three carriers will exceed $47,000,000. Cost for the remaining eight carriers are expected to be submitted by the second quarter of 2003.

Please note that on March 11, 2003, the ITS CFO sent to Michele Nelson of Fiscal Research a five-page document in response to her inquiry regarding the Enhanced Wireless 911 Fund. I have sent you a copy of this report via e-mail.

If you have any questions, or need additional information, please contact me.

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Scotland	13,460,040	10,733,830	11,467,211	18,231,863	600,140	-	177,220	214,216,564
Stanly	-	224,773,605	24,653,407	8,287,071	1,980,667	-	123,217	492,330,928
Stokes	-	-	-	-	-	-	-	-
Surry	-	160,508,366	31,465,411	1,492,923	2,720,806	-	-	551,144,529
Swain	-	-	-	-	-	-	-	13,901,380
Transylvania	-	37,592,010	7,506,930	5,723,440	252,470	-	-	202,799,360
Tyrrell	-	3,590,368	2,418,729	-	367,448	-	51,017	71,259,604
Union	-	273,443,329	23,485,660	2,354,950	-	-	-	881,815,399
Vance	-	45,753,310	19,877,980	5,790	967,620	-	-	350,033,605
Wake	-	1,238,717,336	36,276,777	698,970	20,060,660	31,992,285	3,352,902	8,525,185,590
Warren	-	23,977,098	6,966,393	38,331	300,026	-	206,100	144,205,077
Washington	-	27,359,360	6,146,317	958,819	890,630	-	-	91,055,866
Watauga	-	-	-	-	-	-	-	-
Wayne	-	77,805,610	22,615,958	-	-	-	380,000	497,934,848
Wilkes	-	82,523,196	34,452,745	242,100	4,694,498	-	10,193,021	431,324,213
Wilson	-	-	-	-	-	-	-	-
Yadkin	-	-	-	-	747,700	-	-	93,442,000
Yancey	-	26,620,042	13,169,583	-	-	-	-	165,014,015
								-
TOTAL	**251,607,466**	**10,260,792,240**	**1,703,125,039**	**1,098,914,549**	**271,809,768**	**104,835,820**	**319,120,136**	**62,695,729,328**

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TOTAL VALUE EXEMPT **62,695,729,328**

County tax forgone at statewide average rate **426,330,959**

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Lincoln	2,294,810	144,127,734	15,681,292	1,416,837	4,874,085	-	-	400,197,939
Macon	-	116,237,210	12,317,620	5,000	786,210	-	-	348,437,590
Madison	-	23,096,000	13,479,862	-	32,900	-	-	64,373,362
Martin	632,930	149,770,937	16,074,686	-	-	-	-	284,153,529
McDowell	-	-	22,576,445	-	-	-	-	165,470,635
Mecklenburg	95,581,220	236,614,720	45,817,535	126,021,597	16,037,110	-	-	5,812,938,698
Mitchell	-	-	-	-	-	-	-	-
Montgomery	-	10,372,400	6,544,610	962,900	626,200	-	76,000	188,501,710
Moore	-	118,221,720	14,805,337	1,047,690	7,891,310	50,000,000	29,244,580	485,353,317
Nash	-	234,003,838	19,626,503	26,928,236	14,451,967	-	748,650	754,365,365
New Hanover	9,584,514	86,504,689	29,605,507	-	11,997,569	-	1,260,668	1,355,335,162
Northampton	-	47,523,739	15,864,377	-	1,090,279	1,350,706	-	198,177,934
Onslow	-	55,609,182	16,683,532	7,509,657	5,432,419	-	292,000	536,592,495
Orange	-	409,954,857	22,325,870	27,271	12,570,372	-	-	3,472,387,566
Pamlico	-	36,996,253	7,135,732	-	874,255	-	2,170,438	97,603,145
Pasquotank	-	111,838,600	8,486,260	2,042,548	2,642,000	-	1,751,900	388,158,008
Pender	-	92,294,870	13,097,111	-	706,944	-	3,467,339	222,785,330
Perquimans	-	35,281,828	4,463,073	361,200	493,700	510,100	2,708,100	94,434,141
Person	16,240	101,961,298	10,290,943	15,436,845	1,337,180	-	-	292,855,496
Pitt	14,077,695	249,396,728	20,701,940	19,770,189	3,228,810	-	115,960,109	1,396,296,048
Polk	-	68,142,507	6,145,364	-	1,573,641	6,360,129	-	206,139,353
Randolph	6,262,110	176,129,317	34,862,538	185,530	7,889,242	-	-	569,982,613
Richmond	-	26,257,385	25,112,009	30,405,212	2,176,614	-	-	243,658,108
Robeson	-	-	-	-	-	-	-	-
Rockingham	-	127,489,564	45,405,424	2,122,355	9,657,994	-	624,419	479,089,647
Rowan	-	-	-	-	-	-	-	-
Rutherford	-	40,693,300	26,329,930	9,847,690	1,179,200	-	2,583,920	443,812,350
Sampson	-	103,992,696	18,134,072	-	2,576,218	-	690,423	272,161,675

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Dare	-	311,400	5,182,210	-	1,640,300	-	30,624,900	832,565,310
Davidson	-	347,561,160	46,130,031	-	-	-	-	950,102,801
Davie	-	288,170,370	11,255,817	1,640,226	1,711,520	-	-	451,090,025
Duplin	-	-	20,376,410	-	1,769,992	-	-	205,875,518
Durham	14,674,507	-	72,436,612	-	6,724,896	-	1,020,094	2,485,976,390
Edgecombe	-	81,735,071	15,059,712	-	1,702,023	-	-	338,175,982
Forsyth	54,845,220	196,379,740	55,830,620	27,638,300	12,610,300	-	31,431,018	3,003,359,228
Franklin	-	221,036,473	15,201,204	18,889,064	966,085	-	498,734	406,183,854
Gaston	16,612,650	109,455,737	104,074,874	22,805,160	6,545,610	-	33,120	892,258,748
Gates	-	30,474,867	4,264,941	45,262	412,275	-	522,716	67,495,615
Graham	-	4,326,152	5,206,113	884,958	-	-	-	127,391,963
Granville	-	73,477,378	11,354,588	-	465,599	-	-	362,763,248
Greene	-	57,487,750	7,817,805	-	-	-	-	65,305,555
Guilford	-	260,766,800	76,000	9,799,730	24,723,200	-	-	3,395,704,450
Halifax	-	61,654,649	33,911,183	39,709,783	1,382,830	-	275,230	351,538,705
Harnett	-	214,446,320	32,172,239	-	1,412,900	-	-	319,809,469
Haywood	-	115,098,457	17,816,395	-	-	-	-	744,247,307
Henderson	2,969,500	128,261,600	14,659,215	3,133,314	4,045,800	-	-	495,364,498
Hertford	-	43,593,273	13,517,847	447,468,830	997,994	-	3,127,437	618,251,182
Hoke	-	58,323,439	9,411,816	1,858,348	280,770	-	-	132,719,363
Hyde	-	1,820,068	4,349,510	53,695	340,896	-	-	252,891,643
Iredell	-	397,552,010	26,844,808	1,923,540	3,570,470	-	1,986,100	842,053,408
Jackson	-	137,046,200	10,552,212	-	-	-	-	513,623,212
Johnston	-	165,571,180	37,416,712	3,000,000	-	-	-	490,015,902
Jones	-	32,261,258	5,614,776	-	451,126	-	103,811	98,573,576
Lee	-	58,557,200	13,229,992	4,494,900	3,071,100	-	2,738,500	277,696,692
Lenoir	-	181,299,548	-	1,240,668	3,280,249	-	-	479,102,023

Value of Property Exempted from County Tax Base (2001-02)

County	Care Retirement	(Deferred Amount For Current Year	Elderly and Disabled	Abatement and Recycling	Legion, DAV, Lodges, etc.	Commission Bonds	All Other Exclusions	Totals
Alamance	-	-	-	-	-	-	-	-
Alexander	-	54,869,900	8,411,750	56,300	747,600	-	-	146,953,950
Alleghany	-	62,704,802	7,628,330	-	364,400	-	-	164,879,154
Anson	-	-	-	-	-	-	-	-
Ashe	-	-	-	-	-	-	-	-
Avery	-	19,837,500	1,064,300	-	-	-	-	216,552,927
Beaufort	-	57,769,414	11,555,379	114,481,892	2,030,752	-	1,270,973	422,353,072
Bertie	-	88,863,573	14,644,861	-	311,944	-	-	166,893,909
Bladen	-	-	24,200,890	-	-	-	-	130,130,779
Brunswick	-	-	-	-	-	-	-	-
Buncombe	2,252,500	230,544,700	61,653,679	8,710,200	5,520,500	9,622,600	12,909,900	883,215,679
Burke	18,343,530	56,289,284	29,372,844	2,740,046	5,091,725	-	2,368,862	767,216,043
Cabarrus	-	285,702,730	34,760,760	59,266,095	3,096,850	-	-	1,287,427,467
Caldwell	-	41,737,100	28,043,830	29,272,666	1,044,500	-	-	367,522,796
Camden	-	47,024,878	2,496,489	-	738,964	-	-	72,671,745
Carteret	-	49,262,990	17,299,405	-	8,244,530	-	32,806,792	605,334,919
Caswell	-	-	-	-	-	-	-	-
Catawba	-	107,354,800	25,296,864	-	-	-	-	963,528,864
Chatham	-	351,364,590	11,159,340	1,598,663	661,099	5,000,000	8,672,057	636,670,818
Cherokee	-	-	-	-	-	-	-	-
Chowan	-	47,742,406	5,870,428	-	1,211,825	-	-	133,159,909
Clay	-	26,803,941	3,900,120	-	426,100	-	-	59,133,161
Cleveland	-	155,451,914	18,872,061	2,723,615	3,436,971	-	136,601	557,257,102
Columbus	-	78,920,500	34,427,740	-	999,000	-	-	277,759,690
Craven	-	39,049,680	16,515,063	866,450	7,979,440	-	10,674,310	2,769,731,452
Cumberland	-	156,920,606	40,116,591	12,487,830	8,088,749	-	1,856,958	1,368,276,031
Currituck	-	-	-	-	-	-	-	-

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Scotland	87,641,840	325,620	-	29,337,160	24,944,520	146,290	15,345,460	561,890	469,090	774,390
Stanly	110,223,280	9,825,715	-	80,508,468	9,438,193	7,079,861	6,152,884	8,741,556	-	543,004
Stokes	-	-	-	-	-	-	-	-	-	-
Surry	194,911,823	-	-	102,246,292	29,905,712	2,806,002	531,572	11,069,253	8,577,508	4,908,861
Swain	11,966,190	-	-	-	1,935,190	-	-	-	-	-
Transylvania	59,108,210	-	12,803,280	42,510,970	6,105,530	-	3,482,790	1,146,720	327,840	26,239,170
Tyrrell	59,813,247	-	-	3,993,274	-	-	-	-	-	1,025,521
Union	189,455,480	168,463,830	-	154,152,630	44,183,060	-	-	25,644,410	-	632,050
Vance	181,113,540	5,124,000	-	66,404,165	28,845,000	-	-	725,470	-	1,216,730
Wake	5,427,293,283	226,075,339	748,645	684,727,064	431,257,888	66,232,719	2,166,589	43,632,521	-	311,952,612
Warren	47,271,191	24,188,511	5,164,082	19,596,722	-	1,513,586	3,738,548	3,747,630	385,115	7,111,744
Washington	38,754,150	218,100	-	15,328,040	118,800	-	567,100	476,800	237,750	-
Watauga	-	-	-	-	-	-	-	-	-	-
Wayne	145,760,340	139,462,990	-	74,078,810	20,144,800	-	-	6,225,450	-	11,460,890
Wilkes	196,909,637	168,100	285,800	88,807,213	8,782,314	441,480	1,876,085	662,334	1,285,690	-
Wilson	-	-	-	-	-	-	-	-	-	-
Yadkin	22,267,800	20,838,500	997,300	37,789,300	3,342,100	573,900	332,200	778,400	-	5,774,800
Yancey	85,056,870	605,090	-	31,428,090	-	-	3,824,790	1,262,420	259,760	2,787,370
TOTAL	**29,136,684,822**	**2,898,461,437**	**255,727,658**	**8,595,674,157**	**3,905,226,973**	**286,483,111**	**600,903,556**	**767,089,971**	**66,628,527**	**2,172,644,098**

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Lincoln	130,723,050	-	-	80,528,466	15,065,617	-	807,178	1,994,843	-	2,684,027
Macon	89,093,730	4,978,860	1,900,000	62,400,480	37,710,100	1,419,100	1,694,130	16,083,300	3,811,850	-
Madison	17,767,000	-	598,900	5,023,400	-	-	-	-	-	4,375,300
Martin	83,019,046	-	-	31,471,890	-	-	-	-	831,030	2,353,010
McDowell	57,604,670	18,952,780	-	47,646,660	13,360,510	-	-	-	-	5,329,570
Mecklenburg	3,068,892,850	181,379,310	48,136,580	1,217,303,700	535,056,966	8,233,720	30,250,810	196,497,880	4,941,250	2,173,450
Mitchell	-	-	-	-	-	-	-	-	-	-
Montgomery	121,483,500	982,500	-	32,010,200	4,938,100	600,500	2,384,900	372,000	-	7,147,900
Moore	115,874,750	788,750	416,430	55,575,720	70,598,840	18,690,670	232,970	995,710	336,510	632,330
Nash	310,171,266	7,500,856	23,772,064	116,716,679	-	-	-	-	-	445,306
New Hanover	835,985,621	8,063,413	3,607,487	227,563,844	536,413	450,597	12,680,710	21,578,265	-	105,915,865
Northampton	69,144,884	594,928	29,560,995	22,355,135	-	1,731,699	6,358,584	-	-	2,602,608
Onslow	234,030,182	25,975,458	-	86,496,211	-	4,060,156	7,380,088	5,931,957	-	87,191,653
Orange	2,287,866,869	2,766,610	1,817,185	94,834,035	481,727,262	-	150,229,896	-	8,267,339	-
Pamlico	17,862,916	3,950,171	-	11,687,962	-	122,805	-	16,802,613	-	-
Pasquotank	211,908,600	9,326,500	1,247,100	30,038,400	-	3,616,600	662,400	4,157,400	384,200	55,500
Pender	80,801,410	1,835,461	285,699	28,851,519	164,339	-	132,585	-	-	1,148,053
Perquimans	32,071,400	-	-	13,099,840	-	1,396,900	3,459,000	562,700	-	26,300
Person	33,611,691	66,579,230	848,962	42,232,275	5,098,547	3,456,392	8,520,464	-	-	3,465,429
Pitt	596,513,853	-	-	157,746,706	172,904,808	-	31,544,650	14,287,220	-	163,340
Polk	72,031,252	2,313,920	-	29,547,792	12,183,246	-	3,812,728	3,330,675	133,791	564,308
Randolph	184,859,656	3,537,010	91,180	117,119,210	26,515,880	1,407,140	7,489,740	2,523,200	755,010	355,850
Richmond	97,066,817	357,488	-	48,322,624	247,914	-	12,531,252	515,365	122,865	542,563
Robeson	-	-	-	-	-	-	-	-	-	-
Rockingham	169,895,450	-	-	94,922,256	21,384,949	-	2,355,583	3,611,148	-	1,620,505
Rowan	-	-	-	-	-	-	-	-	-	-
Rutherford	138,617,750	1,813,000	994,200	165,230,510	35,598,400	708,900	9,103,100	4,159,760	191,100	6,761,590
Sampson	34,387,538	39,599,899	-	49,026,940	12,307,144	232,512	5,808,176	4,090,329	-	1,315,728

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Dare	755,996,600	-	-	31,019,700	1,424,100	-	1,529,300	4,836,800	-	-
Davidson	237,333,970	13,846,130	-	213,500,660	3,962,540	-	-	14,739,270	-	73,029,040
Davie	68,935,350	-	-	58,185,660	8,360,802	2,692,470	1,381,650	2,989,970	-	5,766,190
Duplin	78,106,493	33,935,545	-	51,212,781	14,804,352	316,600	2,151,900	1,402,155	-	1,799,290
Durham	1,048,795,305	420,395,540	2,141,908	567,751,512	4,779,083	-	2,698,802	15,186,067	5,619,329	323,752,735
Edgecombe	139,178,833	2,175,234	-	60,975,312	30,061,980	-	2,671,211	532,506	-	4,084,100
Forsyth	563,197,330	492,376,730	9,575,100	355,498,460	1,057,080,510	12,573,560	21,141,100	94,223,900	17,020,440	1,936,900
Franklin	86,097,313	-	18,931,439	36,306,832	-	-	2,725,274	5,144,990	26,616	359,830
Gaston	324,390,075	3,712,158	47,155,110	186,599,869	43,646,219	2,252,840	2,559,378	5,166,865	676,370	16,572,713
Gates	21,731,516	-	-	9,475,434	-	-	147,210	337,574	-	83,820
Graham	103,087,990	7,786,140	-	1,116,810	-	-	-	-	-	4,983,800
Granville	235,787,865	-	-	32,460,613	-	-	-	-	-	9,217,205
Greene	-	-	-	-	-	-	-	-	-	-
Guilford	1,917,017,800	137,910,600	4,495,200	507,635,970	234,122,000	74,091,700	30,252,300	43,399,350	-	151,413,800
Halifax	138,640,870	-	-	51,337,570	662,070	-	-	22,807,130	1,157,390	-
Harnett	41,591,370	4,998,480	219,430	17,525,830	808,940	10,000	1,226,130	353,590	-	5,044,240
Haywood	-	-	-	-	-	-	-	-	-	611,332,455
Henderson	170,271,600	1,517,300	75,600	121,487,569	13,314,100	-	12,844,200	6,046,300	168,100	16,570,300
Hertford	43,068,104	23,330,407	-	20,620,091	13,405,499	-	5,523,162	426,961	-	3,171,577
Hoke	38,966,940	37,680	527,670	18,623,920	-	289,210	2,026,790	2,060,810	165,750	146,220
Hyde	239,020,180	228,880	-	4,382,375	-	-	536,285	581,160	1,578,594	-
Iredell	198,839,110	6,137,890	-	148,802,970	36,171,970	398,910	2,459,890	11,766,150	875,110	4,724,480
Jackson	250,024,000	669,700	-	34,216,200	2,661,700	9,295,200	-	-	-	69,158,000
Johnston	142,733,620	13,040,370	-	99,658,660	-	-	-	6,964,430	-	21,630,930
Jones	49,606,500	-	-	10,112,579	-	-	-	146,221	251,505	25,800
Lee	133,678,400	-	855,100	44,317,000	-	-	13,638,100	3,065,700	-	50,700
Lenoir	215,451,314	10,433,950	179,829	37,616,163	20,338,401	6,344,500	453,276	2,464,125	-	-

Value of Property Exempted from County Tax Base (2001-02)

County	(Federal, State, Local)	(Non-governmental)	Educational (Religious)	Religious	Hospital Property	Homes for the Aged, Sick,	Low and Moderate	Charitable-All others	Scientific or Literary	All Other Exemptions
Alamance	-	-	-	-	-	-	-	-	-	-
Alexander	35,188,100	-	-	42,555,200	3,452,200	-	1,402,300	270,600	-	-
Alleghany	52,667,090	-	-	11,296,000	4,738,600	-	1,234,100	3,721,340	-	20,524,492
Anson	-	-	-	-	-	-	-	-	-	-
Ashe	-	-	-	-	-	-	-	-	-	-
Avery	50,886,807	47,904,100	-	47,904,100	-	-	-	18,922,700	-	30,033,420
Beaufort	164,314,387	-	968,818	51,633,364	-	-	6,233,069	10,623,765	-	1,471,259
Bertie	33,695,870	1,537,232	-	21,732,423	238,177	63,338	4,133,298	-	-	1,673,193
Bladen	40,060,900	21,083,000	-	28,613,099	10,600,900	-	-	-	-	5,571,990
Brunswick	-	-	-	-	-	-	-	-	-	-
Buncombe	188,500,600	1,717,800	5,481,100	68,807,100	98,450,000	12,440,600	80,603,900	19,929,600	3,672,400	72,398,500
Burke	302,572,059	125,946,474	-	150,365,599	35,147,190	16,175,494	10,170,346	8,674,104	-	3,958,486
Cabarrus	451,568,540	19,651,120	-	248,822,722	153,090,330	3,367,970	5,586,240	22,397,790	116,320	-
Caldwell	122,751,300	-	3,095,500	102,012,500	16,304,500	4,175,500	9,269,600	-	-	9,815,800
Camden	6,962,852	7,575,946	-	6,693,883	-	-	-	-	-	1,178,733
Carteret	425,618,016	194,772	-	71,737,735	-	-	-	170,679	-	-
Caswell	-	-	-	-	-	-	-	-	-	-
Catawba	223,363,300	279,130,600	-	255,803,600	-	-	-	-	-	72,579,700
Chatham	180,989,378	23,101,882	-	42,234,066	2,856,397	2,179,630	769,210	4,741,116	1,341,878	1,012
Cherokee	-	-	-	-	-	-	-	-	-	-
Chowan	54,192,569	62,665	-	17,309,554	-	-	3,528,370	-	-	3,241,992
Clay	13,381,100	-	-	8,762,900	-	1,364,000	-	1,270,000	358,600	2,866,400
Cleveland	100,147,970	90,028,356	24,094,810	113,138,893	7,455,096	5,862,162	12,373,230	18,265,830	-	5,269,593
Columbus	65,381,000	11,460,200	729,500	47,030,300	29,591,400	-	2,312,400	5,799,350	70,700	1,037,600
Craven	2,666,703,499	-	174,190	22,689,410	-	2,430,310	510,530	1,203,830	622,000	312,740
Cumberland	767,357,305	119,942,617	3,751,465	217,430,517	3,295,775	5,237,588	21,354,043	4,288,024	1,589,727	4,557,736
Currituck	-	-	-	-	-	-	-	-	-	-

ATTACHMENT 7

North Carolina Department of Revenue

Michael F. Easley
Governor

E. Norris Tolson
Secretary

March 3, 2003

Mr. James Johnson
Director
Fiscal Research Division
North Carolina General Assembly
Raleigh, NC 27601

Dear Mr. Johnson:

This letter transmits the report on William S. Lee Act Article 3A credits that the Department of Revenue is required to publish by March 1 of each year under G.S. 105-129.6(b).

As required, the report includes information on all 3A credit-eligible returns processed during the 12-month period ending December 31, 2003. It should be noted that the information provided reflects the amounts shown by taxpayers on their tax forms and has not been audited to eliminate returns for which credits were erroneously claimed. As such, the actual amounts of credits generated and claimed by taxpayers during this period may eventually be lower than the amounts shown in this report after the returns are subjected to the standard audit process.

All of the returns included in this report were received and processed during calendar year 2002. It should be noted that some of the returns were submitted for the 2001 tax year, while others were submitted for previous tax years. Summary tables are included in the report showing how much of the total credits claimed are attributable to each tax year. In addition to the summary tables, the following detailed tables are included:

(1) An itemized listing by taxpayer and enterprise tier of the new jobs for which credits were generated.
(2) An itemized listing by taxpayer and enterprise tier of the cost of machinery and equipment for which credits were generated.
(3) An itemized listing by taxpayer of the number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.
(4) An itemized listing by taxpayer and enterprise tier of the amount of worker training expenditures for which credits were generated.

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(5) An itemized listing by taxpayer and enterprise tier of the amount of new research and development expenditures for which credits were generated.
(6) An itemized listing by taxpayer and enterprise tier of the cost of real property investment for which credits were generated.
(7) An itemized listing for each taxpayer of the amount of credits claimed by type of credit.

The report does not provide any itemized listing of credits claimed by enterprise tier because this information is not available from the tax credit forms submitted by taxpayers. When the Department developed the reporting forms for the Lee Act credits during the 1990's, there was no requirement that the Department provide information about the number and amount of credits claimed by tier. In developing the forms for claiming Lee Act credits, the Department chose to ease the reporting burden on taxpayers by allowing all claims for each type of credit to be reported on a single form. This form does not require the taxpayer to indicate what portion of the credits claimed is attributable to activities in each tier. As such, we are not able to provide information on credits claimed by enterprise tier.

If you should have any questions regarding this report, please contact Karl Knapp, Director of the Tax Research Division, at 733-7722.

Sincerely,

E. Norris Tolson
Secretary of Revenue

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Generated
Processed in Calendar Year 2002

Creating Jobs

Number of Taxpayers Generating Credit	Total Amount Generated
483	61,824,387.00

Machinery and Equipment

Number of Taxpayers Generating Credit	Total Amount Generated
866	610,488,800.00

Research and Development

Number of Taxpayers Generating Credit	Total Amount Generated
496	$88,949,054.00

Worker Training

Number of Taxpayers Generating Credit	Total Amount Generated
322	14,420,602.00

Central Office / Aircraft Facility

Number of Taxpayers Generating Credit	Total Amount Generated
41	$9,113,123.00

Technology Commercialization

Number of Taxpayers Generating Credit	Total Amount Generated
31	$22,492.00

Development Zone Projects

Number of Taxpayers Generating Credit	Total Amount Generated
0	$0.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002
By Tax Year That Credit Was Taken

Tax Year Beginning CY 2001	Creating Jobs	Machinery & Equipment	Research & Development	Worker Training	Central Office/ Aircraft Facility
Amount Claimed	$9,539,423	$30,412,710	$5,160,469	$1,744,359	$799,934
Number Claiming Credit	579	793	203	35	57
Tax Year Beginning CY 2000					
Amount Claimed	$ 3,749,737	$ 6,663,806	$ 1,016,269	$ 490,211	$ 216,151
Number Claiming Credit	173	201	60	28	43
Tax Year Beginning CY 1999					
Amount Claimed	$ 2,608,594	$ 9,643,763	$ 951,906	$ 367,557	$ 831,790
Number Claiming Credit	46	73	17	11	8
Tax Year Beginning CY 1998					
Amount Claimed	$ -	$ 22	$ -	$ -	$ -
Number Claiming Credit	0	1	0	0	0
Totals					
Amount Claimed	$15,897,754	$46,720,301	$7,128,644	$2,602,127	$1,847,875
Number Claiming Credit	798	1,068	280	74	108

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002

Creating Jobs

Number of Taxpayers Claiming Credit	Total Amount Claimed
798	15,897,754.00

Machinery and Equipment

Number of Taxpayers Claiming Credit	Total Amount Claimed
1068	$46,720,301.00

Research and Development

Number of Taxpayers Claiming Credit	Total Amount Claimed
280	$7,128,644.00

Worker Training

Number of Taxpayers Claiming Credit	Total Amount Claimed
74	$2,602,127.00

Central Office / Aircraft Facility

Number of Taxpayers Claiming Credit	Total Amount Claimed
108	$1,847,875.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Claimed

Processed During Calendar Year 2002

Creating Jobs

Number of Taxpayers Claiming Credit	Total Amount Claimed
798	15,897,754.00

Machinery and Equipment

Number of Taxpayers Claiming Credit	Total Amount Claimed
1068	$46,720,301.00

Research and Development

Number of Taxpayers Claiming Credit	Total Amount Claimed
280	$7,128,644.00

Worker Training

Number of Taxpayers Claiming Credit	Total Amount Claimed
74	$2,602,127.00

Central Office / Aircraft Facility

Number of Taxpayers Claiming Credit	Total Amount Claimed
108	$1,847,875.00

Technology Commercialization

Number of Taxpayers Claiming Credit	Total Amount Claimed
21	$84,651.00

Development Zone Projects

Number of Taxpayers Claiming Credit	Total Amount Claimed
1	$9,234.00

North Carolina Department of Revenue

William S. Lee Tax Credits
Summary of Credits Generated
Processed in Calendar Year 2002

Creating Jobs

Number of Taxpayers Generating Credit	Total Amount Generated
483	61,824,387.00

Machinery and Equipment

Number of Taxpayers Generating Credit	Total Amount Generated
866	610,488,800.00

Research and Development

Number of Taxpayers Generating Credit	Total Amount Generated
496	$88,949,054.00

Worker Training

Number of Taxpayers Generating Credit	Total Amount Generated
322	14,420,602.00

Central Office / Aircraft Facility

Number of Taxpayers Generating Credit	Total Amount Generated
41	$9,113,123.00

William S. Lee Tax Credits

Creating Jobs

North Carolina Department of Revenue

William S. Lee Tax Credits
Creating Jobs
Processed in Calendar Year 2002

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
0			
	GRAPHIC PRINTING SERVICES, IN	0	0
	PARKER SALES & SERVICE, INC.	0	0
	HUFFMAN TECHNOLOGY, INC.	0	0
	MEASURMENT INCORPORATED PAYRO	0	0
	LEVITON MANUFACTURING CO., IN	0	0
	EMGRAN HOLDING CO., INC,	0	0
	BATTEN & COMPANY	0	0
	GGS, INC.	0	0
	S & W READY MIX CONCRETE COMP	56	144500
	GEO. G. SCOTT & CO.	0	0
	PATY LUMBER COMPANY	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0
	STEPHENS-L&E LLC	0	0
	MJ SOFFE CO INC	0	0
	JAMES L. TAYLOR MFG. CO.	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	JIMMY WARD HARDWOODS, INC.	0	0
	KING BROTHERS ELECTRIC COMPAN	0	0
	BUILDING BLOCKS CHILD CARE DE	0	0
	ANCHOR INDUSTRIAL SALES, INC.	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0
	TILSON MACHINE, INC.	0	0
	BROYHILL TRANSPORT, INC.	0	0
	CHOICE U.S.A. BEVERAGE, INC.	0	0
	ULTRA-MEK, INC.	0	0
	AMERITECH DIE & MOLD, INC.	0	0
	PEPCOM INDUSTRIES, INC.	0	0
	ROGER B. BERNHOLZ, P.A.	0	0
	THE TRANSCRIPTION CENTER, INC	0	0
	MORRIS HEATING & AIR CONDITIO	0	0
	ALDERON BIOSCIENCES, INC.	0	0
	KEYSTONE POWDERED METAL COMPA	0	0
	BARR-MULLIN, INC.	0	0
	SOUTHERN CONTAINER CORP.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	A & B FLORIST SUPPLY COMPANY	0	0
	HAMPTON INDUSTRIES, INC.	0	0
	PURCHASE FINANCE, INC.	0	0
	D & G UNIFORMS, INC.	0	0
	LIPS, INC.	0	0
	AKG OF AMERICA, INC.	0	0
	CHAMPION HOME BUILDERS CO.	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0
	J. CHRISTOPHER KIBLER, D.D.S.	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0
	TRINITY MANUFACTURING, INC.	0	0
	CONFLANDEY INC.	0	0
	PROBITY PRODUCTS	0	0
	HONEYWELL INTERNATIONAL INC.	0	0
	REMINGTON ARMS COMPANY, INC.	0	0
	HICKORY SCRAP IRON & METAL CO	0	0
	LAKESIDE BEACH, INC.	0	0
	THE CATO CORPORATION	0	0
	W. L. MITCHELL & SONS, INC.	0	0
	ROBERT S HUDGINS CO INC	0	0
	SEVERN PEANUT COMPANY, INC.	0	0
	HUFFMAN OIL COMPANY, INCORPOR	0	0
	LYLE E. FARVER & SON, INC.	0	0
	CATOSOUTH, LLC.	0	0
	UNITED STEEL PRODUCTS CO	0	0
	SOUTHERN CONCRETE	0	0
	ALCOA EXTRUSIONS, INC.	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0
	WILSON-COOK MEDICAL INC.	0	0
	R. L. STOWE MILLS, INC.	0	0
	TRILUX TECHNOLOGIES, INC.	0	0
	THE ROWBOAT COMPANY, INC.	0	0
	ZAGAROLI AND COMPANY	0	0
	LEX MAR, INC.	0	0
	JOE BROWN, INC.	0	0
	ROANE OBSTETRICS & GYNECOLOGY	0	0
	TECHNIMARK, INC.	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0
	MID ATLANTIC PRINTERS LTD	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	LARRY W. POOLE & ASSOCIATES,	0	0
	THE MCAULAY COMPANY, INC.	0	0
	PIONEER ECLIPSE CORPORATION	0	0
	DOMNICK HUNTER INC	0	0
	NEIL ALLEN INDUSTRIES, INC.	0	0
	GGS, INC.	0	0
	GREEN & MCCLURE FURNITURE COM	0	0
	MOSS-FISHER, INC.	0	0
	COCA-COLA BOTTLING CO. AFFILI	0	0
	VUNCANNON PLUMBING & MECHANIC	0	0
	MOVIEMAX, INC.	0	0
	TECHNICAL PRECISION PLASTICS,	0	0
	EVERETT BRYANT SALES, INC.	0	0
	PIEDMONT PACKAGING, INCORPORA	0	0
	DIAMOND ELECTRIC SUPPLY CO.,	0	0
	MONOLITH CORPORATION	0	0
	GENEVA CORPORATION	0	0
	BRAXTON AUTO PARTS CORPORATIO	0	0
	THOMAS BUILT BUSES, INC.	0	0
	EURO-MATIC PLASTICS, INC.	0	0
	ASHLEY ELECTRIC, INC.	0	0
	GETRAG CORPORATION	0	0
	CAROLINA STEEL CORPORATION	1	4500
	COOPER LEASING, INC.	0	0
	BREWER EQUIPMENT CO.	0	0
	NIVEK CORPORATION	0	0
	TATE LANNING & ASSOCIATES, P.	0	0
	ALBANI, BAYEUX INC.	0	0
	COOPER KENWORTH, INC.	0	0
	RALEIGH MEDICAL GROUP, P.A.	0	0
	BLUE RIDGE TIRE SERVICE, INC.	0	0
	FARMERS BURLEY WAREHOUSE, INC	0	0
	COPE EQUIPMENT COMPANY	0	0
	MT. AIRY OB-GYN CENTER, INC.	0	0
	BARNEY'S HOSIERY, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	TAR HEEL INSPECTION SERVICES,	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	H & H OF RALEIGH, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	ROBERT C. HICKMAN INSURANCE A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	VICTAULIC COMPANY OF AMERICA	0	0
	CLARKE AMERICAN CHECKS, INC.	0	0
	BAUMGARTNER INC.	0	0
	DELTA GYPSUM, INC.	0	0
	TERRY'S FLOOR FASHIONS, INC.	0	0
	BOYD & HASSELL, INC.	0	0
	RALEIGH PLASTIC SURGERY CENTE	0	0
	OUTDOOR LIGHTING, INC.	0	0
	TROXLER ELECTRONIC LABORATORI	0	0
	IMPLUS FOOTCARE, LLC	0	0
	H.R.W., INC.	0	0
	DILLARD'S, INC.	0	0
	BESTSWEET INC.	0	0
	MCGEE CORPORATION	0	0
	S T E R, ENTERPRISES, INC.	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	THE G.L.G. CORPORATION	0	0
	JACK CROSS HEATING & AIR COND	0	0
	LEXCOM TELEPHONE COMPANY	0	0
	ROGER DAVIS COMPANY, INC.	0	0
	TEXEL USA INC.	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0
	CARPENTER INDUSTRIES, INC.	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	CONTEMPORARY FURNITURE DESIGN	0	0
	THE TOOL & GAGE HOUSE COMPANY	0	0
	MSS CLEAN TECHNOLOGY INC.	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0
	TEXTILE CLEANER SERVICE CORPO	0	0
	CONSOLIDATED LAUNDRY EQUIPMEN	0	0
	INTELLI-MARK TECHNOLOGIES, IN	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALPHIN BROTHERS, INC.	0	0
	LUSTAR DYEING AND FINISHING,	0	0
	NEWTON INSTRUMENT CO INC	0	0
	SYZYGY LIVING & LEARNING CENT	0	0
	COMPONENT CONCEPTS, INC.	0	0
	R & J SERVICE COMPANY, INC.	0	0
	CULP, INC.	0	0
	WIGGINS-NORTH STATE MONUMENT	0	0
	HICKORY CARPET & FLOOR COVERI	0	0
	WESLEY HALL FURNITURE, INC.	0	0
	SOUTHERN FABRICATORS, INC.	0	0
	G. S. TUCKER & CO. OF WILSON,	0	0
	CONSOLIDATED METCO, INC.	0	0
	CLINTON MEDICAL CLINIC INC	0	0
	CLINTON MEDICAL CLINIC INC	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	BOYD & HASSELL, INC.	0	0
	RICHARD GAYLORD HOMES, INC.	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0
	BEAR CREEK HOSIERY, INC.	0	0
	MODACAD INC	0	0
	AMERITECH DIE & MOLD, INC.	0	0
	GLCO MARKETING, INC.	0	0
	PRECISION DECORATING CENTER,	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	PRINTPACK INC	0	0
	TURNAMICS, INC.	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	CHALLENGER INDUSTRIES, INC.	0	0
	MEDICAL CYBERNETICS, INC.	0	0
	ROYAL PARK UNIFORMS, INC.	2	6000
	LARRY WILLIAMS PLUMBING & HEA	0	0
	CONSOLIDATED METCO, INC.	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	SYZYGY LIVING & LEARNING CENT	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ENGINEERED POLYMER SOLUTIONS,	0	0
	UNICON CONCRETE, LLC	0	0
	LADD FURNITURE, INC.	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	BOLTON CORP.	0	0
	SWIFT-ECKRICH, INC.	0	0
	ANASTASIA FURS, INC.	0	0
	ALEXVALE FURNITURE, INC.	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0
	PRINCE BROTHERS FURNITURE CO.	0	0
	WB GROUP PROPERTIES, LLC	0	0
	CONFLANDEY INC.	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	HIGHLAND FABRICATORS, INC.	0	0
	PRINTPACK INC	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0
	GOLD STAR COATINGS - ASHEVILL	0	0
	LADD FURNITURE, INC.	0	0
	LADD FURNITURE, INC.	0	0
	LENOIR PAD AND PAPER COMPANY	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	SPENCER YACHTS, INC.	0	0
	HIGHLAND FABRICATORS, INC.	0	0
	PRIDGEN BROS. CONTRACTORS, IN	0	0
	BAKER & TAYLOR, INC.	0	0
	FINELINE INDUSTRIES EAST, INC	0	0
	LIN PAC, INC.	0	0
	MULLIS MOTORSPORTS, INC.	0	0
	HAFELE AMERICA CO.	0	0
	ATHEY PRODUCTS CORPORATION	0	0
	BLANKET FACTORY, INC.	0	0
	GENTRY MILLS, INC.	0	0
	LARRY WILLIAMS PLUMBING & HEA	0	0
	NORTHWEST RADIOLOGICAL & ASSO	0	0
	TRIANGLE BUILDING SERVICES, I	0	0
	PETERSON DEVELOPMENT CORPORAT	0	0
	SOUTHERN STEEL AND WIRE, INCO	0	0
	MCLAWHORN LIVESTOCK FARM, INC	0	0
	E BEN WARD JR PA	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	JOURNIGAN'S TIRE & BATTERY SA	0	0
	BENTEX MILLS, INC.	0	0
	MICKEY TRUCK BODIES INC.	0	0
	TENN-TEX PLASTICS, INC.	0	0
	B & A CONCRETE CONSTRUCTION,	0	0
	INDUTER U.S.A. INC	0	0
	REMPAC FOAM CORP	0	0
	YORK TAPE & LABEL, INC.	0	0
	RBC CENTURA BANK	0	0
	SPECTRUM DYED YARNS, INC.	0	0
	FULLER REAL ESTATE MANAGEMENT	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	MILLENNIUM MANUFACTURING STRU	0	0
	CAN AMERICAN UTILITY CONTRACT	0	0
	AB AUTOMOTIVE, INC.	0	0
	KCS INTERNATIONAL INC.	0	0
	GEORGIA-PACIFIC CORPORATION	0	0
	MCMAN, INC.	0	0
	P.A.M.A. FURNITURE, INC.	0	0
	ALLTEL INFORMATION SERVICES,	0	0
	PIEDMONT TRAILER RENTALS, INC	0	0
	KINCAID FURNITURE COMPANY, IN	0	0
	FOCKE & CO., INC.	0	0
	ASSOCIATED POSTERS, INCORPORA	0	0
	CROWN CRAFTS, INC.	0	0
	ASHLEY ELECTRIC, INC.	0	0
	BLAST, INC.	0	0
	KINARD BATTLEGROUND DRUGS, IN	0	0
	GENE INMAN TRUCKING, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	LEE BRICK & TILE COMPANY	0	0
	THE MOORE COUNTY HOUNDS, INC.	0	0
	MILLRIDGE INVESTMENTS, INC.	0	0
	SOUTHERN PARTS OF HILLSBOROUG	0	0
	CAROLINA SUNROCK CORPORATION	0	0
	WEVA CORPORATION	0	0
	CENTRO, INC.	0	0
	GEORGIA-CAROLINA QUARRIES, IN	0	0
	FOOTHILLS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALLEN-BECK INDUSTRIES, INC.	0	0
	WILLIAM S. KELLY, M. D., P. A	0	0
	TURNAMICS, INC.	0	0
	MARLOWE-VAN LOAN CORPORATION	0	0
	STOCKYARD & CO., INC.	0	0
	PUROLATOR PRODUCTS NA, INC.	0	0
	GREEN'S GRAINS, INC.	0	0
	MILKCO, INC.	0	0
	BOLTON CORP.	0	0
	FOOTHILLS, INC.	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0
	MANNING FABRICS, INC.	0	0
	BAUMANN SPRINGS USA, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	THE HAZEL COMPANY	0	0
	MEDICAL CYBERNETICS, INC.	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	BERNARDS, INC.	0	0
	FUCHS SYSTEMS, INC.	0	0
	GLOSSON REFRIGERATION & ELECT	0	0
	CHAPEL HILL PEDIATRIC PSYCHOL	0	0
	BRESTL, INC.	0	0
	A. M. CASTLE & CO.	0	0
	CARVER REALTY, INC.	0	0
	MCFARLAND & COMPANY, INC., PU	0	0
	MAYFLOWER GLASS	0	0
	SUIZA DAIRY	0	0
	CROSS CREEK EMERGENCY PHYSICI	0	0
	OAKWOOD ACCEPTANCE CORP	0	0
	SOUTH TECH PLASTICS, INC.	0	0
	ASKEW CHEVROLET, INC.	0	0
	JOWAT CORPORATION	0	0
	JESSCO, INC.	0	0
	TEKTONE SOUND AND SIGNAL MFG.	0	0
	GRANT TOURS, INC.	0	0
	DISCOUNT DRAPERY, INC.	0	0
	WWGP BROADCASTING CORPORATION	0	0
	SUNLINE USA GROUP, INC.	0	0
	CUSTOM ENGRAVING AND TROPHY,	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	RALEIGH GOLF ASSOCIATION, INC	0	0
	LEE BUILDER MART, INC.	0	0
	FAB-TECH INDUSTRIES, INC.	0	0
	ABCO AUTOMATION, INC.	0	0
	SOFTEX FIN	0	0
	MID-ATLANTIC DRAINAGE, INC.	0	0
	E-Z SERVE CONVENIENCE STORES,	0	0
	SWIMOUT OVERFLOW COMPONENTS,	0	0
	PEARCE BROTHERS ROOFING CO.,	0	0
	HUNTER INDUSTRIES INCORPORATE	0	0
	SAT INTERNATIONAL, INC.	0	0
	KLINGSPOR ABRASIVES, INC.	0	0
	MATERIAL HANDLING TECHNOLOGIE	0	0
	JIMMY'S PLUMBING & REPAIR, IN	0	0
	SMITH-TOMLINSON CORPORATION	0	0
	POLYCHEM ALLOY, INC.	0	0
	MEC-TRIC CONTROL COMPANY	0	0
	ENERGY SYSTEMS ANALYSTS, INC.	0	0
	DIRECT CALL, INC.	0	0
	JOEL W. WALKER, D.D.S., P.A.	0	0
	AMERICAN OFFSET PRINTING INK	0	0
	BURLAN CORPORATION	0	0
	BEFCO, INC.	0	0
	THE QUANTU GROUP INC	0	0
	ENVIRON PRODUCTS INC.	0	0
	INTERSTATE APPAREL GROUP	0	0
	PRESTON-HILL, INC.	0	0
	CARPENTER CONTRACTORS OF AMER	13	104000
	JOHN WIELAND HOMES AND NEIGHB	0	0
	POLAR PLASTICS (NC) INC	0	0
	PIEDMONT METALS OF BURLINGTON	0	0
	INTERFACE TECHNOLOGIES, INC.	0	0
	REXAM RELEASE	0	0
	WOMEN'S WELLNESS CENTER, P.A.	0	0
	J. S. MANN'S OF WHITEVILLE, I	0	0
	RECREATIONAL EQUIPMENT, INC.	0	0
	ABOVE THE GRADE CLEARING & G	0	0
	FLEETWASH SYSTEMS OF CAROLINA	0	0
	HOMES BY GEORGE STEELE, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CAROLINA WHOLESALE OFFICE MAC	0	0
	ALLEN BRADLEY D	0	0
	ALLEN JOSEPH G	0	0
	BAKER JAMES C	0	0
	BEEKER GEORGE M	0	0
	BELL JOHN M	0	0
	BELL THOMAS F	0	0
	BIRCHETTE GEORGE A	0	0
	BLACK WILLIAM H	0	0
	CAPELL JOHN H	0	0
	CAPELL KERRY L	0	0
	CARTER RUSSELL M	0	0
	CLINE JULIUS D	0	0
	COHEN LEIPOLD I	0	0
	CONNOR WILTON M	0	0
	CONNOR WILTON M	0	0
	CORNS BILLY R	0	0
	CROWDER TODD L	0	0
	CULHANE P E	0	0
	D'ARENBERG PIERRE	0	0
	D'ARENBERG PIERRE	0	0
	DEAL EDWARD M	0	0
	DEAL RONALD E	0	0
	DUBOSE CHARLES H	0	0
	DUNLOW ERNEST M	0	0
	ERVIN JOHN W	0	0
	EVANS KEVIN W	0	0
	FALLS THOMAS N	0	0
	FANCOURT NEAL S	0	0
	FIELDS GEORGE B	0	0
	FORD TIMOTHY L	0	0
	HARRAWOOD DAVID A	0	0
	HOLT AMANDA M	0	0
	HOLT ASHLEY E	0	0
	HOLT CHARLES D	0	0
	HOLT JOHN A	0	0
	HOLT JOHN A	0	0
	HOLT MARGUERITE E	0	0
	HOLT MICHAEL M	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT SAMUEL T	0	0
	HOLT SARAH M	0	0
	HOLTON JAMES R	0	0
	HUGHES JOSEPH K	0	0
	HUGHES JOSEPH K	0	0
	HUGHES WILLIAM C	0	0
	HUGHES JR G J	0	0
	HUNTER CHARLES M	0	0
	JOHNSON PHILIP H	0	0
	KELLY JAMES F	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	LANE LANDON B	0	0
	LANNING HOY S	0	0
	LAUGHLIN DAVID E	0	0
	LEE EDWARD L	0	0
	LONDON WILLIAM L	0	0
	MANCOSH DOUGLAS G	0	0
	MANESS JOHN M	0	0
	MARSH JAMES P	0	0
	MCCARTHY CHARLES E	0	0
	MCLEOD JOHN A	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MCMICHAEL DALTON L	0	0
	MINGES LOUISE T	0	0
	NEWSOME TIMOTHY E	0	0
	OLDHAM FRANK P	0	0
	PARKER GEORGE W	0	0
	PEGRAM TERRY L	0	0
	PERKINS GEORGE R	0	0
	PERKINS GEORGE R	0	0
	PERKINS JOHN E	0	0
	PERKINS JOHN E	0	0
	PERRY CHARLES R	0	0
	PERRY DON W	0	0
	PERRY FRANK G	0	0
	PERRY FRANK G	0	0
	PERRY HAL C	0	0
	PERRY HUGH P	0	0
	POAG JAMES C	0	0
	PROPST ALEX A	0	0
	RATTZ JAMES M	0	0
	RAWALD KURT R	0	0
	REID LEWIS G	0	0
	RICHARDSON JOHN M	0	0
	RICHARDSON MORGAN L	0	0
	RIHANI FUAD A	0	0
	RUSHING GUY F	0	0
	SCHOLD ERIC W	0	0
	SHERMAN MICHAEL M	0	0
	SHORT RALPH H	0	0
	SKINNER ERIKA D	0	0
	SKINNER JEFFERY M	0	0
	SMITH JEFFREY D	0	0
	SMITH JERRY N	0	0
	SOFIELD HALEY D	0	0
	SOFIELD HEATHER	0	0
	SOFIELD ROBERT T	0	0
	STEELE DAVID S	0	0
	STEPHENS ALISON	0	0
	SWARTZ EDWIN H	0	0
	SWARTZ MICHAEL L	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	SWARTZ WILLIAM K	0	0
	THOMAS WILLIAM H	0	0
	TURBYFLL ROGER C	0	0
	WEIBEL MARCUS F	0	0
	WICKER DONALD M	0	0
	WILEY CHRISTOPHE J	0	0
	WILKINSON WILLIAM A	0	0
	WILSON WINFRED G	0	0
	WORNOM III SAMUEL J	0	0
	WRENN GUY W	0	0
	WRENN JACKSON K	0	0
	Total for Tier: 0	72	259000
1			
	PCH, LLC	0	0
	IDEAL ACCESSORIES CORPORATION	0	0
	TAR HEEL GENERATOR, LLC	0	0
	STANLEY FURNITURE COMPANY, IN	0	0
	MCNUTT SERVICE GROUP, INC.	0	0
	DEAL'S LAWN SERVICE, INC.	0	0
	WHITE OIL COMPANY	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	WELDON STEEL CORP	4	50000
	GALEY & LORD INDUSTRIES, INC.	0	0
	CHALLENGER INDUSTRIES, INC.	0	0
	HOME LIFE CARE, INC.	13	162500
	THE GATES CORPORATION	30	375000
	COCA-COLA BOTTLING CO CONSOLI	0	0
	GLENOIT CORPORATION	0	0
	SMITHKLINE BEECHAM CORPORATIO	732	366000
	ARCHITECTU	9	112500
	TOP TOBACCO L P	28	350000
	ACTION PERFORMANCE COMPANIES,	0	0
	THE MITCHELL GOLD CO.	0	0
	GILES CHEMICAL CORP	0	0
	WIREWAY/HUSKY CORP.	0	0
	MICRO AUDIOMETRICS CORPORATIO	2	25000
	ASMO APPALACHIAN CORPORATION	0	0
	ETHAN ALLEN INC.	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	STEPHEN MEEHAN COMMUNICATIONS	0	0
	UCO FABRICS, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	DATAMARK GRAPHICS, INC.	0	0
	KEEBLER COMPANY	0	0
	NEW BREED, INC.	0	0
	AMERICAN OFFSET PRINTING INK	0	0
	W. E. BAILEY AND SON, INC.	0	0
	W. E. BAILEY AND SON, INC.	0	0
	FIT-ALL SPORTSWEAR, INC.	0	0
	CORNING INCORPORATED	0	0
	SAFELITE GLASS CORP	0	0
	KORDSA USA	0	0
	THE PANTRY, INC.	0	0
	WESTPOINT STEVENS INC.	0	0
	KEIHIN CAROLINA SYSTEM TECHNO	0	0
	ALADDIN MANUFACTURING CORP	0	0
	RESER'S FINE FOODS INC	71	887500
	PRECISION ALLOYS INC	0	0
	HALCORE GROUP, INC.	28	350000
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	CONE MILLS CORPORATION	0	0
	PHOENIX LUMBER CO	20	250000
	SOUTHERN CONCRETE MATERIALS,	1	12500
	MACHINE & WELDING SUPPLY	2	33000
	BERTELSMANN MUSIC GROUP, INC.	0	0
	OLDHAM SAW CO., INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0
	CONCRETE SUPPLY CO.	0	0
	MOEN INCORPORATED	0	0
	SOUTHERN CONCRETE MATERIALS,	4	50000
	TNS MILLS, INC.	0	0
	CHATSWORTH PRODUCTS, INC.	0	0
	CF GROUP, INC.	0	0
	CF GROUP, INC.	0	0
	HAMPTON INDUSTRIES, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	TRIPATH IMAGING, INC.	0	0
	RAILLINC CORPORATION	0	0
	SOUTHERN CONCRETE MATERIALS,	12	94000
	HEARTHSTONE ENTERPRISES, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	CUSTOM GLASS PRODUCTS OF CARO	0	0
	TAR HEEL INSPECTION SERVICES,	0	0
	PMW PRODUCTS, INC.	0	0
	CAROLINA MILLWORK OF ROCKINGH	0	0
	MICRO AUDIOMETRICS CORPORATIO	0	0
	NARRICOT INDUSTRIES, INC.	0	0
	C T SPECIALTIES CORP.	0	0
	BYRD TRACTOR AND EQUIPMENT CO	0	0
	CHAMPION PRODUCTS INC.	0	0
	NEW BREED CORPORATE SERVICES,	0	0
	S & N COMMUNICATIONS, INC.	0	0
	DAN RIVER INC.	0	0
	HARDWARE SUPPLIERS OF AMERICA	0	0
	THE TIMKEN COMPANY	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0
	UNIMIN CORPORATION	0	0
	CASCADES MOULDED PULP, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	BROWN BROTHERS PLUMBING & HEA	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	M & M ELECTRIC SERVICE, INC.	0	0
	DATA SPECTRUM CORPORATION	0	0
	K.L. BUTLER LOGGING, INC.	0	0
	WIREWAY/HUSKY CORP.	0	0
	CURRIN'S AUTO SUPPLY, INC.	0	0
	SUPERIOR DRY CLEANERS AND LAU	0	0
	ATLANTIC CORPORATION OF WILMI	8	100000
	FINELINE INDUSTRIES EAST, INC	50	625000
	BURKE MILLS, INC.	0	0
	KENGO, INC.	0	0
	MADDUX SUPPLY COMPANY	0	0
	OWENS-ILLINOIS CLOSURE INC.	33	544500
	CHAMBERS FABRICS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	BURLINGTON INDUSTRIES, INC.	68	850000
	HOFFMAN & HOFFMAN, INC.	0	0
	MAGNOLIA MFG CO	26	325000
	NOBLE OIL SERVICES, INC.	0	0
	SPARTA PLANT, INC.	0	0
	CASCADES TISSUE GROUP - NORTH	0	0
	PRECISION FABRICS GROUP, INC.	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0
	RAILROAD FRICTION PRODUCTS CO	0	0
	SYZYGY LIVING & LEARNING CENT	0	0
	RAILROAD FRICTION PRODUCTS CO	14	231000
	RAILROAD FRICTION PRODUCTS CO	0	0
	CAROLINA T	0	0
	LADD FURNITURE, INC.	0	0
	NEWTON INSTRUMENT CO INC	0	0
	ALDREDGE JR EMMETT C	1	16500
	ALDREDGE JR EMMETT C	1	16500
	AUSTIN LAWRENCE A	0	0
	BARRINGER BRENT D	0	0
	BELL THOMAS F	0	0
	BELL THOMAS F	0	0
	BOND JAMES O	0	0
	BOND JAMES O	0	0
	CARLSON STEPHEN C	0	0
	D'ARENBERG PIERRE	0	0
	DICKINSON CHARLES F	0	0
	ECHOLS THOMAS E	0	0
	FISHER THOMAS G	0	0
	GERBER ERIC T	0	0
	GOODING DAVID R	0	0
	HARRAWOOD DAVID A	0	0
	HARRELL WAYNE M	0	0
	HOARD JOSEPH S	17	212500
	HUGHES JOSEPH K	0	0
	HUNTLEY MAX M	0	13830
	LANE CURK T	0	0
	MADDISON LAURENCE B	0	0
	PERKINS JOHN E	0	0
	PERRY FRANK G	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ROTH GARY W	0	0
	SHOJI HIDETOSHI	0	0
	SMITH THOMAS D	0	0
	TAFT THOMAS F	0	0
	THOMAS GERALD P	0	0
	WATSON TED R	0	0
	WILLIAMS STEVEN G	0	0
	WISE CHRISTOPHE C	0	0
	WORNOM III SAMUEL J	0	0
	WRENN JAMES H	0	0
	YARBORO THOMAS R	6	1
	YARBORO THOMAS R	0	0
	YARBORO THOMAS R	1111	1
	Total for Tier: 1	2291	6052832
2			
	EAGERTON PLUMBING CO. INC.	46	184000
	TRIANGLE BRICK COMPANY	15	60000
	WILLAMETTE INDUSTRIES, INC.	5	40000
	VEEDER ROOT OF NC	54	216000
	BURLINGTON INDUSTRIES, INC.	0	0
	TURN BULL LUMBER CO	0	0
	CONE MILLS CORPORATION	0	0
	ETHAN ALLEN INC.	0	0
	BRODER BROS CO	25	100000
	COCA-COLA ENTERPRISES INC.	0	0
	CONOPCO, INC.	30	120000
	PUROLATOR PRODUCTS AIR FILTRA	7	28000
	CAROLINA T	0	0
	CRESTLINE HOMES, INC.	0	0
	CRESTLINE HOMES, INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	DYNAPAR CORP	0	0
	CMH MANUFACTURING, INC.	0	0
	ABBOTT LABORATORIES, INC.	65	520000
	SPRINGS INDUSTRIES, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	HYDRAULIC VALVE DIV	42	336000
	HOMANIT USA, INC.	111	444000
	LOUISIANA-PACIFIC CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	REDMAN HOMES, INC.	41	164000
	INTERIOR WOOD SPECIALTIES, IN	6	24000
	HICKORY SPRINGS MANUFACTURING	0	0
	OLDHAM SAW CO INC	67	268000
	GAYLORD, INC.	3	12000
	D. B. TEXTILES, INC.	2	8000
	WESTPOINT STEVENS INC.	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0
	WESTPOINT STEVENS INC.	0	0
	INTERIOR WOOD SPECIALTIES, IN	0	0
	BUCKEYE LUMBERTON INC.	6	24000
	CMH MANUFACTURING, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0
	INDIAN HEAD INDUSTRIES, INC.	0	0
	GAYLORD INC	4	16000
	HALSO ESCOTT	0	0
	MARSH JAMES P	0	0
	MARSH MILLICENT M	0	0
	TAFT EDMUND H	0	0
	TAFT THOMAS F	0	0
	Total for Tier: 2	529	2564000
3			
	SARA LEE CORPORATION	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	BORDEN CHEMICAL, INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	3000
	CMH MANUFACTURING, INC.	0	0
	BRANCH BANKING AND TRUST COMP	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0
	DRAKE ENTERPRISES, LTD.	0	0
	ADVANCED DRAINAGE SYSTEMS, IN	0	0
	AMERICAN & EFIRD, INC.	0	0
	RED VALVE COMPANY, INC.	9	63000
	RELIANCE ELECTRIC INDUSTRIAL	42	126000
	CAROLINA PAPER CONVERTERS	0	3000
	UCHIYAMA AMERICA, INCORPORATE	0	0
	CATERPILLAR INC.	0	0
	KIDDE TECHNOLOGIES INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	LOWE'S COMPANIES, INC.	157	471000
	HEARTHSTONE ENTERPRISES, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	ARMADA, INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	ANVIL KNITWEAR INC.	0	0
	AMERICAN & EFIRD, INC.	30	90000
	KCS INTERNATIONAL INC.	167	501000
	MILLER BREWING COMPANY	0	0
	PATE-DAWSON COMPANY	10	42000
	CONITEX- SONOCO U.S.A., INC.	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	MOTOR PRODUCTS INC	10	70000
	WENTWORTH CORPORATION	0	0
	MASTERBRAND CABINETS, INC.	43	301000
	COCA-COLA BOTTLING COMPANY OF	0	0
	CAROLINA COMMERCIAL HEAT TREA	0	0
	ARMADA, INC.	16	48000
	HOMES BY OAKWOOD, INC.	0	0
	WENTWORTH CORPORATION	0	0
	BURLAN CORPORATION	0	0
	SOUTHCO DISTRIBUTING CO	9	63000
	SOUTHCO DISTRIBUTING CO	10	70000
	MOUNT OLIVE PICKLE COMPANY, I	0	0
	GKN AUTOMOTIVE, INC.	0	0
	MEDIBEG USA, INC.	0	0
	REXAM RELEASE	0	0
	LOWE'S COMPANIES, INC.	195	585000
	FAYETTEVILLE PUBLISHING COMPA	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0
	JELD-WEN, INC.	0	0
	PASS & SEYMOUR, INC.	0	0
	GULF STATES PAPER CORPORATION	22	74000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CONCRETE SUPPLY CO.	1	7000
	FRONTIER, INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	AMERICAN FIBER & FINISHING, I	0	0
	DELLINGER ENTERPRISES, LTD.	0	0
	THE TIMKEN COMPANY	4	12000
	ROYAL PARK UNIFORMS, INC.	0	0
	ADVANCED INTERNET TECHNOLOGIE	20	60000
	JACKSON PAPER MANUFACTURING C	1	3000
	Fiber Composites	4	12000
	PREFORMED LINE PRODUCTS COMPA	0	0
	THE SOUTHERN FINISHING COMPAN	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	COPELAND CORPORATION	51	153000
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	EATON AEROQUIP INC.	0	0
	FIBER COMPOSITES LLC	4	12000
	MERCK & CO., INC.	41	123000
	EATON AEROQUIP INC.	3	9000
	RELIANCE ELECTRIC INDUSTRIAL	120	360000
	COLUMBIA FOREST PRODUCTS	0	0
	BARMET ALUMINUM CORP	0	0
	FIBER INDUSTRIES, INC.	0	0
	IMPULSE NC, INC.	0	0
	THE TORRINGTON COMPANY	53	159000
	RELEASE INTERNATIONAL, INC.	0	0
	DOPACO, INC.	0	0
	WESTERN FORGE CORPORATION	196	784000
	OAKWOOD MOBILE HOMES, INC.	0	0
	MAGNUM MANUF	7	21000
	RELEASE INTERNATIONAL, INC.	0	0
	DSM DESOTE	11	33000
	GALEY & LORD INDUSTRIES, INC.	14	42000
	MOEN INCORPORATED	0	0
	ALADDIN MANUFACTURING CORP	0	0
	MOEN INCORPORATED	0	0
	VICTAULIC COMPANY OF AMERICA	7	21000
	THE MOORE COMPANY	0	0
	COTT BEVERAGE S USA INC	45	135000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	COPELAND CORPORATION	0	0
	ULTIMATE TEXTILE, INC.	0	0
	LOWE'S COMPANIES, INC.	205	615000
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	PINE HALL BRICK CO., INC.	0	0
	EON LABS MANUFACTURING, INC.	45	135000
	CMH MANUFACTURING, INC.	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	ROYAL PARK UNIFORMS, INC.	2	6000
	GENTRY MILLS, INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2	6000
	NEXANS INC.	0	0
	NEXANS INC.	0	0
	MOUNT OLIVE PICKLE COMPANY, I	4	12000
	INDUSTRIAL FABRICATORS, INC.	1	3000
	BLUE RIDGE PAPER PRODUCTS	0	0
	BOEHME-FILATEX, INC.	0	0
	DESIGN WOR	92	276000
	BUCKEYE LUMBERTON INC.	37	111000
	BURLAN CORPORATION	14	42000
	ALDREDGE JR EMMETT C	0	0
	DELLA SANTA ERALDO	0	0
	DELLA SANTA MASSIMO	0	0
	GUARRIELLO ANTHONY R	0	0
	HOOD CLIFTON R	0	0
	HOOVER STEPHEN J	0	0
	MAXWELL OWEN M	0	0
	ROYAL HAROLD J	3	9000
	ROYAL WILLIAM K	3	9000
	Total for Tier: 3	1711	5680000
4			
	BSH HOME APPLIANCES CORPORATI	46	210000
	GKN AUTOMOTIVE, INC.	0	0
	HOF TEXTILES, INC.	5	5000
	THE TIMKEN COMPANY	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	B. R. LEE INDUSTRIES, INC.	0	0
	THE LUNDY PACKING COMPANY	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALADDIN MANUFACTURING CORP	0	0
	VICTAULIC HOLDING COMPANY, LL	1	1000
	R. L. STOWE MILLS, INC.	0	0
	ASMO APPALACHIAN CORPORATION	0	0
	HICKORY SPRINGS MANUFACTURING	0	0
	CMH MANUFACTURING, INC.	0	0
	WESTPOINT STEVENS INC.	1	1000
	COX NORTH CAROLINA	19	95000
	DSM PHARMACEUTICALS, INC.	0	0
	TRION, INC.	0	0
	COATINGS AND ADHESIVES CO	7	7000
	COATINGS AND ADHESIVES CO	5	5000
	CAROLINA T	0	0
	REGIONAL STORAGE & TRANSPORT,	0	0
	REVLON CONSUMER PRODUCTS CORP	915	915000
	AMERICAN & EFIRD, INC.	0	0
	JULIUS BLUM INC.	85	85000
	SANTA FE NATURAL TOBACCO CO	4	20000
	CAROLINA'S CHOICE BY WILLIAMS	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	CARLTON GROUP, INC.	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BSH HOME APPLIANCES CORP	103	515000
	THE MITCHELL GOLD CO.	61	61000
	COCA-COLA BOTTLING CO. CONSOL	0	0
	ASMO GREENVILLE OF NORTH CARO	0	0
	PACKAGING CORPORATION OF AMER	4	4000
	DYNAYARN USA, LLC	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	CAROLINA STEEL CORPORATION	0	0
	NORTH CAROLINA ASAHI, INC.	0	0
	ABBOTT LABORATORIES, INC.	74	370000
	NACCO MATERIALS HANDLING GROU	0	0
	VICTAULIC HOLDING COMPANY, LL	1	1000
	SANMINA CORPORATION	0	0
	DYNAYARN USA, LLC	0	0
	AMERESCOSOLUTIONS, INC.	0	0
	COMPONENT CONCEPTS, INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MACHINE & WELDING SUPPLY	1	5000
	COATINGS AND ADHESIVES CO	7	7000
	LVD CORP.	0	0
	CAROLINA'S CHOICE BY WILLIAMS	9	9000
	AMERICAN & EFIRD, INC.	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0
	ALBA-WALDENSIAN, INC.	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	AMERICAN & EFIRD, INC.	0	0
	THE LUNDY PACKING COMPANY	0	0
	CMH MANUFACTURING, INC.	0	0
	LA-Z-BOY INCORPORATED	0	0
	ATHOL MANUFACTURING CORP	0	0
	SEALED AIR CORPORATION (US)	7	35000
	COXE-LEWIS CORPORATION	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	ACCUCOPY OF GREENVILLE	9	45000
	EATON AEROQUIP INC.	0	0
	CARAUSTAR MILL GROUP, INC.	0	0
	PHARMAGRAPHICS, INC.	0	0
	LEE BUILDER MART, INC.	0	0
	M & M ELECTRIC SERVICE, INC.	0	0
	VALDESE WEAVERS, INC.	0	0
	ADAMS WHOLESALE COMPANY	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0
	ETHAN ALLEN INC.	0	0
	THOMAS MFG. COMPANY, INC. OF	0	0
	METRICS, INC.	7	7000
	MCLANE/CAROLINA,INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	1000
	SAFT AMERICA INC	0	0
	LVD CORP.	193	965000
	AMERICAN & EFIRD, INC.	0	0
	CONCRETE SUPPLY CO.	2	2000
	AYLWARD ENTERPRISES	0	0
	THE GILLETTE COMPANY	0	0
	CAROLINA CONVERTING INC	0	0
	SHADOWLINE, INCORPORATED	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FUJI SILYSIA CHEMICAL USA, LT	0	0
	REFRIGERATED BOXES, INC	7	7000
	CERTAINTEED CORPORATION	0	0
	FREIGHTLIN	0	0
	PHILLIPS-VAN HEUSEN CORPORATI	5	5000
	JULIUS BLUM INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	AMERICAN ROLLER BEARING AND M	0	0
	MADDUX SUPPLY COMPANY	1	1000
	GREGORY POOLE EQUIPMENT COMPA	0	0
	UNIFI MANUFACTURING, INC.	272	272000
	BORDEN CHEMICAL, INC.	0	0
	NYPRO CAROLINA INC.	123	123000
	MOEN INCORPORATED	0	0
	OWENS-BROCKWAY PLASTIC PRODUC	4	16000
	BURLINGTON INDUSTRIES, INC.	0	0
	GULF STATES PAPER CORPORATION	0	0
	HOMES BY OAKWOOD, INC.	0	0
	CONCRETE SUPPLY CO.	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0
	NEWTON INSTRUMENT CO	98	98000
	NOVOZYMES NORTH AMERICA, INC.	6	6000
	AMERICAN LAFRANCE CORPORATION	60	60000
	VICTAULIC COMPANY OF AMERICA	2	0
	WHEATSTONE CORPORATION	10	10000
	HOMES BY OAKWOOD, INC.	0	0
	COMMSCOPE, INC. OF NORTH CARO	0	0
	NEUVILLE INDUSTRIES, INC.	0	0
	AMERICAN ROLLER BEARING COMPA	0	0
	GATE CONCRETE PRODUCTS CO.	26	26000
	PHILLIPS-VAN HEUSEN CORPORATI	0	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0
	APEX ARIDYNE CORP.	0	0
	THE HON COMPANY	1	1000
	NEWTON INSTRUMENT CO	42	42000
	INTERSTATE BRANDS CORPORATION	0	0
	MADDUX SUPPLY COMPANY	0	0
	MONSANTO COMPANY	0	0
	INTERSTATE BRANDS CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	WINTERVILLE MACHINE WORKS, IN	5	5000
	GULF STATES PAPER CORPORATION	17	17000
	CATERPILLAR INC.	0	0
	THE HON COMPANY	0	0
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	1	5000
	ALDREDGE JR EMMETT C	0	0
	BARWICK BOYCE B	0	0
	BARWICK CARROLL B	0	0
	COXE THOMAS C	0	0
	DARCH LEE A	0	0
	D'ARENBERG PIERRE	2	2000
	ERWIN CHARLES B	0	0
	EWERT BRIAN C	0	0
	GODWIN JAMES P	2	10000
	HARRELL WAYNE M	0	0
	LEWIS HARVEY R	0	0
	MCDOUGALD ALBERT G	0	0
	MCDOUGALD AMANDA M	0	0
	MCDOUGALD IAN E	0	0
	PASIN RICHARD	7	7000
	PORTER DARRELL R	0	0
	ROBLING BRENT D	0	0
	TILGHMAN WILLIAM A	0	0
	TILGHMAN WILLIAM A	7	7000
	Total for Tier: 4	2265	4091000
5			
	OAKWOOD MOBILE HOMES, INC.	0	0
	THE CONCORD	12	6000
	PEOPLECLICK.COM, INC.	89	400500
	AJINOMOTO USA INC	5	2500
	NYPRO CAROLINA INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	PYA/MONARCH, INC.	0	0
	EISAI INC.	21	10500
	THE OHIO MATTRESS COMPANY LIC	2	1000
	PUROLATOR FACET, INC.	6	3000
	JOHNSON CONTROLS BATTERY GROU	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	WANDEL & GOLTERMANN A.T.E. SY	0	0
	CONCRETE SUPPLY CO.	5	22500
	CONCRETE SUPPLY CO.	2	9000
	CONCRETE SUPPLY CO.	1	4500
	CONCRETE SUPPLY CO.	12	6000
	CAROLINA T	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0
	SOUTHTECH ORTHOPEDICS INC	6	3000
	ALADDIN MANUFACTURING CORP	0	0
	BLUEPHOENIX SOLUTIONS USA	43	21500
	STRATEGIC TECHNOLOGIES, INC.	0	0
	OFFICE DEPOT INC	0	0
	RELIANCE ELECTRIC INDUSTRIAL	4	2000
	WANDEL & GOLTERMANN INC	0	0
	NORTH CAROLINA SERVICES CORPO	22	11000
	WIREWAY/HUSKY CORP.	0	0
	STRATEGIC TECHNOLOGIES, INC.	38	19000
	GREENFIELD INDUSTRIES INC	0	0
	FIRST CHARTER NATIONAL BANK	50	177000
	VITAFOAM INC	0	0
	DEERE & COMPANY	0	0
	ALADDIN MANUFACTURING CORP	0	0
	FRISBY AEROSPACE, INC.	51	25500
	SAS INSTITUTE INC.	195	97500
	TLV CORPORATION	1	500
	NATIONAL TEXTILES LLC	21	10500
	HOMES BY OAKWOOD, INC.	0	0
	SEALY INC	12	6000
	BROOKS EQUIPMENT CO	11	5500
	VERITAS SO	10	45000
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	DEERE & COMPANY	76	38000
	INTERSTATE BRANDS CORPORATION	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	JOHN DEERE TURF CARE, INC.	10	5000
	MILKCO, INC.	13	58500
	SUIZA DAIRY	8	0
	HAHT SOFTWARE, INC.	63	31500
	OAKWOOD ACCEPTANCE CORP	11	5500

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FRONTIER, INC.	0	0
	KYRUS CORP	0	0
	KYRUS CORP	0	0
	CROSS SALES AND ENGINEERING C	0	0
	BECTON, DICKINSON AND COMPANY	0	0
	CREE, INC.	264	132000
	BRAYTON INTERNATIONAL, INC.	0	0
	US CONEC LTD.	55	27500
	SOLECTRON TECHNOLOGY, INC.	0	0
	MAYFLOWER GLASS	11	5500
	NOMACORC LLC	38	19000
	THE PANTRY, INC.	61	134500
	FAMILY DOLLAR, INC.	58	29000
	VF JEANSWEAR, INC.	0	0
	MACHINE & WELDING SUPPLY	4	18000
	J & L AMERICA, INC.	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0
	RENE COMPOSITE MATERIALS CORP	0	0
	ARVINMERITOR, INC.	0	0
	ANALOG DEVICES, INC.	117	58500
	PINNACLE FILMS, INC.	8	0
	MORRIS COMMUNICATION CORP	1	4500
	EVEREADY BATTERY COMPANY, INC	0	0
	SQUARE D CO	9	4500
	EVEREADY BATTERY COMPANY, INC	0	0
	ANALOG DEVICES, INC.	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0
	BAYER CORP	0	0
	SARA LEE CORPORATION	10	5000
	COCA-COLA BOTTLING COMPANY OF	0	0
	SIEMENS WESTINGHOUSE POWER CO	126	63000
	WANDEL & GOLTERMANN A.T.E. SY	0	0
	ORNAMENTAL MOULDINGS INC	3	1500
	CISCO SYSTEMS SALES & SERVICE	235	117500
	COMPASS GROUP USA, INC.	110	55000
	DUPLICATE TRANS ID#	0	0
	LEMANS CORPORATION	10	5000
	MYLAN PHARMACEUTICALS INC.	7	28000
	COCA-COLA BOTTLING COMPANY OF	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	MYLAN PHARMACEUTICALS INC.	7	31500
	STEELCASE INC.	71	35500
	COCA-COLA BOTTLING COMPANY OF	0	0
	BRUNZL DISTRIBUTION MIDCENTRA	0	0
	SOLECTRON TECHNOLOGY, INC.	512	256000
	BECTON, DICKINSON AND COMPANY	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	JOHN DEERE TURF CARE, INC.	65	56500
	CREE, INC.	0	0
	WESTLAKE PRESS, INC.	0	0
	HENDERSON MACHINERY, INC.	0	0
	FAMILY DOLLAR, INC.	42	21000
	MADDUX SUPPLY COMPANY	0	0
	MADDUX SUPPLY COMPANY	0	0
	SOUTHERN CONCRETE MATERIALS,	7	31500
	MADDUX SUPPLY COMPANY	0	0
	JUKI AUTOMATION SYSTEMS, INC.	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	US AIRWAYS, INC.	0	0
	BANK OF AMERICA NA	0	0
	L & E PACKAGING, LLC	0	0
	TRIANGLE BRICK COMPANY	0	0
	TRIANGLE BRICK COMPANY	0	0
	PHILIP MORRIS INCORPORATED	64	32000
	LVL7 SYSTEMS, INC.	24	12000
	NATUZZI AMERICAS, INC.	11	49500
	DENERGY, INC.	0	0
	WILTON CONNOR, LLC	0	0
	CAROLINA POWER & LIGHT COMPAN	0	0
	FFNC, INC.	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0
	VF PLAYWEAR, INC.	0	0
	ABB AUTOMATION INC.	25	12500
	CYCLE GROUP INC.	15	7500
	BRANCH BANKING AND TRUST COMP	90	125000
	SCIQUEST, INC.	0	0
	OLIVER RUBBER COMPANY	0	0
	WACHOVIA CORPORATION	0	0
	WACHOVIA CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	CHIRON AMERICA, INC.	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	0	0
	LORILLARD TOBACCO COMPANY	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	8	0
	SYNAPSE TECHNOLOGY, INC.	0	0
	CHIRON AMERICA, INC.	0	0
	PINE HALL BRICK CO., INC.	0	0
	KRISPY KREME DOUGHNUT CORPORA	23	103500
	DANA CORPORATION	0	0
	R.H. DONNELLEY INC.	0	0
	SYNGENTA CROP PROTECTION, INC	135	67500
	NOVO NORDISK PHARMACEUTICAL I	100	50000
	KYRUS CORP	0	0
	KYRUS CORP	0	0
	INDUSTRIAL MICROWAVE SYSTEMS,	0	0
	BIC USA, INC. (BIC CONSUMER P	11	5500
	SPICER MANUFACTURING, INC.	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	15	7500
	THE VANGUARD GROUP, INC.	0	0
	SAS INSTITUTE INC.	125	62500
	R. J. REYNOLDS TOBACCO COMPAN	197	686500
	WESTPOINT STEVENS INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0
	MASTER FORM, INC.	0	0
	NITRONEX CORPORATION	21	10500
	MERIX BIOSCIENCE, INC.	16	8000
	ELECTROLUX HOME PRODUCTS, INC	12	6000
	KRISPY KREME DOUGHNUT CORPORA	14	63000
	KRISPY KREME DOUGHNUT CORPORA	30	135000
	THE STANDARD REGISTER COMPANY	0	0
	PLYMOUTH PRINTING CO. INC.	20	10000
	EDWARD VOGT VALVE CO	0	0
	NETOCTAVE, INC.	36	18000
	INTEK, INC.	0	0
	MICELL TECHNOLOGIES, INC.	0	0
	LENDINGTREE, INC.	43	21500
	ASMO NORTH CAROLINA, INC.	0	0
	STATIC CONTROL COMPONENTS, IN	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALCATEL USA LP, INC.	0	0
	TRIVIRIX INTERNATIONAL, INC.	2	1000
	NOVARTIS ANIMAL HEALTH US, IN	9	4500
	CROSSLOGIC CORPORATION	5	22500
	VF CORP	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0
	SCHAEFER SYSTEMS INTERNATIONA	10	5000
	TEKELEC	70	35000
	GENERAL PARTS, INC.	28	14000
	EPIC ENTERPRISES, INC.	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	NORTH STATE TELEPHONE COMPANY	0	0
	MU RO, INC.	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	INSPIRE PHARMACEUTICALS, INC.	16	8000
	QUINTILES TRANSNATIONAL CORP.	21	10500
	CAROLINA STEEL CORPORATION	15	67500
	REMCO SUPPLY, INC.	0	0
	CHESAPEAKE DISPLAY AND PACKAG	0	0
	NORTH CAROLINA SERVICES CORPO	0	0
	MEDTEC, INC.	8	4000
	JELD-WEN, INC.	0	0
	RENAISSANCE WORLDWIDE IT CONS	0	0
	STRUCTURAL STEEL PRODUCTS COR	17	8500
	WINSTON PRINTING COMPANY	19	85500
	CAROLINA STEEL CORPORATION	10	5000
	CAROLINA STEEL CORPORATION	0	0
	KAYDON CORP	0	0
	CROSSLOGIC CORPORATION	7	31500
	CROSSLOGIC CORPORATION	7	31500
	LUTRADUR CORPORATION	0	0
	MICROBAN PRODUCTS COMPANY	0	0
	S & D COFFEE INC	0	0
	WAKE STONE CORPORATION	0	0
	BILL DAVIS RACING, INCORPORAT	8	36000
	BIOGEN INC	126	63000
	CURTIS SCREW CO., INC.	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	HEXTEK TECHNOLOGIES, INC.	0	0
	CHARLES & COLVARD, LTD.	0	0
	THE TIMKEN COMPANY	0	0
	OWENS & MINOR MEDICAL, INC.	8	36000
	LUTRABOND COMPANY	0	0
	ARJOBEX AMERICA	0	0
	HEALTH DECISIONS, INC.	0	0
	APPLIED MEDICAL TECHNOLOGIES,	0	0
	ELUMENS CORPORATION	0	0
	ACCUMA CORPORATION	0	0
	SMART ONLINE, INC.	1	500
	GRAYBAR ELECTRIC COMPANY, INC	7	31500
	HAYWARD POOL PRODUCTS, INC.	108	54000
	ULTIMUS, INC.	8	4000
	FLOW SCIENCES, INC.	1	500
	FIRST CHARTER NATIONAL BANK	96	48000
	EXCEL CARGO SERVICES, INC.	0	0
	CLARKE AMERICAN CHECKS, INC.	96	48000
	DEERE-HITACHI CONSTRUCTION MA	0	0
	LUTRADUR CORPORATION	25	12500
	CORNING CABLE SYSTEMS INTERNA	0	0
	BORGWARNER TURBO SYSTEMS INC.	31	15500
	SLICKEDIT INC.	9	4500
	BIOMERIEUX, INC.	6	3000
	BONSET AMERICA CORPORATION	0	0
	EATON AEROQUIP INC.	0	0
	CARRIER CORPORATION	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	STRATEGIC RESOURCE SOLUTIONS	0	0
	UNITIVE ELECTRONICS, INC.	23	11500
	MDEVERYWHERE, INC.	0	0
	BLUE RIDGE METALS CORPORATION	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	VISIONAIR, INC.	0	0
	TUBE SPECIALTIES CO., INC.	20	90000
	CTC INTERNET SERVICES, INC.	0	0
	CLOSURE MEDICAL CORPORATION	12	6000

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	ALCATEL NA CABLE SYSTEMS, INC	0	0
	BUEHLER MOTOR, INC.	0	0
	BUEHLER MOTOR, INC.	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0
	FIRST UNION NATIONAL BANK	257	1156500
	MARMON/KEYSTONE CORPORATION	0	0
	APBI INC.	70	35000
	VF SERVICES, INC.	0	0
	HATTERAS NETWORKS, INC.	26	13000
	DUKE PROJECT SERVICES, INC.	0	0
	PEOPLECLICK.COM, INC.	42	21000
	PERFORMAWORKS, INC.	0	0
	P P G INDUSTRIES, INC.	12	6000
	RAFLATAC, INC.	116	58000
	FIRST UNION NATIONAL BANK	0	0
	PRESTIGE FABRICATORS, INC.	0	0
	HEARST COMMUNICATIONS, INC.	8	32000
	BANK OF AMERICA TECHNOLOGY AN	11	5500
	MCLANE FOODSERVICE, INC.	0	0
	TECSTAR ELECTRO SYSTEMS, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	ACTION PERFORMANCE COMPANIES,	0	0
	BUEHLER MOTOR, INC.	0	0
	GOULSTON TECHNOLOGIES, INC.	0	0
	LEE BUILDER MART, INC.	0	0
	WANDEL & GOLTERMANN INC	0	0
	VF PLAYWEAR INC	40	20000
	PAMA FURNITURE INC	3	13500
	FRAMATOME ANP DE&S, INC.	0	0
	AVX CORPORATION	0	0
	LAMBDA TECHNOLOGIES, INC.	0	0
	SPEIZMAN INDUSTRIES	0	0
	SEALY MATTRESS MANUFACTURING	0	0
	CLARKE AME	48	24000
	EDWARD VOGT VALVE COMPANY	0	0
	CLARK AME	94	47000
	EDWARD VOGT VALVE CO	12	54000
	NEWTON INSTRUMENT CO	73	73000
	TLV CORPORATION	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	FIRST UNION NATIONAL BANK	0	0
	PERGO, INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	ANVIL KNITWEAR INC.	0	0
	PERGO, INC.	0	0
	TOGETHERSOFT CORPORATION	29	130500
	SAPONA MANUFACTURING COMPANY,	0	0
	BE AEROSPACE, INC.	0	0
	PEPSI-COLA BOTTLING COMPANY O	5	2500
	BUNZL RICHMOND INC	0	0
	INJECTRONICS, INC.	0	0
	BOX-BOARD PRODUCTS, INC.	0	0
	ELECTRONIC DATA MAGNETICS, IN	14	63000
	ACCUMA CORPORATION	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	RF MICRO DEVICES, INC.	246	123000
	MEDIA EVOLVED, LLC	23	103500
	DIGITAL OPTICS CORPORATION	0	0
	DART CONTAINER CORP OF GEORGI	0	0
	OPTICAL EXPERTS MANUFACTURING	19	9500
	CONCRETE SUPPLY CO.	0	0
	CONCRETE SUPPLY CO.	0	0
	WESTLAKE INDUSTRIES, INC.	0	0
	CONCRETE SUPPLY CO.	0	0
	ALCATEL USA SOURCING, L.P.	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0
	RAILLINC CORPORATION	0	0
	LEGACY CLASSIC FURNITURE, INC	27	13500
	NOEL VENTURES, LLC	38	12055
	CONFULENCE HOLDINGS CORP	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	ETRIALS, INC.	19	9500
	CATERPILLAR INC.	97	436500
	CATERPILLAR INC.	57	28500
	COMMSCOPE, INC. OF NORTH CARO	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0
	UNICON CONCRETE, LLC	0	0
	CORNING INCORPORATED	1105	552500
	ARMACELL UNITED STATES HOLDIN	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	SIEBEL SYSTEMS, INC.	0	0
	CORNING INCORPORATED	482	241000
	CORNING INCORPORATED	0	0
	CORNING INCORPORATED	0	0
	HASCO MOLD BASES - ASHEVILLE,	0	0
	TOMSED CORPORATION	8	4000
	LBSS,INC.	0	0
	BANNER PHARMACAPS INC.	55	27500
	ALCATEL USA GP, INC.	0	0
	CORNING INCORPORATED	0	0
	GKN AUTOMOTIVE, INC.	0	0
	CORNING INCORPORATED	0	0
	LONESOURCE.COM, INC.	13	6500
	GKN AUTOMOTIVE, INC.	0	0
	THE STEEL NETWORK, INC.	7	3500
	CISCO SYSTEMS SALES & SERVICE	0	0
	GKN AUTOMOTIVE, INC.	0	0
	GKN AUTOMOTIVE, INC.	0	0
	DUKE ENERGY CORPORATION	42	189000
	ALDREDGE JR EMMETT C	0	0
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	1	4500
	ALDREDGE JR EMMETT C	0	0
	AUERBACH HOWARD D	20	10000
	BODILY ROBERT	0	0
	CARPENTER JONATHAN S	0	0
	CRARY EDWARD M	0	0
	DAVIS MARTIN A	0	0
	EASON DOUGLAS	0	0
	ENGLERT JOHN A	0	0
	ENGLERT SCOTT T	0	0
	FLYNN GARY B	0	0
	GOODNIGHT JAMES H	0	0
	HORTON PAUL W	0	0
	JENKINSINTEGRATED SOFTWARE SOLUTIONS	0	0
	KURZ PETER	0	0
	KURZ PETER	0	0

Tier	Name	No. of New Jobs	Eligible Credit Amount Generated
	KURZ WALTER	0	0
	KURZ WALTER	0	0
	LAUER EDWARD	38	19000
	LITTLE ROBERT D	0	0
	MAIER JAMES W	0	0
	MARSH GEORGE M	0	0
	MARSH GILBERT R	0	0
	MONCURE JAMES A	0	0
	MORRIS KEITH A	0	0
	MOSELY PHILLIP G	0	0
	PAUL ERIC A	8	4000
	PEARCE PETER A	0	0
	PERRY DWAYNE M	0	0
	RAYLE GLENN D	0	0
	REES J M	0	0
	RICKS WALTER G	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER ROBERT A	0	0
	SALL JOHN P	0	0
	SHEKHAR MRIGANK	0	0
	SHEKHAR SWETANK	0	0
	STEPHENS FRANK M	0	0
	THORE GLENN W	0	0
	WARD ALLEN K	0	0
	WARD ALLEN K	0	0
	WARD MURIEL C	0	0
	WARD MURIEL C	0	0
	WILLIAMS STEVEN G	0	0
	WRAY PHILLIP C	0	0
	Total for Tier: 5	7663	8025555
	Grand TOTAL:	14531	26672387

William S. Lee Tax Credits

Machinery and Equipment

North Carolina Department of Revenue

William S. Lee Tax Credits
Machinery and Equipment
Processed in Calendar Year 2002

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
0			
	TECHNIBILT, LTD.	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0
	VERMONT AMERICAN CORPORATION	9582145	670750
	EANES OIL COMPANY	0	0
	LAWN PRO., INC.	135603	9492
	RENFRO FL, INC.	0	0
	ABB AUTOMATION INC.	0	0
	RAM TRUST NO. 3	0	0
	ARARAT ROCK PRODUCTS COMPANY	0	707267
	PEOPLECLICK.COM, INC.	1666602	116662
	CHAMPION HOME BUILDERS CO.	0	0
	SOUTHERN FABRICATORS, INC.	0	0
	PEPCOM INDUSTRIES, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	ARROW INTERNATIONAL, INC.	0	0
	RAM TRUST NO. 4	0	0
	WATTS REGULATOR CO.	0	0
	RON LONG SALES, INC.	987	69
	LORILLARD TOBACCO COMPANY	20860614	1460243
	CORNUCOPIA CHEESES, INC.	0	0
	GRASS AMERICA, INC.	0	0
	ORDIWAY ENTERPRISES, INC.	0	0
	VOLVO CONSTRUCTION EQUIPMENT	0	0
	INGERSOLL-RAND COMPANY	0	0
	HABCO, INC.	0	0
	H & J WAREHOUSES, LL	0	0
	BURLAN CORPORATION	0	0
	CORNUCOPIA CHEESES, INC.	0	0
	OVERHEAD HANDLING SYSTEMS INC	0	0
	CHANNEL MASTER, INC.	0	0
	CORTEK, INC.	0	0
	HICKORY PRINTING GROUP, INC.	0	0
	VODAFONE AMERICAS INC.	0	0
	BUSICK BROTHERS MACHINE, INC.	0	0
	MOHICAN MILLS INC	0	0
	BRIDGESTONE/FIRESTONE, INC.	0	0
	SELEE CORPORATION	0	0
	TECHNIMARK, INC.	0	0
	GKN AUTOMOTIVE, INC.	3282604	229782

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PEPSI-COLA BOTTLING COMPANY O	0	0
	GKN AUTOMOTIVE, INC.	0	0
	STACKHOUSE PLUMBING COMPANY,	0	0
	VAUGHN RUE PRODUCE CO., INC.	0	0
	CAROLINA STEEL CORPORATION	103114	7218
	AMILON, LLC	0	0
	COASTAL LUMBER COMPANY	0	0
	LEDBETTER TIMBER AND PULPWOOD	0	0
	BLAST, INC.	0	0
	NATIONAL SERVICE INDUSTRIES	2049342	143454
	HI-TEX, INC.	1426041	99823
	RAM TRUST NO. 6	0	0
	ALLFAB SOLUTIONS INCORPORATED	0	0
	SPECTRUM DYED YARNS, INC.	0	0
	SWIFT TEXTILES, INC.	0	0
	LISY CORPORATION	95302	6671
	HUFFMAN OIL COMPANY, INCORPOR	0	0
	VULCAN MATERIALS COMPANY - CH	0	0
	AMERICAN DISTILLATION, INC.	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	BRIDGESTONE/FIRESTONE AMERICA	0	0
	GOODRICH CORPORATION	0	0
	BURTON INC	0	0
	AIRTOUCH PAGING	0	0
	MORRISETTE PAPER COMPANY, INC	0	0
	RAM TRUST NO. 5	0	0
	THE MITCHELL GOLD CO.	0	0
	MINDENHILL FARMS, INC.	0	0
	HOLT SUBLIMATION PRINTING & P	0	0
	BABB & ASSOCIATES, P. A.	0	0
	ECMD, INC.	0	0
	BURLAN CORPORATION	572788	40095
	BERTELSMANN MUSIC GROUP, INC.	3671469	257003
	JACKSON TUBE SERVICE, INC.	0	0
	ARJOBEX AMERICA	0	0
	KLINGSPOR ABRASIVES, INC.	0	0
	KENNEDY DIECASTING, INC.	0	0
	ACCUMA CORPORATION	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0
	HONEYWELL INTERNATIONAL INC.	0	0
	SHOTO, INC.	0	0
	EMGRAN HOLDING CO., INC,	0	0
	EMGRAN HOLDING CO., INC,	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GALEY & LORD INDUSTRIES, INC.	0	0
	STEPHENS-L&E LLC	0	0
	BEVERLY KNITS, INC.	0	0
	FOARD SYSTEMS DESIGN, INC.	0	0
	BEFCO, INC.	0	0
	GRAPHIC PRINTING SERVICES, IN	0	0
	CENTRO, INC.	0	0
	S & W READY MIX CONCRETE COMP	0	0
	D. S. DUGGINS WELDING, INC.	24220	1695
	FINELINE INDUSTRIES EAST, INC	0	0
	RAM TRUST NO. 1	0	0
	KIP CARR ASSOCIATES, INC.	0	0
	ENVIRONMENTAL MANAGEMENT SERV	0	0
	GENE TIERNEY COMPANY, INC.	0	0
	PLASTIC TECHNOLOGY, INC.	0	0
	LOFTIS CONSTRUCTION CORP.	0	0
	CONFULENCE HOLDINGS CORP	0	0
	PRESTIGE SEWING COMPANY	0	0
	HEATON, FULGHUM & WILLIAMS, M	0	0
	SHUFORD MILLS, INC.	0	0
	JPW, INC.	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	F. J. RAGAZ, M.D., P.A.	0	0
	SGL CARBON CORPORATION	0	0
	HOLT SUBLIMATION PRINTING & P	0	0
	MIDSTATE MILLS, INC.	0	0
	NEWTON INSTRUMENT CO INC	0	0
	DYNAYARN USA, LLC	0	0
	SOUTHEAST LIBRARY BINDERY, IN	0	0
	SONOPRESS, INC.	5475466	383283
	GENEVA CORPORATION	0	0
	MAYFLOWER GLASS INC.	0	0
	JOHNSTON CASUALS FURNITURE, I	0	0
	CHAMPION INTERNATIONAL CORPOR	0	0
	MICHIGAN PACKAGING COMPANY	3170231	221916
	THOMAS BUILT BUSES, INC.	0	0
	LISY CORPORATION	0	0
	TILLMAN ENTERPRISES, INC.	0	0
	GAYLORD INC	127058	8894
	ASSOCIATED ASPHALT, INC.	0	0
	S & W READY MIX CONCRETE COMP	277541	19428
	SR-71 GAME SCOTING, INC.	0	0
	J. D. CLARK COMPANY	0	0
	PROTRONICS, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	RAM TRUST NO. 2	0	0
	MEASURMENT INCORPORATED PAYRO	0	0
	KCBC FOODS, INC.	0	0
	A. M. CASTLE & CO.	0	0
	AMILON HOLDING, INC.	0	0
	NOVATION FABRICS, INC.	0	0
	POLAR PLASTICS (NC) INC	0	0
	TRAVIS KNITS, INC.	0	0
	SOUTHEASTERN CONTAINER, INC.	0	0
	NOVATION FABRICS, INC.	0	0
	DELLINGER WRECKER SERVICE, IN	0	0
	A&M TOOL M DIVISION, INC.	0	0
	JOHNSON CONCRETE COMPANY	0	0
	SMOKY MOUNTAIN WATERPROOFING,	0	0
	ACUCOTE, INC.	0	0
	KONICA MANUFACTURING U.S.A.,	0	0
	WB GROUP PROPERTIES, LLC	0	0
	SEVERN PEANUT COMPANY, INC.	0	0
	TEE-LOK CO	352989	24709
	NORTHEASTERN DERMATOLOGY	1965	138
	OPTIMUM FILTRATION CO	16492	1154
	PUROLATOR PRODUCTS NA, INC.	0	0
	SCOTT DUPRE-CUSTOM BUILDER, I	0	0
	ALTEC INDUSTRIES, INC.	0	0
	GENE TIERNEY COMPANY, INC.	0	0
	GAIA HERBS, INC.	0	0
	SHOWLINE AUTOMOTIVE	190071	13305
	PYROTECH SERVICES, INC.	0	0
	STRATFORD	0	0
	RAM TRUST NO. 8	0	0
	L & J ELECTRONICS INC	0	0
	SHOWLINE AUTOMOTIVE PRODUCTS,	245558	17189
	CLAYTON-MARCUS COMPANY, INC.	0	0
	VALDESE TEXTILES, INC.	0	0
	RAM TRUST NO. 29	0	0
	AIRTOUCH PCS HOLDING, INC.	0	0
	AMERITEX YARN, LLC	0	0
	NJB AUTO GROUP, INC.	0	0
	TUSCARORA YARNS, INC.	0	0
	CONFLANDEY INC.	0	0
	PRESTIGE FABRICATORS, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0
	SWIFT TEXTILES, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	WHEATSTONE CORPORATION	0	0
	FOOTHILLS, INC.	0	0
	CECIL AND SPRY FARM	8700	609
	ROCKY MOUNT DERMATOLOGY	10454	732
	VICTAULIC COMPANY OF AMERICA	0	0
	DOLOROSA FARMS, LTD.	0	0
	RAM TRUST NO. 10	0	0
	BEIERSDORF-JOBST, INC.	0	0
	LAMARR JOHNSON & ASSOCIATES,	0	0
	RAM TRUST NO. 9	0	0
	TAYLOR CRISP PAC	5026	352
	CULP, INC.	45470	3183
	STANADYNE CORPORATION	0	0
	CENTER FOR MARTIAL ARTS I	898	63
	PHARMAGRAPHICS, INC.	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	THE COPELAND OFFICE INC.	0	0
	SENTINEL AUTOMOTIVE DISTRIBUT	0	0
	MAYFLOWER GLASS INC.	0	0
	LEXCOM TELEPHONE COMPANY	0	0
	BRODER BROS CO	0	0
	LEE-MOORE OIL COMPANY	0	0
	UNIFI MANUFACTURING, INC.	3705418	259379
	LEXCOM CABLE SERVICES, INC.	0	0
	FIELDCREST CANNON INC	0	0
	NORMAN BECK INVESTME	0	0
	ROCKY MOUNT DERMATOLOGY	0	0
	FAST CHART, INC.	0	0
	TEXEL USA INC.	0	0
	FOARD SYSTEMS DESIGN, INC.	0	0
	R & R MACHINE COMPANY, INC.	0	0
	TRAVIS KNITS	0	0
	BECTON, DICKINSON AND COMPANY	3704695	259329
	MERCHANTS DISTRIBUTORS, INC.	0	0
	ALCOA INC.	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0
	GAYLORD, INC.	0	0
	JG3 INC	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	AMERITRUCK REAL ESTATE HOLDIN	0	0
	JG3 INC	0	0
	TTC TIMBER	0	0
	TIMVEST GP	0	0
	TIMVEST GP	0	0
	STRATFORD	0	0
	STRATFORD	0	0
	BURLINGTON CHEMICAL CO., INC.	0	0
	STRATFORD	0	0
	GONYEA TV	0	0
	RBC CENTURA BANK	0	0
	CLARK AME	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	EDWARD VOGT VALVE CO	797590	55831
	SHURTAPE TECHNOLOGIES, INC.	1219221	85345
	SHURTAPE TECHNOLOGIES, INC.	1910060	133704
	SHURTAPE TECHNOLOGIES, INC.	0	0
	FLP TRUST	0	0
	JERRY WILLIAMS & SONS	0	0
	STRATFORD	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0
	LITTLE DAVID'S CARPET OUTLET,	0	0
	R. L. STOWE MILLS, INC.	0	0
	VULCAN GUF AGGREGATES	0	84
	SOUTHERN HARDWOODS, INC.	0	0
	TTC TIMBER	0	0
	FLP TRUST	0	0
	LEDBETTER TIMBER AND PULPWOOD	0	0
	CAROLINA MILLS, INCORPORATED	0	0
	FLP TRUST	0	0
	PIONEER ECLIPSE CORPORATION	0	0
	STRATFORD	0	0
	MASONRY REINFORCING CORP OF A	0	0
	APPALACHIAN INN, INC.	0	0
	RAM TRUST NO. 7	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0
	LKF, INC.	0	0
	CO-SUB INC	1219	85
	THE RENTAL MART	287050	20094
	ITS	3722	261
	BAUMANN SPRINGS USA, INC.	0	0
	KINCAID FURNITURE COMPANY, IN	0	0
	BONEY WILSON & SONS INC	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GARRETT OPTOMETRIC CENTER, P.	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	FLP TRUST	0	0
	CONFLANDEY INC.	0	0
	FLP TRUST	0	0
	POLAR PLASTICS (NC) INC	0	0
	FLP TRUST	0	0
	VULCAN AGGREGATES COMPANY,LLC	0	0
	FOCKE & CO., INC.	0	0
	MAYFLOWER GLASS	4650	325
	MAYFLOWER GLASS	0	0
	ALLEN BRADLEY D	0	0
	ALLEN JOSEPH G	0	0
	BAKER JAMES C	0	0
	BARNES ROCK A	0	0
	BEEKER GEORGE M	0	0
	BIRCHETTE GEORGE A	0	0
	BLACK WILLIAM H	352989	24709
	CAPELL JOHN H	0	0
	CAPELL KERRY L	0	0
	CARR III GEORGE W	1101	77
	CARTER RUSSELL M	0	0
	CHAMBLISS III NORMAN Y	0	0
	CLINE JULIUS D	0	0
	COHEN LEIPOLD I	0	0
	CORNS BILLY R	0	0
	COVINGTON EDWARD H	0	0
	CROWDER TODD L	0	0
	CROWELL GILES F	0	0
	CULHANE P E	0	0
	CULHANE P E	0	0
	D'ARENBERG PIERRE	0	0
	DELLA SANTA ERALDO	0	0
	DUBOSE CHARLES H	0	0
	ERVIN JOHN W	0	0
	FALLS THOMAS N	0	0
	FEARING TATNAL W	0	0
	FIELDS GEORGE B	0	0
	FORD TIMOTHY L	0	0
	GENTRY IRCIL N	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	GONYEA DAVID W	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA II JOSEPH H	0	0
	GONYEA III JOSEPH H	0	0
	GONYEA III JOSEPH H	0	0
	GORDON MARK A	0	0
	HARRAWOOD DAVID A	0	0
	HARVEY WILLIAM L	0	0
	HARVEY WILLIAM L	153580	10751
	HAUPRICHT BRIAN A	0	0
	HOLT AMANDA M	0	0
	HOLT ASHLEY E	0	0
	HOLT CHARLES D	0	0
	HOLT JOHN A	0	0
	HOLT JOHN A	0	0
	HOLT MARGUERITE E	0	0
	HOLT MICHAEL M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT RALPH M	0	0
	HOLT SAMUEL T	0	0
	HOLT SARAH M	0	0
	HOLTON JAMES R	0	0
	HUGHES JOSEPH K	0	0
	HUGHES JOSEPH K	0	0
	HUGHES WILLIAM C	0	0
	HUGHES JR G J	0	0
	HUNT JANICE L	0	0
	HUNTER CHARLES M	0	0
	JACKSON TRAVIS H	0	0
	JOHNSON F J	0	0
	JOHNSON FRANCES H	0	0
	JOHNSON JUDITH H	0	0
	JOHNSON PHILIP H	0	0
	JONES J W	0	0
	JONES J W	0	0
	JONES J W	0	45782
	JONES J W	0	31589
	JONES J W	0	0
	JORDAN JOHN R	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	KISER AMELIA T	0	0
	KISER AMELIA T	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER J J	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	KISER L R	0	0
	LAING BRENT P	0	0
	LANE CURK T	0	0
	LANE CURK T	175452	12282
	LANE CURK T	175452	12282
	LANNING HOY S	0	0
	LAUGHLIN DAVID E	0	0
	LONDON WILLIAM L	0	0
	LONG DANIEL J	0	0
	LONON LINDA M	0	0
	MANCOSH DOUGLAS G	0	0
	MANESS JOHN M	0	0
	MARSH JAMES P	0	0
	MCCARTHY CHARLES E	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCLEOD JOHN A	0	0
	MCMICHAEL DALTON L	0	0
	MEARS ROBERT	0	0
	NEISLER CHARLES A	0	0
	NEISLER DAVID C	0	0
	NEISLER GEORGE S	0	0
	NEISLER HENRY P	0	0
	NEISLER HENRY P	0	0
	NEISLER HENRY P	0	0
	NEISLER WILLIAM H	0	0
	NEWSOME TIMOTHY E	0	0
	OLDHAM FRANK P	0	0
	O'MARA CHRISTOPHE	0	0
	O'MARA JOHN J	0	0
	O'MARA MEIGHAN	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	O'MARA TIMOTHY	0	0
	PARKER GEORGE W	0	0
	PEGRAM TERRY L	0	0
	PERKINS GEORGE R	0	0
	PERKINS GEORGE R	0	0
	PERKINS JOHN E	0	0
	PERKINS JOHN E	0	0
	PERRY CHARLES R	0	0
	PERRY DON W	0	0
	PERRY FRANK G	0	0
	PERRY FRANK G	0	0
	PERRY HAL C	0	0
	PERRY HUGH P	0	2723
	POAG JAMES C	0	0
	PROPST ALEX A	0	0
	RATTZ JAMES M	0	0
	RAWALD KURT R	0	0
	REID LEWIS G	0	0
	RICHARDSON CHARLES E	0	0
	RICHARDSON JOANN	0	0
	RICHARDSON JOE E	0	0
	RICHARDSON JOE E	0	0
	RICHARDSON JOHN M	0	0
	RICHARDSON MORGAN L	0	0
	ROBINSON RICHARD S	0	0
	SCHOLD ERIC W	0	0
	SHERMAN MICHAEL M	0	0
	SKINNER ERIKA D	0	0
	SKINNER JEFFERY M	0	0
	STEELE FLAKE F	0	0
	STEELE PRESTON M	0	0
	STEELE TYLER B	0	0
	STEELE WALTER M	0	0
	STEELE WILLIAM F	0	0
	STEELE WILLIAM P	0	0
	STEELE WILLIAM P	0	0
	STRICKLAND JOHN W	0	0
	SWARTZ EDWIN H	0	0
	SWARTZ MICHAEL L	0	0
	SWARTZ WILLIAM K	0	0
	TH JOHN W	25713	1800
	THOMAS WILLIAM H	0	0
	WEIBEL MARCUS F	0	0
	WEIMAN THOMAS M	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WETMORE LOUIS S	0	0
	WILSON WINFRED G	0	0
	WORNOM III SAMUEL J	0	0
	Total for Tier: 0	65916662	5401611
1			
	HALIFAX	239064	16734
	HAMMILL FARMS, INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	TRINITY MANUFACTURING, INC.	417760	29243
	SPRINGS INDUSTRIES, INC.	28212	1975
	MCMURRAY FABRICS, INC.	0	0
	TREDEGAR FILM PRODUCTS (U.S.)	0	0
	ATLANTIC CORPORATION OF WILMI	396267	27739
	ATLANTIC CORPORATION OF WILMI	0	0
	ATLANTIC CORPORATION OF WILMI	0	0
	FASCO CONTROLS CORPORATION	4376098	306327
	SOUTHERN FILM EXTRUDERS, INC.	260851	18260
	NEW BERN AUTO SUPPLY, INC.	0	0
	ARNOLD FOODS COMPANY, INC.	0	0
	VERIZON SOUTH INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	STANADYNE CORPORATION	0	0
	MORFLEX, INC.	0	0
	KENNAMETAL INC.	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	PLASTIC PACKAGING, INC.	0	0
	UCO FABRICS, INC.	0	0
	MOEN INCORPORATED	0	0
	M.D. COASTAL BILLING CENTER,	0	0
	WM T BURNETT OPERATING LIMITE	725665	50797
	WESTPOINT STEVENS INC.	0	0
	MAYO KNITTING MILL, INCORPORA	271858	19030
	NEW BREED, INC.	0	0
	STANADYNE CORPORATION	0	0
	ADAMS WHOLESALE COMPANY	0	0
	NOVATION FABRICS, INC.	0	0
	NSS, LLC	6250	438
	4118 INVESTORS CORPORATION	17347	1214
	PLASTIC PACKAGING, INC.	0	0
	AIR SYSTEM COMPONENTS LP	0	0
	LEVITON MANUFACTURING CO., IN	1400123	98009

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	AMERITEX YARN, LLC	0	0
	NOVATION FABRICS, INC.	0	0
	CANDLE CORPORATION OF AMERICA	5327215	372905
	THE MOORE COMPANY	0	0
	DSM PHARMACEUTICALS, INC.	0	0
	NEW BREED CORPORATE SERVICES,	0	0
	CHICOPEE, INC.	0	0
	BRANCH BANKING AND TRUST COMP	0	0
	NACCO MATERIALS HANDLING GROU	0	0
	TAYLOR CONSTRUCTION COMPANY O	0	0
	GLENOIT CORPORATION	0	0
	MAOLA MILK AND ICE CREAM COMP	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	VULCAN CONSTRUCTION MATERIALS	367715	25740
	SOLECTRON TECHNOLOGY, INC.	0	0
	THE GATES CORPORATION	5515929	386115
	SOUTHERN STEEL AND WIRE, INCO	0	0
	VF JEANSWEAR, INC.	0	0
	AMERICAN FIBERS AND YARNS COM	0	0
	HEARST COMMUNICATIONS, INC.	3133330	219333
	NACCO MATERIALS HANDLING GROU	0	0
	PEE DEE EMC SERVICES, INC.	0	0
	CARDINAL STONE COMPANY	189913	13294
	NOVATION FABRICS, INC.	0	0
	THOMASVILLE FURNITURE INDUSTR	0	0
	SEABOARD GIN COMPANY	0	0
	MEDICAL SPECIALTIES INCORPORA	0	0
	POLAR PLASTICS (NC) INC	0	0
	G & G LUMBER	0	0
	TAR HEEL GENERATOR, LLC	0	0
	G & G LUMBER	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	G & G LUMBER	0	0
	JSP HILLSB	128600	9002
	G & G LUMBER	0	0
	SAFELITE GLASS CORP	2212526	154877
	G & G LUMBER	0	0
	G & G LUMBER	0	0
	G & G LUMBER	0	0
	RENFRO FL, INC.	0	0
	G & G LUMBER	0	0
	LITTLE DAVID'S CARPET OUTLET,	0	0
	MACHINE & WELDING SUPPLY	838632	58704
	TORE'S HOME, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	J. T. DAVENPORT & SONS, INC.	488302	34181
	CUMMINS ENGINE COMPANY, INC.	0	0
	J. T. DAVENPORT & SONS, INC.	515311	36072
	DAN RIVER INC.	0	0
	CASCADES TISSUE GROUP - NORTH	1455839	101909
	WESTPOINT STEVENS INC.	10689835	748288
	REMPAC FOAM CORP	12641	885
	NORDIC GROUP OF COMPANIES, LT	0	0
	COASTAL TUMBLEGYM, INC.	0	0
	COASTAL TUMBLEGYM, INC.	0	0
	OWENS-ILLINOIS CLOSURE INC.	2479591	173571
	COASTAL TUMBLEGYM, INC.	0	0
	HOFFMAN & HOFFMAN, INC.	0	0
	ATI ACQUISITION CORPORATION	0	0
	LEE-MOORE OIL COMPANY	1712254	119858
	CORNUCOPIA CHEESES, INC.	0	0
	GREGORY POOLE EQUIPMENT COMPA	27925	1955
	REVLON CONSUMER PRODUCTS CORP	4157271	291009
	THE TIMKEN COMPANY	0	0
	CONSOLIDATED METCO, INC.	3804806	266336
	HOF TEXTILES, INC.	0	0
	SPECIALTY MINERALS INC.	88178	6172
	WM T BURNETT MANAGEMENT, INC	7257	508
	ASMO GREENVILLE OF NORTH CARO	0	0
	CONTINENTAL TEVES, INC.	1287923	90155
	SPECIALTY MINERALS INC.	42657	2986
	SPECIALTY MINERALS INC.	0	0
	ROYAL PARK UNIFORMS, INC.	0	0
	J. C. STEELE AND SONS, INC.	857418	60019
	THE TIMKEN COMPANY	11679203	817544
	FIRST CHARTER NATIONAL BANK	10497519	734826
	HOFFMAN & HOFFMAN, INC.	0	0
	G & G LUMBER	0	0
	AIR SYSTEM COMPONENTS LP	6124505	428715
	KEIHIN CAROLINA SYSTEM TECHNO	2968050	207764
	AMERICAN LAFRANCE CORPORATION	0	0
	STANLEY FURNITURE COMPANY, IN	0	0
	HANCOR, INC.	0	0
	CHAMPION PRODUCTS INC.	0	0
	LEE-MOORE OIL COMPANY	295783	20705
	DATAMARK GRAPHICS, INC.	0	0
	CONTINENTAL TICKING CORPORATI	0	0
	TUBE SPECIALTIES CO., INC.	0	0
	NARRICOT INDUSTRIES, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CASCADES MOULDED PULP, INC.	0	0
	L & J ELECTRONICS, INC.	0	0
	ALLEN CANNING COMPANY	0	0
	GUARANTEED SUPPLY COMPANY	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	COLORIT ENTERPRISES, INC.	0	0
	ABBOTT LABORATORIES, INC.	0	0
	DICEY MILLS, INC.	0	0
	THE NEWARK GROUP INC	148501	10395
	WM T BURNETT & CO INC F/K/A M	11103	777
	JOHN DEERE TURF CARE, INC.	0	0
	BIG ED, LLC	2010	141
	J W JONES LUMBER COMPANY	1505024	105352
	KERR GROUP, INC.	6938390	485687
	NORTH CAROLINA ASAHI, INC.	0	0
	RESINALL CORP	1268679	88808
	KEEL NETWORK LLC	6000	420
	ALBA-WALDENSIAN, INC.	0	0
	C T SPECIALTIES CORP.	0	0
	BERTELSMANN MUSIC GROUP, INC.	0	0
	OLDHAM SAW CO., INC.	1464965	102548
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	RAILLINC CORPORATION	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	MAGNOLIA MFG CO	16241998	1136940
	GOOD & RELIABLE LAWN CARE INC	49818	3487
	NORTH CAROLINA ASAHI, INC.	0	0
	INDIAN HEAD INDUSTRIES, INC.	1156967	80988
	NORDIC GROUP OF COMPANIES, LT	0	0
	FINELINE INDUSTRIES EAST, INC	1123126	78619
	GORDON RECYCLERS, INC.	392507	27475
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	SOUTHERN CONCRETE MATERIALS,	239901	16793
	CAVALIER SPECIATLY YARN COMPA	0	0
	CAVALIER SPECIATLY YARN COMPA	3521245	246487
	BURKE MILLS, INC.	0	0
	AT&T CORP.	0	0
	AT & T COMMU	0	0
	PEC THECHNOLOGIES SOUTH EASTE	63290	4430
	SOUTHEASTERN PROTEIN INC	183415	12839
	ARTEVA SPECIALTIES S.A.R.L.	0	0
	HALCORE GROUP, INC.	84357	5905

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	KORDSA USA	0	0
	SUPERIOR TELECOMMUNICATIONS,	6482374	453766
	ALADDIN MANUFACTURING CORP	255600	17892
	PCS PHOSPHATE COMPANY, INC.	21343171	1494022
	WESTPOINT STEVENS INC.	0	0
	CURTISE WRIGHT FLIGHT SYSTEMS	809301	56651
	G & L CABINETS	112342	7864
	SARA LEE CORPORATION	24093725	1686561
	LITESPEC OPTICAL FIBER LLC	0	0
	PRECISION ALLOYS INC	160000	11200
	BISON INVE	219294	15351
	FUEL SYSTEM	1639845	114789
	RESER'S FINE FOODS INC	5878362	411485
	STX, INC.	3411	239
	PHOENIX LUMBER CO	310242	3102
	WRIGHT CORP	42523	2977
	ALDREDGE JR EMMETT C	838632	58704
	ALDREDGE JR EMMETT C	838632	58704
	BARRINGER BRENT D	0	0
	COEN EUGENE W	0	0
	DUNLOW ERNEST M	0	0
	DUNLOW ERNEST M	39321	2752
	FISHER THOMAS G	0	0
	GERBER ERIC T	260124	18209
	GOODING DAVID R	0	0
	GOODMAN JOHNNY W	0	0
	GOODMAN KENNETH L	0	0
	GOODMAN RAYMOND W	0	0
	GOODMAN RAYMOND W	0	0
	HORNE KENNETH W	0	0
	HUNTLEY MAX M	691146	48380
	JONES DONALD H	0	0
	MADDISON LAURENCE B	0	0
	MADDISON LAURENCE B	0	0
	NEISLER CHARLES A	0	0
	NEISLER CHARLES A	0	0
	NEWSOME ROBERT A	0	0
	NEWSOME ROBERT A	0	0
	NEWSOME ROBERT A	380146	26610
	NEWSOME TIMOTHY E	175452	12282
	NEWSOME TIMOTHY E	0	0
	PORTER DARRELL R	0	0
	PORTER DARRELL R	0	0
	ROTH GARY W	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	SHOJI HIDETOSHI		0	0
	SMITH THOMAS D		0	0
	THOMAS GERALD P		0	0
	WATSON TED R		0	0
	WORNOM III SAMUEL J		0	0
	Total for Tier:	1	184020562	12862825
2				
	VEEDER ROOT OF NC		314599	22022
	PEPSI BOTT		353757	24763
	CONOPCO, INC.		2742931	192005
	CLAYSON KNITTING COMPANY, INC		1214412	85009
	WEYERHAEUSER COMPANY		0	0
	GUILFORD MILLS, INC.		0	0
	CHARLES CRAFT, INC.		0	0
	WESTPOINT STEVENS INC.		13773347	964134
	GKN AUTOMOTIVE, INC.		17426575	1219860
	OLDHAM SAW CO INC		1204444	84311
	RAFLATAC, INC.		34571286	2419990
	HYDRAULIC VALVE DIV		993302	69531
	UNITIVE ELECTRONICS, INC.		4771599	334012
	GETRAG CORPORATION		17877613	1251433
	BUCKEYE LUMBERTON INC.		699128	48939
	INDEPENDENT BEVERAGE CORPORAT		0	0
	ARMACELL UNITED STATES HOLDIN		0	0
	LEXINGTON FURNITURE INDUSTRIE		0	0
	ASMO NORTH CAROLINA, INC.		0	0
	PEPSI BOTT		1708417	119589
	SCIQUEST, INC.		0	0
	KEEBLER COMPANY		899245	0
	KLAUSSNER FURNITURE INDUSTRIE		0	0
	SPRINGS INDUSTRIES, INC.		0	0
	HICKORY SPRINGS MANUFACTURING		0	0
	INGERSOLL-RAND COMPANY		0	0
	J. P. TAYLOR COMPANY, INCORPO		1551367	108596
	CARPENTER CONTRACTORS OF AMER		33499	2345
	ALAMAC KNIT FABRICS, INC.		0	0
	NEXANS INC.		0	0
	CRESTWOOD INTERNATIONAL, INC.		0	0
	KENNAMETAL INC.		0	0
	THE FELDSPAR CORPORATION		0	0
	ENGINEERED CONTROLS INTERNATI		0	0
	J W JONES LUMBER COMPANY		1038445	72691
	STOCKHAUSEN INC.		3487259	244108
	GUILFORD MILLS, INC.		0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PILKINGTON NORTH AMERICA, INC	0	0
	GRAPHIC PACKAGING CORPORATION	272287	19060
	DIGITAL OPTICS CORPORATION	9101685	637118
	ABBOTT LABORATORIES, INC.	0	0
	BROYHILL FURNITURE INDUSTRIES	701007	49070
	NITRONEX CORPORATION	859371	60156
	DYNAPAR CORP	716600	50162
	SAINT-GOBAIN CONTAINERS, INC.	333338	23334
	TURN BULL LUMBER CO	704769	49334
	CLAYSON KNITTING COMPANY, INC	45932	3215
	WELCH ALLYN INC	0	0
	GRAPHIC PACKAGING CORPORATION	0	0
	BUEHLER MOTOR, INC.	758787	53115
	BRODER BROS CO	24428	1710
	CATAWISSA LUMBER & SPECIALTY	0	0
	AMILON, LLC	601694	42119
	CHARLES CRAFT, INC.	0	0
	CHICOPEE, INC.	0	0
	DERINGER MFG. COMPANY	0	0
	CARDIOVASCULAR DIAGNOSTICS, I	1909119	133638
	COCA-COLA BOTTLING CO. CONSOL	0	0
	BORGWARNER TURBO SYSTEMS INC.	5761385	403297
	INTERIOR WOOD SPECIALTIES, IN	4760	333
	BONSET AMERICA CORPORATION	0	0
	VISIONAIR, INC.	0	0
	CURTIS SCREW CO., INC.	0	0
	HALDEX HYDRAULICS CORPORATION	0	0
	MOEN INCORPORATED	0	0
	BUCKEYE LUMBERTON INC.	641282	44890
	BP AMERICA CHEMICALS COMPANY	614570	43020
	WILLAMETTE INDUSTRIES, INC.	2229976	156098
	HICKORY SPRINGS MANUFACTURING	0	0
	KAYSER-ROTH CORPORATION	0	0
	INTERIOR WOOD SPECIALTIES, IN	152647	10685
	MCMURRAY FABRICS, INC.	0	0
	SPECIALTY MINERALS INC.	0	0
	SPECIALTY MINERALS INC.	0	0
	WILSON-COOK MEDICAL INC.	0	0
	WESTERN FORGE CORPORATION	2165608	151593
	PARTON LUMBER COMPANY, INC.	795630	55694
	HALDEX HYDRAULICS CORPORATION	0	0
	J. P. TAYLOR COMPANY, INCORPO	0	0
	THE TIMKEN COMPANY	2122643	148585
	GKN AUTOMOTIVE, INC.	4853988	339779

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CYCLE GROUP INC.	0	0
	GKN AUTOMOTIVE, INC.	0	0
	TECHNIMARK, INC.	6211994	434840
	HARRIET & HENDERSON YARNS, IN	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0
	TRIANGLE BRICK COMPANY	0	0
	ETHAN ALLEN MANUFACTURING COR	0	0
	FFNC, INC.	0	0
	THIEMAN METAL TECHNOLOGIES, L	0	0
	PLASTIC PACKAGING, INC.	10048	703
	J. P. TAYLOR COMPANY, INCORPO	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0
	HOMANIT USA, INC.	80375466	5626283
	COX NORTH CAROLINA	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	1065913	74614
	WIREWAY/HUSKY CORP.	473009	33111
	GOULSTON TECHNOLOGIES, INC.	693523	48547
	CVEO CORPORATION	0	0
	VULCAN CONSTRUCTION MATERIALS	199728	13981
	HORNE CHARLES D	0	0
	LITTLE ROBERT D	0	0
	MARSH JAMES P	0	0
	MARSH MILLICENT M	0	0
	Total for Tier: 2	229062412	15971422
3			
	BUEHLER MOTOR, INC.	1558456	109092
	BUEHLER MOTOR, INC.	0	0
	PPG INDUSTRIES FIBER GLASS PR	4774145	334190
	LOUISIANA-PACIFIC CORPORATION	1620504	113435
	ARTEVA SPECIALTIES S.A.R.L.	5999198	419944
	SAINT-GOBAIN CONTAINERS, INC.	1379400	96558
	UNICON CONCRETE, LLC	0	0
	ARTEVA SPECIALTIES S.A.R.L.	5999198	419944
	FAYETTEVILLE PUBLISHING COMPA	0	0
	GKN AUTOMOTIVE, INC.	3417416	239219
	GENTRY MILLS, INC.	715876	50111
	BURLAN CORPORATION	747329	52313
	MILLER BREWING COMPANY	9439638	660775
	BUEHLER MOTOR, INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	0	0
	SPECTRUM TEXTURED YARNS, INC.	0	0
	AVDEL CHERRY TEXTRON INC.	26841	1879
	COOPER BUSSMANN, INC.	3066442	214651
	NEW FILCAS OF AMERICA, INC.	20964	1467

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	BRANCH BANKING AND TRUST COMP	440264	30818
	DRAKE ENTERPRISES, LTD.	0	0
	NEW FILCAS OF AMERICA, INC.	20964	1467
	ANVIL KNITWEAR INC.	0	0
	EATON CORPORATION	0	0
	EATON AEROQUIP INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	BUEHLER MOTOR, INC.	1558456	109092
	CONCRETE SUPPLY CO.	0	0
	EATON CORPORATION	0	0
	CONCRETE SUPPLY CO.	0	0
	EATON CORPORATION	0	0
	CONITEX- SONOCO U.S.A., INC.	0	0
	EATON CORPORATION	0	0
	TOBACCO PROCESSORS, INC.	0	0
	NEW FILCAS OF AMERICA, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2971456	208002
	K VA T FOOD STORES INC	0	0
	GENTRY MILLS, INC.	0	0
	HOMES BY OAKWOOD, INC.	0	0
	CARNES-MILLER GEAR COMPANY, I	0	0
	LE BLEU CORPORATION	1255795	87906
	THE TIMKEN COMPANY	2384866	166941
	RELEASE INTERNATIONAL, INC.	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0
	BOEHME-FILATEX, INC.	1110987	77769
	TOBACCO PROCESSORS, INC.	1447491	101324
	DELLINGER ENTERPRISES, LTD.	224960	15747
	COPELAND CORPORATION	3153271	220729
	GEORGIA-PACIFIC RESINS, INC.	734886	51442
	SOUTH TECH PLASTICS, INC.	0	0
	VICTAULIC COMPANY OF AMERICA	707113	49498
	KIDDE TECHNOLOGIES INC.	308564	21599
	AMILON, LLC	0	0
	RELEASE INTERNATIONAL, INC.	0	0
	AVDEL CHERRY TEXTRON INC.	0	0
	SOUTHERN CONCRETE MATERIALS,	87478	6123
	MOUNT OLIVE PICKLE COMPANY, I	0	0
	MASTERBRAND CABINETS, INC.	1496011	104721
	AMERICAN & EFIRD, INC.	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0
	DICEY MILLS, INC.	456332	31943
	TUSCARORA YARNS, INC.	570870	39961
	RELIANCE ELECTRIC INDUSTRIAL	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ADVANCED DRAINAGE SYSTEMS, IN	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	MOUNT OLIVE PICKLE COMPANY, I	1302545	91178
	JELD-WEN, INC.	1119210	78345
	R. A. SERAFINI, INC.	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	U. S. TEXTILE CORP.	277439	19421
	COLUMBIA PLYWOOD CORPORATION	0	0
	AMERICAN FIBER & FINISHING, I	0	0
	PASS & SEYMOUR, INC.	2765232	193566
	LENOX, INCORPORATED	1000265	70054
	ALADDIN MANUFACTURING CORP	1416459	99152
	PEPSI BOTT	213541	14948
	PEPSI BOTT	544757	38133
	CAVALIER SPECIATLY YARN COMPA	1462728	102391
	CAVALIER SPECIATLY YARN COMPA	1462728	102391
	TEXTURING SERVICES INC	491318	34392
	CAROLINA PAPER CONVERTERS	104021	7281
	FREIGHTLIN	10284350	719905
	KENNEDY DIECASTING, INC.	0	0
	PARKDALE A	0	0
	REXAM RELEASE	0	0
	UNIFI MANUFACTURING, INC.	16791101	1175377
	SONOCO PRODUCTS CO	313641	21955
	TOBACCO PROCESSORS, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	TENET HEALTH CARE SYSTEMS OF	308659	21606
	RELIANCE ELECTRIC INDUSTRIAL	4438242	310676
	SOUTHERN CONCRETE	79862	5590
	FREIGHTLIN	13499168	944942
	COTT BEVERAGE S USA INC	12326733	862871
	CAROLINA COMMERCIAL HEAT TREA	594594	41622
	YORKSHIRE AMERICAS INC	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	Fiber Composites	1791601	125412
	ARMADA, INC.	370428	25930
	GILES CHEMICAL CORP	486269	34039
	LOWE'S COMPANIES, INC.	51945246	3636167
	MOTOR PRODUCTS INC	1039138	72740
	FIBER COMPOSITES LLC	1791601	125412
	AMERICAN & EFIRD, INC.	5570987	389969
	MAGNUM MANUF	840394	58828
	GULF STATES PAPER CORPORATION	0	0
	VEEDER ROOT OF NC INC	162682	11388

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	THE CONCORD	0	0
	GULF STATES PAPER CORPORATION	12706931	889485
	DESIGN WOR	6252415	437669
	DSM DESOTE	20546495	1438255
	CAVALIER SPECIATLY YARN COMPA	2115368	134076
	RADICISPANDEX CORP	4067603	284732
	STEPHENSON MILLWORK COMPANY	0	0
	MORRISETTE PAPER COMPANY, INC	148123	10369
	WALLACE COMPUTER SERVICES, IN	1206865	84481
	COPELAND CORPORATION	3352325	234663
	PLATINUM PROTECTIVE PRODUCTS,	0	0
	MOEN INCORPORATED	0	0
	STEPHENSON MILLWORK COMPANY	0	0
	FRONTIER, INC.	0	0
	INDUSTRIAL FABRICATORS, INC.	2507017	175491
	AFA PRODUCTS, INC.	292250	20458
	FIBER INDUSTRIES, INC.	0	0
	DANA CORPORATION	486911	34084
	WOODLAND MILLS CORPORATION	19469174	1362842
	UCHIYAMA AMERICA, INCORPORATE	0	0
	ULTIMATE TEXTILE, INC.	107937	7556
	WEST PHARMACEUTICAL SERVICES,	1737544	121628
	MERCK & CO., INC.	12825942	897816
	NEXANS INC.	0	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0
	BROYHILL FURNITURE INDUSTRIES	1462908	102404
	BLUE RIDGE PAPER PRODUCTS	3562012	249341
	WEYERHAEUSER COMPANY	0	0
	MEDIBEG USA, INC.	0	0
	THE MOORE COMPANY	0	0
	TECHNIMARK, INC.	0	0
	LOWE'S COMPANIES, INC.	69882064	4891744
	PARKDALE MILLS, INCORPORATED	4203239	294227
	PARKDALE MILLS, INCORPORATED	0	0
	DOPACO, INC.	2222322	155563
	EASCO HAND TOOLS, INC.	719756	50383
	PINE HALL BRICK CO., INC.	265195	18564
	WEYERHAEUSER COMPANY	0	0
	THE TORRINGTON COMPANY	0	0
	EATON AEROQUIP INC.	1389985	97299
	COLLINS & AIKMAN PRODUCTS CO.	0	0
	LOWE'S COMPANIES, INC.	55399667	3877977
	BERNHARDT FURNITURE COMPANY	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	BERNHARDT FURNITURE COMPANY		0	0
	JACKSON PAPER MANUFACTURING C		213845	14969
	UNIMIN CORPORATION		0	0
	R. L. STOWE MILLS, INC.		0	0
	THE GOODYEAR TIRE & RUBBER CO		0	0
	PREFORMED LINE PRODUCTS COMPA		0	0
	KCS INTERNATIONAL INC.		5200866	364061
	ARMADA, INC.		0	0
	DELLA SANTA ERALDO		20964	1467
	DELLA SANTA MASSIMO		20964	1467
	DELLA SANTA MASSIMO		0	0
	GUARRIELLO ANTHONY R		107937	7556
	HOOVER STEPHEN J		0	0
	TILLMAN LINTON A		0	0
	Total for Tier:	3	424984734	29734968
4				
	AMERICAN & EFIRD, INC.		0	0
	AMERICAN & EFIRD, INC.		0	0
	AMERICAN & EFIRD, INC.		352575	24680
	AMERICAN & EFIRD, INC.		0	0
	HITACHI METALS NORTH CAROLINA		422156	29551
	TRION, INC.		0	0
	HOMES BY OAKWOOD, INC.		0	0
	JULIUS BLUM INC.		1541874	107931
	GUILFORD MILLS, INC.		0	0
	GULF STATES PAPER CORPORATION		12706931	889485
	BERNHARDT FURNITURE COMPANY		0	0
	WESTPOINT STEVENS INC.		430105	30107
	THE LUNDY PACKING COMPANY		0	0
	REXNORD CORPORATION		38683	2708
	ARTEVA SPECIALTIES S.A.R.L.		55614191	3892993
	GULF STATES PAPER CORPORATION		164102	11487
	GULF STATES PAPER CORPORATION		164102	11487
	SARA LEE SOCK COMPANY		5462460	382372
	CROMPTON MANUFACTURING COMPAN		0	0
	INTERSTATE BRANDS CORPORATION		0	0
	LA-Z-BOY INCORPORATED		0	0
	MOLDED FIBER GLASS COMPANY/NO		0	0
	GUILFORD MILLS, INC.		0	0
	UNIFI MANUFACTURING, INC.		0	0
	UNIFI MANUFACTURING, INC.		3972579	278081
	THE LUNDY PACKING COMPANY		500000	0
	CLAYTON-MARCUS COMPANY, INC.		0	0
	MEREDITH WEBB PRINTING CO.INC		250459	17532

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ABBOTT LABORATORIES, INC.	0	0
	COPLAND FABRICS, INC.	0	0
	GATE CONCRETE PRODUCTS CO.	855415	59879
	INTERSTATE BRANDS CORPORATION	0	0
	VICTAULIC HOLDING COMPANY, LL	3623540	253648
	LENOX, INCORPORATED	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	JULIUS BLUM INC.	8242717	576990
	THE LUNDY PACKING COMPANY	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0
	FLYNT FABRICS, INC.	0	0
	FLYNT FABRICS, INC.	0	0
	UNIVERSAL LEAF NORTH AMERICA	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0
	COX NORTH CAROLINA	310291	21720
	HOMES BY OAKWOOD, INC.	352434	24670
	LVD CORP.	0	0
	COPLAND FABRICS, INC.	3596348	251744
	R. L. STOWE MILLS, INC.	0	0
	ROCKY MOUNT RECYCLERS, INC.	0	0
	SARA LEE SOCK COMPANY	11282203	789754
	INTERSTATE BRANDS CORPORATION	0	0
	INTERSTATE BRANDS CORPORATION	1334246	93397
	DYNAYARN USA, LLC	0	0
	VICTAULIC COMPANY OF AMERICA	895987	62719
	SARA LEE CORPORATION	4165638	291595
	SARA LEE CORPORATION	597361	41815
	UNIVERSAL LEAF NORTH AMERICA	0	0
	PLASTIC PACKAGING, INC.	2454479	171814
	CAROLINA SUNROCK CORPORATION	135117	9458
	LVD CORP.	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0
	BERNHARDT FURNITURE COMPANY	0	0
	NEPTCO, INCORPORATED	0	0
	CANDLE CORPORATION OF AMERICA	0	0
	STEEL TECHNOLOGIES, LLC	245395	17178
	NYPRO CAROLINA INC.	2463454	172442
	BUCKEYE LUMBERTON INC.	4380549	306638
	ILCO UNICAN CORP.	0	0
	HICKORY SPRINGS MANUFACTURING	0	0
	THE MITCHELL GOLD CO.	225238	15767
	DUBOSE STEEL, INC. OF NORTH C	0	0
	NEWTON INSTRUMENT CO INC	561439	39301

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	NACCO MATERIALS HANDLING GROU	0	0
	VICTAULIC HOLDING COMPANY, LL	0	0
	CHATHAM, INC.	2105005	147350
	CHATHAM, INC.	2847348	199314
	HOG SLAT INC.	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	0	0
	BAKER, KNAPP & TUBBS, INC.	0	0
	EATON AEROQUIP INC.	0	0
	LEVITON MANUFACTURING CO., IN	343014	24011
	THE HON COMPANY	216860	15180
	NACCO MATERIALS HANDLING GROU	823287	57630
	DANA CORPORATION	1921511	134506
	BUDGET PANELS INC.	0	0
	NOVOZYMES NORTH AMERICA, INC.	2191763	153423
	OWENS-BROCKWAY PLASTIC PRODUC	3193449	223541
	REFRIGERATED BOXES, INC	0	0
	BSH HOME APPLIANCES CORPORATI	2740233	191816
	ADAMS WHOLESALE COMPANY	0	0
	MCLANE/CAROLINA,INC.	28100	1967
	BORDEN CHEMICAL, INC.	0	0
	SAFT AMERICA INC	0	0
	KABA ILCO CORP.	0	0
	RACK ROOM SHOES, INC.	0	0
	FUJI SILYSIA CHEMICAL USA, LT	7862777	550394
	VALDESE WEAVERS, INC.	0	0
	BROYHILL FURNITURE INDUSTRIES	1633923	114375
	MONSANTO COMPANY	0	0
	WEYERHAEUSER COMPANY	0	0
	WEYERHAEUSER COMPANY	0	0
	R. L. STOWE MILLS, INC.	0	0
	COLLINS & AIKMAN PRODUCTS CO.	0	0
	NEUVILLE INDUSTRIES, INC.	0	0
	THE HON COMPANY	0	0
	CAROLINA PRECAST CONCRETE, IN	0	0
	SEALED AIR CORPORATION (US)	3170553	221939
	FREIGHTLIN	9968878	697821
	SANTA FE NATURAL TOBACCO CO	895319	62672
	PAXAR CORPORATION	0	0
	NORANDAL USA, INC.	0	0
	AYLWARD ENTERPRISES	82077	5745
	NATIONAL TEXTILES LLC	4294472	300613
	NATIONAL TEXTILES LLC	631300	44191
	WINTERVILLE MACHINE WORKS, IN	0	0
	BSH HOME APPLIANCES CORP	3097614	216833

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CROMPTON MANUFACTURING COMPAN	0	0
	LACE LASTICE CO INC	2269221	158845
	ALADDIN MANUFACTURING CORP	196000	13720
	PH GLATFELTER CO	0	0
	KINGS FARMING ENTERPRISES	84141	5890
	MORGANITE	2210159	154711
	CAROLINA T	0	0
	SUIZA DAIRY	0	0
	THE GILLETTE COMPANY	0	0
	METRICS, INC.	199502	13965
	WAKE STONE CORPORATION	0	0
	JOHNSON CONCRETE COMPANY	543602	38052
	NORTH STATE TELEPHONE COMPANY	0	0
	ARCHER-DANIELS-MIDLAND COMPAN	0	0
	AMITAL SPINNING CORP.	28921	2024
	CATERPILLAR INC.	2236907	156583
	ATHOL MANUFACTURING CORP	2890687	202348
	GREGORY POOLE EQUIPMENT COMPA	0	0
	DML INDUSTRIAL PRODUCTS, INC.	0	0
	CERTAINTEED CORPORATION	542507	37975
	CERTAINTEED CORPORATION	2247516	157326
	AMERICAN ROLLER BEARING COMPA	0	0
	THOMAS MFG. COMPANY, INC. OF	0	0
	AMERICAN ROLLER BEARING AND M	0	0
	EATON AEROQUIP INC.	0	0
	NEPTCO, INCORPORATED	1658275	116079
	NUWAY SPEAKER PRODUCTS, INC.	0	0
	CHATSWORTH PRODUCTS, INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	66190	4633
	LOUISIANA-PACIFIC CORPORATION	2130597	149142
	UNICON CONCRETE, LLC	0	0
	ABBOTT LABORATORIES, INC.	0	0
	CONCRETE SUPPLY CO.	127800	8946
	PACKAGING CORPORATION OF AMER	942724	65991
	ALDREDGE JR EMMETT C	0	0
	BARWICK CARROLL B	0	0
	COXE THOMAS C	0	0
	DARCH LEE A	0	0
	ERWIN CHARLES B	0	0
	EWERT BRIAN C	0	0
	GODWIN JAMES P	292903	20503
	LEWIS HARVEY R	0	0
	MCDOUGALD ALBERT G	0	0
	MCDOUGALD AMANDA M	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	MCDOUGALD IAN E	0	0
	TILGHMAN WILLIAM A	199502	13965
	Total for Tier: 4	194256705	13562962
5			
	CHESAPEAKE DISPLAY AND PACKAG	0	0
	MCLANE FOODSERVICE, INC.	0	0
	TEKELEC	9298095	650867
	QUINTILES, INC.	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	J. T. DAVENPORT & SONS, INC.	195454	13682
	GRASS AMERICA, INC.	0	0
	INTERSTATE BRANDS CORPORATION	1287376	90116
	JOHN DEERE TURF CARE, INC.	0	0
	FRISBY AEROSPACE, INC.	1157309	81012
	RAMTEX INC.	0	0
	UNIFI MANUFACTURING, INC.	0	0
	UNIFI MANUFACTURING, INC.	0	0
	TIPPER TIE, INC.	0	0
	THE CHALLENGE PRINTING CO. OF	69770	4884
	CHEMICAL SPECIALTIES, INC.	537003	37590
	RAMTEX INC.	0	0
	NEXTEL SOUTH CORP.	0	0
	KENNAMETAL INC.	1050393	73528
	BIOGEN INC	0	0
	TIEPET, INC.	0	0
	SAS INSTITUTE INC.	1754255	122798
	CTC LONG DISTANCE SERVICES, I	0	0
	DEERE & COMPANY	0	0
	GREEN PRINTING AND PACKAGING	175079	12256
	OKUMA AMERICA CORPORATION	0	0
	VF JEANSWEAR SALES, INC.	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	KURZ TRANSFER PRODUCTS, L.P.	125787	8805
	KURZ TRANSFER PRODUCTS, L.P.	320068	22405
	THOR.LO, INC.	0	0
	THOR.LO, INC.	219084	15336
	THE LANE COMPANY, INCORPORATE	0	0
	BARNHARDT MANUFACTURING COMPA	6806235	476436
	CONCRETE SUPPLY CO.	86493	6055
	BANKNOTE CORPORATION OF AMERI	0	0
	JELD-WEN, INC.	0	0
	ILCO UNICAN CORP.	196344	13744
	CAROLINA STEEL CORPORATION	134697	9429
	NORTH STATE TELEPHONE COMPANY	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	RAMTEX INC.	0	0
	KAYDON CORP	0	0
	CONCRETE SUPPLY CO.	609678	42677
	AJINOMOTO USA INC	3039096	212737
	STRATEGIC RESOURCE SOLUTIONS	0	0
	TRUSTEE FOR CAROLINA CONTAINE	422534	29577
	WINSTON PRINTING COMPANY	2354770	164834
	CELGARD, INC	2671777	187024
	CONCRETE SUPPLY CO.	58232	4076
	SARA LEE CORPORATION	1077603	75432
	CONCRETE SUPPLY CO.	26107	1828
	MU RO, INC.	0	0
	JOHNSON CONTROLS BATTERY GROU	0	0
	ALCATEL USA GP, INC.	0	0
	NORTH STATE TELEPHONE COMPANY	0	0
	ADM MILLING CO.	605950	42417
	GRASS AMERICA, INC.	3977081	278396
	SYDNEY BAG & PAPER COMPANY	0	0
	LANCE, INC.	0	0
	LUTRABOND COMPANY	3432270	240259
	EATON AEROQUIP INC.	0	0
	EISAI INC.	3941756	275923
	HASCO MOLD BASES - ASHEVILLE,	684520	47916
	BELK ADMINISTRATION COMPANY	0	0
	AMERESCOSOLUTIONS, INC.	0	0
	ATI ACQUISITION CORPORATION	138483	969381
	GUARANTEED SUPPLY COMPANY	0	0
	GUILFORD MILLS, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	CONCRETE SUPPLY CO.	0	0
	PYA/MONARCH, INC.	0	0
	FIRST CHARTER NATIONAL BANK	3241498	226905
	NOMACORC LLC	1104733	77331
	ELECTRONIC DATA MAGNETICS	705305	49371
	PEPSI BOTT	372644	26085
	PEPSI BOTT	2390676	167347
	PEPSI BOTT	425157	29761
	PEPSI BOTT	766196	53634
	PEPSI BOTT	139207	9732
	UNICON CONCRETE, LLC	605745	42402
	PEPSI BOTT	1444818	101137
	MAYFLOWER GLASS	0	0
	GUILFORD MILLS, INC.	0	0
	ARTEVA SPECIALTIES S.A.R.L.	1864736	130532

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	ARVINMERITOR, INC.	0	0
	SQUARE D CO	0	0
	ADVANCED TUBING TECHNOLOGY IN	296915	20784
	PEOPLECLICK.COM, INC.	325527	22787
	SUIZA DAIRY	750979	52569
	GOODMARK FOODS, INC.	2150600	150542
	GAIA HERBS, INC.	0	0
	MILKCO, INC.	2365226	165566
	BAYER CORP	0	0
	UNITED STATIONERS SUPPLY CO	3368465	235793
	SOUTHERN CONCRETE	176852	12380
	SOUTHERN CONCRETE	60235	4216
	SOUTHERN CONCRETE	422718	29590
	RELIANCE ELECTRIC INDUSTRIAL	0	0
	CAROLINA T	0	0
	FIRST UNION NATIONAL BANK	0	0
	CELLO PARTNERSHIP	14423119	1009618
	FIRST UNION NATIONAL BANK	0	0
	ORNAMENTAL MOULDINGS INC	0	0
	INTERSTATE BRANDS CORPORATION	0	0
	FREUDENBER	3432270	240259
	VITAFOAM INC	0	0
	JOHN DEERE TURF CARE, INC.	10952655	766686
	FOAMEX LP	943400	66038
	SONOCO PRODUCTS CO	0	0
	OFFICE DEPOT INC	74236252	5196538
	SEEGARS FENCE CO OF WAKE COUN	6870615	480943
	P P G INDUSTRIES, INC.	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0
	OAKWOOD ACCEPTANCE CORP	0	0
	AB AUTOMOTIVE, INC.	219084	15336
	TIEPET, INC.	0	0
	CCS HOLDINGS, INC.	0	0
	CATERPILLAR INC.	4002244	280157
	WESTLAKE INDUSTRIES, INC.	0	0
	MICHIGAN PACKAGING COMPANY	74925	5245
	APBI INC.	1410185	98713
	GREGORY POOLE EQUIPMENT COMPA	44748	3132
	SAS INSTITUTE INC.	1540767	107854
	R.H. DONNELLEY INC.	164716	11530
	CREE, INC.	28865966	2020617
	WESTLAKE PRESS, INC.	0	0
	PERGO, INC.	737095	51597
	WILLAMETTE INDUSTRIES, INC.	1426856	99880

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CUTLER-HAMMER INC.	0	0
	UNIVERSAL LEAF NORTH AMERICA	0	0
	CUTLER-HAMMER INC.	4320144	302410
	WIREWAY/HUSKY CORP.	1579700	110579
	SUMITOMO ELECTRIC LIGHTWAVE C	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	21291021	1490371
	GOODMARK FOODS, INC.	1092049	76443
	LOWE'S HOME CENTERS, INC.	0	0
	SOLECTRON TECHNOLOGY, INC.	37871075	2650975
	DUPLICATE TRANS ID#	0	0
	VF SERVICES, INC.	0	0
	FAMILY DOLLAR, INC.	4157893	291053
	THE CONCORD	14357695	1005039
	EDWARD VOGT VALVE CO	1086167	76032
	VF PLAYWEAR INC	46245	3237
	THE QUANTU GROUP INC	452118	31648
	CELLCO PARTNERSHIP	6163121	431418
	OPTICAL EXPERTS MANUFACTURING	8318799	582316
	G & G LUMBER	0	0
	PERGO, INC.	0	0
	SAPONA MANUFACTURING COMPANY,	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0
	THE CONCORD TELEPHONE COMPANY	0	0
	SMITHKLINE BEECHAM CORPORATIO	34460512	2412236
	MICKEY TRUCK BODIES INC.	159483	11164
	DIOSYNTH RTP INC.	0	0
	DIOSYNTH RTP INC.	0	0
	AT&T CORP.	0	0
	OLIVER RUBBER COMPANY	0	0
	BECTON, DICKINSON AND COMPANY	4325735	302801
	LEE BRICK & TILE COMPANY	452886	31702
	BANK OF AMERICA NA	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	INTEK, INC.	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0
	MORRISETTE PAPER COMPANY, INC	17751	1243
	KRISPY KREME DOUGHNUT CORPORA	2707413	189519
	ACTION PERFORMANCE COMPANIES,	0	0
	ACTION PERFORMANCE COMPANIES,	0	0
	STATIC CONTROL COMPONENTS, IN	5043070	353015
	KRISPY KREME DOUGHNUT CORPORA	94125	6589
	L & E PACKAGING, LLC	0	0
	KRISPY KREME DOUGHNUT CORPORA	375907	26313
	UNIVERSAL LEAF NORTH AMERICA	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	PLYMOUTH PRINTING CO. INC.	0	0
	INDEPENDENT BEVERAGE CORPORAT	3365414	235579
	SOUTHERN CONCRETE	105769	7404
	WACHOVIA BANK OF NORTH CAROLI	0	0
	NOEL VENTURES, LLC	1104733	49061
	CAROLINA POWER & LIGHT COMPAN	0	0
	AVX CORPORATION	5386081	377026
	H. B. FULLER COMPANY	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0
	NYPRO CAROLINA INC.	0	0
	ADHESION TECHNOLOGIES, INC.	2836901	198583
	NGK CERAMICS USA, INC.	5986620	419063
	SEALY INC	3113559	217949
	SCHAEFER SYSTEMS INTERNATIONA	342110	23948
	NATIONAL PIPE & PLASTICS, INC	0	0
	SIERRAPINE LIMITED	0	0
	OAKWOOD HOMES CORPORATION	0	0
	KEWAUNEE SCIENTIFIC CORPORATI	1484889	103942
	SOUTHERN CONTAINER CORP.	0	0
	MICHIGAN PACKAGING COMPANY	6937109	485598
	PHILIP MORRIS INCORPORATED	28993245	2029527
	CONSOLIDATED METCO, INC.	4003035	280212
	TRIANGLE BRICK COMPANY	0	0
	TRIANGLE BRICK COMPANY	0	0
	ARROW INTERNATIONAL, INC.	269871	18891
	EDWARD VOGT VALVE COMPANY	950031	66502
	ALCATEL USA LP, INC.	0	0
	COTY INC.	5308797	53088
	ALPHAGARY CORPORATION	235373	16476
	PEPSI-COLA BOTTLING COMPANY O	0	0
	BOX-BOARD PRODUCTS, INC.	179993	12600
	BRANCH BANKING AND TRUST COMP	99162	6941
	CORNING INCORPORATED	0	0
	BE AEROSPACE, INC.	5665536	396588
	CORNING INCORPORATED	0	0
	CORNING INCORPORATED	71406998	4998490
	CORNING INCORPORATED	86761130	6073279
	LENDINGTREE, INC.	0	0
	CORNING INCORPORATED	0	0
	ALCATEL USA SOURCING, L.P.	0	0
	RF MICRO DEVICES, INC.	99536685	6967568
	CISCO SYSTEMS SALES & SERVICE	7466664	522666
	BANNER PHARMACAPS INC.	1358080	95066

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	DART CONTAINER CORP OF GEORGI	2185955	153017
	ECLIPSE PACKAGING, INC.	532517	37276
	TOGETHERSOFT CORPORATION	749858	52490
	ANVIL KNITWEAR INC.	0	0
	VULCAN CONSTRUCTION MATERIALS	63379	4437
	CORNING INCORPORATED	61912676	4333887
	THOMASVILLE FURNITURE INDUSTR	0	0
	WEYERHAEUSER COMPANY	0	0
	NOEL FAMILY TRUST	1104733	77331
	WIREWAY/HUSKY CORP.	1004114	70288
	NOEL FAMILY TRUST BO WENDY NO	1104733	77331
	WALTER KIDDE PORTABLE EQUIPME	164589	11521
	NOVO NORDISK PHARMACEUTICAL I	880298	61621
	KOBE COPPER PRODUCTS INC.	0	0
	NOEL FAMILY TRUST FBO MICHAEL	1104733	77331
	WESTPOINT STEVENS INC.	0	0
	MILKCO, INC.	2569408	179859
	MAGNETI MARELLI POWERTRAIN U.	851176	59582
	THOMASVILLE FURNITURE INDUSTR	0	0
	J. T. DAVENPORT & SONS, INC.	120032	8402
	SPICER MANUFACTURING, INC.	0	0
	RAILLINC CORPORATION	0	0
	LANE FURNITURE INDUSTRIES, IN	0	0
	R. J. REYNOLDS TOBACCO COMPAN	0	0
	KABA ILCO CORP.	0	0
	ACCUMA CORPORATION	0	0
	SOUTHERN FILM EXTRUDERS, INC.	0	0
	THOMASVILLE FURNITURE INDUSTR	609439	42661
	SOLECTRON TECHNOLOGY, INC.	47504967	3325348
	DAY INTERNATIONAL, INC.	443922	31075
	LUTRADUR CORPORATION	3432270	240259
	CREE, INC.	41604758	2912333
	MICROFIBRES, INC.	1074081	75186
	SANDVIK, INC.	3652993	255710
	UNICON CONCRETE, LLC	0	0
	ELI LILLY AND COMPANY	4493823	314568
	S & D COFFEE INC	3379351	236555
	FAMILY DOLLAR, INC.	3733773	261364
	WAKE STONE CORPORATION	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0
	THE PANTRY, INC.	2439649	170775
	THOMAS CONCRETE OF CAROLINA,	0	0
	QUINTILES TRANSNATIONAL CORP.	0	0
	STEELCASE INC.	95090	6656

Name	Cost of M and E	Eligible Credit Amount Generated
HSMF, INC.	0	0
AMERICAN METAL TREATING, INC.	0	0
CARRIER CORPORATION	1850568	129540
LOUISIANA-PACIFIC CORPORATION	0	0
CULP, INC.	2141637	149915
CARY PRINTING COMPANY, INC.	0	0
BLUE RIDGE METALS CORPORATION	0	0
CHAMBERS FABRICS, INC.	1371022	95972
SOUTHERN CONCRETE MATERIALS,	150950	10567
CONTINENTAL TEVES, INC.	6512010	455841
SOUTHERN CONCRETE MATERIALS,	1473	103
CTC EXCHANGE SERVICES, INC.	0	0
PPG INDUSTRIES FIBER GLASS PR	8738707	611709
AMERICAN OFFSET PRINTING INK,	0	0
FIRST UNION NATIONAL BANK	0	0
CLARKE AMERICAN CHECKS, INC.	0	0
RMC CAROLINA MATERIALS, INC.	1134537	79418
BILL DAVIS RACING, INCORPORAT	774933	54245
PLIANT SYSTEMS, INC.	0	0
DEERE-HITACHI CONSTRUCTION MA	1730989	121169
ALCATEL NA CABLE SYSTEMS, INC	46985348	3288974
REXAM BEVERAGE CAN COMPANY	0	0
EVEREADY BATTERY COMPANY, INC	24429630	1710074
EVEREADY BATTERY COMPANY, INC	1950050	136504
CLOSURE MEDICAL CORPORATION	827637	57935
CISCO SYSTEMS SALES & SERVICE	47161905	3301333
SUIZA FLUID DAIRY GROUP HOLDI	496397	34748
EVEREADY BATTERY COMPANY, INC	0	0
COMMSCOPE, INC. OF NORTH CARO	17233542	1206348
PINNACLE FILMS, INC.	0	0
COMMSCOPE, INC. OF NORTH CARO	43244	3027
KLAUSSNER FURNITURE INDUSTRIE	0	0
US AIRWAYS, INC.	0	0
VF PLAYWEAR, INC.	0	0
CENTURY FURNITURE INDUSTRIES,	0	0
MYLAN PHARMACEUTICALS INC.	136390	9547
MYLAN PHARMACEUTICALS INC.	150383	10527
LANCE MFG. LLC	15056161	1053931
DELTA CONSOLIDATED INDUSTRIES	64308	4501
MEDIA EVOLVED, LLC	2029706	142079
DANA CORPORATION	0	0
WAKE STONE CORPORATION	0	0
RENE COMPOSITE MATERIALS CORP	1134846	79439
COMPASS GROUP USA, INC.	0	0

Tier	Name	Cost of M and E	Eligible Credit Amount Generated
	CONTINENTAL TIRE NORTH AMERIC	13573641	950155
	LEMANS CORPORATION	2566398	2566398
	CTC INTERNET SERVICES, INC.	0	0
	VF CORP	0	0
	WACHOVIA CORPORATION	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0
	WACHOVIA CORPORATION	0	0
	ALDREDGE JR EMMETT C	0	0
	AUSTIN LAWRENCE A	532517	37276
	BRUNER JEFFREY W	452118	31648
	CARPENTER JONATHAN S	0	0
	CRARY EDWARD M	0	0
	DAVIS MARTIN A	0	0
	FLYNN GARY B	0	0
	HOLMAN DOUGLAS E	0	0
	HORTON PAUL W	0	0
	HOYLE KENNETH L	532517	37276
	KURZ PETER	62264	4358
	KURZ PETER	158433	11090
	KURZ WALTER	62264	4358
	KURZ WALTER	158433	11090
	LAUER EDWARD	1104733	77331
	LEWIS WILLIAM F	0	0
	MAIER JAMES W	0	0
	MARSH GEORGE M	0	0
	MARSH GILBERT R	0	0
	NOEL MARC J	1104733	77331
	PEARCE	0	0
	RAYLE GLENN D	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER PAUL G	0	0
	RIEDLINGER ROBERT A	0	0
	RIEDLINGER ROBERT A	0	0
	SALL JOHN P	0	0
	SMYTH DOUGLAS E	0	0
	SPELL HARRY C	532517	37276
	SPELL THEADIE C	532517	37276
	THORE GLENN W	0	0
	WARD ALLEN K	0	0
	WARD MURIEL C	0	0
	WHITENER ROBERT L	532517	37276
	WHITENER ROBERT L	532517	37276
	WILLIAMS JOHNNY J	0	0
	WRAY PHILLIP C	0	0

Tier	Name		Cost of M and E	Eligible Credit Amount Generated
	Total for Tier:	5	1101403931	80097901
	Grand TOTAL:		2199645006	157631689

William S. Lee Tax Credits

New Jobs in Development Zones

North Carolina Department of Revenue

William S. Lee Tax Credits
New Jobs in Development Zones
Processed in Calendar Year 2002

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
0					
	GRAPHIC PRINTING SERVICES, IN	0	0	0	0
	PARKER SALES & SERVICE, INC.	0	0	0	0
	HUFFMAN TECHNOLOGY, INC.	0	0	0	0
	MEASURMENT INCORPORATED PAYRO	0	0	0	0
	LEVITON MANUFACTURING CO., IN	0	0	0	0
	EMGRAN HOLDING CO., INC,	0	0	0	0
	BATTEN & COMPANY	0	0	0	0
	GGS, INC.	0	0	0	0
	S & W READY MIX CONCRETE COMP	56	0	144500	0
	GEO. G. SCOTT & CO.	0	0	0	0
	PATY LUMBER COMPANY	0	0	0	0
	INT COTTON FABRIC HOLDINGS, A	0	0	0	0
	STEPHENS-L&E LLC	0	0	0	0
	MJ SOFFE CO INC	0	0	0	0
	JAMES L. TAYLOR MFG. CO.	0	0	0	0
	THE GOODYEAR TIRE & RUBBER CO	0	0	0	0
	JIMMY WARD HARDWOODS, INC.	0	0	0	0
	KING BROTHERS ELECTRIC COMPAN	0	0	0	0
	BUILDING BLOCKS CHILD CARE DE	0	0	0	0
	ANCHOR INDUSTRIAL SALES, INC.	0	0	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0	0	0
	TILSON MACHINE, INC.	0	0	0	0
	BROYHILL TRANSPORT, INC.	0	0	0	0
	CHOICE U.S.A. BEVERAGE, INC.	0	0	0	0
	ULTRA-MEK, INC.	0	0	0	0
	AMERITECH DIE & MOLD, INC.	0	0	0	0
	PEPCOM INDUSTRIES, INC.	0	0	0	0
	ROGER B. BERNHOLZ, P.A.	0	0	0	0
	THE TRANSCRIPTION CENTER, INC	0	0	0	0
	MORRIS HEATING & AIR CONDITIO	0	0	0	0
	ALDERON BIOSCIENCES, INC.	0	0	0	0
	KEYSTONE POWDERED METAL COMPA	0	0	0	0
	BARR-MULLIN, INC.	0	0	0	0
	SOUTHERN CONTAINER CORP.	0	0	0	0
	A & B FLORIST SUPPLY COMPANY	0	0	0	0
	HAMPTON INDUSTRIES, INC.	0	0	0	0
	PURCHASE FINANCE, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	D & G UNIFORMS, INC.	0	0	0	0
	LIPS, INC.	0	0	0	[redacted]
	AKG OF AMERICA, INC.	0	0	0	0
	CHAMPION HOME BUILDERS CO.	0	0	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0
	J. CHRISTOPHER KIBLER, D.D.S.	0	0	0	0
	CASCADE HYDRAULIC CYLINDERS,	0	0	0	0
	TRINITY MANUFACTURING, INC.	0	0	0	0
	CONFLANDEY INC.	0	0	0	0
	PROBITY PRODUCTS	0	0	0	0
	HONEYWELL INTERNATIONAL INC.	0	0	0	0
	REMINGTON ARMS COMPANY, INC.	0	0	0	0
	HICKORY SCRAP IRON & METAL CO	0	0	0	0
	LAKESIDE BEACH, INC.	0	0	0	0
	THE CATO CORPORATION	0	0	0	0
	W. L. MITCHELL & SONS, INC.	0	0	0	0
	ROBERT S HUDGINS CO INC	0	0	0	0
	SEVERN PEANUT COMPANY, INC.	0	0	0	0
	HUFFMAN OIL COMPANY, INCORPOR	0	0	0	0
	LYLE E. FARVER & SON, INC.	0	0	0	0
	CATOSOUTH, LLC.	0	0	0	[redacted]
	UNITED STEEL PRODUCTS CO	0	0	0	0
	SOUTHERN CONCRETE	0	0	0	0
	ALCOA EXTRUSIONS, INC.	0	0	0	0
	DRAKA ELEVATOR PRODUCTS, INC.	0	0	0	0
	WILSON-COOK MEDICAL INC.	0	0	0	0
	R. L. STOWE MILLS, INC.	0	0	0	0
	TRILUX TECHNOLOGIES, INC.	0	0	0	0
	THE ROWBOAT COMPANY, INC.	0	0	0	0
	ZAGAROLI AND COMPANY	0	0	0	0
	LEX MAR, INC.	0	0	0	0
	JOE BROWN, INC.	0	0	0	0
	ROANE OBSTETRICS & GYNECOLOGY	0	0	0	0
	TECHNIMARK, INC.	0	0	0	0
	VALSPAR INDUSTIRES (USA), INC	0	0	0	0
	MID ATLANTIC PRINTERS LTD	0	0	0	0
	LARRY W. POOLE & ASSOCIATES,	0	0	0	0
	THE MCAULAY COMPANY, INC.	0	0	0	0
	PIONEER ECLIPSE CORPORATION	0	0	0	0
	DOMNICK HUNTER INC	0	0	0	[redacted]
	NEIL ALLEN INDUSTRIES, INC.	0	0	0	[redacted]
	GGS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	GREEN & MCCLURE FURNITURE COM	0	0	0	0
	MOSS-FISHER, INC.	0	0	0	0
	COCA-COLA BOTTLING CO. AFFILI	0	0	0	0
	VUNCANNON PLUMBING & MECHANIC	0	0	0	0
	MOVIEMAX, INC.	0	0	0	0
	TECHNICAL PRECISION PLASTICS,	0	0	0	0
	EVERETT BRYANT SALES, INC.	0	0	0	0
	PIEDMONT PACKAGING, INCORPORA	0	0	0	0
	DIAMOND ELECTRIC SUPPLY CO.,	0	0	0	0
	MONOLITH CORPORATION	0	0	0	0
	GENEVA CORPORATION	0	0	0	0
	BRAXTON AUTO PARTS CORPORATIO	0	0	0	0
	THOMAS BUILT BUSES, INC.	0	0	0	0
	EURO-MATIC PLASTICS, INC.	0	0	0	0
	ASHLEY ELECTRIC, INC.	0	0	0	0
	GETRAG CORPORATION	0	0	0	0
	CAROLINA STEEL CORPORATION	1	0	4500	0
	COOPER LEASING, INC.	0	0	0	0
	BREWER EQUIPMENT CO.	0	0	0	0
	NIVEK CORPORATION	0	0	0	0
	TATE LANNING & ASSOCIATES, P.	0	0	0	0
	ALBANI, BAYEUX INC.	0	0	0	0
	COOPER KENWORTH, INC.	0	0	0	0
	RALEIGH MEDICAL GROUP, P.A.	0	0	0	0
	BLUE RIDGE TIRE SERVICE, INC.	0	0	0	0
	FARMERS BURLEY WAREHOUSE, INC	0	0	0	0
	COPE EQUIPMENT COMPANY	0	0	0	0
	MT. AIRY OB-GYN CENTER, INC.	0	0	0	0
	BARNEY'S HOSIERY, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	TAR HEEL INSPECTION SERVICES,	0	0	0	0
	H & H OF RALEIGH, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	ROBERT C. HICKMAN INSURANCE A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	VICTAULIC COMPANY OF AMERICA	0	0	0	0
	CLARKE AMERICAN CHECKS, INC.	0	0	0	0
	BAUMGARTNER INC.	0	0	0	0
	DELTA GYPSUM, INC.	0	0	0	0
	TERRY'S FLOOR FASHIONS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	BOYD & HASSELL, INC.	0	0	0	0
	RALEIGH PLASTIC SURGERY CENTE	0	0	0	[redacted]
	OUTDOOR LIGHTING, INC.	0	0	0	
	TROXLER ELECTRONIC LABORATORI	0	0	0	0
	IMPLUS FOOTCARE, LLC	0	0	0	0
	H.R.W., INC.	0	0	0	0
	DILLARD'S, INC.	0	0	0	0
	BESTSWEET INC.	0	0	0	0
	MCGEE CORPORATION	0	0	0	0
	S T E R, ENTERPRISES, INC.	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	THE G.L.G. CORPORATION	0	0	0	0
	JACK CROSS HEATING & AIR COND	0	0	0	0
	LEXCOM TELEPHONE COMPANY	0	0	0	0
	ROGER DAVIS COMPANY, INC.	0	0	0	0
	TEXEL USA INC.	0	0	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0	0	0
	WILMORE ELECTRONIC COMPANY, I	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	DARRYL D. NABORS, D.D.S., P.A	0	0	0	0
	CARPENTER INDUSTRIES, INC.	0	0	0	[redacted]
	K.L. BUTLER LOGGING, INC.	0	0	0	
	CONTEMPORARY FURNITURE DESIGN	0	0	0	0
	THE TOOL & GAGE HOUSE COMPANY	0	0	0	0
	MSS CLEAN TECHNOLOGY INC.	0	0	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0	0	0
	TEXTILE CLEANER SERVICE CORPO	0	0	0	0
	CONSOLIDATED LAUNDRY EQUIPMEN	0	0	0	0
	INTELLI-MARK TECHNOLOGIES, IN	0	0	0	0
	GALEY & LORD INDUSTRIES, INC.	0	0	0	0
	ALPHIN BROTHERS, INC.	0	0	0	0
	LUSTAR DYEING AND FINISHING,	0	0	0	0
	NEWTON INSTRUMENT CO INC	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	COMPONENT CONCEPTS, INC.	0	0	0	0
	R & J SERVICE COMPANY, INC.	0	0	0	0
	CULP, INC.	0	0	0	0
	WIGGINS-NORTH STATE MONUMENT	0	0	0	0
	HICKORY CARPET & FLOOR COVERI	0	0	0	0
	WESLEY HALL FURNITURE, INC.	0	0	0	0
	SOUTHERN FABRICATORS, INC.	0	0	0	[redacted]
	G. S. TUCKER & CO. OF WILSON,	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CONSOLIDATED METCO, INC.	0	0	0	0
	CLINTON MEDICAL CLINIC INC	0	0	0	0
	CLINTON MEDICAL CLINIC INC	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	BOYD & HASSELL, INC.	0	0	0	0
	RICHARD GAYLORD HOMES, INC.	0	0	0	0
	THETFORD PROPERTY MANAGEMENT,	0	0	0	0
	BEAR CREEK HOSIERY, INC.	0	0	0	0
	MODACAD INC	0	0	0	0
	AMERITECH DIE & MOLD, INC.	0	0	0	0
	GLCO MARKETING, INC.	0	0	0	0
	PRECISION DECORATING CENTER,	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0
	PRINTPACK INC	0	0	0	0
	TURNAMICS, INC.	0	0	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0	0	0
	CHALLENGER INDUSTRIES, INC.	0	0	0	0
	MEDICAL CYBERNETICS, INC.	0	0	0	0
	ROYAL PARK UNIFORMS, INC.	2	0	6000	0
	LARRY WILLIAMS PLUMBING & HEA	0	0	0	0
	CONSOLIDATED METCO, INC.	0	0	0	0
	STANDARD COMMERCIAL TOBACCO C	0	0	0	0
	K.L. BUTLER LOGGING, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	ENGINEERED POLYMER SOLUTIONS,	0	0	0	0
	UNICON CONCRETE, LLC	0	0	0	0
	LADD FURNITURE, INC.	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	BOLTON CORP.	0	0	0	0
	SWIFT-ECKRICH, INC.	0	0	0	0
	ANASTASIA FURS, INC.	0	0	0	0
	ALEXVALE FURNITURE, INC.	0	0	0	0
	EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0
	PRINCE BROTHERS FURNITURE CO.	0	0	0	0
	WB GROUP PROPERTIES, LLC	0	0	0	0
	CONFLANDEY INC.	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	HIGHLAND FABRICATORS, INC.	0	0	0	0
	PRINTPACK INC	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ENGINEERED POLYMER SOLUTIONS,	0	0	0	0
	GOLD STAR COATINGS - ASHEVILL	0	0	0	
	LADD FURNITURE, INC.	0	0	0	
	LADD FURNITURE, INC.	0	0	0	0
	LENOIR PAD AND PAPER COMPANY	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	SPENCER YACHTS, INC.	0	0	0	0
	HIGHLAND FABRICATORS, INC.	0	0	0	0
	PRIDGEN BROS. CONTRACTORS, IN	0	0	0	0
	BAKER & TAYLOR, INC.	0	0	0	0
	FINELINE INDUSTRIES EAST, INC	0	0	0	0
	LIN PAC, INC.	0	0	0	0
	MULLIS MOTORSPORTS, INC.	0	0	0	0
	HAFELE AMERICA CO.	0	0	0	0
	ATHEY PRODUCTS CORPORATION	0	0	0	0
	BLANKET FACTORY, INC.	0	0	0	0
	GENTRY MILLS, INC.	0	0	0	0
	LARRY WILLIAMS PLUMBING & HEA	0	0	0	0
	NORTHWEST RADIOLOGICAL & ASSO	0	0	0	0
	TRIANGLE BUILDING SERVICES, I	0	0	0	0
	PETERSON DEVELOPMENT CORPORAT	0	0	0	0
	SOUTHERN STEEL AND WIRE, INCO	0	0	0	
	MCLAWHORN LIVESTOCK FARM, INC	0	0	0	0
	E BEN WARD JR PA	0	0	0	0
	JOURNIGAN'S TIRE & BATTERY SA	0	0	0	0
	BENTEX MILLS, INC.	0	0	0	0
	MICKEY TRUCK BODIES INC.	0	0	0	0
	TENN-TEX PLASTICS, INC.	0	0	0	0
	B & A CONCRETE CONSTRUCTION,	0	0	0	0
	INDUTER U.S.A. INC	0	0	0	0
	REMPAC FOAM CORP	0	0	0	0
	YORK TAPE & LABEL, INC.	0	0	0	0
	RBC CENTURA BANK	0	0	0	0
	SPECTRUM DYED YARNS, INC.	0	0	0	0
	FULLER REAL ESTATE MANAGEMENT	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	MILLENNIUM MANUFACTURING STRU	0	0	0	0
	CAN AMERICAN UTILITY CONTRACT	0	0	0	0
	AB AUTOMOTIVE, INC.	0	0	0	0
	KCS INTERNATIONAL INC.	0	0	0	0
	GEORGIA-PACIFIC CORPORATION	0	0	0	
	MCMAN, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	P.A.M.A. FURNITURE, INC.	0	0	0	0
	ALLTEL INFORMATION SERVICES,	0	0	0	0
	PIEDMONT TRAILER RENTALS, INC	0	0	0	0
	KINCAID FURNITURE COMPANY, IN	0	0	0	0
	FOCKE & CO., INC.	0	0	0	0
	ASSOCIATED POSTERS, INCORPORA	0	0	0	0
	CROWN CRAFTS, INC.	0	0	0	0
	ASHLEY ELECTRIC, INC.	0	0	0	0
	BLAST, INC.	0	0	0	0
	KINARD BATTLEGROUND DRUGS, IN	0	0	0	0
	GENE INMAN TRUCKING, INC.	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	LEE BRICK & TILE COMPANY	0	0	0	0
	THE MOORE COUNTY HOUNDS, INC.	0	0	0	0
	MILLRIDGE INVESTMENTS, INC.	0	0	0	0
	SOUTHERN PARTS OF HILLSBOROUG	0	0	0	0
	CAROLINA SUNROCK CORPORATION	0	0	0	0
	WEVA CORPORATION	0	0	0	0
	CENTRO, INC.	0	0	0	0
	GEORGIA-CAROLINA QUARRIES, IN	0	0	0	0
	FOOTHILLS, INC.	0	0	0	0
	ALLEN-BECK INDUSTRIES, INC.	0	0	0	0
	WILLIAM S. KELLY, M. D., P. A	0	0	0	0
	TURNAMICS, INC.	0	0	0	0
	MARLOWE-VAN LOAN CORPORATION	0	0	0	0
	STOCKYARD & CO., INC.	0	0	0	0
	PUROLATOR PRODUCTS NA, INC.	0	0	0	0
	GREEN'S GRAINS, INC.	0	0	0	0
	MILKCO, INC.	0	0	0	0
	BOLTON CORP.	0	0	0	0
	FOOTHILLS, INC.	0	0	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0	0	0
	MANNING FABRICS, INC.	0	0	0	0
	BAUMANN SPRINGS USA, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	THE HAZEL COMPANY	0	0	0	0
	MEDICAL CYBERNETICS, INC.	0	0	0	0
	MOLDED FIBER GLASS COMPANY/NO	0	0	0	0
	BERNARDS, INC.	0	0	0	0
	FUCHS SYSTEMS, INC.	0	0	0	0
	GLOSSON REFRIGERATION & ELECT	0	0	0	0
	CHAPEL HILL PEDIATRIC PSYCHOL	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	BRESTL, INC.	0	0	0	0
	A. M. CASTLE & CO.	0	0	0	[redacted]
	CARVER REALTY, INC.	0	0	0	0
	MCFARLAND & COMPANY, INC., PU	0	0	0	0
	MAYFLOWER GLASS	0	0	0	0
	SUIZA DAIRY	0	0	0	0
	CROSS CREEK EMERGENCY PHYSICI	0	0	0	0
	OAKWOOD ACCEPTANCE CORP	0	0	0	0
	SOUTH TECH PLASTICS, INC.	0	0	0	0
	ASKEW CHEVROLET, INC.	0	0	0	0
	JOWAT CORPORATION	0	0	0	0
	JESSCO, INC.	0	0	0	0
	TEKTONE SOUND AND SIGNAL MFG.	0	0	0	0
	GRANT TOURS, INC.	0	0	0	0
	DISCOUNT DRAPERY, INC.	0	0	0	0
	WWGP BROADCASTING CORPORATION	0	0	0	0
	SUNLINE USA GROUP, INC.	0	0	0	0
	CUSTOM ENGRAVING AND TROPHY,	0	0	0	0
	RALEIGH GOLF ASSOCIATION, INC	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	FAB-TECH INDUSTRIES, INC.	0	0	0	[redacted]
	ABCO AUTOMATION, INC.	0	0	0	[redacted]
	SOFTEX FIN	0	0	0	0
	MID-ATLANTIC DRAINAGE, INC.	0	0	0	0
	E-Z SERVE CONVENIENCE STORES,	0	0	0	0
	SWIMOUT OVERFLOW COMPONENTS,	0	0	0	0
	PEARCE BROTHERS ROOFING CO.,	0	0	0	0
	HUNTER INDUSTRIES INCORPORATE	0	0	0	0
	SAT INTERNATIONAL, INC.	0	0	0	0
	KLINGSPOR ABRASIVES, INC.	0	0	0	0
	MATERIAL HANDLING TECHNOLOGIE	0	0	0	0
	JIMMY'S PLUMBING & REPAIR, IN	0	0	0	0
	SMITH-TOMLINSON CORPORATION	0	0	0	0
	POLYCHEM ALLOY, INC.	0	0	0	0
	MEC-TRIC CONTROL COMPANY	0	0	0	0
	ENERGY SYSTEMS ANALYSTS, INC.	0	0	0	0
	DIRECT CALL, INC.	0	0	0	0
	JOEL W. WALKER, D.D.S., P.A.	0	0	0	0
	AMERICAN OFFSET PRINTING INK	0	0	0	0
	BURLAN CORPORATION	0	0	0	[redacted]
	BEFCO, INC.	0	0	0	[redacted]
	THE QUANTU GROUP INC	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ENVIRON PRODUCTS INC.	0	0	0	0
	INTERSTATE APPAREL GROUP	0	0	0	0
	PRESTON-HILL, INC.	0	0	0	0
	CARPENTER CONTRACTORS OF AMER	13	0	104000	0
	JOHN WIELAND HOMES AND NEIGHB	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	PIEDMONT METALS OF BURLINGTON	0	0	0	0
	INTERFACE TECHNOLOGIES, INC.	0	0	0	0
	REXAM RELEASE	0	0	0	0
	WOMEN'S WELLNESS CENTER, P.A.	0	0	0	0
	J. S. MANN'S OF WHITEVILLE, I	0	0	0	0
	RECREATIONAL EQUIPMENT, INC.	0	0	0	0
	ABOVE THE GRADE CLEARING & G	0	0	0	0
	FLEETWASH SYSTEMS OF CAROLINA	0	0	0	0
	HOMES BY GEORGE STEELE, INC.	0	0	0	0
	CAROLINA WHOLESALE OFFICE MAC	0	0	0	0
	ALLEN BRADLEY D	0	0	0	0
	ALLEN JOSEPH G	0	0	0	0
	BAKER JAMES C	0	0	0	0
	BEEKER GEORGE M	0	0	0	0
	BELL JOHN M	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BIRCHETTE GEORGE A	0	0	0	0
	BLACK WILLIAM H	0	0	0	0
	CAPELL JOHN H	0	0	0	0
	CAPELL KERRY L	0	0	0	0
	CARTER RUSSELL M	0	0	0	0
	CLINE JULIUS D	0	0	0	0
	COHEN LEIPOLD I	0	0	0	0
	CONNOR WILTON M	0	0	0	0
	CONNOR WILTON M	0	0	0	0
	CORNS BILLY R	0	0	0	0
	CROWDER TODD L	0	0	0	0
	CULHANE P E	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	DEAL EDWARD M	0	0	0	0
	DEAL RONALD E	0	0	0	0
	DUBOSE CHARLES H	0	0	0	0
	DUNLOW ERNEST M	0	0	0	0
	ERVIN JOHN W	0	0	0	0
	EVANS KEVIN W	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	FALLS THOMAS N	0	0	0	0
	FANCOURT NEAL S	0	0	0	[redacted]
	FIELDS GEORGE B	0	0	0	0
	FORD TIMOTHY L	0	0	0	0
	HARRAWOOD DAVID A	0	0	0	0
	HOLT AMANDA M	0	0	0	0
	HOLT ASHLEY E	0	0	0	0
	HOLT CHARLES D	0	0	0	0
	HOLT JOHN A	0	0	0	0
	HOLT JOHN A	0	0	0	0
	HOLT MARGUERITE E	0	0	0	0
	HOLT MICHAEL M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT RALPH M	0	0	0	0
	HOLT SAMUEL T	0	0	0	0
	HOLT SARAH M	0	0	0	0
	HOLTON JAMES R	0	0	0	0
	HUGHES JOSEPH K	0	0	0	0
	HUGHES JOSEPH K	0	0	0	0
	HUGHES WILLIAM C	0	0	0	[redacted]
	HUGHES JR G J	0	0	0	0
	HUNTER CHARLES M	0	0	0	0
	JOHNSON PHILIP H	0	0	0	0
	KELLY JAMES F	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER AMELIA T	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER J J	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	0
	KISER L R	0	0	0	[redacted]
	KISER L R	0	0	0	
	LANE LANDON B	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	LANNING HOY S	0	0	0	0
	LAUGHLIN DAVID E	0	0	0	0
	LEE EDWARD L	0	0	0	0
	LONDON WILLIAM L	0	0	0	0
	MANCOSH DOUGLAS G	0	0	0	0
	MANESS JOHN M	0	0	0	0
	MARSH JAMES P	0	0	0	0
	MCCARTHY CHARLES E	0	0	0	0
	MCLEOD JOHN A	0	0	0	0
	MCMICHAEL DALTON L	0	0	0	0
	MINGES LOUISE T	0	0	0	0
	NEWSOME TIMOTHY E	0	0	0	0
	OLDHAM FRANK P	0	0	0	0
	PARKER GEORGE W	0	0	0	0
	PEGRAM TERRY L	0	0	0	0
	PERKINS GEORGE R	0	0	0	0
	PERKINS GEORGE R	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERRY CHARLES R	0	0	0	0
	PERRY DON W	0	0	0	0
	PERRY FRANK G	0	0	0	0
	PERRY FRANK G	0	0	0	0
	PERRY HAL C	0	0	0	0
	PERRY HUGH P	0	0	0	0
	POAG JAMES C	0	0	0	0
	PROPST ALEX A	0	0	0	0
	RATTZ JAMES M	0	0	0	0
	RAWALD KURT R	0	0	0	0
	REID LEWIS G	0	0	0	0
	RICHARDSON JOHN M	0	0	0	0
	RICHARDSON MORGAN L	0	0	0	0
	RIHANI FUAD A	0	0	0	0
	RUSHING GUY F	0	0	0	0
	SCHOLD ERIC W	0	0	0	0
	SHERMAN MICHAEL M	0	0	0	0
	SHORT RALPH H	0	0	0	0
	SKINNER ERIKA D	0	0	0	0
	SKINNER JEFFERY M	0	0	0	0
	SMITH JEFFREY D	0	0	0	0
	SMITH JERRY N	0	0	0	0
	SOFIELD HALEY D	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	SOFIELD HEATHER	0	0	0	0
	SOFIELD ROBERT T	0	0	0	[redacted]
	STEELE DAVID S	0	0	0	[redacted]
	STEPHENS ALISON	0	0	0	0
	SWARTZ EDWIN H	0	0	0	0
	SWARTZ MICHAEL L	0	0	0	0
	SWARTZ WILLIAM K	0	0	0	0
	THOMAS WILLIAM H	0	0	0	0
	TURBYFLL ROGER C	0	0	0	0
	WEIBEL MARCUS F	0	0	0	0
	WICKER DONALD M	0	0	0	0
	WILEY CHRISTOPHE J	0	0	0	0
	WILKINSON WILLIAM A	0	0	0	0
	WILSON WINFRED G	0	0	0	0
	WORNOM III SAMUEL J	0	0	0	0
	WRENN GUY W	0	0	0	0
	WRENN JACKSON K	0	0	0	0
	Total for Tier: 0	72	0	259000	0
1					
	PCH, LLC	0	0	0	0
	IDEAL ACCESSORIES CORPORATION	0	0	0	[redacted]
	TAR HEEL GENERATOR, LLC	0	0	0	[redacted]
	STANLEY FURNITURE COMPANY, IN	0	0	0	0
	MCNUTT SERVICE GROUP, INC.	0	0	0	0
	DEAL'S LAWN SERVICE, INC.	0	0	0	0
	WHITE OIL COMPANY	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	WELDON STEEL CORP	4	0	50000	0
	GALEY & LORD INDUSTRIES, INC.	0	0	0	0
	CHALLENGER INDUSTRIES, INC.	0	0	0	0
	HOME LIFE CARE, INC.	13	0	162500	0
	THE GATES CORPORATION	30	0	375000	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	GLENOIT CORPORATION	0	0	0	0
	SMITHKLINE BEECHAM CORPORATIO	732	0	366000	0
	ARCHITECTU	9	0	112500	0
	TOP TOBACCO L P	28	0	350000	0
	ACTION PERFORMANCE COMPANIES,	0	0	0	0
	THE MITCHELL GOLD CO.	0	0	0	0
	GILES CHEMICAL CORP	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	[redacted]
	MICRO AUDIOMETRICS CORPORATIO	2	0	25000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ASMO APPALACHIAN CORPORATION	0	0	0	0
	ETHAN ALLEN INC.	0	0	0	0
	DUBOSE STEEL, INC. OF NORTH C	0	0	0	0
	STEPHEN MEEHAN COMMUNICATIONS	0	0	0	0
	UCO FABRICS, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	DATAMARK GRAPHICS, INC.	0	0	0	0
	KEEBLER COMPANY	0	0	0	0
	NEW BREED, INC.	0	0	0	0
	AMERICAN OFFSET PRINTING INK	0	0	0	0
	W. E. BAILEY AND SON, INC.	0	0	0	0
	W. E. BAILEY AND SON, INC.	0	0	0	0
	FIT-ALL SPORTSWEAR, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	SAFELITE GLASS CORP	0	0	0	0
	KORDSA USA	0	0	0	0
	THE PANTRY, INC.	0	0	0	0
	WESTPOINT STEVENS INC.	0	0	0	0
	KEIHIN CAROLINA SYSTEM TECHNO	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	RESER'S FINE FOODS INC	71	0	887500	0
	PRECISION ALLOYS INC	0	0	0	0
	HALCORE GROUP, INC.	28	0	350000	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	CONE MILLS CORPORATION	0	0	0	0
	PHOENIX LUMBER CO	20	0	250000	0
	SOUTHERN CONCRETE MATERIALS,	1	1	12500	4000
	MACHINE & WELDING SUPPLY	2	0	33000	0
	BERTELSMANN MUSIC GROUP, INC.	0	0	0	0
	OLDHAM SAW CO., INC.	0	0	0	0
	NEW FILCAS OF AMERICA, INC.	0	0	0	0
	NORTHEAST TOOL AND MFG. COMPA	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	MOEN INCORPORATED	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	4	0	50000	0
	TNS MILLS, INC.	0	0	0	0
	CHATSWORTH PRODUCTS, INC.	0	0	0	0
	CF GROUP, INC.	0	0	0	0
	CF GROUP, INC.	0	0	0	0
	HAMPTON INDUSTRIES, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	TRIPATH IMAGING, INC.	0	0	0	[redacted]
	RAILLINC CORPORATION	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	12	0	94000	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	CUSTOM GLASS PRODUCTS OF CARO	0	0	0	0
	TAR HEEL INSPECTION SERVICES,	0	0	0	0
	PMW PRODUCTS, INC.	0	0	0	0
	CAROLINA MILLWORK OF ROCKINGH	0	0	0	0
	MICRO AUDIOMETRICS CORPORATIO	0	0	0	0
	NARRICOT INDUSTRIES, INC.	0	0	0	0
	C T SPECIALTIES CORP.	0	0	0	0
	BYRD TRACTOR AND EQUIPMENT CO	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	NEW BREED CORPORATE SERVICES,	0	0	0	0
	S & N COMMUNICATIONS, INC.	0	0	0	0
	DAN RIVER INC.	0	0	0	0
	HARDWARE SUPPLIERS OF AMERICA	0	0	0	0
	THE TIMKEN COMPANY	0	0	0	0
	UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	[redacted]
	UNIMIN CORPORATION	0	0	0	[redacted]
	CASCADES MOULDED PULP, INC.	0	0	0	0
	POLAR PLASTICS (NC) INC	0	0	0	0
	BROWN BROTHERS PLUMBING & HEA	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	M & M ELECTRIC SERVICE, INC.	0	0	0	0
	DATA SPECTRUM CORPORATION	0	0	0	0
	K.L. BUTLER LOGGING, INC.	0	0	0	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	CURRIN'S AUTO SUPPLY, INC.	0	0	0	0
	SUPERIOR DRY CLEANERS AND LAU	0	0	0	0
	ATLANTIC CORPORATION OF WILMI	8	0	100000	0
	FINELINE INDUSTRIES EAST, INC	50	0	625000	0
	BURKE MILLS, INC.	0	0	0	0
	KENGO, INC.	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	OWENS-ILLINOIS CLOSURE INC.	33	0	544500	0
	CHAMBERS FABRICS, INC.	0	0	0	0
	BURLINGTON INDUSTRIES, INC.	68	0	850000	[redacted]
	HOFFMAN & HOFFMAN, INC.	0	0	0	[redacted]
	MAGNOLIA MFG CO	26	0	325000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	NOBLE OIL SERVICES, INC.	0	0	0	0
	SPARTA PLANT, INC.	0	0	0	0
	CASCADES TISSUE GROUP - NORTH	0	0	0	0
	PRECISION FABRICS GROUP, INC.	0	0	0	0
	ROMEO GUEST ASSOCIATES, INC.	0	0	0	0
	RAILROAD FRICTION PRODUCTS CO	0	0	0	0
	SYZYGY LIVING & LEARNING CENT	0	0	0	0
	RAILROAD FRICTION PRODUCTS CO	14	0	231000	0
	RAILROAD FRICTION PRODUCTS CO	0	0	0	0
	CAROLINA T	0	0	0	0
	LADD FURNITURE, INC.	0	0	0	0
	NEWTON INSTRUMENT CO INC	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	16500	0
	ALDREDGE JR EMMETT C	1	0	16500	0
	AUSTIN LAWRENCE A	0	0	0	0
	BARRINGER BRENT D	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BELL THOMAS F	0	0	0	0
	BOND JAMES O	0	0	0	0
	BOND JAMES O	0	0	0	0
	CARLSON STEPHEN C	0	0	0	0
	D'ARENBERG PIERRE	0	0	0	0
	DICKINSON CHARLES F	0	0	0	0
	ECHOLS THOMAS E	0	0	0	0
	FISHER THOMAS G	0	0	0	0
	GERBER ERIC T	0	0	0	0
	GOODING DAVID R	0	0	0	0
	HARRAWOOD DAVID A	0	0	0	0
	HARRELL WAYNE M	0	0	0	0
	HOARD JOSEPH S	17	0	212500	0
	HUGHES JOSEPH K	0	0	0	0
	HUNTLEY MAX M	0	0	13830	0
	LANE CURK T	0	0	0	0
	MADDISON LAURENCE B	0	0	0	0
	PERKINS JOHN E	0	0	0	0
	PERRY FRANK G	0	0	0	0
	ROTH GARY W	0	0	0	0
	SHOJI HIDETOSHI	0	0	0	0
	SMITH THOMAS D	0	0	0	0
	TAFT THOMAS F	0	0	0	0
	THOMAS GERALD P	0	0	0	0
	WATSON TED R	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	WILLIAMS STEVEN G	0	0	0	0
	WISE CHRISTOPHE C	0	0	0	[redacted]
	WORNOM III SAMUEL J	0	0	0	0
	WRENN JAMES H	0	0	0	0
	YARBORO THOMAS R	6	0	1	0
	YARBORO THOMAS R	0	0	0	0
	YARBORO THOMAS R	1111	1	1	4000
	Total for Tier: 1	2291	2	6052832	8000
2					
	EAGERTON PLUMBING CO. INC.	46	0	184000	0
	TRIANGLE BRICK COMPANY	15	0	60000	0
	WILLAMETTE INDUSTRIES, INC.	5	0	40000	0
	VEEDER ROOT OF NC	54	0	216000	0
	BURLINGTON INDUSTRIES, INC.	0	0	0	0
	TURN BULL LUMBER CO	0	0	0	0
	CONE MILLS CORPORATION	0	0	0	0
	ETHAN ALLEN INC.	0	0	0	0
	BRODER BROS CO	25	0	100000	0
	COCA-COLA ENTERPRISES INC.	0	0	0	0
	CONOPCO, INC.	30	0	120000	0
	PUROLATOR PRODUCTS AIR FILTRA	7	0	28000	[redacted]
	CAROLINA T	0	0	0	
	CRESTLINE HOMES, INC.	0	0	0	0
	CRESTLINE HOMES, INC.	0	0	0	0
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	DYNAPAR CORP	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	ABBOTT LABORATORIES, INC.	65	0	520000	0
	SPRINGS INDUSTRIES, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	HYDRAULIC VALVE DIV	42	0	336000	0
	HOMANIT USA, INC.	111	0	444000	0
	LOUISIANA-PACIFIC CORPORATION	0	0	0	0
	REDMAN HOMES, INC.	41	0	164000	0
	INTERIOR WOOD SPECIALTIES, IN	6	0	24000	0
	HICKORY SPRINGS MANUFACTURING	0	0	0	0
	OLDHAM SAW CO INC	67	0	268000	0
	GAYLORD, INC.	3	0	12000	0
	D. B. TEXTILES, INC.	2	0	8000	0
	WESTPOINT STEVENS INC.	0	0	0	[redacted]
	FLEETWOOD HOMES OF NORTH CARO	0	0	0	
	WESTPOINT STEVENS INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	INTERIOR WOOD SPECIALTIES, IN	0	0	0	0
	BUCKEYE LUMBERTON INC.	6	0	24000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	CHAMPION PRODUCTS INC.	0	0	0	0
	MID-ATLANTIC BUILDING SYSTEMS	0	0	0	0
	INDIAN HEAD INDUSTRIES, INC.	0	0	0	0
	GAYLORD INC	4	0	16000	0
	HALSO ESCOTT	0	0	0	0
	MARSH JAMES P	0	0	0	0
	MARSH MILLICENT M	0	0	0	0
	TAFT EDMUND H	0	0	0	0
	TAFT THOMAS F	0	0	0	0
	Total for Tier: 2	529	0	2564000	0
3					
	SARA LEE CORPORATION	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	BORDEN CHEMICAL, INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	0	3000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	BRANCH BANKING AND TRUST COMP	0	0	0	0
	FLEETWOOD HOMES OF NORTH CARO	0	0	0	0
	DRAKE ENTERPRISES, LTD.	0	0	0	0
	ADVANCED DRAINAGE SYSTEMS, IN	0	0	0	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	RED VALVE COMPANY, INC.	9	0	63000	0
	RELIANCE ELECTRIC INDUSTRIAL	42	0	126000	0
	CAROLINA PAPER CONVERTERS	0	0	3000	0
	UCHIYAMA AMERICA, INCORPORATE	0	0	0	0
	CATERPILLAR INC.	0	0	0	0
	KIDDE TECHNOLOGIES INC.	0	0	0	0
	LOWE'S COMPANIES, INC.	157	0	471000	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	HEARTHSTONE ENTERPRISES, INC.	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	ARMADA, INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	STEPHENSON MILLWORK COMPANY	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	AMERICAN & EFIRD, INC.	30	0	90000	0
	KCS INTERNATIONAL INC.	167	0	501000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	MILLER BREWING COMPANY	0	0	0	0
	PATE-DAWSON COMPANY	10	0	42000	
	CONITEX- SONOCO U.S.A., INC.	0	0	0	
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	MOTOR PRODUCTS INC	10	0	70000	0
	WENTWORTH CORPORATION	0	0	0	0
	MASTERBRAND CABINETS, INC.	43	0	301000	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	CAROLINA COMMERCIAL HEAT TREA	0	0	0	0
	ARMADA, INC.	16	0	48000	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	WENTWORTH CORPORATION	0	0	0	0
	BURLAN CORPORATION	0	0	0	0
	SOUTHCO DISTRIBUTING CO	9	2	63000	8000
	SOUTHCO DISTRIBUTING CO	10	2	70000	8000
	MOUNT OLIVE PICKLE COMPANY, I	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	MEDIBEG USA, INC.	0	0	0	0
	REXAM RELEASE	0	0	0	0
	LOWE'S COMPANIES, INC.	195	0	585000	
	FAYETTEVILLE PUBLISHING COMPA	0	0	0	0
	WHITE CONSOLIDATED INDUSTRIES	0	0	0	0
	JELD-WEN, INC.	0	0	0	0
	PASS & SEYMOUR, INC.	0	0	0	0
	GULF STATES PAPER CORPORATION	22	0	74000	0
	CONCRETE SUPPLY CO.	1	0	7000	0
	FRONTIER, INC.	0	0	0	0
	NEW FILCAS OF AMERICA, INC.	0	0	0	0
	AMERICAN FIBER & FINISHING, I	0	0	0	0
	DELLINGER ENTERPRISES, LTD.	0	0	0	0
	THE TIMKEN COMPANY	4	0	12000	0
	ROYAL PARK UNIFORMS, INC.	0	0	0	0
	ADVANCED INTERNET TECHNOLOGIE	20	0	60000	0
	JACKSON PAPER MANUFACTURING C	1	0	3000	0
	Fiber Composites	4	0	12000	0
	PREFORMED LINE PRODUCTS COMPA	0	0	0	0
	THE SOUTHERN FINISHING COMPAN	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	COPELAND CORPORATION	51	0	153000	
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	EATON AEROQUIP INC.	0	0	0	0
	FIBER COMPOSITES LLC	4	4	12000	16000
	MERCK & CO., INC.	41	0	123000	0
	EATON AEROQUIP INC.	3	0	9000	0
	RELIANCE ELECTRIC INDUSTRIAL	120	0	360000	0
	COLUMBIA FOREST PRODUCTS	0	0	0	0
	BARMET ALUMINUM CORP	0	0	0	0
	FIBER INDUSTRIES, INC.	0	0	0	0
	IMPULSE NC, INC.	0	0	0	0
	THE TORRINGTON COMPANY	53	0	159000	0
	RELEASE INTERNATIONAL, INC.	0	0	0	0
	DOPACO, INC.	0	0	0	0
	WESTERN FORGE CORPORATION	196	0	784000	0
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	MAGNUM MANUF	7	0	21000	0
	RELEASE INTERNATIONAL, INC.	0	0	0	0
	DSM DESOTE	11	0	33000	0
	GALEY & LORD INDUSTRIES, INC.	14	0	42000	0
	MOEN INCORPORATED	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	MOEN INCORPORATED	0	0	0	0
	VICTAULIC COMPANY OF AMERICA	7	0	21000	0
	THE MOORE COMPANY	0	0	0	0
	COTT BEVERAGE S USA INC	45	0	135000	0
	COPELAND CORPORATION	0	0	0	0
	ULTIMATE TEXTILE, INC.	0	0	0	0
	LOWE'S COMPANIES, INC.	205	0	615000	0
	COOPER-STANDARD AUTOMOTIVEI I	0	0	0	0
	PINE HALL BRICK CO., INC.	0	0	0	0
	EON LABS MANUFACTURING, INC.	45	0	135000	0
	CMH MANUFACTURING, INC.	0	0	0	0
	STEPHENSON MILLWORK COMPANY	0	0	0	0
	ROYAL PARK UNIFORMS, INC.	2	0	6000	0
	GENTRY MILLS, INC.	0	0	0	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	INDUSTRIAL FABRICATORS, INC.	2	0	6000	0
	NEXANS INC.	0	0	0	0
	NEXANS INC.	0	0	0	0
	MOUNT OLIVE PICKLE COMPANY, I	4	0	12000	0
	INDUSTRIAL FABRICATORS, INC.	1	0	3000	0
	BLUE RIDGE PAPER PRODUCTS	0	0	0	0
	BOEHME-FILATEX, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	DESIGN WOR	92	0	276000	0
	BUCKEYE LUMBERTON INC.	37	0	111000	[redacted]
	BURLAN CORPORATION	14	0	42000	
	ALDREDGE JR EMMETT C	0	0	0	0
	DELLA SANTA ERALDO	0	0	0	0
	DELLA SANTA MASSIMO	0	0	0	0
	GUARRIELLO ANTHONY R	0	0	0	0
	HOOD CLIFTON R	0	0	0	0
	HOOVER STEPHEN J	0	0	0	0
	MAXWELL OWEN M	0	0	0	0
	ROYAL HAROLD J	3	0	9000	0
	ROYAL WILLIAM K	3	0	9000	0
	Total for Tier: 3	1711	8	5680000	32000
4					
	BSH HOME APPLIANCES CORPORATI	46	0	210000	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	HOF TEXTILES, INC.	5	0	5000	0
	THE TIMKEN COMPANY	0	0	0	0
	BERNHARDT FURNITURE COMPANY	0	0	0	0
	B. R. LEE INDUSTRIES, INC.	0	0	0	0
	THE LUNDY PACKING COMPANY	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	[redacted]
	VICTAULIC HOLDING COMPANY, LL	1	0	1000	0
	R. L. STOWE MILLS, INC.	0	0	0	0
	ASMO APPALACHIAN CORPORATION	0	0	0	0
	HICKORY SPRINGS MANUFACTURING	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	WESTPOINT STEVENS INC.	1	0	1000	0
	COX NORTH CAROLINA	19	0	95000	0
	DSM PHARMACEUTICALS, INC.	0	0	0	0
	TRION, INC.	0	0	0	0
	COATINGS AND ADHESIVES CO	7	0	7000	0
	COATINGS AND ADHESIVES CO	5	5	5000	20000
	CAROLINA T	0	0	0	0
	REGIONAL STORAGE & TRANSPORT,	0	0	0	0
	REVLON CONSUMER PRODUCTS CORP	915	0	915000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	JULIUS BLUM INC.	85	0	85000	0
	SANTA FE NATURAL TOBACCO CO	4	0	20000	0
	CAROLINA'S CHOICE BY WILLIAMS	0	0	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	[redacted]
	CARLTON GROUP, INC.	0	0	0	

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	BSH HOME APPLIANCES CORP	103	0	515000	0
	THE MITCHELL GOLD CO.	61	0	61000	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	ASMO GREENVILLE OF NORTH CARO	0	0	0	0
	PACKAGING CORPORATION OF AMER	4	0	4000	0
	DYNAYARN USA, LLC	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	CAROLINA STEEL CORPORATION	0	0	0	0
	NORTH CAROLINA ASAHI, INC.	0	0	0	0
	ABBOTT LABORATORIES, INC.	74	0	370000	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	VICTAULIC HOLDING COMPANY, LL	1	0	1000	0
	SANMINA CORPORATION	0	0	0	0
	DYNAYARN USA, LLC	0	0	0	0
	AMERESCOSOLUTIONS, INC.	0	0	0	0
	COMPONENT CONCEPTS, INC.	0	0	0	0
	MACHINE & WELDING SUPPLY	1	0	5000	0
	COATINGS AND ADHESIVES CO	7	0	7000	0
	LVD CORP.	0	0	0	0
	CAROLINA'S CHOICE BY WILLIAMS	9	0	9000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	NACCO MATERIALS HANDLING GROU	0	0	0	0
	CLAYTON-MARCUS COMPANY, INC.	0	0	0	0
	ALBA-WALDENSIAN, INC.	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	THE LUNDY PACKING COMPANY	0	0	0	0
	CMH MANUFACTURING, INC.	0	0	0	0
	LA-Z-BOY INCORPORATED	0	0	0	0
	ATHOL MANUFACTURING CORP	0	0	0	0
	SEALED AIR CORPORATION (US)	7	0	35000	0
	COXE-LEWIS CORPORATION	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	ACCUCOPY OF GREENVILLE	9	0	45000	0
	EATON AEROQUIP INC.	0	0	0	0
	CARAUSTAR MILL GROUP, INC.	0	0	0	0
	PHARMAGRAPHICS, INC.	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	M & M ELECTRIC SERVICE, INC.	0	0	0	0
	VALDESE WEAVERS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ADAMS WHOLESALE COMPANY	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	
	ETHAN ALLEN INC.	0	0	0	
	THOMAS MFG. COMPANY, INC. OF	0	0	0	0
	METRICS, INC.	7	0	7000	0
	MCLANE/CAROLINA,INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	1	0	1000	0
	SAFT AMERICA INC	0	0	0	0
	LVD CORP.	193	0	965000	0
	AMERICAN & EFIRD, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	2	0	2000	0
	AYLWARD ENTERPRISES	0	0	0	0
	THE GILLETTE COMPANY	0	0	0	0
	CAROLINA CONVERTING INC	0	0	0	0
	SHADOWLINE, INCORPORATED	0	0	0	0
	FUJI SILYSIA CHEMICAL USA, LT	0	0	0	0
	REFRIGERATED BOXES, INC	7	0	7000	0
	CERTAINTEED CORPORATION	0	0	0	0
	FREIGHTLIN	0	0	0	0
	PHILLIPS-VAN HEUSEN CORPORATI	5	0	5000	0
	JULIUS BLUM INC.	0	0	0	
	OAKWOOD MOBILE HOMES, INC.	0	0	0	
	AMERICAN ROLLER BEARING AND M	0	0	0	0
	MADDUX SUPPLY COMPANY	1	0	1000	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	0
	UNIFI MANUFACTURING, INC.	272	0	272000	0
	BORDEN CHEMICAL, INC.	0	0	0	0
	NYPRO CAROLINA INC.	123	0	123000	0
	MOEN INCORPORATED	0	0	0	0
	OWENS-BROCKWAY PLASTIC PRODUC	4	0	16000	0
	BURLINGTON INDUSTRIES, INC.	0	0	0	0
	GULF STATES PAPER CORPORATION	0	0	0	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0	0	0
	NEWTON INSTRUMENT CO	98	0	98000	0
	NOVOZYMES NORTH AMERICA, INC.	6	0	6000	0
	AMERICAN LAFRANCE CORPORATION	60	0	60000	0
	VICTAULIC COMPANY OF AMERICA	2	0	0	0
	WHEATSTONE CORPORATION	10	0	10000	0
	HOMES BY OAKWOOD, INC.	0	0	0	
	COMMSCOPE, INC. OF NORTH CARO	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	NEUVILLE INDUSTRIES, INC.	0	0	0	0
	AMERICAN ROLLER BEARING COMPA	0	0	0	0
	GATE CONCRETE PRODUCTS CO.	26	0	26000	0
	PHILLIPS-VAN HEUSEN CORPORATI	0	0	0	0
	AUTOMOTIVE MOTORS OF THOMASVI	0	0	0	0
	APEX ARIDYNE CORP.	0	0	0	0
	THE HON COMPANY	1	0	1000	0
	NEWTON INSTRUMENT CO	42	0	42000	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	MONSANTO COMPANY	0	0	0	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	WINTERVILLE MACHINE WORKS, IN	5	0	5000	0
	GULF STATES PAPER CORPORATION	17	0	17000	0
	CATERPILLAR INC.	0	0	0	0
	THE HON COMPANY	0	0	0	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	5000	0
	ALDREDGE JR EMMETT C	0	0	0	0
	BARWICK BOYCE B	0	0	0	0
	BARWICK CARROLL B	0	0	0	0
	COXE THOMAS C	0	0	0	0
	DARCH LEE A	0	0	0	0
	D'ARENBERG PIERRE	2	0	2000	0
	ERWIN CHARLES B	0	0	0	0
	EWERT BRIAN C	0	0	0	0
	GODWIN JAMES P	2	2	10000	8000
	HARRELL WAYNE M	0	0	0	0
	LEWIS HARVEY R	0	0	0	0
	MCDOUGALD ALBERT G	0	0	0	0
	MCDOUGALD AMANDA M	0	0	0	0
	MCDOUGALD IAN E	0	0	0	0
	PASIN RICHARD	7	0	7000	0
	PORTER DARRELL R	0	0	0	0
	ROBLING BRENT D	0	0	0	0
	TILGHMAN WILLIAM A	0	0	0	0
	TILGHMAN WILLIAM A	7	0	7000	0
	Total for Tier: 4	2265	7	4091000	28000
5					
	OAKWOOD MOBILE HOMES, INC.	0	0	0	0
	THE CONCORD	12	0	6000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	PEOPLECLICK.COM, INC.	89	0	400500	0
	AJINOMOTO USA INC	5	0	2500	
	NYPRO CAROLINA INC.	0	0	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0	0	0
	PYA/MONARCH, INC.	0	0	0	0
	EISAI INC.	21	0	10500	0
	THE OHIO MATTRESS COMPANY LIC	2	0	1000	0
	PUROLATOR FACET, INC.	6	0	3000	0
	JOHNSON CONTROLS BATTERY GROU	0	0	0	0
	WANDEL & GOLTERMANN A.T.E. SY	0	0	0	0
	CONCRETE SUPPLY CO.	5	0	22500	0
	CONCRETE SUPPLY CO.	2	0	9000	0
	CONCRETE SUPPLY CO.	1	0	4500	0
	CONCRETE SUPPLY CO.	12	0	6000	0
	CAROLINA T	0	0	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0	0	0
	SOUTHTECH ORTHOPEDICS INC	6	0	3000	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	BLUEPHOENIX SOLUTIONS USA	43	0	21500	0
	STRATEGIC TECHNOLOGIES, INC.	0	0	0	0
	OFFICE DEPOT INC	0	0	0	0
	RELIANCE ELECTRIC INDUSTRIAL	4	0	2000	0
	WANDEL & GOLTERMANN INC	0	0	0	0
	NORTH CAROLINA SERVICES CORPO	22	0	11000	0
	WIREWAY/HUSKY CORP.	0	0	0	0
	STRATEGIC TECHNOLOGIES, INC.	38	0	19000	0
	GREENFIELD INDUSTRIES INC	0	0	0	0
	FIRST CHARTER NATIONAL BANK	50	0	177000	0
	VITAFOAM INC	0	0	0	0
	DEERE & COMPANY	0	0	0	0
	ALADDIN MANUFACTURING CORP	0	0	0	0
	FRISBY AEROSPACE, INC.	51	0	25500	0
	SAS INSTITUTE INC.	195	0	97500	0
	TLV CORPORATION	1	0	500	0
	NATIONAL TEXTILES LLC	21	0	10500	0
	HOMES BY OAKWOOD, INC.	0	0	0	0
	SEALY INC	12	0	6000	0
	BROOKS EQUIPMENT CO	11	0	5500	0
	VERITAS SO	10	10	45000	40000
	RELIANCE ELECTRIC INDUSTRIAL	0	0	0	0
	DEERE & COMPANY	76	0	38000	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	JOHN DEERE TURF CARE, INC.	10	0	5000	0
	MILKCO, INC.	13	0	58500	0
	SUIZA DAIRY	8	0	0	0
	HAHT SOFTWARE, INC.	63	0	31500	0
	OAKWOOD ACCEPTANCE CORP	11	0	5500	0
	FRONTIER, INC.	0	0	0	0
	KYRUS CORP	0	0	0	0
	KYRUS CORP	0	0	0	0
	CROSS SALES AND ENGINEERING C	0	0	0	0
	BECTON, DICKINSON AND COMPANY	0	0	0	0
	CREE, INC.	264	0	132000	0
	BRAYTON INTERNATIONAL, INC.	0	0	0	0
	US CONEC LTD.	55	0	27500	0
	SOLECTRON TECHNOLOGY, INC.	0	0	0	0
	MAYFLOWER GLASS	11	0	5500	0
	NOMACORC LLC	38	0	19000	0
	THE PANTRY, INC.	61	0	134500	0
	FAMILY DOLLAR, INC.	58	0	29000	0
	VF JEANSWEAR, INC.	0	0	0	0
	MACHINE & WELDING SUPPLY	4	0	18000	0
	J & L AMERICA, INC.	0	0	0	0
	COCA-COLA BOTTLING CO CONSOLI	0	0	0	0
	RENE COMPOSITE MATERIALS CORP	0	0	0	0
	ARVINMERITOR, INC.	0	0	0	0
	ANALOG DEVICES, INC.	117	0	58500	0
	PINNACLE FILMS, INC.	8	0	0	0
	MORRIS COMMUNICATION CORP	1	1	4500	4000
	EVEREADY BATTERY COMPANY, INC	0	0	0	0
	SQUARE D CO	9	0	4500	0
	EVEREADY BATTERY COMPANY, INC	0	0	0	0
	ANALOG DEVICES, INC.	0	0	0	0
	CUSTOM MOLDERS, INCORPORATED	0	0	0	0
	BAYER CORP	0	0	0	0
	SARA LEE CORPORATION	10	0	5000	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	SIEMENS WESTINGHOUSE POWER CO	126	0	63000	0
	WANDEL & GOLTERMANN A.T.E. SY	0	0	0	0
	ORNAMENTAL MOULDINGS INC	3	3	1500	12000
	CISCO SYSTEMS SALES & SERVICE	235	0	117500	0
	COMPASS GROUP USA, INC.	110	0	55000	0
	DUPLICATE TRANS ID#	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	LEMANS CORPORATION	10	0	5000	0
	MYLAN PHARMACEUTICALS INC.	7	7	28000	28(
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	MYLAN PHARMACEUTICALS INC.	7	7	31500	28000
	STEELCASE INC.	71	0	35500	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	0
	BRUNZL DISTRIBUTION MIDCENTRA	0	0	0	0
	SOLECTRON TECHNOLOGY, INC.	512	0	256000	0
	BECTON, DICKINSON AND COMPANY	0	0	0	0
	INTERSTATE BRANDS CORPORATION	0	0	0	0
	JOHN DEERE TURF CARE, INC.	65	0	56500	0
	CREE, INC.	0	0	0	0
	WESTLAKE PRESS, INC.	0	0	0	0
	HENDERSON MACHINERY, INC.	0	0	0	0
	FAMILY DOLLAR, INC.	42	0	21000	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	SOUTHERN CONCRETE MATERIALS,	7	0	31500	0
	MADDUX SUPPLY COMPANY	0	0	0	0
	JUKI AUTOMATION SYSTEMS, INC.	0	0	0	0
	COCA-COLA BOTTLING COMPANY OF	0	0	0	
	US AIRWAYS, INC.	0	0	0	
	BANK OF AMERICA NA	0	0	0	0
	L & E PACKAGING, LLC	0	0	0	0
	TRIANGLE BRICK COMPANY	0	0	0	0
	TRIANGLE BRICK COMPANY	0	0	0	0
	PHILIP MORRIS INCORPORATED	64	0	32000	0
	LVL7 SYSTEMS, INC.	24	0	12000	0
	NATUZZI AMERICAS, INC.	11	0	49500	0
	DENERGY, INC.	0	0	0	0
	WILTON CONNOR, LLC	0	0	0	0
	CAROLINA POWER & LIGHT COMPAN	0	0	0	0
	FFNC, INC.	0	0	0	0
	CENTURY FURNITURE INDUSTRIES,	0	0	0	0
	VF PLAYWEAR, INC.	0	0	0	0
	ABB AUTOMATION INC.	25	0	12500	0
	CYCLE GROUP INC.	15	0	7500	0
	BRANCH BANKING AND TRUST COMP	90	0	125000	0
	SCIQUEST, INC.	0	0	0	0
	OLIVER RUBBER COMPANY	0	0	0	0
	WACHOVIA CORPORATION	0	0	0	
	WACHOVIA CORPORATION	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CHIRON AMERICA, INC.	0	0	0	0
	CHARLOTTE PIPE AND FOUNDRY CO	0	0	0	0
	LORILLARD TOBACCO COMPANY	0	0	0	0
	BEKAERT TEXTILES U.S.A. INC.	0	0	0	0
	SUIZA FLUID DAIRY GROUP HOLDI	8	0	0	0
	SYNAPSE TECHNOLOGY, INC.	0	0	0	0
	CHIRON AMERICA, INC.	0	0	0	0
	PINE HALL BRICK CO., INC.	0	0	0	0
	KRISPY KREME DOUGHNUT CORPORA	23	0	103500	0
	DANA CORPORATION	0	0	0	0
	R.H. DONNELLEY INC.	0	0	0	0
	SYNGENTA CROP PROTECTION, INC	135	0	67500	0
	NOVO NORDISK PHARMACEUTICAL I	100	0	50000	0
	KYRUS CORP	0	0	0	0
	KYRUS CORP	0	0	0	0
	INDUSTRIAL MICROWAVE SYSTEMS,	0	0	0	0
	BIC USA, INC. (BIC CONSUMER P	11	0	5500	0
	SPICER MANUFACTURING, INC.	0	0	0	0
	SCYNEXIS CHEMISTY & AUTOMATIO	15	0	7500	0
	THE VANGUARD GROUP, INC.	0	0	0	0
	SAS INSTITUTE INC.	125	0	62500	0
	R. J. REYNOLDS TOBACCO COMPAN	197	0	686500	0
	WESTPOINT STEVENS INC.	0	0	0	0
	GREGORY POOLE EQUIPMENT COMPA	0	0	0	0
	MASTER FORM, INC.	0	0	0	0
	NITRONEX CORPORATION	21	0	10500	0
	MERIX BIOSCIENCE, INC.	16	0	8000	0
	ELECTROLUX HOME PRODUCTS, INC	12	0	6000	0
	KRISPY KREME DOUGHNUT CORPORA	14	0	63000	0
	KRISPY KREME DOUGHNUT CORPORA	30	0	135000	0
	THE STANDARD REGISTER COMPANY	0	0	0	0
	PLYMOUTH PRINTING CO. INC.	20	0	10000	0
	EDWARD VOGT VALVE CO	0	0	0	0
	NETOCTAVE, INC.	36	0	18000	0
	INTEK, INC.	0	0	0	0
	MICELL TECHNOLOGIES, INC.	0	0	0	0
	LENDINGTREE, INC.	43	0	21500	0
	ASMO NORTH CAROLINA, INC.	0	0	0	0
	STATIC CONTROL COMPONENTS, IN	0	0	0	0
	ALCATEL USA LP, INC.	0	0	0	0
	TRIVIRIX INTERNATIONAL, INC.	2	0	1000	0
	NOVARTIS ANIMAL HEALTH US, IN	9	0	4500	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CROSSLOGIC CORPORATION	5	0	22500	0
	VF CORP	0	0	0	
	KURZ TRANSFER PRODUCTS, L.P.	0	0	0	0
	KURZ TRANSFER PRODUCTS, L.P.	0	0	0	0
	SCHAEFER SYSTEMS INTERNATIONA	10	0	5000	0
	TEKELEC	70	0	35000	0
	GENERAL PARTS, INC.	28	0	14000	0
	EPIC ENTERPRISES, INC.	0	0	0	0
	GUARANTEED SUPPLY COMPANY	0	0	0	0
	GUARANTEED SUPPLY COMPANY	0	0	0	0
	NORTH STATE TELEPHONE COMPANY	0	0	0	0
	MU RO, INC.	0	0	0	0
	HOFFMAN & HOFFMAN, INC.	0	0	0	0
	INSPIRE PHARMACEUTICALS, INC.	16	0	8000	0
	QUINTILES TRANSNATIONAL CORP.	21	0	10500	0
	CAROLINA STEEL CORPORATION	15	0	67500	0
	REMCO SUPPLY, INC.	0	0	0	0
	CHESAPEAKE DISPLAY AND PACKAG	0	0	0	0
	NORTH CAROLINA SERVICES CORPO	0	0	0	0
	MEDTEC, INC.	8	0	4000	0
	JELD-WEN, INC.	0	0	0	
	RENAISSANCE WORLDWIDE IT CONS	0	0	0	
	STRUCTURAL STEEL PRODUCTS COR	17	0	8500	0
	WINSTON PRINTING COMPANY	19	0	85500	0
	CAROLINA STEEL CORPORATION	10	0	5000	0
	CAROLINA STEEL CORPORATION	0	0	0	0
	KAYDON CORP	0	0	0	0
	CROSSLOGIC CORPORATION	7	0	31500	0
	CROSSLOGIC CORPORATION	7	0	31500	0
	LUTRADUR CORPORATION	0	0	0	0
	MICROBAN PRODUCTS COMPANY	0	0	0	0
	S & D COFFEE INC	0	0	0	0
	WAKE STONE CORPORATION	0	0	0	0
	BILL DAVIS RACING, INCORPORAT	8	0	36000	0
	BIOGEN INC	126	0	63000	0
	CURTIS SCREW CO., INC.	0	0	0	0
	HEXTEK TECHNOLOGIES, INC.	0	0	0	0
	CHARLES & COLVARD, LTD.	0	0	0	0
	THE TIMKEN COMPANY	0	0	0	0
	OWENS & MINOR MEDICAL, INC.	8	0	36000	0
	LUTRABOND COMPANY	0	0	0	
	ARJOBEX AMERICA	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	HEALTH DECISIONS, INC.	0	0	0	0
	APPLIED MEDICAL TECHNOLOGIES,	0	0	0	0
	ELUMENS CORPORATION	0	0	0	0
	ACCUMA CORPORATION	0	0	0	0
	SMART ONLINE, INC.	1	0	500	0
	GRAYBAR ELECTRIC COMPANY, INC	7	0	31500	0
	HAYWARD POOL PRODUCTS, INC.	108	0	54000	0
	ULTIMUS, INC.	8	0	4000	0
	FLOW SCIENCES, INC.	1	0	500	0
	FIRST CHARTER NATIONAL BANK	96	0	48000	0
	EXCEL CARGO SERVICES, INC.	0	0	0	0
	CLARKE AMERICAN CHECKS, INC.	96	0	48000	0
	DEERE-HITACHI CONSTRUCTION MA	0	0	0	0
	LUTRADUR CORPORATION	25	0	12500	0
	CORNING CABLE SYSTEMS INTERNA	0	0	0	0
	BORGWARNER TURBO SYSTEMS INC.	31	0	15500	0
	SLICKEDIT INC.	9	0	4500	0
	BIOMERIEUX, INC.	6	0	3000	0
	BONSET AMERICA CORPORATION	0	0	0	0
	EATON AEROQUIP INC.	0	0	0	0
	CARRIER CORPORATION	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	STRATEGIC RESOURCE SOLUTIONS	0	0	0	0
	UNITIVE ELECTRONICS, INC.	23	0	11500	0
	MDEVERYWHERE, INC.	0	0	0	0
	BLUE RIDGE METALS CORPORATION	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	VISIONAIR, INC.	0	0	0	0
	TUBE SPECIALTIES CO., INC.	20	0	90000	0
	CTC INTERNET SERVICES, INC.	0	0	0	0
	CLOSURE MEDICAL CORPORATION	12	0	6000	0
	ALCATEL NA CABLE SYSTEMS, INC	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	COCA-COLA BOTTLING CO. CONSOL	0	0	0	0
	FIRST UNION NATIONAL BANK	257	0	1156500	0
	MARMON/KEYSTONE CORPORATION	0	0	0	0
	APBI INC.	70	0	35000	0
	VF SERVICES, INC.	0	0	0	0
	HATTERAS NETWORKS, INC.	26	0	13000	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	DUKE PROJECT SERVICES, INC.	0	0	0	0
	PEOPLECLICK.COM, INC.	42	0	21000	[redacted]
	PERFORMAWORKS, INC.	0	0	0	0
	P P G INDUSTRIES, INC.	12	0	6000	0
	RAFLATAC, INC.	116	0	58000	0
	FIRST UNION NATIONAL BANK	0	0	0	0
	PRESTIGE FABRICATORS, INC.	0	0	0	0
	HEARST COMMUNICATIONS, INC.	8	0	32000	0
	BANK OF AMERICA TECHNOLOGY AN	11	0	5500	0
	MCLANE FOODSERVICE, INC.	0	0	0	0
	TECSTAR ELECTRO SYSTEMS, INC.	0	0	0	0
	SYNGENTA BIOTECHNOLOGY INC	0	0	0	0
	ACTION PERFORMANCE COMPANIES,	0	0	0	0
	BUEHLER MOTOR, INC.	0	0	0	0
	GOULSTON TECHNOLOGIES, INC.	0	0	0	0
	LEE BUILDER MART, INC.	0	0	0	0
	WANDEL & GOLTERMANN INC	0	0	0	0
	VF PLAYWEAR INC	40	0	20000	0
	PAMA FURNITURE INC	3	0	13500	0
	FRAMATOME ANP DE&S, INC.	0	0	0	0
	AVX CORPORATION	0	0	0	[redacted]
	LAMBDA TECHNOLOGIES, INC.	0	0	0	
	SPEIZMAN INDUSTRIES	0	0	0	0
	SEALY MATTRESS MANUFACTURING	0	0	0	0
	CLARKE AME	48	0	24000	0
	EDWARD VOGT VALVE COMPANY	0	0	0	0
	CLARK AME	94	0	47000	0
	EDWARD VOGT VALVE CO	12	0	54000	0
	NEWTON INSTRUMENT CO	73	0	73000	0
	TLV CORPORATION	0	0	0	0
	FIRST UNION NATIONAL BANK	0	0	0	0
	PERGO, INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	ANVIL KNITWEAR INC.	0	0	0	0
	PERGO, INC.	0	0	0	0
	TOGETHERSOFT CORPORATION	29	0	130500	0
	SAPONA MANUFACTURING COMPANY,	0	0	0	0
	BE AEROSPACE, INC.	0	0	0	0
	PEPSI-COLA BOTTLING COMPANY O	5	0	2500	0
	BUNZL RICHMOND INC	0	0	0	[redacted]
	INJECTRONICS, INC.	0	0	0	
	BOX-BOARD PRODUCTS, INC.	0	0	0	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	ELECTRONIC DATA MAGNETICS, IN	14	0	63000	0
	ACCUMA CORPORATION	0	0	0	0
	THE CONCORD TELEPHONE COMPANY	0	0	0	0
	RF MICRO DEVICES, INC.	246	0	123000	0
	MEDIA EVOLVED, LLC	23	0	103500	0
	DIGITAL OPTICS CORPORATION	0	0	0	0
	DART CONTAINER CORP OF GEORGI	0	0	0	0
	OPTICAL EXPERTS MANUFACTURING	19	0	9500	0
	CONCRETE SUPPLY CO.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	WESTLAKE INDUSTRIES, INC.	0	0	0	0
	CONCRETE SUPPLY CO.	0	0	0	0
	ALCATEL USA SOURCING, L.P.	0	0	0	0
	TRIANGLE PHARMACEUTICALS, INC	0	0	0	0
	RAILLINC CORPORATION	0	0	0	0
	LEGACY CLASSIC FURNITURE, INC	27	0	13500	0
	NOEL VENTURES, LLC	38	0	12055	0
	CONFULENCE HOLDINGS CORP	0	0	0	0
	WACHOVIA BANK OF NORTH CAROLI	0	0	0	0
	ETRIALS, INC.	19	0	9500	0
	CATERPILLAR INC.	97	0	436500	0
	CATERPILLAR INC.	57	0	28500	0
	COMMSCOPE, INC. OF NORTH CARO	0	0	0	0
	BELL & HOWELL MAIL AND MESSAG	0	0	0	0
	UNICON CONCRETE, LLC	0	0	0	0
	CORNING INCORPORATED	1105	0	552500	0
	ARMACELL UNITED STATES HOLDIN	0	0	0	0
	SIEBEL SYSTEMS, INC.	0	0	0	0
	CORNING INCORPORATED	482	0	241000	0
	CORNING INCORPORATED	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	HASCO MOLD BASES - ASHEVILLE,	0	0	0	0
	TOMSED CORPORATION	8	0	4000	0
	LBSS,INC.	0	0	0	0
	BANNER PHARMACAPS INC.	55	0	27500	0
	ALCATEL USA GP, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	CORNING INCORPORATED	0	0	0	0
	LONESOURCE.COM, INC.	13	0	6500	0
	GKN AUTOMOTIVE, INC.	0	0	0	0
	THE STEEL NETWORK, INC.	7	0	3500	0

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	CISCO SYSTEMS SALES & SERVICE	0	0	0	0
	GKN AUTOMOTIVE, INC.	0	0	0	[redacted]
	GKN AUTOMOTIVE, INC.	0	0	0	
	DUKE ENERGY CORPORATION	42	0	189000	0
	ALDREDGE JR EMMETT C	0	0	0	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	1	0	4500	0
	ALDREDGE JR EMMETT C	0	0	0	0
	AUERBACH HOWARD D	20	0	10000	0
	BODILY ROBERT	0	0	0	0
	CARPENTER JONATHAN S	0	0	0	0
	CRARY EDWARD M	0	0	0	0
	DAVIS MARTIN A	0	0	0	0
	EASON DOUGLAS	0	0	0	0
	ENGLERT JOHN A	0	0	0	0
	ENGLERT SCOTT T	0	0	0	0
	FLYNN GARY B	0	0	0	0
	GOODNIGHT JAMES H	0	0	0	0
	HORTON PAUL W	0	0	0	[redacted]
	JENKINSINTEGRATED SOFTWARE SOLUTIONS	0	0	0	
	KURZ PETER	0	0	0	0
	KURZ PETER	0	0	0	0
	KURZ WALTER	0	0	0	0
	KURZ WALTER	0	0	0	0
	LAUER EDWARD	38	0	19000	0
	LITTLE ROBERT D	0	0	0	0
	MAIER JAMES W	0	0	0	0
	MARSH GEORGE M	0	0	0	0
	MARSH GILBERT R	0	0	0	0
	MONCURE JAMES A	0	0	0	0
	MORRIS KEITH A	0	0	0	0
	MOSELY PHILLIP G	0	0	0	0
	PAUL ERIC A	8	0	4000	0
	PEARCE PETER A	0	0	0	0
	PERRY DWAYNE M	0	0	0	0
	RAYLE GLENN D	0	0	0	0
	REES J M	0	0	0	0
	RICKS WALTER G	0	0	0	0
	RIEDLINGER PAUL G	0	0	0	[redacted]
	RIEDLINGER ROBERT A	0	0	0	

Tier	Name	No. of New Jobs	No. of DZ Residents	Eligible Credit Amount Generated	Credit Amount for DZ Residents
	SALL JOHN P	0	0	0	0
	SHEKHAR MRIGANK	0	0	0	0
	SHEKHAR SWETANK	0	0	0	0
	STEPHENS FRANK M	0	0	0	0
	THORE GLENN W	0	0	0	0
	WARD ALLEN K	0	0	0	0
	WARD ALLEN K	0	0	0	0
	WARD MURIEL C	0	0	0	0
	WARD MURIEL C	0	0	0	0
	WILLIAMS STEVEN G	0	0	0	0
	WRAY PHILLIP C	0	0	0	0
	Total for Tier: 5	7663	28	8025555	112000
	Grand TOTAL:	14531	45	26672387	180000

William S. Lee Tax Credits

Worker Training

North Carolina Department of Revenue

William S. Lee Tax Credits
Worker Training
Processed in Calendar Year 2002

Tier	Name		No. of Employees	Eligible Credit Amount Generated
0				
	UNIFI MANUFACTURING, INC.		543	195851
	CONFLANDEY INC.		0	0
	CENTRO, INC.		0	0
	MID-ATLANTIC BUILDING SYSTEMS		0	0
	THOMAS BUILT BUSES, INC.		0	0
	CONFLANDEY INC.		0	0
	MOUNT OLIVE PICKLE COMPANY, I		156	54757
	WARLICK ANDERSON D		0	0
	Total for Tier:	0	699	250608
1				
	GREGORY POOLE EQUIPMENT COMPA		222	121500
	ALBA-WALDENSIAN, INC.		0	0
	OWENS-ILLINOIS CLOSURE INC.		30	30000
	MAGNOLIA MFG CO		246	84676
	FINELINE INDUSTRIES EAST, INC		42	42000
	FINELINE INDUSTRIES EAST, INC		0	0
	HALCORE GROUP, INC.		28	7405
	SAFELITE GLASS CORP		331	22061
	ALADDIN MANUFACTURING CORP		22	9735
	CAVALIER SPECIATLY YARN COMPA		46	23000
	BAKER JAMES C		0	0
	DICKINSON CHARLES F		0	0
	HUNTLEY MAX M		1	0
	Total for Tier:	1	968	340377
2				
	THE FELDSPAR CORPORATION		0	0
	VEEDER ROOT OF NC		78	39000
	HOMANIT USA, INC.		90	43843
	LITTLE ROBERT D		0	0
	Total for Tier:	2	168	82843
3				
	EASCO HAND TOOLS, INC.		27	13500
	MERCK & CO., INC.		341	151227
	MOUNT OLIVE PICKLE COMPANY, I		132	49274

Tier	Name	No. of Employees	Eligible Credit Amount Generated
	SPECTRUM DYED YARNS, INC.	0	0
	PARKDALE MILLS, INCORPORATED	869	117964
	CONITEX- SONOCO U.S.A., INC.	0	0
	CAVALIER SPECIATLY YARN COMPA	16	8000
	KCS INTERNATIONAL INC.	131	61539
	RED VALVE COMPANY, INC.	9	3651
	EATON AEROQUIP INC.	50	24706
	EATON AEROQUIP INC.	45	4477
	ALADDIN MANUFACTURING CORP	47	23500
	THE TIMKEN COMPANY	58	21945
	PARKDALE A	869	117964
	Total for Tier: 3	2594	597747
4			
	SANTA FE NATURAL TOBACCO CO	5	5000
	ATHOL MANUFACTURING CORP	79	38473
	THE GILLETTE COMPANY	95	4086
	R. L. STOWE MILLS, INC.	0	0
	WOODLAND MILLS CORPORATION	203	101500
	BSH HOME APPLIANCES CORP	156	115440
	ABBOTT LABORATORIES, INC.	74	21419
	PACKAGING CORPORATION OF AMER	27	13500
	COMMSCOPE, INC. OF NORTH CARO	2052	707436
	R. L. STOWE MILLS, INC.	0	0
	SAFT AMERICA INC	0	0
	THE MITCHELL GOLD CO.	61	1755
	ALADDIN MANUFACTURING CORP	16	8000
	CATERPILLAR INC.	0	0
	REVLON CONSUMER PRODUCTS CORP	643	254744
	BSH HOME APPLIANCES CORPORATI	38	20863
	NACCO MATERIALS HANDLING GROU	178	6791
	NACCO MATERIALS HANDLING GROU	364	52665
	OWENS-BROCKWAY PLASTIC PRODUC	4	2000
	EATON AEROQUIP INC.	67	19833
	Total for Tier: 4	4062	1373505
5			
	AVX CORPORATION	57	28500
	RENE COMPOSITE MATERIALS CORP	0	0
	JOHN DEERE CONSUMER PRODUCTS,	250	125000
	MILKCO, INC.	147	68603

Tier	Name	No. of Employees	Eligible Credit Amount Generated
	CLARK AME	94	47000
	AJINOMOTO USA INC	5	2500
	DEERE AND COMPANY	77	38500
	UNIFI MANUFACTURING, INC.	0	0
	ALCATEL NA CABLE SYSTEMS, INC	547	192939
	JOHN DEERE TURF CARE, INC.	303	151500
	DUKE ENERGY CORPORATION	42	42000
	DEERE & COMPANY	76	38000
	DEERE & COMPANY	378	52252
	MILKCO, INC.	221	45076
	VF JEANSWEAR, INC.	26	10240
	SEEGARS FENCE CO OF WAKE COUN	22	1100
	JOHN DEERE TURF CARE, INC.	203	100066
	FRISBY AEROSPACE, INC.	47	14892
	ALCATEL USA SOURCING, L.P.	0	0
	STEPHENS-L&E LLC	0	0
	THE GOODYEAR TIRE & RUBBER CO	9	4500
	KRISPY KREME DOUGHNUT CORPORA	65	32640
	KRISPY KREME DOUGHNUT CORPORA	70	70000
	KRISPY KREME DOUGHNUT CORPORA	22	22000
	PLYMOUTH PRINTING CO. INC.	20	10000
	ALCATEL USA LP, INC.	0	0
	DEERE-HITACHI CONSTRUCTION MA	0	0
	CARRIER CORPORATION	279	54189
	CROSSLOGIC CORPORATION	5	2500
	VF SERVICES, INC.	0	0
	CROSSLOGIC CORPORATION	7	3500
	CUTLER-HAMMER INC.	100	4445
	WALTER KIDDE PORTABLE EQUIPME	16	8000
	CROSSLOGIC CORPORATION	7	3500
	COMMSCOPE, INC. OF NORTH CARO	204	204000
	LANCE MFG. LLC	0	0
	ALCATEL USA GP, INC.	0	0
	FIRST CHARTER NATIONAL BANK	43	5290
	CLARKE AMERICAN CHECKS, INC.	96	48000
	APBI INC.	130	34188
	NOVO NORDISK PHARMACEUTICAL I	37	7169
	CORNING CABLE SYSTEMS INTERNA	0	0
	HEALTH DECISIONS, INC.	60	30000

Tier	Name		No. of Employees	Eligible Credit Amount Generated
	R. J. REYNOLDS TOBACCO COMPAN		143	113500
	AUERBACH HOWARD D		20	10000
		Total for Tier: 5	3828	1625589
		Grand TOTAL:	12319	4270669

North Carolina Department of Revenue

William S. Lee Tax Credits
Research and Development
Processed in Calendar Year 2002

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
ARDENT PHARMACEUTICALS, IN	0	0	0	0
DAIMLERCHRYSLER CORP	8532	427	0	0
BIC USA, INC. (BIC CONSUMER P	230423	11521	0	0
L S STARRETT CO	31940	1597	0	0
METAGENIX, INC.	0	0	0	0
SPBL ACQUISITION CO LLC	11518	576	0	0
RE-SOURCE AMERICA, INC.	0	0	0	0
LIPS, INC.	0	0	0	0
AUTOMATION PARTNERS INC	7621	381	0	0
NETWORK ASSOCIATES, INC.	134501	6725	0	0
CHEMCODES, INC.	0	0	0	0
DAIMLERCHRYSLER CORP	0	0	0	0
NORTEL NETWORKS INC.	68191772	3409589	0	0
THOMASVILLE FURNITURE INDU	592541	29627	0	0
BROYHILL FURNITURE INDUSTRI	506944	25347	0	0
GLOBAL SOFTWARE, INC.	0	0	19957	4989
INTERSIL COMMUNICATIONS, IN	2198684	109934	0	0
\ CORP	1457911	72896	0	0
DA...LERCHRYSLER NORTH AME	0	0	0	0
DAIMLERCHRYSLER NORTH AME	0	0	0	0
POLYCHEM ALLOY, INC.	0	0	0	0
LAFEBER CO	0	0	0	0
HI-TEX, INC.	78942	3947	0	0
TEKTONE SOUND AND SIGNAL M	178817	8941	3550	888
TEE-LOK CO	762864	38143	0	0
SHURTAPE TECHNOLOGIES, INC.	0	0	0	0
V-SAB MEDICAL LABS, INC.	6575	329	0	0
L S STARRETT CO	0	0	0	0
BANK OF AMERICA TECHNOLOG	0	0	0	0
CENTOCOR INC	1710964	85548	0	0
IENTERTAINMENT NETWORK, IN	0	0	0	0
DT MAGNETICS INTERNATIONAL,	256266	12813	0	0
THOR.LO, INC.	0	0	0	0
LIVEWIRE LOGIC, INC.	0	0	0	0
TRIPATH IMAGING, INC.	0	0	0	0
SILVERBACK TECHNOLOGIES, IN	167202	8360	0	0
BETTINSOLI GINO A	0	0	0	0
F ... WILLIAM H	762864	38143	0	0
... .WORTH JEFFREY B	0	0	0	0

D'ARENBERG PIERRE	0	0	0	0
FUNKE ROBERT P	49404	2470	0	0
GUARINO RICHARD	0	0	0	0
GUARRIELLO ANTHONY R	0	0	0	0
HARRELL LOREN B	0	0	0	0
HARRELL LOREN B	0	0	0	0
LEVINSON JACK M	11445	572	0	0
MONAHAN OSCAR L	0	0	0	0
OLDHAM FRANK P	0	0	0	0
RICKS WALTER G	0	0	0	0
SHERMAN MICHAEL M	0	0	0	0
SMITH WILLIAM A	0	0	0	0
WILSON D S	0	0	0	0
Total of Tier: 0	77357730	3867886	23507	5877

Tier 1

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
SLICKEDIT INC.	277360	13868	0	0
STX, INC.	576	29	0	0
SHURTAPE TECHNOLOGIES, INC.	635800	31790	0	0
WM T BURNETT MANAGEMENT, I	1225	61	0	0
MEDICLICK, INC.	0	0	0	0
SCYNEXIS CHEMISTY & AUTOMA	0	0	0	0
WM T BURNETT & CO INC F/K/A	1874	94	0	0
MORFLEX, INC.	0	0	0	0
EATON CORPORATION	323084	16154	0	0
LEVITON MANUFACTURING CO.,	204914	10246	0	0
EATON CORPORATION	323084	16154	0	0
IQMAX, INC.	287517	14376	0	0
THE TIMKEN COMPANY	0	0	0	0
WM T BURNETT OPERATING LIMI	122533	5943	0	0
PREFERRED MEDICAL MARKETI	0	0	0	0
PREFERRED MEDICAL MARKETI	0	0	0	0
SURONGO AMERICA INC	0	845	0	0
RAILROAD FRICTION PRODUCTS	673601	33680	0	0
GIBBS LAWRENCE F	48564	2428	0	0
PETERSON HANS E	355217	17761	0	0
SHAH RUBIN T	0	0	0	0
SHAH TILAK M	0	0	0	0
SHAH TILAK M	0	0	0	0
Total of Tier: 1	3255349	163429	0	0

Tier 2

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
[illegible]AR CORP	0	0	0	0
[illegible]METTE INDUSTRIES, INC.	138994	6950	0	0
GRAPHIC PACKAGING CORPORA	16896	845	0	0
OLDHAM SAW CO INC	261937	13097	0	0
Total of Tier: 2	417827	20892	0	0

Tier 3

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
EATON CORPORATION	370694	18535	0	0
COOPER-STANDARD AUTOMOTI	0	0	0	0
COOPER-STANDARD AUTOMOTI	0	0	0	0
DANA CORPORATION	130199	6510	0	0
GOERLICH'S, INC.	1042330	52117	0	0
MERCK & CO., INC.	0	0	41549	10387
COLLINS & AIKMAN PRODUCTS C	8914913	445746	0	0
ADVANCED INTERNET TECHNOL	673216	33661	0	0
RED VALVE COMPANY, INC.	42948	2147	0	0
EATON CORPORATION	284145	14207	0	0
WHITE CONSOLIDATED INDUSTR	460136	23007	0	0
[illegible]NE CO.	602569	30128	0	0
[illegible]HAND TOOLS, INC.	35693	1785	0	0
MILLER BREWING COMPANY	3594	180	0	0
CUTLER-HAMMER INC.	143448	7172	0	0
KIDDE TECHNOLOGIES INC.	0	0	13563	3391
CT COMMUNICATIONS, INC.	1095103	54755	0	0
THE TIMKEN COMPANY	0	0	0	0
GASTON SYSTEMS INC	117446	5872	0	0
BARMET ALUMINUM CORP	319215	15961	0	0
PROIMOS EVANGELOS	562859	28143	0	0
Total of Tier: 3	14798508	739926	55112	13778

Tier 4

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
AYLWARD ENTERPRISES	746470	37324	0	0
COMMSCOPE, INC. OF NORTH CA	2460134	123007	0	0
ADAMS WHOLESALE COMPANY	0	0	0	0
ATHOL MANUFACTURING CORP	228318	11416	0	0
VALDESE WEAVERS, INC.	1981624	99081	0	0
ADAMS WHOLESALE COMPANY	104831	5242	0	0
[illegible]EM ALLOY, INC.	49430	2472	0	0
MORGANITE	513882	25694	0	0

BSH HOME APPLIANCES CORPOR	0	0	4104	1026
SAFT AMERICA INC	0	0	0	0
MOEN INCORPORATED	1839967	91998	0	0
TRION, INC.	0	0	0	0
NOVOZYMES NORTH AMERICA, I	1762627	88131	0	0
ABBOTT LABORATORIES, INC.	1282117	64106	0	0
P P G INDUSTRIES, INC.	1474674	73734	0	0
NOLAN JAMES D	89147	4457	0	0
NOLAN ROBERT	52187	2609	0	0
ROHLIK MICHAEL L	42988	2150	0	0
Total of Tier: 4	12628396	631421	4104	1026

Tier 5

Taxpayer Name	R and D Expenditures	Eligible General Credit Amount Generated	NC Apportioned Share of Federal Credit	Eligible Alternative Credit Amount
THE STEEL NETWORK, INC.	213724	10686	0	0
VIRTA RALEIGH CORP	2293472	114674	0	0
CISCO SYSTEMS SALES & SERVIC	4200800	210040	0	0
BANNER PHARMACAPS INC.	179083	8954	0	0
SYNGENTA BIOTECHNOLOGY IN	0	0	985813	246453
NOMACORC LLC	86971	4349	0	0
THE QUANTU GROUP INC	279852	13993	0	0
INST TRANS EQUIP CORP	221603	11080	0	0
ALCATEL USA SOURCING, L.P.	17899514	894976	0	0
PEOPLECLICK.COM, INC.	2408235	120412	0	0
STOCKHAUSEN INC.	905256	45263	0	0
NOELFAMILY	86971	4349	0	0
NOEL FAMILY TRUST FBO MICHA	86971	4349	0	0
MORFLEX, INC.	779565	38978	0	0
CORNING INCORPORATED	6526546	326327	848451	212113
UNITIVE ELECTRONICS, INC.	0	0	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
SAFFRON TECHNOLOGY, INC.	0	0	0	0
TRIANGLE MICROSYSTEMS, INC.	107463	5373	0	0
PERFORMAWORKS, INC.	879390	43970	0	0
SMITHKLINE BEECHAM CORPOR	74246335	3712317	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
NOEL FAMILY TRUST BO WENDY	86971	4349	0	0
CORNING INCORPORATED	5673172	283659	737512	184378
CORNING INCORPORATED	728713	36436	94733	23683
CORNING INCORPORATED	0	0	0	0
GOULSTON TECHNOLOGIES, INC.	1134679	56734	0	0
BANK OF AMERICA TECHNOLOG	101636	5082	0	0
INTEGRATED SOFTWARE SOLUTI	405820	20291	0	0
SIEBEL SYSTEMS, INC.	1819769	90988	0	0

TRIANGLE PHARMACEUTICALS, I	15521961	776098	0	0
ETRIALS, INC.	192516	9626	0	0
STELLA NOVA TECHNOLOGIES	48564	2428	0	0
EL NA CABLE SYSTEMS, I	0	0	0	0
ERNATIONAL BUSINESS MAC	0	0	15252149	3813037
INTELLI-MARK TECHNOLOGIES, I	256122	12806	0	0
POLYZEN INC	65453	3273	0	0
FILTRATION GROUP, INC.	50803	2540	0	0
SOFTPRO CORP	59125	2956	0	0
MEDICLICK, INC.	0	0	0	0
ALCATEL USA GP, INC.	17899514	894976	0	0
MARKETECH SYSTEMS	490074	24504	0	0
SILICON SEMICONDUCTOR CORP	1866686	93334	0	0
FLEXCELL INTL CORP	335420	16771	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
CLOSURE MEDICAL CORPORATI	1798074	89904	0	0
VF SERVICES, INC.	0	0	0	0
INTEGRATED SOFTWARE SYST	405820	20291	0	0
UNICHEM INC	66554	3328	0	0
HATTERAS NETWORKS, INC.	2434494	121725	0	0
NOEL FAMILY TRUST	86971	4349	0	0
NOEL VENTURES, LLC	86971	2759	0	0
TAS SO	2051933	102597	0	0
ITA INC	88577	4429	0	0
HAYWARD INDUSTRIAL	289810	14491	0	0
CCS HOLDINGS, INC.	0	0	0	0
INDUSTRIAL MICROWAVE SYSTE	250407	12520	0	0
SCYNEXIS CHEMISTY & AUTOMA	463013	23151	0	0
STELLA NOVE TECHNOLOGIES	48564	2428	0	0
LANCE MFG. LLC	132833	6642	0	0
DELTA CONSOLIDATED INDUSTR	15646	782	0	0
IMPACT TECHNOLOGIES GROUP,	368876	18444	0	0
KLAUSSNER FURNITURE INDUST	1943976	97199	0	0
GENERAL DYNAMICS ADVANCE	0	0	2589	647
4PI ANALYSIS, INC.	137092	6855	0	0
BIOGEN INC	3031867	151593	0	0
TOGETHERSOFT CORPORATION	167282	8364	0	0
SCIQUEST, INC.	909328	45466	0	0
MICROBAN PRODUCTS COMPAN	0	0	0	0
ASCOM WIRELESS SOLUTIONS IN	278440	13922	0	0
TRIFOLIUM, INC.	67111	3356	0	0
ELUMENS CORPORATION	297782	14889	0	0
L B PLASTICS INC	38439	1922	0	0
OPTICS CORPORATION	3903155	195158	0	0
MOBIVERYWHERE, INC.	561058	28053	0	0

CORNING CABLE SYSTEMS INTE	7205550	360278	0	0
NITRONEX CORPORATION	1383897	69195	0	0
BIOMERIEUX, INC.	1124634	56232	0	0
ERICSSON INC.	32560225	1628011	0	0
CHARLES & COLVARD, LTD.	0	0	0	0
ULTIMUS, INC.	225079	11254	0	0
TROXLER ELECTRONIC LABORA	727579	36379	0	0
INSPIRE PHARMACEUTICALS, INC	6488577	324429	0	0
VENETICA CORPORATION	1132488	56624	0	0
INSECT BIOTECHNOLOGY, INC.	273533	13677	0	0
TEKELEC	20991013	1049551	0	0
NOBLE OIL SERVICES, INC.	295449	14772	0	0
FLOW SCIENCES, INC.	112055	5603	0	0
ABB AUTOMATION INC.	7846184	392309	0	0
NOVARTIS PHARMACEUTICALS C	0	0	848594	212149
SYNAPSE TECHNOLOGY, INC.	116030	5802	0	0
WILMORE ELECTRONIC COMPAN	171612	8581	0	0
PLIANT SYSTEMS, INC.	0	0	0	0
SMART ONLINE, INC.	0	0	0	0
VOLVO TRUCKS NORTH AMERIC	10723491	536175	0	0
WELCH ALLYN INC	217540	10877	0	0
MEDTEC, INC.	351903	17595	0	0
ELI LILLY AND COMPANY	18782779	939139	0	0
ALCATEL USA LP, INC.	17899514	894976	0	0
CARDIOVASCULAR DIAGNOSTIC	1291599	64580	0	0
UNION CARBIDE CORPORATION	1498252	74913	0	0
CUTLER-HAMMER INC.	1261432	63072	0	0
FIBER INDUSTRIES, INC.	3105182	155259	0	0
NETOCTAVE, INC.	597008	29850	0	0
MERIX BIOSCIENCE, INC.	2068180	103409	0	0
CHARLOTTE PIPE AND FOUNDRY	1069578	53479	0	0
RELATIVITY TECHNOLOGIES, INC	332250	16613	0	0
NOVARTIS ANIMAL HEALTH US, I	0	0	34500	8625
HAYWARD POOL PRODUCTS, INC	239360	11968	0	0
SAS INSTITUTE INC.	0	0	3553750	888438
FOREST2MARKET.COM	0	0	0	0
COVENTOR, INC.	66785	3339	0	0
WESTLAKE INDUSTRIES, INC.	0	0	0	0
DANA CORPORATION	467295	23365	0	0
MICROMASS COMMUNICATIONS,	400320	20016	0	0
VOLUMETRICS MEDICAL IMAGIN	0	0	0	0
INTEGRIAN, INC.	143500	7175	0	0
CENTURY FURNITURE INDUSTRI	0	0	0	0
ABB INC.	3974118	198706	0	0
OLIVER RUBBER COMPANY	963202	48160	0	0
PREFERRED MEDICAL MARKETI	142616	7131	0	0

HEALTH DECISIONS, INC.	1698054	84903	0	0
AVANT CORPORATION AND SUB	1799381	89969	0	0
WILSON-COOK MEDICAL INC.	688032	34402	0	0
[redacted]T NETWORKS, INC.	540033	27002	0	0
[redacted] SYSTEMS, INC.	1072584	53629	0	0
INTEGRIAN, INC.	73180	3659	0	0
SYNGENTA CROP PROTECTION, I	0	0	324247	81062
BATES E G	11445	572	0	0
BERENTHAL SAUL	0	0	0	0
BODILY ROBERT	405820	20291	0	0
BRUNER JEFFREY W	279852	13993	0	0
DEVCHOUDHURY RATHINDRA	48564	2428	0	0
EASON DOUGLAS	405820	20291	0	0
HENDERSON BARRY T	0	0	0	0
HORTONSTELLA NOVA TECHNOL	48564	2428	0	0
JENKINSINTEGRATED SOFTWARE	405820	20291	0	0
KUPFERMAN LINDSAY B	0	0	19957	4989
KUPFERMAN MATTHEW C	0	0	19957	4989
KUPFERMAN RONALD J	0	0	19957	4989
KUPFERMAN SPENCER T	0	0	0	0
LAUER EDWARD	86971	4349	0	0
LEVINSON STUART J	1040326	52016	0	0
LITTLE ROBERT D	0	5397	0	0
M [redacted]URE JAMES A	0	290	0	0
[redacted] KEITH A	0	0	0	0
NOEL MARC J	86971	4349	0	0
NORWOOD KIMBERLY D	24702	1235	0	0
PAUL ERIC A	351903	17595	0	0
PERRY DWAYNE M	107954	5398	0	0
RAO RAJESH	0	0	0	0
REES J M	0	1378	0	0
REITER PABLO	0	0	0	0
SHAH RUBIN T	65453	3273	0	0
SHAH TILAK M	65453	3273	0	0
SHAH TILAK M	65453	3273	0	0
SHEKHAR SWETANK	0	0	0	0
SINGH HARVINDER	0	0	0	0
WRENN JAMES H	42160	2108	0	0
Total of Tier: 5	335756226	16793299	22742209	5685552
Grand TOTAL:	444214036	22216853	22824932	5706233

William S. Lee Tax Credits

Real Property Investment

North Carolina Department of Revenue

William S. Lee Tax Credits
Real Property Investment
Processed in Calendar Year 2002

0

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
MEASURMENT INCORPORATED PAYRO	0	0
R & R MACHINE COMPANY, INC.	0	0
Total of Tier: 0	0	0

Tier 1

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
AMERESCOSOLUTIONS, INC.	0	0
AMERICAN LAFRANCE CORPORATION	0	0
BRANCH BANKING AND TRUST COMP	0	0
RAILLINC CORPORATION	0	0
SYNGENTA CROP PROTECTION, INC	27308	27308
Total of Tier: 1	27308	27308

Tier 2

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
IT USA, INC.	51351	51351
Total of Tier: 2	51351	51351

Tier 3

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
BRANCH BANKING AND TRUST COMP	0	0
Total of Tier: 3	0	0

Tier 4

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
NACCO MATERIALS HANDLING GROU	0	0
Total of Tier: 4	0	0

Tier 5

Taxpayer Name	Eligible Investment Amount	Eligible Credit Amount Generated
SALL JOHN P	0	0
W MS JOHNNY J	0	0
A SCOSOLUTIONS, INC.	0	0

APBI INC.	4309	0
ARMACELL UNITED STATES HOLDIN	0	0
BANK OF AMERICA NA	0	0
BIOMERIEUX, INC.	500000	500000
BRANCH BANKING AND TRUST COMP	500000	500000
CAROLINA POWER & LIGHT COMPAN	0	0
CATERPILLAR INC.	0	0
DUKE ENERGY CORPORATION	500000	500000
DUKE PROJECT SERVICES, INC.	0	0
ELECTROLUX HOME PRODUCTS, INC	0	0
FIRST CHARTER NATIONAL BANK	500000	500000
FIRST UNION NATIONAL BANK	0	0
FIRST UNION NATIONAL BANK	0	0
FRAMATOME ANP DE&S, INC.	0	0
GREGORY POOLE EQUIPMENT COMPA	6402	6402
NOVARTIS ANIMAL HEALTH US, IN	0	0
QUINTILES TRANSNATIONAL CORP.	0	0
RAILLINC CORPORATION	0	0
RAILLINC CORPORATION	0	0
SAS INSTITUTE INC.	0	0
SCIQUEST, INC.	0	0
SYNGENTA BIOTECHNOLOGY INC	0	0
SYNGENTA CROP PROTECTION, INC	122889	122889
THE CONCORD TELEPHONE COMPANY	0	0
THE VANGUARD GROUP, INC.	0	0
US AIRWAYS, INC.	0	0
VF CORP	0	0
VF PLAYWEAR INC	206675	29525
VF PLAYWEAR, INC.	0	0
WACHOVIA BANK OF NORTH CAROLI	0	0
Total of Tier: 5	2340275	2158816

Grand TOTAL:	2418934	2237475

William S. Lee Tax Credits

Detail of Credits Claimed

North Carolina D[illegible]rtment of Revenue

William S. [illegible]ee Tax Credits
Detail of Credits Claimed
Processed in Calendar Year 2002

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
	0	0	0	0	0	0	0
ADAMS ADAM F	0	0	0	0	0	0	0
ADAMS PETER W	0	43	0	0	0	0	0
AGNOFF CHARLES	0	0	0	0	0	0	0
ALDREDGE JR EMMETT C	0	0	0	0	0	0	0
ALDRIDGE JERRY K	0	38	0	0	0	0	0
ALLEN BRADLEY D	4	29	0	0	0	0	0
ALLEN CECIL O	0	984	0	0	0	0	0
ALLEN JOSEPH G	0	0	0	0	0	0	0
ALPHIN LEON C	0	0	0	0	0	0	0
AMBROSE COLIN M	0	0	0	0	0	0	0
ANDERSON DAVID W	0	0	31,600	0	0	0	0
ARNETT ANDREW	0	270	0	0	0	0	0
AUERBACH HOWARD D	4,125	0	0	2,963	0	0	0
AUSTIN DANIEL C	0	0	0	0	0	0	0
AUSTIN LAWRENCE A	0	0	0	0	0	0	0
AYLWARD JOHN	9,243	3,412	24,643	0	0	0	0
BAGGETT CARROLL M	329,821	0	0	0	0	0	0
BAKER JAMES C	50	2,004	0	0	0	0	0
BANNISTER TIM	0	219	0	0	0	0	0
BARBER ARTHUR II	68,100	2,903	0	0	0	0	0
BARBER BRANDON A	7,892	0	0	0	0	0	0
BARBER JAMIE R	8,141	0	0	0	0	0	0
BARNARD EARLE E	29	33	0	0	0	0	0
BARNES JERRY Q	0	0	0	0	0	0	0
BARNES ROCK A	0	1,997	0	0	0	0	0
BARNETTE BERTRAM A	0	57	0	0	0	0	0
BARRINGER BRENT D	5,135	255	0	0	0	0	0
BARTON ELMER P	0	0	0	0	0	0	0
BARWICK BOYCE B	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BARWICK CARROLL B	1,501	408	0	0	0	0	0
BATES E G	0	0	0	0	0	0	0
BAUCOM MICHAEL Y	0	0	0	0	0	0	0
BAXTER PATRICIA	0	0	0	0	0	0	0
BEARD LAWRENCE E	0	0	0	0	0	0	0
BECK PATRICIA Q	0	9	0	0	0	0	0
BEEKER GEORGE M	156	1,762	0	0	0	0	0
BELL JOHN M	907	0	0	0	0	0	0
BELL THOMAS F	19,186	0	0	0	0	0	0
BELL THOMAS F	907	0	0	0	0	0	0
BERENTHAL SAUL	0	0	6,788	0	0	0	0
BETTINSOLI GINO A	0	0	1,161	0	0	0	0
BETTS RICKY C	0	576	0	0	0	0	0
BETTS RONNIE L	0	578	0	0	0	0	0
BIRCHETTE GEORGE A	0	0	0	0	0	0	0
BISHOP ELBERT M	0	75	0	0	0	0	0
BLACK WILLIAM H	11,625	36,488	38,143	0	0	0	0
BODILY ROBERT	29	0	1,569	0	0	0	0
BOGGS ANDREW M	0	0	0	0	0	0	0
BOGGS NORRIS E	0	0	0	0	0	0	0
BOLEN CHARLES E	0	72	0	0	0	0	0
BOND JAMES O	83	0	0	0	0	0	0
BOND RICHARD R	337	3,639	0	0	0	0	0
BRADFORD ROBERT G	0	0	0	0	0	0	0
BRAY JOHN T	941	800	0	0	0	0	0
BREWER LELAND T	0	0	0	0	0	0	0
BRITTINGHAM SARAH W	0	10	0	0	0	0	0
BROADWELL DOHN B	0	3,110	0	0	0	0	0
BROADWELL RICHARD M	0	6,886	0	0	0	0	0
BROWDER KENNETH G	1,315	187	0	0	0	0	0
BRUNER JEFFREY W	0	4,467	13,993	0	0	0	0
BUCK PATTY C	0	42	0	0	0	0	0
BUCKNER CHARLES J	0	81	0	0	0	0	0
BULLA[redacted]MAN D	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BULLARD RICKY J	0	4,450	0	0	0	0	0
BURGESS DANIEL F	0	49	0	0	0	0	0
BURGESS JOSHUA A	0	0	0	0	0	0	0
BUTTAR RASHID A	0	0	2,175	0	0	0	0
BUTTAR RASHID A	0	0	329	0	0	0	0
BUTTERWORTH JEFFREY B	0	0	6,191	0	0	0	0
BYRNSIDE BENJAMIN	6,848	0	0	0	0	0	0
CALIHAN JOSEPH L	0	0	0	0	0	0	0
CAPELL JOHN H	19,209	813	0	0	0	0	0
CAPELL KERRY L	20,229	871	0	0	0	0	0
CARLSON STEPHEN C	24,903	0	0	0	0	0	0
CARPENTER JONATHAN S	0	0	0	0	0	0	0
CARR III GEORGE W	0	647	0	0	0	0	0
CARROLL GEORGE F	0	0	0	0	0	0	0
CARTER RUSSELL M	0	0	0	0	0	0	0
CARVER W G	400	4,378	0	0	0	0	0
CHAMBLISS III NORMAN Y	0	0	0	0	0	0	0
CHEWNING SAMUEL J	0	5	0	0	0	0	0
CLEMENT JAMES E	0	30	0	0	0	0	0
CLINE JULIUS D	167	50	0	0	0	0	0
COCHRAN JOHN P	0	0	0	0	0	0	0
COEN EUGENE W	0	0	0	0	0	0	0
COHEN LEIPOLD I	0	0	0	0	0	0	0
COLANTUONO THOMAS P	0	2,155	0	0	0	0	0
COLLINS PAUL M	0	0	2,149	0	0	0	0
CONNOR WILTON M	0	0	0	0	0	0	0
COOLEY THEODORE M	0	0	0	0	0	0	0
COOPER JAMES E	7	30	2	0	0	0	0
COPLAND JAMES R	0	97	0	0	0	0	0
COPLAND JASON C	0	0	0	0	0	0	0
COPLAND LILLIAN G	0	0	0	0	0	0	0
COPLAND RONALD G	0	0	0	0	0	0	0
COPLAND SPENCER T	0	0	0	0	0	0	0
CORNS BILLY R	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
COTTINGHAM GEORGE D	13	14	0	0	0	0	0
COVINGTON EDWARD H	0	0	0	0	0	0	0
COXE THOMAS C	2,382	8,191	0	0	0	0	0
CRARY EDWARD M	0	0	0	0	0	0	0
CRITZ ROBERT M	0	286	0	0	0	0	0
CROWDER TODD L	160	2,029	0	0	0	0	0
CROWELL GILES F	0	203	0	0	0	0	0
CULHANE P E	2,495	0	0	0	0	0	0
DANIEL LARRY	0	0	0	0	0	0	0
DARCH LEE A	29	33	0	0	0	0	0
D'ARENBERG PIERRE	0	0	0	0	0	0	0
DARNELL WILLIAM E	0	192	0	0	0	0	0
DAUGHETY CATHY N	0	102	0	0	0	0	0
DAUGHTRIDGE RAYMOND L	0	0	0	0	0	0	0
DAVIS BRIAN A	0	0	0	0	0	0	0
DAVIS JOSEPH M	0	0	9	0	0	0	0
DAVIS MARTIN A	0	0	0	0	0	0	0
DEAL EDWARD M	1,822	0	0	0	0	0	0
DEAL RONALD E	5,788	0	0	0	0	0	0
DEDMON RICHARD C	0	0	0	0	0	0	0
DEJOY DOMINICK	0	0	0	0	0	0	0
DELLA SANTA ERALDO	16,099	0	0	0	0	0	0
DELLA SANTA MASSIMO	18,251	0	0	0	0	0	0
DENNING JOSEPH M	0	94	0	0	0	0	0
DERRICK MICHAEL R	0	10	0	0	0	0	0
DEVCHOUDHURY RATHINDRA N	0	0	728	0	0	0	0
DICKINSON CHARLES F	2,249	0	0	1,802	0	0	0
DIRKS MARK K	0	0	5,076	0	0	0	0
DITTENHOEFER SUSAN J	858	4,906	0	0	0	0	0
DUBOSE CHARLES H	0	0	0	0	0	0	0
DUNLOW ERNEST M	502	0	0	0	0	0	0
DUNN SAMUEL W	0	0	0	0	0	0	0
DYSART CHRISTIAN E	5,311	14,743	0	0	0	0	0
EASO[redacted]AS	16	0	[redacted]	892	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ECHOLS THOMAS E	1,116	0	0	0	0	0	0
EDGERTON GLENN S	0	0	0	0	0	0	0
EDGERTON SYLVIA A	0	1,304	0	0	0	0	0
EDGERTON SYLVIA S	0	11,413	0	0	0	0	0
EDWARDS DANNY R	0	1,502	0	0	0	0	0
EDWARDS MERLE W	0	750	0	0	0	0	0
EGGERS PHILLIP A	0	33	0	0	0	0	0
ELLETT RUSSELL P	0	0	1	0	0	0	0
ELSTER JOHN R	0	0	0	0	0	0	0
ENGLERT JOHN A	0	0	0	0	0	0	0
ENGLERT SCOTT T	0	0	0	0	0	0	0
ENGLISH ANN L	0	0	0	0	601	0	0
ERVIN JOHN W	0	0	0	0	0	0	0
ERWIN CHARLES B	0	0	0	0	0	0	0
EURE LUTHER H	0	0	10	0	0	0	0
EVANS CLIFTON W	0	1,000	0	0	0	0	0
EVANS EDWARD P	0	0	0	0	0	0	0
EVANS EDWARD P	0	0	0	0	0	0	0
EVANS FREDERICK L	0	1,000	0	0	0	0	0
EVANS JAMIE R	0	1,000	0	0	0	0	0
EVANS KEVIN W	0	0	0	0	0	0	0
EWERT BRIAN C	0	0	0	0	0	0	0
FALLS THOMAS N	0	0	0	0	0	0	0
FANCOURT NEAL S	685	0	0	0	0	0	0
FANJOY THOMAS A	0	16,934	0	0	0	0	0
FEARING TATNAL W	0	643	0	0	0	0	0
FENDER DONALD P	0	301	0	0	0	0	0
FERGUSON CHARLES L	604	955	0	0	0	0	0
FERKI JOSEPH M	0	0	0	0	0	0	0
FIELDS GEORGE B	0	0	0	0	0	0	0
FINCH JOHN L	0	5,408	0	0	0	0	0
FINGER BRADLEY E	0	0	0	0	0	0	0
FINK ALEC A	0	0	2,261	0	0	0	0
FISHER THOMAS G	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
FITZHARRIS JAMES F	0	0	0	0	0	0	0
FLUHARTY JOSEPH R	0	0	0	0	62	0	0
FLYNN GARY B	184	1,145	0	0	0	0	0
FOGLEMAN BERNARD M	0	450	0	0	0	0	0
FOLEY LEONARD K	74	0	0	0	0	0	0
FORD TIMOTHY L	0	0	0	0	0	0	0
FOWLER LOIS P	0	84	0	0	0	0	0
FOX CHARLOTTE N	0	0	0	0	0	0	0
FOX GORDON C	0	0	0	0	0	0	0
FOX LAUREN C	0	50	0	0	0	0	0
FOX RICHARD L	0	0	0	0	0	0	0
FRYE EUGENE C	4,584	0	0	0	0	0	0
FULP THOMAS W	0	450	0	0	0	0	0
FUNKE ROBERT P	0	0	0	0	0	0	0
FUTRELL TRACY E	0	0	0	0	0	84,386	0
GARDNER DAVID E	5,647	0	0	0	0	0	0
GASKILL JOYCE G	126	0	0	0	0	0	0
GAYLORD ERIC L	7,228	137	11	0	0	0	0
GAYLORD JOHN F	17,669	336	28	0	0	0	0
GAYLORD ROBERT S	7,228	137	11	0	0	0	0
GENTRY IRCIL N	0	189	0	0	0	0	0
GERBER ERIC T	0	0	0	0	0	0	0
GIBBS LAWRENCE F	0	0	729	0	0	0	0
GILLELAND WILLIAM C	0	0	0	0	0	0	0
GIRARDIN WALTER E	0	38	0	0	0	0	0
GODWIN JAMES P	0	0	0	0	0	0	0
GOINS JESSE J	0	953	0	0	0	0	0
GONYEA DAVID W	0	0	0	0	0	0	0
GONYEA II JOSEPH H	0	0	0	0	0	0	0
GONYEA III JOSEPH H	0	0	0	0	0	0	0
GOODING DAVID R	1,389	107	0	0	0	0	0
GOODING DAVID R	1,389	107	0	0	0	0	0
GOODMAN JOHNNY W	0	336	0	0	0	0	0
GOODMAN 'ETH L	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
GOODMAN RAYMOND W	0	3,345	0	0	0	0	0
GOODMAN RAYMOND W	0	0	0	0	0	0	0
GOODNIGHT JAMES H	0	0	0	0	0	0	0
GORDON ALFRED A	0	78	0	0	0	0	0
GORDON BARRY S	0	1,055	0	0	0	0	0
GORDON CHARLES B	0	751	0	0	0	0	0
GORDON CHARLES B	0	1,028	0	0	0	0	0
GORDON CRAIG R	0	1,055	0	0	0	0	0
GORDON ERIC B	0	0	0	0	0	0	0
GORDON KALMAN S	0	78	0	0	0	0	0
GORDON LOUIS J	0	1,055	0	0	0	0	0
GORDON MARK A	0	1,055	0	0	0	0	0
GORDON MELVIN	0	78	0	0	0	0	0
GORDON RICHARD E	0	1,054	0	0	0	0	0
GORDON ROBERT L	0	1,054	0	0	0	0	0
GORDON SAUL	0	78	0	0	0	0	0
GORHAM ROBERT D	0	0	0	20	10	0	0
GOSLEN JUNIUS B	0	1,242	27	0	0	0	0
GREENE RODERICK M	0	428	0	0	0	0	0
GREENE RONALD B	55	0	0	0	0	0	0
GRIGGS WILBUR R	0	73	0	0	0	0	0
GRIGGS WILBUR R	0	5	0	0	0	0	0
GUARINO RICHARD	0	0	798	0	0	0	0
GUARRIELLO ANTHONY R	3,412	13,086	34	0	0	0	0
HAGAN EDWARD M	0	0	0	0	0	0	0
HAIGH MARSDEN D	23,561	0	0	0	0	0	0
HAIR STUART A	0	449	0	0	0	0	0
HALSO ESCOTT	0	0	0	0	0	0	0
HAMILTON JULIAN C	32	0	36	0	0	0	0
HANKINS STEVEN R	0	0	0	0	0	0	0
HARRAWOOD DAVID A	0	0	0	0	0	0	0
HARRELL LOREN B	0	0	0	0	0	0	0
HARRELL WAYNE M	0	0	0	0	0	0	0
HARRIS JAMES N	0	56	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
HARRIS RICHARD F	0	59	0	0	0	0	0
HARVEY WILLIAM L	0	0	0	0	0	0	0
HAUPRICHT BRIAN A	0	0	0	0	0	0	0
HAYNES DAVID B	0	173	0	0	0	0	0
HENDERSON BARRY T	53	0	2,763	0	0	0	0
HENDERSON JAMES W	166	-83	0	0	0	0	0
HENDERSON RONNIE L	0	0	0	0	0	0	0
HENDREN WILLIAM	0	0	0	0	0	0	0
HERRING APRIL N	2,610	0	0	0	0	0	0
HERRING KEVIN S	2,610	0	0	0	0	0	0
HERRING SHERWIN	25,230	0	0	0	0	0	0
HESTER ROBERT W	0	279	0	0	0	0	0
HILL JERRY L	12,194	0	0	0	0	0	0
HOARD JOSEPH S	12,434	0	0	0	0	0	0
HOARD JOSEPH S	9,896	0	0	0	0	0	0
HOARD JOSEPH S	12,434	0	0	0	0	0	0
HOARD KELLEY N	647	0	0	0	0	0	0
HODGES CHARLES S	0	164	0	0	0	0	0
HODGES WILLIAM P	2,719	2,311	0	0	0	0	0
HOFFNER ALAN L	0	0	0	0	0	0	0
HOLLAND HARROLD D	0	0	0	0	0	0	0
HOLLER RAYMOND A	0	0	0	0	0	0	0
HOLMAN DOUGLAS E	0	0	0	0	0	0	0
HOLT AMANDA M	0	0	0	0	0	0	0
HOLT ASHLEY E	0	0	0	0	0	0	0
HOLT CHARLES D	0	0	0	0	0	0	0
HOLT JOHN A	0	0	0	0	0	0	0
HOLT JOHN A	85	741	0	0	0	0	0
HOLT MARGUERITE E	0	0	0	0	0	0	0
HOLT MICHAEL M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT RALPH M	0	0	0	0	0	0	0
HOLT S[redacted]	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
HOLT SARAH M	0	0	0	0	0	0	0
HOLTON JAMES R	1,962	21,236	0	0	0	0	0
HOOD CLIFTON R	1,500	0	0	0	0	0	0
HOOVER STEPHEN J	0	0	0	0	0	0	0
HORNE CHARLES D	0	22,133	0	0	0	0	0
HORNE KENNETH W	0	17,416	0	0	0	0	0
HORTON PAUL W	0	0	0	0	0	0	0
HOWE HENRY T	0	0	0	0	0	0	0
HOYLE KENNETH L	0	5,093	0	0	0	0	0
HUDSON CHARLES W	0	0	0	0	0	0	0
HUFFMAN WILLIAM G	0	0	0	0	0	0	0
HUGHES JEFFREY L	937	0	0	0	0	0	0
HUGHES JOSEPH K	344	240	0	0	0	0	0
HUGHES JOSEPH K	0	0	0	0	0	0	0
HUGHES WILLIAM C	287	199	0	0	0	0	0
HUGHES JR G J	351	266	0	0	0	0	0
HUMPHREY DONALD M	0	614	0	0	0	0	0
HUNT JANICE L	0	68	0	0	0	0	0
HUNTER CHARLES M	12	107	0	0	0	0	0
HUNTLEY MAX M	3,981	3,946	0	1,441	0	0	0
INGRAM GARY L	0	311	0	0	0	0	0
JACKSON TRAVIS H	0	58	0	0	0	0	0
JASZEWSKI PAUL K	0	71	0	0	0	0	0
JENKINS KENNETH L	83	0	4,457	0	0	0	0
JENKINS PEMBROKE N	9,000	4,410	0	0	0	0	0
JO HUN-YONG	30,550	13,012	0	0	0	0	0
JO HWAYONG	30,290	12,902	0	0	0	0	0
JOHNSON ARTHUR H	0	0	0	0	0	0	0
JOHNSON F J	0	2,355	0	0	0	0	0
JOHNSON FRANCES H	0	0	0	0	0	0	0
JOHNSON JUDITH H	0	0	0	0	0	0	0
JOHNSON LARRY G	0	141	0	0	0	0	0
JOHNSON MARK A	0	6,019	0	0	0	0	0
JOHNSON PHILIP H	4	32	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
JOHNSON PHILLIP W	0	0	0	0	0	0	0
JOHNSTON KATHERINE M	0	0	0	0	667	0	0
JONES DAPHNE P	0	0	0	0	0	0	0
JONES DONALD H	0	0	0	0	0	0	0
JONES J R	0	0	0	0	91	0	0
JONES J W	0	4,546	0	0	0	0	0
JONES J W	0	0	0	0	0	0	0
JONES SEBY B	0	136	0	0	0	0	0
JONES STEPHEN L	0	0	0	0	0	0	0
JORDAN JACK P	0	2,495	0	0	0	0	0
JORDAN JOHN R	0	0	0	0	0	0	0
JORDAN ROBERT B	0	2,495	0	0	0	0	0
JOYNER DONALD L	0	0	0	0	0	0	0
JUNEAU KENNETH P	458	0	0	0	0	0	0
KELLY JAMES F	0	0	0	0	0	0	0
KIMBRELL WILLARD D	0	0	0	0	0	0	0
KINCHELOE JOHN B	0	20	0	0	0	0	0
KING LYNWOOD C	0	0	0	0	0	0	0
KIRBY MARGARET M	0	961	0	0	0	0	0
KISER AMELIA T	701	729	0	0	0	0	0
KISER AMELIA T	1,046	811	0	0	0	0	0
KISER AMELIA T	709	835	0	0	0	0	0
KISER J J	0	0	0	0	0	0	0
KISER J J	3	3	0	0	0	0	0
KISER J J	0	0	0	0	0	0	0
KISER L R	4	3	0	0	0	0	0
KISER L R	0	0	0	0	0	0	0
KISER L R	0	0	0	0	0	0	0
KITCHENS TRACEY B	0	39	0	0	0	0	0
KOONTZ TONY E	0	631	0	0	0	0	0
KUPFERMAN LINDSAY B	0	0	0	0	0	0	0
KUPFERMAN MATTHEW C	0	0	1,299	0	0	0	0
KUPFERMAN RONALD J	0	0	923	0	0	0	0
KUPFER[redacted]ENCER T	0	0	2,291	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	/Z rojects
KURZ PETER	8,312	13,033	0	0	0	0	0
KURZ WALTER	8,309	13,029	0	0	0	0	0
LAING BRENT P	0	0	0	0	0	0	0
LANE CURK T	2,798	0	0	0	0	0	0
LANE LANDON B	0	0	0	0	0	0	0
LANNING HOY S	16,501	665	0	0	0	0	0
LAUER EDWARD	310	1,260	70	0	0	0	0
LAUGHLIN DAVID E	0	0	0	0	0	0	0
LAUGHLIN WILLIAM H	0	0	0	0	0	0	0
LAWRENCE MCKINLEY A	26	0	0	0	0	0	0
LEE EDWARD L	0	0	0	0	0	0	0
LESTER JAMES D	0	2,014	0	0	0	0	0
LEVINSON GARY L	0	0	572	0	0	0	0
LEVINSON JACK M	0	0	572	0	0	0	0
LEVINSON STUART J	0	0	0	0	0	0	0
LEWIS HARVEY R	142	160	0	0	0	0	0
LEWIS JOHN W	0	0	951	0	0	0	0
LEWIS WILLIAM F	0	0	0	0	0	0	9,234
LITTLE ROBERT D	122	0	6,498	0	0	0	0
LITTLE THOMAS M	2,380	4,052	0	0	0	0	0
LONDON WILLIAM L	0	0	0	0	0	0	0
LONG DANIEL J	0	8	0	0	0	0	0
LONON LINDA M	0	0	0	0	0	0	0
LOVETT NORMAN	0	788	0	0	0	0	0
LUDLUM CURTIS D	0	0	0	0	1,647	0	0
LYLE ROBERT V	0	0	0	0	0	0	0
MABE ZARA D	0	22	0	0	0	0	0
MACCARONE JAMES V	0	0	0	0	74	0	0
MACK JOHN J	0	0	0	0	0	0	0
MADDEN MARK R	0	10,237	0	0	0	0	0
MADDISON LAURENCE B	0	0	0	0	0	0	0
MAIER JAMES W	0	0	0	0	0	0	0
MAINOR ETLAR L	0	0	0	0	0	0	0
MALONE ROBERT B	0	95	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MANCOSH DOUGLAS G	0	0	0	0	0	0	0
MANESS JOHN M	122	2,763	0	0	0	0	0
MARSH GEORGE M	0	0	0	0	0	0	0
MARSH GILBERT R	0	0	0	0	0	0	0
MARSH JAMES P	0	0	0	0	0	0	0
MARSH JAMES P	0	0	0	0	0	0	0
MARSH MILLICENT M	0	0	0	0	0	0	0
MARTIN KEITH R	0	0	0	0	0	0	0
MARTIN L W	0	0	0	0	0	0	0
MATHES GORDON L	0	47	0	0	0	0	0
MATTHEWS JAMES O	0	0	0	0	0	0	0
MATTHEWS JEFFREY S	323,055	0	0	0	0	0	0
MAURER JOSEPH C	0	0	0	0	0	0	0
MAXWELL II G	217	602	0	0	0	0	0
MAXWELL MARY A	2,655	7,371	0	0	0	0	0
MAXWELL OWEN M	22,500	0	0	0	0	0	0
MAXWELL III JAMES L	2,655	7,371	0	0	0	0	0
MAXWELL JR J	217	602	0	0	0	0	0
MAYO COLUMBUS W	0	0	0	0	0	0	0
MCCARTHY CHARLES E	16	437	0	0	0	0	0
MCCOY ROBERT G	0	270	0	0	0	0	0
MCDOUGALD ALBERT G	500	22	0	0	0	0	0
MCDOUGALD AMANDA M	70	0	0	0	0	0	0
MCDOUGALD IAN E	76	0	0	0	0	0	0
MCKEITHAN AVIS S	0	0	0	0	0	0	0
MCLEOD JOHN A	7,356	272	0	0	0	0	0
MCMICHAEL DALTON L	0	0	0	0	0	0	0
MEARS ROBERT	0	0	0	0	0	0	0
MEDLIN MAX R	0	0	0	0	0	0	0
MELLOTT CALVIN A	0	0	0	0	0	0	0
MERRELL LESLIE T	0	0	0	0	0	0	0
METZGER DONALD E	375	283	0	0	0	0	0
MEWBORN JOSHUA L	0	0	0	0	0	0	0
MILLER JE[illegible] E	0	0	0	0	42	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
MILLER PAUL F	0	1,800	0	0	0	0	0
MILLER TODD J	0	353	0	0	0	0	0
MILLWARD PAUL E	0	0	0	0	0	0	0
MINGES JOHN T	0	0	0	0	0	0	0
MINGES LOUISE T	312	0	0	0	0	0	0
MITCHELL ROBERT A	1,191	1,433	0	0	0	0	0
MONAHAN OSCAR L	0	0	798	0	0	0	0
MONCURE JAMES A	25	0	290	0	0	0	0
MONSEIN JEFFREY A	0	0	0	0	0	0	0
MONSEIN JEFFREY A	0	0	0	0	0	0	0
MOORE COLLICE C	0	0	0	0	0	0	0
MOORE JOHN O	0	359	0	0	0	0	0
MORGAN RAYMOND L	0	780	0	0	0	0	0
MORRIS KEITH A	91	0	4,876	0	0	0	0
MOSELY PHILLIP G	0	0	0	0	0	0	0
MULLANY BRAD M	0	0	0	0	0	0	0
MULLIS ALAN M	0	1	0	0	0	0	0
MUNDEN WILLIAM D	0	0	0	0	0	0	0
NAZZARO PAUL A	2,316	0	0	0	0	0	0
NEAL WILLIAM K	23,437	0	0	0	0	0	0
NEISLER CHARLES A	0	0	0	0	0	0	0
NEISLER DAVID C	0	0	0	0	0	0	0
NEISLER GEORGE S	0	0	0	0	0	0	0
NEISLER HENRY P	0	7,970	0	0	0	0	0
NEISLER HENRY P	0	0	0	0	0	0	0
NEISLER LEE S	0	0	0	0	0	0	0
NEISLER WILLIAM H	0	0	0	0	0	0	0
NELSON RANDALL H	0	0	0	0	0	0	0
NEWSOME ROBERT A	12,670	0	0	0	0	0	0
NEWSOME TIMOTHY E	7,346	0	0	0	0	0	0
NOEL MARC J	0	3,378	690	0	0	0	0
NOLAN JAMES D	0	0	0	0	0	0	0
NOLAN ROBERT	0	0	0	0	0	0	0
NORWOOD KIMBERLY D	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
OLANDER ROBERT G	0	1,731	0	0	0	0	0
OLDHAM FRANK P	15,596	347	483	0	0	0	0
O'MARA CHRISTOPHE	0	0	0	0	0	0	0
O'MARA JOHN J	0	19,592	0	0	0	0	0
O'MARA MEIGHAN	0	0	0	0	0	0	0
O'MARA TIMOTHY	0	0	0	0	0	0	0
OVERBY FRED L	0	0	0	0	0	0	0
PAKE SIGFRID L	0	1,054	0	0	0	0	0
PANARA JOEL A	0	0	0	0	0	0	0
PANTAS JAMES S	0	8	0	0	0	0	0
PARKER GEORGE W	763	7,388	0	0	0	0	0
PARKER RICHARD P	0	0	3,582	0	0	0	0
PASCHAL DAVID S	0	1,804	0	0	0	0	0
PASIN RICHARD	1,250	0	0	0	0	0	0
PAUL ERIC A	500	0	8,172	0	0	0	0
PAYNE GARY	5,020	0	0	0	0	0	0
PEARCE	0	1,529	0	0	0	0	0
PEARCE PETER A	0	0	0	0	0	0	0
PECCATELLO ALLAN J	0	0	0	0	0	0	0
PEGRAM TERRY L	0	0	0	0	0	0	0
PELLETIER III J	5,311	14,743	0	0	0	0	0
PERA ALBERT	0	271	0	0	0	0	0
PERKINS GEORGE R	44	508	0	0	0	0	0
PERKINS GEORGE R	2,368	23,254	0	0	0	0	0
PERKINS JOHN E	52	465	0	0	0	0	0
PERRY CHARLES R	0	0	0	0	0	0	0
PERRY DON W	0	0	0	0	0	0	0
PERRY DWAYNE M	79	0	4,207	0	0	0	0
PERRY FRANK G	0	0	0	0	0	0	0
PERRY FRANK G	0	0	0	0	0	0	0
PERRY GEORGE W	0	0	0	0	0	0	0
PERRY HAL C	0	0	0	0	0	0	0
PERRY HUGH P	721	7,820	0	0	0	0	0
PERRY PAUL	605	6,543	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
PERRY PAUL	706	7,632	0	0	0	0	0
PERRY PAUL S	337	3,639	0	0	0	0	0
PETERSON HANS E	0	0	5,920	0	0	0	0
PHILLIPS GARY	1,631	126	0	0	0	0	0
PHILLIPS GARY S	2,805	216	0	0	0	0	0
PIRIE JOHN	0	0	0	0	0	0	0
PITTARD RYAN C	0	0	0	0	0	0	0
POAG JAMES C	0	0	0	0	0	0	0
POPE JAMES A	9,590	0	0	0	0	0	0
POPE TIMOTHY S	0	0	0	0	240	0	0
PORTER DARRELL R	1,973	551	0	0	0	0	0
POWELL HUGH B	0	2,155	0	0	0	0	0
POWERS LESLIE E	0	0	0	0	120	0	0
PRICE MASON J	6,250	2,102	0	0	0	0	0
PROIMOS EVANGELOS	0	0	0	0	0	0	0
PROPST ALEX A	683	673	0	0	0	0	0
PRYTHERCH ALUN D	0	0	6,291	0	0	0	0
PUCZYLOWSKI JOHN A	0	294	0	0	0	0	0
PYATT EVERETT L	40	0	0	0	0	0	0
QUINN JEANNE W	0	40,299	0	32,815	0	0	0
QUINN MICHAEL J	0	32,264	0	26,273	0	0	0
RACKCLIFF DONALD S	0	671	0	0	0	0	0
RAO RAJESH	0	0	4,059	0	0	0	0
RAPP ROD J	712	0	1,378	0	0	0	0
RASCOE EDDIE W	0	0	0	0	0	0	0
RASH MICHAEL C	0	29	0	0	0	0	0
RATLEDGE JERRY F	0	0	0	0	0	0	0
RATTZ JAMES M	18,526	14,057	0	0	0	0	0
RAWALD KURT R	1,676	509	0	0	0	0	0
RAYLE GLENN D	0	0	0	0	0	0	0
REES J M	713	0	1,378	0	0	0	0
REID LEWIS G	81	25	0	0	0	0	0
REITER PABLO	0	0	0	0	0	0	0
REITZ DANIEL J	0	0	0	0	40	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
RICHARD ARCHIE W	0	0	0	0	0	0	0
RICHARDSON CHARLES E	0	3,298	0	0	0	0	0
RICHARDSON JOANN	0	2,412	0	0	0	0	0
RICHARDSON JOE E	0	2,062	0	0	0	0	0
RICHARDSON JOE E	0	2,062	0	0	0	0	0
RICHARDSON JOHN M	1,074	1,570	0	0	0	0	0
RICHARDSON MORGAN L	0	0	0	0	0	0	0
RICKS WALTER G	523	0	8,849	0	0	0	0
RIEDLINGER PAUL G	0	0	0	0	0	0	0
RIEDLINGER ROBERT A	0	0	0	0	0	0	0
RIHANI FUAD A	0	0	0	0	0	0	0
ROBERTS ROY L	18,250	0	0	0	0	0	0
ROBERTS TINA C	0	1	0	0	0	0	0
ROBINSON RICHARD S	0	0	0	0	0	0	0
ROBLING BRENT D	621	0	0	0	0	0	0
ROGERS JAMES G	0	114	0	0	0	0	0
ROGERS JAMES G	0	0	0	0	0	0	0
ROHLIK MICHAEL L	0	0	2,150	0	0	0	0
ROSEFIELD JEROME M	0	405	0	0	0	0	0
ROTH GARY W	898	44	0	0	0	0	0
ROUSSEAU WYMAN A	0	0	0	0	9	0	0
ROYAL HAROLD J	0	0	0	0	0	0	0
ROYAL WILLIAM K	563	0	0	0	0	0	0
RUSHING DAVID M	0	0	0	0	0	0	0
RUSHING GUY F	0	0	0	0	0	0	0
RUSSELL MAXINE M	0	0	0	0	1	0	0
SALL JOHN P	0	0	0	0	0	0	0
SCHILSKY RANDY M	0	879	0	0	0	0	0
SCHOLD ERIC W	0	0	0	0	0	0	0
SEARCY GEOFFREY B	1,871	1,413	0	0	0	0	0
SEYMOUR CHRISTOPHE N	0	0	0	0	0	0	0
SHAH NIKIN T	0	0	103	0	0	0	0
SHAH RUBIN T	0	0	104	0	0	0	0
SHAH TI[redacted]	0	0	1,868	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SHAH TILAK M	0	0	1,094	0	0	0	0
SHANKLE FLOYD C	0	0	0	0	0	0	0
SHARPE JOHN L	0	0	0	0	0	0	0
SHEKHAR MRIGANK	57	0	3,063	0	0	0	0
SHEKHAR SWETANK	85	0	4,458	0	0	0	0
SHERMAN MICHAEL M	25,198	587	138	0	0	0	0
SHOJI HIDETOSHI	1,608	80	0	0	0	0	0
SHOLAR DWIGHT H	0	575	0	0	0	0	0
SHOLAR JOSEPH C	0	0	0	0	0	0	0
SHORE JACK J	0	197	0	0	0	0	0
SHORT RALPH H	0	0	0	0	0	0	0
SIMON GEORGE S	0	3,745	0	0	0	0	0
SIMPSON MICHAEL G	0	65	0	0	0	0	0
SINGH HARVINDER	0	0	13,041	0	0	0	0
SKINNER ERIKA D	972	1,537	0	0	0	0	0
SKINNER JEFFERY M	64	60	0	0	0	0	0
SMITH CLAUDE D	0	0	0	0	0	0	0
SMITH CLAUDE M	0	0	0	0	0	0	0
SMITH DELMAS C	0	0	0	0	0	0	0
SMITH DENNIS A	0	0	0	0	0	0	0
SMITH DENNIS M	0	0	0	0	0	0	0
SMITH JAMES B	0	0	0	0	0	0	0
SMITH JEFFREY D	0	0	0	0	0	0	0
SMITH JERRY N	0	0	0	0	0	0	0
SMITH PATRICK C	0	0	0	0	0	0	0
SMITH THOMAS D	998	1,244	0	0	0	0	0
SMITH WILLIAM A	0	0	5,170	0	0	0	0
SMITH WILLIAM L	0	0	0	0	0	0	0
SMYTH DOUGLAS E	0	1,665	0	0	0	0	0
SNYDER JERE E	0	0	0	0	0	0	0
SOFIELD HALEY D	0	0	0	0	0	0	0
SOFIELD HEATHER	3,917	0	0	0	0	0	0
SOFIELD ROBERT T	3,411	0	0	0	0	0	0
SPAIN JOHN C	0	12	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SPELL HARRY C	0	9,386	0	0	0	0	0
SPELL THEADIE C	0	11,163	0	0	0	0	0
STANCIL KENNETH M	0	0	0	0	0	0	0
STANIOCH ROY H	1,406	1,691	0	0	0	0	0
STEELE DAVID S	0	5,570	0	0	0	0	0
STEELE DIANNE K	0	6,881	0	0	0	0	0
STEELE FLAKE F	0	0	0	0	0	0	0
STEELE HENRY	0	13,642	0	0	0	0	0
STEELE JACKSON N	0	4,705	0	0	0	0	0
STEELE JEFFREY B	0	5,791	0	0	0	0	0
STEELE JOHN S	0	8,857	0	0	0	0	0
STEELE MARIAN S	0	332	0	0	0	0	0
STEELE MARIANNA S	0	16,530	0	0	0	0	0
STEELE PRESTON M	0	0	0	0	0	0	0
STEELE RICHARD B	0	1,849	0	0	0	0	0
STEELE SETH M	0	332	0	0	0	0	0
STEELE TYLER B	0	0	0	0	0	0	0
STEELE WALKER	0	332	0	0	0	0	0
STEELE WALTER M	0	0	0	0	0	0	0
STEELE WILLIAM F	0	0	0	0	0	0	0
STEELE WILLIAM P	0	0	0	0	0	0	0
STEELE WILLIAM P	0	1,890	0	0	0	0	0
STENSVAD AARON	0	1,669	0	0	0	0	0
STEPHENS ALISON	0	0	0	0	0	0	0
STEPHENS CHARLES N	0	0	0	0	0	0	0
STEPHENS FRANK M	0	0	0	0	0	0	0
STEVENS THOMAS A	0	2,113	0	0	0	0	0
STEWART BARNEY	0	967	0	0	0	0	0
STEWART LARRY T	0	589	0	0	0	0	0
STOCKS LEWIS H	0	0	0	0	0	0	0
STRICKLAND JOHN W	0	0	0	0	0	0	0
SULLIVAN SAMUEL H	0	0	0	0	0	0	0
SWAN WILLIAM H	0	0	0	0	0	0	0
SWARTZ [redacted] H	32,695	24,807	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	OZ Projects
SWARTZ MICHAEL L	18,605	14,115	0	0	0	0	0
SWARTZ WILLIAM K	0	0	0	0	0	0	0
SWICEGOOD NELSON D	0	45	0	0	0	0	0
TAFT EDMUND H	875	0	0	0	0	0	0
TAFT THOMAS F	0	0	0	0	0	0	0
TAYLOR GROVER C	0	0	0	0	0	0	0
TAYLOR T D	0	17	0	0	0	0	0
TAYLOR WILLIAM C	0	50	0	0	0	0	0
TEPLOW DAVID I	0	0	0	0	0	0	0
TH JOHN W	0	184	0	0	0	0	0
THOMAS GERALD P	925	46	0	0	0	0	0
THOMAS WILLIAM H	0	0	0	0	0	0	0
THOMPSON BLAKE A	0	799	0	0	0	0	0
THORE GLENN W	0	0	0	0	0	0	0
TILGHMAN WILLIAM A	0	0	0	0	0	0	0
TILLMAN LINTON A	0	0	0	0	0	0	0
TRACEY PETER	0	0	0	0	0	0	0
TRELEAVEN CARL W	0	0	0	0	0	0	0
TRIVETTE JOHN R	0	0	0	0	221	0	0
TRULLR LARRY W	0	0	0	0	0	0	0
TUCKER KENNETH T	0	0	0	0	0	0	0
TURBYFLL ROGER C	0	0	0	0	0	0	0
UNDERHILL THOMAS	0	222	0	0	0	0	0
VANNOY JAMES M	0	4,046	0	0	0	0	0
VANNOY TIMOTHY E	0	304	0	0	0	0	0
VANNOY WILLIAM E	0	4,046	0	0	0	0	0
WALL J S	0	0	0	0	420	0	0
WALL KATHRYN K	573	966	0	0	0	0	0
WALL KEMP B	420	707	0	0	0	0	0
WALL WARREN W	0	285	0	0	0	0	0
WALL WILLIAM B	5,119	8,624	0	0	0	0	0
WARD ALLEN K	0	0	0	0	0	0	0
WARD JOSEPH A	0	359	0	0	0	0	0
WARD MURIEL C	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WARLICK ANDERSON D	67,077	0	0	0	0	0	0
WARNER MELVIN J	0	0	0	0	0	0	0
WATFORD THOMAS F	0	590	0	0	0	0	0
WATSON TED R	1,380	68	0	0	0	0	0
WEAVER HARROLL H	2,655	7,371	0	0	0	0	0
WEBBER GILBERT E	281	555	0	0	0	0	0
WEIBEL MARCUS F	423	128	0	0	0	0	0
WEIMAN THOMAS M	0	19	0	0	0	0	0
WEISIGER ANNE M	20	164	0	0	0	0	0
WEISIGER EDWARD I	41,404	343,348	0	0	0	0	0
WEISIGER EDWARD I	4,234	35,113	0	0	0	0	0
WEISIGER ELIZABETH A	20	164	0	0	0	0	0
WEISIGER GRACE A	20	164	0	0	0	0	0
WENTZ BILLY M	4,607	7,762	0	0	0	0	0
WEST EDWARD C	0	0	0	0	0	0	0
WEST JACK L	1,779	0	0	0	0	0	0
WEST STEPHEN K	0	2,872	0	0	0	0	0
WETMORE LOUIS S	76	857	0	0	0	0	0
WHICHARD DAVID J	0	29	0	0	0	0	0
WHITE THOMAS H	0	228	0	0	0	0	0
WHITENER ROBERT L	0	4,595	0	0	0	0	0
WHITENER ROBERT L	0	3,374	0	0	0	0	0
WICKER DONALD M	0	0	0	0	0	0	0
WILEY CHRISTOPHE J	0	0	0	0	0	0	0
WILKINSON WILLIAM A	250	0	0	0	0	0	0
WILLARD CHARLES	0	102	0	0	0	0	0
WILLARD TERRY E	0	0	0	0	0	0	0
WILLIAMS GLENN E	0	0	0	0	0	0	0
WILLIAMS JOHN M	0	57,796	0	0	0	0	0
WILLIAMS JOHNNY J	0	0	0	0	0	0	0
WILLIAMS RAYFORD D	0	0	0	0	0	0	0
WILLIAMS STEVEN G	0	0	0	0	0	0	0
WILLIAMSON J W	0	16	0	0	0	0	0
WILLIS [redacted]	250	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WILSON D S	0	0	3,072	0	0	0	0
WILSON DANIEL K	8,387	0	0	0	0	0	0
WILSON WINFRED G	15	24	0	0	0	0	0
WISE CHRISTOPHE C	6,525	0	0	0	0	0	0
WOMACK CLYDE E	0	0	0	0	0	0	0
WOODALL MEREDITH B	0	0	0	0	890	0	0
WOODARD KENNY W	0	0	0	0	0	0	0
WOOTEN MARVIN G	6,525	0	0	0	0	0	0
WOOTEN WILLIAM B	8,665	0	0	0	0	0	0
WOOTEN WILLIAM B	21,850	0	0	0	0	0	0
WORDSWORTH BRIAN L	0	0	0	0	0	0	0
WORDSWORTH JERRY L	0	0	0	0	0	0	0
WORDSWORTH JR	0	0	0	0	0	0	0
WORDSWORTH STEVE A	0	0	0	0	0	0	0
WORNOM III SAMUEL J	257	5,323	0	0	0	0	0
WRAY PHILLIP C	0	0	0	0	0	0	0
WRENN GUY W	271	0	0	0	0	0	0
WRENN JACKSON K	101	0	0	0	0	0	0
WRENN JAMES H	0	0	2,108	0	0	0	0
WRENN RICHARD N	233	0	0	0	0	0	0
YARBORO THOMAS R	2,655	7,371	0	0	0	0	0
YARBOROUGH RAMON L	0	27,884	0	0	0	0	0
ZINSER ROBERT L	0	0	0	0	9	0	0
1071606 ONTARIO, INC.	0	1,141	0	0	0	0	0
1997 MARITAL TRUST, EDWARD I	0	0	0	0	0	0	0
4118 INVESTORS CORPORATION	0	217	0	0	0	0	0
4PI ANALYSIS, INC.	0	0	0	0	0	0	0
A & B FLORIST SUPPLY COMPANY	0	0	0	0	0	0	0
A&M TOOL M DIVISION, INC.	0	14	0	0	0	0	0
A. KLEIN & CO., INC.	0	0	0	0	0	0	0
A. M. CASTLE & CO.	750	0	0	0	0	0	0
A.C. FURNITURE CO. INC.	0	0	0	0	0	0	0
AAA FARLEY STORAGE, INC.	0	0	0	0	0	0	0
AB AUTOMOTIVE, INC.	4,041	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ABB AUTOMATION INC.	0	4,377	6,213	0	0	0	0
ABB INC.	0	0	0	0	0	0	0
ABBOTT LABORATORIES, INC.	0	237,457	68,125	0	0	0	0
ABBOTT LABORATORIES, INC.	0	225,011	64,106	21,419	0	0	0
ABCO AUTOMATION, INC.	250	0	0	0	0	0	0
ABERDEEN COCA-COLA BOTTLING C	125	0	0	0	0	0	0
ABOVE THE GRADE CLEARING & G	0	0	0	0	0	0	0
ACCUCOPY OF GREENVILLE	0	0	0	0	0	0	0
ACCUMA CORPORATION	2,636	0	0	0	0	0	0
ACCUMA CORPORATION	10,464	0	0	0	0	0	0
ACEQUEST ENTERPRISES, INC.	0	18	0	0	0	0	0
ACOUSTIC BARN PRODUCTIONS, IN	0	40	0	0	0	0	0
ACROPRINT TIME RECORDER CO.	0	0	0	0	0	0	0
ACTION PERFORMANCE COMPANIES,	3,750	5,076	0	0	0	0	0
ACTION PERFORMANCE COMPANIES,	34,750	57,076	0	0	0	0	0
ACUCOTE, INC.	0	804	0	0	0	0	0
ADAM & BRITT CONSTRUCTION CO,	0	0	0	0	453	0	0
ADAMS FURNITURE USA, INC.	0	0	0	0	0	0	0
ADAMS SALES, INC.	0	18	0	0	0	0	0
ADAMS WHOLESALE COMPANY	0	0	0	0	0	0	0
ADC DSL SYSTEMS, INC.	3,125	0	9,786	0	0	0	0
ADHESION TECHNOLOGIES, INC.	0	6,707	0	0	0	0	0
ADM MILLING CO.	0	23,544	0	0	0	0	0
ADMIRALTY TRANSPORT, INC.	0	0	10	0	0	0	0
ADVANCED CONTRACTORS, INC.	0	0	0	0	0	0	0
ADVANCED DIGITAL CABLE, INC.	3,156	11,853	0	0	0	0	0
ADVANCED DRAINAGE SYSTEMS, IN	8,558	29,284	0	0	0	0	0
ADVANCED INTERNET TECHNOLOGIE	51,004	0	28,614	0	0	0	0
ADVANCED PERFUSION CARE, INC.	10	10	0	0	10	10	0
ADVANCED TUBING TECHNOLOGY IN	0	0	0	0	0	0	0
AEP INDUSTRIES INC.	0	12,165	0	0	0	0	0
AEROGLIDE CORPORATION	125	0	0	0	0	0	0
AF BANKSHARES, INC.	10	9	0	0	0	0	0
AFA PRODUC[redacted]NC.	0	13,663	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
AIR SYSTEM COMPONENTS LP	0	12,277	0	0	0	0	0
AIR SYSTEM COMPONENTS LP	0	73,522	0	0	0	0	0
AIRTOUCH PAGING	0	551	0	0	0	0	0
AIRTOUCH PCS HOLDING, INC.	0	1,598	0	0	0	0	0
AJINOMOTO USA INC	0	0	0	2,500	0	0	0
AKG OF AMERICA, INC.	2,375	0	0	0	0	0	0
ALADDIN MANUFACTURING CORP	0	0	0	0	0	0	0
ALAMAC KNIT FABRICS, INC.	0	1,369	0	0	0	0	0
ALBANI, BAYEUX INC.	2,472	0	0	0	0	0	0
ALBA-WALDENSIAN, INC.	15,596	0	0	0	0	0	0
ALCATEL NA CABLE SYSTEMS, INC	44,250	719,740	8,193	504,622	0	0	0
ALCATEL USA GP, INC.	18	0	0	0	0	0	0
ALCATEL USA LP, INC.	21,613	0	0	0	0	0	0
ALCATEL USA SOURCING, L.P.	22,650	0	0	0	0	0	0
ALCOA EXTRUSIONS, INC.	3,250	0	0	0	0	0	0
ALCOA INC.	0	109,851	0	0	0	0	0
ALCOA POWER GENERATING INC.	0	98,378	0	0	0	0	0
ALDERON BIOSCIENCES, INC.	0	0	0	0	0	0	0
ALDO PRODUCTS COMPANY	0	364	3,282	0	0	0	0
ALERT METAL WORKS, INC.	0	0	0	0	1,685	0	0
ALERT METAL WORKS, INC.	0	0	0	0	1,685	0	0
ALEXVALE FURNITURE, INC.	0	0	0	0	0	0	0
ALL ANIMALS VETERINARY HOSPIT	0	0	0	0	0	0	0
ALLEN CANNING COMPANY	0	20,307	0	0	0	0	0
ALLEN-BECK INDUSTRIES, INC.	2,833	0	0	0	0	0	0
ALLFAB SOLUTIONS INCORPORATED	0	0	0	0	0	0	0
ALLIED INDUSTRIES CO.	0	0	49	9	0	0	0
ALLIED LAND SURVEYING CO., P.	0	0	0	0	9	0	0
ALLIED VAN LINES INC	0	1,319	0	0	0	0	0
ALLTEL INFORMATION SERVICES,	7,625	0	0	0	0	0	0
ALPHAGARY CORPORATION	0	25,950	0	0	0	0	0
ALPHIN BROTHERS, INC.	450	0	0	0	0	0	0
ALRAY TIRE CENTER OF STATESVI	0	0	0	0	0	0	0
AL'S SALES & SERVICE, INC.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ALSTOM POWER INC.	0	0	0	0	0	0	0
ALTEC INDUSTRIES, INC.	0	5,556	0	0	0	0	0
AMERESCOSOLUTIONS, INC.	13,125	23,658	0	0	0	0	0
AMERICAN & EFIRD, INC.	7,000	272,478	11,709	0	0	0	0
AMERICAN & EFIRD, INC.	3,750	231,354	0	0	0	0	0
AMERICAN CYANAMID COMPANY	0	37,500	0	0	0	0	0
AMERICAN DISTILLATION, INC.	0	706	0	0	0	0	0
AMERICAN FIBER & FINISHING, I	0	0	0	0	0	0	0
AMERICAN FIBERS AND YARNS COM	0	19,236	0	0	0	0	0
AMERICAN LAFRANCE CORPORATION	33,074	0	0	0	0	0	0
AMERICAN METAL TREATING, INC.	0	874	0	0	0	0	0
AMERICAN MONFORTS CORP.	0	0	10	0	0	0	0
AMERICAN NATIONAL ELECTRIC	0	0	0	0	9	0	0
AMERICAN OFFSET PRINTING INK	0	0	0	0	0	0	0
AMERICAN OFFSET PRINTING INK,	47	0	0	0	0	0	0
AMERICAN ROLLER BEARING AND M	0	21,279	0	0	0	0	0
AMERICAN ROLLER BEARING COMPA	0	8,751	0	0	0	0	0
AMERITECH DIE & MOLD, INC.	250	0	0	0	0	0	0
AMERITECH DIE & MOLD, INC.	0	0	0	0	0	0	0
AMERITEX YARN, LLC	0	83,219	0	0	0	0	0
AMERITRUCK REAL ESTATE HOLDIN	0	220	0	0	0	0	0
AMILON HOLDING, INC.	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMILON, LLC	0	0	0	0	0	0	0
AMITAL SPINNING CORP.	0	15,665	0	0	0	0	0
AMITY AUTOMOTIVE SERVICE, INC	0	0	0	0	0	0	0
ANALOG DEVICES, INC.	0	0	514,306	0	0	0	0
ANALOG DEVICES, INC.	0	0	122,308	0	0	0	0
ANASTASIA FURS, INC.	46	0	0	0	0	0	0
ANCHOR INDUSTRIAL SALES, INC.	125	0	0	0	0	0	0
ANDY BLANTON AGENCY, INCORPOR	0	0	0	0	9	0	0
ANSER-QUIK COMMUNICATIONS, IN	0	0	0	0	9	0	0
ANVIL KN[redacted] INC.	17,480	68,338	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
ANVIL KNITWEAR INC.	0	0	0	12,500	0	0	0
APBI INC.	29,250	22,823	0	34,188	1,256	0	0
APEX ARIDYNE CORP.	0	0	0	0	0	0	0
APPALACHIAN INN, INC.	0	427	0	0	0	0	0
APPLIED MANAGEMENT COMPANY IN	0	0	0	9	0	0	0
APPLIED MEDICAL TECHNOLOGIES,	773	0	0	0	0	0	0
AQUA SHINE, INC.	0	0	0	0	0	0	0
ARARAT ROCK PRODUCTS COMPANY	0	0	0	0	0	0	0
ARCHER, INC.	0	0	0	0	0	0	0
ARCHER-DANIELS-MIDLAND COMPAN	0	137,634	0	0	0	0	0
ARCHITECTU	0	0	0	0	0	0	0
ARDENT PHARMACEUTICALS, INC.	0	0	0	0	0	0	0
ARJOBEX AMERICA	1,375	26,228	0	0	0	0	0
ARMACELL UNITED STATES HOLDIN	18,154	0	0	0	0	0	0
ARMADA, INC.	0	0	0	0	0	0	0
ARMADA, INC.	0	8	0	0	0	0	0
ARNOLD FOODS COMPANY, INC.	0	0	0	0	0	0	0
ARROW INTERNATIONAL, INC.	0	2,699	0	0	0	0	0
ARTEVA SPECIALTIES S.A.R.L.	44,702	0	0	0	0	0	0
ARVINMERITOR, INC.	28,450	90,634	0	0	0	0	0
ASCOM WIRELESS SOLUTIONS INC.	0	0	1,195	0	0	0	0
ASHLAND INC.	33,750	0	0	0	0	0	0
ASHLEY ELECTRIC, INC.	0	0	0	0	0	0	0
ASHLEY ELECTRIC, INC.	26	0	0	0	0	0	0
ASKEW CHEVROLET, INC.	0	0	0	0	0	0	0
ASMO APPALACHIAN CORPORATION	693	0	0	0	0	0	0
ASMO GREENVILLE OF NORTH CARO	0	29,124	0	0	0	0	0
ASMO NORTH CAROLINA, INC.	0	50,398	0	0	0	0	0
ASSOCIATED ASPHALT, INC.	0	695	0	0	0	0	0
ASSOCIATED POSTERS, INCORPORA	450	0	0	0	0	0	0
ASTRO CONSTRUCTION COMPANY, I	0	0	0	0	0	0	0
AT & T COMMU	0	2,726	0	0	0	0	0
AT&T CORP.	0	546,780	0	0	0	0	0
ATHEY PRODUCTS CORPORATION	831	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ATHOL MANUFACTURING CORP	4,000	6,058	7,614	0	0	0	0
ATI ACQUISITION CORPORATION	0	1,385	3,177	0	0	0	0
ATLANTIC CORPORATION OF WILMI	0	17,225	0	0	0	0	0
AUSTIN-BERRYHILL FABRICATORS,	0	10	0	0	9	0	0
AUTOMATION PARTNERS INC	0	0	18	0	0	0	0
AUTOMOTIVE ANYTHING, INC.	0	55	0	0	0	0	0
AUTOMOTIVE MOTORS OF THOMASVI	2,445	0	0	0	0	0	0
AUTOMOTIVE SALES MANAGEMENT,	0	0	0	0	0	0	0
AVANT CORPORATION AND SUBSIDI	0	0	3,397	0	0	0	0
AVDEL CHERRY TEXTRON INC.	0	14,798	0	0	0	0	0
AVDEL CHERRY TEXTRON INC.	0	12,499	0	0	0	0	0
AVX CORPORATION	23,500	141,455	0	61,880	0	0	0
AW NORTH CAROLINA, INC.	19,250	44,603	0	0	0	0	0
AYLWARD ENTERPRISES	2,250	0	0	0	0	0	0
B & A CONCRETE CONSTRUCTION,	5	0	0	0	0	0	0
B & W AUTO REPAIR, INC.	0	0	0	0	0	0	0
B S A TRUCKING, INCORPORATED	0	30	0	0	0	0	0
B. ESTES TRUCKING, INC.	0	0	0	6	0	0	0
B. R. LEE INDUSTRIES, INC.	9,033	0	0	0	0	0	0
BABB & ASSOCIATES, P. A.	0	18	0	0	0	0	0
BAKER & TAYLOR, INC.	350	0	0	0	0	0	0
BAKER, KNAPP & TUBBS, INC.	0	0	0	0	0	0	0
BALL'S MACHINE MANUFACTURING	15	0	0	0	0	0	0
BANK OF AMERICA NA	219,500	825,891	0	0	71,429	0	0
BANK OF AMERICA TECHNOLOGY AN	0	0	74,482	0	0	0	0
BANKNOTE CORPORATION OF AMERI	0	28,002	0	0	0	0	0
BANNER PHARMACAPS INC.	0	8,938	3,881	0	0	0	0
BAREFOOT FLOORING, INC.	0	41	0	0	0	0	0
BARMET ALUMINUM CORP	0	0	4,013	0	0	0	0
BARNEY'S HOSIERY, INC.	0	0	0	0	0	0	0
BARNHARDT MANUFACTURING COMPA	0	11,410	0	0	0	0	0
BARR-MULLIN, INC.	0	0	0	0	0	0	0
BASF CORPORATION	0	0	263,676	0	0	0	0
BASS AIR [redacted] IONING COMPANY	10	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BATTEN & COMPANY	105	0	0	0	0	0	0
BAUMANN SPRINGS USA, INC.	0	0	0	0	0	0	0
BAUMGARTNER INC.	0	0	0	0	0	0	0
BAYER CORP	43,625	588,576	0	0	0	0	0
BE AEROSPACE, INC.	0	0	0	0	0	0	0
BEACON TECHNOLOGIES INC.	0	0	24,160	0	0	0	0
BEAR CREEK HOSIERY, INC.	69	0	0	0	0	0	0
BEAUFORT IMPORTS LLC	0	190	0	0	0	0	0
BECTON, DICKINSON AND COMPANY	3,563	27,685	4,443	0	0	0	0
BECTON, DICKINSON AND COMPANY	3,563	40,633	0	0	0	0	0
BEFCO, INC.	7,227	455	0	0	0	0	0
BEIERSDORF-JOBST, INC.	0	24,012	0	0	0	0	0
BEKAERT TEXTILES U.S.A. INC.	4,500	133,868	0	0	0	0	0
BELK ADMINISTRATION COMPANY	0	16,647	0	0	0	0	0
BELL & HOWELL MAIL AND MESSAG	1,812	0	0	0	0	0	0
BELL & HOWELL MAIL AND MESSAG	7,250	0	0	0	0	0	0
BELL ATLANTIC MOBILE SYSTEMS	0	27,942	0	0	0	0	0
BELL ATLANTIC MOBILE SYSTEMS,	0	68,000	0	0	0	0	0
BELL ATLANTIC PERSONAL COMMUN	0	32,192	0	0	0	0	0
BENTEX MILLS, INC.	0	0	0	0	0	0	0
BERNARDS, INC.	600	0	0	0	0	0	0
BERNHARDT FURNITURE COMPANY	177,742	0	0	0	0	0	0
BERTELSMANN MUSIC GROUP, INC.	0	81,879	0	0	0	0	0
BERTELSMANN MUSIC GROUP, INC.	0	63,197	0	0	0	0	0
BESTSWEET INC.	6,685	0	0	0	0	0	0
BEVERLY KNITS, INC.	0	0	0	0	0	0	0
BIC USA, INC. (BIC CONSUMER P	3,000	0	11,521	0	0	0	0
BIG ED, LLC	0	0	0	0	0	0	0
BILL DAVIS RACING, INCORPORAT	0	0	0	0	0	0	0
BILL'S BARBECUE & CHICKEN RES	9	0	0	0	0	0	0
BILL'S MOBILE CRANE SERVICE,	0	0	0	0	0	0	0
BIOGEN INC	4,375	344,287	77,265	0	0	0	0
BIOMERIEUX, INC.	0	0	50,491	0	0	0	0
BISON INVE	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BI-STATE PROPERTIES INC.	0	0	0	0	0	0	0
BLACK & DECKER (U.S.) INC.	0	88,000	0	0	0	0	0
BLACK'S AUTO COLLISON REPAIR,	0	0	0	0	0	0	0
BLANKET FACTORY, INC.	0	0	0	0	0	0	0
BLAST, INC.	0	0	0	0	0	0	0
BLG ELECTRICAL SUPPLY CO., IN	0	0	0	0	0	0	0
BLUE RIDGE GRADING AND HAULIN	0	66	0	0	0	0	0
BLUE RIDGE METALS CORPORATION	625	11,830	0	0	0	0	0
BLUE RIDGE PAPER PRODUCTS	138,297	0	0	0	0	0	0
BLUE RIDGE TIRE SERVICE, INC.	0	0	0	0	0	0	0
BLUEPHOENIX SOLUTIONS USA	0	0	0	0	0	0	0
BOBBY'S AUTO PARTS, INC.	0	0	0	0	0	0	0
BOEHME-FILATEX, INC.	3,500	0	0	0	0	0	0
BOLTON CORP.	0	0	0	0	0	0	0
BOLTON CORP.	0	0	0	0	0	0	0
BONEY WILSON & SONS INC	0	50,756	0	0	0	0	0
BONSAL AMERICAN, INC.	0	3,600	0	0	0	0	0
BONSET AMERICA CORPORATION	1,750	122,727	0	0	0	0	0
BORDEN CHEMICAL, INC.	1,250	1,585	0	0	0	0	0
BORGWARNER TURBO SYSTEMS INC.	13,750	20,850	0	0	0	0	0
BOWERS FARMS, INCORPORATED	0	134	0	0	0	0	0
BOX-BOARD PRODUCTS, INC.	0	0	0	0	0	0	0
BOYD & HASSELL, INC.	40	0	0	0	0	0	0
BOYD & HASSELL, INC.	80	0	0	0	0	0	0
BOYD UTILITY BORING, INC.	0	0	0	0	0	0	0
BP AMERICA CHEMICALS COMPANY	0	4,741	0	0	0	0	0
BRACKETT BROTHERS CORPORATION	0	0	0	0	9	0	0
BRANCH BANKING AND TRUST COMP	498,250	57,994	0	0	87,760	0	0
BRAXTON AUTO PARTS CORPORATIO	0	0	0	0	0	0	0
BRAYTON INTERNATIONAL, INC.	10,625	0	0	0	0	0	0
BRESTL, INC.	500	0	0	0	0	0	0
BREWER EQUIPMENT CO.	95	0	0	0	0	0	0
BRICO, INC.	0	0	9	0	0	0	0
BRIDGESTONE/FIRESTONE AMERICA	0	196,411	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
BRIDGESTONE/FIRESTONE, INC.	0	0	0	0	0	0	0
BRODER BROS CO	0	0	0	0	0	0	0
BROOKER, INCORPORATED	0	0	9	0	0	0	0
BROOKS EQUIPMENT CO	0	0	0	0	0	0	0
BROWN & WILLIAMSON TOBACCO CO	0	0	0	0	0	0	0
BROWN AND WALKER COMPANY	0	75	0	0	0	0	0
BROWN BROTHERS PLUMBING & HEA	63	0	0	0	0	0	0
BROWN JOHNSTON, INC.	0	18	0	0	0	0	0
BROYHILL FURNITURE INDUSTRIES	0	333,908	25,347	0	0	0	0
BROYHILL TRANSPORT, INC.	750	0	0	0	0	0	0
BRUNZL DISTRIBUTION MIDCENTRA	3,625	0	0	0	0	0	0
BRUSHY MOUNTAIN BEE FARM, INC	6	0	0	0	0	0	0
BSH HOME APPLIANCES CORP	0	0	0	0	0	0	0
BSH HOME APPLIANCES CORPORATI	49,708	24,724	1,026	20,863	0	0	0
BUCKEYE LUMBERTON INC.	12,500	6,413	0	0	0	0	0
BUCKEYE LUMBERTON INC.	0	36,894	0	0	0	0	0
BUDGET PANELS INC.	0	2,162	0	0	0	0	0
BUEHLER MOTOR, INC.	3,125	9,079	0	0	0	0	0
BUILDING BLOCKS CHILD CARE DE	0	0	0	0	0	0	0
BULLET PROPERTIES, LLC	0	0	0	0	0	0	0
BULLHEAD STONE PRODUCTS, INC.	0	152	0	0	0	0	0
BUNZL RICHMOND INC	3,625	0	0	0	0	0	0
BURGESS RENOVATIONS, INC.	0	12	0	0	0	0	0
BURKE MILLS, INC.	8,250	2,505	0	0	0	0	0
BURLAN CORPORATION	0	5,112	0	0	0	0	0
BURLAN CORPORATION	0	0	0	0	0	0	0
BURLAN CORPORATION	0	0	0	0	0	0	0
BURLINGTON CHEMICAL CO., INC.	0	8,254	0	0	0	0	0
BURLINGTON INDUSTRIES, INC.	897,554	0	0	0	29,661	0	0
BURTON INC	0	0	0	0	0	0	0
BUSICK BROTHERS MACHINE, INC.	0	1,904	0	0	0	0	0
BUS-TECH, INC.	0	0	498	0	0	0	0
BUTLER MANUFACTURING COMPANY	616	0	0	0	0	0	0
BYRD TRACTOR AND EQUIPMENT CO	179	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
C T SPECIALTIES CORP.	0	0	0	0	0	0	0
C. F. P., INC.	0	0	0	0	0	0	0
C. G. P. COMPANY, INC.	0	0	0	0	0	0	0
C. THOMAS MORAN, M.D., P.A.	0	0	0	0	0	0	0
CALYPSO PANEL COMPANY, INC.	0	0	0	0	0	0	0
CAMP PINNACLE, INCORPORATED	0	0	0	0	0	0	0
CAMP SKY RANCH, INCORPORATED	0	131	0	0	0	0	0
CAMPBELL MFG 1 COMPANY	0	14,104	0	0	0	0	0
CAMPBELL MFG 2 COMPANY	0	14,104	0	0	0	0	0
CAMPBELL SOUP SUPPLY COMPANY	0	28,209	0	0	0	0	0
CAN AMERICAN UTILITY CONTRACT	38	0	0	0	0	0	0
CANDLE CORPORATION OF AMERICA	0	30,351	0	0	0	0	0
CANDLE CORPORATION OF AMERICA	0	0	36,650	0	0	0	0
CAR EXCHANGE OF FAYETTEVILLE,	0	9	0	0	0	0	0
CARADREW CORPORATION	0	0	0	0	0	0	0
CARAUSTAR CUSTOM PACKAGING GR	0	4,160	0	0	0	0	0
CARAUSTAR MILL GROUP, INC.	2,455	0	0	0	0	0	0
CARD SHOP MANAGEMENT, INC.	0	0	9	0	9	0	0
CARDINAL STONE COMPANY	0	0	0	0	0	0	0
CARDIOVASCULAR DIAGNOSTICS, I	0	0	18,621	0	0	0	0
CAREER PLACEMENTS, INC.	0	0	0	0	0	0	0
CARLTON GROUP, INC.	0	0	0	0	0	0	0
CARLTON'S SALVAGE, INCORPORAT	10	0	9	0	0	0	0
CARNES-MILLER GEAR COMPANY, I	0	0	0	0	0	0	0
CAROLINA BASE - PAC CORP.	0	0	0	0	0	1	0
CAROLINA CASEWORK, INC.	0	0	0	0	0	0	0
CAROLINA COMMERCIAL HEAT TREA	1,066	0	0	0	0	0	0
CAROLINA CONVERTING INC	9,888	0	0	0	0	0	0
CAROLINA CORE RECYCLING, INC.	0	18	0	0	0	0	0
CAROLINA FENCE & MAINTENANCE,	0	0	0	0	0	0	0
CAROLINA JUNCTION, INC.	0	274	0	0	0	0	0
CAROLINA MILLS, INCORPORATED	0	21,652	0	0	0	0	0
CAROLINA MILLWORK OF ROCKINGH	0	0	0	0	0	0	0
CAROLIN & WALLPAPER IN	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CAROLINA PAPER CONVERTERS	0	975	0	0	0	0	0
CAROLINA POWER & LIGHT COMPAN	67,000	80,811	0	0	71,429	0	0
CAROLINA PRECAST CONCRETE, IN	0	0	0	0	0	0	0
CAROLINA SPECIALTY METALS, IN	0	0	0	0	0	0	0
CAROLINA SPORTS DECALS, INC.	0	18	0	0	0	0	0
CAROLINA STEEL CORPORATION	40,375	2,851	0	0	0	0	0
CAROLINA SUNROCK CORPORATION	3,750	5,662	0	0	0	0	0
CAROLINA T	56,625	57,923	0	0	0	0	0
CAROLINA WHOLESALE OFFICE MAC	750	0	0	0	0	0	0
CAROLINA'S CHOICE BY WILLIAMS	1,119	0	0	0	0	0	0
CAROLINA'S CHOICE BY WILLIAMS	144	0	0	0	0	0	0
CARPENTER CONTRACTORS OF AMER	11,221	1,612	0	0	0	0	0
CARPENTER INDUSTRIES, INC.	625	0	0	0	0	0	0
CARRIER CORPORATION	35,250	0	0	10,618	0	0	0
CARROLLS TURKEYS	24,377	0	0	0	0	0	0
CARVER REALTY, INC.	0	0	0	0	0	0	0
CARY PRINTING COMPANY, INC.	0	1,056	0	0	0	0	0
CASCADE HYDRAULIC CYLINDERS,	18	0	0	0	0	0	0
CASCADES MOULDED PULP, INC.	1,911	0	0	0	0	0	0
CASCADES TISSUE GROUP - NORTH	27,679	0	0	0	0	0	0
CATAWISSA LUMBER & SPECIALTY	0	2,697	0	0	0	0	0
CATERPILLAR INC.	0	0	0	112,974	44,056	0	0
CATOSOUTH, LLC.	2,000	0	0	0	0	0	0
CAVALIER SPECIATLY YARN COMPA	0	10,727	0	0	0	0	0
CAVALIER SPECIATLY YARN COMPA	0	12,223	0	0	0	0	0
CCS HOLDINGS, INC.	0	209,836	0	0	0	0	0
CECIL A. RASCOE CO., INC.	0	0	0	0	0	0	0
CECIL AND SPRY FARM	0	0	0	0	0	0	0
CECIL M. FARRINGTON, JR., M.D	0	0	0	0	0	0	0
CELGARD, INC	0	15,609	0	0	0	0	0
CELLCO PARTNERSHIP	0	0	0	0	0	0	0
CELLO PARTNERSHIP	0	0	0	0	0	0	0
CELLULAR SOLUTIONS, INC.	0	18	0	0	0	0	0
CEM HOLDINGS CORPORATION	875	0	412	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
CEM HOLDINGS CORPORATION	875	0	3,689	0	0	0	0
CENTER FOR MARTIAL ARTS I	0	0	0	0	0	0	0
CENTOCOR INC	0	0	4,177	0	0	0	0
CENTRAL TOBACCO EXCHANGE, INC	0	1,203	0	0	0	0	0
CENTRO, INC.	20,007	2,121	0	0	0	0	0
CENTROBE, INC.	0	0	20	0	0	0	0
CENTURY FURNITURE INDUSTRIES,	0	37,500	0	0	0	0	0
CERTAINTEED CORPORATION	3,250	25,416	0	0	0	0	0
CF GROUP, INC.	0	0	0	0	0	0	0
CHALLENGER INDUSTRIES, INC.	0	0	0	0	0	0	0
CHAMBERS FABRICS, INC.	1,375	3,693	0	0	0	0	0
CHAMPION HOME BUILDERS CO.	0	0	0	0	0	0	0
CHAMPION INTERNATIONAL CORPOR	0	1,044,702	0	0	0	0	0
CHAMPION PRODUCTS INC.	0	7,182	0	0	0	0	0
CHANNEL MASTER, INC.	0	5,465	0	0	0	0	0
CHAPEL HILL PEDIATRIC PSYCHOL	8	0	0	0	0	0	0
CHARLES & COLVARD, LTD.	8,000	0	14,828	0	0	0	0
CHARLES CRAFT, INC.	0	0	0	0	0	0	0
CHARLES CRAFT, INC.	0	5,735	0	0	0	0	0
CHARLOTTE IMPORT TRUCKS INC	0	0	0	0	0	0	0
CHARLOTTE PIPE AND FOUNDRY CO	12,875	443,303	53,479	0	0	0	0
CHARLOTTE STEEL DESIGN, INC.	0	18	0	0	0	0	0
CHARTER PROPERTIES, INC.	0	0	0	0	0	0	0
CHATHAM, INC.	0	28,390	0	0	0	0	0
CHATSWORTH PRODUCTS, INC.	2,809	0	0	0	0	0	0
CHELSEA THEATER, INC.	0	0	0	0	0	0	0
CHEMCODES, INC.	0	0	1,527	0	0	0	0
CHEMICAL SPECIALTIES, INC.	0	34,445	0	0	0	0	0
CHEMTEX INTERNATIONAL, INC.	0	0	0	0	0	0	0
CHESAPEAKE DISPLAY AND PACKAG	7,631	0	0	0	0	0	0
CHICOPEE, INC.	0	131,899	0	0	0	0	0
CHINESE TRADIONAL ACUPRESSURE	0	0	0	0	18	0	0
CHIRON AMERICA, INC.	1,125	0	0	0	0	0	0
CHOICE U[redacted]ERAGE, INC.	18,125	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CIMARRON CAPITAL, INC.	0	9	0	0	0	0	0
CISCO SYSTEMS SALES & SERVICE	0	30,101	0	0	0	0	0
CISCO SYSTEMS SALES & SERVICE	0	32,421	0	0	0	0	0
CLARIANT CORPORATION	0	61,250	0	0	0	0	0
CLARIFY ACQUISITION CORPORATI	0	0	16,382	0	0	0	0
CLARK AME	0	0	0	0	0	0	0
CLARK OPTOMETRIC CENTER, P.A.	0	0	0	0	0	9	0
CLARKE AME	0	0	0	0	0	0	0
CLARKE AMERICAN CHECKS, INC.	17,750	10,465	0	55,474	0	0	0
CLAY-BARNETTE FUNERAL HOME, I	0	90	0	0	0	0	0
CLAYSON KNITTING COMPANY, INC	0	10,364	0	0	0	0	0
CLAYSON KNITTING COMPANY, INC	21,530	12,660	0	0	0	0	0
CLAYTON-MARCUS COMPANY, INC.	2,250	3,750	0	0	0	0	0
CLAYTON-MARCUS COMPANY, INC.	2,250	689	0	0	0	0	0
CLEVELAND ELECTRICAL CONTRACT	0	0	0	0	0	0	0
CLINTON MEDICAL CLINIC INC	0	0	0	0	0	0	0
CLOSURE MEDICAL CORPORATION	0	0	8,272	0	0	0	0
CMH MANUFACTURING, INC.	1,500	0	0	0	0	0	0
CMH MANUFACTURING, INC.	32,000	0	0	0	0	0	0
COASTAL LUMBER COMPANY	0	5,989	0	0	0	0	0
COASTAL TUMBLEGYM, INC.	0	18	0	0	0	0	0
COATES COMMUNICATIONS CORPORA	0	9	0	0	0	0	0
COATINGS AND ADHESIVES CO	0	0	0	0	0	0	0
COCA-COLA BOTTLING CO CONSOLI	0	0	0	0	0	0	0
COCA-COLA BOTTLING CO. AFFILI	12,870	0	0	0	0	0	0
COCA-COLA BOTTLING CO. CONSOL	25,000	129,987	0	0	0	0	0
COCA-COLA BOTTLING COMPANY OF	0	0	0	0	0	0	0
COCA-COLA ENTERPRISES INC.	3,642	0	0	0	0	0	0
COLLINS & AIKMAN PRODUCTS CO.	0	33,282	216,987	0	0	0	0
COLORIT ENTERPRISES, INC.	0	18	0	0	0	0	0
COLUMBIA FOREST PRODUCTS	0	0	0	0	0	0	0
COLUMBIA LIFE SYSTEMS, INC.	0	0	0	0	0	0	0
COLUMBIA PLYWOOD CORPORATION	0	22,456	0	0	0	0	0
COLVILLE GROUP, LTD.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
COMER SANITARY SERVICE, INC.	6	0	0	0	0	0	0
COMFORT WINDOW & DOOR, LLC	0	0	0	0	0	0	0
COMMSCOPE, INC. OF NORTH CARO	0	140,265	88,812	483,062	0	0	0
COMPASS GROUP USA, INC.	19,625	6,771	0	0	47,977	0	0
COMPONENT CONCEPTS, INC.	1,312	0	0	0	0	0	0
CONCRETE SUPPLY CO.	16,000	8,597	0	0	0	0	0
CONCRETE SUPPLY CO.	0	0	0	0	0	0	0
CONE MILLS CORPORATION	54,000	0	0	0	0	0	0
CONFLANDEY INC.	5,195	0	0	0	0	0	0
CONFLANDEY INC.	5,835	0	0	0	0	0	0
CONFULENCE HOLDINGS CORP	4,947	0	0	0	0	0	0
CONITEX- SONOCO U.S.A., INC.	63,293	82,884	0	0	0	0	0
CONOPCO, INC.	133,000	46,333	0	0	0	0	0
CONSOER TOWNSEND ENVIRODYNE	0	0	27,157	0	0	0	0
CONSOLIDATED LAUNDRY EQUIPMEN	0	0	0	0	0	0	0
CONSOLIDATED METCO, INC.	40,307	0	0	0	0	0	0
CONSOLIDATED METCO, INC.	14,106	26,351	0	0	0	0	0
CONTEMPORARY FURNITURE DESIGN	0	0	0	0	0	0	0
CONTEMPORARY PUBLISHING COMPA	0	0	0	0	0	0	0
CONTIGROUP COMPANIES, INC.	0	9,845	0	0	0	0	0
CONTINENTAL TEVES, INC.	0	98,645	0	0	0	0	0
CONTINENTAL TICKING CORPORATI	0	0	0	0	0	0	0
CONTINENTAL TIRE NORTH AMERIC	0	91,631	0	0	0	0	0
COOPER BUSSMANN, INC.	0	19,409	0	0	0	0	0
COOPER INDUSTRIES, INC.	0	0	782	0	0	0	0
COOPER KENWORTH, INC.	0	0	0	0	0	0	0
COOPER LEASING, INC.	70	0	0	0	0	0	0
COOPER-STANDARD AUTOMOTIVE I	0	53,403	0	0	0	0	0
COPE EQUIPMENT COMPANY	0	0	0	0	0	0	0
COPELAND CORPORATION	92,965	170,387	0	0	111	0	0
COPELAND CORPORATION	107,006	173,692	0	0	0	0	0
COPLAND FABRICS, INC.	0	8	0	0	0	0	0
COPLAND FABRICS, INC.	0	10,551	0	0	0	0	0
COREY TR[redacted]SSION SERVICE, I	0	187	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
CORNING CABLE SYSTEMS INTERNA	0	0	0	0	0	0	0
CORNING INCORPORATED	383,190	531,961	438,360	0	0	0	0
CORNUCOPIA CHEESES, INC.	0	259	0	0	0	0	0
CORNUCOPIA CHEESES, INC.	0	212	0	0	0	0	0
CORRIHER TRUCKING, INC.	0	0	0	0	0	0	0
CORTEK, INC.	0	420	0	0	0	0	0
CO-SUB INC	0	0	0	0	0	0	0
COTT BEVERAGE S USA INC	0	0	0	0	0	0	0
COTY INC.	0	83,758	0	0	0	0	0
COUNTRY CONSTRUCTION CORPORAT	0	18	0	0	0	0	0
COUNTRY ESTATES HOMES, INC.	0	6	0	0	0	0	0
COVENTOR, INC.	0	0	1,943	0	0	0	0
COX NORTH CAROLINA	9,500	42,944	0	0	0	0	0
COXE-LEWIS CORPORATION	0	4,538	0	0	0	0	0
C-PHONE CORPORATION	0	0	1,245	0	0	0	0
CRAFTSMEN CONSTRUCTION COMPAN	0	0	0	0	0	0	0
CRANE CO.	0	0	24,497	0	0	0	0
CREATIVE TRANSPORTATION SERVI	0	63	0	0	0	0	0
CREE, INC.	0	107,009	0	0	0	0	0
CREE, INC.	0	94,089	0	0	0	0	0
CRESTLINE HOMES, INC.	0	0	0	0	0	0	0
CRESTLINE HOMES, INC.	0	0	0	0	0	0	0
CRESTWOOD INTERNATIONAL, INC.	0	2,113	0	0	0	0	0
CROMPTON MANUFACTURING COMPAN	0	0	0	0	0	0	0
CROMPTON MANUFACTURING COMPAN	0	38,689	0	0	0	0	0
CROSS CREEK EMERGENCY PHYSICI	18	0	0	0	0	0	0
CROSS SALES AND ENGINEERING C	625	0	0	0	0	0	0
CROSSLOGIC CORPORATION	13,500	0	0	6,000	0	0	0
CROWFOOT SERVICE CENTER, INC.	0	23	0	0	0	0	0
CROWN CRAFTS, INC.	5,674	0	0	0	0	0	0
CROWN EQUIPMENT CORPORATION	0	0	0	0	0	0	0
CRUMP CLAIMS CONSULTING, INC.	0	0	0	0	0	0	0
CSI CORPORATION	0	0	0	0	43	0	0
CT COMMUNICATIONS, INC.	0	0	37,500	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
CTC EXCHANGE SERVICES, INC.	0	2,706	0	0	0	0	0
CTC INTERNET SERVICES, INC.	2,382	3,447	0	0	0	0	0
CTC LONG DISTANCE SERVICES, I	0	19,146	0	0	0	0	0
CTW SPECIALITIES, INC.	0	0	0	0	0	0	0
CULP, INC.	0	56,757	0	0	0	0	0
CUMMINS ENGINE COMPANY, INC.	0	30,283	0	0	0	0	0
CURRIN'S AUTO SUPPLY, INC.	0	0	0	0	0	0	0
CURTIS SCREW CO., INC.	3,500	3,976	0	0	0	0	0
CURTISE WRIGHT FLIGHT SYSTEMS	0	0	0	0	0	0	0
CURVED PLYWOOD, INC.	0	261	0	0	0	0	0
CUSTOM ENGRAVING AND TROPHY,	0	0	0	0	0	0	0
CUSTOM GLASS PRODUCTS OF CARO	60	0	0	0	0	0	0
CUSTOM MOLDERS, INCORPORATED	2,670	204	0	0	0	0	0
CUSTOMIZED SURFACES, INC.	0	0	0	0	0	0	0
CUTLER-HAMMER INC.	0	0	35,844	0	0	0	0
CVEO CORPORATION	0	28,406	0	0	0	0	0
CYCLE GROUP INC.	0	1,237	0	0	0	0	0
D & G UNIFORMS, INC.	0	0	0	0	0	0	0
D. B. TEXTILES, INC.	160	0	0	0	0	0	0
D. M. & E. CORPORATION	0	0	0	0	0	0	0
D. S. DUGGINS WELDING, INC.	0	0	0	0	0	0	0
D.M. KENNEDY PLUMBING, INC.	0	51	0	0	0	0	0
D.R. ALLEN & SON, INC	0	0	0	0	0	0	0
DAIMLERCHRYSLER CORP	0	0	0	0	0	0	0
DAIMLERCHRYSLER NORTH AMERICA	0	503,251	0	0	0	0	0
DAN RIVER INC.	0	23,920	0	0	0	0	0
DANA CORPORATION	0	93,670	29,875	0	0	0	0
DARRYL D. NABORS, D.D.S., P.A	0	0	0	0	0	0	0
DART CONTAINER CORP OF GEORGI	4,375	33,812	0	0	0	0	0
DATA SPECTRUM CORPORATION	0	0	0	0	0	0	0
DATAMARK GRAPHICS, INC.	236	484	0	0	0	0	0
DATATEK, INC.	0	160	0	0	0	0	0
DAUGHTRIDGE OIL COMPANY OF GR	0	0	0	0	0	10	0
DAVCOM [redacted] RISES, INC.	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
DAY INTERNATIONAL, INC.	0	15,224	0	0	2,141	0	0
DEA - DON, INC	0	0	0	0	0	50	0
DEAL'S LAWN SERVICE, INC.	5	0	0	0	0	0	0
DECHANT ARCHITECTURE, P.A.	0	0	0	0	0	0	0
DECISION LABS, LTD.	0	0	0	0	0	0	0
DECKER ADVANCED FABRICATION,	0	0	0	0	0	0	0
DEERE & COMPANY	0	69,617	18,848	136,715	0	0	0
DEERE AND COMPANY	0	0	0	0	0	0	0
DEERE-HITACHI CONSTRUCTION MA	22,750	0	0	10,639	0	0	0
DELLINGER ENTERPRISES, LTD.	0	0	0	0	0	0	0
DELLINGER WRECKER SERVICE, IN	0	467	0	0	0	0	0
DELTA CONSOLIDATED INDUSTRIES	0	16,627	782	0	0	0	0
DELTA GYPSUM, INC.	1,973	0	0	0	0	0	0
DELVIN, INC.	0	0	0	0	0	0	0
DENERGY, INC.	18	0	0	0	0	0	0
DERINGER MFG. COMPANY	0	1,730	0	0	0	0	0
DESIGN WOR	0	0	0	0	0	0	0
DIAMOND ELECTRIC SUPPLY CO.,	0	0	0	0	0	0	0
DICEY MILLS, INC.	0	8,931	0	0	0	0	0
DICEY MILLS, INC.	0	8,513	0	0	0	0	0
DIGITAL OPTICS CORPORATION	3,375	15,080	3,434	0	0	0	0
DILLARD'S, INC.	14,352	0	0	0	0	0	0
DIOSYNTH RTP INC.	0	62,451	0	0	0	0	0
DIOSYNTH RTP INC.	0	73,271	0	0	0	0	0
DIRECT CALL, INC.	23	0	0	0	0	0	0
DISCOUNT DRAPERY, INC.	0	0	0	0	0	0	0
DISPENSING SYSTEMS OF NORTH C	0	768	0	0	0	0	0
DK ENTERPRISES INC.	0	144	0	0	0	0	0
DML INDUSTRIAL PRODUCTS, INC.	0	249	0	0	0	0	0
DOLOROSA FARMS, LTD.	0	2,945	0	0	0	0	0
DOMNICK HUNTER INC	0	0	0	0	0	0	0
DONNA K HAGER PA	0	0	0	0	9	0	0
DOPACO, INC.	0	15,732	0	0	0	0	0
DOWN EAST FARMS, INC.	0	0	0	0	10	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
DOWN EAST VIDEO OF GOLDSBORO,	0	0	0	0	0	0	0
DR. HARRY W. KILLIAN, P. A.	0	0	0	0	0	9	0
DRAKA ELEVATOR PRODUCTS, INC.	17,959	42,997	0	0	0	0	0
DRAKE ENTERPRISES, LTD.	0	0	0	0	0	0	0
DROEGE COMPUTING SERVICES, IN	0	0	1,353	0	0	0	0
DSM DESOTE	0	0	0	0	0	0	0
DSM PHARMACEUTICALS, INC.	422,760	0	0	0	0	0	0
DT MAGNETICS INTERNATIONAL, I	0	0	0	0	0	0	0
DUBOSE STEEL, INC. OF NORTH C	3,250	2,487	0	0	0	0	0
DUBOSE STEEL, INC. OF NORTH C	3,250	2,487	0	0	0	0	0
DUKE ENERGY CORPORATION	0	0	0	42,000	0	0	0
DUKE PROJECT SERVICES, INC.	81,366	0	0	0	68,982	0	0
DUPLICATE TRANS ID#	0	0	0	0	0	0	0
DURATEX NORTH AMERICA, INC.	0	0	0	0	0	0	0
DYNAPAR CORP	54,000	8,893	0	0	0	0	0
DYNAYARN USA, LLC	620	0	0	0	0	0	0
E & H ELECTRICAL SERVICE, INC	0	9	0	0	0	0	0
E BEN WARD JR PA	0	0	0	0	0	0	0
EAGERTON PLUMBING CO. INC.	2,629	0	0	0	0	0	0
EANES OIL COMPANY	0	0	0	0	0	0	0
EASCO HAND TOOLS, INC.	0	1,731	1,785	9,598	0	0	0
EAST CAROLINA WALLPAPER MARKE	0	0	0	0	0	0	0
EASTERN BLOCK INC	0	0	9	0	0	0	0
EASTERN NORTH CAROLINA BROADC	0	0	0	0	4,500	0	0
EASTHAVEN DEVELOPMENT CORPORA	0	0	0	0	0	0	0
EATON AEROQUIP INC.	53,375	110,875	0	49,016	0	0	0
EATON CORPORATION	0	204,206	37,648	0	0	0	0
ECLIPSE PACKAGING, INC.	0	0	0	0	0	0	0
ECMD, INC.	0	4,407	0	0	0	0	0
ED MILLER, INCORPORATED	0	28	0	0	0	0	0
ED N. FERRELL, JR. MASONRY, I	0	113	0	0	0	0	0
EDS INFORMATION SERVICES,LLC	0	0	169,149	0	0	0	0
EDS PERSONAL COMMUNICATIONS C	0	0	149	0	0	0	0
EDS/SHL CORP ATION	0	0	607	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
EDWARD VOGT VALVE CO	0	0	0	0	0	0	0
EDWARD VOGT VALVE COMPANY	14,750	42,148	0	0	0	0	0
EDWARDS BROTHERS, INC.	0	0	0	0	0	0	0
EFCO STEEL, INC.	0	9	10	0	0	0	0
EGL, INC.	0	0	0	0	900	0	0
EHM HOLDINGS, INC.	0	0	0	0	0	0	0
EISAI INC.	20,375	0	223,202	0	0	0	0
ELECTROLUX HOME PRODUCTS, INC	6,875	0	0	0	11,535	0	0
ELECTRONIC DATA MAGNETICS	0	0	0	0	0	0	0
ELECTRONIC DATA MAGNETICS, IN	4,197	0	0	0	0	0	0
ELECTRONIC DATA SYSTEMS CORPO	0	0	285	0	0	0	0
ELI LILLY AND COMPANY	0	112,437	49,694	0	0	0	0
ELLISON CO., INC.	0	0	0	0	0	0	0
ELUMENS CORPORATION	0	0	1,783	0	0	0	0
EMBREX, INC.	0	0	9,303	0	0	0	0
EMGRAN HOLDING CO., INC,	0	18	0	0	0	0	0
ENERGY SYSTEMS ANALYSTS, INC.	81	0	0	0	0	0	0
ENGINE POWER SOURCE, INC.	0	10	0	0	0	0	0
ENGINEERED CONTROLS INTERNATI	0	1,419	0	0	0	0	0
ENGINEERED POLYMER SOLUTIONS,	0	19,107	0	0	0	0	0
ENGINEERED POLYMER SOLUTIONS,	0	20,684	0	0	0	0	0
ENGINEERING TECTONICS, P.A.	0	0	0	0	0	0	0
ENOVIA CORP	0	0	22,209	0	0	0	0
ENSLEY'S RADIO COMPANY, INC.	0	0	0	0	0	0	0
ENVIRON PRODUCTS INC.	1,500	0	0	0	0	0	0
ENVIRONMENTAL CLEARING INC	10	0	0	0	0	0	0
ENVIRONMENTAL MANAGEMENT SERV	0	31	0	0	0	0	0
EON LABS MANUFACTURING, INC.	21,000	90,897	0	22,500	0	0	0
EPIC ENTERPRISES, INC.	1,375	0	0	0	0	0	0
EQUESTRIAN CLUB OF CHARLOTTE,	0	0	0	0	0	0	0
EQUESTRIAN CLUB OF CHARLOTTE,	5	0	0	0	0	0	0
ERICSSON INC.	0	0	0	0	0	0	0
ET ELECTRONICS, INC.	0	0	0	0	0	0	0
ETHAN ALLEN INC.	92,556	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ETHAN ALLEN MANUFACTURING COR	0	11,998	0	0	0	0	0
ETRIALS, INC.	559	0	0	0	0	0	0
EURO-MATIC PLASTICS, INC.	3,931	0	0	0	0	0	0
EUROSOFT, INC.	0	163	0	0	0	0	0
EVE LADIES LEGWEAR, INC.	0	0	0	0	0	0	0
EVEREADY BATTERY COMPANY, INC	13,500	75,396	0	0	0	0	0
EVEREADY BATTERY COMPANY, INC	13,500	218,648	1,387	0	0	0	0
EVERETT BRYANT SALES, INC.	0	0	0	0	0	0	0
EXCEL CARGO SERVICES, INC.	2,125	0	0	0	0	0	0
EXTREME NETWORKS, INC.	0	0	9,629	0	0	0	0
EXTREME NETWORKS, INC.	0	0	4,143	0	0	0	0
E-Z SERVE CONVENIENCE STORES,	5,421	0	0	0	0	0	0
F & G ENTERPRISES, INC.	0	54	0	0	0	0	0
F. J. RAGAZ, M.D., P.A.	0	15	0	0	0	0	0
FABRISTEEL CORPORATION	0	0	0	0	0	0	0
FAB-TECH INDUSTRIES, INC.	450	0	0	0	0	0	0
FAMILY DOLLAR, INC.	18,875	221,213	127,640	0	43,769	0	0
FAMILY DOLLAR, INC.	11,625	45,710	164,581	0	43,769	0	0
FARMERS BURLEY WAREHOUSE, INC	0	0	0	0	0	0	0
FASCO CONTROLS CORPORATION	0	56,692	0	0	0	0	0
FAST CHART, INC.	0	80	0	0	0	0	0
FAYETTEVILLE PUBLISHING COMPA	3,000	12,588	0	0	0	0	0
FEDERAL PACKAGING, INC.	0	2,700	0	0	0	0	0
FEDERAL PACKAGING, INC.	0	1,800	0	0	0	0	0
FFNC, INC.	3,354	0	0	0	0	0	0
Fiber Composites	0	0	0	0	0	0	0
FIBER COMPOSITES LLC	0	0	0	0	0	0	0
FIBER INDUSTRIES, INC.	0	0	13,656	0	0	0	0
FIBER INDUSTRIES, INC.	0	0	15,541	0	0	0	0
FIELDCREST CANNON INC	0	0	0	0	0	0	0
FILTRATION GROUP, INC.	0	0	986	0	0	0	0
FINELINE INDUSTRIES EAST, INC	0	18	0	0	0	0	0
FINELINE INDUSTRIES EAST, INC	0	0	0	1,369	0	0	0
FIRST C[redacted] NATIONAL BANK	5,500	13,342	[redacted] 0	0	24,079	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
FIRST CHARTER NATIONAL BANK	17,250	71,453	0	5,290	0	0	0
FIRST UNION NATIONAL BANK	0	780,116	0	0	0	0	0
FIT-ALL SPORTSWEAR, INC.	0	0	0	0	0	0	0
FLEETWASH SYSTEMS OF CAROLINA	0	0	0	0	0	0	0
FLEETWOOD HOMES OF NORTH CARO	0	0	0	0	0	0	0
FLEXCELL INTL CORP	0	0	0	0	0	0	0
FLORIDA PROFESSIONAL MANAGEME	4,500	0	0	0	0	0	0
FLOW SCIENCES, INC.	928	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLP TRUST	0	0	0	0	0	0	0
FLYNT FABRICS, INC.	0	10,086	0	0	0	0	0
FLYNT'S FLOWERS, INC.	15	0	0	0	0	0	0
FOAMEX LP	0	0	0	0	0	0	0
FOARD SYSTEMS DESIGN, INC.	0	28	0	0	0	0	0
FOARD SYSTEMS DESIGN, INC.	0	69	0	0	0	0	0
FOCKE & CO., INC.	2,500	3,092	0	0	0	0	0
FOLK'S CLEANERS, INC.	0	120	0	0	0	0	0
FOOTHILLS HARLEY DAVIDSON, IN	0	0	0	0	11	0	0
FOOTHILLS, INC.	6,375	1,432	0	0	0	0	0
FOREST2MARKET.COM	0	0	0	0	0	0	0
FORREST FARM SUPPLY, INC.	0	9	0	0	0	0	0
FORSYTH DEVELOPMENT OF WINSTO	0	0	0	0	0	0	0
FORTRON BIO SCIENCE, INC.	0	0	951	0	0	0	0
FRAMATOME ANP DE&S, INC.	750	0	0	0	10,753	0	0
FRANK LEE INSURANCE AGENCY, I	0	106	0	0	0	0	0
FREEMAN METAL PRODUCTS, INC.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
FREIGHTLIN	0	113,296	0	0	0	0	0
FREUDENBER	0	0	0	0	0	0	0
FRISBY AEROSPACE, INC.	0	0	0	14,892	0	0	0
FRONTIER, INC.	18,750	0	0	0	0	0	0
FUCHS SYSTEMS, INC.	548	0	0	0	0	0	0
FUEL SYSTEM	0	0	0	0	0	0	0
FUJI SILYSIA CHEMICAL USA, LT	3,000	119	0	0	0	0	0
FUJITSU NETWORK COMMUNICATION	0	0	16,379	0	0	0	0
FULLER REAL ESTATE MANAGEMENT	0	0	0	0	0	0	0
FUN-TEES, INC.	0	0	0	0	0	0	0
G & E INVESTMENTS, INC.	0	33	0	0	0	0	0
G & G LUMBER	0	2,607	0	0	0	0	0
G & H RECYCLING, INC.	0	23	0	0	0	0	0
G & L CABINETS	0	73,336	0	0	0	0	0
G. S. TUCKER & CO. OF WILSON,	8	0	0	0	0	0	0
GADGETSPACE, INC.	0	0	0	0	0	0	0
GAIA HERBS, INC.	0	900	0	0	0	0	0
GAIA HERBS, INC.	0	900	0	0	0	0	0
GALEY & LORD INDUSTRIES, INC.	37,439	0	0	0	0	0	0
GALEY & LORD INDUSTRIES, INC.	38,275	0	0	0	0	0	0
GALLIMORE ENTERPRISES, INC.	0	0	0	0	0	0	0
GARRETT OPTOMETRIC CENTER, P.	0	25	0	0	0	0	0
GASTON SYSTEMS INC	0	0	0	0	0	0	0
GATE CONCRETE PRODUCTS CO.	7,750	0	0	0	0	0	0
GAYLORD INC	28,125	89	0	0	0	0	0
GAYLORD, INC.	0	0	0	0	0	0	0
GENE INMAN TRUCKING, INC.	0	0	0	0	0	0	0
GENE STEWART PUMP & PLUMBING	0	0	0	0	0	0	0
GENE TIERNEY COMPANY, INC.	0	18	0	0	0	0	0
GENE TIERNEY COMPANY, INC.	0	18	0	0	0	0	0
GENERAL DYNAMICS ADVANCED TEC	0	0	647	0	0	0	0
GENERAL PARTS, INC.	21,625	0	0	0	0	0	0
GENEVA CORPORATION	1,250	7,168	0	0	0	0	0
GENTRY M[redacted] C.	0	6,497	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
GENTRY MILLS, INC.	0	4,739	0	0	0	0	0
GEO. G. SCOTT & CO.	207	0	0	0	0	0	0
GEORGIA-CAROLINA QUARRIES, IN	0	0	0	0	0	0	0
GEORGIA-PACIFIC CORPORATION	0	0	0	0	0	0	0
GEORGIA-PACIFIC RESINS, INC.	0	0	0	0	0	0	0
GETRAG CORPORATION	16,500	13,496	0	0	0	0	0
GGS, INC.	0	0	0	0	0	0	0
GILES CHEMICAL CORP	0	0	0	0	0	0	0
GKN AUTOMOTIVE, INC.	22,125	150,907	0	0	0	0	0
GKN AUTOMOTIVE, INC.	22,125	6,011	0	0	0	0	0
GLCO MARKETING, INC.	0	0	0	0	0	0	0
GLENOIT CORPORATION	13,571	0	0	0	0	0	0
GLOBAL SOFTWARE, INC.	0	0	0	0	0	0	0
GLOSSON REFRIGERATION & ELECT	0	0	0	0	0	0	0
GOERLICH'S, INC.	0	0	9,977	0	0	0	0
GOLD STAR COATINGS - ASHEVILL	0	0	0	0	0	0	0
GOLD TOE BRANDS, INC.	0	0	0	8,394	0	0	0
GONYEA TV	0	0	0	0	0	0	0
GOOD & RELIABLE LAWN CARE INC	0	0	0	0	0	0	0
GOODMARK FOODS, INC.	0	25,890	0	0	0	0	0
GOODMARK FOODS, INC.	0	42,476	0	0	0	0	0
GOODRICH CORPORATION	0	13,574	0	0	0	0	0
GORDON RECYCLERS, INC.	0	0	0	0	0	0	0
GOULSTON TECHNOLOGIES, INC.	250	10,369	56,734	0	0	0	0
GOURMET FOODS, INCORPORATED	0	0	0	0	0	0	0
GRADY L. MCCLAMROCK, JR., J.D	0	0	0	0	0	0	0
GRANLUND AMERICA, INC.	0	125	0	0	0	0	0
GRANT TOURS, INC.	0	0	0	0	0	0	0
GRAPHIC DETAIL, INC.	0	0	0	0	0	0	0
GRAPHIC PACKAGING CORPORATION	0	18,698	0	0	0	0	0
GRAPHIC PRINTING SERVICES, IN	750	0	0	0	0	0	0
GRASS AMERICA, INC.	0	19,816	0	0	0	0	0
GRASS AMERICA, INC.	0	21,621	0	0	0	0	0
GRAY BROTHERS FURNITURE, INC.	10	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
GRAYBAR ELECTRIC COMPANY, INC	23,625	0	0	0	0	0	0
GREEN & MCCLURE FURNITURE COM	0	0	0	0	0	0	0
GREEN PRINTING AND PACKAGING	0	9,442	0	0	0	0	0
GREENFIELD INDUSTRIES INC	98	25,440	0	0	0	0	0
GREEN'S GRAINS, INC.	0	0	0	0	0	0	0
GREENSBORO TWINE & PAPER COMP	0	0	0	0	0	0	0
GREER LABORATORIES, INC.	0	0	63,456	0	0	0	0
GREGORY POOLE EQUIPMENT COMPA	0	48,050	0	0	21,465	0	0
GRIFFIN FURNITURE AND APPLIAN	0	0	0	0	0	0	0
GROVER INDUSTRIES, INC.	0	2,424	0	0	0	0	0
GROWING CHILD PEDIATRICS, P.A	9	0	0	0	0	0	0
GRUMA CORPORATION	8,421	0	0	0	0	0	0
GTE CONSUMER SERVICES INC	0	261	0	0	0	0	0
GTE WIRELESS INCORPORATED	6,855	0	0	0	0	0	0
GTE WIRELESS OF OHIO INCORPOR	0	178	0	0	0	0	0
GTE WIRELESS OF THE SOUTH INC	0	1,743	0	0	0	0	0
GUARANTEED SUPPLY COMPANY	0	102	0	0	0	0	0
GUILFORD MILLS, INC.	0	100,721	0	0	0	0	0
GUILFORD MILLS, INC.	0	142,110	0	0	0	0	0
GULF STATES PAPER CORPORATION	32,000	86,959	0	0	0	0	0
GULF STATES PAPER CORPORATION	8,000	143,950	0	0	0	0	0
H & H OF RALEIGH, INC.	2	0	0	0	0	0	0
H & J WAREHOUSES, LL	0	2	0	0	0	0	0
H & M WOOD PRESERVING, INC.	0	207	0	0	0	0	0
H. B. FULLER COMPANY	0	10,029	0	0	0	0	0
H.R.W., INC.	168	0	0	0	0	0	0
HABCO, INC.	0	0	0	0	0	0	0
HAFELE AMERICA CO.	4,625	0	0	0	0	0	0
HAHT SOFTWARE, INC.	630	0	0	0	0	0	0
HALCORE GROUP, INC.	46,626	0	0	0	0	0	0
HALDEX HYDRAULICS CORPORATION	0	6,804	0	0	0	0	0
HALIFAX	0	2,250	0	0	0	0	0
HALL CONTRACTING CORPORATION	0	0	0	0	9	0	0
HAMMI[redacted]S, INC.	0	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
HAMPTON INDUSTRIES, INC.	3,699	0	0	0	0	0	0
HANCOR, INC.	0	3,656	0	0	0	0	0
HANSON & ORTH FIBERS INC	0	0	0	0	0	0	0
HARDWARE SUPPLIERS OF AMERICA	1,000	0	0	0	0	0	0
HARMON PLUMBING SERVICES INC.	0	23	0	0	0	0	0
HARRIET & HENDERSON YARNS, IN	0	14,442	0	0	0	0	0
HARRIS FEED CO., INC.	0	0	0	0	0	0	0
HASCO MOLD BASES - ASHEVILLE,	1,500	6,725	0	0	0	0	0
HATTERAS NETWORKS, INC.	1,875	0	9,574	0	0	0	0
HAYWARD INDUSTRIAL	0	0	10,722	0	0	0	0
HAYWARD POOL PRODUCTS, INC.	37,125	0	11,968	0	0	0	0
HEALTH DECISIONS, INC.	0	0	0	0	0	0	0
HEARST COMMUNICATIONS, INC.	26,288	0	0	0	0	0	0
HEARTHSTONE ENTERPRISES, INC.	0	499	0	0	0	0	0
HEATON, FULGHUM & WILLIAMS, M	0	98	0	0	0	0	0
HENDERSON MACHINERY, INC.	125	0	0	0	0	0	0
HEXTEK TECHNOLOGIES, INC.	301	0	0	0	0	0	0
HEXTEK TECHNOLOGIES, INC.	678	0	0	0	0	0	0
HICKORY CARPET & FLOOR COVERI	0	0	0	0	0	0	0
HICKORY PRINTING GROUP, INC.	0	8,599	0	0	0	0	0
HICKORY SCRAP IRON & METAL CO	0	0	0	0	0	0	0
HICKORY SPRINGS MANUFACTURING	0	37,789	0	0	0	0	0
HIGHLAND FABRICATORS, INC.	5,875	0	0	0	0	0	0
HINSON & RHYNE, P.A.	0	18	0	0	0	0	0
HITACHI METALS NORTH CAROLINA	0	104,267	0	0	0	0	0
HI-TEX, INC.	0	1,953	0	0	0	0	0
HOBART SMITH CONSTRUCTION CO.	0	0	0	0	0	0	0
HOF TEXTILES, INC.	1,500	4,209	0	0	0	0	0
HOFFMAN & HOFFMAN, INC.	10,875	0	0	0	0	0	0
HOG SLAT INC.	0	9,015	0	0	0	0	0
HOLBERT INVESTMENTS COMPANY,	0	54	0	0	0	0	0
HOLMES SEAT COVER SHOP, INC.	0	7	0	0	0	0	0
HOLT SUBLIMATION PRINTING & P	0	2,296	0	0	0	0	0
HOLT SUBLIMATION PRINTING & P	0	2,296	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
HOMANIT USA, INC.	15,000	0	0	43,843	0	0	0
HOME ASSIST MEDICAL EQUIPMENT	0	55	0	0	0	0	0
HOME LIFE CARE, INC.	4,564	0	0	0	0	0	0
HOMES BY GEORGE STEELE, INC.	0	0	0	0	0	0	0
HOMES BY GEORGE STEELE, INC.	0	0	0	0	0	0	0
HOMES BY OAKWOOD, INC.	18	0	0	0	0	0	0
HOMES BY OAKWOOD, INC.	16,125	2,072	0	0	0	0	0
HONEYWELL INTERNATIONAL INC.	12,500	14,729	0	0	0	0	0
HORN OIL COMPANY, INC.	10	0	0	0	0	0	0
HOWELL FARMS, INC.	0	0	0	0	0	0	0
HSMF, INC.	0	578	0	0	0	0	0
HTC LOGGING, INC.	0	609	0	0	0	0	0
HUDSON & SON GARAGE, INC.	0	462	0	0	0	0	0
HUFFMAN BROTHERS HOUSEMOVING,	0	10	0	0	0	0	0
HUFFMAN OIL COMPANY, INCORPOR	1,000	2,623	0	0	0	0	0
HUFFMAN TECHNOLOGY, INC.	12	0	0	0	0	0	0
HUNTER INDUSTRIES INCORPORATE	5	0	0	0	0	0	0
HUNTLEY CHEVROLET & BUICK PON	0	0	0	0	49	0	0
HVAC DESIGN AND CONTRACTING,	9	0	0	0	0	0	0
HYDRAULIC VALVE DIV	0	0	0	0	0	0	0
I.X.O.Y.E., INC.	0	0	0	0	0	0	0
IDEAL ACCESSORIES CORPORATION	75	0	0	0	0	0	0
IENTERTAINMENT NETWORK, INC.	0	0	2,759	0	0	0	0
ILCO UNICAN CORP.	0	98,621	0	0	0	0	0
IMAGES OF AMERICA, INC.	0	0	0	0	1	0	0
IMPACT TECHNOLOGIES GROUP, IN	0	0	9,576	0	0	0	0
IMPACT TECHNOLOGIES, INC.	0	18	0	0	0	0	0
IMPLUS FOOTCARE, LLC	0	0	0	0	0	0	0
IMPULSE NC, INC.	10,633	0	0	0	0	0	0
INDALEX INC.	30,547	0	0	0	0	0	0
IND-COM ELECTRIC COMPANY	0	0	9	0	0	0	0
INDEPENDENT BEVERAGE CORPORAT	0	11,579	0	0	0	0	0
INDEPENDENT BEVERAGE CORPORAT	0	25,142	0	0	0	0	0
INDEPEN[redacted]3ORATORIES, INC	0	0	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	EZ Projects
INDIAN HEAD INDUSTRIES, INC.	0	0	4,859	0	0	0	0
INDOOR PLANTSCAPING INC & GAR	0	10	0	0	0	0	0
INDUSTRIAL FABRICATORS, INC.	22,747	0	0	0	0	0	0
INDUSTRIAL FABRICATORS, INC.	0	0	0	0	0	0	0
INDUSTRIAL MICROWAVE SYSTEMS,	1,625	0	1,430	0	0	0	0
INDUSTRIAL PIPING, INC.	0	9	0	0	0	0	0
INDUTER U.S.A. INC	0	0	0	0	0	0	0
INGERSOLL-RAND COMPANY	0	47,976	0	0	0	0	0
INGERSOLL-RAND COMPANY	0	47,976	0	0	0	0	0
INJECTRONICS, INC.	3,750	0	0	0	0	0	0
INSECT BIOTECHNOLOGY, INC.	0	0	34	0	0	0	0
INSPIRE PHARMACEUTICALS, INC.	0	0	38,909	0	0	0	0
INST TRANS EQUIP CORP	0	0	0	0	0	0	0
INT COTTON FABRIC HOLDINGS, A	0	0	0	0	0	0	0
INTEGRATED SOFTWARE SOLUTIONS	0	0	0	0	0	0	0
JENKINSINTEGRATED SOFTWARE SOLUTION	0	0	0	0	0	0	0
INTEGRATED SOFTWARE SYST	0	0	0	0	0	0	0
INTEGRIAN, INC.	0	0	0	0	0	0	0
INTEK, INC.	0	12,207	0	0	0	0	0
INTELLI-MARK TECHNOLOGIES, IN	0	0	0	0	0	0	0
INTERFACE TECHNOLOGIES, INC.	375	0	0	0	0	0	0
INTERIOR WOOD SPECIALTIES, IN	0	0	0	0	0	0	0
INTERIOR WOOD SPECIALTIES, IN	5,003	48	0	0	0	0	0
INTERNATIONAL BUSINESS MACHIN	554,050	0	0	0	0	0	0
INTERSIL COMMUNICATIONS, INC.	0	0	58,357	0	0	0	0
INTERSTATE APPAREL GROUP	0	0	0	0	0	0	0
INTERSTATE BRANDS CORPORATION	17,633	49,141	0	0	0	0	0
INTERSTATE BRANDS CORPORATION	15,000	52,700	0	0	0	0	0
INTIMATE TOY BOX, INC.	0	0	0	0	0	0	0
IQMAX INC	0	0	0	0	0	0	0
IQMAX, INC.	0	0	0	0	0	0	0
IQMAX, INC.	0	0	0	0	0	0	0
IRREVOCABLE TRUST U/A/D 7/14/	111	133	0	0	0	0	0
IRREVOCABLE TRUST U/A/D 7/14/	111	133	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ITS	0	0	0	0	0	0	0
IVYMAR, INC.	0	0	0	0	51	0	0
J & C CAR COMPANY, INC.	0	25	0	0	0	0	0
J & L AMERICA, INC.	1,125	0	0	0	0	0	0
J & S PLUMBING COMPANY	0	140	0	0	0	0	0
J W JONES LUMBER COMPANY	0	0	0	0	0	0	0
J. B. M. & W., INC.	0	110	0	0	0	0	0
J. C. STEELE AND SONS, INC.	0	9,645	0	0	0	0	0
J. CHRISTOPHER KIBLER, D.D.S.	0	0	0	0	0	0	0
J. D. CLARK COMPANY	0	506	0	0	8	0	0
J. P. TAYLOR COMPANY, INCORPO	0	414,619	0	0	0	0	0
J. P. TAYLOR COMPANY, INCORPO	0	0	0	0	0	0	0
J. P. TAYLOR COMPANY, INCORPO	0	55,983	0	0	0	0	0
J. R. KELLAM CONTRACTOR, INC.	0	143	0	0	0	0	0
J. RICHARD BURKE, INC.	0	52	0	0	0	0	0
J. S. MANN'S OF WHITEVILLE, I	6	0	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	24,735	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	19,130	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	26,690	0	0	0	0	0
J. T. DAVENPORT & SONS, INC.	0	19,582	0	0	0	0	0
J.E. WOODIE & SONS, INCORPORA	0	9	0	0	0	0	0
JACK CROSS HEATING & AIR COND	0	0	0	0	0	0	0
JACK HENRY SERVICES, LP	0	0	5,493	0	0	0	0
JACK HENRY SYSTEMS, LP	0	0	8,999	0	0	0	0
JACKSON FAMILY BUSINESS, INC.	0	0	0	0	19	0	0
JACKSON PAPER MANUFACTURING C	6,400	11,669	0	0	0	0	0
JACKSON TUBE SERVICE, INC.	0	0	0	0	0	0	0
JACKSON'S IGA OF PINK HILL, I	0	0	0	0	0	0	0
JAI SAI RAM, INC.	0	14	0	0	0	0	0
JALCO, INC.	441	0	0	0	0	0	0
JAMES A. DOBBINS CONSTRUCTION	0	0	0	0	0	0	0
JAMES A. OLDHAM, D.D.S., P.A.	0	0	0	0	0	0	0
JAMES DEAN WALLACE ELECTRIC C	0	0	0	0	0	0	0
JAMES L[redacted] R MFG. CO.	560	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
JAMES R. TICE & CO., INC.	0	0	0	0	0	0	0
JANE RICHTER ASSOCIATES, INCO	0	0	0	0	0	0	0
JANE'S NURSERY AND TRANSPORT,	0	57	0	0	0	0	0
JELD-WEN, INC.	18,250	94,546	0	0	0	0	0
JERRY WILLIAMS & SONS	0	63,980	0	0	0	0	0
JERSAN, INC.	0	36	0	0	0	0	0
JESSCO, INC.	0	0	0	0	0	0	0
JESSICA VYAS SECOND SHARE PRI	0	0	0	0	0	0	0
JG3 INC	0	0	0	0	0	0	0
JGI INC.	0	0	0	0	0	0	0
JILLIAN'S, INC.	0	0	0	0	0	0	0
JIMMY WARD HARDWOODS, INC.	0	0	0	0	0	0	0
JIMMY'S PLUMBING & REPAIR, IN	0	0	0	0	0	0	0
JOE BROWN, INC.	4	0	0	0	0	0	0
JOEL W. WALKER, D.D.S., P.A.	5	0	0	0	0	0	0
JOHN DEERE CONSUMER PRODUCTS,	0	19,157	0	8,702	0	0	0
JOHN DEERE TURF CARE, INC.	43,625	0	11,302	5,694	0	0	0
JOHN DEERE TURF CARE, INC.	0	68,555	0	0	8	0	0
JOHN J. MORTON COMPANY, INC.	0	0	0	0	249	0	0
JOHN WIELAND HOMES AND NEIGHB	4,750	0	0	0	0	0	0
JOHN WIRGHT ENTERPRISES, INC.	0	18	0	0	0	0	0
JOHNSON CONCRETE COMPANY	0	0	0	0	0	0	0
JOHNSON CONTROLS BATTERY GROU	4,875	37,482	0	0	0	0	0
JOHNSON CONTROLS WORLD SERVIC	0	1,055	0	0	0	0	0
JOHNSTON CASUALS FURNITURE, I	0	5,905	0	0	0	0	0
JONES BROTHERS TRANSPORT INC	0	333	0	0	0	0	0
JORDAN SELF-SERVE OF ASHEVILL	0	1,800	0	0	0	0	0
JOSEPH A. RHODES, D.D.S., P.A	0	0	0	0	61	0	0
JOSEPH T. HOGGARD LOGGING, IN	0	678	0	0	0	0	0
JOURNIGAN'S TIRE & BATTERY SA	0	0	0	0	0	0	0
JOWAT CORPORATION	1,125	0	0	0	0	0	0
JPW, INC.	0	660	0	0	0	0	0
JSL PARTNERS, INC.	0	0	0	0	5	0	0
JSP HILLSB	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
JUKI AUTOMATION SYSTEMS, INC.	1,375	0	0	0	0	0	0
JULIUS BLUM INC.	32,250	206,455	0	0	0	0	0
JULIUS BLUM INC.	11,000	124,028	0	0	0	0	0
JVI CONSTRUCTION, INC.	0	479	0	0	0	0	0
K VA T FOOD STORES INC	0	665	0	0	0	0	0
K. E. AUSTIN CORPORATION	0	0	0	18	0	0	0
K.L. BUTLER LOGGING, INC.	0	0	0	0	0	0	0
K.L. BUTLER LOGGING, INC.	0	0	0	0	0	0	0
KABA ILCO CORP.	0	12,240	0	0	0	0	0
KASTRUI, INC.	0	58	0	0	0	0	0
KAYDON CORP	4,477	0	0	0	0	0	0
KAYSER-ROTH CORPORATION	0	66,604	0	0	0	0	0
KCBC FOODS, INC.	0	53	0	0	0	0	0
KCS INTERNATIONAL INC.	0	0	0	15,145	0	0	0
KEEBLER COMPANY	20,250	0	0	0	0	0	0
KEEL NETWORK LLC	0	0	0	0	0	0	0
KEENER LUMBER COMPANY, INCORP	0	0	0	0	0	0	0
KEIIIN CAROLINA SYSTEM TECHNO	188,017	0	0	0	0	0	0
KELICO CORPORATION	0	80	0	0	0	0	0
KEL-MAC METALS, INC.	0	0	0	0	0	0	0
KEMP HARRIS, INC.	0	6	0	0	0	0	0
KENCO ELECTRIC, INC.	0	0	0	0	0	0	0
KENCRAFT MANUFACTURING, INC.	0	0	0	0	0	0	0
KENGO, INC.	18	0	0	0	0	0	0
KENNAMETAL INC.	0	47,963	0	0	0	0	0
KENNAMETAL INC.	0	36,957	0	0	0	0	0
KENNEDY DIECASTING, INC.	0	0	0	0	0	0	0
KENNEDY DIECASTING, INC.	0	0	0	0	0	0	0
KENYON PLUMBING SERVICES, INC	0	54	0	0	0	0	0
KERR GROUP, INC.	0	13,978	0	0	0	0	0
KEWAUNEE SCIENTIFIC CORPORATI	0	16,835	10,290	0	0	0	0
KEYSTONE POWDERED METAL COMPA	0	1,673	0	0	0	0	0
KIDDE TECHNOLOGIES INC.	13,500	14,773	3,391	0	0	0	0
KILLEBRE[redacted]IO I & M SERVI	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
KINARD BATTLEGROUND DRUGS, IN	0	0	0	0	0	0	0
KINCAID FURNITURE COMPANY, IN	0	52,026	0	0	0	0	0
KING BROTHERS ELECTRIC COMPAN	324	0	0	0	0	0	0
KING TV, INC.	0	0	0	0	0	0	0
KINGS FARMING ENTERPRISES	0	0	0	0	0	0	0
KIP CARR ASSOCIATES, INC.	0	19	0	0	8	0	0
KISER MASONRY, INC.	0	0	0	9	0	0	0
KLAUSSNER FURNITURE INDUSTRIE	0	46,459	11,905	0	0	0	0
KLINGSPOR ABRASIVES, INC.	15,265	0	0	0	0	0	0
KOBE COPPER PRODUCTS INC.	0	19,731	0	0	0	0	0
KONICA MANUFACTURING U.S.A.,	0	70,470	0	0	0	0	0
KORDSA USA	0	0	0	0	0	0	0
KRISPY KREME DOUGHNUT CORPORA	62,588	0	0	0	0	0	0
KURZ TRANSFER PRODUCTS, L.P.	11,234	17,618	0	0	0	0	0
KYRUS CORP	8,409	0	0	0	0	0	0
KYRUS CORP	3,806	0	0	0	0	0	0
L & E PACKAGING, LLC	0	0	0	0	0	0	0
L & J ELECTRONICS INC	0	22	0	0	0	0	0
L & J ELECTRONICS, INC.	0	0	0	0	0	0	0
L B PLASTICS INC	0	0	1,922	0	0	0	0
L S STARRETT CO	0	0	0	0	0	0	0
LA MARA, INC.	0	57	0	0	0	0	0
LACE LASTICE CO INC	0	27,256	0	0	0	0	0
LADD FURNITURE, INC.	92,772	0	0	0	0	0	0
LADD FURNITURE, INC.	0	0	0	0	0	0	0
LADD FURNITURE, INC.	397,396	0	0	0	0	0	0
LADD FURNITURE, INC.	0	0	0	0	0	0	0
LAFEBER CO	0	0	89	0	0	0	0
LAKESIDE BEACH, INC.	0	0	0	0	0	0	0
LAMARR JOHNSON & ASSOCIATES,	0	0	0	0	0	0	0
LAMBDA TECHNOLOGIES, INC.	750	0	0	0	0	0	0
LAMPE & MALPHRUS LUMBER COMPA	0	0	0	0	0	0	0
LANCE MFG. LLC	0	298,982	0	0	0	0	0
LANCE, INC.	0	10,991	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
LANE FURNITURE INDUSTRIES, IN	0	30,555	0	0	0	0	0
LARRY W. POOLE & ASSOCIATES,	0	0	0	0	0	0	0
LARRY WILLIAMS PLUMBING & HEA	77	0	0	0	0	0	0
LARRY WILLIAMS PLUMBING & HEA	154	0	0	0	0	0	0
LAS PALMAS II, INC.	0	53	0	0	0	0	0
LAU INDUSTRIES, INC.	0	1,800	0	0	0	0	0
LAWN PRO., INC.	0	0	0	0	0	0	0
LAWSON FARMS, INC.	0	159	0	0	0	0	0
LA-Z-BOY INCORPORATED	34,250	25,214	0	0	0	0	0
LBSS,INC.	2,250	0	0	0	0	0	0
LE BLEU CORPORATION	0	13,146	0	0	0	0	0
LEDBETTER TIMBER AND PULPWOOD	0	486	0	0	0	0	0
LEE BRICK & TILE COMPANY	125	0	0	0	0	0	0
LEE BUILDER MART, INC.	0	0	0	0	0	0	0
LEE BUILDER MART, INC.	0	0	0	0	0	0	0
LEE MECHANICAL, INC.	0	0	10	0	0	0	0
LEE-MOORE OIL COMPANY	0	12,239	0	0	0	0	0
LEE-MOORE OIL COMPANY	0	14,824	0	0	0	0	0
LEGACY CLASSIC FURNITURE, INC	2,000	0	0	0	0	0	0
LEMANS CORPORATION	1,250	15,664	0	0	0	0	0
LENDINGTREE, INC.	9,693	0	0	0	0	0	0
LENOIR PAD AND PAPER COMPANY	936	0	0	0	0	0	0
LENOX, INCORPORATED	0	0	0	0	8	0	0
LEVITON MANUFACTURING CO., IN	0	28,006	0	0	0	0	0
LEWISVILLE PAVING COMPANY, IN	0	0	0	0	0	0	0
LEX MAR, INC.	0	0	0	0	0	0	0
LEXCOM CABLE SERVICES, INC.	0	0	0	0	0	0	0
LEXCOM TELEPHONE COMPANY	16,750	409,079	0	0	0	0	0
LEXINGTON BARBECUE, INCORPORA	0	0	0	0	0	0	0
LEXINGTON FURNITURE INDUSTRIE	0	19,170	0	0	0	0	0
LIBERTYHOUSE, INC.	0	185	0	0	0	0	0
LIGGETT GROUP INC.	0	69,397	0	0	0	0	0
LIMITORQUE CORPORATION	0	0	0	0	0	0	0
LIN PAC, IN	5,610	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
LINEAR TECHNOLOGY CORP	0	0	44,878	0	3	0	0
LINEAR TECHNOLOGY CORP	0	0	16,046	0	0	0	0
LIPS, INC.	0	0	0	0	0	0	0
LISY CORPORATION	0	145	0	0	0	0	0
LISY CORPORATION	0	1,098	0	0	0	0	0
LITESPEC OPTICAL FIBER LLC	0	107,785	0	0	0	0	0
LITTLE DAVID'S CARPET OUTLET,	0	18	0	0	0	0	0
LIVEWIRE LOGIC, INC.	0	0	528	0	0	0	0
LKF, INC.	0	2,024	0	0	0	0	0
LOFTIS CONSTRUCTION CORP.	0	805	0	0	0	0	0
LONESOURCE.COM, INC.	0	0	378	0	0	0	0
LONG CREEK FARMS, INC.	0	77	0	0	0	0	0
LORD CORPORATION	6,125	0	9,949	0	0	0	0
LORILLARD TOBACCO COMPANY	32,000	673,291	0	0	71,429	0	0
LOUISIANA-PACIFIC CORPORATION	24,000	70,517	0	0	0	0	0
LOWE'S COMPANIES, INC.	157,211	124,256	0	0	71,429	0	0
LOWE'S COMPANIES, INC.	857,537	6,367,107	0	0	717,429	0	0
LOWE'S COMPANIES, INC.	197,528	281,053	0	0	0	0	0
LOWE'S HOME CENTERS, INC.	0	53,387	0	0	0	0	0
LOWRY OIL COMPANY, INCORPORAT	0	0	0	0	0	0	0
LUNDBERG WINDOWS & SIDING, IN	0	0	0	0	0	0	0
LUSTAR DYEING AND FINISHING,	875	0	0	0	0	0	0
LUSTAR DYEING AND FINISHING,	875	0	0	0	0	0	0
LUTRABOND COMPANY	2,486	34,250	0	0	0	0	0
LUTRADUR CORPORATION	1,960	32,908	0	0	0	0	0
LVD CORP.	8	0	0	0	0	0	0
LVD CORP.	14,361	0	0	0	0	0	0
LVL7 SYSTEMS, INC.	0	0	0	0	0	0	0
LYLE E. FARVER & SON, INC.	7	0	0	0	0	0	0
M & M ELECTRIC SERVICE, INC.	0	0	0	0	0	0	0
M.C. PRECAST CONCRETE, INC.	0	0	0	0	0	0	0
M.D. COASTAL BILLING CENTER,	0	22	0	0	0	0	0
MACHINE & WELDING SUPPLY	0	0	0	0	0	0	0
MADDUX SUPPLY COMPANY	4,875	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MADDUX SUPPLY COMPANY	9,625	0	0	0	0	0	0
MAGNETI MARELLI POWERTRAIN U.	0	85,952	0	0	0	0	0
MAGNOLIA MFG CO	0	0	0	0	0	0	0
MAGNUM MANUF	0	0	0	0	0	0	0
MAIN STREET MONOGRAMS, INC.	0	0	0	9	0	0	0
MALLIN INVESTMENT COMPANY	0	0	0	0	45	0	0
MANDIR, INC.	0	145	0	0	0	0	0
MANESS, INC.	0	76	0	0	0	0	0
MANNING FABRICS, INC.	0	0	0	0	8	0	0
MAOLA MILK AND ICE CREAM COMP	0	4,603	0	0	0	0	0
MARAPESE MASONRY, INC.	0	566	0	0	0	0	0
MARCOM TRANSPORT, INC.	0	18	0	0	0	0	0
MARKETECH SYSTEMS	0	0	0	0	0	0	0
MARK'S MICRO SHOP, INC.	0	0	0	0	0	0	0
MARLOWE-VAN LOAN CORPORATION	0	0	0	0	0	0	0
MARLOWE-VAN LOAN CORPORATION	0	0	0	0	0	0	0
MARMON/KEYSTONE CORPORATION	125	0	0	0	0	0	0
MARSH'S CAROLINA EXTERIORS, I	0	0	0	0	0	0	0
MASONRY REINFORCING CORP OF A	0	0	0	0	0	0	0
MASSEY SEPTIC TANK CO., INC.	0	179	0	0	0	0	0
MASTER FORM, INC.	0	0	0	0	0	0	0
MASTERBRAND CABINETS, INC.	134,785	0	0	0	0	0	0
MATERIAL HANDLING TECHNOLOGIE	685	0	0	0	0	0	0
MAYFLOWER GLASS	0	0	0	0	0	0	0
MAYFLOWER GLASS	0	0	0	0	0	0	0
MAYFLOWER GLASS INC.	0	46	0	0	0	0	0
MAYFLOWER GLASS INC.	0	46	0	0	0	0	0
MAYFLOWER VEHICLE SYSTEMS, IN	9,470	0	0	0	0	0	0
MAYHEW BROS., INC.	0	57	0	0	0	0	0
MAYO KNITTING MILL, INCORPORA	0	7,012	0	0	0	0	0
M-B INDUSTRIES, INC.	0	6,595	0	0	0	0	0
MBB, INC.	0	0	0	0	0	0	0
MCCOY, HILLARD & PARKS, CPA'S	0	0	0	0	0	0	0
MCFARL[redacted]'OMPANY, INC., PU	3,066	0	[redacted]	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
MCGEE CORPORATION	438	0	0	0	0	0	0
MCLAMB'S L. P. GAS & SUPPLY C	0	0	0	0	0	0	0
MCLANE FOODSERVICE, INC.	13,238	2,493	0	0	0	0	0
MCLANE/CAROLINA,INC.	77,590	133,293	0	0	0	0	0
MCLAWHORN LIVESTOCK FARM, INC	0	0	0	0	0	0	0
MCMAN, INC.	0	0	0	0	0	0	0
MCMURRAY FABRICS, INC.	0	0	0	0	0	0	0
MCNEELY ASSOCIATES P.A.	0	0	0	9	0	0	0
MCNUTT SERVICE GROUP, INC.	156	0	0	0	0	0	0
MDEVERYWHERE, INC.	0	0	6,044	0	0	0	0
MDM, INC.	0	0	0	0	222	0	0
MEASURMENT INCORPORATED PAYRO	32,495	3,884	0	0	0	0	0
MEC-TRIC CONTROL COMPANY	68	0	0	0	0	0	0
MED COVERS, INC.	0	0	0	0	0	0	0
MEDIA EVOLVED, LLC	0	0	0	0	0	0	0
MEDIBEG USA, INC.	2,734	0	0	0	0	0	0
MEDICAL CYBERNETICS, INC.	0	0	0	0	0	0	0
MEDICAL CYBERNETICS, INC.	0	0	0	0	0	0	0
MEDICAL SPECIALTIES INCORPORA	0	0	0	0	0	0	0
MEDICAL SQUARE ASSOCIATES	0	0	0	0	0	0	0
MEDICLICK, INC.	0	0	256	0	0	0	0
MEDTEC, INC.	0	0	0	0	0	0	0
MERCHANTS DISTRIBUTORS, INC.	0	100,847	0	0	0	0	0
MERCK & CO., INC.	207,000	120,407	0	0	0	0	0
MEREDITH WEBB PRINTING CO.INC	0	0	0	0	0	0	0
MERIX BIOSCIENCE, INC.	0	0	19,886	0	0	0	0
MERRITT LOGGING AND CHIPPING	0	0	9	0	0	0	0
MERRITT'S POTTERY, INC.	0	0	0	0	0	0	0
METAGENIX, INC.	0	0	101	0	0	0	0
METAL WORKS OF HIGH POINT, IN	0	0	0	0	0	0	0
METRICS, INC.	0	0	0	0	0	0	0
METRO MOBILE CTS OF CHARLOTTE	0	44	0	0	0	0	0
MICELL TECHNOLOGIES, INC.	1,725	0	0	0	0	0	0
MICHAEL A. SWANN, P.A.	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
MICHIGAN PACKAGING COMPANY	0	32,451	0	0	0	0	0
MICHIGAN PACKAGING COMPANY	0	749	0	0	0	0	0
MICKEY TRUCK BODIES INC.	8,750	12,877	0	0	0	0	0
MICRO AUDIOMETRICS CORPORATIO	102	0	463	0	0	0	0
MICRO AUDIOMETRICS CORPORATIO	59	0	461	0	0	0	0
MICROBAN PRODUCTS COMPANY	1,527	0	1,870	0	0	0	0
MICROFIBRES, INC.	0	25,959	0	0	0	0	0
MICROMASS COMMUNICATIONS, INC	0	0	268	0	0	0	0
MICVIC INC.	0	0	0	0	0	0	0
MID ATLANTIC PRINTERS LTD	10	0	0	0	0	0	0
MID SOUTH DRILLING INCORPORAT	0	0	9	0	0	0	0
MID-ATLANTIC BUILDING SYSTEMS	0	0	0	1,963	0	0	0
MID-ATLANTIC DRAINAGE, INC.	0	0	0	0	0	0	0
MIDSTATE MILLS, INC.	0	21,134	0	0	0	0	0
MIKE LAWRENCE, INC.	0	1	0	11	0	0	0
MIKE NEAVES TRUCKING, INC.	0	283	0	0	0	0	0
MILKCO, INC.	4,125	30,344	0	45,076	0	0	0
MILKCO, INC.	17,906	53,996	0	68,603	0	0	0
MILLENNIUM EQUIPMENT CO.	0	0	0	0	79	0	0
MILLENNIUM MANUFACTURING STRU	3,305	0	0	0	0	0	0
MILLER BREWING COMPANY	500	535,887	180	0	0	0	0
MILLRIDGE INVESTMENTS, INC.	0	0	0	0	0	0	0
MINDENHILL FARMS, INC.	0	64	0	0	0	0	0
MINTON'S AUTOMOTIVE, INC.	0	18	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRADOR SYSTEMS, INC.	0	0	0	0	0	0	0
MIRRO PRODUCTS COMPANY, INCOR	0	10	0	0	0	0	0
MJ SOFFE CO INC	42,394	0	0	0	0	0	0
MODACAD INC	0	0	0	0	0	0	0
MOEN INCORPORATED	91,375	354,362	160,964	0	0	0	0
MOEN INCORPORATED	181,750	283,729	56,494	0	0	0	0
MOHICAN MILLS INC	0	13,503	0	0	0	0	0
MOLDED FI[redacted]SS COMPANY/NO	0	0	[redacted]0	25,625	16,781	0	[redacted]0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
MOLDED FIBER GLASS COMPANY/NO	7,927	0	0	0	0	0	0
MONOLITH CORPORATION	0	0	0	0	0	0	0
MONSANTO COMPANY	4,750	67,801	0	0	0	0	0
MOORE'S WELDING SERVICE, INC.	0	0	0	0	0	9	0
MORFLEX, INC.	0	0	38,978	0	0	0	0
MORGANITE	0	0	0	0	0	0	0
MORRIS COMMUNICATION CORP	0	0	0	0	0	0	0
MORRIS HEATING & AIR CONDITIO	2	0	0	0	0	0	0
MORRISETTE PAPER COMPANY, INC	0	2,577	0	0	0	0	0
MORRISETTE PAPER COMPANY, INC	0	4,173	0	0	0	0	0
MORTON & SHERMAN IMPLEMENT CO	0	0	0	0	0	0	0
MOSS-FISHER, INC.	0	0	0	0	0	0	0
MOTOR PRODUCTS INC	0	3,801	0	0	0	0	0
MOUNT OLIVE PICKLE COMPANY, I	151,200	33,240	0	0	0	0	0
MOUNT OLIVE PICKLE COMPANY, I	131,250	93,157	0	0	0	0	0
MOUNTAINEER JANITORIAL SUPPLY	0	2,160	0	0	0	0	0
MOVIEMAX, INC.	0	57	0	0	0	0	0
MSS CLEAN TECHNOLOGY INC.	0	0	0	0	0	0	0
MT. AIRY OB-GYN CENTER, INC.	16	0	0	0	0	0	0
MTLC LIMITED	0	0	0	9	0	0	0
MU RO, INC.	674	12,852	0	0	0	0	0
MULLIS MOTORSPORTS, INC.	0	0	0	0	0	0	0
MUSCLE MOTORSPORTS, INC.	0	129	0	0	0	0	0
MYLAN PHARMACEUTICALS INC.	9,750	12,172	0	0	0	0	0
NACCO MATERIALS HANDLING GROU	0	0	0	58,064	0	0	0
NANCE-JORDAN NURSERIES, INC.	0	0	0	0	0	0	0
NARRICOT INDUSTRIES, INC.	19,295	10,308	0	0	0	0	0
NASHVILLE WELDING & MACHINE W	0	0	0	0	0	0	0
NATHANS LAWN SERVICE INC	0	0	0	0	0	0	0
NATIONAL PIPE & PLASTICS, INC	0	15,932	0	0	0	0	0
NATIONAL SERVICE INDUSTRIES	0	1,668	0	0	0	0	0
NATIONAL TEXTILES LLC	1,250	48,166	0	0	0	0	0
NATUZZI AMERICAS, INC.	125	0	0	0	0	0	0
NEIL ALLEN INDUSTRIES, INC.	500	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
NEPTCO, INCORPORATED	0	0	0	0	0	0	0
NEPTCO, INCORPORATED	0	91,109	0	0	0	0	0
NETOCTAVE, INC.	1,471	0	0	0	0	0	0
NETWORK ASSOCIATES, INC.	0	0	5,016	0	0	0	0
NEUVILLE INDUSTRIES, INC.	3,351	3,363	0	0	0	0	0
NEW BERN AUTO SUPPLY, INC.	0	0	0	0	0	0	0
NEW BREED CORPORATE SERVICES,	12,000	5,496	0	0	28,275	0	0
NEW BREED, INC.	0	0	0	0	0	0	0
NEW FILCAS OF AMERICA, INC.	0	4,635	0	0	0	0	0
NEW FILCAS OF AMERICA, INC.	22,077	1,488	0	0	0	0	0
NEW FOREST TECHNOLOGY INC	0	179	0	0	0	0	0
NEW HERITAGE REALTY AND DEVEL	0	0	0	0	239	0	0
NEW SOUTH INTERNATIONAL, INC.	0	0	0	0	0	0	0
NEWTON INSTRUMENT CO	0	0	0	0	0	0	0
NEWTON INSTRUMENT CO INC	8,250	9,595	0	0	0	0	0
NEWTON INSTRUMENT CO INC	8,250	11,073	0	0	0	0	0
NEXANS INC.	0	4,663	0	0	0	0	0
NEXTEL SOUTH CORP.	0	114,239	0	0	0	0	0
NGK CERAMICS USA, INC.	0	93,281	0	0	0	0	0
NIKHIL VYAS SECOND SHARE PRIV	0	0	0	0	0	0	0
NITRONEX CORPORATION	0	0	17,680	0	0	0	0
NIVEK CORPORATION	70	0	0	0	0	0	0
NJB AUTO GROUP, INC.	0	31	0	0	0	0	0
NOBLE OIL SERVICES, INC.	0	0	0	0	0	0	0
NOEL FAMILY TRUST	0	70	20	0	0	0	0
NOEL FAMILY TRUST BO WENDY NO	0	70	20	0	0	0	0
NOEL FAMILY TRUST FBO MICHAEL	0	70	20	0	0	0	0
NOEL VENTURES, LLC	0	13,509	0	0	0	0	0
NOELFAMILY	0	0	0	0	0	0	0
NOMACORC LLC	0	0	0	0	0	0	0
NORANDAL USA, INC.	0	6,406	0	0	0	0	0
NORDIC GROUP OF COMPANIES, LT	0	8,740	0	0	0	0	0
NORDIC GROUP OF COMPANIES, LT	0	8,102	7,257	0	0	0	0
NORMAN BE[redacted]'VESTME	0	21	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
NORTEL NETWORKS INC.	0	0	1,129,971	0	0	0	0
NORTH 321 STONE COMPANY, INC.	0	0	0	0	0	0	0
NORTH CAROLINA ASAHI, INC.	9,268	0	0	0	0	0	0
NORTH CAROLINA MOTORS AND CON	0	0	0	0	0	0	0
NORTH CAROLINA SERVICES CORPO	10,375	0	0	0	0	0	0
NORTH CAROLINA SERVICES CORPO	13,625	0	0	0	0	0	0
NORTH STATE DISPOSAL, INC.	0	0	0	0	0	0	0
NORTH STATE TELEPHONE COMPANY	1,625	182,995	0	0	0	0	0
NORTHEAST TOOL AND MFG. COMPA	500	0	0	0	0	0	0
NORTHEAST TOOL AND MFG. COMPA	500	0	0	0	0	0	0
NORTHEASTERN DERMATOLOGY	0	0	0	0	0	0	0
NORTHWEST RADIOLOGICAL & ASSO	0	0	0	0	0	0	0
NOVARTIS ANIMAL HEALTH US, IN	2,875	0	8,625	0	71,429	0	0
NOVARTIS PHARMACEUTICALS CORP	0	0	212,149	0	0	0	0
NOVATION FABRICS, INC.	0	8,145	0	0	0	0	0
NOVATION FABRICS, INC.	0	8,145	0	0	0	0	0
NOVO NORDISK PHARMACEUTICAL I	5,500	62,434	0	0	0	0	0
NOVOVITA INC	0	0	4,429	0	0	0	0
NOVOZYMES NORTH AMERICA, INC.	11,000	124,032	35,486	0	0	0	0
NSS, LLC	0	55	0	0	0	0	0
NU & MINH, INC.	0	18	0	0	0	0	0
NUWAY SPEAKER PRODUCTS, INC.	0	2,550	0	0	0	0	0
NVIDIA CORPORATION	0	0	4,813	0	0	0	0
NYNEX PCS, INC.	0	78,510	0	0	0	0	0
NYPRO CAROLINA INC.	35,750	7,972	0	0	0	0	0
NYPRO CAROLINA INC.	9,500	4,669	0	0	0	0	0
O. HENRY HOUSE LTD	0	0	0	0	0	0	0
OAK ISLAND SERVICES CORPORATI	0	115	0	0	0	0	0
OAKWOOD ACCEPTANCE CORP	0	0	0	0	0	0	0
OAKWOOD HOMES CORPORATION	0	37,500	0	0	0	0	0
OAKWOOD HOMES CORPORATION	2,000	35,500	0	0	0	0	0
OAKWOOD MOBILE HOMES, INC.	59,095	20,577	0	0	0	0	0
OFFICE DEPOT INC	1,375	13,989	0	0	0	0	0
OKUMA AMERICA CORPORATION	0	49,678	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
OLDHAM SAW CO INC	0	0	0	0	0	0	0
OLDHAM SAW CO., INC.	0	0	0	0	0	0	0
OLIVER RUBBER COMPANY	0	5,220	29,172	0	0	0	0
OPTICAL EXPERTS MANUFACTURING	8,675	0	0	0	0	0	0
OPTIMUM FILTRATION CO	0	0	0	0	0	0	0
ORDIWAY ENTERPRISES, INC.	0	36	0	0	0	0	0
ORNAMENTAL MOULDINGS INC	0	0	0	0	0	0	0
ORTHO-CLINICAL DIAGNOSTICS, I	0	0	0	0	0	0	0
OSTROW HOLDINGS, INC.	0	0	0	0	0	0	0
OUTDOOR LIGHTING, INC.	2	0	0	0	0	10	0
OUTER BANKS PAINT CENTER, INC	0	10	0	0	0	0	0
OVERHEAD HANDLING SYSTEMS INC	18	0	0	0	0	0	0
OWEN E. GUPTON ROOFING, INC.	0	0	0	0	0	0	0
OWENS & MINOR MEDICAL, INC.	19,125	0	0	0	0	0	0
OWENS ELECTRIC MOTOR REPAIRS	0	18	0	0	0	0	0
OWENS-BROCKWAY PLASTIC PRODUC	5,000	2,397	0	2,000	0	0	0
OWENS-ILLINOIS CLOSURE INC.	21,640	0	0	30,000	0	0	0
P & D INVESTMENTS, INC.	0	69	0	0	0	0	0
P & R LOGGING, INC.	0	0	0	9	0	0	0
P J'S SPORTSWEAR, INC.	0	43	0	0	0	0	0
P P G INDUSTRIES, INC.	1,125	0	60,259	0	0	0	0
P, INC.	0	0	0	0	0	0	0
P.A.M.A. FURNITURE, INC.	0	0	0	0	0	0	0
PACKAGING CORPORATION OF AMER	0	5,800	0	13,500	0	0	0
PAINTING YOUR WORLD, INC.	0	0	0	0	0	0	0
PAINTWORKS, INC.	9	0	0	0	0	0	0
PAMA FURNITURE INC	0	0	0	0	0	0	0
PARADISE VALLEY, INC.	0	0	0	0	0	9	0
PARAGON BUILDING CORPORATION	0	0	0	6	0	0	0
PARKDALE A	0	0	0	0	0	0	0
PARKDALE MILLS, INCORPORATED	0	0	0	0	0	0	0
PARKER SALES & SERVICE, INC.	214	0	0	0	0	0	0
PARTON LUMBER COMPANY, INC.	0	19,963	0	0	0	0	0
PASS & SEYMO[illegible] NC.	61,764	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	JZ Projects
PATE-DAWSON COMPANY	4,500	0	0	0	0	0	0
PATY LUMBER COMPANY	0	0	0	0	0	0	0
PAXAR CORPORATION	0	23,832	0	0	0	0	0
PCII, LLC	2,416	3,820	0	0	0	0	0
PCS PHOSPHATE COMPANY, INC.	0	350,231	0	0	0	0	0
PEARCE BROTHERS ROOFING CO.,	114	0	0	0	0	0	0
PEC THECHNOLOGIES SOUTH EASTE	0	0	0	0	0	0	0
PECHINEY PLASTIC PACKAGING, I	0	35,325	0	0	0	0	0
PEDULLA TRUCKING, EXCAVATING	0	737	0	0	0	0	0
PEE DEE EMC SERVICES, INC.	0	49	0	0	0	0	0
PENDER NURSERY, INC.	0	0	0	0	0	0	0
PENDLETON FARMS INC	0	0	0	0	0	0	0
PENN ENGINEERING & MANUFACTUR	5,375	0	0	0	0	0	0
PEOPLECLICK.COM, INC.	0	0	6,179	0	0	0	0
PEOPLECLICK.COM, INC.	0	0	6,250	0	0	0	0
PEOPLES WAREHOUSE, INC.	0	0	0	0	0	0	0
PEPCOM INDUSTRIES, INC.	63,618	127,577	0	0	0	0	0
PEPSI BOTT	0	0	0	0	0	0	0
PEPSI-COLA BOTTLING COMPANY O	7,375	7,292	0	0	0	0	0
PEPSI-COLA BOTTLING COMPANY O	0	4,049	0	0	0	0	0
PERFECTION FABRICS, INC.	0	97	0	0	0	0	0
PERFORMAWORKS, INC.	875	0	241	0	0	0	0
PERGO, INC.	10,500	27,000	0	0	0	0	0
PERNELL STEEL AND MACHINE SER	0	0	0	0	0	0	0
PETER N. GLASS & ASSOCIATES,	0	0	10	6	9	0	0
PETER OUTLAW'S GOURMET FOODS,	0	32	0	63	0	0	0
PETERSON DEVELOPMENT CORPORAT	0	0	0	0	0	0	0
P-F PLUMBING CONTRACTORS, INC	0	0	0	0	0	6	0
PH GLATFELTER CO	0	0	0	0	0	0	0
PHARMAGRAPHICS (SOUTHEAST) LL	0	0	0	0	0	0	0
PHARMAGRAPHICS LLC	0	0	0	0	0	0	0
PHARMAGRAPHICS, INC.	625	0	0	0	0	0	0
PHARSIGHT CORPORATION	0	0	1,532	0	0	0	0
PHILIP MORRIS INCORPORATED	18,500	5,033,062	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
PHILLIPS-VAN HEUSEN CORPORATI	6,500	0	0	0	0	0	0
PHILLIPS-VAN HEUSEN CORPORATI	6,500	0	0	0	0	0	0
PHOENIX COMMUNICATIONS LTD.	0	0	9	0	0	0	0
PHOENIX LUMBER CO	0	0	0	0	0	0	0
PIEDMONT METALS OF BURLINGTON	250	0	0	0	0	0	0
PIEDMONT PACKAGING, INCORPORA	125	0	0	0	0	0	0
PIEDMONT TRAILER RENTALS, INC	90	0	0	0	0	0	0
PIEDMONT TRAILER REPAIRS, INC	0	0	0	0	0	0	0
PILKINGTON NORTH AMERICA, INC	0	65,339	0	0	0	0	0
PINE HALL BRICK CO., INC.	0	0	0	0	0	0	0
PINE HALL BRICK CO., INC.	15,401	3,262	0	0	0	0	0
PINNACLE FILMS, INC.	0	0	0	0	0	0	0
PINPOINT NETWORKS, INC.	0	0	0	0	0	0	0
PIONEER ECLIPSE CORPORATION	8,951	354	0	0	0	0	0
PISGAH LABORATORIES, INC.	0	0	19,814	0	0	0	0
PLASTIC PACKAGING, INC.	7,197	46,695	0	0	8	0	0
PLASTIC TECHNOLOGY, INC.	0	0	0	0	0	0	0
PLATINUM PROTECTIVE PRODUCTS,	0	1,169	0	0	0	0	0
PLIANT SYSTEMS, INC.	0	0	4,273	0	0	0	0
PLUS DISTRIBUTORS, INC.	0	9	0	0	0	0	0
PLYMOUTH PRINTING CO. INC.	0	1,052	0	0	0	0	0
PMW PRODUCTS, INC.	0	0	0	0	0	0	0
POLAR PLASTICS (NC) INC	0	0	0	0	9,474	0	0
POLAR PLASTICS (NC) INC	0	0	0	0	9,681	0	0
POLTHOM, INC.	0	61	0	0	0	0	0
POLYCHEM ALLOY, INC.	1,750	0	2,472	0	0	0	0
POLYZEN INC	0	0	0	0	0	0	0
POST, BUCKLEY, SCHUH & JERNIG	0	0	21,059	0	0	0	0
PPG INDUSTRIES FIBER GLASS PR	0	716,056	0	0	0	0	0
PRECISION ALLOYS INC	0	0	0	0	0	0	0
PRECISION COMPONENTS, INC.	0	0	0	0	0	0	0
PRECISION DECORATING CENTER,	30	0	0	0	0	0	0
PRECISION FABRICS GROUP, INC.	1,750	0	77,556	0	0	0	0
PRECISION ICS GROUP, INC.	1,750	0	74,776	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
PREFERRED MEDICAL MARKETING C	0	0	7,505	0	0	0	0
PREFORMED LINE PRODUCTS COMPA	31,500	12,627	0	0	0	0	0
PRESTIGE FABRICATORS, INC.	750	2,362	0	0	0	0	0
PRESTIGE SEWING COMPANY	0	0	0	0	0	0	0
PRESTON-HILL, INC.	0	0	0	0	0	0	0
PRIDE OF SAMPSON, INC.	225	0	0	0	0	0	0
PRIDGEN BROS. CONTRACTORS, IN	63	0	0	0	0	0	0
PRIDGEN WOODWORK, INC.	111,101	0	0	0	0	0	0
PRINCE BROTHERS FURNITURE CO.	0	0	0	0	0	0	0
PRINTPACK INC	2,250	0	0	0	0	0	0
PRINTPACK INC	2,250	0	0	0	0	0	0
PRISM TECHNOLOGY RESOURCES, I	0	0	0	0	0	0	0
PROBITY PRODUCTS	0	0	0	0	0	0	0
PROTRONICS, INC.	0	72	0	0	0	0	0
PURCHASE FINANCE, INC.	4	0	0	0	0	0	0
PUROLATOR	0	0	0	0	0	0	0
PUROLATOR FACET, INC.	2,250	0	14,231	0	0	0	0
PUROLATOR PRODUCTS AIR FILTRA	16,000	0	2,108	0	0	0	0
PUROLATOR PRODUCTS NA, INC.	7,000	98,490	0	0	0	0	0
PYA/MONARCH, INC.	10,750	23,005	0	0	0	0	0
PYROTECH SERVICES, INC.	0	0	0	0	0	0	0
QUENBY AUTO CENTER, INC.	0	0	0	0	25	0	0
QUINTILES TRANSNATIONAL CORP.	15,125	14,273	0	0	7,202	0	0
QUINTILES, INC.	17,000	43,378	0	0	0	0	0
R & J SERVICE COMPANY, INC.	31	0	0	0	0	0	0
R & R MACHINE COMPANY, INC.	0	0	0	0	0	0	0
R & S MACHINERY & DESIGN, INC	0	64	0	0	0	0	0
R. A. SERAFINI, INC.	0	3,346	0	0	0	0	0
R. J. REYNOLDS TOBACCO COMPAN	127,125	301,418	0	113,500	0	0	0
R. L. STOWE MILLS, INC.	20,879	0	0	0	0	0	0
R. L. STOWE MILLS, INC.	17,045	0	0	0	0	0	0
R.H. DONNELLEY INC.	0	0	0	0	0	0	0
R.H. HAGEMEYER, INC.	0	137	0	6	0	0	0
R.P. MACHINE ENTERPRISES, INC	18	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
RACE CITY MACHINE & FABRICATI	0	18	0	0	0	0	0
RACK ROOM SHOES, INC.	0	6,389	0	0	0	0	0
RADICISPANDEX CORP	0	0	0	0	0	0	0
RADONNAS, INC.	0	59	0	0	0	0	0
RAFLATAC, INC.	3,000	0	0	0	0	0	0
RAILLINC CORPORATION	0	0	0	0	0	0	0
RAILROAD FRICTION PRODUCTS CO	70,750	0	9,087	0	0	0	0
RAINDROP GEOMAGIC, INC.	0	0	0	0	0	0	0
RALEIGH GOLF ASSOCIATION, INC	0	0	0	0	0	0	0
RALEIGH GROUP INTERNATIONAL,	0	0	0	0	0	0	0
RALEIGH MEDICAL GROUP, P.A.	0	0	0	0	0	0	0
RALEIGH PLASTIC SURGERY CENTE	41	0	0	0	0	0	0
RAM TRUST NO. 1	0	0	0	0	0	0	0
RAM TRUST NO. 10	0	0	0	0	0	0	0
RAM TRUST NO. 2	0	0	0	0	0	0	0
RAM TRUST NO. 29	0	0	0	0	0	0	0
RAM TRUST NO. 3	0	0	0	0	0	0	0
RAM TRUST NO. 4	0	0	0	0	0	0	0
RAM TRUST NO. 5	0	0	0	0	0	0	0
RAM TRUST NO. 6	0	0	0	0	0	0	0
RAM TRUST NO. 7	0	0	0	0	0	0	0
RAM TRUST NO. 8	0	0	0	0	0	0	0
RAM TRUST NO. 9	0	0	0	0	0	0	0
RAMSEY'S HARDWOOD MILL, INC.	0	5,586	0	0	0	0	0
RAMTEX INC.	0	90,794	0	0	0	0	0
RAMTEX INC.	0	4,107	0	0	0	0	0
RANDY'S RV OF RALEIGH, INC.	0	422	0	0	0	0	0
RAWLS TRACTOR REPAIR, INC.	0	0	10	0	0	0	0
RBC CENTURA BANK	60,500	55,623	0	0	0	0	0
REALTY PRESENTATIONS, INC.	0	0	0	0	9	0	0
RECREATIONAL EQUIPMENT, INC.	95	0	0	0	0	0	0
RED VALVE COMPANY, INC.	0	0	2,147	3,651	0	0	0
REDMAN HOMES, INC.	0	0	0	0	0	0	0
REFRIGERATE[redacted]OXES, INC	0	3,644	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
REGIONAL STORAGE & TRANSPORT,	3,831	0	0	0	0	0	0
REGIONAL SURGICAL AFFILIATES,	9	0	0	0	0	0	0
REICHHOLD, INC.	0	0	31,402	0	0	0	0
RELATIVITY TECHNOLOGIES, INC.	0	0	799	0	0	0	0
RELEASE INTERNATIONAL, INC.	1,508	0	0	0	0	0	0
RELEASE INTERNATIONAL, INC.	8,660	8,047	0	0	0	0	0
RELIANCE ELECTRIC INDUSTRIAL	56,595	134,911	0	0	0	0	0
RELIANCE ELECTRIC INDUSTRIAL	61,723	83,464	0	0	0	0	0
REMCO EAST, INC.	0	0	6	0	0	0	0
REMCO SUPPLY, INC.	1,488	0	0	0	0	0	0
REMINGTON ARMS COMPANY, INC.	0	0	0	0	0	0	0
REMPAC FOAM CORP	1,734	384	0	0	0	0	0
RENAISSANCE WORLDWIDE IT CONS	0	0	0	0	0	0	0
RENE COMPOSITE MATERIALS CORP	0	0	0	2,530	0	0	0
RENFRO FL, INC.	0	67,631	0	0	0	0	0
REPLACEMENTS, LTD.	11,973	3,600	0	0	0	0	0
REPLACEMENTS, LTD.	0	0	0	0	0	0	0
RESER'S FINE FOODS INC	0	0	0	0	0	0	0
RESINALL CORP	0	0	0	0	0	0	0
RE-SOURCE AMERICA, INC.	0	0	18	0	0	0	0
REVLON CONSUMER PRODUCTS CORP	0	118,106	0	0	0	0	0
REXAM BEVERAGE CAN COMPANY	0	54,836	0	0	0	0	0
REXAM RELEASE	0	29,983	0	0	0	0	0
REXNORD CORPORATION	0	15,674	0	0	0	0	0
RF MICRO DEVICES, INC.	93,000	146,822	0	0	0	0	0
RICHARD GAYLORD HOMES, INC.	52	0	0	0	0	0	0
RICHARDSON CONTRACTING SERVIC	0	86	0	0	0	0	0
RMC CAROLINA MATERIALS, INC.	0	32,175	0	0	0	0	0
ROANE OBSTETRICS & GYNECOLOGY	0	0	0	0	0	0	0
ROBERT ABBEY, INC.	9	0	0	0	0	0	0
ROBERT C. HICKMAN INSURANCE A	0	0	0	0	0	0	0
ROBERT PIERCE FARMS, INC.	0	0	0	9	10	0	0
ROBERT S HUDGINS CO INC	2	0	0	0	0	0	0
ROBERTS BROS., INC.	0	987	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
ROCKY MOUNT DERMATOLOGY	0	0	0	0	0	0	0
ROCKY MOUNT RECYCLERS, INC.	0	4,088	0	0	0	0	0
ROCKY MOUNT RECYCLERS, INC.	0	0	0	0	0	0	0
ROEHRIG ENGINEERING INC	0	1,138	0	0	0	0	0
ROGER A BETTIS TRUCKING INC	0	900	0	0	0	0	0
ROGER B. BERNHOLZ, P.A.	0	0	0	0	0	0	0
ROGER DAVIS COMPANY, INC.	0	0	0	0	0	0	0
ROLLASON & WOOD REALTY, INC.	0	31	0	0	0	0	0
ROMEO GUEST ASSOCIATES, INC.	266	0	0	0	0	0	0
ROMEO GUEST ASSOCIATES, INC.	266	0	0	0	0	0	0
RON LONG SALES, INC.	0	10	0	0	0	0	0
ROSEMART, INC.	0	0	0	0	0	0	0
ROYAL PARK UNIFORMS, INC.	15,500	1,187	0	0	0	0	0
ROYAL PARK UNIFORMS, INC.	14,747	0	0	0	0	0	0
RU-BOB GOLF COURSE, INC.	0	87	0	0	0	0	0
S & D COFFEE INC	4,876	52,543	0	0	0	0	0
S & L, INC.	0	31	0	0	0	0	0
S & N COMMUNICATIONS, INC.	450	0	0	0	0	0	0
S & W READY MIX CONCRETE COMP	0	12,786	0	0	0	0	0
S & W READY MIX CONCRETE COMP	0	10,011	0	0	0	0	0
S T E R, ENTERPRISES, INC.	0	0	0	0	0	0	0
S. B. SNIDER ENTERPRISES, INC	8	0	0	0	0	0	0
S.N.M. MANUFACTURING, INC.	0	0	0	0	0	0	0
SABER CARGO AIRLINES, INC.	0	0	0	0	483	0	0
SAFELITE GLASS CORP	0	0	0	7,968	0	0	0
SAFFRON TECHNOLOGY, INC.	0	0	628	0	0	0	0
SAFT AMERICA INC	0	0	9,532	0	0	0	0
SAINT-GOBAIN CONTAINERS, INC.	0	49,652	0	0	0	0	0
SANDLAND LAWN & LANDSCAPE, IN	0	0	0	0	0	0	0
SANDVIK, INC.	0	36,223	0	0	0	0	0
SANMINA CORPORATION	0	24,149	0	0	0	0	0
SANTA FE NATURAL TOBACCO CO	21,327	26,095	0	5,000	0	0	0
SAPONA MANUFACTURING COMPANY,	375	35,224	0	0	0	0	0
SARA LEE C[redacted]ATION	375,966	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
SARA LEE SOCK COMPANY	0	46,221	0	0	0	0	0
SARA LEE SOCK COMPANY	0	6,409	0	0	0	0	0
SAS INSTITUTE INC.	0	0	0	0	0	0	0
SAS INSTITUTE INC.	0	0	138,855	0	0	0	0
SAS SHOES OF ASHEVILLE, INC.	0	0	0	6	0	0	0
SAT INTERNATIONAL, INC.	0	0	0	0	0	0	0
SATURN RETAIL OF CHARLOTTE NC	0	900	0	0	0	0	0
SATURN RETAIL OF RALEIGH NC,	0	900	0	0	0	0	0
SBS TECHNOLOGIES, INC., GOVER	0	0	10,983	0	0	0	0
SBS TECHNOLOGIES, INC., GOVER	0	0	5,458	0	0	0	0
SCHAEFER SYSTEMS INTERNATIONA	1,250	0	0	0	0	0	0
SCHOLTZ I LIMITED PARTNERSHIP	0	0	0	0	0	0	0
SCIQUEST, INC.	17,375	25,130	47,063	0	5,991	0	0
SCOTT DUPRE-CUSTOM BUILDER, I	0	311	0	0	0	0	0
SCOTT R. MELROSE & ASSOCIATES	0	0	0	0	0	0	0
SCYNEXIS CHEMISTY & AUTOMATIO	3,500	0	51	0	0	0	0
SEABOARD GIN COMPANY	0	579	0	0	0	0	0
SEALED AIR CORPORATION (US)	58,750	25,929	0	0	0	0	0
SEALY INC	21,625	67,312	0	0	15,975	0	0
SEALY MATTRESS MANUFACTURING	1,306	0	0	0	0	0	0
SEEGARS FENCE CO OF WAKE COUN	0	0	0	0	0	0	0
SELEE CORPORATION	0	6,755	0	0	0	0	0
SENTINEL AUTOMOTIVE DISTRIBUT	0	24	0	0	0	0	0
SEVERN PEANUT COMPANY, INC.	26,609	0	0	0	0	0	0
SGL CARBON CORPORATION	0	0	0	0	0	0	0
SHADOWLINE, INCORPORATED	2,250	0	0	0	0	0	0
SHEEHAN CONSTRUCTION COMPANY,	0	552	0	0	0	0	0
SHELTON'S LAWN CARE, INC.	0	81	0	0	0	0	0
SHEPHERD'S VINEYARD SWIM AND	0	0	0	0	0	0	0
SHOEHEEL HARVESTING LLC	0	0	0	0	0	0	0
SHOTO, INC.	0	0	0	0	0	0	0
SHOWLINE AUTOMOTIVE	0	0	0	0	0	0	0
SHOWLINE AUTOMOTIVE PRODUCTS,	0	497	0	0	0	0	0
SHREE DUTT, INCORPORATED	0	71	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
SHREE RANG, INC.	0	63	0	0	0	0	0
SHUFORD MILLS, INC.	0	12,534	0	0	0	0	0
SHURTAPE TECHNOLOGIES, INC.	0	0	31,790	0	0	0	0
SIEBEL SYSTEMS, INC.	0	0	23,095	0	0	0	0
SIEMENS WESTINGHOUSE POWER CO	25,125	0	0	0	0	0	0
SIERRAPINE LIMITED	0	0	0	0	0	0	0
SILICON SEMICONDUCTOR CORPORA	0	0	0	0	0	0	0
SILVERBACK TECHNOLOGIES, INC.	0	0	23	0	0	0	0
SKY ENTERPRISES, INC.	0	0	0	0	0	0	0
SLICKEDIT INC.	1,125	0	13,868	0	0	0	0
SMART ONLINE, INC.	632	0	0	0	0	0	0
SMITH BROTHERS TRUCKING OF MO	0	0	0	0	18	40	0
SMITH FABRICATION, INC.	0	16	10	0	0	0	0
SMITHKLINE BEECHAM CORPORATIO	0	0	0	0	0	0	0
SMITH-TOMLINSON CORPORATION	0	0	0	0	0	0	0
SMOKY MOUNTAIN WATERPROOFING,	0	27	0	0	0	0	0
SNIDER'S MACHINE SHOP, INC.	0	0	0	0	9	0	0
SOFTEX FIN	328	0	0	0	0	0	0
SOFTPRO CORP	0	0	0	0	0	0	0
SOFTWARE DEVELOPMENT EUROPE,	9	9	0	0	0	0	0
SOLECTRON TECHNOLOGY, INC.	0	0	0	0	0	0	0
SOLECTRON TECHNOLOGY, INC.	142,936	0	0	0	0	0	0
SONOCO PRODUCTS CO	0	0	0	0	0	0	0
SONOPRESS, INC.	0	237,783	0	0	0	0	0
SOUTH TECH PLASTICS, INC.	0	0	0	0	0	0	0
SOUTHCO DISTRIBUTING CO	0	0	0	0	0	0	0
SOUTHEAST LIBRARY BINDERY, IN	0	239	0	0	0	0	0
SOUTHEASTERN AGENCY GROUP, IN	0	0	0	0	0	0	0
SOUTHEASTERN CONTAINER, INC.	0	43,593	0	0	0	0	0
SOUTHEASTERN PROTEIN INC	0	0	0	0	0	0	0
SOUTHERN COASTAL MARKETING SE	0	0	0	0	332	0	0
SOUTHERN CONCRETE	0	0	0	0	0	0	0
SOUTHERN CONCRETE MATERIALS,	30,625	21,905	0	0	0	0	0
SOUTHER[redacted]AINER CORP.	11,250	61,673	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Projects
SOUTHERN FABRICATORS, INC.	10,931	0	0	0	0	0	0
SOUTHERN FILM EXTRUDERS, INC.	0	5,515	0	0	0	0	0
SOUTHERN HARDWOODS, INC.	0	2,445	0	0	0	0	0
SOUTHERN PARTS OF HILLSBOROUG	28	0	0	0	0	0	0
SOUTHERN STATES INSPECTIONS I	0	0	0	0	0	0	0
SOUTHERN STEEL AND WIRE, INCO	11,169	0	0	0	8	0	0
SOUTHTECH ORTHOPEDICS INC	0	0	0	0	0	0	0
SPACE SAVERS, INC.	0	0	0	0	0	0	0
SPARTA PLANT, INC.	122,194	0	0	0	0	0	0
SPBL ACQUISITION CO LLC	0	6,317	576	0	0	0	0
SPECIALTIES & PLEASANTRIES, I	0	12	0	0	0	0	0
SPECIALTY MINERALS INC.	0	6,909	0	0	0	0	0
SPECTRUM CONSTRUCTION MANAGEM	0	9	0	0	0	0	0
SPECTRUM DYED YARNS, INC.	8,194	0	0	0	0	0	0
SPECTRUM TEXTURED YARNS, INC.	0	14,777	0	0	0	0	0
SPEIZMAN INDUSTRIES	625	0	0	0	0	0	0
SPENCER YACHTS, INC.	0	0	0	0	0	0	0
SPICER MANUFACTURING, INC.	43,498	33	0	0	0	0	0
SPOTLESS ENTERPRISES INCORPOR	0	0	0	0	0	0	0
SPRING HOPE GOLF ASSOCIATION,	0	51	0	0	0	0	0
SPRINGS INDUSTRIES, INC.	0	10,878	0	0	0	0	0
SQUARE D CO	0	0	0	0	0	0	0
SR-71 GAME SCOTING, INC.	0	0	0	0	0	0	0
SSS CONTRACTING, INC	0	16	0	0	0	0	0
STACKHOUSE PLUMBING COMPANY,	0	37	0	0	0	0	0
STANADYNE CORPORATION	0	63,548	0	0	0	0	0
STANDARD COMMERCIAL TOBACCO C	43,500	75,606	0	0	0	0	0
STANLEY FURNITURE COMPANY, IN	96,875	19,162	0	0	0	0	0
STANLEY LAB, INC.	0	0	0	0	0	0	0
STANLY FUNERAL HOME, INCORPOR	0	0	0	0	0	0	0
STAR FOOD PRODUCTS, INC.	0	0	0	0	0	10	0
STATESVILLE MARBLE & GRANITE	0	283	0	0	0	0	0
STATESVILLE NEWSSTAND & GRILL	0	0	0	0	10	0	0
STATIC CONTROL COMPONENTS, IN	21,000	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
STAUNTON SALES, INC.	10	0	0	0	0	0	0
STEEL TECHNOLOGIES, LLC	0	2,454	0	0	0	0	0
STEELCASE INC.	17,625	21,388	0	0	0	0	0
STELLA NOVA TECHNOLOGIES	0	0	0	0	0	0	0
HORTONSTELLA NOVA TECHNOLOGIES	0	0	0	0	0	0	0
STELLA NOVE TECHNOLOGIES	0	0	0	0	0	0	0
STEPHEN MEEHAN COMMUNICATIONS	0	0	0	0	0	0	0
STEPHENS-L&E LLC	0	0	0	0	0	0	0
STEPHENSON BUILDERS, INC.	0	0	0	0	0	0	0
STEPHENSON MILLWORK COMPANY	15,757	0	0	0	0	0	0
STEPHENSON MILLWORK COMPANY	11,711	0	0	0	0	0	0
STEVE EARLEY BUILDERS, INC.	0	0	0	0	17	0	0
STEVE HODGES ASSOCIATES, INC.	0	0	0	0	0	0	0
STOCKHAUSEN INC.	0	85,116	0	0	0	0	0
STOCKYARD & CO., INC.	0	0	0	0	0	0	0
STRATEGIC POWER SYSTEMS, INC.	0	0	739	0	0	0	0
STRATEGIC POWER SYSTEMS, INC.	0	0	1,356	0	0	0	0
STRATEGIC RESOURCE SOLUTIONS	17,210	0	0	0	0	0	0
STRATEGIC TECHNOLOGIES, INC.	4,699	0	0	0	0	0	0
STRATEGIC TECHNOLOGIES, INC.	4,308	0	3	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRATFORD	0	0	0	0	0	0	0
STRUCTURAL STEEL PRODUCTS COR	0	0	0	0	0	0	0
STUART A. HAIR, ELECTRICAL CO	0	449	0	0	0	0	0
STX, INC.	0	0	0	0	0	0	0
SUIZA DAIRY	0	64,708	0	0	0	0	0
SUIZA FLUID DAIRY GROUP HOLDI	3,718	61,302	0	0	0	0	0
SUMITOMO ELECTRIC LIGHTWAVE C	77,204	4,152	0	0	4,500	0	0
SUNLINE USA GROUP, INC.	0	0	0	0	0	0	0
SUNNY SIDE OYSTER BAR, INC.	0	0	0	0	0	0	0
SUNROOMS PLUS, INC.	0	0	0	0	0	0	0
SUPERIOR DR[redacted]'ANERS AND LAU	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
SUPERIOR TELECOMMUNICATIONS,	0	29,372	0	0	0	0	0
SURONGO AMERICA INC	0	0	499	0	0	0	0
SURONGO AMERICA INC	0	0	0	0	0	0	0
SWEDISH IMPORT MAINTENANCE, I	0	0	0	0	6	0	0
SWIFT TEXTILES, INC.	0	24,602	0	0	0	0	0
SWIFT TEXTILES, INC.	0	31,202	0	0	0	0	0
SWIFT-ECKRICH, INC.	17,103	0	0	0	0	0	0
SWIMOUT OVERFLOW COMPONENTS,	0	0	0	0	0	0	0
SYDNEY BAG & PAPER COMPANY	0	1,700	0	0	0	0	0
SYNAPSE TECHNOLOGY, INC.	1,425	0	2,756	0	0	0	0
SYNGENTA BIOTECHNOLOGY INC	8,000	3,451	0	0	24,997	0	0
SYNGENTA BIOTECHNOLOGY INC	8,000	3,451	0	0	21,257	0	0
SYNGENTA CROP PROTECTION, INC	0	0	81,062	0	0	0	0
SYZYGY LIVING & LEARNING CENT	0	0	0	0	0	0	0
SYZYGY LIVING & LEARNING CENT	0	0	0	0	0	0	0
T STROUPE & ASSOCIATES, INC	0	0	0	0	0	0	0
T. R. HILLIARD CORPORATION OF	0	0	0	0	0	0	0
T.H. BRADLEY GRADING & SEPTIC	6	0	0	0	0	0	0
T.M. LITTLE VENTURES LIMITED	0	0	0	0	0	0	0
T.M. LITTLE VENTURES LIMITED	0	0	0	0	0	0	0
TANBARK LANDSCAPE COMPANY, IN	0	0	9	0	0	0	0
TAPCO UNDERWRITERS, INC.	0	0	0	0	0	9	0
TAR HEEL ELECTRIC COMPANY OF	9	0	0	0	0	0	0
TAR HEEL GENERATOR, LLC	0	0	0	0	21	0	0
TAR HEEL INSPECTION SERVICES,	0	0	0	0	0	0	0
TATANKA, INC.	0	0	0	0	0	0	0
TATE LANNING & ASSOCIATES, P.	5	0	0	0	0	0	0
TAYLOR CONSTRUCTION COMPANY O	0	149	0	0	0	0	0
TAYLOR CRISP PAC	0	0	0	0	0	0	0
TCG OF THE CAROLINAS, INC.	0	44,388	0	0	0	0	0
TECHNIBILT, LTD.	0	6,949	0	0	0	0	0
TECHNICAL COATING INTERNATION	0	0	0	0	0	0	0
TECHNICAL PRECISION PLASTICS,	250	0	0	0	0	0	0
TECHNIMARK, INC.	0	17,348	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
TECSTAR ELECTRO SYSTEMS, INC.	8,471	0	0	0	0	0	0
TEE-LOK CO	0	0	0	0	0	0	0
TEKELEC	38,125	8,779	70,829	0	0	0	0
TEKTONE SOUND AND SIGNAL MFG.	0	0	566	0	0	0	0
TELEVISION AND APPLIANCE WARR	0	0	0	0	0	0	0
TENET HEALTH CARE SYSTEMS OF	0	0	0	0	0	0	0
TENN-TEX PLASTICS, INC.	1,000	0	0	0	0	0	0
TERRY PHILLIPS & ASSOCIATES,	0	0	0	0	0	6	0
TERRY'S FLOOR FASHIONS, INC.	0	0	0	0	0	0	0
TEXEL USA INC.	91	0	0	0	0	0	0
TEXTILE CLEANER SERVICE CORPO	0	0	0	0	0	0	0
TEXTURING SERVICES INC	0	0	0	0	0	0	0
THE ADVANTAGE DELIVERY AND LO	0	18	0	0	0	0	0
THE ATRIUM, LTD.	0	0	0	0	0	0	0
THE CATO CORPORATION	6,875	0	141,342	0	3,881	0	0
THE CHALLENGE PRINTING CO. OF	0	7,568	0	0	0	0	0
THE CONCORD	0	0	0	0	0	0	0
THE CONCORD TELEPHONE COMPANY	29,250	166,960	0	0	29,912	0	0
THE COPELAND OFFICE INC.	0	19	0	0	0	0	0
THE CORE GROUP ENTERPRISES, I	0	0	0	0	0	40	0
THE FELDSPAR CORPORATION	0	16,832	0	0	0	0	0
THE G.L.G. CORPORATION	19	0	0	0	0	0	0
THE GATES CORPORATION	3,000	34,109	0	0	0	0	0
THE GILLETTE COMPANY	700	178,190	0	4,086	0	0	0
THE GOODYEAR TIRE & RUBBER CO	179,486	229,778	0	0	0	0	0
THE HAZEL COMPANY	0	0	0	0	0	0	0
THE HON COMPANY	12,349	79	0	0	0	0	0
THE IAMS COMPANY	0	0	0	0	0	0	0
THE INN AT PLUMTREE, INCORPOR	0	18	0	0	0	0	0
THE L. S. STARRETT COMPANY	29,015	17,444	0	0	0	0	0
THE L. S. STARRETT COMPANY	0	8,296	0	0	0	0	0
THE LANE COMPANY, INCORPORATE	0	10,007	0	0	0	0	0
THE LUNDY PACKING COMPANY	0	20,007	0	0	0	0	0
THE LUNDY [illegible]KING COMPANY	4,000	15,784	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
THE LUNDY PACKING COMPANY	0	3,025	0	0	0	0	0
THE MCAULAY COMPANY, INC.	0	0	0	0	0	0	0
THE MITCHELL GOLD CO.	51,906	0	0	1,755	0	0	0
THE MITCHELL GOLD CO.	37,021	0	0	0	0	0	0
THE MOORE COMPANY	11,662	0	0	0	0	0	0
THE MOORE COUNTY HOUNDS, INC.	5	0	0	0	0	0	0
THE NATURAL SELECTION, LTD	0	22	0	0	0	0	0
THE NEWARK GROUP INC	0	4,866	0	0	0	0	0
THE OHIO MATTRESS COMPANY LIC	5,250	0	0	0	0	0	0
THE OPTICAL SHOP OF LAKE NORM	0	0	0	0	0	0	0
THE PANTRY, INC.	5,125	5,258	0	0	2,814	0	0
THE PROCTE	0	0	0	0	0	0	0
THE PROCTER & GAMBLE MANUFAC	0	0	0	0	0	0	0
THE QUANTU GROUP INC	0	0	0	0	0	0	0
THE RENTAL MART	0	0	0	0	0	0	0
THE RIVER GOLF AND COUNTRY CL	0	594	0	0	0	0	0
THE ROWBOAT COMPANY, INC.	203	0	0	0	0	0	0
THE SANTEE COMPANY, LLC	10,069	1,864	0	0	0	0	0
THE SHERWIN-WILLIAMS COMPANY	1,625	0	5,082	0	0	0	0
THE SMITHFIELD PACKING COMPAN	109,157	0	0	0	0	0	0
THE SOUTHERN FINISHING COMPAN	16,299	0	0	0	0	0	0
THE STANDARD REGISTER COMPANY	7,625	0	0	0	0	0	0
THE STEEL NETWORK, INC.	0	0	4,622	0	0	0	0
THE STOWE A-WAY FISH HOUSE, I	0	30	0	0	0	0	0
THE STOWE A-WAY FISH HOUSE, I	0	36	0	0	0	0	0
THE TIMKEN COMPANY	52,125	0	0	10,326	0	0	0
THE TOOL & GAGE HOUSE COMPANY	0	0	0	0	0	0	0
THE TORRINGTON COMPANY	14,250	53,281	0	0	0	0	0
THE TRANSCRIPTION CENTER, INC	0	0	0	0	0	0	0
THE VANGUARD GROUP, INC.	12,465	0	0	0	0	0	0
THE WASHINGTON NEWS PUBLISHIN	0	0	0	0	10	0	0
THE WORKS INC.	0	0	0	0	7	0	0
THETFORD PROPERTY MANAGEMENT,	0	0	0	0	0	0	0
THETFORD PROPERTY MANAGEMENT,	0	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
THIEMAN METAL TECHNOLOGIES, L	0	2,762	0	0	0	0	0
THOMAS BUILT BUSES, INC.	13,101	22,688	0	10,818	0	0	0
THOMAS CONCRETE OF CAROLINA,	14,500	12,118	0	0	0	0	0
THOMAS DENNIS CO., LLC	0	0	0	0	0	0	0
THOMAS FARM SERVICE, INCORPOR	0	27	0	0	0	0	0
THOMAS MFG. COMPANY, INC. OF	1,500	71,210	0	0	0	0	0
THOMAS UZZELL FARMS, INC.	9	0	0	0	0	0	0
THOMASVILLE FURNITURE INDUSTR	0	107,766	0	0	0	0	0
THOMPSON CABINET SHOP, INCORP	0	0	0	0	0	0	0
THOR.LO, INC.	0	2,074	14,503	0	0	0	0
THREADLINE PRODUCTS, INC.	0	138	0	0	0	0	0
THREE S APPAREL, INC.	0	0	0	0	38	0	0
THUNDER KAYAK COMPANY INC.	0	0	0	0	0	0	0
TIEPET, INC.	0	18,002	0	0	0	0	0
TIEPET, INC.	0	9,557	0	0	0	0	0
TILLMAN ENTERPRISES, INC.	0	195	0	0	0	0	0
TILSON MACHINE, INC.	0	0	0	0	0	0	0
TIM THOMAS, INC.	0	10	0	0	0	0	0
TIMMONS FABRICATIONS, INC.	34	0	0	0	0	0	0
TIMMONS TIMBERS, INC.	0	0	0	6	0	0	0
TIMVEST GP	0	0	0	0	0	0	0
TIPPER TIE, INC.	0	0	0	0	0	0	0
TIRE DISPOSAL AND RECYCLING S	0	183	0	0	0	0	0
TJS ENTERPRISES, INC.	0	37	0	0	0	0	0
TLV CORPORATION	625	0	0	0	0	0	0
TLV CORPORATION	500	0	0	0	0	0	0
TNS MILLS, INC.	16,761	0	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	12,539	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	62,387	0	0	0	0	0
TOBACCO PROCESSORS, INC.	0	15,221	0	0	0	0	0
TOGETHERSOFT CORPORATION	0	5,209	0	0	0	0	0
TOMSED CORPORATION	750	0	0	0	0	0	0
TOP CHOICE REALTY, INC.	0	0	0	0	0	1	0
TOP TOBACC[redacted]	52,000	29,357	[redacted] 0	0	0	0	[redacted] 0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
TORE'S HOME, INC.	0	170	0	0	0	0	0
TRAFFIC CONTROL DEVICES, INC.	0	0	0	0	0	0	0
TRAVIS KNITS	0	416	0	0	0	0	0
TRAVIS KNITS, INC.	0	7,514	0	0	0	0	0
TREDEGAR FILM PRODUCTS (U.S.)	0	3,789	0	0	0	0	0
TRIANGLE BRICK COMPANY	28,025	127,098	0	0	0	0	0
TRIANGLE BUILDING SERVICES, I	0	0	0	0	0	0	0
TRIANGLE MICROSYSTEMS, INC.	0	0	935	0	0	0	0
TRIANGLE PHARMACEUTICALS, INC	11,875	14,109	42,083	0	0	0	0
TRIFOLIUM, INC.	0	0	0	0	0	0	0
TRILUX TECHNOLOGIES, INC.	0	0	0	0	0	0	0
TRINITY MANUFACTURING, INC.	3,125	10,347	0	0	0	0	0
TRION, INC.	4,818	0	2,768	0	0	0	0
TRIPATH IMAGING, INC.	4,500	0	2,929	0	0	0	0
TRITEX YARN, LLC	0	66,575	0	0	0	0	0
TRIVIRIX INTERNATIONAL, INC.	500	0	0	0	0	0	0
TRI-WESTERN INVESTMENTS, INC.	0	0	0	0	0	0	0
TROXLER ELECTRONIC LABORATORI	4,887	0	0	0	0	0	0
TRUCK FLEET PAINTING CENTER,	0	0	0	0	0	0	0
TRUSTEE FOR CAROLINA CONTAINE	0	34,852	0	0	0	0	0
TTC TIMBER	0	0	0	0	0	0	0
TUBE SPECIALTIES CO., INC.	22,679	0	0	0	0	0	0
TURN BULL LUMBER CO	9,000	4,410	0	0	0	0	0
TURNAMICS, INC.	750	0	0	0	0	0	0
TURNAMICS, INC.	750	0	0	0	8	0	0
TURNER EQUIPMENT COMPANY, INC	0	10	0	0	0	0	0
TURNER MORTGAGE COMPANY	0	0	0	0	0	0	0
TUSCARORA YARNS, INC.	10	0	10	0	0	0	0
TV INVESTORS, L.L.C.	0	17,113	0	0	0	0	0
TWIN BRANCH FARM, INC.	0	0	0	0	0	9	0
TWIN CITY SPRINKLER COMPANY,	0	231	0	0	0	0	0
TYGRA TRUCKING, INC.	0	0	0	0	0	0	0
TYSINGERS, INC.	0	0	0	0	0	0	0
U. S. TEXTILE CORP.	0	12,904	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
U.S. TRANSPORTATION SERVICES,	0	18	0	0	0	0	0
UCHIYAMA AMERICA, INCORPORATE	9,648	0	0	0	0	0	0
UCO FABRICS, INC.	24,629	0	0	0	0	0	0
ULTIMATE TEXTILE, INC.	986	0	0	0	0	0	0
ULTIMUS, INC.	494	0	8,827	0	0	0	0
ULTRA-MEK, INC.	193	0	0	0	0	0	0
UMG MANUFACTURING & LOGISTICS	0	0	0	0	0	0	0
UNICHEM INC	0	0	0	0	0	0	0
UNICON CONCRETE, LLC	0	0	0	0	0	0	0
UNICON CONCRETE, LLC	0	0	0	0	0	0	0
UNIFI MANUFACTURING, INC.	0	304,398	84,317	124,336	0	0	0
UNIFI MANUFACTURING, INC.	0	61,736	30,463	195,851	0	0	0
UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0	0	0	0
UNIFOUR ANESTHESIA ASSOCIATES	0	0	0	0	0	0	0
UNIGRAPHICS SOLUTIONS INC.	0	0	134	0	0	0	0
UNIMIN CORPORATION	70,875	3,796	0	0	0	0	0
UNION CARBIDE CORPORATION	0	0	34,251	0	0	0	0
UNITED GENERAL SERVICES, INC.	0	0	0	0	0	0	0
UNITED GUARANTY CORPORATION	0	9	0	0	0	0	0
UNITED STATIONERS SUPPLY CO	0	0	0	0	0	0	0
UNITED STEEL PRODUCTS CO	4,500	0	0	0	0	0	0
UNITIVE ELECTRONICS, INC.	4,000	1,974	0	0	0	0	0
UNIVERSAL LEAF NORTH AMERICA	0	397,791	0	0	0	0	0
UNIVERSAL LEAF NORTH AMERICA	0	25,267	0	0	0	0	0
US AIRWAYS, INC.	244,415	0	0	0	42,862	0	0
US CONEC LTD.	0	0	0	0	0	0	0
US LEC CORP.	0	0	0	0	37,500	0	0
VALDESE TEXTILES, INC.	0	0	0	0	0	0	0
VALDESE WEAVERS, INC.	0	12,917	0	0	0	0	0
VALLEY BROOK , LLC	0	0	0	0	0	0	0
VALSPAR INDUSTIRES (USA), INC	30,625	61,633	0	0	0	0	0
VALVOLINE INSTANT OIL CHANGE	0	900	0	0	0	0	0
VANDERVEER'S L.P. GAS SERVICE	0	0	0	0	0	9	0
VAUGHN [redacted]ODUCE CO., INC.	0	69	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
VECTOR TOBACCO INC.	0	0	31,170	0	0	0	0
VEEDER ROOT OF NC	0	0	0	0	0	0	0
VEEDER ROOT OF NC INC	0	4,120	0	0	0	0	0
VENETICA CORPORATION	0	0	0	0	0	0	0
VERITAS SO	0	0	0	0	0	0	0
VERIZON SOUTH INC.	0	193,912	0	0	0	0	0
VERMONT AMERICAN CORPORATION	0	0	0	0	0	0	0
VERNE C. LANIER, JR., M.D.,	0	0	0	0	0	0	0
VESTER NISSAN, INC.	0	0	0	0	0	0	0
VF CORP	9,000	20,375	0	0	56,840	0	0
VF JEANSWEAR SALES, INC.	0	12,536	0	0	0	0	0
VF JEANSWEAR, INC.	0	484	0	0	0	0	0
VF JEANSWEAR, INC.	10,125	768	0	92,158	0	0	0
VF PLAYWEAR INC	0	0	0	0	0	0	0
VF PLAYWEAR, INC.	0	462	0	0	0	0	0
VF SERVICES, INC.	18,506	0	0	0	0	0	0
VICK'S FIRE EXTINGUISHER COMP	0	32,583	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC COMPANY OF AMERICA	0	0	0	0	0	0	0
VICTAULIC HOLDING COMPANY, LL	0	0	0	0	0	0	0
VICTAULIC HOLDING COMPANY, LL	2,250	2,050	0	0	0	0	0
VIEWMONT PHARMACY, INC.	0	0	0	0	0	9	0
VILLAGE ANTIQUES & GIFTS, INC	0	34	0	0	0	0	0
VIRATA RALEIGH CORPORATION	0	0	3,022	0	0	0	0
VIRATA RALEIGH CORPORATION	0	0	52	0	0	0	0
VIRTA RALEIGH CORP	0	0	0	0	0	0	0
VISIONAIR, INC.	4,144	0	0	0	0	0	0
VITAFOAM INC	0	29,553	0	0	0	0	0
VITTORIA TRUST I	0	0	0	0	0	0	0
VODAFONE AMERICAS INC.	0	21,778	0	0	0	0	0
VOLUMETRICS MEDICAL IMAGING,	0	0	142	0	0	0	0
VOLVO CONSTRUCTION EQUIPMENT	0	296,460	0	0	0	0	0
VOLVO TRUCKS NORTH AMERICA, I	0	0	76,866	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
V-SAB MEDICAL LABS, INC.	0	0	0	0	0	0	0
V-SAB MEDICAL LABS, INC.	0	0	3,874	0	0	0	0
VULCAN AGGREGATES COMPANY,LLC	0	242,322	0	0	0	0	0
VULCAN CONSTRUCTION MATERIALS	0	0	0	0	0	0	0
VULCAN GUF AGGREGATES	0	0	0	0	0	0	0
VULCAN MATERIALS COMPANY - CH	0	0	0	0	0	0	0
VUNCANNON PLUMBING & MECHANIC	3	0	0	0	0	0	0
W. D. BROOKS, INC.	0	0	0	0	0	0	0
W. E. BAILEY AND SON, INC.	0	0	0	0	0	0	0
W. F. COLLINS & ASSOCIATES, I	0	0	0	0	0	0	0
W. L. MITCHELL & SONS, INC.	15	0	0	0	0	0	0
WACHOVIA BANK OF NORTH CAROLI	0	2,294,801	0	0	0	0	0
WACHOVIA CORPORATION	67,250	0	0	0	0	0	0
WAGNER KNITTING, INC.	0	0	0	0	1,413	0	0
WAKE FOREST FEDERAL SAVINGS &	0	0	0	0	0	0	0
WAKE STONE CORPORATION	2,250	123,702	0	0	0	0	0
WALL VENTURES LIMITED PARTNER	0	0	0	0	0	0	0
WALLACE COMPUTER SERVICES, IN	0	0	0	0	0	0	0
WALLACE WELDING, INC.	0	0	0	0	0	0	0
WALL'S WELDING AND FABRICATIO	0	0	0	0	0	0	0
WALTER KIDDE PORTABLE EQUIPME	0	0	0	0	0	0	0
WANDEL & GOLTERMANN A.T.E. SY	0	0	1,780	0	0	0	0
WANDEL & GOLTERMANN A.T.E. SY	0	0	797	0	0	0	0
WANDEL & GOLTERMANN INC	0	0	2,334	0	0	0	0
WANDEL & GOLTERMANN INC	0	0	3,383	0	0	0	0
WARDS FRUIT & PRODUCE COMPANY	0	0	0	9	0	0	0
WARFORD INCORPORATED	0	104	0	8	0	0	0
WARRENTON GOLF CLUB	10	0	0	0	0	0	0
WARSAW MOTOR LODGE, INC.	0	16	0	0	0	0	0
WATTS REGULATOR CO.	0	56,160	0	0	0	0	0
WAYNE ELEVATOR COMPANY	0	0	0	0	0	0	0
WAYNE LOWERY GRADING CO., INC	0	0	0	0	0	0	0
WAYNE'S BACKHOE SERVICE, INC.	0	10	0	0	0	0	0
WB GROUP [redacted] RTIES, LLC	6,807	36,677	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	Z Projects
WEEKS ANIMAL CLINIC, P.A.	0	0	0	0	0	0	0
WELCH ALLYN INC	0	10,833	10,877	0	0	0	0
WELDON STEEL CORP	0	0	0	0	0	0	0
WENDOVER FINANCIAL SERVICES C	0	0	23,253	0	0	0	0
WENDOVER OB-GYN & INFERTILITY	0	0	0	0	0	0	0
WENTWORTH CORPORATION	16,098	0	0	0	0	0	0
WENTWORTH CORPORATION	14,639	0	0	0	0	0	0
WESLEY HALL FURNITURE, INC.	0	0	0	0	0	0	0
WEST PHARMACEUTICAL SERVICES,	0	7,591	0	0	0	0	0
WEST PHARMACEUTICAL SERVICES,	0	25,100	0	0	0	0	0
WESTERN CAROLINA CONTRACTING,	0	0	0	0	10	0	0
WESTERN FORGE CORPORATION	15,397	8	0	0	0	0	0
WESTLAKE INDUSTRIES, INC.	2,639	3,417	2,354	0	0	0	0
WESTLAKE PRESS, INC.	411	0	205	0	0	0	0
WESTPOINT STEVENS INC.	162,957	0	0	0	0	0	0
WESTPOINT STEVENS INC.	181,943	0	0	0	0	0	0
WEVA CORPORATION	4	0	0	0	0	0	0
WEYERHAEUSER COMPANY	0	366,663	0	0	0	0	0
WFP CONSTRUCTION CO., INC.	0	0	0	0	0	0	0
WHEATSTONE CORPORATION	22,809	0	0	0	0	0	0
WHITE CONSOLIDATED INDUSTRIES	0	0	23,007	0	0	0	0
WHITE FOX CONSTRUCTION COMPAN	0	0	0	0	0	0	0
WHITE INSURANCE SERVICES, INC	0	0	0	0	0	0	0
WHITE OIL COMPANY	226	0	0	0	0	0	0
WHITESIDE MACHINE & REPAIR CO	0	0	0	0	0	9	0
WIGGINS-NORTH STATE MONUMENT	0	0	0	0	0	0	0
WIL-FOOD, INC.	0	0	0	9	0	0	0
WILLAMETTE INDUSTRIES, INC.	8,000	125,083	6,950	0	0	0	0
WILLIAM S. KELLY, M. D., P. A	0	0	0	0	0	0	0
WILLOW CREEK INN, LTD.	0	0	0	0	0	0	0
WILMORE ELECTRONIC COMPANY, I	125	0	6,858	0	0	0	0
WILSON-COOK MEDICAL INC.	90,625	15,047	34,402	0	0	0	0
WILTON CONNOR, LLC	0	0	0	0	0	0	0
WINSTON PRINTING COMPANY	1,500	0	0	0	0	0	0

Taxpayer Name	Creating Jobs	M and E	R and D	Worker Training	COA	Tech Comm	DZ Projects
WINSTON-SALEM ENGRAVING COMPA	0	90	0	0	0	0	0
WINTERVILLE MACHINE WORKS, IN	3,250	11,211	0	0	0	0	0
WIREWAY/HUSKY CORP.	21,125	4,858	0	0	0	0	0
WIREWAY/HUSKY CORP.	15,875	3,944	0	0	0	0	0
WIREWAY/HUSKY CORP.	0	0	0	0	0	0	0
WM T BURNETT & CO INC F/K/A M	0	0	0	0	0	0	0
WM T BURNETT MANAGEMENT, INC	0	0	0	0	0	0	0
WM T BURNETT OPERATING LIMITE	0	1,699	0	0	0	0	0
WOMEN'S WELLNESS CENTER, P.A.	0	0	0	0	0	0	0
WOODIE ENTERPRISES, INC.	9	9	0	0	0	0	0
WOODLAND MILLS CORPORATION	0	0	0	14,661	0	0	0
WOODWISE DESIGN AND	0	10	0	0	0	0	0
WRENN BROTHERS, INC.	0	0	0	0	0	0	0
WRIGHT CORP	0	0	0	0	0	0	0
WWGP BROADCASTING CORPORATION	0	0	0	0	0	0	0
YACHT LIGHTING AND ACCESSORIE	0	0	0	0	0	0	0
YORK TAPE & LABEL, INC.	5	0	0	0	0	0	0
YORKSHIRE AMERICAS INC	0	14,937	0	0	0	0	0
YOTEL, INC.	0	214	0	0	0	0	0
ZAGAROLI AND COMPANY	0	0	0	0	0	0	0
ZEMEX MICA CORPORATION	0	0	0	5,219	0	0	0
ZIPTRONIX, INC.	0	0	2,441	0	0	0	0
Grand TOTAL:	15,897,754	46,720,301	7,128,644	2,602,127	1,847,875	84,651	9,234

House Committee on Finance

Minutes
April 3, 2003

The House Committee on Finance met on Thursday, April 3, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Cunningham. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Cindy Avrette, Richard Bostic, David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:30 a.m. He then recognized the pages for the meeting. Two pages were in attendance: Sarah Robertson of Stokes County, sponsored by Representative Rex Baker; and Chelsea Sigmon of Watauga County, sponsored by Representative Gene Wilson.

Prior to action on the agenda, Chairman McComas made two short announcements. First, he informed the committee members that House Bill 690 – Leland Occupancy Tax – had been referred to the House Finance Subcommittee on Occupancy Taxes. Secondly, he announced the creation of the House Finance Subcommittee on "Tax and Tags" and appointed the following representatives as its members: Representative McCombs (Chair), Representative Decker, and Representative Womble.

As the first item of business on the agenda, the Chair recognized Senator Clodfelter to explain Senate Bill 51 – CLOSE FRANCHISE TAX LOOPHOLE (see attachment 3). Senator Clodfelter informed the committee members that this bill acts to close a corporate tax loophole that companies are using deliberately to avoid paying their share of taxes to the government. The Chair then opened the floor to questions for Senator Clodfelter. Representative Rayfield was recognized and asked the Senator if he had any idea how many tax dollars were being lost due to this loophole. The Senator stated he had no idea and that it was very difficult to measure such an amount.

The Chair then recognized Representative Luebke who made a motion that the Committee give a favorable report to SB 51. Representative Creech, however, disagreed with this motion and clearly stated his feeling that the bill was "wrong." He continued by stating that companies are using this loophole as a "tax deduction," and that it is legal and rather then closing these holes, the Committee should be providing more of these tax benefits for companies. Representative Luebke rebutted this argument by stating that it was not fair for most working individuals, who typically have far less income than companies, to be responsible for the majority of the tax base. Rep. Luebke then

reasserted his motion for a favorable report to SB 51. Chairman McComas than called for a vote and the motion carried.

Staffperson Richard Bostic was next on the agenda to continue his presentation on the NC Individual Income Tax (see attachments 4 & 5). This portion of the presentation focused on current tax rates, including credits in specific areas (i.e. agricultural, environmental, real property, developmental), a comparison of North Carolina and other states in the nation, as well as individual exemptions and exclusions. At the conclusion of his presentation, discussion ensued among the members as to immigrants illegally using government programs and services and evading income tax responsibilities.

The Chair next recognized staffperson David Crotts for his presentation on the NC Corporate Income Tax (see attachment 6). This tax was first established in 1921 and North Carolina was one of the first states to begin using it. Mr. Crotts discussed the history of the tax in the state, specifically on rates over the years and how the tax is associated with the Bill Lee Act, which was started in 1996 and continues today. He made a number of interesting comments on the status of the Corporate Income Tax in North Carolina, several of which are detailed below:

- Corporate Income Taxes are extremely difficult to forecast due to highly volatile profit margins, cash flow issues, and poor or inconsistent account management.
- Corporate tax burdens have fallen, just as many other taxes, due to the fact that personal income tax rates have risen dramatically, while other taxes (including the corporate tax) have not.
- North Carolina's corporate tax burden is relatively high at 6.9%. However, with the total combined tax burden (including the property tax and all other taxes), NC holds a low tax burden overall. On the whole then, the cost of business in NC is far lower than most areas.

Mr. Crotts also discussed a handout of new information that was available on business tax incentives from 1996-2002 in North Carolina (see attachment 7).

Chairman McComas then thanked Mr. Crotts for his presentation and opened the floor for other questions or announcements from the committee. Hearing none, the Chair adjourned the meeting at 9:50 a.m. and reminded the members that the committee would reconvene on the following Tuesday, April 8, 2003 at 8:30 am in the same location.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 51 and related materials
4. Handout on North Carolina Individual Income Tax
5. Spreadsheets on Individual Income Tax in NC (not discussed)
6. Handout on North Carolina Corporate Income Tax
7. Spreadsheets on Business Tax Incentives in North Carolina 1996-2002

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ATTACHMENT 1

AGENDA

House Finance Committee

April 3, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Danny McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 51 Close Franchise Tax Loophole *Sen. Clodfelter*

Continuation of the Overview of the NC Individual Income Tax
Richard Bostic

Overview of the NC Corporate Income Tax
David Crotts

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bruce Goforth	
Paul Stock	NC Bankers Assn.
Kevin Howell	Gov's Office
Rob Dusseldorf	NC State Water
Steve Woodson	NC Farm Bureau
Don Hebart	DOC
David Bremer	P+S
Tom Sri	NCRMA
Ken McHon	Alley Associates
Kevin Leonard	WCSR
Zik Alley	Alley Assoc

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	CCNC
Greg Radford	DOR
Lewis Collins	DOR
Preston Howard	MCIC
[illegible]	[illegible]
[illegible]	Capitol Group
Chris Nichols	Hunton & Williams
Marcos Arellano	Intern (Rep. Luebke)
[illegible]	Electricities
Duke Chen	Intern
Hal Miller	NCACCT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 3, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 51

Short Title:	Close Franchise Tax Loophole.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-114.1 reads as rewritten:

"**§ 105-114.1. Limited liability companies.**

(a) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition, the following definitions apply in this section:

(1) Governing law. – A limited liability company's governing law is determined under G.S. 57C-6-05 or G.S. 57C-7-01, as applicable.

(2) Owned indirectly. – A person owns indirectly assets of a limited liability company if the limited liability company's governing law provides that seventy percent (70%) or more of its assets, after payments to creditors, must be distributed upon dissolution to the person as of the last day of the principal corporation's taxable year.

(3) Principal corporation. – A corporation that is a member of a limited liability company or has a related member that is a member of a limited liability company.

(b) Controlled Companies. – If a corporation or a related member of the corporation is a member of a limited liability company and the principal corporation and any related members of the principal corporation together own indirectly seventy percent (70%) or more of the limited liability company's assets, then the following provisions apply:

(1) A percentage of the limited liability company's income, assets, liabilities, and equity is attributed to that principal corporation and must be included in the principal corporation's computation of tax under this Article.

(2) The principal corporation's investment in the limited liability company is not included in the principal corporation's computation of tax under this Article.

(3) The attributable percentage is equal to the percentage of the limited liability company's assets owned indirectly by the principal corporation divided by the percentage of the limited liability company's assets owned indirectly by related members of the principal corporation that are corporations.

(b1) Attribution. – For the purpose of applying this section, any membership interest a business trust holds in a limited liability company is attributed to the owners of the beneficial interests in the business trust, according to their interests in the trust, and the trust itself is disregarded as a separate entity.

(c) Other Companies. – In all other cases, none of the limited liability company's income, assets, liabilities, or equity is attributed to a principal corporation under this Article.

(d) Penalty. – A taxpayer who, because of fraud with intent to evade tax, underpays the tax under this Article on assets attributable to it under this section is guilty of a Class H felony in accordance with G.S. 105-236(7)."

SECTION 2. This act becomes effective January 1, 2004, and applies to taxes due on or after that date.

SENATE BILL 51:
Close Franchise Tax Loophole

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	April 3, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Staff Attorney

SUMMARY: ***Senate Bill 51 further tightens legislation enacted in 2001 intended to close a loophole that allows corporations to escape franchise tax by transferring assets to a controlled LLC. Senate Bill 51 provides that any membership interest a business trust holds in a LLC is attributed to the owners of the beneficial interests in the trust, according to their interests in the trust. The bill becomes effective January 1, 2004, and applies to taxes due on or after that date.***

CURRENT LAW: Under North Carolina law, limited liability companies[1] (LLCs) are not subject to the franchise tax. In 1997, the North Carolina law regarding LLCs was changed to allow for a single-member LLC. This change had the unintended consequence of allowing a corporation subject to North Carolina franchise tax to set up an LLC and transfer assets to the LLC in a tax-free transfer. The assets then held by the LLC would not be subject to the franchise tax. Thus, the corporation could avoid a significant portion of its franchise tax liability by transferring assets into a wholly owned LLC subsidiary without affecting its income tax liability.

In 2001, the General Assembly enacted S.L. 2001-327 to close this loophole. The 2001 legislation tried to address this problem by requiring a corporation to pay tax on assets owned by the LLC if the corporation, including its affiliated corporations, indirectly owned[2] at least 70% of the LLC's assets. Unfortunately, tax planners found that the tax could still be avoided by using an additional paper transaction. If the corporation interposed a partnership between itself and the LLC holding its assets, then technically the 2001 legislation would not apply and the assets would continue to escape franchise tax.

In 2002, the General Assembly enacted S.L. 2002-126 to tighten the 2001 legislation. The 2002 legislation included "related members" (other entities and individuals) who may partner with one or more corporate entities to own the LLC to which the corporate assets are transferred. "Related members" is a defined term and includes shareholders, partnerships, etc. If a corporation and its related members together indirectly own at least 70% of an LLC's assets, the 2002 legislation provides that each corporation pays franchise tax on its relative share of the LLC's assets. The relative share is calculated after excluding those related members who are not corporations. Thus, the entire assets are subject to franchise tax, with the tax burden shared proportionally by the corporations that are involved in the ownership scheme.

BILL ANALYSIS: Senate Bill 51 recognizes that there exists other paper transactions that can be interposed between the corporation and the LLC in order to circumvent the applicability of the franchise tax to the assets of the corporation. One such entity is the business trust. A business trust is not considered a related member, as that term is defined in G.S. 105-130.7A, because it would be the

[1] A limited liability company is a business entity that is essentially a hybrid of a partnership and a corporation. Like a corporation, an LLC limits the liability of its owners. Like a partnership, an LLC is usually not subject to entity-level taxation.

[2] Indirect ownership of an LLC's assets is determined based on who is entitled to receive those assets upon dissolution of the LLC.

corporation, not the shareholders, who forms the trust. Senate Bill 51 provides that for purposes of determining the ownership of a LLC's assets, any membership interest of a business trust would be attributed to the owners of the beneficial interest in the business trust, according to their interests in the trust, and the trust itself would be disregarded as a separate entity.

BACKGROUND: The State franchise tax is among the oldest taxes in North Carolina. It is a tax on S Corporations and C Corporations for the privilege of doing business in the State. The tax rate is $1.50 per $1,000 of value of the greatest of (1) apportioned net book value of the corporation; (2) 55% of appraised value of real and tangible personal property in N.C.; or (3) total actual investment in tangible property in N.C.

The Department of Revenue, in its reports to the Revenue Laws Study Commission, noted that there exists a general franchise tax inequity because the imposition of the tax depends on the type of entity. The Governor's Commission to Modernize State Finances recommended that the State impose the franchise tax on all types of business entities, not just on traditional corporations. The Commission recommended that the revenues generated from this base broadening could be used to establish a minimum net worth threshold for payment of the tax.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 51 (1st Edition)

SHORT TITLE: Close Franchise Tax Loophole

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

PRINCIPAL DEPARTMENT AFFECTED: The franchise tax is collected by the Department of Revenue. The enactment of the bill should not affect the budget requirements of the Department.

EFFECTIVE DATE: Applies to taxes due on or after January 1, 2004.

ISSUE BACKGROUND: During the last two legislative sessions, the General Assembly has enacted legislation that attempted to close loopholes in the corporation franchise tax that allowed corporations to minimize their tax liability by transferring potentially taxable assets to a controlled limited liability company (LLC). This occurs because LLCs are not subject to the franchise tax.

The 2001 bill required a corporation to include a LLC's assets in its franchise tax base if the corporation is entitled to receive 70% or more of the assets of the LLC upon dissolution of the LLC. However, it was discovered after the 2001 session that if the corporation interposed a partnership between it and the LLC holding its assets, the 2001 change would not apply and the assets would continue to escape taxation.

The 2002 bill attempted to address this issue by broadening the 2001 legislation to include "related members" (other entities and individuals) who may form a partnership with one or more corporate entities to own the LLC to which the corporate assets are transferred. "Related members" include shareholders, partnerships, etc. The legislation provided that if a corporation and its related members together indirectly own at least 70% of an LLC's assets, each corporation pays franchise tax on its relative share of the LLCs assets. The relative share is calculated after excluding those related members who are not corporations.

Since the implementation of the 2002 change, the Department of Revenue has become concerned that the use of a business trust to hold the assets allows the franchise tax to be avoided.

BILL SUMMARY: Provides that any membership interest that a business trust holds in an LLC is attributed to the owners of the beneficial interest in the trust for purposes of determining franchise tax liability.

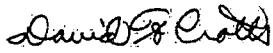
ASSUMPTIONS AND METHODOLOGY: A discussion with the Department of Revenue indicated that there is no data available on this issue.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: David Crotts



APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: March 26, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 51 A BILL TO BE ENTITLED AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

PUBLIC BILL

OLL CALL

S.B. 51

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO CLOSE A LOOPHOLE THAT ALLOWS CORPORATIONS TO CONTINUE AVOIDING FRANCHISE TAXES.

Introduced by Senator(s) Clodfelter Clodfelter

Principal Clerk's Use Only

FILED FEB 1 3 2003

PASSED 1st READING

FEB 17 2003

AND REFERRED TO COMMITTEE

ON Finance

Committee on Finance to whom this bill referred, a majority being present and ing, has carefully considered the same and ommended that it do...pass.

For the Committee

PORTED FAVORABLY MAR 2 5 2003

PASSED 2nd & 3rd READINGS

50-2

MAR 26 2003

ORDERED SENT TO HOUSE OF REPRESENTATIVE

Janet Pruitt

PASSED 2nd READING

Ayes 50 Noes 0

MAR 26 2003

AND Remains ON THE CALENDAR

PASSED 3rd READING

Ayes 49 Noes 0

MAR 27 2003

AND ORDERED SENT

To House of Representatives

Janet Pruitt

03-31-03P08:09 RCVD

PASSED 1st READING

APR 1 2003

AND REFERRED TO COMMITTEE

ON Finance

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, April 3, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

- **SB 51 - CLOSE FRANCHISE TAX LOOPHOLE - Sen. Clodfelter**

The following presentations will also be offered:

- **Overview of the NC Individual Income Tax (continued)**
- **Overview of the NC Corporate Income Tax**

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **2:00 P.M.** on **April 2, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

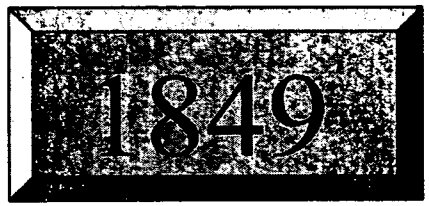
North Carolina Individual Income Tax

Fiscal Research Division

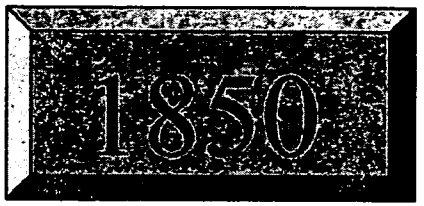
ATTACHMENT 4

THE TERRORISM CONTINUES TODAY, WITH COUNTLESS VICTIMS DEVASTATED BEYOND ALL HOPE. THERE'S NO QUICK END IN SIGHT TO THIS NIGHTMARE...
BUT ENOUGH ABOUT THE IRS!
APRIL 15
GORRELL

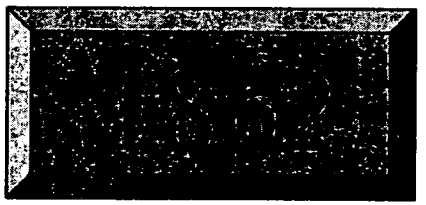
JEFF PARKER
DIST. BY
Y'KNOW I USED TO THINK THAT DEATH AND TAXES THING WAS JUST A JOKE...
POINK POINK POINK
TAX DEADLINE
1040



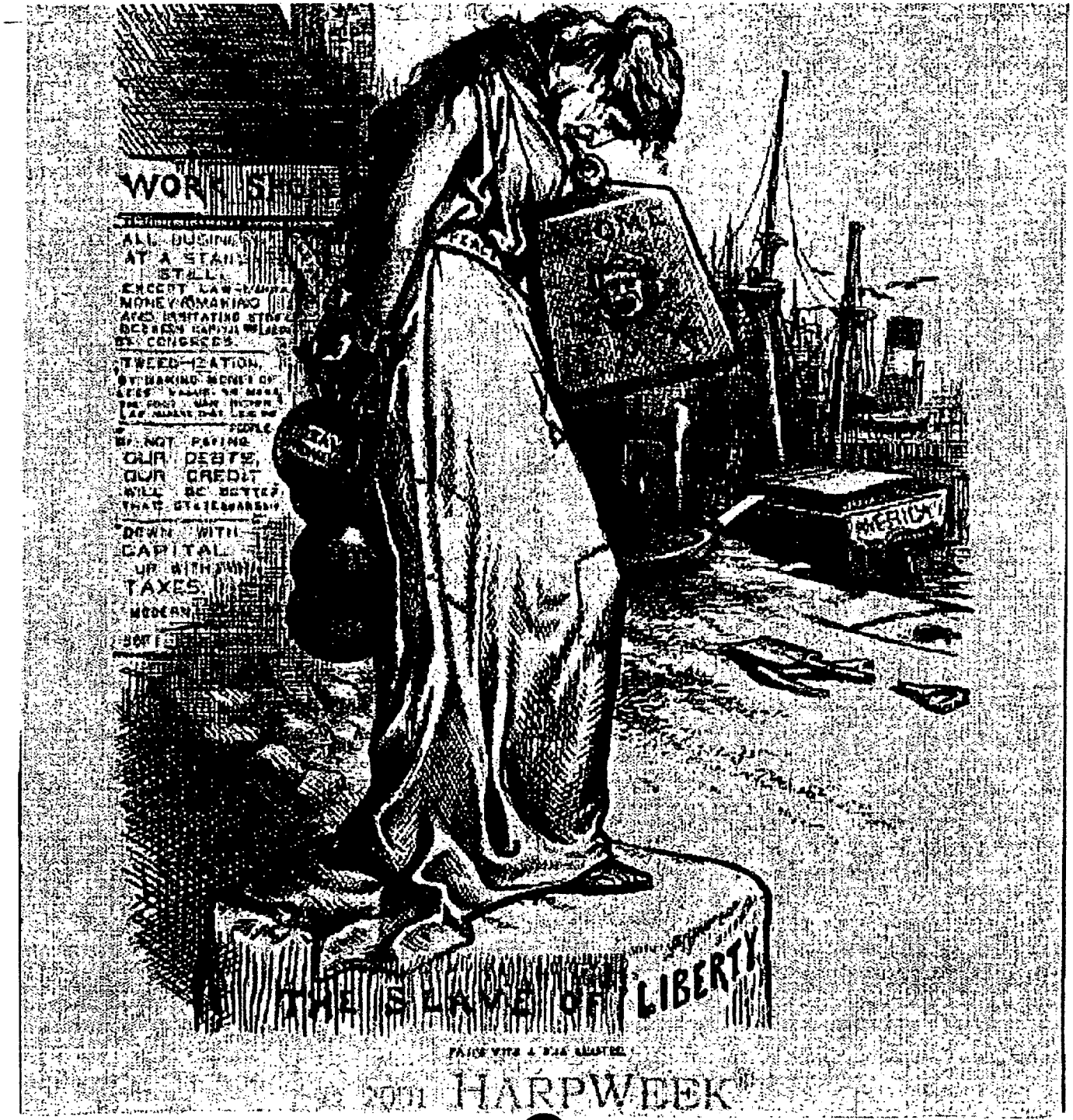
- Established income tax
- 3¢ per dollar of interest and profit from slave trade, shipping and stocks/corporate shares
- $3 on salaries over $500
- Physicians, dentists, lawyers exempt for first 5 years of practice
- Sheriff collects taxes



- Amended so that $3 on first $500 in salaries and $2 for every additional $500

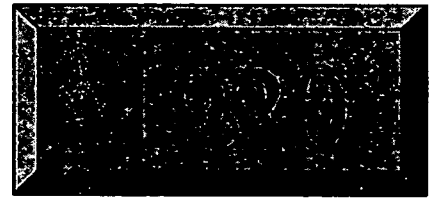


- U.S. approves income tax to support Civil War effort


WORK SHOP
ALL BUSINESS
AT A STAND
STILL
MONEY MAKING
BY CONGRESS
TWEEDIZATION
OUR DEBTS,
OUR CREDIT
DOWN WITH
CAPITAL
TAXES
MODERN
THE SLAVE OF LIBERTY
HARPWEEK

MILLIONAIRE
BUSINESS MAN
WAGE EARNER
PROPOSED INCOME TAX
· PHIL · PORTER ·

- Constitutional amendment failed – Amendment to end statewide property tax and switch to alternative taxes (income, inheritance, etc.)



- Constitutional amendment approved-Permit taxation of all income, including income from property

- General Assembly enacted state administered income tax
- Rates were 1% on first $2500 of net taxable income up to 3% on excess over $10,000

  (5 rate brackets)

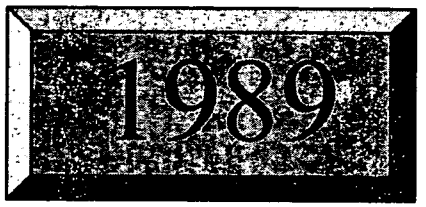
- Increased tax rates
- 3% on net income up to $2,000

  4% on next $2,000

  5% on next $2,000

  6% on next $4,000

  7% on amount greater than $10,000



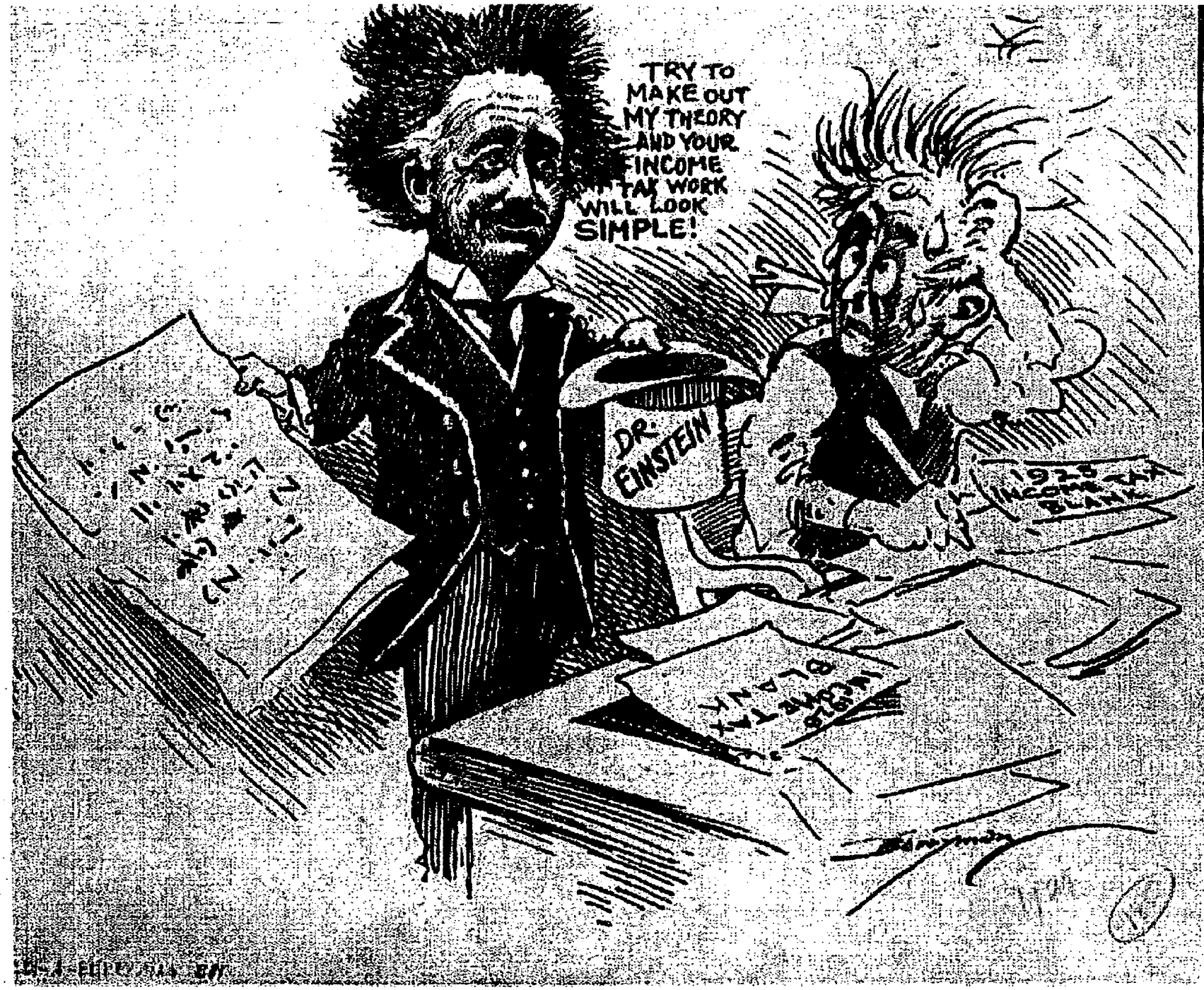
- Tax Fairness Act approved
- Adopted the federal definition of taxable income as the base for state income tax
- Allowed married couple to file a joint return for the first time.
- New tax rates of 6% and 7%
- Exemption $2,000 standard deduction $5,000 (married filing jointly)

Mike Thompson, Detroit, Michigan, The

03/28/03

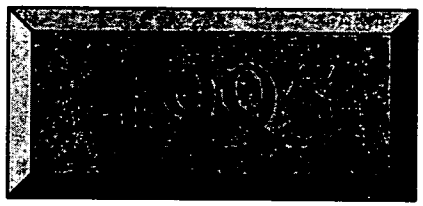
Get Image

OF COURSE YOU CAN'T READ IT... WHY DO YOU THINK THEY CALL IT A CODE?
TAXES
A to 9.62
Vol B
Vol C

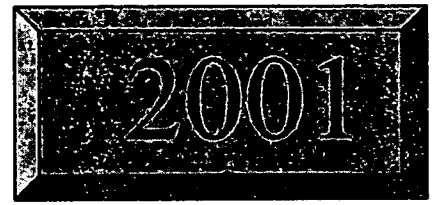


"Try to Make Out My Theory and Your Income Tax Work Will Look Simple!"

- Added 7.75% tax rate



- Increase personal exemption to $2,500 (keep at $2,000 for high income tax payers)



- Added 8.25% tax rate (temporary)
- Increase standard deduction for married filing jointly to $6,000 in 2003

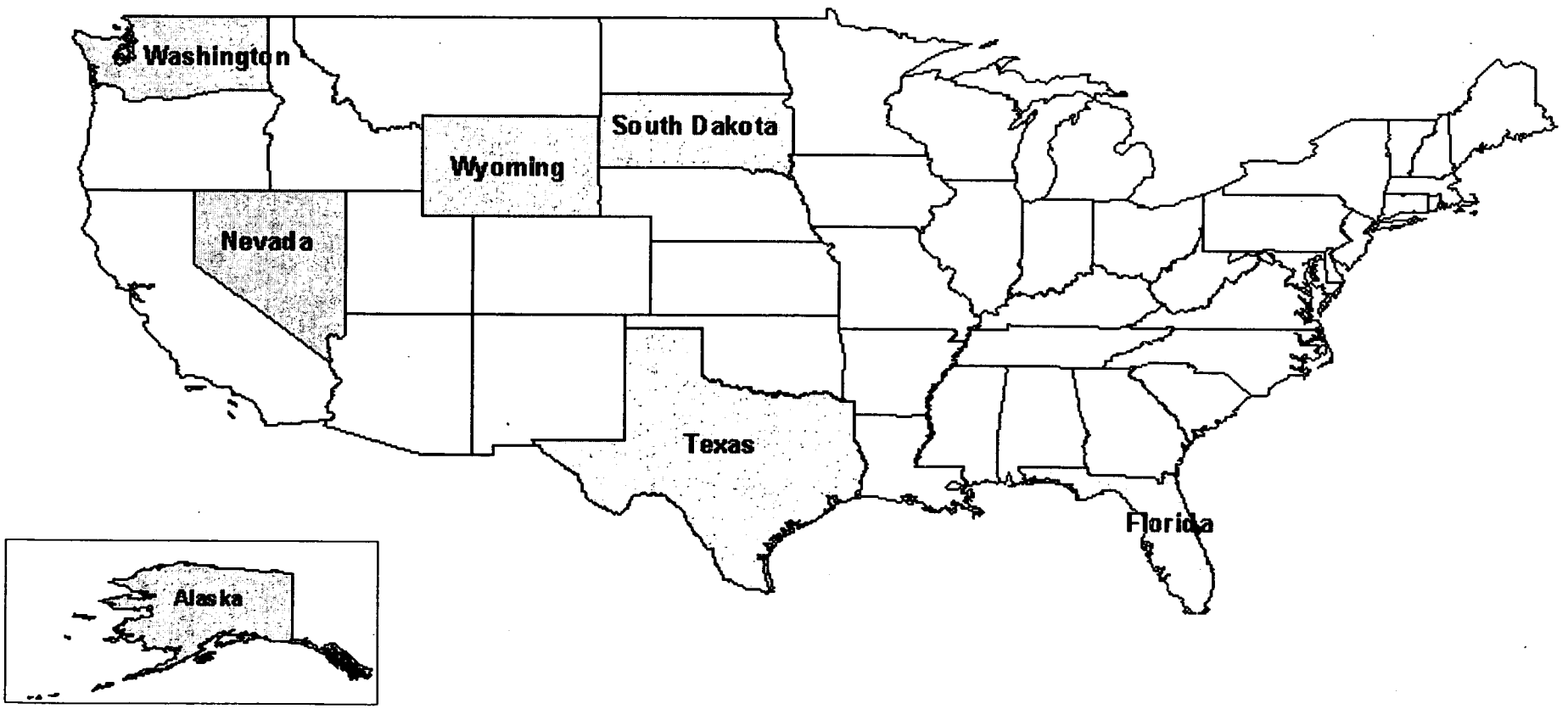
John Trever, New Mexico, The Albuquerque Journal 03/28/03

Individual Income Tax Rates

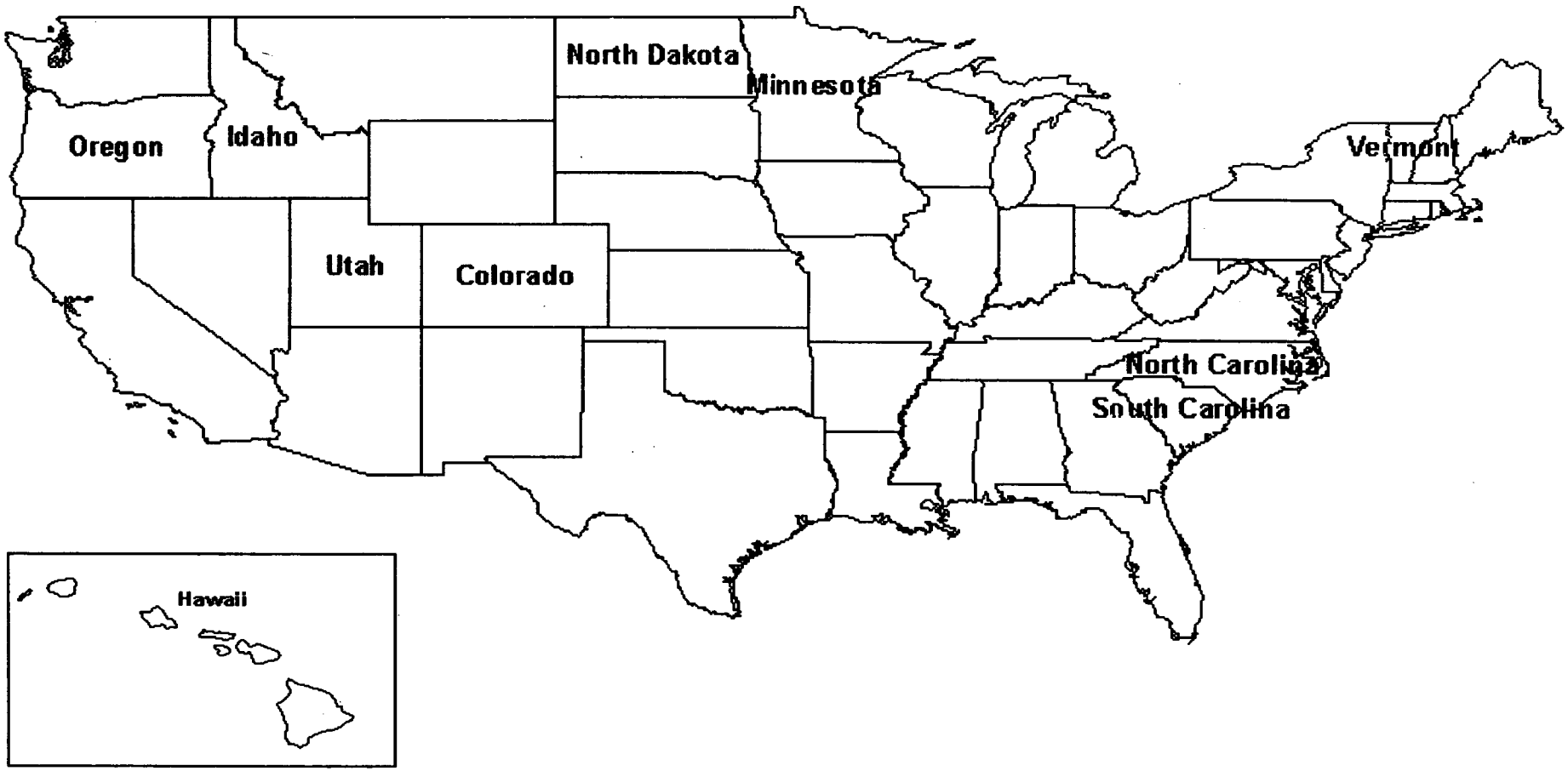
Tax Rates	Taxable Income			
	6%	7%	7.75%	8.25%*
Single	<$12,750	<$60,000	<$120,000	$120,000>
Head of Household	< 17,000	< 80,000	< 160,000	160,000>
Married Filing Jointly	< 21,250	<100,000	< 200,000	200,000>
Married Filing Separately	< 10,625	< 50,000	< 100,000	100,000>

*Will sunset in January 1, 2004

States with No Income Tax

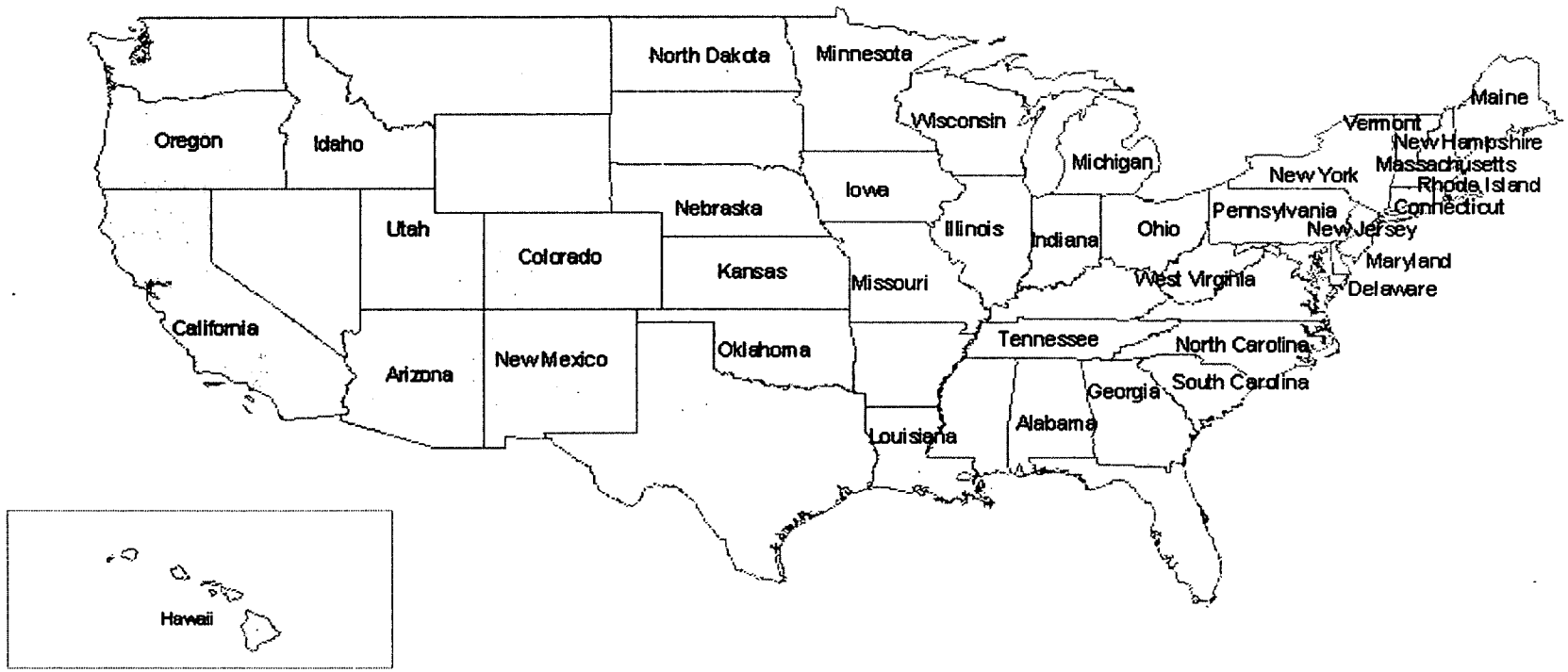


Starting Point = Taxable Income



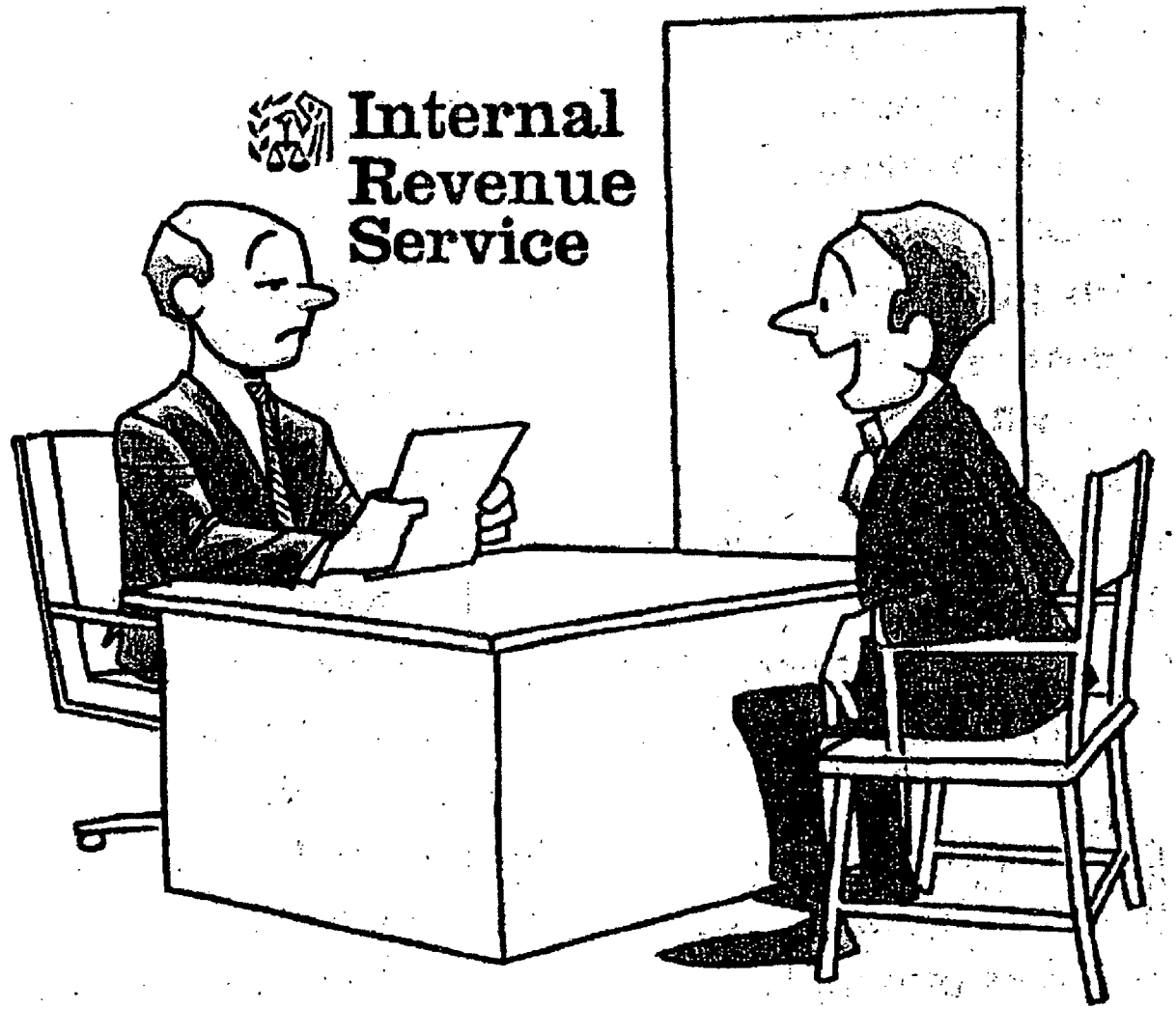
Starting Point = Federal AGI

Joint Filing for Married Couples



Exemptions/Exclusions

- Social Security
- Retirement income = $4,000 for public retirees and $2,000 for private retirees
- Retirement income = 100% exclusion for those vested in local, state and federal retirement system by August 12, 1989.
- Up to $35,000 in severance pay

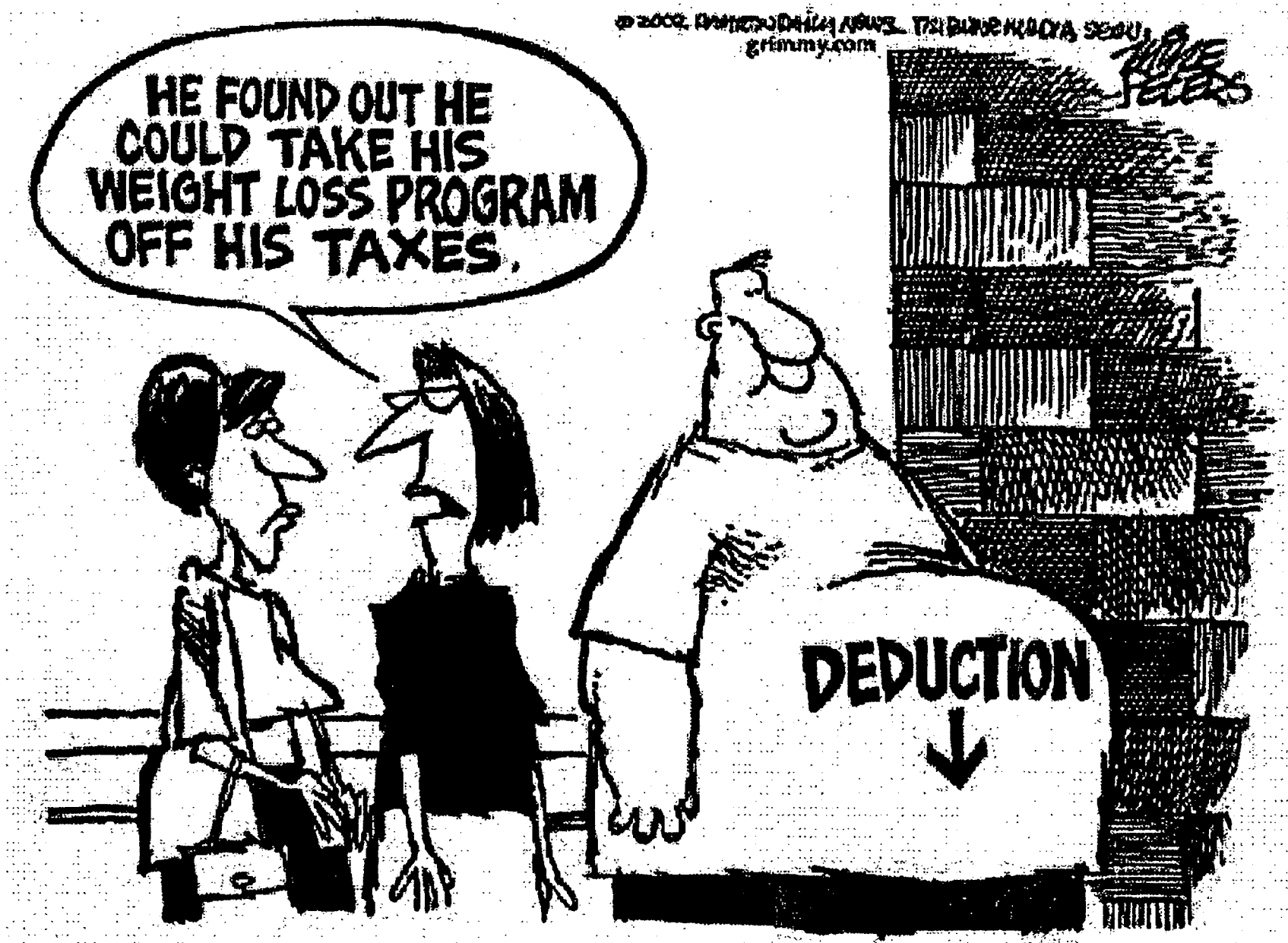


"I work religiously, so I thought my income was tax-exempt."

Deductions

- Interest income from U.S. and state obligations
- Local, state, or foreign tax refunds included in gross income
- Income earned on federally recognized Indian reservation
- Hurricane Floyd relief payments
- Distributions from Parental Savings Trust Fund (529 Plan)

MIKE PETERS **4/6/02**



Credits

- Child care and employment related expenses
- Dependent child = $60
- Disabled taxpayer = 1/3 of federal
- Long term care insurance
- Non-itemized charitable contributions
- Taxes paid to other states or countries

Credits - Housing

- Handicapped dwelling units
- Historic structure rehabilitation
- Low income housing

Credits - Agriculture

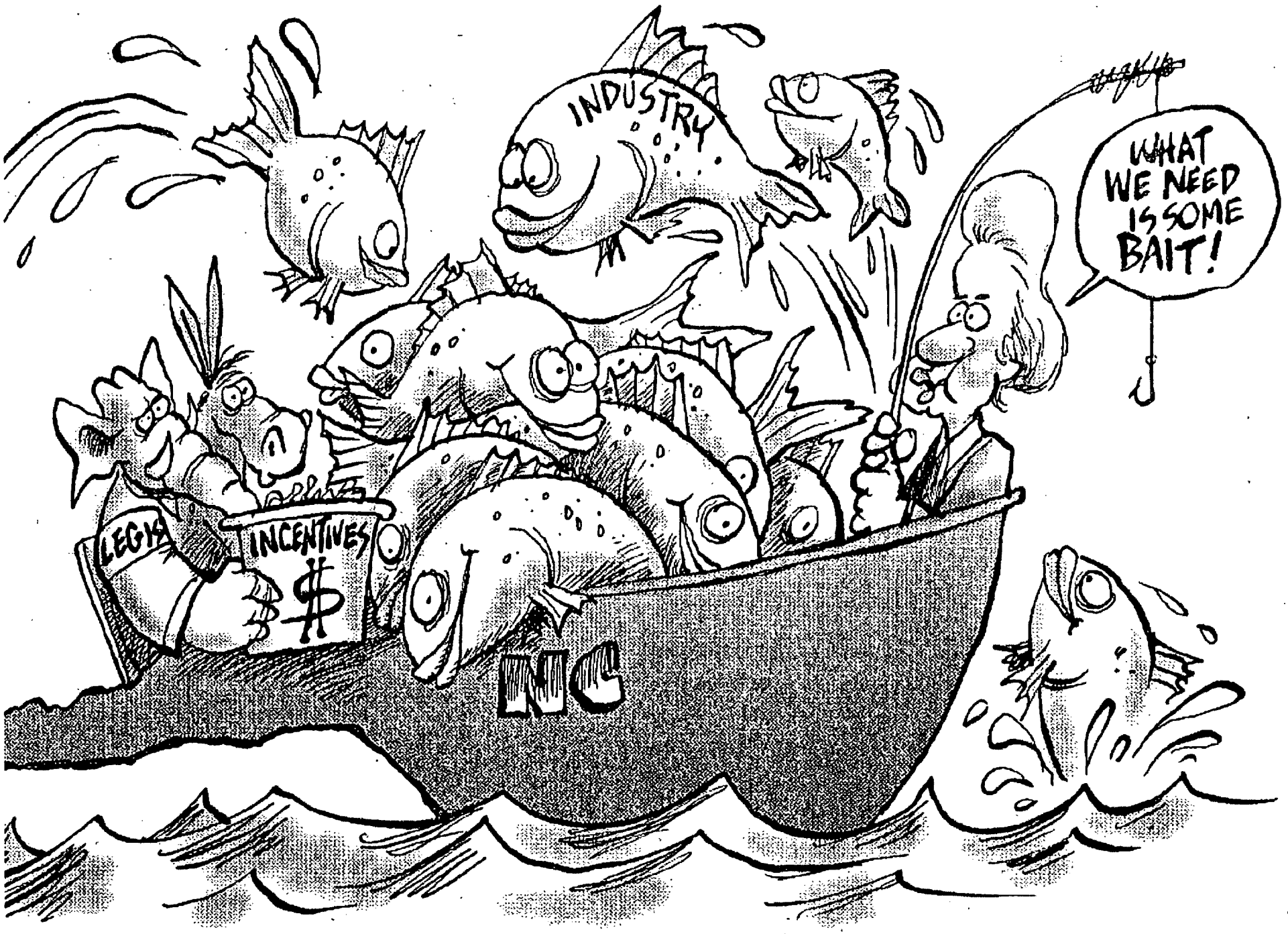
- Conservation tillage equipment
- Gleaned crops
- Property tax paid on farm machinery
- Poultry composting facility

Credits - Environment

- Renewable energy property
- Non-hazardous dry cleaning equipment
- Large or major recycling facility
- Certain real property donations

Credits – Economic Development

- Job creation
- Machinery and equipment
- Technology commercialization
- Research and development
- Worker training
- Central administrative office or aircraft facility property
- Purchase or lease of real property
- Development zone projects
- Recycling facility transport expenses
- State ports wharf fees
- Qualified business investments


INDUSTRY
WHAT WE NEED IS SOME BAIT!
LEGIS
INCENTIVES
$
NC

Individual Income Tax as % of State Tax Collections - 2001

North Carolina	48.2%
Georgia	48.2%
South Carolina	34.6%
Tennessee	2.5%
Virginia	55.2%
United States	37.1%

Size of Income Taxable in NC	Filing Status -Married Filing Separately; Single; Head of Household				Filing Status - Married Filing Jointly and Qualifying Widow(er) with Dependent Child			
	Number of Returns	% of All Returns	Estimated Tax Paid	% of All Estimated Taxes Paid	Number of Returns	% of All Returns	Estimated Tax Paid	% of Estimated Taxes Paid
$ 1 - $ 2,000	237,526	7.69%	$11,024,549	0.16%	40,616	1.32%	$1,420,655	0.02%
2,001 - 4,000	176,647	5.72%	$25,390,946	0.36%	41,238	1.34%	$5,252,826	0.07%
4,001 - 6,000	144,314	4.67%	$36,299,696	0.51%	37,875	1.23%	$8,730,825	0.12%
6,001 - 10,000	248,009	8.03%	$103,514,686	1.46%	73,758	2.39%	$29,321,308	0.41%
10,001 - 10,625	35,242	1.14%	$19,574,931	0.28%	11,275	0.37%	$5,991,508	0.08%
10,626 - 12,750	112,967	3.66%	$72,204,960	1.02%	38,587	1.25%	$23,508,971	0.33%
12,751 - 15,000	107,597	3.48%	$84,087,816	1.19%	39,738	1.29%	$29,267,516	0.41%
15,001 - 17,000	85,373	2.76%	$79,441,948	1.12%	34,645	1.12%	$29,729,564	0.42%
17,001 - 20,000	111,644	3.62%	$123,745,281	1.75%	52,161	1.69%	$52,416,114	0.74%
20,001 - 21,250	41,181	1.33%	$52,042,444	0.74%	22,050	0.71%	$24,874,682	0.35%
21,251 - 25,000	106,593	3.45%	$153,066,848	2.16%	65,861	2.13%	$85,348,171	1.21%
25,001 - 30,000	104,036	3.37%	$180,630,367	2.55%	89,638	2.90%	$143,219,197	2.03%
30,001 - 40,000	118,652	3.84%	$263,484,479	3.73%	176,044	5.70%	$371,295,058	5.25%
40,001 - 50,000	53,570	1.73%	$156,237,720	2.21%	153,852	4.98%	$429,908,233	6.08%
50,001 - 60,000	26,579	0.86%	$96,108,609	1.36%	116,942	3.79%	$406,054,185	5.74%
60,001 - 75,000	20,227	0.66%	$90,860,050	1.28%	109,153	3.54%	$470,316,175	6.65%
75,001 - 80,000	3,950	0.13%	$20,988,997	0.30%	23,806	0.77%	$120,543,122	1.70%
80,001 - 100,000	10,294	0.33%	$63,516,332	0.90%	66,282	2.15%	$390,506,927	5.52%
100,001 - 150,000	9,505	0.31%	$80,648,241	1.14%	66,926	2.17%	$546,044,933	7.72%
150,001 - 200,000	3,295	0.11%	$40,681,341	0.58%	23,551	0.76%	$283,308,027	4.01%
200,001 or more	5,953	0.19%	$243,111,626	3.44%	40,493	1.31%	$1,618,184,087	22.88%
TAXABLE	1,763,154	57.10%	$1,996,661,867	28.23%	1,324,491	42.90%	$5,075,242,083	71.77%
NONTAXABLE	365,927				147,250			

ATTACHMENT 5

Tax Year 2000 - All Returns

Size of Income Taxable in NC	Number of Returns	% of Returns	Estimated Taxes Paid	% of All Estimated Taxes Paid
$ 1 - $ 2,000	278,142	9.0%	$12,445,204	0.18%
2,001 - 4,000	217,885	7.1%	$30,643,772	0.43%
4,001 - 6,000	182,189	5.9%	$45,030,521	0.64%
6,001 - 10,000	321,767	10.4%	$132,835,994	1.88%
10,001 - 10,625	46,517	1.5%	$25,566,439	0.36%
10,626 - 12,750	151,554	4.9%	$95,713,931	1.35%
12,751 - 15,000	147,335	4.8%	$113,355,333	1.60%
15,001 - 17,000	120,018	3.9%	$109,171,512	1.54%
17,001 - 20,000	163,805	5.3%	$176,161,395	2.49%
20,001 - 21,250	63,231	2.0%	$76,917,126	1.09%
21,251 - 25,000	172,454	5.6%	$238,415,019	3.37%
25,001 - 30,000	193,674	6.3%	$323,849,564	4.58%
30,001 - 40,000	294,696	9.5%	$634,779,537	8.98%
40,001 - 50,000	207,422	6.7%	$586,145,953	8.29%
50,001 - 60,000	143,521	4.6%	$502,162,794	7.10%
60,001 - 75,000	129,380	4.2%	$561,176,225	7.94%
75,001 - 80,000	27,756	0.9%	$141,532,119	2.00%
80,001 - 100,000	76,576	2.5%	$454,023,259	6.42%
100,001 - 150,000	76,431	2.5%	$626,693,174	8.86%
150,001 - 200,000	26,846	0.9%	$323,989,368	4.58%
200,001 or more	46,446	1.5%	$1,861,295,713	26.32%
TAXABLE	3,087,645	100.0%	$7,071,903,951	100.00%
NONTAXABLE	513,177			

Corporate Income Tax History: Major Events

- North Carolina's broad-based corporate income tax was first established in 1921 during the beginning of the state fiscal revolution. North Carolina was one of first states to adopt the tax.
- The original tax rate was 3%. By 1933, the rate was up to 6%.
- A nationally-accepted method for apportioning the income of multistate corporations was adopted in 1937.
- In 1987, the rate was raised to 7%, with 50% of increase used for school facilities aid and the remainder for inventory tax reimbursement.
- During the budget crisis of 1991, the base rate was adjusted to 7.75%. In addition, a temporary surtax pushed the rate to 8.06%. The surtax was phased out over 4 years.
- The 1996 General Assembly lowered the rate to 6.9% over 4 years.

(Over)

ATTACHMENT 6

Corporate Income Tax History: Major Events (Continued)

- In 1996, the General Assembly adopted a package of corporate incentives (Bill Lee Act) to address the loss of highly publicized major companies to other states in the region. The package included tax credits for investment in machinery/equipment, job creation, R&D, and worker training.
- During the 1997-2002 sessions, the Bill Lee Act was modified and incentives to recruit specific companies were added.
- In 1998 the apportionment formula for allocating the U.S. taxable income of multistate corporations was adjusted to give preference to home state manufacturers.
- In both the 2001 and 2002 sessions, actions were taken to close loopholes in tax base (royalty income, nonbusiness income).
- The 2002 General Assembly approved the Job Development Investment Grant program. Under this program, a limited number of highly-prized companies would receive grants of up to 75% of withholding payments if they met specific performance objectives.

Observations on the Corporate Income Tax

- This tax is the most difficult tax to forecast due to the volatility of corporate profits, varying accounting and financial reporting practices, and cash flow issues.
- The share of the General Fund tax base from the corporate income tax has fallen substantially over the last few decades. This tracks pattern of most General Fund taxes. The primary reason has to do with the structure of the personal income tax. This structure (fixed personal exemptions and standard deduction, progressive rate schedule) leads to revenue growth in excess of economic growth. Over time, this lowers the relative burden of most other taxes.
- North Carolina's corporate tax rate of 6.9% is relatively high. However, low property taxes bring the combined state and local tax burden ranking down substantially (11th highest out of 15 Southeastern states).
- Due to the proliferation of corporate tax loopholes, many long-term observers are suggesting that business tax system should be converted from "ability to pay" (net income) to "benefits received" basis (gross receipts).

FISCAL HISTORY OF 1996-2002 BUSINESS TAX INCENTIVES
GENERAL FUND REVENUE LOSS ($ MILLIONS)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
1996	Targeted investment tax credit (machinery & equipment)	-4.1	-11.1	-24.2	-19.2	-28.9	-38.6	-47.1	-56.7	-52.5	-50.4	-42.0	-28.4	-24.3
	Jobs tax credit expansion	-0.8	-2.6	-6.1	-6.5	-11.2	-15.9	-16.9	-16.9	-16.9	-12.5	-8.2	-4.1	-
	Research & development tax credit	-5.9	-7.5	-7.8	-12.4	-8.0	-7.1	-7.1	-7.5	-7.8	-	-	-	-
	Worker training tax credit	-0.3	-0.3	-2.3	-2.1	-2.4	-2.6	-2.6	-2.6	-2.6	-	-	-	-
	General investment tax credit (Berry credit)	-3.9	-7.2	-8.7	-12.7	-21.2								
1997	Add central administrative offices to Lee Act		0.0	-0.6	-0.8	-1.3	-1.9	-2.5	-3.0	-3.4	-3.2	-2.8	-2.1	-1.7
	Extend investment tax credit to capital leases		-0.4	-1.2	-2.4	-2.7	-3.0	-3.9	-4.7	-5.4	-4.9	-4.3	-3.4	-2.6
	Apply "planned expansion" eligibility to investment tax credit			-0.7	-2.2	-3.0	-3.8	-5.3	-6.9	-8.4	-8.0	-7.2	-6.0	-4.5
	Tier 1 Grandfathering		-0.1	-0.2	-0.5	-0.8	-1.0	-1.2	-1.3	-1.3	-1.0	-0.6	-0.3	-
1998	Extend investment tax credit to operating leases			-0.3	-0.8	-1.1	-1.4	-1.9	-2.4	-3.1	-3.0	-2.6	-2.2	-1.7
	Adopt credit application fee ($75)		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
	Add credit for development zones													
	Air Courier Hub incentives:													
	Lower sales tax on handling, storage, equipment				-									-0.1
	Sales tax exempt. for lubricants, repair parts													-0.2

Covers

ATTACHMENT 7

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Major recycling facility incentives:				-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2
	Sales tax exemption for electricity					-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1
	Extend targeted investment tax credit to major recycling facility		-0.5	-0.5	-0.6	-0.6	-0.7	-1.1	-2.4	-2.4	-2.4	-2.4	-2.4	-2.4
	Refundable credit for additional transport costs		-0.2	-0.6	-3.9	-8.1	-9.6	-10.1	-10.4	-10.4	-10.4	-10.4	-10.4	-
	Lower sales tax on handling, storage, equipment, exempt. lubricants		-0.3	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2	-0.3	-0.3	-0.3	-0.3
	Large recycling facility incentives*													
1999	Extend Bill Lee Act sunset from 1/1/02 to 1/1/06**				-	-				-	-	-	-	-
	Air carrier incentives:													
	1%, $80 sales tax to training equipment			-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4	-0.4
	Sales tax exemption on repair parts, lubricants, etc.			-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2	-1.2
	Nonprofit insurance company incentives:													
	Sales tax refund for building materials, fixtures, equipment				-0.6	-1.2	-0.6	-	-	-	-	-	-	-
	Sales tax refund for capitalized computer equipment				-	-	-0.6	-0.1	-0.2	-0.1	-0.1	-0.1	-0.1	-0.1
	Tier 1 & 2 enhancements:													
	Extend Lee Act to customer call centers				-	-0.6	-1.3	-1.9	-2.6	-2.6	-2.0	-1.4	-0.6	-
	Sales tax refund for building materials, fixtures, equipment				-0.1	-0.2	-0.3	-0.6	-0.8	-1.0			-	-
	Extend Bill Lee Act credits to certain electronic mail order houses				-	-2.7	-3.8	-4.8	-5.9	-4.4	-3.4	-2.5	-1.2	-0.2
	Modify tiers for small counties and high poverty rates				-	-	-	-	-	-	-	-		
	Close loopholes in definition of State Development Zones				0.1	0.1	0.3	0.3	0.3	0.2	0.1	0.1	-	-
	Establish investment tax credit of 25% of contribution or investment to nonprofit organization in Development Zone ($4 mil. limit)				-	-2.5	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0	-4.0
	Allow tax credit for construction or rehab of low-income housing				-	-1.5	-3.4	-5.3	-7.6	-10.1	-11.0	-11.9	-12.9	-13.5
	Extend Bill Lee Act credits to insurance company administrative offices				-	-	-	-	-	-	-	-	-	-
	Require companies applying for credits to provide for health insurance benefits and meet environmental and OSHA standards				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Restructure application fees for Bill Lee Act credits				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require taxpayers receiving Bill Lee Act credits to provide additional information				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Clarify business definitions and refunds				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Clarify sales tax refunds for interstate air carriers				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Modify research and development credit expiration				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require environmental certificate to qualify for Industrial development fund				-	-	-	-	-	-	-	-	-	-
					-	-	-	-	-	-	-	-	-	-
	Require Department of Commerce to support efforts to reduce interstate competition to lure business investment between states				-	-	-	-	-	-	-	-	-	-
	Technology Commercialization Credit						-0.1	-2.1	-2.1	-2.1	-2.1	-2.1	-2.1	-2.1
	Tobacco manufacturing export tax credit				-9.0	-9.3	-9.6	-9.9	-10.2	-10.6	-10.9	-11.3	-11.7	-12.0
2000	Application fee changes													
	Extend credit carryforwards***													
	Wage standards for grants													
	Prohibit funding for defaulting grantees													
	Aircraft maintenance facility credit						0.0	-0.1	-0.1	-0.1	-0.1	-0.1	0.0	0.0
	Employment buyout incentive													
	Extend low income housing credit to disaster counties													
	Low income housing credit technical change													
	Tier change (SB 1318)					-0.1	-0.2	-0.3	-0.5	-0.5	-0.5	-0.3	-0.2	-0.1

(OVER)

Session	Type of Incentive	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
	Bill Lee Act Incentives													
	Jobs tax credit change													
	Investment tax credit correction													
	Nonprofit sales tax refund technical correction													
2001	Eligible Business Clarification							-0.2	-1.1	-2.5	-4.5	-4.5	-4.1	-3.2
	Small County Exception 2							-0.2	-0.4	-0.6	-0.9	-0.7	-0.5	-0.3
	Customer Service Center						-0.3	-0.6	-0.9	-1.2	-0.9	-0.6	-0.3	
	Real Property Credit							-4.7	-9.4	-14.3	-18.7	-18.7	-18.7	-18.7
	R&D Carryforward													-2.0
2002	Limit Machinery & Equipment Credit in Tiers 1-3							3.6	7.3	10.9	14.5			
	Eliminate Wage Test in Tiers 1 & 2							-0.1	-0.2	-0.2	-0.3			
	Eliminate Worker Training Wage Test							-0.1	-0.1	-0.1	-0.1			
	Job Development Investment Grant							-10.0	-20.0	-20.0	-20.0	-20.0	-20.0	-20.0
	TOTAL 1996 TO 2002 INCENTIVES	-15.0	-30.1	-54.8	-75.6	-109.3	-111.5	-142.8	-175.3	-179.5	-162.8	-160.7	-137.8	-115.8

*Due to recent acquisition it is unlikely that proposed facility will be built.
**Costs of this provision have been allocated to the incentives impacted.
***Impact begins in 2013-14 fiscal year.

House Committee on Finance

Minutes

~

April 8, 2003

The House Committee on Finance met on Tuesday, April 8, 2003 at 9:00am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, Womble, and Cunningham. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. Three pages were also present: Mary Armstrong of Nash County, sponsored by Representative Joe Tolson; Meghan Dawson of Cumberland County, sponsored by Representative Marvin Lucas; and Brett Jarrett of Lincoln County, sponsored by Representative Joe Kiser. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 9:05am and immediately recognized Senator Weinstein for an explanation of SB 396 – RAEFORD ANNEXATION (see attachment 3). This bill acts specifically to annex the right-of-way of McMillan Street to the Corporate Limits of the City of Raeford. Following the explanation, the Chair recognized Representative Hill who made a motion for a favorable report. Having no other discussion, the Chairman called the vote and the motion passed with no known opposition. The Chair thanked Senator Weinstein for his time and was informed by the Senator that Representative Young would be handling the discussion of this bill (SB 396) on the House floor.

The Chair next recognized Representative Hill to explain SB 419 – CHADBOURN ANNEXATION (in lieu of Senator Soles, the bill sponsor, as Representative Hill has filed an identical bill in the House) (see attachment 4). Representative Hill answered only a few questions from members. Representative Rayfield then made a motion for a favorable report. Upon the Chair's call for the vote, the motion passed unanimously.

Chairman Miner once again recognized Representative Hill to explain HB 685 - INCORPORATE SUNSET HARBOR (see attachment 5). This local bill incorporates the Town of Sunset Harbor in Brunswick County and enacts a charter setting out the powers and duties of the Town. Under this charter the Town would have the power to tax and would be governed by the Mayor-Council form of government. Chairman Miner recognized members for questions on the bill. By a motion of Representative Alexander, the committee voted a favorable report to the bill.

For the next bill up for discussion, the Chair recognized the bill sponsor, Representative Howard, to explain HB 328 – AMEND REAL ESTATE LICENSING LAWS/FEES. This bill makes a number of changes concerning the practice and licensure of North Carolina Realtors and is best summarized in the attached bill analysis (see attachment 6). The Chair then opened the floor to committee members for questions. Representative Hill quickly moved for favorable report. Several questions from members, however, were first posed to Representative Howard and Ms. Miriam Baer, General Counsel to the North Carolina Real Estate Commission. Representative Womble questioned if the changeover to computer testing would be the only method available. That is, would paper tests be available to those individuals specially requesting them. Representative Howard responded that only those persons with "special disabilities" would technically be eligible for another method of testing other than by computer. Representative Howard also stated that the Real Estate industry is one that has become so proficient with the regular use of computers, that only a small minority of those taking the tests would have a desire for a paper test. Ms. Baer complemented Representative Howard's sentiments by stating that of those few that could possibly want a paper test, the Commission would accommodate their preference when possible. The Chair then reminded members of the Committee of the outstanding motion of Representative Hill for a favorable report to the bill. Chairman Miner called the vote and the motion passed, the only dissention known from Representative Creech.

The Chairman then recognized Representative Haire to explain HB 790 – INCORPORATE CASHIERS (see attachment 7). This bill acts to repeal the charter of the Town of Cashiers because the Town has been inactive since its' incorporation but also acts to incorporate Cashiers as a Village. Chairman Miner opened the floor for discussion and recognized Page Bernstein, resident of Cashiers, who was present to answer any questions of the committee members. Without further discussion, the Chair recognized Representative Weiss who moved that the Committee offer a favorable report. With no known opposition, the motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:27am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 396 (and related materials)
4. Senate Bill 419 (and related materials)
5. House Bill 685 (and related materials)
6. House Bill 328 (and related materials)
7. House Bill 790 (and related materials)

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Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

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AGENDA

House Finance Committee

April 8, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 328	**Amend Real Estate Licensing Laws/Fees**	*Rep. Howard*
HB 685	**Incorporate Sunset Harbor**	*Rep. Hill*
HB 790	**Incorporate Cashiers**	*Rep. Haire*
SB 396	**Raeford Annexation**	*Sen. Weinstein*
SB 419	**Chadbourn Annexation**	*Sen. Soles*

Adjournment

CORRECTED NOTICE:
NEW MEETING TIME - 9:00 AM

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, April 8, 2003**

TIME: ~~**8:30 A.M.**~~ **9:00 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 328 – AMEND REAL ESTATE LICENSING LAWS/FEES– Rep. Howard

HB 685 – INCORPORATE SUNSET HARBOR – Rep. Hill

HB 790 – INCORPORATE CASHIERS – Rep. Haire

SB 396 – RAEFORD ANNEXATION – Sen. Weinstein

SB 419 – CHADBOURN ANNEXATION – Sen. Soles

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 3, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
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AND
BILL SPONSOR NOTIFICATION
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SB 419 – CHADBOURN ANNEXATION – Sen. Soles

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 3, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 8, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peg O'Connell	MRNC, 5625 Dillard, Cary
PAGE BERNSTEIN	783 WAYFARING Rd, CASHIERS NC 28717
John McMillan	MF&S
Doug Lassiter	NCSTA
Miriam Baer	NCREC
DON HAZNR	DOL
Tim Minard	NC Home Builders
Chris Nichols	Hunton + Williams
Rob Dusablon	NC State watch
Ken Melton	Alley Associates, Inc.
[illegible]	NCRA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 396

Short Title:	Raeford Annexation.	(Local)
Sponsors:	Senator Weinstein.	
Referred to:	Finance.	

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Raeford are extended to include the following described property:

A certain tract or parcel of land in Raeford Township, Hoke County, North Carolina, adjacent to the City of Raeford, being further described as follows:

Beginning at an iron pipe on the southeast side of N.C.S.R. No. 1463, McMillan Street, said iron pipe being the west corner of the Franklin Kemp Crumpler tract described in Deed Book 456, at Page 803 in the Hoke County Registry and shown as Tract No. 1 on a plat entitled "Survey for Linwood E. Huffman and wife, Helen H. Huffman" and recorded in Slide 397, Map No. 006, said beginning corner also being the north corner of the Harold Keith Jackson 3.902 acre tract as described in Deed Book 351, at Page 316 and shown on a plat entitled "Survey for Harold Keith Jackson" and recorded in Slide 386, at Map No. 007;

THENCE from the beginning as line of Harold Keith Jackson, South 45 degrees 43 minutes 55 seconds West for a distance of 230.03 feet to a rebar;

THENCE as line of Jackson, South 42 degrees 24 minutes 32 seconds West for a distance of 99.99 feet to a rebar;

THENCE as a line of Jackson, South 32 degrees 26 minutes 07 seconds West for a distance of 116.96 feet to an iron pipe, a common corner of Harold Keith Jackson and Emmett Steele, Jr. (D.B. 351, Pg. 305);

THENCE as line of Steele, South 28 degrees 25 minutes 33 seconds West for a distance of 82.77 feet;

THENCE as a line of Steele, South 10 degrees 31 minutes 07 seconds West for a distance of 100.00 feet;

THENCE as line of Steele, South 03 degrees 16 minutes 07 seconds West for a distance of 48.00 feet to a flat iron, a common corner of said Emmett Steele, Jr. tracts described in Deed Book 351, at Page 305 and Deed Book 340, at Page 342;
THENCE as a line of Steele (D.B. 340, Pg. 342), South 03 degrees 16 minutes 07 seconds West for a distance of 210.00 feet to the southwest corner of Steele in the north right of way line of Prospect Avenue;
THENCE crossing N.C.S.R. No. 1463, McMillan Street, North 76 degrees 54 minutes 08 seconds West for a distance of 40.60 feet to the intersection of the north right of way of Prospect Avenue and the west right of way line of McMillan Street, the southeast corner of James E. Douglas (D.B. 128, Pg. 051);
THENCE as the east line of Douglas, the east line of Lot No. 1 as shown on a plat entitled "Subdivision of Raeford Power and Manufacturing" and recorded in Map Book 3, at Page 76, North 03 degrees 04 minutes 40 seconds East for a distance of 218.62 feet to an iron pipe, the northeast corner of Douglas;
THENCE as the east line of the James Douglas' Lot No. 1-A, Subdivision of Raeford Power and Manufacturing, North 03 degrees 22 minutes 07 seconds East for a distance of 200.25 feet to an iron pipe, the northeast corner of the James Douglas Lot No. 1-A and the southeast corner of the James E. Douglas tract described in Deed Book 212, at Page 123;
THENCE as a southeast line of Douglas (D.B. 212, Pg. 123A), North 37 degrees 09 minutes 39 seconds East for a distance of 173.52 feet to a corner of Douglas;
THENCE continuing as a southeast line of Douglas, North 43 degrees 15 minutes 43 seconds East for a distance of 83.95 feet to an iron rod, a common corner of Douglas and Lot No. 27 as shown on a plat entitled "Highlanders Crossing - Phase One" as recorded in Slide 2-48, Plat No. 006;
THENCE as the southeast line of Lot No. 27, North 46 degrees 43 minutes 39 seconds East for a distance of 100.45 feet to a rebar, a common corner of Lot Nos. 27 and 28;
THENCE as the southeast line of Lot No. 28, North 47 degrees 06 minutes 27 seconds East for a distance of 150.02 feet to a rebar, a common corner of Lot Nos. 28 and 29;
THENCE as the southeast line of Lot No. 29, North 47 degrees 06 minutes 03 seconds East for a distance of 154.48 feet to a rebar, the east corner of Lot No. 28;
THENCE North 47 degrees 02 minutes 10 seconds East for a distance of 60.00 feet to a rebar, the south corner of Lot No. 30;
THENCE as the southeast line of Lot No. 30, North 47 degrees 02 minutes 57 seconds East for a distance of 150.03 feet to a rebar, a common corner of Lot No. 30 and the W.E. Carter 0.189 acre tract described in Deed Book 409, at Page 494;
THENCE as the southeast line of Carter, North 47 degrees 03 minutes 31 seconds East for a distance of 89.65 feet to a rebar, a corner of said Carter 0.189 acre tract in a south line of the W.E. Carter tract described in Deed Book 218, at Page 158;
THENCE as the south line of Carter, North 77 degrees 57 minutes 08 seconds East for a distance of 84.84 feet to an iron pipe, a corner of the Franklin Kemp Crumpler tract as described in Deed Book 360, at Page 429 and shown as Tract No. 2, 4.18 acres on the aforementioned "Survey for Linwood E. Huffman and Helen H. Huffman" plat (Slide 397, Map No. 006);

THENCE as a common line with Crumpler, South 50 degrees 56 minutes 46 seconds West for a distance of 99.45 feet to an iron, a corner of Crumpler;
THENCE as a northwest line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 319.80 feet to a rebar, a common corner of the aforementioned Franklin Kemp Crumpler tracts (D.B. 360, Pg. 429, and D.B. 456, Pg. 803);
THENCE as a line of Crumpler, South 44 degrees 59 minutes 48 seconds West for a distance of 105.00 feet to the beginning.
Said property contains 1.596 acres more or less.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 396:
Raeford Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Weinstein
Date:	April 8, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 396 annexes the right-of-way of McMillan Street to the corporate limits of the City of Raeford. The bill would become effective when it becomes law.***

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary. A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 396 annexes the right-of-way of McMillan Street to the corporate limits of the City of Raeford. This street, approximately 1.6 acres, is a dead-end street with both the beginning point and ending point of the street already annexed to the city limits. Currently, the Department of Transportation has possession of and maintains the street. The city is seeking to annex this property so it can pave the street. The reason that the city is seeking to annex this property by legislation rather than by petition is because the DOT does not ordinarily make requests to have property annexed.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 396 A BILL TO BE ENTITLED AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

OCAL BILL

OLL CALL

S.B. 396

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ANNEX THE RIGHT-OF-WAY OF MCMILLAN STREET TO THE CORPORATE LIMITS OF THE CITY OF RAEFORD.

Introduced by Senator(s) Weinstein Weinstein

Principal Clerk's Use Only

FILED MAR 12 2003

PASSED 1st READING
MAR 13 2003
AND REFERRED TO COMMITTEE
ON Finance

Committee on Finance to whom this bill referred, a majority being present and ng, has carefully considered the same and mmended that it do pass.

For the Committee

2RTED FAVORABLY MAR 25 2003

PASSED 2nd READING
Ayes 50 Noes 0
MAR 26 2003
AND ~~PASSED~~ Remains ON THE CALENDAR

PASSED 3rd READING
Ayes 49 Noes 0
MAR 27 2003
AND ORDERED SENT
To House of Representative

Janet Pruitt

03-31-03P08:16 RCVD

PASSED 1st READING
APR 1 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 419*

Short Title:	Chadbourn Annexation.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Chadbourn:

Beginning at an iron stake, said stake being located in the southeastern corner of the lands hereinafter described and said beginning stake being further located north 86 degrees 47 minutes west 300.00 feet to an iron stake located in the western margin of S.R. 1562, which stake is located north 2 degrees 35 minutes east 182.93 feet from a right-of-way monument which right-of-way monument is located north 14 degrees 48 minutes east 218.63 feet from another right-of-way monument which is located in the northwestern corner of the intersection of S.R. 1562 and U.S. Highway 76 bypass, and runs thence from the beginning stake and with one of Ralph Nance's lines north 2 degrees 33 minutes east 200.00 feet to an iron stake, and runs thence north 86 degrees 47 minutes west 200.00 feet to an iron stake; and runs thence south 2 degrees 33 minutes west 200.00 feet to an iron stake, and runs thence south 86 degrees 47 minutes east 200.00 feet to an iron stake, the point of beginning and containing 0.92 acres, more or less.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 419:
Chadbourn Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Soles
Date:	April 8, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 419 annexes certain noncontiguous property to the corporate limits of the Town of Chadbourn. The act is effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: Senate Bill 419 annexes slightly less than 1 acre of property to the corporate limits of the Town of Chadbourn. Although the annexation is voluntary, the annexation is not being done by petition because the Town does not have the funds to extend water and sewer services to this property, which is a requirement under G.S. 160A-58.1(b)(3). However, there is only one owner involved, and he has requested that the property be annexed. The Town Manager has also indicated that there is no known opposition to the annexation.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 419 A BILL TO BE ENTITLED AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

CAL BILL

LL CALL

S.B. 419

H 515

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ADD CERTAIN PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF CHADBOURN.

Introduced by Senator(s) Soles

Principal Clerk's Use Only

FILED MAR 13 2003

PASSED 1st READING

MAR 17 2003

AND REFERRED TO COMMITTEE

ON Finance

Committee on Finance to whom this bill referred, a majority being present and ng, has carefully considered the same and ommended that it do.....pass.

For the Committee

RIED FAVORABLY MAR 25 2003

PASSED 2nd READING

Ayes 50 Noes 0

MAR 26 2003

AND Remains ON THE CALENDAR

PASSED 3rd READING

Ayes 49 Noes 0

MAR 27 2003

AND ORDERED SENT

To House of Representatives

Jane Pruitt

03-31-03P08:17 RCVD

PASSED 1st READING

APR 1 2003

AND REFERRED TO COMMITTEE

ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 685*

Short Title:	Incorporate Sunset Harbor.	(Local)
Sponsors:	Representative Hill.	
Referred to:	Finance.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Sunset Harbor is enacted to read:

"CHARTER OF THE TOWN OF SUNSET HARBOR.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Sunset Harbor are a body corporate and politic under the name 'Town of Sunset Harbor'. The Town of Sunset Harbor has all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Sunset Harbor shall be as follows:

BEGINNING at a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry, as extended to the west; thence running eastwardly with the southern boundary of River Run Plantation as the same is shown on plats of River Run Plantation recorded in the Brunswick County Registry; thence across Sunset Harbor Road (State Road #1112) to the western boundaries of the Old Swain Property; thence southwardly with the western boundary of the Old Swain Property to a point where said extended line intersects with the boundary line of Lockwood Folly Township and Smithville Township in the U. S. Intracoastal Waterway, thence westwardly with the boundary line of Lockwood's Folly Township and Smithville Township in the U.S. Intracoastal Waterway, back to the run of Mercer's Mill Pond Creek; thence continuing with the run of Mercer's Mill Pond Creek, to a point in the run of Mercer's Mill Pond Creek where said run of Mercer's Mill Pond Creek is intercepted by the southern boundary of River Run Plantation, as the same is shown on plats of River Run

Plantation recorded in the Brunswick County Registry, as extended to the west, the place and point of beginning.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body.** The governing body of Sunset Harbor shall be the Board of Aldermen, which shall have five members and a Mayor.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Elaina Darter is hereby appointed Mayor and Dennis Ruocco, Craig Howell, Jackie Haddon, Roger Comer, and Miles Edge are appointed members of the Board of Aldermen of the Town of Sunset Harbor, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Board of Aldermen; Terms of Office.** The qualified voters of the entire Town shall elect the members of the Board of Aldermen and, except as provided in this section, they shall be elected to two-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and biennially thereafter, three members shall be elected to two-year terms. In 2007, and biennially thereafter, two members shall be elected to two-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office.** The qualified voters of the entire Town shall elect the Mayor. In 2003, and biennially thereafter, the Mayor shall be elected for a term of two years.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town of Sunset Harbor will operate under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Ad Valorem Taxes.** The maximum ad valorem tax rate for the Town of Sunset Harbor is hereby established as ten cents (10¢) per one hundred dollars ($100.00) valuation, and the Board of Aldermen shall not increase that rate without the vote or consent of a majority of the qualified voters of the Town of Sunset Harbor."

SECTION 2. From and after the effective date of this act, the citizens and property in the Town of Sunset Harbor shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose, the Town shall obtain from Brunswick County a record of property in the area incorporated in Section 1 of this act that was listed for taxes as of January 1, 2003. The Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid

at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 685:
Incorporate Sunset Harbor

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hill
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 685 is a local bill that incorporates the Town of Sunset Harbor in Brunswick County and enacts a charter setting out the powers and duties of the Town. The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Town in its report on February 12, 2003. The Commission concluded that the proposed Town met the standards required by Article 20 of Chapter 120 of the General Statutes.

BILL ANALYSIS: House Bill 685 incorporates the Town of Sunset Harbor under a mayor-council form of government. There will be five members of the Board of Alderman and a Mayor. Prior to the initial 2003 election, specifically named persons will serve as interim Mayor and the Board of Alderman. At the initial election, the Board of Alderman will be elected to staggered terms. The Mayor will serve a two-year term. Elections will be on a nonpartisan basis.

The maximum ad valorem tax rate will be 10¢ per $100 valuation. The rate may not be increased without the vote or consent of a majority of the qualified voters of the Town.

BACKGROUND: Article 20 of Chapter 120 of the General Statutes creates the Joint Legislative Commission on Municipal Incorporations and sets out the procedures for review of the statutory requirements for incorporation. The Commission, with the help of the Division of Community Assistance of the Department of Commerce, found that the proposed Town of Sunset Harbor satisfied the following requirements:

- The petition must be signed by 15% of the registered voters in the proposed area, but by not less than 25 registered voters. The petition was signed by 146 of the 298 voters in the proposed area. The Brunswick County Board of Elections verified the petition.
- The petition contained the necessary information, including a plan to provide a reasonable level of services and an ad valorem tax levy of at least 5¢ per $100 valuation. The Town proposes to provide fire protection, police protection, street lighting, and water distribution.
- The proposed area must have a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. The Town of Sunset Harbor contained a total population of 474 in the 2000 census. The Town is composed of an area of .626 square miles according to the Brunswick County Planning Department, resulting in a density of approximately 757 persons per square mile.
- At least 40% of the proposed area must be developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space. 48.39% of the proposed Town of Sunset Harbor is developed.

Fiscal Reserach Report: Sunset Harbor Incorporation

Sales Tax Revenue Change:

Brunswick County distributes sales tax revenues on a per capita basis. This analysis uses 2000-01 actual sales tax distribution to show how that distribution would have changed had Sunset Harbor been incorporated at that time. (Note to create a more accurate representation, the population numbers have been adjusted in accordance with the 2000 census).

Current

County	Municipalities	Population	% Population	Sales Tax Distribution
Brunswick		73692	73.6%	12,308,389
	Bald Head Island	174	0.2%	29,062
	Belville	287	0.3%	47,936
	Boiling Spring Lakes	2994	3.0%	500,072
	Bolivia	149	0.1%	24,887
	Calabash	716	0.7%	119,590
	Carolina Shores	1493	1.5%	249,368
	Caswell Beach	373	0.4%	62,300
	Holden Beach	793	0.8%	132,451
	Leland	4030	4.0%	673,110
	Navassa	482	0.5%	80,506
	Northwest	676	0.7%	112,909
	Oak Island	6619	6.6%	1,105,537
	Ocean Isle Beach	433	0.4%	72,322
	Sandy Creek	248	0.2%	41,422
	Shallotte	1394	1.4%	232,833
	Southport	2388	2.4%	398,855
	Saint James	810	0.8%	135,290
	Sunset Beach	1837	1.8%	306,825
	Varnamtown	484	0.5%	80,840
TOTAL		100072		16,714,503

With Incorporation

County	Municipalities	Population	% Population	Sales Tax Distribution	Change
Brunswick		73692	73.3%	12,250,364	(58,025)
	Bald Head Island	174	0.2%	28,925	(137)
	Belville	287	0.3%	47,710	(226)
	Boiling Spring Lakes	2994	3.0%	497,715	(2,357)
	Bolivia	149	0.1%	24,769	(117)
	Calabash	716	0.7%	119,026	(564)
	Carolina Shores	1493	1.5%	248,192	(1,176)
	Caswell Beach	373	0.4%	62,007	(294)
	Holden Beach	793	0.8%	131,826	(624)
	Leland	4030	4.0%	669,937	(3,173)
	Navassa	482	0.5%	80,126	(380)
	Northwest	676	0.7%	112,376	(532)
	Oak Island	6619	6.6%	1,100,325	(5,212)
	Ocean Isle Beach	433	0.4%	71,981	(341)
	Sandy Creek	248	0.2%	41,227	(195)
	Shallotte	1394	1.4%	231,735	(1,098)

	Southport	2388	2.4%	396,975	(1,880)
	Saint James	810	0.8%	134,652	(638)
	Sunset Beach	1837	1.8%	305,378	(1,446)
	Varnamtown	484	0.5%	80,459	(381)
	Sunset Harbor	474	0.5%	78,797	78,797
TOTAL		100546	100%	16,714,503	

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,086,685 and available funds of $101,578,822.46. This created a per capita distribution rate of $ 24.86.

Adding the new population of Sunset Harbor (474) to the statewide total creates a new population of 4,087,132 and a per capita allocation of $24.853. The impact of this change on Brunswick municipalities is as follows:

Municipalities	Population	Current Allocation	Prospective Allocation	Change
ald Head Island	174	4324.952	4324.422	(0.53)
ville	n/a			-
Boiling Spring Lakes	2994	74418.996	74409.882	(9.11)
Bolivia	149	3703.551	3703.097	(0.45)
Calabash	716	17796.928	17794.748	(2.18)
Carolina Shores	1493	37110.074	37105.529	(4.54)
Caswell Beach	373	9271.304	9270.169	(1.14)
Holden Beach	793	19710.843	19708.429	(2.41)
Leland	4030	100169.858	100157.59	(12.27)
Navassa	482	11980.613	11979.146	(1.47)
Northwest	676	16802.686	16800.628	(2.06)
Oak Island	6619	164522.156	164502.007	(20.15)
Ocean Isle Beach	433	10762.667	10761.349	(1.32)
Sandy Creek	248	6164.299	6163.544	(0.75)
Shallotte	1394	34649.325	34645.082	(4.24)
Southport	2388	59356.233	59348.964	(7.27)
Saint James	n/a			-
Sunset Beach	1837	45660.553	45654.961	(5.59)
Varnamtown	n/a			-
Sunset Harbor	474		11780.322	11,780.32

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light d telephone companies, 3.09 percentage points (or 96% of collections) are distributed he respective municipalities within which these services took place. In 1998-99 the

Statewide total was $161.1 million.

Because Sunset Harbor only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Sunset Harbor from this tax would be new or drawn from the NC General Fund.

4. Reimbursements:

Since 1979 the General Assembly has made several changes to tax law that impact local governments. The state's cities and counties have received reimbursements from the state for some of these losses, particularly as they relate to the sales and property tax bases. The state reimburses local governments for property tax losses related to the repeal of taxes on inventories and intangibles, as well as some of the losses associated with the homestead exemption. Locals also receive a reimbursement for sales taxes that are no longer paid on items purchased with food stamps. These reimbursements total to $333.4 million annually. Normally, when a new town incorporates some existing municipalities may see a small decline in their distributions, with a tiny amount redistributed to the new town. However, because the reimbursements sunset June 30, 2003, the Town of Sunset Harbor will not qualify for these funds.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 685 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

LOCAL BILL

ROLL CALL

H.B. 0685

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF SUNSET HARBOR.

Introduced by Representative(s): Hill.

Principal Clerk's Use Only

PASSED 1st READING
MAR 26 2003
AND REFERRED TO COMMITTEE
ON... Finance...

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 328
Committee Substitute Favorable 3/26/03

Short Title: Amend Real Estate Licensing Laws/Fees.-AB (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES, CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93A-4(b) reads as rewritten:

"(b) Except as otherwise provided in this Chapter, any person who submits an application to the Commission in proper manner for a license as real estate broker or a license as real estate salesperson shall be required to take an ~~oral or written~~ examination. The ~~Commission may allow an applicant to elect to take the examination by computer as an alternative to the written or oral~~ examination ~~and~~may be administered orally, by computer, or by any other method the Commission deems appropriate. The Commission may require the applicant to pay the Commission or a provider contracted by the Commission the actual cost of ~~administering the computerized examination.~~the examination and its administration. The cost of the ~~computerized~~examination and its administration shall be in addition to any other fees the applicant is required to pay under subsection (a) of this section. The examination shall determine the applicant's qualifications with due regard to the paramount interests of the public as to the applicant's competency. A person holding a real estate salesperson license in this State and applying for a real estate broker license shall not be required to take an additional examination under this subsection. A person who fails the license examination shall be entitled to know the result and score. A person who passes the exam shall be notified only that the person passed the examination. Whether a person passed or failed the examination shall be a matter of public record; however, the scores for license examinations shall not be considered public records. Nothing in this subsection shall limit the rights granted to any person under G.S. 93B-8.

An applicant for licensure under this Chapter shall satisfy the Commission that he or she possesses the competency, honesty, truthfulness, integrity, and general moral character necessary to protect the public interest and promote public confidence in the real estate brokerage business. The Commission may investigate the moral character of each applicant for licensure and require an applicant to provide the Commission with a criminal record report. All applicants shall obtain criminal record reports from one or more reporting services designated by the Commission to provide criminal record reports. Applicants are required to pay the designated reporting service for the cost of these reports. If the results of any required competency examination and investigation of the applicant's moral character shall be satisfactory to the Commission, then the Commission shall issue to the applicant a license, authorizing the applicant to act as a real estate broker or real estate salesperson in the State of North Carolina, upon the payment of privilege taxes now required by law or that may hereafter be required by law."

SECTION 2. G.S. 93A-4A(a) reads as rewritten:

"(a) The Commission shall establish a program of continuing education for real estate brokers and salespersons. ~~A person licensed as a real estate broker or salesperson must present evidence to the Commission upon the second license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed eight classroom hours of real estate instruction in courses approved by the Commission.~~An individual licensed as a real estate broker or salesperson is required to complete continuing education requirements in an amount not to exceed eight classroom hours of instruction a year during any license renewal period in subjects and at times the Commission deems appropriate. Any licensee who fails to complete continuing education requirements pursuant to this section shall not actively engage in the business of real estate broker or salesperson."

SECTION 3. G.S. 93A-9 reads as rewritten:

"**§ 93A-9. Licensing nonresidents.**

(a) An applicant from another state, which offers licensing privileges to residents of North Carolina, may be licensed by conforming to all the provisions of this Chapter and, in the discretion of the Commission, such other terms and conditions as are required of North Carolina residents applying for license in such other state; provided that the Commission may exempt from the examination prescribed in G.S. 93A-4 a broker or salesperson duly licensed in another state if a similar exemption is extended to licensed brokers and salespersons from North Carolina.

(b) The Commission may issue a limited broker's or salesperson's license to a person or an entity from another state or territory of the United States without regard to whether that state or territory offers similar licensing privileges to residents in North Carolina if the person or entity satisfies all of the following:

(1) Is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or territory of the United States.

(2) Only engages in business as a real estate broker or salesperson in North Carolina in transactions involving commercial real estate and

while the person or entity is affiliated with a resident North Carolina real estate broker or salesperson.

(3) Complies with the laws of this State regulating real estate brokers and salespersons and rules adopted by the Commission.

The Commission may require an applicant for licensure under this subsection to pay a fee not to exceed three hundred dollars ($300.00). All licenses issued under this subsection shall expire on June 30 of each year following issuance or on a date that the Commission deems appropriate unless the license is renewed pursuant to the requirements of G.S. 93A-4. A person or entity licensed under this subsection may be disciplined by the Commission for violations of this Chapter as provided in G.S. 93A-6 and G.S. 93A-54.

Any person or entity licensed under this subsection shall be affiliated with a resident North Carolina real estate broker or salesperson, and the resident North Carolina real estate broker or salesperson shall actively and personally supervise the licensee in a manner that reasonably assures that the licensee complies with the requirements of this Chapter and rules adopted by the Commission. The Commission may exempt applicants for licensure under this subsection from examination and the other licensing requirements under G.S. 93A-4. The Commission may adopt rules as it deems necessary to give effect to this subsection, including rules establishing: (i) qualifications for licensure; (ii) licensure and renewal procedures; (iii) requirements for continuing education; (iv) conduct of persons and entities licensed under this subsection and their affiliated resident real estate brokers or salespersons; (v) a definition of commercial real estate; and (vi) any requirements or limitations on affiliation between resident real estate brokers or salespersons and persons or entities seeking licensure under this subsection."

SECTION 4. G.S. 93A-10 reads as rewritten:

"**§ 93A-10. Nonresident licensees; filing of consent as to service of process and pleadings.**

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any of the courts of record of this State, by the service of any process or pleading authorized by the laws of this State in any county in which the plaintiff may reside, by serving the same on the Executive Director of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Executive Director shall be taken and held in all courts to be valid and binding as if due service had been made personally upon the applicant in this State. This consent shall be duly acknowledged, and, if made by a corporation, shall be ~~authenticated by its seal.~~executed by an officer of the corporation. The signature of the officer on the consent to service instrument shall be sufficient to bind the corporation and no further authentication is necessary. An application from a corporation or other business entity shall be ~~accompanied by a duly certified copy of the resolution of the board of directors, authorizing the proper officers to execute it.~~signed by an officer of the corporation or entity or by an individual designated by the Commission. In all cases where process or pleadings shall be served, under the provisions of this Chapter, upon the Executive Director of the Commission, such process or pleadings shall be served in duplicate, one of which shall be filed in the

office of the Commission and the other shall be forwarded immediately by the Executive Director of the Commission, by registered mail, to the last known business address of the nonresident licensee against which such process or pleadings are directed."

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 328:
Amend Real Estate Licensing Laws/Fees-AB

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 328 is before the House Finance Committee because it imposes a fee for a new limited license for out-of-state real estate brokers or real estate salespersons. The Bill makes the following changes to the laws regarding real estate brokers and salespersons:

- *Clarifies that the Real Estate Commission may administer the exam for licensure orally, by computer, or by any other method the Commission deems appropriate and may require the applicant to pay the actual cost of the examination and its administration.*
- *Authorizes the Commission to investigate the moral character of an applicant for licensure and requires the applicant to furnish criminal record reports from one or more reporting services designated by the Commission. The applicant must pay the service for the report.*
- *Provides that any licensee who fails to complete continuing education requirements may not actively engage in the business of real estate broker or salesperson.*
- *Authorizes the Commission to issue a limited broker or salesperson license to a nonresident broker or salesperson even if the state or territory where the applicant resides does not offer similar licensing privileges to NC residents. Certain requirements must be met and the Commission may charge a licensure fee not to exceed $300.*
- *Makes technical and conforming changes.*

BILL ANALYSIS: Section 1 of the bill clarifies the authority of the Real Estate Commission to allow applicants for licenses to take the exam orally, by computer, or by any other method the Commission deems appropriate. It allows the Commission to require the applicant to pay the actual cost of the exam and its administration regardless of the method of administration. Current law only requires the applicant to pay the cost of a computerized exam. Section 1 also requires the applicant to provide the Commission with a criminal record report from one or more reporting services designated by the Commission at the expense of the applicant. Current law requires the applicant to satisfy the Commission that the applicant has the general moral character to protect the public interest and promote public confidence in the real estate brokerage business.

Section 2 clarifies that failure to complete the continuing education requirements for brokers and salespersons will prevent the licensee from acting as a broker or salesperson. This section does not change the continuing education requirements, but merely allows the Commission to have the flexibility of designating the 12-month period in which they will be completed. This is

necessary for the annual continuing education requirements to fit with changes in the licensing year for brokers and salespersons that may occur if the Commission goes to staggered licensing periods, which it is already authorized to do.

Section 3 authorizes the Commission to issue a limited license to a broker or salesperson residing in a state that does not provide reciprocity to NC brokers and salesperson. The following requirements must be satisfied:

1. The applicant is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or US territory.
2. The applicant only engages in transactions involving commercial real estate in NC and while the applicant is affiliated with a resident NC real estate broker or salesperson. (The NC broker or salesperson must actively and personally supervise the applicant.)
3. The applicant complies with NC laws and rules regulating brokers and salespersons.

The Commission may charge a fee not to exceed $300 for the limited license. The limited license will expire each year on June 30 unless it is renewed.

Current law authorizes the Commission to assess the following fees:

Real estate broker or salesperson license	not to exceed $30
License renewal fee	$30, unless the Commission sets the fee at a higher amount not to exceed $50. The fee may not increase by more than $5 during a 12-month period.)
Reinstatement of expired license	$55
Duplicate license	$5
Commission certification of licensee's licensee history	$10

Section 4 requires that consent for service of process on nonresident applicants be signed by an officer of the corporation. Current law requires a nonresident applicant to file consent that actions may be commenced against the applicant in NC courts by serving the Executive Director of the Commission. The consent of a corporate applicant requires authentication by corporate seal.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 328 (Second Edition)

SHORT TITLE: Amend Real Estate Licensing Laws/Fees

SPONSOR(S): Rep. Howard

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Commission Special Account					
Sections 1,2, & 4	No Fiscal Impact				
Section 3	No Estimate Available				
EXPENDITURES					
Commission Special Account					
Section 1	No Fiscal Impact				
Section 3	No Estimate Available				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Real Estate Commission

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill revises real estate licensing examination procedures, clarifies continuing education requirements, and enables the Real Estate Commission to permit limited commercial practice by nonresident real estate brokers.

ASSUMPTIONS AND METHODOLOGY:

Section 1

This section allows the Real Estate Commission to charge applicants the actual cost of the licensing exam and its administration whether it is taken in writing, orally, or by computer. Currently, 95% of applicants take the exam by computer and the Commission has the authority to charge them actual cost. While this section expands the Commission's right to charge written and oral exam takers the actual cost of the test, the Commission's Executive Director said there are no plans to increase the exam fee. However, the Commission's Executive Director stated the Commission's goal is to have 100% of the exams completed by computer.

The second part of Section 1 requires applicants to provide a criminal record report from a reporting service designated by the Commission. The cost of the report is borne by the applicant and the Commission receives no revenue from this transaction.

Sections 2 and 4

Section 2 requires real estate brokers and salespersons to complete annual continuing education requirements or cease actively engaging in the profession. This section also gives the Commission flexibility in setting the 12-month period for license holders to complete the education requirements. Flexibility in the continuing education period is needed if the Commission goes to staggered license renewals. The Commission does not expect either provision to impact license renewals.

Section 4 is a technical change that allows the Executive Director of the Commission to sign for a service of process for a nonresident licensee instead of affixing a corporate seal to the document.

Section 3

This section allows the Commission to charge up to $300 for a nonresident commercial broker or salesperson license. This license would be available to residents of states that do not have reciprocity status with North Carolina. The licensee would not have to complete an exam, would only be involved in commercial real estate, and must be affiliated with a North Carolina real estate broker or salesperson. The Commission's Executive Director said this special license was requested by the commercial real estate industry. The Commission has no estimate of the number of special nonresident licenses it will issue each year.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 7, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 328 A BILL TO BE ENTITLED AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES , CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED CCMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

JBLIC BILL
LL CALL

Committee Substitute For
H.B. 328

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES, CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL ESTATE BROKERS.

Introduced by Representative(s): Howard

Principal Clerk's Use Only

tee on Ways & Means
rity being present, having considered
recommend that it do ✓ pass.
Reps Decker & Pate
For the Committee

FAVORABLE TO COMM. SUB.
UNFAVORABLE TO BILL

MAR 26 2003

AND PLACED ON CALENDAR FOR

pursuant to Rule 38(b)
re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 790

Short Title: Incorporate Cashiers. (Local)

Sponsors: Representative Haire.

Referred to: Finance.

March 27, 2003

A BILL TO BE ENTITLED

AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 112 of the 1927 Session Laws is repealed.

SECTION 2. A Charter for the Village of Cashiers is enacted to read:

"CHARTER OF THE VILLAGE OF CASHIERS.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Village of Cashiers are a body corporate and politic under the name 'Village of Cashiers'. The Village of Cashiers has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Village Boundaries.** Until modified in accordance with law, the boundaries of the Village of Cashiers are as follows:

BEGINNING at the northernmost corner of parcel number 7582-01-46-2769 (n/f Hooper), and running along the northeast and east boundaries of said parcel to the southeast corner of said parcel, also being the southwest corner of parcel number 7582-01-46-7446, (n/f Martin), thence along the south boundary of parcel number 7582-01-46-2769 (n/f Hooper), to the easternmost corner of parcel number 7582-01-36-8125 (n/f Parsons), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7582-01-36-4097 (n/f Parsons), to the northeast corner of parcel number 7582-01-35-4422 (n/f Dezell), thence along the east boundary of said parcel to its southeast corner, thence along the south boundary of said parcel to its southernmost corner, thence along the east boundary of parcel number 7582-03-34-4905 (n/f Oak Ridge Builders) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4732 (n/f Cudahy) to its southeast corner, thence along the east boundary of

parcel number 7582-03-34-4541 (n/f Buck) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-4323 (n/f Roberts) to its southeast corner, thence along the east boundary of parcel number 7582-03-34-3127 (n/f Mansfield) to the northeast corner of parcel number 7582-03-33-2996 (n/f Davis), thence along the east boundary of said parcel to the south corner of said parcel, thence along the south boundary of said parcel to its intersection with Parsons View Road, thence crossing said road to the easternmost corner of parcel number 7582-03-23-8948 (n/f Mountain View Ventures, Inc.), thence along the west boundary of parcel number 7582-03-43-7333 (n/f Mountain View Ventures, Inc.) to the southwest corner of said parcel thence along the south boundary of said parcel to the northeast corner of parcel number 7582-03-32-6218 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to the east corner of parcel number 7582-03-31-2811 (n/f Mountain View Ventures, Inc.), thence along the southeast boundary of said parcel to its south corner, thence along the southwest boundary of said parcel to the southeast corner of parcel number 7582-03-21-0825 (n/f Mountain View Ventures, Inc.), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-11-4915 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-01-9935 (n/f Lewis), thence along the south boundary of said parcel to the southeast corner of parcel number 7582-03-02-4432 (n/f Engelhardt), thence along the south boundary of said parcel to the east corner of parcel number 7582-03-01-2926 (n/f McCarlton Partners Ltd.), thence along the south boundary of said parcel to the southeast corner of parcel number 7572-04-92-2412 (n/f Andrews), thence along the south boundary of said parcel to a point in that south boundary, said point being due north from the northeast corner of parcel number 7572-04-91-5415 (n/f Ledbetter Ltd.), thence to said northeast corner of said parcel, thence along the east boundary of said parcel to a corner in the line of said parcel, thence in a southeasterly direction to the north corner of parcel number 7572-04-91-8321 (n/f Lofton), thence along the northeast boundary of said parcel to the northernmost corner of the right of way for East Halsted Road, thence along the east boundary of said right of way to its intersection of the north boundary of Wake Road, thence along the northeast boundary of said right of way to the westernmost corner of parcel number 7582-03-00-3170 (n/f Yates), thence along the northwest boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to the north corner of parcel number 7582-03-00-2470 (n/f Kehoe), thence along the northeast boundary of said parcel to a point in the north boundary of parcel number 7582-03-00-3224 (n/f Cranford), thence along the north boundary of said parcel to its northeast corner, thence along the east boundary of said parcel to the northeast corner of parcel number 7582-03-00-3068 (n/f Davis), thence along the east boundary of said parcel to the north corner of parcel number 7581-01-09-4898 (n/f Riley), thence along the northeast boundary of said parcel to its easternmost corner, thence along the south boundary of said parcel to its southwest corner in the right of way of Wade Road. Thence along the east boundary of the right of way for Wade Road in a southerly direction to the west corner of parcel number 7581-01-09-9220 (n/f Pearce), thence along the northwest boundary of said parcel to its north corner, thence along the

northeast boundary of said parcel in a southerly direction to its southeast corner, thence along the south boundary of said parcel to the northeast corner of parcel number 7581-01-08-9975 (n/f Fox), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-01-08-9760 (n/f St. John), thence along the east boundary of said parcel to the southernmost corner of said parcel, thence in a northwesterly direction along the southwest boundary of said parcel to its southwest corner. Thence in a southerly direction along the southeast boundary of parcel number 7581-01-08-5411 (n/f Johnson) to the south corner of said parcel, thence along the southwest boundary of said parcel to the boundary of the right of way for Wade Road; thence along the south boundary of the right of way for Wade Road to the north corner of parcel number 7581-01-07-1941 (n/f Strong), thence along the east boundary of said parcel to the east corner of parcel number 7571-02-97-8784 (n/f Jordan), thence along the southeast boundary of said parcel to the east corner of parcel number 7571-02-97-7588 (n/f Warriner). Thence in a southwesterly direction to the north corner of parcel number 7571-04-94-4469 (n/f Waddell), thence along the east boundary of said parcel to the north corner of parcel number 7571-04-93-7748 (n/f Chattooga Dev. Corp.), thence along the north boundary of said parcel in a southerly direction to a corner and thence continuing with said boundary in a northeast direction to the intersection of said boundary with the west boundary of Chimney Top Trail, thence along the west boundary of Chimney Top Trail to the south corner of parcel number 7581-03-04-1419 (n/f Fazio), thence leaving Chimney Top Trail and along the west boundary of said parcel to the north corner of said parcel, thence along the northeast boundary of said parcel to its intersection with the west boundary of the right of way for Chimney Top Trail; thence along the west boundary of Chimney Top Trail to the southwest corner of parcel number 7581-01-16-3228 (n/f Sims), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7581-01-16-5306 (n/f Coker), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-6377 (n/f Collier), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-8321 (n/f Domescik), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-16-9281 (n/f Cay), thence along the northeast boundary of said parcel to the northwest corner of parcel number 7581-01-26-1164 (n/f Ingram) to the north boundary of the right of way for Chimney Top Trail. Thence along the north boundary of Chimney Top Trail to the west corner of parcel number 7581-01-26-7298 (n/f Allen, Inc.), thence leaving Chimney Top Trail and running to the northwest corner of parcel number 7581-01-26-9206 (n/f Moore), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-01-36-0212 (n/f Puckett), thence along the north boundary of said parcel to the north corner of parcel number 7581-01-36-1115 (n/f Watson), thence along the northeast boundary of said parcel to the north corner of parcel number 7581-01-36-1096 (n/f Dalton), thence along the north boundary of said parcel to the north corner of parcel number 7581-03-44-0738 (n/f Wade Hampton POA) thence along the west, southwest and east boundaries of said parcel to the southwest corner of parcel number 7581-04-54-1583 (n/f Dunagon), thence along the west boundary of said parcel to its

northwest corner and the southwest corner of parcel number 7581-04-54-1946 (n/f Dehority), thence along the west boundary of said parcel to the southwest corner of parcel number 7581-02-55-1424 (n/f Jones), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-02-55-6467 (n/f Chanin), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-02-55-7122 (n/f Green), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-54-7508 (n/f Keller), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-54-5037 (n/f Gary), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-6754 (n/f Livermore), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5473 (n/f Floyd), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-53-5135 (n/f Griffin), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6931 (n/f Davis), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-52-6658 (n/f Tattersall), thence along the east boundary of said parcel to the northwest corner of parcel number 7581-04-52-7288 (n/f Smith), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-62-3346 (n/f Green), thence along the north boundary of said parcel to the northwest corner of parcel number 7581-04-72-0320 (n/f Green), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-1054 (n/f Wade Hampton Co.), thence along the east boundary of said parcel to the north corner of parcel number 7581-04-71-0589 (n/f McKee), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-71-1008 (n/f McKee Development), thence along the east boundary of said parcel to the northeast corner of parcel number 7581-04-60-9645 (n/f Loon Corp.), thence along the southeast boundary of said parcel to the east corner of parcel number 7581-04-60-3281 (n/f Loon Corp.), thence along the south boundary of said parcel to the southwest corner of said parcel and the south boundary of the right of way of Silver Springs Road (formerly known as "Deer Camp Road"), thence along the south boundary of the right of way for said road to the southeast corner of parcel number 7581-04-50-0244 (n/f Glover), thence leaving said road and running in a west direction with the north boundary of 7581-03-40-7042 (n/f Silver Run Inc.) to its westernmost corner and the east boundary of North Carolina Highway 107 South, thence along the east boundary of the right of way for Highway 107 South, and the west boundary of parcel number 7581-03-40-7042 (n/f Silver Run, Inc.) to the southwest corner of said parcel, thence continuing along the east boundary of the right of way for Highway 107 South in a southerly direction to the southwest corner of parcel number 7580-00-49-6555 (n/f Silver Run, Inc.), thence crossing Highway 107 South and running to the southeast corner of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC), said corner being in the west boundary of the right of way for Highway 107 South, thence leaving Highway 107 South and running along the south boundary of said parcel to the southeast corner of parcel number 7580-00-29-6440 (n/f Bryson), thence

along the east boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of said parcel to the northwest corner of said parcel, thence along the west boundary of said parcel to the southwest corner of said parcel, thence along the south boundary of parcel number 7581-03-20-0657 (n/f West Hampton Club, LLC) to the southwest corner of said parcel, thence along the west boundary of said parcel to the southeast corner of parcel number 7580-00-09-7162 (n/f Dillard), thence along the south boundary of said parcel to its southwest corner, thence along the southeast boundary of parcel number 7580-00-09-4833 (n/f Kinnard) to the south corner of said parcel, thence along the southwest boundary of said parcel in a northwesterly direction to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence along the line of said parcel in a westerly direction to parcel number 7580-00-09-2945 (n/f Little Terrapin), thence along the southeast and southwest boundary of said parcel to a corner with parcel number 7580-00-09-1070 (n/f Golden Rule Properties), thence with the line of said parcel to a point in the southwest line of parcel number 7571-04-90-8017 (n/f Coggiola), thence with the southeast line of said parcel to its south corner and the east corner of parcel number 7570-00-99-5900 (n/f Moore), thence with the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-3873 (n/f Stewart), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-2777 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-1770 (n/f Kehm), thence along the southeast boundary of said parcel to the southeast corner of parcel number 7570-00-99-0589 (n/f Kehm), thence with the southeast boundary of said parcel to a point in said boundary line and the westernmost point of parcel number 7570-00-99-3500 (n/f Kehm), thence with the southwestern boundary of said parcel to the easternmost corner of parcel number 7570-00-89-9405 (n/f Walburn), thence with the southeast boundary of said parcel to the northeast corner of parcel number 7570-00-89-7172 (n/f Evans), thence with the east boundary of said parcel to the north corner of parcel number 7570-00-99-1164 (n/f Little Terrapin Property Owners), thence with the east boundary of said parcel to the northwest corner of parcel number 7570-00-98-2976 (n/f Langford), thence with the southwest boundary of said parcel to the northwest corner of parcel number 7570-00-98-6709 (n/f Gibbs), thence along the southeast boundary of parcel number 7570-00-98-0840 (n/f Langford) to its south corner, thence along the west boundary of said parcel to its northwest corner, thence along the south boundary of parcel number 7570-00-88-7936 (n/f Langford) to its southwest corner, being a point in the east boundary of parcel number 7570-00-79-6188 (n/f USA), thence along the northeast boundary of the USA parcel to its north corner, being a point in the line of parcel number 7571-04-61-2284 (n/f River), running thence in a southwesterly direction along the boundary of the River parcel to the southernmost corner of said parcel, thence in a northerly direction to the southwest corner of parcel number 7571-04-51-7634 (n/f Berglund), thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the north boundary of parcel number 7571-04-61-2284 (n/f River) to the southwest corner of parcel number 7571-04-62-7189

(n/f Ingram), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-04-62-8620 (n/f Ingram), thence along the west and northwest boundaries of said property to the westernmost corner of parcel number 7571-04-72-1729 (n/f Terry), thence along the west boundary of said property to the northwest most corner of said parcel, thence crossing Whiteside Cove Road in a northwesterly direction to the southwest corner of parcel number 7571-04-73-2459 (n/f Parsons), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7571-04-63-0643 (n/f First National Bank of Palm Beach), thence along the south boundary of said parcel to the southwest corner of said parcel, thence along the north boundary of parcel 7571-03-21-3762 (n/f Warren) to the southwest corner of parcel number 7571-03-13-1347 (n/f Crawford), thence along the southwest boundary of said parcel to the southwest corner of parcel number 7571-03-03-8596 (n/f Powell), thence along the west and northwest boundaries of said parcel to the westernmost corner of Timber Ridge Drive (parcel number 7571-03-14-5568) (n/f Timber Ridge), thence along the end of Timber Ridge Drive to a point, thence along the northern boundary of the right-of-way for Timber Ridge Drive in an easterly direction to a corner near the northeast corner of parcel number 7571-03-13-4366 (n/f Cameron), thence with the west boundary of the right-of-way of Timber Ridge Drive to Devil's Courthouse View Road, thence along the western and southwestern boundary of the right-of-way for said road to a point due south of the southwest corner of parcel number 7571-01-15-4360 (n/f Swanson), thence crossing said road to the southwest corner of the Swanson parcel, thence along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the southwest corner of parcel number 7571-01-15-9621 (n/f Slaughter), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-25-0815 (n/f Tidwell), thence along the west boundary of said parcel to the southwest corner of parcel number 7571-01-26-0094 (n/f Baumgarner), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, thence with the west boundary of the right-of-way for Mitten Lane, SR 1110, to its intersection with the boundary of 7571-01-26-5723 (n/f Education Tomorrow), thence along the southwest boundary of said parcel to its westernmost corner, thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0141 (n/f Davis), thence along the west boundary of said parcel to the south corner of parcel number 7571-01-27-0376 (n/f Young), thence along the western boundary of said parcel to the south corner of parcel number 7571-01-27-1502 (n/f Madden), thence along the southwest boundary of said parcel to the southernmost corner of parcel number 7571-01-27-9527 (n/f Madden), thence along the southwest boundary of said parcel to the southwestern corner of the right-of-way for Zeb Alley Road SR 1111 and the westernmost corner of parcel number 7571-01-17-9527 (n/f Madden), thence to the southeast corner of parcel number 7571-01-17-8774 (n/f Pell) near the north boundary of the right-of-way of Zeb Alley Rd, thence along the southwest boundary of said parcel to the westernmost corner of said parcel, thence along the south and west boundaries of parcel number 7571-01-18-5076 (n/f Wakulla Motel) to the southwest corner of said parcel, thence in a northerly direction along the boundary of parcel number

7571-01-08-5333 (n/f Silver Slip Lodge) to the east corner of parcel number 7561-00-96-0982 (n/f Spraggins), thence along the southeast boundary of said parcel to its south corner, thence along the west boundary of said parcel to the south corner of parcel number 7561-00-97-0291 (n/f Walden), thence with the west boundary of said parcel to the southeast corner of parcel number 7561-00-97-0571 (n/f Woock), thence along the south boundary of said parcel to the southeast corner of parcel number 7561-00-87-5533 (n/f Woocks at Millstone Inn, Inc.), thence along the southwest boundary of said parcel to the southeast corner of parcel number 7561-00-87-4659 (n/f Woock), thence along the south boundary of said parcel to its southwest corner, thence with the north boundary of parcel number 7561-01-77-5244 (n/f Black) in a westerly direction to the northwest corner of said parcel, thence along the south boundary of parcel number 7561-00-68-1485 (n/f Stewart) to its southwest corner and the southeast corner of parcel number 7561-00-58-6320 (n/f Kapers), thence along the southeast boundary of said parcel to its southernmost corner, thence along the southwest boundary of said parcel to the southwest corner of parcel number 7561-00-69-0110 (n/f Palmetto Investors Group, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7561-00-59-4079 (n/f Kapers), thence along the west boundary of said parcel to its northwest corner, said corner being in the south boundary of the right-of-way for US Hwy 64, thence crossing US Hwy 64 in a northwesterly direction to the easternmost corner of parcel number 7561-00-59-3533 (n/f Atkinson Properties), thence with the northern boundary of the right-of-way for US Hwy 64 in a northwesterly direction to the westernmost corner of parcel number 7562-03-01-8754 (n/f Wildcat Mountains Development Co, Inc.), thence along the west boundary of said parcel to the southwest corner of parcel number 7562-03-02-9707 (n/f MMB Development), thence along the southwest boundary of said parcel to its westernmost corner, thence along the northwest boundary of said parcel to the west corner of parcel number 7562-03-12-1965 (n/f MMB Development), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the north corner of parcel number 7562-03-12-4893 (n/f Walker), thence along the northwest boundary of said parcel to the northwest corner of parcel number 7562-03-12-8653 (n/f Hubbard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-22-3353 (n/f Highlands Land Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-0554 (n/f Senterfit Trust), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-03-32-4479 (n/f Smith), thence along the north boundary of said parcel to the northeast corner of said parcel, thence along the east boundary of said parcel to the north corner of 7562-03-32-6275 (n/f Smith), thence along the east boundary of said parcel to the northeast corner of parcel number 7562-03-32-6173 (n/f Worley), thence along the east boundary of said parcel to the northwest corner of parcel number 7562-03-31-8648 (n/f Douglass), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-31-9494 (n/f Collins), thence to the northwest corner of parcel number 7562-03-41-3458 (n/f Bryan), thence along the north boundary of said parcel to the north corner of parcel number 7562-03-41-5294 (n/f Bryan), thence to the northwest corner of parcel number

7562-03-41-7387 (n/f Watts), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-1436 (n/f Hilliard), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-51-4504 (n/f Meek), thence along the north boundary of said parcel to the westernmost corner of parcel number 7562-04-61-0810 (n/f Wallace), thence along the northwest boundary of said parcel to its north corner, thence along the east boundary of said parcel to the north corner of parcel number 7562-04-61-1584 (n/f Wallace), thence along the east and northeast boundary of said parcel to the westernmost corner of parcel number 7562-04-61-8590 (n/f Drake), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-71-0705 (n/f Drake), thence along the northwest boundary of said parcel to its northernmost corner, thence along the northeast boundary of said parcel to its easternmost corner, thence along the southeast boundary of said parcel to its southernmost corner, thence along the northeast boundary of parcel number 7562-04-61-8590 (n/f Drake) to the easternmost corner of said parcel, thence with the boundary of said parcel in a southwesterly direction to a point in the line of parcel number 7562-04-71-6044 (n/f Coyle), thence from said point in a southeasterly direction to the easternmost corner of said parcel, thence in a northeasterly direction along the north boundary of parcel number 7562-04-70-8590 (n/f Failey) to the northeast corner of said parcel, thence in a northeasterly direction along the boundary of parcel number 7562-04-81-7067 (n/f Joe Mike LLC) to the north corner of said parcel and the easternmost corner of parcel number 7562-04-81-8324 (n/f Coyle), thence with the northwest boundary of said parcel to the northwest corner of parcel number 7562-04-91-0486 (n/f Choate), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-3526 (n/f Oberle), thence along the north boundary of said parcel to the northwest corner of parcel number 7562-04-91-5518 (n/f Valley Helicopters), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7562-04-91-6756 (n/f Dillard), thence along the southwest boundary of said parcel to its west corner and the south corner of parcel number 7562-04-92-1260 (n/f Pinchot), thence in a northwesterly direction along the southwest boundary of said parcel to the northernmost corner of said parcel, thence in a southeasterly direction along the boundary of said parcel to the westernmost corner of parcel number 7562-04-92-6224 (n/f Johnson), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7562-04-92-3962 (n/f Johnson), thence along the northwest boundary of said parcel to its north corner, thence in a southeasterly direction to the southwest corner of parcel number 7562-04-93-4146 (n/f Owen), thence in a northerly direction to the north corner of said parcel, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7562-04-93-9030 (n/f McCall), thence along the north boundary of said parcel to its northernmost corner and the westernmost corner of parcel number 7572-03-03-2205 (n/f Pressley), thence along the northwest boundary of the Pressley parcel to the westernmost corner of parcel number 7572-03-03-2521 (n/f McCall), thence along the northwest boundary of said parcel to the westernmost corner of parcel number 7572-03-03-4684 (n/f Moss), thence along the northwest boundary of said parcel to a point in the line of parcel number

7572-03-04-5028 (n/f Dills), thence with the boundary of the Dills parcel to its westernmost corner and the southwest corner of parcel number 7572-03-04-1259 (n/f Brandon), thence with the west boundary of the Brandon parcel to its northwest corner, thence with the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-3268 (n/f Newberry), thence along the north boundary of said parcel to the westernmost corner of parcel number 7572-03-04-5324 (n/f Dufilho), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-7436 (n/f Logan), thence along the north boundary of said parcel to the northwest corner of parcel number 7572-03-04-9558 (n/f Logan), thence along the north boundary of said parcel to the intersection of said boundary and the west boundary of the right-of-way for NC Hwy 107 North, thence with the west boundary of NC Hwy 107 North to a point due south of the southwest corner of parcel number 7572-03-04-8966 (n/f Rogers), thence crossing the right-of-way for NC Hwy 107 North in a north direction to said corner, thence leaving Hwy 107 and running in a northeasterly direction along the boundary of parcel number 7572-01-05-5164 (n/f Jahn) to the north corner of parcel number 7572-03-14-3969 (n/f Pierce), thence along the northeast boundary of parcel number 7572-03-14-6907 (n/f Wolf) to the southeast corner of parcel number 7572-01-15-3647 (n/f Neal), thence along the northeast boundary of said parcel to the north corner of said parcel, thence with the boundary of parcel number 7572-01-16-1209 (n/f Kinsey) to the northeast corner of said parcel, thence continuing with the line of the Kinsey parcel in a westerly direction to the southwest corner of parcel number 7572-01-17-5082 (n/f Cedar Creek Realty), thence with the southwest line of said parcel to its westernmost corner and the south corner of parcel number 7572-01-17-1065 (n/f Webb). Thence with the west boundary of the Webb parcel to the south corner of parcel number 7572-01-17-3704 (n/f Cedar Creek Realty), thence with the southwest boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the southwest corner of parcel number 7572-01-18-3367 (n/f Toms), thence along the west boundary of said parcel to the southwest corner of parcel number 7572-01-09-8001 (n/f Bennett), thence along the west boundary of said parcel to its north corner and the southwest corner of parcel number 7572-01-09-9267 (n/f Flock), thence along the west boundary of said parcel to its northwest corner, thence along the boundary of parcel number 7573-03-10-3149 (n/f Henry) to the northwest corner of parcel number 7573-03-21-5169 (n/f Damico), thence along the north boundary of said parcel to its northeast corner, thence along the north boundary of parcel number 7573-03-31-2033 (n/f Bebbington) to the northwest corner of parcel number 7573-03-40-8454 (n/f Middelthon), thence along the west boundary of said parcel to the northwest corner of parcel number 7572-02-59-4421 (n/f Big Sheepcliff Property Owners), thence along the west and south boundaries of said parcel to the north corner of parcel number 7572-01-48-0166 (n/f Thomas), thence along the northeast boundary of said parcel and the west boundary of parcel number 7572-02-58-0035 (n/f Foster) to the northeast corner of parcel number 7572-01-47-9109 (n/f Hawkins), thence along the northeast and east boundary of said parcel to its easternmost corner and a corner in the line of parcel number 7572-02-55-4964 (n/f Hawkins), thence with the north boundary of said parcel to the northwest corner of

parcel number 7572-02-56-6461 (n/f Hawkins), thence with the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7572-02-66-0536 (n/f Mountain View Ventures), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the easternmost corner of said parcel, thence to the south corner of parcel number 7572-02-67-1020 (n/f Mountain View Ventures), thence along the eastern boundary of an unnamed private road to its intersection with the north boundary of Wandering Ridge Road, thence along the north boundary of Wandering Ridge Road to the southwest corner of parcel number 7572-02-76-3414 (n/f Law), thence leaving Wandering Ridge Road and running in a northerly direction along the west boundary of said parcel to the northwest corner of said parcel, thence along the north boundary of said parcel to the northwest boundary of the right-of-way for Upper Ridge Road, being a point in the south line of parcel number 7572-02-77-2250 (n/f Law), thence with the northwest boundary of the right-of-way for Upper Ridge Road and the southeast boundary of said parcel to the southeast corner of parcel number 7572-02-77-8219 (n/f Dempsey), thence leaving Upper Ridge Road and running along the west boundary of said parcel to the northernmost corner of said parcel, thence along the south boundary of parcel number 7572-02-87-2951 (n/f Thomas) to the south corner of said parcel and the northwest boundary of the right-of-way for Overlook Pass, thence with the southeast boundary of the Thomas parcel and the northwest boundary of the right-of-way for Overlook Pass to a point in the line of parcel number 7572-02-97-6861 (n/f Rhane), thence with the west boundary of said parcel to its southwest corner, thence with the south boundary of said parcel to the southeast corner of said parcel, being a point in the boundary of the right-of-way for Cedar Creek Road, SR 1120, thence with the west boundary of the right-of-way for Cedar Creek Road in a southeasterly direction to the intersection of the boundary of the right-of-way of said road with the north boundary of the right-of-way of Wandering Ridge Road, thence crossing Cedar Creek Road in an easterly direction to the west corner of parcel number 7582-01-16-0612 (n/f Hackney), thence along the northwest boundary of said parcel to its north corner, thence along the northeast boundary of said parcel to the northwest corner of parcel number 7582-01-16-1586 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-4505 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-6527 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-16-8559 (n/f Nantahala Power), thence along the north boundary of said parcel to the northwest corner of parcel number 7582-01-26-0683 (n/f Nantahala Power), thence along the north boundary of said parcel to the northeast corner of said parcel and a point in the line of parcel number 7582-01-26-8938 (n/f Valley Corp.), thence along the west boundary of the Valley Corp. parcel to its northwest corner, thence along the north boundary of said parcel to its northeast corner, being a point in the line of parcel number 7582-01-46-2769 (n/f Hooper), thence along the west boundary of said parcel to its northwest corner, thence along the north boundary of said parcel to the point of BEGINNING.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Village of Cashiers is the Mayor and the Village Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Marcia Moore, Mark Zachary, Frank Doherty, Hamilton Arnall, and Colleen McCall are appointed members of the Village Council of the Village of Cashiers, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Village Council; Term of Office.** The qualified voters of the entire Village shall elect the members of the Village Council, and, except as provided in this section, they shall serve four-year terms. In 2003, the two candidates receiving the highest numbers of votes shall be elected to four-year terms, and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2005, and quadrennially thereafter, three members shall be elected to four-year terms. In 2007, and quadrennially thereafter, two members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Village shall elect the Mayor. In 2003, and quadrennially thereafter, the Mayor shall be elected for a term of four years. The Mayor shall be the official head of Village government and shall preside at all meetings of the Village Council, shall have the right to vote only when there is an equal division on any question or matter before the Village Council, and shall exercise the powers and duties conferred by law or as directed by the Village Council.

"Section 3.5. **Mayor Pro Tempore.** The Village Council shall appoint one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Village Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Village Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Village to Operate Under Council-Manager Plan.** The Village shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Village Manager.** The Village Council shall appoint a Village Manager in accordance with G.S. 160A-147. The Manager shall be the administrative head of all Village departments and shall have all the powers and duties conferred by general law, except as expressly limited by the Village Council, so far as authorized by general law, and the provisions of this Charter, and any additional powers conferred by the Village Council. The Manager shall have the power to appoint, suspend, and remove

all Village officers, department heads, and employees, except the Village attorney and any other official whose appointment or removal is vested in the Village Council.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Village of Cashiers shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Village shall obtain from Jackson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Village may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2003-2004, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Village may adopt a budget ordinance for fiscal year 2002-2003 without following the timetable in the Local Government Budget and Fiscal Control Act but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year."

SECTION 3. The Village may not exercise any powers authorized under G.S. 160A-360.

SECTION 4. The Village may annex areas only as provided in Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes.

SECTION 5. On or before June 30, 2004, and June 30, 2005, the Village Council shall submit to the House and Senate Finance Committees and the Joint Legislative Commission on Municipal Incorporations evidence that the Village is providing four municipal services from the list provided in G.S. 120-163(c) for the benefit of the residents of the Village and that the Village has imposed an ad valorem tax of at least five cents (5¢) on the one hundred dollar ($100.00) valuation upon all taxable property within the Village's corporate boundaries.

SECTION 6. The Jackson County Board of Elections shall conduct an election on a date set by the Board, to be not less than 60 nor later than 120 days after this act becomes law, for the purpose of submission to the qualified voters for the area described in Section 2.1 of the Charter of the Village of Cashiers the question of whether or not the area shall be incorporated as the Village of Cashiers. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

SECTION 7. In the election, the question on the ballot shall be:

"[ ]FOR [ ]AGAINST

Incorporation of the Village of Cashiers."

SECTION 8. In the election, if a majority of the votes are cast "For the Incorporation of the Village of Cashiers", Sections 1 through 5 of this act shall become effective on the date that the Jackson County Board of Elections certifies the results of the election. Otherwise, Sections 1 through 5 of this act shall have no force and effect.

SECTION 9. This act is effective when it becomes law.

HOUSE BILL 790:
Incorporate Cashiers

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Haire
Date:	April 8, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: ***House bill 790 is a local bill that repeals the Charter for the Town of Cashiers in Jackson County and incorporates the Village of Cashiers, subject to a vote of the people in the proposed area to be incorporated. The Town has been inactive since incorporation in 1927. The Joint Legislative Commission on Municipal Incorporations recommended incorporation of the Village in its report on March 24, 2003. The Commission concluded that the proposed Village met the standards required by Article 20 of Chapter 120 of the General Statutes.***

BILL ANALYSIS: Subject to the vote of the people in the area to be incorporated, House Bill 790 incorporates the Village of Cashiers in Jackson County and repeals the charter of the Town of Cashiers. The Village will operate under a council-manager form of government. There will be five members of the Village Council and a Mayor. Until the initial election in 2003, specifically named persons will serve as interim Village Council members. At the initial election, the Village Council will be elected to staggered terms. The Mayor will serve a four-year term. Elections will be on a nonpartisan basis. The Village Council will appoint a Village Manager to be the administrative head of all Village departments.

The Village may not exercise any powers of planning and regulation beyond the village limits, and may only annex by petition or by meeting the statutory requirements for satellite annexation.

On or before June 30 of 2004 and 2005, the Village Council must submit evidence to the House and Senate Finance Committees and the Joint Legislative Commission on Municipal Incorporations that it is providing at least four of the municipal services provided in G.S. 120-163(c) and that the Village has imposed an ad valorem tax of at least 5¢ on the $100 valuation. The services in G.S. 120-163(c) are: police protection, fire protection, solid waste collection or disposal, water distribution, street maintenance, street construction or right-of-way acquisition, street lighting, and zoning.

The election on the question of incorporation must be held not less than 60 nor later than 120 days after the act becomes effective. If the majority of voters vote against incorporation, then the repeal of the Charter for the Town and the incorporation of the Village do not take effect.

BACKGROUND: Article 20 of Chapter 120 of the General Statutes creates the Joint Legislative Commission on Municipal Incorporations and sets out the procedures for review of the statutory requirements for incorporation. The Commission, with the help of the Division of Community Assistance of the Department of Commerce, found that the proposed Village of Cashiers satisfied the following requirements:

- The petition must be signed by 15% of the registered voters in the proposed area, but by not less than 25 registered voters. The petition was signed by 113 of the 596 voters in the proposed area. The Jackson County Board of Elections verified the petition.
- The petition contained the necessary information including a plan to provide a reasonable level of services (fire protection, police protection, zoning, and solid waste collection), and an ad valorem tax of at least 5¢ on the $100 valuation.
- The proposed area must have a permanent population of at least 100 and a population density of at least 250 persons per square mile. The data suggest that there are 2,376 people in the proposed area with a population density of 287 persons per square mile.
- At least 40% of the proposed area must be developed for residential, commercial, industrial, institutional, or governmental uses, or be dedicated as open space. 45.86% of the proposed area is developed.

Cashiers Incorporation
Fiscal Report

1. Sales Tax Revenue Change:

Jackson County distributes sales tax revenues on an ad valorem basis. This analysis uses the ad valorem amounts certified by county, city, and town officials to the Department of Revenue to show how that distribution would have changed had Cashiers been incorporated at that time.

Current

County	Municipalities	Ad Valorem Levy	% Levy*	Sales Tax Distribution
Jackson		16,505,542	94.1%	**6,118,192**
	Dillsboro	61,700	0.4%	22,253
	Forest Hills	18,599	0.1%	7,010
	Highlands	57,237	0.3%	21,673
	Sylva	894,644	5.1%	349,940
	Webster	9,042	0.1%	3,475
TOTAL		17,546,764	100.0%	6,522,542

* These percentages indicate the 2002 percent of levy. However, in 2001 the levy proportions are slightly different. Thus, distribution does not mirror these proportions exactly.

With Incorporation

County	Municipalities	Ad Valorem Levy	% Levy	Sales Tax Distribution	Change (Approx)
Jackson		16,505,542	91.4%	5,962,699	(155,494)
	Dillsboro	61,700	0.3%	22,289	37
	Forest Hills	18,599	0.1%	6,719	(291)
	Highlands	57,237	0.3%	20,677	(996)
	Sylva	894,644	5.0%	323,194	(26,746)
	Webster	9,042	0.1%	3,266	(208)
	Cashiers	*508,500*	2.8%	183,698	183,698
TOTAL		18,055,264	100.0%	6,522,542	(0)

** This assumes the village levies the $0.09 property tax noted in their incorporation papers..

2. Powell Bill Allocation Change

Annually state street aid or Powell Bill allocations are made to incorporated municipalities which establish their eligibility and qualify as provided by G.S. 136-41.1-.3. The amount allocated to each municipality is based on both population and qualifying street miles within the municipality.

FY 2001-02 population based allocations assumed a total, statewide municipal population of 4,086,685 and available funds of $101,578,822.46. This created a per capita distribution rate of $ 24.86.

Adding the new population of Cashiers (2376) to the statewide total creates a new

population of 4,089,061. This creates no appreciable change in the per capita payment rate (less than 2 cents per person). As such, this changes should have no significant impact on Powell Bill payments to other Jackson County municipalities.

3. Utility Excise Tax:

Of the 3.22% state excise tax rate on the in-state gross receipts of gas, power and light and telephone companies, 3.09 percentage points (or 96% of collections) are distributed to the respective municipalities within which these services took place. In 1998-99 the statewide total was $161.1 million.

Because Cashiers only incorporates new areas (areas not currently a part of another municipalities) no revenue shift is expected. Any revenue received by Cashiers from this tax would be new or drawn from the NC General Fund.

4. Reimbursements:

The state reimbursements to local governments for previous tax law changes were repealed by the previous General Assembly. To that end no reimbursements will be available to Cashiers. Under current law some local governments will qualify for a "hold harmless" payment if their new estimated sales tax revenue does not exceed their previous reimbursements. However, because Cashiers did not receive a reimbursement in 2001-02 (the base year for calculation purposes) they are not eligible for a hold harmless payment.

Note: Population numbers used for sales tax and Powell bill allocation vary due to the year used by the controlling agency.

Prepared by Linda Struyk Millsaps, Fiscal Research Division.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 790 A BILL TO BE ENTITLED AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(b), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ the House amendment (s).
_____the House committee substitute bill.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

LOCAL BILL

ROLL CALL

0790

H.B. _____ SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REPEALING THE CHARTER FOR THE TOWN OF CASHIERS BECAUSE THE TOWN HAS BEEN INACTIVE SINCE INCORPORATION, AND INCORPORATING THE VILLAGE OF CASHIERS.

Introduced by Representative(s): Haire.

Principal Clerk's Use Only

PASSED 1st READING

MAR 27 2003

AND REFERRED TO COMMITTEE

ON.....Finance.....

House Committee on Finance

Minutes

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April 10, 2003

The House Committee on Finance met on Thursday, April 10, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Lewis, McCombs, McGee, Rayfield, Ross, Setzer, Weiss, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:30 am and recognized the three Pages present: Meghan Dawson and Amy McClellan, both of Cumberland County, sponsored by Representative Lucas; and Lindsey White of Wake County, sponsored by Representative Stam.

The Chair then recognized Representative Adams to explain HB 626 – GREENSBORO/AIRPORT ANNEXATION AGREEMENTS (see attachment 3). This bill authorizes the City of Greensboro and Piedmont Triad International Airport Authority Administration to enter into agreements to amend the description of a land area that, under current law, cannot be annexed into any municipality. The bill's purpose, explained Representative Adams, is to accommodate the changing needs of the City and the Airport. Linda Miles, City Attorney of Greensboro, was present in the audience to answer any questions from members on the bill. As there was no conflict among parties for this agreement, there were no questions from members. Chairman Wainwright recognized Representative Womble who offered a motion for a favorable report on HB 626. Upon the Chair's call of the vote, the motion passed with no known opposition.

Chairman Wainwright next recognized Senator Weinstein to explain SB 244 – RECOGNIZE RETIRED NURSES/FEES (see attachment 4). Senator Weinstein explained that the bill establishes a one-time fee of up to $50.00 for the issuance of a special license plate to recognize a retired registered nurse (RN) or retired licensed practical nurse (LPN). The bill also describes the procedures for the reinstatement of a retired RN or LPN to active practice. Following this description, the Chair recognized Representative Howard who moved that SB 244 receive a favorable report. The motion carried with no known opposition. Senator Weinstein noted to the Chair that Representative Sutton would be presenting this bill on the House floor.

Next on the agenda was HB 597 – ROANOKE RAPIDS DEANNEXATION and HB 598 – ROANOKE RAPIDS ANNEXATION (see attachment 5). Chairman Wainwright recognized Representative Hall, the sponsor, to explain the bills. HB 597 removes a 1,555-acre section of land from the corporate limits of the City of Roanoke Rapids while HB 598 annexes a 3,990-acre section of land to the City limits. The Chair opened the floor for discussion among the members. Representative Gibson made the motion for a favorable report on HB 597 and the motion carried

unanimously. Representative Howard then moved that HB 598 receive a favorable report and this motion carried unanimously as well.

Next, the Chair recognized Representative Coates to explain HB 351 – SALISBURY PARKING ENFORCEMENT (see attachment 6). This bill would allow the City of Salisbury to adopt an ordinance related to several parking issues. (Please see the attached bill summary for a more detailed description of this proposed ordinance.) The Chair entertained discussion of the bill between Representative Coates and several committee members. On a motion from Representative Womble, the committee voted to offer the bill a favorable report.

Chairman Wainwright recognized Representative Hill to explain the next bill: HB 89 – FORSYTH FIRE DISTRICTS (see attachment 7). Representative Hill explained that this bill would repeal a local law passed in 1981 that authorized the creation of joint fire and rescue protection districts inside of Forsyth County. The bill, by repealing the local law, would make the general law applicable. As there was no controversy on the matter, Representative Womble moved for a favorable report. Chairman Wainwright then called on the committee to vote, and the motion passed.

Lastly, the Chair recognized Representative Hill to explain HB 142 – SUNSET BEACH EROSION CONTROL (see attachment 8). The bill, explained Representative Hill, simply allows the Town of Sunset Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access. Chairman Wainwright opened the floor for questions following the explanation and recognized Representative Rayfield who asked if this bill affected anyone in the Oak Island area. Representative Hill informed him that he did not represent that area in his district but that a similar bill by Representative Stiller for that area would be coming before the Committee sometime in the near future. Upon a motion of favorable report by Representative Luebke, and hearing no further discussion from Committee members, Chairman Wainwright called the vote, and the motion carried.

As a final announcement, the Chair referred the following bills to the Subcommittee on Tax & Tags: HB 255 – Blue Ridge Parkway Foundation License Plate, HB 477 – NC Coastal Federation Special Plate, HB 563 – Surveyor Special License Plate, HB 577 – Retired Law Enforcement Special Plates, HB 661 – Alternative Fuel Vehicle Special Plate, HB 823 – Zeta Phi Beta Special Registration Plate, HB 855 – Breast Cancer Awareness Special Plate, and SB 295 – Special Registration Plates. Chairman Wainwright also referred HB 96 – Avery County Occupancy Tax, to the Subcommittee on the Occupancy Tax.

Having no further business, the Chair adjourned the meeting at 8:57 a.m.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 626 (and related materials)
4. Senate Bill 244 (and related materials)
5. House Bills 597 & 598 (and related materials)
6. House Bill 351 (and related materials)
7. House Bill 89 (and related materials)
8. House Bill 142 (and related materials)

House Committee on Finance

Minutes

~

April 10, 2003

The House Committee on Finance met on Thursday, April 10, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Lewis, McCombs, McGee, Rayfield, Ross, Setzer, Weiss, and Womble. Also present were Sergeant-at-Arms staff Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:30 am and recognized the three Pages present: Meghan Dawson and Amy McClellan, both of Cumberland County, sponsored by Representative Lucas; and Lindsey White of Wake County, sponsored by Representative Stam.

The Chair then recognized Representative Adams to explain HB 626 – GREENSBORO/AIRPORT ANNEXATION AGREEMENTS (see attachment 3). This bill authorizes the City of Greensboro and Piedmont Triad International Airport Authority Administration to enter into agreements to amend the description of a land area that, under current law, cannot be annexed into any municipality. The bill's purpose, explained Representative Adams, is to accommodate the changing needs of the City and the Airport. Linda Miles, City Attorney of Greensboro, was present in the audience to answer any questions from members on the bill. As there was no conflict among parties for this agreement, there were no questions from members. Chairman Wainwright recognized Representative Womble who offered a motion for a favorable report on HB 626. Upon the Chair's call of the vote, the motion passed with no known opposition.

Chairman Wainwright next recognized Senator Weinstein to explain SB 244 – RECOGNIZE RETIRED NURSES/FEES (see attachment 4). Senator Weinstein explained that the bill establishes a one-time fee of up to $50.00 for the issuance of a special license plate to recognize a retired registered nurse (RN) or retired licensed practical nurse (LPN). The bill also describes the procedures for the reinstatement of a retired RN or LPN to active practice. Following this description, the Chair recognized Representative Howard who moved that SB 244 receive a favorable report. The motion carried with no known opposition. Senator Weinstein noted to the Chair that Representative Sutton would be presenting this bill on the House floor.

Next on the agenda was HB 597 – ROANOKE RAPIDS DEANNEXATION and HB 598 – ROANOKE RAPIDS ANNEXATION (see attachment 5). Chairman Wainwright recognized Representative Hall, the sponsor, to explain the bills. HB 597 removes a 1,555-acre section of land from the corporate limits of the City of Roanoke Rapids while HB 598 annexes a 3,990-acre section of land to the City limits. The Chair opened the floor for discussion among the members. Representative Gibson made the motion for a favorable report on HB 597 and the motion carried

unanimously. Representative Howard then moved that HB 598 receive a favorable report and this motion carried unanimously as well.

Next, the Chair recognized Representative Coates to explain HB 351 – SALISBURY PARKING ENFORCEMENT (see attachment 6). This bill would allow the City of Salisbury to adopt an ordinance related to several parking issues. (Please see the attached bill summary for a more detailed description of this proposed ordinance.) The Chair entertained discussion of the bill between Representative Coates and several committee members. On a motion from Representative Womble, the committee voted to offer the bill a favorable report.

Chairman Wainwright recognized Representative Hill to explain the next bill: HB 89 – FORSYTH FIRE DISTRICTS (see attachment 7). Representative Hill explained that this bill would repeal a local law passed in 1981 that authorized the creation of joint fire and rescue protection districts inside of Forsyth County. The bill, by repealing the local law, would make the general law applicable. As there was no controversy on the matter, Representative Womble moved for a favorable report. Chairman Wainwright then called on the committee to vote, and the motion passed.

Lastly, the Chair recognized Representative Hill to explain HB 142 – SUNSET BEACH EROSION CONTROL (see attachment 8). The bill, explained Representative Hill, simply allows the Town of Sunset Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access. Chairman Wainwright opened the floor for questions following the explanation and recognized Representative Rayfield who asked if this bill affected anyone in the Oak Island area. Representative Hill informed him that he did not represent that area in his district but that a similar bill by Representative Stiller for that area would be coming before the Committee sometime in the near future. Upon a motion of favorable report by Representative Luebke, and hearing no further discussion from Committee members, Chairman Wainwright called the vote, and the motion carried.

As a final announcement, the Chair referred the following bills to the Subcommittee on Tax & Tags: HB 255 – Blue Ridge Parkway Foundation License Plate, HB 477 – NC Coastal Federation Special Plate, HB 563 – Surveyor Special License Plate, HB 577 – Retired Law Enforcement Special Plates, HB 661 – Alternative Fuel Vehicle Special Plate, HB 823 – Zeta Phi Beta Special Registration Plate, HB 855 – Breast Cancer Awareness Special Plate, and SB 295 – Special Registration Plates. Chairman Wainwright also referred HB 96 – Avery County Occupancy Tax, to the Subcommittee on the Occupancy Tax.

Having no further business, the Chair adjourned the meeting at 8:57 a.m.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 626 (and related materials)
4. Senate Bill 244 (and related materials)
5. House Bills 597 & 598 (and related materials)
6. House Bill 351 (and related materials)
7. House Bill 89 (and related materials)
8. House Bill 142 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 10, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen	*Representative Danny McComas*
Representative Julia Howard	*Representative David Miner*
Representative Paul Luebke	*Representative William Wainwright*

Call to Order

Introduction of Pages

Bills:

HB 89	**Forsyth Fire Districts**	*Rep. McGee*
HB 142	**Sunset Beach Erosion Control**	*Rep. Hill*
HB 351	**Salisbury Parking Enforcement**	*Rep. Coates*
HB 597	**Roanoke Rapids Deannexation**	*Rep. Hall*
HB 598	**Roanoke Rapids Annexation**	*Rep. Hall*
HB 626	**Greensboro/Airport Annexation Agreements**	*Rep. Adams*
SB 244	**Recognize Retired Nurses/Fees**	*Sen. Weinstein*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Mistor	NC Home Builders
Jerry Hardesty	NC Park Council
[illegible]	City of Greensboro
Blair Carr	City of Greensboro
Amy Jo Horne	NCMS
Marcos Arellano	Intern for Rep. Luebke
Ernestine Durham	Exe Intern - Rep Gibson
[illegible]	OSBM
Amy Dobson	NC Statewater
Cam Amer	BPMHL
Chris Nichols	Hunton + Williams

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 10, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kevin Leonard	WCSR
Ken Melton	Alley Associates
Don Hobart	DOC
Rob Dusablon	NC Statewatch
Dean Plunkett	NC Beer & Wine.
Fran Preston	NCRMA
John Bowdish	Astra Zeneca
[illegible] McMillen	MFOS
Tom Sri	NCRMA
Andy Ellen	NCRMA
[illegible]	[illegible]

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 626

Short Title:	Greensboro/Airport Annexation Agreements.	(Local)
Sponsors:	Representatives Adams, Bowie, Jeffus, and Jones (Primary Sponsors).	
Referred to:	Local Government II.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Greensboro and the Piedmont Triad International Airport Administration may enter into agreements to amend the boundaries of the territory described in Section 4 of Chapter 818 of the 1985 Session Laws to meet the changing needs of the City and the Airport Administration.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 626:
Greensboro/Airport Annexation Agreements

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Adams, Bowie, Jeffus, And Jones
Date:	April 10, 2003		
Version:	1st Edition	**Analysis by:**	Martha Walston* Committee Counsel

SUMMARY: House Bill 626 is a local bill that authorizes the City of Greensboro and the Piedmont Triad International Airport Administration to jointly amend the description of the area that cannot be annexed by Greensboro or any other municipality. House Local Government II gave the bill a favorable report on April 2. House Bill 467 is an identical bill.

CURRENT LAW: Under current law, the two tracts described in Section 4 of Chapter 818 of the 1985 Session Laws cannot be annexed by Greensboro or by any other municipality. Chapter 818 also annexed into Greensboro certain property west of the City's corporate limits.

BILL ANALYSIS: House Bill 626 authorizes the City of Greensboro and the Piedmont Triad International Airport Authority Administration to enter into agreements to amend the description of the area that cannot be annexed into any municipality. The purpose of the bill is to meet the changing needs of the City and the Airport Administration.

*Giles Perry, Counsel to House Local Government II, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 626 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

LOCAL BILL

ROLL CALL

=H467

H.B. 0626

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF GREENSBORO AND THE PIEDMONT TRIAD INTERNATIONAL AIRPORT ADMINISTRATION TO AMEND THE BOUNDARIES OF CERTAIN TERRITORY THAT CANNOT BE ANNEXED BY THE CITY UNDER GENERAL LAW.

Introduced by Representative(s): Adams, Bowie, Jeffus, and Jones (Primary Sponsors).

Principal Clerk's Use Only

ASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON. Local Government II

Committee on LOCAL GOVERNMENT II
ajority being present, having considered
bill, recommend that it do ✓ pass.
Rep. Adams
For the Committee

d be re-referred to Finance

PORTED FAVORABLY APR 2 2003
-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 244
Finance Committee Substitute Adopted 3/25/03

Short Title: Recognize Retired Nurses/Fees. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-171.36A. Retired nurse status; reinstatement.**

(a) After a registered nurse or a licensed practical nurse has retired, upon payment of the one-time fee required by G.S. 90-171.27(b), the Board may issue a special license to a registered nurse or licensed practical nurse in recognition of the nurse's retired status.

(b) If a retired registered nurse or licensed practical nurse wishes to return to the practice of nursing, the retired nurse shall apply for reinstatement on a form provided by the Board and satisfy any requirements the Board deems necessary to reinstate the license."

SECTION 2. G.S. 90-171.27(b) reads as rewritten:

"(b) The schedule of fees shall not exceed the following rates:

Application for examination leading to certificate and license as registered nurse	$75.00
Application for certificate and license as registered nurse by endorsement	150.00
Application for each re-examination leading to certificate and license as registered nurse	75.00
Renewal of license to practice as registered nurse(two-year period)	100.00
Reinstatement of lapsed license to practice as a registered nurse and renewal fee	180.00
Application for examination leading to certificate and license as licensed practical nurse by examination	75.00

Application for certificate and license as licensed practical nurse by endorsement 150.00
Application for each re-examination leading to certificate and license as licensed practical nurse 75.00
Renewal of license to practice as a licensed practical nurse (two-year period) 100.00
Reinstatement of lapsed license to practice as a licensed practical nurse and renewal fee 180.00
Application fee for retired registered nurse status or retired licensed practical nurse status 50.00
Reinstatement of retired registered nurse to practice as a registered nurse or a retired licensed practical nurse to practice as a licensed practical nurse (two-year period) 100.00
Reasonable charge for duplication services and materials.

A fee for an item listed in this schedule shall not increase from one year to the next by more than twenty percent (20%)."

SECTION 3. The Board shall initially charge a twenty-five dollar ($25.00) application fee for retired registered nurse status or retired licensed practical nurse status. Nothing in this section shall prohibit the Board from amending the fee pursuant to Chapter 150B of the General Statutes.

SECTION 4. This act is effective when it becomes law.

SENATE BILL 244:
Recognize Retired Nurses/Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Weinstein
Date:	April 9, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 244 does the following:

- ***Establishes a one-time fee of up to $50.00 for the issuance of a special license to recognize a retired registered nurse (RN) or a retired licensed practical nurse (LPN).***
- ***Establishes procedures for the reinstatement of a retired RN or LPN to active practice.***
- ***Clarifies that the Board may charge a reinstatement fee to a retired RN or LPN returning to active practice.***

CURRENT LAW: Currently, no category exists for the recognition of a retired RN or LPN. Upon retirement, the RN or LPN can: (1) become inactive and be considered unlicensed; (2) pay a renewal fee every two years of up to $100 to maintain an active license; or (3) pay a fee of up to $180 to reinstate a lapsed license and resume practice.

BILL ANALYSIS:

Retired Nurse Status.

SB 244 establishes the retired RN and LPN category. The purpose for the retired status is two-fold. First, it will allow RNs and LPNs at the end of their careers to obtain title recognition. According to the NC Board of Nursing (Board), some retired RNs and LPNs continue to pay the renewal fee merely to maintain their title. Second, the category would help the Board maintain a more accurate count of nurses who are retired as opposed to inactive or who have let their licenses lapse.

Fee: The Board may charge a one-time fee of up to $50.00 for the retired status. However, the Board has indicated they initially intend to levy a fee of only $25.00.

Reinstatement of RNs and LPNs to Active Licensure.

If a retired RN or LPN wishes to return to the practice of nursing, the nurse must apply for reinstatement to the Board and satisfy any requirements prescribed by the Board for reinstatement.

Procedures for Reinstatement: According to the Board, the following requirements would apply to retired RNs and LPNs wishing to return to active practice:

- Reinstatement 5 Years or Less from Date of Retirement: If the reinstatement occurs five years or less from the date of retired status, the only requirement would be completing the reinstatement application and payment of the reinstatement fee.
- Reinstatement More Than 5 Years from Date of Retirement: If the reinstatement to practice occurs more than five years from the date of retired status, in addition to completing the application and paying the fee, he/she would also be required to take a refresher course before the license would become active.

Fee: The bill authorizes the Board to charge a reinstatement fee to retired RNs and LPNs returning to active status. The fee may not exceed $100 for a 2-year period. Currently, the Board plans to charge $72.00 for a 2-year period, the same as it charges for regular renewals.

Amy Compeau, Research Assistant, Research Division & Staff to the Senate Health Committee, contributed substantially to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 244 (2nd Edition)

SHORT TITLE: Recognize Retired Nurses/Fees

SPONSOR(S): Senator Weinstein

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund			* No General Fund Impact *		
Board of Nursing	139,188		*See Assumptions and Methodology *		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Nursing.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the North Carolina Board of Nursing to issue a special license to a retired registered nurse or licensed practical nurse. The charge for the license is a one-time fee of $50.00. It also authorizes the Board to levy a fee of up to $100 for a retired nurse to return to active practice.

ASSUMPTIONS AND METHODOLOGY: According to the annual report of the North Carolina Board of Nursing, as of December 31, 2001, there were 69,370 licensed registered nurses and 15,140 licensed practical nurses, for a total of 79,100 licensed nurses employed in nursing in North Carolina. Of the licensed nurses, approximately 5,500 are over 65 years of age. Their records also indicate that there were 33,618 registered nurses who were inactive in calendar 2001, and 10,652 licensed practical nurses who were inactive in the same period, for a total of 44,270 inactive nurses. It is unclear to Fiscal Research how many of the inactive nurses are retired, although it is reasonable to assume that at least 25% of the total are retired. It is also unclear to Fiscal Research how many nurses retire each year.

The Board of Nursing indicates that while the legislation authorizes a fee of $50, it intends to only levy a fee of $25. The fiscal note assumes the Board uses a fee of $25 for the first year and $50 in the out years. Using 25% of the inactive nurse number as a proxy for first time applications for a retired nurse registration suggests first year revenue associated with the bill of $276,688 from those nurses. Assuming 50% of the 65-year-old and older nurses apply for the new license, revenue from that source in the first year would amount to an additional $68,750, creating a first year revenue estimate of $345,438. If the loss of license renewals for the retiring

nurses was considered, the net gain to the Board in the first year would be approximately $139,188. If 5% of active nurses retire each year and request a retired nurse license, the annual revenue stream associated with the license would be approximately $197,750 ($50 x 3,955). However, because there would also be an associated loss of traditional license fees ($100 for a two-year license), the net revenue stream would be limited to a loss in the out years, if those same individuals would have continued paying for their full license.

According to the Board, the costs to the Board associated with the bill should be limited to approximately $1,500 in software and database costs, as well as approximately $5 each for the creation of the certificates themselves.

As of December 31, 2001, the NC Board of Nursing carried a $1,849,222 fund balance, which was an increase of $323,428 over the previous year. The 2001 fund balance is equal to approximately 44% of its annual expenditures.

In addition, the bill allows the Board to levy a fee of up to $100 to reinstate the license to practice of a nurse who previously carried a retired nurse license. According to Board staff, while the bill authorizes a fee of up to $100 for the two-year period, they will actually charge $72, as this aligns with other similar fees charged by the Board. Because we currently have no retired nurse program, it is impossible to estimate the number of nursed who would move from a retired nurse program back into practice. Thus, there is no fiscal estimate on this portion of the bill. As a practical matter, however, there would be very little no revenue from the reinstatement fee in the first year.

SOURCES OF DATA: NC Board of Nursing, NC Secretary of State.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division

DATE: April 9, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 244 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

BLIC BILL

LL CALL fees

Finance

~~Proposed~~ Committee Substitute For

S.B. 244

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF NURSING TO RECOGNIZE RETIRED NURSES BY SPECIAL LICENSURE STATUS AND TO ESTABLISH A FEE FOR THIS STATUS.

Introduced by Senator(s) Weinstein

Principal Clerk's Use Only

Committee Substitute
Adopted
Pursuant to Rule 45.1
MAR 25 2003

PASSED 1st READING
MAR 31 2003
AND REFERRED TO COMMITTEE
ON Finance

PASSED 2nd & 3rd
READINGS
50-0 VV
MAR 26 2003
ORDERED SENT TO
HOUSE OF REPRESENTATIVE

Janet Pruitt

03-27-03A11:45 RCVD

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 597

Short Title:	Roanoke Rapids Deannexation.	(Local)
Sponsors:	Representative Hall.	
Referred to:	Finance.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Roanoke Rapids:

Being a strip of land 70 (seventy) feet in approximately 656± feet east of the eastern right-of-way line of N.C.S.R. 1710 and approximately 900± feet northeast of the intersection of N.C.S.R. 1734 and N.C.S.R. 1710 in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe found, the southeast corner of a 13.892 acre tract of land shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Page 22-T of the Halifax County Registry. Said point of beginning having North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,659.58 feet and E(X) = 2,405,954.45 feet and said point of beginning being further located S 08° 14' 55" W 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 and S 89° 42' 48" E - 690.50 feet from an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710; thence from the point of beginning so located, N 890 42' 48" W - 71.32 feet to a point; thence N 110 20' 22" E - 967.45 feet to a point; thence S 89° 47' 37" E - 71.34 feet to a point; thence S 11° 20' 22" W - 967.55 feet to the point and place of beginning containing 67,723 square feet (1.555 acres) plus or minus.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 598

Short Title:	Roanoke Rapids Annexation.	(Local)
Sponsors:	Representative Hall.	
Referred to:	Finance.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the City of Roanoke Rapids:

Being a tract of land in Weldon Township, Halifax County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing concrete monument found at the intersection of the northern right-of-way line of N.C.S.R. 1734 and the eastern right-of-way line of N.C.S.R. 1710 in the Town of Weldon, North Carolina. Said beginning point having North Carolina Grid (N.A.D. 83) coordinates of N(Y) = 980,762.16 feet and E(X) = 2,405,278.33 feet and being shown on a drawing titled "Plat Showing Property Being Conveyed to Duquesne Energy, Inc. from Rightmeyer Machine Rentals, Inc.", recorded at Plat Cabinet 6, Slide 22-T of the Halifax County Registry: thence from said point of beginning S 08° 14' 55" W - 100.16 feet with and along the eastern right-of-way line of N.C.S.R. 1710 to an existing iron pipe; thence S 89° 42' 48" E 619.18 feet to a point; thence S 11° 20' 22" W - 71.32 feet to a point; thence N 89° 42' 48" W 685.98 feet to a point; thence N 08° 14' 55" E - 99.43 feet to a point; thence S 89° 46' 25" W 20.21 feet to a point; thence N 08° 20' 54" E - 809.73 feet to a point; thence S 81° 32' 15" E 400.22 feet to a point; thence N 08° 26' 37" E - 248.43 feet to a point; thence S 89° 47' 37" E 360.29 feet to a point; thence S 11° 20' 22" W - 71.34 feet to a point; thence N 89° 47' 37" W 285.92 feet to an existing iron pipe, the northeast corner of Halifax County Property as described in Deed Book 1440, Page 467; thence S 08° 26' 37" W - 257.86 feet with and along the eastern line of the property described in Deed Book 1440, Page 467 to an existing iron pipe found; thence N 81° 32' 15" W - 400.10 feet to a new iron rebar set; thence S 08° 20' 5411 W - 658.24 feet with and along the eastern right-of-way line of N.C. S.R. 1710 to an existing iron pipe found; thence N 89° 46' 25" E - 20.07

feet with and along the northern right-of-way line of N.C.S.R. 1734 to the point of beginning containing 173,799 square feet (3,990 acres) plus or minus.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 597: Roanoke Rapids Deannexation
HOUSE BILL 598: Roanoke Rapids Annexation

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hall
Date:	April 10, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 597 and 598 are local bills annexing and de-annexing property to the City Limits of Roanoke Rapids in Halifax County. Both bills are effective when they become law.

CURRENT LAW: A city or town may annex property by petition of owners of property to be annexed or if the property meets certain statutory requirements. If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex. The General Assembly can also de-annex property of a municipality.

BILL ANALYSIS: House Bill 597 removes a strip of land containing 1.555 acres from the corporate limits of the City of Roanoke Rapids. House Bill 598 annexes 3,990 acres to the corporate limits of the City of Roanoke Rapids.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 597 A BILL TO BE ENTITLED AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

LOCAL BILL
ROLL CALL

H.B. 0597

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT REMOVING CERTAIN DESCRIBED PROPERTY FROM THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

Introduced by Representative(s): Hall.

Principal Clerk's Use Only

PASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON... Finance

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 598 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

LOCAL BILL

ROLL CALL

H.B. 0598

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE CITY OF ROANOKE RAPIDS.

Introduced by Representative(s): Hall.

Principal Clerk's Use Only

PASSED 1st READING
MAR 24 2003
AND REFERRED TO COMMITTEE
ON Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 351

Short Title:	Salisbury Parking Enforcement.	(Local)
Sponsors:	Representative Coates.	
Referred to:	Local Government II.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter VII of the Charter of the City of Salisbury, as revised and consolidated by S.L. 1987-205, is amended by adding the following new section:

"Sec. 7.4. Parking Regulations and Violations.

(a) The City Council may provide by ordinance that each hour a vehicle remains illegally parked in an on-street parking space is a separate offense, and the violator may be given a ticket for each offense.

(b) The City Council may provide by ordinance that any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and parking penalties owed to the City are paid in full, or a bond is posted in the amount of the towing fee and all outstanding parking tickets and parking penalties. Payment of the towing fee and all outstanding parking tickets and parking penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and parking penalties.

(c) The City Council may provide by ordinance for the use of wheel locks on illegally parked vehicles for which there are three or more outstanding, unpaid, and overdue parking tickets for a period of 90 days. The ordinance shall provide for notice or warning to be affixed to the vehicle, immobilization, towing, impoundment, appeal hearing, an immobilization fee not to exceed fifty dollars ($50.00), and charges for towing and storage. The City shall not be responsible for any damage to an immobilized illegally parked vehicle resulting from unauthorized attempts to free or move that vehicle.

(d) Notwithstanding the provisions of Chapter 20 of the General Statutes or any other public or private local laws to the contrary, the City Council may adopt ordinances:

(1) Prohibiting parking or standing of a vehicle in a space designated with a sign for handicapped persons when the vehicle does not display the distinguishing registration plate, windshield placard, or disabled veteran registration plate and that prohibit parking or standing of a vehicle so as to obstruct a curb ramp or curb cut, as provided in G.S. 20-37.6(e).

(2) Prohibiting parking or standing of a vehicle in front of or within a specified distance in either direction of a fire hydrant or the driveway entrance to any fire station, or in any area designated as a fire lane.

(3) Prohibiting parking or standing of a vehicle in front of or within a specified distance from a public or private driveway.

(4) Prohibiting parking or standing of a vehicle within a specified distance from an intersection or crosswalk.

(e) Any ordinance adopted pursuant to this section may be enforced by law enforcement officers and any person or persons authorized by ordinance, by the city manager, or by the chief of police, whether or not the vehicle is parked on public or private property."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 351:
Salisbury Parking Enforcement.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Coates
Date:	April 9, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 351 amends the Charter for the City of Salisbury to authorize it to adopt and enforce ordinances related to parking. This bill received a favorable report in House Local Government II.***

CURRENT LAW: The Salisbury Charter allows the City Council to control traffic through the use of traffic-control devices that include parking meters. It does not otherwise address parking ordinances. However, G.S. 160A-301 provides that a city may, by ordinance, regulate parking of vehicles on the public streets. Violation of local ordinances is an infraction and subject to a penalty of not more than fifty dollars ($50).

The following municipalities currently have the authority to use wheel locks on illegally parked vehicles and assess an immobilization fee: Winston-Salem, Greensboro, Chapel Hill, Greenville, Henderson, Asheville, Durham, Raleigh, Lenoir, Wilmington, Charlotte, and Monroe.

BILL ANALYSIS: HB 351 allows the Salisbury City Council to adopt an ordinance that provides for the following:

- Each hour a vehicle remains illegally parked is a separate offense and may be ticketed separately.
- Vehicles towed for parking violations may be held until the towing fee and penalties are paid in full.
- Authorizes the use of wheel locks on illegally parked vehicles for which there are three or more outstanding and unpaid parking tickets for a period of 90 days. The ordinance must provide for an immobilization fee not to exceed $50.00 and charges for towing and storage.
- Authorizes ordinances prohibiting parking in certain designated spaces.
- Allows for enforcement by law enforcement officers and other persons authorized by the ordinance.

The act is effective when it becomes law.

Kory J. Goldsmith, counsel for House Local Government II, substantially contributed to this summary.

H351-SMSV-001

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 351 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

LOCAL BILL
ROLL CALL

H.B. 0351

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF SALISBURY TO ADOPT AND ENFORCE ORDINANCES RELATING TO PARKING.

Introduced by Representative(s): Coates.

Principal Clerk's Use Only

PASSED 1st READING
MAR 6 2003
AND REFERRED TO COMMITTEE
ON Local Government II

ommittee on Local Government II
rity being present, having considered
l, recommend that it do ✓ pass
Rep. Adams
For the Committee
d be re-referred to
nance

REPORTED FAVORABLY MAR 26 2003
re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 89

Short Title:	Forsyth Fire Districts.	(Local)
Sponsors:	Representatives McGee; Holmes, Parmon, Sexton, and Womble.	
Referred to:	Local Government I.	

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS, SO THE GENERAL LAW WILL APPLY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 147 of the 1981 Session Laws is repealed.

SECTION 2. This act applies to Forsyth County only.

SECTION 3. This act becomes effective April 17, 1981.

HOUSE BILL 89:
Forsyth Fire Districts

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McGee
Date:	April 10, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel*

SUMMARY: House Bill 89 is a local bill that repeals a 1981 local law that authorized the creation of joint fire and rescue protection districts within Forsyth County. The repeal will make the general law applicable. House Bill 89 was given a favorable report in House Local Government I. on March 19. The bill is effective retroactive to April 17, 1981.

CURRENT GENERAL LAW: Article 3A of Chapter 69 authorizes the board of county commissioners to hold an election to levy property taxes on property in a rural fire protection district for fire protection purposes, if 35% of the resident freeholders living in the district sign a petition calling for the election. G.S. 69-25.4, enacted on April 17, 1981, provides that for purposes of fire protection districts, the term "fire protection" and the levy of a tax for that purpose may include the levy, appropriation, and expenditure of funds for furnishing emergency medical, rescue and ambulance services to protect persons within the fire district from injury or death. The tax cannot be more than 15¢ on the $100 valuation of property.

CURRENT LOCAL LAW: Chapter 147 of the 1981 Session Laws, enacted on March 31, 1981, provides that whenever the term "fire protection district" or "fire protection" is used in Chapter 69, the term is deemed to refer to "fire and rescue district" with respect to Forsyth County only.

BILL ANALYSIS: House Bill 89 would repeal the above local law, and make the general law regarding the formation of rural fire and rescue districts applicable in Forsyth County. The County has been applying the general law since 1981 when it was enacted less than a month after the local law. Local acts take precedence over subsequent general acts, unless the subsequent general act repeals the local act.

*Erika Churchill, staff to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 89 A BILL TO BE ENTITLED AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS , SO THE GENERAL LAW WILL APPLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ROLL CALL RC

0089

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO REPEAL A LOCAL ACT APPLYING TO FORSYTH COUNTY CONCERNING FIRE AND RESCUE DISTRICTS, SO THE GENERAL LAW WILL APPLY.

Introduced by Representative(s): McGee.

Earline W. Parmon, Thomas, _____, _____
Holmes, Wayne Sexton, _____, _____
_____, _____, _____, _____
_____, _____, _____, _____

Principal Clerk's Use Only

PASSED 1st READING
FEB 26 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ority being present, having considered
ll, recommend that it do ✓ pass.
be re-referred to Finance

For the Committee
Rep. Walker

ORTED FAVORABLY MAR 19 2003
d re-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 142

Short Title:	Sunset Beach Erosion Control.	(Local)
Sponsors:	Representative Hill.	
Referred to:	Local Government I.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2001-36, as amended by S.L. 2001-478, reads as rewritten:

"**SECTION 3.** This act applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 142:
Sunset Beach Erosion Control

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hill
Date:	April 10, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 142 authorizes the Town of Sunset Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access.

CURRENT LAW:

General Condemnation Procedures: Under general condemnation procedures, title to the property and the right of possession vests in the city or county seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

The following 16 localities have the additional authority to use quick-take condemnation for purposes of engaging in beach erosion control and flood and hurricane protection works and public beach access:

Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

BILL ANALYSIS: House Bill 142 authorizes the Town of Sunset Beach to use quick-take condemnation procedures for the following purposes:

- Engaging in or participating with other governmental entities in acquiring, construction, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- Establishing access for the public to public trust beaches and appurtenant parking areas.

House Bill 142 would be effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 142 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

OCAL BILL

LL CALL

0142

H.B. _____ SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF SUNSET BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR PURPOSES OF ENGAGING IN BEACH EROSION CONTROL AND FLOOD AND HURRICANE PROTECTION WORKS AND PUBLIC BEACH ACCESS.

Introduced by Representative(s): Hill.

Principal Clerk's Use Only

ASSED 1st READING
FEB 27 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ority being present, having considered
ill, recommend that it do ✓ pass.
Rep. Walker
For the Committee

ORTED FAVORABLY MAR 1 9 2003
ursuant to Rule 38(6)
he bill is re-referred
o Finance

House Committee on Finance

Minutes

~

April 15, 2003 ~ 8:30 am

The House Committee on Finance met on Tuesday, April 15, 2003 at 8:30am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Weiss, Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman G. Allen called the meeting to order at 8:40 am and recognized the three Pages present: Hannah Wright of Cabarrus County, sponsored by Representative L. Johnson; Donovan Ragsdale of Wake County, sponsored by Representative Capps; and Ross Martin of Guilford County, sponsored by Representative Jeffers.

Chairman Allen made several announcements prior to considering the bills on the agenda. First, the Chair announced that the Finance Committee would meet again at 2pm for debate on the proposed bill HB 254 – REDUCE YOUTH SMOKING: RAISE TOBACCO TAXES and a third time immediately following the full House session later in the afternoon for consideration of HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. Finally, the Chairman announced the removal of HB 650 – DURHAM ANNEXATIONS from the day's agenda to be re-calendared at the request of one of the bill's sponsors, Representative Luebke.

The Chair also announced the referral of HB 1034 – M.A.D.D. SPECIAL REGISTRATION PLATE and HB 1160 – STOCK CAR RACING THEME SPECIAL PLATES to the Finance Subcommittee on Tax and Tags. The Chair then reminded the members of the Subcommittee on Tax and Tags that they would meet later in the day at 10:00 am in Room 425 of the Legislative Office Building.

Chairman Allen then recognized Representative Stam to explain HB 517 – HOLLY SPRINGS CHARTER REVISION (see attachment 3). This bill acts to consolidate the charter of the Town of Holly Springs and amends the Charter to include a provision allowing the Town to enact a tree ordinance. Immediately following this explanation, the Chair recognized Representative Weiss who made a motion for a favorable report. Having no discussion, the Chair called the vote and the motion passed with no known opposition.

Chairman Allen then recognized Representative Stiller, the bill sponsor, to explain HB 542 – OAK ISLAND/CASWELL/OCEAN ISLE CONDEMNATIONS (see attachment 4). This bill is proposed to authorize the Towns of Oak Island, Caswell Beach, and Ocean Isle Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access. Noting that he had already offered a similar bill for his area of representation, Representative Hill moved for a favorable report. The motion

carried without dissent.

The Chairman next recognized Rep. Blackwood to explain HB 731 – STALLINGS SATELLITE ANNEXATION (see attachment 5). Representative Blackwood explained that the bill is controversial, since the Town of Indian Trail has objected to the proposed satellite annexations of the bill. Upon hearing Mr. Blackwood's explanation, Representative Howard stated that it seemed that he had attempted to make a fair compromise on the bill and subsequently moved for a favorable report. However, prior to the consideration of this motion, the Chairman recognized members for questions concerning the opposition of the Town of Indian Trail to the proposed annexations. Representative Womble asked to hear from anyone at the meeting in opposition to this bill; however no one from Indian Trail was present at the meeting to voice opposition. Following this, Representative Jones reasserted the earlier motion for a favorable report, stating that the bill seemed to meet legitimate conditions for annexation.

Representative Blackwood then reiterated his hope that the communities of Indian Trail and Stallings could work out an agreement amongst themselves, as, even when passed, this bill remains a voluntary annexation. Representative Decker offered an amendment to the bill to add a sunset until 2006, as the current edition does not have a stated date of expiration. This amendment would act to provide that the ability to annex for these two communities would expire under law in 2006 if they were to remain unable to reach an appropriate compromise.

Representatives Rayfield and Alexander asked Representative Blackwood if he would consider withdrawing his current bill and return once again to these communities to attempt to sort things out and make a compromising arrangement. Representative Blackwood stated that, unfortunately, at the present time he did not believe there was any other resolution. Representative Womble was then recognized by the Chair to address the Committee and stated his belief that the Committee should not be involved on such a controversial local issue, where there is such wide opposition. He also stated his belief that Representative Blackwood should withdraw his bill and return to the community for further interaction with these communities.

At that time, Representative Blackwood, upon consulting with Chairman Allen, acted to withdraw his bill and to return to the local community for additional attempts at compromise.

Chairman Allen then reminded members of the Subcommittee on Tax and Tags that it would meet at 10 am that day in room 425 of the Legislative Office Building. The Chair also reminded the Committee once again that it would meet again that day at 2:00 pm to debate the Cigarette Tax and for a third time following the full House session at approximately 4:30 pm.

Having no further business at that time, Chairman Allen adjourned the meeting at 9:05 am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 517 (and related materials)
4. Senate Bill 542 (and related materials)
5. House Bill 731 (and related materials)
6. House Bill 650 (and related materials) **(removed from agenda prior to meeting)**

ATTACHMENT 1

AGENDA

House Finance Committee

April 15, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Gordon Allen

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills:

HB 517	**Holly Springs Charter Revision**	*Rep. Stam*
HB 542	**Oak Island/Caswell/Ocean Isle Condemnations**	*Rep. Stiller*
HB 650	**Durham Annexations**	*Rep. Luebke*
HB 731	**Stallings Satellite Annexation**	*Rep. Blackwood*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, April 15, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 517 – HOLLY SPRINGS CHARTER REVISION – Rep. Stam

HB 542 – OAK ISLAND/CASWELL/OCEAN ISLE CONDEMNATIONS – Rep. Stiller

HB 650 – DURHAM ANNEXATIONS – Rep. Luebke

HB 731 – STALLINGS SATELLITE ANNEXATION – Rep. Blackwood

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **10:00 A.M.** on **April 10, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Debbie Holder	NC Utilities Commission
Dorothy Davis	Public Staff- Utilities
Bob Gillam	Public Staff
Joe McClees	McClees Consulting
Paul Zepin	OSBA
Ron Aycock	County Com. Assoc
Andy Sabol	NCDOR
Marthan Glass	NC DAICS
Henry Hutaff	N.C.SDA.
Regan Ball	DCD-DHHS
Bob Fitzgerald	DFS/DHHS

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30 am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drexdal Pratt	DHHS / DFS / Emerging Med. Services
Roz Sawyer	NCCCS
Bill Rustin	ACP
DAVID BARNES	Poyner Spruill LLP
Leslie Berger	NCCBI
Betty Turner	Bank of America
Chris Nichols	Hunton + Williams
Dave Lamb	NCSITA
[illegible]	Poyner & Spruill
Jim Blackburn	NC Association of County Commissioners
Ken Melton	Alley Associates, Inc.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 8:30 am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marcos Arellano	Intern
Duke "The Nuke" Chen	Intern
Shelley Welton	Cons Council Intern
Robert Wilson	Sec of State
Melva Fager Okun	NC Alliance for Health
John Thompson	American Cancer Society
Peg O'Connell	Medical Review NC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 517
Committee Substitute Favorable 4/7/03

Short Title: Holly Springs Charter Revision. (Local)

Sponsors:

Referred to:

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Holly Springs is revised and consolidated to read as follows:

"CHARTER OF THE TOWN OF HOLLY SPRINGS.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The Town of Holly Springs and the inhabitants thereof shall continue to be a municipal body politic and corporate under the name of the 'Town of Holly Springs', hereinafter at times referred to as the 'Town'.

"Section 1.2. **Powers.** The Town shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the Town of Holly Springs specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Limits.** The corporate limits shall be those existing at the time of ratification of this Charter, as set forth on the official map of the Town and as they may be altered from time to time in accordance with law. An official map of the Town, showing the current municipal boundaries, shall be maintained permanently in the office of the Town Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Wake County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **Town Governing Body.** The Board of Commissioners, hereinafter referred to as the 'Board', and the Mayor shall be the governing body of the Town.

"Section 2.2. **Board of Commissioners; Composition; Terms of Office.** The Board shall be composed of five members, to be elected by all the qualified voters of the

Town, for staggered terms of four years and until their successors are elected and qualified.

"Section 2.3. **Mayor; Term of Office; Duties.** The Mayor shall be elected by all the qualified voters of the Town for a term of four years and until a successor is elected and qualified. The Mayor shall be the official head of the Town government and shall preside at meetings of the Board. The Mayor shall have the right to vote only when there is an equal division on any question or matter before the Board and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** In accordance with general law, the Board shall elect one of its members to act as Mayor Pro Tempore to perform the duties of the Mayor during his or her absence or disability.

"Section 2.5. **Meetings.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law.

"Section 2.6. **Quorum; Voting.** Official actions of the Board and all votes shall be taken in accordance with the applicable provisions of general law, particularly G.S. 160A-75. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.7. **Compensation; Qualifications for Office; Vacancies.** The compensation and qualifications of the Mayor and Commissioners shall be in accordance with general law.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. Elections shall be conducted on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"Section 3.2. **Election of Mayor.** At the regular municipal election in 2005, and quadrennially thereafter, a Mayor shall be elected to serve a term of four years.

"Section 3.3. **Election of Commissioners.** At the regular municipal election in 2003, and quadrennially thereafter, two Commissioners shall be elected to four-year terms. At the regular municipal election in 2005, and quadrennially thereafter, three Commissioners shall be elected to four-year terms.

"Section 3.4. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The Town shall operate under the council-manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **Town Attorney.** The Board shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties required by law or as the Board may direct.

"Section 4.3. **Town Clerk.** The Board shall appoint a Town Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give

notice of meetings, and to perform such other duties required by law or as the Board may direct.

"Section 4.4. **Tax Collector.** The Board shall appoint a Tax Collector to collect all taxes owed to the Town and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the Board.

"Section 4.5. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment and may organize the Town government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. MISCELLANEOUS POWERS.

"Section 5.1. **Tree Ordinances.**

(a) The Town may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties.

(b) Ordinances adopted pursuant to this section shall:

(1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way and any required conservation easements.

(2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.

(3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.

(4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.

(5) Provide that a survey of individual trees is not required.

(6) Include reasonable provisions for access onto and within the subject property.

(7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a municipality may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were removed from the tract of land for which the permit or plan approval is sought. A municipality may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the municipality's ordinances.

(c) Before adopting an ordinance under this section, the governing board of the municipality shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. 160A-364.

(d) Nothing in this section shall be construed to limit or be limited by any other existing laws or ordinances.

(e) This section applies to the Town and to property located within the Town's corporate limits and extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes.

(f) This section becomes effective January 1, 2004."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Holly Springs and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 110, Session Laws of 1951
Chapter 121, Session Laws of 1953
Chapter 495, Session Laws of 1971
Chapter 331, Session Laws of 1985
Chapter 382, Session Laws of 1985
Chapter 941, Session Laws of 1985.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Holly Springs and all existing rules or regulations of departments or agencies of the Town of Holly Springs not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Holly Springs or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or

applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision amended, repealed, or superceded.

SECTION 10. This act is effective when it becomes law.

HOUSE BILL 517:
Holly Springs Charter Revision

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Stam
Date:	April 15, 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: House bill 517 consolidates the charter of the Town of Holly Springs and amends the Charter to include a provision allowing the Town to enact a tree ordinance. The current bill was given a favorable report in House Local Government I.

CURRENT LAW: The charter of the Town of Holly Springs was last revised and consolidated in 1951. Since then, several amendments have been enacted in separate pieces of local legislation.

BILL ANALYSIS: The 2nd Edition of House bill 517 brings together the pieces of the charter into one document and amends the charter to include a provision allowing the Town to enact tree ordinances. HB 517 grants the Town the authority to adopt ordinances regulating the cutting of trees and shrubs prior to development within a perimeter buffer zone. The buffer zone may be up to 50 feet along public roadways and property boundaries adjacent to developed property and up to 25 feet along property boundaries adjacent to undeveloped property. The ordinances must also provide that:

1. The buffer area will not exceed 20% of the area of the tract, net of public road rights-of-way and any required conservation easements.
2. The buffer zones adjoining public roadways shall be measured from the edge of the public road right-of-way.
3. Tracts that are 2 acres or less and zoned for single-family residential use are exempt from the buffer requirements.
4. Ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted municipal plans and zoning regulations.
5. Surveys of individual trees are not required.
6. There will be reasonable provisions for access to and within the property.
7. Normal forestry activities on property that is taxed at use value or is managed under a forestry management plan prepared or approved by a registered forester will be excluded. The Town may deny a building permit or refuse a subdivision plan for 3 years after the completion of the harvest of the perimeter trees that would have otherwise been protected. This period may be shortened to 2 years if the owner replants the buffer area within 120 days with appropriate plant material.

BACKGROUND: Other municipalities with similar authority to regulate clear cutting of trees are: Durham, Cary, Garner, Knightdale, Fuquay-Varina, Morrisville, and Spencer (S.L. 2001-191)

*Erika Churchill, staff to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 517 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ROLL CALL

title change

~~Proposed~~ Committee Substitute For
B. 517

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF HOLLY SPRINGS.

Introduced by Representative(s): Starn

Principal Clerk's Use Only

e Committee on Local Govt I
najority being present, having considered
bill, recommend that it do pass.
Rep. Warner
For the Committee

FAVORABLE TO COMM. SUB
UNFAVORABLE TO BILL

APR 7 2003

TITLE CHANGE

~~AND PLACED ON CALENDAR FOR~~

pursuant to Rule
38(b) be referred
to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 542

Short Title: Oak Island/Caswell/Ocean Isle Condemnations. (Local)

Sponsors: Representative Stiller.

Referred to: Local Government I.

March 18, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-3(b1) reads as rewritten:

"(b1) Local Public Condemnors [Modified Provision for Certain Localities]. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

(2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

(3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

(4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.

(5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

(6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

(7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

(8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.

(9) Opening, widening, extending, or improving public wharves.

(10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.

(11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this chapter.

This subsection applies only to Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 542:
Oak Island/Caswell/Ocean Isle Condemnations.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	April 15, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 542 authorizes the Towns of Oak Island, Caswell Beach, and Ocean Isle Beach to exercise the power of "quick-take" condemnation to acquire property for beach erosion control, flood and hurricane protection works, and public beach access.

CURRENT LAW:

General Condemnation Procedures: Under general condemnation procedures, title to the property and the right of possession vests in the city or county seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

The following 16 localities have the additional authority to use quick-take condemnation for purposes of engaging in beach erosion control and flood and hurricane protection works and public beach access:

Carolina Beach, Carteret County, Dare County, and the Towns of Atlantic Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Pine Knoll Shores, Surf City, Topsail Beach, and Wrightsville Beach.

BILL ANALYSIS: House Bill 542 authorizes the Towns of Caswell Beach, Oak Island, and Ocean Isle Beach to use quick-take condemnation procedures for the following purposes:

- Engaging in or participating with other governmental entities in acquiring, construction, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.
- Establishing access for the public to public trust beaches and appurtenant parking areas.

House Bill 542 would be effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for

H.B. 542 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

)CAL BILL

L[redacted]LL

H.B. 0542

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWNS OF CASWELL BEACH, OAK ISLAND, AND OCEAN ISLE BEACH TO EXERCISE THE POWER OF EMINENT DOMAIN FOR THE PURPOSES OF ENGAGING IN BEACH EROSION CONTROL, FLOOD AND HURRICANE PROTECTION WORKS, AND PUBLIC BEACH ACCESS.

Introduced by Representative(s): Stiller.

Principal Clerk's Use Only

PASSED 1st READING
MAR 18 2003
AND REFERRED TO COMMITTEE
ON Local Government I

Committee on Local Govt. I
ajority being present, having considered
bill, recommend that it do pass.
Rep Warren
For the Committee

na be re-referred
Finance

)RTED FAVORABLY APR 2 2003
-referred to Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 731

Short Title:	Stallings Satellite Annexation.	(Local)
Sponsors:	Representative Blackwood.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF STALLINGS TO MAKE VOLUNTARY SATELLITE ANNEXATION OF CERTAIN PROPERTY WITH THE CONSENT OF THE TOWN OF INDIAN TRAIL.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 160A-58.1(b)(2), the Town of Stallings may annex any of the following property in Union County with the approval of an ordinance or resolution by the governing board of the Town of Indian Trail. The remaining provisions of Part 4 of Article 4A of Chapter 160A of the General Statutes shall apply to such annexation.

Union County Tax Parcel identification numbers:

07-147-139
07-147-139B
07-147-137
07-147-137B
07-147-137C
07-147-137D
07-147-137E
07-141-009
07-141-010
07-141-008
07-141-007
07-141-007A
07-141-001
07-141-001D
07-141-001G
07-141-002
07-141-002A
07-141-003

07-141-004D
07-087-002.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 731:
Stallings Satellite Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Blackwood
Date:	April 15, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 731 allows the Town of Stallings to make voluntary satellite annexation of certain property with the consent of the Town of Indian Trail. The act is effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 731 authorizes the Town of Stallings to make voluntary satellite annexation of certain property with the consent of the Town of Indian Trail and without having to meet the requirement in G.S. 160A-58.1(b)(2).

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

)CAL BILL

L CALL

H.B. 0731

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF STALLINGS TO MAKE VOLUNTARY SATELLITE ANNEXATION OF CERTAIN PROPERTY WITH THE CONSENT OF THE TOWN OF INDIAN TRAIL.

Introduced by Representative(s): Blackwood.

Principal Clerk's Use Only

PASSED 1st READING
MAR 27 2003
AND REFERRED TO COMMITTEE
ON... Finance

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 650

Short Title:	Durham Annexations.	(Local)
Sponsors:	Representatives Crawford, Luebke, Michaux, and Miller (Primary Sponsors).	
Referred to:	Finance.	

March 25, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO ANNEX STREETS THAT ARE CONTIGUOUS ON BOTH SIDES OF PROPERTY LOCATED WITHIN THE CITY LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is amended by adding a new section to read:

"Sec. 2.7. Annexation of Streets. – In addition to the authority to annex streets under this Charter and general law, the City may annex the portions of public or private streets that are directly contiguous on two opposing sides of property that is within the City limits. When the City proposes to annex a street under this section and the annexation is of the street alone, the City shall adopt a resolution describing the street area and setting a date for a public hearing. Notice shall be given and the public hearing shall be held as provided in Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes. Upon compliance with the provisions of this section, the City Council may adopt an ordinance annexing the described area and no other requirements shall apply. The time for appealing the annexation shall be as provided in Section 2.6 of this Charter."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 650:
Durham Annexations

BILL ANALYSIS

Committee: House Finance
Date: April 15, 2003
Version: 1st Edition

Sponsor: Rep. Crawford, Luebke, Michaux, and Miller
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 650 is a local bill that amends the charter of the City of Durham to allow the City to annex streets that are contiguous on both sides of property located within the city limits.

BILL ANALYSIS: House Bill 650 amends the Charter of the City of Durham to give the City the authority to annex portions of public or private streets that are directly contiguous on two opposing sides of property that is within the City limits.

If the annexation is for the street alone, the City must adopt a resolution that describes the street area and sets a date for a public hearing, and then gives notice in a newspaper of general circulation at least 10 days prior to the public hearing. The time for appealing the annexation is 30 days after the adoption of the annexation ordinance.

The bill is effective when it becomes law.

LOCAL BILL

ROLL CALL

H.B. 0650

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE CITY OF DURHAM TO ALLOW THE CITY TO ANNEX STREETS THAT ARE CONTIGUOUS ON BOTH SIDES OF PROPERTY LOCATED WITHIN THE CITY LIMITS.

Introduced by Representative(s): Crawford, Luebke, Michaux, and Miller (Primary Sponsors).

Principal Clerk's Use Only

PASSED 1st READING
MAR 25 2003
AND REFERRED TO COMMITTEE
ON Finance

House Committee on Finance

Minutes

~

April 15, 2003 ~ 2:00 pm

The House Committee on Finance met on Tuesday, April 15, 2003 at 2:00 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, Womble, and Wood; and Ex-Officio Committee Member Representatives Culpepper, Cunningham, and Eddins. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Visitor Registration Sheet is attached and incorporated into these minutes as attachment 1.

Chairman G. Allen called the meeting to order at 2:07 pm and recognized the Pages present at the meeting: (1) Justin Kelly of Wake County, sponsored by Representative Eddins; (2) Faith Smith and (3) Joel Smith, both of Wilson County, sponsored by Representative Farmer-Butterfield.

As the only bill on the agenda, Representative Weiss was recognized by the Chairman to explain HB 254 – REDUCE YOUTH SMOKING: RAISE TOBACCO TAXES. This bill is a committee substitute of the original bill. It acts to increase the excise tax on cigarettes from 5 cents a pack to 50 cents a pack, and increases the excise tax on other tobacco products from 2% of the cost price of the products to 18% of the cost price. Overall, explained Representative Weiss, the bill's purpose is to reduce youth smoking by raising the price of tobacco products higher than affordable for teens. The Representative also presented several pieces of information in favor of the bill to Committee members, which are included in these minutes as attachments 3, 4, and 5.

As there were a great deal of visitors present at the meeting, the Chair recognized all those who desired to address the Committee, but limited their time to 90 seconds each as a means to control the time of debate. Representative Daughtridge, although not a member of the Committee, was present to briefly address the Committee as an opponent of the bill, stating from a travel and tourism position, that people traveling through North Carolina stop currently because of their ability to buy cheap cigarettes and, if this cigarette tax increase passes, they will no longer do so.

The following individuals, representing personal causes, as well as a number of community and state organizations, spoke in support of the bill:

- Peg O'Connell, representing the North Carolina Alliance for Health;
- Adam Searing, representing the North Carolina Health Access Coalition and Covenant with North Carolina's Children (see attachment 6);
- the Reverend Mark Creech, representing the Christian Action League of North Carolina;
- Leah Devlin, State Health Director;
- Steve Shore, Executive Director of the North Carolina Pediatric Society;

- Dr. Adam Goldstein, a family physician with UNC;
- Jim Goodman, representing Capital Broadcasting Company;
- Leanne Winner, representing the North Carolina School Boards Association; and
- John Thompson, representing the Cancer Society.

Also present, were individuals speaking in opposition to the bill:

- Mrs. Asulp, a resident of Surry County and an advocate with the Citizens for a Sound Economy, stated that a lot of tobacco was grown in her area of the state and that this tax increase would seriously hurt their economy;
- Don Yelsin, also with the Citizens for a Sound Economy and a resident of Buncombe County, stated that if legislators want to reduce youth smoking, they should outlaw cigarettes entirely, rather than using this cause as a means to generate revenues for the state.
- Leslie Bebback, representing the North Carolina Citizens for Business and Industry, opposed the bill because "no tax should single out any one industry".
- Roger Bone, of the Tobacco Industry, who spoke to the possible economic implications on the state with an increased tobacco tax.

Following the words of these concerned citizens, Chairman Allen recognized a large number of the Committee Members to voice their position on the bill and asks questions:

- Representative Hill stated his view of this bill in two distinct parts: first, to reduce youth smoking; and second, to raise tobacco taxes, just as the title of the bill suggests. He stated his profession as a retailer already prohibited the sale of cigarettes to minors and that the price of tobacco isn't the problem, it's that others are buying cigarettes for these underage teen smokers. Thus, he believes that an increase in the tobacco tax will not solve the problem of youth smoking.
- Representative Lewis stated that he does not favor the tax because it is nothing more than a punitive tax on a legal product.
- Representative Creech spoke passionately to individual's lack of responsibility on this issue. He stated his belief that the government can't do everything for citizens. Rather, people must make good choices and be held accountable if they do not. He does not believe that government can help the problem of underage smoking and smoking-related disease by raising the taxes on tobacco. He also noted that some 14,000 jobs in the state are due to be lost from this proposed increase.
- Representative Wainwright questioned the bill sponsor, Representative Weiss, asking if the state's budget included appropriations from this tax increase to further address the problem of youth smoking. Representative Weiss stated that raising the price of cigarettes alone, would reduce the number of youth smokers.
- Representative Luebke first noted that while Citizens for a Sound Economy are vehemently against this proposed increase, in 1998 their second largest corporate contributor was the Phillip Morris Company (with contributions of $1,070,550). He also questioned Representative Creech as to the 14,000 jobs that are subject to loss because of this bill. Representative Creech responded that cigarettes were already the most highly taxed product in history. On a final note, Representative Luebke noted that a portion of the monies raised by this tax should be invested in new youth smoking education programs.

- Representative Rayfield asked Representative Weiss when the last tobacco tax increase was passed in the General Assembly. Representative Weiss stated that it was in 1991. Representative Rayfield also noted that neither the Committee nor the General Assembly could be expected to legislate morality.
- Representative Glazier was recognized and prefaced his remarks by mentioning his past service as a local school board member. He also noted that he was a co-sponsor of the bill. His main focus, he stated, aside from the tobacco tax, was to reduce teen smoking.
- Representative McComas asked Representative Weiss of the economic impact that the tobacco settlements have had on the state. Representative Weiss was unaware of the total impact.
- Chairman Allen recognized Representative Holliman who asked a question to RJR Spokesman Gene Ainsworth as to the current number of people RJR currently employs in Davidson County. Mr. Ainsworth stated that RJR employed 585 people in Davidson County at that time. Representative Holliman then stated his concern that an increase in the tax on tobacco might cause even more jobs to be lost in Davidson County, where the unemployment rate is already at 8 percent.
- Representative Jones was recognized for a question to Representative Weiss. He asked her why an increase on tobacco taxes was being proposed now when he had heard no mention of them and there had been no increase since 1991. Representative Jones also stated his feeling that this bill is nothing more than a mechanism for the state to bring in new revenues in these tight economic times.
- Representative Decker was recognized next by the Chair. He commented that the taxes on alcohol had not been raised since 1969 and that he did not favor any increase in cigarette taxes. He also made a motion for the vote on the bill to be made by roll call.

However, prior to Chairman Allen calling the vote on the bill, Representative Weiss, the bill sponsor, acted to withdraw the bill from the Committee, halting any further consideration at that time.

As a final announcement, the Chair reminded the members that the Committee would reconvene once again immediately following the full session for consideration of HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. At 3:50 pm, the Chair adjourned the meeting so that the members could attend the full House session.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. House Bill 517 (and related materials)
3 - 5. Materials provided by Representative Weiss on HB 254
6. Prepared Statement of Mr. Adam Searing of NC Health Access Coalition

House Committee on Finance

Minutes

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Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

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2. House Bill 517 (and related materials)
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ATTACHMENT 1

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ray & Karen McKinney	Mitchell 38 Elkin Rd Bakersville NC
Phyllis Stevenson	CSE Stokes Co.
Jim & Jean Taylor	Mitchell Co.
Andy BROWN	CSE YANCEY
Ernestine Durham	Exe. Intern
Wanda Brown	Yancey County CSE
Katherine Harvey	CSE
William Towne	CSE Orange County
Fran Cockman	State Watch
Mary Copeland	CSE - Orange County
Bill Daughtridge	Representation NC House

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Peg O'Connell	MRNC
Lynette Tolson	AHA
John Thompson	ACS
Audra Harrold	ACS
Bill Smith	Robeson County Hlth Dept
Melva F. Okun	NC Alliance for Health
Pam Seamans	NC Alliance for Health
Bill Miller	CSE
Ed Furniss	CSE
John Holleman	NCAE
Glynn Downs	CSE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bob Garner	AARP of NC
STEVE ROBERTS	AARP
Susan Haddon	CSE
Janet Maynard	CSE
Ralph Hunt	CSE
Lloyd Hedgpeth	CSE
Kay Hedgpeth	CSE
Sarah + Stefani Johnson	CSE - Guilford
Richard T. Buck	CSE
Jennifer Barnes	CSE
Tom Shaffner	CSE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joe McCleer	McCloes Consulting Inc
Otis Carter	Carter & Assoc.
Pricy Harrison	Beaufort NC
Nancy L Varnum	Gilford NC
Vary Zakeitian	Guilford Co. Commissioner
Nancy Bishop	Greensboro GOP
Antoinette Horan	Guilford GOP
Neal V Hamm	GSO
Roger Bone	Bone & Assoc
Gene Ainsworth	RJR
Michael Shannon	Lorillard

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Adam Goldstein	
Ron Aycock	N.C. ~~[illegible]~~ Assoc of County Comm
Ed Regan	N.C.A.C.C
Leanne Winner	NCSBA
[illegible]	Orange Co. CSE
Bill Scoggin	KCUI
A L Eckel	Comm
Harriett Purves	El Pueblo, Inc.
Sandra Peterson	Orange Co. CSE
Mildred Smith	Forsyth CSE
Susan Markham	NCSPA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 2:00pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Devon White	PENC
Lou Wilson	
Crissey Porter	Smith Anderson
Joyce Peters	JP Assoc
[illegible]	UCICU
Sandra Long	Martin Marietta
Ruby Roddy	Tillman
John Roddy	Tillman
Anna D Cannon	CSE - Buncombe
Kathie Lack	CSE - Buncombe Co.
BILL LACK	CSE - BUNCOMBE COUNTY

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003, 2 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hope Herrick	
Julie Allen	NC Statewatch
Helen S Morrison	CSE
Trudy [illegible]	CSE
Marvin [illegible]	CSE
Don Yelton	"Citizen"
Wm. Reynolds	CSE
Leslie Bowman	NCCBI
Kevin [illegible]	WCSR
Sandy Sands	WCSR
Molly Walsh	Altair

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03 - 2:00 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eugene Fritchard	CSE
R F (Buck) Golding	CSE Surry Co
Shirley T. Golding	CSE Surry Co.
Randy Copeland	CSE
Andrew Meehan	NC Assn. of Elec. Cooperatives
Rev. Mark Creech	CAL
Roz Sawitt	NCCCC
Cam Cover	BPMHL
Mildred Smith	Surry & Forsyth
Angie McMillan	TNC
Anne Winne	[illegible]

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Bewley	LBA
Carole Lawler	EGHS
Steve Mitchell	Novartis
AL DEITCH	DOA/YAIO
Tom V. Bennett	NCCFTF
Katherine Jape	NCASA
Michael Houser	NCAE
[illegible]	PSF
J Pinsky	NCCAI
Connie Mullinix	Flynt Mullinix Healthcare Consulting
LaNelle Alsup	P.O. Box 62 Tax payer

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Joanne Stevens	nursing / NCCASA
Wanda Thompson	
Meg Mollocy	NC Alliance for Health
Paula A. Wolf	Covenant w/NC's Children
[illegible]	Altria
Paula Page	RRP NCFB
BRIAN LEWIS	Planned Parenthood Health Sys.
Paige Johnson	Planned Parenthood Central North Carolina
John Bowdish	AstraZeneca
BRIAN SHANK	AstraZeneca
Glenn Wells	HUFFMANN-LA ROCHE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — 4/15/03, 2pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura Harper	SEANC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 254
PROPOSED COMMITTEE SUBSTITUTE H254-PCS80263-LYx-2

Short Title: Reduce Youth Smoking: Raise Tobacco Taxes. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO RAISE THE EXCISE TAXES ON CIGARETTES AND OTHER TOBACCO PRODUCTS TO REDUCE AND PREVENT YOUTH SMOKING IN NORTH CAROLINA AND THEREBY PROTECT THE HEALTH AND SAVE THE LIVES OF NORTH CAROLINA'S CHILDREN.

Whereas, North Carolina's excise tax on cigarettes is currently 5¢ a pack, the third lowest in the nation, and

Whereas, the use of tobacco products is the leading cause of preventable death and disability in North Carolina, and

Whereas, the use of tobacco products costs the State $4,750,000,000 in medical costs and lost productivity annually, and

Whereas, 24,600 North Carolina children become new daily smokers each year, a rate of 67 new daily child smokers everyday, and

Whereas, the best way to prevent and reduce tobacco use by children is to substantially increase the cost of cigarettes, and

Whereas, such a tax increase would result in a 16.1% decrease in youth smoking rates, prevent 105,750 North Carolina children from starting to smoke, and save 33,750 North Carolina children from premature smoking-related deaths; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-113.5 reads as rewritten:

"**§ 105-113.5. Tax on cigarettes.**

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of ~~two and one-half mills~~two and one-fourth cents (2 1/4¢) per individual cigarette.

This tax does not apply to any of the following:

(1) Sample cigarettes distributed without charge in packages containing five or fewer cigarettes.

(2) Cigarettes in a package of cigarettes given without charge by the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government."

SECTION 2. G.S. 105-113.35(a) reads as rewritten:

"(a) Tax. – An excise tax is levied on tobacco products other than cigarettes at the rate of ~~two percent (2%)~~eighteen percent (18%) of the cost price of the products. This tax does not apply to the following:

(1) A tobacco product sold outside the State.

(2) A tobacco product sold to the federal government.

(3) A sample tobacco product distributed without charge."

SECTION 3. This act becomes effective July 1, 2003.

HOUSE BILL 254:
Reduce Youth Smoking: Raise Tobacco Taxes

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Weiss
Date:	April 15, 2003	**Analysis by:**	Martha Walston and Y. Canaan Huie, Committee Counsel
Version:	PCS to 1st Edition		

SUMMARY: ***The proposed committee substitute for House Bill 254 increases the excise tax on cigarettes from 5 cents a pack to 45 cents a pack, and increases the excise tax on other tobacco products from 2% of the cost price of the products to 18% of the cost price. The bill would become effective July 1, 2003.***

CURRENT LAW: G.S. 105-113.5 levies a tax on the sale or possession of cigarettes in the State at the rate of 5 cents per pack of 20 cigarettes. The tax does not apply to the free distribution of sample cigarettes in packs of five or less or to any packs of cigarettes donated free by a manufacturer to its employees who work in the factory if the cigarettes are not taxed by the federal government.

G.S. 105-113.35(a) levies an excise tax on tobacco products other than cigarettes at the rate of 2% of the cost price of the products. The tax does not apply to a tobacco product sold outside the State, a tobacco product sold to the federal government, or a sample product distributed without charge. A tobacco product is any product that contains tobacco and is intended for inhalation or oral use.

BILL ANALYSIS: House Bill 254 increases the excise tax on cigarettes from 5 cents a pack to 45 cents a pack and increases the tax on other tobacco products from 2% of cost price to 18% of cost price. Historically, North Carolina has had one of the lowest excise taxes on cigarettes and other tobacco products. Currently only two states, Kentucky (3¢ per pack) and Virginia (2.5¢ per pack), [1] have a lower excise tax on cigarettes than does North Carolina. Nationwide, state excise tax rates on cigarettes will average 67.3¢ per pack as of July 1, 2003.[2] Tax rates on other tobacco products are more difficult to compare across states because some states impose a tax based on cost whereas other states impose a tax based on quantity. Of the states that impose a tax based on cost, like North Carolina, only seven have a lower excise tax rate for other tobacco products (District of Columbia, Kentucky, Pennsylvania, and Virginia)[3] or for a subset of the other tobacco products (Florida,[4] Georgia,[5] and New Hampshire[6]).

[1] It should be noted, however, that Virginia allows some localities to place an additional tax on cigarettes. This tax currently is as high as 45¢ a pack in certain localities.
[2] This includes cigarette tax increases that have been enacted and that will become effective between now and July 1, 2003.
[3] None of these states impose an excise tax on any other tobacco products.
[4] Florida has no excise tax on cigars, but has a 25% excise tax on other tobacco products.
[5] Georgia has an excise tax on cigars of 2¢ per 10 cigars or 13% of wholesale price, but no excise tax on other tobacco products.
[6] New Hampshire has no excise tax on cigars, but has a 19.7% excise tax on other tobacco products.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **April 15, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 254 – (PCS) – Reduce Youth Smoking – Raise Tobacco Taxes

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ millions)				
	FY 2003-04	**FY 2004-05**	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**
REVENUES					
General Fund					
Excise Tax	**246.3**	**236.4**	**227.0**	**217.9**	**209.2**
Sales Tax	**9.9**	**9.5**	**9.1**	**8.7**	**8.4**
OTP	**16.8**	**16.8**	**17.3**	**17.3**	**17.3**
TOTAL	**273.0**	**262.7**	**253.4**	**243.9**	**234.9**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue.

EFFECTIVE DATE: July 1, 2003.

BILL SUMMARY: The bill increases the tax on cigarettes from $0.05 per pack (20 cigarettes) to $0.45 per pack, and other tobacco products from the current rate of 2% to 18%.

ASSUMPTIONS AND METHODOLOGY: In FY 1999-00 and FY 2000-01 the state received the following revenues from the sale of cigarettes and other tobacco products:

	($ million)	
	1999-00	2000-01
Cigarette	40.5	38.5
Other Tobacco Products	3.2	3.5

For fiscal year 2002-03, North Carolina has actually seen an increase in cigarette tax revenue. However, because almost all of this increase occurred in two months directly after a number of other states dramatically increased their cigarette tax, this trend is not expected to continue without additional, large-scale cigarette tax increases in other states.

According to a March 2002 report from the Council of State Governments, cigarette consumption is expected to decline nationally by approximately 1.5% a year. (This estimate is based on the four-year average since the adoption of the Master Settlement Agreement in 1998.) However, historically North Carolina has seen a much more dramatic decline. Therefore, independent of any change in price, Fiscal Research estimates that cigarette tax revenues will decrease by approximately 4% annually, creating the following baseline revenue stream:

	2003-04	2004-05	2005-06	2006-07
Total Cigarette Revenue	37.0	35.5	34.1	32.7
Revenue Per Penny	7.4	7.1	6.8	6.5

While these numbers are a good indication of revenues from existing taxes and even small increases in the tax on cigarettes, academic research suggests that larger price increases could result in smaller per penny gains. According to a 1998 report from the National Bureau of Economic Research, "a ten-percent increase in cigarette prices would reduce overall cigarette consumption by three to five percent". A similar study offered in 1998 by Blake Brown at North Carolina State University suggests that a 10% increase in the price of cigarettes will result in a decline in consumption of 2% - 7.5%. However, because nonresidents often stop in North Carolina to purchase cigarettes or purchase cigarettes from the state through other means, Fiscal Research believes our state's overall consumption will be more sensitive than average to changes in price. Therefore, the higher end estimate of 7.5% is used to determine the impact of each 10% increase in price. An additional adjustment is added to larger increases to remain conservative in our estimating process. In addition, under current law, cigarette distributors get to retain 4% to defray the cost of administering the tax. The 2001 Tax Burden on Tobacco publications indicates that the average cigarette price in North Carolina is $3.12.

Based on the above assumptions, the potential revenue stream from a $0.40 increase in the tax on a pack of cigarettes is estimated as the following:

	2003-04	2004-05	2005-06	2006-07	2007-08
40 Cent Increase*					
Cigarette Tax Revenue	246.3	236.4	227.0	217.9	209.2
Sales Tax Revenue	9.9	9.5	9.1	8.7	8.4
Total New General Fund Revenues	256.1	245.9	236.1	226.6	217.6

The bill also increases the tax on all other tobacco products (OTP) from the current rate of 2% to 18%. Under the current system, OTP revenue is estimated as the following:

	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05
Other Tobacco Products	3.2	3.5	3.7	3.8	3.9	3.9

Once adjustments are made for declines in demand due to increased prices, the following revenue stream is expected from the increase in the Other Tobacco Products tax:

2003-04	2004-05	2005-06	2005-06	2006-07
16.8	16.8	17.3	17.3	17.3

SOURCES OF DATA: Dr. Blake Brown, NCSU, Federal Economic Research Service, NC Department of Revenue.

Reg. Weiss

ATTACHMENT 3

North Carolina Alliance for Health

Protect Children – Raise Revenues

Increasing NC's Cigarette Tax by $.75 Will Generate ~$400 million.
The majority of NC voters support an increase in NC's cigarette tax.

North Carolina Smoking Information (04/04/03)

Tobacco is addictive and deadly and accounts for more than 11,500 deaths in North Carolina per year. Raising the price is the most effective way to protect children from starting to smoke.

Health -

- 38.3% of NC high school students currently use tobacco products, exceeding the national average of 34%.[1]
- 18.4% of NC's children in grades 6-8 use tobacco products, exceeding the national average of 15.1%.
- 26% of NC adults are smokers.[2]
- The average age of initiation of the use of tobacco products is between 12-14 years old.[3]
- 14% of pregnant women in NC are smokers.[4]
- Tobacco use is highest among lower-income and lower-education populations;[5] and often translates to higher prevalence, morbidity, and tobacco-attributable mortality among ethnic minorities.
- An increase by $.75 in the cigarette tax will result in a decrease by 16% in youth smoking and a 17.5% decrease in smoking rates among NC pregnant women.

Expenditures -

- The use of tobacco products costs NC $4.75 billion in medical and lost productivity costs.[6]
- In 1998, about 13% of all Medicaid expenditures in NC were spent on smoking-related illnesses and diseases.[7] For SFY 2002 NC State expenditures for Medicaid services were $1.9 billion and NC county expenditures were $355 million.[8]

Revenue -

- An increase of $.75 in NC's cigarette tax will generate ~$400 million in new revenues.[9]
- NC's cigarette tax is $.05 and has not increased since 1991. It is the third lowest in the nation. The average state cigarette tax is $.67.[10] The state's low tax makes it vulnerable to cross border sales. In a Charlotte trial, people were convicted of selling cheap NC cigarettes out-of-state and using the profits as a fundraiser for the Hezbollah.[11]
- Other southern tobacco-producing states are working with NC to increase all cigarette taxes together. West Virginia passed a tax increase on 03.06.03 to $.55.

NC Alliance for Health, 3131 RDU Center, Suite 100, Morrisville NC 27560; 919 463-8328; ncalliance@heart.org

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[1] Youth Tobacco Survey (1999)
[2] Behavioral Risk Factor Surveillance System, CDC, 2001
[3] National Cancer Institute Smoking and Control Program
[4] NC State Center for Health Statistics, PRAMS data, 2000
[5] Behavioral Risk Factor Surveillance System 1999-2000. MMWR Oct. 12, 2001; 869.
[6] Smoking Attributable Morbidity, Mortality, and Economic Costs, CDC Office of Smoking & Health, 2002
[7] CDC. State highlights. http:..www.cdc.gov/tobacco/statehi/pdf_2002/NorthCarolina.pdf.
[8] NC DHHS
[9] Campaign for Tobacco Free Kids
[10] ibid.
[11] Washington Post, 6/22/02

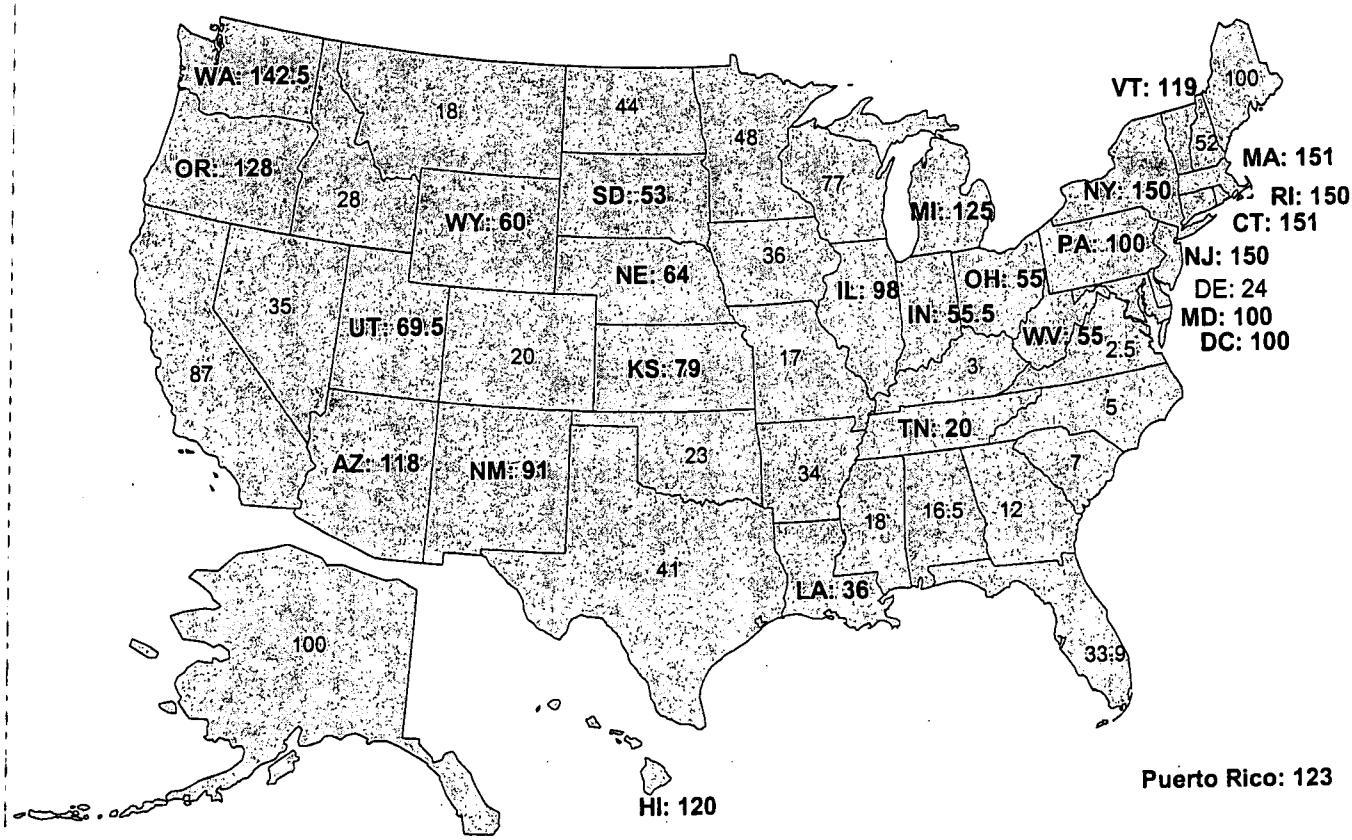
CAMPAIGN for TOBACCO-FREE Kids®

MAP OF STATE CIGARETTE TAX RATES - 2003

Average State Cigarette Tax Per Pack: 67.3 cents

Average Tobacco State Tax: 8.25 cents

Other States' Average: 75.2 cents



Map shows state cigarette tax rates in effect now or already scheduled to be enacted in 2003. States with new tax increases implemented or passed since 1/1/2002 marked in bold. Additional increases scheduled to go into effect in 2004 and beyond in HI and RI. Major tobacco states = NC, KY, VA, SC, TN, GA. State averages do not include Puerto Rico (which has a population larger than those in 20 different states). Including Puerto Rico increases the overall state average to 68.4 cents per pack, and increases the non-tobacco-state average to 76.2 cents. Federal cigarette tax rate is 39 cents per pack. Some local governments also tax cigarettes. For example, New York city increased its local cigarette tax from 8 cents to $1.50 per pack in 2002, and more than 35 cities, towns, and counties in VA have taxes ranging from two to 50 cents per pack. The U.S. Centers for Disease Control & Prevention estimates that smoking-caused health costs in the United States total $7.18 per pack sold.

For more information on state cigarette taxes and the benefits from increasing them, see:
http://tobaccofreekids.org/reports/prices or http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=18

National Center for Tobacco-Free Kids, Apriil 4, 2003 / Eric Lindblom

1400 I Street NW · Suite 1200 · Washington, DC 20005.
Phone (202) 296-5469 · Fax (202) 296-5427 · www.tobaccofreekids.org

Rep. Jennifer Weiss

ATTACHMENT 4

North Carolina Department of Health and Human Services
Division of Public Health • Office of the State Health Director
1915 Mail Service Center • Raleigh, North Carolina 27699-1915
Tel 919-733-7081 • Fax 919-715-3144

Michael F. Easley, Governor
Carmen Hooker Odom, Secretary

Leah Devlin, DDS, MPH
State Health Director
Director, Division of Public Health

April 15, 2003

Representative Jennifer Weiss
Room 2221 Legislative Building
Raleigh, N.C. 27601-1096

Dear Representative Weiss:

I am writing in response to your request to provide a summary and references for the scientific evidence regarding the public health impact of raising the unit price for tobacco products by 50 cents per pack through a product excise tax increase.

The Scientific Evidence. The Task Force on Community Preventive Services' recommends increasing the unit price for tobacco products in order to reduce the number of people who start using tobacco on the basis of strong evidence of effectiveness[1]. This review of the scientific evidence demonstrates that increasing the price of tobacco products is effective both in 1) reducing tobacco use prevalence and consumption among both adolescents and young adults and 2) increasing tobacco use cessation [1]. This Task Force is an independent nonfederal group of scientists that systematically reviewed the price elasticity data and its relationship to initiation, consumption and cessation of tobacco use.

Numerous recent studies indicate that a 10% increase in product price results in an overall 3-5% decrease in cigarette consumption and a 7% decrease in youth smoking.[2] A recent study by the University of Illinois at Chicago (April 2001) found that a 10% increase in the price of cigarettes would decrease the probability of an adolescent starting smoking between 3 and 10 percent depending on the type of initiation, including initiation of any smoking (including experimentation), initiation of daily smoking, and initiation of smoking at lease one half-pack per day. Price was found to have the largest impact on stemming the initiation of daily smoking among youths.[3] A study published in the American Journal of Public Health shows that a 10% increase in price would reduce smoking rates among pregnant women by 7%[4].

The Health Toll of Tobacco in NC. Tobacco use continues to be the leading preventable cause of mortality in NC resulting in more than 14,000 deaths annually.[5] Although 50.4% of adults have never smoked a cigarette, current smoking prevalence continues to hover around a quarter (25.7%) of the population or an estimated 2.1 million North Carolinians.[6] Currently 35.8% of high school and 17.4% of middle school students use tobacco products; 27.8% of high school and 11.3% of middle school students smoke cigarettes. The current prevalence rate is expected to lead to the deaths of 210,000 current youth if the trend prevails.[7]

The Economic Toll of Tobacco Use. Tobacco use in NC costs the state $1.9 billion in direct medical expenditures alone, or more than $255 per person. In 1998, about 13% ($600,000,000 or $513.30 per recipient) of all Medicaid expenditures were spent on smoking-related illnesses. Lost productivity costs are estimated to be greater than $2.8 billion or $370 per person. When combined, direct medical and productivity losses cost NC $4.8 billion annually.[8]

The Benefits of a 50-cent Tobacco Tax Increase. A 50-cent per cigarette pack increase in NC would result in:

- Fewer state packs of cigarettes sold each year: 232.3 million[9]
- Percent decrease in youth smoking: 11.7%[9]
- Increase in total number of kids alive today who will not become smokers: 76,800[9]
- Number of current adult smokers in the state who would quit: 49,900[9]
- Number of current adult smokers saved from smoking-caused death: 10,900[9]
- Number of kids alive today saved from premature smoking-caused death: 24,500[9]
- 5-Year healthcare savings from fewer smoking-affected pregnancies & births: $11.6 million[9]
- 5-year healthcare savings from fewer smoking-caused heart attacks & strokes: $17.0 million[9]
- Long-term healthcare savings in state from adult & youth smoking declines: $1,333.3million.[9]

Thank you for your interest in the health of North Carolinians. Please let me know if I can be of further assistance.

Sincerely,

Leah Devlin, DDS, MPH
State Health Director

cc: Advisory Committee on Cancer Coordination and Control
Heart Disease and Stroke
NC Alliance for Health
NCPHA
NC Medical Society
NC Pediatric Society
NC Dental Society
NC Association of Local Health Directors

References:

[1] Hopkins, DP & Fielding, JE, 2001. Recommendations Regarding Interventions to Reduce Tobacco Use and Exposure to Environmental Tobacco Smoke. *Task Force on Community Preventive Services, Supplement to the American Journal of Preventive Medicine*, 20 (2S).

[2] Tauras, J, et al., 2001. "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," *Bridging the Gap Research, ImpacTeen*, and other price studies at

www.uic.edu/orgs/impacteen. Chaloupka, F, 1999. "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* and other price studies at http://tigger.uic.edu/~fjc; Chaloupka, F & Pacula, R, 1998. An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies, *National Bureau of Economic Research, Working Paper* 6541, http://tigger.uic.edu/~fjc. Emery, S; et al., 2001. "Does Cigarette Price Influence Adolescent Experimentation?," *Journal of Health Economics* 20:261-270. Evans, W & Huang, L, 1998. *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper, www.bsos.umd.edu/econ/evans/wrkpap.htm. Harris, J & Chan, S, 1998. "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2): 3-12, www.mit.edu/people/jeffrey.

[3] Tauras, J, et al., 2001. "Effects of Price and Access Laws on Teenage Smoking Initiation: A National Longitudinal Analysis," *Bridging the Gap Research, ImpacTeen*, and other price studies at www.uic.edu/orgs/impacteen.

[4] Ringel, J. & W. Evans, 2001. Cigarette Taxes and Smoking During Pregnancy. *American Journal of Public Health* 91: 1851-1856.

[5]North Carolina State Center for Health Statistics, 2002. Unpublished data, available upon request.

[6] North Carolina State Center for Health Statistics, 2001. *NC Behavioral Risk Factor Surveillance System Data.* Current Smoker, www.schs.state.nc.us/SCHS/healthstats/brfss/2001/nc/ rfsmok2.html.

[7]Centers for Disease Control and Prevention, 2002. *Tobacco Control State Highlights 2002: Impact and Opportunity.* Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

[8]Centers for Disease Control and Prevention, 2002. *Tobacco Control State Highlights 2002: Impact and Opportunity.* Atlanta, GA: Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health.

[9] Campaign for Tobacco Free Kids, 2003. *Benefits from a Cigarette Increase in North Carolina -- 50 cents.* February 20, 2003. Unpublished. On file.

Rep. Jennifer Weiss

ATTACHMENT 5

Organizations and Individuals Supporting a Significant Increase in North Carolina's Cigarette Excise Tax As of 4-14-03

The following *organizations* support a significant increase in North Carolina's cigarette tax:

Access Care
Adolescent Pregnancy Prevention Coalition of NC
American Cancer Society, Southeast Division, Inc.
American Heart Association
Anchor Club/TATU of South Brunswick High School
Association of North Carolina Boards of Health
Buncombe County Board of Health
Campaign for Tobacco Free Kids
Capitol Pediatrics
Chatham County Breathe Easy Coalition
Christian Action League of North Carolina, Inc.
Cleveland County Health Department
Council on Adolescents of Catawba County
Democratic Precinct Swift Creek 04
Durham MH Board
Eastern District NC Public Health Association
El Pueblo
Forsyth County Board of Health
Goldsboro Pediatrics, PA
Healthy Alamance Substance Abuse Task
Healthy Carolinians Council of Orange County
Institute for Health, Science, and Society
Management Concepts, Inc.
Medical Review of North Carolina
NC AARP
NC Assn of Local Health Directors
NC Association of Local Health Directors
NC Association of Student Assistance Professionals
NC Chapter of the Society for Public Health Education
NC Commission of Indian Affairs
NC Pediatric Society

NC Prevention Partners
NC Public Health Association
NC School Board Association
North Carolina Dietetic Association
Poe Center for Health Education
Robeson County Community Child Protection/Fatality Prevention Team
Robeson County Partnership for Children
S.W.A.T.
SAVE of NC GASP
School Health Association of North Carolina
Triangle Older Women's League

The following *individuals* support a significant increase in North Carolina's cigarette tax:

Douglas H.	Adams
M. Deery	Adams
Deborah L.	Ainsworth, MD
Hazel S.	Alikrez
Sundayhl	Allen, C.S.A.C.
William	Ameen, MD
Dorothy G.	Anderson
Jack D.	Anderson, MD
Souad	Andrawes, MD
Souad	Andrawes, MD
Jennie	Andresen, MD
Abena	Asante
Al	Asbarhr, MD
Jennifer H.	Bacon
Marty A.	Baker, MD
Charlene	Barbour
Elsie	Barbour
P. Kenneth	Bates, MD
Toby	Bates, MD
Joseph T.	Bell, MD
Joseph T.	Bell, MD
Timothy	Bell, PA
Beverly	Bizzell
H. John	Bradley, Jr. MD
Susan	Bragg
Jeffrey	Brown, MD
Faye	Buchanon

Dr. Greg	Burke
Annette B.	Burke, MD
Karen	Burke-Haynes, MD
Liz	Butcher, MD
Anne Y.	Butzen
Rex W.	Byrd
Virginia T.	Byrd
Karen S.	Cannon, MD
Hillary	Carroll, MD
Brenda	Caudill
C. Ja'met	Chappelle
Kathleen	Clarke-Pearson, MD
William L.	Coleman, MD
Ed	Coley, MD
Brunilda	Cordero, MD
Timothy	Cornell, MD
Connell	Covington, MD
Kelly	Crocker, MD
Sue	Cumpston
Edward	Davis, MD
Jadeys	Debsikdas, MD
Brenda D.	Deese
Linda	Deshazo
R.T. Dickinson	Dickinson
Donna	Dinkin
Terry C.	Dodds
Shirley	Domingo
Stevi	Dunk
Robert R.	Earnest, MD
Lisa	Easterling
Ed H.	Emory
Jim	Evans
Bryan Elliot	Farley
Ben	Feldman
Louise B.	Ferguson
Lashavia	Floyd
Theresa	Flynn, MD
Robert H.	Foreman
Susan	Foreman, MD
Sharon	Foster, MD
Richard	Fox
Jane M.	Foy, MD
Jerry K.	Fruedye, MD
Lawal	Garba

Mary	Gardner, MSN, FNP
Norman H.	Garrett, Jr.
Laura	Gerald, MD
Dale Sussman	Gertz, MD
Michelle	Gill
Mary	Gillett
David C.	Goff, Jr., MD, PhD
Brenda	Gordon
Arthur G.	Green, MD
Edwin Greene, MD	Greene, MD
Tiffany M.	Hall
Lekisha J.	Hammonds
Kiran C.	Harrell, MD
Katherine L.	Harrelson
Fred	Haywood
Kathryn	Heller, MD
Marianne A.	Hertle
Xaver	Hertle
Charles M.	Hicks, MD
Karin	Hillenbrand, MD
Katherine B.	Hilliard
Jan	Hollar
William B.	Horn
David	Horowitz, MD
Wilma	Hughes
Peggy Jones	Hunt
Hong	Huynh
David L.	Ingram, MD
Novles	Jarrett
Kimberly L.	Jones
Niakeya	Jones
Timothy D.	Jordan, MD
Shivani	Joshi
Darlene J.	Keene, MD
Jean F.	Kenny, MD
Kathryn W.	Kerkering, MD
Jeffrey S.	Kerr, MD
Karen L.	Kline
Pam	Kohl
Theodore	Kushnick, MD
Timothy W.	Lane
Ted L.	Ledford
Valerie	Leschber
Patricia V.	Lowery, MD

Kathleen E.	Lucas, MD
John A.	Luck, MD
Matt	Manning
James R.	Markello, MD
Venega	McArthur
Oveta	McIntosh-Vick, MD
Elizabeth	McKinney
Ronald	McKinney
S. Dean	McPhail
Joyce K.	McShara
James L. Mertz, MD	Mertz, MD
David K.	Merz, MD
Stan	Meyer
Diana D.	Mills
David M.	Millsaps, MD
Farida	Millwala
Charles	Milone
Carolyn	Morphy
Lola W.	Morrison
Laura	Mrosla
Leticia S.	Myers, MD
Wissam E.	Nadra, MD
Joseph P.	Narins
Patricia J.	Nofsinger
Michael E.	Norman, MD
Ike	Nwabinwe
John M.	Olsson, MD
Diane	Parker, MSN, FNP
Tracy Enright	Patterson
Dr. Lauren L.	Patton
Marilyn	Pearson, MD
Nancy	Phifer
Robert	Phillips
Joan	Phillips-Trimmer, MPH CHES
Paul W.	Popish, MD
Betty	Poteat
Kenneth	Poteat, Jr.
Kenneth	Poteat, Sr.
Scott	Proescholdsell
Amy	Quesinberry
Christina	Rama, MD
Suji	Raman
Ashley	Ramsey, MD

Ebony	Randall
Kenneth	Ray
Michael E.	Reichel, MD, MPH
Rosalind C.	Richardson
Leslie A.	Richardson, MD
Frank	Rigels
Waldo	Rogers
C. Stewart	Rogers, MD
Richard	Rosen, MD
David M.	Rubin, MD
Taylor	Rushing
LaKrystal	Sanders
Evelyn D.	Schmidt, MD
Virginia J.	Schreiner, MD
Sheri	Scott
Barbara	Scott, RHCC
Pam	Seamans
Gayzel	Sevilla
Milton J.C.	Sevilla, MD
Katherine	Shea, MD, MPH
Nancy	Simpson
Tionna S.	Singleton
Precilla	Spellman
Darrell	Spencer, Ed.D.
Billy	Stewart
William L.	Stewart, MD
Cheri B.	Stinson
Margorie A.	Sullivan
Raymond C.	Sullivan, MD
Jenn	Summer, MD
Kimberly	Sykes
David	Talbot, MD
Gregg	Talente, MD
David T.	Tayloe, Jr., MD
Reverend Evelyn	Teasley
Stuart	Teplin, MD
Doris M.	Thompson
Elizabeth E.	Tilt, MD
William W.	Truslow
Mary Kay	Tucker
Mary Kay	Tucker, PNP
Donald	Vaughn, MD
Gretchen	Velazquez, MD
Terri	Wallace

Kyne	Wang, MD
Al	Ward
Melissa	Warren, T.A.T.U
Lynn S.	Wegner, MD
Nancy J. R.	Wells
Robert Whitener	Whitener
Marian Davis	Whiteside, RN
Barbara	Wilkins
Anne	Williams
Yashica T.	Williams
Donna L.	Williams
David R.	Williams, MD
Ada	Williams-Wooten, MD
Charles F.	Willson, MD
Dave A.	Wilpula
Debra	Wilson
Cindy	Wise
William O	Young, MD

THE NORTH CAROLINA HEALTH ACCESS COALITION

A Project of the North Carolina Justice and Community Development Center

P.O. Box 28068 ● Raleigh, NC, 27611 ● 919/856-2568 ● fax:919/856-2175 ● health@ncjustice.org ● www.nchac.org

4/15/2003

Testimony on the Cigarette Tax
Adam Searing, JD, MPH

Representing:
NC Health Access Coalition
Covenant with North Carolina's Children

I am glad that we are finally talking about the need to raise revenue to save services.

Many of you know about the painful cuts in the current House budget to children, pregnant women, infants, working families. Experts tell me that a realistic view of the budget situation includes the possibility of hundreds of millions of less revenue than we are counting on today.

We believe any budget that doesn't harm the health of our most vulnerable children and families must raise substantial revenue and that a cigarette tax must be a part of that effort. WHY?

First and foremost, a substantial cigarette tax will stop significant numbers of children from taking up smoking. This is simply a fact. The boon to the health of our next generation is huge.

Second, in these tough budgetary times the cigarette tax will raise some revenue. We support raising this tax to the median even though it is clearly regressive for the following reasons:

1. NC currently has one of the lowest cigarette taxes in the country. It can be said we are subsidizing smoking by keeping taxes so low. Raising the tax to the national median brings us in line with other states.

2. The huge health benefits to our children who do not start smoking and from other smokers who reduce their smoking outweigh the regressive nature of the tax.

3. Raising this tax as part of a package of revenue raising changes – such as a 4% income tax surcharge that would cost the average taxpayer making $35,000 about $39 – can spread the burden of raising needed revenue.

Caution. A cigarette tax is part of the solution and not the only solution to our budget dilemma. A higher cigarette tax will mean less demand for cigarettes and, as smoking rates decline, less tax revenue every year. In contrast, health program costs grow with inflation and our growing population.

Raise the cigarette tax for the substantial health benefits for all of our children. Raise it to find some needed revenue. But raise it as part of a package that will remove the need for hundreds of millions of dollars in cuts in health programs to our most vulnerable people.

House Committee on Finance

Minutes

~

April 15, 2003 ~ 4:30 pm

The House Committee on Finance met on Tuesday, April 15, 2003 at 4:30 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Miner; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Starnes, Weiss, C. Wilson, Womble, and Wood; and Ex-Officio Committee Member Representatives Brubaker and Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Aaron Woodlief. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, Lisa Holloway, Canaan Huie, Linda Millsaps, Susan Morgan, and Martha Walston. The Visitor Registration Sheet is attached and incorporated into these minutes as attachment 1.

Chairman G. Allen called the meeting to order at 5:00 pm and immediately recognized Representative Miner to explain HB 593 – FAMILY TAX CUT/PROTECT AAA RATING. Representative Miner first noted that because of the excellent and expedient work of the House Appropriations Committee, this committee was now able to consider a revenue bill for the state's budget far earlier than usual. He then made a motion that the Proposed Committee Substitute for HB 593 be approved by the Committee for consideration. The motion was seconded by Representative Weiss and carried without known opposition. Representative Miner explained this bill simply as one that generates the revenues needed by the state but at the same time provides tax relief to working families.

Representative Creech quickly asked Representative Miner as to what spending cuts, exactly, were being made in this bill. Representative Miner explained that the bill produces the needed $384 million in cuts overall, and that staff could provide details of these cuts. Staff person Linda Millsaps then provided a description of these cuts using the fiscal note for HB 593 (see attachment 2). However, even after this description, Representative Creech once again asked for the exact figures that are being proposed.

Representative Decker was recognized by the Chair and asked staff to explain the fee for licensure of Daycare Facilities, which is a new fee. Lisa Holloway, fiscal staff member, was present to explain that many other states already have this fee for license. Peggy Ball from the Division of Child Development was also present to answer Representative Decker's follow-up question of how many daycares there are presently in the state that are under state regulation but do not accept state licensure. Representative Decker then proposed an amendment to HB 593 to exempt from this fee those daycares that will not accept a state license due to religious reasons. Staffperson Canaan Huie, however, stated that the fee was per issuance of the license and would not be levied if these daycares were not in receipt of a license.

Rep. Holliman was recognized next and asked Representative Miner about the "Hold Harmless" agreement expiring in 10 years. Specifically, he wondered how the time period of 10 years had been reached. Representative Miner responded that, to his knowledge, there was no

specific reason for this chosen time period.

Chairman Allen recognized from the audience Paula Wolf with the Covenant for North Carolina's Children to make a statement. She spoke in opposition to the bill stating that it cuts over $800 million in programs for children, pregnant and single mothers, and other vulnerable citizens.

Following this, Representative Capps was recognized by the Chair and asked if all of the "Facilities Fees" mentioned on Page 6 of the bill were new fees. Staffperson Susan Morgan was present to respond and answered "yes". Representative Capps also inquired on the abortion information detailed on Page 5 of the bill. Staffperson Martha Walston responded that this section explains only when and who can legally perform an abortion in the state.

The Chair also recognized Perri Morgan of the National Federation of Independent Businesses of North Carolina (NFIBNC) from the audience to speak on the bill. She stated that the proposed increase on the higher income bracket would not only hurt higher income earners but also small businesses. She was clear that the NFIBNC opposed the bill.

Representative Womble was recognized to ask Paula Wolf about what other alternatives there are to funding if some of the Health and Human Services in the state are not cut. She responded only that other cuts, those not effecting children, mothers, etc. should be made to balance the state's budget.

Representative Blackwood asked why this bill is taxing Nursing Homes when so many are already closing due to bankruptcy. Representative Miner stated that this tax was necessary in order for this budget plan to balance.

Chairman Allen recognized Representative Decker to address Amendment #1 (on the Daycare Facilities Licenses) (see attachment 5). Representative Decker explained that the amendment simply clarifies what facilities are not responsible for the fee. Following this description, he made a motion for adoption of the amendment and the motion carried by consent.

Representative Creech addressed the Committee and spoke passionately that matters as complex as the budget require more time than a single debate. He voiced his belief that the people of North Carolina are being done a disservice by rushing such an important matter through committee and onto the House floor. He also stated that the Finance Committee should have the advantage of hearing from the Appropriations Committee on the fee analysis prior to voting on the budget bill.

Representative Ellis was recognized next by the Chairman to explain Amendment #2 (see attachment 6). This amendment would increase the fee for an abortion license from the proposed $700 to $4,562, the full cost to the State. It also deleted the section of the fees associated with the Emergency Medical Services (EMS) in the state. Upon his explanation of the amendment, Representative Ellis moved its adoption.

Representative Ross was recognized to speak against the amendment. She stated that the amendment's proposed fee increases for abortions are excessive and that the $700 fee is what the Appropriations Committee approved. Representative Alexander seconded Representative Ross' comments. Representative Weiss also spoke in opposition to the amendment due to the fact that the fee had already been determined as an acceptable rate. Representative Starnes, however, voiced

his support of the amendment, as did Representative Capps. The Chair again recognized Representative Ellis who reiterated his motion for adoption, stating that if the fee for abortion is higher, hopefully fewer of the procedures will be performed. Representative Weiss then moved for a roll call vote on the amendment and Chairman Allen instructed the Clerk to call the vote. The amendment failed by a vote of 16 (yes) to 19 (no) (see attachment 7).

Upon failure of this amendment, the Chair recognized the bill sponsor, Representative Miner, who made the motion for a favorable report to HB 593 (unfavorable as to original bill, but favorable to committee substitute bill – see attachment 9). Representative Creech called for a roll call vote and Representative Miner concurred with that call. Chairman Allen then instructed the Clerk to call the vote.

Having 22 votes in the affirmative and 13 votes in the negative (see attachment 8), the bill passed and will be reported by the Clerk to the House floor with a favorable report.

Seeing no further business before the Committee, Chairman Allen adjourned the meeting at 7:05 pm.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. House Bill 593 (and related materials)
3 - 4. Materials provided by Representative Miner on HB 593
5. Amendment #1 (Decker) – **Adopted by Consent**
6. Amendment #2 (Ellis) – **Failed**
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8. Roll Call Vote Tally on Committee Substitute Bill of HB 593
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ATTACHMENT 1

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Minton	NC Home Builders Assn
Kari Barsness	NCDENR
Susan Coward	NCDOT
David King	NCDOT
John Holleman	NCAE
Michael Houser	NCAE
Donald Pratt	DHHS / DFS
Ernestine Duchman	Executive Intern
Otis Carter	Carter & Assoc
Joe McClees	McClees Consultant

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NAME	FIRM OR AGENCY AND ADDRESS
Edgar Miller	Conservation Trust for NC 319 Beck's Ch. Rd Lexington, NC 27292
Anna Pope	NCDOR
Duke Chen	Intern
Mark Brason	Capitol Group
Roy Williams	UK
John McMillan	MF&S
Stacy Flannery	NCHCPA
Barbara Camden	MF&S
Betty Turner	Bank of America
Kim C. Cornell	WCSR
John Rust	NCFPC

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NAME	FIRM OR AGENCY AND ADDRESS
Bob Bennink	NCUC Staff
Janice Burke	NC Deptiy State Treasurer
Angie McMillan	TNC
Carol Lawen	EGHS
[illegible]	PSF
Roz Sawitt	NC Child Care Coalition
Sandy Sarah	WCSR
Linda Rouse Suttle	SEANC
Laura Harper	SEANC
Aris Watkins	SEANC
R. Palacio	NC Justice

VISITOR REGISTRATION SHEET

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NAME	FIRM OR AGENCY AND ADDRESS
Julie Allen	NC Statewatch
John McHugh	GOLD OFFICE
Bob Fitzgerald	DHHS/DFS
Bill Rustin	ACP
Ken Melton	Alley Associates, Inc.
Leslie Bevacqua	NCCBI
Lon Wilson	MALTCF.
Joyce Peters	JD Assoc
Ed Regan	NCACC
Ron Aycock	NCACC
Susan Markham	NCSPA

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NAME	FIRM OR AGENCY AND ADDRESS
Robert Wilson	Sec. of State
Andy Romanet	NCLM
Sandra Long	Martin Marietta
Evelyn Hawthorne	EAGR
Dorothy Davis	Public Staff
Bob Gillam	Public Staff
Don Hoover	Utilities Commission - Staff
Debbie Holder	Utilities Commission
NFIB	PERRI MORGAN
NCLCV	[illegible]

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 15, 2003 - 4:30 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Gruber	NCUC Public Staff
Sam J. Ervin, IV	N.C. Utilities Commission
Dennis Hemmingway	DHHS - DPIL

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 593

Committee Substitute Favorable 4/15/03

Short Title: Family Tax Cut/Protect AAA Rating. (Public)

Sponsors:

Referred to:

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE STATE'S TRIPLE-A BOND RATING.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION
PART 2. INSURANCE REGULATORY CHARGE
PART 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES
PART 4. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES
PART 5. DEPARTMENT OF TRANSPORTATION FEES
PART 6. ADJUST LOCAL GOVERNMENT HOLD HARMLESS
PART 7. TEMPORARILY MAINTAIN STATE SALES TAX RATE
PART 8. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE
PART 9. REPAIR AND RENOVATION
PART 10. GENERAL PROVISIONS

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 1.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

SECTION 1.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars ($200,000).

SECTION 1.1.(c) This section becomes effective July 1, 2003.

PART 2. INSURANCE REGULATORY CHARGE

SECTION 2.1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for the 2003 calendar year.

SECTION 2.1.(b) This section is effective when it becomes law.

PART 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

SECTION 3.1.(a) G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50). A license shall not be renewed if outstanding ~~fines~~ fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

a. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:

1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and

2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 3.1.(b) This section becomes effective October 1, 2003.

SECTION 3.2.(a) G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Facility Type	Number of Beds	Base Fee	Per-Bed Fee
General Acute Hospitals:	1-49 beds	$250.00	$12.50
	50-99 beds	$350.00	$12.50

100-199 beds	$450.00	$12.50
200-399 beds	$550.00	$12.50
400-699 beds	$750.00	$12.50
700+ beds	$950.00	$12.50
Other Hospitals	$500.00	$12.50."

SECTION 3.2.(b) This section becomes effective October 1, 2003.

SECTION 3.3.(a) G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50)."

SECTION 3.3.(b) This section becomes effective October 1, 2003.

SECTION 3.4.(a) G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00)."

SECTION 3.4.(b) This section becomes effective October 1, 2003.

SECTION 3.5.(a) G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of seven hundred dollars ($700.00) plus a nonrefundable annual per-operating room fee in the amount of fifty dollars ($50.00)."

SECTION 3.5.(b) This section becomes effective October 1, 2003.

SECTION 3.6.(a) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of two hundred fifty dollars ($250.00)."

SECTION 3.6.(b) This section becomes effective October 1, 2003.

SECTION 3.7.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of seven hundred dollars ($700.00)."

SECTION 3.7.(b) This section becomes effective October 1, 2003.

SECTION 3.8.(a) G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF-MR):	6 or fewer beds	$250.00	$0
	More than 6 beds	$250.00	$12.50
ICF-MR Only:	6 or fewer beds	$650.00	$0
	More than 6 beds	$650.00	$12.50."

SECTION 3.8.(b) This section becomes effective October 1, 2003.

SECTION 3.9.(a) Part 3 of Article 6 of Chapter 131E of the General Statues is amended by adding the following new section to read:

"**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee in the amount of twelve dollars and fifty cents ($12.50)."

SECTION 3.9.(b) This section becomes effective October 1, 2003.

SECTION 3.10.(a) Article 56 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-520 Fees.**

The Department of Health and Human Services shall charge a nonrefundable annual fee for emergency medical services provided under this Article, as follows:

Type of Provider	Annual Fee
Credentialing of persons paid for providing EMS Services	$90.00
Licensing of EMS Providers/Vehicle Inspections	$50.00
Licensing of Emergency Dispatch Providers	$185.00."

SECTION 3.10.(b) This section becomes effective October 1, 2003.

SECTION 3.11.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"§ 131E-267. Fees for departmental review of health care facility construction projects.

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars ($25,000) for any single project:

Institutional Project	Project Fee
Hospitals	$300.00 plus $0.20/square foot of project space
Nursing Homes	$250.00 plus $0.15/square foot of project space
Ambulatory Surgical Facility	$200.00 plus $0.15/square foot of project space
Psychiatric Hospital	$200.00 plus $0.15/square foot of project space
Adult Care Home more than 7 beds	$175.00 plus $0.10/square foot of project space

Residential Project	Project Fee
Family Care Homes	$175.00 flat fee
ICF/MR Group Homes	$275.00 flat fee
Group Homes: 1-3 beds	$100.00 flat fee
Group Homes: 4-6 beds	$175.00 flat fee
Group Homes: 7-9 beds	$225.00 flat fee
Other residential:	
More than 9 beds	$225.00 plus $0.075/square foot of facility space."

SECTION 3.11.(b) This section becomes effective October 1, 2003.

SECTION 3.12.(a) G.S. 110-90 reads as rewritten:

"**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

(1a) To establish a fee for the licensing of child care facilities. The amount of the fee may not exceed the amount listed in this subdivision. The fee does not apply to a religious sponsored child care center operated pursuant to a letter of compliance.

Capacity of Facility	Maximum Fee
12 or fewer children	$ 35.00
13-50 children	$125.00
51-100 children	$250.00
101 or more children	$400.00

(2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.

(3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or

reports are not available from existing State agencies and units of local government.

(4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.

(5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.

(7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.

(8) Repealed by Session Laws 1997-506, s. 5.

(9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.

(11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

SECTION 3.12.(b) This section becomes effective October 1, 2003.

SECTION 3.13.(a) G.S. 130A-5 is amended by adding the following new subdivision to read:

"(15) To establish a fee to cover the cost of analyzing clinical Pap smear specimens sent to the State Laboratory by local health departments and

State-owned facilities and for reporting the results of the analysis. This fee shall be in addition to the charge for the Pap smear test kit."

SECTION 3.13.(b) This section becomes effective July 1, 2003.

PART 4. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

SECTION 4.1.(a) G.S. 113-34(c) reads as rewritten:

"(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:

(1) The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.

(2) Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.

(3) Vehicle access to Fort Fisher State Recreation Area."

SECTION 4.1.(b) Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after the effective date of this section.

SECTION 4.1.(c) This section becomes effective July 1, 2003.

PART 5. DEPARTMENT OF TRANSPORTATION FEES

SECTION 5.1.(a) G.S. 138-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so ~~require, and to prescribe and collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient.~~ require. The Department of Transportation shall collect tolls on all ferries. The Department may establish various classes of ferry users.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 5.1.(b) This section becomes effective July 1, 2004.

PART 6. ADJUST LOCAL GOVERNMENT HOLD HARMLESS

SECTION 6.1. G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government hold harmless.**

(a) Definitions. – The following definitions apply in this section:

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~September~~ August 15, 2003, and each ~~September~~ August 15 thereafter, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 thereafter, the amount distributed under this section for the current fiscal year."

SECTION 6.2. Effective January 1, 2013, G.S. 105-521 is repealed.

PART 7. TEMPORARILY MAINTAIN STATE SALES TAX RATE

SECTION 7.1. Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, 2005. ~~2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

PART 8. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

SECTION 8.1. Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
-0-	$21,250	6%
$21,250	$100,000	7%
$100,000	~~$200,000~~NA	7.75%
~~$200,000~~	~~NA~~	~~8.25%~~

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
-0-	$17,000	6%
$17,000	$80,000	7%
$80,000	~~$160,000~~NA	7.75%
~~$160,000~~	~~NA~~	~~8.25%~~

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	$12,750	6%
$12,750	$60,000	7%
$60,000	~~$120,000~~NA	7.75%
~~$120,000~~	~~NA~~	~~8.25%~~

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	$10,625	6%
$10,625	$50,000	7%
$50,000	~~$100,000~~NA	7.75%
~~$100,000~~	~~NA~~	~~8.25%~~"

SECTION 8.2. Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, ~~2001, and expires for taxable years beginning on or after January 1, 2004.~~2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

PART 9. REPAIR AND RENOVATION

SECTION 9.1. Repair and Renovation. – This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of two hundred million dollars ($200,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this Part.

SECTION 9.2. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Repair and Renovation Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Repair and Renovation Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for repair and renovation of capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities repair and renovations when circumstances and conditions warrant the providing of capital facilities repair and renovations

through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(15b) Repair and renovation. – Any project of the type that may be funded from the Repairs and Renovations Reserve Account created in G.S. 143-15.3A.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency determines that special indebtedness is appropriate to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration concurs, it shall provide written notice to the State Treasurer advising the State Treasurer of this determination.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be

desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Financing Terms. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration

after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Oversight by Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Documentation. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Documentation. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the

effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the

delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the

custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for

the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase

agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 9.3. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

SECTION 9.4. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 9.4.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 9.4.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 9.4.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

PART 10. GENERAL PROVISIONS

SECTION 10.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 10.2. Except as otherwise provided in this act, this act is effective when it becomes law.

(formerly 593)

HOUSE BILL 397 (3rd Edition):

2003 Budget/Family Tax Cut/AAA Bond Rating

BILL ANALYSIS

Committee: House Floor
Date: April 16, 2003
Version: 3rd Edition

Sponsor:
Analysis by: Finance Team

SUMMARY: This summary covers Parts 32 through 41 of the bill, which are the fee and finance provisions. These Parts contain the following provisions:

- *PART 32 sets the public utility regulatory fee at 0.12% for the 2003 calendar year. This rate generates $12.9 million. The public utility regulatory fee established last year was 0.1%. PART 32 also sets the electric membership corporation regulatory fee at $200,000. The electric membership corporation fee is the same as the rate established last year.*
- *PART 33 sets the insurance regulatory fee at 6.5% for the 2003 calendar year. This rate is the same as the 2002 rate. This rate generates $25 million.*
- *PART 34 authorizes the Department of Health and Human Services to assess the following fees within the Division of Facility Services, Division of Child Development, and the Division of Public Health:*

  Division of Facility Service fees - Annual license or certification fees for adult care homes; hospitals; nursing homes; home care agencies; ambulatory surgical facilities; cardiac rehabilitation certification programs; hospital or clinic certified to perform abortions; facilities for the mentally ill, the developmentally disabled, and substance abusers; and nursing beds and adult care home beds in continuing care retirement facilities.

  Annual fee for credentialing of persons paid for providing EMS services, licensing of EMS providers/vehicle inspections, and licensing of emergency dispatch providers.

  One-time fee for review of each health care facility construction project. The fee may not exceed $25,000 for any single project.

  Division of Child Development fee – This fee is for the licensing of child care facilities, and the amount of the fee is based upon the number of children served by the facility.

  Division of Public Health fee – The fee will cover the cost of analyzing and reporting clinical Pap smear specimens sent to the State Laboratory.
- *PART 35 authorizes the Department of Environment and Natural Resources to charge and collect reasonable fees for vehicle access to Fort Fisher State Recreation Area and to adopt temporary rules for this purpose within six months after the effective date of this section.*
- *PART 36 requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. DOT estimates that a fee structure for the currently free ferries similar to the fee*

structure now in place for the other ferries would generate approximately $1 million per year after expenses.

- *PART 37 moves the annual hold-harmless payment date from September 15 to August 15, and repeals the hold-harmless payments effective January 1, 2013.*
- *PART 38 temporarily maintains State sales and use taxes at their existing rate by extending the sunset for the half-cent increase in the State sales tax from July 1, 2003 to July 1, 2005. This will generate $346.5 million in sales tax revenue in fiscal year 2003-2004.*
- *PART 39 temporarily maintains the individual income tax brackets at their existing rates by extending the sunset for the 8.25% upper income individual income tax bracket from January 1, 2004, to January 1, 2006. This will generate approximately $83.3 million in individual income tax payments in tax year 2004.*
- *PART 40 authorizes the issuance of security interest debt to finance $200 million of repair and renovations in accordance with G.S. 143-15.3A, the Repairs and Renovations Reserve Account.*

PART 32: REGULATORY FEE FOR UTILITIES COMMISSION

Part 32 of the bill sets the tax rate for the public utility regulatory fee for the 2003-2004 tax year at 0.12% **(same as Governor's Budget).** The rate last year was 0.1%. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair and equitable rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 32 also sets at $200,000 for the 2003-2004 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale **(same as Governor's Budget).** This is the same rate that was in effect for the 2001-2002 and 2002-2003 fiscal years. The North Carolina Electric Membership Corporation is the only electric membership corporation that fits this description.

The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly enacted 1999-180, which authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, S.L. 1999-180 levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Cooperation will be passed on to its member electric membership corporations.

PART 33: INSURANCE REGULATORY CHARGE

Part 33 of this bill sets the insurance regulatory charge at 6.5% for the 2003 calendar year. This is the same rate used for the past two years. The Department of Insurance has indicated that it cannot submit a rate proposal at this time, because it cannot estimate the rate until early May after the April collections are known. Using the rate of 6.5%, the charge is expected to generate $25 million for the 2003-2004 fiscal year. The insurance regulatory charge is a tax that was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's premiums tax liability. The insurance regulatory charge is imposed on insurance companies that pay the gross premiums tax and, beginning in 2000, on health maintenance organizations and medical service corporations. For health maintenance organizations and medical service corporations, the fee is levied on each company's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The hypothetical calculation is necessary because medical service corporations and health maintenance organizations pay premiums tax at a lower rate **(not in Governor's Budget).**

PART 34: DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

Part 34 of this bill authorizes the Department of Health and Human Services to impose the following fees:

Division of Facility Services Fees (effective October 1, 2003)

- Section 34.1 authorizes the Department to charge each adult care home with six or fewer beds a $250 nonrefundable annual license fee. The nonrefundable license fee for more

than six beds is $350 plus a nonrefundable annual per-bed fee of $12.50 **(same as Governor's Budget)**.

- Section 34.2 authorizes the Department to charge hospitals a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee. The amount of the fee is based upon the type of facility (general acute hospitals and other hospitals) and the number of beds in the facility **(same as Governor's Budget)**.
- Section 34.3 authorizes the Department to charge nursing homes a $450 nonrefundable annual license fee plus a nonrefundable annual per-bed fee of $12.50 **(same as Governor's Budget)**.
- Section 34.4 authorizes the Department to charge home care agencies a $350 nonrefundable annual license fee **(same as Governor's Budget)**. A home care agency is a private or public organization that provides home care services. Home care services include the following services and directly related medical supplies and appliances which are provided to an individual in his or her home:
    1. nursing care by or under the supervision of a registered nurse.
    2. physical, occupational, or speech therapy, when provided to an individual who also is receiving nursing services, or any other of these therapy services, in a place used as the individual's home.
    3. medical social services.
    4. in-home aide services that involve hands-on care to an individual.
    5. infusion nursing services.
    6. assistance with pulmonary care, pulmonary rehabilitation, or ventilation.
- Section 34.5 authorizes the Department to charge a $700 nonrefundable annual base license fee plus a $50 nonrefundable annual per-operating room fee to an ambulatory surgical facility **(same as Governor's Budget)**.
- Section 34.6 authorizes the Department to charge a $250 nonrefundable annual certification fee to a Cardiac Rehabilitation Program **(same as Governor's Budget)**, and shortens the certification period from a period not to exceed two years to a period not to exceed one year. A Cardiac Rehabilitation Program is a program for the delivery of cardiac rehabilitation services to outpatients and includes coordinated, physician-directed, individualized programs of therapeutic activity and adaptation designed to assist the cardiac patient in attaining the highest rehabilitative potential. The services offered by the program must meet all cardiac rehabilitation program rules.
- Section 34.7 authorizes the Department to charge a $700 nonrefundable annual certification fee to a hospital or clinic that performs abortions **(same as Governor's Budget except that this bill amends the Health Care Facilities and Services statutes in Chapter 131E instead of the Criminal Law statutes in Chapter 14)**.
- Section 34.8 authorizes the Department to charge an annual base license fee plus a nonrefundable annual per-bed fee to licensed facilities for the mentally ill, developmentally disabled, and substance abusers. The amount of the fees is based on the

type of facility (non-ICF-MR and ICF-MR only) and the number of beds **(same as Governor's Budget)**.

- Section 34.9 authorizes the Department to charge a $450 nonrefundable annual base license fee plus a $12.50 nonrefundable annual per-bed fee to continuing care retirement communities that have nursing home beds or adult care home beds **(same as Governor's Budget)**.
- Section 34.10 authorizes the Department to charge a nonrefundable annual fee to emergency medical service providers. The Division of Facility Services licenses all emergency medical service providers. Under this section, all EMS providers will pay an annual license fee based on the number of permitted EMS vehicles ($50 per vehicle) operated by the EMS provider, except that emergency medical dispatch providers will pay $185 annually. All volunteer-only EMS providers and volunteer EMS providers with paid personnel will be exempted from the fees. The Division of Facility Services also offers eight levels of EMS credential for persons who are trained EMS personnel. This section imposes a $90 credentialing fee for all levels of EMS credentialing. It exempts persons who work as volunteers within an EMS system from paying credentialing fees. Persons who are paid to work in an EMS system or persons with no system affiliation will pay fees **(same as Governor's Budget)**.
- Section 34.11 authorizes the Department to charge a fee for the review of each health care facility construction project to ensure that project plans and construction comply with State law. The fee is charged on a one-time per-project basis and cannot exceed $25,000 for any single project. **(The Governor's Budget does not cap the fee.)** Large institutional projects for hospitals, nursing homes, ambulatory surgical facilities, psychiatric hospitals, and adult care homes with more than seven beds would be charged a flat fee plus an amount based upon the size of the project in square feet. **(The Governor's Budget does not charge the flat fee.)** Residential construction projects for family care homes, intermediate care facilities for the mentally retarded group homes, and mental health group homes would be assessed a flat fee depending on the type and number of beds. If the residential project contains more than nine beds the project will be charged a flat fee plus $0.075 per square foot of facility space. **(The Governor's Budget does not charge the flat fee for a residential project that contains more than nine beds.)**

Division of Child Development Fee (effective October 1, 2003)

- Section 34.12 authorizes the Secretary of Health and Human Services to establish fees for the licensing of child care facilities. The maximum amounts of the fees range from $35 to $400 depending upon the number of children the facility can serve **(not in the Governor's Budget).** The fees do not apply to a religious sponsored child care center operated pursuant to a letter of compliance.

Division of Public Health Fee (effective July 1, 2003)

- Section 34.13 authorizes the establishment of a fee to cover the cost of analyzing and reporting clinical Pap smear specimens sent to the State Laboratory by local health

departments and State-owned facilities. The fee is in addition to the charge for the Pap smear test kit **(not in the Governor's Budget).**

PART 35: DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

Part 35 of this bill authorizes the Department of Environment and Natural Resources to charge and collect reasonable fees for vehicle access to Fort Fisher State Recreation Area. Part 35 becomes effective July 1, 2003. The Department may also adopt temporary rules to establish these fees within six months of the effective date. According to Department officials, the annual fee would be approximately $40 per year. **(not in the Governor's Budget)**

PART 36: DEPARTMENT OF TRANSPORTATION FEES

Part 36 of this bill instructs the Department of Transportation to collect tolls on all ferries by July 1, 2004, and authorizes DOT to establish various classes of ferry users. Currently there are seven ferries operating in the State. Of these, three collect tolls. The toll operations are Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Southport-Fort Fisher. The four free ferry operations are Hatteras-Ocracoke, Bayview-Aurora, Cherry Branch-Minnesott, and Currituck-Knotts Island. DOT estimates that if a fee structure similar to that used on the toll ferry operations was in place for the four free ferry operations, it would generate approximately $1 million per year after expenses. This fee change would affect only the Highway Fund **(not in the Governor's Budget).**

PART 37: ADJUST LOCAL GOVERNMENT HOLD-HARMLESS

Part 37 of the bill changes the date that sales tax hold-harmless payments are made to local governments each year, from September 15 to August 15, and repeals the hold-harmless payments after ten years effective January 1, 2013. **(The Governor's Budget would have eliminated the hold harmless payments beginning in 2003.)**

Background: In 2001, the General Assembly gave local governments the authority to increase their local sales tax by one-half cent, effective upon the repeal of the State's additional half-cent sales tax on July 1, 2003. Also effective July 1, 2003, the State's reimbursements to local governments were repealed, and the State was directed to provide hold-harmless payments to those local governments whose potential gain from the half-cent local sales tax increase would be less than 100% of their loss from the repealed State reimbursements. State reimbursements consist of reimbursements from the repeal of the property tax on inventories and on poultry and livestock, the repeal of the intangibles tax, the "homestead exclusion" from property tax, and the repeal of local sales and use taxes on food purchased with food stamps.

In 2002, the General Assembly accelerated the repeal of the State reimbursements from July 1, 2003, to July 1, 2002, and accelerated the effective date that local governments could began levying the additional half-cent local tax from July 1, 2003, to December 1, 2002.

PART 38: TEMPORARILY MAINTAIN STATE SALES TAX RATE

Part 38 of this bill delays the sunset of the half-cent increase in the State sales tax from July 1, 2003, to July 1, 2005. In the 2001 Appropriations Act, the General Assembly increased the State sales tax by one-half cent, from 4% to 4.5%, effective October 16, 2001. This State sales tax increase sunsets July 1, 2003. Before 2001, the State sales tax rate had last been increased in 1991 from 3% to 4%.

Also in 2001, the General Assembly gave local governments the authority to increase their local sales tax by one-half cent, effective upon the repeal of the State's one-half cent on July 1, 2003. In 2002, the General Assembly accelerated the effective date of the additional half-cent local sales and use tax from July 1, 2003, to December 1, 2002 **(same as Governor's recommendation).**

PART 39: TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Part 39 of this bill delays the sunset of the upper-income 8.25% individual income tax rate from January 1, 2004, to January 1, 2006. In 2001, the General Assembly added a new tax bracket that imposed an additional one-half percent income tax on certain North Carolina taxable income for three years. Under prior North Carolina law, tax was imposed at the following rates on individuals' North Carolina taxable income:

Tax Rate	*Married filing jointly*	*Heads of household*	*Single filers*	*Married filing separately*
6.0%	Up to $21,250	Up to $17,000	Up to $12,750	Up to $10,625
7.0%	Over $21,250 and up to $100,000	Over $17,000 and up to $80,000	Over $12,750 and up to $60,000	Over $10,625 and up to $50,000
7.75%	Over $100,000	Over $80,000	Over $60,000	Over $50,000

The 2001 law created a fourth tax bracket for North Carolina taxable income as follows:

Tax Rate	*Married filing jointly*	*Heads of household*	*Single filers*	*Married filing separately*
8.25%	Over $200,000	Over $160,000	Over $120,000	Over $100,000

This change was estimated to effect approximately 2% of North Carolina taxpayers **(same as Governor's recommendation).**

PART 40: REPAIR AND RENOVATION

Part 40 of this bill authorizes the State to incur $200 million of security interest indebtedness for repair and renovation of State capital facilities. The proceeds would be used to repair and renovate State buildings in the same manner as funds in the Reserve for Repair and Renovations are used. Except in the case of an emergency, the Director of the Budget is required to consult with the Joint Legislative Commission on Governmental Operations before incurring debt for specific repair and renovation projects.

Part 40 also enacts the procedural and regulatory provisions needed to carry out the security interest indebtedness. Commonly referred to as "certificates of participation," security interest indebtedness is debt that is secured by an interest in the property being repaired or renovated. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property being repaired, and other circumstances. Based on these circumstances, one form or another of security interest debt may be the least expensive and most practical for the State to utilize. **(not in the Governor's Budget)**

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 15, 2003

TO: House Finance Committee

FROM: Linda Millsaps, Richard Bostic, David Crotts, Bob Weiss, Evan Rodewald, Jennifer Haygood, Susan Morgan, Lisa Hollowell, and Marilyn Chism.
Fiscal Research Division

RE: HB 593 – (PCS) FAMILY TAX CUT/ PROTECT AAA RATING

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($ million) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Utilities Special Fund	12.95				
Insurance Reg. Fund	25.0				
Agency Receipts					
Dept. of Health & Human Services					
Div. of Facility Services	5.1	5.1	5.1	5.1	5.1
Div. of Child Development	0.9	0.9	0.9	1.0	1.0
Div. of Public Health	1.1	1.1	1.1	1.1	1.1
Dept. of Environment & Natural Resources	0.04	0.04	0.04	0.04	0.04
Highway Fund		1.0	1.0	1.0	1.0
General Fund					
Sales Tax Extension	346.5	388.2	26.5	0.0	0.0
Income Tax Extension	37.5	92.7	57.3	0.0	0.0
TOTAL G.F.	**384.0**	**480.9**	**83.8**	**0.0**	**0.0**
EXPENDITURES					
Highway Fund		* See Assumptions and Methodology *			
General Fund	-	21.4	20.8	20.3	19.7

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services, Utilities Commission, Department of Insurance, Department of Transportation, Department of Revenue, and Department of Environment and Natural Resources.

EFFECTIVE DATE: Part I, Section 3.13 and Part IV are effective July 1, 2003. The remainder of Part III becomes effective October 1, 2003. The remainder of the bill is effective when law.

BILL SUMMARY:

Part I, Section 1(a) sets the regulatory fee rate for the Public Utilities Commission at 0.12%. This rate must be set annually and is an increase from the .1% rate in 2002. Section 1(b) sets the regulatory fee for the electric membership corporations at a flat $200,000. This fee has remained the same since it was first imposed in 1999.

Part II addresses the annual establishment of the insurance regulatory fee. Section 2(a) sets the insurance regulatory charge at 6.5%. The rate remains the same as in the previous year.

Part III addresses three sets of fees related to the Department of Health and Human Services. Sections 3.1-3.11 increase and establish a variety of fees related to the Division of Facility Services. Section 3.12 imposes a new fee on day care facilities. Section 3.13 imposes a new fee on certain pap smears.

Part IV allows the Department of Environment and Natural Resources to adopt temporary rules to establish fees for off-highway vehicle access to the Fort Fisher Recreation Area.

Part V requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. The Department may establish various classes of ferry users.

Part VI ends all hold harmless payments to locals after 2012, and expedites the payment of hold harmless payments in 2003-04 and 2004-05.

Part VII extends the state half-cent sales tax that became effective on October 16, 2001 from July 1, 2003 to July 1, 2005.

Part VIII delays the sunset of the 8.25% income tax rate from January 1, 2004 to January 1, 2006.

Part IX authorizes the state to incur $200 million of security interest indebtedness for the repair and renovation of State facilities. These proceeds would be used to repair and renovate State buildings in the same manner as funds allocated to the Reserve for Repair and Renovations.

ASSUMPTIONS AND METHODOLOGY:

PART 1: REGULATORY FEE FOR UTILITIES COMMISSION

Part 1 of the bill sets the fees for regulation by the North Carolina Utilities Commission ("Commission"). Section 1(a) of the bill sets the public utility regulatory fee rate at 0.12% for FY 2003-04. (The FY 2002-03 rate is .1%) Revenue from this fee, which is assessed against regulated public utilities, is used to support the operations of both the Commission and the Public Staff. The Commission estimates the .12% regulatory fee will produce $12,950,000 in FY 2003-04. For the same period, the Commission estimates that the combined operations of the Commission and Public

Staff will require total expenditures of not less than $12,183,000. The estimated balance in the Commission's Accumulated Fee Margin Reserve Account as of June 30, 2003 is $4.6 million. The proposed fee would generate a surplus of $767,000 that will be added to this Reserve Account for a June 2004 balance of $5.37 million. This represents approximately 4.4 months of operating reserve. The Commission considers this reserve balance "adequate to reasonably ensure our continuing financial integrity".

Section 1(b) of the bill sets the public utility regulatory fee to be paid by the North Carolina Electric Membership Corporation for the 2003-04 fiscal year at $200,000. In 1999, the initial fee of $200,000 was developed as a result of discussions between the industry and the Utilities Commission, based on what the Utilities Commission believed to be the cost associated with regulating the electric membership cooperatives. In 2001 the Utilities Commission provided information to the General Assembly's Fiscal Research illustrating that these fees supported approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

PART 2: INSURANCE REGULATORY CHARGE

Part 2 of the bill sets the insurance regulatory charge at 6.5% for calendar year 2003. This is the same rate used in 2002 because the Department of Insurance has not submitted a rate proposal. The Department has stated that it cannot estimate the rate until early May after the April collections are known.

This fee is assessed against the 1.9% premiums tax paid by insurers or against the presumed premiums tax that would be paid by HMOs and Article 65 companies (Blue Cross/Blue Shield) if taxed at 1.9% (they are taxed at 1%). The revenue is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the insurance industry and other industries and to other departments as specified in G.S. 58-6-25(d). The 6.5% rate was estimated to generate $25 million in regulatory fee revenue in 2002.

PART 3: DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

All fees generated in this part of the bill flow to the affected divisions of the Department of Health and Human Services. Corresponding reductions have been made to their General Fund appropriations in the budget bill.

SECTIONS 3.1-3.11: DIVISION OF FACILITIES SERVICES FEES

The purpose of the proposed fees for the Division of Facility Services (DFS) is to provide revenue to cover a portion of the State cost associated with the regulation and licensure of health and social care facilities and services. The proposed fees will generate $5,142,000 in revenue -- $5,100,000 will be used as departmental receipts to cover a portion of the Division of Facility Services operating budget and $42,000 will be used to pay for one position to collect the fees. Under this proposal, fees would support 33% of the General Fund budget ($15.4 million) for the Division of Facility Services. The Division of Facility Services also receives $12.5 million in federal funds. The fees fall into three categories: (1) fees for licensure and regulation of health and social care facilities and services, (2) fees for

the licensure of Emergency Medical Services providers and credentialing persons who are certified by the Division of Facility Services to provide Emergency Medical Services, and (3) fees for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities.

Fees for Licensure and Regulation of Health and Social Care Facilities and Services

The Division of Facility Services licenses and regulates health and social care facilities including hospitals, abortion clinics, ambulatory surgical facilities, cardiac rehabilitation facilities, nursing facilities, adult care homes, mental health group homes, intermediate care facilities for the mentally retarded, and continuing care retirement communities. DFS also regulates home care service agencies including home health and personal care service providers. The fee structure for all facilities and agencies includes a base fee that applies regardless of the size of the facility. In addition, facilities that have beds, offices, or rooms associated with their license will also be charged a per bed or room fee. Facilities with less than six beds are exempted from the per bed fees. The attached chart summarizes the base fees and per bed fees for all facilities and agencies.

Fees for Licensure and Credentialing of Emergency Medical Service Providers

The Division of Facility Services licenses all emergency medical service providers. Under this proposal, all EMS providers will pay an annual license fee based on the number of permitted EMS vehicles ($50 per vehicle) operated by the EMS provider except that emergency medical dispatch programs will pay $185 annually. All volunteer only EMS providers and volunteer EMS providers with paid personnel will be exempted from the fees.

The Division of Facility Services also offers eight levels of EMS credential for persons who are trained EMS personnel. This proposal establishes a $90 credentialing fee for all levels of EMS credentialing and will be applied for initial credentialing, recredentialing, legal recognition, and challenge applicants. The proposal will exempt persons who work as volunteers within an EMS system from paying credentialing fees. Persons who are paid to work in an EMS system or persons with no system affiliation will pay fees.

Fees for Processing and Reviewing Construction Plans for Social and Health Care Facilities

The Construction Section of the Division of Facility Services has the following responsibilities:

- Review plans for new construction, conversions, additions, and renovations of all health and social care facilities
- On-site inspection of each project's regulatory compliance with licensure standards related to physical plant systems and life safety code requirements during the building process and a final inspection once the project is completed
- Routine inspections of existing facilities to monitor continued compliance with licensure requirements
- Consultation services.

Under the proposal, fees would be assessed for processing and reviewing construction plans for social and health care facilities and for conducting physical plant inspection of these facilities. A chart summarizing the fees is attached.

Large institutional projects for hospitals, nursing homes, ambulatory surgical facilities, and adult care homes with seven or more beds would be assessed fees based on the size of the project in square feet. The fee would range $.10 to $.20 per square foot depending on the type of facility.

Residential construction projects for family care homes, intermediate care facilities for the mentally retarded, group homes, and mental health group homes would be assessed a flat fee ranging from $100 to $275 per project depending on the type and size of the facility.

The revenues generated by the new and increased Division of Facility Services fees are as follows:

FACILITY TYPE	# FACILITIES, REVIEWS or EXAMS	BASE FEE	ADDT'L FEE	# OF BEDS/ OFFICES/ ROOMS	TOTAL REVENUE
GENERAL ACUTE HOSPITALS					
1 - 49 beds	25	$ 250	$ 12.50	736	**$ 15,450**
50 - 99 beds	29	$ 350	$ 12.50	1,993	**$ 35,063**
100 - 199 beds	36	$ 450	$ 12.50	4,918	**$ 77,675**
200 - 399 beds	18	$ 550	$ 12.50	5,093	**$ 73,563**
400 - 699 beds	8	$ 750	$ 12.50	4,789	**$ 65,863**
700 + beds	4	$ 950	$ 12.50	3,273	**$ 44,713**
OTHER HOSPITALS	12	$ 500	$ 12.50	614	**$ 13,675**
ABORTION CLINICS	**16**	**$ 700**	$ 0.00	**NA**	**$ 11,200**
ADULT CARE HOMES <6 BEDS	**690**	$ 250	$ 0.00	**0**	**$ 172,500**
ADULT CARE HOMES >6 BEDS	**628**	$ 350	$ 12.50	**34,801**	**$ 654,813**
AMBULATORY SURGERY	**51**	**$ 700**	$ 50.00	**167**	**$ 44,050**
CARDIAC REHABILITATION	**81**	**$ 250**	$ 0.00	**NA**	**$ 20,250**
CCRC's	47	$ 450	$ 12.50	4,958	**$ 83,125**
HOME HEALTH AGENCIES	**162**	**$ 350**	$ 0.00	**NA**	**$ 56,700**
LICENSED-ONLY HOME CARE AGENCIES	**1,199**	**$ 350**	$ 0.00	**NA**	**$ 419,650**
MH FACILITIES (excluding ICF-MR)<6 BEDS	**3,070**	$ 250	$ 0.00	**10,892**	**$ 767,500**
MH FACILITIES (ICF-MR only)<6 BEDS	**281**	$ 650	$ 0.00	**5,247**	**$ 182,650**
MH FACILITIES (excluding ICF-MR)>6 BEDS	**138**	$ 250	$ 12.50	**2,591**	**$ 66,888**
MH FACILITIES (ICF/MR only)>6 beds	**43**	$ 650	$ 12.50	**1,016**	**$ 40,650**
NURSING HOMES	**430**	**$ 450**	$ 12.50	**42,928**	**$ 730,100**
CONSTRUCTION PROJECTS--LARGE	**386**	**Varies**	$ 0.00	**NA**	**$ 821,875**
CONSTRUCTION PROJECTS--RESIDENTIAL	**1,576**	**Varies**	$ 0.00	**NA**	**$ 115,925**
EMS CREDENTIALING FEES	6,297	$ 90	$ 0.00	**NA**	**$ 566,730**
EMS PROVIDER FEE (Vehicles)	1,025	$ 50	$ 0.00	**NA**	**$ 51,250**
EMERGENCY DISPATCH PROGRAM	57	$ 185	$ 0.00	**NA**	**$ 10,545**
TOTAL	15,910			**124,016**	$ 5,142,400

NOTES

Column (4) ADDTL FEE is the additional fee that will be based on the number of beds, offices or rooms as shown in Column (5).

OTHER HOSPITALS excludes all State-owned facilities which are exempt from licensure.

TOTAL # FACILITIES does not include emergency medical vehicles.

SECTION 3.12 CHILD CARE LICENSING FEES

This section of the bill adds a new licensing fee for child care centers. The fee will be annual and will cover a portion of the departmental cost of licensing and monitoring these centers. The annual fee will be based on the number of children in the center. The following fees will apply: Centers with 12 or fewer children -$35.00; 13-50 children - $125.00; 51-100 children - $250.00; 101 or more children - $400.

The revenue estimates are based on the current number of childcare centers and the estimated increase in the number of new centers as historical data indicates. There has been an approximate 2.75% annual increase in the number of centers starting up annually over the past seven (7) years and is the amount used to project additional revenues for future years.

	2003-04		2004-05		2005-06		2006-07		2007-08	
Size of facility (number of children)	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue	Number of Centers	Revenue
Up to 12	343	12,005	352	12,335	362	12,674	372	13,023	382	13,381
13-50	1583	197,875	1,627	203,317	1,671	208,908	1,717	214,653	1,764	220,556
51-100	1168	292,000	1,200	300,030	1,233	308,281	1,267	316,759	1,302	325,469
More than 100	946	378,400	972	388,806	999	399,498	1,026	410,484	1,054	421,773
TOTAL	4040	880,280	4,151	904,488	4,265	929,361	4,383	954,919	4,503	981,179

All revenue generated will remain with the Division of Child Development. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

SECTION 3.13: PAP SMEAR FEE

This section adds a $7 fee for analyzing clinical Pap smear specimens by the Cancer Cytology Program of the NC State Laboratory of Public Health. This processing fee is in addition to the $7.44 charge for the Pap smear kit already required. This new fee will be charged to the local health departments and other state facilities that utilize the NC State Lab for cytology lab work. This proposal increases receipts by $1,050,000. This revenue estimate is based on a minimum of 150,000 specimens reviewed each year for the next five years. The estimation for lab utilization for cytology work for FY 2003-04 represents a slight decrease from FY 2000-01 (the latest year of data) and remains unchanged for the following years through FY 2007-08, since behavior is unknown of whether local entities will seek their lab work through private labs. While the new fee in conjunction with the cost of the kit is cheaper in most cases for these state facilities and local health departments than private labs, the response time of the private labs may prompt some locals to consider contracting with a private lab in lieu of continuing to utilize the state lab.

All revenue generated will remain with the Division of Public Health. Corresponding reductions have been made to that division's General Fund appropriation in the budget bill.

PART 4: DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FEES

Part IV of the bill relates to the Fort Fisher State Recreation Area. The bill authorizes the Department of Environment and Natural Resources to levy a fee and establish rules related to the use of off-highway vehicle access to the recreation area. According to Department officials, the annual fee would be approximately $40 per year. No information has been provided on offering a daily fee. The fee is expected to generate $36,857. Revenues from this fee flow to the Department of Environment and Natural Resources.

PART 5: DEPARTMENT OF TRANSPORTATION FEES

Section 5.1(a) requires the Department of Transportation to collect tolls on all ferries by July 1, 2004. Currently, three of the State's seven ferries (Cedar Island-Ocracoke, Swan Quarter-Ocracoke, and Southport-Fort Fisher) are toll operations. Four ferries are free (Hatteras-Ocracoke, Bayview-Aurora, Cherry Branch-Minnesott, and Currituck-Knotts Island). DOT estimates that a fee structure for the now free ferries similar to the one currently in place on the other ferries would raise approximately $1,000,000 more per year, after expenses. (A one-year delay is assumed to clear the rule making process). This fee change affects the Highway Fund. No General Fund impact is expected.

PART 6: ADJUST LOCAL GOVERNMENT HOLD HARMLESS

During the 2001 session, the General Assembly agreed to what was termed a "sales tax swap". As a part of this swap, the State portion of the sales tax was increased by ½ cent for the period October 16, 2001 to July 1, 2003. The local units were also granted authority to increase their own sales tax rate by ½ cent, effective July 1, 2003. This additional authority to levy local sales taxes was viewed as a "swap" for the repeal of the state reimbursements to local governments for losses related to several tax repeals. These repeals included the repeal of property taxes on inventories and intangibles, some of the tax loss associated with the homestead exemption, and repeal of the reimbursement for sales taxes that are no longer paid on items purchased with food stamps. The repeal of these reimbursements was to be effective July 1, 2003. The legislation also required that hold harmless payments be made to those local governments whose gain from a half cent local sales tax increase is less than 100% of their loss from the repealed state tax reimbursements. In 2002, the General Assembly chose to move forward the date local units could start levying the additional ½ cent of sales tax by 7 months to December 1, 2002. At the same time, the General Assembly accelerated the repeal of the reimbursements, effective July 1, 2002. No hold harmless payments were made for the 2002-03 fiscal year.

Because of the recent slow down in sales tax revenues, the amount of the calculated hold harmless payments to locals increased over the original estimates. New preliminary estimates created by a model agreed to by the Tax Research Division of the Department of Revenue and Fiscal Research indicate the following hold harmless liability under the current statute:

FY 2003-04	$36.1 million
FY 2004-05	$31.2 million
FY 2005-06	$26.4 million
FY 2006-07	$22.0 million
FY 2007-08	$18.0 million

The bill assumes these payments will be made. The bill makes two additional changes to the hold harmless provision. First, it sunsets the hold harmless payment after 10 years so no hold harmless payments would be made after 2012-13. It also requires that for fiscal years 2003-04 and 2004-05 the hold harmless payment be made by August 15.

PART 7: TEMPORARILY MAINTAIN STATE SALES TAX RATE

As noted in previous sections of this document, in 2001 the General Assembly increased the State portion of the sales tax to 4.5%. Under current law, this increase in the State sales tax will expire July 1, 2003. The bill extends this sunset date by two years to July 1, 2005. Joint estimates provided by Fiscal Research and the Office of State Management and Budget suggest the following revenue stream from this tax extension.

FY 2003-04	$346.5 million
FY 2004-05	$388.2 million
FY 2005-06	$ 26.5 million

Note: While the tax expires June 30, 2005, many retailers will not submit their payments to the Department of Revenue for the month of June until the following fiscal year. Thus, a revenue increase is shown for 2005-06 as well. This timing issue also plays a role in reducing the 2003-04 to the amount above.

PART 8: TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

Section 8.1 of the bill extends the 8.25% tax bracket from January 1, 2004 to January 1, 2006 for taxable incomes that are shown in the chart below.

8.25% for taxable incomes over:	
$200,000	Married filing jointly
$160,000	Head of household
$120,000	Single
$100,000	Married filing separately

The additional revenue from this extension is calculated using the North Carolina Individual Income Tax Model. The model estimates that $83.3 million in individual income tax payments will be generated in Tax Year 2004 and $104.2 million in revenue in Tax Year 2005. This revenue is divided into fiscal years as follows:

FY 2003-04	$37.5 mil.
FY 2004-05	$92.7 mil.
FY 2005-06	$57.3 mil.

FY 2003-04 will receive 45% of Tax Year 2004 revenue because of withholding from January through June 2004 and two quarterly estimated payments. High-income taxpayers avoid a penalty if estimated payments during the tax year equal at least 90% of actual liability. In the FY 2004-05, taxpayers will pay the remaining 55% of the tax due in tax year 2004 and again pay 45% in estimated payments for tax year 2005. FY 2005-06 is equal to the remaining 55% of tax year 2005.

PART 9: REPAIR AND RENOVATION

Last July the Department of State Treasurer prepared an estimate of debt service requirements analysis for a $200 million repairs and renovation security interest financing that would take place in March 2003. We took this schedule and backed the issuance to March 2004. The average interest rate used in the projections was 5.70% and the maturity was 20 years. Based on this analysis the total interest payments would amount to $119.7 million. If the interest payments were added to the $200 million of debt repayment, the total debt service requirements over the period would be $319.7 million. The 5.70% interest rate assumption is very conservative in light of the fact that if the debt were issued today, the interest would be under 5%.

SOURCES OF DATA: February 14, 2003 Memorandum to Governor Easley from Utilities Commission chair Jo Anne Sanford and Executive Director Robert Gruber; Individual Income Tax Model, Tax Research Division of the Department of Revenue, Office of State Budget and Management, and the Treasurer's Debt Service Report.

ATTACHMENT 3

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April 14, 2003

Dear Fellow Republicans:

I write to you out of a growing concern about the State budget.

Those of us who follow state government and care deeply about the future of our state can't help but be concerned that we have lost our Triple-A bond rating with one of the three rating agencies and could easily lose it with the other two.

Not only would this cost us extra money in interest in the years ahead, but it would also have a significant adverse affect in our economic development efforts.

Our law firm represents some forty counties in economic development work, and so we pay a lot of attention to things that help or hurt in the creation of jobs across the state.

Companies that are looking to make a substantial investment always examine the climate in the state - both regulatory and fiscal - and our bond rating is one significant bit of evidence as to how we handle our affairs.

I should say at the outset that in my four terms as a member of the legislature, I never voted for a tax increase, and didn't propose a single tax increase during my four years as Governor. I don't intend to change that philosophy at this point.

Having said this, I want to ask for your thoughtful consideration regarding two points.

First, it seems to me that a limited extension of the sunset on the sales and income taxes is an important part of getting our fiscal situation back in balance and on the right road. Given the hole which we have dug ourselves into, failure to extend the sunset requires either ignoring the Constitution's requirement of a balanced budget (which may have been done for

two or three years now) or making such deep cuts in so many places that serious damage will result. The bond rating agencies will frown on either of these approaches, and it seems to me we tread on really thin ice if we let the sunset stand.

I am not happy about it, but the future well-being of the people of our state will be significantly affected if we don't get our fiscal house in order. Republicans have always tried to be fiscally responsible, and this will follow that tradition.

Frankly, I had to face a similar situation in my third year as Governor. In January of that year, I proposed the repeal of the sales tax on food. Within about two weeks, unemployment figures started to rise, with an accompanying drop in State revenues about six weeks later. Finally, it became apparent that we simply couldn't afford the tax cut at that time, so I withdrew the request from the legislature in order to maintain our fiscal position.

It seems to me that's where we are right now. I suspect some of you feel that a sunset extension would be a "tax increase", but I would submit to you that you are in about the same position that I was in 1975. With the tax on the books right now, it seems to me that allowing it to continue could hardly be called a "tax increase". Rather, what you will be doing is delaying a tax cut until a date that you choose. I think that is a very important distinction, since many of you have done what I used to do - not vote for tax increases. I just don't believe we can afford a tax cut right now.

Having said all of the above, however, I would also encourage you on a second point. I have an increasingly hard time understanding why we keep going beyond the required minimums in the expansion budget when we're in such a deep hole already.

When I say "required minimums", I generally throw in such things as rate increases for utilities; debt service increases; inflation increases (which are incredibly small right now); enrollment increases in the public schools, community colleges, and university; staffing increases for the prison system due to increased prison population; and Medicaid (although I think we've gone beyond what most of our sister states on the east coast have done in the way of benefits and should take a hard look at this).

I realize that the appropriation process in the House is winding to a conclusion, and these thoughts on the expansion budget are too late for consideration in the House

Appropriations Committee. The process is just beginning, however, and these are thoughts for later in the session.

Thanks for all you are doing. It is not an easy time to deal with the budget in Raleigh, but there are also many other important things to which you will attend before you leave town. I wish you well and want you to know I'm always at your disposal if I can be of help.

Sincerely yours,

THE SANFORD HOLSHOUSER LAW FIRM, PLLC

James E. Holshouser, Jr.

F:\wpfiles\JEH Personal\budget letter - April 11.wpd

REPRESENTATIVE DAVID MINER
NORTH CAROLINA HOUSE OF REPRESENTATIVES
62nd DISTRICT

Room 1006 Legislative Building
RALEIGH, NC 27601-1096
(919) 733-5861
(919) 828-9897 FAX
E-MAIL: davidm@ncleg.net

HOME ADDRESS
108 Lakewater Drive
Cary, N.C. 27511
(919) 460-7757

Covenant *with*
North Carolina's **Children**

THREE-YEAR EMERGENCY REVENUE PACKAGE

2003 PLAN

North Carolina is facing an extreme budget crisis and budget deficits are projected to continue for several more years. The state cannot afford to resolve this crisis through budget cuts alone, causing long-term irreparable harm to programs and the children they serve. Public officials must raise additional revenue, use existing resources, and close outdated tax loopholes to solve this budget crisis. We support the use of a balanced package of progressive tax options to achieve this goal. This three-year revenue package will get the state beyond this crisis, but it is imperative that officials use this time to restructure the state tax system to meet the growing needs of the state and reflect the realities of the modern economy.

2003 Emergency Revenue Options

Option	ESTIMATED Revenue (millions)
Capture Tobacco Law Suit Settlement[1]	137
Close Tax Preference that Benefits Banks	15
Eliminate Corporate Tax Incentives In Wealthy Counties	17
Expand Sales Tax to Most Services and Lower Overall Tax Rate[2]	350
Reinstate Corporate Income Tax Rate to mid-1990's Levels[3]	97
Raise Cigarette Tax to National Median[4]	393
Adopt Temporary Emergency 10% Surcharge on All Individuals Who Pay Income Tax	750
TOTAL	**$1,799**

[1] Exempt funds going for Senior's Prescription Drug program, Smoking Cessation and Obesity Prevention

[2] Exceptions to taxing services will track the Governor's Commission – health, education, funeral, legal, banking, housing. Could possibly reduce the overall state sales tax rate to less than 3.5% from the current 4.5%.

[3] Reinstate corporate tax to 7.5% from current level of 6.9%. Corporate tax was reduced from 7.5% in 1997.

[4] Current national median cigarette tax is fifty cents per pack, so this would mean a forty-five cents per pack increase. North Carolina's current cigarette tax is five cents per pack, the third lowest in the country.

Covenant with North Carolina's Children

A coalition advancing public policy that benefits children in North Carolina

P.O. Box 28268 • Raleigh, NC 27611 • 919 / 846-1432 • FAX / 829-7299

41595 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

ATTACHMENT 5

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

adopted by consent

EDITION No. PCS

H. B. No. 593 DATE

S. B. No. Amendment No. (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE PCS

Rep.) Decker
Sen.)

moves to amend the bill on page 6, line 31

( ) WHICH CHANGES THE TITLE

by rewriting that line to read:

"of the Fee may not exceed the amount listed in this subdivision. The Fee does not apply to a religious sponsored child care center operated pursuant to a ~~notice~~ letter of compliance."

SIGNED M Decker

ADOPTED FAILED TABLED

41595 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen) **ATTACHMENT 6**

EDITION No. PCS

H. B. No. 593 DATE

S. B. No. Amendment No. (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Ellis
Sen.)

moves to amend the bill on page 5, line 9

( ) WHICH CHANGES THE TITLE

by replacing the phrase "seven hundred dollars ($700.00)." with the phrase "four thousand five hundred sixty-two dollars ($4,562)." and

on page 5, lines 32-40, by deleting those lines

SIGNED

ADOPTED FAILED TABLED

(Revised 04-03)

ROLL CALL VOTE

ATTACHMENT 7

16 YES 19 NO = 35 (TOTAL) FAILS Date: 4 / 15 / 2003 HB# 593 SB# ____

Amendment # 2 (Ellis)

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	___	X	Ex officio Members		
Blackwood	X	___	Brubaker	___	X
Bordsen	___	X	Culpepper	___	X
Capps	X	___	Cunningham	___	X
Carney	___	X	Eddins	X	___
Creech	X	___			
Decker	X	___	Co-Chairs		
Ellis	X	___	Allen	___	X
Gibson	___	X	Howard	X	___
Glazier	___	X	Luebke	___	X
Hackney	___	X	McComas	X	___
Hill	___	X	Miner	___	X
Holliman	___	X	Wainwright	___	X
Jones	___	X			
Lewis	X	___			
McCombs	X	___			
McGee	X	___			
Munford	X	___			
Rayfield	X	___			
Ross	___	X			
Setzer	___	___			
Starnes	X	___			
Weiss	___	X			
Wilson	X	___			
Womble	___	X			
Wood	X	___			

(Revised 04-03)

ROLL CALL VOTE

ATTACHMENT 8

22 YES 13 NO = 35 (TOTAL) PASSES Date: 4 / 15 / 2003 HB# 593
SB# ____
Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	X		Ex officio Members		
Blackwood		X	Brubaker	X	
Bordsen	X		Culpepper	X	
Capps		X	Cunningham	X	
Carney	X		Eddins		X
Creech		X			
Decker		X	Co-Chairs		
Ellis		X	Allen	X	
Gibson	X		Howard	X	
Glazier	X		Luebke	X	
Hackney	X		McComas	X	
Hill	X		Miner	X	
Holliman	X		Wainwright	X	
Jones	X				
Lewis		X			
McCombs		X			
McGee	X				
Munford		X			
Rayfield		X			
Ross	X				
Setzer					
Starnes		X			
Weiss	X				
Wilson		X			
Womble	X				
Wood		X			

Passed

(Revised 04-03)

ROLL CALL VOTE

17 YES | 13 NO = 35 (TOTAL) Date: 4/15/03 HB# 593 (cs)

SB# ____

Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	✓		Ex officio Members		
Blackwood		✓	Brubaker	✓	
Bordsen	✓		Culpepper	✓	
Capps		✓	Cunningham	✓	
Carney	✓		Eddins		✓
Creech		✓			
Decker		✓	Co-Chairs		
Ellis		✓	Allen	✓	
Gibson	✓		Howard	✓	
Glazier	✓		Luebke	✓	
Hackney	✓		McComas	✓	
Hill	✓		Miner	✓	
Holliman	✓		Wainwright	✓	
Jones	✓				
Lewis		✓			
McCombs		✓			
McGee	✓				
Munford		✓			
Rayfield		✓			
Ross	✓				
Setzer					
Starnes		✓			
Weiss	✓				
Wilson		✓			
Womble	✓				
Wood		✓			

ATTACHMENT 9

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 593 A BILL TO BE ENTITLED AN ACT RELATING TO THE COUNTY OF WAKE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #),~~ ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

House Committee on Finance

Minutes

~

April 16, 2003

The House Committee on Finance met on Wednesday, April 16, 2003 at 7:00 pm for an urgent "around the table" meeting in the House Chamber at the desk of Chairwoman Julia Howard. While attendance of the members was limited, a clear quorum was present for the official conduct of committee business. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chair Alexander; and Representatives Capps, Carney, Hackney, Holliman, Lewis, McCombs, McGee, Rayfield, Ross, and Wood. Bill Freeman was the Sergeant-at-Arms present. Staff persons present included Linda Millsaps and Martha Walston.

Chairwoman Howard called the meeting to order at 7:00 pm and explained to the Committee members the need to hear a highly time sensitive bill sponsored by Representative Rex Baker, HB 222 – MOUNT AIRY ANNEXATION MORATORIUM. Representative Baker was then recognized by the Chair who first moved for adoption of the committee substitute to HB 222 (see attachment 1). The Representative's motion carried without known objection. Representative Baker then explained his bill. He informed the committee members that this bill acted to prohibit the City of Mount Airy from annexing certain property in its surrounding territories for a period of six months. Representative Baker explained that the bill was necessary because the City of Mount Airy was scheduled to involuntarily annex two "country club" areas adjacent to the city's boundaries within the next few days. Representative Baker, who represents the areas facing the annexation and is supported by the other legislators of his delegation on this bill, wants the six months of prohibited annexation to act as a "cooling off" period for the City and these two private communities.

Following this explanation Chairwoman Howard recognized Representative McComas who made the motion for a favorable report on the bill. Committee members, however, posed several questions, before the Chair took action on this motion. Representative Luebke voiced strong concerns that this bill was highly controversial since the City of Mount Airy is highly opposed to the bill's passage. He stated that had he known the controversial nature of this bill and been provided any period of notice, he would have objected to the convening of this urgent meeting in the House Chamber. He also stated that the individuals being affected by this bill, both those from the City of Mount Airy and those from the two private communities, had the right to have this bill heard at a formal meeting where public debate was allowed. Noting that the Committee typically avoids taking positions on local bills with controversy, Representative Luebke requested that the bill be withdrawn from further consideration at the meeting.

Representative Carney, speaking as a past County Commissioner, stated that she could not support a bill that did not allow for the voice of the local governments. In response to this, Representative Baker was quick to note that he was representing his constituents and not the local government.

Representative Holliman noted that he did not feel confident to make such a controversial decision without having additional information on the bill.

Representative Wainwright voiced his concern that the City of Mount Airy was being stripped of its constitutional right to annex areas bordering its corporate limits. He suggested that at least an early morning meeting should be called to invite the officials of the City and the areas facing the annexation to discuss the matter completely. Discussion among the members commenced on this suggestion; however, Representative Baker reiterated the urgency of the bill and his intent to present it to the Senate for passage the following day. Consequently, Chairwoman Howard ruled that time simply did not allow for such a meeting. She noted that a decision on the matter had to be made by the Committee before adjournment.

Seeing no further questions from the members, the Chair requested the vote via roll call and instructed the Clerk to call the vote. With a tally of 7 in the affirmative and 10 in the negative, the motion for a favorable report failed (see attachment 2). Thus, the bill cannot be reported out on the House floor for consideration of passage. Acknowledging the vote of the Committee, Representative Baker thanked the members for their agreement to consider the bill on such short notice and stated that he would inform his constituents of the taken action.

Having no further business at the time, Chairwoman Howard adjourned the meeting at 7:35 pm.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. House Bill 222
2. Roll Call Vote on HB 222

House Committee on Finance

Minutes

~

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Following this explanation Chairwoman Howard recognized Representative McComas who made the motion for a favorable report on the bill. Committee members, however, posed several questions, before the Chair took action on this motion. Representative Luebke voiced strong concerns that this bill was highly controversial since the City of Mount Airy is highly opposed to the bill's passage. He stated that had he known the controversial nature of this bill and been provided any period of notice, he would have objected to the convening of this urgent meeting in the House Chamber. He also stated that the individuals being affected by this bill, both those from the City of Mount Airy and those from the two private communities, had the right to have this bill heard at a formal meeting where public debate was allowed. Noting that the Committee typically avoids taking positions on local bills with controversy, Representative Luebke requested that the bill be withdrawn from further consideration at the meeting.

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Having no further business at the time, Chairwoman Howard adjourned the meeting at 7:35 pm.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. House Bill 222
2. Roll Call Vote on HB 222

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 222
PROPOSED COMMITTEE SUBSTITUTE H222-PCS50250-LB-24

Short Title: Mount Airy Annexation Moratorium. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A MORATORIUM OF SIX MONTHS ON ANNEXATION OF CERTAIN AREAS BY THE CITY OF MOUNT AIRY.

The General Assembly of North Carolina enacts:

SECTION 1. Between the date this act becomes law and 180 days later, the City of Mount Airy may not adopt any annexation ordinance, resolution of intent, or resolution of consideration under Part 3 of Article 4A of Chapter 160A of the General Statutes as to any area in the Cross Creek or Laurel Forest Areas. Any deadlines under that Part are suspended during that period as to proposed annexation of any of those areas.

SECTION 2. This act is effective when it becomes law.

(Revised 04-03)

ATTACHMENT 2

ROLL CALL VOTE

7 YES 10 NO = 17 (TOTAL) FAILS Date: 4 / 16 / 2003 HB# 222
SB# ____
Amendment # ____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO	MEMBER (last name)	YES	NO
Alexander	___	X	Ex officio Members		
Blackwood	___	___	Brubaker	___	___
Bordsen	___	___	Culpepper	___	___
Capps	X	___	Cunningham	___	___
Carney	___	X	Eddins	___	___
Creech	___	___			
Decker	___	___	Co-Chairs		
Ellis	___	___	Allen	___	X
Gibson	___	___	Howard	X	___
Glazier	___	___	Luebke	___	X
Hackney	___	X	McComas	X	___
Hill	___	___	Miner	X	___
Holliman	___	X	Wainwright	___	X
Jones	___	___			
Lewis	X	___			
McCombs	___	X			
McGee	X	___			
Munford	___	___			
Rayfield	___	X			
Ross	___	X			
Setzer	___	___			
Starnes	___	___			
Weiss	___	___			
Wilson	___	___			
Womble	___	___			
Wood	X	___			

House Committee on Finance

Minutes

~

April 22, 2003

The House Committee on Finance met on Tuesday, April 22, 2003 at 9:00 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, and Luebke; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble; and Ex-Officio Committee Member Representative Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Matt Myers, and Dusty Rhodes. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Luebke called the meeting to order at 9:08 am and recognized the four Pages present at the meeting: (1) Austin Branch of Pitt County, sponsored by Representative Tolson; (2) Joy Hawley and (3) Meagan Hawley, both of Harnett County, sponsored by Representative Lewis, and Teresita Whitley of Wake County, sponsored by Representative Ellis.

The Chair next recognized Representative Preston for explanation of HB 774 – BEAUFORT SATELLITE ANNEXATIONS (see attachment 3). Representative Preston first requested that the Committee approve the Committee Substitute for the bill. Representative Womble was recognized by the Chair and made a motion to approve the Committee Substitute. The motion carried without opposition. Representative Preston explained that the bill was being brought at the request of the elected officials of the Town of Beaufort to allow the Town to annex in (voluntarily) businesses just outside of the Town that are in need of the Town's sewer system. The bill would require 3 of the 6 statutory requirements for annexation to be waived in this case. There were several questions from Representative Rayfield to Representative Preston concerning the special nature of this annexation and the necessity of the statutory exemptions. Representative Preston referred to documentation that she had been provided by the Town of Beaufort in her response (see attachment 3). Immediately following that discussion, Representative Rayfield made the motion for a favorable report to the Committee Substitute Bill to HB 774, unfavorable as to the original bill. Chairman Luebke then called the vote and the motion carried without objection.

Chairman Luebke recognized Representative McCombs next for an update on the Finance Subcommittee on Tax and Tags (of which Representative McCombs chairs) as well as to explain his bill, HB 680 – GRANITE QUARRY CHARTER REVISION (see attachment 4). Representative McCombs, with regard to the Subcommittee, informed the Chairman and the Committee members that the tax and tag bills up for consideration would be on the Committee's calendar the following Thursday (April 24, 2003). He then simply explained HB 680 as an act to consolidate the Town of Granite Quarry's charter into one document, providing for the continuance of a five-member board, the mayor-council form of government, and nonpartisan elections. Representative McCombs, seeing that there were no questions, was recognized by the Chair and then, "as a member of the committee," moved for a favorable report on his bill. The Chair called the vote and the motion passed unanimously.

Discussion of SB 122 – VARIOUS SATELLITE ANNEXATIONS (see attachment 5) was the next item addressed by Chairman Luebke, who recognized Representative McHenry (on behalf of the bill sponsor, Senator Hoyle) to explain the bill. Representative McHenry informed the members of the Committee that the bill adds the municipalities of Bladenboro, Gastonia, Locust, Pine Level, and Ranlo to the list of towns that do not have to meet one of the five statutory standards necessary for voluntary satellite annexations. Specifically, the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Chairman Luebke recognized Representative Womble who asked Representative McHenry if these annexations would result in any tax increases for the annexed areas. Representative McHenry responded that there were no tax increases to his knowledge. Representative Womble also noted his concern that all of these annexations be completely voluntary and then moved for a favorable report to SB 122.

Prior to action of the motion, however, the Chair recognized Representative Creech who made a request for further details of the cities affected by this bill. Senator McHenry stated that he was not aware of all of the details of the cities involved. Representative Creech then stated that he would confer with Senators Smith and Hoyle prior to the bill reaching the House floor for passage.

Representative Decker was then recognized for a question in regard to the 10% exemption and was informed that it does not currently have a sunset. The Representative also offered an amendment to clarify the bill (see attachment 5) and moved its' adoption, which passed without objection.

Representative Capps was then recognized to ask staff if "voluntary annexation" means that all those involved must agree to the annexation in the proposed areas or it cannot take place. Andy Romanet, Counsel to the League of Municipalities, was present to speak on Representative Capps' question. He informed the Committee that "Yes," any voluntary annexation must have 100% support in order to occur.

Representative Howard was then recognized by the Chair and made the motion to roll Representative Decker's amendment into a committee substitute bill and to offer this Committee Substitute a favorable report. Specifically, Representative Howard's motion acted to give a favorable report to the House Committee Substitute Bill, but an unfavorable report to the Senate Committee Substitute Bill. The Chair called the vote and the motion passed unanimously.

Chairman Luebke then asked Co-Chairwoman Howard to preside over the meeting while he presented SB 482 – DURHAM STREET ANNEXATIONS (on behalf of the bill sponsor, Senator Gulley) (see attachment 6). Chairwoman Howard recognized Representative Luebke to explain the bill. The bill, he explained, is companion to HB 650 and allows the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill acts to alleviate troublesome factors of the current law that fail to include these roads in other contiguous annexations. Following this explanation, Chairwoman Howard recognized Representative Decker who moved for a favorable report. The Chair, seeing no questions from committee members, called the vote and the motion carried by consent.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 774 (and related materials)
4. House Bill 680 (and related materials)
5. House Bill 122 (and related materials)
6. House Bill 482 (and related materials)

House Committee on Finance

Minutes

~

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Discussion of SB 122 – VARIOUS SATELLITE ANNEXATIONS (see attachment 5) was the next item addressed by Chairman Luebke, who recognized Representative McHenry (on behalf of the bill sponsor, Senator Hoyle) to explain the bill. Representative McHenry informed the members of the Committee that the bill adds the municipalities of Bladenboro, Gastonia, Locust, Pine Level, and Ranlo to the list of towns that do not have to meet one of the five statutory standards necessary for voluntary satellite annexations. Specifically, the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Chairman Luebke recognized Representative Womble who asked Representative McHenry if these annexations would result in any tax increases for the annexed areas. Representative McHenry responded that there were no tax increases to his knowledge. Representative Womble also noted his concern that all of these annexations be completely voluntary and then moved for a favorable report to SB 122.

Prior to action of the motion, however, the Chair recognized Representative Creech who made a request for further details of the cities affected by this bill. Senator McHenry stated that he was not aware of all of the details of the cities involved. Representative Creech then stated that he would confer with Senators Smith and Hoyle prior to the bill reaching the House floor for passage.

Representative Decker was then recognized for a question in regard to the 10% exemption and was informed that it does not currently have a sunset. The Representative also offered an amendment to clarify the bill (see attachment 5) and moved its' adoption, which passed without objection.

Representative Capps was then recognized to ask staff if "voluntary annexation" means that all those involved must agree to the annexation in the proposed areas or it cannot take place. Andy Romanet, Counsel to the League of Municipalities, was present to speak on Representative Capps' question. He informed the Committee that "Yes," any voluntary annexation must have 100% support in order to occur.

Representative Howard was then recognized by the Chair and made the motion to roll Representative Decker's amendment into a committee substitute bill and to offer this Committee Substitute a favorable report. Specifically, Representative Howard's motion acted to give a favorable report to the House Committee Substitute Bill, but an unfavorable report to the Senate Committee Substitute Bill. The Chair called the vote and the motion passed unanimously.

Chairman Luebke then asked Co-Chairwoman Howard to preside over the meeting while he presented SB 482 – DURHAM STREET ANNEXATIONS (on behalf of the bill sponsor, Senator Gulley) (see attachment 6). Chairwoman Howard recognized Representative Luebke to explain the bill. The bill, he explained, is companion to HB 650 and allows the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill acts to alleviate troublesome factors of the current law that fail to include these roads in other contiguous annexations. Following this explanation, Chairwoman Howard recognized Representative Decker who moved for a favorable report. The Chair, seeing no questions from committee members, called the vote and the motion carried by consent.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:50 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 774 (and related materials)
4. House Bill 680 (and related materials)
5. House Bill 122 (and related materials)
6. House Bill 482 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Paul Luebke

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 680	**Granite Quarry Charter Revision**	*Rep. McCombs*
HB 774	**Beaufort Satellite Annexations**	*Rep. Preston*
SB 122	**Various Satellite Annexations**	*Sen. Hoyle*
SB 482	**Durham Street Annexations**	*Rep. Luebke*

Adjournment

CORRECTED NOTICE

HB 572 – REMOVED / SB 482 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, April 22, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

~~**HB 572 – AIRPORT AUTHORITY INSTALLMENT PURCHASE – Rep. L. Allen**~~

HB 680 – GRANITE QUARRY CHARTER REVISION – Rep. McCombs

HB 742 – CAROLINA SHORES CHARTER – Rep. Hill

HB 774 – BEAUFORT SATELLITE ANNEXATIONS – Rep. Preston

HB 782 – SATELLITE ANNEXATION/NORTH BRUNSWICK – Rep. Stiller

SB 122 – VARIOUS SATELLITE ANNEXATIONS – Sen. Hoyle

SB 482 - DURHAM STREET ANNEXATIONS – Sen. Gulley

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **2:00 P.M.** on **April 17, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

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HB 742 – CAROLINA SHORES CHARTER – Rep. Hill

HB 774 – BEAUFORT SATELLITE ANNEXATIONS – Rep. Preston

HB 782 – SATELLITE ANNEXATION/NORTH BRUNSWICK – Rep. Stiller

SB 122 – VARIOUS SATELLITE ANNEXATIONS – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:00 NOON** on **April 17, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ken Melton	Alley Associates, Inc.
Doug Lassiter	NCSTA
Andy Romcast	NCLM
Shelia Sanfelton	NCDMDA
Mari [illegible]	NCAHP
[illegible]	H&W
Tammy Hunt	National MS Society - Mid Atlantic Chapter
Tiffany Harwell	National MS Society - Mid Atlantic Chapter Gaston County
Sandra Mitchell	National MS Society - Mid-Atlantic Chapter Lincoln County -
Karen Heath	National Multiple Sclerosis Society Mid-Atlantic Chapter
Anne Marie McDermott	National MS Society 9844 C Southern Pines Charlotte

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Spencer Harrison	Rep. Glazier
Marcos Arellano	Intern for Rep. Luebke
Lisa Piercy	Capitol Group
Kevin Tull	Intern
Ernestine Durham	Executive Intern
Hal Miller	NCACCT
Rep. Patrick McHenry	
[illegible]	UVA
John McHugh	Gov Office
Brian Shank	AZ
Duke Chen	Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 22, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa D. Beam	National MS Society Mid-Atlantic Chapter - Charlotte, NC
Kit Borden	NMSS Transylvania County
JANICE BROOKS	M.S. SOCIETY ADV
Jennifer Mahan	MHANC
Jim Parker	NMSS MID ATLANTIC CHAPTER
DAVE & KIT BORDEN	NMSS Mid Atlantic Chapter
[signature]	Addiction Professionals of NC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 774
PROPOSED COMMITTEE SUBSTITUTE H774-PCS80273-SVx-5

Short Title: Beaufort Satellite Annexations. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

~~(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.~~

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

~~(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~

(6) The area must be east of a line that runs from the confluence of Taylor's Creek and Gallant's Channel northwardly with Gallant's Channel to Town Creek, then northwestwardly from Town Creek to the Intracoastal Waterway in Newport River, then northwardly with the Intracoastal Waterway to a point where an extension of SR 1162 would intersect the Waterway of the Intracoastal Waterway, and Beaufort municipal sewer must be available within the area."

SECTION 2. Nothing in this act shall be construed to limit or be limited by any provisions of Chapter 432 of the 1997 Session Laws or any other existing laws or ordinances.

SECTION 3. This act applies to the Town of Beaufort only.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 774

Short Title:	Beaufort Satellite Annexations.	(Local)
Sponsors:	Representative Preston.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

~~(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.~~

~~(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.~~

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

~~(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.~~

~~This subdivision does not apply to the Cities of Claremont, Concord, Conover, Newton, Sanford, Salisbury, and Southport, and the Towns of Catawba, Maiden, Midland, Swansboro, and Warsaw.~~

(6) The area must be on the east side of the Intracoastal Waterway, and Beaufort municipal sewer must be available within the area."

SECTION 2. Nothing in this act shall be construed to limit or be limited by any provisions of Chapter 432 of the 1997 Session Laws or any other existing laws or ordinances.

SECTION 3. This act applies to the Town of Beaufort only.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 774:
Beaufort Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Preston
Date:	April 22, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 774 allows the Town of Beaufort to annex satellite areas without meeting three of the five standards required for voluntary satellite annexation. However, it adds the following requirements:***

- ***The area being annexed must be east of a specifically described area; and***
- ***Beaufort municipal sewer must be available within the area.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

BILL ANALYSIS: House Bill 774 authorizes the Town of Beaufort to annex satellite areas without having to meet three of the five statutory requirements in G.S. 160A-58.1, which are as follows:

- The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
- No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
- The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

However, the bill adds the following requirements:

- The area must be east of a line that runs from the confluence of Taylor's Creek and Gallant's Channel northwardly with Gallant's Channel to Town Creek, then northwestwardly from Town Creek to the Intracoastal Waterway in Newport River, then northwardly with the Intracoastal Waterway to a point where an extension of SR 1162 would intersect the Waterway of the Intracoastal Waterway; and
- Beaufort municipal sewer must be available within the area.

The bill becomes effective when it becomes law.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

TOWN OF BEAUFORT

215 Pollock Street, P.O. Box 390
Beaufort, N.C. 28516
(252) 728-2141, (252) 728-3982 fax
www.beaufortnc.org

April 21, 2003

VIA FACSIMILE (919) 715-5815

Representative Jean Preston
N.C. House of Representatives
Raleigh, NC 27601-1096

RE: **House Bill 774**

Dear Representative Preston:

Here are the answers to the four questions you raised regarding the above.

1. The main purpose is to allow Beaufort to annex, by voluntary satellite annexation, properties that apply for connection to Beaufort municipal sewer that are located more than three miles from our primary city limits. Satellite annexation by statute is voluntary. Our sewer lines down Highways 101 and 70 extend approximately five miles. We have received a request for sewer connection from several projects that are more than three miles from the city limits. The Board of Commissioners now believes that if municipal sewer is provided, an option for the Town needs to be annexation. The projects that are already connected to sewer more than three miles from our city limits, such as Jarrett Bay and Parker Boats, are not proposed for annexation but if they request annexation in the future HB 774 would allow the annexation. There is a separate annexation bill for the Taylor Farm Subdivision that was adopted by the General Assembly in the late 1990's. Our current request is not related to Taylor Farms.

2. HB 774 relates to satellite annexation only. Satellite annexation by General Statute is limited to voluntary annexation. The Board of Commissioners is aware of this and cannot and will not use HB 774 for involuntary annexation.

3. Eastman's Creek has applied for both sewer service and voluntary annexation. The project is more than three miles from our city limits; therefore the Town cannot annex the project without HB 774 or some similar legislation. None of the other projects referenced in question number 3 have approached Beaufort about annexation.

Mayor Thomas L. Steepy
Commissioner Julian Arrington Commissioner Faye M. Nelson Commissioner Nancy Russell
Commissioner Math Chaplain Commissioner Charles McDonald
Town Manager Terri Parker-Eakes

and there have been no discussions about annexing these projects. Under the satellite annexation Statutes, they could not be annexed unless they petition for voluntary annexation.

4. HB 774 will have no effect on the jurisdictional control of Michael J. Smith Air Field. Part of the airport is currently within the city limits of Beaufort and the remainder is within the Town's extraterritorial zoning jurisdiction. It is my understanding that the Airport Authority can preempt Town zoning under the State Statutes.

If you need additional explanation, please call or email.

Sincerely,

Terri Parker-Eakes

Terri Parker-Eakes
Town Manager

cc: File

TOWN OF BEAUFORT

215 Pollock Street, P.O. Box 390
Beaufort, N.C. 28516
(252) 728-2141, (252) 728-3982 fax

RESOLUTION REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY ADOPT A SPECIAL BILL AUTHORIZING VOLUNTARY SATELLITE ANNEXATION BY THE TOWN OF BEAUFORT OF PROPERTIES RECEIVING MUNICIPAL SEWER

WHEREAS, sewer mains connected to the Beaufort municipal sewer system extend northwardly from the city limits along Highway 101 and Highway 70 more than three miles from the primary city limits; and

WHEREAS, property owners in the vicinity of such sewer lines request, from time to time, to be allowed to connect to such sewer lines; and

WHEREAS, under existing Town policy, applicants for connection apply for annexation, but when properties are more than three miles from the city limits, the Town has no authority to annex; and

WHEREAS, Beaufort would like the option of annexing properties that connect to its municipal sewer system upon the voluntary application for satellite annexation by such owners.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners of the Town of Beaufort that the North Carolina General Assembly be asked to enact a special bill that will give the Town the authority to satellite annex properties in the vicinity of the Highway 101 and Highway 70 corridors into the city limits when the owners of such properties apply for annexation and when such properties will be served with Beaufort municipal sewer, notwithstanding that such properties do not meet the current statutory requirements for satellite annexation. The attached draft of the proposed bill, and any reasonable modifications thereof, is approved by the Board of Commissioners.

Enacted this 31st day of March, 2003.

TOWN OF BEAUFORT

By: _____
Thomas L. Steepy, Mayor

Attest:

_____
Jennifer Raynor, Town Clerk

Mayor Thomas L. Steepy
Commissioner Julian Arrington Commissioner Faye M. Nelson Commissioner Nancy Russell
Commissioner Math Chaplain Commissioner Charles McDonald
Town Manager Terri Parker-Eakes

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 774 A BILL TO BE ENTITLED AN ACT CONCERNING SATELLITE ANNEXATIONS BY THE TOWN OF BEAUFORT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 680

Short Title:	Granite Quarry Charter Revision.	(Local)
Sponsors:	Representative McCombs.	
Referred to:	Local Government I.	

March 26, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRANITE QUARRY.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Granite Quarry is revised and consolidated to read:

"CHARTER OF THE TOWN OF GRANITE QUARRY.

"CHAPTER I.

"INCORPORATION AND CORPORATE POWERS.

"Section 1-1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Granite Quarry are a body corporate and politic under the name "Town of Granite Quarry". Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"CHAPTER II.

"CORPORATE BOUNDARIES.

"Section 2-1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Granite Quarry are as shown upon the official map showing the current town boundaries retained in the office of the Town Clerk.

"CHAPTER III.

"GOVERNING BODY.

"Section 3-1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Granite Quarry is the Board of Aldermen, which has five members.

"Section 3-2. **Manner of Electing Board.** The qualified voters of the entire Town elect the members of the Board.

"Section 3-3. **Terms of Office of Board Members.** Members of the Board are elected to four-year terms. In 2003, and each four years thereafter, three members of the Board shall be elected. In 2005, and each four years thereafter, two members of the Board shall be elected.

"Section 3-4. **Election of Mayor; Term of Office.** At the organizational meeting of the Board following each election, the Board shall elect one of its members to serve as Mayor and one to serve as Mayor Pro Tempore. The Mayor and Mayor Pro Tempore shall serve at the pleasure of the Board.

"Section 3-5. **Mayor to Vote in Case of Tie Vote Only.** The Mayor shall not vote on any matter before the Board, except when there exists a tie vote among the other members of the Board.

"CHAPTER IV.

"ELECTIONS.

"Section 4-1. **Conduct of Town Elections.** Town officers shall be elected on a nonpartisan basis and the results determined by a plurality as provided in G.S. 163-292.

"CHAPTER V.

"ADMINISTRATION.

"Section 5-1. **Town to Operate Under Mayor-Council Plan.** The Town of Granite Quarry operates under the mayor-council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes."

SECTION 2. The purpose of this act is to revise the Charter of the Town of Granite Quarry and to consolidate herein certain acts concerning the property, affairs, and government of the Town.

SECTION 3. The following acts or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are hereby repealed:

Chapter 259, Private Laws of 1901
Chapter 43, Private Laws of 1905
Chapter 667, Session Laws of 1949
Chapter 14, Session Laws of 1957
Chapter 76, Session Laws of 1959.

SECTION 4. No provision of this act is intended, nor shall be construed, to affect in any way any rights or interests (whether public or private):

(1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provisions of law repealed by this act.

(2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 5. No law heretofore repealed expressly or by implication, and no law granting authority which has been exhausted, shall be revived by:

(1) The repeal herein of any act repealing such law, or

(2) Any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 6. All existing ordinances and resolutions of the Town of Granite Quarry and all existing rules or regulations of departments or agencies of the Town of Granite Quarry not inconsistent with the provisions of this act shall continue in full force and effect until repealed, modified, or amended.

SECTION 7. No action or proceeding of any nature (whether civil or criminal, judicial or administrative, or otherwise) pending at the effective date of this act by or against the Town of Granite Quarry or any of its departments or agencies shall be abated or otherwise affected by the adoption of this act.

SECTION 8. If any part of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 9. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, repealed, or superceded, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute which most nearly corresponds to the statutory provision which is repealed or superceded.

SECTION 10. This act is effective when it becomes law.

HOUSE BILL 680:
Granite Quarry Charter Revision

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. McCombs
Date:	April 22, 2003	**Summary by:**	Trina Griffin*
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 680 revises and consolidates the charter of the Town of Granite Quarry. This bill received a favorable report in House Local Government I. The bill would become effective when it becomes law.***

CURRENT LAW: The charter of the Town of Granite Quarry has not been previously revised and consolidated. The Town was incorporated in 1901 under the name of Woodside. The name was changed to Granite Quarry in 1905. The last changes that were made to the charter were in 1957 and 1959, when the present primary and general election schedule were established.

BILL ANALYSIS: House Bill 680 brings together the pieces of the charter into one document, providing for the continuance of five board members, the mayor-council form of government, and non-partisan elections.

*Erika Churchill, counsel for House Local Government I, substantially contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 680 A BILL TO BE ENTITLED AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE TOWN OF GRANITE QUARRY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 122
Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/7/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S122-PCS35251-SVx-6

Short Title: Various Satellite Annexations. (Local)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

Subdivision (5) of this subsection does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 3rd

H. B. No. _____

S. B. No. 122

COMMITTEE SUBSTITUTE _____

adopted by consent

DATE 4/22/03

Amendment No. 1
(to be filled in by Principal Clerk)

(Rep.) Decker
Sen.)

1 moves to amend the bill on page 1, line 26
2 ( ) WHICH CHANGES THE TITLE
3 by rewriting the line to read
4 "Subdivision (5) of this subsection does not
5 apply to the Cities of Claremont,"
6
7
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 122

Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/7/03

Short Title: Various Satellite Annexations. (Local)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b) reads as rewritten:

"(b) A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.

(2) No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city, except as set forth in subsection (b2) of this section.

(3) The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and

Southport, and the Towns of Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 122:
Various Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Hoyle
Date:	April 22, 2003	**Summary by:**	Trina Griffin*
Version:	3rd Edition		Committee Counsel

SUMMARY: ***Senate Bill 122 adds Bladenboro, Gastonia, Locust, Pine Level, and Ranlo to the list of cities and towns that do not have to meet one of the five statutory standards required for voluntary satellite annexation in G.S. 160A-58.1(b). These cities and towns would not have to meet the standard that limits the size of the area within the satellite corporate limits. The act would become effective when it becomes law.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. **The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.**

BILL ANALYSIS: Senate Bill 122 amends G.S. 160A-58.1(b) by adding the Cities of Gastonia and Locust and the Towns of Bladenboro, Pine Level and Ranlo to the list of cities and towns[2] that do not have to meet the 5th statutory standard required for voluntary satellite annexation. This means that the noncontiguous property to be annexed does not have to be within the statutory size limit.

*Cindy Avrette, counsel for Senate Finance, substantially contributed to this summary.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

[2] G.S. 160A-58.1(b)(5) does not apply to the following cities and towns: Calabash, Catawba, Claremont, Concord, Conover, Dallas, Godwin, Hickory, Kenly, Louisburg, Maiden, Marion, Midland, Mocksville, Mooresville, Mount Airy, Newton, Oxford, Pembroke, Rockingham, Rutherfordton, Salisbury, Sanford, Southport, Statesville, Swansboro, Waynesville, and Warsaw. Several other cities and towns have had this provision modified.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 122 A BILL TO BE ENTITLED AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE CITIES OF GASTONIA AND LOCUST AND THE TOWNS OF BLADENBORO, PINE LEVEL, AND RANLO.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 482
Second Edition Engrossed 4/10/03

Short Title:	Durham Street Annexations.	(Local)
Sponsors:	Senator Gulley.	
Referred to:	Finance.	

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ANNEX ROADS THAT ARE ADJACENT ON BOTH SIDES TO PROPERTY ALREADY WITHIN THE CITY LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Durham, being Chapter 671 of the 1975 Session Laws, as amended, is further amended by adding a new section to read:

"**Sec. 2.5A. Annexation of Streets Adjacent to City Limits.**

In addition to its authority to annex streets under this Charter and under general law, the City may annex the portions of public or private streets that are directly contiguous on two opposing sides to property that is within the City limits. When the City proposes to annex a street under this authority and the annexation is of the street alone, and no other property, the City may accomplish the annexation using the procedure described in this section. The City Council shall pass a resolution describing the street area to be annexed, and setting a date for a public hearing. Notice and a public hearing as required under Parts 1 and 4 of Article 4A of Chapter 160A of the General Statutes shall be provided. Upon compliance with these requirements, the City Council may pass an ordinance annexing the described area, and no other requirements shall apply. The time period for appeal of the annexation shall be as provided in Section 2.6 of this Charter."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 482:
Durham Street Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Gulley
Date:	April 22, 2003	**Summary by:**	Martha Walston
Version:	2nd Edition		Committee Counsel*

SUMMARY: ***Senate Bill 482 is a local bill that authorizes the City of Durham to annex roads that are adjacent on both sides to property already within its city limits. The bill would become effective when it becomes law. The 2nd Edition makes a technical change to the original bill. It changes a section cite from "Sec. 2.6" to "Sec. 2.5A", because the Durham City Charter already contains a Section 2.6. (S.L. 1997-452, s. 5)***

House Bill 650 is a companion bill and also is in House Finance.

BILL ANALYSIS: In Durham, there have been instances where developers have petitioned the City to annex property into its corporate limits. In some cases, the petitions have inadvertently failed to include the portion of the street adjacent to the property. This situation has created holes within the contiguous city limits that are not included within the city. Senate Bill 482 authorizes Durham to annex the portions of streets that are fully contiguous on both sides to the City limits, following notice and a public hearing. Without this legislation, the city would have to begin the formal process of involuntary annexation of the streets or it would have to ask the property owners to petition the city to have the streets annexed. The process provided by this bill allows the municipality to annex the streets in a less cumbersome manner.

CURRENT LAW: A municipality may include within areas to be annexed the streets in that area. Also, property owners may petition a municipality to annex their property within the municipality's corporate limits and included within that property description may be streets. The situation addressed by this bill is where the property described in a voluntary annexation inadvertently failed to include the streets.

Senate Bill 482 provides that notice must be given and a public hearing must be held in accordance with the notice and public hearing requirements for voluntary annexations. Under those requirements, the governing board of the municipality sets the date for a public hearing. Notice of the public hearing must be published once in a newspaper having general circulation in the municipality at least 10 days prior to the date of the public hearing. If there is no such newspaper, then notice of the public hearing must be posted in three or more places within the area to be annexed and within the municipality at large.

The Durham City Charter provides that any judicial action contesting the validity of a voluntary annexation must be filed within 30 days after the adoption of the annexation ordinance. Senate Bill 482 allows for this same appeals process for the annexation of streets adjacent to its city limits.

*Cindy Avrette, counsel to Senate Finance, contributed substantially to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 482 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF DURHAM TO ANNEX ROADS THAT ARE ADJACENT ON BOTH SIDES TO PROPERTY ALREADY WITHIN THE CITY LIMITS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

House Committee on Finance

Minutes

~

April 24, 2003

The House Committee on Finance met on Thursday, April 24, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Jones, McCombs, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stencil. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:31 am and recognized the two Pages present at the meeting: (1) Summer Green of Mecklenburg County, sponsored by Representative C. Wilson; and (2) Brittany Matthews of Harnett County, sponsored by Representative Lewis.

The Chair next recognized Representative Hill to explain HB 742 – CAROLINA SHORES CHARTER (see attachment 3). First, however, a technical amendment was necessary (as attached) and was offered by Representative Howard, who also moved for the amendment's adoption. The Committee adopted the amendment unanimously. Representative Hill then noted that this bill makes a number of changes to the Charter of the Town of Carolina Shores, pending the annexation of certain property to its corporate limits prior to August 1, 2003. Representative Wainwright then made a motion to roll the amendment to the bill into a Proposed Committee Substitute, and then moved for a favorable report. Seeing no questions, Chairman McComas called the vote and the motion passed without opposition. HB 742 will be reported as favorable to the committee substitute bill, unfavorable to the original bill.

Chairman McComas next recognized Representative Gibson (on behalf of the bill sponsor, Representative Glazier) to explain HB 959 – STUDY TAX PREFERENCES (see attachment 4). This bill acts to require the Revenue Laws Study Commission to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The Chair recognized Representative Weiss, who offered an amendment to the bill, changing the required period of review from 10 years to 5 years. The Chair then recognized Representative Womble who stated his agreement to the amendment and moved for its' adoption. The amendment was adopted without objection. Having no other questions from the members, Chairman McComas recognized Representative Howard who requested that the adopted amendment be rolled into a proposed committee substitute bill. She then moved that the Committee offer a favorable report as to the committee substitute bill, unfavorable as to the original bill. Upon the Chair's call, the motion carried by consent.

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES (see attachment 5) was the next bill to be considered. The Chairman recognized Representative Howard who moved that the Proposed Committee Substitute to HB 855 be adopted by the Committee for discussion. The

motion was approved without objection. The Chair then recognized Representative McCombs, Chair of the Finance Subcommittee on Tax and Tags, to explain the bill. Representative McCombs thanked the other members of the Subcommittee (Representatives Decker and Womble) and staff (Martha Walston and Jason Cannon) for all of their good work on the bill. He explained that this committee substitute bill rolls some seven (7) license plate bills into one, and includes license plates for the following groups/organizations: Breast Cancer Awareness, Blue Ridge Parkway Foundation, Surveyors, Retired Law Enforcement Officers, and Mothers Against Drunk Driving. Commissioner of the Division of Motor Vehicles, Carol Howard, was present and spoke briefly on the bill, acknowledging that she had no problems with creating any of the plates in HB 855. She did note concern on the issuance of NASCAR Racing plates, a separate bill not up for consideration at this meeting. Following this, Chairman McComas recognized Representative Wainwright, who thanked Representative McCombs and the Subcommittee for its thorough work on this bill and immediately moved for a favorable report. Representative Creech, however, upon recognition of the Chair, expressed his contention that the number of specialized license plates is "getting out of hand" and that the fees for this state service have not been increased in over 20 years. Chairman McComas then called the vote, and the motion carried with one member, Representative Creech, voicing opposition.

Representative Preston was recognized by the Chairman to explain the final bill on the meeting's agenda: SB 295 – SPECIAL REGISTRATION PLATES (see attachment 6). The Chair first, however, recognized Representative G. Allen who moved the adoption of the Proposed Committee Substitute to SB 295, which carried without objection. Representative Preston then explained that this bill too was one for specialized vehicle plates, and provided for two separate groups: Professional Paramedics and the North Carolina Coastal Federation. The Finance Subcommittee on Tax and Tags also favorably reviewed the bill. Following this explanation, Chairman McComas recognized Representative Creech for a question. He asked Representative Preston if local law enforcement were in favor of all of these license plate bills. Representative Preston responded that she had heard from no law enforcement officials in her district and noted that if law enforcement were significantly concerned, it would be present to express its position. The Chair then recognized Representative Ross, who moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. Allowing for brief comments from the audience, Mr. Jim Stevenson with the North Carolina Coastal Federation voiced his firm support of the bill. Seeing no further discussion, Chairman McComas called the vote and the motion carried, with Representative Creech again standing as the sole member in opposition.

Having no further business before the Committee, the Chair adjourned the meeting at 9:04 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 742 (and related materials)
4. House Bill 959 (and related materials)
5. House Bill 855 (and related materials)
6. Senate Bill 295 (and related materials)

House Committee on Finance

Minutes

~

April 24, 2003

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The Chair next recognized Representative Hill to explain HB 742 – CAROLINA SHORES CHARTER (see attachment 3). First, however, a technical amendment was necessary (as attached) and was offered by Representative Howard, who also moved for the amendment's adoption. The Committee adopted the amendment unanimously. Representative Hill then noted that this bill makes a number of changes to the Charter of the Town of Carolina Shores, pending the annexation of certain property to its corporate limits prior to August 1, 2003. Representative Wainwright then made a motion to roll the amendment to the bill into a Proposed Committee Substitute, and then moved for a favorable report. Seeing no questions, Chairman McComas called the vote and the motion passed without opposition. HB 742 will be reported as favorable to the committee substitute bill, unfavorable to the original bill.

Chairman McComas next recognized Representative Gibson (on behalf of the bill sponsor, Representative Glazier) to explain HB 959 – STUDY TAX PREFERENCES (see attachment 4). This bill acts to require the Revenue Laws Study Commission to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The Chair recognized Representative Weiss, who offered an amendment to the bill, changing the required period of review from 10 years to 5 years. The Chair then recognized Representative Womble who stated his agreement to the amendment and moved for its' adoption. The amendment was adopted without objection. Having no other questions from the members, Chairman McComas recognized Representative Howard who requested that the adopted amendment be rolled into a proposed committee substitute bill. She then moved that the Committee offer a favorable report as to the committee substitute bill, unfavorable as to the original bill. Upon the Chair's call, the motion carried by consent.

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES (see attachment 5) was the next bill to be considered. The Chairman recognized Representative Howard who moved that the Proposed Committee Substitute to HB 855 be adopted by the Committee for discussion. The

motion was approved without objection. The Chair then recognized Representative McCombs, Chair of the Finance Subcommittee on Tax and Tags, to explain the bill. Representative McCombs thanked the other members of the Subcommittee (Representatives Decker and Womble) and staff (Martha Walston and Jason Cannon) for all of their good work on the bill. He explained that this committee substitute bill rolls some seven (7) license plate bills into one, and includes license plates for the following groups/organizations: Breast Cancer Awareness, Blue Ridge Parkway Foundation, Surveyors, Retired Law Enforcement Officers, and Mothers Against Drunk Driving. Commissioner of the Division of Motor Vehicles, Carol Howard, was present and spoke briefly on the bill, acknowledging that she had no problems with creating any of the plates in HB 855. She did note concern on the issuance of NASCAR Racing plates, a separate bill not up for consideration at this meeting. Following this, Chairman McComas recognized Representative Wainwright, who thanked Representative McCombs and the Subcommittee for its thorough work on this bill and immediately moved for a favorable report. Representative Creech, however, upon recognition of the Chair, expressed his contention that the number of specialized license plates is "getting out of hand" and that the fees for this state service have not been increased in over 20 years. Chairman McComas then called the vote, and the motion carried with one member, Representative Creech, voicing opposition.

Representative Preston was recognized by the Chairman to explain the final bill on the meeting's agenda: SB 295 – SPECIAL REGISTRATION PLATES (see attachment 6). The Chair first, however, recognized Representative G. Allen who moved the adoption of the Proposed Committee Substitute to SB 295, which carried without objection. Representative Preston then explained that this bill too was one for specialized vehicle plates, and provided for two separate groups: Professional Paramedics and the North Carolina Coastal Federation. The Finance Subcommittee on Tax and Tags also favorably reviewed the bill. Following this explanation, Chairman McComas recognized Representative Creech for a question. He asked Representative Preston if local law enforcement were in favor of all of these license plate bills. Representative Preston responded that she had heard from no law enforcement officials in her district and noted that if law enforcement were significantly concerned, it would be present to express its position. The Chair then recognized Representative Ross, who moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. Allowing for brief comments from the audience, Mr. Jim Stevenson with the North Carolina Coastal Federation voiced his firm support of the bill. Seeing no further discussion, Chairman McComas called the vote and the motion carried, with Representative Creech again standing as the sole member in opposition.

Having no further business before the Committee, the Chair adjourned the meeting at 9:04 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 742 (and related materials)
4. House Bill 959 (and related materials)
5. House Bill 855 (and related materials)
6. Senate Bill 295 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

April 24, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Danny McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 742	**Carolina Shores Charter**	*Rep. Hill*
HB 855	**Breast Cancer Awareness Special Plate**	*Rep. McCombs*
HB 959	**Study Tax Preferences**	*Rep. Glazier*
SB 295	**Special Registration Plates**	*Sen. Albertson* *Rep. Preston*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, April 24, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 742 – CAROLINA SHORES CHARTER – Rep. Hill

HB 855 – BREAST CANCER AWARENESS SPECIAL PLATE – Rep. Alexander

HB 959 – STUDY TAX PREFERENCES – Rep. Glazier

SB 295 – SPECIAL REGISTRATION PLATES – Sen. Thomas

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:00 A.M.** on **April 23, 2003.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 24, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID SCHILLER	445 EASTPOINT DR GREENVILLE, NC
Sarah Howard	DOT / DMV
Amy Dobson	NC State watch
Melissa Beard	NCSS
Anna Pope	DOR
Boyd Cauble	City of Charlotte
Erin Byrd	NCNCE
Ken Melton	Alley Associates
John McKay	GOV ~~OFFICE~~
Mark Lynn	Capitol Group
Jim Stephenson	NC Coastal Federation

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 24, 2003 ~ 8:30am

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	Poyner + Spruill CCI
Warren Plonk	OSBM
Estherine Davis	Electric Cities
Anne Winner	[illegible]
Joanne Stevens	nursing

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 742*
PROPOSED COMMITTEE SUBSTITUTE H742-PCS60305-LA-10

Short Title: Carolina Shores Charter. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"Sec. 3.2. **Manner of Electing Board.** The qualified voters of the entire Town elect all of the members of the Board of Commissioners. The Town is divided into two districts, District 1 consisting of the territory annexed as described in Section 5 of this act; District 2 consists of the remainder of the Town. One member shall be a resident of District 1, two members shall be residents of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 shall be elected separately on the ballot.

SECTION 2. Section 3.3(b) of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"(b) In 1999 five members of the Board of Commissioners are elected. The three persons receiving the highest numbers of votes are elected to four-year terms and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 2001 and quadrennially thereafter, two members of the council are elected to four-year ~~terms.~~ terms at large. In 2003 and quadrennially thereafter, three members of the council are elected to four-year ~~terms.~~ terms, one a resident of District 1 and two who are residents of District 2."

SECTION 3. From July 1, 2003, until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners is expanded from five members to six members. The Board of Commissioners shall appoint a person who resides in the territory annexed as described in Section 5 of this act to fill that seat.

SECTION 3.1. Of the funds received by the Town of Carolina Shores under G.S. 136-41.1 through G.S. 136-41.3 for the 10 fiscal years beginning on or after July 1,

2003, the Town must expend in District 1 all of the funds received on account of the population and road mileage in that District.

SECTION 4. Of the funds received by the Town of Carolina Shores from local option sales taxes for the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the funds received on account of the population or assessed valuation in that District (depending on the formula used by Brunswick County to distribute such revenues to the municipalities in that county).

SECTION 5. Sections 1 through 4 of this act become effective only if the Town of Carolina Shores annexes any or all of the following property under Part 2 of Article 4A of Chapter 160A of the General Statutes prior to August 1, 2003:

BEGINNING at a fixed point of southerly side of the intersection of the right-of-way of Clubview Lane and the easterly side of the right-of-way of State Road 1165 then S06°09'45W 200.0 feet, then S06°24'06W for 185.0 feet, then S 14°22'08 for 133.05 feet then S31°37'12 for 125.0 feet, then S42°37'12W for 884.77 to a fixed point. Then, turning westerly along a utility easement and along the westerly boundary for the Town of Carolina Shores, N25°36'51W for 1369.78 feet, then N25°36'51W for 1491.07 feet, then N25°34'45W 352.46', then N25°29'27 feet for 2444.56 feet. Then N64°30'38 for 120.58 feet, the northerly along the westerly right-of-way of Watson Ave. N25°29'22W for 7.10 feet then N09°59'30 along a chord of 383.14 feet. Then along the Southerly boundary of the utility easement S77°24'38E for 721.50 feet to the westerly edge of a water body known as Lake D. Then along the lake edge N03°33'56E for 42.98 feet, N03°46'23E for 47.50 feet, then N06°12'39E for 28.37 feet, then N32°08'35E for 25.69 feet, then N14°59'37E, then N00°22'22E for 41.11 feet, then N21°33'30E for 21.17 feet, then N17°36'53E for 28.05 feet, then N29°09'08W for 17.25 feet then S78°32'11W for 19.05 feet and S43°47'28W 21.94 feet to the edge of the pond and the rear property line of lot 283. Then S77°24'38E 312.48 feet and then 185.00 feet, then S12°35'22W 183.16 feet, then S77°24'38 for 914.06 feet along a utility and drainage easement, then continuing along the easement S12°35'22W for 724.87 feet. Then S36°10'40E for 161.38 feet, then S48°17'03E for 11245.30 feet, then S87°46'05E for 153.78 feet, then S38°25'40E for 505.54 feet, then S33°42'50E for 168.96 feet then S22°30'50 for 199.35 feet then S64°59'73W for 901.96 feet along a drainage easement. Then N23°26'21 for 482.18 feet, then N66°33'39E for 185.40 feet then N06°09'45E for 716 feet back to the point of beginning.

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 742*

Short Title:	Carolina Shores Charter.	(Local)
Sponsors:	Representatives Hill and Stiller (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"Sec. 3.2. **Manner of Electing Board.** The qualified voters of the entire Town elect all of the members of the Board of Commissioners. The Town is divided into two districts, District 1 consisting of the territory annexed as described in Section 5 of this act; District 2 consists of the remainder of the Town. One member shall be a resident of District 1, two members shall be residents of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 shall be elected separately on the ballot.

SECTION 2. Section 3.3(b) of the Charter of the Town of Carolina Shores, as enacted by Section 2 of S.L. 1998-75, reads as rewritten:

"(b) In 1999 five members of the Board of Commissioners are elected. The three persons receiving the highest numbers of votes are elected to four-year terms and the two persons receiving the next highest numbers of votes are elected to two-year terms. In 2001 and quadrennially thereafter, two members of the council are elected to four-year ~~terms.~~ terms at large. In 2003 and quadrennially thereafter, three members of the council are elected to four-year ~~terms.~~ terms, one a resident of District 1 and two who are residents of District 2."

SECTION 3. From July 1, 2003, until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners is expanded from five members to six members. The Board of Commissioners shall appoint a person who resides in the territory annexed as described in Section 5 of this act to fill that seat.

SECTION 3.1. Of the funds received by the Town of Carolina Shores under G.S. 136-41.1 through G.S. 136-41.3 for the 10 fiscal years beginning on or after July 1,

2003, the Town must expend in District 1 all of the funds received on account of the population and road mileage in that District.

SECTION 4. Of the funds received by the Town of Carolina Shores from local option sales taxes for the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the funds received on account of the population or assessed valuation in that District (depending on the formula used by Brunswick County to distribute such revenues to the municipalities in that county).

SECTION 5. Sections 1 through 4 of this act become effective only if the Town of Carolina Shores annexes any or all of the following property under Part 2 of Article 4A of the General Statutes prior to August 1, 2003:

BEGINNING at a fixed point of southerly side of the intersection of the right-of-way of Clubview Lane and the easterly side of the right-of-way of State Road 1165 then S06°09'45W 200.0 feet, then S06°24'06W for 185.0 feet, then S 14°22'08 for 133.05 feet then S31°37'12 for 125.0 feet, then S42°37'12W for 884.77 to a fixed point. Then, turning westerly along a utility easement and along the westerly boundary for the Town of Carolina Shores, N25°36'51W for 1369.78 feet, then N25°36'51W for 1491.07 feet, then N25°34'45W 352.46', then N25°29'27 feet for 2444.56 feet. Then N64°30'38 for 120.58 feet, the northerly along the westerly right-of-way of Watson Ave. N25°29'22W for 7.10 feet then N09°59'30 along a chord of 383.14 feet. Then along the Southerly boundary of the utility easement S77°24'38E for 721.50 feet to the westerly edge of a water body known as Lake D. Then along the lake edge N03°33'56E for 42.98 feet, N03°46'23E for 47.50 feet, then N06°12'39E for 28.37 feet, then N32°08'35E for 25.69 feet, then N14°59'37E, then N00°22'22E for 41.11 feet, then N21°33'30E for 21.17 feet, then N17°36'53E for 28.05 feet, then N29°09'08W for 17.25 feet then S78°32'11W for 19.05 feet and S43°47'28W 21.94 feet to the edge of the pond and the rear property line of lot 283. Then S77°24'38E 312.48 feet and then 185.00 feet, then S12°35'22W 183.16 feet, then S77°24'38 for 914.06 feet along a utility and drainage easement, then continuing along the easement S12°35'22W for 724.87 feet. Then S36°10'40E for 161.38 feet, then S48°17'03E for 11245.30 feet, then S87°46'05E for 153.78 feet, then S38°25'40E for 505.54 feet, then S33°42'50E for 168.96 feet then S22°30'50 for 199.35 feet then S64°59'73W for 901.96 feet along a drainage easement. Then N23°26'21 for 482.18 feet, then N66°33'39E for 185.40 feet then N06°09'45E for 716 feet back to the point of beginning.

SECTION 6. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 742*

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

H742-ALA-3 [v.1]

Date 4/24/ ,2003

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative ~~G. Allen~~ Howard

moves to amend the bill on page 2, line 10, by rewriting the line to read:
"Article 4A of Chapter 160A of the General Statutes prior to August 1, 2003:".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 742:
Carolina Shores Charter

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Hill and Stiller
Date:	April 24, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 742 is a local bill that would amend the Charter of the Town of Carolina Shores in Brunswick County only if the Town annexes certain property under the annexation statutes in Chapter 160A of the General Statutes prior to August 1, 2003.

CURRENT LAW: S.L. 1998-75 authorized the incorporation of the Town of Carolina Shores. The Town was to consist of an area previously annexed into the Town of Calabash in 1989.

BILL ANALYSIS: If any or all of certain described property is annexed by the Town of Carolina Shores prior to August 1, 2003, then the Charter of the Town of Carolina Shores will be amended as follows:

- The Town will be divided into two districts. District 1 will consist of the annexed area, and District 2 will consist of the remainder of the Town. One member of the Town Board of Commissioners will be a resident of District 1, two members will be a resident of District 2, and the remaining members may live anywhere within the corporate limits. District 1 and District 2 will be elected separately on the ballot, and the voters of the Town will elect all of the members. Under the Current Charter the Board of Commissioners is composed of five members.
- Under the current charter, in 2003 and every four years thereafter, three members of the Board of Commissioners will be elected to four-year terms. House Bill 742 will require one of the members to be a resident of District 1 and two members to be residents of District 2.
- From July 1, 2003 until the organizational meeting after the 2003 regular municipal election, the Board of Commissioners will be expanded from five to six members. The Board will appoint a sixth member who resides in the annexed area.
- For the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the Powell Bill funds received on account of the population and road mileage in District 1. Under current law, Powell Bill funds may be used only for the purposes of maintaining, repairing, constructing, reconstructing, or widening of local streets that are the responsibility of the municipalities.
- For the 10 fiscal years beginning on or after July 1, 2003, the Town must expend in District 1 all of the local option sales taxes received by the Town on account of the population or assessed valuation in that District. The amount will depend on the formula used by Brunswick County to distribute local option sales tax revenues to the

municipalities in the County. Current law provides that in April of each year, each county board of commissioners elects one of two methods to determine the distribution of revenue between the county and its municipalities. The two methods are:

Per Capita Method - the net proceeds of the county are divided by the sum of the population of the county and its municipalities to determine a per capita amount. This amount is multiplied by the county's total population and each municipality's population to determine the allocation to each area

Ad Valorem Method - the net proceeds may be distributed between the county and its municipalities in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the year of distribution.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 742 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT A PROPOSED ANNEXATION OF THE TOWN OF CAROLINA SHORES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 959
PROPOSED COMMITTEE SUBSTITUTE H959-PCS60306-SV-9

Short Title: Study Tax Preferences. (Public)

Sponsors:

Referred to:

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY FIVE YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.106 reads as rewritten:

"**§ 120-70.106. ~~Purpose and powers~~Purpose, powers, and duties of Committee.**

(a) The Revenue Laws Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Committee shall conduct a comprehensive review of each tax expenditure at least once every five years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective and shall report to the General Assembly on the findings of this review. For the purpose of this subsection, the term 'tax expenditure' has the same meaning as in G.S. 105-256. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year."

SECTION 2. The first reviews required under G.S. 120-70.106(c), as enacted by this act, shall be reported to the 2005 General Assembly.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 959

Short Title:	Study Tax Preferences.	(Public)
Sponsors:	Representatives Glazier; Bell, Carney, Earle, Gibson, Lucas, Luebke, and Rapp.	
Referred to:	Finance, if favorable, Rules, Calendar, and Operations of the House.	

April 9, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY TEN YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.106 reads as rewritten:

"**§ 120-70.106. ~~Purpose and powers~~Purpose, powers, and duties of Committee.**

(a) The Revenue Laws Study Committee may:

(1) Study the revenue laws of North Carolina and the administration of those laws.

(2) Review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable.

(3) Call upon the Department of Revenue to cooperate with it in the study of the revenue laws.

(4) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws.

These powers, which are enumerated by way of illustration, shall be liberally construed to provide for the maximum review by the Committee of all revenue law matters in this State.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee, if enacted, would result in an increase or decrease in State revenues, the report of the Committee must include an estimate of the amount of the increase or decrease.

(c) The Committee shall conduct a comprehensive review of each tax expenditure at least once every 10 years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective and shall report to the General Assembly on the findings of this review. For the purpose of this subsection, the term 'tax expenditure' has the same meaning as in G.S. 105-256. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year."

SECTION 2. The first reviews required under G.S. 120-70.106(c), as enacted by this act, shall be reported to the 2005 General Assembly.

SECTION 3. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 959 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Weiss
Sen.)

moves to amend the bill on page 1, line 4

( ) WHICH CHANGES THE TITLE

by deleting "TEN" and substituting "FIVE";

and on page 2, line 2

by deleting "10" and substituting "5".

SIGNED Jennifer Weiss

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 959:
Study Tax Preferences.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Glazier
Date:	April 24, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 959 requires the Revenue Laws Study Committee to conduct a review of each tax expenditure at least once every ten years to determine if the expenditure is equitable and efficient. The first review of tax expenditures would be reported to the 2005 General Assembly.

CURRENT LAW: The Revenue Laws Study Committee (Committee) began in 1977 as a subcommittee of the Legislative Research Commission. Then, in 1997, the Committee became a permanent legislative commission established by statute and designed to regularly review issues relating to taxation and finance. The Committee consists of 16 members, eight appointed by the President Pro Tempore of the Senate and eight appointed by the Speaker of the House of Representatives. The Committee is given broad authority to review the State's revenue laws to determine which laws need clarification, technical amendment, repeal, or other change to make the laws concise, intelligible, easy to administer, and equitable. The Committee is directed to report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the State's revenue laws. The report may contain any legislation needed to implement a recommendation of the Committee. When a recommendation of the Committee would result in an increase or decrease in State revenues, the report must include an estimate of the amount of the increase or decrease.

The Department of Revenue is required to prepare and publish, at least every two years, a tax expenditure report that lists the tax expenditures and gives an estimate of the amount by which revenue is reduced by each tax expenditure (G.S. 105-256). The Department is required to distribute one copy of this report to each member of the General Assembly.

BILL ANALYSIS: House Bill 959 adds as a duty of the Revenue Laws Study Committee the requirement that it conduct a comprehensive review of each tax expenditure at least once every 10 years to determine if the tax expenditure is an equitable and efficient means of achieving a State public policy objective. The Committee must report to the General Assembly on the findings of this review. The Committee may stagger the reviews so that not all tax expenditures have to be reevaluated in the same year. The term "tax expenditure" means an exemption, an exclusion, a deduction, an allowance, a credit, a refund, a preferential tax rate, or another device that reduces the amount of tax revenue that would otherwise be available to the State.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 959 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO CONDUCT A REVIEW OF ALL TAX EXPENDITURES AT LEAST ONCE EVERY TEN YEARS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 855*
PROPOSED COMMITTEE SUBSTITUTE H855-PCS30274-LAf-9

Short Title: Various Special Registration Plates. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR BLUE RIDGE PARKWAY FOUNDATION, SURVEYORS, RETIRED LAW ENFORCEMENT OFFICERS, ALTERNATIVE FUEL VEHICLES, ZETA PHI BETA SORORITY, BREAST CANCER AWARENESS, AND MOTHERS AGAINST DRUNK DRIVING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

A registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less, other than a Friends of the Great Smoky Mountains National Park special registration ~~plate~~ plate, a Blue Ridge Parkway Foundation special registration plate, or a Rocky Mountain Elk Foundation special registration plate shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right."

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1a) Alternative Fuel Vehicles. – Issuable to the registered owner of an alternative fuel vehicle. The plate shall bear the words "Alternative Fuel Vehicle". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(3d) Blue Ridge Parkway Foundation. – Issuable to a registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall be the full art, three-color design submitted to the Division by the Blue Ridge Parkway Foundation in camera-ready format. The background color and design shall allow the numbers on the face of the plate to be readily distinguished. Submission to the Division of the background design shall be the final design, and, upon acceptance by the Division, no further changes in the background design shall be made.

(3e) Breast Cancer Awareness. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

~~(3d)~~(3f) Bronze Star Recipient. – Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star."

...

(27c) Mothers Against Drunk Driving. – Issuable to the registered owner of a motor vehicle. The plate shall bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The Division must receive 300 or more applications for the plate before it may be developed.

...

(36b) Retired Law Enforcement Officers. – Issuable to a retired law enforcement officer presenting to the Division, along with the application for the plate, a copy of the officer's retired identification card or letter of retirement. The plate shall bear the phrase "Retired Law Enforcement Officer" and representation of a law enforcement badge. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

~~(36b)~~(36c) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Rocky Mountain Elk Foundation" and a logo approved by the Rocky Mountain Elk Foundation, Inc.

~~(36c)~~(36d) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the

phrase "Save the Sea Turtles" and a representation related to sea turtles.

...

(45b) Surveyor Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Following In Their Footsteps" and shall bear a picture of a transit.

~~(45b)~~(45c) Sweet Potato. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture representing the State's official vegetable, the sweet potato. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

~~(45c)~~(45d) Tobacco Heritage. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(52) Zeta Phi Beta Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Zeta Phi Beta"."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Blue Ridge Parkway Foundation	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00

First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Blue Ridge Parkway Foundation	$10	$20	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
(Effective until June 30, 2006)			
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0

Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
(Effective until June 30, 2006)			
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
Surveyor Plate	$10	$15	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
Zeta Phi Beta Sorority	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding two new subdivisions to read:

"(b25) Blue Ridge Parkway Foundation. – The Division must receive 300 or more applications for a Blue Ridge Parkway Foundation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Blue Ridge Parkway Foundation plates to the Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina.

(b26) Surveyor Plate. – The Division must receive 300 or more applications for a Surveyor plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Surveyor plates to the North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs.

(b27) Zeta Phi Beta Sorority – The Division must receive 300 or more applications for a Zeta Phi Beta sorority plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Zeta Phi Beta Sorority plates to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State."

SECTION 6. This act is effective when it becomes law.

HOUSE BILL 855:
Various Special Registration Plates

BILL ANALYSIS

Committee: House Finance
Date: April 24, 2003
Version: Proposed Committee Substitute

Sponsor: Rep. Alexander and Rayfield
Analysis by: Martha Walston
Committee Counsel

SUMMARY: Senate Bill 855 authorizes the Division of Motor Vehicles to issue a special registration plate for Breast Cancer Awareness. The Proposed Committee Substitute authorizes the Division of Motor Vehicles to also issue the following special plates: Blue Ridge Parkway Foundation (requested by Rep. Haire, HB 255), Surveyors (requested by Rep. Gillespie and Gibson, HB 563), Retired Law Enforcement Officers (requested by Rep. A Williams, HB 577), Alternative Fuel Vehicles (requested by Rep. Insko, HB 661), Zeta Phi Beta Sorority (requested by Rep. McAllister, HB 823), and Mothers Against Drunk Driving (requested by Rep. Allred, HB 1034). The Division must receive 300 applications for each of these plates before it can be issued. The plates will be subject to the $10 fee imposed for special plates. The special plates for the Blue Ridge Parkway Foundation, Surveyors, and the Zeta Phi Beta Sorority will also be subject to additional fees of $20, $15, and $10, respectively. These additional fees will be transferred quarterly to support the purposes for which they are imposed.

The Proposed Committee Substitute for HB 855 has been reviewed by the Tax and Tags Subcommittee in House Finance.

CURRENT LAW: The General Assembly has authorized the Division of Motor Vehicles to issue many different special registration plates so long as it receives at least 300 applications for the plate. DMV has issued at least 87 special license plates. It has received requests for at least 40 additional plates but it has not issued those plates because it has not yet received 300 applications for them.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The Centers are located in Brunswick, Camden, Carteret, Caswell, Macon, Tyrell, and Watauga Counties, and each Center receives $75,000. The remaining revenue in the account is transferred quarterly as follows:

- 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
- 50% to DOT for beautification of highways other than those designated as interstate.
- 17% to the account of DHHS to promote travel accessibility for disable persons.

[1] One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of war. Four special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Legion of Valor, Purple Heart Recipient, and the Silver Star Recipient.

The cost of some special plates includes a fee in additional to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The ***Proposed Committee Substitute*** for House Bill 855 authorizes the following special plates. The Division must receive at least 300 applications for a plate before it may be issued.

- **Alternative Fuel Vehicle (Rep. Insko).** - The special plate would be issuable to a registered owner of an alternative fuel vehicle and would bear the words "Alternative Fuel Vehicle". When a vehicle is titled, the Division is able to tell from the Vehicle Identification Number (VIN) whether the vehicle is an alternative fuel vehicle. The $10 special registration plate fee goes into the Special Registration Plate Account.
- **Breast Cancer Awareness (Rep. Alexander and Rayfield).** - The special plate would be issuable to a registered owner of a vehicle and would bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Mothers Against Drunk Driving (Rep. Allred)** - The special plate would be issuable to a registered owner of a vehicle and would bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Retired Law Enforcement Officers (Rep. A. Williams)**- The special plate would be issuable to a retired law enforcement officer who presents to the Division a copy of the officer's retired identification card or letter of retirement. The plate will bear the phrase "Retired Law Enforcement Officer" and a representation of a law enforcement badge. The following special plates for retired law enforcement officers are already authorized: "Retired Highway Patrol" and "Sheriff" if the sheriff served for at least 10 years before retiring. The "Sheriff" special plate does not require 300 applications. The $10 special registration plate fee goes to the Special Registration Plate Account.
- **Blue Ridge Parkway Foundation (Rep. Haire)** - The special plate would be issuable to a registered owner of a vehicle and would have the words "First in Flight" printed at the top of the plate. The background of the plate would be the full art, three-color design submitted to the Division by the Blue Ridge Parkway Foundation in camera-ready format. Once the Division accepts the design, no further changes may be made. The fee for the special plate is the $10 special registration plate fee plus an additional $20. The money derived from the additional $20 is transferred quarterly to the Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. The Foundation was incorporated in North Carolina in 1997 as an independent, private non-profit supporting foundation of the Blue Ridge Parkway. It provides private funding and specific programs and projects which further the preservation, protection and enhancement of the Blue Ridge Parkway.

- **Surveyor Plate (Rep. Gillespie and Gibson)** - The special plate would be issuable to a registered owner of a motor vehicle and would bear the words "Following In Their Footsteps" and a picture of a transit. A transit is a surveyor's instrument for measuring horizontal and, usually, also vertical angles. The fee for the special plate is the $10 special registration plate fee plus an additional $15. The money derived from the additional $15 fee is transferred quarterly to the North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs. The Foundation is a non-profit, tax-exempt organization that works with community colleges and high schools to promote the field of surveying. The Foundation is also working with the community college system and the university system to seek a four-year surveyor degree.

- **Zeta Phi Beta Sorority (Rep. McAllister)** - The special plate would be issuable to a registered owner of a motor vehicle and would bear the words "Zeta Phi Beta". The fee for the special plate is the $10 special registration plate fee plus an additional $10. The money derived from the additional $10 fee is transferred quarterly to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State. Zeta Phi Beta Sorority was founded at Howard University in 1920 and emphasizes scholarship and service. The Sorority was the first Greek-letter organization to charter a chapter in Africa and to form adult and youth auxiliary groups.

FISCAL ANALYSIS MEMORANDUM

[This fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: April 23, 2003

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: PCS for House Bill 855

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Fund - Special Registration Plate Acct.	$21,000	$21,000	$21,000	$21,000	$21,000
Collegiate and Cultural Attraction Plate Acct.	$13,500	$13,500	$13,500	$13,500	$13,500
EXPENDITURES					
Highway Fund - Special Registration Plate Acct.	$7,000				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles

EFFECTIVE DATE: The act is effective when it becomes law.

BILL SUMMARY: This bill authorizes the Division of Motor Vehicles (DMV) to issue a special registration plate for Alternative Fuel Vehicles, the Blue Ridge Parkway Foundation,

Breast Cancer Awareness, Mothers Against Driving Drunk, Retired Law Enforcement Officers, Surveyors, and the Zeta Phi Beta Sorority if at least 300 applications for each plate are received. The bill also allows the Blue Ridge Parkway Foundation special plate to have a different background other than the "First in Flight" plate background.

ASSUMPTIONS AND METHODOLOGY:
This fiscal note assumes that applicants for these special plates already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The note also assumes the issuance of the minimum 300 license plates in FY 2003-04 and renewal of those plates in the following years. There is a one-time cost of $100 to design the new plate and a one-time production cost of approximately $3.00 per plate. For 300 plates, the total production cost is $1,000 and is paid from the Special Registration Plate Account.

In addition to the normal $20 registration fee, each plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. Three of the plates have additional fees that are deposited into the Collegiate and Cultural Attraction Plate Account then transferred to specific organizations. The Blue Ridge Parkway Foundation plate has an additional $20 fee that is to be credited to the Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. The Surveyors' plate has an additional $15 fee to be given to the North Carolina Society of Surveyors Education Foundation, Inc. for public educational programs. The Zeta Phi Beta Sorority plate has an additional $10 fee to be given to the Zeta Phi Beta Sorority Foundation for funding undergraduate scholarships.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 855 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A BREAST CANCER AWARENESS SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 295*
Finance Committee Substitute Adopted 3/26/03
Third Edition Engrossed 4/1/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S295-PCS40028-LAf-7

Short Title: Special Registration Plates. (Public)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR PARAMEDICS AND THE NORTH CAROLINA COASTAL FEDERATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) is amended by adding the following new subdivisions to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(28d) NC Coastal Federation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State.

...

(29d) Paramedics. – Issuable to an emergency medical technician-paramedic, as defined in G.S. 131E-155. The plate shall bear the Star of Life logo and the phrase "Professional Paramedic". The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of

War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Historical Attraction	$30.00
State Attraction	$30.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Special Olympics	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Rocky Mountain Elk Foundation	$25.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Personalized	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the

Collegiate and Cultural Attraction Plate Account (CCAPA), and the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, as follows:

Special Plate	SRPA	CCAPA	NHTF
Animal Lovers	$10	$10	0
Audubon North Carolina	$10	$10	0
Ducks Unlimited	$10	$10	0
First in Forestry	$10	0	$10
Goodness Grows	$10	$15	0
Harley Owners' Group	$10	$10	0
Historical Attraction	$10	$20	0
In-State Collegiate Insignia	$10	$15	0
Kids First	$10	$15	0
Litter Prevention	$10	$10	0
March of Dimes	$10	$10	0
NC Agribusiness	$10	$15	0
NC Coastal Federation	$10	$15	0
Olympic Games	$10	$15	0
Omega Psi Phi Fraternity	$10	$10	0
Out-of-state Collegiate Insignia	$10	0	$15
Personalized	$10	0	$10
Rocky Mountain Elk Foundation	$10	$15	0
Save the Sea Turtles	$10	$10	0
Scenic Rivers	$10	$10	0
School Technology	$10	$10	0
Soil and Water Conservation	$10	$10	0
Special Forces Association	$10	$10	0
Special Olympics	$10	$10	0
State Attraction	$10	$20	0
Support Public Schools	$10	$10	0
The V Foundation for Cancer Research	$10	$15	0
University Health Systems of Eastern Carolina	$10	$15	0
Wildlife Resources	$10	$10	0
All other Special Plates	$10	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding the following new subsection to read:

"(b25) NC Coastal Federation. – The Division must receive 300 or more applications for a NC Coastal Federation plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of NC Coastal Federation plates to the North Carolina Coastal Federation, Inc."

SECTION 5. This act is effective when it becomes law.

SENATE BILL 295:
Special Registration Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Thomas
Date:	April 24, 2003	**Summary by:**	Martha Walston
Version:	PCS for 3rd Edition		Committee Counsel
	PCS40028-Laf-7		

SUMMARY: ***The third Edition of Senate Bill 295 authorizes the Division of Motor Vehicles to issue the following special registration plates: NC Coastal Federation (requested by Sen. Hargett, SB 337), Paramedics (requested by Sen. Albertson, SB 163), and Alpha Kappa Alpha Sorority (requested by Sen. Dorsett, SB 397). The Division must receive at least 300 applications for a plate before it can be issued. Each of the three plates authorized by the 3rd Edition will be on a "First in Flight" background and will be subject to the $10 fee imposed for special plates. The special plate for the NC Coastal Federation will also be subject to an additional fee of $15 that will be transferred quarterly to support the purposes for which it is imposed.***

The proposed committee substitute deletes the reference to the Alpha Kappa Alpha Sorority special plate because this plate was authorized in House Bill 482, sponsored by Rep. Adams, and ratified on April 10, 2003. (S.L. 2003-10)

The proposed committee substitute for SB 295 has been reviewed by the Tax and Tags Subcommittee in House Finance.

CURRENT LAW: The General Assembly has authorized the Division of Motor Vehicles to issue many different special registration plates so long as it receives at least 300 applications for the plate. DMV has issued at least 87 special license plates. It has received requests for at least 40 additional plates but it has not issued those plates because it has not yet received 300 applications for them.

As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The Centers are located in Brunswick, Camden, Carteret, Caswell, Macon, Tyrell, and Watauga Counties, and each Center receives $75,000. The remaining revenue in the account is transferred quarterly as follows:

- 33% to the account of the Department of Commerce to aid in financing out-of-state print and other media advertising under the program for the promotion of travel and industrial development in the State.
- 50% to DOT for beautification of highways other than those designated as interstate.
- 17% to the account of DHHS to promote travel accessibility for disable persons.

[1] One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of war. Four special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Legion of Valor, Purple Heart Recipient, and the Silver Star Recipient.

The cost of some special plates includes a fee in additional to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The ***Proposed Committee Substitute*** for Senate Bill 295 authorizes the following special license plates. The Division must receive at least 300 applications for a plate before it may be issued. Each of the plates would be on a "First in Flight" background.

- **NC Coastal Federation.** – The special plate would bear a phrase used by the North Carolina Coastal Federation and an image that depicts the coastal area of the State. The fee for the special plate would be the special registration plate fee of $10 plus an additional $15 fee. The money derived from the additional fee would be transferred quarterly to the North Carolina Coastal Federation, Inc. The NC Coastal Federation is a non-profit, tax-exempt organization that seeks to provide citizens and groups with the assistance needed to take an active role in the wise management of North Carolina's coastal water quality and natural resources. Eight grassroots groups concerned with local coastal issues founded it in 1982. Today, it serves 7,500 members and 200 affiliated organizations. It focuses on three main areas of work: the restoration and protection of coastal water quality and habitat; the encouragement of sound environmental programs and their enforcement; and the delivery of effective education programs.
- **Paramedics.** – The special plate would be issuable to an emergency medical technician-paramedic. The plate would bear the phrase "Professional Paramedic" and the Star of Life logo. The fee for the special plate would be the special registration plate fee of $10. To be an emergency medical technician-paramedic, a person must be credentialed as such by the Department of Health and Human Services under G.S. 131E-159. The following special plates are already authorized: "Firefighter", "Rescue Squad", "Firefighter-Rescue Squad".

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **April 23, 2003**

TO: House Finance

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: SB 295 – PCS –Special Registration Plates

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* No General Fund Impact *			
Highway Fund		* No Highway Fund Impact *			
Special Plate Acct.	**$6,000**	**$6,000**	**$6,000**	**$6,000**	**$6,000**
Coll. & Cultural Acct.*	**$4,500**	**$4,500**	**$4,500**	**$4,500**	**$4,500**
EXPENDITURES					
Special Plate Acct.	$2,000				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Transportation.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes creation of two new special license plates. The new plates would recognize the NC Coastal Federation and paramedics. Fees vary with proceeds sent to a variety of organizations.

ASSUMPTIONS AND METHODOLOGY: The bill does not affect the General Fund. In addition, there is no revenue impact on the Highway Fund since the special plate applicants pay the same $20 vehicle registration fee that they were paying for a regular license plate.

According to the Division of Motor Vehicles, there is a one-time cost of approximately $100 to design a new plate. There is also a production cost of approximately $3.00 per plate based on one color design. The cost per plate will increase if more color is added or the design is complex. Since the number of applications for these plates is unknown, this fiscal analysis assumes only the minimum 300 applicants needed to qualify for a plate. Thus, the total production cost for 300 plates is $1,000. This cost is assumed to apply to both plates under consideration, as both require 300 applications as a minimum to begin production, so the total expenditure is estimated at $2,000.

The paramedic plate requires an additional payment to the special plate account of $10 (per current statute), creating an estimated revenue steam of $3,000 from the plate.

The NC Coastal Federation plate requires an additional payment of $25, with the proceeds flowing to both the special registration plate account ($10) and the collegiate and cultural attraction plate account ($15). Each quarter the collections into the collegiate and cultural attractions plate account for the NC Coastal Federation plate must be transferred to the North Carolina Coastal Federation, Inc.

SOURCES OF DATA: NC Division of Motor Vehicles.

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
82nd Airborne	$10.00	0	337	653	766	827	856	943	1003	961
Air Force Reserve	$10.00	133	140	147	149	154	158	154	166	159
Amateur Radio	$10.00	2,332	2,916	2,601	2,721	2489	2467	2074	2164	2097
Antique	$10.00	1,786	2,093	2,386	2,544	2714	2826	3046	3191	3274
American Legion	$10.00	0	371	380	359	364	360	354	350	341
Amran Temple	$10.00	377	376	365	356	353	354	350	335	323
Animal Lovers	$20.00			689	928	1312	1610	1927	2234	2373
Army Reserve	$10.00	301	318	318	321	325	338	345	335	356
Appalachian State University	$25.00	672	766	905	986	1038	1065	1113	1157	1163
A & T State University	$25.00			595	785	925	974	1087	1155	1178
Bronze Star	$10.00			346	449	559	630	753	821	886
Civil Air Patrol	$10.00	74	73	75	74	83	80	74	72	66
Citizens Band Radio	$10.00	38	26	24	22	21	21	20	20	18
Coast Guard Auxiliary	$10.00	74	73	79	77	81	74	79	83	84
Coast Guard Reserve	$10.00	44	49	53	54	54	54	52	53	56
Clemson University	$25.00	583	634	717	783	831	828	830	863	872
Congressional Medal of Honor	Free	4	3	3	3	3	3	4	5	4
Clerk of Superior Court	$10.00	73	77	79	79	78	78	74	74	72
Consular Corps	$10.00	2	2	1	1	1	1	1	1	1
Core Sound Waterfowl Museum	$30.00								270	305
Court of Appeals	$10.00			17	17	26	26	25	25	26
Disabled Veteran	Free	3,725	3,833	4,059	4,148	4339	4443	4696	5073	5312
Distinguished Flying Cross	None			124	143	171	176	200	216	224
NC Dept of Transportation	$10.00	46	45	49	50	37	38	30	30	35
NC District Attorney	$10.00	23	22	23	23	26	26	24	25	23
Ducks Unlimited	$20.00							398	462	487
Duke University	$25.00	645	638	662	689	707	728	758	765	758
Eagle Scout	$10.00							332	441	473
East Carolina University	$25.00	675	700	772	819	860	875	864	852	900
Fayetteville State University	$25.00									218
Fireman	$10.00	1,383	1,560	1,799	1,812	1934	1981	2098	2168	2208
Fraternal Order of Police	$10.00	705	1,033	1,338	1,502	1698	1811	1950	2112	2191
Fireman/Rescue	$10.00	525	605	709	743	805	838	927	960	969
Friends of Great Smoky Mtns	$30.00			1,423	2,233	3009	3501	4356	5053	5294
Horseless Carriage	$10.00	618	649	693	724	744	736	745	772	767
Historic Lighthouse	$30.00	937	1,405	1,809	2,033	2263	2349	2460	2573	2608
Carolina Hurricanes	$10.00									699
International Assoc Firefighters	$10.00					503	599	748	830	926

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
NC House	$10.00	175	189	185	181	188	190	193	189	177
NC Judicial	$10.00	308	327	298	299	327	328	332	335	337
Kids First	$25.00							299	368	395
Knights of Columbus	$10.00	366	375	392	380	379	383	381	371	372
Korean Conflct Veteran	$10.00									276
Legion of Valor	$10.00	20	22	23	20	23	23	23	21	20
Litter Prevention	$20.00						232	350	354	361
NC Magistrate	$10.00	241	317	340	338	356	355	374	374	370
Marine Corps Reserve	$10.00	85	77	89	103	106	108	114	122	115
Maritime Museum	$30.00								354	406
Masonic Temple	$10.00	642	918	1,143	1,238	1315	1308	1374	1423	1476
Naval Reserve	$10.00	176	178	160	158	163	171	181	171	174
National Guard (assigned)	None	1,146	1,113	1,059	1,036	1019	1006	1015	1006	993
Native American	$10.00			1,194	1,940	2800	3088	3538	3886	3989
NC State University	$25.00	2,105	2,255	2,500	2,672	2852	2934	3069	3277	3370
National Guard (unassigned)	None	885	885	919	996	980	1056	1008	1092	823
North Carolina Central Univ.	$25.00			306	405	486	572	642	747	778
Oasis Temple	$10.00	945	930	923	913	899	910	885	858	852
State Gov't Official	$10.00	91	87	81	79	49	52	61	64	70
Olympic Spirit	$25.00	205	175	142	140	121	119	128	125	118
Carolina Panthers	$10.00	708	1,056	1,255	1,302	1312	1324	1308	1308	1334
Pembroke University	$25.00	207	202	193	188	183	185	169	175	171
Partially Disabled Veteran	$10.00	97	89	90	90	97	91	89	92	103
Pearl Harbour Survivor	$10.00	206	196	184	172	167	163	154	150	142
Prince Hall	$10.00					323	372	419	439	459
Purple Heart Veteran	None	2,813	3,186	3,392	3,447	3520	3587	3642	3658	3637
Prisloner of War	Free	833	803	760	731	703	687	663	642	630
Retired Air Force	$10.00	1,193	1,241	1,307	1,357	1387	1432	1485	1499	1534
Retired Army	$10.00	1,472	1,547	1,630	1,638	1686	1697	1738	1770	1798
Retired Clerk of Court	$10.00	1	5	7	6	8	8	17	18	21
Retired Coast Guard	$10.00			81	88	104	114	132	145	140
Retired Highway Patrol	$10.00			661	695	759	780	807	811	827
Rescue Squad	$10.00	270	297	315	336	330	345	346	352	354
Retired Magistrate	$10.00								4	14
Retired Marine	$10.00	981	1,052	1,105	1,136	1157	1159	1188	1202	1216
Retired Navy	$10.00	508	560	606	618	665	689	715	749	755
Retired National Guard	$10.00	353	396	431	396	467	464	496	511	536
Register of Deeds	$10.00	58	54	57	57	56	56	55	55	49

ACTIVE PLATES

TYPE OF PLATE	ADDITIONAL FEE DUE	# ACTIVE PLATES 07/01/98	# ACTIVE PLATES 07/01/99	# ACTIVE PLATES 07/01/00	# ACTIVE PLATES 12/31/00	# ACTIVE PLATES 7/30/01	# ACTIVE PLATES 12/31/01	# ACTIVE PLATES 7/1/02	# ACTIVE PLATES 12/31/02	# ACTIVE PLATES 3/31/03
Retired Sheriff	$10.00	34	59	60	59	62	63	66	67	74
Ruritan Club	$10.00					249	257	252	240	236
Save the Sea Turtles	$10.00									377
Sons of Confederate Veterans	$10.00	866	1,518	2,591	3,144	3556	3694	3792	3832	3856
NC Senate	$10.00	73	72	68	67	70	66	71	71	69
Sheriff	$10.00	58	78	84	88	85	85	84	83	80
Silver Star	None			138	159	191	206	216	225	223
Supreme Court Judge	$10.00			11	11	14	14	14	14	15
Square Dance Club	$10.00	549	528	495	491	477	464	437	433	422
Street Rod	$10.00	1	2	1	1	1	1	1	1	1
Sudan Temple	$10.00	1,097	1,100	1,118	1,081	1071	1066	1058	1041	1031
Tobacco Heritage	$10.00					447	472	537	542	551
UNC-Charlotte	$25.00	296	373	411	424	452	461	451	466	457
UNC-Chapel Hill	$25.00	3,276	3,507	3,705	3,883	3998	4080	4204	4327	4345
UNC-Wilmington	$25.00	304	389	424	434	442	456	472	475	476
University of South Carolina	$25.00					327	411	504	574	584
US District Attorney	$10.00	0	0	0	0	0	0	1	1	1
US House	$10.00	13	9	9	11	12	11	11	11	10
US Marshal	$10.00	0	0	1	1	1	1	1	2	0
US Supreme Court Judge	$10.00	1	1	1	3	4	3	3	3	3
US Senate	$10.00	1	3	3	2	3	0	1	1	0
Vietnam Veterans	$10.00	0	1,025	1,789	2,106	2525	2760	3179	3423	3593
Van Pool	None	25	22	20	15	9	16	14	15	14
Veteran of Foreign Wars	$10.00								294	330
Wake Forest University	$25.00	633	672	699	714	719	728	740	767	763
Western Carolina University	$25.00				251	300	329	341	360	361
Wildlife Resources	$20.00	0	950	1,088	1,146	1243	1279	1350	1360	1369
Winston Salem State University	$25.00	0	294	338	357	354	373	387	400	414
World War II Veteran	$10.00									19
Totals		40,090	47,878	58,775	63,996	70933	74188	79468	84454	87573
Personalized	$20.00	177,717	182,794	200,178	210,067	215044	210666	216786	226244	226809

Organizations Still Trying to Obtain 300 Applications

ORGANIZATIONS TRYING TO OBTAIN 300 APPLICATIONS	
ORGANIZATION	TRYING SINCE
Audubon North Carolina	2001
Aviation Maintenance Technician	2002
Boy Scouts	1996
Barton College	1999
Combat Infantry Badge	2001
Combat Veteran	1998
Delta Sigma Theta Sorority	1996
Desert Storm	2001
Elon College	1995
First in Forestry	2001
Future Farmers of America	1993
Goodness Grows	2000
Harley Owner's Group	2001
Johnson C Smith University	1999
Livingstone College	1997
March of Dimes	1997
Meredith College	1992
Morehouse College	2000
NC Agribusiness	2002
NC School of Arts	2000
Ohio State University	1999
Omega Psi Phi Fraternity	2000
Optimist Club	2000
Peace College	1999
Pennsylvania State University	1999
Phi Beta Sigma Fraternity	2000
Rocky Mountain Elk Foundation	2001
Rotary Club	1994
Scenic Rivers	1997
School Technology	1997
Sertoma	1995
Shaw University	1993
Soil & Water Conservation	1997
Special Forces	2001
Special Olympics	1994
Support Public Schools	2000
Sweet Potato	2002
University of Alabama	1995
University Health Systems	1999
University of NC - Greensboro	1992
University of Tennessee	1995
US Navy Specialty	2001
The V Foundation	2001
Virginia Tech	1995

Collegiate Plates
First Quarter of Fiscal Year 2001/2002

	Jul-01	Aug-01	Sep-01	Sub Totals	%	Pro-Rated Adjustment	Available for Distribution	Distribution Per Plate	Number of Plates	Actual Disbursements
ASU	1,740.00	1,725.00	1,365.00	4,830.00	0.04333	201.87	5,031.87		335	5,025.00
ATU	1,320.00	1,500.00	1,245.00	4,065.00	0.03646	169.90	4,234.90		282	4,230.00
ECU	1,695.00	1,680.00	1,245.00	4,620.00	0.04144	193.10	4,813.10		321	4,815.00
ESU				0.00	0	0.00	0.00		0	0.00
NCC	1,035.00	990.00	990.00	3,015.00	0.02705	126.01	3,141.01		209	3,135.00
NCSU	4,320.00	4,845.00	3,615.00	12,780.00	0.11464	534.15	13,314.15		887	13,305.00
PBU	225.00	360.00	225.00	810.00	0.00727	33.85	843.85		56	840.00
UCC-UNC-CLT	1,005.00	630.00	555.00	2,190.00	0.01964	91.53	2,281.53		152	2,280.00
UNC-CH	7,095.00	6,630.00	5,730.00	19,455.00	0.17452	813.13	20,268.13		1350	20,250.00
UNC-W	810.00	825.00	645.00	2,280.00	0.02045	95.29	2,375.29		158	2,370.00
WCU	600.00	630.00	225.00	1,455.00	0.01305	60.81	1,515.81		101	1,515.00
WSU	585.00	765.00	540.00	1,890.00	0.01695	78.99	1,968.99		131	1,965.00
UNC Board of Trustees				57,390.00		2,398.64	59,788.64	15.00	3984	59,730.00
Animal Lovers	2,180.00	2,080.00	1,750.00	6,010.00	0.05391	251.19	6,261.19	10.00	626	6,260.00
Clemson				0.00	0	0.00	0.00	15.00	0	0.00
Duke	1,260.00	1,335.00	750.00	3,345.00	0.03001	139.81	3,484.81	15.00	232	3,480.00
Great Smoky Mts.	7,520.00	7,260.00	7,260.00	22,040.00	0.1977	921.17	22,961.17	20.00	1148	22,960.00
Historic Lighthouse	5,380.00	5,320.00	4,120.00	14,820.00	0.13294	619.41	15,439.41	20.00	772	15,440.00
Meredith College				0.00	0.00000	0.00	0.00	15.00	0	0.00
Olympic Games	270.00	210.00	75.00	555.00	0.00498	23.20	578.20	15.00	39	585.00
Wake Forest	1,095.00	1,230.00	795.00	3,120.00	0.02799	130.40	3,250.40	15.00	217	3,255.00
Wildlife	1,380.00	1,450.00	1,370.00	4,200.00	0.03767	175.54	4,375.54	10.00	438	4,380.00
	39,515.00	39,465.00	32,500.00	111,480.00	1.00000	4,659.36	116,139.36		7456	116,090.00
IMS - Collections Ledger				116,139.36						116,139.36
Difference				4,659.36			Undistributed Balance			49.36

BILLS IN HOUSE FINANCE SUBCOMMITTEE ON TAX & TAGS - 2003 Session
(Updated April 14, 2003, at 9:10 p.m. by Martha Walston)
(Stricken bills have been given a favorable report in House Finance)

Bill #	Short Title	Sponsor	Referred to Sub-Committee	Type	Description	Effective Date
H255	Blue Ridge Parkway Foundation License Plate	Haire	4/10/03	Special License Plate	Authorizes DMV to issue Blue Ridge Parkway Foundation plate for additional $25 fee. $15 of the additional fee is to go to Foundation to promote and preserve Parkway as scenic attraction	When it becomes law
H477	NC Coastal Federation Special Plate	Preston	4/10/03	Special License Plate	Authorizes DMV to issue NC Coastal Federation plate for $25 additional fee. $15 of fee will go to North Carolina Coastal Federation, Inc.	When it becomes law
H563	Surveyor Special License Plate	Gillespie and Gibson	4/10/03	Special License Plate	Authorizes DMV to issue special plate for surveyor that bears words "Following In Their Footsteps" and a picture of a transit. The additional fee is $25 ($15 to the NC Society of Surveyors Education Foundation, Inc., for public educational programs.	When it becomes law
H577	Retired law Enforcement Special Plates	A. Williams	4/10/03	Special License Plate	Authorizes DMV to issue special plate bearing words "Retired Law Enforcement Plate" and representations of law enforcement badges. The additional fee is $10.	When it becomes law
H661	Alternative Fuel Vehicle Special Plate	Insko	4/10/03	Special plate	Authorizes "Alternative Fuel Vehicle" special plate for $10 additional fee	When it becomes law
H823	Zeta Phi Beta Special Registration Plate	McAllister	4/10/03	Special Plate	Authorizes DMV to issue special "Zeta Phi Beta" plate for additional $10 fee	When it becomes law
H855 S946	Breast Cancer Awareness Special Plate	Alexander and Rayfield	4/10/03	Special Plate	Authorizes DMV to issue special plate with phrase "Early Detection Saves Lives" and a representation of pink ribbon for additional $10 fee.	When it becomes law

Bill #	Short Title	Sponsor	Referred to Sub-Committee	Type	Description	Effective Date
H1034	M.A.D.D. Special Registration Plate	Allred		Special Plate	Authorizes DMV to issue special plate with letters "M.A.D.D." and the words "Mothers Against Drunk Driving" for $10 additional fee	When it becomes law
H1160	Stock Car Racing Theme Special Plates	Goodwin and L. Johnson		Special Plate	Authorizes DMV to issue series of plates displaying themes of professional stock care racing or drivers. DMV must have license to use copyrighted or registered words, symbols, trademarks, or designs and may contract with any person for the license. The additional fee is $30 which goes to the Special Registration Plate Account. A replacement plate will cost $25. The plate will not have the words "First in Flight	
S295 3rd Ed	Special Registration Plates	Thomas	4/10/03	Special Plate	Authorizes DMV to issue special plates for Alpha Kappa Alpha Sorority ($10), NC Coastal Federation ($25 of which $15 goes to NC Coastal Federation, Inc), Paramedics ($10)	When it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 295 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE SPECIAL REGISTRATION PLATES FOR PARAMEDICS, THE NORTH CAROLINA COASTAL FEDERATION, AND THE ALPHA KAPPA ALPHA SORORITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

House Committee on Finance

Minutes

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April 29, 2003

The House Committee on Finance met on Tuesday, April 29, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Martha Harris, and Martha Walston. There were also two Pages present at the meeting: (1) Kristin Broadwell of Wake County, sponsored by Representative Ellis; and (2) Vonda Walker of Pender County, sponsored by Representative Justice. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:33 am and immediately recognized Representative Ross to explain HB 755 – CARY/GARNER CONDEMNATIONS (see attachment 3). She explained very briefly to the Committee that this was a standard condemnation bill. It allows the Towns of Cary and Garner to acquire property for the (re)location of utility lines when it acquires property for streets. It also allows the Towns to acquire property through the condemnation procedures under Chapters 136 and 40A of the General Statutes (see attached Bill Summary). With no discussion from the members, the Chair recognized Representative Gibson for a motion of favorable report. The motion carried without opposition.

The Chairman then recognized Representatives Crawford and Cole to explain HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE (see attachment 4). Representative Cole explained that the transportation needs of North Carolina are growing exponentially. By 2025, the population in the state is expected to double from the current rate; thus, many more quality roads will be needed. Representative Crawford explained the specifics of the bill. The bill appropriates $300 million in fiscal year 2003-2004 and $400 million in fiscal year 2004-2005 from the State's Highway Trust Fund for "highway preservation, modernization, and maintenance" as well as for regional public transit systems (both urban and rural). According to Representative Crawford, the North Carolina Department of Transportation (DOT), under this bill plans to pursue road projects in all counties of the state and to get them underway immediately.

The Chair recognized Rep. Holliman who asked whether the bill was for road maintenance or new projects. Rep. Crawford explained that these appropriations are mostly for new projects, but are smaller projects in comparison to some of those currently underway in the state.

Representative Carney was recognized to send forth an amendment, which appointed a "Blue Ribbon" commission to study the transportation needs of the state, especially in rural areas. Representative Hackney then sent forth a perfecting amendment changing the number of members of the Commission from 5 to 6 in both the House and Senate. Upon the Chair's call, Representative

Hackney's perfecting amendment carried without objection, increasing the total membership of the Commission to 26.

Chairman Miner also recognized the audience to speak on HB 48. Duane Long, immediate past Chairman of the Greater Raleigh Chamber of Commerce and Ellis Hankins, Executive Director of the North Carolina League of Municipalities both spoke highly in support of the Carney Amendment (establishing a study commission to address the state's transportation needs).

Representative Luebke was then recognized to speak on the Carney amendment, specifically on the creation of a "blue ribbon" commission, rather than a typical study commission. He noted his belief that often, the members of these blue ribbon commissions are too full of legislators and that there should be a member from an environmental agency, such as the North Carolina Department of Environment and Natural Resources (DENR). Representative Luebke then sent forth another perfecting amendment to add an additional member of the commission to represent the state's environmental interests in regard to transportation needs, bringing the total membership of the Commission to 27. He also moved the adoption of this amendment.

Representative Wainwright was then recognized by Chairman Miner and voiced his concerns on the lack of public members on the blue ribbon commission who are from rural areas. He stated his desire to perfect Representative Luebke's perfecting amendment to include this rural membership. Representative Carney stated that she felt confident that the membership of the commission would be diversified without further additions to her proposed amendment.

The Chair then recognized Representative Decker who debated with Representative Luebke as to the necessity of an environmental member on the Commission, since there are no other members from specific areas. Following this discussion, the Chair called the vote on the Luebke perfecting amendment and it carried, but opposition was present. Having no further questions from the Committee, the Chair, upon a motion from Representative Ross, then called the vote on the adoption of Representative Carney's amendment. The motion carried by consent and the amendment was adopted.

Having concluded discussion on these amendments, Chairman Miner informed the Committee that it would now consider the full version of HB 48. Representative Hackney was then recognized to send forth an amendment. This amendment deleted section 5 of the bill, which required the approval of DENR on DOT transportation projects. The amendment carried without opposition.

Representative Howard was then recognized to voice her concern that the use of Highway Trust Fund money in this bill was not the original intention of the Fund. Specifically, she noted that the roads in rural communities have note yet been paved and that this was the trust fund's original purpose. She then sent forth an amendment to reduce the appropriations in the bill for bicycle, ferry, and other improvements from $70 million to $35 million to place the difference of these funds toward the further paving of rural roads in the state. She explained that this amendment places additional dollars for maintenance of roads, while not the traditional purpose of this bill, but helps the state make good on its original promise to constituents of the use of the Highway Trust Fund. Representative McCombs spoke in support of Howard's amendment stating that it would also help to get more of these funds to rural areas. Representative Capps also reiterated Representative Howard in that the State has a responsibility to keep promises made in earlier legislation.

The Chair then took time to recognize members of the audience who desired to speak on the full content of HB 48. Representative Gibson requested that the Committee hear from any DOT representatives that were present. Mr. Sanderson, State Highway Administrator of NCDOT and Miriam Perry, Public Transportation Director with DOT, were present to discuss the state's highway and transportation needs.

Continuing the discussion of the Howard Amendment, Chairman Miner recognized Representative Crawford who, in opposition, stated that the majority of the rural roads in the state had in fact already been paved. Representative Hill stated that his community is depending on this bill to address a very bad intersection in his district. Representative Rayfield voiced his concerns that the smaller communities of the state would not be properly provided for in this bill if the 10 most populous cities were being highlighted by DOT.

Representative Hackney, upon recognition of the Chair, spoke against the Howard Amendment stating that the current bill was already well balanced without further alteration. Representative Ross also spoke in opposition, stating that the State should take whatever matched transportation dollars from the Federal Government that it can. Representative Creech spoke in support of the Howard amendment, stating that rural communities have waited long enough to have their dirt roads paved. Chairman Miner then called the vote, but a division of the members was requested. In tallying a hand vote of 13 to 15, the Howard amendment failed.

On a question from Representative Creech, Representative Crawford explained that the road projects outlined in the bill also act as economic incentives because they are small projects, which are to be completed by local contractors in areas throughout the state.

Representative Capps was then recognized to present an amendment that would restrict $20,000 from use on a Wake County light rail system. He stated his reason for this amendment was that Wake County's transportation problems could not be helped because the City is not ready for the use of rail travel at the present time. He suggested that these funds should be used for other, more appropriate parts of the proposed transportation improvements. Representative Hackney spoke against this amendment basing his argument again on his belief that the bill, as it was, provided a balanced package, already approved by the Governor. Representatives Cole and Crawford also spoke against this amendment, citing this balance. Representative Ross stated this amendment would hurt Wake County due to the large number of youth communities (colleges, universities, etc.) in the area that could benefit from a light rail system. Representative Capps then reiterated his support of his amendment noting that it was a waste of tax dollars for Wake County at the present time. The Chair called the vote and, once again, the request for division was made. By a count of hands, the Capps amendment failed 10 to 15.

Chairman Miner then recognized Representative Hackney who made a motion for a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute.

However, prior accepting this motion, the Chair recognized Representative Ellis who sent forth an amendment to require that none of the appropriated funds from HB 48 could be used unless the transportation projects being undertaken were completed to DOT standards. Mr. Sanderson of DOT stated that this standard is already required, but informed the Committee, along

with Representative Crawford, that he had no concerns with the amendment. The Chair then called the vote as to the Ellis amendment and it carried without dissent.

Chairman Miner then recognized Representative Hackney's earlier amendment to offer a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute. Hearing no further questions from the Committee, the Chair called the vote and the motion carried without known opposition. Thus, HB 48 received a favorable report as to the committee substitute, unfavorable as to the original bill.

As the next item on the agenda, Representative Gibson was recognized by the Chair to explain HB 697 – TROY QUICK TAKE (see attachment 5). Representative Gibson stated that the purpose of the bill was to allow the Town of Troy and the Troy Redevelopment Commission to exercise the power of "quick-take" condemnation in the acquisition of property for the Smitherman Village neighborhood (see attached Bill Summary). Following this explanation, Representative Luebke was recognized and immediately moved for favorable report. Upon the Chair's call, the motion carried unanimously.

The Chairman then recognized Representative Gordon Allen for his birthday. The members of the Committee gave Representative Allen a standing ovation in observance of his special day.

Next, Chairman Miner recognized Representative LaRoque for explanation of the final bill on the day's agenda, HB 469 – LENOIR/DUPLIN UNPAID FEES COLLECTION (see attachment 6). He explained that the bill allows the Counties of Lenoir and Duplin "to attach personal property, garnish wages, and place liens on certain real property to collect unpaid fees for services." Having heard the explanation, the Chair recognized Representative Jones who moved for a favorable report on HB 469.

However, Representative Howard was first recognized to send forth an amendment adding the County of Davie to the text of the bill.

Representative Luebke was then recognized for a question to staff. He asked if this sort of bill was a regular occurrence because he held concerns about the large use of government taking power in this bill. Staff person Martha Walston stated that bills of a similar nature had already passed in earlier sessions. Representative Blackwood questioned Representative LaRoque as to how this bill would affect landlords. Representative LaRoque explained that this bill would affect only the individuals who have received the unpaid services, not the owners of the property if it were rented.

The Chair then recognized Representative Howard to explain her amendment. She noted that it simply adds Davie County with Lenoir and Duplin Counties in the bill. She also presented a perfecting amendment to include Columbus County (on behalf of Representative Hill). Representative Hill then moved the adoption of both amendments. The Chair called the vote on both the perfecting amendment and then the Howard amendment. Both motions carried without known opposition.

Representative Ross was then recognized by Chairman Miner and voiced her concern on the garnishment of wages in the bill. Seeing no further comments from members, the Chair called the

vote as moved by Representative Hackney for a favorable report as to the committee substitute, unfavorable as to the original on HB 469. The motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:58 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
4. House Bill 48 (and related materials)
5. House Bill 697 (and related materials)
6. Senate Bill 469 (and related materials)

House Committee on Finance

Minutes

~

April 29, 2003

The House Committee on Finance met on Tuesday, April 29, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, Trina Griffin, Martha Harris, and Martha Walston. There were also two Pages present at the meeting: (1) Kristin Broadwell of Wake County, sponsored by Representative Ellis; and (2) Vonda Walker of Pender County, sponsored by Representative Justice. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:33 am and immediately recognized Representative Ross to explain HB 755 – CARY/GARNER CONDEMNATIONS (see attachment 3). She explained very briefly to the Committee that this was a standard condemnation bill. It allows the Towns of Cary and Garner to acquire property for the (re)location of utility lines when it acquires property for streets. It also allows the Towns to acquire property through the condemnation procedures under Chapters 136 and 40A of the General Statutes (see attached Bill Summary). With no discussion from the members, the Chair recognized Representative Gibson for a motion of favorable report. The motion carried without opposition.

The Chairman then recognized Representatives Crawford and Cole to explain HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE (see attachment 4). Representative Cole explained that the transportation needs of North Carolina are growing exponentially. By 2025, the population in the state is expected to double from the current rate; thus, many more quality roads will be needed. Representative Crawford explained the specifics of the bill. The bill appropriates $300 million in fiscal year 2003-2004 and $400 million in fiscal year 2004-2005 from the State's Highway Trust Fund for "highway preservation, modernization, and maintenance" as well as for regional public transit systems (both urban and rural). According to Representative Crawford, the North Carolina Department of Transportation (DOT), under this bill plans to pursue road projects in all counties of the state and to get them underway immediately.

The Chair recognized Rep. Holliman who asked whether the bill was for road maintenance or new projects. Rep. Crawford explained that these appropriations are mostly for new projects, but are smaller projects in comparison to some of those currently underway in the state.

Representative Carney was recognized to send forth an amendment, which appointed a "Blue Ribbon" commission to study the transportation needs of the state, especially in rural areas. Representative Hackney then sent forth a perfecting amendment changing the number of members of the Commission from 5 to 6 in both the House and Senate. Upon the Chair's call, Representative

Hackney's perfecting amendment carried without objection, increasing the total membership of the Commission to 26.

Chairman Miner also recognized the audience to speak on HB 48. Duane Long, immediate past Chairman of the Greater Raleigh Chamber of Commerce and Ellis Hankins, Executive Director of the North Carolina League of Municipalities both spoke highly in support of the Carney Amendment (establishing a study commission to address the state's transportation needs).

Representative Luebke was then recognized to speak on the Carney amendment, specifically on the creation of a "blue ribbon" commission, rather than a typical study commission. He noted his belief that often, the members of these blue ribbon commissions are too full of legislators and that there should be a member from an environmental agency, such as the North Carolina Department of Environment and Natural Resources (DENR). Representative Luebke then sent forth another perfecting amendment to add an additional member of the commission to represent the state's environmental interests in regard to transportation needs, bringing the total membership of the Commission to 27. He also moved the adoption of this amendment.

Representative Wainwright was then recognized by Chairman Miner and voiced his concerns on the lack of public members on the blue ribbon commission who are from rural areas. He stated his desire to perfect Representative Luebke's perfecting amendment to include this rural membership. Representative Carney stated that she felt confident that the membership of the commission would be diversified without further additions to her proposed amendment.

The Chair then recognized Representative Decker who debated with Representative Luebke as to the necessity of an environmental member on the Commission, since there are no other members from specific areas. Following this discussion, the Chair called the vote on the Luebke perfecting amendment and it carried, but opposition was present. Having no further questions from the Committee, the Chair, upon a motion from Representative Ross, then called the vote on the adoption of Representative Carney's amendment. The motion carried by consent and the amendment was adopted.

Having concluded discussion on these amendments, Chairman Miner informed the Committee that it would now consider the full version of HB 48. Representative Hackney was then recognized to send forth an amendment. This amendment deleted section 5 of the bill, which required the approval of DENR on DOT transportation projects. The amendment carried without opposition.

Representative Howard was then recognized to voice her concern that the use of Highway Trust Fund money in this bill was not the original intention of the Fund. Specifically, she noted that the roads in rural communities have note yet been paved and that this was the trust fund's original purpose. She then sent forth an amendment to reduce the appropriations in the bill for bicycle, ferry, and other improvements from $70 million to $35 million to place the difference of these funds toward the further paving of rural roads in the state. She explained that this amendment places additional dollars for maintenance of roads, while not the traditional purpose of this bill, but helps the state make good on its original promise to constituents of the use of the Highway Trust Fund. Representative McCombs spoke in support of Howard's amendment stating that it would also help to get more of these funds to rural areas. Representative Capps also reiterated Representative Howard in that the State has a responsibility to keep promises made in earlier legislation.

The Chair then took time to recognize members of the audience who desired to speak on the full content of HB 48. Representative Gibson requested that the Committee hear from any DOT representatives that were present. Mr. Sanderson, State Highway Administrator of NCDOT and Miriam Perry, Public Transportation Director with DOT, were present to discuss the state's highway and transportation needs.

Continuing the discussion of the Howard Amendment, Chairman Miner recognized Representative Crawford who, in opposition, stated that the majority of the rural roads in the state had in fact already been paved. Representative Hill stated that his community is depending on this bill to address a very bad intersection in his district. Representative Rayfield voiced his concerns that the smaller communities of the state would not be properly provided for in this bill if the 10 most populous cities were being highlighted by DOT.

Representative Hackney, upon recognition of the Chair, spoke against the Howard Amendment stating that the current bill was already well balanced without further alteration. Representative Ross also spoke in opposition, stating that the State should take whatever matched transportation dollars from the Federal Government that it can. Representative Creech spoke in support of the Howard amendment, stating that rural communities have waited long enough to have their dirt roads paved. Chairman Miner then called the vote, but a division of the members was requested. In tallying a hand vote of 13 to 15, the Howard amendment failed.

On a question from Representative Creech, Representative Crawford explained that the road projects outlined in the bill also act as economic incentives because they are small projects, which are to be completed by local contractors in areas throughout the state.

Representative Capps was then recognized to present an amendment that would restrict $20,000 from use on a Wake County light rail system. He stated his reason for this amendment was that Wake County's transportation problems could not be helped because the City is not ready for the use of rail travel at the present time. He suggested that these funds should be used for other, more appropriate parts of the proposed transportation improvements. Representative Hackney spoke against this amendment basing his argument again on his belief that the bill, as it was, provided a balanced package, already approved by the Governor. Representatives Cole and Crawford also spoke against this amendment, citing this balance. Representative Ross stated this amendment would hurt Wake County due to the large number of youth communities (colleges, universities, etc.) in the area that could benefit from a light rail system. Representative Capps then reiterated his support of his amendment noting that it was a waste of tax dollars for Wake County at the present time. The Chair called the vote and, once again, the request for division was made. By a count of hands, the Capps amendment failed 10 to 15.

Chairman Miner then recognized Representative Hackney who made a motion for a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute.

However, prior accepting this motion, the Chair recognized Representative Ellis who sent forth an amendment to require that none of the appropriated funds from HB 48 could be used unless the transportation projects being undertaken were completed to DOT standards. Mr. Sanderson of DOT stated that this standard is already required, but informed the Committee, along

with Representative Crawford, that he had no concerns with the amendment. The Chair then called the vote as to the Ellis amendment and it carried without dissent.

Chairman Miner then recognized Representative Hackney's earlier amendment to offer a favorable report as to HB 48, incorporating the adopted amendments into a Committee Substitute. Hearing no further questions from the Committee, the Chair called the vote and the motion carried without known opposition. Thus, HB 48 received a favorable report as to the committee substitute, unfavorable as to the original bill.

As the next item on the agenda, Representative Gibson was recognized by the Chair to explain HB 697 – TROY QUICK TAKE (see attachment 5). Representative Gibson stated that the purpose of the bill was to allow the Town of Troy and the Troy Redevelopment Commission to exercise the power of "quick-take" condemnation in the acquisition of property for the Smitherman Village neighborhood (see attached Bill Summary). Following this explanation, Representative Luebke was recognized and immediately moved for favorable report. Upon the Chair's call, the motion carried unanimously.

The Chairman then recognized Representative Gordon Allen for his birthday. The members of the Committee gave Representative Allen a standing ovation in observance of his special day.

Next, Chairman Miner recognized Representative LaRoque for explanation of the final bill on the day's agenda, HB 469 – LENOIR/DUPLIN UNPAID FEES COLLECTION (see attachment 6). He explained that the bill allows the Counties of Lenoir and Duplin "to attach personal property, garnish wages, and place liens on certain real property to collect unpaid fees for services." Having heard the explanation, the Chair recognized Representative Jones who moved for a favorable report on HB 469.

However, Representative Howard was first recognized to send forth an amendment adding the County of Davie to the text of the bill.

Representative Luebke was then recognized for a question to staff. He asked if this sort of bill was a regular occurrence because he held concerns about the large use of government taking power in this bill. Staff person Martha Walston stated that bills of a similar nature had already passed in earlier sessions. Representative Blackwood questioned Representative LaRoque as to how this bill would affect landlords. Representative LaRoque explained that this bill would affect only the individuals who have received the unpaid services, not the owners of the property if it were rented.

The Chair then recognized Representative Howard to explain her amendment. She noted that it simply adds Davie County with Lenoir and Duplin Counties in the bill. She also presented a perfecting amendment to include Columbus County (on behalf of Representative Hill). Representative Hill then moved the adoption of both amendments. The Chair called the vote on both the perfecting amendment and then the Howard amendment. Both motions carried without known opposition.

Representative Ross was then recognized by Chairman Miner and voiced her concern on the garnishment of wages in the bill. Seeing no further comments from members, the Chair called the

vote as moved by Representative Hackney for a favorable report as to the committee substitute, unfavorable as to the original on HB 469. The motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:58 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
4. House Bill 48 (and related materials)
5. House Bill 697 (and related materials)
6. Senate Bill 469 (and related materials)

AGENDA

House Finance Committee

April 29, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 48	**Moving Ahead Transportation Initiative**	*Rep. Crawford*
HB 469	**Lenoir/Duplin Unpaid Fees Collection**	*Rep. LaRoque*
HB 697	**Troy Quick Take**	*Rep. Gibson*
HB 755	**Cary/Garner Condemnations**	*Rep. Ross*

Adjournment

AGENDA

House Finance Committee

corrected

April 29, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. David Miner

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bills:

HB 48 **Moving Ahead Transportation Initiative** *Rep. Crawford*

Adjournment

CORRECTED NOTICE

HB 469, HB 697, & HB 755 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, April 29, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE –
Reps. Crawford and Cole

HB 469 – LENOIR/DUPLIN UNPAID FEES COLLECTION –
Reps. LaRoque and Wainwright

HB 697 – TROY QUICK TAKE – Rep. Gibson

HB 755 – CARY/GARNER CONDEMNATIONS – Reps. Ross, Ellis, Miner, and Weiss

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **7:35 A.M.** on **April 29, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, April 29, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 48 – MOVING AHEAD TRANSPORTATION INITIATIVE – Rep. Crawford

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:15 P.M.** on **April 28, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Harvey Schmitt	Greater Raleigh Chamber of Commerce
DWANE LONG	LONGISTICS
Jeff Merritt	Greater Raleigh Chamber of Commerce
Glen Lang	Mayor of Cary
R. Paul Wilms	NCHBA
Ken Sanderson	NCDOT
Brian Burby	CarVet
[illegible]	OSBM
Mitch Alford	OSBM
[illegible]	NC Home Builders
Wayne Stallings	NCDOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Miriam Perry	NCDOT
Kari Barsness	NCDENR
Leslie Batchelor	NCCBI
Kathryn Sawyer	Charlotte Chamber
Joshua Long	Martin Marietta Materials
Doug Lassiter	NCSTA
David Ferrell	Vandeventer Black LLP
BILL RUSTIN	ACP
Bean Mills	NC Metro Coalition
Glen Long	Town of Cary
Sandra Long	Martin Marietta Materials

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — April 29, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE
Susan Coward	NCDOT
Fred Allen	NCAA
Sandy Sanford	NCAA
Sandra O'Connor	NCAA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 755

Committee Substitute Favorable 4/24/03

Short Title: Cary/Garner Condemnations. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWNS OF CARY AND GARNER TO ACQUIRE PROPERTY FOR THE PRESENT OR FUTURE LOCATION OR RELOCATION OF TELEPHONE, TELEGRAPH, ELECTRIC, OR OTHER LINES TO BE OPERATED BY PUBLIC UTILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. When acquiring rights-of-way for the construction or improvement of streets, the Town may also locate and acquire such additional rights-of-way as may be necessary for the present or future location or relocation, above or below ground, of telephone, telegraph, electric, and other lines, as well as gas, water, sewerage, oil, and other pipelines to be operated by public utilities defined and regulated under Chapter 62 of the General Statutes. In acquiring real property by eminent domain for these purposes, the Town may use the procedures of either Chapter 40A or Chapter 136 of the General Statutes.

SECTION 2. This act applies to the Towns of Cary and Garner.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 755:
Cary/Garner Condemnations.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Ross
Date:	April 29, 2003	**Summary by:**	Trina Griffin*
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 755 authorizes the Towns of Cary and Garner to acquire property for the location or relocation of utility lines when it acquires property for streets. It also gives these towns the ability to acquire property through the condemnation procedures under Chapter 136 as well as under Chapter 40A. The bill would become effective when it becomes law.***

CURRENT LAW:

Acquiring property for the location of utility lines. – Cities and towns can acquire property for the construction and improvement of streets and roads. Often the construction and improvement of streets and roads involves the movement of utility lines and the need to acquire property for their location or relocation. The utility companies can acquire property for the placement of their lines, but municipalities cannot do it for them.

Acquiring property through Chapter 136. – Local public condemnors and private condemnors may acquire property under the eminent domain provisions in Chapter 40A. The Department of Transportation may acquire property under Article 9 of Chapter 136 for the construction and improvement of highways. Municipalities may also use the condemnation provisions in Article 9 of Chapter 136 for the acquisition of property related to the construction and improvement of roads and streets within their corporate boundaries that are part of the state-highway-system, but not for city streets. There are two primary differences between the acquisition authority granted by Chapter 40A and Article 9 of Chapter 136:

- Under Chapter 40A, a condemnor must give the owner of the property to be acquired 30 days notice of its intent to institute an action to condemn the property.[1] Under Article 9 of Chapter 136, the condemnor does not have to give this 30–day notice.
- Under Chapter 40A, the just compensation for the value of the property taken is generally its fair market value prior to the taking.[2] Under Chapter 136, the just compensation for the property taken is its fair market value, taking into consideration any benefits resulting from the utilization of the part taken for highway purposes.

[1] For purposes of road construction and improvement, the title to the property and the right to immediate possession vests automatically with the city subject to the filing of the condemnation complaint and deposit of the estimated just compensation. Chapter 40A and Article 9 of Chapter 136 do not differ in this point.

[2] Under Chapter 40A, the measure of compensation is the greater of either (i) the amount by which the fair market value of the entire tract immediately before the taking exceeds the fair market value of the remainder immediately after the taking or (ii) the fair market value of the property taken. The value of the property does not include an increase or decrease in value that is cause by the proposed improvement or project for which the property is taken.

BILL ANALYSIS: House Bill 755 authorizes the Towns of Cary and Garner to:

- Acquire rights-of-way for the location or relocation of utility lines when it acquires right-of-way for the construction or improvement of streets. In practice, this right-of-way would then be given to the utility companies. Utility companies are often hesitant to use their condemnation authority to acquire additional rights-of-way to relocate utility lines when a municipality undertakes street improvements. This authority will enable the Towns of Cary and Garner to acquire rights-of-way on a timelier basis, resulting in the completion of road improvement projects on a timelier basis. The Department of Transportation has this authority under G.S. 136-18(2) and the City of Raleigh has had this authority since 1991.[3]
- Use the procedures of either Chapter 40A or Chapter 136 when it acquires property by eminent domain.

*Cindy Avrette, counsel for Senate Finance, contributed substantially to this summary.

[3] S.L. 1991-312.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 755 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWNS OF CARY AND GARNER TO ACQUIRE PROPERTY FOR THE PRESENT OR FUTURE LOCATION OR RELOCATION OF TELEPHONE, TELEGRAPH, ELECTRIC, OR OTHER LINES TO BE OPERATED BY PUBLIC UTILITIES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 48*

Committee Substitute Favorable 4/23/03

PROPOSED COMMITTEE SUBSTITUTE H48-PCS30296-LA-12

Short Title: Moving Ahead Transportation Initiative. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation

projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

SECTION 2. G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Projects selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A. No funds shall be expended pursuant to subdivision (1) of subsection (a3) of this section on any project that does not meet Department of Transportation standards for road construction, traffic flow standards, or sight distance criteria."

SECTION 3. G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

SECTION 4. The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

SECTION 5.(a) Commission Established. – There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

SECTION 5.(b) Membership. – The Commission shall be composed of 27 members as follows:

(1) Fifteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, one of whom shall represent the environmental community, two of whom shall represent the Business Coalition for Regional Transportation

Strategies, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the 10 most populous municipalities in the State.

(2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) Six members of the Senate appointed by the President Pro Tempore of the Senate.

SECTION 5.(c) Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

SECTION 5.(d) Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

(1) Innovative financing approaches to mitigate urban congestion.

(2) Local revenue options which would give urban areas more control over their regional mobility future.

(3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

SECTION 5.(e) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 5.(f) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be 11 members.

SECTION 5.(g) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 5.(h) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

SECTION 5.(i) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 5.(j) Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 5.(k) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 5.(l) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its

deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 5.(m) Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

SECTION 5.(n) Funding. – The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

SECTION 5.(o) Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

SECTION 5.(p) This section is effective when it becomes law.

SECTION 6. Except as otherwise provided, this act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 48*
Committee Substitute Favorable 4/23/03

Short Title: Moving Ahead Transportation Initiative. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO EXPEDITE THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-176 is amended by adding a new subsection to read:

"(a3) The Department may obligate three hundred million dollars ($300,000,000) in fiscal year 2003-2004 and four hundred million dollars ($400,000,000) in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

(1) Six hundred thirty million dollars ($630,000,000) for highway system preservation, modernization, and maintenance, including projects to enhance safety, reduce congestion, improve traffic flow, reduce accidents, upgrade pavement widths and shoulders, extend pavement life, improve pavement smoothness, and rehabilitate or replace deficient bridges; and for economic development transportation projects recommended by local officials and approved by the Board of Transportation.

(2) Seventy million dollars ($70,000,000) for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. For any project or program listed in this subdivision for which the Department receives federal funds, use of funds pursuant to this subdivision shall be limited to matching those funds."

SECTION 2. G.S. 136-176 is amended by adding a new subsection to read:

"(a4) Projects selection pursuant to subsection (a3) of this section shall be based on identified and documented need. Funds expended pursuant to subdivision (1) of subsection (a3) of this section shall be distributed in accordance with the distribution formula in G.S. 136-17.2A."

SECTION 3. G.S. 136-176 is amended by adding a new subsection to read:

"(a5) The Department shall report to the Joint Legislative Transportation Oversight Committee, on or before September 1, 2003, on its intended use of funds pursuant to subsection (a3) of this section. The Department shall report to the Joint Transportation Appropriations Subcommittee, on or before May 1, 2004, on its actual current and intended future use of funds pursuant to subsection (a3) of this section. The Department shall certify to the Joint Legislative Transportation Oversight Committee each year, on or before November 1, that use of the Highway Trust Fund cash balances for the purposes listed in subsection (a3) of this section will not adversely affect the delivery schedule of any Highway Trust Fund projects. If the Department cannot certify that the full amounts authorized in subsection (a3) of this section are available, then the Department may determine the amount that can be used without adversely affecting the delivery schedule and may proportionately apply that amount to the purposes set forth in subsection (a3) of this section."

SECTION 4. The General Assembly reaffirms its intent that the proceeds of the issuance of any bonds pursuant to the Highway Bond Act of 1996, Chapter 590 of the 1995 Session Laws, shall be used only for the purposes stated in that act, and for no other purpose.

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources for transportation construction projects.**

(a) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has received a complete application for a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, the Department of Environment and Natural Resources shall expedite the review of the application and shall issue or deny the permit within 90 days of receipt of the submission. All permits not denied within that time limit shall be deemed approved. The Secretary of Environment and Natural Resources and the Secretary of Transportation shall jointly decide any question as to whether an application for a permit is complete. If the

Secretary of Environment and Natural Resources and the Secretary of Transportation are unable to jointly decide any question, the Governor shall decide the question.

(b) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or cancelled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

(1) The modification or cancellation is requested by the Department of Transportation.

(2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources would result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.

(3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.

(4) The modification or cancellation is ordered by a court of competent jurisdiction.

(5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered."

SECTION 6. This act becomes effective July 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALA-5 [v.5]

adopted Date 4-29- ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Carney

moves to amend the bill
on page 1, line 14, by rewriting that line to read:
"PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, TO ESTABLISH A BLUE RIBBON COMMISSION TO STUDY SOLUTIONS TO NORTH CAROLINA'S URBAN TRANSPORTATION NEEDS, AND";

on page 3, line 26, by rewriting the line to read:

"SECTION 6.(a) Commission Established. -- There is established in the General Assembly a Blue Ribbon Commission to study the unique mobility needs of urban areas in North Carolina.

SECTION 6.(b) Membership. -- The Commission shall be composed of 24 members as follows:

(1) Fourteen members of the public appointed by the Governor, two of whom shall represent the Regional Transportation Alliance, two of whom shall represent the Business Coalition for Regional Transportation Strategies, two of whom shall represent the North Carolina Citizens for Business and Industry, two of whom shall represent the transportation industry, and four of whom shall be mayors from among the ten most populous municipalities in the State.

(2) Five members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) Five members of the Senate appointed by the President Pro Tempore of the Senate.

SECTION 6.(c) Secretary of Transportation. – The Commission shall invite the Secretary of Transportation to attend each meeting of the Commission and encourage his participation in the Commission's deliberations.

SECTION 6.(d) Duties of Commission. – The Commission shall study the following matters related to North Carolina's urban needs:

(1) Innovative financing approaches to mitigate urban congestion.

(2) Local revenue options which would give urban areas more control over their regional mobility future.

(3) Any other urban transportation issues if approved by the cochairs or recommended by the Secretary of Transportation and approved by the cochairs.

SECTION 6.(e) Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 6.(f) Cochairs. – Cochairs of the Commission shall be designated by the Speaker of the House of Representatives and the President Pro Tempore of the Senate from among their respective appointees. The Commission shall meet upon the call of the chairs. A quorum of the Commission shall be eleven members.

SECTION 6.(g) Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 6.(h) Staff. – Adequate staff shall be provided to the Commission by the Legislative Services Office.

SECTION 6.(i) Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 6.(j) Cooperation. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

SECTION 6.(k) Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval

of the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

SECTION 6.(l) Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building.

SECTION 6.(m) Report. – The Commission shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly. The Committee shall submit copies of the reports to the Governor and the Secretary of Transportation. Upon the filing of its final report, the Commission shall terminate.

SECTION 6.(n) Funding. – The Commission may apply for, receive, and accept grants of non-State funds, or other contributions as appropriate to assist in the performance of its duties.

SECTION 6.(o) Appropriation. – Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate sufficient funds for the expenses of the Commission.

SECTION 6.(p) This section is effective when it becomes law.

SECTION 7. Except as otherwise provided, this act becomes effective July 1, 2003."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen) perfecting adopted w/ consent

EDITION No. _____

H. B. No. H 48 - ALA-5 [v.5] DATE 4-29-03

S. B. No. _____ Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Hackney

Sen.)

1 moves to amend the bill on page 1, line 11

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "24" and substituting "26"

4

5 and on page 1, line 20 by deleting "Five" and

6 substituting "Six"

7

8 and on page 1, line 22 by deleting "Five" and

9 substituting "Six".

10

11

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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

adopted

EDITION No. _____

H. B. No. 48 as amended DATE 4-29-03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Luebke
Sen.)

amendment

moves to amend the ~~bill~~ on page 1, line 11

( ) WHICH CHANGES THE TITLE

by changing "26" to "27";

and on page 1, line 14, by adding after the following the comma: "one of whom shall represent the environmental community,";

and on page 1, line 15, by changing "fourteen" to "fifteen"

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALA-4 [v.2]

Date 4-29-03 ,2003

adopted

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Hackney

moves to amend the bill on page 1, line 10, by adding the word "AND" at the end of the line;

on page 1, lines 14-16, by rewriting those lines to read:
"PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE."

On page 2, lines 31-43 and page 3, lines 1-25, by deleting SECTION 5 in its entirety;

and by renumbering the remaining section accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

H. B. No. 48

S. B. No. _____

failed 15 to 13

DATE 4-29-03

Amendment No. _____ (to be filled in by Principal Clerk)

Rep.) Howard
Sen.)

moves to amend the bill on page 1, line 22

by rewriting the line to read

"4) Six hundred sixty-five million dollars ($665,000,000) for highway system"

and on page 2, line 1 by deleting "seventy" and substituting "Thirty-five" and deleting "($70,000,000)" and substituting "($35,000,000)".

SIGNED _____

ADOPTED _____ FAILED ✓ 15/13 TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 48*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H48-ALK-9 [v.1]

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

failed 10 to 15

Representative Capps

moves to amend the bill on page 1, line 22,
by rewriting that line to read:
"Six hundred fifty million dollars ($650,000,000) for highway system"
and further moves to amend the bill on page 2, line 1,
by rewriting that line to read:
"(2) Fifty million dollars ($50,000,000) for regional public transit";
and further moves to amend the bill on page 2, line 6,
by rewriting that line to read:
"improvements. None of these funds may be used for light rail in Wake County. For any project of program listed in the subdivision for".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ 10/15 TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 48, ~~[illegible]~~ DATE 4-29-03

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE X adopted

(Rep.) Ellis

Sen.)

bill

moves to amend the ~~Bill~~ on page 2, line 12

( ) WHICH CHANGES THE TITLE

by adding the following immediately before the quotation mark:

"No funds shall be expended pursuant to subsection (a3) of this section on any project that does not meet Department of Transportation standards for road surface construction, traffic flow standards, or sight distance criteria."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE

HOUSE BILL 48:
Moving Ahead Transportation Initiative

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Crawford and Cole
Date:	April 29 2003	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: House Bill 48 (2nd Ed) does the following:

- *Authorizes the Department of Transportation (DOT) to use $300 million in fiscal year 2003-2004, and $400 million in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for specified purposes.*
- *Requires DOT to report on its intended, actual, and future use of the above funds.*
- *Requires the Department of Environment and Natural Resources (DENR) to expedite the permit review process for permits required for transportation construction projects undertaken by DOT.*

CURRENT LAW: The Highway Trust Fund was established in 1989 for the purposes of funding highway construction. The purposes include intrastate system projects, urban loop projects, city streets, and secondary roads. The 2001 General Assembly permitted the use of $680 million of Trust Fund cash balances over three fiscal years for additional purposes, primarily maintenance. At the end of January 2003, the cash balance in the Highway Trust Fund was $213 million.

The Highway Trust Fund's primary revenue sources are ¼ of the motor fuel tax, a 3% Highway Use Tax, title fees and various registration fees, and interest earned on cash balances.

BILL ANALYSIS: Section 1 of House Bill 48 amends G.S. 136-176 (the Highway Trust Fund statute) by adding a new subsection that provides more flexibility in the Highway Trust Fund. This new subsection authorizes DOT to use $300 million in fiscal year 2003-2004 and $400 million in fiscal year 2004-2005 of the cash balance of the Highway Trust Fund for the following purposes:

1. ~~$680~~ million for highway system preservation, modernization, and maintenance.
2. $70 million for regional public transit systems, rural and urban public transportation system facilities, regional transportation and air quality initiatives, rail system track improvements and equipment, and other ferry, bicycle, and pedestrian improvements. If federal funds are received for any of these projects, then the funds from the cash balance of the Highway Trust Fund shall be limited to matching the federal funds.

Section 2 of HB 48 amends the Highway Trust Fund statute to require that projects selected under the new subsection must be based on identified and documented need. Funds expended for highway system preservation, modernization, and maintenance must be distributed in accordance with the equity distribution formula in G.S. 136-17.2A.

Section 3 of HB 48 amends the Highway Trust Fund statute to require DOT to report on the funds authorized by the new subsection as follows:

- DOT must report to the Joint Legislative Transportation Oversight Committee by September 1, 2003, on the intended use of the funds.
- DOT must report to the Joint Transportation Appropriations Subcommittee by May 1, 2004, on it actual current and intended future use of the funds.
- DOT must certify to the Joint Legislative Transportation Oversight Committee each year by November 1, that use of the Highway Trust Fund cash balances for the purposes authorized by the new subsection will not adversely affect the delivery schedule of any Highway Trust Fund projects. If DOT cannot certify that the authorized amounts in the cash balance of the Highway Trust Fund will not have an adverse effect, then DOT may determine the amount that can be used without adversely affecting the delivery schedule and proportionately apply this amount to the purposes authorized in the new subsection.

Section 4 of HB 48 reaffirms the intent of the General Assembly that the proceeds from the issuance of any bonds pursuant to the Highway Bond Act of 1996 are to be used only for the purposes stated in that act, and for no other purpose.[1]

Section 5 of HB 48 adds a new statute to Article 2A (State Roads Generally) of Chapter 136 (Roads and Highways) that would expedite the permit process for a transportation construction project undertaken by DOT. Once DENR has received a complete application for a permit that is required for a transportation construction project, DENR must issue or deny the permit within 90 days of the application's receipt. If the permit is not denied within the 90-day time limit, then the permit is deemed approved. The Secretaries of DENR and DOT will jointly decide if an application for a permit is complete. If the Secretaries are unable jointly to decide any question, the Governor shall make the decision. Once a permit has been issued, it will remain in effect until the transportation project is completed. However, the permit may be modified or cancelled if (1) requested by DOT, (2) required by change in federal law and a failure to modify or cancel the permit would result in a loss of federal funds, (3) required by change in State law that expressly states that the change applies to ongoing transportation construction projects, (4) the modification or cancellation is ordered by the courts, or (5) the nature or scope of the transportation construction project is significantly altered.

[1] The State Highway Bond Act of 1996, subject to the vote of the people, authorized the issuance of $950 million general obligation bonds of the State for the purpose of providing funds, with any other available funds, for constructing, improving, and relocating roads, bridges, tunnels, and other highway facilities constituting at the time of the construction, improvement, and relocation, urban loops, highways in the Intrastate System, or a part of the State secondary highway system.

For Rep Stam

From Rep Stam re HB 48 (not discussed)

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election which are in addition to those which would have otherwise been incurred, these expenses to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond question to be used in the ballots or voting systems shall be in substantially the following form:

[ ] FOR [ ] AGAINST

The issuance of nine hundred fifty million dollars ($950,000,000) State of North Carolina Highway Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, through the application of not in excess of five hundred million dollars ($500,000,000) of the bonds to pay the capital costs of urban loops, the application of not in excess of three hundred million dollars ($300,000,000) of the bonds to pay the capital costs of Intrastate System projects, and the application of not in excess of one hundred fifty million dollars ($150,000,000) of the bonds to pay the capital costs of projects constituting a part of the State secondary highway system resulting in the paving of unpaved roads.

If a majority of those voting on the bond question vote in favor of the issuance of the bonds, the bonds may be issued as provided in this act. If a majority of those voting on the bond question vote against the issuance of the bonds, the bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for the holding of elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Sec. 10. Issuance of bonds and notes. (a) Terms and conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not later than December 1, 2013, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; form and denomination; registration. Bonds or notes may be issued as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 48 A BILL TO BE ENTITLED AN ACT TO IMPLEMENT THE NORTH CAROLINA MOVING AHEAD TRANSPORTATION INITIATIVE BY ALLOWING CASH BALANCES IN THE HIGHWAY TRUST FUND TO BE USED TO MEET CRUCIAL TRANSPORTATION NEEDS, TO REQUIRE FUNDS DESIGNATED BY THIS ACT FOR PRESERVATION, MODERNIZATION, AND MAINTENANCE BE EXPENDED IN ACCORDANCE WITH THE EQUITY DISTRIBUTION FORMULA, TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO CERTIFY THAT USE OF FUNDS IN ACCORDANCE WITH THIS ACT WILL NOT DELAY CONSTRUCTION OF ANY HIGHWAY TRUST FUND PROJECT, TO REAFFIRM THE INTENT OF THE GENERAL ASSEMBLY THAT PROCEEDS FROM THE ISSUANCE OF BONDS UNDER AUTHORITY OF THE STATE HIGHWAY BOND ACT OF 1996 SHALL BE USED FOR THE PURPOSES STATED IN THAT ACT, AND FOR NO OTHER PURPOSE, AND TO EXPEDITE THE ISSUANCE OF PERMITS BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ Committee Substitute Bill # 1. ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 697
Committee Substitute Favorable 4/16/03

Short Title: Troy Quick Take. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF TROY AND ITS REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY WITHIN A REDEVELOPMENT AREA USING THE "QUICK TAKE" PROCEDURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-42(a)(1) reads as rewritten:

"(1) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a city or city redevelopment commission is acquiring property within a redevelopment area under a redevelopment plan adopted pursuant to Article 22 of Chapter 160A, or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

SECTION 2. This act applies to the Town of Troy and the Troy Redevelopment Commission when acquiring property for the "Smitherman Village" neighborhood only.

SECTION 3. This act is effective when it becomes law and expires July 1, 2008.

HOUSE BILL 697:
Troy Quick Take.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Gibson
Date:	April 29, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 697 authorizes the Town of Troy and the Troy Redevelopment Commission to exercise the power of "quick-take" condemnation to acquire property for the Smitherman Village neighborhood. The act would be effective when it becomes law and would expire July 1, 2008.***

CURRENT LAW:

General Condemnation Procedures: Both municipalities and redevelopment commissions are granted the authority to acquire real property by eminent domain in accordance with Chapter 40A. Under general condemnation procedures, title to the property and the right of possession vests in the city or county (or redevelopment commission) seeking condemnation only after one of the following occur: (1) the property owners do not contest the taking but only request a determination of just compensation; (2) the owners do not respond within 120 days of service of the condemnation action; or (3) the deposit made by the locality is disbursed by the court in accordance with G.S. 40A-44.

"Quick-Take" Procedures: Under current law, cities and counties may use the power of "quick-take" condemnation for purposes set out in G.S. 40A-3 and 40A-42, which include:

- Opening or improving roads, streets, and sidewalks.
- Establishing or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.
- Establishing drainage programs

In addition, cities may use quick-take procedures for electricity, water supply and distribution, wastewater treatment and disposal, gas, solid waste collection and disposal, and cable television; counties may use quick-take for water, wastewater treatment and disposal, and solid waste collection and disposal.

Under quick-take condemnation procedures, title to the property and the right to immediate possession vests upon the filing of the complaint and the making of a deposit in an amount estimated by the condemnor to be just compensation for the taking, unless an action for injunctive relief has been initiated.

BILL ANALYSIS: House Bill 697 authorizes the Town of Troy and the Troy Redevelopment Commission to use quick-take condemnation procedures for acquiring property within a redevelopment area under a redevelopment plan. This authority is only with respect to property acquired for the Smitherman Village project. Currently, the town council members of the Town of Troy comprise the membership of the Troy Redevelopment Commission.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 697 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF TROY AND ITS REDEVELOPMENT COMMISSION TO ACQUIRE PROPERTY WITHIN A REDEVELOPMENT AREA USING THE "QUICK TAKE" PROCEDURE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 469

Committee Substitute Favorable 4/28/03

PROPOSED COMMITTEE SUBSTITUTE H469-PCS60316-LA-13

Short Title: Several Counties Unpaid Fees Collection. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COLUMBUS, DAVIE, DUPLIN, AND LENOIR COUNTIES, CERTAIN DISTRICTS CREATED BY THESE COUNTIES, AND MUNICIPALITIES LOCATED WITHIN THESE COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. A county may adopt an ordinance providing that any fee charged by the county and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the county for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided a statement containing the name and address of the person against whom the lien is claimed, the name of the county, county water and sewer district, county service district, or municipality, whichever applies, claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service and within 180 days of the date of the failure to pay for the service. The lien may be discharged as provided in G.S. 44-48.

SECTION 2. The reference to county shall include a county, a county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, a county service district created under Article 16 of Chapter 153A of the General Statutes, or a municipality located wholly or partly within that county.

SECTION 3. This act shall not apply to fees collectable under Articles 9A and 9B of Chapter 44 of the General Statutes, G.S. 153A- 293, and G.S. 160A-314.1.

SECTION 4. This act applies only to Columbus, Davie, Duplin, and Lenoir Counties, county water and sewer districts located in Columbus, Davie, Duplin, or Lenoir County, county service districts located within Columbus, Davie, Duplin, or Lenoir County, and municipalities located wholly or partially within Columbus, Davie, Duplin, or Lenoir County.

SECTION 5. This act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 469
Committee Substitute Favorable 4/28/03

Short Title: Lenoir/Duplin Unpaid Fees Collection. (Local)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LENOIR AND DUPLIN COUNTIES, CERTAIN DISTRICTS CREATED BY LENOIR AND DUPLIN COUNTIES, AND MUNICIPALITIES LOCATED WITHIN LENOIR AND DUPLIN COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. A county may adopt an ordinance providing that any fee charged by the county and remaining unpaid for a period of 90 days may be collected in any manner by which delinquent personal or real property taxes can be collected. If the ordinance states that delinquent fees may be collected in the same manner as delinquent real property taxes, the delinquent fees are a lien on the real property owned by the person contracting with the county for the service, and the ordinance shall provide for an appeals process. If a lien is placed on real property, the lien shall be valid from the time of filing in the office of the clerk of superior court of the county in which the service was provided a statement containing the name and address of the person against whom the lien is claimed, the name of the county, the county water and sewer district, the county service district, or the municipality, whichever applies, claiming the lien, the specific service that was provided, the amount of the unpaid charge for that service, and the date and place of furnishing that service. No lien under this act shall be valid unless filed in accordance with this section after 90 days of the date of the failure to pay for the service and within 180 days of the date of the failure to pay for the service. The lien may be discharged as provided in G.S. 44-48.

SECTION 2. The reference to county shall include a county, a county water and sewer district created under Article 6 of Chapter 162A of the General Statutes, a county service district created under Article 16 of Chapter 153A of the General Statutes, or a municipality located wholly or partly within that county.

SECTION 3. This act shall not apply to fees collectable under Articles 9A and 9B of Chapter 44 of the General Statutes, G.S. 153A- 293, and G.S. 160A-314.1.

SECTION 4. This act applies only to Lenoir and Duplin Counties, county water and sewer districts located in Lenoir or Duplin County, county service districts located within Lenoir or Duplin County, and municipalities located wholly or partially within Lenoir or Duplin County.

SECTION 5. This act becomes effective July 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.1]

adopted

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, AND DAVIE COUNTIES, CERTAIN DISTRICTS WITHIN THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read:
"**SECTION 4.** This act applies only to Lenoir, Duplin, and Davie Counties, county and water sewer districts located in Lenoir, Duplin, or Davie County, county service districts located within Lenoir, Duplin, or Davie County, and municipalities located wholly or partially within Lenoir, Duplin, or Davie County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469 (perfecting)

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-6 [v.1] adopted

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Hill

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, AND COLUMBUS COUNTIES, CERTAIN DISTRICTS CREATED WITHIN THESE COUNTIES, AND MUNICIPALITIES LOCATED WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6, by rewriting those lines to read:
"**SECTION 4.** This act applies only to Lenoir, Duplin, and Columbus Counties, county and water sewer districts located in Lenoir, Duplin, or Columbus County, county service districts located within Lenoir, Duplin, or Columbus County, and municipalities located wholly or partially within Lenoir, Duplin, or Columbus County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.2]

Date 4-29-03 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read:
"AN ACT TO AUTHORIZE COLUMBUS, DAVIE, DUPLIN, AND LENOIR COUNTIES, CERTAIN DISTRICTS CREATED BY THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read:
"**SECTION 4.** This act applies only to Columbus, Davie, Duplin, and Lenoir Counties, county water and sewer districts located in Columbus, Davie, Duplin, or Lenoir County, county service districts located within Columbus, Davie, Duplin, or Lenoir County, and municipalities located wholly or partially within Columbus, Davie, Duplin, or Lenoir County."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 469

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H469-ALA-7 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill on page 1, lines 2-4, by rewriting those lines to read: AND COLUMBUS
"AN ACT TO AUTHORIZE LENOIR, DUPLIN, ~~AND~~ DAVIE COUNTIES, CERTAIN DISTRICTS WITHIN THESE COUNTIES, AND MUNICIPALITIES WITHIN THESE COUNTIES TO";

and on page 2, lines 3-6 by rewriting those lines to read: and Columbus
"SECTION 4. This act applies only to Lenoir, Duplin, ~~and~~ Davie Counties, county and water sewer districts located in Lenoir, Duplin, ~~or~~ Davie County, county service districts located within Lenoir, Duplin, ~~or~~ Davie County, and municipalities located wholly or partially within Lenoir, Duplin, ~~or~~ Davie County." or Columbus or Columbus

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 469:
Lenoir/Duplin Unpaid Fees Collection

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. LaRoque
Date:	April 28, 2003	**Analysis by:**	Martha Walston*
Version:	2nd Edition		Committee Counsel

SUMMARY: House bill 469 would permit the Counties of Lenoir and Duplin, any municipality located wholly or partly in either county, and water and waste-water authorities in those counties to collect any fee owed to the local government that remains unpaid 90 days as if the fee were a delinquent property tax.

CURRENT LAW: Local governments are authorized to charge fees for various services provided to the citizens of the jurisdiction. Examples of programs that might charge fees include: participating in recreational activities, solid waste, water and waste water system, transportation systems, mental health services, health services, environmental health, concealed handgun permit, animal control, etc.

Several of the fees have statutory provisions for collection. Examples include:

- PUBLIC ENTERPRISES. G.S. 153A-277(b) provides that a county operating a public enterprise may disconnect services after an account is delinquent for 10 days. G.S. 160A-314(b) provides like authority for municipalities operating public enterprises. G.S. 162A-9 provides a similar authority for water and sewer authorities after an account is delinquent 30 days.
- AMBULANCE SERVICES. G.S. 44-51.4 allows a local government to collect an account 90 days delinquent through the use of attachment and garnishment proceedings set forth for the collection of property taxes. G.S. 44-51.1 also allows the placement of a lien on real property for unpaid ambulance fees.
- SOLID WASTE FEES. G.S. 153A-293 permits a county to enact an ordinance providing that a solid waste fee may be billed and collected as a property tax. G.S. 160A-214.1(b) provides like authority for municipalities.

BILL ANALYSIS: House Bill 469 would allow the Counties of Lenoir and Duplin, any municipality located wholly or partly in those counties, or a water or sewer authority located in those counties to collect any fee owed to the local government that is past due for 90 days as if it were a property tax. The bill would require the local government to enact an ordinance stating this is a method of collection in that local government's jurisdiction, and would exempt the ambulance and solid waste fees.

*Erika Churchill, counsel to House Local Government I, contributed substantially to this summary.

Currently under general law, property taxes may be collected in the following ways:

- Placement of a lien on real and personal property that are superior to all other liens.
- Sale of personal property.
- Attachment and garnishment of wages and bank accounts.
- Sale of real property.

If the county seeks to collect the delinquent fee by placing a lien on real property, a statement must be filed with the clerk of superior court. The statement must contain the name and address of the delinquent person, the name of the local government claiming the lien, the specific service that was provided, the amount of the unpaid charge, and the date and place of furnishing the service. To be valid, the lien must be filed after 90 days from the date of the failure to pay and within 180 days of the date of the failure to pay.

EFFECTIVE DATE: The act would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
H.B. 469 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE LENOIR AND DUPLIN COUNTIES, CERTAIN DISTRICTS CREATED BY LENOIR AND DUPLIN COUNTIES, AND MUNICIPALITIES LOCATED WITHIN LENOIR AND DUPLIN COUNTIES TO ATTACH PERSONAL PROPERTY, GARNISH WAGES, AND PLACE LIENS ON CERTAIN REAL PROPERTY TO COLLECT UNPAID FEES FOR SERVICES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ Committee Substitute Bill # 1. ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

House Committee on Finance

Minutes

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May 22, 2003

The House Committee on Finance met on Tuesday, May 22, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Ellis, Hackney, Holliman, Jones, McGee, Rayfield, Ross, Setzer, Weiss, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stanley. Staff persons present included Cindy Avrette, Richard Bostic, Jerry Cohen, Trina Griffin, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:35 am and immediately recognized the two pages present: Zachary Pope of Haywood County, sponsored by Representative Rapp and Elizabeth Edwards of Rowan County, sponsored by Representative McCombs. She also thanked the Sergeant-at-Arms and Staff for their regular attendance and assistance.

As the first matter of business, Chairman Wainwright recognized Representative Gulley to explain HB 705 – MATTHEWS ANNEXATION (see attachment 3). This bill acts to extend the corporate limits of the Town of Matthews to include the entire area remaining in its "sphere of influence" within Mecklenburg County. Chairman Wainwright recognized Representative Rayfield who asked if there was any known opposition to the bill in the areas of annexation. Representative Gulley stated that the only opposition he was aware of was from the County with regard to the few lands they still held in the proposed annexation areas. Otherwise, he stated that the bill was highly supported. Representative Rayfield then moved for a favorable report on HB 705. The motion carried with no known opposition.

Sen. Stevens was then recognized by the Chairman to explain SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES (see attachment 4). The Senator explained that the bill authorizes the Town of Apex to do two different things. First, it allows the Town to use the same condemnation procedures and authority for roads that the Department of Transportation uses. Second, it adopts ordinances for the Town to regulate the demolition of historic structures in its Historic District. Senator Stevens also stated that there was no known opposition on the bill. Without further discussion, Chairman Wainwright recognized Representative Ross who moved for a favorable report on SB 181. The motion carried by consent.

The Chair next recognized Representative Nye to explain HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES (see attachment 5). HB 1260 amends the fees that Board of Examiners for Speech and Language Pathologists and Audiologists can charge by increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal. Discussion among the members, particularly from Representative Capps, ensued noting the concern of the Committee that the levels of the fees were being raised more than 100 percent. Representative Nye stated that the fees had not been increased

since 1987 and that the costs of inflation alone made up a significant part of this increase. Seeing no further discussion, Chairman Wainwright recognized Representative Holliman who moved for a favorable report. The Chair called the vote and the motion carried without objection.

The Chair then recognized Representative Moore to explain HB 163 – KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). He explained that the bill acts to allow the City of Kings Mountain to annex certain described property owned by the town by voluntary annexation without having to meet the customary statutory requirements. Representative Moore also noted that there was a Proposed Committee Substitute for the bill; however, Staff was unaware of this. The Chair then temporarily displaced HB 163 so that Representative Moore could confer with Staff on the matter

In the interim, the Chair recognized Sen. Apodaca to explain SB 288 – POLK SCHOOL ACQUISITION (see attachment 7). He explained that the bill acts to add Polk County to the list of 87 counties in North Carolina that are authorized to acquire school property on behalf of their boards of education. He stated that the bill would be effective when it became law and that there was no known opposition on the matter. Having no discussion from the members, Chairman Wainwright recognized Representative McGee who then moved for a favorable report on SB 288. The Chair called the vote and the motion carried unanimously.

The Chair next recognized Representative Alexander to explain HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS (see attachment 8). She explained that the bill requires each ABC store to prominently display a warning sign stating that drinking alcohol during pregnancy can cause birth defects. The bill further requires the ABC Commission to develop the signs and provide for their distribution (for additional details see Bill Analysis in attachment). Following the explanation, Representative Rayfield was recognized for a question. He asked Representative Alexander who was responsible to pay for the required signs. Representative Alexander responded that each individual retail store would be responsible for the costs, which cannot exceed $25.00). Representative Ellis was also recognized by the Chair and commended Representative Alexander on her bill, stating that the best way to protect our pregnant mothers was through education. Chairman Wainwright then recognized Representative Jones, who moved for a favorable report on HB 1118. Seeing no further questions, the Chair called the vote and the motion carried without opposition.

The Chairman then replaced HB 163 - KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). Representative Moore stated that the bill before the Committee was the correct version of the bill and then requested the member's support. (Staff was able to determine that the Committee Substitute on the bill, as mentioned above, had been adopted in an earlier meeting in the House Committee on Local Government I). Seeing no discussion on the bill, Chairman Wainwright recognized Representative McGee for a motion of favorable report.

Representative Luebke was recognized by the Chair to explain the last bill before the Committee for consideration (for the Sponsor, Senator Gulley): SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION (see attachment 9). He explained that the bill establishes a procedure to remove property from a research and production service district and, although a public bill, only effects portions of Durham and Wake County. This deannexation can only be accomplished once a number of requirements have been met (see Bill Analysis for details).

Seeing no discussion or questions on the bill, Chairman Wainwright recognized Representative Weiss who moved for a favorable report on SB 214. The Chair called for the vote and the motion carried without known opposition.

The Chair then made the announcement that the next House Finance Committee Meeting would be held on the following Wednesday, May 28, 2003, at 8:30 am in the same location.

Having no further business before the Committee, Chairman Wainwright wished the Committee members a good Memorial Day holiday and then adjourned the meeting at 9:03 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 755 (and related materials)
4. House Bill 48 (and related materials)
5. House Bill 697 (and related materials)
6. Senate Bill 469 (and related materials)
6. Senate Bill 469 (and related materials)
7. Senate Bill 469 (and related materials)
8. Senate Bill 469 (and related materials)
9. Senate Bill 469 (and related materials)
10. Senate Bill 469 (and related materials) (not discussed – bill pulled from the meeting agenda on 5-21-2003, to be considered at a later date)

House Committee on Finance

Minutes

~

May 22, 2003

The House Committee on Finance met on Tuesday, May 22, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, and Wainwright; Vice-Chairs Alexander, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Ellis, Hackney, Holliman, Jones, McGee, Rayfield, Ross, Setzer, Weiss, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Jackson Stanley. Staff persons present included Cindy Avrette, Richard Bostic, Jerry Cohen, Trina Griffin, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:35 am and immediately recognized the two pages present: Zachary Pope of Haywood County, sponsored by Representative Rapp and Elizabeth Edwards of Rowan County, sponsored by Representative McCombs. She also thanked the Sergeant-at-Arms and Staff for their regular attendance and assistance.

As the first matter of business, Chairman Wainwright recognized Representative Gulley to explain HB 705 – MATTHEWS ANNEXATION (see attachment 3). This bill acts to extend the corporate limits of the Town of Matthews to include the entire area remaining in its "sphere of influence" within Mecklenburg County. Chairman Wainwright recognized Representative Rayfield who asked if there was any known opposition to the bill in the areas of annexation. Representative Gulley stated that the only opposition he was aware of was from the County with regard to the few lands they still held in the proposed annexation areas. Otherwise, he stated that the bill was highly supported. Representative Rayfield then moved for a favorable report on HB 705. The motion carried with no known opposition.

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The Chair next recognized Representative Nye to explain HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES (see attachment 5). HB 1260 amends the fees that Board of Examiners for Speech and Language Pathologists and Audiologists can charge by increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal. Discussion among the members, particularly from Representative Capps, ensued noting the concern of the Committee that the levels of the fees were being raised more than 100 percent. Representative Nye stated that the fees had not been increased

since 1987 and that the costs of inflation alone made up a significant part of this increase. Seeing no further discussion, Chairman Wainwright recognized Representative Holliman who moved for a favorable report. The Chair called the vote and the motion carried without objection.

The Chair then recognized Representative Moore to explain HB 163 – KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). He explained that the bill acts to allow the City of Kings Mountain to annex certain described property owned by the town by voluntary annexation without having to meet the customary statutory requirements. Representative Moore also noted that there was a Proposed Committee Substitute for the bill; however, Staff was unaware of this. The Chair then temporarily displaced HB 163 so that Representative Moore could confer with Staff on the matter

In the interim, the Chair recognized Sen. Apodaca to explain SB 288 – POLK SCHOOL ACQUISITION (see attachment 7). He explained that the bill acts to add Polk County to the list of 87 counties in North Carolina that are authorized to acquire school property on behalf of their boards of education. He stated that the bill would be effective when it became law and that there was no known opposition on the matter. Having no discussion from the members, Chairman Wainwright recognized Representative McGee who then moved for a favorable report on SB 288. The Chair called the vote and the motion carried unanimously.

The Chair next recognized Representative Alexander to explain HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS (see attachment 8). She explained that the bill requires each ABC store to prominently display a warning sign stating that drinking alcohol during pregnancy can cause birth defects. The bill further requires the ABC Commission to develop the signs and provide for their distribution (for additional details see Bill Analysis in attachment). Following the explanation, Representative Rayfield was recognized for a question. He asked Representative Alexander who was responsible to pay for the required signs. Representative Alexander responded that each individual retail store would be responsible for the costs, which cannot exceed $25.00). Representative Ellis was also recognized by the Chair and commended Representative Alexander on her bill, stating that the best way to protect our pregnant mothers was through education. Chairman Wainwright then recognized Representative Jones, who moved for a favorable report on HB 1118. Seeing no further questions, the Chair called the vote and the motion carried without opposition.

The Chairman then replaced HB 163 - KINGS MTN. ANNEX WATER SYSTEM (see attachment 6). Representative Moore stated that the bill before the Committee was the correct version of the bill and then requested the member's support. (Staff was able to determine that the Committee Substitute on the bill, as mentioned above, had been adopted in an earlier meeting in the House Committee on Local Government I). Seeing no discussion on the bill, Chairman Wainwright recognized Representative McGee for a motion of favorable report.

Representative Luebke was recognized by the Chair to explain the last bill before the Committee for consideration (for the Sponsor, Senator Gulley): SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION (see attachment 9). He explained that the bill establishes a procedure to remove property from a research and production service district and, although a public bill, only effects portions of Durham and Wake County. This deannexation can only be accomplished once a number of requirements have been met (see Bill Analysis for details).

Seeing no discussion or questions on the bill, Chairman Wainwright recognized Representative Weiss who moved for a favorable report on SB 214. The Chair called for the vote and the motion carried without known opposition.

The Chair then made the announcement that the next House Finance Committee Meeting would be held on the following Wednesday, May 28, 2003, at 8:30 am in the same location.

Having no further business before the Committee, Chairman Wainwright wished the Committee members a good Memorial Day holiday and then adjourned the meeting at 9:03 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Assistant to Committee on Finance

Attachments:

1. Agenda
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8. Senate Bill 469 (and related materials)
9. Senate Bill 469 (and related materials)
10. Senate Bill 469 (and related materials) (not discussed – bill pulled from the meeting agenda on 5-21-2003, to be considered at a later date)

ATTACHMENT 1

corrected

AGENDA

House Finance Committee

May 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 214	**RES AND PRODUCTION SVC. DIST. DEANNEXATION**	**Rep. Luebke**
HB 1260	**RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES**	**Rep. Nye**
HB 163	**KINGS MTN. ANNEX WATER SYSTEM**	**Rep. Moore**
HB 705	**MATTHEWS ANNEXATION**	**Rep. Gulley**
HB 1118	**DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS**	**Rep. Alexander**
SB 181	**APEX QUICKTAKE ROADS/HISTORIC STRUCTURES**	**Sen. Stevens**
SB 288	**POLK SCHOOL ACQUISITION**	**Sen. Apodaca**

Adjournment

AGENDA

House Finance Committee

May 22, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. William Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 214	**RES AND PRODUCTION SVC. DIST. DEANNEXATION**	**Rep. Luebke**
HB 163	**KINGS MTN. ANNEX WATER SYSTEM**	**Rep. Moore**
HB 96	**AVERY COUNTY OCCUPANCY TAX**	**Rep. Frye**
HB 705	**MATTHEWS ANNEXATION**	**Rep. Gulley**
HB 1118	**DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS**	**Rep. Alexander**
HB 1260	**RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES**	**Rep. Nye**
SB 181	**APEX QUICKTAKE ROADS/HISTORIC STRUCTURES**	**Sen. Stevens**
SB 288	**POLK SCHOOL ACQUISITION**	**Sen. Apodaca**

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JASON KAUS	TOWN OF APEX
PEYTON MAYNARD	NCSULA
John Randall	NC Bd of Ex
Kathy Sulik	U. of N. Carolina Chapel Hill
Ernestine Durham	Executive Intern, FRD
Tim Morse	ABC COMMISSION
Carol Lawler	E&HS
Paul Gepin	OSBM
Kevin Fitzgerald	UNC
[illegible]	The Arc
[illegible]	NCRMA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Meyer	NCACC
Andy Romcart	NCLM
Frank Gray	N.C. Pr. [illegible] I
John McHugh	Co Office
DAVID BARNES	Poyner + Spruill
Bill Rustin	ACR
[illegible]	Alley Assoc
Roz Sawitt	NC CCC
R. Paul Wilmers	NCHBA
Dean Plunkett	NC Beer & Wine.
Jon Carr	NCABC Boards

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 22, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Angie Harris	Maupin Taylor
[illegible]	NC BIO
B. J. McMillan	ADCNC - Durham
Elizabeth Dalton	Bone & Assoc.

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, May 21, 2003 4:26 PM
Subject: CORRECTED NOTICE - House Finance Committee 5-22-2003
Importance: High

CORRECTED NOTICE – HB 96 REMOVED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, May 22, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

~~**HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye**~~ *REMOVED*

HB 163 – KINGS MTN. ANNEX WATER SYSTEM – Rep. Moore

HB 705 – MATTHEWS ANNEXATION – Reps. Gulley & Black

HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS – Rep. Alexander

HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES – Rep. Nye

SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES – Sen. Stevens

SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION – Sen. Gulley

SB 288 – POLK SCHOOL ACQUISITION – Sen. Apodaca

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **4:25 P.M.** on

May 21, 2003.

___Principal Clerk
___Reading Clerk - House Chamber
Jason A. Cannon (Committee Assistant)

Jason Cannon (House Finance)

From: Martha Walston (Fiscal Research)
Sent: Wednesday, May 21, 2003 3:48 PM
To: Joyce Harris (Rep. Luebke)
Cc: Trina Griffin (Research); Jason Cannon (House Finance)
Subject: RE: HB 96 - Avery Occupancy Tax

I just called Rep. Frye and left the message with his LA.

-----Original Message-----
From: Joyce Harris (Rep. Luebke)
Sent: Wednesday, May 21, 2003 3:45 PM
To: Martha Walston (Fiscal Research)
Subject: HB 96 - Avery Occupancy Tax

Hi Martha,

Rep. Luebke asked me to call you (which I did a few minutes ago) to tell you to pull the above bill which is on for tomorrow and for you to call Rep. Frye and tell him. Rep. Luebke will see Rep. Frye about this on the House floor in a few minutes. Thanks!

Joyce T. Harris
Legislative Assistant to
Rep. Paul Luebke
Telephone: (919) 733-7664
Fax: (919) 754-3192
E-Mail: luebkela@ncleg.net

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, May 20, 2003 12:13 PM
Subject: House Finance Committee Notice 5-22-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, May 22, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 96 – AVERY COUNTY OCCUPANCY TAX – Rep. Frye

HB 163 – KINGS MTN. ANNEX WATER SYSTEM – Rep. Moore

HB 705 – MATTHEWS ANNEXATION – Reps. Gulley & Black

HB 1118 – DISPLAY FETAL ALCOHOL SYNDROME WARNING SIGNS – Rep. Alexander

HB 1260 – RAISE CEILING/SPEECH PATH./AUDIOLOGIST FEES – Rep. Nye

SB 181 – APEX QUICKTAKE ROADS/HISTORIC STRUCTURES – Sen. Stevens

SB 214 – RES AND PRODUCTION SVC. DIST. DEANNEXATION – Sen. Gulley

SB 288 – POLK SCHOOL ACQUISITION – Sen. Apodaca

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:15 P.M.** on **May 20, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 705

Short Title:	Matthews Annexation.	(Local)
Sponsors:	Representatives Gulley and Black (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX TO THE TOWN OF MATTHEWS ALL THE TERRITORY REMAINING IN ITS SPHERE OF INFLUENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Matthews are extended to include the entire area remaining in its sphere of influence within Mecklenburg County. As used in this act, "sphere of influence" means that area designated as such in annexation agreements between the Town of Matthews and other municipalities under Chapter 953 of the 1983 Session Laws, or under other general or local acts.

SECTION 2. The Town of Matthews shall record in the office of the Register of Deeds of Mecklenburg County a detailed map of the area annexed by this act. The map shall also delineate any area for which annexation is deferred pursuant to Section 3 of this act.

SECTION 3. This act becomes effective June 30, 2003, except that as to land that is being taxed at present-use value pursuant to G.S. 105-277.4 on the day this act is ratified, it becomes effective on the same day as determined under G.S. 160A-49(f2) that it would have become effective if the area had been annexed under Part 3 of Article 4A of Chapter 160A of the General Statutes. The Town may, however, provide police, fire, and emergency medical services to areas whose annexation has been deferred by this section.

HOUSE BILL 705:
Matthews Annexation.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Gulley and Black
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 705 annexes to the Town of Matthews all the territory remaining in its sphere of influence. Except for land taxed at present-use value, the act would become effective June 30, 2003. The annexation of land taxed at present-use value would be deferred until the land no longer meets the criteria for taxation at present-use value. However, this property would be considered part of the Town of Matthews for boundary and planning purposes and would receive police, fire, and EMS protection.***

CURRENT LAW: Annexation is one method that a city or town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary.

Voluntary Annexation. – A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

Involuntary Annexation. – An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area to be annexed must be adjacent or contiguous to the municipality's boundaries.
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 705 annexes to the Town of Matthews the entire area remaining in its sphere of influence within Mecklenburg County. The annexation of any land within the sphere of influence that is currently being taxed at present-use value is deferred until the land no longer qualifies for present-use valuation. However, for boundary purposes, planning purposes, and public safety purposes, the land will be considered part of the Town of Matthews.

BACKGROUND: In 1984, the General Assembly enacted legislation authorizing the City of Charlotte and the surrounding municipalities to enter into annexation agreements that create "spheres of influence." The "sphere of influence" is the area described in the agreement that the parties agree may be annexed by a one of the municipalities to the exclusion of the others. Since this legislation was enacted, Matthews has received over 500 voluntary annexation petitions and several pieces of land have been annexed in accordance with the agreement, creating several "donut holes" along the way. This legislation would close up the remaining donut holes and peninsulas. Additionally, one of the reasons for this legislation is to provide clarification as to the proper entity that will provide police, fire, and EMS protection in these areas.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 705 A BILL TO BE ENTITLED AN ACT TO ANNEX TO THE TOWN OF MATTHEWS ALL THE TERRITORY REMAINING IN ITS SPHERE OF influence.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 181
Finance Committee Substitute Adopted 4/16/03

Short Title: Apex Quicktake Roads/Historic Structures (Local)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THE APEX HISTORIC DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 6.5 of the Charter of the Town of Apex, being Chapter 356 of the 1985 Session Laws, as added by Chapter 70 of the 1987 Session Laws, reads as rewritten:

"Sec. 6.5. Additional Eminent Domain Powers. Notwithstanding the provisions of G.S. 40A-1, in the exercise of its authority of eminent domain for the acquisition of property interests (including, without limitation, fee simple title, rights-of-way, and easements) to be used for water lines and treatment facilities and sewer lines and treatment facilities, and opening, widening, extending, or improving public streets and roads, the town may use the procedure and authority prescribed in Article 9 of Chapter 136 of the General Statutes of North Carolina, as now or hereafter amended; provided further, that whenever therein the words 'Secretary' or 'Secretary of Transportation' appear, they shall be deemed to include the 'Town ~~Manager';~~Manager', and whenever therein the word 'highway' appears, it is deemed to include 'public works' in accordance with this section, provided further that nothing herein shall be construed to enlarge the power of the town to condemn property already devoted to public use. Provided further, just compensation for the acquisition of fee simple title or a perpetual easement pursuant to this section to be used for street or road right-of-way shall be no less than (i) one dollar ($1.00) per square foot of real property taken, or (ii) the prorated ad valorem tax value of the parent tract, whichever is less. The powers granted by this section are in addition to and supplementary to those powers granted by any local or general law."

SECTION 2. In order to preserve and enhance one of the most valuable and unique natural resources of the community, and to preserve the property values and promote the general welfare of its citizens, the Town of Apex may adopt ordinances to regulate the demolition of historic structures within its municipal corporate limits and extraterritorial jurisdiction. For purposes of this section, "historic structures" means any structure (i) individually listed in the National Register of Historic Places, (ii) listed as a contributing structure in the National Register of Historic Places, (iii) certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district, (iv) individually listed in the State inventory of historic places, (v) listed in the Wake County Register of Historic Places, or (vi) individually listed in a local inventory of historic places in communities with historic preservation programs that have been certified by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs. Prior to adopting any such ordinance, a public hearing shall be held before the town's governing board. Notice of the hearing shall be given in accordance with G.S. 160A-364. Ordinances adopted under this section may not prohibit the demolition of historic structures except in accordance with the provisions of Part 3C of Article 19 of Chapter 160A of the General Statutes.

SECTION 3. This act is effective when it becomes law. Section 1 of this act expires on December 31, 2008, but civil actions or special proceedings instituted pursuant to that section on or before December 31, 2008, shall be completed under the provisions of that section as if it had not expired.

SENATE BILL 181:
Apex Quicktake Roads/Historic Structures

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Stevens
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 181 authorizes the Town of Apex to do two different things:

- *To use the same condemnation procedures and authority for roads that the Department of Transportation uses in Chapter 136.*
- *To adopt ordinances regulating the demolition of historic structures in its Historic District.*

CONDEMNATION PROCEDURES FOR ROADS: Cities and towns may condemn property under Chapter 40A for opening, widening, extending, or improving roads and streets. The Department of Transportation may acquire property under Article 9 of Chapter 136 for the construction and improvement of highways. Municipalities may also use the condemnation provisions in Article 9 of Chapter 136 for the acquisition of property related to the construction and improvement of roads and streets within their corporate boundaries that are part of the state-highway-system, but not for city streets. There are two primary differences between the acquisition authority granted by Chapter 40A and Article 9 of Chapter 136:

- Under Chapter 40A, a condemnor must give the owner of the property to be acquired 30 days notice of its intent to institute an action to condemn the property.[1] Under Article 9 of Chapter 136, the condemnor does not have to give this 30–day notice.
- Under Chapter 40A, the just compensation for the value of the property taken is generally its fair market value prior to the taking.[2] Under Chapter 136, the just compensation for the property taken is its fair market value, taking into consideration any benefits resulting from the utilization of the part taken for highway purposes.

Section 1 of Senate Bill 181 provides that the Town of Apex may use the procedure and authority of Article 9 of Chapter 136 for the acquisition of property for roads. It currently has this authority for the acquisition of property for water and sewer lines and treatment facilities. It also establishes a floor for determining just compensation by specifying that just compensation may be no less than $1.00 per square foot of real property taken or the prorated property tax value of the parent tract, whichever is less. Therefore, for the Town of Apex, the determination of just compensation under Article 9 of Chapter 136 would be the fair market value of the property taking into consideration any benefit the property derives

[1] For purposes of road construction and improvement, the title to the property and the right to immediate possession vests automatically with the city subject to the filing of the condemnation complaint and deposit of the estimated just compensation. Chapter 40A and Article 9 of Chapter 136 do not differ in this point.

[2] Under Chapter 40A, the measure of compensation is the greater of either (i) the amount by which the fair market value of the entire tract immediately before the taking exceeds the fair market value of the remainder immediately after the taking or (ii) the fair market value of the property taken. The value of the property does not include an increase or decrease in value that is caused by the proposed improvement or project for which the property is taken.

from the road improvement, but in no event may that value be less than $1.00 per square foot or the prorated property tax value of the parent tract, whichever is less.

Section 1 becomes effective when it becomes law and expires on December 31, 2008. The Town of Apex plans to spend approximately $30 million over the next 5-6 years to construct the "Apex Peakway". This provision will allow the Town to use the procedures of Article 9 of Chapter 136 to make the road improvements anticipated over the next few years.

REGULATE DEMOLITION OF HISTORIC BUILDINGS: Section 2 of Senate Bill 181 would allow the Town of Apex to adopt ordinances regulating the demolition of historic structures after notice and a public hearing. The bill defines the term "historic structure". The Town may not prohibit the demolition of an historic structure unless the structure has statewide significance as defined in the criteria of the National Register of Historic Places, as determined by the State Historic Preservation Officer.[3] The Town of Apex's downtown is Federally-designated and recognized as an historic district.

Under current law, municipalities may designate historic districts and historic landmarks if they establish or designate a historic preservation commission and follow the numerous landmark designation procedures outlined in Part 3C of Article 19 of Chapter 160A. Those procedures include preparing and adopting guidelines and procedures, conducting investigations and reports, consulting with the Department of Cultural Resources, etc. A person with property located in an historic district must file an application for a certificate of appropriateness before the person may alter the exterior of a building located in the district or relocate or demolish a building in the district.

Section 2 of this bill would allow the Town of Apex to regulate the demolition of historic structures located in its zoning jurisdiction without having to meet the procedural requirements of Part 3C. Likewise, the Town will not be able to regulate historic structures as extensively as would otherwise be allowed under Part 3C. This bill allows the Town to only regulate the demolition of those structures.

[3] G.S. 160A-400.14. Under this statute, the property may be demolished even if it meets this standard if the property owner would otherwise suffer extreme hardship or be permanently deprived of all beneficial use of the property.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 181 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE TOWN OF APEX TO USE THE PROCEDURE AND AUTHORITY OF CHAPTER 136 OF THE NORTH CAROLINA GENERAL STATUTES IN CONDEMNATION PROCEEDINGS CONCERNING PUBLIC STREETS AND ROADS, AND TO ADOPT ORDINANCES REGULATING DEMOLITION OF HISTORIC STRUCTURES IN THE APEX HISTORIC DISTRICT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1260

Short Title:	Raise Ceiling/Speech Path./Audiologist Fees.	(Public)
Sponsors:	Representative Nye.	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM FEES THAT THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MAY ASSESS FOR CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-305 reads as rewritten:

"**§ 90-305. Fees.**

Persons subject to licensure under this Article shall pay ~~the following~~ fees to the ~~Board:~~Board not to exceed the following:

(1)	Application fee	$30.00
(2)	Examination fee	30.00
(3)	Initial license fee	~~40.00~~100.00
(4)	Renewal license fee	~~40.00~~100.00
(5)	Temporary license	40.00
(6)	Delinquency fee	~~25.00~~25.00."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1260:
Raise Ceiling/Speech Path./Audiologist Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Nye
Date:	May 22, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1260 amends the fees that the Board of Examiners for Speech and Language Pathologists and Audiologists may charge by

- *changing these set fees to maximum fees*
- *increasing the set $40 fees for the initial license fee and the renewal license fee to maximum fees of $100 for the initial license and license renewal.*

CURRENT LAW: A person who practices or holds himself or herself out as being able to practice speech and language pathology or audiology in North Carolina must hold a current, unsuspended, unrevoked license issued by the Board of Examiners for Speech and Language Pathologists and Audiologists or register with the Board as an assistant. A license may be granted in either speech and language pathology or audiology independently. A person may be licensed in both areas if qualified in both areas. The license must be renewed annually.

BILL ANALYSIS: House Bill 1260 amends the fees paid to the Board of Examiners for Speech and Language Pathologists and Audiologists as follows:

DESCRIPTION	CURRENT FEE	PROPOSED FEE
Application Fee	$30	not to exceed $30
Examination Fee	$30	not to exceed $30
Initial license Fee	$40	not to exceed $100
Renewal License Fee	$40	not to exceed $100
Temporary License	$40	not to exceed $40
Delinquency Fee	$25	not to exceed $25

The current fees have not been increased since 1987 (S.L. 1987-65). According to the Executive Secretary of the Board, the Board plans to charge $60 for an initial license and a renewal license.

G.S. 12-3.1 requires the Board to consult with the Joint Legislative Commission on Governmental Operations on the amount and the purpose of the fees to be increased before the increase goes into effect.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1260 (1st Edition)

SHORT TITLE: Raise Ceiling / Speech Path. / Audiologist Fees

SPONSOR(S): Representative Nye

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Examiners	$77,000	$77,000	$77,000	77,000	77,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Examiners for Speech and Language Pathologist and Audiologists.

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 90-305 by increasing the initial and renewal license fee that the Board of Examiners for Speech and Language Pathologists and Audiologists may charge to maximum fees of $100.

ASSUMPTIONS AND METHODOLOGY: Under current law, speech and language pathology or audiology practitioners in the State of North Carolina are required to hold a current, unsuspended, unrevoked license issued by the Board of Examiners for Speech and Language Pathologists and Audiologists (the Board). A person may be licensed in both areas if qualified in both areas. The license must be renewed annually. Currently, the Board may charge the following fees:

Description	Fee
Application Fee	$30
Examination Fee	$30
Initial License Fee	$40
Renewal License Fee	$40
Temporary License	$40
Delinquency Fee	$25

According to the G.S. 12-3.1, the Board has to consult with the Joint Legislative Commission on Governmental Operations on the amount the purpose of the fees increase before such an increase may be implemented. The House Bill 1260 proposes increasing

maximum initial license fee and maximum renewal license fee from $40 to $100. According to the Executive Secretary of the Board, the Board plans to charge $60 for an initial license and a renewal license.

The current fees have not been increased since 1987 (S.L. 1987-65). Based the *Statistical Abstracts of the United States* historical data on inflation, after adjusting for inflation, the current initial license fee and renewal license fee should amount $63 to be equivalent to the 1987 rate of $40. The Board ended the fiscal year 2002 with a negative fund balance of $10,735, or 6.34 percent. Raising the initial and renewal license fees would allow the Board to overcome fiscal constraints.

For the fiscal year 2002, initial license fees constituted 5.84 percent of all total revenues of the Board. Renewal fees constituted 78.10 percent. Together, these fees amounted to 83.94 percent of total revenues. If the Board starts charging $60 for both initial and renewal of the license, as it plans to, it will constitute a 50-percent increase of the corresponding portion of the revenues. Charging the maximum fees of $100 will constitute a 150-percent increase (Table 1). Alternatively, these new fees would correspond to a 42-percent and 126-percent increase in total revenues for the Board.

Currently, 3,850 language pathology and audiology practitioners are registered with the Board. The twenty-dollar increase of the renewal fees would increase the annual revenues of the Board by $77,000 (3,850 × $20).

Table 1. Percentage increase in fees and total revenues under the proposed legislation

	New Fees	
	$60	**$100**
Fees Increase (%)	50%	150%
Increase in Total Revenues (%)	42%	126%

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists; *Statistical Abstracts of the United States*.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 21, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1260 A BILL TO BE ENTITLED AN ACT TO INCREASE THE MAXIMUM FEES THAT THE BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS MAY ASSESS FOR CERTAIN FEES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 163
Committee Substitute Favorable 4/30/03

Short Title: Kings Mtn. Annex Water System. (Local)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF KINGS MOUNTAIN TO ANNEX CERTAIN PROPERTIES OWNED BY THE TOWN.

The General Assembly of North Carolina enacts:

SECTION 1. The City of Kings Mountain may annex any or all of the following city-owned properties by voluntary annexation under G.S. 160A-58.7 without such annexations satisfying the requirements of G.S. 160A-58.1:

(1) That real estate reflected in the records for Cleveland County, North Carolina, as being parcel 6-3-1-28 in the Tax Mapping Office, the same being that real estate upon which there is situated the Water Treatment Plant at the John H. Moss Reservoir, the John H. Moss Reservoir Dam, the campsite and the buildings and structure located adjacent thereto, such property being bounded by the Elliot M. Johnson Property (now or formerly) as shown in Deed Book 10-M at Page 460 of the Cleveland County Registry; that property of Elliot M. Johnson (now or formerly) as shown in Deed Book 8-J at Page 472 of the Cleveland County Registry; the right-of-way margin of Oak Grove Road; the Craver and/or Austell properties as shown on Tax Map as Map 3137; Lot 1; Parcel 8: the Frank Meeker, Jr. property (now or formerly) as shown in Deed Book 1012 at Page 353 of the Cleveland County Registry; and further, a boundary which is 736.0' above mean sea level elevation, adjacent to the waters of the John H. Moss Reservoir.

(2) That real estate which is commonly referred to as the "Camp Creek Church Road Picnic Area", and such being that acreage reflected on Tax Map 3137, Block 1, Lot 1; Tax Map 3137, Block 1, Lot 2; Tax Map 3137, Block 1, Lot 3; and Tax Map 3137, Block 1, Lot 4, in the Tax Mapping Office for Cleveland County, North Carolina, with the boundary on that side of the property which is bounded by the waters

of the John H. Moss Reservoir, such having a boundary of 736.0' above mean sea level elevation.

SECTION 2. The City of Kings Mountain may exercise the authority in Section 1 of this act only under the following conditions:

(1) The area proposed for annexation must be owned by the City of Kings Mountain.

(2) The City of Kings Mountain must be able to provide the same services within the area proposed for annexation that it provides within the corporate limits.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 163:
Kings Mtn. Annex Water System.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Moore
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***The bill would allow the City of Kings Mountain to annex certain described property owned by the town by voluntary annexation without having to meet the statutory requirements.***

CURRENT LAW: G.S. 160A-58.1 and 160A-58.7 govern the voluntary annexation by a municipality of noncontiguous property. G.S. 160A-58.1 provides that all property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

G.S. 160-58.7 provides the process a city must follow when the city is the property owner of the satellite area. This process requires that the city comply with the provisions of G.S. 160A-58.1 as described above.

BILL ANALYSIS: The bill would exempt the City of Kings Mountain from having to meet the requirements in G.S. 160A-58.1 when annexing two particularly described tracts of property owned by the city used as the water treatment facility.

BACKGROUND: The cities of Hickory, New Bern, Statesville, Kenly, Troy, Mt. Airy, Mooresville, Marion, Oxford, Rockingham, Newton, Conover, and Claremont and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, Maiden, Swansboro and Waynesville have already eliminated the 5th standard for all annexations by the municipality.

EFFECTIVE DATE: The bill would become effective when it becomes law.

Erika Churchill, counsel to House Local Government I, contributed to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 163 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF KINGS MOUNTAIN TO ANNEX CERTAIN PROPERTIES OWNED BY THE TOWN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 288*

Short Title: Polk School Acquisition. (Local)

Sponsors: Senator Apodaca.

Referred to: Finance.

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE POLK COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-158.1 reads as rewritten:

"**§ 153A-158.1. Acquisition and improvement of school property in certain counties.**

(a) Acquisition by County. – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,

Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 288:
Polk School Acquisition

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Apodaca
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 288 adds Polk County to the list of 87 counties authorized to acquire school property on behalf of their boards of education. The bill is effective when it becomes law.***

BILL ANALYSIS: **Senate Bill 288** is a local bill that applies only to Polk County and the local board of education for school administrative units in Polk County. The substance of the bill is the same as that enacted in past legislative sessions for 87 other counties.

The bill makes the following changes concerning the acquisition and financing of public school facilities:

(1) It authorizes the county to acquire real or personal property for use by a school administrative unit located in the county when requested to do so by the unit. Under current law, only those counties listed in G.S. 153A-158.1(e) have this authority. Under general law, a county is authorized to acquire real or personal property only on behalf of the county or an agency of the county and a school administrative unit is not an agency of the county.

(2) It authorizes the local board of education to contract with the county for the erection or repair of a public school building that is located on a site owned by the county. Under current general law, local boards of education are required to hold title to all school property and therefore have no authority to make contracts concerning the construction or repair of school buildings located on sites not owned by them.[1]

(3) It authorizes the local board of education to transfer to the county any property on which a school building in need of renovation or repair is located for any price agreed to by the board of education and the county. Current law requires transfers from a local board of education to a county to be at fair market value and allows a local board of education to transfer property to a county only if the board does not believe the property is necessary or desirable for a school.[2]

The effect of these changes is to allow installment purchase financing to be used for public school construction or renovation in Polk County. Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

[1] G.S. 115C-40; G.S. 115C-521.
[2] G.S. 115C-518; G.S. 160A-274.

Under current law, installment purchase financing is available to counties[3] but is not generally available to local school administrative units. G.S. 160A-20 grants installment purchase financing authority only to a local school administrative unit located in a county whose local board of education can levy a school tax. There are only two such local units: Mooresville and Roanoke Rapids. A related provision, G.S. 143-64.17C, authorizes school administrative units and community colleges to use installment purchase financing to finance energy conservation measures. In addition, G.S. 115D-58.15 authorizes community colleges to use installment purchase financing for equipment.

[3] The Local Government Commission must approve installment purchase contracts and certificates of participation. The Local Government Commission cannot approve such a contract if the net debt of the contracting unit, after execution of the contract, would exceed 8% of the assessed value of property subject to taxation by the unit.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 288 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE POLK COUNTY TO ACQUIRE PROPERTY FOR USE BY ITS BOARD OF EDUCATION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 1118
Committee Substitute Favorable 4/29/03

Short Title: Display Fetal Alcohol Syndrome Warning Signs. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE SIGNS TO BE POSTED WARNING OF THE POSSIBLE DANGERS OF CONSUMPTION OF ALCOHOL DURING PREGNANCY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-203(a) is amended by adding the following new subdivision to read:

"(18) Provide for the distribution and posting of warning signs to local ABC boards regarding the dangers of alcohol consumption during pregnancy as required under G.S. 18B-808."

SECTION 2. Article 8 of Chapter 18B of the General Statutes is amended by adding the following new section to read:

"**§ 18B-808. Warning signs regarding dangers of alcohol consumption during pregnancy required; posting.**

(a) Each ABC store shall display or cause to be displayed warning signs that meet the requirements of this section on the store's premises to inform the public of the effects of alcohol consumption during pregnancy.

(b) The Commission shall develop the warning signs in accordance with subsection (c) of this section and provide for their distribution and replacements to local ABC boards subject to the requirement of this section. The Commission may charge a reasonable fee, not to exceed twenty-five dollars ($25.00), for each sign, including replacement signs.

(c) The signs required by this section shall:

(1) Be composed of black, capital letters printed on white paper at the minimum weight of one hundred ten pound index. The letters comprising the word 'WARNING' shall be highlighted black lettering and shall be larger than all other lettering on the sign.

(2) Contain the message: 'WARNING Pregnancy and alcohol do not mix. Drinking alcohol during pregnancy can cause birth defects.'

(3) The size of the sign shall be at least eight and one-half inches by 14 inches.

(4) Contain a graphic depiction of the message to assist nonreaders in understanding the message. The depiction of a pregnant female shall be universal and shall not reflect a specific race or culture.

(5) Be in both English and Spanish.

(d) A local ABC board shall ensure that each ABC store manager displays the warning sign in an open and prominent place in the store within 30 days of receipt of the sign from the Commission."

SECTION 3. This act is effective when it becomes law. The Commission and each local ABC board shall be in full compliance with the requirements of this act no later than six months after the day the bill becomes law.

HOUSE BILL 1118:
Display Fetal Alcohol Syndrome Warning Signs.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Alexander
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1118 requires each ABC store to prominently display a warning sign stating that drinking alcohol during pregnancy can cause birth defects. The bill further requires the ABC Commission to develop the signs and provide for their distribution. The Commission is also authorized to charge a fee not to exceed $25.00 for each sign, including replacements. The local ABC board is required to ensure that each ABC store manager properly displays the sign within 30 days of its receipt.***

The bill would become effective when it becomes law. The Commission and each local ABC board would have six months from the effective date to be in full compliance with the act.

CURRENT LAW: The operation of ABC stores is governed by Article 8 of Chapter 18B, which addresses the opening and closing of stores, the operating hours, the store management, the pricing of alcohol, and the distribution of revenues. ABC stores are under the authority of and operated by a local ABC board.

BILL ANALYSIS: House Bill 1118 does the following:

- ***Requirement for ABC stores.*** – It requires each ABC store to display a warning sign, developed by the ABC Commission, that warns about the dangers of alcohol and pregnancy. Specifically, the sign would state:

  WARNING: Pregnancy and alcohol do not mix.
  Drinking alcohol during pregnancy can cause birth defects.

- ***Requirement for ABC Commission.*** – It requires the ABC Commission to develop and distribute the warning signs. The Commission may charge a fee not to exceed $25.00 for each sign, including replacements. The bill specifies that the signs must:
  - Be on certain paper and in certain lettering.
  - Be at least 8½ x 14 in size.
  - Be in both English and Spanish.
  - Contain a graphic depiction of the message for nonreaders.

- ***Requirement for local ABC boards.*** – It requires local ABC boards to ensure that each ABC store manager posts the warning sign in an open and prominent place in the store within 30 days of its receipt.

BACKGROUND[1]: Fetal Alcohol Syndrome (FAS) is a set of physical, mental, and neurobehavioral birth defects caused by maternal consumption of alcohol during pregnancy. FAS is considered the most common nonhereditary cause of mental retardation. In addition to deficits in general intellectual functioning, individuals with FAS often demonstrate difficulties with learning, memory, attention, and problem solving as well as problems with mental health and social interactions. Although prenatal alcohol exposure does not always result in FAS, there is no known safe level of alcohol consumption during pregnancy. FAS is 100% preventable when a woman completely abstains from alcohol during her pregnancy.

[1] This information was obtained from the National Organization on Fetal Alcohol Syndrome.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1118 (Second Edition)

SHORT TITLE: Display Fetal Alcohol Syndrome Warning

SPONSOR(S): Rep. Alexander

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
ABC Fund	up to $10,000				
EXPENDITURES					
Local ABC Board	up to $10,000				
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Alcoholic Beverage Control Commission, Local ABC Boards

EFFECTIVE DATE: This act is effective when it becomes law. The Commission and each local ABC board shall be in full compliance with the law no later than six months after the day the bill becomes law.

BILL SUMMARY: The bill requires the posting of signs in Alcoholic Beverage Control (ABC) stores warning of the possible dangers of consumption of alcohol during pregnancy.

ASSUMPTIONS AND METHODOLOGY: The maximum $25 fee from each of the state's 400 ABC stores will generate $10,000. An administrator of the ABC Commission thinks the $25 fee is more than sufficient to cover the costs of the signs. In fact, the Commission may choose to pay for the signs out of its operating budget rather than bother with collecting fees from the local ABC boards.

SOURCES OF DATA: Alcoholic Beverage Control Commission

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 21, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1118 A BILL TO BE ENTITLED AN ACT TO REQUIRE SIGNS TO BE POSTED WARNING OF THE POSSIBLE DANGERS OF CONSUMPTION OF ALCOHOL DURING PREGNANCY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 214
Finance Committee Substitute Adopted 4/30/03

Short Title: Res and Production Svc. Dist. Deannexation. (Public)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW TERRITORY TO BE REMOVED FROM A RESEARCH AND PRODUCTION SERVICE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 16 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-314.1. Removal of territory from service districts.**

(a) Standards. – A board of commissioners may by resolution remove territory from a research and production service district upon finding that:

(1) The owners of the territory to be removed contemplate placing residential uses on some of the territory to be removed.

(2) One hundred percent (100%) of the owners of real property in the territory to be removed have petitioned for removal.

(3) The territory to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing:

(1) A map of the district highlighting the territory proposed to be removed, showing the present and proposed boundaries of the district; and

(2) A statement showing that the territory to be removed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least 10 days before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution reducing the boundaries of a service district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than

seven days before the hearing. In addition, the notice shall be mailed at least two weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the territory to be removed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Municipal Annexation Allowed Under General Law. – The general law concerning annexation, Article 4A of Chapter 160A of the General Statutes, shall apply to any territory removed from the district under this section, notwithstanding any local act to the contrary.

(e) Effective Date. – The resolution reducing the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 214:
Res and Production Svc District Deannexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Gulley
Date:	May 22, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 214 establishes a procedure to remove property from a research and production service district. The bill is effective when it becomes law.***

CURRENT LAW: In 1985, the General Assembly allowed for the creation of a research and production service district.[1] The legislation sets forth the requirements necessary to create the district, expand the district, and abolish the district; but it does not allow for the removal of property from the district. A county may by resolution establish a research and production service district for an area that meets the following requirements[2]:

- All the property is used for research or scientifically oriented production or for associated commercial or institutional purposes.
- The area contains at least 4,000 acres.
- The area includes research and production facilities that employ at least 5,000 people.
- The area has no more than 25 permanent residents.

The Research Triangle Park is the only research and production service district at this time. The property within the Research Triangle Park is not subject to annexation, pursuant to section 2 of Chapter 435 of the 1985 Session Laws. The Park currently consists of approximately 7,000 acres. Property in the district is subject to an additional property tax at the rate of 0.02 cents on each $100 value of property subject to taxation.[3] The tax revenue generated from this tax may only be used to provide services within the district.

BILL ANALYSIS: Senate Bill 214 establishes a procedure to remove property from a research and production service district. The board of county commissioners may remove property from a district by resolution after notice and a public hearing. For property to be removed from a district, the board of county commissioners must find the following:

- The owners of the property to be removed contemplate placing residential uses on some of the property to be removed.
- All of the owners of property in the area to be removed have petitioned for removal.
- The area to be removed no longer requires the services, facilities, or functions financed, provided, or maintained for the district.

Once property has been removed from the district, it is subject to the general law concerning annexation. A resolution removing property from a district takes effect at the beginning of a fiscal year commencing after its passage. The Research Triangle Park plans a mixed-use project near one of the Triangle Transit Authority Rail stations, to open in 2007. The area to be removed is approximately 26 acres on the edge of the district.

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[1] Part 2 of Article 16 of Chapter 153A.
[2] G.S. 153A-312(a) imposes additional conditions.
[3] G.S. 153A-317 provides that the tax rate may not exceed 10 cents on each $100 value of property subject to taxation.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 214 A BILL TO BE ENTITLED AN ACT TO ALLOW TERRITORY TO BE REMOVED FROM A RESEARCH AND PRODUCTION SERVICE DISTRICT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 96
PROPOSED COMMITTEE SUBSTITUTE H96-CSSVx-11 [v.3]

5/14/2003 3:33:53 PM

Short Title: Avery County/Blowing Rock Occupancy Tax. (Local)

Sponsors:

Referred to:

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY AND TO AUTHORIZE THE TOWN OF BLOWING ROCK TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

AVERY COUNTY OCCUPANCY TAX

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County

District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

BLOWING ROCK OCCUPANCY TAX

SECTION 6. Chapter 171 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. – (a) Authorization and scope. – The Blowing Rock Town Council may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the corporate limits of the town that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3).~~G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Blowing Rock Town Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The Town of Blowing Rock may not levy a tax under this section unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~

(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act.~~The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a~~

~~return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

(e) Distribution and use of tax revenue. The Town of Blowing Rock ~~shall retain from the gross proceeds of the tax an amount sufficient to pay its direct costs for administrative and collection expenses, not to exceed three percent (3%) of the gross proceeds. The town council shall, at least once annually, conduct a hearing on the proposed use of the net proceeds of the tax. The amount of the net proceeds shall be reported at the hearing. After the hearing, the town council may remit twenty percent (20%) of the net proceeds reported at the hearing to the Blowing Rock Chamber of Commerce. The Blowing Rock Chamber of Commerce may use the funds remitted to it pursuant to this subsection only to promote tourism within the Town of Blowing Rock. The remainder of the net proceeds may be used by the town to enhance the ability of the town to attract tourism, except that the town may not expend any of the net proceeds for general fund operating expenses that are not tourist related or for water and sewer capital or operating expenses that are not tourist related.~~shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Blowing Rock Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Blowing Rock and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 1.1. Blowing Rock Tourism Development Authority. – (a) Appointment and membership. – When the Blowing Rock Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Blowing Rock Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Blowing Rock shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the town.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Blowing Rock Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Blowing Rock Town Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. This act is effective upon ratification."

SECTION 7. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan,

Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 8. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

SECTION 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 96

Short Title:	Avery County Occupancy Tax.	(Local)
Sponsors:	Representative Frye.	
Referred to:	Finance.	

February 26, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Avery County District U Created. – Avery County District U is created as a taxing district. Its jurisdiction consists of that part of Avery County that is located outside of incorporated areas within the county. Avery County District U is a body politic and corporate and has the power to carry out the provisions of this act. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

SECTION 2. Authorization and Scope. – The governing body of Avery County District U may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax. This tax does not apply to accommodations furnished by charitable, educational, or religious institutions or nonprofit organizations when furnished in furtherance of their nonprofit purpose.

SECTION 3. Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District U were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this act.

SECTION 4. Distribution and Use of Tax Revenue. – Avery County District U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District U Tourism Development Authority created pursuant to Section 5

of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District U. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this act:

(1) Net proceeds. – Gross proceeds less the cost to the district of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that are designed to increase the use of lodging facilities in the district or to attract tourists or business travelers to the district. The term includes expenditures to construct, maintain, operate, or market a convention center and other expenditures that, in the judgment of the entity making the expenditure, will facilitate and support tourism.

SECTION 5.(a) Avery County District U Tourism Development Authority. – Appointment and membership. – The board of commissioners of Avery County shall adopt a resolution creating the Avery County District U Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Avery County shall be the ex officio finance officer of the Authority.

SECTION 5.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 4 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the district.

SECTION 5.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Avery County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 6. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery County District U, and to the Township of Averasboro in Harnett County."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 96:
Avery County Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	May 22, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***House Bill 96 creates a taxing district in Avery County that consists of the unincorporated areas of the county and authorizes the district to levy a room occupancy tax of up to 6%. The Proposed Committee Substitute adds a provision authorizing the Town of Blowing Rock to increase its room occupancy tax from 3% to 6% and makes its current administrative provisions conform to the occupancy tax guidelines followed by the House Finance Committee.***

The PCS was given a favorable report by the Occupancy Tax Subcommittee.

CURRENT LAW:

Avery County

In 1993, the General Assembly authorized Avery County to levy a 3% occupancy tax. In 2000, the county repealed its occupancy tax, but it still had the legislative authority to levy the tax. Then in 2001, the General Assembly repealed the county's authority to levy the tax. All of the towns in Avery County currently have the authority to levy a 6% room occupancy tax.

Blowing Rock

In 1987, the General Assembly authorized the town of Blowing Rock to levy a 3% room occupancy tax. The legislation requires the town council to conduct a hearing at least once a year on the proposed use of the net proceeds of the tax. After the hearing, the town council may remit 20% of the net proceeds to the Blowing Rock Chamber of Commerce, which must use the funds to promote tourism within the town. The town may use the remainder of the proceeds to enhance the ability of the town to attract tourism. However, the town may not use any of the proceeds for general fund operating expenses that are not tourist-related. Currently, the town does not have a Tourism Development Authority.

BILL ANALYSIS:

Avery County District U

The bill creates the Avery County District U taxing district, which consists of the unincorporated areas of the county. The Avery County Board of Commissioners shall serve ex officio as the governing body of the district, and the officers of the county shall serve as the officers of the governing body of the district. The bill authorizes the district to levy a room occupancy tax of up to 6%. The district must remit the net proceeds of the tax on a quarterly basis to a Tourism Development Authority, which is required to be established under the bill. The Authority must use two-thirds of the net proceeds to promote travel and tourism and the remainder must be used for tourism-related purposes.

The provisions regarding Avery County District U meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

Blowing Rock

Section 6 of the bill authorizes the town of Blowing Rock to increase its room occupancy tax from 3% to 6%. It also conforms Blowing Rock's current legislation to both the uniform provisions concerning the levy, administration, collection, and repeal of the tax found in G.S. 160A-215 and the uniform provisions concerning the use and distribution of the proceeds.

The provisions regarding Blowing Rock meet all of the uniform provisions for occupancy taxes adopted by the House Finance Committee and supported by the NC Travel and Tourism Coalition.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **May 19, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 96 PCS – Avery County Occupancy Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No General Fund Impact ***				
Avery Co. TDA	*** See Assumptions and Methodology ***				
Blowing Rock	**333,653**	**340,326**	**347,133**	**354,075**	**361,157**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Avery County and the Town of Blowing Rock.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes three changes to current occupancy taxes. First, it creates a taxing district, "Avery County District U", and authorizes that district to levy a room occupancy tax of up to 6%. Second, it allows the Town of Blowing Rock to increase its room occupancy rate from 3% to 6%. Finally, it conforms the existing Blowing Rock occupancy tax language to reflect the occupancy tax guidelines followed by the House Finance Committee.

BACKGROUND: In 1983 the General Assembly authorized Avery County to levy a room occupancy tax of up to 3%. That tax was levied through 1999. In 2000, the local county commission repealed the room tax, and in 2001, the General Assembly repealed that county's authority to levy an occupancy tax. Independent of these actions, all municipalities in Avery County are authorized to levy a room tax of up to 6%.

ASSUMPTIONS AND METHODOLOGY: The first potential fiscal impact relates to Avery County. According to reports filed with the Tax Research Division of The NC Department of Revenue, Avery County municipalities levied and collected the following occupancy taxes in 2001-02:

Municipality	Rate	Revenue
Banner Elk	3%	54,338
Beech Mountain	3%	
Sugar Mountain*	3%	53,896

* Sugar Mountain's occupancy tax became effective January 1, 2002.

In 1999-00 Avery County collected $156,512 in occupancy taxes, using a 3% rate. Growing this forward to a 2001-02 occupancy tax estimate suggests that if a countywide tax were levied in that year it would yield approximately $162,272. However, as the above municipal revenue figures indicate, the vast majority of the revenues were drawn from incorporated areas, suggesting limited revenues from what now would be the Avery County District U. However, no exact fiscal estimate is available at this time.

The second impact relates to Blowing Rock. In 2001-02 the 3% Blowing Rock occupancy tax raised $320,697 in revenues. This suggests that doubling the rate to 6% in that same year would have yielded an additional $320,697. Applying the 2% growth rate noted above suggests the following increased revenue stream for Blowing Rock:

2003-04	2004-05	2005-06	2006-07	2007-08
333,653	340,326	347,133	354,075	361,157

This is the amount shown in the fiscal impact box. It should also be noted that the changes made in the Blowing Rock occupancy tax statutes may result in a reallocation of funds among purposes.

SOURCES OF DATA: NC Department of Revenue.

2003

HOUSE FINANCE

COMMITTEE MINUTES

North Carolina General Assembly

House Committee on Finance

Minutes

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July 15, 2003 – 8:30 A.M.

The House Committee on Finance met on Tuesday, July 15, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander and Gibson; Representatives Blackwood, Bordsen, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Cindy Avrette, Richard Bostic, Gerry Cohen, Trina Griffin, Jennifer Haygood, Martha Harris, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman McComas called the meeting to order at 8:36 am and recognized the six (6) pages serving during the meeting: (1) Matthew Crutchfield of Wake County, sponsored by Representative Miner; (2) Stephen Gourley of Wayne County, sponsored by Representative Pate; (3) Bryan Nicholls of Beaufort County, sponsored by Representative A. Williams; (4) Sara Seiling of Gates County, sponsored by Representative Culpepper; (5) Cameron Tinkham of Gates County, sponsored by Representative Culpepper; and (6) Camille Webster of Orange County, sponsored by Representative Hackney.

The first called by the Chairman for consideration was **SB 550 – CREMATORY ACT CHANGES** (see attachment 3), sponsored by Senator Hagan. Senator Hagan, upon recognition by Chairman McComas, explained the bill as a collaborative, bipartisan effort to revise and reorganize the North Carolina Crematory Act as well as update and make technical changes to the law on funeral service. The Senator specifically stated that the current law in the state only regulates crematory facilities. This bill would enact licensing regulations on the staff of these facilities as well. Finally, she noted that the bill was offered in response to the terrible incidents that occurred at a Crematory in the state of Georgia. Chairman McComas then verified with the Senator that there was no known controversy on the bill. Seeing no further discussion, the Chair recognized Representative Alexander who moved for a favorable report on SB 550. The motion carried with no objection.

Chairman McComas next recognized Representative Luebke, a sponsor of **HB 1323 – CAMA PERMIT FEES** (see attachment 4), to explain his bill. Representative Howard was recognized and moved the adoption of the Proposed Committee Substitute (PCS) for HB 1323. Her motion carried without objection. Representative Luebke then explained that the bill acts to increase the maximum fee that can be charged by the Coastal Resources Commission for processing a CAMA permit application from $400 to $1,000. CAMA (Coastal Area Management Act) requires

permits for development in Areas of Environmental Concern (AEC). It offers permits with both major and minor authority, depending upon the size and potential impacts of a particular project. Representative Luebke explained the need for the drastic increase by informing the members that funding, which in the past covered a number of the costs associated with the permits, has been cut from the budget of the North Carolina Department of Environment and Natural Resources (NCDENR). Chairman McComas also recognized Mr. Charles Jones, Assistant Director for the Division of Coastal Resources within NCDENR, who voiced his support of the bill. Seeing no further discussion, Chairman McComas then recognized Representative Womble who moved that HB 1323 be given a favorable report as to the PCS, an unfavorable report as to the original bill. The Chair called the vote and the motion carried with no known opposition.

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES (see attachment 5) was the next bill to come before the Committee. Chairman McComas informed the members that the bill was up for a vote of recommended concurrence or non-concurrence by the House. He then recognized Representative Alexander, the bill sponsor, to explain her position on the bill. She noted that the Senate had altered the House bill by adding 9 new special plates and increasing the fee for most specialized plates an additional $10.00 per plate. Representative Creech was recognized next and stated that he had spoken with a number of police officers and patrolman concerning the issue of special plates and that they all reported that they were a problem. He further expressed his opinion that this issue had simply gotten "out of hand." The Chair also recognized Mr. James Doughton from the audience to speak on the bill. Mr. Doughton, who represented the Friends of the North Carolina Maritime Museum and the Core Sound Decoy Museum (at Harper's Island), spoke in opposition to the bill stating that the funds raised by the sale of these plates will be undermined by the increased $10.00 (which is allocated equally to the National Parks and National Wildlife Funds. Representative Alexander was then asked of her feelings on the Senate's changes to the bill. She responded that while there were problems with some of the changes, overall she felt the Committee should offer a recommendation of concurrence but would be understanding of whatever decision the Committee made. Representative Howard was recognized next and made a motion that the Committee recommend that the House NOT concur and request conferees. Seeing no further discussion, Chairman McComas then called the motion to a vote and it carried.

Chairman McComas recognized Senator Kerr for the next bill to be considered: **SB 301 – SCHOOL ACQUISITION BY COUNTIES STATEWIDE** (see attachment 6). The Senator explained that the bill acts to extend to all 100 counties the authorization currently given to 88 counties to acquire school property on behalf of their boards of education. Following this short explanation and as there was no discussion on the bill, the Chair recognized Representative Luebke who made a motion for a favorable report to SB 301. Chairman McComas then called the vote and the motion carried by consent.

Representative LaRoque was recognized next by the Chair for explanation of **HB 902 – PRORATE CERTAIN REAL PROPERTY TAXES** (see attachment 7). He stated that the bill would allow for prorated taxes when there is a change in the exemption status of property owned by a nonprofit agency that provides housing to low and moderate income individuals and families. Representative LaRoque also noted that while there is currently no class of real property that is calculated on a prorated basis, the prorating of vehicle taxes is already allowed. Following this, Chairman McComas recognized Mr. Peter Rodda, Tax Collector of Forsyth County and a representative of the North Carolina Tax Assessors Association, who voiced his clear opposition to the bill. He noted that the issue addressed in the bill was not really a problem at the present time and that it would require far too much time to be spent on tax exemptions. He further stated that despite Representative LaRoque's claim that the bill is "revenue neutral" it was highly likely that the bill would result in a revenue loss in the long term. Representative Womble was recognized next

and voiced his opinion that with the presence of such wide opposition, it was not the appropriate time for this bill. Representative Hill inquired to Representative LaRoque as to the effect of the bill on local government's tax base. Representative LaRoque responded, "Not much."

Upon the request of Chairman McComas at that time, Chairwoman Howard assumed the chair for a brief period. Given the continued discussion which had commenced on HB 902, Chairwoman Howard acted to temporarily displace the bill so that the remaining bills on the calendar could be given ample time for the Committee's consideration.

Chairwoman Howard then recognized Representative Pate for the continued discussion of **HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX** (see attachment 8). The Chair reminded the members that the bill had been displaced at a prior meeting of the Committee (on July 10, 2003) due to a lack of time for consideration. Representative Pate then briefly explained the bill once again, noting that pushing back the starting age requirement for school by one month, from October 16 to September 16, would raise the funds needed to finance the school system's transition from a system requesting tax refunds to tax exempt status. Following this explanation, Chairman McComas reassumed the Chair and recognized Representative Wainwright who spoke in clear opposition to the bill. He emphasized that the bill was "not in the best interest of the education for our children." He also stated that the October 16th deadline had been in place for many years and that never before had it been a problem. Finally, Representative Wainwright voiced his support of school system's transferring from a tax refund system to one of tax exemption, but stated that the method desired by Representative Pate was an inappropriate financing solution. Chairman McComas then recognized Representative Wainwright again to send forth an amendment, which acted to change HB 1233 into a Revenue Laws Study Commission bill so that it could receive further scrutiny during the session's interim. Representative Pate was recognized by the Chair and stated that he was not opposed to the amendment. Representative Wainwright then moved adoption of his amendment. Chairman McComas called the matter to a vote and the amendment was adopted by consent. The Chair then recognized Representative Wainwright once again and he moved that HB 1233 be given a favorable report as to the PCS (incorporating his adopted amendment) and an unfavorable report as to the original bill. Seeing no further discussion, Chairman McComas then called the vote and the motion carried with no known objection.

As the Committee's time had then expired, Chairman McComas adjourned the meeting at 9:51 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 550 (and related materials)
4. House Bill 1323 (and related materials)
5. House Bill 855 (and related materials)
6. Senate Bill 301 (and related materials)
7. House Bill 902 (and related materials)
8. House Bill 1233 (and related materials)
9. House Bill 896 (and related materials) **(not discussed)**
10. House Bill 1315 (and related materials) **(not discussed)**

AGENDA

ATTACHMENT 1

House Finance Committee

July 15, 2003
8:30 a.m.
Room 544 LOB
Chaired By: Rep. McComas

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order & Introduction of Pages

Bills:

HB 855 VARIOUS SPECIAL REGISTRATION PLATES
Reps. Alexander and Rayfield

HB 896 INCREASE COSMETIC ART FEES *Rep. Gibson*

HB 902 REPEAL PROPERTY TAX LISTING EXCEPTION
Rep. LaRoque

HB 1233 EFFICIENCY: SCHOOL BOARD SALES TAX *Rep. Pate*

HB 1279 FARM FACILITY TAX REFUND *Rep. Luebke*

HB 1315 LARGE COUNTY LAW ENFORCEMENT *Rep. Rhodes*

HB 1323 CAMA PERMIT FEES *Reps. Luebke and McComas*

SB 301 SCHOOL ACQUISITION BY COUNTIES STATEWIDE
Sen. Kerr

SB 550 CREMATORY ACT CHANGES *Sen. Hagan*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Friday, July 11, 2003 4:11 PM
Subject: 2nd CORRECTED NOTICE House Finance Committee 7-15-2003
Importance: High

2nd CORRECTED NOTICE:
SB 97 – REMOVED FROM CALENDAR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 15, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES
– Reps. Alexander and Rayfield

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 902 – REPEAL PROPERTY TAX LISTING EXCEPTION – Rep. LaRoque

HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX – Rep. Pate

HB 1279 – FARM FACILITY TAX REFUND – Rep. Luebke

HB 1315 – LARGE COUNTY LAW ENFORCEMENT SERVICES – Rep. Rhodes

HB 1323 - CAMA PERMIT FEES – Reps. Luebke and McComas

~~**SB 97 – REVENUE LAWS TECHNICAL CHANGES – Sen. Hartsell**~~

SB 301 – SCHOOL ACQUISITION BY COUNTIES STATEWIDE – Sen. Kerr

SB 550 – CREMATORY ACT CHANGES – Sen. Hagan

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright

Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **4:30 P.M.** on **July 11, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

CORRECTED NOTICE:
HB 1315 – ADDED TO CALENDAR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 15, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES
– Reps. Alexander and Rayfield

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 902 – REPEAL PROPERTY TAX LISTING EXCEPTION – Rep. LaRoque

HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX – Rep. Pate

HB 1279 – FARM FACILITY TAX REFUND – Rep. Luebke

HB 1315 – LARGE COUNTY LAW ENFORCEMENT SERVICES – Rep. Rhodes

HB 1323 - CAMA PERMIT FEES – Reps. Luebke and McComas

SB 97 – REVENUE LAWS TECHNICAL CHANGES – Sen. Hartsell

SB 301 – SCHOOL ACQUISITION BY COUNTIES STATEWIDE – Sen. Kerr

SB 550 – CREMATORY ACT CHANGES – Sen. Hagan

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **3:15 P.M.** on **July 10, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, July 10, 2003 1:20 PM
Subject: NOTICE House Finance Committee 7-15-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 15, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 855 – VARIOUS SPECIAL REGISTRATION PLATES – Reps. Alexander and Rayfield

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 902 – REPEAL PROPERTY TAX LISTING EXCEPTION – Rep. LaRoque

HB 1233 – EFFICIENCY: SCHOOL BOARD SALES TAX – Rep. Pate

HB 1279 – FARM FACILITY TAX REFUND – Rep. Luebke

HB 1323 - CAMA PERMIT FEES – Reps. Luebke and McComas

SB 97 – REVENUE LAWS TECHNICAL CHANGES – Sen. Hartsell

SB 301 – SCHOOL ACQUISITION BY COUNTIES STATEWIDE – Sen. Kerr

SB 550 – CREMATORY ACT CHANGES – Sen. Hagan

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **1:30 P.M.** on **July 10, 2003**.

7/10/2003

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 15, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Genestine Durham	Executive Intern - FRD/Rep Gibson
Steve Woodson	NC Farm Bureau
Ada Stallings	Hunton and Williams
Phillip Penny	Raleigh-Wake 911 Center
Jason Barbour	Johnston Co 911 Center
R. Craig Whittington	Guilford Co 911 Center
Richard Taylor	State of NC, Wireless 911 Board
Harold Oakley on	Person Co 911 Ctr
Lisa Martin	Davidson County 911
Judy Capparelli	Raleigh-Wake 911
JB	Gov office

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 15, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
SANDRA BISANAR	DEPUTY COUNTY ATTORNEY MECKLENBURG COUNTY
Boyd Cauble	City of Charlotte
Sandra Long	Martin Marietta Materials
Henry Jones	Attorney Raleigh
Jim Blackburn	NC Association of County Commissioners
Jim Fain	DOC
Bill Scoggin	KCCH
Steve Mitchell	Novartis
Theresa K	CAP
Roz Savitt	NCCCC
Jim Stephenson	NC Coastal Federation

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 15, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chuck Congleton	NCDOC
Karen A. Brown	NC Doc
Karen R. Pardue	NC DOC
Doug Van Essen	NC State Board of Cosmetic Art
Earl Johnson	NC State Board of Cosmetic Art
Alex Wilson	NC St. Bd. of Cos. Art
Bernetta Smith	NC St. Bd. of Cosmetic Art
Anne Wilson	
Molly Ryan	NCSBA
Anna Pope	NCDOR
Mildred Spearman	NCD of Correction

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 15, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Colleen Kochanek	Hafer & Caldwell, P.A.
Grady McCallie	N.C. Conservation Network.
Steve Wall	Conservation Council
MIKE WATERS	NCRPS
David Knight	NC Sierra Club, NC Wildlife Fed
Tommy Hammond	NCADA
Diane Johnson	DMV
Sharon Matthews	DOT-DMV
George Suddath	NCSDA
James H "Bud" Dunghlin	
Charlotte C. Turpin	Wake NCAE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 15, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Stogner	NC Forest Products Assoc.
Julie Allen	NC Statewatch
Michael Houser	NCAE
Richard Jorge	NC Van
Jim Dyer	SBE
Katherine Joyce	NCASA
Susan Hansen	WCPSS
Andy Romanet	NCLM
Pete Rodda	NCAAO/NTCA
John Bailo	NCDOR
Jeff Covan	NC FOP

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 550*
Commerce Committee Substitute Adopted 6/9/03
Finance Committee Substitute Adopted 6/23/03

Short Title: Crematory Act Changes. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS TO THE FUNERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. The name of the North Carolina Board of Mortuary Science is changed to the North Carolina Board of Funeral Service. The Revisor of Statutes is authorized to substitute the term "Board of Funeral Service" for the term "Board of Mortuary Science" wherever that term appears in the General Statutes.

SECTION 2. Article 13C of Chapter 90 of the General Statutes reads as rewritten:

"Article 13C.
"Cremations.

"**§ 90-210.40. Short title.**

This Article shall be known and may be cited as the North Carolina Crematory Act.

"**§ 90-210.41. Definitions.**

As used in this Article, unless the context requires otherwise:

~~(1) "Authorizing agent" means a person legally entitled to order, or carry out the legal order for, the cremation of human remains. In the case of indigents or any other individuals whose final disposition is the responsibility of the State, a public official charged with arranging the final disposition of the deceased, if legally authorized, may serve as the authorizing agent. In the case of individuals whose death occurred in a nursing home or other private institution, and in which the institution is charged with making arrangements for the final disposition of the deceased, a representative of the institution, if legally authorized, may serve as the authorizing agent.~~

~~(2) "Board" means the North Carolina State Board of Mortuary Science.~~

~~(3) Repealed by Session Laws 1997-399, s. 16.~~
~~(4) "Closed container" means any container in which cremated remains can be placed and closed in a manner so as to prevent leakage or spillage of cremated remains or the entrance of foreign material.~~
~~(5) "Cremated remains" means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.~~
~~(6) "Cremation" means the technical process, using heat, that reduces human remains to bone fragments.~~
~~(7) "Cremation chamber" means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.~~
~~(8) "Cremation container" means the container in which the human remains are placed in the cremation chamber for a cremation. A cremation container must meet all of the standards established by the rules adopted by the Board.~~
~~(9) "Crematory" means the building or portion of a building that houses the cremation chamber and that may house the holding facility, business office or other part of the crematory business. A crematory must comply with any applicable public health laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.~~
~~(10) "Crematory authority" means the North Carolina Crematory Authority.~~
~~(11) "Crematory operator" means the legal entity which is licensed by the Board to operate a crematory and perform cremations.~~
~~(12) Repealed by Session Laws 1997-399, s. 16.~~
~~(13) "Human remains" means the body of a deceased person, including a human fetus, regardless of the length of gestation, or part of a body that has been removed from a living or deceased person.~~
~~(14) "Niche" means a compartment or cubicle for the memorialization or permanent placement of an urn containing cremated remains.~~
(1) 'Authorizing agent' means a person legally entitled to authorize the cremation of human remains in accordance with G.S. 90-210.44.
(2) 'Board' means the North Carolina Board of Funeral Service.
(3) 'Body parts' means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion thereof that have been donated to science for medical purposes.
(4) 'Casket' means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, or other material and ornamented and lined with fabric, and which may or may not be combustible.

(5) 'Certificate of cremation' means a certificate provided by the crematory manager who performed the cremation containing, at a minimum, the following information:
  a. Name of decedent;
  b. Date of cremation;
  c. Name and address of crematory; and
  d. Signature of crematory manager or person acting as crematory manager.

(6) 'Cremated remains' means all human remains recovered after the completion of the cremation process, including pulverization which leaves only bone fragments reduced to unidentifiable dimensions.

(7) 'Cremation' means the technical process, using intense heat and flame, that reduces human remains to bone fragments. Cremation includes the processing and may include the pulverization of the bone fragments.

(8) 'Cremation chamber' means the enclosed space within which the cremation process takes place. Cremation chambers covered by this Article shall be used exclusively for the cremation of human remains.

(9) 'Cremation container' means the container in which the human remains are transported to the crematory or placed therein upon arrival for storage and placement in a cremation chamber for cremation. A cremation container shall comply with all of the following standards:
  a. Be composed of readily combustible materials suitable for cremation;
  b. Be able to be closed in order to provide a complete covering for the human remains;
  c. Be resistant to leakage or spillage;
  d. Be rigid enough for handling with ease;
  e. Be able to provide protection for the health, safety, and personal integrity of crematory personnel; and
  f. Be easily identifiable. The covering of the cremation container shall contain the following information:
    1. The name of the decedent;
    2. The date of death;
    3. The sex of the decedent; and
    4. The age at death of the decedent.

(10) 'Cremation interment container' means a rigid outer container composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

(11) 'Crematory' or 'crematorium' means the building or buildings or portion of a building on a single site that houses the cremation equipment, the holding and processing facilities, the business office, and other parts of the crematory business. A crematory must comply

with all applicable public health and environmental laws and rules and must contain the equipment and meet all of the standards established by the rules adopted by the Board.

(12) 'Crematory licensee' means the individual or legal entity that is licensed by the Board to operate a crematory and perform cremations.

(13) 'Crematory manager' means the person who is responsible for the management and operation of the crematory. A crematory manager must either be licensed to practice funeral directing or funeral service and be qualified as a crematory technician or must obtain a crematory manager permit issued by the Board. In order to receive a crematory manager permit, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be qualified as a crematory technician.

Notwithstanding any other provision of law, a crematory that is licensed by the Board prior to January 1, 2004, and as of that date is not managed by a crematory manager who is licensed to practice funeral directing or funeral service, or who has a crematory manager permit, may continue to be managed by a crematory manager who is not licensed to practice funeral directing or funeral service or who does not have a crematory manager permit so long as there is no sale, transfer, devise, bequest, gift, or any other disposal of a controlling interest in the crematory.

(14) 'Crematory technician' means any employee of a crematory licensee who has a certificate confirming that the crematory technician has attended a training course approved by the Board. The Board shall recognize the cremation certificate program that is conducted by the Cremation Association of North America (CANA).

(15) 'Final disposition' means the cremation and the ultimate interment, entombment, inurnment, or scattering of the cremated remains or the return of the cremated remains by the crematory licensee to the authorizing agent or such agent's designee as provided in this Article. Upon the written direction of the authorizing agent, cremated remains may take various forms.

(16) 'Holding and processing facility' means an area or areas that are designated for the retention of human remains prior to, and the retention and processing of cremated remains after, cremation; that comply with all applicable public health and environmental laws; preserve the health and safety of the crematory technician and other personnel of the crematory; and that are secure from access by anyone other than authorized persons. A holding facility and processing facility must be located in a crematory.

(17) 'Human remains' means the body of a deceased person, including a separate human fetus, regardless of the length of gestation, or body parts.

(18) 'Niche' means a compartment or cubicle for the memorialization or final disposition of an urn or container containing cremated remains.

(19) 'Processing' means the removal of bone fragments from the cremation chamber for the reduction in size, labeling and packaging, and placing in an urn or temporary container.

(20) 'Pulverization' means the reduction of identifiable or unidentifiable bone fragments after the completion of the cremation to granulated particles by mechanical means.

(21) 'Scattering area' means an area permitted by North Carolina law including, but not limited to, an area designated by a cemetery and located on dedicated cemetery property where cremated remains that have been removed from their container can be mixed with or placed on top of the soil or ground cover.

(22) 'Temporary container' means a receptacle for cremated remains, usually composed of cardboard, plastic, or similar material which can be closed in a manner so as to prevent the leakage or spillage of the cremated remains or the entrance of foreign material and which is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

(23) 'Urn' means a receptacle designed to permanently encase the cremated remains.

"§ 90-210.42. Crematory Authority established.

(a) The North Carolina Crematory Authority is established as a Committee within the Board. The Crematory Authority shall suggest rules to the Board for the carrying out and enforcement of the provisions of this Article.

(b) The Crematory Authority shall initially consist of five members appointed by the Governor and two members of the Board appointed by the Board. The Governor may consider a list of recommendations from the Cremation Association of North Carolina.

(c) The initial terms of the members of the Crematory Authority shall be staggered by the appointing authorities so that the terms of three members (two of which shall be appointees of the Governor) expire December 31, 1991, the terms of two members (both of which shall be appointees of the Governor) expire December 31, 1992, and the terms of the remaining two members (one of which shall be an appointee of the Governor) expire December 31, 1993.

As the terms of the members appointed by the Governor expire, their successors shall be elected from among a list of nominees in an election conducted by the Board in which all licensed crematory operators are eligible to vote. The Board may conduct the election for members of the Crematory Authority simultaneously with the election for members of the Board or at any other time. The Board shall prescribe the procedures and establish the time and date for nominations and elections to the Crematory

Authority. A nominee who receives a majority of the votes cast shall be declared elected. The Board shall appoint the successors to the two positions for which it makes initial appointments pursuant to this section.

The terms of the elected members of the Crematory Authority shall be three years. The terms of the members appointed by the Board, including the members initially appointed pursuant to this subsection, shall be coterminous with their terms on the Board. Any vacancy occurring in an elective seat shall be filled for the unexpired term by majority vote of the remaining members of the Crematory Authority. Any vacancy occurring in a seat appointed by the Governor shall be filled by the Governor. Any vacancy occurring in a seat appointed by the Board shall be filled by the Board.

(d) The members of the Crematory Authority shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 93B-5 for all time actually spent upon the business of the Crematory Authority. All expenses, salaries and per diem provided for in this Article shall be paid from funds received ~~under the provisions of this Article and Article 13A~~ and shall in no manner be an expense to the State.

(e) The Crematory Authority shall select from its members a chairman, a vice chairman and a secretary who shall serve for one year or until their successors are elected and qualified. No two offices may be held by the same person. The Crematory Authority, with the concurrence of the Board, shall have the authority to engage adequate staff as deemed necessary to perform its duties.

(f) The Crematory Authority shall hold at least one meeting in each year. In addition, the Crematory Authority may meet as often as the proper and efficient discharge of its duties shall require. ~~Five~~ Four members shall constitute a quorum.

"§ 90-210.43. Licensing and inspection.

~~(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity may erect, maintain and conduct a crematory in this State and may provide the necessary appliances and facilities for the cremation of human remains, provided that such person has secured a license as a crematory operator in accordance with the provisions of this Article.~~

~~(b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or at any other location consistent with local zoning regulations.~~

~~(c) Application for a license as a crematory operator shall be made on forms furnished and prescribed by the Board. The Board shall examine the premises and structure to be used as a crematory and shall issue a renewable license to the crematory operator if the applicant meets all the requirements and standards of the Board and the requirements of this Article.~~

~~(d) Every application for licensure shall identify the individual who is responsible for overseeing the management and operation of the crematory. The crematory operator shall keep the Board informed at all times of the name and address of the manager.~~

~~(d1) All licenses shall expire on the last day of December of each year. A license may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license may be renewed by paying a late fee as provided in G.S. 90-210.48 in addition to the annual renewal fee. Licenses that remain expired six months or more require a new application for renewal. Licenses are not transferable. A new application for a license shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.~~

~~(e) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity shall cremate any human remains, except in a crematory licensed for this express purpose and under the limitations provided in this Article, or unless otherwise permitted by statute.~~

~~(f) Whenever the Board finds that an owner, partner, manager, member, or officer of a crematory operator or an applicant to become a crematory operator, or that any agent or employee of a crematory operator or an applicant to become a crematory operator, with the direct or implied permission of such owner, partner, manager, member, or officer, has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with the procedures of Chapter 150B:~~

- ~~(1) Conviction of a felony or a crime involving fraud or moral turpitude.~~
- ~~(2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.~~
- ~~(3) False or misleading advertising.~~
- ~~(4) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.~~
- ~~(5) Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been cremated or otherwise disposed of.~~
- ~~(6) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.~~
- ~~(7) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.~~
- ~~(8) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.47(e).~~
- ~~(9) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.~~

~~In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the~~

~~charges whereby the accused shall pay to the Board a penalty of not more than one thousand dollars ($1,000).~~

~~(g) The Board and Crematory Authority may hold hearings in accordance with the provisions of this Article and Chapter 150B. Any such hearing shall be conducted jointly by the Board and the Crematory Authority. The Board and the Crematory Authority shall jointly constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory operators and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.~~

~~In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation or proceeding conducted by it or conducted jointly with the Crematory Authority. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor.~~

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity may erect, maintain, and operate a crematory in this State and may provide the necessary employees, facilities, structure, and equipment for the cremation of human remains, provided that the person or entity has secured a license as a crematory licensee in accordance with this Article.

(b) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment that is zoned commercial or industrial, or at any other location consistent with local zoning and environmental regulations.

(c) Application for a license as a crematory licensee shall be made on forms furnished and prescribed by the Board. The Board shall inspect the premises, facilities, structure, and equipment to be used as a crematory, confirm that the crematory manager's and crematory technician's educational certificate is valid, and issue a renewable license to the crematory licensee if the applicant meets all the requirements and standards of the Board and the requirements of this Article.

(d) Every application for licensure shall identify the crematory manager and all crematory technicians employed by the crematory licensee providing that nothing in this Article shall prohibit the designation and identification by the crematory licensee of one individual to serve as a crematory manager and crematory technician. Each crematory licensed in North Carolina shall employ on a full-time basis at least one crematory technician. Every application for licensure and renewal thereof shall include all crematory technicians' educational certificates. The crematory licensee shall keep the

Board informed at all times of the names and addresses of the crematory manager and all crematory technicians. In the event a licensee is in the process of replacing its only crematory technician at the time of license renewal, the licensee may continue to operate the crematory for a reasonable time period not to exceed 180 days.

(e) All licenses and permits shall expire on the last day of December of each year. A license or permit may be renewed without paying a late fee on or before the first day of February immediately following expiration. After that date, a license or permit may be renewed by paying a late fee as provided in G.S. 90-210.52 in addition to the annual renewal fee. Licenses and permits that remain expired six months or more require a new application for renewal. Licenses and permits are not transferable. A new application for a license or permit shall be made to the Board within 30 days following a change of ownership of more than fifty percent (50%) of the business.

(f) No person, cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization, or any other entity shall cremate any human remains, except in a crematory licensed for this express purpose and operated by a crematory licensee subject to the restrictions and limitations of this Article or unless otherwise permitted by statute.

(g) Whenever the Board finds that an owner, partner, crematory manager, member, officer, or any crematory technician of a crematory licensee or any applicant to become a crematory licensee, or that any authorized employee, agent, or representative has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the General Statutes:

(1) Conviction of a felony or a crime involving fraud or moral turpitude.

(2) Fraud or misrepresentation in obtaining or renewing a license or in the practice of cremation.

(3) False or misleading advertising.

(4) Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this subdivision shall not be construed to prohibit general advertising by the licensee.

(5) Employment directly or indirectly of any agent, assistant, or other person on a part-time or full-time basis or on commission for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular licensee.

(6) The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agent, assistant, or employees for the purpose of securing business.

(7) Gross immorality, including being under the influence of alcohol or drugs while performing cremation services.

(8) Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.

(9) Failing to treat a dead human body with respect at all times.

(10) Violating or cooperating with others to violate any of the provisions of this Article or of the rules of the Board.

(11) Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.

(12) Refusing to surrender promptly the custody of a dead human body or cremated remains upon the express order of the person lawfully entitled to the custody thereof, except as provided in G.S. 90-210.51(e).

(13) Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

(14) Practicing funeral directing, embalming, or funeral service without a license.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars ($5,000).

(h) Where the Board finds a licensee is guilty of one or more of the acts or omissions listed in subsection (g) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter 150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with the probation.

(i) The Board may hold hearings in accordance with the provisions of this Article and Chapter 150B of the General Statutes. The Board shall conduct any such hearing. The Board shall constitute an "agency" under Article 3A of Chapter 150B of the General Statutes with respect to proceedings initiated pursuant to this Article. The Board is empowered to regulate and inspect crematories and crematory licensees and to enforce as provided by law the provisions of this Article and the rules adopted hereunder. Any crematory that, upon inspection, is found not to meet any of the requirements of this Article shall pay a reinspection fee to the Board for each additional inspection that is made to ascertain whether the deficiency or other violation has been corrected.

In addition to the powers enumerated in Chapter 150B of the General Statutes, the Board shall have the power to administer oaths and issue subpoenas requiring the attendance of persons and the production of papers and records before the Board in any hearing, investigation, or proceeding conducted by it. Members of the Board's staff or the sheriff or other appropriate official of any county of this State shall serve all notices, subpoenas, and other papers given to them by the President of the Board for service in the same manner as process issued by any court of record. Any person who neglects or refuses to obey a subpoena issued by the Board shall be guilty of a Class 1 misdemeanor.

"**§ 90-210.44. Authorizing agent.**

(a) The following person, in the priority list below, shall have the right to serve as an "authorizing agent":

(1) An individual at least 18 years of age may authorize the cremation and disposition of the individual's own dead body in a written will, pursuant to health care power of attorney to the extent provided in Article 3 of Chapter 32 of the General Statues, pursuant to a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes, pursuant to a cremation authorization form executed pursuant to Article 13C of Chapter 90 of the General Statutes, or in a written statement signed by the individual and witnessed by two persons who are at least 18 years old. When an individual has authorized his or her own cremation and disposition in accordance with this subsection, the individual or institution designated by that individual shall act as the authorizing agent for that individual.

(2) If a decedent has left no written authorization for the cremation and disposition of the decedent's body as permitted under subdivision (1) of this subsection, the following competent persons in the order listed may authorize the type, method, place, cremation, and disposition of the decedent's body:

a. The surviving spouse.

b. A majority of the surviving children who are at least 18 years of age and can be located after reasonable efforts.

c. The surviving parents.

d. A majority of the surviving siblings who are at least 18 years of age and can be located after reasonable efforts.

e. A majority of the persons in the classes of the next degrees of kinship, in descending order, who, under State law, would inherit the decedent's estate if the decedent died intestate who are at least 18 years of age and can be located after reasonable efforts.

f. A person who has exhibited special care and concern for the decedent and is willing and able to make decisions about the cremation and disposition.

g. In the case of indigents or any other individuals whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner, coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.

h. In the case of individuals who have donated their bodies to science or whose death occurred in a nursing home or private institution and in which the institution is charged with making arrangements for the final disposition of the decedent, a

representative of such institution may serve as the authorizing agent in the absence of any of the above.

i. In the absence of any of the above, any person willing to assume responsibility as authorizing agent, as specified in this act.

This subsection does not grant to any person the right to cancel a preneed funeral contract executed pursuant to Article 13D of Chapter 90 of the General Statutes or to cause or prohibit the substitution of a preneed licensee as authorized under G.S. 90-210.63.

(b) A person who does not exercise his or her right to dispose of the decedent's body under subdivision (a)(2) of this section within five days of notification or 10 days from date of death, whichever is earlier, shall be deemed to have waived his or her right to authorize disposition of the decedent's body or to contest disposition in accordance with this section.

(c) An individual at least 18 years of age may, in a writing signed by the individual, authorize the cremation and disposition of one or more of the individual's body parts that has been or will be removed. If the individual does not authorize the cremation and disposition, a person listed in subdivision (a)(2) of this section may authorize the cremation and disposition as if the individual were deceased.

(d) This section does not apply to the disposition of dead human bodies as anatomical gifts under Part 3 of Article 16 of Chapter 130A of the General Statutes or the right to perform autopsies under Part 2 of Article 16 of Chapter 130A of the General Statutes.

"**§ 90-210.45. Authorization to cremate.**

(a) A crematory licensee shall not cremate human remains until it has received a cremation authorization form signed by an authorizing agent. The cremation authorization form shall be prescribed by the Board and shall contain at a minimum the following information:

(1) The identity of the human remains and confirmation that the human remains are in fact the individual so named.

(2) The time and date of death of the decedent.

(3) The name and address of the funeral establishment and/or the funeral director that obtained the cremation authorization.

(4) The name and address of the crematory to be in receipt of the human remains for the purpose of cremation.

(5) The name and address of the authorizing agent, the relationship between the authorizing agent and the decedent, and the date and time of signature of the authorizing agent.

(6) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in G.S. 90-210.44. Or, in the event that there is another living person who does have a superior priority right to that of the authorizing agent, a representation

that the authorizing agent has made all reasonable efforts to contact such person, has been unable to do so, and has no reason to believe that such person would object to the cremation of the decedent.

(7) A representation that the authorizing agent has either disclosed the location of all living persons with an equal right to that of the authorizing agent, as set forth in G.S. 90-201.44, or does not know the location of any other living person with an equal right to that of the authorizing agent.

(8) Authorization for the crematory to cremate the human remains, including authorization to process or pulverize the cremated remains.

(9) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous to the person performing the cremation.

(10) The name of the person authorized to receive the cremated remains from the crematory licensee.

(11) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form shall indicate that the cremated remains will be held by the crematory licensee for 30 days before they are disposed of, unless they are received from the crematory licensee prior to that time, in person, by the authorizing agent or his designee.

(12) The signature of the authorizing agent attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in subsection (b) of this section.

(13) If a cremation authorization form is being executed on a preneed basis, the cremation authorization form shall contain the disclosure required by G.S. 90-210.46. The authorizing agent may specify in writing religious practices that conflict with Article 13 of this Chapter. The crematory licensee and funeral director shall observe those religious practices except where they interfere with cremation in a licensed crematory as specified under G.S. 90-210.43 or the required documentation and record keeping.

(14) A licensed funeral director of the funeral establishment or crematory licensee that received the cremation authorization form shall also sign the cremation authorization form. Such individual shall not be responsible for any of the representations made by the authorizing agent, unless such individual has actual knowledge to the contrary, except for the information requested by subdivisions (a)(1), (2), (3), (4), and (9) of this section, which shall be considered to be representations of the individual. In addition, the funeral director shall warrant to the crematory that the human remains delivered to the crematory licensee are the human remains identified on the cremation

authorization form with any other documentation required by this State, any county, or any municipality.

(b) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation, except for the information required by subdivisions (a)(4) and (9) of this section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned thereby and resulting therefrom.

(c) A crematory licensee shall have the legal right to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory licensee that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization, except for such crematory licensee's gross negligence, provided that the crematory licensee performs such functions in compliance with the provisions of this Article. There shall be no liability for a funeral establishment or licensee thereof that causes a crematory licensee to cremate human remains pursuant to such authorization, except for gross negligence, provided that the funeral establishment and licensee thereof and crematory licensee perform their respective functions in compliance with the provisions of this section.

(d) After the authorizing agent has executed a cremation authorization form and prior to the commencement of the cremation, the authorizing agent may revoke the authorization and instruct the crematory licensee to cancel the cremation and to release or deliver the human remains to another crematory licensee or funeral establishment. Such instructions shall be provided to the crematory licensee in writing. A crematory licensee shall honor any instructions given to it by an authorizing agent under this section, provided that it receives such instructions prior to commencement of the cremation of the human remains.

"**§ 90-210.46. Preneed cremation arrangements.**

(a) Any person, on a preneed basis, may authorize the person's own cremation and the final disposition of the person's cremated remains by executing, as the authorizing agent, a cremation authorization form on a preneed basis and having the form signed by two witnesses. The person shall retain a copy of this form, and a copy shall be sent to the funeral establishment and/or the crematory licensee. Any person shall have the right to transfer or cancel this authorization at any time prior to the person's death by destroying the executed cremation authorization form and providing written notice to the party or parties that received the cremation authorization form.

(b) Any cremation authorization form executed by an individual as the individual's own authorizing agent on a preneed basis shall contain the following disclosure, which shall be completed by the authorizing agent:

/ / I do not wish to allow any of my survivors the option of canceling my cremation and selecting alternative arrangements, regardless of whether my survivors deem such a change to be appropriate.

/ / I wish to allow only the survivors whom I have designated below the option of canceling my cremation and selecting alternative arrangements or continuing to honor my wishes for cremation and purchasing services and merchandise if they deem such a change to be appropriate.

(c) Except as provided in subsection (b) of this section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a preneed basis, any person in possession of the executed form, and any person charged with making arrangements for the disposition of the decedent's human remains who has knowledge of the existence of the executed form, shall use the person's best efforts to ensure that the decedent's human remains are cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form.

(d) If a crematory licensee is in possession of a completed cremation authorization form, executed on a preneed basis, and the crematory licensee is in possession of the designated human remains, then the crematory licensee shall be required to cremate the human remains and dispose of the human remains according to the instructions contained on the cremation authorization form. A crematory licensee that complies with the preneed cremation authorization form under these circumstances may do so without any liability. A funeral establishment or licensee thereof that causes a crematory licensee to act in accordance with the preneed cremation authorization form under these circumstances may do so without any liability.

(e) Any preneed contract sold by, or preneed arrangements made with, a funeral establishment that includes a cremation shall specify the final disposition of the cremated remains, pursuant to G.S. 90-210.50. In the event that no different or inconsistent instructions are provided to the crematory licensee by the authorizing agent at the time of death, the crematory licensee shall be authorized to release or dispose of the cremated remains as indicated in the preneed agreement. Upon compliance with the terms of the preneed agreement, the crematory licensee, and any funeral establishment or licensee thereof who caused the crematory licensee to act in compliance with the terms of the preneed agreement, shall be discharged from any legal obligation concerning such cremated remains.

(f) The provisions of this section shall not apply to any cremation authorization form or preneed contract executed prior to the effective date of this act. Any funeral establishment, however, with the written approval of the authorizing agent or person who executed the preneed contract, may designate that such cremation authorization form or preneed contract shall be subject to this act.

"~~§ 90-210.44. Authorization and record keeping.~~

~~The Board shall establish requirements for record keeping, authorizations, and cremation reports. It shall be a violation of this Article for any crematory operator to fail to comply with the requirements.~~

"**§ 90-210.47. Record keeping.**

(a) The crematory licensee shall furnish to the person who delivers such human remains to the crematory licensee a receipt, signed by both the crematory licensee and

the person who delivers the human remains, showing the date and time of the delivery; the type of casket or cremation container that was delivered; the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom such person is affiliated; the name of the person who received the human remains on behalf of the crematory licensee; and the name of the decedent. The crematory licensee shall retain a copy of this receipt in its permanent records for three years.

(b) Upon its release of cremated remains, the crematory licensee shall furnish to the person who receives such cremated remains from the crematory licensee a receipt, signed by both the crematory licensee and the person who receives the cremated remains, showing the date and time of the release; the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom such person is affiliated; the name of the person who released the cremated remains on behalf of the crematory licensee; and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records for three years.

(c) A crematory licensee shall maintain at its place of business a record of all forms required by the Board of each cremation that took place at its facility for three years.

(d) The crematory licensee shall maintain a record for three years of all cremated remains disposed of by the crematory licensee in accordance with G.S. 90-210.46(d).

(e) Upon completion of the cremation, the crematory licensee shall issue a certificate of cremation.

(f) All records that are required to be maintained under this Article shall be subject to inspection by the Board or its agents upon request.

"**§ 90-210.48. Cremation containers.**

(a) No crematory licensee shall make or enforce any rules requiring that any human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall any crematory licensee refuse to accept human remains for cremation for the reason that they are not in a casket.

(b) No crematory licensee shall make or enforce any rules requiring that any cremated remains be placed in an urn or receptacle designed to permanently encase the cremated remains after the cremation process has been performed.

~~"§ 90-210.45. Cremation procedures.~~

~~(a) No human body shall be cremated before the crematory operator receives a death certificate signed by the attending physician or an authorization for cremation signed by a medical examiner.~~

~~(b) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious or communicable and dangerous disease as listed by the Commission of Health Services pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred. In the event such death comes under the jurisdiction of the medical examiner, the human remains shall not be received by the crematory operator until authorization to cremate has been received in writing from the medical examiner of the county in which the~~

~~death occurred. In the event the crematory operator is authorized to perform funerals as well as cremation, this restriction on the receipt of human remains shall not be applicable.~~

~~(c) No unauthorized person shall be permitted in the crematory area while any human remains are in the crematory area awaiting cremation, being cremated, or being removed from the cremation chamber. Relatives of the deceased, the authorizing agent, medical examiners and law enforcement officers in the execution of their duties shall be authorized to have access to the holding facility and crematory facility.~~

~~(c1) Human remains shall be cremated only while enclosed in a cremation container.~~

~~(d) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.~~

~~(d1) Every crematory shall have a holding facility, within or adjacent to the crematory, designated for the retention of human remains prior to cremation. The holding facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.~~

~~(e) Crematory operators shall comply with standards established by the Board for the reduction and pulverization of human remains by the cremation process.~~

"**§ 90-210.49. Cremation procedures.**

(a) In deaths certified by the attending physician, the body shall not be cremated before the crematory licensee receives a death certificate signed by the attending physician, which shall contain at a minimum the following information:

(1) Decedent's name;
(2) Date of death;
(3) Date of birth;
(4) Sex;
(5) Place of death;
(6) Facility name (if not institution, give street and number);
(7) County of death;
(8) City of death; and
(9) Time of death (if known).

(b) When required by G.S. 130A-388 and the rules adopted pursuant to that section or by successor statute and the rules pursuant to it, a cremation authorization form signed by a medical examiner shall be received by the crematory prior to cremation.

(c) In deaths coming under full investigation by the Office of the Chief Medical Examiner, a burial-transit permit/cremation authorization form must be received by the crematory before cremation.

(d) No body shall knowingly be cremated with a pacemaker or defibrillator or other potentially hazardous implant or condition in place. The authorizing agent for the cremation of the human remains shall be responsible for taking all necessary steps to ensure that any pacemaker or defibrillator or other potentially hazardous implant or condition is removed or corrected prior to cremation. If an authorizing agent informs the funeral director and the crematory licensee on the cremation authorization form of the

presence of a pacemaker or defibrillator or other potentially hazardous implant or condition in the human remains, then the funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker or defibrillator or other potentially hazardous implant or to correct the hazardous condition before delivering the human remains to the crematory.

(e) Human remains shall not be cremated within 24 hours after the time of death, unless such death was a result of an infectious, contagious, or communicable and dangerous disease as listed by the Commission of Health Services, pursuant to G.S. 130A-134, and unless such time requirement is waived in writing by the medical examiner, county health director, or attending physician where the death occurred.

(f) No unauthorized person shall be permitted in view of the cremation chamber or in the holding and processing facility while any human remains are being removed from the cremation container, processed, or pulverized. Relatives of the deceased and their invitees, the authorizing agent and the agent's invitees, medical examiners, Inspectors of the North Carolina Board of Funeral Service, and law enforcement officers in the execution of their duties shall be authorized to have access to the crematory area, subject to the rules adopted by the crematory licensee governing the safety of such individuals.

(g) Human remains shall be cremated only while enclosed in a cremation container. Upon completion of the cremation, and insofar as is possible, all of the recoverable residue of the cremation process shall be removed from the cremation chamber. Insofar as is possible, all residue of the cremation process shall then be separated from any foreign residue or anything else other than bone fragments and then be processed by pulverization so as to reduce the cremated remains to unidentifiable particles. Any foreign residue and anything other than the particles of the cremated remains shall be removed from the cremated remains as far as possible and shall be disposed of by the crematory licensee. This section does not apply where law otherwise provides for commingling of human remains. The fact that there is incidental and unavoidable residue in the cremation chamber used in a prior cremation is not a violation of this subsection.

(h) The simultaneous cremation of the human remains of more than one person within the same cremation chamber is forbidden.

(i) Every crematory shall have a holding and processing facility, within the crematory, designated for the retention of human remains prior to cremation. The holding and processing facility must comply with any applicable public health laws and rules and must meet all of the standards established pursuant to rules adopted by the Board.

(j) Crematory licensees shall comply with standards established by the Board for the processing and pulverization of human remains by cremation.

(k) Nothing in this Article shall require a crematory licensee to perform a cremation that is impossible or impractical to perform.

(l) The cremated remains with proper identification shall be placed in a temporary container or the urn selected or provided by the authorizing agent. The temporary container or urn contents shall not be contaminated with any other object,

unless specific authorization has been received from the authorizing agent or as provided in subsection (g) of this section.

(m) If the cremated remains are greater than the dimensions of a temporary container or urn, the excess cremated remains shall be returned to the authorizing agent or its representative in a separate container or urn.

(n) If the cremated remains are to be shipped, the temporary container or urn shall be packed securely in a suitable shipping container that complies with the requirements of the shipper. Cremated remains shall be shipped only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery, unless otherwise authorized in writing by the authorizing agent. Cremated remains shall be shipped to the proper address as stated on the cremation authorization form signed by the authorizing agent.

"~~§ 90-210.46. Disposition of cremated remains.~~

~~(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory operator may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory operator pursuant to G.S. 90-210.44.~~

~~(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or his representative has not specified the ultimate disposition or claimed the cremated remains, the crematory operator or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory operator for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making such disposition. Upon disposing of cremated remains in accordance with this section, the crematory operator or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.~~

~~(c) In addition to the disposal of cremated remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public land, the sea or other public waterways pursuant to subsection (f) of this section, cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of by the crematory operator on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory operator with the written consent of the property owner.~~

~~(d) Except with the express written permission of the authorizing agent no person may:~~

~~(1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or~~

~~to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes.~~

~~(2) Place cremated remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person.~~

~~(e) Cremated remains shall be delivered by the crematory operator to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory operator and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.~~

~~(f) Cremated remains may be scattered over uninhabited public land, a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner pursuant to subsection (c) of this section. A person may utilize a boat or airplane to perform such scattering. Cremated remains shall be removed from their closed container before they are scattered.~~

"**§ 90-210.50. Final disposition of cremated remains.**

(a) The authorizing agent shall provide the person with whom cremation arrangements are made with a signed statement specifying the ultimate disposition of the cremated remains, if known. The crematory licensee may store or retain cremated remains as directed by the authorizing agent. Records of retention and disposition of cremated remains shall be kept by the crematory licensee pursuant to G.S. 90-210.47.

(b) The authorizing agent is responsible for the disposition of the cremated remains. If, after a period of 30 days from the date of cremation, the authorizing agent or the agent's representative has not specified the final disposition or claimed the cremated remains, the crematory licensee or the person in possession of the cremated remains may dispose of the cremated remains only in a manner permitted in this section. The authorizing agent shall be responsible for reimbursing the crematory licensee for all reasonable expenses incurred in disposing of the cremated remains pursuant to this section. A record of such disposition shall be made and kept by the person making the disposition. Upon disposing of cremated remains in accordance with this section, the crematory licensee or person in possession of the cremated remains shall be discharged from any legal obligation or liability concerning such cremated remains.

(c) In addition to the disposal of cremated remains in a crypt, niche, grave, or scattering garden located in a dedicated cemetery, or by scattering over uninhabited public land, the sea, or other public waterways pursuant to subsection (f) of this section, cremated remains may be disposed of in any manner on the private property of a consenting owner, upon direction of the authorizing agent. If cremated remains are to be disposed of by the crematory licensee on private property, other than dedicated cemetery property, the authorizing agent shall provide the crematory licensee with the written consent of the property owner.

(d) Except with the express written permission of the authorizing agent, no person may:

(1) Dispose of or scatter cremated remains in such a manner or in such a location that the cremated remains are commingled with those of another person. This subdivision shall not apply to the scattering of cremated remains at sea or by air from individual closed containers or to the scattering of cremated remains in an area located in a dedicated cemetery and used exclusively for such purposes.

(2) Place cremated remains of more than one person in the same closed container. This subdivision shall not apply to placing the cremated remains of members of the same family in a common closed container designed for the cremated remains of more than one person with the written consent of the family.

(e) Cremated remains shall be released by the crematory licensee to the individual specified by the authorizing agent on the cremation authorization form. The representative of the crematory licensee and the individual receiving the cremated remains shall sign a receipt indicating the name of the deceased, and the date, time, and place of the receipt, and contain a representation that the handling of the final disposition will be in a proper manner. After this delivery, the cremated remains may be transported in any manner in this State, without a permit, and disposed of in accordance with the provisions of this Article.

(f) Cremated remains may be scattered over uninhabited public land, over a public waterway or sea, subject to health and environmental standards, or on the private property of a consenting owner pursuant to subsection (c) of this section. A person may utilize a boat or airplane to perform such scattering. Cremated remains shall be removed from their closed container before they are scattered.

"~~§ 90-210.47. Liability.~~

~~(a) Any person signing a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.~~

~~(b) A crematory operator shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory operator that cremates human remains pursuant to such authorization, or that releases or disposes of the cremated remains pursuant to such authorization.~~

~~(c) A crematory operator shall not be responsible or liable for any valuables delivered to the crematory operator with human remains.~~

~~(d) A crematory operator shall not be liable for refusing to accept a body or to perform a cremation until it receives a court order or other suitable confirmation that a dispute has been settled if:~~

~~(1) It is aware of any dispute concerning the cremation of human remains;~~

~~(2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or~~

~~(3) For any other lawful reason.~~

~~(e) If a crematory operator is aware of any dispute concerning the release or disposition of the cremated remains, the crematory operator may refuse to release the cremated remains until the dispute has been resolved or the crematory operator has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory operator shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection.~~

"**§ 90-210.51. Limitation of liability.**

(a) Any person signing a cremation authorization form as authorizing agent shall be deemed to warrant the truthfulness of any facts set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.

(b) A crematory licensee shall have authority to cremate human remains only upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability of a crematory licensee that cremates human remains pursuant to such authorization or that releases or disposes of the cremated remains pursuant to such authorization. A crematory licensee and funeral establishment or licensee thereof who causes the crematory licensee to act shall have no liability for the final disposition or manner in which the cremated remains are handled after the cremated remains are released in accordance with the directions of the authorizing agent.

(c) A crematory licensee shall not be responsible or liable for any valuables delivered to the crematory licensee with human remains.

(d) A crematory licensee shall not be liable for refusing to accept a body or to perform a cremation until it receives a court order or other suitable confirmation that a dispute has been settled if:

(1) It is aware of any dispute concerning the cremation of human remains;

(2) It has a reasonable basis for questioning any of the representations made by the authorizing agent; or .

(3) For any other lawful reason.

(e) If a crematory licensee is aware of any dispute concerning the release or disposition of the cremated remains, the crematory licensee may refuse to release the cremated remains until the dispute has been resolved or the crematory licensee has been provided with a court order authorizing the release or disposition of the cremated remains. A crematory licensee shall not be liable for refusing to release or dispose of cremated remains in accordance with this subsection. A crematory licensee may charge a reasonable storage fee if the dispute is not resolved within 30 days after it is received by the crematory licensee.

"~~**§ 90-210.48. Fees.**~~

~~(a) The Board may set and collect fees not to exceed the following amounts from licensed crematory operators and applicants:~~

~~(1)~~	~~Licensee application fee~~	~~$400.00~~
~~(2)~~	~~Annual renewal fee~~	~~150.00~~
~~(3)~~	~~Late renewal penalty~~	~~75.00~~

~~(4) Re-inspection fee 100.00~~
~~(5) Per cremation fee. 10.00~~
~~(6) Late fee, per cremation. 10.00~~
~~(7) Late fee, cremation report 75.00 per month.~~

~~(b) The funds collected pursuant to this Article shall become part of the general fund of the Board. The cost of the maintenance of the Crematory Authority shall be deemed a general expense of the Board. The Board shall keep an accurate accounting of all the receipts and expenditures made pursuant to this Article and shall provide a current report of such to the Crematory Authority biannually.~~

"**§ 90-210.52. Fees.**

(a) The Board may set and collect fees not to exceed the following amounts from crematory licensees, crematory manager permit holders, and applicants:

(1)	Licensee application fee	$400.00
(2)	Annual renewal fee	150.00
(3)	Late renewal fee	75.00
(4)	Reinspection fee	100.00
(5)	Per cremation fee	10.00
(6)	Late fee, per cremation	10.00
(7)	Late fee, cremation report	75.00 per month
(8)	Crematory manager permit application fee	150.00
(9)	Annual crematory manager permit renewal fee	40.00.

(b) The funds collected pursuant to this Article shall become part of the general fund of the Board.

"~~**§ 90-210.49. Crematory operator authority.**~~

~~(a) A crematory operator may employ a licensed funeral director for the purpose of arranging cremations with the general public, transporting human remains to the crematory, and processing all necessary paper work. Nothing in this provision may be construed to require a licensed funeral director to perform any functions not otherwise required by law to be performed by a licensed funeral director.~~

~~(b) A crematory operator may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be construed to prevent a crematory operator from adopting rules which are more stringent than the provisions of this Article.~~

~~(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory operators for or directly with the public, or exclusively for or through licensed funeral directors.~~

~~(d) Nothing in this Article may be construed to prohibit a crematory operator from transporting human remains.~~

~~(e) Nothing in this Article may be construed to relieve the holder of a license issued hereunder from obtaining any other licenses or permits required by law.~~

"**§ 90-210.53. Crematory licensee rights.**

(a) A crematory licensee may adopt reasonable rules consistent with this Article for the management and operation of a crematory. Nothing in this subsection may be

construed to prevent a crematory licensee from adopting rules which are more stringent than the provisions of this Article.

(b) Nothing in this Article may be construed to relieve the crematory licensee from obtaining any other licenses or permits required by law.

(c) Nothing in this Article shall prohibit or require the performance of cremations by crematory licensees or crematory managers for or directly with the public or exclusively for or through licensed funeral directors.

~~"§ 90-210.50. Rule making; applicability; violations; and prohibitions of Article.~~

~~(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States. The Board shall adopt rules only after consideration of the Crematory Authority's suggested rules pursuant to G.S. 90-210.42(a). The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.~~

~~(b) The provisions of this Article shall not apply to the cremation of human remains and medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such human remains and medical waste is the legal responsibility of said institutions.~~

~~(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.~~

~~(d) No person, firm, or corporation may request or authorize cremation or cremate a dead human body when he has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate has thereafter been obtained.~~

"**§ 90-210.54. Rulemaking, applicability, violations, and prohibitions of Article.**

(a) The Board is authorized to adopt and promulgate such rules for the carrying out and enforcement of the provisions of this Article as may be necessary and as are consistent with the laws of this State and of the United States. The Board may develop a Standard Cremation Authorization Form and procedures for its execution that shall be used by the crematory licensee subject to this Article, unless a crematory has its own form approved by the Board. A crematory licensee that uses its own approved cremation authorization form must have the cremation authorization form reapproved if changed or after amendments are made to this Article or the rules adopted by the Board related to cremation authorization forms. The Board may perform such other acts and exercise such other powers and duties as may be provided in this Article, in Article 13A of this Chapter, and otherwise by law and as may be necessary to carry out the powers herein conferred.

(b) The provisions of this Article shall not apply to the cremation of medical waste performed by the North Carolina Anatomical Commission, licensed hospitals and medical schools, and the office of the Chief Medical Examiner when the disposition of such medical waste is the legal responsibility of the institutions.

(c) A violation of any of the provisions of this Article is a Class 2 misdemeanor.

(d) No person, firm, or corporation may request or authorize cremation or cremate human remains when the person, firm, or corporation has information indicating a crime or violence of any sort in connection with the cause of death unless such information has been conveyed to the State or county medical examiner and permission from the State or county medical examiner to cremate the human remains has thereafter been obtained."

SECTION 3. G.S. 90-210.20(e1) reads as rewritten:

"(e1) "Funeral chapel" means a chapel or other facility separate from the funeral establishment premises for the primary purpose of reposing of dead human bodies, visitation or funeral ceremony that is owned, operated, or maintained by a funeral establishment or other licensee under this Article, and that does not use the word "funeral" in its name, on a sign, in a directory, in advertising or in any other manner; in which or on the premises of which there is not displayed ~~or offered for sale~~ any caskets or other funeral merchandise; in which or on the premises of which there is not located any ~~funeral business office or a~~ preparation room; ~~in which or on the premises of which no funeral sales, financing, or arrangements are made;~~ and which no owner, operator, employee, or agent thereof represents the chapel to be a funeral establishment."

SECTION 4. G.S. 90-210.22 reads as rewritten:

"**§ 90-210.22. Required meetings of the Board.**

The Board shall hold at least ~~two~~ four meetings in each ~~year at which examinations shall be given to qualified applicants for licenses.~~ year. In addition, the Board may meet as often as the proper and efficient discharge of its duties shall require. Five members shall constitute a quorum."

SECTION 5.(a) G.S. 90-210.23(b) reads as rewritten:

"**§ 90-210.23. Powers and duties of the Board.**

...

(b) The Board shall elect from its members a president, a vice-president and a secretary, no two offices to be held by the same person. The president and vice-president and secretary shall serve for one year and until their successors shall be elected and ~~qualify.~~ qualified. The Board shall have authority to engage adequate staff as deemed necessary to perform its duties."

SECTION 5.(b) G.S. 90-210.23 is amended by adding the following new subsections to read:

"(h1) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(h2) The Board may employ legal counsel and clerical and technical assistance, and fix the compensation therefor, and incur such other expenses as may be deemed necessary in the performance of its duties and the enforcement of the provisions of this Article or as otherwise required by law and as may be necessary to carry out the powers herein conferred."

SECTION 6. G.S. 90-210.24(a) reads as rewritten:

"**§ 90-210.24. Inspector.**

(a) The Board may appoint one or more agents who shall serve at the pleasure of the Board and who shall have the title "Inspector of the ~~Board of Mortuary Science of North Carolina".~~North Carolina Board of Funeral Service." No person is eligible for appointment as inspector unless at the time of ~~his~~ the appointment ~~he~~ the person is licensed under this Article as a funeral service licensee."

SECTION 7. G.S. 90-210.25 reads as rewritten:

"**§ 90-210.25. Licensing.**

(a) Qualifications, Examinations, Resident Traineeship and Licensure. –

(1) To be licensed for the practice of funeral directing under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a Funeral Director Program at a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of 32 semester hours or 48 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.

d. Have completed 12 months of resident traineeship as a funeral director, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written funeral director examination on the following subjects:

1. Psychology, sociology, pathology, funeral directing, business law, funeral law, funeral management, and accounting.

2. Repealed by 1997-399, s. 5.

3. Laws of North Carolina and rules of the Board ~~of Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.

(2) To be licensed for the practice of embalming under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of a mortuary science college approved by the Board.

d. Have completed 12 months of resident traineeship as an embalmer pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivision c. of this subdivision.

e. Have passed an oral or written embalmer examination on the following subjects:

1. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
2. Repealed by 1997-399, s. 6.
3. Laws of North Carolina and rules of the Board ~~of Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.

(3) To be licensed for the practice of funeral service under this Article, a person must:

a. Be at least 18 years of age.

b. Be of good moral character.

c. Be a graduate of and receive an associate degree from a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education. Have completed a minimum of ~~32~~ 60 semester hours or ~~48~~ 90 quarter hours of instruction, including the subjects set out in sub-part e.1. of this subdivision, as prescribed by a mortuary science college approved by the Board or a school of mortuary science accredited by the American Board of Funeral Service Education.

d. Have completed 12 months of resident traineeship as a funeral service licensee, pursuant to the procedures and conditions set out in G.S. 90-210.25(a)(4), either before or after satisfying the educational requirement under sub-subdivison c. of this subdivision.

e. Have passed an oral or written funeral service examination on the following subjects:

1. Psychology, sociology, funeral directing, business law, funeral law, funeral management, and accounting.
2. Embalming, restorative arts, chemistry, pathology, microbiology, and anatomy.
3. Repealed by 1997-399, s. 7.
4. Laws of North Carolina and rules of the Board ~~of Mortuary Science~~ and other agencies dealing with the care, transportation and disposition of dead human bodies.

(4) a. A person desiring to become a resident trainee shall apply to the Board on a form provided by the Board. The application shall state that the applicant is not less than 18 years of age, of good moral character, and is the graduate of a high school or the equivalent thereof, and shall indicate the licensee under whom the applicant expects to train. A person training to become an embalmer may serve under either a licensed embalmer or a funeral service licensee. A person training to become a funeral director may serve under either a licensed funeral director or a funeral service licensee. A person training to become a funeral service licensee shall serve under a funeral service licensee. The application must be sustained by oath of the applicant and be accompanied by the appropriate fee. When the Board is satisfied as to the qualifications of an applicant it shall instruct the secretary to issue a certificate of resident traineeship.

b. When a resident trainee leaves the proctorship of the licensee under whom the trainee has worked, the licensee shall file with the Board an affidavit showing the length of time served with the licensee by the trainee, and the affidavit shall be made a matter of record in the Board's office. The licensee shall deliver a copy of the affidavit to the trainee.

c. A person who has not completed the traineeship and wishes to do so under a licensee other than the one whose name appears on the original certificate may reapply to the Board for ~~approval, without payment of an additional fee.~~approval.

d. A certificate of resident traineeship shall be signed by the resident trainee and upon payment of the renewal fee shall be renewable one year after the date of original registration; but the certificate may not be renewed more than ~~one time.~~ two times. The Board shall mail to each registered trainee at his last known address a notice that the renewal fee is due and that, if not paid within 30 days of the notice, the certificate will be canceled. A ~~penalty,~~ late fee, in addition to the renewal fee, shall be charged for a late renewal, but the renewal of the registration of any resident trainee who is engaged in the active military service of the United States at the time renewal is due may, at the discretion of the Board, be held in abeyance for the duration of that service without penalties. No credit shall be allowed for the 12-month period of resident traineeship that shall have been completed more than ~~three~~ five years preceding the examination for a license.

e. All registered resident trainees shall report to the Board at least once every month during traineeship upon forms provided by the Board listing the work which has been completed during the

preceding month of resident traineeship. The data contained in the reports shall be certified as correct by the licensee under whom the trainee has served during the period and by the licensed person who is managing the funeral service establishment. Each report shall list the following:

1. For funeral director trainees, the conduct of any funerals during the relevant time period,
2. For embalming trainees, the embalming of any bodies during the relevant time period,
3. For funeral service trainees, both of the activities named in 1 and 2 of this subsection, engaged in during the relevant time period.

f. To meet the resident traineeship requirements of G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3) the following must be shown by the affidavit(s) of the licensee(s) under whom the trainee worked:

1. That the funeral director trainee has, under supervision, assisted in directing at least 25 funerals during the resident traineeship,
2. That the embalmer trainee has, under supervision, assisted in embalming at least 25 bodies during the resident traineeship,
3. That the funeral service trainee has, under ~~supervision~~ supervision, assisted in directing at least 25 funerals and, under supervision, assisted in embalming at least 25 bodies during the resident traineeship.

g. The Board may suspend or revoke a certificate of resident traineeship for violation of any provision of this Article.

h. Each sponsor for a registered resident trainee must during the period of sponsorship be actively employed with a funeral establishment. The traineeship shall be a primary vocation of the trainee.

i. Only one resident trainee may register and serve at any one time under any one person licensed under this Article.

j., k. Repealed by Session Laws 1991, c. 528, s. 4.

l. The Board shall register no more than one resident trainee at a funeral establishment that served 100 or fewer families during the 12 months immediately preceding the date of the application, and shall register no more than one resident trainee for each additional 100 families served at the funeral establishment during the 12 months immediately preceding the date of the application.

(5) The Board by regulation may recognize other examinations that the Board deems equivalent to its own.

a. All licenses shall be signed by the president and secretary of the Board and the seal of the Board affixed thereto. All licenses shall be issued, renewed or duplicated for a period not exceeding one year upon payment of the renewal fee, and all licenses, renewals or duplicates thereof shall expire and terminate the thirty-first day of December following the date of their issue unless sooner revoked and canceled; provided, that the date of expiration may be changed by unanimous consent of the Board and upon 90 days' written notice of such change to all persons licensed for the practice of funeral directing, embalming and funeral service in this State.

b. The holder of any license issued by the Board who shall fail to renew the same on or before ~~January 31~~February 1 of the calendar year for which the license is to be renewed shall have forfeited and surrendered the license as of that date. No license forfeited or surrendered pursuant to the preceding sentence shall be reinstated by the Board unless it is shown to the Board that the applicant has, throughout the period of forfeiture, engaged full time in another state of the United States or the District of Columbia in the practice to which his North Carolina license applies and has completed for each such year continuing education substantially equivalent in the opinion of the Board to that required of North Carolina licensees; or has completed in North Carolina a total number of hours of accredited continuing education computed by multiplying five times the number of years of forfeiture; or has passed the North Carolina examination for the forfeited license. No additional resident traineeship shall be required. The applicant shall be required to pay all delinquent annual renewal fees and a reinstatement fee. The Board may waive the provisions of this section for an applicant for a forfeiture which occurred during his service in the armed forces of the United States provided he applies within six months following severance therefrom.

c. All licensees now or hereafter licensed in North Carolina shall take continuing education courses ~~of study~~ in subjects relating to the practice of the profession for which they are licensed, to the end that ~~new techniques, scientific and clinical advances, the achievements of research and~~ the benefits of learning and reviewing skills will be utilized and applied to assure proper service to the public.

d. As a prerequisite to the annual renewal of a license, the licensee must complete, during the year immediately preceding renewal, at least five hours of continuing education courses, of which the Board may require licensees to take up to two hours specified

by the Board. All continuing education courses must be approved by the Board prior to enrollment. A licensee who completes more than five hours in a year may carry over a maximum of five hours as a credit to the following year's requirement. A licensee who is issued an initial license on or after July 1 does not have to satisfy the continuing education requirement for that year.

e. The Board shall not renew a license unless fulfillment of the continuing education requirement has been certified to it on a form provided by the Board, but the Board may waive this requirement for renewal in cases of certified illness or undue hardship or where the licensee lives outside of North Carolina and does not practice in North Carolina, and the Board shall waive the requirement for all licensees who were licensed on or before December 31, 2003, and have been licensed in North Carolina for a continuous period of 25 years or more, for all licensees who are licensed on or after January 1, 2004, who have been licensed for a continuous period of 25 years or more and have attained the age of 60 years, and for all licensees who are, at the time of renewal, members of the General Assembly.

f. The Board shall cause to be established and offered to the licensees, each calendar year, at least ~~five~~ eight hours of continuing education ~~courses in subjects encompassing the license categories of embalming, funeral directing and funeral service.~~courses. The Board may charge licensees attending these courses a reasonable registration fee in order to meet the expenses thereof and may also meet those expenses from other funds received under the provisions of this Article.

g. Any person who having been previously licensed by the Board as a funeral director or embalmer prior to July 1, 1975, shall not be required to satisfy the requirements herein for licensure as a funeral service licensee, but shall be entitled to have such license renewed upon making proper application therefor and upon payment of the renewal fee provided by the provisions of this Article. Persons previously licensed by the Board as a funeral director may engage in funeral directing, and persons previously licensed by the Board as an embalmer may engage in embalming. Any person having been previously licensed by the Board as both a funeral director and an embalmer may upon application therefor receive a license as a funeral service licensee.

h. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a new or renewal license, or certification through the Board. The Board shall

provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subdivision.

(a1) Inactive Licenses. – Any person holding a license issued by the Board for funeral directing, for embalming, or for the practice of funeral service may apply for an inactive license in the same category as the active license held. The inactive license is renewable annually. Continuing education is not required for the renewal of an inactive license. The only activity that a holder of an inactive license may engage in is to vote pursuant to G.S. 90-210.18(c)(2). The holder of an inactive license may apply for an active license in the same category, and the Board shall issue an active license if the applicant has completed in North Carolina a total number of hours of accredited continuing education equal to five times the number of years the applicant held the inactive license. No application fee is required for the reinstatement of an active license pursuant to this subsection. The holder of an inactive license who returns to active status shall surrender the inactive license to the Board.

(a2) In order to engage in the practice of funeral directing or funeral service, such a licensee must own, be employed by, or otherwise be an agent of a licensed funeral establishment; except that such a licensee may practice funeral directing or funeral service if:

(1) Employed by a college of mortuary science; or

(2) The licensee:

a. Maintains all of his or her business records at a location made known to the Board and available for inspection by the Board under the same terms and conditions as the business records of a licensed funeral establishment;

b. Complies with rules and regulations imposed on funeral establishments and the funeral profession that are designed to protect consumers, to include, but not be limited to, the Federal

Trade Commission's laws and rules requiring General Price Lists and Statements of Goods and Services; and

c. Pays to the Board the funeral establishment license fee required by law and set by the Board.

Nothing in this subdivision shall preclude a licensee from arranging cremations and cremating human remains while employed by a crematory.

(b) Persons Licensed under the Laws of Other Jurisdictions. –

(1) The Board shall grant licenses to funeral directors, embalmers and funeral service licensees, licensed in other states, territories, the District of Columbia, and foreign countries, when it is shown that the applicant holds a valid license as a funeral director, embalmer or funeral service licensee issued by the other jurisdiction, has demonstrated knowledge of the laws and ~~regulations~~ rules governing the profession in North Carolina and has submitted proof of his good moral character; and either that the applicant has continuously practiced the profession in the other jurisdiction for at least three years immediately preceding his application, or the Board has determined that the licensing requirements for the other jurisdiction are substantially similar to those of North Carolina.

(2) The Board shall periodically review the mortuary science licensing requirements of other jurisdictions and shall determine which licensing requirements are substantially similar to the requirements of North Carolina.

(3) The Board may issue special permits, to be known as courtesy cards, permitting nonresident funeral directors, embalmers and funeral service licensees to remove bodies from and to arrange and direct funerals and embalm bodies in this State, but these privileges shall not include the right to establish a place of business in or engage generally in the business of funeral directing and embalming in this State. Except for special permits issued by the Board for teaching continuing education programs and for work in connection with disasters, no special permits may be issued to nonresident funeral directors, embalmers, and funeral service licensees from states that do not issue similar courtesy cards to persons licensed in North Carolina pursuant to this Article.

(c) Registration, Filing and Transportation. –

(1) The holder of any license granted by this State for those within the funeral service profession or renewal thereof provided for in this Article shall cause registration to be filed in the office of the board of health of the county or city in which he practices his profession, or if there be no board of health in such county or city, at the office of the clerk of the superior court of such county. All such licenses, certificates, duplicates and renewals thereof shall be displayed in a

conspicuous place in the funeral establishment where the holder renders service.

(2) It shall be unlawful for any railway agent, express agency, baggage master, conductor or other person acting as such, to receive the dead body of any person for shipment or transportation by railway or other public conveyance, to a point outside of this State, unless the body is accompanied by a burial-transit permit.

(3) The "transportation or removal of a dead human body" shall mean the removal of a dead human body for a fee from the location of the place of death or discovery of death or the transportation of the body to or from a medical facility, funeral establishment or facility, crematory or related holding facility, place of final disposition, or place designated by the Medical Examiner for examination or autopsy of the dead human body.

(4) Any individual, not otherwise exempt from this subsection, shall apply for and receive a permit from the Board before engaging in the transportation or removal of a dead human body in this State. Unless otherwise exempt from this subsection, no corporation or other business entity shall engage in the transportation or removal of a dead human body unless it has in its employ at least one individual who holds a permit issued under this section. No individual permit holder shall engage in the transportation or removal of a dead human body for more than one person, firm, or corporation without first providing the Board with written notification of the name and physical address of each such employer.

(5) The following persons shall be exempt from the permit requirements of this section but shall otherwise be subject to subdivision (9) of this subsection and any rules relating to the proper handling, care, removal, or transportation of a dead human body:

a. Licensees under this Article and their employees.

b. Employees of common carriers.

c. Except as provided in sub-subdivision (6)c. of this section, employees of the State and its agencies and employees of local governments and their agencies.

d. Funeral directors licensed in another state and their employees.

(6) The following persons shall be exempt from this section:

a. Emergency medical technicians, rescue squad workers, volunteer and paid firemen, and law enforcement officers.

b. Employees of public or private hospitals, nursing homes, or long-term care facilities, while handling a dead human body within such facility or while acting within the scope of their employment.

c. State and county medical examiners and their investigators.

d. Any individual transporting cremated remains.

e. Any individual transporting or removing a dead human body of their immediate family or next of kin.

f. Any individual who has exhibited special care and concern for the decedent.

(7) Individuals eligible to receive a permit under this section for the transportation or removal of a dead human body for a fee, shall:

a. Be at least 18 years of age.

b. Possess and maintain a valid drivers license issued by this State and provide proof of all liability insurance required for the registration of any vehicle in which the person intends to engage in the business of the removal or transportation of a dead human body.

c. Affirmatively state under oath that the person has read and understands the statutes and rules relating to the removal and transportation of dead human bodies and any guidelines as may be adopted by the Board.

d. Provide three written character references on a form prescribed by the Board, one of which must be from a licensed funeral director.

e. Be of good moral character.

(8) The permit issued under this section shall expire on December 31 of each year. The application fee for the individual permit shall not exceed one hundred twenty-five dollars ($125.00). A fee, not to exceed one hundred dollars ($100.00), in addition to the renewal fee not to exceed seventy-five dollars ($75.00), shall be charged for any application for renewal received by the Board after February 1 of each year.

(9) No person shall transport a dead human body in the open cargo area or passenger area of a vehicle or in any vehicle in which the body may be viewed by the public. Any person removing or transporting a dead human body shall either cover the body, place it upon a stretcher designed for the purpose of transporting humans or dead human bodies in a vehicle, and secure such stretcher in the vehicle used for transportation, or shall enclose the body in a casket or container designed for common carrier transportation, and secure the casket or container in the vehicle used for transportation. No person shall fail to treat a dead human body with respect at all times. ~~use profanity, indecent, or obscene language in the presence of a dead human body.~~ No person shall take a photograph or video recording of a dead human body without the consent of a member of the deceased's immediate family or next of ~~kin.~~kin or other authorizing agent.

(10) The Board may adopt rules under this section including permit application procedures and the proper procedures for the removal, handling, and transportation of dead human bodies. The Board shall

consult with the Office of the Chief Medical Examiner before initiating rule making under this section and before adopting any rules pursuant to this section. Nothing in this section prohibits the Office of the Chief Medical Examiner from adopting policies and procedures regarding the removal, transportation, or handling of a dead human body under the jurisdiction of that office that are more stringent than the laws in this section or any rules adopted under this section. Any violation of this section or rules adopted under this section may be punished by the Board by a suspension or revocation of the permit to transport or remove dead human bodies or by a term of probation. The Board may, in lieu of any disciplinary measure, accept a penalty not to exceed five thousand dollars ($5,000) per violation.

(11) Each applicant for a permit shall provide the Board with the applicant's home address, name and address of any corporation or business entity employing such individual for the removal or transportation of dead human bodies, and the make, year, model, and license plate number of any vehicle in which a dead human body is transported. A permittee shall provide written notification to the Board of any change in the information required to be provided to the Board by this section or by the application for a permit within 30 days after such change takes place.

(12) If any person shall engage in or hold himself out as engaging in the business of transportation or removal of a dead human body without first having received a permit under this section, the person shall be guilty of a Class 2 misdemeanor.

(13) The Board shall have the authority to inspect any place or premises that the business of removing or transporting a dead human body is carried out and shall also have the right of inspection of any vehicle and equipment used by a permittee for the removal or transportation of a dead human body.

(d) Establishment Permit. –

(1) No person, firm or corporation shall conduct, maintain, manage or operate a funeral establishment unless a permit for that establishment has been issued by the Board and is conspicuously displayed in the establishment. Each funeral establishment at a specific location shall be deemed to be a separate entity and shall require a separate permit and compliance with the requirements of this Article.

(2) A permit shall be issued when:

a. It is shown that the funeral establishment has in charge a person, known as a manager, licensed for the practice of funeral directing or funeral service, who shall not be permitted to manage more than one funeral establishment.

b. The Board receives a list of the names of all part-time and full-time licensees employed by the establishment.

c. It is shown that the funeral establishment satisfies the requirements of G.S. 90-210.27A.

d. The Board receives payment of the permit fee.

(3) Applications for funeral establishment permits shall be made on forms provided by the Board and filed with the Board by the owner, a partner, a member of the limited liability company, or an officer of the corporation by January 1 of each year, and shall be accompanied by the application fee or renewal fee, as the case may be. All permits shall expire on December 31 of each year. If the renewal application and renewal fee are not received in the Board's office on or before February 1, a late renewal fee, ~~A penalty for late renewal,~~ in addition to the regular renewal fee, shall be ~~charged for renewal of registration received after the first day of February.~~charged.

(4) The Board may suspend or revoke a permit when an owner, partner, manager, member, operator, or officer of the funeral establishment violates any provision of this Article or any regulations of the Board, or when any agent or employee of the funeral establishment, with the consent of any person, firm or corporation operating the funeral establishment, violates any of those provisions, rules or regulations.

(5) Funeral establishment permits are not transferable. A new application for a permit shall be made to the Board within 30 days of a change of ownership of a funeral establishment.

(d1) Embalming Outside Establishment. – An embalmer who engages in embalming in a facility other than a funeral establishment or in the residence of the deceased person shall, no later than January 1 of each year, register the facility with the Board on forms provided by the Board.

(e) Revocation; Suspension; Compromise; Disclosure. –

(1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter ~~150B:~~150B of the General Statutes:

a. Conviction of a felony or a crime involving fraud or moral turpitude.

b. Fraud or misrepresentation in obtaining or renewing a license or in the practice of funeral service.

c. False or misleading advertising as the holder of a license.

d. Solicitation of dead human bodies by the licensee, his agents, assistants, or employees; but this paragraph shall not be construed to prohibit general advertising by the licensee.

e. Employment directly or indirectly of any resident trainee agent, assistant or other person, on a part-time or full-time basis, or on commission, for the purpose of calling upon individuals or

institutions by whose influence dead human bodies may be turned over to a particular licensee.

f. The ~~direct or indirect giving of certificates of credit or the~~ payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing ~~business.~~business except as authorized by Article 13D of this Chapter.

g. Gross immorality, including being under the influence of alcohol or drugs while practicing funeral service.

h. Aiding or abetting an unlicensed person to perform services under this Article, including the use of a picture or name in connection with advertisements or other written material published or caused to be published by the licensee.

i. Failing to treat a dead human body with respect at all times. ~~Using profane, indecent or obscene language in the presence of a dead human body, and within the immediate hearing of the family or relatives of a deceased, whose body has not yet been interred or otherwise disposed of.~~

j. Violating or cooperating with others to violate any of the provisions of this Article, the rules and regulations of the Board, or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

k. Violation of any State law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies.

l. Refusing to surrender promptly the custody of a dead human body upon the express order of the person lawfully entitled to the custody thereof.

m. Knowingly making any false statement on a certificate of death.

n. Indecent exposure or exhibition of a dead human body while in the custody or control of a licensee.

In any case in which the Board is entitled to suspend, revoke or refuse to renew a license, the Board may accept from the licensee an offer to pay a penalty of not more than five thousand dollars ($5,000). The Board may either accept a penalty or revoke or refuse to renew a license, but not both.

(2) Where the Board finds that a licensee is guilty of one or more of the acts or omissions listed in subdivision (e)(1) of this section but it is determined by the Board that the licensee has not thereby become unfit to practice, the Board may place the licensee on a term of probation in accordance with the procedures set out in Chapter ~~150B.~~150B of the General Statutes. In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty

of not more than five thousand dollars ($5,000) in conjunction with the probation.

No person licensed under this Article shall remove or cause to be embalmed a dead human body when he or she has information indicating crime or violence of any sort in connection with the cause of death, nor shall a dead human body be cremated, until permission of the State or county medical examiner has first been obtained. However, nothing in this Article shall be construed to alter the duties and authority now vested in the office of the coroner.

No funeral service establishment shall accept a dead human body from any public officer (excluding the State or county medical examiner or his agent), or employee or from the official of any institution, hospital or nursing home, or from a physician or any person having a professional relationship with a decedent, without having first made due inquiry as to the desires of the persons who have the legal authority to direct the disposition of the decedent's body. If any persons are found, their authority and directions shall govern the disposal of the remains of the decedent. Any funeral service establishment receiving the remains in violation of this subsection shall make no charge for any service in connection with the remains prior to delivery of the remains as stipulated by the persons having legal authority to direct the disposition of the body. This section shall not prevent any funeral service establishment from charging and being reimbursed for services rendered in connection with the removal of the remains of any deceased person in case of accidental or violent death, and rendering necessary professional services required until the persons having legal authority to direct the disposition of the body have been notified.

When and where a licensee presents a selection of funeral merchandise to the public to be used in connection with the service to be provided by the licensee or an establishment as licensed under this Article, a card or brochure shall be directly associated with each item of merchandise setting forth the price of the service using said merchandise and listing the services and other merchandise included in the price, if any. When there are separate prices for the merchandise and services, such cards or brochures shall indicate the price of the merchandise and of the items separately priced.

At the time funeral arrangements are made and prior to the time of rendering the service and providing the merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein, the price of each of the supplemental items of services or merchandise requested, and the amounts involved for each of the items for which the funeral establishment will advance moneys as an accommodation to the person making arrangements, insofar as any of the above items can be specified at that time. The statement shall have printed, typed or stamped on the face thereof: "This statement of disclosure is provided under the requirements of North Carolina G.S. 90-210.25(e)."

(f) Unlawful Practices. – If any person shall practice or hold himself out as practicing the profession or art of embalming, funeral directing or practice of funeral

service without having complied with the licensing provisions of this Article, he shall be guilty of a Class 2 misdemeanor.

(g) Whenever it shall appear to the Board that any person, firm or corporation has violated, threatens to violate or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

SECTION 8.(a) Chapter 65 of the General Statutes is amended by adding the following new Article to read:

"Article 11.

"Minimum Burial Depth."

SECTION 8.(b) G.S. 90-210.25A is recodified as G.S. 65-77 in Article 11 of Chapter 65 of the General Statutes, as enacted by Section 8(a) of this act.

SECTION 9.(a) G.S. 90-210.27A(g) reads as rewritten:

"(g) No funeral establishment or other licensee under this Article shall own, operate, or maintain a funeral chapel without first having registered the name, location, and ownership thereof with the ~~Board.~~Board; own or maintain more than two funeral chapels, or own or maintain a funeral chapel outside of a radius of 50 miles from the funeral establishment. A duly licensed person may use a funeral chapel for making arrangements for funeral service, selling funeral supplies to the public, or making financial arrangements for the rendering of such service or sale of supplies, provided that such uses are secondary and incidental to and do not interfere with the reposing of dead human bodies, visitation, or funeral ceremony."

SECTION 9.(b) G.S. 90-210.27A is amended by adding the following new subsections to read:

"(i) No funeral establishment shall use an unregistered or misleading name. Misleading names include, but are not limited to, names in the plural form when there is only one funeral establishment and the use of the word "crematory" or "crematorium" in the name of a funeral establishment that does not own a crematory. If an owner of a funeral establishment owns more than one funeral establishment, the owner may not use the word "crematory" or "crematorium" in the name of more than one of its funeral establishments; except that each funeral home having a crematory on the premises may contain the term "crematory" or "crematorium" in its name.

(j) A funeral establishment will not use any name other than the name by which it is properly registered with the Board."

SECTION 10. G.S. 90-210.29A reads as rewritten:

"**§ 90-210.29A. Identification of bodies before burial or cremation.**

The funeral director or person otherwise responsible for the final disposition of a dead body shall, prior to the interment or entombment of the dead body, affix on the

ankle or wrist of the dead body, or, if cremated, on the inside of the ~~vessel~~ temporary container or urn containing the remains of the dead body, a tag of durable, noncorroding material permanently marked with the name of the deceased, the date of death, the social security number of the deceased, the county and state of death, and the site of interment or entombment."

SECTION 11. G.S. 90-210.63(a)(2) reads as rewritten:

"**§ 90-210.63. Substitution of licensee.**

(a) If the preneed funeral contract is irrevocable, the preneed funeral contract purchaser, or after his death the preneed funeral contract beneficiary or his legal representative, upon written notice to the financial institution or insurance company and the preneed licensee who is a party to the preneed funeral contract, may direct the substitution of a different funeral establishment to furnish funeral services and merchandise.

...

(2) The original contracting preneed licensee shall immediately pay all funds received to the successor funeral establishment designated. Regardless of whether the substitution is made before or after the death of the preneed funeral contract beneficiary, the original contracting preneed licensee shall not be required to give credit for the amount retained pursuant to G.S. 90-210.61(a)(2), except when there was a substitution under G.S. 90-210.68(d1) and (e). ~~Except when there was a substitution under G.S. 90-210.68(d1) and (e), if the original contracting preneed licensee did not retain any portion of payments made as is permitted by G.S. 90-210.61(a)(2) then the preneed licensee may retain up to ten percent (10%) of the funds received from the financial institution.~~ Upon making payments pursuant to this subsection, the financial institution and the original contracting preneed licensee shall be relieved from all further contractual liability thereon.

...."

SECTION 12. G.S. 90-210.64(a) reads as rewritten:

"(a) After the death of a preneed funeral contract beneficiary and full performance of the preneed funeral contract by the preneed licensee, the preneed licensee shall promptly complete a certificate of performance ~~or similar claim form~~ and present it to the financial institution that holds funds in trust under G.S. 90-210.61(a)(1) or to the insurance company that issued a preneed insurance policy pursuant to G.S. 90-210.61(a)(3). Upon receipt of the certificate of performance or similar claim form, the financial institution shall pay the trust funds to the contracting preneed licensee and the insurance company shall pay the insurance proceeds according to the terms of the policy. Within 10 days after receiving payment, the preneed licensee shall mail a copy of the certificate of performance or other claim form to the Board."

SECTION 13. G.S. 90-210.65(e) reads as rewritten:

"(e) This section shall not apply to irrevocable preneed funeral contracts. Irrevocable preneed funeral contracts may not be revoked nor any proceeds refunded

except by order of a court of competent jurisdiction. Notwithstanding the previous sentence, irrevocable preneed funeral contracts purchased pursuant to G.S. 90-210.61(a)(3) shall also be revocable when the underlying insurance policy lapses or is otherwise cancelled and the lapsed or cancelled policy no longer provides any funding for the preneed funeral contract."

SECTION 14. G.S. 90-210.67(e) and (f) are repealed.

SECTION 15. G.S. 90-210.70 is amended by adding the following new subsection to read:

"(e) Whenever it shall appear to the Board that any person, firm, or corporation has violated, threatens to violate, or is violating any provisions of this Article, the Board may apply to the courts of the State for a restraining order and injunction to restrain these practices. If upon application the court finds that any provision of this Article is being violated, or a violation is threatened, the court shall issue an order restraining and enjoining the violations, and this relief may be granted regardless of whether criminal prosecution is instituted under the provisions of this subsection. The venue for actions brought under this subsection shall be the superior court of any county in which the acts are alleged to have been committed or in the county where the defendant in the action resides."

SECTION 16. G.S. 143B-472.5, as recodified by Section 17 of this act, reads as rewritten:

"**§ 90-210.83. Assessments against ~~association for expenses of Board of Mortuary Science.~~associations.**

~~In order to meet the expenses of the supervision of the burial associations, the Board of Mortuary Science shall prepare an annual budget for the office of the Board of Mortuary Science. Thereafter, the Board of Mortuary Science shall~~ The North Carolina Board of Funeral Service shall annually assess each burial association one hundred dollars ($100.00) plus an amount not to exceed fifty cents (50¢) per member. ~~and shall prorate the remaining amount of this budget, over and above any other funds made available to it for this purpose, and assess each association on a pro rata basis in accordance with the number of members of each association.~~ Each burial association shall remit to the Board of ~~Mortuary Science~~ Funeral Service its ~~pro rata part of the total~~ assessment, which expense shall be included in the thirty per centum (30%) expense allowance as provided in G.S. ~~143B-472.3.~~ 90-210.81. This assessment shall be made on the first day of July of each and every year and said assessment shall be paid within 30 days thereafter. If any association shall fail or refuse to pay such assessment within 30 days, the Board of ~~Mortuary Science~~ Funeral Service is authorized to transfer all memberships and assets of every kind and description to the nearest association that is found by the Board of ~~Mortuary Science~~ Funeral Service to be in good sound financial condition."

SECTION 17.(a) Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 13E.

"Mutual Burial Associations."

SECTION 17.(b) G.S. 143B-472.2 through G.S. 143B-472.29 are recodified as G.S. 90-210.80 through G.S. 90-210.107 in Article 13E of Chapter 90 of the General Statutes, as enacted by Section 17(a) of this act. The Revisor of Statutes is authorized to make changes to statutory cross-references that will reflect the results of the recodification.

SECTION 18. This act becomes effective October 1, 2003.

SENATE BILL 550:
Crematory Act Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hagan
Date:	July 14, 2003	**Summary by:**	Wendy Graf Ray
Version:	Third Edition		Staff Attorney

SUMMARY: ***Senate Bill 550 would revise and reorganize the North Carolina Crematory Act, and would update and make technical changes to the law on funeral service.***

This bill has been referred to House Finance because it authorizes two new fees – $150.00 for a crematory manager permit application fee and $40.00 for the annual renewal.

BILL ANALYSIS: Article 13C of Chapter 90 of the General Statutes sets out regulations pertaining to crematories and crematory operators doing business in North Carolina. The Proposed Committee Substitute would amend Article 13C and related statutes in the following ways:

Section 1 would change the name of the Board of Mortuary Science to the Board of Funeral Service throughout the General Statutes.

Section 2 would reorganize and amend Article 13C, which is the North Carolina Crematory Act.

Definitions. Definitions for the following terms would be added to G.S. 90-210.41: "body parts"; "casket"; "certificate of cremation"; "cremation interment container"; "crematory licensee" (called "crematory operator" under current law); "crematory manager" (must be licensed to practice funeral directing or funeral service and qualify as a "crematory technician" or must have permit issued by the Board); "crematory technician" (employee of a crematory licensee who has attended a training course approved by the Board); "final disposition"; "holding and processing facility"; "processing"; "pulverization"; "scattering area"; and "temporary container" and "urn" (replace current definition of "closed container").

Crematory Authority. G.S. 90-210.42 establishes the North Carolina Crematory Authority as a committee within the Board of Mortuary Science. The Authority consists of seven members, and five members constitute a quorum. This section would amend G.S. 90-210.42 so that four members would constitute a quorum.

Licensing and Inspection. This section would make clarifying and conforming changes to existing provisions of G.S. 90-210.43. The following grounds would be added for suspending, revoking, or refusing to issue a license: solicitation of bodies; employing persons for the purpose of influencing others to turn bodies over to the licensee; paying a commission to secure business; aiding or abetting an unlicensed person to perform cremation services; and practicing funeral directing, embalming, or funeral service without a license. The Board would also be authorized to put a licensee on probation.

Authorizing agent. New G.S. 90-210.44 would specify who would be legally entitled to authorize the cremation of human remains. The authorizing agent would be the following persons (listed in order of priority): the individual being cremated through an acceptable written instrument; surviving spouse; surviving children; surviving parents; surviving siblings; other relatives; person who has exhibited special care for the decedent; public official charged with arranging for final disposition of the decedent; representative of an institution to which the body has been donated, or in which the death occurred if the

institution is charged with making arrangements for final disposition; any person willing to assume responsibility in the absence of another authorizing agent.

Authorization to cremate. New G.S. 90-210.45 would prohibit a crematory licensee from cremating human remains until the licensee has received an authorization form, that includes all information specified in the statute, signed by the authorizing agent. The authorizing agent would be deemed to warrant the truthfulness of the facts set forth on the authorization form, and crematory licensees and funeral establishments would not be subject to liability for cremating human remains pursuant to an authorization, in absence of gross negligence, as long as the licensee complies with the appropriate requirements.

Preneed cremation arrangements. New G.S. 90-210.46 would allow individuals to execute a form authorizing the cremation and disposition of their own remains upon their death. Copies of the form, once executed, would be sent to the funeral establishment and/or crematory licensee, but the authorization could be transferred or cancelled at any time prior to the individual's death.

Record keeping. G.S. 90-210.47 (currently G.S. 90-210.44) would significantly expand statutory record keeping requirements. Current law simply authorizes the Board to establish requirements for record keeping, authorizations, and reports. New G.S. 90-210.47 would require crematory licensees to keep detailed records whenever human remains are delivered to the crematory licensee and whenever cremated remains are released, and those records would have to be retained for at least three years. A licensee would have to maintain for three years a record of all forms required by the Board for each cremation that takes place at its facility, and a record of all cremated remains that were disposed of by the licensee. The licensee would also have to issue a certificate of cremation upon the completion of each cremation, and all records maintained by the licensee would be subject to inspection by the Board.

Cremation containers. New G.S. 90-210.48 would prohibit crematory licensees from requiring that human remains be placed in a casket, or that they be placed in an urn after cremation.

Cremation procedures. G.S. 90-210.49 (currently G.S. 90-210.45) would make clarifying and conforming changes to existing provisions. The cremation of bodies with pacemakers, defibrillators, or other potentially hazardous implants or conditions would be prohibited. The authorizing agent would be responsible for taking necessary steps to ensure that these conditions are removed or corrected prior to cremation. New G.S. 90-210.49 would also set out specific procedures for handling cremated remains after the cremation process is completed.

Disposition of cremated remains. G.S. 90-210.50 (currently G.S. 90-210.46) would make clarifying and conforming changes to existing provisions.

Liability. G.S. 90-210.51 (currently G.S. 90-210.47) would make clarifying and conforming changes to existing provisions. It would also authorize a crematory licensee to charge a reasonable storage fee if a dispute concerning the release or disposition of cremated remains is not resolved within 30 days.

Fees. G.S. 90-210.52 (currently G.S. 90-210.48) would authorize the Board to collect a fee of $150 for a crematory manager permit application, and a fee of $40 for an annual crematory manager permit renewal.

Crematory licensee rights. G.S. 90-210.53 (currently G.S. 90-210.49) would make conforming changes to existing provisions.

Rulemaking, applicability, violations, and prohibitions. G.S. 90-210.54 (currently G.S. 90-210.50) would make conforming changes to existing provisions. It would also authorize the Board to develop a

Standard Cremation Authorization Form that would have to be used by crematory licensees unless a licensee has its own form approved by the Board.

Sections 3 through 10 would make technical, clarifying, conforming, and organizational changes to Article 13A of Chapter 90, which sets out regulations pertaining to the practice of funeral service.

Required meetings of the Board. Section 4 would require the Board to hold at least four meetings a year, rather than two.

Powers of the Board. Section 5.(b) would authorize the Board to acquire and deal with property in the same manner as a private person or corporation, subject to the approval of the Governor and Council of State. The Board would also be authorized to employ legal counsel and clerical and technical assistance.

Licensing. Section 7 would make the following changes to G.S. 90-210.25, which sets out licensing requirements for funeral directing, embalming, and funeral service:

- To be licensed for the practice of funeral directing, would add requirement that applicant must be a graduate of a Funeral Directing Program at an approved school of mortuary science. Would also add pathology as one of the subjects to be tested as part of the funeral director examination.
- To be licensed for the practice of funeral service, would add requirement that applicant must receive an associate degree from an approved school of mortuary science, in addition to being a graduate. Applicant would also have to complete a minimum of 60 semester hours (currently 32 hours) or 90 quarter hours (currently 48 hours) of instruction.
- Allows the Board to specify two of the five hours of required continuing education for licensees. Would waive continuing education requirements for licensees who have been licensed for 25 years or more if they were licensed on or before December 31, 2003, but for licensees licensed on or after January 1, 2004, the licensee would have to have been licensed for 25 years or more and be at least 60 years old to have the continuing education requirements waived.
- Would require a funeral directing or funeral service licensee to own or be employed by a licensed funeral establishment in order to practice, except under specified circumstances.

Funeral chapels. A funeral chapel is defined as a facility separate from the funeral establishment premises for the reposing of dead human bodies. Section 9.(a) would amend G.S. 90-210.27A(g) to prohibit a funeral establishment from owning or maintaining more than two chapels or owning or maintaining a chapel outside of a radius of 50 miles from the establishment.

Funeral establishment names. Section 9.(b) would prohibit a funeral establishment from using an unregistered or misleading name, or any name other than the name by which it is properly registered with the Board.

Sections 11 through 15 would amend provisions of Article 13D of Chapter 90, which sets out regulations pertaining to the sale of preneed funeral contracts.

Sections 16 and 17 would recodify the statutes pertaining to mutual burial associations as new Article 13E in Chapter 90, and would amend G.S. 90-210.83 (currently G.S. 143B-472.5) to require the Board to annually assess each burial association a maximum of an additional fifty cents per member.

EFFECTIVE DATE: The bill would become effective October 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 550 (Third Edition)

SHORT TITLE: Crematory Act Changes

SPONSOR(S): Senator Hagan

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund Section 14			No fiscal impact		
Board Special Account			No fiscal impact		
Civil Penalty and Forfeiture Fund			No fiscal impact		
EXPENDITURES					
Board Special Account			See Assumptions and Methodology		
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Board of Mortuary Science

EFFECTIVE DATE: This act becomes effective October 1, 2003.

BILL SUMMARY: The bill changes the name of the North Carolina Board of Mortuary Science to North Carolina Board of Funeral Service, rewrites Article 13C of Chapter 90 dealing with cremations, and makes technical changes to the law on funeral service.

ASSUMPTIONS AND METHODOLOGY:

Penalties

The rewrite of GS 90-210.43 in section 2 of the bill increases the maximum penalty the Board can assess from $1,000 to $5,000. This increase conforms the penalty amount for crematory violations to the amount for funeral service found in Article 13A of Chapter 90. The Board typically imposes penalties that range from $250 to $1,000. Given the recent history of Board disciplinary actions, this change will not result in an increase in penalties deposited into the Civil Penalty and Forfeiture Fund.

In the recodification of fees from GS 90-210.48 into GS 90-210.52, the late renewal penalty is changed to a late renewal fee. By changing from a penalty to a fee, the Board can keep the $75 fee and not deposit it into the Civil Penalty and Forfeiture Fund. However, there is no fiscal impact from this change, because the Board of Mortuary Science, on the advice of its Counsel, has not been depositing the penalty fee revenue into the Civil Penalty and Forfeiture Fund. There is also no impact for the change from penalty to late fee for resident trainees in section 7.

Fees

The new GS 90-210.52 has two new fees – the $150 crematory manager permit application fee and the $40 annual crematory manager permit renewal fee. In the short term, no new revenue is expected from this new fee. The fee only applies to crematory managers who work in crematories owned by cemeteries and all current employees are grandfathered in. The Executive Director of the Board of Mortuary Science does not anticipate growth in the number of cemetery owned crematories. Of the 61 crematories in North Carolina licensed by the Board of Mortuary Science and listed on its website, five are owned by cemeteries. While the Cremation Association of North America reports that the number of cremations in North Carolina rose from 12.8% of deaths in 1996 to 17.32% in 2001, the Board's Executive Director reports that no cemetery has built a new crematory in the state since 1991.

Miscellaneous

Section 5(b) of the bill allows the Board to buy property. This section could help the Board reduce operating expenditures. The Board pays $60,000 a year to lease space in Raleigh. The Board's lease expires in February 2004 and its staff is looking at lease versus purchase options. This authority to buy property has been given to other occupational licensing boards in recent years, such as the Board of Examiners of Electrical Contractors.

Section 5(b) of the bill also allows the Board to employ legal counsel and clerical and technical assistance. The Board believes this is a clarifying amendment because such personnel have already been employed. The Board believes current statutes give them the power to hire these staff.

Section 7 closes a loophole for students who had been reaching the mandatory hours for licensing, but not finishing their degrees. For example, some students in the Fayetteville Tech funeral director program were not finishing the school's 37-hour program. This change is not expected to reduce the number of applicants.

Section 14 of the bill repeals the provision for preneed revenue to transfer excess funds to the state General Fund. The Board's Executive Director said that no transfer to the General Fund has ever been made from this Fund.

Section 16 of the bill changes the assessment of Mutual Burial Associations from an amount set as a pro rata share of administrative costs per member to an amount not to exceed 50 cents per member. The Board now charges 35 cents per member of a Mutual Burial Association to audit its books and has no plans to increase the fee. There are approximately 100 associations, but their numbers are declining at a rate of five or six per year. As the number of associations declines, so, too, will the amount of funds needed to audit their accounts.

SOURCES OF DATA: Board of Mortuary Science; Cremation Association of North America

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 18, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute #2 for
S.B. 550 A BILL TO BE ENTITLED AN ACT TO IMPROVE AND STRENGTHEN CREMATION LAW IN NORTH CAROLINA AND TO IMPROVE AND MAKE TECHNICAL CORRECTIONS TO THE FUNERAL LAW.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1323
PROPOSED COMMITTEE SUBSTITUTE H1323-CSSVf-36 [v.1]

7/14/2003 4:15:54 PM

Short Title: CAMA Permit Fees. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN INCREASE IN FEES FOR CAMA PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-119.1(a) reads as rewritten:

"(a) The Commission shall have the power to establish a graduated fee schedule for the processing of applications for permits, renewals of permits, modifications of permits, or transfers of permits issued pursuant to this Article. In determining the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications, related compliance activities, and the complexity of the development sought to be undertaken for which a permit is required under this Article. The fee to be charged for processing an application may not exceed ~~four hundred dollars ($400.00).~~ one thousand dollars ($1,000). The total funds collected from fees authorized by the Commission pursuant to this section in any fiscal year shall not exceed thirty-three and one-third percent (33 1/3%) of the total personnel and administrative costs incurred by the Department for permit processing and compliance programs within the Division of Coastal ~~Area~~ Management."

SECTION 2. This act becomes effective when it becomes law, and applies to applications for permits submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1323

Short Title:	CAMA Permit Fees.	(Public)
Sponsors:	Representatives Luebke, McComas (Primary Sponsors); Culpepper, Farmer-Butterfield, Insko, Parmon, Ross, and Weiss.	
Referred to:	Finance.	

May 15, 2003

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SECTION 2. This act becomes effective July 1, 2003, and applies to applications for permits submitted on or after that date.

HOUSE BILL 1323: CAMA Permit Fees.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Luebke and McComas
Date:	July 15, 2003	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1323 would increase the maximum fee that may be charged by the Coastal Resources Commission for processing a CAMA permit application from $400 to $1,000. The bill would become effective when it becomes law, and applies to applications for permits submitted on or after that date.***

CURRENT LAW: The Coastal Area Management Act requires permits for development in Areas of Environmental Concern (AEC).[1] The Coastal Resources Commission (CRC) currently has the authority, upon going through the rule-making process, to establish a graduated fee schedule for the processing of applications for permits, permit renewals or modifications, and permit transfers. The maximum fee that may be charged for processing an application is $400.

The CAMA permit system is divided into major and minor permits, based on the size and possible impacts of a project. Major permits are necessary for activities that require other state or federal permits, for projects that cover more than 20 acres or for construction covering more than 60,000 square feet. Applications for major permits are reviewed by 10 state and four federal agencies before a decision is made.

General permits are used for routine projects that usually pose little or no threat to the environment.
Minor permits are required for projects, such as single-family houses, that don't require major permits or general permits. They are reviewed, issued, and administered to CRC standards by local governments under contract with the Division of Coastal Management. The minor permit program is part of the CRC's efforts to minimize the burden on permit applicants. Under CAMA regulations, a minor permit is to be issued within 25 days once a complete application is in hand. If the project is simple, the review process often is shorter.

CAMA permits are required for projects that meet all of the following conditions:

- It is in one of the 20 counties covered by CAMA;
- It is considered "development"[2] under CAMA;
- It is in, or it affects, an AEC established by the Coastal Resources Commission;
- It doesn't qualify for an exemption.

Any sort of development -- from a sandbag structure to a bridge to a condominium -- in the coastal area, in an AEC probably requires a CAMA permit. Permit applicants also need to follow development rules specific to that AEC.

BILL ANALYSIS: House Bill 1323 increases from $400 to $1,000 the maximum fee that the CRC may charge for processing permit applications. The bill also makes a technical correction by deleting the word "Area" in the reference to the Division of Coastal Management. The Proposed Committee Substitute changes the effective date so that the act would become when the bill becomes law, and would apply to applications for permits submitted on or after that date. Once the act becomes effective, the CRC would still have to go through the rule-making process to increase the fees.

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[1] An AEC is an area of natural importance; it may be easily destroyed by erosion or flooding, or it may have environmental, social, economic or aesthetic values that make it valuable to our state.

[2] "Development" includes activities such as dredging or filling coastal wetlands or waters, and construction of marinas, piers, docks, bulkheads, oceanfront structures and roads.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1323 (1st Edition)

SHORT TITLE: CAMA Permit Fees

SPONSOR(S): Representatives Luebke and McComas

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
GENERAL FUND REVENUES:	Exact amount cannot be determined. See Assumptions and Methodology.				
EXPENDITURES:	No significant impact anticipated.				
POSITIONS:	None.				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Coastal Resources Commission; Department of Environment and Natural Resources - Division of Coastal Management

EFFECTIVE DATE: July 1, 2003

BILL SUMMARY: This bill amends GS 113A-119.1(a), authorizing the Coastal Resource Commission (CRC) to increase the maximum fee for processing a CAMA (Coastal Area Management Act) permit application from $400 to $1,000. GS 113A-119.1(a) states that the revenue generated through CAMA permit fees shall not exceed 33 1/3% of the total personnel and administrative costs incurred by the Division of Coastal Management (DCM) for permit processing and compliance programs. The effective date is July 1, 2003.

ASSUMPTIONS AND METHODOLOGY: G.S. 113A-119.1(a) authorizes the CRC to establish a graduated fee schedule for the processing of applications for permits, renewals of permits, modifications of permits, and transfers of permits. Currently, statute limits the maximum fee charged for processing a CAMA permit application to $400. Table A summarizes the current CAMA permit fee schedule and the estimated number of permits issued annually.

This legislation authorizes, but does not require, the CRC to increase the CAMA permitting fees. This bill only has a fiscal impact if the CRC does indeed adopt rules to increase one or more of the fees. The CRC has not yet developed a proposed schedule of fee increases; however, it is likely that it would consider fee increases. Every year since the FY 1998-1999 budget, DCM has experienced a permanent cut to its state appropriations. Meanwhile, projects are becoming

increasingly complex and requiring more staff resources. DCM estimates that over the last two years, staff and operating expenses related to CAMA permitting averaged approximately $2.5 million per year. During the same period, CAMA permitting fees generated an average of $314,000 annually. Thus, CAMA permitting fees are currently covering only 12.6% of the program costs.

Table A: Current CAMA Permit Fees and Estimated Number of Permits Issued Annually

	Fee	Number Issued
General permit to protect wetlands in estuarine and public trust waters	$50	2,410
General permit for installation of sandbags	$250	
All other general permits	$100	
Major permit for private, non-commercial development	$250	108
Major permit for public or commercial development	$400	72
Major development extension request	$100	*Not available
Major permit renewal	$100	50
Minor modification to major permit	$100	100
Permit transfer	$100	10

Note: The fee for minor permits is $100; however, the fee revenue goes directly to local governments. An estimated number of minor permits issued each year is not currently available.

The specific amount of additional fee revenue generated in any particular fiscal year depends on two factors: 1) the specific fee increases; and 2) when the fee increases become effective. Since these two factors are unknown, the specific fiscal impact of this bill cannot be determined.

SOURCES OF DATA: Department of Environment and Natural Resources - Division of Coastal Management

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jennifer Haygood, Jennifer Haygood

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

James D. Johnson

DATE: July 14, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1323 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE AN INCREASE IN FEES FOR CAMA PERMITS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

HOUSE BILL 855:
Various Special Registration Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Alexander and Rayfield
Date:	July 15, 2002	**Summary by:**	Cindy Avrette
Version:	5th Edition		Committee Counsel

SUMMARY: **HOUSE BILL 855 IS BACK IN THE HOUSE FOR CONCURRENCE IN THE SENATE CHANGES TO THE BILL. THE BILL HAS BEEN REFERRED TO THE FINANCE COMMITTEE FOR A RECOMMENDATION ON WHETHER OR NOT THE HOUSE SHOULD CONCUR IN THE SENATE CHANGES TO THE BILL.**

The House version of House Bill 855 authorized the issuance of seven new special registration plates: Blue Ridge Parkway, Surveyors, Retired Law Enforcement Officers, Alternative Fuel Vehicles, Zeta Phi Beta Sorority, Breast Cancer Awareness, and Mothers Against Drunk Driving.

The Senate made the following changes to the bill:

- It increased the additional fee imposed for almost all of the special registration plates from $10 to $20. The additional $10 generated from this fee will be divided equally between the Natural Heritage Trust Fund and the Parks and Recreation Trust Fund.[1]
- It authorized the issuance of nine additional special plates: Be Active NC, Buffalo Soldiers, Celebrate Adoption, Crystal Coast Artificial Reef, Delta Sigma Theta Sorority, Fraternal Order of Police, Friends of the Appalachian Trail, POW/MIA, and Red Hat Society.
- It provided that three of the newly authorized special plates may be on a background that differs from the "First in Flight" background[2]: Blue Ridge Parkway, Friends of the Appalachian Trail, and NC Coastal Federation[3]. The bill provides that the Division and the State Highway Patrol must review and approve the plate's design for clarity and ease of identification.
- It would allow the surviving spouse of a person who had a retired law enforcement officer special plate to continue to renew the plate so long as the spouse does not remarry. The authorization for the plate is contained in the original House Bill 855.
- It would require the Joint Legislative Transportation Oversight Committee to study the number of special registration plates that have net received the minimum number of applications within three years of their authorization and alternative methods of identifying NC registration plates.
- It changed the effective date for the bill from "when it becomes law" to January 1, 2004.

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[1] The cost of a registration plate is generally $20 and that money goes to the Highway Fund. The cost of a special registration plate is generally $30 ($20 regular registration plate fee, plus $10 additional fee). The $10 additional fee is used to cover the cost of producing the special plate, to fund seven Visitors' Centers, to fund the Highway Beautification program, to advertise the State for travel and tourism, and to promote handicap access. The Senate version of the bill would increase the cost of a special registration plate to $40 ($20 regular registration fee, $10 for the purposes discussed above, and $10 to be divided between the NHTF and the PRTF. Some special plates cost more than the proposed $40. In those instances, the additional money is transferred quarterly to the cause for which the additional fee is imposed, such as the Friends of the Blue Ridge Parkway.

[2] Current law allows the Great Smoky Mountains special plate and the Rocky Mountain Elk Foundation special plate to be on a different background. The Rocky Mountain Elk plate has not yet been issued because DMV has not received the minimum 300 applications needed to issue the plate.

[3] S.L. 2003-68 authorized the issuance of the NC Coastal Federal special registration plate.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 855 (Fourth Edition)

SHORT TITLE: Various Special Registration Plates

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Highway Fund - Special Registration Plate Acct.	$45,000	$45,000	$45,000	$45,000	$45,000
Collegiate and Cultural Attraction Plate Acct.	$33,000	$33,000	$33,000	$33,000	$33,000
Natural Heritage Trust Fund	$784,805	$1,541,110	$1,541,110	$1,541,110	$1,541,110
Parks and Recreation Trust Fund	$784,805	$1,541,110	$1,541,110	$1,541,110	$1,541,110
EXPENDITURES					
Highway Fund - Special Registration Plate Acct.	$70,355				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles

EFFECTIVE DATE: Sections 7 (study) and 8 of this act are effective when they become law. The remainder of this act becomes effective January 1, 2004.

BILL SUMMARY: The bill increases the fee for special license plates by $10, with $5 of the additional fee deposited into the Natural Heritage Trust Fund and $5 of the increased fee deposited into the Parks and Recreation Trust Fund. This bill also authorizes the Division of Motor Vehicles (DMV) to issue a special registration plate for Alternative Fuel Vehicles, Be Active NC, the Blue Ridge Parkway Foundation, Breast Cancer Awareness, Buffalo Soldiers, Celebrate Adoption, Crystal Coast Artificial Reef Association, Delta Sigma Theta Sorority, Friends of the Appalachian Trail, Mothers Against Driving Drunk, POW/MIA, Red Hat Society,

Retired Law Enforcement Officers, Surveyors, and the Zeta Phi Beta Sorority if at least 300 applications for each plate are received. The bill allows the Blue Ridge Parkway Foundation and the Friends of the Appalachian Trail special plates to have a different background other than the "First in Flight" plate background. The bill requires the Transportation Oversight Committee to study the repeal of special license plates that do not reach their minimum number of applications within three years and the issuance of an alternative method of identifying North Carolina registration plates.

ASSUMPTIONS AND METHODOLOGY:

New Special Plates

For the 15 new special plates authorized in this bill, this fiscal analysis assumes that the applicants for these special plates already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The analysis also assumes the issuance of the minimum 300 license plates in FY 2003-04 and renewal of those plates in the following years. There is a one-time cost of $100 to design each new plate and an average programming cost of $3,560 per plate to change the State Titling and Registration System (STARS). (Additional programming is needed for the Alternative Fuel Plate, so the cost is $7360.) There is also a one-time cost to manufacture the special plate. The cost of a DMV recommended two-color plate is $2.59. For 4,500 new plates in FY 03-04, the manufacturing cost is $11,655 (300 plate minimum X 15 plates X $2.59). The total one-time cost for the 15 new plates is $70,355 and is paid from the Special Registration Plate Account.

In addition to the normal $20 registration fee, each plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. Seven of the plates have additional fees that are deposited into the Collegiate and Cultural Attraction Plate Account then transferred to specific organizations. The Blue Ridge Parkway Foundation plate has an additional $20 fee that is to be credited to the Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina. The Friends of the Appalachian Trail has an additional $20 fee that is to be credited to the Appalachian Trail Conference to be used for educational materials, preservation programs, trail maintenance, trailway and viewshed acquisitions, and capital improvements. The Be Active NC plate has an additional $10 fee to be transferred to Be Active North Carolina, Inc. for promotion of physical activity in North Carolina communities. The Buffalo Soldiers plate has an additional $15 fee to be given to the 9th and 10th (Horse) Calvary Association of the Buffalo Soldiers Greater North Carolina Chapter for its public outreach programs. The Crystal Coast plate has an additional $20 fee that is credited to the Crystal Coast Artificial Reef Association to promote scuba diving off the Crystal Coast. The Surveyors' plate has an additional $15 fee to be given to the North Carolina Society of Surveyors Education Foundation, Inc. for public educational programs. The Zeta Phi Beta Sorority plate has an additional $10 fee to be given to the Zeta Phi Beta Sorority Foundation for funding undergraduate scholarships.

Special License Plate Fees

Sections 3 and 4 of the bill increase the special license plate fee by $10 as of January 1, 2004. DMV had 87,573 special license plates as of March 31, 2003. However, 11,860 of these plates are military related and are exempt from the additional fee. This fiscal analysis assumes no change in the number of special plates in the next five years except for the addition of the 4,500 plates resulting from the creation of 15 new plates in this bill and 1,200 plates from four new

plates already authorized in the 2003 Session of the General Assembly. The General Assembly's Fiscal Research Division has not identified any research that predicts the price at which consumers will drop their special plate and return to the regular registration plate. Given that the special plate fee has not been increased since 1989 and that the increase is going for park and nature related purposes might keep tag sales from falling.

Assuming 75,713 currently issued special plates, 4,500 proposed new special plates, 226,809 personalized plates, 1,200 plates from four plates authorized in 2003, and no change in plate demand, the $10 increase will produce $1,541,110 each year for both the Natural Heritage Trust Fund and the Parks and Recreation Trust Fund. The January 1, 2004, effective date will cut the estimated revenue for each fund to $784,805 in FY 03-04 assuming plate renewals are evenly distributed throughout the year and all new plates receive their 300-plate limit in the first year.

SOURCES OF DATA: Division of Motor Vehicles

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 26, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Senate Committee Substitute for

H.B. 855 A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE FOR A SPECIAL REGISTRATION PLATE AND TO CREDIT THE INCREASED FEE REVENUE TO THE NATURAL HERITAGE TRUST FUND AND THE PARKS AND RECREATION TRUST FUND, TO REQUIRE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE NUMBER OF SPECIAL REGISTRATION PLATES THAT HAVE NOT RECEIVED THE MINIMUM NUMBER OF APPLICATIONS WITHIN THREE YEARS OF THEIR AUTHORIZATION AND ALTERNATIVE METHODS OF IDENTIFYING NORTH CAROLINA REGISTRATION PLATES, TO ALLOW THE NC COASTAL FEDERATION SPECIAL PLATE TO HAVE A DIFFERENT PLATE BACKGROUND, AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: ALTERNATIVE FUEL VEHICLES, BE ACTIVE NC, BLUE RIDGE PARKWAY FOUNDATION, BREAST CANCER AWARENESS, BUFFALO SOLDIERS, CELEBRATE ADOPTION, CRYSTAL COAST ARTIFICIAL REEF ASSOCIATION, DELTA SIGMA THETA SORORITY, FRATERNAL ORDER OF POLICE, FRIENDS OF THE APPALACHIAN TRAIL, MOTHERS AGAINST DRUNK DRIVING, POW/MIA, RED HAT SOCIETY, RETIRED LAW ENFORCEMENT OFFICERS, SURVEYORS, AND ZETA PHI BETA SORORITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 5

HOUSE BILL 855*

Committee Substitute Favorable 4/24/03
Third Edition Engrossed 4/29/03
Senate Finance Committee Substitute Adopted 6/26/03
Fifth Edition Engrossed 7/8/03

Short Title: Various Special Registration Plates. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE FOR A SPECIAL REGISTRATION PLATE AND TO CREDIT THE INCREASED FEE REVENUE TO THE NATURAL HERITAGE TRUST FUND AND THE PARKS AND RECREATION TRUST FUND, TO REQUIRE THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE TO STUDY THE NUMBER OF SPECIAL REGISTRATION PLATES THAT HAVE NOT RECEIVED THE MINIMUM NUMBER OF APPLICATIONS WITHIN THREE YEARS OF THEIR AUTHORIZATION AND ALTERNATIVE METHODS OF IDENTIFYING NORTH CAROLINA REGISTRATION PLATES, TO ALLOW THE NC COASTAL FEDERATION SPECIAL PLATE TO HAVE A DIFFERENT PLATE BACKGROUND, AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE THE FOLLOWING NEW SPECIAL REGISTRATION PLATES: ALTERNATIVE FUEL VEHICLES, BE ACTIVE NC, BLUE RIDGE PARKWAY FOUNDATION, BREAST CANCER AWARENESS, BUFFALO SOLDIERS, CELEBRATE ADOPTION, CRYSTAL COAST ARTIFICIAL REEF ASSOCIATION, DELTA SIGMA THETA SORORITY, FRATERNAL ORDER OF POLICE, FRIENDS OF THE APPALACHIAN TRAIL, MOTHERS AGAINST DRUNK DRIVING, POW/MIA, RED HAT SOCIETY, RETIRED LAW ENFORCEMENT OFFICERS, SURVEYORS, AND ZETA PHI BETA SORORITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of

expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

~~A~~ Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or ~~less, other than a Friends of the Great Smoky Mountains National Park special registration plate or a Rocky Mountain Elk Foundation special registration plate~~ less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation."

SECTION 2. G.S. 20-79.4(b), as amended by S.L. 2003-10, 2003-11, and 2003-68, is amended by adding the following new subdivisions to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(1e) Alternative Fuel Vehicles. – Issuable to the registered owner of an alternative fuel vehicle. The plate shall bear the words "Alternative Fuel Vehicle". The Division must receive 300 or more applications for the plate before it may be developed.

...

(3e) Be Active NC. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Be Active NC" and a representation of the "Be Active NC" logo.

...

(3h) Breast Cancer Awareness. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Early Detection Saves Lives" and a representation of a pink ribbon. The Division must receive 300 or more applications for the plate before it may be developed.

...

~~(3d)~~(3j) Bronze Star Recipient. – Issuable to a recipient of the Bronze Star. The plate shall bear the emblem of the Bronze Star and the words "Bronze Star".

...

(3m) Buffalo Soldiers. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "The Buffalo Soldiers" and the logo of the 9th & 10th (Horse) Cavalry Association of the Buffalo Soldiers Greater North Carolina Chapter (BSGNCC).

...

(3p) Celebrate Adoption. – Issuable to the registered owner of a motor vehicle. The plate shall bear the phrase "Celebrate Adoption" and a representation of a white ribbon with a red heart on it. The Division must receive 300 or more applications for the plate before it may be developed.

...

(11d) Crystal Coast. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Crystal Coast Artificial Reef Association" and a representation of a SCUBA diving flag.

...

(11g) Delta Sigma Theta Sorority. – Issuable to the registered owner of a motor vehicle. The plate shall bear the sorority's name and symbol. The Division must receive 300 or more applications for the plate before it may be developed.

...

(15e) Fraternal Order of Police. – The plate authorized by this subdivision shall bear a representation of the Fraternal Order of Police emblem containing the letters 'FOP'. The Division must receive 300 applications for the plate before it may be developed. The plate is issuable to one of the following:

a. A person who presents proof of active membership in the State Lodge, Fraternal Order of Police for the year in which the license plate is sought.

b. The surviving spouse of a person who was a member of the State Lodge, Fraternal Order of Police, so long as the surviving spouse continues to renew the plate and does not remarry.

...

(27e) Mothers Against Drunk Driving. – Issuable to the registered owner of a motor vehicle. The plate shall bear the letters "M.A.D.D." and the words "Mothers Against Drunk Driving". The Division must receive 300 or more applications for the plate before it may be developed.

...

(32c) POW/MIA. – Issuable to the owner of a motor vehicle. The plate shall bear the official POW/MIA logo. The Division must receive 300 or more applications for the plate before it may be developed.

...

~~(36)~~(35d) Register of Deeds. – Issuable to a register of deeds. The plate shall bear the words "Register of Deeds" and the letter "R" followed by a number representing the county of the register of deeds. The number of a county shall be the order of the county in an alphabetical list of counties that assigns number one to the first county in the list.

...

(36) Red Hat Society. – Issuable to the registered owner of a motor vehicle. The plate shall bear a representation of The Red Hat Society. The Division shall not use the name and logo of The Red Hat Society, Inc., on the plate unless The Red Hat Society, Inc., licenses, without charge, the State to use the name and logo on the plate. The Division must receive 300 or more applications for the plate before it may be developed.

...

(36b) Retired Law Enforcement Officers. – The plate authorized by this subdivision shall bear the phrase "Retired Law Enforcement Officer" and a representation of a law enforcement badge. The Division must receive 300 or more applications for the plate before it may be developed. The plate is issuable to one of the following:

a. A retired law enforcement officer presenting to the Division, along with the application for the plate, a copy of the officer's retired identification card or letter of retirement.

b. The surviving spouse of a person who had a retired law enforcement officer plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

...

~~(36b)~~(36e) Rocky Mountain Elk Foundation. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase "Rocky Mountain Elk Foundation" and a logo approved by the Rocky Mountain Elk Foundation, Inc.

...

~~(36e)~~(36h) Save the Sea Turtles. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear the phrase "Save the Sea Turtles" and a representation related to sea turtles.

...

(45d) Surveyor Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the words "Following In Their Footsteps" and shall bear a picture of a transit.

...

~~(45b)~~(45f) Sweet Potato. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture representing the State's official vegetable, the sweet potato. The Division may not issue

the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

~~(45e)~~(45i) Tobacco Heritage. – Issuable to the registered owner of a motor vehicle. The plate shall bear a picture of a tobacco leaf and plow. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(52) Zeta Phi Beta Sorority. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the sorority's name and symbol."

SECTION 3. G.S. 20-79.7(a), as amended by S.L. 2003-11 and 2003-68, reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$40.00
Historical Attraction	~~$30.00~~$40.00
State Attraction	~~$30.00~~$40.00
Buffalo Soldiers	$35.00
Collegiate Insignia	~~$25.00~~$35.00
Goodness Grows	~~$25.00~~$35.00
Kids First	~~$25.00~~$35.00
Olympic Games	~~$25.00~~$35.00
NC Agribusiness	~~$25.00~~$35.00
NC Coastal Federation	~~$25.00~~$35.00
Nurses	~~$25.00~~$35.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$35.00
Special Olympics	~~$25.00~~$35.00
Surveyor Plate	$35.00
The V Foundation for Cancer Research Division	~~$25.00~~$35.00
University Health Systems of Eastern Carolina	~~$25.00~~$35.00
Animal Lovers	~~$20.00~~$30.00
Audubon North Carolina	~~$20.00~~$30.00
Be Active NC	$30.00
Ducks Unlimited	~~$20.00~~$30.00
(Effective until June 30, 2006)	
Harley Owners' Group	~~$20.00~~$30.00
First in Forestry	~~$20.00~~$30.00

Litter Prevention	~~$20.00~~$30.00
March of Dimes	~~$20.00~~$30.00
Omega Psi Phi Fraternity	~~$20.00~~$30.00
~~Rocky Mountain Elk Foundation~~	~~$25.00~~
Save the Sea Turtles	~~$20.00~~$30.00
Scenic Rivers	~~$20.00~~$30.00
School Technology	~~$20.00~~$30.00
Soil and Water Conservation	~~$20.00~~$30.00
Special Forces Association	~~$20.00~~$30.00
Support Public Schools	~~$20.00~~$30.00
Wildlife Resources	~~$20.00~~$30.00
Zeta Phi Beta Sorority	$30.00
Personalized	~~$20.00~~$30.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	~~$10.00~~$20.00."

SECTION 4. G.S. 20-79.7(b), as amended by S.L. 2003-11 and 2003-68, reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), ~~and~~ the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	~~0~~$5	$5
Audubon North Carolina	$10	$10	~~0~~$5	$5
Be Active NC	$10	$10	$5	$5
Buffalo Soldiers	$10	$15	$5	$5
Crystal Coast	$10	$20	$5	$5
Ducks Unlimited	$10	$10	~~0~~$5	$5
First in Forestry	$10	0	~~$10~~$15	$5
Goodness Grows	$10	$15	~~0~~$5	$5
(Effective until June 30, 2006)				
Harley Owners' Group	$10	$10	~~0~~$5	$5
Historical Attraction	$10	$20	~~0~~$5	$5
In-State Collegiate Insignia	$10	$15	~~0~~$5	$5
Kids First	$10	$15	~~0~~$5	$5
Litter Prevention	$10	$10	~~0~~$5	$5

March of Dimes	$10	$10	~~0~~$5	$5
NC Agribusiness	$10	$15	~~0~~$5	$5
NC Coastal Federation	$10	$15	~~0~~$5	$5
Nurses	$10	$15	~~0~~$5	$5
Olympic Games	$10	$15	~~0~~$5	$5
Omega Psi Phi Fraternity	$10	$10	~~0~~$5	$5
Out-of-state Collegiate Insignia	$10	0	~~$15~~$20	$5
Personalized	$10	0	~~$10~~$15	$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	$10	$15	~~0~~$5	$5
Save the Sea Turtles	$10	$10	~~0~~$5	$5
Scenic Rivers	$10	$10	~~0~~$5	$5
School Technology	$10	$10	~~0~~$5	$5
Soil and Water Conservation	$10	$10	~~0~~$5	$5
Special Forces Association	$10	$10	~~0~~$5	$5
Special Olympics	$10	$10	~~0~~$5	$5
State Attraction	$10	$20	~~0~~$5	$5
Support Public Schools	$10	$10	~~0~~$5	$5
Surveyor Plate	$10	$15	$5	$5
The V Foundation for Cancer Research	$10	$15	~~0~~$5	$5
University Health Systems of Eastern Carolina	$10	$15	~~0~~$5	$5
Wildlife Resources	$10	$10	~~0~~$5	$5
Zeta Phi Beta Sorority	$10	$10	$5	$5
All other Special Plates	$10	0	~~0~~.$5	$5."

SECTION 5. G.S. 20-81.12(b2) reads as rewritten:

"(b2) State Attraction Plates. – The Division must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of State attraction plates to the organizations named below in proportion to the number of State attraction plates sold representing that organization:

(1) Blue Ridge Parkway Foundation. – The revenue derived from the special plate shall be transferred quarterly to Blue Ridge Parkway Foundation for use in promoting and preserving the Blue Ridge Parkway as a scenic attraction in North Carolina.

~~(1)~~(1a) Friends of the Great Smoky Mountains National Park. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the Great Smoky Mountains National Park, Inc., to be used for educational materials, preservation programs, capital improvements for the portion of the Great Smoky Mountains National Park that is located in North Carolina, and operating expenses of the Great Smoky Mountains National Park.

(1b) Friends of the Appalachian Trail. – The revenue derived from the special plate shall be transferred quarterly to The Appalachian Trail Conference to be used for educational materials, preservation programs, trail maintenance, trailway and viewshed acquisitions, trailway and viewshed easement acquisitions, capital improvements for the portions of the Appalachian Trail and connecting trails that are located in North Carolina, and related administrative and operating expenses.

~~(1a)~~(1c) The North Carolina Arboretum. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Arboretum Society and used to help the Society obtain grants for the North Carolina Arboretum and for capital improvements to the North Carolina Arboretum.

~~(1b)~~(1d) The North Carolina Maritime Museum. – The revenue derived from the special plate shall be transferred quarterly to Friends of the Museum, North Carolina Maritime Museum, Inc., to be used for educational programs and conservation programs and for operating expenses of the North Carolina Maritime Museum.

(2) The North Carolina Zoological Society. – The revenue derived from the special plate shall be transferred quarterly to The North Carolina Zoological Society, Incorporated, to be used for educational programs and conservation programs at the North Carolina Zoo at Asheboro and for operating expenses of the North Carolina Zoo at Asheboro."

SECTION 6. G.S. 20-81.12, as amended by S.L. 2003-11 and S.L. 2003-68, is amended by adding the following new subsections to read:

"(b26) Be Active NC. – The Division must receive 300 or more applications for the Be Active NC plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Be Active NC plates to Be Active North Carolina, Inc., to be used to promote physical activity in North Carolina communities.

(b27) Buffalo Soldiers. – The Division must receive 300 or more applications for the Buffalo Soldiers plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the Buffalo Soldiers plates to the 9th & 10th (Horse) Cavalry Association of the Buffalo Soldiers Greater North Carolina Chapter (BSGNCC) for its public outreach programs.

(b28) Crystal Coast. – The Division must receive 300 or more applications for the Crystal Coast plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Crystal Coast plates to the Crystal Coast Artificial Reef Association to be used to promote scuba diving off the Crystal Coast.

(b29) Surveyor Plate. – The Division must receive 300 or more applications for a Surveyor plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale

of Surveyor plates to The North Carolina Society of Surveyors Education Foundation, Inc., for public educational programs.

(b30) Zeta Phi Beta Sorority. -- The Division must receive 300 or more applications for a Zeta Phi Beta Sorority plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Zeta Phi Beta Sorority plates to the Zeta Phi Beta Sorority Education Foundation, through the Raleigh office, for the benefit of undergraduate scholarships in this State."

SECTION 7. The Joint Legislative Transportation Oversight Committee shall review the number of special registration plates that have not received the minimum number of applications in the three years since their authorization, and the Committee shall consider repealing the authority for these plates. The Committee may also consider the registration plate background and other alternative methods of identifying North Carolina vehicles.

SECTION 8. Sections 7 and 8 of this act are effective when they become law. The remainder of this act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 301
Finance Committee Substitute Adopted 6/4/03

Short Title: School Acquisition by Counties Statewide. (Public)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO EXTEND TO THE REMAINING TWELVE COUNTIES THE AUTHORITY CURRENTLY GIVEN TO EIGHTY-EIGHT COUNTIES TO ACQUIRE PROPERTY FOR USE BY THEIR LOCAL BOARDS OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-158.1, as amended by S.L. 2003-89, reads as rewritten:

"**§ 153A-158.1. Acquisition and improvement of school ~~property in certain counties.~~property.**

(a) Acquisition by County. – A county may acquire, by any lawful method, any interest in real or personal property for use by a school administrative unit within the county. In exercising the power of eminent domain a county shall use the procedures of Chapter 40A. The county shall use its authority under this subsection to acquire property for use by a school administrative unit within the county only upon the request of the board of education of that school administrative unit and after a public hearing.

(b) Construction or Improvement by County. – A county may construct, equip, expand, improve, renovate, or otherwise make available property for use by a school administrative unit within the county. The local board of education shall be involved in the design, construction, equipping, expansion, improvement, or renovation of the property to the same extent as if the local board owned the property.

(c) Lease or Sale by Board of Education. – Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local board of education may, in connection with additions, improvements, renovations, or repairs to all or part of any of its property, lease or sell the property to the board of commissioners of the county in which the property is located for any price negotiated between the two boards.

(d) Board of Education May Contract for Construction. – Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, a local board of education may enter

into contracts for the erection of school buildings upon sites owned in fee simple by one or more counties in which the local school administrative unit is located.

(e) Scope. – This section applies ~~to Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties.~~in every county."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 301:
County School Acquisition Statewide

BILL ANALYSIS

Committee: House Finance
Date: July 14, 2003
Version: 2nd Edition

Sponsor: Sen. John Kerr
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Extends to all 100 counties the authorization currently given 88 counties[1] to acquire school property on behalf of their boards of education.

The bill makes the following changes concerning the acquisition and financing of public school facilities in the 12 counties not currently included in G.S. 153A-158.1. The 12 counties affected by these changes are Beaufort, Buncombe, Caswell, Cleveland, Granville, Hertford, Northampton, Swain, Tyrell, Warren, Washington, and Yancey.

(1) It authorizes the county to acquire real or personal property for use by a school administrative unit located in the county when requested to do so by the unit. Under current law, only those counties listed in G.S. 153A-158.1(e) have this authority. Under general law, a county is authorized to acquire real or personal property only on behalf of the county or an agency of the county and a school administrative unit is not an agency of the county.

(2) It authorizes the local board of education to contract with the county for the erection or repair of a public school building that is located on a site owned by the county. Under current general law, local boards of education are required to hold title to all school property and therefore have no authority to make contracts concerning the construction or repair of school buildings located on sites not owned by them.[2]

(3) It authorizes the local board of education to transfer to the county any property on which a school building in need of renovation or repair is located for any price agreed to by the board of education and the county. Current law requires transfers from a local board of education to a county to be at fair market value and allows a local board of education to transfer property to a county only if the board does not believe the property is necessary or desirable for a school.[3]

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[1] The 88 counties currently covered by G.S. 153A-158.1 are: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret, Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, Wilson, and Yadkin Counties.

[2] G.S. 115C-40; G.S. 115C-521.

[3] G.S. 115C-518; G.S. 160A-274.

The effect of these changes is to allow installment purchase financing to be used under G.S. 160A-20 for public school construction or renovation in every county. Installment purchase financing is a type of local government debt in which the local unit enters into an installment contract secured by a security interest in the building constructed or renovated. Unlike the issuance of general obligation bonds, installment purchase financing is not subject to a vote of the people. Certificates of participation may be issued as part of the installment purchase financing. A certificate of participation is a document setting out the share of the local unit's debt that is owed to the holder of the certificate. In practice, the holder receives interest and principal payments in a manner similar to interest and principal payments on a bond issued by the borrowing unit.

Under current law, installment purchase financing is available to counties[4] but is not generally available to local school administrative units. G.S. 160A-20 grants installment purchase financing authority only to a local school administrative unit located in a county whose local board of education can levy a school tax. There are only two such local units: Mooresville and Roanoke Rapids. A related provision, G.S. 143-64.17C, authorizes school administrative units and community colleges to use installment purchase financing to finance energy conservation measures. In addition, G.S. 115D-58.15 authorizes community colleges to use installment purchase financing for equipment.

[4] The Local Government Commission must approve installment purchase contracts and certificates of participation. The Local Government Commission cannot approve such a contract if the net debt of the contracting unit, after execution of the contract, would exceed 8% of the assessed value of property subject to taxation by the unit.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 301 A BILL TO BE ENTITLED AN ACT TO EXTEND TO THE REMAINING TWELVE COUNTIES THE AUTHORITY CURRENTLY GIVEN TO EIGHTY-EIGHT COUNTIES TO ACQUIRE PROPERTY FOR USE BY THEIR LOCAL BOARDS OF EDUCATION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 902
PROPOSED COMMITTEE SUBSTITUTE H902-CSLYx-15 [v.2]

7/8/2003 4:37:24 PM

Short Title: Prorate Certain Real Property Taxes. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO PRORATE REAL PROPERTY TAXES WHEN THE EXEMPTION STATUS OF REAL PROPERTY CHANGES DURING THE YEAR DUE TO A TRANSFER TO OR FROM A NONPROFIT ORGANIZATION THAT PROVIDES HOUSING FOR INDIVIDUALS OR FAMILIES WITH LOW TO MODERATE INCOMES AND TO PROVIDE THAT A NONPROFIT ORGANIZATION THAT PROVIDES HOUSING FOR INDIVIDUALS OR FAMILIES WITH LOW TO MODERATE INCOMES THAT SATISFIES FEDERAL SAFE HARBOR PROVISIONS ALSO SATISFIES CHARITABLE PURPOSE REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-282.2. Prorated taxes for certain low and moderate income housing property.**

(a) Definitions. – The following definitions apply in this section:

(1) Affordable housing organization. – An organization described under G.S. 105-278.6(a)(8).

(2) Exempt housing property. – Real property that is owned by an affordable housing organization and qualifies for exemption under G.S. 105-278.6.

(3) Nonexempt property. – Real property that is not exempt housing property.

(b) Transfer by Affordable Housing Organization. – Notwithstanding G.S. 105-285, whenever exempt housing property becomes nonexempt because it is transferred from an affordable housing organization, the property must be listed for taxation by the transferee as of the date of acquisition and must be appraised in accordance with its true value as of January 1 preceding the date of acquisition. Prorated

taxes are due on the property for the tax year that begins in the calendar year of the transfer. The person in whose name the property is listed may appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.

(c) Transfer to Affordable Housing Organization. – Notwithstanding G.S. 105-282.1, if nonexempt property is transferred to an affordable housing organization, the organization may file an application for exemption under G.S. 105-278.6 within 60 days after the date of transfer. If the property becomes exempt housing property pursuant to the application, the taxes due on the property for the tax year that begins in the calendar year of the transfer are prorated. Notwithstanding G.S. 105-380, the governing body of a taxing unit shall release or refund to the original owner the excess of the taxes that would otherwise be due over the prorated amount.

(d) Proration Formula. – For the purpose of this section, the amount of prorated taxes is the product of the proration fraction and the amount of taxes that would be due if the property were nonexempt for the entire year. The numerator of the proration fraction is the number of full months in the calendar year during which the property is nonexempt and the denominator of the fraction is 12."

SECTION 2. G.S. 105-278.6(b) reads as rewritten:

"(b) A charitable purpose within the meaning of this section is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose. An organization described under subdivision (a)(8) of this section that satisfies the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service satisfies the charitable purpose requirement of this section."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 902

Short Title:	Repeal Property Tax Listing Exception.	(Public)
Sponsors:	Representative LaRoque.	
Referred to:	Finance.	

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL AN EXCEPTION TO THE DATE ON WHICH REAL PROPERTY IS TO BE LISTED AND APPRAISED FOR PROPERTY TAX PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-285(d) reads as rewritten:

"(d) Real Property. – The value of real property shall be determined as of January 1 of the years prescribed by G.S. 105-286 and G.S. 105-287. The ownership of real property shall be determined annually as of ~~January 1, except in the following situation: When any real property is acquired after January 1, but prior to July 1, and the property was not subject to taxation on January 1 on account of its exempt status, it shall be listed for taxation by the transferee as of the date of acquisition and shall be appraised in accordance with its true value as of January 1 preceding the date of acquisition; and the property shall be taxed for the fiscal year of the taxing unit beginning on July 1 of the year in which it is acquired. The person in whose name such property is listed shall have the right to appeal the listing, appraisal, and assessment of the property in the same manner as that provided for listings made as of January 1.~~

~~In the event real property exempt as of January 1 is, prior to July 1, acquired from a governmental unit that by contract is making payments in lieu of taxes to the taxing unit for the fiscal period beginning July 1 of the year in which the property is acquired, the tax on such property for the fiscal period beginning on July 1 immediately following acquisition shall be one half of the amount of the tax that would have been imposed if the property had been listed for taxation as of~~ January 1."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

House Bill 902:
Prorate Certain Real Property Taxes

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. LaRoque
Date:	July 10, 2003	**Analysis by:**	Y. Canaan Huie
Version:	PCS to 1st		Staff Attorney

SUMMARY: ***This bill would allow for prorated taxes when there is a change in the exemption status of property owned by a nonprofit agency that provides housing to low and moderate income individuals and families. It would also specify that such an agency that satisfies safe harbor provisions under federal law would satisfy the "charitable purpose" requirement for the exemption. The bill would be effective for taxes imposed for taxable years beginning on or after July 1, 2004.***

BACKGROUND: Under North Carolina law, the ownership and value of real property are determined as of the January 1 that precedes the start of the fiscal year. Under G.S. 105-285, any property that is not exempt from taxation on January 1 will remain nonexempt regardless of whether the property becomes exempt later in the year. The statute does not apply in the same manner to property that is exempt from taxation on January 1. There is an exception in G.S. 105-285 that requires real property that is acquired between January 1 and July 1 and that was tax-exempt on January 1 to be listed for taxation at the time of acquisition and to be taxed at the value determined on the previous January 1. The result of this is that property that is not exempt from taxation on January 1 will remain nonexempt regardless of a change in ownership, but property that is exempt from taxation on January 1 will lose the exemption due to a change in ownership that occurs between January 1 and July 1.

G.S. 105-278.6 provides for an exemption from property taxes for real and personal property that is held by an organization that provides housing to low and moderate income individuals and families and that is used entirely and completely for a charitable purpose.

ANALYSIS: This bill would allow for prorated taxes when there is a change in the exemption status of property owned by a nonprofit agency that provides housing to low and moderate income individuals and families. The owner of the property when it is non-exempt would be liable for a portion of the taxes due on the property. Under this bill, the prorated taxes due would be computed by multiplying the taxes that would be due if the property were nonexempt for the entire year by a proration factor. The proration factor is the number of full months that the property is nonexempt divided by 12.[1] Currently, there is no class of real property that is subject to proration of property taxes in this manner. However, proration is allowed for property taxes on motor vehicles.

This bill would also clarify that any organization that satisfies the safe harbor provisions of Revenue Procedure 96-32 issued by the Internal Revenue Service would also satisfy the "charitable purpose" requirement of G.S. 105-278.6. Revenue Procedure 96-32 provides that an organization that provides low-income housing will be considered "charitable" under Section 501(c)(3) of the Code if certain conditions are satisfied. Organizations that fail to meet those criteria will not necessarily be deemed not to be "charitable" – the conditions merely give guidance on what will automatically be considered charitable. Those conditions are as follows:

[1] For example, if an organization that was eligible for the exemption bought real property on August 15, the owner who sold the property would be liable for 7/12 of the amount of taxes that would otherwise be due.

- The organization establishes that for each project that (a) at least 75% of the units are occupied by residents that qualify as low income and (b) either at least 20% of units are occupied by residents that qualify as very low income or at least 40% of the units are occupied by residents that also do not exceed 120% of the areas very low income limit.
- The project is actually occupied by poor and distressed residents. A reasonable transition period is allowed for projects requiring rehabilitation or construction.
- The housing is affordable to the charitable beneficiaries. This is generally accomplished through rent restrictions or mortgage limitations.

The current definition of charitable purpose under North Carolina law is somewhat vague. This provision does not appear to enlarge that definition but merely provides some certainty that projects that satisfy the federal conditions will also satisfy the State statute.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **July 14, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps
Fiscal Research Division

RE: HB 902 – Repeal Property Tax Listing Exemption - PCS

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	*** No General Fund Impact ***				
Local Governments	*** Potential Unknown Loss – See Assumptions ***				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue, Local Governments.

EFFECTIVE DATE: Taxes imposed for taxable years beginning on or after July 1, 2004.

BILL SUMMARY: The legislation makes two related changes to the property tax laws. Section 1 provides for the pro-ration of property taxes when the exemption status of particular types of property change hands from a for-profit to non-profit organization mid tax year. In particular, it allows the pro-ration of "affordable housing" exists when the transfer occurs in the opposite direction). In addition, the bill clarifies the definition of "charitable purpose" to include any organization that satisfies the "safe harbor" provisions of the Internal Revenue Code.

ASSUMPTIONS AND METHODOLOGY: Because the bill affects only local property taxes, no General Fund impact is expected.

The North Carolina Association of Assessing Officers attempted to survey their members to determine the impact in each county. However, most counties do not code their database in a way that would allow a local estimate. The few counties that do have their databases coded in this manner could not determine their actual potential loss, as the level of detail needed on previous tax year information was not available. Thus, while the bill will create a local government loss, since it adds to the amount of property that is exempt, no fiscal estimate is possible.

SOURCES OF DATA: NC Association of Assessing Officials.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1233
PROPOSED COMMITTEE SUBSTITUTE H1233-CSSV-33 [v.3]

7/9/2003 11:07:15 PM

Short Title: Efficiency: School Board Sales Tax. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL BOARDS INSTEAD OF A SALES AND USE TAX REFUND TO LOCAL SCHOOL BOARDS AND TO MODIFY THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT ALL STUDENTS ARE READY TO ENTER KINDERGARTEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(53) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased, or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.

c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number."

SECTION 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local school administrative unit exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(53), a local school administrative unit must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local school administrative unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(b) Liability. – A local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 3. The General Assembly finds that allowing a sales and use tax exemption instead of a sales and use tax refund for local school administrative units is the first step toward eventually allowing a sales and use tax exemption for cities and counties. It is, therefore, the intent of the General Assembly to enact legislation in a future session to continue this administrative trend by also allowing cities and counties to qualify for a sales and use tax exemption instead of a sales and use tax refund.

SECTION 4. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before ~~October 16~~ September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before ~~October 16~~September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any

public school may require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

SECTION 5. Section 1 of this act becomes effective July 1, 2005, and applies to sales made on or after that date. Section 3 of this act becomes effective July 1, 2005. The remainder of this act becomes effective January 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1233

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1233-ASV-28 [v.1]

Date _____,2003

Comm. Sub. [YES]
Amends Title [YES]
First Edition

Representative Wainwright

moves to amend the bill on page 1, line 2 through page 3, line 13, by deleting the lines and substituting the following:

"AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO STUDY METHODS FOR FUNDING THE COST OF ALLOWING LOCAL SCHOOL ADMINISTRATIVE UNITS A SALES AND USE TAX EXEMPTION INSTEAD OF A SALES AND USE TAX ~~EXEMPTION~~ REFUND AND TO REQUIRE THE JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE TO STUDY THE ISSUE OF CHANGING THE KINDERGARTEN ADMISSION REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. The Revenue Laws Study Committee shall study the issue of allowing local school administrative units a sales and use tax exemption instead of a sales and use tax refund and methods to fund this change. The Committee shall report its findings and any legislative recommendations it may make to the 2004 Regular Session of the 2003 General Assembly.

SECTION 2. The Joint Legislative Education Oversight Committee shall study the issue of modifying kindergarten admission requirements as it relates to student readiness to enter kindergarten. The Committee shall report its findings and any legislative recommendations it may make to the 2004 Regular Session of the 2003 General Assembly.

SECTION 3. This act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1233

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1233-ASV-28 [v.1]

SIGNED Susan Fairwright
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____
by voice

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1233

Short Title:	Efficiency: School Board Sales Tax.	(Public)
Sponsors:	Representatives Pate; Sauls and Insko.	
Referred to:	Finance.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO PROMOTE EFFICIENCY IN GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL BOARDS INSTEAD OF A SALES AND USE TAX REFUND TO LOCAL SCHOOL BOARDS AND TO MODIFY THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT ALL STUDENTS ARE READY TO ENTER KINDERGARTEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property is specifically exempted from the tax imposed by this Article:

...

(51) Items subject to sales and use tax under G.S. 105-164.4, other than electricity and telecommunications service, if all of the following conditions are met:

a. The items are purchased by a local school administrative unit for its own use and in accordance with G.S. 105-164.29A.

b. The items are purchased pursuant to a valid purchase order issued by the local school administrative unit that contains the exemption number of the unit and a description of the property purchased, or the items purchased are paid for with a check, electronic deposit, credit card, procurement card, or credit account of the local school administrative unit.

c. For all purchases other than by a purchase order issued by the local school administrative unit, the unit must provide to or have on file with the retailer the unit's exemption number."

SECTION 2. Part 5 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-164.29A. Local school administrative unit exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(52), a local school administrative unit must obtain from the Department of Revenue a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the local school administrative unit's finance officer, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a local school administrative unit that submits a proper application.

(b) Liability. – A local school administrative unit that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 3. G.S. 115C-364 reads as rewritten:

"**§ 115C-364. Admission requirements.**

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before ~~October 16~~ September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before ~~October 16~~September 16 of that school year; or

(2) The child did not reach the age of 5 on or before ~~October 16~~September 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school may require the parent or guardian of any child presented for admission for the first time to that school to furnish a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and

that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding."

SECTION 4. Section 1 of this act becomes effective July 1, 2004, and applies to sales made on or after that date. Section 3 of this act becomes effective July 1, 2004. The remainder of this act becomes effective January 1, 2004.

HOUSE BILL 1233:
Efficiency: School Board Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Pate
Date:	July 10, 2003	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition H1233-CSSV-33 [v.3]		Committee Counsel

SUMMARY: The Proposed Committee Substitute for House Bill 1233 does the following two things:

- ***It would exempt purchases by local school administrative units from the State and local sales and use tax. The local school units must currently apply for an annual refund of sales taxes. The exemption, versus the refund, would become effective July 1, 2005.***
- ***It would modify the school admission requirements for children entering kindergarten by moving the cutoff date by which a child must turn five years old from October 16 to September 16.***

BILL ANALYSIS:

Sections 1-3: Change Refund Process to an Exemption[1] for Local School Administrative Units

Currently, all local school administrative units are subject to State and local taxes. However, the units receive an annual refund of State and local sales taxes paid.

House Bill 1233 would change the current refund process to an exemption for local school administrative units. To qualify for the exemption, the items must be purchased by a local school administrative unit and the purchase must meet one of the following conditions:

- The items are purchased pursuant to a purchase order issued by the unit that contains the exemption number of the unit and a description of the items purchased.
- The items purchased are paid for by a check, electronic deposit, credit card, procurement card, or credit account of the unit and the unit provides to or has on file with the retailer the unit's exemption number.

The bill incorporates all of the various payment and purchase mechanisms where accounting system controls are in place to verify purchases and prevent possible misuse of the unit's sales tax exemption by its employees. The only type of direct purchases not included within this exemption is employee expense reimbursements.

The sales tax exemption would apply only to direct purchases of tangible personal property. Local school units would continue to apply for refunds of State and local taxes paid on indirect purchases of building materials, supplies, fixtures, and equipment that become a part of a structure owned or leased by the unit.

A unit would be liable for items purchased with its exemption number that it does not use. The liability would include not only the tax that should have been paid on the items purchased, but also interest calculated from the date the tax would otherwise have been paid.

[1]Senate Bill 100, which has passed the Senate and is currently scheduled to be on the House floor on July 15, 2003, makes a similar change by allowing *State agencies* a sales and use tax exemption instead of a refund.

Section 3 of the bill indicates that it is the intent of the General Assembly to eventually enact legislation that would also allow the cities and counties to be eligible for an exemption of sales and use tax rather than a refund.

These sections would become effective July 1, 2005.

Section 4: Modify the kindergarten admission requirements

Under current law, a child who has reached or will reach the age of 5 on or before October 16 of that school year is entitled to entry into the public schools. A child who has not reached the age of 5 by October 16, but has been attending school during that school year in another state in accordance with the laws of that State before moving to North Carolina may also enter the public schools.

Under House Bill 1233, the date for qualification for entry into kindergarten is moved back from October 16 to September 16.

This section of the bill would become effective January 1, 2005.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: **July 9, 2003**

TO: House Finance Committee

FROM: Linda Struyk Millsaps, Adam Levinson, and Lisa Hollowell.
Fiscal Research Division

RE: HB 1233 – PCS – Efficiency: School Board Sales Tax

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ Millions)

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund					
Transition			(36.7)	*	*
Interest Income			(2.8)	(2.9)	(3.2)
TOTAL			(39.5)	(2.9)	(3.2)
Local Governments			(24.5)		
Public Schools					
Transition			61.2		
Interest Income			2.8	2.9	3.2
EXPENDITURES					
General Fund					
Dept. of Public Instruction			(44.6)		
More at Four			1.5		
Smart Start			* See Assumptions and Methodology *		
County Governments			1.5		

*** The intent language suggests a potential and significant out year cost.**

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: NC Department of Revenue, NC local governments, NC school administrative units, More at Four, Smart Start.

EFFECTIVE DATE: Section 1 becomes effective July 1, 2005 and applies to sales made on or after that date. Section 2 (certification process) becomes effective January 1, 2005. The remainder becomes effective July 1, 2005.

BILL SUMMARY: The legislation moves the school administrative units from a sales tax refund to a sales tax exemption. This shift affects both state and local sales taxes. The bill also outlines the process for certification for an exemption. The bill shifts back by one month the date by which a child must be five years old to enter kindergarten. Finally, the bill indicates the General Assembly's intent to shift the counties and cities from a sales tax refund to an exemption.

ASSUMPTIONS AND METHODOLOGY: The legislation creates six fiscal impacts, three related to the sales tax and three related to the change in the kindergarten date.

Sales Tax

In terms of the sales tax issues, the shift from a refund to an exemption would reduce interest income for the State and add to investment earnings of local units. This would be a recurring loss/gain. The shift is because refunds are paid the year after the purchase is made. A review of the refunds paid by month for a recent fiscal year indicates that the average refund to local units is paid in November of the fiscal year following the purchase. In analyzing the cost of the exemption, it was assumed that exempt purchases would be made at an even rate throughout the year. Thus, the "average purchase" is made around January 1. This means that a sales tax exemption, rather than a refund, would accelerate sales tax relief from November back to January, a period of 11 months. The assumed interest rate used for the calculation of the interest income loss to the State (and gain to local units) was 5.25%, based on a recent estimate by the Office of the State Treasurer for the 2001-02 fiscal year. This means that the effective interest loss is equal to 4.8125% (5.25% for 11 months) times the exemption amount.

The actual refunds paid to local schools in recent years are as follows:

Fiscal Year of Purchases	Total Refund Amount
1999-00	33,303,389
2000-01	43,600,000
2001-02	46,700,000

Analysis of school refund requests filed to date and conversations with school officials suggest that the amount of refunds will continue to rise by approximately 7.0%. Using this 7.0% rate as a proxy for future growth suggests the following refund request stream:

2002-03	49,969,000

2003-04	53,466,830
2004-05	57,209,508
2005-06	61,214,174
2006-07	65,499,166
2007-08	70,084,107

Because refunds for purchases made in each of fiscal years above are paid in the following fiscal year, the actual cost to the state of these refunds are borne in the next fiscal year. The resulting interest losses to the general fund, taking into account the effective date of the bill, are below.

Fiscal Year	Interest
2004-05	2,573,091
2005-06	2,753,208
2006-07	2,945,932
2007-08	3,152,147

This amount is a loss to the state and a gain to school units.

The second sales tax related fiscal impact relates to the one time transition cost. Under the state constitution, the state general fund budget must be prepared on a cash basis. Refunds to local units are made in the year after the actual purchases. The combination of these factors mean that in the first year the exemption is granted the state has to pay both the refund and the exemption amounts (current year exemptions plus refunds for previous year purchases). Because the exemption becomes effective July 1, 2005, the transitional cost will occur in 2005-06. The actual cost is divided between the state and local governments.

The bill also addresses the issue of transitioning counties and cities from a sales tax refund to an exemption. Actual historical sales tax refunds to these local units have been as follows:

Fiscal year	Counties	Municipalities
1993-94	$14,239,995	$22,476,829
1994-95	NA	NA
1995-96	20,122,552	26,436,834
1996-97	20,388,158	29,777,918
1997-98	22,541,073	30,641,945
1998-99	26,880,204	31,356,402
1999-00	26,975,128	30,977,212
2000-01	26,487,706	34,066,525
2001-02	29,284,899	35,381,885

Shifting these units from a refund to an exemption would result in a one-time transition cost similar to the loss encountered with shifting the schools. Using straight trend line analysis and

the historic state/local division of the cost associated with city and county refunds, suggests the following potential state losses:

Fiscal year	State
2004-05	48,921,503
2005-06	50,832,626
2006-07	52,743,749
2007-08	54,654,872
2008-09	56,565,995
2009-10	58,477,118

It should be noted that only one year of transition cost would actually occur. However, because Fiscal Research cannot determine in which year the General Assembly will actually make this change, we cannot identify the pertinent year and refund amount.

Kindergarten Date

Moving up by one month the date by which children must have turned five years old in order to enter kindergarten for the 2005-06 school year will render newly ineligible those children whose birthdays fall between September 17 and October 16, 2005.[1] Based on birth rates and other historical data regarding kindergarten enrollment the NC Department of Public Instruction (DPI) predicts that approximately 9,290 children will be affected by the policy. The one-time cost savings to the State associated with this many fewer children attending kindergarten in 2005-06 is calculated using the following assumptions:

- Average State appropriation per pupil in kindergarten is $5,000 (Source: DPI).
- Four% of the affected children will in fact enroll in kindergarten under the auspices of the statutory provision for early entry for "gifted" and "mature" children.[2]
- The State will save money only in the first year the policy is implemented because that is the only year in which fewer children than expected will be eligible for kindergarten entry. The savings derives from serving only eleven months' worth of children rather than the typical twelve months' worth.[3] In 2006-07 and subsequent years, a full twelve months' worth of children will once again be eligible each year.

The policy change will therefore produce a one-time reduction in expenditures from the State Public School Fund of $44,592,000 (=(9,290-371 students) X $5,000).

More At Four

[1] These children are eligible for kindergarten under current statute (G.S.115C-364).

[2] G.S. 115C-364(d)

[3] Children who reach the age of five years from September 17-October 16, 2005 will be ineligible for kindergarten in 2005-06, but those who reached that age during that time period in 2004 are still eligible for entry in 2004-05 and are assumed to enter for that school year. The cohort of children entering in 2005-06 therefore have birthdays spread over only eleven rather than twelve months.

The More At Four program will be impacted by the change of the enrollment date for kindergarten. The number of students currently enrolled in the More At Four program, whose birthdays fall between September 17 and October 16, 2004, is 425. This number is used as a proxy for the same cohort in 2005. The state program costs associated with serving these students for an additional year is $3,500 per student on average. The total fiscal impact to the state-funded More At Four program is $1.5 million for FY05.

The More At Four program pays 50% of the cost of the classroom education for the at-risk four-year-olds with county governments or other entities providing a 50% match; therefore, there is an additional $1.5 million impact for entities providing the required match.

The final impact relates to Smart Start. Because more children will likely remain in daycares that receive funding through Smart Start in 2005-06, there may be additional financial demands on that program. However, Fiscal Research cannot quantify the exact nature of that potential increase in demand. Therefore, no estimate is possible on this portion of the bill.

SOURCES OF DATA: NC Department of Revenue, NC Department of Public Instruction, North Carolina More At Four Program

TECHNICAL CONSIDERATIONS: Potentially the bill could result in the elimination of approximately 525 kindergarten teacher positions, for one year, assuming the state maintains the current ratios. However, the bill does not specifically address how this issue will be handled.

Re: HB 1233

Jo Ann Norris
Associate Executive
Public School Forum of NC

July 13, 2003

The Honorable Louis Pate
NC House of Representatives
Room 607, LOB
Raleigh, NC 27603-5925

Dear Representative Pate:

I have a speaking engagement in Brunswick County on Tuesday morning and, therefore, will not be able to attend the continued hearing of HB 1233 Efficiency: School Board Sales Tax in the House Finance Committee. As you are aware, the Education: Everybody's Business Coalition is on record in support of the change from a sales tax refund for local boards of education to a sales tax exemption. Such a change would provide much relief from a paperwork burden as well as cash flow delay. Given the deep cuts in education, LEAs need every available resource to maintain quality levels of funding without having to complete the burdensome paperwork requirement and then wait for the refund.

Neither the Coalition or the Forum has taken a position on moving the eligibility date for kindergarten from October 16 to September 16. Under these conditions, I usually do not share my personal views. However, in this one rare instance and because my field in my "earlier life" of almost twenty years as a classroom teacher in HeadStart, Kindergarten, first and second grades, was rooted in early childhood education, I should like to share my views on the kindergarten eligibility date issue. Some may contend that my actual teaching was so long ago that the experiences are no longer relevant to the issues of today. I would beg to disagree.

School readiness has always been a critical issue for children starting their formal schooling , but particularly in the public schools where movement can be more lock step than in private schools. The level of readiness at that formal beginning forever marks a child's eventual success. School readiness is an even more critical issue today given the intended and unintended consequences and impact of such rigorous reform initiatives as North Carolina's own ABCs Accountability Program and the federal No Child Left Behind Act. Today, the "high stakes" nature of our accountability program is even more heightened by the "all or nothing" nature of NCLB. The expectations for children starting kindergarten are far more rigorous than in times past (The expectations are clearly greater than in the early years of my career and far more rigorous than in the last years of my active teaching career.)

Once a child enters the formal schooling process, he/she is held to the expectations and standards for that age group and grade level and is expected to make the progression to the next grade level for the age group. While all educators strive to address each child's individual needs, society's reality and now federal legislation mandate that all children will meet the proficiency level for his /her age group. While our own ABCs measures the child's growth and rewards or sanctions that growth on a school-wide level, NCLB measures the child's actual proficiency level and the consequences for the child and the school are huge. (Just imagine, now the child is in a subgroup below AYP that caused the entire school to be labeled "Needs Improvement.") We cannot get there overnight. Hopefully, we can get there by the year 2013-14. And while we get there, the rigor increases for every child, including the young kindergartener who was not ready for kindergarten but was able to begin because his/her birthday was on or before October 16! While kindergarteners are not "tested" under the ABCs or NCLB, the rigorous curriculum does begin as do the expectations for success.

There has been a lot said about the "research" basis for the September 16 date. I would contend that there was no "research" basis for the October 16 date either. Over the course of my career, I have known and had conversations with many educators and parents which have validated for me that many, many early childhood teachers believe that the October 16 date to determine the eligibility of a child to enter kindergarten is not the most appropriate date. Most teachers have taught many children, especially little boys, who would have benefited greatly by the extra year at home or in a pre-school program without a formal accountability clock running on them. The issue is not "what difference does one month make." Rather, the issue should be, "what difference another year would make."

Current state law already has provisions for the four year old who is "ready" for kindergarten. If the principal of the school finds, based on information submitted by the child's parent or guardian, that the child if gifted and has the maturity to justify admission, the principal may admit that child to school.

Inasmuch as this section of the bill does not take effect until the 2005-06 school year, parents and schools should have ample time to plan. It must be remembered that no child in North Carolina is being deprived of the kindergarten experience. Two and three year olds today will have another year to develop their readiness for a rigorous, formal, public school career. On another note, given our projected increased student enrollment and decreased class size in k-2, I cannot imagine currently employed early childhood teachers losing their jobs due to decreased enrollment, if this is the issue that some have suggested.

I would like to engage in an in-depth discussion about this issue, but in the interest of the immediate time restraints, these are my immediate thoughts. I hope this is helpful to you in some way. Again, these are my personal thoughts and do not represent any organization or group.

Sincerely,

Jo Ann Norris

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1233 A BILL TO BE ENTITLED AN ACT TO PROMOTE EFFICIENCY IN GOVERNMENT BY ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL SCHOOL BOARDS INSTEAD OF A SALES AND USE TAX REFUND TO LOCAL SCHOOL BOARDS AND TO MODIFY THE SCHOOL ADMISSION REQUIREMENTS TO ENSURE THAT ALL STUDENTS ARE READY TO ENTER KINDERGARTEN.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 896*
PROPOSED COMMITTEE SUBSTITUTE H896-CSLAf-40 [v.2]

7/9/2003 4:43:36 PM

Short Title: Increase Cosmetic Art Fees. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00 per year.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 44.00 every two years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 22.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 44.00 every two years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 44.00 every two years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 44.00 every two years

(6) Cosmetic art shop ~~per active booth~~ with ..... ~~$ 3.00 per year~~

one to two booths ..... $ 15.00 per year

three to ten booths ..... $ 30.00 per year

eleven or more booths ..... $ 55.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal ..... ~~$ 10.00~~$ 50.00

(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00

(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:

(1) Document request ..... $ 10.00

(2) Mailing list ..... $ 20.00

(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired licenses.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every ~~three years beginning October 1, 1998. A late fee shall be charged for renewals after that date.~~two years. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) ~~Apprentice, esthetician, and manicurist~~ Apprentice licenses shall be renewed annually on or before October 1 of each year. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(d) ~~Teacher~~ Teacher, esthetician, and manicurist licenses shall be renewed every two years on or before October 1. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a teacher's license, the teacher shall annually complete a minimum of eight hours of continuing education which shall be approved by the Board. Teachers shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license

has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees."

SECTION 3. This act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 896*

Short Title:	Increase Cosmetic Art Fees.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Finance.	

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 60.00 every 2 years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 30.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 50.00 every 2 years

(6) Cosmetic art shop per active booth ..... ~~$ 3.00 per year~~$ 45.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00

(9) Inactive license ..... $ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late

renewal ..... ~~$ 10.00~~$ 50.00
(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00
(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.
(d1) The Board may require payment of miscellaneous fees as follows:
(1) Document request ..... $ 10.00
(2) Mailing list ..... $ 20.00
(3) License listing ..... $ 15.00 per list.
(e) The Board may prorate fees as appropriate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 896:
Increase Cosmetic Art Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson
Date:	July 9, 2003	**Analysis by:**	Martha Walston
Version:	H896-CSLAf-40		Committee Counsel

SUMMARY: House Bill 896 authorizes the North Carolina Board of Cosmetic Art Examiners to establish new fees and to increase existing fees. Senate Bill 757, sponsored by Senator Garrou, is a companion bill.

BILL ANALYSIS: House Bill 896 authorizes the North Carolina board of Cosmetic Art Examiners to establish the following new fees:

Inspection of a newly established school	$120
Certification of records	$ 25
Continuing education provider	$100 per year
Document request	$ 10
Mailing list	$ 20
License listing	$ 15 per list

House Bill 896 authorizes the Board to increase the following existing fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE
Inspection of newly established Cosmetic art shop	$25	$70
Reciprocity applicant	$15	$30
Cosmetologist license	$39 every 3 years	$44 every 2 years
Apprentice	$10 per year	$44 every 2 years
Esthetician	$10 per year	$44 every 2 years
Manicurist	$10 per year	$44 every 2 years
Teacher	$10 every 2 years	$44 every 2 years
Cosmetic art school	$50 per year	$120 per year
Duplicate license	$1	$10
Apprentice, cosmetologist, esthetician, Manicurist, and teacher late renewal	$10	$50
Cosmetic art schools and shops Late renewal	$10	$35
Reinstatement – schools and shops	$25	$75

Cosmetic art shop per active booth $3 per year

House Bill 896 amends the cosmetic art shop booth fee as follows:

NUMBER OF BOOTHS	PROPOSED FEE
One to two booths	$15 per year
Three to ten booths	$30 per year
Eleven or more booths	$55 per year

House Bill 896 makes conforming changes to the license renewal periods in G.S. 88B-21.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps and Alexei Pavlichev
Fiscal Research Division

RE: House Bill 896 (Proposed House Finance Committee Substitute)

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Cosmetic Art Examiners	$1,515,906	$1,515,906	$1,515,906	$1,515,906	$1,515,906
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners
EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-20 by establishing new fees and increasing certain current license fees under the Cosmetic Art Act.

ASSUMPTIONS AND METHODOLOGY:

License Fees Overview

The NC Board of Cosmetic Art Examiners (Board) has not implemented any changes in fees for several decades. Table 1 shows the year of last fee change, current fees, proposed fees, and amounts the current fees were equal to in the year they were established, adjusted for inflation.

Table 1. Analysis of Proposed Fee Changes

Fee	Year of Last Fee Change	Current Fee	Proposed Fee	Current Fees if Adjusted for Inflation
Application Fees				
Inspection of newly established shop	1976	$25	$70	$80.93
Inspection of newly established school	New Fee	N/A	$120	N/A
Reciprocity applicant under G.S. 88B-13	1963	$15	$30	$90.29
Certification of Records	New Fee	N/A	$25	N/A
Continuing Education Provider	New Fee	N/A	$100/year	N/A
License Fees				
Cosmetologist	1985	$13/year	$22/year	$22.25
Apprentice	1995	$10/year	$22/year	$12.09
Esthetician	1998	$10/year	$22/year	$11.30
Manicurist	1995	$10/year	$22/year	$12.09
Teacher	1984	$10/2 years	$22/years	$17.73
Cosmetic Art Shop	1976	$3/chair/year	1-2 chairs $15 3-10 chairs $30 11+ chairs $55	$27.87
Cosmetic Art School	1973	$50/year	$120/year	$207.43
Duplicate Fee	1975	$1	$10	$3.42
Late Fees and Reinstatement Fees				
Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal	1985	$10	$50	$17.12
Schools and shops late renewal	1976	$10	$35	$32.37
Reinstatement – schools and shops	1975	$25	$75	$85.59
Document Request	New Fee	N/A	$10	N/A
Mailing List	New Fee	N/A	$20	N/A
License Listing	New Fee	N/A	$15/list	N/A

The NC Board of Cosmetic Art Examiners (Board) estimates that the following licenses are in effect each year:

Esthetician	1,084	Manicurist	8,149
Cosmetic Art		Cosmetic Art Shops	11,737

Teacher	838		
Apprentice		Cosmetologist	45,679
Cosmetologist	863	Cosmetic Art Schools	121

Revenues

Based on the above information, Table 2 provides estimates on the current annual revenue generated from issuing the licenses, anticipated annual revenue after fee increases, and annual revenue gain for the Board.

Table 2 Affect of the Major Fee Changes on the Board Revenues

	Current Estimated Revenue	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologist	$593,827	$1,004,938	$411,111
Manicurist	$81,490	$179,278	$97,788
Esthetician	$10,840	$23,848	$13,008
Apprentice	$8,630	$18,986	$10,356
Teacher	$4,190	$18,436	$14,246
Total	*$698,977*	*$1,245,486*	*$546,509*
Shops	$109,561	$255,900	$146,339
Schools	$6,050	$14,520	$8,470
Grand Total	**$814,588**	**$1,515,906**	**$701,318**

The number of cosmetology professionals will likely increase in the future, which will affect the Board revenues. However no growth estimate is available to be included in the analysis.

Expenses

The Board estimates its annual expenses as they appear in Table 3. The Board estimates annual three-percent growth in their expenses.

Table 3. Estimated Monthly and Annual Expenses of the Board

Type of Expenses	2003-04	2004-05	2005-06	2006-07	2007-08
Personal Expenses	$106,090	$109,273	$112,551	$115,927	$119,405
Purchased Expenses	$41,200	$42,436	$43,709	$45,020	$46,371
Supplies	$2,060	$2,122	$2,185	$2,251	$2,319
Fixed Expenses	$5,150	$5,305	$5,464	$5,628	$5,796

Property, Plant, & Equip.	$2,060	$2,122	$2,185	$2,251	$2,319
Miscellaneous Expenses	$1,545	$1,591	$1,639	$1,688	$1,739
Monthly Expenses	$158,105	$162,848	$167,734	$172,766	$177,949
Annual Expenses	$1,897,260	$1,954,178	$2,012,803	$2,073,187	$2,135,383

Average Monthly Expenses: $167,880
Average Annual Expenses: $2,014,562

According to the Board, OSBM advises it to hold a minimum reserve of three months operating expenses. Based on the average monthly expenses of $167,880, the amount of three-months reserve would be $503,641.

The Board plans to address the discrepancy between proposed estimated revenues (Table 2) and estimated expenses (Table 3) by charging application fees as well as late and reinstatement fees that appear in Table 1.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners; *CPI Inflation Calculator*.

TECHNICAL CONSIDERATIONS: None.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1315

Short Title:	Large County Law Enforcement Services.	(Public)
Sponsors:	Representative Rhodes.	
Referred to:	Finance.	

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE OPTION FOR LARGE COUNTIES TO FUND AND PROVIDE LAW ENFORCEMENT SERVICES IN UNINCORPORATED AREAS AND CONCERNING LAW ENFORCEMENT SERVICES IN UNINCORPORATED AREAS OF MECKLENBURG COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-301(a)(10) reads as rewritten:

"**§ 153A-301. Purposes for which districts may be established.**

(a) The board of commissioners of any county may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities and functions in addition to or to a greater extent than those financed, provided or maintained for the entire county:

...

(10) Law enforcement if ~~all of the following apply:~~

~~a.~~ ~~The~~ The population of the county is over ~~500,000~~ 650,000 according to the most recent federal decennial census.

~~b. The county has an interlocal agreement with a city in the county under which the city provides law enforcement services in the entire unincorporated area of the county.~~

~~c. The county will pay to the city the following percentages of the city-county police department budget if there are no significant changes to the city's statutory annexation authority:~~

~~1. 9.60% for fiscal years 1995-96 and 1996-97.~~

~~2. 7.60% for fiscal years 1997-98 and 1998-99.~~

~~3. 5.60% for fiscal years 1999-2000 and 2000-2001.~~

~~4. 3.60% for fiscal years 2001-02 and 2002-03.~~

~~5. 1.60% for fiscal years 2003-04 and 2004-05.~~

~~Provided, if the difference between the ratio of the population in the unincorporated area to the total population served by the city-county police department and the rate for the current year as stated above is greater than fifteen percent (15%), the county's agreement to pay such percentages can be amended to reflect that difference.~~"

SECTION 2. Section 1 of Chapter 1170 of the 1969 Session Laws, as amended by Section 4 of Chapter 714 of the 1979 Session Laws, reads as rewritten:

"Section 1. Upon approval of the Board of Commissioners of Mecklenburg County all policemen of ~~the City of Charlotte~~ any municipality in the county shall thereafter be authorized and empowered to exercise throughout the portions of the unincorporated areas of the County of Mecklenburg designated by the county board of commissioners the same jurisdiction, authority, powers and rights, including arrest and service of criminal and civil process, which they are authorized by law to exercise within ~~the City of Charlotte,~~ that municipality's corporate limits and shall have the privileges and immunities, including coverage under Worker's Compensation laws, which they now have within the ~~City of Charlotte,~~ municipality's corporate limits, provided that ~~the City of Charlotte and~~ Mecklenburg County shall, prior to the exercise of any of said powers or authority, enter into an agreement setting forth the guidelines and procedures for implementation of this ~~Act.~~act with such municipality or municipalities; provided, however, the board of commissioners of the county may not authorize the police of one municipality to exercise law enforcement powers within another municipality's sphere of influence unless it has first offered that municipality the right to provide law enforcement services within its own sphere of influence on equivalent terms."

SECTION 3. This act becomes effective January 1, 2005.

HOUSE BILL 1315:
Large County Law Enforcement Services

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Rhodes
Date:	July 14, 2003	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1315 does two things, effective January 1, 2005:***

- ***It amends G.S. 153A-301 by deleting certain requirements for establishing a law enforcement service district in a county and increasing the total population requirement to establish a law enforcement service district in a county.***
- ***It amends S.L. 1969-1170, as amended by SL 1979-714, to provide that police in any municipality in Mecklenburg County (was in the City of Charlotte) may exercise authority in certain unincorporated areas of the County.***

BILL ANALYSIS: G.S. 153A-301 lists the purposes for which a county may establish a service district. A law enforcement service district may be established if ALL of the following apply:

a. The population of the county is over 500,000 according to the most recent federal decennial census.
b. The county has an interlocal agreement with a city in the county under which the city provides law enforcement services in the entire unincorporated area of the county.
c. The county will pay to the city the following percentages of the city-county police department budget if there are no significant changes to the city' statutory annexation authority:
    1. 9.60% for fiscal years 1995-96 and 1996-97.
    2. 7.60% for fiscal years 1997-98 and 1998-99.
    3. 5.60% for fiscal years 1999-2000 and 2000-2001.
    4. 3.60% for fiscal years 2001-02 and 2002-03.
    5. 1.60% for fiscal years 2003-04 and 2004-05.

    Provided, if the difference between the ratio of the population in the unincorporated area to the total population served by the city-county police department and the rate for the current year as stated above is greater than 15%, the county's agreement to pay such percentages can be amended to reflect that difference.

Section 1 of HB 1315 increases the total population requirement of the county in sub-subdivision (a) from 500,000 to 650,000 and deletes the requirements in sub-subdivisions (b) and (c).

Section 2 of HB 1315 amends a local law which would allow the Mecklenburg County Board of Commissioners to give police in any municipality in the County the authority to exercise their powers in unincorporated areas of the County that have been designated by the County Board of Commissioners. The police may only exercise the power they have in that municipality's corporate limits. Police may not exercise law enforcement powers in another municipality's sphere of influence unless the County Board of Commissioners has first offered that municipality the right to provide law enforcement services within its own sphere of influence. The current local law allows the County Board of Commissioners to give this authority to the police in the City of Charlotte.

H 1315 Large County Law Enforcement Services

The City of Charlotte currently provides law enforcement services to the unincorporated areas of Mecklenburg County. The existing agreement with the City can be terminated by either party by giving at least 14 months notice prior to a July 1 effective termination date, or April 30 of the previous year.

The Mecklenburg County Manager is convening a committee of the chief public safety officers from each municipality, the manager of each municipality, the County Manager, and a designee of the County Manager. This ad hoc committee is to provide a long-range plan for law enforcement services in Mecklenburg County. The committee would identify funding requirements and specifically address the provision of law enforcement in the unincorporated areas of the County until such areas no longer exist. The committee would provide a report to each of the participating governing boards no later than February 15, 2004 and requests that upon receipt of the committee's report each elected body take any necessary action by April 15, 2004.

Under current law, the options for the committee to consider are:

1. Maintain the current agreement with the City of Charlotte
   - Fund using the Law Enforcement Service District Tax, or
   - Fund with a county-wide tax; or
2. Create a new Mecklenburg County Police Department
   - Fund with a county-wide tax; or
3. Fund the Mecklenburg County Sheriff's Department to provide police protection.
   - Fund with a county-wide tax.

Current statutes allow use of the law enforcement service district tax to fund police services for the unincorporated area only if those services are provided throughout the entire unincorporated area by a single city. Under current law, the only municipality that qualifies is the City of Charlotte.

H 1315 provides the committee with additional options and flexibility:

1. Contract with other municipalities to provide police protection outside of the municipality's corporate limits.

2. Fund law enforcement services in the unincorporated area using a law enforcement service district tax if such services are to be provided either by a new County Police Department, the Sheriff's Office, or a municipality other than the City of Charlotte.

By the numbers:

- Only 11% (55.7 square miles) of the County's geographic area consists of unincorporated area other than the City of Charlotte's sphere of influence (71% is the City of Charlotte and its sphere of influence, while 10% of the County is other municipalities and their spheres.).

- 2% of the County's population lives within the unincorporated area of the County, excluding the City of Charlotte's sphere of influence (15,882 of 736,784).

- Only 11% of the County's geographic area and 2% of its population are affected by this legislation.

Conclusion.

- The legislation is in no way critical of the City of Charlotte or its police department.

- The legislation does not mandate any action by the committee or the County. It merely provides for potential cost-saving options to the current agreement.

North Carolina General Assembly

House Committee on Finance

Minutes

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July 15, 2003 – 4:45 P.M.
(Upon the Adjournment of Session)

The House Committee on Finance met on Tuesday, July 15, 2003 at 4:45 pm for an urgent "around the table" meeting in the House Chamber at the desk of Chairman David Miner. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Carney, Creech, Ellis, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Setzer, Weiss, and C. Wilson. Martha Walston was the only staff person present. No official agenda for the meeting was prepared and no record of visitors was taken.

Chairman Miner called the meeting to order at 4:45 pm and informed the members that the purpose of the meeting was to discuss a recommendation of either concurrence or non-concurrence on the Senate Committee Substitute for **HB 1294 - QUALIFIED BUSINESS CREDIT/PORTS CREDIT** (see attachment 1), sponsored by Representative Gordon Allen. Representative Luebke was recognized first by the Chair and informed the Committee members that he and the other five Chairs had discussed this matter prior to the announcement of the meeting were inclined to recommend non-concurrence on the bill with a request for conferees. He explained this by stating that the Ports Credit section of the bill was not included in the House version and the Chairs felt that further discussion of the bill was necessary because of this. Specifically, Representative Luebke mentioned that the Senate had set the duration of the Ports Tax Credit at five years. He voiced his concern over such a long period, noting that the Ports Authority had not even made contact with the House Finance Committee. Representative Luebke stated that he was originally proposing a one-year extension of the credit, but was willing to compromise to three years. He maintained, however, that five years was simply too long a period. Representative Gibson was then recognized, , and spoke in opposition to Representative Luebke. He noted his opinion that an extension of one year or even three years could seriously decrease the opportunities for those investing in the port area. Representative Ellis, who was recognized next, agreed with Representative Gibson that the tax credit needed to be extended as long as possible so that those investing could recoup as much of their initial investment as possible.

Chairman Miner recognized Representative Hackney next who inquired as to why this issue was being heard in such a manner (inside the Chamber) and with such urgency. He further stated his disagreement of the discussion and made a motion that the meeting be adjourned. As the House rules do not allow for debate on motions of adjournment, Chairman Miner called the vote. Division among the members was called, the count was taken, and with 11 ayes and 14 nays, the motion failed. Representative Gibson was then recognized and moved that the Committee offer a report

that the House **DO** concur on HB 1294. Representatives Creech, Wilson, and Rayfield, who all stated they saw the five-year extension of the ports credit as an absolute minimum, offered him support of the motion. The Chair then recognized Representative Luebke, however, who objected to the motion stating that the Committee had far too little information on the contents on the Senate Committee Substitute of the bill to make such a decision during the meeting. He clearly noted his opinion that the serious consideration of this bill by the Committee members was "inappropriate" given the circumstances of the meeting. Representative Gibson was recognized to respond and noted that the extension of the credit for five years would have no more fiscal impact each year than if it were extended five times for one-year at a time. He stated simply that the purpose of the credit was to allow businesses to extend their businesses deals. He also reminded the members of the need of the Legislature's help in the coastal parts of the state.

Chairman Miner once again recognized Representative Luebke who made a second motion for adjournment. Again, as no debate was allowed, the Chair then called the vote. Division was called once again and by a vote of 8 ayes and 16 nays, the motion for adjournment failed. Representative Gibson was then recognized and reiterated his earlier motion for a recommendation of concurrence to the Senate Committee Substitute Bill for HB 1294. Seeing no further discussion, Chairman Miner called the vote and the motion carried.

Having no further business before the Committee, Chairman Miner then adjourned the meeting at 5:07 pm.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. House Bill 1294 (and related materials)

North Carolina General Assembly

House Committee on Finance

Minutes

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Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. House Bill 1294 (and related materials)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 4

HOUSE BILL 1294

Committee Substitute Favorable 6/11/03
Senate Finance Committee Substitute Adopted 6/26/03
Fourth Edition Engrossed 7/9/03

Short Title: Qualified Business Credit/Ports Credit. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT AND TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2004.~~2007."

SECTION 2. G.S. 105-163.010 reads as rewritten:

"**§ 105-163.010. Definitions.**

The following definitions apply in this Part:

...

(5a) Granting entity. – Any of the following:

a. A domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.

b. A domestic or foreign corporation that meets the following three conditions:

1. It is tax-exempt pursuant to section 501(c)(3) of the Code, is a private foundation pursuant to section 509 of the Code, or is an affiliate of either of the foregoing.

2. It has as its principal purpose one of the following: conducting research and development in, or stimulating the development of, electronic, photonic, information, or other technologies, which may include investing in companies that provide research, development, products, or services in these technologies.
3. It meets one of the following conditions:
   I. It received direct appropriations in furtherance of one of these purposes from the State in at least three fiscal years.
   II. It was organized to perform one of these purposes for an organization that meets condition I of this sub-subdivision.
   III. It is an affiliate of an entity that meets condition II of this sub-subdivision.

c. An institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii) is financed in part by a domestic or foreign corporation that is tax-exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology.

...

(7b) Qualified business. – A qualified business venture, a qualified grantee business, or a qualified licensee business.

...

(9) Qualified grantee business. – A business that (i) is registered with the Secretary of State under G.S. 105-163.013, and (ii) has received during the current year or any of the preceding three years a ~~grant~~ grant, an investment, or other funding from a federal agency under the Small Business Innovation Research Program administered by the United States Small Business Administration or from a granting entity as defined in this section. ~~an organization that meets any of the following qualifications:~~

~~a. It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the biotechnology industry, and in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.~~

~~b. It is a domestic or foreign corporation that (i) is tax-exempt pursuant to section 501(c)(3) of the Code, (ii) has as its principal purpose the stimulation of the development of the microelectronics and communication industries, and (iii) in furtherance of that purpose has received, or is a successor in interest to an organization that has received, direct appropriations from the State in at least three fiscal years.~~

~~c. It is an institute that (i) is administratively located within a constituent institution of The University of North Carolina, (ii) is financed in part by a domestic or foreign corporation that is tax-exempt pursuant to section 501(c)(3) of the Code, (iii) has as a principal purpose the stimulation of economic development based on the advancement of science, engineering, and technology, and (iv) funds, either directly or in collaboration with other entities, small businesses engaging in developing technology.~~

(9a) Qualified licensee business. – A business that meets all of the following conditions:

a. It is registered with the Secretary of State under G.S. 105-163.013.

b. During its most recent fiscal year before filing an application for registration under G.S. 105-163.013, it had gross revenues, as determined in accordance with generally accepted accounting principles, of one million dollars ($1,000,000) or less on a consolidated basis.

c. It has been certified by a constituent institution of The University of North Carolina or a research university as currently performing under a licensing agreement with the institution or university for the purpose of commercializing technology developed at the institution or university. For the purpose of this section, a research university is an institution of higher education classified as a Doctoral/Research University, Extensive or Intensive, in the most recent edition of "A Classification of Institutions of Higher Education", the official report of The Carnegie Foundation for the Advancement of Teaching."

SECTION 3. G.S. 105-163.011 reads as rewritten:

"**§ 105-163.011. Tax credits allowed.**

(a) No Credit for Brokered Investments. – No credit is allowed under this section for a purchase of equity securities or subordinated debt if a broker's fee or commission or other similar remuneration is paid or given directly or indirectly for soliciting the purchase.

(b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an individual who purchases the equity securities or subordinated debt of a qualified

~~business venture or a qualified grantee~~ business directly from that business is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000). The credit may not be taken for the year in which the investment is made but shall be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

(b1) Pass-Through Entities. – This subsection does not apply to a pass-through entity that has committed capital under management in excess of five million dollars ($5,000,000) or to a pass-through entity that is a qualified ~~grantee business, a qualified business venture,~~business or a North Carolina Enterprise Corporation. Subject to the limitations provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities or subordinated debt of a qualified ~~grantee business or a qualified business venture~~ business directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of the amount invested. The aggregate amount of credit allowed a pass-through entity for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of another pass-through entity, may not exceed seven hundred fifty thousand dollars ($750,000). The pass-through entity is not eligible for the credit for the year in which the investment by the pass-through entity is made but shall be eligible for the credit for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in subsection (c) of this section.

Each individual who is an owner of a pass-through entity is allowed as a credit against the tax imposed by Part 2 of this Article for the taxable year an amount equal to the owner's allocated share of the credits for which the pass-through entity is eligible under this subsection. The aggregate amount of credit allowed an individual for one or more investments in a single taxable year under this Part, whether directly or indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars ($50,000).

If an owner's share of the pass-through entity's credit is limited due to the maximum allowable credit under this section for a taxable year, the pass-through entity and its owners may not reallocate the unused credit among the other owners.

(c) Application. – To be eligible for the tax credit provided in this section, the taxpayer must file an application for the credit with the Secretary on or before April 15 of the year following the calendar year in which the investment was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the investment was made. An application is effective for the year in which it is timely filed. The application shall be on a form prescribed by the Secretary and shall include any supporting documentation that the Secretary may require. If an investment for which a credit is applied for was paid for other than in money, the taxpayer shall include with the application a certified appraisal of the value of the property used to pay for the investment. The application for

a credit for an investment made by a pass-through entity must be filed by the pass-through entity.

(d) Penalties. – The penalties provided in G.S. 105-236 apply in this Part."

SECTION 4. G.S. 105-163.012(d) reads as rewritten:

"(d) The taxpayer's basis in the equity securities or subordinated debt acquired as a result of an investment in a qualified ~~business venture or qualified grantee~~ business shall be reduced for the purposes of this Article by the amount of allowable credit. 'Allowable credit' means the amount of credit allowed under G.S. 105-163.011 reduced as provided in subsection (c) of this section."

SECTION 5. G.S. 105-163.013 reads as rewritten:

"**§ 105-163.013. Registration.**

(a) Repealed by Session Laws 1993, c. 443, s. 4.

(b) Qualified Business Ventures. – In order to qualify as a qualified business venture under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified business venture. A business meets the requirements for registration as a qualified business venture if all of the following are true as of the date the business files the required application:

(1) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(1a) Reserved for future codification purposes.

(1b) Either (i) it was organized after January 1 of the calendar year in which its application is filed or (ii) during its most recent fiscal year before filing the application, it had gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis.

(2) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(3) It is organized to engage primarily in manufacturing, processing, warehousing, wholesaling, research and development, or a service-related industry.

(4) It does not engage as a substantial part of its business in any of the following:

a. Providing a professional service as defined in Chapter 55B of the General Statutes.

b. Construction or contracting.

c. Selling or leasing at retail.

d. The purchase, sale, or development, or purchasing, selling, or holding for investment of commercial paper, notes, other indebtedness, financial instruments, securities, or real property, or otherwise make investments.

e. Providing personal grooming or cosmetics services.

f. Offering any form of entertainment, amusement, recreation, or athletic or fitness activity for which an admission or a membership is charged.

(5) It was not formed for the primary purpose of acquiring all or part of the stock or assets of one or more existing businesses.

(6) It is not a real estate-related business.

The effective date of registration for a qualified business venture whose application is accepted for registration is 60 days before the date its application is filed. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked. For the purpose of this Article, if a taxpayer's investment is placed initially in escrow conditioned upon other investors' commitment of additional funds, the date of the investment is the date escrowed funds are transferred to the qualified business venture free of the condition.

To remain qualified as a qualified business venture, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of five million dollars ($5,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified business venture to renew its registration by the applicable deadline shall result in revocation of its registration effective as of the next day after the renewal deadline, but shall not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified business venture notice of revocation within 60 days after the renewal deadline. A qualified business venture may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars ($1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars ($1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed five million dollars ($5,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(b1) Qualified Licensee Businesses. – In order to qualify as a qualified licensee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified licensee business. The requirements for registration as a qualified licensee business are set out in G.S. 105-163.010.

The effective date of registration for a qualified licensee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified licensee business, the business must renew its registration annually as prescribed by rule by filing a financial statement for the most recent fiscal year showing gross revenues, as determined in accordance with generally accepted accounting principles, of one million dollars ($1,000,000) or less on a consolidated basis and an application for renewal in which the business certifies the facts required in the original application.

Failure of a qualified licensee venture to renew its registration by the applicable deadline results in revocation of its registration effective as of the next day after the renewal deadline, but does not result in forfeiture of tax credits previously allowed to taxpayers who invested in the business except as provided in G.S. 105-163.014. The Secretary of State shall send the qualified licensee business notice of revocation within 60 days after the renewal deadline. A qualified licensee business may apply to have its registration reinstated by the Secretary of State by filing an application for reinstatement, accompanied by the reinstatement application fee and a late filing penalty of one thousand dollars ($1,000), within 30 days after receipt of the revocation notice from the Secretary of State. A business that seeks approval of a new application for registration after its registration has been revoked must also pay a penalty of one thousand dollars ($1,000). A registration that has been reinstated is treated as if it had not been revoked.

If the gross revenues of a qualified business venture exceed one million dollars ($1,000,000) in a fiscal year, the business must notify the Secretary of State in writing of this fact by filing a financial statement showing the revenues of the business for that year.

(c) Qualified Grantee Businesses. – In order to qualify as a qualified grantee business under this Part, a business must be registered with the Securities Division of the Department of the Secretary of State. To register, the business must file with the Secretary of State an application and any supporting documents the Secretary of State may require from time to time to determine that the business meets the requirements for registration as a qualified grantee business. The requirements for registration as a qualified grantee business are set out in G.S. 105-163.010.~~G.S. 105-163.010(9).~~

The effective date of registration for a qualified grantee business whose application is accepted for registration is the filing date of its application. No credit is allowed under this Part for an investment made before the effective date of the registration or after the registration is revoked.

To remain qualified as a qualified grantee business, the business must renew its registration annually as prescribed by rule by filing an application for renewal in which the business certifies the facts ~~listed in this subsection.~~demonstrating that it continues to meet the applicable requirements for qualification.

(d) Application Forms; Rules; Fees. – Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form

required by the Secretary of State. The Secretary of State may, by rule, require applicants to furnish supporting information in addition to the information required by subsections ~~(b)~~(b), (b1), and (c) of this section. The Secretary of State may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Part. The Secretary of State shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: "Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete." A person who submits a false application is guilty of a Class 1 misdemeanor.

The fee for filing an application for registration under this section is one hundred dollars ($100.00). The fee for filing an application for renewal of registration under this section is fifty dollars ($50.00). The fee for filing an application for reinstatement of registration under this section is fifty dollars ($50.00).

An application for renewal of registration under this section ~~shall~~ must indicate whether the applicant is a minority business, as defined in G.S. 143-128, and ~~shall~~ include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided.

(e) Revocation of Registration. – If the Securities Division of the Department of the Secretary of State finds that any of the information contained in an application of a business registered under this section is false, it shall revoke the registration of the business. The Secretary of State shall not revoke the registration of a business solely because it ceases business operations for an indefinite period of time, as long as the business renews its registration each year as required under ~~G.S. 105-163.013.~~this section.

(f) Transfer of Registration. – A registration as a qualified ~~business venture or qualified grantee~~ business may not be sold or otherwise transferred, except that if a qualified ~~business venture or qualified grantee~~ business enters into a merger, conversion, consolidation, or other similar transaction with another business and the surviving company would otherwise meet the criteria for being a qualified ~~business venture or qualified grantee~~ business, the surviving company retains the registration without further application to the Secretary of State. In such a case, the qualified ~~business venture or qualified grantee~~ business ~~shall~~ must provide the Secretary of State with written notice of the merger, conversion, consolidation, or similar transaction and the name, address, and jurisdiction of incorporation or organization of the surviving company.

(g) Report by Secretary of State. – The Secretary of State shall report to the Revenue Laws Study Committee by October 1 of each year all of the businesses that have registered with the Secretary of State as qualified business ~~ventures~~ ventures,

qualified licensee businesses, and qualified grantee businesses. The report shall include the name and address of each business, the location of its headquarters and principal place of business, a detailed description of the types of business in which it engages, whether the business is a minority business as defined in G.S. 143-128, the number of jobs created by the business during the period covered by the report, and the average wages paid by these jobs."

SECTION 6. G.S. 105-163.014 reads as rewritten:

"**§ 105-163.014. Forfeiture of credit.**

(a) Participation in Business. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or qualified grantee~~ business forfeits the credit if, within three years after the investment was made, the taxpayer participates in the operation of the qualified ~~business venture or qualified grantee~~ business. For the purpose of this section, a taxpayer participates in the operation of a qualified ~~business venture or a qualified grantee~~ business if the taxpayer, the taxpayer's spouse, parent, sibling, or child, or an employee of any of these individuals or of a business controlled by any of these individuals, provides services of any nature to the qualified ~~business venture or qualified grantee~~ business for compensation, whether as an employee, a contractor, or otherwise. However, a person who provides services to a qualified ~~business venture or a qualified grantee~~ business, whether as an officer, a member of the board of directors, or otherwise does not participate in its operation if the person receives as compensation only reasonable reimbursement of expenses incurred in providing the services, participation in a stock option or stock bonus plan, or both.

(b) False Application. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit if the registration of the qualified ~~business venture or qualified grantee~~ business is revoked because information in the registration application was false at the time the application was filed with the Secretary of State.

(c) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 7.

(d) Transfer or Redemption of Investment. – A taxpayer who has received a credit under this Part for an investment in a qualified ~~business venture or a qualified grantee~~ business forfeits the credit in the following cases:

(1) Within one year after the investment was made, the taxpayer transfers any of the securities received in the investment that qualified for the tax credit to another person or entity, other than in a transfer resulting from one of the following:

a. The death of the taxpayer.

b. A final distribution in liquidation to the owners of a taxpayer that is a corporation or other entity.

c. A merger, conversion, consolidation, or similar transaction requiring approval by the owners of the qualified ~~business venture or qualified grantee~~ business under applicable State law, to the extent the taxpayer does not receive cash or tangible property in the merger, conversion, consolidation, or other similar transaction.

(2) Except as provided in subsection (d1) of this section, within five years after the investment was made, the qualified ~~business venture or qualified grantee~~ business in which the investment was made makes a redemption with respect to the securities received in the investment.

In the event the taxpayer transfers fewer than all the securities in a manner that would result in a forfeiture, the amount of the credit that is forfeited is the product obtained by multiplying the aggregate credit attributable to the investment by a fraction whose numerator equals the number of securities transferred and whose denominator equals the number of securities received on account of the investment to which the credit was attributable. In addition, if the redemption amount is less than the amount invested by the taxpayer in the securities to which the redemption is attributable, the amount of the credit that is forfeited is further reduced by multiplying it by a fraction whose numerator equals the redemption amount and whose denominator equals the aggregate amount invested by the taxpayer in the securities involved in the redemption. The term "redemption amount" means all amounts paid that are treated as a distribution in part or full payment in exchange for securities under section 302(a) of the Code.

(d1) Certain Redemptions Allowed. – Forfeiture of a credit does not occur under this section if a qualified business venture that engages primarily in motion picture film production makes a redemption with respect to securities received in an investment and the following conditions are met:

(1) The redemption occurred because the qualified business venture completed production of a film, sold the film, and was liquidated.

(2) Neither the qualified business venture nor a related person continues to engage in business with respect to the film produced by the qualified business venture.

(e) Effect of Forfeiture. – A taxpayer who forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer who fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 7. G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2004.~~2009."

SECTION 8. G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, ~~2004.~~2009."

SECTION 9. Sections 1 through 6 of this act become effective for taxable years beginning on or after January 1, 2004. The remainder of this act is effective when it becomes law.

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Tuesday, July 15, 2003 3:38 PM
Subject: SPECIAL NOTICE - MEETING AT THE DESK AFTER SESSION House Finance Committee 7-15-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 15, 2003**

TIME: **IMMEDIATELY UPON THE ADJOURNMENT OF SESSION**

LOCATION: **AROUND THE DESK OF CHAIRMAN MINER (SEAT #6)**

The following bills will be considered:

HB 1294 – QUALIFIED BUSINESS CREDIT/PORTS CREDIT – Rep. G. Allen

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **3:45 P.M.** on **July 15, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

Re: HB 1264
by: Rep Gibson

NORTH CAROLINA PORTS®

EXTENSION OF THE SUNSET OF THE NORTH CAROLINA STATE PORTS AUTHORITY TAX CREDIT FROM JANUARY 1, 2004 UNTIL JANUARY 1, 2009

HOW THE STATE PORTS TAX CREDIT WORKS:

- The State Ports Tax Credit can be earned on cargo wharfage and handling fees that exceed the average for the last three years.
- The amount of credit allowed to a Company is equal to the excess of fees.
- The credit cannot exceed 50% of the amount of tax imposed. Any unused portion of the credit may be carried forward for five years.
- The maximum cumulative credit that can be claimed is $2 million.

In 2002, the statewide economic impact of the tax credit provided over 1,016 jobs and generated over $3.8 million in tax revenues.

COMPANIES THAT RECEIVED THE TAX CREDIT IN FY 2002-2003

Cato Corporation	Charlotte, NC	(clothing)
Progressive Furniture	Claremont, NC	(furniture)
Acacia Home & Garden	Conover, NC	(furniture)
Uchiyama America	Goldsboro, NC	(metal machinery parts)
Regency House	Hickory, NC	(furniture)
Bernards	High Point, NC	(furniture)
Harvey Price Cotton	Kinston, NC	(cotton)
Carolina Holdings	Raleigh, NC	(lumber)
Sinai International Company, Inc.	Raleigh, NC	(wholesale goods)
Hart Furniture	Siler City, NC	(furniture)
Whitewood Industries	Thomasville, NC	(furniture)
Legacy Classic Furniture	Whitsett, NC	(furniture)
Down Island Enterprises	Wilmington, NC	(house wares)
Wilmington Bulk	Wilmington, NC	(grain)
Standard Commercial Tobacco	Wilson, NC	(tobacco)

No company has qualified for the State Ports Tax Credit for wood chip shipments through the port since 1998.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 1294 A BILL TO BE ENTITLED AN ACT TO EXPAND THE QUALIFIED BUSINESS INVESTMENTS TAX CREDIT AND TO EXTEND THE SUNSET ON THE STATE PORTS TAX CREDIT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 16, 2003

The House Committee on Finance met on Wednesday, July 16, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Cindy Avrette, Richard Bostic, Brenda Carter, Gerry Cohen, David Crotts, Trina Griffin, Linda Millsaps, Alexei Pavlichev, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Miner called the meeting to order at 8:39 am and recognized the six (6) pages present: (1) James Beckner, III of Haywood County, sponsored by Representative Haire; (2) Matthew Crutchfield of Wake County, sponsored by Representative Miner; (3) Stephen Gourley of Wayne County, sponsored by Representative Pate; (4) Bryan Nicholls of Beaufort County, sponsored by Representative A. Williams; (5) Sara Seiling of Gates County, sponsored by Representative Culpepper; and (6) Cameron Tinkham of Gates County, sponsored by Representative Culpepper.

The first bill called for consideration by the Chairman was **SB 633 – MODIFY UNC BOND LAW** (see attachment 3), sponsored by Senator Clodfelter. Chairman Miner recognized Senator Clodfelter to explain the bill. He stated that the bill makes the maximum maturity for special obligation bonds more consistent with other University debt obligations by increasing the maximum maturity from 25 years to 30 years. He explained that this extended period of bond indebtedness actually decreased the total amount owed because of the potential for loans and bonds at better/lower interest rates. The Chair also recognized Mr. Rob Nelson, Associate Vice-Chancellor of Finance for the University of the North Carolina System, who was present and spoke in support of the bill. Chairman Miner then recognized Representative Glazier who moved that SB 633 receive a favorable report. Seeing no further discussion, the Chair called the vote and the motion carried without opposition.

Chairman Miner then called upon Senator Smith for explanation of **SB 168 – ECONOMIC DEVELOPMENT DISTRICT** (see attachment 4). Senator Smith then explained that the bill was a statewide bill overall, but also included provisions for a specific economic development and training district in Johnston County. He stated that the Town of Clayton and other municipalities in the area as well as the County of Johnston supported the bill. Specifically, as the bill summary explains, SB 168 "provides for the creation of economic development and training districts for the

purpose of providing a skills training center to prepare county residents to perform manufacturing, research and development, and related service and support jobs in pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries. A county may levy property taxes within the district, in addition to those levied throughout the county, in order to finance the skills training center. **A municipality cannot annex property within a district.**" Following this detailed explanation, Representatives Gibson and C. Wilson voiced their support, noting that the bill offers a unique and creative technique for economic development. Representative Ellis also stated that the district provided an excellent incentive for companies to locate there. Representative Creech, upon recognition of the Chair, then moved that the bill be given a favorable report. However, Representative Womble was recognized next by the Chair and stated his desire hear of any controversy on the bill, specifically from the North Carolina League of Municipalities (NCLM). Mr. Andy Romenet, General Counsel for the NCLM, was then recognized and stated that his concern with the bill was the fact that it was a statewide bill and not a local bill affecting only Johnston County. Representative Womble was troubled by these facts, noting that what may be good in Johnston County for the Town of Clayton could be seen as a loss of annexation powers and tax revenues to other municipalities in the state. Representative Hackney was likewise concerned and was recognized to inquire with the bill sponsor as to why the NCLM's concerned had not been addressed. Chairman Miner recognized Senator Smith who responded to Representative Hackney's inquiry by stating simply that he couldn't foresee this bill ever affecting any other area (besides Johnston County). Representatives Weiss and Hackney were then recognized and voiced their opinion that a solution to their concerns on the bill would be to allow counties to exempt themselves from the bill's provisions concerning municipal annexation of economic development and training districts. Representative Hackney was then again recognized to send forth an amendment. He explained his amendment as an action to restrict the annexation limitations of the bill to Johnston County only and moved its adoption. Seeing no discussion, Chairman Miner then called the amendment to a vote and it was adopted by consent. Representative Creech then moved again that SB 168 be given a favorable report, as amended. The Chair called the vote and the motion carried by consent.

SB 324 – INCREASE HOMEOWNER'S RECOVERY FUND FEE (see attachment 5), sponsored by Senator Hoyle, was the next bill considered by the Committee. Rep. G. Allen was recognized by the Chair to explain the bill. He stated that the bill increases the fee that a general contractor must pay into the Homeowner's Recovery Fund. The Fund reimburses homeowners who have suffered a "reimbursable loss" in construction or alteration of a single-family home. Mr. Paul Wilms with the North Carolina Home Builder's Association and Ms. Patrice Rosler with the North Carolina Association of County Commissioners were present and voiced their support of the bill. Representative Luebke was recognized next and acted to send forth an amendment to increase the portion of the fee that local government's receive from $1.00 to $2.00. Representatives Jones and Gibson both were recognized and spoke in opposition to the amendment. Representative Luebke then acted to withdraw his amendment. Chairman Miner then recognized Representative Weiss who moved that SB 324 (as presented to the Committee) be given a favorable report. The Chair called the vote and the motion carried by consent.

Chairman Miner then recognized Representative Gibson for consideration of **HB 896 – INCREASE COSMETIC ART FEES** (see attachment 6). Representative Gibson informed the members that a great deal of compromise had been made in order to address the opposition on the bill. The Chair recognized Mr. Douglass Van Essen, Executive Director of the North Carolina Cosmetic Art Services Board, who also addressed the Committee and reviewed with the members the substantial decreases that had been made from the fees suggested in the original bill. The Chair was then informed that Representatives Ross and Wainwright desired to send forth amendments. In

order that staff would have the time necessary to prepare those amendments, Chairman Miner acted to temporarily displace the bill.

Representative Sexton was recognized next for consideration of **HB 440 – WENTWORTH AGRI. ZONING/ECONOMIC DEV. DISTRICT** (see attachment 7), which was before the Committee for a recommendation of concurrence or non-concurrence. Representative Sexton addressed the Committee and requested that the members vote NOT to concur on the bill and request conferees as it contained provisions concerning Johnston County (those addressed in SB 168) that needed to be removed from the bill's text. Chairman Miner then recognized Representative Howard who moved that the Committee offer a recommendation that the House NOT concur and request conferees. Seeing no further discussion, Chairman Miner called the vote and the motion carried with no known opposition.

The next bill called for consideration by the Chair was **HB 860 – DETECTOR DOG TRAINERS** (see attachment 8), sponsored by Representative Adams. Representative Adams was recognized to explain the bill and stated that the bill amends the Controlled Substances Act to provide for the registration of persons who train and maintain dogs used to detect the presence of illegal narcotics. She also noted that the bill had been given a favorable report in the House Judiciary III Committee but was referred to this Committee because it creates a new fee for the registration of dog handlers who work with dogs used to detect controlled substances. Following this explanation, Representative Jones was recognized by the Chair and moved (seconded by Representative Hill) that the Proposed Committee Substitute (PCS) for HB 860 be given a favorable report. A great deal of concern arose, however, from the Committee members concerning the possession of otherwise illegal drugs used in the training of the dogs. Representative Weiss and Alexander were also recognized to bring forward their concern that the program should not be centered within the Department of Health and Human Services (DHHS) but perhaps rather the Department of Crime Control and Public Safety. Representative Adams responded that the provisions for this program, although unused, already existed within DHHS. Representative Weiss was then recognized a second time to send forth an amendment. She then moved adoption of her amendment after explaining that it acted to require that those encountering these dog handlers be given "conspicuous" notice of their law enforcement power (i.e. The bill requires that dog handlers who encounter drugs of any kind must report it to law enforcement authorities. The notice required in the amendment would give all "fair warning" of any drug dogs employed on the premises.) Seeing no further on the amendment, Chairman Miner called it to a vote and the amendment was adopted by consent. Representative Ellis was then recognized and made the Chair aware of his intent to send forward another amendment. Acknowledging this, Chairman Miner then acted to displace the bill to give staff time to prepare Representative Ellis' amendment.

Representative Goodwin was recognized by the Chair to explain **HB 918 – INCREASE SERVICE OF PROCESS FEE** (see attachment 9). Representative G. Allen moved that the PCS for HB 918 be adopted for the purposes of discussion and his motion carried without objection. Representative Goodwin explained that the bill would increase the fee for service of process in most civil actions from $5.00 (since 1990) to $15.00 and would provide that at least 50 percent of the fees collected will be used by a county to ensure the timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff. He also noted that the bill was given a favorable report in the House Judiciary II Committee. Following this, the Chair recognized Representative Ellis to send forth an amendment to HB 918. He explained that the amendment allowed for "private" process of service businesses to operate inside Wake County. He noted that this service was provided in the past and worked well, and that it was currently supported and favored by the County. Both Representative Goodwin and Mr. Eddie Caldwell, Lobbyist for the Sheriff's and Law Enforcement Associations, were recognized

and spoke in strong opposition to the amendment. Representative Ross was also recognized and addressed Representative Ellis's amendment. She noted that while she too represented the area of Wake County, the amendment should be run as a separate local bill at a later time, especially since Representative Ellis did not confer with her on his amendment prior to its presentation. As there was no further discussion of the amendment, Representative Ellis then moved its adoption. The Chair called the vote and the amendment failed. The Chair next recognized Representative Blackwood to speak on the bill. He expressed the point that this bill was acting to increase the already tremendous costs involved in filing small claims cases. Representative Alexander, upon recognition from the Chair, made a motion that the HB 918 be given a favorable report as to the PCS, an unfavorable report as to the original bill. Chairman Miner called the motion to a vote and it carried by a majority.

The Chairman then acted to replace **HB 860 – DETECTOR DOG TRAINERS** (see attachment 8) and Representative Ellis was recognized to send forth his aforementioned amendment. He then explained his amendment by stating that a licensed dog handler must not only provide conspicuous notice to his clients at his place of business, but also "in the contract for services, stating that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance." Seeing no discussion of the amendment, the Chair called it to a vote and the amendment was adopted by consent. Representative Ellis was then again recognized and spoke to his general dissatisfaction with the quality of the bill, stating that the bill was "not ready for the floor." Chairman Miner recognized Representative C. Wilson who moved that a new PCS for HB 860, incorporating the adopted amendments be given a favorable report. Chairman Miner called the motion to a vote and it failed. Thus, no report was issued in HB 860.

As the time of the Committee had long expired, Chairman Miner then adjourned the meeting at 11:15am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 633 (and related materials)
4. Senate Bill 168 (and related materials)
5. Senate Bill 324 (and related materials)
6. House Bill 896 (and related materials) **(displaced)**
7. House Bill 440 (and related materials)
8. House Bill 860 (and related materials)
9. House Bill 918 (and related materials)
10. House Bill 759 (and related materials) **(not discussed)**
11. House Bill 1268 (and related materials) **(not discussed)**
12. House Bill 782 (and related materials) **(pulled from calendar prior to meeting)**

AGENDA

House Finance Committee

ATTACHMENT 1

July 16, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Miner

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order & Introduction of Pages

Bills:

HB 440 WENTWORTH AGRI. ZONING/ECONOMIC DEV. DISTRICT
Rep. Sexton

HB 759 REDUCE UTILITY EQUIPMENT SALES TAX *Rep. Goforth*

HB 782 SATELLITE ANNEXATION/NORTH BRUNSWICK
Reps. Stiller, Hill, and Wright

HB 860 DETECTOR DOG TRAINERS *Rep. Adams*

HB 896 INCREASE COSMETIC ART FEES *Rep. Gibson*

HB 918 INCREASE SERVICE OF PROCESS FEE
Reps. Goodwin and Miner

HB 1268 STIMULATE ECONOMY MANUFACTURING *Rep. Blackwood*

SB 168 ECONOMIC DEVELOPMENT DISTRICT *Sen. Smith*

SB 324 INCREASE HOMEOWNERS RECOVERY FUND FEE
Sen. Hoyle

SB 633 MODIFY UNC BOND LAW *Sen. Clodfelter*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Don Donadio	Womble Carlyle
Adam Pridemore	NCASA
Seth Jaffe	ACLU
Rob Nelson	UNC
Mark Fleming	UNC
Kevin G. Cameron	WCSR
BRUCE THOMPSON	PARKER POE
Tim Minton	NCHBA
Ernestine Duchoun	Executive Intern, FRD/Rep Gibson
Julie Allen	NC Statewatch

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Stada McKinney	NC DHHS
Eddie Caldwell	Hyler & Caldwell, P.A.
Jim Blackburn	NC Association of County Commissioners
Seth Jaffe	ACLU-NC
John Wimbe	MHDDSAS
Joe Glover	National Drug Search LLC
Mildred Spearman	NC Dept. of Correction
CASANDRA SKINNER	CCPS
Linwood Carter	J. C.
Anna Pope	NC DOR
Eddie Finch	NCDOR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lennie Collins	NC DOR
Warren Savage	Bailey + Dixon
Bernetta Smith	NC St. Bd of Cosmetic Art
[illegible]	NC St. Bd of Cos. Art
Doug Van Essen	NC St. Bd of Cosmetic Art
Phil Kirk	NCCBI
John McMillan	MF&S
Sandy Sands	WCSR
Albert Eckel	CORNING
Betty Turner	Bank of America
Tom Sri	NCRMD

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hal Miller	NCACCT
Bean Mills	NCCM
[illegible]	NCCAI
John O'Hale	Governor's Office
Patrick A Yancey	ACLU
Catherine Davis	Electricities
Leslie Bevoegne	NCCBI
Andy Romenst	NCLM.
Ron Ottavio	Wachovia
Bill Scoggin	KCLH
Julie Woodson	NCCBI

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Adam Stallings	Hunter & Williams
John McHugh	OOU Office
Rick Zechini	NC Assoc. of REALTORS
Carol Cerrell	BPMHL
Steve Woodson	NCFB
John Bowdish	AstraZeneca
Jorge Judd	NCSDA
Jamie McEachern	NCFPC
Brooke Emerley	NCFPC
John [illegible]	NCFPC
Barbara Cansler	MFES
Sherry Durham	Charlotte Observer

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 16, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Glass	NC DA&CS
[illegible]	Pergner & Spruill

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, July 16, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 440 – WENTWORTH AGRI. ZONING/ECONOMIC DEV. DISTRICT – Rep. Sexton

HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX – Rep. Goforth

HB 782 – SATELLITE ANNEXATION/NORTH BRUNSWICK
– Reps. Stiller, Hill, and Wright

HB 860 – DETECTOR DOG TRAINERS – Rep. Adams

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 918 – INCREASE SERVICE OF PROCESS FEE – Reps. Goodwin and Miner

HB 1268 – STIMULATE ECONOMY MANUFACTURING – Rep. Blackwood

SB 168 – ECONOMIC DEVELOPMENT DISTRICT – Sen. Smith

SB 324 – INCREASE HOMEOWNERS RECOVERY FUND FEE – Sen. Hoyle

SB 633 – MODIFY UNC BOND LAW – Sen. Clodfelter

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **12:50 P.M.** on **July 15, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 633

Short Title:	Modify UNC Bond Law.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Finance.	

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE THE UNIVERSITY OF NORTH CAROLINA SPECIAL OBLIGATION BOND LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116D-26 reads as rewritten:

"**§ 116D-26. Issuance of special obligation bonds and bond anticipation notes.**

(a) Authority. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing a special obligation project. Before issuing special obligation bonds, the Board of Governors shall first adopt a resolution (i) setting forth the designation by the Board of Governors that the buildings or facilities to be financed by the bond issue are the special obligation bond project being financed and (ii) designating the obligated resources that will secure and be the source of payment of the special obligation bonds to be issued. The Board of Governors shall not issue any special obligation bonds unless the Board of Governors finds that sufficient obligated resources are reasonably expected to be available (i) to pay the principal and interest on the special obligation bonds proposed to be issued, (ii) to create and maintain any reserves for the payment of the special obligation bonds, to the extent the Board of Governors is required to maintain reserves for this purpose by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds, and (iii) to provide for the maintenance and operation of the facilities that are to generate the obligated resources to the extent the Board of Governors is required to maintain those facilities by the terms of the trust agreement or resolution authorizing the issuance of the special obligation bonds. Notwithstanding any other provision of this Article, the proceeds of special obligation bonds to be secured by obligated resources derived from the operation of or activities at one institution may not be applied to finance a special obligation project to be located at another institution.

(b) Approval Required. – The Board of Governors shall not issue any special obligation bonds for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds under this Article until the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article.

(c) Term; Form. – The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding ~~25~~ 30 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

(d) Proceeds; Additional Bonds. – The proceeds of the special obligation bonds of each issue shall be used solely for the purpose for which the bonds have been authorized and shall be disbursed in the manner and under such restrictions, if any, as the Board of Governors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing them. Unless otherwise provided in the authorizing resolution or in the trust agreement securing the special obligation bonds, if the proceeds of the special obligation bonds, by error of estimates or otherwise, are less than the cost of the special obligation bond project, additional bonds may in like manner

be issued to provide the amount of the deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of special obligation bonds, and any trust agreement securing them, may also contain limitations upon the issuance of additional special obligation bonds as the Board of Governors considers proper, and the additional special obligation bonds must be issued under the restrictions and limitations prescribed by the resolution or trust agreement.

(e) Temporary Bonds; Notes. – Before preparing definitive bonds, the Board of Governors may, under like restrictions, issue interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

The Board of Governors may enter into or negotiate a note with an acceptable bank or trust company in lieu of issuing special obligation bonds for the financing of special obligation bond projects covered under this Article. The terms and conditions of any note of this nature shall be in accordance with the terms and conditions surrounding issuance of the special obligation bonds.

(f) Bond Anticipation Notes. – The Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, bond anticipation notes of the Board of Governors in anticipation of the issuance of special obligation bonds authorized by this Article. The principal of and the interest on these notes shall be payable solely from the proceeds of special obligation bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from the obligated resources designated for their payment. The notes of each issue shall be dated, shall mature at any times not exceeding ~~two~~ 30 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity, at the option of the Board of Governors, at any prices and under any terms and conditions as may be fixed by the Board of Governors prior to the issuance of the notes. If the Board of Governors issues a bond anticipation note for a term in excess of three years, no individual project may be funded from the proceeds of the note for longer than three years. The Board shall determine the form and the manner of execution of the notes and shall fix the denominations of the notes and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any notes issued under the provisions of this Article, all notes shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the notes or any trust agreement securing the bonds in anticipation of which the notes are being issued. The Board of Governors may sell the notes in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

The proceeds of the notes ~~of each issue~~ shall be used solely for the purpose for which the special obligation bonds ~~in anticipation of which the notes are being issued~~ have been authorized, and the note proceeds shall be disbursed in any manner and under

any restrictions as the Board of Governors may provide in the resolution authorizing the issuance of the notes or bonds or in the trust agreement securing the special obligation bonds.

The resolution providing for the issuance of notes, and any trust agreement securing the special obligation bonds in anticipation of which the notes are being authorized, may also contain limitations upon the issuance of additional notes as the Board of Governors considers proper, and such additional notes shall be issued under the restrictions and limitations prescribed by the resolution or trust agreement. The Board may also provide for the replacement of any notes which shall become mutilated, destroyed, or lost.

Except as provided in this Article, notes may be issued under this Article and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this Article.

Unless the context indicates otherwise, the word 'bonds', wherever used in this Article, include the words 'bond anticipation notes.' "

SECTION 2. This act is effective when it becomes law.

SENATE BILL 633:
Modify UNC Bond Law

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	July 16, 2003	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 633 makes two changes to the UNC Special Obligation bond law:

- *It makes the maximum maturity for special obligation bonds more consistent with other University debt obligations by increasing the maximum maturity of special obligation bonds from 25 years to 30 years.*
- *It provides greater flexibility to provide interim financing at lower costs by allowing commercial paper to be documented as "notes" and be issued for up to 30 years.*

The bill becomes effective when it becomes law.

CURRENT LAW: In 2000, the General Assembly authorized the UNC Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds can be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The maximum maturity on the bonds is 25 years.

The UNC special obligation bonds can be issued only for projects specifically authorized by the General Assembly. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors is required to justify the need for each project and to itemize the cost of the project, the estimated operating costs upon completion, and the sources and amounts of obligated resources to be pledged for repayment of the bonds. The Board of Governors can submit a proposed project for approval by the General Assembly only if the board of trustees of the institution at which the project will be located has approved the project.

BILL ANALYSIS: **Senate Bill 633** would provide greater flexibility to the UNC campuses in amortizing their debt obligations and in structuring interim financing debt obligations. The bill does not authorize the University to issue additional debt beyond currently authorized levels and it does not allow the University to issue debt without the explicit approval of the General Assembly.

The bill would change the maximum maturity on special obligation bonds from 25 years to 30 years. This change makes the maximum maturity of special obligation bonds more consistent with other University debt obligations. The maximum maturity for University revenue bond debt issued under G.S. 116-191 is 50 years. The maximum maturity for University revenue bond debt issued under *The Centennial Campus, the Horace Williams Campus, and the Millennial Campuses Financing Act* is 40 years.

The bill would also make it easier and less costly to provide short-term, interim financing for projects authorized by the General Assembly. Currently, interim financing is provided through a bond anticipation note that is issued for each individual project. A bond anticipation note cannot exceed two years. The University has structured a less costly method of interim financing under which a one-time issuance of

notes is anticipated. Under the program, interim financing for projects would be drawn down as needed and repaid by draws from the permanent, long-term financing bond proceeds. This repayment creates a pool of resources to provide interim financing that can be used multiple times for many projects. To accomplish this method of pooled financing, the bill would permit commercial paper to be documented as "notes" and allow them to be issued for up to 30 years. The longer-term notes would reduce the issuance costs associated with notes that must be reauthorized every two years and would allow better interest rates that may be obtained through the long-term market. To ensure that the bond anticipation note proceeds are used for short-term, interim financing needs only, the bill provides that if the Board of Governors issues a bond anticipation note for a term in excess of three years, no individual project may be funded from the proceeds of the note for longer than three years.

BACKGROUND: The UNC special obligation bonds are not general obligation bonds and thus are not required to be approved by the voters. They are not secured by the full faith and credit or the taxing power of the State; a statement to this effect appears on the face of the bonds. Property cannot be pledged to secure the bonds. The Board of Governors' pledge of obligated resources serves as security for the bonds. Obligated resources include rents, charges, or fees to be derived by the Board of Governors or a constituent institution from any activity; earnings on the investment of an endowment fund; and funds to be received from grants and contracts. Obligated resources does not include tuition payments or appropriations of general revenues. Obligated resources derived from one institution cannot be used to finance a bond project located at a different institution.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 633 A BILL TO BE ENTITLED AN ACT TO REVISE THE UNIVERSITY OF NORTH CAROLINA SPECIAL OBLIGATION BOND LAW.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 168
Finance Committee Substitute Adopted 7/9/03

Short Title: Economic Development District. (Public)

Sponsors:

Referred to:

February 25, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 16 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

"Part 3. Economic Development and Training Districts.

"**§ 153A-317.11. Purpose for which districts may be created.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district any of the education, training, and related services, facilities, or functions that a county or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county.

"**§ 153A-317.12. Definition of economic development and training district.**

(a) Standards. – The board of commissioners may by resolution establish an economic development and training district for an area or areas of the county that, at the time the resolution is adopted, meet the following standards:

(1) All of the real property in the district primarily is being used for, or is subject to, a declaration of covenants, conditions, and restrictions that limits its use primarily to biotech processing, chemical manufacturing, pharmaceutical manufacturing, electronics manufacturing,

telecommunications manufacturing, and any allied, ancillary, or subordinate uses including, without limitation, any research and development facility, headquarters or office, temporary lodging facility, restaurant, warehouse, or transportation or distribution facility.

(2) The district includes at least two pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the district containing in the aggregate at least 425 acres owned by publicly held corporations.

(3) The bioprocessing and pharmaceuticals manufacturing facilities in the district employ in the aggregate at least 1,600 persons.

(4) The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.

(5) The district's zoning classifications permit the uses listed in this section.

(6) All real property in the district is either zoned for or is being used primarily for pharmaceutical, biotech, life sciences, chemical, telecommunications, or electronics manufacturing or processing or allied, ancillary, or subordinate uses.

(7) The district shall include a skills training center situated on a tract containing not less than eight acres, which facility shall be designed and staffed to provide relevant training to prepare existing or prospective employees of targeted industries for jobs in one or more of the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries and allied, ancillary, or subordinate industries. The training center shall be completed within a reasonable period after the creation of the district.

(8) At the date of creation, no part of the district lies within the boundaries of any incorporated city or town.

(9) There exists a uniform set of covenants, conditions, restrictions, and reservations that applies to all real property in the district other than property owned by the federal, State, or local government.

(10) There exists in the district an association of owners and tenants to which owners of real property representing at least fifty percent (50%) of the assessed value of real property in the district belong, which association can make the recommendations provided for in G.S. 153A-317.13.

(11) A petition requesting creation of the district signed by owners of real property in the district who own real and personal property representing at least fifty percent (50%) of the total assessed value of the real and personal property in the district has been presented to the board of commissioners. In determining the assessed value of real and personal property in the district and the owners of real property, there shall be excluded: (i) real property exempted from taxation and real property classified and excluded from taxation and (ii) the owners of

such exempted or classified and excluded property. Assessed value shall mean the most recent values determined by the county for the imposition of taxes on real and personal property.

(b) Findings. – The board of commissioners may establish an economic development and training district if, upon the information and evidence it receives, the board determines that:

(1) The proposed district meets the standards set forth in subsection (a) of this section;

(2) Economic development of the county will be served by providing selected skills training in a facility designed specifically to address the needs of targeted industries such as pharmaceuticals, biotech processing, telecommunications, electronics, and allied, ancillary, or subordinate supplies or services to induce existing industries and targeted industries to improve and expand their facilities and new industries to locate facilities in the district, thereby providing employment opportunities for the residents of the county;

(3) It is impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent as such training services are intended to be furnished within the district; and

(4) It is economically feasible to provide the proposed training facilities and services in the district without unreasonable or burdensome tax levies.

(c) Report. – Before the public hearing required by subsection (d) of this section, the board of commissioners shall cause to be prepared a report containing all of the following:

(1) A map of the proposed district showing its proposed boundaries.

(2) A statement showing that the proposed district meets the standards set out in subsection (a) of this section.

(3) A plan for providing the skills training center and training services to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a map of the proposed district and a statement that the report required by subsection (c) of this section is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by

the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The resolution creating a district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board of commissioners.

"**§ 153A-317.13. Advisory committee.**

(a) Creation. – The board of commissioners, in the resolution establishing an economic development and training district, shall also provide for an advisory committee for the district. The committee shall consist of five members, serving terms as set forth in the resolution. The resolution shall provide for the appointment or designation of a chair. The board of commissioners shall appoint the members of the advisory committee as provided in this section.

(b) Membership. – Three of the five committee members shall represent the association of owners and tenants, as required by G.S. 153A-317.12(a)(10), and two members shall represent the county. Before making the appointments representing the association, the board of commissioners shall request the association to submit a list of persons to be considered for appointment to the committee. The association of owners and tenants shall submit at least two names for each appointment to be made and the board of commissioners shall make the appointments to the committee representing the association from the list of persons submitted to it by the association. Whenever a vacancy occurs on the committee in a position filled by an appointment by the board of commissioners representing the association of owners and tenants, the board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy, and the board shall fill the vacancy by appointing one of the persons so submitted.

(c) Advisory Duties. – Each year, before adopting the budget for the district and levying the tax for the district, the board shall request recommendations from the advisory committee as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years. The board of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory committee.

"**§ 153A-317.14. Extension of economic development and training districts.**

(a) Standards. – A board of commissioners may by resolution annex territory to an economic development and training district upon finding that:

(1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-317.12(a)(1) that apply to all real property in the district, other than property owned by the federal, State, or local government, also apply or will apply to the property, other than property owned by the federal government, to be annexed.

(2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.

(3) The district, following the annexation, will continue to meet the standards set out in G.S. 153A-317.12(a).

(4) The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the expanded area can be met by the skills training facility located in the district.

(5) The area to be annexed is either contiguous to a lot, parcel, or tract of land in the district or at least 500 acres in the aggregate counting all parcels proposed for annexation. A property shall, for purposes of this section, be deemed to be contiguous notwithstanding that it may be separated from other property by a street, road, highway, right-of-way, or easement.

(6) If any of the area proposed to be annexed to the district is wholly or partially within the extraterritorial jurisdiction of a municipality, then it shall be necessary to first obtain the affirmative vote of a majority of the members of the governing body of the municipality before the area can be annexed.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing all of the following:

(1) A map of the district and the territory proposed to be annexed showing the present and proposed boundaries of the district.

(2) A statement that the area to be annexed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board.

"**§ 153A-317.15. Required provision or maintenance of skills training center.**

(a) New District. – When a county creates a district, it shall provide, maintain, or let contracts for the skills training center for which the district is being taxed within a reasonable time, not to exceed one year, after the effective date of the creation of the district.

(b) Extended District. – When a territory is annexed to a district, the county shall provide, maintain, or let contracts for any necessary additions to the skills training center to provide the same training provided throughout the district to existing and new industries in the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

"**§ 153A-317.16. Abolition of economic development and training districts.**

A board of county commissioners may by resolution abolish a district upon finding that a petition requesting abolition, signed by at least fifty percent (50%) of the owners of real property in the district who own at least fifty percent (50%) of the real and personal property in the district based upon the most recent valuation thereof, has been submitted to the board and that there is no longer a need for such district. In determining the total real and personal property in the district and the number of owners of real and personal property, there shall be excluded: (i) property exempted from taxation and property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. The board shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall be published at least once not less than one week before the date of the hearing. The abolition of any district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

"**§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center provided therein in addition to or to a greater extent than worker training facilities provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars ($1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars ($100.00) value of property subject to taxation.

"**§ 153A-317.18. Annexation by municipality.**

No municipality may annex pursuant to Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes or under any procedure other than Part 1 or Part 4 of that Article any or all of the real property within an economic development and training district established under this Part."

SECTION 2.(a) If the board of commissioners of Johnston County elects to establish an economic development and training district under Part 3 of Article 16 of Chapter 153A of the General Statutes, as created by this act, the district as initially established shall consist of the following real property owned by Bayer Corporation,

Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority:

(1) Bayer Corporation. – All of the property shown on those deeds recorded in Book 737, Page 179; Book 737, Page 180; Book 739, Page 96; Book 1328, Page 644; and Book 1328, Page 648 in the office of the Register of Deeds of Johnston County.

(2) Novo Nordisk Pharmaceutical Industries, Inc. – All of the property shown on those certain plats of survey recorded in Plat Book 34, Page 279 and Plat Book 46, Page 431 and as shown in that certain deed recorded in Book 1389, Page 114 in the office of the Register of Deeds of Johnston County.

(3) Fresenius Kabi Clayton, L.P. – All of the property shown on that plat of survey recorded in Plat Book 28, Page 173 in the office of the Register of Deeds of Johnston County.

(4) Johnston County Airport Authority. – All of that property known as North Aviation Industrial Park described in that certain deed recorded in Book 1433, Page 440 in the office of the Register of Deeds of Johnson County.

SECTION 2.(b) This section applies only to Johnston County.

SECTION 3. This act is effective when it becomes law.

Note: original to the substitute Principal Clerk

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 168

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S168-ALB-108 [v.1]

Date 7-16 ,2003

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Representative Hackney

moves to amend the bill on page 6, lines 36-40 by deleting those lines, and adding a quotation mark at the end of line 35

further moves to amend the bill on page 7 line 18 by adding the following between lines 18 and 19:

"**SECTION 2.(a1)** No property in Johnston County located within an Economic Development and Training District under Part 3 of Article 16 of Chapter 153A of the General Statutes may be annexed pursuant to Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

(by consent)

SENATE BILL 168:
Economic Development District

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Smith
Date:	July 16,2003	**Summary by:**	Trina Griffin & Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 168 does two things:

- *It provides for the creation of economic development and training districts for the purpose of providing a skills training center to prepare county residents to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries. A county may levy property taxes within the district, in addition to those levied throughout the county, in order to finance the skills training center. A municipality cannot annex property within a district.*
- *It defines the property that may be initially included within an economic development and training district located in Johnston County should the board of commissioners of Johnston County elect to establish one.*

The bill becomes effective when it becomes law.

THE PROVISIONS OF THIS BILL ARE THE SAME AS THE PROVISIONS CONCERNING ECONOMIC DEVELOPMENT DISTRICTS IN THE SENATE PCS FOR HOUSE BILL 440.

BILL ANALYSIS: Section 1 of the bill creates a new Part in Chapter 153A that authorizes a county to establish an economic development and training district.

Purpose of District. – The purpose of the district is to provide a skills training center to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries.

Standards for District. – Several standards must be met before the district may be established, including:

- All of the property in the proposed district is primarily being used for biotech processing, chemical, pharmaceutical, electronics, and telecommunications manufacturing.
- The district includes at least 2 pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the aggregate of at least 425 acres owned by publicly held corporations and employing at least 1,600 persons.
- The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.
- No part of the district lies within the boundaries of any incorporated city or town.
- There exists in the district an association of owners and tenants to which owners of real property representing at least 50% of the value of the real property in the district belong.
- There must be a petition signed by the owners of real property in the district representing at least 50% of the total assessed value of real and personal property in the district presented to the board of commissioners.

Findings Required Before Establishing District. – The board of commissioners may establish the district if it determines that:

- The proposed district meets the standards set out above.
- Economic development of the county will be served, specifically in the targeted industries, by providing selected skills training, thus inducing the expansion of existing industries and the location of new facilities, thereby providing employment opportunities in the district.
- It would be impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent the services are intended to be furnished within the district.
- It is economically feasible to provide the proposed training facilities and services without unreasonable or burdensome tax levies.

Hearing and Notice. – The board must provide notice and hold a public hearing before adopting a resolution defining a district.

Advisory Committee. – In the resolution establishing an economic development and training district, the board of commissioners shall provide for a five-member advisory committee, three of whom shall represent the association of owners and tenants and two of whom shall represent the county. The committee shall make recommendations to the board as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years.

Annexation by District. – The board of commissioners would be authorized to annex territory to the district, after giving notice and holding a public hearing, if certain findings exist, such as:

- The property to be annexed meets the same conditions, covenants, restrictions, and reservations as the primary district.
- 100% of the owners of real property in the area to be annexed have petitioned for annexation.
- The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the area can be met by the skills training facility located in the district.
- The area to be annexed is either contiguous to the district or at least 500 acres in the aggregate.
- If any of the area proposed to be annexed is within the extraterritorial jurisdiction of a municipality, then a majority of the members of the governing body of the municipality must vote in favor of annexation.

Abolition of District. – The board may abolish a district if a petition requesting abolition, signed by at least 50% of real property owners in the district who own at least 50% of the real and personal property in the district, has been submitted to the board and that there is no longer a need for the district. There must be notice and a public hearing prior to the adoption of a resolution abolishing a district.

Taxes Authorized. – The county would be authorized to levy property taxes within the district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within the district may be expended only to pay annual debt service on up to $1,200,000 of the capital costs of a skills training center and any other services or facilities provided by the county in response to a recommendation of the advisory committee. The additional property taxes within the district may not exceed a rate of 8¢ on each $100 value of property subject to taxation.

Annexation by Municipality. – No municipality may annex any property within the district other than by voluntary annexation.

Section 2 of the bill provides that if the board of commissioners of Johnston County elect to establish an economic development and training district, then the district as initially established will consist of certain described real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 168 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 324
Second Edition Engrossed 6/10/03

Short Title:	Increase Homeowners Recovery Fund Fee.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:	Finance.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE HOMEOWNERS RECOVERY FUND PERMIT FEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-15.6(b) reads as rewritten:

"(b) Whenever a general contractor applies for the issuance of a permit for the construction of any single-family residential dwelling unit or for the alteration of an existing single-family residential dwelling unit, a city or county building inspector shall collect from the general contractor a fee in the amount of ~~five dollars ($5.00)~~ ten dollars ($10.00) for each dwelling unit to be constructed or altered under the permit. The city or county inspector shall forward ~~four dollars ($4.00)~~ nine dollars ($9.00) of each fee collected to the Board on a quarterly basis and the city or county may retain one dollar ($1.00) of each fee collected. The Board shall deposit the fees received into the Fund. The Board may accept donations and appropriations to the Fund. G.S. 87-7 shall not apply to the Fund.

The Board may suspend collection of this fee for any year upon a determination that the amount in the Fund is sufficient to meet likely disbursements from the Fund for that year. The Board shall notify city and county building inspectors when it suspends collection of the fee."

SECTION 2. This act becomes effective August 1, 2003 and applies to fees due for applications submitted on or after that date.

SENATE BILL 324:
Increase Homeowners Recovery Fund Fee.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hoyle
Date:	July 16, 2003	**Summary by:**	Mary Shuping
Version:	2nd Edition		Legislative Analyst

SUMMARY: ***Senate Bill 324 increases the fee that a general contractor must pay into the Homeowners Recovery Fund. The 2nd Edition changes the effective date to August 1, 2003.***

BACKGROUND: The Homeowners Recovery Fund reimburses homeowners who have suffered a "reimbursable loss" in construction or alteration of a single-family home. A "reimbursable loss" is defined as a monetary loss that:

1. Results from dishonest or incompetent conduct by a general contractor in the construction or alteration of the home;
2. Is not paid, in whole or in part, by the contractor whose conduct caused the loss; and
3. Is not covered by a bond, surety agreement, or an insurance contract.

In addition to suffering a reimbursable loss, the homeowner must have 1) either have not obtained the building permit in the person's own name or did use a general contractor; and 2) must have exhausted all civil remedies against the contractor and obtained a judgment against the contractor that remains unsatisfied; however, the requirement of judgment is waived if the person is prevented from filing a civil suit or obtaining a judgment due to the automatic stay provision of the U.S. Bankruptcy Code.

The Fund is administered by the Board of General Contractors. The Board has the discretion to determine the order, amount, and manner of payments from the Fund.

CURRENT LAW & BILL ANALYSIS: Under current law, when a general contractor applies for a permit for the construction or alteration of a single-family home, the contractor pays a $5.00 fee, $4.00 of which is remitted to the Fund and $1.00 is retained by the city or county.

SB 324 increases the fee amount to $10.00, $9.00 of which is remitted to the Fund and $1.00 is retained by the city or county.

EFFECTIVE DATE: The bill becomes effective August 1, 2003, applies to fees due for applications for permits submitted on or after that date. The 1st edition had an effective date of when the bill became law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 324 (First Edition)

SHORT TITLE: Increase Homeowners Recovery Fund Fee

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
Homeowners Recovery Fund	$315,470	$298,375	$305,015	$303,270	$291,170
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Licensing Board for General Contractors

EFFECTIVE DATE: The bill is effective when it becomes law and applies to fees due for applications submitted on or after that date.

BILL SUMMARY: The bill increases the construction permit fee in GS 87-15.6(b) from $5 to $10 and increases the amount forwarded from each fee to the Homeowners Recovery Fund from $4 to $9.

BACKGROUND: Created in 1991 (1991 SL, Ch. 547), the Homeowners Recovery Fund is intended to provide monetary assistance to homeowners who have suffered a reimbursable loss due to the dishonest or incompetent conduct of a licensed contractor. The Homeowners Recovery Fund is administered by the North Carolina Licensing Board for General Contractors. The Fund receives $4 from each local building permit fee for single-family residential construction or alteration. The Fund also receives payments from contractors as a result of disciplinary actions.

ASSUMPTIONS AND METHODOLOGY: An audit of the Homeowners Recovery Fund by Shelton L. Hawley, CPA, PA reported an end of year balance on December 31, 2002 of $497,474. However, the audit also found that there were $3,769,423 pending but unawarded claims on December 31, 2002. To pay all pending claims, the Fund will need 13 years of fee revenue based on the 2002 building permit fee collections.

Staff of the Licensing Board for General Contractors provided the following data on the $4 permit fee collected from local governments:

2000	$224,856	56,214 permits
2001	$229,958	57,490 permits
2002	$258,383	64,596 permits

To estimate the revenue impact of increasing the building permit fee, this note uses projections of the economic consulting firm Economy.com. This firm has projected the number of construction permits issued for single family housing over the next five years. The number of projected permits multiplied by the $5 fee increase produces the following revenue for the Homeowners Recovery Fund. This note assumes the fee increase will begin on July 1, 2003.

FY 03-04	63,094	$315,470
FY 04-05	59,675	$298,375
FY 05-06	61,003	$305,015
FY 06-07	60,654	$303,270
FY 07-08	58,234	$291,170

SOURCES OF DATA: North Carolina Licensing Board for General Contractors; Economy.com

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: June 3, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 324 A BILL TO BE ENTITLED AN ACT TO INCREASE THE HOMEOWNERS RECOVERY FUND PERMIT FEE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 896*
PROPOSED COMMITTEE SUBSTITUTE H896-CSLAf-40 [v.2]

7/9/2003 4:43:36 PM

Short Title: Increase Cosmetic Art Fees. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00 per year.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 44.00 every two years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 22.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 44.00 every two years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 44.00 every two years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 44.00 every two years

(6) Cosmetic art shop ~~per active booth~~ with ..... ~~$ 3.00 per year~~

one to two booths ..... $ 15.00 per year

three to ten booths ..... $ 30.00 per year

eleven or more booths ..... $ 55.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal ..... ~~$ 10.00~~$ 50.00

(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00

(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:

(1) Document request ..... $ 10.00

(2) Mailing list ..... $ 20.00

(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired licenses.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every ~~three years beginning October 1, 1998. A late fee shall be charged for renewals after that date.~~two years. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) ~~Apprentice, esthetician, and manicurist~~ Apprentice licenses shall be renewed annually on or before October 1 of each year. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(d) ~~Teacher~~ Teacher, esthetician, and manicurist licenses shall be renewed every two years on or before October 1. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a teacher's license, the teacher shall annually complete a minimum of eight hours of continuing education which shall be approved by the Board. Teachers shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license

has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees."

SECTION 3. This act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 896*

Short Title:	Increase Cosmetic Art Fees.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Finance.	

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 60.00 every 2 years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 30.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 50.00 every 2 years

(6) Cosmetic art shop per active booth ..... ~~$ 3.00 per year~~$ 45.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00

(9) Inactive license ..... $ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late

renewal ..... ~~$ 10.00~~$ 50.00
(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00
(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.
(d1) The Board may require payment of miscellaneous fees as follows:
(1) Document request ..... $ 10.00
(2) Mailing list ..... $ 20.00
(3) License listing ..... $ 15.00 per list.
(e) The Board may prorate fees as appropriate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 896:
Increase Cosmetic Art Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson
Date:	July 9, 2003	**Analysis by:**	Martha Walston
Version:	H896-CSLAf-40		Committee Counsel

SUMMARY: House Bill 896 authorizes the North Carolina Board of Cosmetic Art Examiners to establish new fees and to increase existing fees. Senate Bill 757, sponsored by Senator Garrou, is a companion bill.

BILL ANALYSIS: House Bill 896 authorizes the North Carolina board of Cosmetic Art Examiners to establish the following new fees:

Inspection of a newly established school	$120
Certification of records	$ 25
Continuing education provider	$100 per year
Document request	$ 10
Mailing list	$ 20
License listing	$ 15 per list

House Bill 896 authorizes the Board to increase the following existing fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE
Inspection of newly established Cosmetic art shop	$25	$70
Reciprocity applicant	$15	$30
Cosmetologist license	$39 every 3 years	$44 every 2 years
Apprentice	$10 per year	$44 every 2 years
Esthetician	$10 per year	$44 every 2 years
Manicurist	$10 per year	$44 every 2 years
Teacher	$10 every 2 years	$44 every 2 years
Cosmetic art school	$50 per year	$120 per year
Duplicate license	$1	$10
Apprentice, cosmetologist, esthetician, Manicurist, and teacher late renewal	$10	$50
Cosmetic art schools and shops Late renewal	$10	$35
Reinstatement – schools and shops	$25	$75

Cosmetic art shop per active booth $3 per year

House Bill 896 amends the cosmetic art shop booth fee as follows:

NUMBER OF BOOTHS	PROPOSED FEE
One to two booths	$15 per year
Three to ten booths	$30 per year
Eleven or more booths	$55 per year

House Bill 896 makes conforming changes to the license renewal periods in G.S. 88B-21.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps and Alexei Pavlichev
Fiscal Research Division

RE: House Bill 896 (Proposed House Finance Committee Substitute)

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Cosmetic Art Examiners	$1,515,906	$1,515,906	$1,515,906	$1,515,906	$1,515,906
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners
EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-20 by establishing new fees and increasing certain current license fees under the Cosmetic Art Act.

ASSUMPTIONS AND METHODOLOGY:

License Fees Overview

The NC Board of Cosmetic Art Examiners (Board) has not implemented any changes in fees for several decades. Table 1 shows the year of last fee change, current fees, proposed fees, and amounts the current fees were equal to in the year they were established, adjusted for inflation.

Table 1. Analysis of Proposed Fee Changes

Fee	Year of Last Fee Change	Current Fee	Proposed Fee	Current Fees if Adjusted for Inflation
Application Fees				
Inspection of newly established shop	1976	$25	$70	$80.93
Inspection of newly established school	New Fee	N/A	$120	N/A
Reciprocity applicant under G.S. 88B-13	1963	$15	$30	$90.29
Certification of Records	New Fee	N/A	$25	N/A
Continuing Education Provider	New Fee	N/A	$100/year	N/A
License Fees				
Cosmetologist	1985	$13/year	$22/year	$22.25
Apprentice	1995	$10/year	$22/year	$12.09
Esthetician	1998	$10/year	$22/year	$11.30
Manicurist	1995	$10/year	$22/year	$12.09
Teacher	1984	$10/2 years	$22/years	$17.73
Cosmetic Art Shop	1976	$3/chair/year	1-2 chairs $15 3-10 chairs $30 11+ chairs $55	$27.87
Cosmetic Art School	1973	$50/year	$120/year	$207.43
Duplicate Fee	1975	$1	$10	$3.42
Late Fees and Reinstatement Fees				
Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal	1985	$10	$50	$17.12
Schools and shops late renewal	1976	$10	$35	$32.37
Reinstatement – schools and shops	1975	$25	$75	$85.59
Document Request	New Fee	N/A	$10	N/A
Mailing List	New Fee	N/A	$20	N/A
License Listing	New Fee	N/A	$15/list	N/A

The NC Board of Cosmetic Art Examiners (Board) estimates that the following licenses are in effect each year:

Esthetician	1,084	Manicurist	8,149
Cosmetic Art		Cosmetic Art Shops	11,737

Teacher	838		
Apprentice		Cosmetologist	45,679
Cosmetologist	863	Cosmetic Art Schools	121

Revenues

Based on the above information, Table 2 provides estimates on the current annual revenue generated from issuing the licenses, anticipated annual revenue after fee increases, and annual revenue gain for the Board.

Table 2 Affect of the Major Fee Changes on the Board Revenues

	Current Estimated Revenue	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologist	$593,827	$1,004,938	$411,111
Manicurist	$81,490	$179,278	$97,788
Esthetician	$10,840	$23,848	$13,008
Apprentice	$8,630	$18,986	$10,356
Teacher	$4,190	$18,436	$14,246
Total	*$698,977*	*$1,245,486*	*$546,509*
Shops	$109,561	$255,900	$146,339
Schools	$6,050	$14,520	$8,470
Grand Total	**$814,588**	**$1,515,906**	**$701,318**

The number of cosmetology professionals will likely increase in the future, which will affect the Board revenues. However no growth estimate is available to be included in the analysis.

Expenses

The Board estimates its annual expenses as they appear in Table 3. The Board estimates annual three-percent growth in their expenses.

Table 3. Estimated Monthly and Annual Expenses of the Board

Type of Expenses	2003-04	2004-05	2005-06	2006-07	2007-08
Personal Expenses	$106,090	$109,273	$112,551	$115,927	$119,405
Purchased Expenses	$41,200	$42,436	$43,709	$45,020	$46,371
Supplies	$2,060	$2,122	$2,185	$2,251	$2,319
Fixed Expenses	$5,150	$5,305	$5,464	$5,628	$5,796

Property, Plant, & Equip.	$2,060	$2,122	$2,185	$2,251	$2,319
Miscellaneous Expenses	$1,545	$1,591	$1,639	$1,688	$1,739
Monthly Expenses	$158,105	$162,848	$167,734	$172,766	$177,949
Annual Expenses	$1,897,260	$1,954,178	$2,012,803	$2,073,187	$2,135,383

Average Monthly Expenses: $167,880
Average Annual Expenses: $2,014,562

According to the Board, OSBM advises it to hold a minimum reserve of three months operating expenses. Based on the average monthly expenses of $167,880, the amount of three-months reserve would be $503,641.

The Board plans to address the discrepancy between proposed estimated revenues (Table 2) and estimated expenses (Table 3) by charging application fees as well as late and reinstatement fees that appear in Table 1.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners; *CPI Inflation Calculator*.

TECHNICAL CONSIDERATIONS: None.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 440

Senate Finance Committee Substitute Adopted 6/5/03
Third Edition Engrossed 6/11/03

Short Title: Wentworth Agri. Zoning/Economic Dev. District. (Public)

Sponsors:

Referred to:

March 13, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING THE CHARTER OF THE TOWN OF WENTWORTH TO EXEMPT AGRICULTURAL LAND USES WITHIN THAT JURISDICTION FROM ZONING AND TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Charter of the Town of Wentworth, being Chapter 76 of the Private Laws of 1798, as amended by S.L. 1997-322, is amended by adding a new section to read:

"Sec. 5.2. **Zoning Exemption.** Notwithstanding any other provision of law, the Town may not regulate or restrict agricultural land uses under its zoning ordinance. For the purposes of this section, an 'agricultural land use' includes 'agricultural land' as defined in G.S. 105-277.2 and property used for 'bona fide farm purposes' as defined in G.S. 153A-340(b)(2). This exemption does not limit regulation under this section with respect to the use of farm property for nonfarm purposes."

SECTION 1.(b) This section applies only to the Town of Wentworth.

SECTION 2. Article 16 of Chapter 153A of the General Statutes is amended by adding a new Part to read:

"Part 3. Economic Development and Training Districts.

"**§ 153A-317.11. Purpose for which districts may be created.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district any of the education, training, and related services, facilities, or functions that a county

or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county.

"**§ 153A-317.12. Definition of economic development and training district.**

(a) Standards. – The board of commissioners may by resolution establish an economic development and training district for an area or areas of the county that, at the time the resolution is adopted, meet the following standards:

(1) All of the real property in the district primarily is being used for, or is subject to, a declaration of covenants, conditions, and restrictions that limits its use primarily to biotech processing, chemical manufacturing, pharmaceutical manufacturing, electronics manufacturing, telecommunications manufacturing, and any allied, ancillary, or subordinate uses including, without limitation, any research and development facility, headquarters or office, temporary lodging facility, restaurant, warehouse, or transportation or distribution facility.

(2) The district includes at least two pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the district containing in the aggregate at least 425 acres owned by publicly held corporations.

(3) The bioprocessing and pharmaceuticals manufacturing facilities in the district employ in the aggregate at least 1,600 persons.

(4) The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.

(5) The district's zoning classifications permit the uses listed in this section.

(6) All real property in the district is either zoned for or is being used primarily for pharmaceutical, biotech, life sciences, chemical, telecommunications, or electronics manufacturing or processing or allied, ancillary, or subordinate uses.

(7) The district shall include a skills training center situated on a tract containing not less than eight acres, which facility shall be designed and staffed to provide relevant training to prepare existing or prospective employees of targeted industries for jobs in one or more of the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries and allied, ancillary, or subordinate industries. The training center shall be completed within a reasonable period after the creation of the district.

(8) At the date of creation, no part of the district lies within the boundaries of any incorporated city or town.

(9) There exists a uniform set of covenants, conditions, restrictions, and reservations that applies to all real property in the district other than property owned by the federal, State, or local government.

(10) There exists in the district an association of owners and tenants to which owners of real property representing at least fifty percent (50%) of the assessed value of real property in the district belong, which association can make the recommendations provided for in G.S. 153A-317.13.

(11) A petition requesting creation of the district signed by owners of real property in the district who own real and personal property representing at least fifty percent (50%) of the total assessed value of the real and personal property in the district has been presented to the board of commissioners. In determining the assessed value of real and personal property in the district and the owners of real property, there shall be excluded: (i) real property exempted from taxation and real property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. Assessed value shall mean the most recent values determined by the county for the imposition of taxes on real and personal property.

(b) Findings. – The board of commissioners may establish an economic development and training district if, upon the information and evidence it receives, the board determines that:

(1) The proposed district meets the standards set forth in subsection (a) of this section;

(2) Economic development of the county will be served by providing selected skills training in a facility designed specifically to address the needs of targeted industries such as pharmaceuticals, biotech processing, telecommunications, electronics, and allied, ancillary, or subordinate supplies or services to induce existing industries and targeted industries to improve and expand their facilities and new industries to locate facilities in the district, thereby providing employment opportunities for the residents of the county;

(3) It is impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent as such training services are intended to be furnished within the district; and

(4) It is economically feasible to provide the proposed training facilities and services in the district without unreasonable or burdensome tax levies.

(c) Report. – Before the public hearing required by subsection (d) of this section, the board of commissioners shall cause to be prepared a report containing all of the following:

(1) A map of the proposed district showing its proposed boundaries.

(2) A statement showing that the proposed district meets the standards set out in subsection (a) of this section.

(3) A plan for providing the skills training center and training services to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) Hearing and Notice. – The board of commissioners shall hold a public hearing before adopting any resolution defining a district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a map of the proposed district and a statement that the report required by subsection (c) of this section is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The resolution creating a district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board of commissioners.

"**§ 153A-317.13. Advisory committee.**

(a) Creation. – The board of commissioners, in the resolution establishing an economic development and training district, shall also provide for an advisory committee for the district. The committee shall consist of five members, serving terms as set forth in the resolution. The resolution shall provide for the appointment or designation of a chair. The board of commissioners shall appoint the members of the advisory committee as provided in this section.

(b) Membership. – Three of the five committee members shall represent the association of owners and tenants, as required by G.S. 153A-317.12(a)(10), and two members shall represent the county. Before making the appointments representing the association, the board of commissioners shall request the association to submit a list of persons to be considered for appointment to the committee. The association of owners and tenants shall submit at least two names for each appointment to be made and the board of commissioners shall make the appointments to the committee representing the association from the list of persons submitted to it by the association. Whenever a vacancy occurs on the committee in a position filled by an appointment by the board of commissioners representing the association of owners and tenants, the board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy, and the board shall fill the vacancy by appointing one of the persons so submitted.

(c) Advisory Duties. – Each year, before adopting the budget for the district and levying the tax for the district, the board shall request recommendations from the advisory committee as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years. The board of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory committee.

"**§ 153A-317.14. Extension of economic development and training districts.**

(a) Standards. – A board of commissioners may by resolution annex territory to an economic development and training district upon finding that:

(1) The conditions, covenants, restrictions, and reservations required by G.S. 153A-317.12(a)(1) that apply to all real property in the district, other than property owned by the federal, State, or local government, also apply or will apply to the property, other than property owned by the federal government, to be annexed.

(2) One hundred percent (100%) of the owners of real property in the area to be annexed have petitioned for annexation.

(3) The district, following the annexation, will continue to meet the standards set out in G.S. 153A-317.12(a).

(4) The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the expanded area can be met by the skills training facility located in the district.

(5) The area to be annexed is either contiguous to a lot, parcel, or tract of land in the district or at least 500 acres in the aggregate counting all parcels proposed for annexation. A property shall, for purposes of this section, be deemed to be contiguous notwithstanding that it may be separated from other property by a street, road, highway, right-of-way, or easement.

(6) If any of the area proposed to be annexed to the district is wholly or partially within the extraterritorial jurisdiction of a municipality, then it shall be necessary to first obtain the affirmative vote of a majority of the members of the governing body of the municipality before the area can be annexed.

(b) Report. – Before the public hearing required by subsection (c) of this section, the board shall cause to be prepared a report containing all of the following:

(1) A map of the district and the territory proposed to be annexed showing the present and proposed boundaries of the district.

(2) A statement that the area to be annexed meets the standards and requirements of subsection (a) of this section.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The board shall hold a public hearing before adopting any resolution extending the boundaries of a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall include a statement that the report required by subsection (b) of this section is available for inspection in the office of the clerk to the board. The notice shall be published at least once not less than four weeks before the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the area to be annexed. The person designated by the board to mail the notice shall certify to the board that the

mailing has been completed, and the certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of the fiscal year commencing after its passage or such other date as shall be determined by the board.

"**§ 153A-317.15. Required provision or maintenance of skills training center.**

(a) New District. – When a county creates a district, it shall provide, maintain, or let contracts for the skills training center for which the district is being taxed within a reasonable time, not to exceed one year, after the effective date of the creation of the district.

(b) Extended District. – When a territory is annexed to a district, the county shall provide, maintain, or let contracts for any necessary additions to the skills training center to provide the same training provided throughout the district to existing and new industries in the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

"**§ 153A-317.16. Abolition of economic development and training districts.**

A board of county commissioners may by resolution abolish a district upon finding that a petition requesting abolition, signed by at least fifty percent (50%) of the owners of real property in the district who own at least fifty percent (50%) of the real and personal property in the district based upon the most recent valuation thereof, has been submitted to the board and that there is no longer a need for such district. In determining the total real and personal property in the district and the number of owners of real and personal property, there shall be excluded: (i) property exempted from taxation and property classified and excluded from taxation and (ii) the owners of such exempted or classified and excluded property. The board shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour, and place of the hearing and its subject and shall be published at least once not less than one week before the date of the hearing. The abolition of any district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the board.

"**§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center provided therein in addition to or to a greater extent than worker training facilities provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars ($1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars ($100.00) value of property subject to taxation.

"**§ 153A-317.18. Annexation by municipality.**

No municipality may annex pursuant to Part 2 or Part 3 of Article 4A of Chapter 160A of the General Statutes or under any procedure other than Part 1 or Part 4 of that Article any or all of the real property within an economic development and training district established under this Part."

SECTION 3.(a) If the board of commissioners of Johnston County elects to establish an economic development and training district under Part 3 of Article 16 of Chapter 153A of the General Statutes, as created by this act, the district as initially established shall consist of the following real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority:

(1) Bayer Corporation. – All of the property shown on those deeds recorded in Book 737, Page 179; Book 737, Page 180; Book 739, Page 96; Book 1328, Page 644; and Book 1328, Page 648 in the office of the Register of Deeds of Johnston County.

(2) Novo Nordisk Pharmaceutical Industries, Inc. – All of the property shown on those certain plats of survey recorded in Plat Book 34, Page 279 and Plat Book 46, Page 431 and as shown in that certain deed recorded in Book 1389, Page 114 in the office of the Register of Deeds of Johnston County.

(3) Fresenius Kabi Clayton, L.P. – All of the property shown on that plat of survey recorded in Plat Book 28, Page 173 in the office of the Register of Deeds of Johnston County.

(4) Johnston County Airport Authority. – All of that property known as North Aviation Industrial Park described in that certain deed recorded in Book 1433, Page 440 in the office of the Register of Deeds of Johnson County.

SECTION 3.(b) This section applies only to Johnston County.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 440:
Wentworth Agri. Zoning/Economic Dev. District.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sexton
Date:	July 8, 2003	**Summary by:**	Trina Griffin
Version:	3rd Edition		Committee Counsel

SUMMARY: House Bill 440 does the following:

- ***It would prohibit the Town of Wentworth from regulating or restricting agricultural land uses under its zoning ordinance.***
- ***It would authorize Johnston County to establish an economic development and training district for the purpose of providing a skills training center to prepare county residents to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries.***

THE BILL IS IN COMMITTEE FOR RECOMMENDATION FOR CONCURRENCE OR NON-CONCURRENCE.

BILL ANALYSIS: Section 1of House Bill 440 would amend the Charter of the Town of Wentworth to prohibit the town from regulating or restricting agricultural land uses under its zoning ordinance. Under current general law, a municipality may regulate agricultural uses of land as a part of its zoning ordinance.

Section 2 of the bill, which applies only to Johnston County, creates a new Part in Chapter 153A that authorizes a county to establish an economic development and training district.

Purpose of District. – The purpose of the district is to provide a skills training center to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life science, chemical, telecommunications, and electronics industries.

Standards for District. – Several standards must be met before the district may be established, including:

- All of the property in the proposed district is primarily being used for biotech processing, chemical, pharmaceutical, electronics, and telecommunications manufacturing.
- The district includes at least 2 pharmaceuticals manufacturing or bioprocessing facilities occupying sites in the aggregate of at least 425 acres owned by publicly held corporations and employing at least 1,600 persons.
- The district includes an industrial park consisting of at least 60 acres within a noncontiguous parcel of at least 625 acres now or formerly owned by an airport authority.
- No part of the district lies within the boundaries of any incorporated city or town.
- There exists in the district an association of owners and tenants to which owners of real property representing at least 50% of the value of the real property in the district belong.
- There must be a petition signed by the owners of real property in the district representing at least 50% of the total assessed value of real and personal property in the district presented to the board of commissioners.

Findings Required Before Establishing District. – The board of commissioners may establish the district if it determines that:

- The proposed district meets the standards set out above.

- Economic development of the county will be served, specifically in the targeted industries, by providing selected skills training, thus inducing the expansion of existing industries and the location of new facilities, thereby providing employment opportunities in the district.
- It would be impossible or impractical to provide training facilities and services on a countywide basis to all existing and future employers in the county to the same extent the services are intended to be furnished within the district.
- It is economically feasible to provide the proposed training facilities and services without unreasonable or burdensome tax levies.

Hearing and Notice. – The board must provide notice and hold a public hearing before adopting a resolution defining a district.

Advisory Committee. – In the resolution establishing an economic development and training district, the board of commissioners shall provide for a five-member advisory committee, three of whom shall represent the association of owners and tenants and two of whom shall represent the county. The committee shall make recommendations to the board as to the type and level of services, facilities, or functions to be provided for the district for the ensuing years.

Annexation by District. – The board of commissioners would be authorized to annex territory to the district, after giving notice and holding a public hearing, if certain findings exist, such as:

- The property to be annexed meets the same conditions, covenants, restrictions, and reservations as the primary district.
- 100% of the owners of real property in the area to be annexed have petitioned for annexation.
- The reasonably anticipated training needs of the existing companies in the area to be annexed and of new companies that may locate within the area can be met by the skills training facility located in the district.
- The area to be annexed is either contiguous to the district or at least 500 acres in the aggregate.
- If any of the area proposed to be annexed is within the extraterritorial jurisdiction of a municipality, then a majority of the members of the governing body of the municipality must vote in favor of annexation.

Abolition of District. – The board may abolish a district if a petition requesting abolition, signed by at least 50% of real property owners in the district who own at least 50% of the real and personal property in the district, has been submitted to the board and that there is no longer a need for the district. There must be notice and a public hearing prior to the adoption of a resolution abolishing a district.

Taxes Authorized. – The county would be authorized to levy property taxes within the district, in addition to those levied throughout the county, in order to finance, provide, or maintain for the district a skills training center. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within the district may be expended only to pay annual debt service on up to $1,200,000 of the capital costs of a skills training center and any other services or facilities provided by the county in response to a recommendation of the advisory committee. The additional property taxes within the district may not exceed a rate of 8¢ on each $100 value of property subject to taxation.

Property Within Initial District. – If the board of commissioners elects to establish an economic development and training district, then the district as initially established will consist of certain described real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries, Inc., Fresenius Kabi Clayton, L.P., and the Johnston County Airport Authority.

EFFECTIVE DATE: House Bill 440 would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 440 A BILL TO BE ENTITLED AN ACT AMENDING THE CHARTER OF THE TOWN OF WENTWORTH TO EXEMPT AGRICULTURAL LAND USES WITHIN THAT JURISDICTION FROM ZONING AND TO PROVIDE FOR THE CREATION OF ECONOMIC DEVELOPMENT AND TRAINING DISTRICTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 860
PROPOSED COMMITTEE SUBSTITUTE H860-PCS30414-RV-26

Short Title: Detector Dog Trainers. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-101(a) reads as rewritten:

"(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file an application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

CATEGORY	MAXIMUM FEE
Clinic	$150.00
Hospital	350.00
Nursing Home	150.00
Teaching Institution	150.00
Researcher	150.00
Analytical Laboratory	150.00
Dog Handler	150.00
Distributor	600.00
Manufacturer	700.00."

SECTION 2. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-102.1. Registration of persons requiring limited use of controlled substances for training purposes in certain businesses.**

(a) Definitions. – As used in this Article:

(1) 'Commercial detection service' means any person, firm, association, or corporation contracting with another person, firm, association, or corporation for a fee or other valuable consideration to place, lease, or rent a trained drug detection dog with a dog handler.

(2) 'Dog handler' means a person trained in the handling of drug detection dogs, including the care, feeding, and maintenance of drug detection dogs and the procedures necessary to train and control the behavior of drug detection dogs. .

(3) 'Drug detection dog' means a dog trained to locate controlled substances by scent.

(b) Registration. – A dog handler who is not exempt from registration under G.S. 90-101 who intends to use any controlled substance included in Schedules I through VI for the limited purpose of the initial training and maintenance training of drug detection dogs shall file an application for registration with the Department of Health and Human Services and pay the applicable fee as provided in G.S. 90-101.

(c) Prerequisites for Registration. – Upon receipt of an application, the Department of Health and Human Services shall conduct a background investigation, during the course of which the applicant shall be required to show that the applicant meets all the following requirements and qualifications:

(1) That the applicant is at least 21 years of age.

(2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits:

a. Conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage;

b. Conviction of a felony or a crime involving an act of violence;

c. Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or

d. A history of addiction to alcohol or a narcotic drug;

provided that, for purposes of this subsection, conviction means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

(3) That the applicant has not been convicted of any felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(4) That the applicant has the necessary training, qualifications, and experience to demonstrate competency and fitness as a dog handler as the Department of Health and Human Services may determine by rule for all registrations to be approved by the Department.

(5) That the applicant affirms in writing that if the application for registration is approved, the applicant shall report all dog alerts to, or finds of, any controlled substance to a law enforcement agency having jurisdiction in the area where the dog alert occurs or where the controlled substance is found.

(d) Criminal Record Check. – The Department of Justice may provide a criminal record check to the Department of Health and Human Services for a person who has applied for a new or renewal registration. The Department of Health and Human Services shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Health and Human Services shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(e) Acquisition of Controlled Substances. – If the application for registration is approved, the registrant may lawfully obtain and possess controlled substances in the manner and to the extent authorized by the registration, in conformity with G.S. 90-105, other provisions of this Article, and rules promulgated by the Commission pursuant to G.S. 90-100.

(f) Record Keeping; Physical Security. – Each registrant shall keep records and maintain inventories in the manner specified in G.S. 90-104. Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. Controlled substances shall be stored in a securely locked, substantially constructed cabinet, and the storage area shall be protected by an alarm system that is continuously monitored by an alarm company central station.

(g) Disclosure of Discovery of Controlled Substances. – A dog handler shall, upon a dog alert or finding of a controlled substance, notify the State or local law enforcement agency having jurisdiction over the area where the dog alert occurs or the controlled substance is found. Before leaving the premises where the dog alert occurs or where the controlled substance is found, the dog handler shall inform law enforcement of the dog alert or the finding of a controlled substance and shall provide all relevant information concerning the dog alert or the discovery of the controlled substance.

(h) Commercial Detection Services; Dog Certification and Client Confidentiality. – Any drug detection dog utilized in a commercial detection service in this State shall first be certified by a canine certification association approved by the Department of Health and Human Services. Any person, including a nonresident, engaged in providing a commercial detection service in this State shall comply with the requirements of

subsection (g) of this section regarding disclosure of the discovery of controlled substances. Client records of a dog handler who provides a commercial detection service for controlled substances shall be confidential unless the dog handler is required to report a dog alert or finding of a controlled substance in the course of a search, the records are lawfully subpoenaed, or the records are obtained by a law enforcement officer pursuant to a court order, a search warrant, or an exception to the search warrant requirement.

(i) The Department of Health and Human Services shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this section involving individuals registered or applying to be registered under this section. The Department or the Commission may deny, suspend, or revoke a registration issued under this section if it is determined that the applicant or registrant has:

(1) Made any false statement or given any false information in connection with any application for a registration or for the renewal or reinstatement of a registration.

(2) Violated any provision of this Article.

(3) Violated any rule promulgated by the Department of Health and Human Services or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to the authority contained in this Article.

(j) This section does not apply to law enforcement agencies, to dog handlers and drug detection dogs that are employed or under contract to law enforcement agencies, or to other persons who are exempt from registration under G.S. 90-101(c)(5)."

SECTION 3. Pursuant to G.S. 90-100, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may adopt temporary and permanent rules relating to the acquisition, possession, and security of controlled substances by persons registered under the provisions of G.S. 90-102.1, as enacted by this act. The Department of Health and Human Services may adopt temporary and permanent rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1, as enacted by this act.

SECTION 4. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2nd

H. B. No. 860 DATE 7-16-03

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Weiss
Sen.)

moves to amend the bill on page 4, line 7

( ) WHICH CHANGES THE TITLE

by adding the following at the end of the line:

"Any person who contracts with a dog handler to provide commercial drug detection services shall provide conspicuous written notice to any person whose person or property may be subject to search stating that the premises is subject to search and that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance."

SIGNED Jennifer Weiss

ADOPTED ✓ (by consent) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2nd

H. B. No. 860 DATE 7-16-03

S. B. No. Amendment No. (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE

(Rep.) Ellis
Sen.)

moves to amend the bill on page 4, line 7

( ) WHICH CHANGES THE TITLE

by adding at the end of the line the following:

" The dog handler shall provide conspicuous written notice to clients, at the dog handler's place of business and in the contract for services, stating that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance."

SIGNED

ADOPTED ✓ (MS comment) FAILED TABLED

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

HOUSE BILL 860:
Detector Dog Trainers.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Adams
Date:	July 16, 2003	**Summary by:**	Trina Griffin*
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 860 amends the Controlled Substances Act to provide for the registration of persons who train and maintain dogs used to detect the presence of illegal narcotics.***

THIS BILL WAS GIVEN A FAVORABLE REPORT IN HOUSE JUDICIARY III, AND HAS BEEN REFERRED TO FINANCE BECAUSE IT CREATES A NEW FEE FOR THE REGISTRATION OF DOG HANDLERS WHO WORK WITH DOGS USED TO DETECT CONTROLLED SUBSTANCES.

CURRENT LAW: G.S. 90-95 makes it unlawful to manufacture, sell or deliver, or possess any controlled substance except as authorized by the Controlled Substances Act set out in Article 5 of Chapter 90 of the General Statutes. G.S. 90-101 requires that every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities register annually with the North Carolina Department of Health and Human Services, and pay the registration fee set by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) for the category to which the applicant belongs. An applicant must file an application for registration with the Department of Health and Human Services and submit the required fee with the application. Exceptions are provided for law enforcement officers acting within the course and scope of official duties and for medical practitioners licensed in North Carolina. A separate registration is required at each principal place of business, research or professional practice where the registrant manufactures, distributes, dispenses or uses controlled substances, and the Department of Health and Human Services is authorized to inspect the establishment of a registrant, applicant for registration, or practitioner in accordance with rules adopted by the Commission.

BACKGROUND: The N.C. Division of Mental Health, Developmental Disabilities and Substance Abuse Service's Regulatory Unit has assumed the following positions with regard to applicants who wish to possess controlled substances for use in the training and maintenance of detector dogs:

- The N.C. Administrative Code links state registration to possess controlled substances to the federal Drug Enforcement Administration (DEA) registration process, and a State registrant is required to provide evidence of federal registration to conduct research with controlled substances.
- G.S. § 90-111 requires the North Carolina Department of Health and Human Services and the Attorney General of North Carolina to ***"cooperate with federal and other State agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances."***
- Registration to possess controlled substances for the purpose of training drug-detection dogs should be granted only to entities that are a branch of law enforcement or have a direct affiliation with law enforcement, and any business/individual authorized to possess controlled substances in connection with the training or use of drug-detection dogs should report all incidents of drug detection to law enforcement.

- The integrity of the public interest is a key concern. G.S. §90-102 (a) requires that the Department of Health and Human Services register an applicant to manufacture or distribute controlled substances ***"unless it determines that the issuance of such registration is inconsistent with the public interest."*** The State has taken the position that confidential drug searches for businesses and individuals that allow anyone other than law enforcement to determine how to dispose of detected narcotics, is not consistent the public interest. In determining the public interest, the statute requires consideration of the following:

  (1) Maintenance of effective controls against diversion of any controlled substances and any substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

  (2) Compliance with applicable federal, State and local law;

  (3) Prior conviction record of applicant, its agents or employees under federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

  (4) Past experience in the manufacture of controlled substances, and the existence in the establishment or facility of effective controls against diversion; and

  (5) Any factor relating to revocation, suspension, or denial of past registrations, licenses, or applications under this or any other State or federal law;

  (6) Such other factors as may be relevant to and consistent with the public health and safety.

BILL ANALYSIS: House Bill 860 amends the Controlled Substances Act to permit the registration of dog handlers who train and maintain dogs used to detect the presence of illegal narcotics. The maximum fee for a dog handler registration with the Department of Health and Human Services (DHHS) would be $150. Prior to approval of a dog handler's application for registration, DHHS would be required to conduct a background investigation that would include a criminal records check. The bill authorizes the Department of Justice to conduct a criminal records check and to charge the applicant a fee. Once registered, the dog handler would be permitted to lawfully obtain and possess specified amounts of controlled substances for the limited purpose of the initial training and maintenance training of drug detection dogs, subject to rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

Each registered dog handler would be required to keep records and maintain inventories in conformance with federal and State law. The bill requires that all controlled substances be stored in a securely locked cabinet located in an area protected by a monitored alarm system. Dogs to be used in commercial detection services must first be certified by a canine certification association approved by DHHS. When conducting searches, a dog handler, including a nonresident, would be required to contact State or local local law enforcement authorities to report any dog alerts or finds of controlled substances. DHHS has the authority to investigate any complaints, and where violations are found may deny, suspend, or revoke a registration. Registration requirements do not apply to law enforcement agencies, or to dog handlers employed or under contract with law enforcement.

The bill provides for the adoption of temporary and permanent rules to carry out the purposes of the act. The act would be effective when it becomes law.

Brenda Carter, committee counsel for House Judiciary III, contributed substantially to this summary.

H860-SMSV-002

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 15, 2003

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: HB 860 PCS 30414-RV-26 Detector Dog Trainers

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**See Assumptions and Methodology**				
EXPENDITURES	**See Assumptions and Methodology**				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services – Division of Mental Health, Developmental Disabilities and Substance Abuse ; Department of Justice

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the Department of Health and Human Services to register dog handlers who train and maintain dogs used to detect the presence of illegal narcotics. The annual registration fee of $150 allows the dog handler to lawfully obtain and possess specified amounts of controlled substances for the training of dogs. The applicant for this registration must pay the Department of Justice for a criminal background check and must keep records and maintain inventories in conformance with federal and state laws.

ASSUMPTIONS AND METHODOLOGY:

Revenue

The Department of Health and Human Services has no estimate of the number of new registrants it will receive upon the passage of this bill. The Division of Mental Health, Developmental Disabilities and Substance Abuse's Regulatory Unit currently has 22 persons registered as researchers who are associated with dogs for narcotics detection. Of these 22, sixteen are with police departments and six are considered agents for law enforcement. Since proposed 90-102.1(j) exempts law enforcement agencies and dog handlers that are employed or under contract to law enforcement agencies, the Department could lose the $3,300 in registration fees it now receives from these individuals.

Expenditures

The Division of Mental Health, Developmental Disabilities and Substance Abuse's Regulatory Unit has six employees that handle 2,400 registrants. The unit collected $398, 250 in fees last year and spent approximately $340,000 for 6 personnel that include four inspectors, one supervisor, and one clerical position. The unit receives about 10 new registrants a month that require an inspection. Dog handlers would be another duty added to their workload. Since there is no estimate on the number of dog handler registrants, it is unknown whether the current staff can perform the inspections in a timely manner.

Proposed 90-102.1(d) deals with criminal record background checks. Since the applicant or licensee pays the State Bureau of Investigation (SBI) for the criminal record check, there is no fiscal impact on the Department of Health and Human Services. The SBI is able to accommodate some increase in background checks within its existing staffing level. If the increase in workload due to new record checks is greater than the unit's capacity, the SBI could seek authorization from the Office of State Budget and Management for an additional position supported by the receipts collected from the applicants/ licensees.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 918
PROPOSED COMMITTEE SUBSTITUTE H918-PCS45183-LAf-42

Short Title: Increase Service of Process Fee. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL CASES AND TO EARMARK THE INCREASE TO ENSURE TIMELY SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-311 reads as rewritten:

"**§ 7A-311. Uniform civil process fees.**

(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of ~~five dollars ($5.00).~~ fifteen dollars ($15.00). When two or more items of civil process are served simultaneously on one party, only one ~~five-dollar ($5.00)~~ fifteen-dollar ($15.00) fee shall be charged.

b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. ~~If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the~~The process fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.

c. At least fifty percent (50%) of the fees collected pursuant to this subdivision shall be used by the county to ensure the timely service of process within the county, which may include the

hiring of additional law enforcement personnel upon the recommendation of the sheriff.

(2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.

(3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars ($500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars ($500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.

(4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.

(5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees.

(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except those contingent on expenses or sales prices. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court.

(c) The process fees and commissions set forth in this section are complete and exclusive and in lieu of any and all other process fees and commissions in civil actions and special proceedings."

SECTION 2. This act becomes effective September 1, 2003, and applies to fees assessed or collected on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 918
PROPOSED COMMITTEE SUBSTITUTE H918-CSLAf-42 [v.3]

7/15/2003 6:30:14 PM

Short Title: Increase Service of Process Fee. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL CASES AND TO EARMARK THE INCREASE TO ENSURE TIMELY SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-311 reads as rewritten:

"**§ 7A-311. Uniform civil process fees.**

(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of ~~five dollars ($5.00).~~ fifteen dollars ($15.00). When two or more items of civil process are served simultaneously on one party, only one ~~five dollar ($5.00)~~ fifteen-dollar ($15.00) fee shall be charged.

b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. ~~If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the~~The process fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.

c. At least fifty percent (50%) of the fees collected pursuant to this subdivision shall be used by the county to ensure the timely service of process within the county, which may include the

hiring of additional law enforcement personnel upon the recommendation of the sheriff.

(2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.

(3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars ($500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars ($500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.

(4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.

(5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees.

(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except those contingent on expenses or sales prices. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court.

(c) The process fees and commissions set forth in this section are complete and exclusive and in lieu of any and all other process fees and commissions in civil actions and special proceedings."

SECTION 2. This act becomes effective September 1, 2003, and applies to fees assessed or collected on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 918

Short Title:	Increase Service of Process Fee.	(Public)
Sponsors:	Representatives Goodwin, Miner (Primary Sponsors); and Jeffus.	
Referred to:	Judiciary II, if favorable, Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL CASES AND TO EARMARK THE INCREASE TO ENSURE TIMELY SERVICE OF PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-311 reads as rewritten:

"**§ 7A-311. Uniform civil process fees.**

(a) In a civil action or special proceeding, except for actions brought under Chapter 50B of the General Statutes, the following fees and commissions shall be assessed, collected, and remitted to the county:

(1) a. For each item of civil process served, including summons, subpoenas, notices, motions, orders, writs and pleadings, the sum of ~~five dollars ($5.00).~~ fifteen dollars ($15.00). When two or more items of civil process are served simultaneously on one party, only one ~~five-dollar ($5.00)~~ fifteen-dollar ($15.00) fee shall be charged.

b. When an item of civil process is served on two or more persons or organizations, a separate service charge shall be made for each person or organization. If the process is served, or attempted to be served, by a city policeman, the fee shall be remitted to the city rather than the county. If the process is served, or attempted to be served by the sheriff, the fee shall be remitted to the county. This subsection shall not apply to service of summons to jurors.

c. At least fifty percent (50%) of the fees collected pursuant to this subdivision shall be used by the county to ensure the timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff.

(2) For the seizure of personal property and its care after seizure, all necessary expenses, in addition to any fees for service of process.

(3) For all sales by the sheriff of property, either real or personal, or for funds collected by the sheriff under any judgment, five percent (5%) on the first five hundred dollars ($500.00), and two and one-half percent (2 1/2%) on all sums over five hundred dollars ($500.00), plus necessary expenses of sale. Whenever an execution is issued to the sheriff, and subsequently while the execution is in force and outstanding, and after the sheriff has served or attempted to serve such execution, the judgment, or any part thereof, is paid directly or indirectly to the judgment creditor, the fee herein is payable to the sheriff on the amount so paid. The judgment creditor shall be responsible for collecting and paying all execution fees on amounts paid directly to the judgment creditor.

(4) For execution of a judgment of ejectment, all necessary expenses, in addition to any fees for service of process.

(5) For necessary transportation of individuals to or from State institutions or another state, the same mileage and subsistence allowances as are provided for State employees.

(b) All fees that are required to be assessed, collected, and remitted under subsection (a) of this section shall be collected in advance (except in suits in forma pauperis) except those contingent on expenses or sales prices. When the fee is not collected in advance or at the time of assessment, a lien shall exist in favor of the county on all property of the party owing the fee. If the fee remains unpaid it shall be entered as a judgment against the debtor and shall be docketed in the judgment docket in the office of the clerk of superior court.

(c) The process fees and commissions set forth in this section are complete and exclusive and in lieu of any and all other process fees and commissions in civil actions and special proceedings."

SECTION 2. This act becomes effective July 1, 2003, and applies to fees assessed or collected on or after that date.

HOUSE BILL 918:
Increase Service of Process Fee

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Goodwin and Miner
Date:	July 15, 2003	**Analysis by:**	Martha Walston
Version:	H918—CSLAf-42		Committee Counsel

SUMMARY: ***House Bill 918 would increase the fee for service of process in most civil actions from $5.00 to $15.00 and would provide that at least 50% of the fees collected will be used by the county to ensure the timely service of process within the county, which may include the hiring of additional law enforcement personnel upon the recommendation of the sheriff.***

House Bill 918 was given a favorable report in House Judiciary II.

The proposed committee substitute changes the effective date from July 1, to September 1, and deletes unnecessary language in the current law.

CURRENT LAW AND BACKGROUND: Under G.S. 7A-311, a $5.00 fee is charged for each summons, subpoena, notice, motion, order, writ, and pleading served in a civil action or special proceeding. This fee does not apply to service of process in actions related to domestic violence, for which no fee is charged. If a city policeman serves the item of civil process, the fee is remitted to the city. If the sheriff serves the item of civil process, the fee is remitted to the county.

Since 1990, the fee has been set at $5.00. Before that the fee was set as follows:

- 1981 - $4.00
- 1979 - $3.00
- 1965 - $2.00

A similar bill, House Bill 1397 (Increase Service of Process Fee), was introduced during the 2001 General Assembly. This bill would have increased the fee to $10.00. House Bill 1397 passed the House of Representatives, but was not acted on in the Finance Committee in the Senate.

BILL ANALYSIS: House Bill 918 would increase the fee for service of process in most civil actions from $5.00 to $15.00. The bill would also provide that at least 50% of the fees collected would be used by the county to ensure the timely service of process within the county, which may include hiring additional law enforcement personnel upon the recommendation of the sheriff.

House Bill 918 also deletes the current language regarding service of process by city policemen, since current law does not provide for the service of items of civil process by city policemen.

EFFECTIVE DATE: This act would become effective September 1, 2003, and apply to fees assessed or collected on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 918 (1st Edition)

SHORT TITLE: Increase Service of Process Fee.

SPONSOR(S): Representatives Goodwin, Miner, and Jeffus

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**Unable to determine exact amount**				
EXPENDITURES					
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Local governments.

EFFECTIVE DATE: September 1, 2003.

BILL SUMMARY: This bill increases the fee for service of process in civil actions from $5 to $15 and directs that at least half of the fees collected be used to support additional local law enforcement personnel, if needed, to assure timely service of process.

ASSUMPTIONS AND METHODOLOGY: The current $5 service of process fee is collected at the local level with unrestricted use. In some counties, the clerk of court collects this fee and disburses it to the local government, but in most cases it is paid directly to the Sheriff's office. For this reason, it is not possible to estimate the revenues generated without surveying the 100 Sheriff's offices.

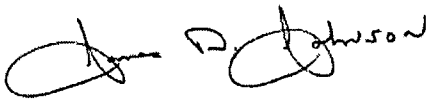
SOURCES OF DATA: Administrative Office of the Courts and NC Sheriff's Association.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Douglas R. Holbrook

Douglas R. Holbrook

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: July 15, 2003

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 918

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H918-ASVf-30 [v.2]

Date July 16 ,2003

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Representative Ellis

moves to amend the bill on page 1, line 4, by adding the following before the period "AND TO ALLOW PRIVATE PROCESS OF SERVICE IN WAKE COUNTY"

further moves to amend the bill on page 2, line 31 by inserting the following between lines 31 and 32:

SECTION 1.1.(a) G.S. 1A-1, Rule 4(a) reads as rewritten:

"(a) Summons – Issuance; who may serve. – Upon the filing of the complaint, summons shall be issued forthwith, and in any event within five days. The complaint and summons shall be delivered to some proper person for service. In this State, such proper person shall be the sheriff of the county where service is to be ~~made~~made, a private process server appointed by the clerk of court, or some other person duly authorized by law to serve summons. Upon the request of a party seeking service of process or that party's agent or attorney, service shall be made by a private process server appointed by the clerk of court. Outside this State, such proper person shall be anyone who is not a party and is not less than 21 years of age or anyone duly authorized to serve summons by the law of the place where service is to be made. Upon request of the plaintiff separate or additional summons shall be issued against any defendants. A summons is issued when, after being filled out and dated, it is signed by the officer having authority to do so. The date the summons bears shall be prima facie evidence of the date of issue."

SECTION 1.1.(b) Article 12 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-114. Appointment of private process server.**

(a) Qualifications. – The clerk of court of each county shall appoint persons as private process servers in accordance with this section. To be appointed as a private

process server, a person must apply to the clerk of court for the appointment and must meet all of the following qualifications:

(1) Be at least 21 years old.
(2) Be a resident of this State.
(3) Have no mental or legal disability.
(4) Not be the defendant in a pending criminal action.
(5) Not have been convicted of a felony.
(6) In the five-year period before the date the application is filed, not have been convicted of a misdemeanor involving moral turpitude or dishonesty.
(7) Pass a written examination given by the clerk testing the applicant's knowledge of the laws and rules of procedure concerning the service of process.
(8) Post with the clerk a performance bond in the amount of one hundred thousand dollars ($100,000).
(9) Pay the application fee and the examination fee set by the clerk.

(b) Exam. – The clerk of court shall determine the content of the examination an applicant must take to become a private process server and the passing grade for the examination. The clerk shall determine the number of times and the locations at which the examination is given in a year. The clerk shall give the examination at least once a year.

(c) Bond. – A performance bond required for appointment as a private process server must be approved by the clerk of court and must be filed for the benefit of any person injured by malfeasance, misfeasance, neglect of duty, or incompetence in performing the duties of a private process server. If an applicant is or will be employed by an entity whose employees are covered by a bond of the employer, the applicant is not required to post a bond if the employer gives a written statement to the clerk affirming that the employer's bond applies or will apply to the applicant in performing the duties of a private process server.

The clerk of court may redeem, in whole or in part, a performance bond filed by a private process server when the clerk determines that a person has been injured by the malfeasance, misfeasance, neglect of duty, or incompetence of the private process

server in serving process. Before the clerk redeems a bond, the clerk must hold a hearing on the matter.

(d) Appointment. – The clerk of court shall appoint a person who meets the qualifications set in subsection (a) of this section as a private process server. The clerk shall issue each person appointed an identification number and an identification card. The card shall bear the process server's identification number, printed name, signature, photograph, and date the appointment expires. The clerk of court may contract with the City-County Bureau of Identification to make the identification cards. The person to whom a card is issued shall pay the fee required for issuance of the card. The clerk shall maintain a list of persons who hold appointments as private process servers.

(e) Effect. – A person appointed as a private process server is authorized to serve civil process, except executions pursuant to Article 28 of Chapter 1 of the General Statutes or summary ejectment pursuant to Article 3 of Chapter 42 of the General Statutes. A person appointed as a private process server shall take an oath that the person will honestly, diligently, and faithfully exercise the duties of a private process server. Process served by a private process server has the same effect as if it had been served by a sheriff.

(f) Renewal of Appointment. – An appointment as a private process server expires one year after the date the clerk of court makes the appointment. An appointment may be renewed by filing an application for renewal with the clerk. The clerk shall renew an appointment if the process server has properly fulfilled the duties of a private process server during the year and the bond posted by the process server remains in effect.

(g) Revocation or Refusal to Renew Appointment. – The clerk of court may revoke or refuse to renew a person's appointment as a private process server whenever the clerk determines that the private process server has not fully and properly discharged the duties of a private process server. Before the clerk revokes or refuses to renew an appointment for cause, the clerk must hold a hearing on the matter.

(h) Hearing. – A clerk of court must notify a private process server of the time and date of a hearing. At the hearing, the process server may cross-examine witnesses, present evidence, and be heard. If the clerk decides to redeem the process server's bond or to revoke or to refuse to renew the process server's appointment, the clerk must make a written record of the findings of fact and set out in detail the reasons why the clerk

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 918

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H918-ASVf-30 [v.2]

decided to take that action. A person whose bond is redeemed or whose appointment is revoked or not renewed may appeal the action to the superior court of the county whose clerk made the appointment.

(i) Fees. – The clerk of court shall set fees for filing an application to become a private process server, taking an examination to become a private process server, and issuing an identification card to a person appointed as a private process server. The application fee may not exceed one hundred dollars ($100.00). The fee for an identification card may not exceed ten dollars ($10.00).

The fee set in G.S. 7A-311 for service of civil process applies to process served by a private process server. The person who engages a private process server to serve process shall pay the fee set by that statute to the appropriate county at the time required by that statute.

The amount charged by a private process server for serving process is governed by the agreement between the process server and the person who engages the process server. The amount charged is not a process fee under G.S. 7A-311 and is not assessable under G.S. 7A-305 as a cost of a civil action.

(j) Offense. – A private process server who, knowing that the person served is not the person named, serves process on a person not named in the paper is guilty of a Class 1 misdemeanor."

SECTION 1.1.(c) This section applies to Wake County only."

Further amends the bill on page 2, line 32, by deleting "and applies to" and substituting "and Section 1 applies to

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 918 A BILL TO BE ENTITLED AN ACT TO INCREASE THE FEE FOR SERVICE OF PROCESS IN CIVIL CASES AND TO EARMARK THE INCREASE TO ENSURE TIMELY SERVICE OF PROCESS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 759
PROPOSED COMMITTEE SUBSTITUTE H759-CSLA-39 [v.2]

7/8/2003 1:35:58 PM

Short Title: Reduce Utility Equipment Sales Tax. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(17b) Light construction equipment. – Equipment that is self-propelled, is used only for construction, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

SECTION 2. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) **(Effective until July 1, 2003)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective October 1, 2003, and applies to sales made on or after that date. This section is repealed effective for sales made on or after January 1, 2006. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any

refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 759

Short Title:	Reduce Utility Equipment Sales Tax.	(Public)
Sponsors:	Representatives Goforth; B. Allen, Bonner, Bordsen, Capps, Carney, Culp, England, Farmer-Butterfield, Gibson, Goodwin, Gorman, Gulley, Hall, Hilton, Holliman, Hunter, C. Johnson, L. Johnson, Jones, LaRoque, Lewis, Lucas, McHenry, Mitchell, Moore, Parmon, Rapp, Ray, Ross, Stam, Sutton, Tolson, Warner, K. Williams, C. Wilson, and Yongue.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(17b) Light construction equipment. – Equipment that is self-propelled, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

SECTION 2. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) **(Effective until July 1, 2003)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

HOUSE BILL 759:
Reduce Utility Equipment Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Goforth
Date:	July 15, 2003	**Analysis by:**	Martha Walston
Version:	H759-CSLA-39 [v.2]		Committee Counsel

SUMMARY: House Bill 759 reduces the sales tax owed on the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The sales tax would be at the general rate with a cap of $300 per article. The light construction equipment would be exempt from local sales tax.

The proposed committee substitute does the following:

- *Moves the effective date from July 1, 2003 to October 1, 2003, and repeals the tax effective for sales made on or after January 1, 2006. The repeal is necessary in order for North Carolina to conform to the Streamlined Sales Tax Agreement. Beginning January 1, 2006, the State and local sales tax base must be the same.*
- *Tightens the definition of light construction equipment by specifying that it must be used only for construction.*

CURRENT LAW: Light construction equipment is subject to both the general sales tax rate of 4 ½% and the local sales tax rate.

BILL ANALYSIS: House Bill 759 would reduce the sales tax imposed on light construction equipment as follows:

- The equipment would be subject to the general sales tax rate (4 ½%) but with a $300 cap per article.
- The equipment would be exempt from local sales tax.[1]

Light construction equipment is defined as "equipment that is self-propelled, is used only for construction, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

The act is repealed effective for sales made on or after January 1, 2006 in order to conform to the Streamlined Sales Tax Agreement. Beginning on that date the Agreement does not allow multiple tax bases and caps, except for boats, aircraft, and manufactured homes.

[1] The local sales tax applies only to sales of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b). House Bill 759 establishes a new subdivision G.S. 105-164.4(a)(8).

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 759 (1st Edition)

SHORT TITLE: Reduce Utility Equipment Sales Tax

SPONSOR(S): Rep. Goforth

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* Unknown Loss *			
Local Government		* Unknown Loss *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue and Local Governments

EFFECTIVE DATE: July 1, 2003 and applies to sales make on or after that date.

BILL SUMMARY: The legislation caps the sales tax levied on each piece of light construction equipment at $300.00.

ASSUMPTIONS AND METHODOLOGY: Examples of light construction equipment generally include skid loaders, telescopic handlers, asphalt pavers, compact excavators, compact track loaders, all-wheel-steer loaders, compact loaders, backhoes, compactors, skidsteers, generators, light towers, and dewatering pumps, to name a few. The bill caps total state and local sales taxes on the purchase of these items at $300. This suggests that the cap will affect all light construction equipment with a sales price greater than $4,285.71 ($4,285.71 x 7.0% tax = $300). A review of industry web sites suggests the price of these items vary from approximately $12,500 to $235,000 and higher (these include prices for used equipment). Thus, the revenue loss associated with the purchase of each item varies from $575 to upwards of $16,150 per item. However, because Fiscal Research cannot determine the total value of all light construction equipment sold in the state, no exact fiscal estimate is possible on the bill.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division

Date: May 1, 2003

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1268

Short Title:	Stimulate Economy Manufacturing.	(Public)
Sponsors:	Representatives Blackwood; Barbee, Bowie, Capps, Crawford, Creech, Culp, Daughtry, Dockham, Eddins, Ellis, Frye, Gorman, Gulley, Hilton, Holmes, Justice, Lewis, McHenry, McMahan, Mitchell, Pate, Preston, Rhodes, Sauls, Sexton, Walend, West, and K. Williams.	
Referred to:	Finance.	

April 29, 2003

A BILL TO BE ENTITLED

AN ACT TO STIMULATE THE ECONOMY BY EXEMPTING FROM INCOME TAX INCOME DERIVED FROM MANUFACTURING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

. . .

(4b) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries."

SECTION 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(22) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(18) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 4. G.S. 105-129.2(16) reads as rewritten:

"(16) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.~~Defined in G.S. 105-228.90."

SECTION 5. G.S. 105-130.4(i) reads as rewritten:

"(i) All business income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction,

the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. ~~Provided, that where~~If the sales factor does not exist, the denominator of the fraction ~~shall be~~ is the number of existing factors and ~~where~~ if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction ~~shall be~~is the number of existing factors plus one.

For taxpayers that elect to deduct manufacturing income pursuant to G.S. 105-130.5(b)(22), in calculating the property factor, the payroll factor, and the sales factor under this section, the following shall be excluded from both the numerator and the denominator: property used directly and primarily for manufacturing, compensation paid directly and primarily for manufacturing, and receipts derived directly and primarily from manufacturing."

SECTION 6. The General Assembly finds the following:

(1) For corporations that are taxable in North Carolina and not taxable in any other states, the calculation under Section 2 of this act is the only calculation that applies. Section 5 of this act does not apply to those corporations.

(2) For a corporation that is taxable in more than one state, if the corporation is currently allocating and apportioning its income to North Carolina by using the fraction provided in G.S. 105-130.4(i), the provisions of Section 5 of this act govern how that fraction is calculated. Section 5 of this act does not itself require a corporation to use the fraction method.

(3) Alternatively, G.S. 105-130.4(t) sets out the circumstances under which a corporation taxable in more than one state may determine the portion of its income taxable to North Carolina based on its books of account, in accordance with generally accepted accounting procedures as established by the Financial Accounting Standards Board.

(4) Section 5 of this act would not, therefore, apply to corporations currently using the separate accounting method under G.S. 105-130.4(t).

SECTION 7. This act becomes effective for taxable years beginning on or after January 1, 2005.

HOUSE BILL 1268:
Stimulate Economy Manufacturing

BILL ANALYSIS

Committee: House Finance
Date: July 16, 2003
Version: 1st Edition

Sponsor: Rep. Blackwood
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Exempts from income tax the income attributable to manufacturing in this State, effective beginning with the 2005 tax year.

BILL ANALYSIS: House Bill 1268 would give taxpayers an option to exempt from their State corporate income tax, income, net of expenses, directly attributable to manufacturing. The bill defines manufacturing as "an industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries." This is the same definition currently used in the Bill Lee Act. House Bill 1268 also amends the apportionment formula used by multistate corporations to conform to this exemption.

Below is the description of manufacturing sectors 31 through 33 from the North American Industry Classification System (NAICS).

31-33 Manufacturing

The Sector as a Whole

The Manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified in Sector 23, Construction.

Establishments in the Manufacturing sector are often described as plants, factories, or mills and characteristically use power-driven machines and materials-handling equipment. However, establishments that transform materials or substances into new products by hand or in the worker's home and those engaged in selling to the general public products made on the same premises from which they are sold, such as bakeries, candy stores, and custom tailors, may also be included in this sector. Manufacturing establishments may process materials or may contract with other establishments to process their materials for them. Both types of establishments are included in manufacturing.

The materials, substances, or components transformed by manufacturing establishments are raw materials that are products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The materials used may be purchased directly from producers, obtained through customary trade channels, or secured without recourse to the market by transferring the product from one establishment to another, under the same ownership. The new product of a manufacturing establishment may be finished in the sense that it is ready for utilization or consumption, or it may be semifinished to become an input for an establishment engaged in further manufacturing. For example, the product of the alumina refinery is the input used in the primary production of aluminum; primary aluminum is the input to an aluminum wire drawing plant; and aluminum wire is the input for a fabricated wire product manufacturing establishment.

The subsectors in the Manufacturing sector generally reflect distinct production processes related to material inputs, production equipment, and employee skills. In the machinery area, where assembling is a key activity, parts and accessories for manufactured products are classified in the industry of the finished manufactured item when they are made for separate sale. For example, a replacement refrigerator door would be classified with refrigerators and an attachment for a piece of metal working machinery would be classified with metal working machinery. However, components, input from other manufacturing establishments, are classified based on the production function of the component manufacturer. For example, electronic components are classified in Subsector 334, Computer and Electronic Product Manufacturing and stampings are classified in Subsector 332, Fabricated Metal Product Manufacturing.

Manufacturing establishments often perform one or more activities that are classified outside the Manufacturing sector of NAICS. For instance, almost all manufacturing has some captive research and development or administrative operations, such as accounting, payroll, or management. These captive services are treated the same as captive manufacturing activities. When the services are provided by separate establishments, they are classified to the NAICS sector where such services are primary, not in manufacturing.

The boundaries of manufacturing and the other sectors of the classification system can be somewhat blurry. The establishments in the manufacturing sector are engaged in the transformation of materials into new products. Their output is a new product. However, the definition of what constitutes a new product can be somewhat subjective. As clarification, the following activities are considered manufacturing in NAICS: Milk bottling and pasteurizing; Water bottling and processing; Fresh fish packaging (oyster shucking, fish filleting); Apparel jobbing (assigning of materials to contract factories or shops for fabrication or other contract operations) as well as contracting on materials owned by others; Printing and related activities; Ready-mixed concrete production; Leather converting; Grinding of lenses to prescription; Wood preserving; Electroplating, plating, metal heat treating, and polishing for the trade; Lapidary work for the trade; Fabricating signs and advertising displays; Rebuilding or remanufacturing machinery (i.e., automotive parts) Ship repair and renovation; Machine shops; and Tire retreading. Conversely, there are activities that are sometimes considered manufacturing, but which for NAICS are classified in another sector (i.e., not classified as manufacturing). They include:

1. Logging, classified in Sector 11, Agriculture, Forestry, Fishing and Hunting is considered a harvesting operation;

2. The beneficiating of ores and other minerals, classified in Sector 21, Mining, is considered part of the activity of mining;

3. The construction of structures and fabricating operations performed at the site of construction by contractors, is classified in Sector 23, Construction;

4. Establishments engaged in breaking of bulk and redistribution in smaller lots, including packaging, repackaging, or bottling products, such as liquors or chemicals; the customized assembly of computers; sorting of scrap; mixing paints to customer order; and cutting metals to customer order, classified in Sector 42, Wholesale Trade or Sector 44-45, Retail Trade, produce a modified version of the same product, not a new product; and

5. Publishing and the combined activity of publishing and printing, classified in Sector 51, Information, perform the transformation of information into a product where as the value of the

product to the consumer lies in the information content, not in the format in which it is distributed (i.e., the book or software diskette).

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 15, 2003

TO: Rep. Curtis Blackwood

FROM: Dave Crotts
Fiscal Research Division

RE: HB 1268-Stimulate Economy Manufacturing

FISCAL IMPACT ($Mil.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
State General Fund	-	-	-175.9	-174.8	-174.3

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is collected by the Department of Revenue. The enactment of the bill is not expected to affect the budget requirements of the Department.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2005

BILL SUMMARY: Exempts net income directly attributable to manufacturers from the corporate income tax base.

ASSUMPTIONS AND METHODOLOGY: There are no direct numbers on the amount of corporate income tax paid in a state from "manufacturing operations." The majority of the tax is paid by multi-state corporations, which first determine their U. S. taxable income and then apportion that amount to the states where they have physical presence based on payroll, property, and sales. In addition, many manufacturing companies also have retail, transportation and other

nonmanufacturing operations. On the other side of the coin, many taxpayers who are primarily non-manufacturing also have production facilities.

A tabulation of North Carolina corporate taxes paid by companies who are primarily manufacturing was last compiled in 1984 by the Department of Revenue. The Department no longer compiles tax liability by type of company. In addition, we could only find one other state (Wisconsin) that currently makes this type of tabulation.

For both the historical North Carolina data and the Wisconsin tabulation, we compared the share of the tax paid by companies listed as "manufacturers" with the employment share. In all cases, the profits share is larger than the employment share.

Since we know the employment share in North Carolina (manufacturing is 18% of total), we constructed a range estimate of the income tax share using the prior statistical relationships. A rough estimate is $150-175 million of corporate income taxes paid out of a total corporate income tax base of $808.3 million for the 2003 tax year.

The $175.0 million estimate was used for 2003. For future years, this estimate was adjusted by the percentage change in manufacturing employment for each calendar year in North Carolina. This projection came from the national economic firm, *Economy.com*.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

pulled from agenda

H 1

HOUSE BILL 782

Short Title:	Satellite Annexation/North Brunswick.	(Local)
Sponsors:	Representatives Stiller, Hill, and Wright (Primary Sponsors).	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING SATELLITE ANNEXATION BY THE NORTH BRUNSWICK SANITARY DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. Upon receipt of a valid petition signed by all the owners of real property in the area described therein, the North Brunswick Sanitary District may annex an area not contiguous to its primary boundaries when the area meets the standards set out in Section 2 of this act. The petition need not be signed by the owners of real property that is wholly exempt from property taxation under the Constitution and laws of North Carolina, nor by railroad companies, public utilities as defined in G.S. 62-3(23), or electric or telephone membership corporations.

SECTION 2. A noncontiguous area proposed for annexation must meet all of the following standards:

(1) The nearest point on the proposed satellite area to be annexed must be not more than three miles from the primary boundaries of the North Brunswick Sanitary District.

(2) No point on the proposed area to be annexed may be closer to the primary boundaries of another sanitary district than to the primary boundaries of the North Brunswick Sanitary District.

(3) The area must be so situated that the North Brunswick Sanitary District will be able to provide sanitary sewer or potable water within the proposed satellite boundaries.

(4) If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.

SECTION 3. The procedure for the satellite annexation authorized by this act shall be as set forth in G.S. 130A-69, except that it shall not be necessary to hold any election or any hearings provided for by that section on the question of the extension of boundaries by the North Brunswick Sanitary District.

SECTION 4. This act is effective when it becomes law.

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 17, 2003 – 8:30 A.M.

The House Committee on Finance met on Thursday, July 17, 2003 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, Rayfield, Ross, Setzer, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Bill Sullivan. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:39 am and recognized the seven (7) pages present: (1) Ashley Deane of Wake County, sponsored by Representative Holliman; (2) Emily Fusco of Buncombe County, sponsored by Representative Goforth; (3) Mimi Hill of Buncombe County, sponsored by Representative Goforth; (4) John Krebser of Wilkes County, sponsored by Representative Walker; (5) Tina Morrison of Wake County, sponsored by Representative Daughtry; (6) Erin Parker of Johnston County, sponsored by Representative Creech; and (7) Camille Webster of Orange County, sponsored by Representative Hackney.

As the first matter of business, Chairman Wainwright called upon Representative Goforth to explain **HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX** (see attachment 3). Representative Goforth reminded the members that the bill had been debated and displaced during the July 16, 2003 meeting of the Finance Committee. He then stated that he had requested a new Proposed Committee Substitute (PCS) for the bill that acted to change to the bill into one that commissions a study by the Revenue Laws Study Committee, which meets in the interim of the legislative session. Representative Hill was recognized and moved that the new PCS for HB 759 be adoption for discussion. The motion carried without objection. Representative Goforth then stated that the PCS would allow for further research into the potential fiscal impacts of the bill. Representative Hill was then once again recognized and moved that the new PCS for HB 759 be given a favorable report and that the PCS be re-referred to the Committee on Appropriations. Seeing no further discussion, Chairman Wainwright called the vote and the motion carried by consent.

Representative L. Johnson was recognized next by the Chair to explain **HB 224 – KANNAPOLIS ANNEXATION** (see attachment 4). Representative Hill was again recognized and moved that the Committee adopt the PCS for HB 224 for the purposes of discussion and his motion carried with no objection. Representative Johnson then explained that the bill acts to annex approximately 260 acres into the City of Kannapolis (Cabarrus County) that is land not contiguous

to its existing boundaries or within 3 miles of the City's boundaries, which is the necessity for this legislation. She explained that all of the land proposed for annexation is owned by the same property owner, who is agreeable to this annexation. Representative Rayfield was recognized following this explanation and moved that HB 224 be given a favorable report as to the PCS, an unfavorable report as to the original bill. Chairman Wainwright then called the vote and the motion carried by consent.

Chairman Wainwright next recognized Representative Blackwood to explain **HB 1268 – STIMULATE ECONOMY MANUFACTURING** (see attachment 5). Representative Blackwood then briefly explained that the bill acts to exempt income attributable to manufacturing from state income tax as a means to stimulate economic growth. He then requested that the bill be sent to the Committee on Rules, Calendar, and Operations of the House in order to be placed into a study bill during the interim. Chairman Wainwright noted his request.

HB 896 – INCREASE COSMETIC ART FEES (see attachment 6) was the next bill called before the Committee for continued discussion as it was displaced during the July 16, 2003 meeting. Representative Gibson, the bill sponsor, was recognized by the Chair and offered the bill to the Committee. Chairman Wainwright recognized Representative Ross to send forth an amendment. Representative Ross explained that the amendment acted to increase the fee for a cosmetologist license from $39.00 to $44.00 every three (3) years. The Chair recognized Mr. Douglas Van Essen, Executive Director of the North Carolina Cosmetic Art Services Board, to speak on the amendment. Mr. Van Essen spoke in support of the amendment. Representative Ross then acted to move the adoption of her amendment. Chairman Wainwright called the vote and the amendment was adopted by consent. Representative Womble was recognized next and sent forth another amendment. He explained that this amendment acted to require that late registration or renewal fees could only be assessed after a five-day grace period has been given. He then moved the adoption of his amendment. The Chair called the vote and the amendment was adopted by consent. Chairman Wainwright then recognized Representative Glazier who moved that HB 896 a favorable report as to a new PCS (incorporating the adopted amendments) and an unfavorable report as to the original bill. Chairman Wainwright then called the motion to a vote. Division having been called, the motion failed by a vote of 9 ayes to 11 nays. Thus, no report was issued on HB 896.

Chairman Wainwright then acted to add a bill to the Committee's calendar: **SB 725 – LOCAL OPTION PROJECT DEVELOPMENT FINANCING** (see attachment 7), sponsored by Senator Clodfelter. Representative Gibson was recognized and moved that the PCS on SB 725 be adopted for discussion. His motion carried without objection. The Senator was recognized to explain the bill and noted first that North Carolina was the only state left in the nation that was not actively employing this financing technique in its local governments. He also informed the members that the bill would require a constitutional amendment to the State Constitution to be voted upon by the voters in the election of 2004. Overall, he explained that the bill would give local governments a new/additional tool to enhance their ability to recruit and retain economic development. This development tool, generally known as tax increment financing, but called project development financing in the bill, would allow local governments to set aside the additional property taxes that are generated by a new investment to pay for public facilities that support that new investment. Following the Senator's explanation, the Chair recognized Representative C. Wilson who moved that SB 725 be given a favorable report as to the House PCS, and an unfavorable report as to the Senate Committee Substitute bill. Representatives Rayfield and Womble were both recognized and clearly stated their support, noting that each of their districts could use the tools offering increased opportunity for economic development in the bill. Representative Luebke was also recognized and brought to the Committee's attention the disadvantages of the bill. He contended that this bill would stimulate economic development, but not in the areas that are most in need of it. Senator

Clodfelter was again recognized and responded to Representative Luebke by noting that while the bill was not perfect (similar to all bills), it was a good piece of legislation that would provide some needed assistance in economic development tools used by local governments. Following some other general discussion, Chairman Wainwright called Representative Wilson's motion for a favorable report to the House PCS to a vote and the motion carried without objection.

Chairman Wainwright once again recognized Senator Clodfelter for explanation of the next bill before the Committee: **SB 137 – SPECIAL OBLIGATION DEBT/PURPOSES** (see attachment 8). The Senator explained that the bill does two things: (1) It would authorize municipalities to define a service district for transit-oriented development; and (2) it would expand local governments' existing authority to issue special obligation bonds for solid waste, water, and sewer projects within a municipal service district. Representative Hackney was recognized following this explanation and stated that the bill was nothing more than a small "tweak" to the existing statues on the issue. He then moved for a favorable report on SB 1367 (seconded by Representative Luebke). When recognized by the Chair, Representatives Creech and Capps both voiced their opposition to the bill. Seeing no further discussion on the bill, Chairman Wainwright called the vote and the motion carried.

Chairman Wainwright next called upon Representative Luebke to explain **HB 1241 – ESC SURTAX DELAY** (see attachment 9). Representative G. Allen was recognized to move that the PCS for HB 1241 be adopted for consideration and his motion carried without objection. Representative Luebke then explained that the bill acts to delay the automatic triggering of the 20 percent Employment Security Commission (ESC) surtax until after the recently doubled ESC tax refills the Unemployment Insurance Fund to the level of $500 million. Representative Wilson was recognized following Representative Luebke's explanation and voiced her support of the bill, noting that the bill acted as somewhat "like a tax cut." Mr. Tom Whitaker with the North Carolina Employment Security Commission was recognized and spoke in support of the bill. Representative Wilson was then again recognized and acted to send forth an amendment. She explained that her amendment added a sunset to the bill repealing the surtax delay "for taxes imposed in the 2005 and subsequent calendar years." She moved adoption of her amendment and it carried by consent. Martha Harris, Research staff, was recognized next by Chairman Wainwright and informed the members that if HB 1241 was not passed into law, the 20 percent ESC surtax would automatically go into effect at the end of this year, increasing the unemployment insurance rates the State requires to be paid by employers. The Chair then recognized Representative Luebke who moved that HB 1241 be given a favorable report as to a new PCS (incorporating the adopted amendment), and an unfavorable report as to the original bill. Chairman Wainwright then called the motion to a vote and it carried by consent.

Having no further business before the Committee, Chairman Wainwright adjourned the meeting at 10:15am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 759 (and related materials)
4. House Bill 224 (and related materials)
5. House Bill 1268 (and related materials)
6. House Bill 896 (and related materials)
7. Senate Bill 725 (and related materials)
8. Senate Bill 137 (and related materials)
9. House Bill 1241 (and related materials)
10. House Bill 759 (and related materials) **(removed from the calendar prior to meeting)**

AGENDA

ATTACHMENT 1

House Finance Committee

July 17, 2003
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Wainwright

Cochairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 759 REDUCE UTILITY EQUIPMENT SALES TAX *Rep. Goforth*

HB 896 INCREASE COSMETIC ART FEES *Rep. Gibson*

HB 1241 REFORM BILL LEE ACT *Rep. Luebke*

HB 1268 STIMULATE ECONOMY MANUFACTURING *Rep. Blackwood*

SB 137 SPECIAL OBLIGATION DEBT/PURPOSES *Sen. Clodfelter*

SB 464 MANAGING DEBT CAPACITY *Sen. Hoyle*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, July 16, 2003 5:51 PM
Subject: CORRECTED NOTICE House Finance Committee 7-17-2003
Importance: High

CORRECTED NOTICE:
HB 224 – ADDED TO CALENDAR

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE:	**Thursday, July 17, 2003**
TIME:	**8:30 A.M.**
LOCATION:	**544 LOB**

The following bills will be considered:

HB 224 – CABARRUS CO. LOCAL ACT-1 – Rep. L. Johnson

HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX – Rep. Goforth

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 1241 – REFORM BILL LEE ACT – Rep. Luebke

HB 1268 – STIMULATE ECONOMY MANUFACTURING – Rep. Blackwood

SB 137 – SPECIAL OBLIGATION DEBT/PURPOSES – Sen. Clodfelter

SB 464 – MANAGING DEBT CAPACITY – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **5:50 P.M.** on **July 16, 2003**.

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Wednesday, July 16, 2003 1:59 PM
Subject: NOTICE House Finance Committee 7-17-2003
Importance: High

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 17, 2003**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 759 – REDUCE UTILITY EQUIPMENT SALES TAX – Rep. Goforth

HB 896 – INCREASE COSMETIC ART FEES – Rep. Gibson

HB 1241 – REFORM BILL LEE ACT – Rep. Luebke

HB 1268 – STIMULATE ECONOMY MANUFACTURING – Rep. Blackwood

SB 137 – SPECIAL OBLIGATION DEBT/PURPOSES – Sen. Clodfelter

SB 464 – MANAGING DEBT CAPACITY – Sen. Hoyle

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **2:00 P.M.** on **July 16, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John McLawhorn	Dept. State Treasurer
Chris McClure	The People
Ed [illegible]	Brooks Pierce
Adam Stallings	Hunton & Williams
Bill [illegible]	ACP
Ken Melton	Alley Associates, Inc
Bill Sloggin	KCLH
Steve Woodson	NCFB
George Siddall	NESDA
Ron Aycock	County Com. Assoc
Mark [illegible]	University System

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cam Cover	BPMHL
Ernestine Durham	Executive Intern, FRD / Rep. Gibson
Angie Harris	Maupin Taylor
Leslie Bevacqua	NCCBI
DAVID BARNES	Poyner + Spruill LLP
John Phelps	NCLM
GARY SALAMIDO	GSK
VLM Bride	NCTA
Adam Pridemore	NCASA
John Bowdish	AstraZeneca
Julie Allen	NC Statewatch

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 17, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lisa Piercy	Capitol Group
Lenni Collins	DOR
Eddie Finch	NCDOR
Anna Pope	NCDOR
Mark Beason	Capitol Group
Jim Upchurch	Progress Energy
[illegible]	ESC
Tom Whitaker	ESC
Bernetta Smith	NC St. Bd of Cosmetic Art
Doug Van Essen	NC St. Bd of Cosmetic Art
[illegible]	NC Dept of St

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 759
PROPOSED COMMITTEE SUBSTITUTE H759-CSLA-43 [v.3]

7/16/2003 3:43:29 PM

Short Title: Reduce Utility Equipment Sales Tax. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO STUDY A PREFERENTIAL SALES AND USE TAX RATE FOR LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. The Revenue Laws Study Committee shall study the sales and use tax treatment of light construction equipment. The Committee shall examine the impact of giving preferential treatment, including a $300.00 cap on the sales and use tax assessed against equipment that is self-propelled, is used only for construction, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation. The Revenue Laws Study Committee shall make an interim report of its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall make a final report of its findings and recommendations to the 2005 General Assembly.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 759
PROPOSED COMMITTEE SUBSTITUTE H759-CSLA-39 [v.2]

7/8/2003 1:35:58 PM

Short Title: Reduce Utility Equipment Sales Tax. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 is amended by adding a new subdivision to read:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...

(17b) Light construction equipment. – Equipment that is self-propelled, is used only for construction, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

SECTION 2. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(a) **(Effective until July 1, 2003)** A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and one-half percent (4 1/2%).

...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective October 1, 2003, and applies to sales made on or after that date. This section is repealed effective for sales made on or after January 1, 2006. This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any

refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 759

Short Title:	Reduce Utility Equipment Sales Tax.	(Public)
Sponsors:	Representatives Goforth; B. Allen, Bonner, Bordsen, Capps, Carney, Culp, England, Farmer-Butterfield, Gibson, Goodwin, Gorman, Gulley, Hall, Hilton, Holliman, Hunter, C. Johnson, L. Johnson, Jones, LaRoque, Lewis, Lucas, McHenry, Mitchell, Moore, Parmon, Rapp, Ray, Ross, Stam, Sutton, Tolson, Warner, K. Williams, C. Wilson, and Yongue.	
Referred to:	Finance.	

March 27, 2003

A BILL TO BE ENTITLED

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The following definitions apply in this Article:

...

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...

(8) The general rate of tax applies to the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The maximum tax is three hundred dollars ($300.00) per article."

SECTION 3. This act becomes effective July 1, 2003, and applies to sales made on or after that date.

HOUSE BILL 759:
Reduce Utility Equipment Sales Tax

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Goforth
Date:	July 15, 2003	**Analysis by:**	Martha Walston
Version:	H759-CSLA-39 [v.2]		Committee Counsel

SUMMARY: House Bill 759 reduces the sales tax owed on the sales price of light construction equipment sold at retail, including all accessories attached to the equipment when it is delivered to the purchaser. The sales tax would be at the general rate with a cap of $300 per article. The light construction equipment would be exempt from local sales tax.

The proposed committee substitute does the following:

- *Moves the effective date from July 1, 2003 to October 1, 2003, and repeals the tax effective for sales made on or after January 1, 2006. The repeal is necessary in order for North Carolina to conform to the Streamlined Sales Tax Agreement. Beginning January 1, 2006, the State and local sales tax base must be the same.*
- *Tightens the definition of light construction equipment by specifying that it must be used only for construction.*

CURRENT LAW: Light construction equipment is subject to both the general sales tax rate of 4 ½% and the local sales tax rate.

BILL ANALYSIS: House Bill 759 would reduce the sales tax imposed on light construction equipment as follows:

- The equipment would be subject to the general sales tax rate (4 ½%) but with a $300 cap per article.
- The equipment would be exempt from local sales tax.[1]

Light construction equipment is defined as "equipment that is self-propelled, is used only for construction, has an engine of no more than 160 net horsepower, and is not designed primarily for transportation."

The act is repealed effective for sales made on or after January 1, 2006 in order to conform to the Streamlined Sales Tax Agreement. Beginning on that date the Agreement does not allow multiple tax bases and caps, except for boats, aircraft, and manufactured homes.

[1] The local sales tax applies only to sales of tangible personal property subject to the general rate of sales tax imposed by the State under G.S. 105-164.4(a)(1) and (a)(4b). House Bill 759 establishes a new subdivision G.S. 105-164.4(a)(8).

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 759 (1st Edition)

SHORT TITLE: Reduce Utility Equipment Sales Tax

SPONSOR(S): Rep. Goforth

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* Unknown Loss *			
Local Government		* Unknown Loss *			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue and Local Governments

EFFECTIVE DATE: July 1, 2003 and applies to sales make on or after that date.

BILL SUMMARY: The legislation caps the sales tax levied on each piece of light construction equipment at $300.00.

ASSUMPTIONS AND METHODOLOGY: Examples of light construction equipment generally include skid loaders, telescopic handlers, asphalt pavers, compact excavators, compact track loaders, all-wheel-steer loaders, compact loaders, backhoes, compactors, skidsteers, generators, light towers, and dewatering pumps, to name a few. The bill caps total state and local sales taxes on the purchase of these items at $300. This suggests that the cap will affect all light construction equipment with a sales price greater than $4,285.71 ($4,285.71 x 7.0% tax = $300). A review of industry web sites suggests the price of these items vary from approximately $12,500 to $235,000 and higher (these include prices for used equipment). Thus, the revenue loss associated with the purchase of each item varies from $575 to upwards of $16,150 per item. However, because Fiscal Research cannot determine the total value of all light construction equipment sold in the state, no exact fiscal estimate is possible on the bill.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director Fiscal Research Division

Date: May 1, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 759 A BILL TO BE ENTITLED AN ACT TO REDUCE SALES TAXES ON LIGHT CONSTRUCTION EQUIPMENT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#_____~~), ☒ which changes the title, unfavorable as to the original bill (~~Committee Substitute Bill #_____~~), and recommendation that the committee substitute bill #~~_____~~) be re-referred to the Committee on Rules, Calendar, and Operations of the House.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 224
PROPOSED COMMITTEE SUBSTITUTE H224-CSST-60 [v.1]

7/15/2003 5:38:16 PM

Short Title: Kannapolis Annexation. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED TERRITORY TO THE CITY OF KANNAPOLIS.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Kannapolis are extended to include the following described area:

Lying and being in Number 3 Township, Cabarrus County North Carolina on the West side of Shiloh Church Road adjoining the property of Roger D. Hudson, now or formerly (Book 367, page 49) and others and being more particularly described as follows:

Beginning at an existing ¾" iron in the right of way of Shiloh Church Road, a corner of Hudson as noted above, said pin being S. 18-34-49 W. 1071.93 feet from an existing railroad spike in the intersection of Shiloh Church Road and Placid Road; thence with the right of way of Shiloh Church Road, S. 16-45-12 W. 544.96 feet to an existing iron pin (#5 rebar) on the north side of a 60 foot private right of way; thence with the north side of the 60 foot private right of way the following five (5) lines: 1) N. 84-03-27 W. 188.49 feet to a set iron pin (passing a set iron pin at 17.60 feet); 2) a curve bearing to the left S. 79-23-51 W. 102.95 feet with a radius of 180.00 feet and an arc length of 104.40 feet to a set iron pin; 3) S. 62-42-52 W. 210.68 feet to a set iron pin; 4) a curve bearing to the left S. 78-03-08 W. 63.48 feet with a radius of 120.00 feet and an arc length of 64.25 feet to a set iron pin; and 5) N. 86-39-49 W. 86.22 feet to an exiting iron pin (#4 rebar), a corner of Mickey H. Kinley, now or formerly (Book 581, page 613 and Book 507, page 349); thence the following three lines with Kinley: 1) N. 11-04-59 W. 83.11 feet to an existing iron pin(#4 rebar); 2) S. 68-47-38 W. 103.69 feet to an existing iron pin (#4 rebar); and 3) S. 11-05-34 E. 38.59 feet to and existing iron pin on the north side of the 60 foot private right of way; thence continuing with the private right of way the following two lines: 1) N. 86-29-05 W. 60.02 feet to a set iron pin; and 2) S. 03-38-18 E. 148.85 feet to and existing 5/8" iron rod, a corner of Clifford C. Roten, Sr., now or formerly (Book 2413, page 246); thence the following three lines

with Roten as follows: 1) N. 89-14-57 W. 10.00 feet to an existing iron pin; 2) N. 71-37-21 W. 278.66 feet to an existing iron pin (#4 rebar); and 3) S. 04-17-36 E. 185.00 feet to a set iron pin in the line of William D. Brumley, now or formerly (Book 616, page 94); thence the following five (5) lines with Brumley: 1) N. 76-27-30 W. 381.72 feet to a post; 2) N. 61-29-48 W. 234.44 feet to a post; 3) N. 39-38-36 W. 135.40 feet to a post; 4) N. 49-06-00 W. 319.10 feet to an existing ½" iron rod in stone pile; and 5) S. 00-55-58 W. 926.85 feet (passing an existing 1" iron rod at 862.10 feet) to a point, a corner of Brumley and Helms, as noted above, said point lying in the Rocky River; thence with the line of Helms and the Rocky River, the following six (6) lines: 1) N. 75-17-28 W. 252.10 feet to a point; 2) S. 73-31-21 W. 368.10 feet to a point; 3) S. 65-39-50 W. 523.05 feet to a point; 4) N. 75-08-12 W. 319.81 feet to a point; 5) N. 74-08-13 W. 425.60 feet to a point; and 6) N. 79-59-52 W. 337.20 feet to a point in the line of Rocky River, said point being on the border of Cabarrus County and Mecklenburg County, said point also being a corner of River Run Limited Partnership, now or formerly (Book 6245, page 680 Mecklenburg County Registry); thence twenty eight (28) lines with the line of River Run Limited Partnership, Howard and Associates, and Rocky River as follows: 1) N.18-47-28 W. 250.03 feet to a point; 2) N. 02-43-26 W. 312.05 feet to a point; 3) N. 10-28-53 E. 113.73 feet to a point; 4) N. 03-07-28 E. 92.98 feet to a point; 5) N. 00-25-03 E. 87.16 feet to a point; 6) N. 12-54-32 W. 72.35 feet to a point; 7) N. 16-54-27 W. 63.53 feet to a point; 8) N. 03-32-17 E. 52.59 feet to a point; 9) N. 19-31-24 E. 89.74 feet to a point; 10) N. 13-42-55 E. 84.75 feet to a point; 11) N. 25-13-19 W. 82.75 feet to a point; 12) N. 21-21-58 W. 94.32 feet to a point; 13) N. 21-55-45 E. 81.08 feet to a point; 14) N. 15-13-07 W. 75.32 feet to a point; 15) N. 03-59-20 W. 94.21 feet; and 16) N. 07-51-27 E. 83.50 feet to a point; 17) N. 02-57-31 W. 69.26 feet to a point; 18) N. 10-07-25 W. 78.45 feet to a point; 19) N. 11-31-18 E. 45.53 feet to a point; 20) N. 01-50-53 E. 133.23 feet to a point, a corner of Christopher Davis, now or formerly (Book 8035, page 100 Mecklenburg County Registry); 21) N. 00-56-24 E. 28.66 feet to a point; 22) N. 25-32-24 W. 151.20 feet to a point; 23) N. 24-18-31 W. 212.55 feet to a point; 24) N. 51-06-44 W. 70.12 feet o a point; 25) N. 32-38-00 W. 159.45 feet to a point; 26) N. 01-57-51 W. 35.47 feet to a point; 27) N. 59-40-44 W. 69.47 feet to a point and 28) N. 20-02-08 W. 261.69 feet to a point; thence leaving Rocky River and entering Mecklenburg County with the line of Davis, S. 78-01-45 W. 1,288.86 feet to an existing iron pin on the east side of Shearer Road; thence with the right of way of Shearer Road the following two lines: 1) N. 04-55-47 E. 15.68 feet to an existing iron pin; and 2) N. 04-56-41 E. 31.39 feet to a set iron pin a corner of Hubert M. Howard, now or formerly (Book 4567, page 166 Mecklenburg County Registry); thence with the line of Howard, N. 78-02-01 E. 1287.33 feet to a point in Rocky River on the County line, (passing an existing 1" iron pin at 1235.17 feet); thence continuing with the line of Howard and entering into Cabarrus County, N. 03-10-44 E. 161.14 feet (passing a set iron pin at 61.14 feet) to an existing 1" iron pipe, a corner of Sadie Graeber Barbee (Book 715, page 174); thence the following three lines with Barbee: 1) S. 64-51-03 E. 1,182.56 feet to and existing #4 rebar in stone pile; 2) N. 40-50-58 E. 2,007.16 feet to an existing iron pin; and 3) N. 27-40-35 W. 515.79 feet to an existing 2" pipe in the line of Pricilla H. Melchor, now or formerly (Book 2039, page 334);

thence with the line of Melchor, N. 89-53-58 E. 738.13 feet to an existing 2" pipe in the line of Elizabeth B. Mabry, now or formerly (Book 303, page 60); thence the following two lines with Mabry: 1) S. 20-33-02 E. 430.36 feet to an existing iron pin; and 2) N. 87-47-29 E. 270.03 feet to a set iron pin a corner of Polaris Properties, LLC, now or formerly (Book 1729, page 17); thence the following three lines with Polaris: 1) S. 01-24-52 E. 177.66 feet to a set iron pin at a found nail; 2) S. 53-53-31 W. 87.84 feet to a set iron pin at a found nail; and 3) S. 01-24-52 E. 176.63 feet to a set iron pin in the line of Brett L. Fowler, now or formerly (Book 2631, page 108); thence with the line of Fowler the following six (6) lines: 1) S. 89-29-18 W. 94.09 feet to an existing iron pin; 2) S. 46-52-00 E. 123.80 feet to an existing iron pin; 3) S. 09-18-57 E. 48.00 feet to an existing iron pin; 4) S. 13-49-04 W. 155.55 feet to an existing iron pin; 5) S. 28-04-41 W. 195.49 feet to an existing iron pin; and 6) S.08-29-26 E. 467.21 feet to a set iron pin in the line of Brett L. Fowler, now or formerly (Book 1621, page 251); thence with the line of Fowler the following three lines: 1) S. 79-17-23 W. 200.00 feet to a set iron pin at an existing axle; 2) S. 23-59-21 E. 657.91 feet to an existing 5/8" iron rod; and 3) N. 78-59-50 E. 319.12 feet to an existing 1" iron rod, a corner of James E. Davidson, III, now or formerly (Book 1836, page 156); thence with the line Davidson and John A. Davidson (Book 443, page 712) S. 00-13-04 E. 466.37 feet to an existing iron pin in the line of John L. Guthrie, now or formerly (Book 503, page134); thence the following five (5) lines with Guthrie: 1) N. 77-01-52 W. 30.75 feet to an existing iron pin; 2) S. 00-13-08 E. 240.71 feet to an existing ½" iron rod; 3) S. 76-21-00 E. 597.71 feet to an existing iron pin (passing an existing ½" iron rod at 470.52 feet); 4) N. 36-22-40 E. 32.36 feet to an existing iron pin; and 5) S. 76-23-17 E. 41.02 feet to an existing ½" iron rod, a corner of Frank R. Freeze, now or formerly (Book 384, page 811 and Book 396, page 325); thence with the line of Freeze and Hudson as noted above; S. 76-23-17 E. 617.98 feet to the point of BEGINNING, containing 258.106 acres more or less, as platted and surveyed by Marion L. Sandlin, Jr., PLS December 22, 1999.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 224

Short Title:	Cabarrus Co. Local Act-1.	(Local)
Sponsors:	Representative L. Johnson.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 5, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE COUNTY OF CABARRUS.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to Cabarrus County only.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 224:
Kannapolis Annexation.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative L. Johnson
Date:	July 17, 2003	**Summary by:**	R. Erika Churchill
Version:	H224-CSST- 60v.2		Staff Counsel

SUMMARY: The proposed committee substitute for House Bill 224 annexes approximately 260 acres into the City of Kannapolis.

CURRENT LAW:
North Carolina law sets forth four (4) basic ways in which a town or city may annex an area.

1. **Voluntary Annexation**. The owners of all real property in the area desiring to be annexed sign a petition requesting annexation. Part 1 of Article 4 of Chapter 160A.
2. **Legislative Act**. The General Assembly has the authority to extend the boundaries of any town or city. This method is most helpful to a town or city trying to annex an area that they could not otherwise.
3. **Satellite Annexation**. This method allows a town or city to annex certain non-contiguous areas meeting the statutory standards into the town or city limits. Part 4 of Article 4 of Chapter 160A.
4. **Nonvoluntary Annexation**. The town or city brings into the corporate limits an area that has not voluntarily agreed to be annexed. Parts 2 and 3 of Article 4 of Chapter 160A.

BILL ANALYSIS:
The proposed committee substitute would annex one specifically described 258.106 acre tract of land that is not contiguous to the existing boundaries of the City of Kannapolis into the City. The property described does not meet the qualifications set forth in the statute for voluntary annexation, although the one property owner agrees to the annexation. The property also does not meet the statutory qualifications for satellite annexation, as it is more than three (3) miles outside the existing corporate limits. (G.S. 160A-58.1)

EFFECTIVE DATE: The bill would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 224 A BILL TO BE ENTITLED AN ACT RELATING TO THE COUNTY OF CABARRUS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 1268

Short Title:	Stimulate Economy Manufacturing.	(Public)
Sponsors:	Representatives Blackwood; Barbee, Bowie, Capps, Crawford, Creech, Culp, Daughtry, Dockham, Eddins, Ellis, Frye, Gorman, Gulley, Hilton, Holmes, Justice, Lewis, McHenry, McMahan, Mitchell, Pate, Preston, Rhodes, Sauls, Sexton, Walend, West, and K. Williams.	
Referred to:	Finance.	

April 29, 2003

A BILL TO BE ENTITLED

AN ACT TO STIMULATE THE ECONOMY BY EXEMPTING FROM INCOME TAX INCOME DERIVED FROM MANUFACTURING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(b) Definitions. – The following definitions apply in this Article:

. . .

(4b) Manufacturing. – An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries."

SECTION 2. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(22) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 3. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(18) Income, net of expenses, directly attributable to manufacturing activities. This deduction is optional at the election of the taxpayer."

SECTION 4. G.S. 105-129.2(16) reads as rewritten:

"(16) Manufacturing. – ~~An industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries.~~Defined in G.S. 105-228.90."

SECTION 5. G.S. 105-130.4(i) reads as rewritten:

"(i) All business income of corporations other than public utilities and excluded corporations shall be apportioned to this State by multiplying the income by a fraction,

the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. ~~Provided, that where~~If the sales factor does not exist, the denominator of the fraction ~~shall be~~ is the number of existing factors and ~~where~~ if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction ~~shall be~~is the number of existing factors plus one.

For taxpayers that elect to deduct manufacturing income pursuant to G.S. 105-130.5(b)(22), in calculating the property factor, the payroll factor, and the sales factor under this section, the following shall be excluded from both the numerator and the denominator: property used directly and primarily for manufacturing, compensation paid directly and primarily for manufacturing, and receipts derived directly and primarily from manufacturing."

SECTION 6. The General Assembly finds the following:

(1) For corporations that are taxable in North Carolina and not taxable in any other states, the calculation under Section 2 of this act is the only calculation that applies. Section 5 of this act does not apply to those corporations.

(2) For a corporation that is taxable in more than one state, if the corporation is currently allocating and apportioning its income to North Carolina by using the fraction provided in G.S. 105-130.4(i), the provisions of Section 5 of this act govern how that fraction is calculated. Section 5 of this act does not itself require a corporation to use the fraction method.

(3) Alternatively, G.S. 105-130.4(t) sets out the circumstances under which a corporation taxable in more than one state may determine the portion of its income taxable to North Carolina based on its books of account, in accordance with generally accepted accounting procedures as established by the Financial Accounting Standards Board.

(4) Section 5 of this act would not, therefore, apply to corporations currently using the separate accounting method under G.S. 105-130.4(t).

SECTION 7. This act becomes effective for taxable years beginning on or after January 1, 2005.

HOUSE BILL 1268:
Stimulate Economy Manufacturing

BILL ANALYSIS

Committee: House Finance
Date: July 16, 2003
Version: 1st Edition

Sponsor: Rep. Blackwood
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Exempts from income tax the income attributable to manufacturing in this State, effective beginning with the 2005 tax year.

BILL ANALYSIS: House Bill 1268 would give taxpayers an option to exempt from their State corporate income tax, income, net of expenses, directly attributable to manufacturing. The bill defines manufacturing as "an industry in manufacturing sectors 31 through 33, as defined by NAICS, but not including quick printing or retail bakeries." This is the same definition currently used in the Bill Lee Act. House Bill 1268 also amends the apportionment formula used by multistate corporations to conform to this exemption.

Below is the description of manufacturing sectors 31 through 33 from the North American Industry Classification System (NAICS).

31-33 Manufacturing

The Sector as a Whole

The Manufacturing sector comprises establishments engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is considered manufacturing, except in cases where the activity is appropriately classified in Sector 23, Construction.

Establishments in the Manufacturing sector are often described as plants, factories, or mills and characteristically use power-driven machines and materials-handling equipment. However, establishments that transform materials or substances into new products by hand or in the worker's home and those engaged in selling to the general public products made on the same premises from which they are sold, such as bakeries, candy stores, and custom tailors, may also be included in this sector. Manufacturing establishments may process materials or may contract with other establishments to process their materials for them. Both types of establishments are included in manufacturing.

The materials, substances, or components transformed by manufacturing establishments are raw materials that are products of agriculture, forestry, fishing, mining, or quarrying as well as products of other manufacturing establishments. The materials used may be purchased directly from producers, obtained through customary trade channels, or secured without recourse to the market by transferring the product from one establishment to another, under the same ownership. The new product of a manufacturing establishment may be finished in the sense that it is ready for utilization or consumption, or it may be semifinished to become an input for an establishment engaged in further manufacturing. For example, the product of the alumina refinery is the input used in the primary production of aluminum; primary aluminum is the input to an aluminum wire drawing plant; and aluminum wire is the input for a fabricated wire product manufacturing establishment.

The subsectors in the Manufacturing sector generally reflect distinct production processes related to material inputs, production equipment, and employee skills. In the machinery area, where assembling is a key activity, parts and accessories for manufactured products are classified in the industry of the finished manufactured item when they are made for separate sale. For example, a replacement refrigerator door would be classified with refrigerators and an attachment for a piece of metal working machinery would be classified with metal working machinery. However, components, input from other manufacturing establishments, are classified based on the production function of the component manufacturer. For example, electronic components are classified in Subsector 334, Computer and Electronic Product Manufacturing and stampings are classified in Subsector 332, Fabricated Metal Product Manufacturing.

Manufacturing establishments often perform one or more activities that are classified outside the Manufacturing sector of NAICS. For instance, almost all manufacturing has some captive research and development or administrative operations, such as accounting, payroll, or management. These captive services are treated the same as captive manufacturing activities. When the services are provided by separate establishments, they are classified to the NAICS sector where such services are primary, not in manufacturing.

The boundaries of manufacturing and the other sectors of the classification system can be somewhat blurry. The establishments in the manufacturing sector are engaged in the transformation of materials into new products. Their output is a new product. However, the definition of what constitutes a new product can be somewhat subjective. As clarification, the following activities are considered manufacturing in NAICS: Milk bottling and pasteurizing; Water bottling and processing; Fresh fish packaging (oyster shucking, fish filleting); Apparel jobbing (assigning of materials to contract factories or shops for fabrication or other contract operations) as well as contracting on materials owned by others; Printing and related activities; Ready-mixed concrete production; Leather converting; Grinding of lenses to prescription; Wood preserving; Electroplating, plating, metal heat treating, and polishing for the trade; Lapidary work for the trade; Fabricating signs and advertising displays; Rebuilding or remanufacturing machinery (i.e., automotive parts) Ship repair and renovation; Machine shops; and Tire retreading. Conversely, there are activities that are sometimes considered manufacturing, but which for NAICS are classified in another sector (i.e., not classified as manufacturing). They include:

1. Logging, classified in Sector 11, Agriculture, Forestry, Fishing and Hunting is considered a harvesting operation;

2. The beneficiating of ores and other minerals, classified in Sector 21, Mining, is considered part of the activity of mining;

3. The construction of structures and fabricating operations performed at the site of construction by contractors, is classified in Sector 23, Construction;

4. Establishments engaged in breaking of bulk and redistribution in smaller lots, including packaging, repackaging, or bottling products, such as liquors or chemicals; the customized assembly of computers; sorting of scrap; mixing paints to customer order; and cutting metals to customer order, classified in Sector 42, Wholesale Trade or Sector 44-45, Retail Trade, produce a modified version of the same product, not a new product; and

5. Publishing and the combined activity of publishing and printing, classified in Sector 51, Information, perform the transformation of information into a product where as the value of the

product to the consumer lies in the information content, not in the format in which it is distributed (i.e., the book or software diskette).

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 15, 2003

TO: Rep. Curtis Blackwood

FROM: Dave Crotts
Fiscal Research Division

RE: HB 1268-Stimulate Economy Manufacturing

FISCAL IMPACT ($Mil.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
State General Fund	-	-	-175.9	-174.8	-174.3

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is collected by the Department of Revenue. The enactment of the bill is not expected to affect the budget requirements of the Department.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2005

BILL SUMMARY: Exempts net income directly attributable to manufacturers from the corporate income tax base.

ASSUMPTIONS AND METHODOLOGY: There are no direct numbers on the amount of corporate income tax paid in a state from "manufacturing operations." The majority of the tax is paid by multi-state corporations, which first determine their U. S. taxable income and then apportion that amount to the states where they have physical presence based on payroll, property, and sales. In addition, many manufacturing companies also have retail, transportation and other

nonmanufacturing operations. On the other side of the coin, many taxpayers who are primarily non-manufacturing also have production facilities.

A tabulation of North Carolina corporate taxes paid by companies who are primarily manufacturing was last compiled in 1984 by the Department of Revenue. The Department no longer compiles tax liability by type of company. In addition, we could only find one other state (Wisconsin) that currently makes this type of tabulation.

For both the historical North Carolina data and the Wisconsin tabulation, we compared the share of the tax paid by companies listed as "manufacturers" with the employment share. In all cases, the profits share is larger than the employment share.

Since we know the employment share in North Carolina (manufacturing is 18% of total), we constructed a range estimate of the income tax share using the prior statistical relationships. A rough estimate is $150-175 million of corporate income taxes paid out of a total corporate income tax base of $808.3 million for the 2003 tax year.

The $175.0 million estimate was used for 2003. For future years, this estimate was adjusted by the percentage change in manufacturing employment for each calendar year in North Carolina. This projection came from the national economic firm, *Economy.com*.

MEMORANDUM

TO: House Finance Committee

FROM: J. Curtis Blackwood

RE: House Bill 1268

DATE: July 17th, 2002

Attached please find a memorandum prepared by our Fiscal Research Division detailing the salient points regarding HB 1268. Due to a "glitch," it was inadvertently not distributed in this morning's Finance Committee meeting.

This memo contains important economic information that will interest you. Please peruse the document and share with interested parties in Raleigh and in your district. Feel free to contact me with any questions.

Many thanks.

North Carolina General Assembly
Legislative Services Office

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March 20, 2003

MEMORANDUM

Potential increased revenue to the state from H.B. 1268
High: $1,000,000,000.00
Low: $ 674,000,000.00

TO: Rep. Curtis Blackwood

FROM: Dave Crotts
Fiscal Research Division

SUBJECT: Corporate Income Taxes By Manufacturers

Income Taxes Paid on Manufacturing Operations

You had asked for an estimate of the annual amount of North Carolina income taxes paid on "manufacturing operations." A rough estimate is $150-175 million of corporate income taxes paid out of an estimated total corporate income tax base of $808.3 million for the 2003 tax year. This range is equivalent to 18.6-21.7% of the corporate tax base and 1.1-1.2% of the General Fund revenue base.

The numbers represent an estimate as there are no direct numbers on the amount of corporate income tax paid in a state from "manufacturing operations." The majority of the tax is paid by multi-state corporations, which first determine their U. S. taxable income and then apportion the amount to the states where they have presence based on payroll, property, and sales. In addition, many manufacturing companies also have retail, transportation and other operations. On the other side of the coin, many taxpayers who are primarily non-manufacturing also have production facilities.

We did have a tabulation of North Carolina corporate taxes paid by companies who are primarily manufacturing. This data was last compiled in 1984 by the Department of Revenue. The Department no longer compiles tax liability by type of company. In addition, I could only find one other state, Wisconsin, that currently makes this type of tabulation.

For both the historical North Carolina data and the Wisconsin tabulation, I compared the share of the tax paid by companies listed as "manufacturers" with the employment share. In all cases, the profits share is larger than the employment share.

Since we know the employment share in North Carolina (manufacturing is 18% of total), I was able to construct a range estimate of the income tax share using the prior relationships.

You had also asked how much additional state and local revenue might be generated from any additional economic activity that results from exempting "manufacturing operations" from the corporate income tax as well as the reduction in unemployment benefits and social services budgets.

Benefits of Manufacturing Operations: State General Fund

It is impossible to predict the economic impact of legislation to exempt manufacturing operations in North Carolina from the corporate income tax. An alternative that has been used by Fiscal Research and other researchers is to simulate the impact after making an **assumption** about the enhancement of economic activity. The first step in the process is to establish the assumption.

Example 1. Data recently released by the Employment Security Commission indicates that during the five years prior to the 2001-02 recession North Carolina suffered a net loss of 1.9% manufacturing jobs per year. If we apply this loss rate to the 2002 manufacturing employment base of 642,200 we get 12,202 jobs per year.

In this example, we **assume** that the tax stimulus enables the state to avoid this decline in manufacturing employment each year. A model used by Dr. Mike Walden at N.C. State University indicates that annual state General Fund revenues of $61.0 million would be generated by this many manufacturing jobs. The calculation of revenues was made by Fiscal Research, using Dr. Walden's numbers from a hypothetical new manufacturing plant employing 80 persons.

In addition to these benefits, the model indicates that if new construction is involved in creating the facility, the state general fund would receive $105.2 million during the first year of construction and $96.1 million during the second year.

As an alternative, I calculated the impact on state general fund revenues using based a simple Fiscal Research model using an assumed $40,000 annual salary for each position and a multiplier of 1.75. This calculation yields annual state general fund revenues of $48.3 million, compared to $61.0 million for the Walden model.

(See note at end of memo)

Example 2. The same ESC employment data indicates that during the last two calendar years the state has had an annual 9.5% loss of manufacturing jobs. If we apply this percentage to the 2002 base level, we get 61,009 jobs per year. In this example we assume that the tax exemption saves this level of jobs per year. Using Dr. Walden's model, we get $305.0 million of additional state general fund revenue per year. The Fiscal Research analysis comes up with $241.7 million per year. (See note at end of memo)

Benefits of Manufacturing Operations: Local Revenues

The addition or retention of manufacturing jobs also enhances the local revenue base as employees purchase housing, shop in the state, and undertake activities that would generate miscellaneous tax and fee revenue. The bulk of the additional receipts will come from the property tax and the local option sales tax so I will concentrate on these sources. The analysis is based on relating the estimated $6.04 billion of projected property tax revenue and $2.07 billion of local-option sales taxes for the 2003-04 fiscal year to the $13.7 billion of State General Fund revenues (excludes highway transfers).

Example 1. This part of the analysis corresponds to the Example 1 discussed in the State General Fund section, which uses 12,202 manufacturing jobs. For this analysis I have related the local tax base to the State General Fund and then multiplied this factor by the $61.0 million of State General Fund revenue impact in the Walden analysis. The resulting estimate is $36.1 million of additional local revenues. (See note at end of memo)

Example 2. This example uses the same 61,009 manufacturing employment numbers as we used in the State General Fund example. The estimated local revenue impact is $180.6 million. (See note at end of memo)

Benefits of Manufacturing Operations: Unemployment Insurance

One of the issues facing legislators this year is the condition of the state's unemployment insurance fund. The recession has not only reduced the amount of taxes coming into the fund, but the persistence of $100 million per month benefit payouts has led to such a sharp drop in the fund balance that the Employment Security Commission will need to temporarily borrow funds from the national account. This financing could involve the payment of interest, depending on when the loan is repaid. Please keep in mind the fact that unemployment taxes and benefits do not affect state or local budgets.

Example 1. If the enactment of the corporate income tax change were to preserve 12,202 jobs that would be otherwise be permanently lost, the maximum potential savings in unemployment benefits would be $97.6 million. This calculation is based on the maximum 26 weeks of unemployment benefits and $307.90 in weekly benefits. It also assumes that all of the job losses entail the payment of unemployment benefits. (See note at end of memo)

Example 2 If we adjust the number of unemployed workers up to 61,009 the reduced unemployment benefits would be $488.0 million. (See note at end of memo)

Benefits of Manufacturing Operations: Medicaid Requirements

The growth of state and county Medicaid budgets is one of the major problems facing state and local government units in North Carolina. During the last 2 years the state's portion of the Medicaid program has risen from $1.4 billion to $2.2 billion.

The direct linkage between Medicaid requirements and unemployment has not been as clear during the recent recession as past downturns. Fiscal Research is continuing to review this issue and is hopeful that at a later date an estimate can be provided of the impact of enhanced job opportunities on the Medicaid budget.

Benefits of Manufacturing Operations: Social Services Programs

Fiscal Research is also looking into the impact of reduced unemployment on TANF payments (formerly AFDC program) and Food Stamp benefits. All of the Food Stamp benefits are paid from federal dollars.

Note. It is important to state that all of the examples in this memo involve a simulation, not a forecast of results. Neither the Walden model nor the FRD analysis can project the level of new economic activity, state and local revenues, lower unemployment benefits, and reductions in social services spending that will result from the adoption of the income tax exemption for manufacturing operations. The models are simply a rough attempt to measure the potential benefits of increased manufacturing activity, whatever the cause.

DC:djb

ATTACHMENT 6

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 896*
PROPOSED COMMITTEE SUBSTITUTE H896-CSLAf-40 [v.2]

7/9/2003 4:43:36 PM

Short Title: Increase Cosmetic Art Fees. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00 per year.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 44.00 every two years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 22.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 44.00 every two years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 44.00 every two years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 44.00 every two years

(6) Cosmetic art shop ~~per active booth~~ with ..... ~~$ 3.00 per year~~

one to two booths ..... $ 15.00 per year

three to ten booths ..... $ 30.00 per year

eleven or more booths ..... $ 55.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal ..... ~~$ 10.00~~$ 50.00

(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00

(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:

(1) Document request ..... $ 10.00

(2) Mailing list ..... $ 20.00

(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. G.S. 88B-21 reads as rewritten:

"**§ 88B-21. Renewals; expired licenses.**

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every ~~three years beginning October 1, 1998. A late fee shall be charged for renewals after that date.~~two years. Any license not renewed shall expire on October 1 of the year that renewal is required. The Board may develop and implement a plan for staggered license renewal and may prorate license fees to implement such a plan.

(c) ~~Apprentice, esthetician, and manicurist~~ Apprentice licenses shall be renewed annually on or before October 1 of each year. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(d) ~~Teacher~~ Teacher, esthetician, and manicurist licenses shall be renewed every two years on or before October 1. ~~A late fee shall be charged for the renewal of licenses after that date.~~ Any license not renewed shall expire on October 1 of that year.

(e) Prior to renewal of a teacher's license, the teacher shall annually complete a minimum of eight hours of continuing education which shall be approved by the Board. Teachers shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection.

(f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pay the license fee for each year that the fees are delinquent and to pass an examination as prescribed by the Board before the license will be reinstated.

(g) Cosmetic art school licenses shall be renewed on or before October 1 of each year. A late fee shall be charged for licenses renewed after that date. Any license not renewed by November 1 of that year shall expire. A cosmetic art school whose license

has been expired for one year or less shall have its license reinstated upon payment of the reinstatement fee, the late fee, and all unpaid license fees."

SECTION 3. This act becomes effective January 1, 2004.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H896-ALA-29 [v.1]

Date July 17 ,2003

Comm. Sub. [YES]
Amends Title [NO]
H896-CSLAf-40

Representative Ross

moves to amend the bill on page 1, line 18, by rewriting the line to read:
"(1) Cosmetologist.....~~$39.00~~$44.00 every ~~3~~ three years";

and on page 2, lines 22-24, by rewriting those lines to read:
"(b) Cosmetologist licenses shall be renewed on or before October 1 every three ~~years beginning October 1, 1998. A late fee shall be charged for renewals after that date.~~years. Any license not renewed shall expire on October 1 of the year that".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ (by consent) FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 896*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H896-ALA-30 [v.1]

Date July 17 ,2003

Comm. Sub. [YES]
Amends Title [NO]
H896-CSLAf-40

Representative ~~Wainwright~~ Womble

moves to amend the bill on page 3, line 3, by rewriting the line to read:

"**SECTION 3.** G.S. 88B-20(d) reads as rewritten:

'(d) The Board may require payment of the following late fees and reinstatement fees ~~as follows:~~only after the person has been given a five-day grace period beginning on the day immediately following the due date:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal ..... $ 10.00

(2) Cosmetic art schools and shops late renewal ..... $ 10.00

(3) Reinstatement – cosmetic art schools and shops ..... $ 25.00.~~"~~

SECTION 4. This act becomes effective January 1, 2004.

SIGNED Larry Womble
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ (my count) FAILED _____ TABLED _____

THE GREAT SEAL OF THE STATE OF NORTH CAROLINA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 896*

Short Title:	Increase Cosmetic Art Fees.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Finance.	

April 7, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA BOARD OF COSMETIC ART EXAMINERS TO ESTABLISH NEW FEES AND TO INCREASE CERTAIN CURRENT FEES UNDER THE COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-20 reads as rewritten:

"**§ 88B-20. Fees required.**

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, or teachers, in addition to its other fees.

(b) The Board may charge application fees as follows:

(1) Inspection of a newly established cosmetic art shop ..... ~~$ 25.00~~$ 70.00

(2) Inspection of a newly established school ..... $ 120.00

~~(2)~~(3) Reciprocity applicant under G.S. 88B-13 ..... ~~$ 15.00.~~$ 30.00

(4) Certification of records ..... $ 25.00

(5) Continuing education provider ..... $ 100.00.

(c) The Board may charge license fees as follows:

(1) Cosmetologist ..... ~~$ 39.00 every 3 years~~$ 60.00 every 2 years

(2) Apprentice ..... ~~$ 10.00 per year~~$ 30.00 per year

(3) Esthetician ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(4) Manicurist ..... ~~$ 10.00 per year~~$ 60.00 every 2 years

(5) Teacher ..... ~~$ 10.00 every 2 years~~$ 50.00 every 2 years

(6) Cosmetic art shop per active booth ..... ~~$ 3.00 per year~~$ 45.00 per year

(7) Cosmetic art school ..... ~~$ 50.00 per year~~$ 120.00 per year

(8) Duplicate license ..... ~~$ 1.00.~~$ 10.00

(9) Inactive license ..... $ 10.00.

(d) The Board may require payment of late fees and reinstatement fees as follows:

(1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late

renewal ..... ~~$ 10.00~~$ 50.00

(2) Cosmetic art schools and shops late renewal ..... ~~$ 10.00~~$ 35.00

(3) Reinstatement – cosmetic art schools and shops ..... ~~$ 25.00.~~$ 75.00.

(d1) The Board may require payment of miscellaneous fees as follows:

(1) Document request ..... $ 10.00

(2) Mailing list ..... $ 20.00

(3) License listing ..... $ 15.00 per list.

(e) The Board may prorate fees as appropriate."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 896:
Increase Cosmetic Art Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Gibson
Date:	July 9, 2003	**Analysis by:**	Martha Walston
Version:	H896-CSLAf-40		Committee Counsel

SUMMARY: ***House Bill 896 authorizes the North Carolina Board of Cosmetic Art Examiners to establish new fees and to increase existing fees. Senate Bill 757, sponsored by Senator Garrou, is a companion bill.***

BILL ANALYSIS: House Bill 896 authorizes the North Carolina board of Cosmetic Art Examiners to establish the following new fees:

Inspection of a newly established school	$120
Certification of records	$ 25
Continuing education provider	$100 per year
Document request	$ 10
Mailing list	$ 20
License listing	$ 15 per list

House Bill 896 authorizes the Board to increase the following existing fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE
Inspection of newly established Cosmetic art shop	$25	$70
Reciprocity applicant	$15	$30
Cosmetologist license	$39 every 3 years	$44 every 2 years
Apprentice	$10 per year	$44 every 2 years
Esthetician	$10 per year	$44 every 2 years
Manicurist	$10 per year	$44 every 2 years
Teacher	$10 every 2 years	$44 every 2 years
Cosmetic art school	$50 per year	$120 per year
Duplicate license	$1	$10
Apprentice, cosmetologist, esthetician, Manicurist, and teacher late renewal	$10	$50
Cosmetic art schools and shops Late renewal	$10	$35
Reinstatement - schools and shops	$25	$75

Cosmetic art shop per active booth $3 per year

House Bill 896 amends the cosmetic art shop booth fee as follows:

NUMBER OF BOOTHS	PROPOSED FEE
One to two booths	$15 per year
Three to ten booths	$30 per year
Eleven or more booths	$55 per year

House Bill 896 makes conforming changes to the license renewal periods in G.S. 88B-21.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 9, 2003

TO: House Finance Committee

FROM: Linda Struyk Millsaps and Alexei Pavlichev
Fiscal Research Division

RE: House Bill 896 (Proposed House Finance Committee Substitute)

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	No Impact	No Impact	No Impact	No Impact	No Impact
Board of Cosmetic Art Examiners	$1,515,906	$1,515,906	$1,515,906	$1,515,906	$1,515,906
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Board of Cosmetic Art Examiners
EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed bill changes the G.S. 88B-20 by establishing new fees and increasing certain current license fees under the Cosmetic Art Act.

ASSUMPTIONS AND METHODOLOGY:

License Fees Overview

The NC Board of Cosmetic Art Examiners (Board) has not implemented any changes in fees for several decades. Table 1 shows the year of last fee change, current fees, proposed fees, and amounts the current fees were equal to in the year they were established, adjusted for inflation.

Table 1. Analysis of Proposed Fee Changes

Fee	Year of Last Fee Change	Current Fee	Proposed Fee	Current Fees if Adjusted for Inflation
Application Fees				
Inspection of newly established shop	1976	$25	$70	$80.93
Inspection of newly established school	New Fee	N/A	$120	N/A
Reciprocity applicant under G.S. 88B-13	1963	$15	$30	$90.29
Certification of Records	New Fee	N/A	$25	N/A
Continuing Education Provider	New Fee	N/A	$100/year	N/A
License Fees				
Cosmetologist	1985	$13/year	$22/year	$22.25
Apprentice	1995	$10/year	$22/year	$12.09
Esthetician	1998	$10/year	$22/year	$11.30
Manicurist	1995	$10/year	$22/year	$12.09
Teacher	1984	$10/2 years	$22/years	$17.73
Cosmetic Art Shop	1976	$3/chair/year	1-2 chairs $15 3-10 chairs $30 11+ chairs $55	$27.87
Cosmetic Art School	1973	$50/year	$120/year	$207.43
Duplicate Fee	1975	$1	$10	$3.42
Late Fees and Reinstatement Fees				
Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal	1985	$10	$50	$17.12
Schools and shops late renewal	1976	$10	$35	$32.37
Reinstatement – schools and shops	1975	$25	$75	$85.59
Document Request	New Fee	N/A	$10	N/A
Mailing List	New Fee	N/A	$20	N/A
License Listing	New Fee	N/A	$15/list	N/A

The NC Board of Cosmetic Art Examiners (Board) estimates that the following licenses are in effect each year:

Esthetician	1,084	Manicurist	8,149
Cosmetic Art		Cosmetic Art Shops	11,737

Teacher	838		
Apprentice		Cosmetologist	45,679
Cosmetologist	863	Cosmetic Art Schools	121

Revenues

Based on the above information, Table 2 provides estimates on the current annual revenue generated from issuing the licenses, anticipated annual revenue after fee increases, and annual revenue gain for the Board.

Table 2 Affect of the Major Fee Changes on the Board Revenues

	Current Estimated Revenue	Proposed Estimated Revenue	Annual Revenue Gain
Cosmetologist	$593,827	$1,004,938	$411,111
Manicurist	$81,490	$179,278	$97,788
Esthetician	$10,840	$23,848	$13,008
Apprentice	$8,630	$18,986	$10,356
Teacher	$4,190	$18,436	$14,246
Total	*$698,977*	*$1,245,486*	*$546,509*
Shops	$109,561	$255,900	$146,339
Schools	$6,050	$14,520	$8,470
Grand Total	**$814,588**	**$1,515,906**	**$701,318**

The number of cosmetology professionals will likely increase in the future, which will affect the Board revenues. However no growth estimate is available to be included in the analysis.

Expenses

The Board estimates its annual expenses as they appear in Table 3. The Board estimates annual three-percent growth in their expenses.

Table 3. Estimated Monthly and Annual Expenses of the Board

Type of Expenses	2003-04	2004-05	2005-06	2006-07	2007-08
Personal Expenses	$106,090	$109,273	$112,551	$115,927	$119,405
Purchased Expenses	$41,200	$42,436	$43,709	$45,020	$46,371
Supplies	$2,060	$2,122	$2,185	$2,251	$2,319
Fixed Expenses	$5,150	$5,305	$5,464	$5,628	$5,796

Property, Plant, & Equip.	$2,060	$2,122	$2,185	$2,251	$2,319
Miscellaneous Expenses	$1,545	$1,591	$1,639	$1,688	$1,739
Monthly Expenses	$158,105	$162,848	$167,734	$172,766	$177,949
Annual Expenses	$1,897,260	$1,954,178	$2,012,803	$2,073,187	$2,135,383

Average Monthly Expenses: $167,880
Average Annual Expenses: $2,014,562

According to the Board, OSBM advises it to hold a minimum reserve of three months operating expenses. Based on the average monthly expenses of $167,880, the amount of three-months reserve would be $503,641.

The Board plans to address the discrepancy between proposed estimated revenues (Table 2) and estimated expenses (Table 3) by charging application fees as well as late and reinstatement fees that appear in Table 1.

The proposed legislation does not affect any of the programs or departments and does not produce fiscal impact on the State.

SOURCES OF DATA: North Carolina State Board of Cosmetic Art Examiners; *CPI Inflation Calculator.*

TECHNICAL CONSIDERATIONS: None.

ATTACHMENT 7

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 725
Finance Committee Substitute Adopted 5/22/03
Third Edition Engrossed 5/29/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S725-PCS55202-SC-10

Short Title: Local Option Project Development Financing. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS.

Whereas, the State of North Carolina and local governments in North Carolina are and should be actively engaged in economic development efforts to attract and stimulate private sector job creation and capital investors in their areas; and

Whereas, over 48 other states and local governments in other states are authorized to utilize a wide variety of incentives, including, but not limited to, project development financing to attract private sector economic development; and

Whereas, other states and local governments in other states have been successful in attracting private sector job creation and capital investment to their areas through incentive packages which have included the provision of infrastructure improvements financed through the issuance of project development debt instruments; and

Whereas, economically distressed areas of North Carolina could utilize project development debt instruments to attract new industry to their areas; and

Whereas, project development financing could enable North Carolina to be more nationally or internationally competitive in attracting private sector job creation and capital investments, particularly in attracting major economic development efforts; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article V of the North Carolina Constitution is amended by adding a new section to read:

"**Sec. 14. Project development financing.**

Notwithstanding Section 4 of this Article, the General Assembly may enact general laws authorizing any county, city, or town to define territorial areas in the county, city, or town and borrow money to be used to finance public improvements associated with private development projects within the territorial areas, as provided in this section. The General Assembly shall set forth by statute the method for determining the size of the territorial area and the issuing unit. This method is conclusive. When a territorial area is defined pursuant to this section, the county shall determine the current assessed value of taxable real and personal property in the territorial area. Thereafter, property in the territorial area continues to be subject to taxation to the same extent and in like manner as property not in the territorial area, but the net proceeds of taxes levied on the excess, if any, of the assessed value of taxable real and personal property in the territorial area at the time the taxes are levied over the assessed value of taxable real and personal property in the territorial area at the time the territorial area was defined may be set aside. The instruments of indebtedness authorized by this section shall be secured by these set-aside proceeds. The General Assembly may authorize a county, city, or town issuing these instruments of indebtedness to pledge, as additional security, revenues available to the issuing unit from sources other than the issuing unit's exercise of its taxing power. As long as no revenues are pledged other than the set-aside proceeds authorized by this section and the revenues authorized in the preceding sentence, these instruments of indebtedness may be issued without approval by referendum. The county, city, or town may not pledge as security for these instruments of indebtedness any property tax revenues other than the set-aside proceeds authorized in this section, or in any other manner pledge its full faith and credit as security for these instruments of indebtedness unless a vote of the people is held as required by and in compliance with the requirements of Section 4 of this Article.

Notwithstanding the provisions of Section 2 of this Article, the General Assembly may enact general laws authorizing a county, city, or town that has defined a territorial area pursuant to this section to assess property within the territorial area at a minimum value if agreed to by the owner of the property, which agreed minimum value shall be binding on the current owner and any future owners as long as the defined territorial area is in effect."

SECTION 2. Article 6 of Chapter 159 of the General Statutes is reenacted and is rewritten to read:

"Article 6.

"Project Development Financing Act.

"**§ 159-101. Short title.**

This Article may be cited as the 'North Carolina Project Development Financing Act.'

"**§ 159-102. Unit of local government defined.**

For the purposes of this Article, the term 'unit of local government' means a county or a municipal corporation.

"**§ 159-103. Authorization of project development financing debt instruments; purposes.**

(a) Each unit of local government may issue project development financing debt instruments pursuant to this Article and use the proceeds for one or more of the purposes for which the unit may issue general obligation bonds pursuant to the following subdivisions of G.S. 159-48: (b)(1), (3), (7), (11), (12), (16), (17), (19), (21), (23), (24), or (25), (c)(4a) or (6), or (d)(3), (4), (5), (6), or (7). In addition, the proceeds may be used for any service or facility authorized by G.S. 160A-536 and provided in a municipal service district.

For the purpose of this Article, the term 'capital costs' as defined in G.S. 159-48(h) also includes (i) interest on the debt instruments being issued or on notes issued in anticipation of the instruments during construction and for a period not exceeding seven years after the estimated date of completion of construction and (ii) the establishment of debt service reserves and any other reserves reasonably required by the financing documents. The proceeds of the debt instruments may be used either in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 or, if the use directly benefits private development forecast by the development financing plan for the district, outside the development financing district. The proceeds may be used only for projects that enable, facilitate, or benefit private development within the development financing district, the revenue increment of which is pledged as security for the debt instruments. This subsection does not prohibit the use of proceeds to defray the cost of providing water and sewer utilities to a private development in a project development financing district.

(b) Subject to agreement with the holders of its project development financing debt instruments and the limitation on duration of development financing districts set out in this Article, each unit of local government may issue additional project development financing debt instruments and may issue debt instruments to refund any outstanding project development financing debt instruments at any time before the final maturity of the instruments to be refunded. General obligation bonds issued to refund outstanding project development financing debt instruments shall be issued under the Local Government Bond Act, Article 4 of this Chapter. Revenue bonds issued to refund outstanding project development financing debt instruments shall be issued under the State and Local Government Revenue Bond Act, Article 5 of this Chapter.

Project development financing debt instruments may be issued partly for the purpose of refunding outstanding project development financing debt instruments and partly for any other purpose under this Article. Project development financing debt instruments issued to refund outstanding project development financing debt instruments shall be issued under this Article and not under Article 4 of this Chapter.

(c) If the private development project to be benefited by proposed project development financing debt instruments affects tax revenues in more than one unit of local government and more than one affected unit of local government wishes to provide assistance to the private development project by issuing project development financing debt instruments, then those units may enter into an interlocal agreement pursuant to Article 20 of Chapter 160A of the General Statutes for the purpose of issuing the instruments. The agreement may include a provision that a unit may pledge all or any part of the taxes received or to be received on the incremental valuation

accruing to the development financing district to the repayment of instruments issued by another unit that is a party to the interlocal agreement.

"**§ 159-104. Application to Commission for approval of project development financing debt instrument issue; preliminary conference; acceptance of application.**

A unit of local government may not issue project development financing debt instruments under this Article unless the issue is approved by the Local Government Commission. The governing body of the issuing unit shall file with the secretary of the Commission an application for Commission approval of the issue. At the time of application, the governing body shall publish a public notice of the application in a newspaper of general circulation in the unit of local government. The application shall include any statements of facts and documents concerning the proposed debt instruments, development financing district, and development financing plan, and the financial condition of the unit, required by the secretary. The Commission may prescribe the form of the application.

Before accepting the application, the secretary may require the governing body or its representatives to attend a preliminary conference in order to discuss informally the proposed issue, district, and plan and the timing of the steps to be taken in issuing the debt instruments. The development financing plan need not be adopted by the governing body at the time it files the application with the secretary. However, before the Commission may enter its order approving the debt instruments, the governing body must adopt the plan and make the findings described in G.S. 159-105(b)(1) and (5).

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement is conclusive evidence that the unit has complied with this section.

"**§ 159-105. Approval of application by Commission.**

(a) In determining whether to approve a proposed project development financing debt instrument issue, the Commission may inquire into and consider any matters that it considers relevant to whether the issue should be approved, including:

(1) Whether the projects to be financed from the proceeds of the project development financing debt instrument issue are necessary to secure significant new project development for a development financing district.

(2) Whether the proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.

(3) The unit of local government's debt management procedures and policies.

(4) Whether the unit is in default in any of its debt service obligations.

(5) Whether the private development forecast in the development financing plan would likely occur without the public project or projects to be financed by the project development financing debt instruments.

(6) Whether taxes on the incremental valuation accruing to the development financing district, together with any other revenues available under G.S. 159-110, will be sufficient to service the proposed project development financing debt instruments.

(7) The ability of the Commission to market the proposed project development financing debt instruments at reasonable rates of interest.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds all of the following:

(1) The proposed project development financing debt instrument issue is necessary to secure significant new economic development for a development financing district.

(2) The amount of the proposed project development financing debt is adequate and not excessive for the proposed purpose of the issue.

(3) The proposed projects are feasible. In making this determination, the Commission may consider any additional security such as credit enhancement, insurance, or guaranties.

(4) The unit of local government's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

(5) The private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the project development financing debt instruments.

(6) The proposed project development financing debt instruments can be marketed at reasonable interest cost to the issuing unit.

(7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, adopted a development financing plan for the development financing district for which the instruments are to be issued.

"**§ 159-106. Order approving or denying the application.**

(a) After considering an application, the Commission shall enter its order either approving or denying the application. An order approving an issue is not an approval of the legality of the debt instruments in any respect.

(b) Unless the debt instruments are to be issued for a development financing district for which a project development financing debt instrument issue has already been approved, the day the Commission enters its order approving an application for project development financing debt instruments is also the effective date of the development financing district for which the instruments are to be issued.

(c) If the Commission enters an order denying the application, the proceedings under this Article are at an end.

"**§ 159-107. Determination of incremental valuation; use of taxes levied on incremental valuation; duration of the district.**

(a) Base Valuation in the Development Financing District. – After the Local Government Commission has entered its order approving a unit of local government's application for project development financing debt instruments, the unit shall immediately notify the tax assessor of the county in which the development financing

district is located of the existence of the development financing district. Upon receiving this notice, the tax assessor shall determine the base valuation of the district, which is the assessed value of all taxable property located in the district on the January 1 immediately preceding the effective date of the district. If the unit or an agency of the unit acquired property within the district within one year before the effective date of the district, the tax assessor shall presume, subject to rebuttal, that the property was acquired in contemplation of the district, and the tax assessor shall include the value of the property so acquired in determining the base valuation of the district. The unit may rebut this presumption by showing that the property was acquired primarily for a purpose other than to reduce the incremental tax base. After determining the base valuation of the development financing district, the tax assessor shall certify the valuation to: (i) the issuing unit; (ii) the county in which the district is located if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(b) Adjustments to the Base Valuation. – During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

(3) If, at the time of revaluation pursuant to G.S. 105-286 of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to: (i) the issuing unit; (ii) the county if the issuing unit is not the county; and (iii) any special district, as defined in G.S. 159-7, within which the development financing district is located.

(c) Revenue Increment Fund. – When a unit of local government has established a development financing district, and the project development financing debt instruments for that district have been approved by the Commission, the unit shall establish a separate fund to account for the proceeds paid to the unit from taxes levied on the incremental valuation of the district. The unit shall also place in this fund any moneys received pursuant to an agreement entered into under G.S. 159-108.

(d) Levy of Property Taxes Within the District. – Each year the development financing district is in existence, the tax assessor shall determine the current assessed value of taxable property located in the district. The assessor shall also compute the difference between this current value and the base valuation of the district. If the current value exceeds the base value, the difference is the incremental valuation of the district. In each year the district is in existence, the county, and if the district is within a city or a special district as defined by G.S. 159-7, the city or the special district shall levy taxes against property in the district in the same manner as taxes are levied against other property in the county, city, or special district. The proceeds from ad valorem taxes levied on property in the development financing district shall be distributed as follows:

(1) In any year in which there is no incremental valuation of the district, all the proceeds of the taxes shall be retained by the county, city, or special district, as if there were no development financing district in existence.

(2) In any year in which there is an incremental valuation of the district, the amount of tax due from each taxpayer on property in the district shall be distributed as provided in this subdivision. The net proceeds of the following taxes shall be paid to the government levying the tax: (i) taxes separately stated and levied solely to service and repay debt secured by a pledge of the faith and credit of the unit; (ii) nonschool taxes levied pursuant to a vote of the people; (iii) taxes levied for a municipal or county service district; and (iv) taxes levied by a taxing unit in a development financing district established by a different taxing unit and for which there is no increment agreement between the two units. All remaining taxes on property in the district shall be multiplied by a fraction, the numerator of which is the base valuation for the district and the denominator of which is the current valuation for the district. The amount shown as the product of this multiplication shall, when paid by the taxpayer, be retained by the county, city, or special district, as if there were no development financing district in existence. The net proceeds of the remaining amount shall, when paid by the taxpayer, be turned over to the finance officer of each issuing unit, who shall place this amount in the special revenue increment fund required by subsection (c) of this section. As used in this section, 'net proceeds' means gross proceeds less refunds, releases, and any collection fee paid by the levying government to the collecting government.

(e) Increment Agreements. – Effect of Annexation on District Established by a County. – If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the

district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties.

(f) Use of Moneys in the Revenue Increment Fund. – If the development financing district includes property conveyed or leased by the unit of local government to a private party in consideration of increased tax revenue expected to be generated by improvements constructed on the property pursuant to G.S. 158-7.1, an amount equal to the tax revenue taken into account in arriving at the consideration, less the increased tax revenue realized since the construction of the improvement, shall be transferred from the Revenue Increment Fund to the county, city, or special district as if there were no development financing district in existence. Any money in excess of this amount in the Fund may be used for any of the following purposes, without priority other than priorities imposed by the order authorizing the project development financing debt instruments:

(1) To finance capital expenditures (including the funding of capital reserves) by the issuing unit in the development financing district pursuant to the development financing plan.

(2) To meet principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.

(3) To repay the appropriate fund of the issuing unit for any moneys actually expended on debt service on project development financing debt instruments pursuant to a pledge made pursuant to G.S. 159-111(b).

(4) To establish and maintain debt service reserves for future principal and interest requirements on project development financing debt instruments and debt instrument anticipation notes issued for the district.

(5) To meet any other requirements imposed by the order authorizing the project development financing debt instruments.

If in any year there is any money remaining in the Revenue Increment Fund after these purposes have been satisfied, it shall be paid to the general fund of the county and, if applicable, of the city and any special district as defined by G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in the development financing district.

(g) Duration of District. – A development financing district shall terminate at the earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the date all project development financing debt instruments issued for the district have been fully retired or sufficient funds have been set aside, pursuant to the order authorizing the debt instruments, to meet all future principal and interest requirements on the instruments.

"**§ 159-108. Agreements with property owners.**

(a) Authorization. – A unit of local government that issues project development financing debt instruments may enter into agreements with the owners of real property

in the development financing district for which the instruments were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

(b) Filing and Recording Agreement. – The unit shall file a copy of any agreement entered into pursuant to this section with the tax assessor for the county in which the development financing district is located. In addition, the unit shall cause the agreement to be recorded in the office of the register of deeds of that county, and the register of deeds shall index the agreement in the grantor's index under the name of the property owner. Once the agreement has been recorded in the office of the register of deeds, as required by this subsection, it is binding, according to its terms and for its duration, on any subsequent owner of the property.

(c) Minimum Assessment of Property. – An agreement entered into pursuant to this section establishes a minimum assessment of the real property subject to the agreement. If the county tax assessor determines that the real property has a true value less than the minimum established by the agreement, the assessor shall nevertheless assess the property at the minimum set out in the agreement. If the assessor, however, determines that the real property has a true value greater than the minimum established by the agreement, the assessor shall assess the property at the true value.

(d) Effect of Reappraisal. – If an agreement entered into pursuant to this section continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286, the minimum assessment established in the agreement shall be adjusted as provided in this subsection. After the issuing unit of local government has adopted its budget ordinance and levied taxes for the fiscal year that begins next after the effective date of the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem taxes levied by the unit and applicable to the property subject to the agreement. It shall also certify to the assessor the total rate of ad valorem taxes levied by the unit and applicable to the property in the immediately preceding fiscal year. The assessor shall determine the total amount of ad valorem taxes levied by the unit on the property in the immediately preceding fiscal year, based on the tax rate certified by the issuing unit. The assessor shall then determine a value of the property that would provide the same total amount of ad valorem taxes based on the tax rate certified for the fiscal year beginning next after the effective date of the reappraisal. The value so determined is the new minimum assessment for the property subject to the agreement.

(e) Agreement Effective Regardless of Improvements. – An agreement entered into pursuant to this section remains in effect according to its terms regardless of whether the improvements anticipated in the development financing plan are completed or whether those improvements continue to exist during the duration of the agreement. However, if any part of the property subject to the agreement is acquired by a public agency, the agreement is automatically modified by removing the acquired property from the agreement and reducing the minimum assessment accordingly.

"**§ 159-109. Special covenants.**

A project development financing debt instrument order or a trust agreement securing project development financing debt instruments may contain covenants regarding:

(1) The pledge of all or any part of the taxes received or to be received on the incremental valuation in the development financing district during the life of the debt instruments.

(2) Rates, fees, rentals, tolls, or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.

(3) The setting aside of debt service reserves and the regulation and disposition of these reserves.

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of project development financing debt instruments.

(5) Limitations or restrictions on the purposes to which the proceeds of sale of project development financing debt instruments may be applied.

(6) Limitations or restrictions on the issuance of additional project development financing debt instruments or notes for the same development financing district, the terms upon which additional project development financing debt instruments or notes may be issued or secured, or the refunding of outstanding project development financing debt instruments or notes.

(7) The acquisition and disposal of property for project development financing debt instrument projects.

(8) Provision for insurance and for accounting reports, and the inspection and audit of accounting reports.

(9) The continuing operation and maintenance of projects financed with the proceeds of the project development financing debt instruments.

"**§ 159-110. Security of project development financing debt instruments.**

Project development financing debt instruments are special obligations of the issuing unit. Moneys in the Revenue Increment Fund required by G.S. 159-107(c) are pledged to the payment of the instruments, in accordance with G.S. 159-107(f). Except as provided in G.S. 159-111, the unit may pledge the following additional sources of funds to the payment of the debt instruments, and no other sources: the proceeds from the sale of property in the development financing district; net revenues from any public facilities, other than portions of public utility systems, in the development financing district financed with the proceeds of the project development financing debt instruments; and, subject to G.S. 159-47, net revenues from any other public facilities, other than portions of public utility systems, in the development financing district constructed or improved pursuant to the development financing plan.

Except as provided in G.S. 159-111, the principal and interest on project development financing debt instruments do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of the unit's property or upon any of its income, receipts, or revenues, except as may be provided pursuant to this section. Except as

provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is pledged for the payment of the principal or interest of project development financing debt instruments, and no holder of project development financing debt instruments has the right to compel the exercise of the taxing power by the unit or the forfeiture of any of its property in connection with any default on the instruments. Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every project development financing debt instrument shall contain recitals sufficient to show the limited nature of the security for the instrument's payment and that it is not secured by the full faith and credit of the unit.

"**§ 159-111. Additional security for project development financing debt instruments.**

(a) In order to provide additional security for debt instruments issued pursuant to this Article, the issuing unit of local government may pledge its faith and credit for the payment of the principal of and interest on the debt instruments. Before such a pledge may be given, the unit shall follow the procedures and meet the requirements for approval of general obligation bonds under Article 4 of this Chapter. The unit shall also follow the procedures and meet the requirements of this Article. If debt instruments are issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith and credit, the debt instruments are subject to G.S. 159-112 rather than G.S. 159-65.

(b) In order to provide additional security for debt instruments issued pursuant to this Article, and in lieu of pledging its faith and credit for that purpose pursuant to subsection (a) of this section, a unit of local government may agree to apply to the payment of the instruments any available sources of revenues of the unit, as long as the agreement to use the sources to make payment does not constitute a pledge of the unit's taxing power or of the unit's revenues derived from local sales taxes. In addition, to the extent the generation of the revenues is within the power of the unit, the unit may enter into covenants to take action in order to generate the revenues, as long as the covenant does not constitute a pledge of the unit's taxing power.

(c) No agreement or covenant may contain a nonsubstitution clause that restricts the right of the issuing unit of local government to replace or provide a substitute for any project financed pursuant to this subsection.

(d) The obligation of a unit of local government with respect to the sources of payment shall be specifically identified in the proceedings of the governing body authorizing the unit to issue the debt instruments. The sources of payment so specifically identified and then held or thereafter received by the unit or any fiduciary of the unit are immediately subject to the lien of the proceedings without any physical delivery of the sources or further act. The lien is valid and binding as against all parties having claims of any kind against a unit without regard to whether the parties have notice of the lien. The proceedings or any other document or action by which the lien on a source of payment is created need not be filed or recorded in any manner other than as provided in this Article.

"**§ 159-112. Limitations on details of debt instruments.**

In fixing the details of project development financing debt instruments, the governing body of the issuing unit of local government is subject to these restrictions and directions:

(1) The maturity date shall not exceed the shorter of (i) the longest of the various maximum periods of usefulness for the projects to be financed with debt instrument proceeds, as prescribed by the Local Government Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth year after the effective date of the development financing district.

(2) The first payment of principal shall be payable not more than seven years after the date of the debt instruments.

(3) Any debt instrument may be made payable on demand or tender for purchase as provided in G.S. 159-79, and any debt instrument may be made subject to redemption prior to maturity, with or without premium, on such notice, at such times, and with such redemption provisions as may be stated. Interest on the debt instruments shall cease when the instruments have been validly called for redemption and provision has been made for the payment of the principal of the instruments, any redemption, any premium, and the interest on the instruments accrued to the date of redemption.

(4) The debt instruments may bear interest at such rates payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without this State as the issuing unit may determine.

"**§ 159-113. Annual report.**

In July of each year, each unit of local government with outstanding project development financing debt instruments shall make a report to any other unit, and to any special district as defined in G.S. 159-7, in which the development financing district for which the instruments were issued is located. This report shall set out the base valuation for the development financing district, the current valuation for the district, the amount of remaining project development financing debt for the district, and the unit's estimate of when the debt will be retired. The unit of local government may meet this requirement by reporting this information in its annual financial statements required by G.S. 159-34."

SECTION 3. G.S. 159-48(b) is amended by adding a new subdivision to read:

"(26) Undertaking public activities in or for the benefit of a development financing district pursuant to a development financing plan."

SECTION 4. G.S. 159-55(a) reads as rewritten:

"(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

(1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding

bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for purposes of the sworn statement of debt and the debt limitation, revenue bonds and project development financing debt instruments (unless additionally secured by a pledge of the issuing unit's faith and credit) shall not be considered debt and ~~such bonds~~ shall not be included in gross debt nor deducted from gross debt.

(2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:

a. Funding and refunding bonds authorized by orders introduced but not yet adopted.

b. Funding and refunding bonds authorized but not yet issued.

c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.

d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.

e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.

f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.

g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.

(3) The net debt of the issuing unit, being the difference between the gross debt and deductions.

(4) The assessed value of property subject to taxation by the issuing unit, as revealed by the tax records and certified to the issuing unit by the assessor. In calculating the assessed value, the incremental valuation of

any development financing district located in the unit, as determined pursuant to G.S. 159-107, shall not be included.

(5) The percentage that the net debt bears to the assessed value of property subject to taxation by the issuing unit."

SECTION 5. G.S. 159-79(a) reads as rewritten:

"(a) Notwithstanding any provisions of this Chapter to the contrary, including particularly, but without limitation, the provisions of G.S. 159-65, G.S. 159-112, G.S. 159-123 to G.S. 159-127, inclusive, G.S. 159-130, G.S. 159-138, G.S. 159-162, G.S. 159-164 and G.S. 159-172, a unit of local government, in fixing the details of general obligation bonds to be issued pursuant to this ~~Article or~~Article, general obligation notes to be issued pursuant to Article 9 of this Chapter, or project development financing debt instruments or notes to be issued pursuant to Article 6 of this Chapter, may provide that ~~such bonds or notes~~the instruments or notes:

(1) May be made payable from time to time on demand or tender for purchase by the owner provided a Credit Facility supports such bonds or notes, unless the Commission specifically determines that a Credit Facility is not required upon a finding and determination by the Commission that the proposed bonds or notes will satisfy the conditions set forth in G.S. 159-52;

(2) May be additionally supported by a Credit Facility;

(3) May be made subject to redemption prior to maturity, with or without premium, on such notice, at such time or times, at such price or prices and with such other redemption provisions as may be stated in the resolution fixing the details of such bonds or notes or with such variations as may be permitted in connection with a Par Formula provided in such resolution;

(4) May bear interest at a rate or rates that may vary as permitted pursuant to a Par Formula and for such period or periods of time, all as may be provided in such resolution; and

(5) May be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds to new purchases prior to their presentment for payment to the provider of the Credit Facility or to the issuing unit."

SECTION 6. G.S. 159-120 reads as rewritten:

"**§ 159-120. Definitions.**

As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in ~~G.S. 159-44,~~ G.S. 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body,' when used with respect to the State of North Carolina, mean the Council of State."

SECTION 7. G.S. 159-122(a) reads as rewritten:

"(a) Except as provided in this subsection, the last installment of each bond issue shall mature not later than the date of expiration of the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds.

The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or (5) shall mature not later than either (i) the shortest period, but not more than 40 years, in which the debt to be refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, computed from the date of the bonds, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be refunded. The last installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall mature not later than 10 years after the date of the bonds, as determined by the Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall mature not later than eight years after the date of the bonds, as determined by the Commission. The last installment of project development financing debt instruments shall mature on the earlier of 30 years after the effective date of the development financing district for which the instruments are issued or the longest of the various maximum periods of usefulness for the projects to be financed with debt instrument proceeds, as prescribed by the Commission pursuant to this section."

SECTION 8. G.S. 159-123(b) reads as rewritten:

"(b) The following classes of bonds may be sold at private sale:

(1) Bonds that a State or federal agency has previously agreed to purchase.

(2) Any bonds for which no legal bid is received within the time allowed for submission of bids.

(3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.

(4) Refunding bonds issued pursuant to G.S. 159-78.

(5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

(6) Bonds designated as qualified zone academy bonds pursuant to G.S. 115C-489.6, if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

(7) Project development financing debt instruments."

SECTION 9. G.S. 159-125(a) reads as rewritten:

"(a) Except for revenue ~~bonds,~~ bonds and project development financing debt instruments, no bid for less than ninety-eight percent (98%) of the face value of the bonds plus one hundred percent (100%) of accrued interest may be entertained.

Different rates of interest may be bid for bonds maturing in different years, but different rates of interest may not be bid for bonds maturing in the same year."

SECTION 10. G.S. 159-129 reads as rewritten:

"**§ 159-129. Obligations of units certified by Commission.**

Each bond or bond anticipation note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by ~~him~~ the secretary that the issuance of the bond or note has been approved under the provisions of The Local Government Bond ~~Act of~~ Acts, the Local Government Revenue Bond ~~Act.~~ Act, or the North Carolina Project Development

Financing Act. ~~Such~~ This signature may be a manual or facsimile signature as the Commission may determine. Each bond or bond anticipation note that is not represented by an instrument shall be evidenced by a writing relating to such obligation, which writing shall identify such obligation or the issue of which it is part, bear ~~such certificate~~ this certificate, and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Subchapter have been observed, and no bond or note without the Commission's certificate or with respect to which a writing bearing ~~such~~ this certificate has not been filed with the Commission shall be valid."

SECTION 11. G.S. 159-132 reads as rewritten:

"**§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

When the bonds are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then pay from the proceeds any notes issued in anticipation of the sale of the bonds, deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The proceeds of funding or refunding bonds may be deposited at the place of payment of the indebtedness to be refunded or funded for use solely in the payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. Unless otherwise provided in the trust agreement or resolution securing the debt instruments, the proceeds of project development financing debt instruments shall be remitted in the manner provided by this section for the remission of the proceeds of general obligation bonds."

SECTION 12. G.S. 159-160 reads as rewritten:

"**§ 159-160. Definitions.**

As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as defined in G.S. ~~159-44,~~ 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina."

SECTION 13. G.S. 159-163.1 is reenacted and is rewritten to read:

"**§ 159-163.1. Security of project development financing debt instrument anticipation notes.**

Notes issued in anticipation of the sale of project development financing debt instruments are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for the payment of notes issued in anticipation of the sale of project development financing debt instruments. No holder of a project development financing debt instrument anticipation note has the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default on the note. Notes issued in anticipation of the sale of project development financing debt instruments may be secured by the same pledges, charges, liens, covenants, and agreements made to secure the project development financing debt instruments. In addition, the proceeds of each project development financing debt instrument issue are pledged for the payment of any notes issued in anticipation of the

sale of the instruments, and these notes shall be retired from the proceeds of the sale as the first priority."

SECTION 14. G.S. 159-165(b) reads as rewritten:

"(b) When the bond anticipation notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The net proceeds of revenue bond anticipation ~~notes or~~ notes, special obligation bond anticipation ~~notes~~ notes, or project development financing debt instrument anticipation notes shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds, may provide for the exchange of the newly issued notes for the notes to be renewed."

SECTION 15. G.S. 159-176 reads as rewritten:

"**§ 159-176. Commission to aid defaulting units in developing refinancing plans.**

If a unit of local government or municipality ~~(as defined in G.S. 159-44 or 159-81)~~ (as defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or interest on its outstanding debt on or before the due date (whether the debt is evidenced by general obligation bonds, revenue bonds, project development financing debt instruments, bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in default for 90 days, the Commission may take such action as it deems advisable to investigate the unit's or municipality's fiscal affairs, consult with its governing board, and negotiate with its creditors in order to assist the unit or municipality in working out a plan for refinancing, adjusting, or compromising the debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit or municipality to meet, the Commission shall enter an order finding that it is fair, equitable, and within the ability of the unit or municipality to meet. The Commission shall then advise the governing board to take the necessary steps to implement it. If the governing board declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the governing board to implement the plan. When this order is entered, the members of the governing board and all officers and employees of the unit or municipality shall be under an affirmative duty to do all things necessary to implement the plan. The Commission may apply to the appropriate division of the General Court of Justice for a court order to the governing board and other officers and employees of the unit or municipality to enforce the Commission's order."

SECTION 16. G.S. 160A-505(a) reads as rewritten:

"(a) In lieu of creating a redevelopment commission as authorized herein, the governing body of any municipality may, if it deems wise, either designate a housing authority created under the provisions of Chapter 157 of the General Statutes to exercise the powers, duties, and responsibilities of a redevelopment commission as prescribed herein, or undertake to exercise such powers, duties, and responsibilities itself. Any

such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the event a governing body designates itself to perform the powers, duties, and responsibilities of a redevelopment ~~commission,~~ commission under this subsection, or exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S. 160A-456, then where any act or proceeding is required to be done, recommended, or approved both by a redevelopment commission and by the municipal governing body, then the performance, recommendation, or approval thereof once by the municipal governing body shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event a municipal governing body designates itself to exercise the powers, duties, and responsibilities of a redevelopment commission, it may assign the administration of redevelopment policies, programs and plans to any existing or new department of the municipality."

SECTION 17. G.S. 160A-512(6) reads as rewritten:

"(6) Within its area of operation, to purchase, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to the provisions of G.S. 160A-514, and with the approval of the local governing body sell, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein, either as an entirety to a single 'redeveloper' or in parts to several redevelopers; provided that the commission finds that the sale or other transfer of any such part will not be prejudicial to the sale of other parts of the redevelopment area, nor in any other way prejudicial to the realization of the redevelopment plan approved by the governing body; to enter into ~~contracts~~ contracts, either before or after the real property that is the subject of the contract is acquired by the Commission (although disposition of the property is still subject to G.S. 160A-514), with 'redevelopers' of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions and conditions as the commission may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this Article; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds therefor and provide security for bonds; to

insure or provide for the insurance of any real or personal property or operations of the commission against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Article;".

SECTION 18. G.S. 160A-515.1 is reenacted and is rewritten to read:

"**§ 160A-515.1. Project development financing.**

(a) Authorization. – A city may finance a redevelopment project and any related public improvements with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the city. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the city's governing body must define a development financing district and adopt a development financing plan for the district. The city may act jointly with a county to finance a project, define a development financing district, and adopt a development financing plan for the district.

(b) Development Financing District. – A development financing district shall comprise all or portions of one or more redevelopment areas defined pursuant to this Article. The total land area within development financing districts in a city, including development financing districts created pursuant to G.S. 158-7.3, may not exceed five percent (5%) of the total land area of the city.

(c) Development Financing Plan. – The development financing plan must be compatible with the redevelopment plan or plans for the redevelopment area or areas included within the district. The development financing plan must include all of the following:

(1) A description of the boundaries of the development financing district.

(2) A description of the proposed development of the district, both public and private.

(3) The costs of the proposed public activities.

(4) The sources and amounts of funds to pay for the proposed public activities.

(5) The base valuation of the development financing district.

(6) The projected incremental valuation of the development financing district.

(7) The estimated duration of the development financing district.

(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.

(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.

(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements in subsection (d) of this section.

(d) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(e) County Review. – Before adopting a plan for a development financing district, the city council shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the city council, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the city council may proceed to adopt the plan.

(f) Environmental Review. – Before adopting a plan for development financing districts, the city council shall submit the plan to the Secretary of Environment and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility

will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(g) Plan Adoption. – Before adopting a plan for a development financing district, the city council shall hold a public hearing on the plan. The council shall, no less than 30 days before the day of hearing, cause notice of the hearing to be mailed by first-class mail to all property owners and mailing addresses within the proposed development financing district. The council shall also, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once in a newspaper of general circulation in the city. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the city clerk. At the public hearing, the council shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (e) or (f) of this section, the council may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the city's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(h) Plan Modification. – Subject to the limitations of this subsection, a city council may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the city council shall follow the procedures and meet the requirements of subsections (d) through (g) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the city may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(i) Plan Implementation. – In implementing a development financing plan, a city may act directly, through a redevelopment commission, through one or more contracts with private agencies, or by any combination of these."

SECTION 19. G.S. 158-7.3 is reenacted and rewritten to read:

"**§ 158-7.3. Development financing.**

(a) Definitions. – The following definitions apply in this section:

(1) Development project. – A capital project that includes capital expenditures by both private persons and one or more units of local government and that increases net employment opportunities for

residents of the development district or within a two-mile radius of the project, whichever is larger, and increases the local government tax base.

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and conclusive), then, of the private development forecast for a development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space.

(2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the unit is located.

(3) Unit or unit of local government. – A county, city, town, or incorporated village.

(b) Authorization. – A unit of local government may finance public improvements that are part of a development project with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the unit's governing body must define a development financing district and adopt a development financing plan for the district. The county may act jointly with a city to finance a project, define a development financing district that is within the city, and adopt a development financing plan for the district.

(c) Development Financing District. – A development financing district created pursuant to this section must be comprised of property that is one or more of the following:

(1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.

(2) Appropriate for rehabilitation or conservation activities.

(3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. – The development financing plan must include all of the following:

(1) A description of the boundaries of the development financing district.

(2) A description of the proposed development of the district, both public and private.
(3) The costs of the proposed public activities.
(4) The sources and amounts of funds to pay for the proposed public activities.
(5) The base valuation of the development financing district.
(6) The projected incremental valuation of the development financing district.
(7) The estimated duration of the development financing district.
(8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
(9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.
(10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements referred to in subsection (e) of this section.

(e) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued

under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term 'manufacturing facility' means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(f) County Review. – If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(g) Environmental Review. – Before adopting a plan for development financing districts, the issuing unit's governing body shall submit the plan to the Secretary of Environment and Natural Resources to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(h) Plan Adoption. – Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to all property owners and mailing addresses of the development financing district and to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environment and Natural Resources has disapproved the plan pursuant to subsection (f) or (g) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to

issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(i) Plan Modification. – Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) through (h) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(j) Plan Implementation. – In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof."

SECTION 20. G.S. 105-284 is amended by adding a new subsection to read:

"(d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater."

SECTION 21. G.S. 105-277.11 is reenacted and rewritten to read:

"**§ 105-277.11. Taxation of property subject to a development financing district agreement.**

Property that is in a development financing district established pursuant to G.S. 160A-515.1 or G.S. 158-7.3 and that is subject to an agreement entered into pursuant to G.S. 159-108, shall, pursuant to Article V, Section 14 of the North Carolina Constitution, be assessed for taxation at the greater of its true value or the minimum value established in the agreement."

SECTION 22. Liberal Construction. This act, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect these purposes.

SECTION 23. Severability. If any clause or other portion of this act is held invalid, that decision shall not affect the validity of the remaining portions of this act, which are severable.

SECTION 24. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the statewide general election in November 2004, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment to promote local economic and community development projects by (i) permitting the General Assembly to enact general laws giving counties, cities, and towns the power to finance public improvements associated

with qualified private economic and community improvements within development districts, as long as the financing is secured by the additional tax revenues resulting from the enhanced property value within the development district and is not secured by a pledge of the local government's faith and credit or general taxing authority, which financing is not subject to a referendum; and (ii) permitting the owners of property in the development district to agree to a minimum tax value for their property, which is binding on future owners as long as the development district is in existence."

SECTION 25. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The amendment set out in Section 1 of this act and the amendments set out in Sections 2 through 21 of this act become effective upon this certification. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. If a majority of votes cast on the question are not in favor of the amendment set out in Section 1 of this act, that amendment and the amendments set out in Sections 2 through 21 of this act do not go into effect.

SECTION 26. This act is effective when it becomes law.

SENATE BILL 725 (PCS)
Local Project Development Financing

BILL ANALYSIS

Committee: House Finance
Date: July 17, 2003
Version: PCS for 3rd Edition

Sponsor: Sen. Clodfelter
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: Subject to approval by the voters of the State, amends the constitution to authorize local governments to finance development by issuing tax increment financing bonds within defined areas without a local referendum. The proposed committee substitute adjusts the ballot language and makes corrections.

This bill would give counties, cities, and towns an additional tool to enhance their ability to recruit and retain economic development. The bill would permit the voters of the State to vote on a constitutional amendment that would allow the General Assembly to enact general laws authorizing counties, cities, and towns to borrow money, without voter approval, to finance the public portion of certain economic development projects within a defined territorial area. This development tool, generally known as tax increment financing, but called project development financing in the bill, would allow local governments to set aside the additional property taxes that are generated by a new investment to pay for public facilities that support that new investment.

The project development financing constitutional amendment would be placed before the voters in the next Statewide general election. The Constitution would have to be changed to allow project development financing because under the Constitution as it now reads the General Assembly does not have the power to authorize any unit of local government to issue bonds secured by its property tax revenue without a vote of the people. An amendment is also needed to allow property owners within the development area to agree to a minimum tax assessment on their property.

If the amendment were approved, counties, cities, and towns could create a development financing district and adopt a development financing plan for that district. The total land area of the district may not exceed 5% of the total land area of the unit creating the district. The development financing plan describes the projects the unit of local government desires to finance and how the tax proceeds from the project development financing bonds will be used. The plan must also include a description of how the proposed development, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, and services. The plan must pass an environmental review and it must contain a requirement that initial users of a new manufacturing facility located in the district pay employees of the facility an average weekly manufacturing wage that is either above the average weekly manufacturing wage paid in the county where the district is located or is at least 10% above the average weekly manufacturing wage paid in the State. A plan may be exempt from the wage requirement if the Secretary of Commerce finds that unemployment in the county in which the district is located is especially severe.

If a local government wants to issue project development financing bonds to finance the public portion of economic development projects within a development financing district, it must have the approval of the Local Government Commission. The Commission cannot approve an application until the development financing district is created and the development financing plan is adopted. The bonds may be issued to finance parking facilities, sewer systems, solid waste disposal systems, storm sewers and flood control facilities, water systems, street improvements, public transportation facilities, land development for industrial or commercial purposes, and redevelopment. Redevelopment includes purchasing and improving property to help local redevelopment commissions. The bonds may also be issued for municipal service district projects.

Before approving the bond issuance, the Commission must find, among other things, that the proposed project development financing bond issue is necessary to secure significant new project development for a development financing district and that the private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the bonds.

To secure the bonds, the county, city, or town issuing the bonds must establish a separate fund to account for the proceeds paid to it from taxes levied on the incremental valuation of the development financing district. The incremental valuation is the excess of the assessed value of taxable property in the district at the time the taxes are levied over the assessed value of property in the district at the time it was created. The Local Government Commission must find that the taxes on the incremental valuation, together with any proceeds that may be realized from the sale of property in the district and any revenues that may be realized from a public facility in the district, will be sufficient to service the project development financing bonds. The district may remain in effect for 30 years or until the bonds are retired. The bonds must be retired within 30 years or within the useful life of the projects financed, whichever is shorter. After that, all taxes are paid into the local general fund.

To provide additional security for the bonds, the unit of local government issuing the bonds may pledge the proceeds from the sale of property in the development financing district and the net revenues from public facilities in the development financing district constructed or improved under the development financing plan. The unit of local government may also pledge any other available sources of revenue as long as the agreement to use the sources to make payment does not constitute a pledge of the unit's taxing power. Other available sources of revenues that do not constitute a pledge of a local government's taxing power include taxes levied by the State that are transferred to the local government, such as beer and wine tax revenues, utilities franchise tax revenues, and intangibles tax revenues.

The county, city, or town may enter into agreements with the owners of real property in the development financing district for which the bonds were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

A similar proposed constitutional amendment has been defeated by the voters twice before, on November 2, 1993, and November 2, 1982. In 1993, more than 78% of the voters voted against the constitutional amendment. It failed in every county except Northampton, where the vote was 1,253 for and 1,226 against.

provided by:
Sen. Clodfelter

SB 725/HB 1293

LOCAL OPTION
PROJECT DEVELOPMENT FINANCING

This legislation:

1) **Proposes a local option project finance tool for local governments to enhance North Carolina's ability to compete for jobs, economic development and community revitalization.**
2) **Puts a required constitutional amendment on the 2004 general election ballot to give citizens the opportunity to authorize our local governments to use this new tool.**

Local Option Project Development Financing allows North Carolina's local governments to use a new mechanism to invest in public infrastructure designed to attract private sector investment and economic development. This new local option authority would not raise taxes or fees. Instead it uses the increased property tax value created by a public infrastructure investment to pay for the costs of the public investment.

Project Development Financing is a way for public investment to pay its own way. The municipality or county establishes a development financing district for an economic development project. The program is based on the assumption that a public-private project will generate higher property values and additional property tax revenue (the rate must remain the same as throughout the jurisdiction). The funds to pay for the public portion of project development are generated by the difference between the property tax collected before the project is started and the property tax collected after the project is completed. This increment can be used to pay for bonds covering the costs of the public investment and infrastructure in the project.

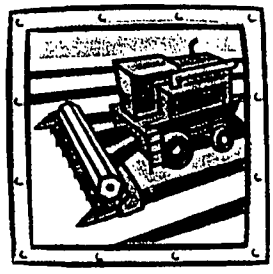
For example, property taxes collected in the development financing district before redevelopment were $50,000 a year. After the public investment leverages private investment and property improvements, the property taxes collected after the project is completed are $120,000 a year. The $70,000 difference is used to pay off the bonds for the public investment.

This economic development and revitalization tool is available in 48 other states. Most recently, West Virginia's citizens passed a constitutional amendment on the November ballot authorizing a similar program. Our cities and counties are playing a critical role in attracting economic development to North Carolina - they need this innovative tool to better compete for jobs and to revitalize their communities.

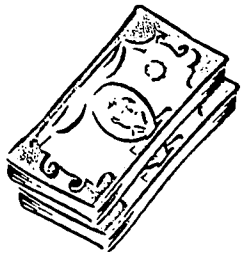
This Local Option economic development tool has broad support in North Carolina:

NC Citizens for Business & Industry, NC League of Municipalities, NC Association of County Commissioners, NC Metropolitan Coalition, NC Rural Economic Development Center, NC Dept. of Commerce, NC Metro Alliance of Chambers of Commerce, NC Economic Development Board, NC Downtown Development Association, NC Economic Developers Association, NC Smart Growth Alliance, NC Chapter American Institute. Of Architects, NC Main Street Program, NC Chapter of American Planners Association, NC Home Builders Association, numerous city councils, county commissions and local chambers of commerce

SB 725 - Local Option Project Development Financing: How it Works

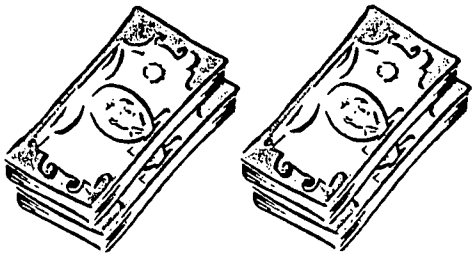


1. Company A wants to locate a facility in County X and create new jobs in that county, but County X lacks the infrastructure - water, sewer, roads - that Company A needs. The site Company A has chosen has a current property tax value of $50,000.



2. In order to raise the money to build the needed infrastructure, County X creates a "development district" and submits a plan to the Local Government Commission detailing how they will use future increases in property taxes on the to-be-improved property to guarantee bonds to finance the infrastructure improvements needed to locate Company A in their county. If the Local Government Commission approves the plan, the County issues bonds and receives the profits from the sale of the bonds.

3. The County builds the roads and puts the water and sewer infrastructure in place.



4. With all of the improvements to the site where Company A has located, the new property tax value is $1 million. County X uses the difference between the original property tax value and the current value - $950,000 - to repay the bond obligation.

5. Company A locates in County X, creating new jobs for the residents of the area.

The Rural Center

Kelly S. King
Chairman

Billy Ray Hall
President

May 19, 2003

The Honorable Daniel Gray Clodfelter
Room 408
Legislative Office Building
Raleigh, North Carolina 27601-2808

Dear Senator Clodfelter:

The Rural Center's Board of Directors and staff fully support passage of Senate Bill 725. This legislation will clear the way for rural counties to work together in support of economic development initiatives that will provide jobs in multi-county areas. This legislation builds on the well-known fact that collaboration and coordination are keys to success in economic development. Senate Bill 725 provides for a better financing option that will enable counties to work jointly and will be a tremendous benefit to rural North Carolinians who are willing to drive across county lines to find employment. Senate Bill 725 will assist our state in seeking ways to compete effectively for corporate relocations from outside the state, as well as, providing options for the existing industrial base. Senate Bill 725 will promote public-private partnerships that will provide groups of counties the flexibility they need to make themselves attractive to current and future corporate citizens.

Thank you for your consistent support of measures like Senate Bill 725 that improve the quality of life for the citizens of rural North Carolina.

Sincerely,

Billy Ray Hall

North Carolina

Rural Economic

Development Center, Inc.

4021 Carya Drive

Raleigh, NC 27610

Phone: (919) 250-4314

FAX: (919) 250-4325

5/20/0

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER

ARD H. MOORE
TE TREASURER

325 NORTH SALISBURY STREET
RALEIGH, NORTH CAROLINA 27603-1385

May 20, 2003

Senator Daniel G. Clodfelter
408 Legislative Office Building
Raleigh, NC 27603-5925

Dear Senator Clodfelter:

I applaud your work on SB 725 that provides the voters of North Carolina an opportunity to grant their local governments the authority to utilize tax increment financing as a way to promote and encourage economic development and create jobs locally.

This public financing option, used appropriately and prudently, can be an important economic development tool for our city and county governments, and is a public financing option available to local governments in most other states.

Please let me know if my office can assist or provide information necessary for a thorough consideration of this legislation by the General Assembly.

Best wishes,

Richard H. Moore

CC: Janice Burke, Director – State and Local Government Finance Division

Fax: (919) 508-5167 Phone: (919) 508-5176 website: www.treasurer.state.nc.us
The Department of State Treasurer includes Local Government Commission Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Public Employees' Social Security Agency. Legislative Retirement Fund, Escheats Fund, and Tax Review Board.
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5/20/03

NORTH CAROLINA CHAPTER
OF THE
AMERICAN PLANNING ASSOCIATION

An Introduction to Project Development Financing (Draft 5/19/03)

Background

Starting in the 1970s, communities across the United States began to experience a need for local economic development financing to make up for a loss of federal and state funds and a resistance to raising local property taxes. Currently, 48 States allow local governments to use some form of a financing method that allows new property tax revenue from specific development projects to fund economic development and redevelopment activities. West Virginia joined this group last year. The two states that haven't yet authorized such a tool are Arizona and North Carolina.

How It Works

Project development financing involves the public funding of the "front-end" cost of developing or redeveloping property. The front-end cost may include land assembly, construction of water lines, sewer lines, stormwater infrastructure, roads, parking, and/or other public facilities. The property can be a small parcel or a large area. As the private sector completes the development of the property, the new property tax generated goes directly to paying off the public costs incurred at the front-end of the project.

The public funding is typically generated by using bonds, although improvements could also be made on a "pay-as-you go" basis, particularly if the annual tax increments received are substantial. These bonds are paid off by capturing the incremental increases in property (and real) taxes each year. At the beginning of the year in which the project is initiated, taxes are "frozen" at that year's level (the base year) for each public entity or jurisdiction that is a recipient of the tax revenues. Each year thereafter during the life of the project, the increased tax revenue that is captured goes to the intended public improvements within the designated project development financing district, as called for in the project plan. This technique is premised on the concept that as public improvements are constructed to facilitate improvements in private property, the private property's value (including taxable value) will increase at a faster rate than if these public enhancements had not been made.

Advantages and Disadvantages

The main advantage for local governments of using project development financing is that it stimulates development without relying on general revenues or state or federal funding. The main disadvantage is that tax revenue that is diverted to such a project will not go to other units of government until the project development financing project is completed. During the life of the program, each tax-receiving entity (county, city, etc.) foregoes a certain amount of revenue as a result of having its tax revenues "frozen" at the base year level. However, after the program ends, the entity is able to capture a larger amount of revenue annually than if no program were put in place (because of the property improvements that would otherwise have not taken place or been as substantial).

To maximize the benefits of project development financing, it is important to first undertake planning activities to determine areas in the community or segments of the economy that need public stimulus to promote development. Then analysis should be conducted to determine whether the desired level of private development would take place without a project development financing project. If not, a local government may want to consider establishing a project development financing program. However, to make this possible in North Carolina, the State must first authorize this technique through legislation such as current Senate Bill 725 – "Local Option Project Development Financing".

Conclusion

As North Carolina competes for new businesses and retains the ones it already has, local government financing tools are crucial. Domestic and global competitors are actively developing incentive packages. As our cities and towns search for ways to make their old neighborhoods as attractive as suburban locations, and rural communities try to attract new industry or just keep existing industries, even small differences between locations can take on great importance. Remaining competitive often requires public expenditures. Tax increment financing is one method that reduces that public cost while at the same time promoting much-needed economic development.

Attached are two examples of projects in North Carolina that would benefit from the availability of project development financing.

This write-up was prepared by NCAPA members Jeff Hatling and Nick Evers. NCAPA is an organization of professional and citizen planners with more than 1,200 members across the state. For more information, contact Chapter President Dick Hails at 919/560-4137, x235 or at dhails@ci.durham.nc.us.

LOCAL OPTION PROJECT DEVELOPMENT FINANCING ENJOYS BROAD SUPPORT IN NORTH CAROLINA

The following groups have endorsed SB 725:

N. C. Citizens for Business and Industry

N.C. League of Municipalities

N.C. Association of County Commissioners

N.C. Metropolitan Coalition

N.C. Rural Economic Development Center

N.C. Department of Commerce

N.C. Economic Development Board

N.C. Metro Alliance of Chambers of Commerce

N.C. Downtown Development Association

N.C. Economic Developers Association

N.C. Smart Growth Alliance

N.C. Main Street Program

N.C. Chapter of American Planning Association

N.C. Homebuilders Association

Numerous city councils, boards of commissioners and local chambers of commerce

Project Development Financing Examples

Governor's Place, Kettering, Ohio

Project Description:

Acquisition and redevelopment of a 200,000 square foot vacant shopping center on 22 acres of land in a suburb of Dayton, Ohio. Redevelopment included: office, commercial and park uses.

Results to Date:

- 145,000 square feet of office space
- 5,000 square feet of retail
- 1 acre park
- Project built out in 3.5 years
- 500 jobs created

Financing:

Project Development Financing provided $333,000 toward a total project cost of $5,031,000. Other sources of income included: land sales, land leases, CDBG and EDA grants

Picture

Cityplace, Dallas, Texas

Project Description:

Redevelopment of a 238-acre neighborhood one mile north of downtown Dallas into a vibrant residential and commercial neighborhood.

Results to Date:

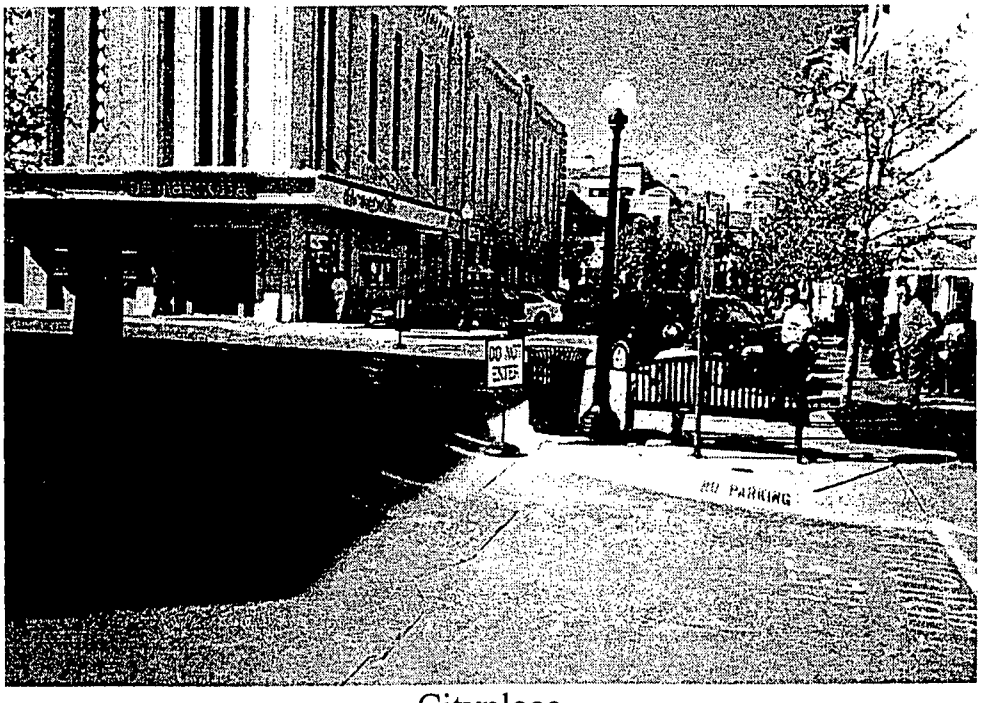
Since 1992, 18 development projects representing over $176million of private investment have been constructed. More than 1,200 residential units have been built in this area and another $76 million of projects are planned. Projects Include:

- Park @ Turtle Creek, 308 apartments, $30 million investment
- West Village, 150 apartments, 150,000 square feet of retail (Gap, Ann Taylor Loft, Banana republic) $55 million investment
- Fairfield residential, 232 apartments, $34 million
- Loews Theater

Property value in the area has increased 371% since creation of the project development financing district in 1992.

Financing:

Project Development Financing funded $22 million in public improvements, including: Central Expressway Bridge, DART light rail station, park improvements, school parking lot and street, utility and intersection improvements.



Cityplace

Denver Pavilions, Denver Colorado

Project Description:

Redevelopment of two blocks in downtown Denver into a 350,000 square foot entertainment retail complex featuring a 15 screen United Artists cinema, Nike Town, Virgin records, Barnes & Noble and a 800 space parking deck

Results to Date:

Project opened in November 1998 with a private sector investment of $104.5 million

Financing:

Project Development Financing supported $24 million in debt, out of a total public debt commitment of $31.5 million

Denver Pavilions

Empire Hotel & Salisbury Convention Center
Project Development Financing Case Study
Downtown Salisbury, Inc.
April 2, 2003

Location:	Downtown (Central Business District), City of Salisbury NC
Project Summary:	Downtown Salisbury, Inc. (DSI) is working with the City of Salisbury on a plan to restore the 90 room Empire Hotel and create a new convention center on land located across the street in the adjacent block. The City has recently invested approximately $1 million in the purchase of the Convention Center Site and DSI is negotiating to purchase the Hotel.
Estimated Cost & Revenue Projections:	Rehabilitation costs for the Hotel will be in the $11 million range. The Convention Center construction cost will be in the $3-5 million range depending on the size of the facility. With an 80% recapture of investment on taxes, the restored Hotel should net the City a minimum of $55,880 in taxes annually. An April 2000 economic impact assessment by Michael A. Kanters, Ph.D & Bryant G. Pierson of NC State University demonstrates that the restored hotel will create 152 new jobs, $2,272,609 in new income, and $6,523,030 in new retail sales. The establishment of a project development financing program would allow the City to spend dedicated funds on the infrastructure (parking, streetscape, etc.) needed to support the Hotel. Because of the adjacent location, it is likely that the Hotel and Convention Center will be served by the same parking and infrastructure as the Convention Center, even further improving the economic impact of the project.
Contact:	For further information, contact: Randall W. Hemann, Executive Director Downtown Salisbury, Inc. (704) 637-7814 rhema@ci.salisbury.nc.us

Artists rendering of the restored Empire Hotel in Salisbury, North Carolina

Mill Conversion to Economic Development Incubator
Project Development Financing Case Study
Town of Kernersville
April 24, 2003

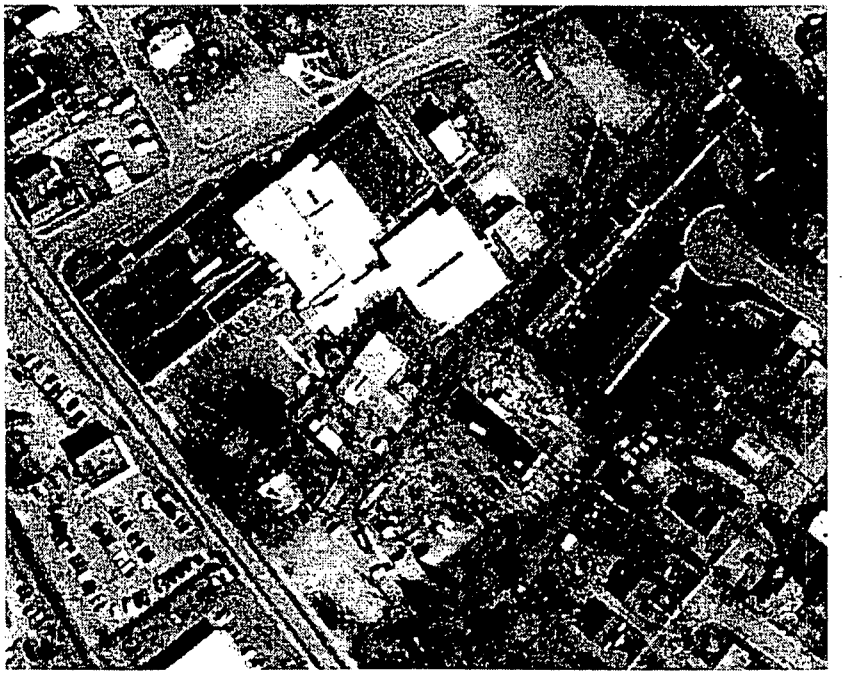
Location: Old Industrial Area, Town of Kernersville, NC

Project Summary: During a federally sponsored economic study to address a declining manufacturing base Angelou Economics, a firm hired to help plan the regions economic future, identified that 50% of all new jobs will be created by young people starting businesses. To attract and promote that growth, vacated mills offer the opportunity to act as an incubator to grow those businesses. A potential scenario is that the Town of Kernersville accept the donation of a vacated mill and undertake infrastructure improvements such as road access, parking, landscaping and rehabilitation of the facility. After the acquisition and improvements the facility would be sold to an investment group who would then sub-lease the space to new and expanding businesses. Without the Town's involvement of allowing a business to gain tax benefits by donating the facility and making the property attractive for investment, such a project would most likely not happen.

Expenditures & Revenue: Improvement expenditures would be based on the anticipated increased tax base revenue.

Contact: For further information, contact:

Jeffrey A. Hatling, AICP
Planning Director
Town of Kernersville
336-992-0704 office
hatlingj@ci.kernersville.nc.us



Typical Mill Facility

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 725 A BILL TO BE ENTITLED AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PERMIT CITIES AND COUNTIES TO INCUR OBLIGATIONS TO FINANCE THE PUBLIC PORTION OF CERTAIN ECONOMIC DEVELOPMENT PROJECTS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 137
Second Edition Engrossed 6/16/03

Short Title:	Special Obligation Debt/Purposes.	(Public)
Sponsors:	Senators Clodfelter; Carpenter, Dannelly, Reeves, and Stevens.	
Referred to:	Finance.	

February 24, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-536 reads as rewritten:

"**§ 160A-536. Purposes for which districts may be established.**

(a) Purposes. – The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

(1) Beach erosion control and flood and hurricane protection works.

(1a) Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter.

(2) Downtown revitalization projects.

(2a) Urban area revitalization projects.

(2b) Transit-oriented development projects.

(3) Drainage projects.

(3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.

(3b) Lighting at interstate highway interchange ramps.

(4) Off-street parking facilities.

(5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) Downtown Revitalization Defined. – As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a ~~municipal~~ service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city whose population exceeds 150,000 according to the most recent annual population statistics certified by the State Planning Officer and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.

(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.

(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.

(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(c1) Transit-Oriented Development Defined. – As used in this section, the term 'transit-oriented development' includes the provision within a public transit area of any service or facility listed in this subsection. A public transit area is an area within a one-fourth mile radius of any passenger stop or station located on a mass transit line. A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

The following services and facilities are included in the definition of 'transit-oriented development' if they are provided within a transit area:

(1) Any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section.

(2) Passenger stops and stations on a mass transit line.

(3) Parking facilities and structures associated with passenger stops and stations on a mass transit line.

(4) Any other service or facility, whether public or public-private, that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

SECTION 2. G.S. 159I-30(a) reads as rewritten:

"(a) Authorization. – Any unit of local government may borrow money for the purpose of financing or refinancing its cost of the acquisition or construction of a project and may issue special obligation bonds and notes, including bond anticipation notes and renewal notes, pursuant to the provisions of this section and the applicable provisions of this Chapter for this purpose. ~~As used in this section, the term 'project' has the meaning provided in G.S. 159I-3 and also includes any of the following as defined~~

~~in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.~~"

SECTION 3. G.S. 159I-30(g) reads as rewritten:

"(g) Definitions. – ~~As used~~ The following definitions apply in this section:

(1) ~~"Credit facility" means an~~Credit facility. – An agreement entered into by the unit with a bank, a savings and loan ~~association or other banking institution,~~association, or another banking institution; an insurance company, a reinsurance company, a surety ~~company or other~~company, or another insurance ~~institution,~~ institution; a corporation, an investment banking ~~firm or other~~ firm, or another investment ~~institution,~~ institution; or any financial ~~institution~~ institution, providing for prompt payment of all or any part of the principal, or purchase price (whether at maturity, presentment, or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the unit agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement; the provider of any credit facility may be located either within or without the United States of America.

(2) ~~"Par formula" means any~~ Par formula. – Any provision or formula adopted by the unit to provide for the adjustment, from time to time of the interest rate or rates borne by any bonds or notes including:

a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible;

b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time; or

c. Any other provision as the unit may determine to be consistent with this section and the applicable provisions of this Chapter and does not materially and adversely affect the financial position of the unit and the marketing of the bonds or notes at a reasonable interest cost to the unit.

(3) Project. – Any of the following:

a. A project as defined in G.S. 159I-3.

b. Any of the following as defined in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.

c. With respect to a city, any service or facility authorized by G.S. 160A-536 and provided in a municipal service district.

(g1) Credit Facility. – The obligation of a unit of local government under a credit facility to repay any drawing thereunder may be made payable and otherwise secured, to the extent applicable, as provided in this section."

SECTION 4. G.S. 160A-543 reads as rewritten:

"**§ 160A-543. Bonds authorized.**

A city may ~~issue its general obligation bonds under the Local Government Bond Act~~ incur debt under general law to finance services, facilities or functions provided within a service district. If a proposed general obligation bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts."

SECTION 5. This act is effective when it becomes law.

SENATE BILL 137:
Special Obligation Debt/Purposes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Clodfelter
Date:	July 17, 2003	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 137 does two things:

- ***It would authorize municipalities to define a service district for transit-oriented development.***
- ***It would expand local governments' existing authority to issue special obligation bonds for solid waste, water, and sewer projects to projects within a municipal service district.***

The bill would become effective when it becomes law.

CURRENT LAW:

Municipal Service Districts. – A city may define an area as a service district in order to finance, provide, or maintain for the district one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided, or maintained for the entire city:

- Beach erosion control and flood and hurricane protection works.
- Any service, facility, or function which the municipality may be law provide, such as placement of utility wiring underground and placement of specially designed street signs, so long as the district's boundaries are the same as the boundaries of an historic district.
- Downtown revitalization projects.
- Urban area revitalization projects.
- Drainage projects.
- Sewage collection and disposal systems.
- Lighting at interstate highway interchange ramps.
- Off-street parking facilities.
- Watershed projects.

A city may levy property taxes within defined service districts in addition to those levied throughout the city in order to finance, provide, or maintain for the district services provided. The rate, when added to the rate levied city wide, may not exceed $1.50 per $100 valuation.

Special Obligation Bonds. – In 1989, the General Assembly authorized local governments to issue special obligation bonds to finance solid waste management projects. Last session, in S.L. 2001-238, the General Assembly expanded this authority to include the financing of water and sewer projects. A special obligation bond does not require a vote of the people because it does not pledge the taxing power or full faith and credit of the government issuing the bond. A solid waste special obligation bond must be secured by a pledge of designated nontax revenues. The nontax revenues can be fees or can be taxes that are levied by another unit of government and shared with the local government that proposes to issue the special obligation bonds. For example, a city can pledge its share of local sales and use taxes because the county levies those taxes. A county can pledge landfill fees or State-shared tax revenue, such as deed stamp tax revenue.

BILL ANALYSIS:

Municipal Service Districts. – Section 1 of Senate Bill 137 would enable a city to finance, provide, and maintain services and facilities within a one-fourth mile radius of a mass transit line in addition to or to a greater extent than those financed, provided, or maintained for the entire city. It does so by adding **transit-oriented development projects** to the list of services and facilities for which a service district may be created. The bill defines a "transit-oriented development project" as any of the following services and facilities if they are provided within a one-fourth mile radius of any passenger stop or station located on a mass transit line.

- Any service or facility that could be provided as part of a downtown revitalization project. Those services and facilities may include improvements to street lighting, streets, sidewalks, and rights-of-ways, as well as the construction of pedestrian walkways.
- Passenger stops and stations.
- Parking facilities and structures associated with passenger stops and stations on a mass transit line.
- Any other service or facility that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

Special Obligation Bonds. – Sections 2 and 3 of Senate Bill 137 authorizes cities to issue special obligation bonds for any service or facility for which the city could define a municipal service district so long as the service or facility is in fact provided by the city in a municipal service district. Currently, cities may issue special obligation bonds only for solid waste, water, and sewer projects. This bill would enable them to issue special obligation bonds for many other varied services and projects:

- Beach erosion control and flood and hurricane protection works.
- Any service, facility, or function which the municipality may be law provide, such as placement of utility wiring underground and placement of specially designed street signs, so long as the district's boundaries are the same as the boundaries of an historic district.
- Downtown revitalization projects.
- Urban area revitalization projects.
- Drainage projects.
- Sewage collection and disposal systems.
- Lighting at interstate highway interchange ramps.
- Off-street parking facilities.
- Watershed projects.
- Transit-oriented projects.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 137 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1241
PROPOSED COMMITTEE SUBSTITUTE H1241-CSLC-106 [v.1]

7/17/2003 8:37:53 AM

Short Title: ESC Surtax Delay. (Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO DELAY THE REENSTATEMENT OF THE 20% UNEMPLOYMENT INSURANCE SURTAX.

SECTION 1. G.S. 96-9(b)(3)j. reads as rewritten:

"j. A tax is imposed upon contributions at the rate of twenty percent (20%) of the amount of contributions due. The tax is due and payable at the time and in the same manner as the contributions. The tax does not apply in a calendar year if, as of August 1 of the preceding year, either of the following conditions was met: (i) the amount in the Reserve Fund equals or exceeds one hundred sixty-three million three hundred forty-nine thousand dollars ($163,349,000), which is one percent (1%) of taxable wages for calendar year ~~1984.~~1984, or (ii) the balance in the Unemployment Insurance Fund established by G.S. 96-6(a) is five hundred million dollars ($500,000,000) or less. The collection of this tax, the assessment of interest and penalties on unpaid taxes, the filing of judgment liens, and the enforcement of the liens for unpaid taxes is governed by the provisions of G.S. 96-10 where applicable. Taxes collected under this subpart shall be credited to the Employment Security Commission Reserve Fund, and refunds of the taxes shall be paid from the same Fund. Any interest or penalties collected on unpaid taxes shall be credited to the Special Employment Security Administration Fund, and any interest or penalties refunded on taxes imposed by this subpart shall be paid from the same Fund."

SECTION 2. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1241 PCS DATE July 17, 2003

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) C Wilson
(Sen.)

1 moves to amend the bill on page 1, line 27
2 ( ) WHICH CHANGES THE TITLE
3 by adding the following at the end of the line:
4
5 "This act is repealed for taxes
6 imposed in the 2005 and subsequent
7 calendar years."
8
9
10
11
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13
14
15
16
17
18
19

SIGNED _____

ADOPTED ✓ (my amt) FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H

HOUSE BILL 1241

Short Title:	Reform Bill Lee Act.	(Public)
Sponsors:	Representative Luebke.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 24, 2003

A BILL TO BE ENTITLED

AN ACT TO REFORM THE BILL LEE ACT AND RELATED ECONOMIC DEVELOPMENT INCENTIVES.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

HOUSE BILL 1241 (PCS): ESC Surtax Delay

BILL ANALYSIS

Committee: House Finance
Date: July 17, 2003
Version: Draft

Sponsor: Rep. Paul Luebke
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The proposed committee substitute delays the automatic triggering of the 20% ESC surtax until after the recently doubled ESC tax refills the Unemployment Insurance Fund to the level of $500 million.

This act delays the reimposition of the 20% unemployment surtax until the regular unemployment insurance tax, which doubled in 2003, replenishes the State Unemployment Insurance Fund ("Trust Fund") to the level of $500 million.

The 20% unemployment insurance surtax proceeds are credited to the Employment Security Commission Reserve Fund ("Reserve Fund"), which bolsters the Trust Fund. The surtax was suspended in 1992 with an automatic trigger that would reinstate it when the Reserve Fund balance fell below $163 million. The Reserve Fund balance has fallen to the point that the 20% surtax would be triggered on for 2004, if not for this bill.

The regular unemployment insurance tax is also subject to a trigger. When the balance in the Trust Fund goes above $800 million, the tax is automatically cut in half. After a number of years of paying the tax at this half rate, employers began paying at the full rate in 2003. The tax will remain at the full rate until the Trust Fund again reaches $800 million, thereby triggering the half rate.

This bill provides that the 20% surtax will remain off as long as the Trust Fund balance is at or below $500 million. When the regular unemployment insurance tax replenishes the Trust Fund to $500 million, then the 20% surtax will be triggered on to start refilling the Reserve Fund. When the Reserve Fund reaches $163 million, the surtax will trigger back off.

Background: Unemployment insurance taxes are paid by employers on a quarterly basis and deposited into the State Unemployment Insurance Trust Fund. After deducting any refunds payable from the Fund pursuant to G.S. 96-10(f), the money is deposited with the secretary of the treasury of the United States to the credit of this State's account in the Unemployment Trust Fund. Funds in the State's account earn interest that is also credited to the account. As money in the State's account is needed to pay benefits, it is transferred to the State and credited to the benefits account of the State's Unemployment Insurance Fund to be used to pay benefits to people who lose their job through no fault of their own. Federal law prohibits transfer of or payment of refunds from money in the Trust Fund.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: July 17, 2003

TO: House Finance Committee

FROM: Dave Crotts
Fiscal Research Division

RE: PCS for HB 1241-R and D Tax Credit and ESC Surtax Delay

FISCAL IMPACT ($Mil.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	-	-	-$15.2	-$15.9	-

PRINCIPAL DEPARTMENT AFFECTED: Department of Commerce and Department of Revenue. The enactment of the bill should not affect the budget requirements of either department.

EFFECTIVE DATE: The new alternative research and development credit will be effective for research expenses incurred on or after July 1, 2005 and is repealed after December 31, 2006.

ISSUE BACKGROUND: Under the current Bill Lee Act (tax incentives for industry recruitment) there is a credit for research and development expenditures. There are two alternative credits available to taxpayers: (1) a credit of 5% of the increase in research and development expenses that are apportioned to North Carolina (2) a credit of 25% of the State's apportioned share of the federal alternative incremental credit (start-up companies).

BILL SUMMARY: **Research and Development Tax Credit**. The bill moves the State research and development credit out of the Bill Lee Act and allows taxpayers the option of using the existing credit system (incremental credit or alternative credit) or a new restructured credit. The new credit makes contains the following features:

- The credit is no longer limited to just certain types of businesses.
- The taxpayer must still satisfy requirements relating to wage standard, health insurance, environmental impact, and safety and health programs.
- The credit may not exceed 50% of tax, with a 15-year carryforward.
- The new credit is a flat rate for qualified North Carolina research expenses, based on federal definitions of this term.

The structure for the new credit is as follows:

- Small business (annual gross receipts below $1 million): 3%.
- Research conducted in Tier 1, 2, or 3 (distress tiers under Bill Lee Act): 3%.
- Other research costs: 1%
- Research payments to N.C. research university payments: additional credit of 15%.

ESC Surtax Delay. Under current law a 20% unemployment insurance surtax is scheduled to go into effect January 1, 2004 due to the balance in the unemployment reserve fund dropping to under $163 million. The bill delays the imposition of the surtax until the balance in the regular unemployment insurance fund reaches $500 million.

ASSUMPTIONS AND METHODOLOGY: **Research and Development Tax Credit**. Data compiled by the Department of Revenue from a review of the tax returns of taxpayers taking the existing credit indicates usage of $8.0 million per year. There were 216 applications for the credit in 2000 and 141 in 2001. These numbers may differ from the number of taxpayers taking the credit due to the fact that the credit can be taken against either the franchise or the income tax.

The Department of Commerce staff, in conjunction with the Department of Revenue, has reviewed the tax returns for the largest 25 taxpayers taking the current R & D credit. These companies generated 77% of the R & D credit for 1999-2001. From the tax return detail supplied by these companies Commerce was able to simulate the impact of the new credit.

For other potential users the starting point in developing a simulation was a National Science Foundation survey of R & D spending for 1988. The data is compiled by state but is not broken down in enough detail to allow an industry-specific calculation of the impact of the credit. . To achieve this end, Commerce "sensitized" the NSF data by using information from the 1997 Economic Census of the Census Bureau (U.S. Department of Commerce) and wage data from the N. C. Employment Security Commission. This enabled the creation of industry average of research and development spending. In addition, Commerce discussed research activity with the universities across the state.

The Department of Commerce, in cooperation with the Department of Revenue, determined from a review of tax returns that companies applying for the R & D credit are able to use 32% of the credit. This usage rate was applied to the categories of the new credit.

After the potential credits were calculated under the new system, it was determined that the additional annual revenue loss would be $12.2 million if all taxpayers were to use the new credit. However, the ability of a taxpayer to choose between the existing credit system and the new credit adds $3.0 million to the cost of the bill. The $15.2 million increase in the cost of the R & D credit is conservative in light of the fact that the analysis was based on a structure that allowed larger credits for increased increments of expenditures in the "other research costs" portion of the credit schedule.

The new credit is effective for eligible research expenditures made on or after July 1, 2005. Thus, the first impact will be for the 2005-06 fiscal year, based on 2005 tax returns (the credit is taken in the year of the activity). The credit sunsets after December 31, 2006 so the 2006-07 fiscal year is the last year affected.

ESC Surtax Delay. This portion of the bill affects the reserve fund in the unemployment insurance system. Thus, it has no direct impact on state or local revenues or expenditures.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1241 A BILL TO BE ENTITLED AN ACT TO REFORM THE BILL LEE ACT AND RELATED ECONOMIC DEVELOPMENT INCENTIVES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 464

Finance Committee Substitute Adopted 7/15/03

Short Title: Managing Debt Capacity. (Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE AND THE CAPITAL PROJECTS PRIORITY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"**§ 142-100. Purpose.**

The purpose of this Article is to provide tools for sound debt management by providing an annual debt affordability study to establish guidelines for maintaining prudent debt levels and by establishing a system for prioritizing State capital needs when the needs exceed the State's capacity for new debt.

"**§ 142-101. Debt Affordability Advisory Committee.**

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and two appointed members, as follows:

(1) The State Treasurer.

(2) The Secretary of Revenue.

(3) The State Budget Officer.

(4) The State Auditor.

(5) The State Controller.

(6) A member of the public appointed by the President Pro Tempore of the Senate.

(7) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State Treasurer shall provide space for the Committee to meet. The Department shall also

provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(d) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by February 1 of each year.

"**§ 142-102. Capital Projects Priority Committee.**

(a) Membership. – The Capital Projects Priority Committee is created in the Department of State Treasurer. The Committee shall consist of six ex officio members or their designees and four appointed members, as follows:

(1) The State Treasurer.
(2) The Secretary of Administration.
(3) The State Budget Officer.
(4) The State Controller.
(5) The Chair of the Board of Governors of The University of North Carolina.
(6) The Chair of the State Board of Community Colleges.
(7) A Senator appointed by the President Pro Tempore of the Senate.
(8) A Representative appointed by the Speaker of the House of Representatives.
(9) A member of the public appointed by the President Pro Tempore of the Senate.
(10) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The State Treasurer shall provide space for the Committee to meet. The State Treasurer shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Capital Projects Priority Committee shall develop a scoring system as a tool to assist the Governor and the General Assembly in evaluating priorities for capital projects supported by General Fund revenues. The Committee shall

update the system annually based on changing conditions as well as input from the public and from State agencies. The scoring system shall include two categories of criteria for evaluating capital projects: critical criteria and strategic criteria. Points shall be assigned to each criterion. Critical criteria include consideration of danger to life and health, legal liability, binding prior commitments, and other similar criteria identified by the Committee. Strategic criteria include consideration of the following:

(1) The need for the project (i) as a necessary component of identifiable State programs or policies, (ii) to address longer term safety issues, or (iii) to improve services to citizens,

(2) The extent to which the project will benefit citizens of the entire State rather than just a part of the State.

(3) The extent to which the project is supported by user revenue or non-State funding.

(4) Whether the project is necessary for maintenance and repair of existing capital facilities.

(5) The extent to which the project will improve operating efficiencies.

(6) Any other strategic criteria identified by the Committee.

(d) Reports. – The Committee shall report its scoring system as well as its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by November 1 of each year."

SECTION 2. From funds appropriated to the Department of State Treasurer for the 2003-2005 fiscal biennium, the State Treasurer shall allocate the amounts necessary to implement the provisions of this act.

SECTION 3. This act is effective when it becomes law.

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 17, 2003 – 8:30 P.M.

The House Committee on Finance met on Thursday, July 17, 2003 at 8:30 pm in Room 544 of the Legislative Office Building for a specially called meeting. While attendance was limited, a clear quorum was present for the transaction of Committee business. The following members were present: Chairpersons Howard, McComas, and Wainwright; Vice-Chairs Decker, Gibson, and Hill; Representatives Blackwood, Capps, Ellis, Hackney, Jones, Lewis, McGee, Munford, Weiss, Womble, and Wood; and Ex-Officio member, Representative Brubaker. Staff persons present included Jim Klingler and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as attachments 1 and 2.

Chairman Wainwright called the meeting to order at 8:30 pm. As the first matter of business, Chairman Wainwright accepted a motion from Representative Howard that the Proposed Committee Substitute for **HB 204 – UNION COUNTY OCCUPANCY TAX** (see attachment 3) be adopted by the Committee for the purposes of future discussion on the bill (to be conducted at a later date). The motion carried without objection and the PCS for HB 204 was officially presented to the Committee.

Chairman Wainwright then recognized Representative Adams for reconsideration of **HB 860 – DETECTOR DOG TRAINERS** (see attachment 4). Representative Adams reminded the members that the bill was initially before the Committee during the July 16, 2003 meeting, wherein a motion for a favorable report to the PCS failed. Representative Adams also informed the members that she had a new PCS drafted that incorporated the amendments adopted during the July 16th meeting. Representative Womble was recognized by the Chair to move that the new PCS for HB 860 be adopted for the purposes of discussion. His motion carried without objection. Chairman Wainwright then reminded the members that the bill was in the Finance Committee for debate on the fees associated with the bill and for no other reason. The Chair suggested that debate outside of that parameter should be addressed with the bill sponsor on the House floor. Following this, some general debate on the fiscal impact of the bill ensued. Representative Howard was then recognized and stated that Representative Adams had worked very hard on this bill, that the bill had already been approved by the House Judiciary III Committee, and that if three were concerns on the bill, there was plenty of time for them to be addressed while the bill was on the floor for debate. She then moved that HB 860 be given a favorable report as to the adopted PCS and an unfavorable report as to the original committee substitute bill. Chairman Wainwright then called the motion to a vote and it was carried by the members.

Having no further business before the Committee, Chairman Wainwright adjourned the meeting at 8:42 pm.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 204 (and related materials)
4. House Bill 860 (and related materials)

AGENDA

House Finance Committee

ATTACHMENT 1

July 17, 2003
Immediately After Session
Room 544 LOB
Chaired by: Representative Wainwright

Cochairs

Representative Gordon Allen	***Representative Danny McComas***
Representative Julia Howard	***Representative David Miner***
Representative Paul Luebke	***Representative William Wainwright***

Call to Order

Introduction of Pages

Bill:

HB 860 DETECTOR DOG TRAINERS *Rep. Adams*

Adjournment

Jason Cannon (House Finance)

From: Jason Cannon (House Finance)
Sent: Thursday, July 17, 2003 3:47 PM
Subject: SPECIAL NOTICE House Finance Committee Meets 7-17-2003, IMMEDIATELY AFTER SESSION
Importance: High

SPECIAL NOTICE – HOUSE FINANCE
HB 860 CALENDARED FOR RECONSIDERATION

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **THURSDAY, JULY 17, 2003**

TIME: **IMMEDIATELY UPON THE ADJOURNMENT OF SESSION**

LOCATION: **544 LOB**

The following bill will be reconsidered:

HB 860 – DETECTOR DOG TRAINERS – Rep. Adams

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **3:55 P.M.** on **July 17, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 17, 2003 ~ After Session

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Caldwell	Baker & Caldwell P.A.
	NCRA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 204
PROPOSED COMMITTEE SUBSTITUTE H204-CSSV-37 [v.1]

7/16/2003 4:49:48 PM

Short Title: Union Co. Occupancy Tax. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE MONROE OCCUPANCY TAX AND TO AUTHORIZE UNION COUNTY TO LEVY A ROOM OCCUPANCY TAX AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

PART 1. REPEAL MONROE OCCUPANCY TAX

SECTION 1.1. Part IV of S.L. 2001-439 is repealed.

SECTION 1.2. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, ~~Monroe,~~ Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

PART 2. AUTHORIZE UNION COUNTY OCCUPANCY TAX

SECTION 2.1. Occupancy tax. (a) Authorization and Scope. – The Union County Board of Commissioners may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 2.1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 2.1.(c) Distribution and Use of Tax Revenue. – Union County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Union County Tourism Development Authority. Except as otherwise provided in this subsection, the Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Union County and shall use the remainder for tourism-related expenditures. The Authority may, upon a two-thirds vote of the members of the Authority, change the distribution formula set out in this subsection.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2.2. Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office and for the filling of vacancies on the Authority. At least sixty percent (60%) of the members must be individuals who are affiliated with businesses that collect the tax in the county and the remainder must be individuals who are currently active in the promotion of travel and tourism in the county. The board shall appoint at least one member active in the promotion of travel and tourism from each municipality that has lodging facilities that collect the tax who is recommended by the governing board of that municipality. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Union County shall be the ex officio finance officer of the Authority.

SECTION 2.2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 2.1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 2.3. County Administrative Provisions. – G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Union, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

PART 3. EFFECTIVE DATE

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 204

Short Title:	Union Co. Local Act-2.	(Local)
Sponsors:	Representative Blackwood.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 5, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE COUNTY OF UNION.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to Union County only.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 860
Committee Substitute Favorable 7/15/03
PROPOSED COMMITTEE SUBSTITUTE H860-CSSVf-38 [v.1]

7/17/2003 3:34:20 PM

Short Title: Detector Dog Trainers. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-101(a) reads as rewritten:

"(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file an application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

CATEGORY	MAXIMUM FEE
Clinic	$150.00
Hospital	350.00
Nursing Home	150.00
Teaching Institution	150.00
Researcher	150.00
Analytical Laboratory	150.00
Dog Handler	150.00
Distributor	600.00
Manufacturer	700.00."

SECTION 2. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-102.1. Registration of persons requiring limited use of controlled substances for training purposes in certain businesses.**

(a) Definitions. – As used in this Article:

(1) 'Commercial detection service' means any person, firm, association, or corporation contracting with another person, firm, association, or corporation for a fee or other valuable consideration to place, lease, or rent a trained drug detection dog with a dog handler.

(2) 'Dog handler' means a person trained in the handling of drug detection dogs, including the care, feeding, and maintenance of drug detection dogs and the procedures necessary to train and control the behavior of drug detection dogs.

(3) 'Drug detection dog' means a dog trained to locate controlled substances by scent.

(b) Registration. – A dog handler who is not exempt from registration under G.S. 90-101 who intends to use any controlled substance included in Schedules I through VI for the limited purpose of the initial training and maintenance training of drug detection dogs shall file an application for registration with the Department of Health and Human Services and pay the applicable fee as provided in G.S. 90-101.

(c) Prerequisites for Registration. – Upon receipt of an application, the Department of Health and Human Services shall conduct a background investigation, during the course of which the applicant shall be required to show that the applicant meets all the following requirements and qualifications:

(1) That the applicant is at least 21 years of age.

(2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits:

a. Conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage;

b. Conviction of a felony or a crime involving an act of violence;

c. Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or

d. A history of addiction to alcohol or a narcotic drug;

provided that, for purposes of this subsection, conviction means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

(3) That the applicant has not been convicted of any felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(4) That the applicant has the necessary training, qualifications, and experience to demonstrate competency and fitness as a dog handler as the Department of Health and Human Services may determine by rule for all registrations to be approved by the Department.

(5) That the applicant affirms in writing that if the application for registration is approved, the applicant shall report all dog alerts to, or finds of, any controlled substance to a law enforcement agency having jurisdiction in the area where the dog alert occurs or where the controlled substance is found.

(d) Criminal Record Check. – The Department of Justice may provide a criminal record check to the Department of Health and Human Services for a person who has applied for a new or renewal registration. The Department of Health and Human Services shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Health and Human Services shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(e) Acquisition of Controlled Substances. – If the application for registration is approved, the registrant may lawfully obtain and possess controlled substances in the manner and to the extent authorized by the registration, in conformity with G.S. 90-105, other provisions of this Article, and rules promulgated by the Commission pursuant to G.S. 90-100.

(f) Record Keeping; Physical Security. – Each registrant shall keep records and maintain inventories in the manner specified in G.S. 90-104. Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. Controlled substances shall be stored in a securely locked, substantially constructed cabinet, and the storage area shall be protected by an alarm system that is continuously monitored by an alarm company central station.

(g) Disclosure of Discovery of Controlled Substances. – A dog handler shall, upon a dog alert or finding of a controlled substance, notify the State or local law enforcement agency having jurisdiction over the area where the dog alert occurs or the controlled substance is found. Before leaving the premises where the dog alert occurs or where the controlled substance is found, the dog handler shall inform law enforcement of the dog alert or the finding of a controlled substance and shall provide all relevant information concerning the dog alert or the discovery of the controlled substance.

(h) Commercial Detection Services; Dog Certification and Client Confidentiality. – Any drug detection dog utilized in a commercial detection service in this State shall first be certified by a canine certification association approved by the Department of Health and Human Services. Any person, including a nonresident, engaged in providing a commercial detection service in this State shall comply with the requirements of

subsection (g) of this section regarding disclosure of the discovery of controlled substances. Client records of a dog handler who provides a commercial detection service for controlled substances shall be confidential unless the dog handler is required to report a dog alert or finding of a controlled substance in the course of a search, the records are lawfully subpoenaed, or the records are obtained by a law enforcement officer pursuant to a court order, a search warrant, or an exception to the search warrant requirement.

(i) Notice of Disclosure Requirement. – A dog handler shall provide conspicuous written notice to clients at the dog handler's place of business and in the contract for services stating that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

Any person who contracts with a dog handler to provide commercial drug detection services shall provide conspicuous written notice to any person whose person or property may be subject to search stating that the premises is subject to search and that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.

(j) The Department of Health and Human Services shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this section involving individuals registered or applying to be registered under this section. The Department or the Commission may deny, suspend, or revoke a registration issued under this section if it is determined that the applicant or registrant has:

(1) Made any false statement or given any false information in connection with any application for a registration or for the renewal or reinstatement of a registration.

(2) Violated any provision of this Article.

(3) Violated any rule promulgated by the Department of Health and Human Services or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to the authority contained in this Article.

(k) This section does not apply to law enforcement agencies, to dog handlers and drug detection dogs that are employed or under contract to law enforcement agencies, or to other persons who are exempt from registration under G.S. 90-101(c)(5)."

SECTION 3. Pursuant to G.S. 90-100, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may adopt temporary and permanent rules relating to the acquisition, possession, and security of controlled substances by persons registered under the provisions of G.S. 90-102.1, as enacted by this act. The Department of Health and Human Services may adopt temporary and permanent rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1, as enacted by this act.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 860

Committee Substitute Favorable 7/15/03

Short Title: Detector Dog Trainers. (Public)

Sponsors:

Referred to:

April 7, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-101(a) reads as rewritten:

"(a) Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs. An applicant for registration shall file ~~an~~ application for registration with the Department of Health and Human Services and submit the required fee with the application. The categories of applicants and the maximum fee for each category are as follows:

CATEGORY	MAXIMUM FEE
Clinic	$150.00
Hospital	350.00
Nursing Home	150.00
Teaching Institution	150.00
Researcher	150.00
Analytical Laboratory	150.00
Dog Handler	150.00
Distributor	600.00
Manufacturer	700.00."

SECTION 2. Article 5 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-102.1. Registration of persons requiring limited use of controlled substances for training purposes in certain businesses.**

(a) Definitions. – As used in this Article:

(1) 'Commercial detection service' means any person, firm, association, or corporation contracting with another person, firm, association, or corporation for a fee or other valuable consideration to place, lease, or rent a trained drug detection dog with a dog handler.

(2) 'Dog handler' means a person trained in the handling of drug detection dogs, including the care, feeding, and maintenance of drug detection dogs and the procedures necessary to train and control the behavior of drug detection dogs.

(3) 'Drug detection dog' means a dog trained to locate controlled substances by scent.

(b) Registration. – A dog handler who is not exempt from registration under G.S. 90-101 who intends to use any controlled substance included in Schedules I through VI for the limited purpose of the initial training and maintenance training of drug detection dogs shall file an application for registration with the Department of Health and Human Services and pay the applicable fee as provided in G.S. 90-101.

(c) Prerequisites for Registration. – Upon receipt of an application, the Department of Health and Human Services shall conduct a background investigation, during the course of which the applicant shall be required to show that the applicant meets all the following requirements and qualifications:

(1) That the applicant is at least 21 years of age.

(2) That the applicant is of good moral character and temperate habits. The following shall be prima facie evidence that the applicant does not have good moral character or temperate habits:

a. Conviction of any crime involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage;

b. Conviction of a felony or a crime involving an act of violence;

c. Conviction of a crime involving unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude; or

d. A history of addiction to alcohol or a narcotic drug;

provided that, for purposes of this subsection, conviction means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury.

(3) That the applicant has not been convicted of any felony involving the illegal use, possession, sale, manufacture, distribution, or transportation of a controlled substance, drug, narcotic, or alcoholic beverage.

(4) That the applicant has the necessary training, qualifications, and experience to demonstrate competency and fitness as a dog handler as the Department of Health and Human Services may determine by rule for all registrations to be approved by the Department.

(5) That the applicant affirms in writing that if the application for registration is approved, the applicant shall report all dog alerts to, or

finds of, any controlled substance to a law enforcement agency having jurisdiction in the area where the dog alert occurs or where the controlled substance is found.

(d) Criminal Record Check. – The Department of Justice may provide a criminal record check to the Department of Health and Human Services for a person who has applied for a new or renewal registration. The Department of Health and Human Services shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Department of Health and Human Services shall keep all information pursuant to this subsection privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Department of Justice may charge each applicant a fee for conducting the checks of criminal history records authorized by this subsection.

(e) Acquisition of Controlled Substances. – If the application for registration is approved, the registrant may lawfully obtain and possess controlled substances in the manner and to the extent authorized by the registration, in conformity with G.S. 90-105, other provisions of this Article, and rules promulgated by the Commission pursuant to G.S. 90-100.

(f) Record Keeping; Physical Security. – Each registrant shall keep records and maintain inventories in the manner specified in G.S. 90-104. Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. Controlled substances shall be stored in a securely locked, substantially constructed cabinet, and the storage area shall be protected by an alarm system that is continuously monitored by an alarm company central station.

(g) Disclosure of Discovery of Controlled Substances. – A dog handler shall, upon a dog alert or finding of a controlled substance, notify the State or local law enforcement agency having jurisdiction over the area where the dog alert occurs or the controlled substance is found. Before leaving the premises where the dog alert occurs or where the controlled substance is found, the dog handler shall inform law enforcement of the dog alert or the finding of a controlled substance and shall provide all relevant information concerning the dog alert or the discovery of the controlled substance.

(h) Commercial Detection Services; Dog Certification and Client Confidentiality. – Any drug detection dog utilized in a commercial detection service in this State shall first be certified by a canine certification association approved by the Department of Health and Human Services. Any person, including a nonresident, engaged in providing a commercial detection service in this State shall comply with the requirements of subsection (g) of this section regarding disclosure of the discovery of controlled substances. Client records of a dog handler who provides a commercial detection

service for controlled substances shall be confidential unless the dog handler is required to report a dog alert or finding of a controlled substance in the course of a search, the records are lawfully subpoenaed, or the records are obtained by a law enforcement officer pursuant to a court order, a search warrant, or an exception to the search warrant requirement.

(i) The Department of Health and Human Services shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoing or violations of this section involving individuals registered or applying to be registered under this section. The Department or the Commission may deny, suspend, or revoke a registration issued under this section if it is determined that the applicant or registrant has:

(1) Made any false statement or given any false information in connection with any application for a registration or for the renewal or reinstatement of a registration.

(2) Violated any provision of this Article.

(3) Violated any rule promulgated by the Department of Health and Human Services or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services pursuant to the authority contained in this Article.

(j) This section does not apply to law enforcement agencies, to dog handlers and drug detection dogs that are employed or under contract to law enforcement agencies, or to other persons who are exempt from registration under G.S. 90-101(c)(5)."

SECTION 3. Pursuant to G.S. 90-100, the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services may adopt temporary and permanent rules relating to the acquisition, possession, and security of controlled substances by persons registered under the provisions of G.S. 90-102.1, as enacted by this act. The Department of Health and Human Services may adopt temporary and permanent rules relating to the training and qualifications for dog handlers and the certification of drug detection dogs subject to the provisions of G.S. 90-102.1, as enacted by this act.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 860:
Detector Dog Trainers.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Adams
Date:	July 16, 2003	**Summary by:**	Trina Griffin*
Version:	PCS for 2nd Edition		Committee Counsel
	H860-CSSVf-38 (v.1)		

SUMMARY: ***House Bill 860 amends the Controlled Substances Act to provide for the registration of persons who train and maintain dogs used to detect the presence of illegal narcotics.***

The Proposed Committee Substitute adds two notice provisions as follows:

- ***A dog handler would be required to provide conspicuous written notice to clients stating that the dog handler is required by law to report to law enforcement any dog alert or finding of a controlled substance.***
- ***Any person contracting with a dog handler would be required to provide conspicuous notice to any person who may be the subject of a search that the premises is subject to search and that the dog handler is required by law to notify law enforcement of any dog alert or finding of a controlled substance.***

THIS BILL WAS GIVEN A FAVORABLE REPORT IN HOUSE JUDICIARY III, AND HAS BEEN REFERRED TO FINANCE BECAUSE IT CREATES A NEW FEE FOR THE REGISTRATION OF DOG HANDLERS WHO WORK WITH DOGS USED TO DETECT CONTROLLED SUBSTANCES.

CURRENT LAW: G.S. 90-95 makes it unlawful to manufacture, sell or deliver, or possess any controlled substance except as authorized by the Controlled Substances Act set out in Article 5 of Chapter 90 of the General Statutes. G.S. 90-101 requires that every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities register annually with the North Carolina Department of Health and Human Services, and pay the registration fee set by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) for the category to which the applicant belongs. An applicant must file an application for registration with the Department of Health and Human Services and submit the required fee with the application. Exceptions are provided for law enforcement officers acting within the course and scope of official duties and for medical practitioners licensed in North Carolina. A separate registration is required at each principal place of business, research or professional practice where the registrant manufactures, distributes, dispenses or uses controlled substances, and the Department of Health and Human Services is authorized to inspect the establishment of a registrant, applicant for registration, or practitioner in accordance with rules adopted by the Commission.

BACKGROUND: The N.C. Division of Mental Health, Developmental Disabilities and Substance Abuse Service's Regulatory Unit has assumed the following positions with regard to applicants who wish to possess controlled substances for use in the training and maintenance of detector dogs:

- The N.C. Administrative Code links state registration to possess controlled substances to the federal Drug Enforcement Administration (DEA) registration process, and a State registrant is required to provide evidence of federal registration to conduct research with controlled substances.
- G.S. § 90-111 requires the North Carolina Department of Health and Human Services and the Attorney General of North Carolina to ***"cooperate with federal and other State agencies in discharging their responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances."***
- Registration to possess controlled substances for the purpose of training drug-detection dogs should be granted only to entities that are a branch of law enforcement or have a direct affiliation with law enforcement, and any business/individual authorized to possess controlled substances in connection with the training or use of drug-detection dogs should report all incidents of drug detection to law enforcement.
- The integrity of the public interest is a key concern. G.S. §90-102 (a) requires that the Department of Health and Human Services register an applicant to manufacture or distribute controlled substances ***"unless it determines that the issuance of such registration is inconsistent with the public interest."*** The State has taken the position that confidential drug searches for businesses and individuals that allow anyone other than law enforcement to determine how to dispose of detected narcotics, is not consistent the public interest. In determining the public interest, the statute requires consideration of the following:

  (1) Maintenance of effective controls against diversion of any controlled substances and any substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

  (2) Compliance with applicable federal, State and local law;

  (3) Prior conviction record of applicant, its agents or employees under federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

  (4) Past experience in the manufacture of controlled substances, and the existence in the establishment or facility of effective controls against diversion; and

  (5) Any factor relating to revocation, suspension, or denial of past registrations, licenses, or applications under this or any other State or federal law;

  (6) Such other factors as may be relevant to and consistent with the public health and safety.

BILL ANALYSIS: House Bill 860 amends the Controlled Substances Act to permit the registration of dog handlers who train and maintain dogs used to detect the presence of illegal narcotics. The maximum fee for a dog handler registration with the Department of Health and Human Services (DHHS) would be $150. Prior to approval of a dog handler's application for registration, DHHS would be required to conduct a background investigation that would include a criminal records check. The bill authorizes the Department of Justice to conduct a criminal records check and to charge the applicant a fee. Once registered, the dog handler would be permitted to lawfully obtain and possess specified amounts of controlled substances for the limited purpose of the initial training and maintenance training of drug detection dogs, subject to rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

Each registered dog handler would be required to keep records and maintain inventories in conformance with federal and State law. The bill requires that all controlled substances be stored in a securely locked cabinet located in an area protected by a monitored alarm system. Dogs to be used in commercial detection services must first be certified by a canine certification association approved by DHHS. When conducting searches, a dog handler, including a nonresident, would be required to contact State or local local law enforcement authorities to report any dog alerts or finds of controlled substances. DHHS has the authority to investigate any complaints, and where violations are found may deny, suspend, or revoke a registration. Registration requirements do not apply to law enforcement agencies, or to dog handlers employed or under contract with law enforcement.

The bill provides for the adoption of temporary and permanent rules to carry out the purposes of the act. The act would be effective when it becomes law.

Brenda Carter, committee counsel for House Judiciary III, contributed substantially to this summary.

H860-SMSV-003

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 860 (Second Edition)

SHORT TITLE: Detector Dog Trainers

SPONSOR(S): Representative Adams

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES	**See Assumptions and Methodology**				
EXPENDITURES	**See Assumptions and Methodology**				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services – Division of Mental Health, Developmental Disabilities and Substance Abuse ; Department of Justice

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the Department of Health and Human Services (DHHS) to register dog handlers who train and maintain dogs used to detect the presence of illegal narcotics. The maximum annual registration fee of $150 allows the dog handler to lawfully obtain and possess specified amounts of controlled substances for the training of dogs. DHHS currently registers dog handlers through administrative rules for an annual fee of $125. The applicant for the registration required in this proposed bill must pay the Department of Justice for a criminal background check and must keep records and maintain inventories in conformance with federal and state laws.

ASSUMPTIONS AND METHODOLOGY:

Revenue

DHHS has no estimate of the number of new registrants it will receive upon the passage of this bill. The Division of Mental Health, Developmental Disabilities and Substance Abuse's Regulatory Unit currently has 22 persons registered as researchers who are associated with dogs

for narcotics detection. Of these 22, sixteen are with police departments and six are considered agents for law enforcement.

The proposed statutory changes would exempt law enforcement agencies and dog handlers that are employed or under contract to law enforcement agencies from registration and fee requirements. Currently, law enforcement agencies and their contracted dog trainers are exempted through administrative rules. Despite qualifying for the exemption from administrative rules, the 22 persons currently registered (*see previous paragraph*) voluntarily register and pay the existing fee of $125.00.

Based on existing practices, these 22 law enforcement agents and agencies will likely continue to register and pay the fee under the proposed statutory language changes, regardless of exemption. It is unclear how many new dog handlers would register as a result of the proposed legislation. As a result, additional revenues were not estimated.

Expenditures

The Division of Mental Health, Developmental Disabilities and Substance Abuse's Regulatory Unit has six employees that handle 2,400 registrants. The unit collected $398,250 in fees in FY 2002-03 and spent $353,091 for six personnel that include four inspectors, one supervisor, and one clerical position. The unit receives about 10 new registrants a month that require an inspection. Dog handlers would be another duty added to their workload. Since there is no estimate on the number of dog handler registrants, it is unknown whether the current staff can perform the inspections in a timely manner.

Proposed 90-102.1(d) deals with criminal record background checks. Since the applicant or licensee pays the State Bureau of Investigation (SBI) for the criminal record check, there is no fiscal impact on the DHHS. The SBI is able to accommodate some increase in background checks within its existing staffing level. If the increase in workload due to new record checks is greater than the unit's capacity, the SBI could seek authorization from the Office of State Budget and Management for an additional position supported by the receipts collected from the applicants/ licensees.

SOURCES OF DATA: Department of Health and Human Services

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic and Jim Klingler

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: July 16, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 860 A BILL TO BE ENTITLED AN ACT TO AMEND THE REGISTRATION REQUIREMENTS AND FEES TO ENGAGE IN CERTAIN ACTIVITIES WITH CONTROLLED SUBSTANCES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (# 2), ☐ ~~which changes the title,~~ unfavorable as to ~~(the original bill)~~ Committee Substitute Bill # 1. ~~and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

2003

HOUSE FINANCE

SECOND EXTRA SESSION

DECEMBER 9

COMMITTEE MINUTES

North Carolina General Assembly

House Committee on Finance

2003 Second Extra Session on Economic Development

Minutes

~

December 9, 2003 – 5:30 P.M.

The House Committee on Finance met on Tuesday, December 9, 2003 at 5:30 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McCombs, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, Jackson Stancil, and Bill Sullivan. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, Linda Millsaps, and Martha Walston. The Visitor Registration Sheet is attached and incorporated into these minutes as attachment 1. Representative Hackney approached the Clerk prior to the beginning of the meeting and asked that it be noted that he would not be voting on the matters discussed pursuit to Rule 24 (a)-1.

Chairman Miner called the meeting to order at 5:35 pm and recognized Representative Owens to explain **HB 2 – JOB GROWTH AND INFRASTRUCTURE ACT** (see **attachment 2**), sponsored by Representative G. Allen. Following a brief explanation, Chairman Miner recognized Representative Weiss who then inquired as to Section 1.2 (c) of the bill, lines 4-7, which exempted the economic projects outlined in the bill from the environmental reporting specifications that all actions involving public expenditures and public lands must customarily adhere to. Chairman Miner then recognized Mr. Dan Whittle with Environmental Defense who stated his opposition to this section of the bill noting that since public monies would be spent in the bill, then the State Environmental Policy Act (SEPA) should apply. He stated that passing this exemption as a part of the bill would serve as a poor precedent for the future. Representative Gibson, however, was then recognized by the Chair and explained that this exemption had already been offered to other developments in the State (i.e. prisons) and that not allowing the exemption would significantly delay the construction process. Representative Weiss then sent forth and moved adoption of an amendment deleting lines 4-7 on page 5 of the bill (see **attachment 3**). This amendment would remove the exemption from SEPA, as noted above. Discussion also ensued as to whether projects of this nature were considered public or private ventures. Following some additional discussion from the members as well as Secretary of Commerce Jim Fain, Representative Weiss then acted to withdraw her amendment from the Committee's consideration.

Representative Luebke was then recognized by Chairman Miner and addressed the Committee members on the conditions of the State's displaced textile mill workers. A member of the public, Mr. Robert Neal of Kannapolis, was present and described the ailing conditions of

communities (such as Cabarrus and Rowan Counties) affected by the many textile job losses in North Carolina.

Representative Weiss was recognized next to send forward another amendment (see **attachment 4**). She explained that the amendment adds a provision to the bill that would require any developments under the bill to provide health insurance to its employees. She noted the Department of Commerce expressed no concerns with the amendment and then moved adoption of the amendment. Chairman Miner then called the vote and the amendment was adopted without objection.

Chairman Miner then recognized Representative Weiss to send forth her next amendment (see **attachment 5**). This amendment added a provision to the bill that no company receiving incentives under the bill could receive safety and health citations from OSHA. She then moved adoption of the amendment and it was adopted by consent.

Representative Weiss was once again recognized to send forth another amendment (see **attachment 6**). This amendment, similar to her prior amendment, requires that a company receiving incentives under the bill not be involved with any pending (or within the last five years) "administrative, civil, or criminal enforcement violations" with the Department of Environment and Natural Resources. Following this explanation, Representative Weiss moved adoption of the amendment and it was adopted without opposition.

To send forth a final amendment (see **attachment 7**), Chairman Miner again recognized Representative Weiss. This amendment prohibits a business from receiving incentives under this bill at any time if the business has received "a notice of overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved." Representative Weiss noted that the Department of Commerce had no objection to the amendment and moved its adoption. Seeing no discussion, Chairman Miner then called the amendment to a vote and it was adopted without objection.

Representative Wilson was recognized next to send forth an amendment (see **attachment 8**). She explained that the purpose of the amendment was to add a section in the bill that requires that businesses are only eligible for incentives for job creation under the bill if the business "can demonstrate a net increase in its employment level in this State over the 12-month period preceding the beginning of the taxable year." Given that the nature of the amendment was "material" because it affects the tax liabilities of corporations in the state, Chairman Miner informed the members of the Committee that if the amendment was adopted it would require a roll call vote on the House floor in order to be passed into law. Following some further discussion, the Chair called the vote and the amendment was not adopted.

Chairman Miner then recognized Representative Howard to send forth an amendment (see **attachment 9**). She, as well as Secretary of Commerce Fain, explained that the amendment, overall, acts to ensure that job growth within *divisions* of companies in the State. As there was no discussion on the amendment, Chairman Miner then called the vote. The amendment failed.

Representative Creech was recognized next to send forth his amendment (see **attachment 10**). He then explained that the intent of the amendment was to reduce the corporate income tax beginning after 2004 from 6.9% to 6.0%. He stated his opinion that this amendment was a more fair approach to economic incentives than the current bill under consideration. Chairman Miner, however, ruled the amendment out of order since it did not adhere to the rules adopted by the House (see page 2, section 5 (b)) for the special session nor did it adhere to the provisions of the Governor's proclamation.

Chairman Miner then recognized Representative Wainwright to send forth an amendment (see **attachment 11**). He explained that the amendment removes the section of the bill that exempts companies from having to meet the requirements of the public purchasing contract law. Representative Wainwright then moved adoption of his amendment. Seeing no discussion, Chairman Miner then called the amendment to a vote and it was adopted.

Representative Luebke was recognized next to send forth an amendment (see **attachment 12**) and immediately moved its adoption. He explained that the primary intent of the amendment was to delete Part 5 of the bill, which extends the cigarette export tax credit for an additional 13 years. He noted that this extension could possibly be in violation of the policies of the World Trade Organization international trade agreements because it potentially represents an unfair subsidy being offered to only North Carolina's cigarette manufacturers. He also stated his opinion that it is "wrong" for the State to offer tax credits to companies who are not providing the majority of their jobs within North Carolina. Chairman Miner then recognized Representative Owens who stated his opposition to the amendment in that it would cause an immediate loss of jobs in the State. Representative Wilson supported the amendment because it singles out only one industry while there are many other industries that would like to benefit from the bill but cannot. Representative Womble opposed the amendment because of the many job losses that would result if the amendment were adopted. Representative Decker concurred with Representative Womble's position. Following this discussion, division on the amendment was called, and by a vote of 10 yes and 14 no, the amendment failed.

Chairman Miner again recognized Representative Howard to send forth another amendment (see **attachment 13**). She explained that the amendment basically creates an "either or" tax credit. She noted that the amendment would allow cigarette companies in the state to take only one tax credit: either the current tax credit or a different credit based upon an increase in employment and use of the State's ports. She clearly noted that the amendment would allow only one of the two credits to be claimed and then moved its adoption. Representative Ross voiced her support of Representative Howard's amendment. Following some other brief clarifying discussion, Chairman Miner called the vote and the amendment was adopted.

Representative Howard was again immediately recognized by the Chair to send forth another amendment (see **attachment 14**). She explained that the amendment simply changes the base year, used for measurement of the amount of cigarette exportation, from 1998 to 2003. Eugene Ainsworth, a lobbyist for R.J. Reynolds Tobacco Co., was present to speak on the amendment. Mr. Ainsworth offered no objection to the amendment. As there was no further discussion on the amendment, Chairman Miner called the vote on the amendment and it was adopted.

Chairman Miner then recognized Representative McComas to send forth an amendment (see **attachment 15**). The purpose of the amendment, as explained by Representative McComas, is to require the cigarette companies in the State benefiting from the tax credit extension (as described in Part 5 of the bill) to use the ports of North Carolina exclusively for their "waterborne" exports. Following some discussion, Representative McComas then moved the adoption of his amendment. The Chair then called the matter to a vote and the amendment was adopted.

Representative Wainwright was then recognized by the Chair and made a motion for reconsideration of his amendment adopted earlier in the meeting, citing that this amendment (upon further inspection) created some unintended circumstances. The motion carried and Representative Wainwright then immediately acted to withdraw the amendment from the Committee's consideration. He then sent forth a new amendment (see **attachment 16**), which qualified that the public purchasing contract law (as discussed in his initial amendment) would apply only when public

funds are expended. As there was no discussion on the amendment, the Chair called the vote and the amendment was adopted.

Chairman Miner then immediately recognized Representative Howard. She then made the motion that HB 2 – Job Growth and Infrastructure Act be given a favorable report, as amended, giving the Committee Staff authority to make conforming changes to the bill as necessary and be re-referred to the Committee on Appropriations (see **attachment 17**). Following some brief discussion, Chairman Miner called the motion to a vote and the motion carried by a majority of the members present.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 7:30 pm.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Visitor Registration Sheet
2. HB 2 (DRH90016-LC-165T) – Job Growth and Infrastructure Act (and related materials)
3. Amendment by Representative Weiss (handwritten) *withdrawn*
4. Amendment by Representative Weiss (ALC-50) *adopted*
5. Amendment by Representative Weiss (ALC-51) *adopted*
6. Amendment by Representative Weiss (ALC-52) *adopted*
7. Amendment by Representative Weiss (ALC-53) *adopted*
8. Amendment by Representative C. Wilson (handwritten) *failed*
9. Amendment by Representative Howard (handwritten) *failed*
10. Amendment by Representative Creech (ALC-56) *ruled out of order*
11. Amendment by Representative Wainwright (handwritten) *initially adopted, later reconsidered and withdrawn*
12. Amendment by Representative Luebke (ALA-33) *failed – 10 yes/14 no*
13. Amendment by Representative Howard (ARB-65) *adopted*
14. Amendment by Representative Howard (ARB-93) *adopted*
15. Amendment by Representative McComas (ASV-33) *adopted*
16. Amendment by Representative Wainwright (handwritten) *adopted*
17. Committee Report on HB 2

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003 EXTRA SESSION ON ECONOMIC DEVELOPMENT ISSUES

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, December 9, 2003**

TIME: **5 minutes after the House stands in Recess**

LOCATION: **544 LOB**

The following will be considered:

HB2 JOB GROWTH AND INFRASTRUCTURE ACT **Rep. G. Allen**

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **5:10 P.M.** on **December 9, 2003**.

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 1

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — December 9, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Rowe	NC Justice Center
Ray Riffe	NC State AFL-CIO
Bernetha Brown	UNITE Staff
Robert Neal	Pillowtex Worker
Amin Emmery Mohammed	Fayetteville State Alumni
RICHARD HARKRADER	CAROLINA GREEN ENERGY
Betty Turner	Bank of America
Leslie Bevacqua	NCCBI
Leanne Winner	NCSBdo
S Markham	NCSPA
Chessey Porter	Smith Anderson

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — December 9, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE ADAMS & BERNSTEIN
Charles Rayna l	Parker Poe Adams & Bernstein
Jack Cozort	Parker Poe
MAC WILLIAMS	NCEDA
DAVE Porter	Asheville Chamber of Commerce
LARRY KEEN	NC Community College System
[illegible]	NCCCS
[illegible]	TRG
JOHN PEERSON	NCEDA
Richard Wiley	Duke Power / NCEDA
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — December 9, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	Durham Co. Attorney
Paul Meyer	NCACC
[signature]	Durham Cnty. Government
Stephanie McGarrah	NC DOC
Reid Hartzog	NC DOC
James Vigen	NC Synod/ELCA office of Advocacy
Paula A. Wolf	Covenant w/ NC's Children
Alan Dalisio	City of Durham
Ted Conner	Durham Chamber of Commerce
Elizabeth Stoeber	City of Durham
[signature]	N. Ofc of Representatives

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — December 9, 2003

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	Capitol Group
Elizabeth Dalton	Bone + Associates
[illegible]	ID, AL, PA
Jeanne Bonds	Electri Cities of NC
Lawrence Bivins	Evensong Communications, LTD
Pam Morgan	NFIB
Cam Cover	BPMHL
Don Carrington	Duke
CHARLES HAYES	RTRP

GENERAL ASSEMBLY OF NORTH CAROLINA
SECOND EXTRA SESSION 2003

H D

HOUSE DRH90016-LC-165T (11/05)

Short Title: Job Growth and Infrastructure Act. (Public)

Sponsors: Representative G. Allen.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE THE FOLLOWING CHANGES RECOMMENDED BY THE GOVERNOR: (1) APPROPRIATE TWENTY-FIVE MILLION DOLLARS FOR INDUSTRIAL SITE INFRASTRUCTURE FOR MAJOR PROJECTS; (2) MODIFY THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; (3) PROVIDE INCENTIVES FOR MAJOR PHARMACEUTICAL AND BIOPROCESSING FACILITIES BY EXTENDING THE BILL LEE ACT SUNSET FOR THESE INDUSTRIES AND AUTHORIZING SALES TAX REFUNDS FOR CONSTRUCTION MATERIALS FOR THESE INDUSTRIES; AND (4) EXTEND THE SUNSET ON THE CIGARETTE EXPORTATION TAX CREDIT.

The General Assembly of North Carolina enacts:

PART 1. MAJOR INDUSTRIAL SITE INFRASTRUCTURE

SECTION 1.1. Part 2 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"**§ 143B-437.02. Site infrastructure development.**

(a) Findings. – The General Assembly finds that:

(1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.

(2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its

citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.

(3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this section that is designed to stimulate new economic activity and to create new jobs within the State.

(4) The enactment of this section is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina and this section will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.

(5) The purpose of this section is to stimulate economic activity and to create new jobs within the State.

(b) Fund. – The Site Infrastructure Development Fund is created as a restricted reserve in the Department of Commerce. The Department may use the funds in the fund only in accordance with this section for site development. Funds in the fund do not revert but remain available to the Department for these purposes.

(c) Definitions. – The definitions in G.S. 143B-437.51 apply in this section. In addition, the following definitions apply in this section:

(1) Department. – The Department of Commerce.

(2) Site development. – Any of the following:

a. A restricted grant or a forgivable loan made to a business to enable the business to acquire land, improve land, or both.

b. A grant to one or more State agencies or nonprofit corporations to enable the grantees to acquire land, improve land, or both and to lease the property to a business.

c. A grant to one or more local government units to enable the units to acquire land, improve land, or both and to lease the property to a business.

(d) Eligibility. – To be eligible for consideration for site development for a project, a business must meet both of the following conditions:

(1) The business will invest at least one hundred million dollars ($100,000,000) of private funds in the project.

(2) The project will employ at least 100 new employees.

(e) Selection. – The Department of Commerce shall administer the selection of projects to receive site development. The selection process shall include the following components:

(1) Criteria. – The Department of Commerce must develop criteria to be used to identify and evaluate eligible projects for possible site development.

(2) Initial evaluation. – The Department must evaluate major competitive projects to determine if site development is merited and to determine whether the project is eligible and appropriate for consideration for site development.

(3) Application. – The Department must require a business to submit an application in order for a project to be considered for site development. The Department must prescribe the form of the application, the application process, and the information to be provided, including all information necessary to evaluate the project in accordance with the applicable criteria.

(4) Committee. – The Department must submit to the Economic Investment Committee the applications for projects the Department considers eligible and appropriate for consideration for site development. In evaluating each application, the Committee must consider all of the factors set out in Section 2.1(b) of S.L. 2002-172.

(5) Findings. – In order to recommend a project for site development, the Committee must make all of the following findings:

a. The conditions for eligibility have been met.

b. Site development for the project is necessary to carry out the public purposes provided in subsection (a) of this section.

c. The project is consistent with the economic development goals of the State and of the area where it will be located.

d. The affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project.

e. The price and nature of any real property to be acquired is appropriate to the project and not unreasonable or excessive.

f. Site development under this section is necessary for the completion of the project in this State.

(6) Recommendations. – If the Committee recommends a project for site development, it must recommend the amount of State funds to be committed, the preferred form and details of the State participation, and the performance criteria and safeguards to be required in order to protect the State's investment.

(f) Agreement. – Unless the Secretary of Commerce determines that the project is no longer eligible or appropriate for site development, the Department shall enter into an agreement to provide site development within available funds for a project recommended by the Committee. Each site development agreement is binding and constitutes a continuing contractual obligation of the State and the business. The site development agreement must include all of the performance criteria, remedies, and other safeguards recommended by the Committee or required by the Department to secure the State's investment. Nothing in this section constitutes or authorizes a

guarantee or assumption by the State of any debt of any business or authorizes the taxing power or the full faith and credit of the State to be pledged.

The Department shall cooperate with the Department of Administration and the Attorney General's Office in preparing the documentation for the site development agreement. The Attorney General shall review the terms of all proposed agreements to be entered into under this section. To be effective against the State, an agreement entered into under this section must be signed personally by the Attorney General.

(g) Safeguards. – To ensure that public funds are used only to carry out the public purposes provided in this section, the Department shall require that each business that receives State-funded site development must agree to meet performance criteria to protect the State's investment and assure that the projected benefits of the project are secured. The performance criteria to be required shall include creation and maintenance of an appropriate level of employment and investment over the term of the agreement and any other criteria the Department considers appropriate. The agreement must require the business to repay or reimburse an appropriate portion of the State funds expended for the site development, based on the extent of any failure by the business to meet the performance criteria. The agreement must provide a method for securing these payments from the business, such as structuring the site development as a conditional grant, a forgivable loan, or a revocable lease.

(h) Monitoring and Reports. – The Department is responsible for monitoring compliance with the performance criteria under each site development agreement and for administering the repayment in case of default. The Department shall pay for the cost of this monitoring from funds appropriated to it for that purpose or for other economic development purposes.

Within two months after the end of each calendar quarter, the Department shall report to the Joint Legislative Commission on Governmental Operations regarding the Site Infrastructure Development Program. This report shall include a listing of each agreement negotiated and entered into during the preceding quarter, including the name of the business, the cost/benefit analysis conducted by the Committee during the application process, a description of the project, and the amount of the site development incentive expected to be paid under the agreement during the current fiscal year. The report shall also include detailed information about any defaults and repayment during the preceding quarter. The Department shall publish this report on its web site and shall make printed copies available upon request."

SECTION 1.2.(a) There is appropriated from the General Fund to the Site Infrastructure Development Fund in the Department of Commerce the sum of twenty-five million dollars ($25,000,000) for the 2003-2004 fiscal year to be used only in accordance with G.S. 143B-437.02, as enacted by this part.

SECTION 1.2.(b) There is appropriated from the General Fund to the Department of Commerce the sum of sixty-five thousand dollars ($65,000) for the 2004-2005 fiscal year for a program administrator for the site infrastructure development program created by this part. It is the intent of the General Assembly that funds for administering this program shall be part of the Department of Commerce's continuation budget.

SECTION 1.2.(c) Site development funded by money appropriated under this section is not subject to Article 8 of Chapter 143 of the General Statutes (public contracts) or Article 3 of Chapter 143 of the General Statutes (purchases and contracts). Actions involving expenditures of public moneys or use of public lands for projects and programs involved in site development funded by money appropriated under this section are exempt from the requirements of Article 1 of Chapter 113A of the General Statutes. This exemption does not apply to an ordinance adopted under G.S. 113A-8.

SECTION 1.3. G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(12) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Site Infrastructure Development Program under G.S. 143B-437.02."

SECTION 1.4. G.S. 143B-437.54(c) reads as rewritten:

"(c) Conflict of Interest. – It is unlawful for a current or former member of the Committee to, while serving on the Committee or within two years after the end of service on the Committee, provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that is awarded a grant under this Part or under G.S. 143B-437.02 while the member is serving on the Committee. Violation of this subsection is a Class 1 misdemeanor. In addition to the penalties imposed under G.S. 15A-1340.23, the court shall also make a finding as to what compensation was received by the defendant for services in violation of this section and shall order the defendant to forfeit that compensation.

If a person is convicted under this section, the person shall not provide services for compensation, as an employee, consultant, or otherwise, to any business or a related member of the business that was awarded a grant under this Part or under G.S. 143B-437.02 while the member was serving on the Committee until two years after the person's conviction under this section."

SECTION 1.5. This part is effective when it becomes law.

PART 2. JOB DEVELOPMENT INVESTMENT GRANT CHANGES

SECTION 2.1. G.S. 143B-437.51 reads as rewritten:

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

...

(2) Base years. – The first ~~two complete calendar years~~ 24 months following the ~~effective date of an agreement.~~date set by the Committee for performance to begin under the agreement.

...

(5a) Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3."

SECTION 2.2. G.S. 143B-437.52 is amended by adding a new subsection to read:

"(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The designation contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related entity of the business."

SECTION 2.3. G.S. 143B-437.53(d) is repealed.

SECTION 2.4. G.S. 143B-437.54(d) reads as rewritten:

"(d) Public Notice. – At least 20 days before the effective date of any criteria or nontechnical amendments to criteria, the Committee must publish the proposed criteria on the Department of Commerce's web site and provide notice to persons who have requested notice of proposed criteria. In addition, the Committee must accept oral and written comments on the proposed criteria during the 15 business days beginning on the first day that the Committee has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment.

~~The Committee shall do all of the following at least 15 business days prior to the adoption of or amendment to any proposed criteria:~~

~~(1) Publish the proposed criteria on the Department of Commerce's web site.~~

~~(2) Provide notice to persons who have requested notice of proposed criteria.~~

~~(3) Accept oral and written comments on the proposed criteria.~~"

SECTION 2.5. G.S. 143B-437.56(b) reads as rewritten:

"(b) The term of the grant shall not exceed 12 years starting with the first year a grant payment is made. The first grant payment must be made within six years after the date on which the grant was awarded."

SECTION 2.6. This part is effective when it becomes law.

PART 3. EXTEND BILL LEE CREDITS FOR CERTAIN MAJOR INDUSTRIES

SECTION 3.1. G.S. 105-129.2 is amended by adding a new subdivision to read:

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

...

(8a) Eligible major industry. – A taxpayer is an eligible major industry for the purposes of this Article if the taxpayer is primarily engaged in one

of the industries listed in G.S. 105-164.14(j)(3) and the Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars ($100,000,000) of private funds to acquire, construct, and equip a facility in this State to engage in one or more of those industries."

SECTION 3.2. G.S. 105-129.2A reads as rewritten:

"**§ 105-129.2A. Sunset; studies.**

(a) Sunset. – This Article is repealed effective for business activities that occur on or after January 1, 2006.

(a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this section, in the case of an interstate air courier that enters into a real estate lease on or before January 1, 2006, with an airport authority that provides for the lease of at least 100 acres of real property with a lease term in excess of 15 years, this Article is repealed effective for business activities that occur on or after January 1, 2010.

(a2) Sunset for Eligible Major Industries. – Notwithstanding subsection (a) of this section, in the case of a taxpayer that qualifies as an eligible major industry on or before January 1, 2006, this Article is repealed effective for business activities that occur on or after January 1, 2010.

(b) Equity Study. – The Department of Commerce shall study the effect of the tax incentives provided in this Article on tax equity. This study shall include the following:

(1) Reexamining the formula in G.S. 105-129.3(b) used to define enterprise tiers, to include consideration of alternative measures for more equitable treatment of counties in similar economic circumstances.

(2) Considering whether the assignment of tiers and the applicable thresholds are equitable for smaller counties, for example those under 50,000 in population.

(3) Compiling any available data on whether expanding North Carolina businesses receive fewer benefits than out-of-State businesses that locate to North Carolina.

(c) Impact Study. – The Department of Commerce shall study the effectiveness of the tax incentives provided in this Article. This study shall include:

(1) Study of the distribution of tax incentives across new and expanding industries.

(2) Examination of data on economic recruitment for the period from 1994 through the most recent year for which data are available by county, by industry type, by size of investment, and by number of jobs, and other relevant information to determine the pattern of business locations and expansions before and after the enactment of the William S. Lee Act incentives.

(3) Measuring the direct costs and benefits of the tax incentives.

(4) Compiling available information on the current use of incentives by other states and whether that use is increasing or declining.

(d) Report. – The Department of Commerce shall report the results of these studies and its recommendations to the General Assembly biennially with the first report due by April 1, 2001."

SECTION 3.3. G.S. 105-129.4(b1) reads as rewritten:

"(b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under this Article becomes eligible for the large investment enhancements provided for credits under this Article if the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least one hundred fifty million dollars ($150,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this ~~State,~~State and in the case of an eligible major industry, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within the applicable period, the taxpayer forfeits the large investment enhancements as provided in subsection (d) of this section."

SECTION 3.4. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit for the calendar year in which the taxpayer engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to timely make the required level of investment under subsection (b1) of this section. If an eligible major industry fails to timely make the required level of investment under G.S. 105-129.2(8a), the taxpayer forfeits all credits allowed under this Article that it would not otherwise have been eligible for if it were not an eligible major industry. A taxpayer forfeits the credit for substantial investment in other property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the number of required new jobs or to timely make the required level of investment under subsection (b5) of this section. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs

for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed."

SECTION 3.5. G.S. 105-129.5(c) reads as rewritten:

"(c) Carryforward. – Any unused portion of a credit with respect to a large investment, with respect to the technology commercialization credit allowed in G.S. 105-129.9A, or with respect to substantial investment in other property under G.S. 105-129.12A may be carried forward for the succeeding 20 years. Any unused portion of a credit with respect to research and development activities under G.S. 105-129.10 may be carried forward for the succeeding 15 years. Any unused portion of a credit may be carried forward for the succeeding 10 years if, before the taxpayer claims the credit, the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase or lease, and place in service in connection with the eligible business within a two-year period, at least fifty million dollars ($50,000,000) worth of one or more of the following: real property, machinery and equipment, or central office or aircraft facility property. In the case of an interstate air courier that has or is constructing a hub in this ~~State,~~State and in the case of an eligible major industry, this investment may be placed in service in connection with the eligible business within a seven-year period. If the taxpayer fails to make the required level of investment within the applicable period, the taxpayer forfeits this enhanced carryforward period. Any unused portion of any other credit may be carried forward for the succeeding five years."

SECTION 3.6. G.S. 105-129.8(d) reads as rewritten:

"(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. In the case of an interstate air courier that has or is constructing a hub in this ~~State,~~State and in the case of an eligible major industry, the applicable time period is seven years. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the applicable commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the applicable period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection."

SECTION 3.7. G.S. 105-129.9(e) reads as rewritten:

"(e) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to place specific eligible machinery and equipment in service in an area within two years after the date the letter is signed may, in the year the eligible machinery and equipment are placed in service in that area, calculate the credit for

which the taxpayer qualifies based on the area's enterprise tier and development zone designation for the year the letter was signed. In the case of an interstate air courier that has or is constructing a hub in this ~~State,~~State and in the case of an eligible major industry, the applicable time period is seven years. All other conditions apply to the credit, but if the area has been redesignated to a higher-numbered enterprise tier or has lost its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not place part or all of the specified eligible machinery and equipment in service within the applicable period, the taxpayer does not qualify for the benefit of this subsection with respect to the machinery and equipment not placed in service within the applicable period. However, if the taxpayer qualifies for a credit in the year the eligible machinery and equipment are placed in service, the taxpayer may take the credit for that year as if no letter of commitment had been signed pursuant to this subsection."

SECTION 3.8. It is the intent of the General Assembly that the provisions of this part not be expanded. If a court of competent jurisdiction holds any provision of this part invalid, the section containing that provision is repealed. The repeal of a section of this part under this section does not affect other provisions of this part that may be given affect without the invalid provision.

SECTION 3.9. This part becomes effective for taxable years beginning on or after January 1, 2004.

PART 4. MAJOR INDUSTRIAL FACILITY SALES TAX REFUNDS

SECTION 4.1. G.S. 105-164.14 is amended by adding a new subsection to read:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

(1) Refund. – The owner of an eligible facility is allowed an annual refund of sales and use taxes paid by it under this Article on building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

(2) Eligibility. – A facility is eligible under this subsection if it meets both of the following conditions:

a. It is primarily engaged in one of the industries listed in this subsection.

b. The Secretary of Commerce has certified that the owner of the facility will invest at least one hundred million dollars ($100,000,000) of private funds to acquire, construct, and equip the facility in this State.

(3) Industries. – This subsection applies to the following industries:

a. Bioprocessing. Bioprocessing means biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.

b. Pharmaceutical and medicine manufacturing. Pharmaceutical and medicine manufacturing means any of the following:

1. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.

2. Processing botanical drugs and herbs by grading, grinding, and milling.

3. Isolating active medicinal principals from botanical drugs and herbs.

4. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

(4) Forfeiture. – If the owner of an eligible facility does not make the required minimum investment within five years after the first refund under this subsection with respect to the facility, the facility loses its eligibility and the owner forfeits all refunds already received under this subsection. Upon forfeiture, the owner is liable for tax under this Article equal to the amount of all past taxes refunded under this subsection, plus interest at the rate established in G.S. 105-241.1(i), computed from the date each refund was issued. The tax and interest are due 30 days after the date of the forfeiture. A person that fails to pay the tax and interest is subject to the penalties provided in G.S. 105-236."

SECTION 4.2. It is the intent of the General Assembly that the provisions of this part not be expanded. If a court of competent jurisdiction holds any provision of this part invalid, the section containing that provision is repealed. The repeal of a section of this part under this section does not affect other provisions of this part that may be given affect without the invalid provision.

SECTION 4.3. This part becomes effective January 1, 2004, and applies to sales made on or after that date.

PART 5. CIGARETTE EXPORTATION TAX CREDIT

SECTION 5.1. Section 10 of S.L. 1999-333 reads as rewritten:

"**Section 10**. Sections 2, 3, and 4 of this act are effective for taxable years beginning on or after January 1, 1999. Sections 5 through 8 of this act become effective December

1, 1999, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law. Section 4 of this act is repealed effective for cigarettes exported on or after January 1, ~~2005.~~2018."

SECTION 5.2. This part is effective when it becomes law.

HOUSE DRAFT BILL 2003-LC-165T: Job Growth & Infrastructure Act

BILL ANALYSIS

Committee:		**Sponsor:**	Rep. G. Allen
Date:	December 9, 2003	**Analysis by:**	Martha H. Harris
Version:	Draft		Staff Attorney

SUMMARY: This bill would make the following economic development changes:

- ***Appropriate $25 million to a nonreverting fund to be used for site infrastructure for major industrial projects, effective when the bill becomes law.***
- ***Make various changes to the Job Development Investment Grant (JDIG) program, effective when the bill becomes law.***
- ***Extend the Bill Lee Act sunset and other deadlines for major pharmaceutical manufacturing and bioprocessing facilities, effective beginning in 2004.***
- ***Authorize annual sales tax refunds for construction materials for major pharmaceutical manufacturing and bioprocessing facilities, effective January 1, 2004.***
- ***Extend the sunset on the cigarette exportation tax credit from 2005 to 2018.***

Major Industrial Site Infrastructure

Part 1 of the bill would create a nonreverting Site Infrastructure Development Fund in the Department of Commerce to fund site acquisition and development and other capital expenses related to major industrial development. The bill would appropriate $25 million to the new Fund for the 2003-2004 fiscal year. A Site Infrastructure Development incentive may be in the form of a restricted grant or forgivable loan directly to a business or a grant to a government or nonprofit agency to administer the incentive.

Projects built with this appropriation are exempted from State construction requirements, State purchase and contract requirements, and from the part of the State Environmental Policy Act that requires detailed environmental impact statements when public funds or public lands are used for projects and programs significantly affecting the quality of the environment.

Eligible businesses may apply for site development incentives. To qualify for a site development incentive, a business must employ at least 100 new fulltime employees and invest at least a $100 million of private funds in the project. The Department of Commerce and the Economic Investment Committee[1] will administer the selection

[1] The Economic Investment Committee, which administers the JDIG program, is a five-member committee consisting of the Secretary of Commerce, the Secretary of Revenue, the Director of the Office of State Budget

process, including developing appropriate criteria for evaluating applicants. Section 1.3 of the bill exempts them from rulemaking procedures in administering this program. Site development incentives can be awarded only if necessary to secure the project in this State. The before approving an application, the Committee must find that the price to be paid for the site is appropriate and not excessive. Section 1.4 of the bill provides that the JDIG conflict of interest restrictions will apply to the site infrastructure development program as well.

Once an incentive is awarded, the Department will enter into an agreement with the business to provide site development within available funds. The agreement is binding on both parties. The agreement must include performance criteria, remedies, and other safeguards to protect the State's investment. The Attorney General must review and approve each agreement.

After a site development incentive is in effect, the Department of Commerce is responsible for monitoring the business's compliance with performance criteria and for carrying out the clawback process if there is a default. Section 1.2(b) of the bill appropriates $65,000 to Commerce for the 2004-2005 fiscal year to support a position to carry out this function. These funds are intended to become part of the Department's continuing budget.

The Department of Commerce is required to report quarterly to Governmental Operations on the details of the program, including projects that receive incentives and any defaults and repayments. This report must also be made available to the public.

Job Development Investment Grant Changes

Part 2 of the bill makes several changes to the JDIG program. These changes would be effective when the bill becomes law.

Section 2.2 provides that, in determining whether a business has increased or maintained employment, the Committee can decide to look at a division or unit of a business rather than the entire business. Choosing this option means that if the entire business decreases employment, it may still qualify for a grant for a division or unit within the business that increases employment. The Committee can choose this option only if it is necessary to secure the project and the contract contains terms to assure that the business does not create eligibility by transferring existing jobs to the project.

Section 2.3 of the bill repeals the wage standard as it applies to the JDIG program. This proposal arises due to several concerns. First, at the time a business applies for a JDIG grant, the wages to be paid are just projections. Second, the law has been interpreted to require the jobs to meet not only the current wage standard, but also future wage standards, which can fluctuate annually. This creates a great deal of uncertainty as to the prospect of actually receiving a grant in future years of the contract. Third, while there is no wage standard for tiers one and two and the wage standard is set below the county average for prosperous tier five counties, the mid-range counties must meet the actual county average. With sudden and severe dislocation, the wage standard may

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and Management, one member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, and one member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate

block incentives for a project that would be vital to economic recovery for a county suffering from dislocation of manufacturing industries. Finally, because grants are awarded at the discretion of the Committee, the Committee can use its judgment to assure that grants are not awarded to inappropriate, low-wage projects.

Sections 2.1, 2.4, and 2.5 are more technical. Section 2.1 clarifies that the base period for measuring performance under a grant agreement can be any 24 months starting when performance begins – it is not limited to calendar years. Section 2.1 also adds the definition of enterprise tier to the statute. Section 2.4 clarifies the procedure for publication and public comment on proposed changes to the JDIG criteria. Section 2.5 clarifies that payments under a grant can begin on a future date after it is awarded, as long as they begin within six years.

Extend Bill Lee Credits for Certain Major Industries

In 2002, the General Assembly extended the sunset date on the Bill Lee Act until January 1, 2010, for certain interstate air couriers and also increased various time frames in the Bill Lee Act from two years to seven years. The rationale for these extensions was that the interstate air courier industry, and the construction of a hub in particular, face many regulatory, administrative, and legal hurdles not generally faced by other industries. Due to these extra burdens, there is generally a longer period between the time that a project is announced and a location is selected and the time the facility is placed in service.

Effective beginning with the 2004 tax year, Part 3 of the bill makes the same extensions for eligible major industries. An eligible major industry is either of the following two industries if the taxpayer will invest at least $100 million in acquiring, constructing, or equipping a facility to engage in the industry:

- Bioprocessing
- Pharmaceutical and Medicine Manufacturing

If the taxpayer does not in fact invest the required amount, it forfeits the benefits of the extensions and must repay the credits.

Major Industrial Facility Sales Tax Refunds

Part 4 of the bill creates an annual refund of State and local sales taxes paid on construction materials and fixtures for facilities that involve the investment of more than $100 million by the taxpayer and are primarily used for either of the following two industries:

- Bioprocessing
- Pharmaceutical and Medicine Manufacturing

The taxpayer must apply for the sales tax refund within six months after the end of the State's fiscal year. The refund would become effective for sales taxes paid on or after January 1, 2004. If, after obtaining a refund, the taxpayer does not end up investing the required amount, the taxpayer forfeits the refund.

Cigarette Exportation Tax Credit

Part 5 of the bill extends for thirteen years the sunset of the corporate income tax credit for manufacturing cigarettes for exportation, G.S. 105-130.45, which was

enacted in 1999. The credit is a dollar amount per cigarette exported for those manufacturers who export at least 50% as many cigarettes in the taxable year as they did in calendar year 1998. The dollar amount ranges from forty cents to twenty cents per 1,000 cigarettes exported. The credit is capped at the lesser of $6 million per year or 50% of the manufacturer's corporate tax liability for any given year. The credit is set to sunset for cigarettes exported on or after January 1, 2005. Part 5 of the bill would change the sunset to 2018.

Prior to enactment of the cigarette exportation tax credit during the 1999 Session, the issue was raised as to whether or not that tax credit would violate GATT, one of the international trade agreements. The General Assembly staff was of the opinion that the tax credit would violate GATT, while counsel for one of the four tobacco manufacturers disagreed. This issue has not been resolved, and the proposed credit in this bill presents the same issue. It is clear, however, that any challenge to either the current credit or the credit proposed in this bill must come from a foreign government. If a foreign government were to challenge the credit, then the U.S. Justice Department could sue North Carolina. If the Department were to win, the federal statute provides that relief would be prospective only and persons who had already used the credit could not be required to repay it. Private citizens have no cause of action on the issue.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: December 9, 2003

TO:

FROM: David Crotts
Fiscal Research Division

RE: HB XXX - Job Growth and Infrastructure Act

FISCAL IMPACT ($MIL.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
State General Fund					
Sales Tax Refund	--	--	-1.50	-2.26	-2.64
Bill Lee Act Sunset	--	--	--	--	-1.03
Cigarette Tax Credit	--	--	-12.00	-12.00	-12.00
Total	--	--	-13.50	-14.26	-15.67
Local Government					
Sales Tax Refund	--	--	-.84	-1.40	-1.68
EXPENDITURES					
Site Infrastructure Fund	25.0				
Program Administrator		.07			
Total	25.0	.07			

PRINCIPAL DEPARTMENTS AFFECTED: Department of Commerce

BILL SUMMARY:

Major Industrial Site Infrastructure. Appropriates $25 million to a non-reverting Site Infrastructure Development Fund in the Department of Commerce. The proceeds of the Fund must be used to finance site acquisition and development and other capital expenses related to a business that will invest at least $100 million of private funds in a project and create at least 100 new jobs. In addition, local governments must agree to provide appropriate incentives for the project. The disbursement of the proceeds of the Fund may be in the form of a restricted grant or forgivable loan directly to a business or a grant to a government or nonprofit agency to administer the incentive.

The Department of Commerce and the Economic Investment Committee will administer the selection process, including developing appropriate criteria for evaluating applicants. Site development incentives can be awarded only if necessary to secure the project in this State.

Once an incentive is awarded, the Department will enter into an agreement with the business to provide site development within available funds. The agreement is binding on both parties. The agreement must include performance criteria, remedies, and other safeguards to protect the State's investment. The Attorney General must review and approve each agreement.

After a site development incentive is in effect, the Department of Commerce is responsible for monitoring the business's compliance with performance criteria and for carrying out the clawback process if there is a default. The bill appropriates $65,000 to Commerce for the 2004-2005 fiscal year to support a position to carry out this function. These funds are intended to become part of the Department's continuing budget.

The Department of Commerce is required to report quarterly to the Joint Legislative Commission on Governmental Operations on the details of the program, including projects made available to the public that receive incentives and any defaults and repayments.

The provision is effective when the bill becomes law.

Job Development Investment Grant Changes. The 2002 General Assembly adopted legislation that created the Job Development Investment Grant (JDIG) program. Under this program, companies selected by the Economic Investment Committee may enter into agreement with the Committee to receive back 10-75% of its state income tax withholding payments for up to 12 years. The program is limited to 15 projects per year at a maximum cost of $10 million per year in grants. The program sunsets January 1, 2005. The intent of the JDIG program was to secure industrial locations that would go elsewhere **"but for"** the incentive.

HB XXX makes numerous changes to this legislation:

a. In determining whether a business has increased or maintained employment, the Committee may look at a division or unit instead of the entire business. The Committee can choose this option only if it is necessary to secure the project and the

contract contains terms to assure that the business does not create eligibility by transferring existing jobs to the project.

b. Repeals the wage standard as it applies to the JDIG program.

c. Makes technical changes.

The JDIG changes are effective when the bill becomes law.

Extend Bill Lee Credits for Certain Major Industries. The 2002 General Assembly extended the sunset date on the Bill Lee Act until January 1, 2010, for certain interstate air couriers and allowed the minimum investment threshold to be met over seven years instead of two years.

The bill makes the same extensions for eligible major industries. An eligible major industry is any of the following two categories if the taxpayer will invest at least $100 million in acquiring, constructing, or equipping a facility to engage in the industry:

- Bioprocessing
- Pharmaceutical Manufacturing

If the taxpayer does not in fact invest the required amount, it forfeits the benefits of the extensions and must repay the credits.

These changes become effective for tax years beginning on or after January 1, 2004.

Major Industrial Facility Sales Tax Refunds. Allows an annual sales tax refund for the state and local sales tax paid on building materials, building supplies, fixtures, and equipment that become part of the real property of an eligible facility. For a facility to become eligible, the Secretary of Commerce must certify that the owner of the facility will invest at least $100 million in constructing the facility within the State and must be primarily engaged in one of the following industries:

- Bioprocessing
- Pharmaceutical manufacturing

The refund request must be made within six months following the end of the taxpayer's fiscal year.

These provisions become effective for sales tax paid on or after January 1, 2004.

Cigarette Exportation Tax Credit. The 1999 General Assembly approved legislation that provided for a corporate income tax credit for manufacturing cigarettes for exportation to a foreign country. The credit is base on the amount of export volume in the tax year, compared to 1998. The credit may not exceed $6 million per taxpayer, or 50% of the taxpayer's tax liability. Any unused credit can be carried forward for five years. However, the $6 million limit applies to the credit taken for a tax year and any carryforward. Thus,

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the $6 million is a true maximum that can be taken by the taxpayer in a given year. The credit expires on January 1, 2005

The bill would extend the current credit to January 1, 2018.

ASSUMPTIONS AND METHODOLOGY:

Major Industrial Site Infrastructure. The bill appropriates $65,000 to Commerce for the 2004-2005 fiscal year to support one position. This position will be responsible for evaluating conditions for eligibility, conducting cost benefit analyses, and putting together all the information for the Economic Investment Committee as well as serving as a point of contact for the companies receiving grants. Once grants have been awarded, this position will be responsible for monitoring compliance with performance criteria. Should there be a default of any of the performance criteria on the company's part, this position would also be responsible for ensuring repayment is made to the State.

Major Industrial Facility Sales Tax Refunds. Discussions with the Secretary of Commerce and the policy staff of the Department of Commerce indicate there is one major project that would be eligible for the refund, at the present time, if that company chose to locate in North Carolina. This project would encompass $300 million of total investment, with $200 million being for real property. The Department of Commerce, based on discussions with the client, indicates that approximately 40% of the real property will be spent on construction materials and other items subject to the state and local sales tax. The build-out period is assumed to be 3 years, starting with the 2004 tax year. It is assumed that all of the 2004 activity relating to items subject to the sales and use tax occurs in the second half of the calendar year. For 2005 and 2006 calendar year, the activity is assumed to occur at an even rate throughout the year.

It is unknown how many companies might use the incentive in future years. For purposes of this analysis it is assumed that one additional location will occur in each year, with each location involving the same dollar investment and construction schedule as the 2004 location.

Current law, state and local sales tax rates are used to determine the impacts. Thus, a 4.5% state rate is used until the 4.0% rate kicks in on July 1, 2005.

Under the bill the refunds are made annually, based on an application that is due within 6 months of the end of the state fiscal year. Thus, the 2005-06 fiscal year refunds paid would be based on July 1, 2004-June 30, 2005 sales taxes paid.

Extend Bill Lee Credits for Certain Major Industries. Discussions with the Department of Commerce (see sales tax refund methodology above) indicate that the 2004 calendar year project would involve an investment of $100 million in machinery and equipment. These acquisitions would be eligible for the 7% targeted investment tax credit, taken in equal installments over 7 years beginning in the tax year after the year of investment. For this analysis it is assumed that all of the eligible equipment is purchased during the 2006 tax

year. Thus, the credit would first be received during the 2007 tax year and would show up during the 2007-08 state fiscal year.

In addition, news reports indicate that the 2004 project would initially involve 200 jobs. Thus, the taxpayer would be eligible for the jobs credit of $500 per employee for a Tier 1 county. This credit must be taken over 4 years, beginning with the year after the activity year. It is assumed that 100% of the hiring takes place in the 2006 tax year. Thus, the credit would first be received during the 2007 tax year and would show up during the 2007-08 state fiscal year.

As in the case of the sales tax refund, this analysis assumes a similar investment in size to the 2004 project in each subsequent year, with a Tier 1 location.

Cigarette Exportation Tax Credit. The revenue estimates assume that each of the major cigarette manufacturing companies in North Carolina will use the full amount of the credit. In addition, Fiscal Research Division had discussions with the Department of Revenue and one of the affected major manufacturers.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

ATTACHMENT 3 withdrawn

(Please type or use ballpoint pen)

H. B. No. 2 DATE 12/8/03

S. B. No. _____ Amendment No. _____

(to be filled in by Principal Clerk)

Rep.) Weiss

Sen.)

moves to amend the bill on page 5, lines 4-7

by deleting those lines.

SIGNED Jennifer Weiss

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ATTACHMENT 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

_____ALC-50 [v.1]

adopted

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]

lines 37-38
on 1st Ed

Representative Weiss

moves to amend the bill on page 2, lines 39 – 40,
by adding the following between the lines and by renumbering the remaining subsections accordingly:

"(e) Health Insurance. – A business is eligible for consideration for site development under this section only if the business provides health insurance for all of the full-time employees of the project with respect to which the application is made. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a contract for site development under this section is in effect, the business must provide the Department of Commerce a certification that the business continues to provide health insurance for all full-time employees of the project governed by the contract. If the business ceases to provide health insurance to all full-time employees of the project, Department shall provide for reimbursement of an appropriate portion of the site development funds provided to the business."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-50 [v.1]

SIGNED Jennifer Ivey
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

ATTACHMENT 5

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-51 [v.1]

adopted

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]

lines 32-38
on 1st ed

Representative Weiss .

moves to amend the bill on page 2, lines 39 – 40,
by adding the following between the lines and by renumbering the remaining subsections accordingly:

"(e) Safety and Health Programs. – In order for a business to be eligible for consideration for site development under this section, the business must have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations with respect to the location for which the grant is made. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

ATTACHMENT 6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-52 [v.1]

Adopted

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]

lines 37-38 on 1st ed.

Representative Weiss

moves to amend the bill on page 2, lines 39 – 40,
by adding the following between the lines and by renumbering the remaining subsections accordingly:

"(e) Environmental Impact. – A business is eligible for consideration for site development under this part only if the business certifies that, at the time of the application, the business has no pending administrative, civil, or criminal enforcement action based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and has had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the Department of Commerce annually of every person that currently has any of these pending actions and every person that has had any of these final determinations within the last five years."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-52 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

ATTACHMENT 7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

_____ALC-53 [v.1]

Adopted

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date _____,2003

Comm. Sub. [NO]
Amends Title [NO]

Representative Weiss

(Line 41 on bill)

moves to amend the bill on page 3, line 44,
by adding the following after the period:
"Each site development agreement must contain a provision prohibiting a business from receiving a payment or other benefit under the agreement at any time when the business has received a notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise resolved."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 8

EDITION No. Draft

H. B. No. 2 DATE

S. B. No. Amendment No. (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE

(Rep.) C Wilson
Sen.)

moves to amend the bill on page 1, lines 2-3

(√) WHICH CHANGES THE TITLE

by deleting the phrase "RECOMMENDED BY THE GOVERNOR";

and on page 1, line 10, by deleting the word "AND";

and on page 1, line 11, by adding the following immediately before the period:

"AND (5) AMEND THE BILL LEE ACT";

and on page 12, line 4, by adding the following after the line:

PART 6. AMEND BILL LEE ACT

Section 6.1. GS 105-129.4 is amended by adding a new subsection to read:

"(b7) A taxpayer is eligible for the credit for creating jobs under GS 105-129.8 only if the taxpayer can demonstrate a net increase in its employment level in this State over the 12-month period preceding the beginning of the taxable year."

SIGNED Connie Wilson

ADOPTED FAILED √ (or Voice Vote) TABLED

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 9

EDITION No. _____

H. B. No. 2 DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Howard
Sen.)

moves to amend the bill on page 5, lines 43 through 44

( ) WHICH CHANGES THE TITLE

~~by~~ and page 6, lines 1 through 11, by deleting those lines;

and by renumbering the remaining sections in PART 2 accordingly.

SIGNED Julie Howard

ADOPTED _____ FAILED _____ TABLED _____

√ (on voice vote)

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ATTACHMENT 10

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

not allowed by rules / check rules out of rules

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-56 [v.1]

Date _____,2003

Comm. Sub. [NO]
Amends Title [YES]

Representative ~~C. Wilson~~ Creech

moves to amend the bill on page 1, lines 2 – 3,
by deleting the phrase "RECOMMENDED BY THE GOVERNOR";

and on page 1, line 10, by deleting the word "AND";

and on page 1, line 11, by adding the following immediately before the period:
"; AND (5) TO REDUCE THE CORPORATE INCOME TAX TO SIX PERCENT;"

and on page 12, line 4, by adding the following after the line:
"PART 6. REDUCE CORPORATE INCOME TAX

SECTION 6.1. G.S. 105-130.3 reads as rewritten:

'**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax	
In 1997	7.5%	
In 1998	7.25%	
In 1999	7%	
~~After 1999~~	~~6.9%.~~In 2000 through 2004	6.9%
After 2004	6%'	

SECTION 6.2. G.S. 115C-546.1(b) reads as rewritten:

'(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ALC-56 [v.1]

previous quarter by the Department of Revenue under G.S. 105-130.3 minus two million five hundred thousand dollars ($2,500,000). All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

Period	Fraction
10/1/97 to 9/30/98	One-fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty-ninths (2/29)
10/1/99 to 9/30/00	One-fourteenth (1/14)
~~After 9/30/00~~10/1/00 to 9/30/05	Five sixty-ninths (5/69)
After 9/30/05	One-twelfth (1/12)'

SECTION 6.3. This ~~act~~ Part is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 11

EDITION No. _____

H. B. No. _____

S. B. No. _____

COMMITTEE SUBSTITUTE _____

adopted amendment as withdrawn

DATE _____

Amendment No. _____ (to be filled in by Principal Clerk)

on 1st edition page 4 line 49 and page 5 line 1

Rep.)
)
Sen.) Wainwright

1 moves to amend the bill on page 5, line 2

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the word "not";

4

5 and on page 5, line 3

6 by deleting the word "or" and

7 substituting the word "and".

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SIGNED Rowan Wainwright

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 2

HB2 ALA-33 [v.2] failed

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date December 9 ,2003

Comm. Sub. [NO]
Amends Title [YES]

Representative Luebke

moves to amend the bill on page 1, line 5, by rewriting the line to read:
"MODIFY THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; AND (3)";

on page 1, lines 9 through 11, by rewriting those lines to read:
"REFUNDS FOR CONSTRUCTION MATERIALS FOR THESE INDUSTRIES.";

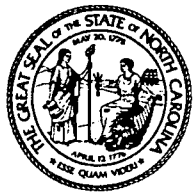
and by deleting PART 5 of the bill.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

10 yes
14 no


THE GREAT SEAL OF THE STATE OF NORTH CAROLINA
MAY 20, 1775
APRIL 12, 1776
ESSE QUAM VIDERI

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 2

AMENDMENT NO. _____
(to be filled in by Principal Clerk)

_____ARB-65 [v.1]

Adopted

Date December 9 ,2003

Comm. Sub. [NO]
Amends Title [YES]

Representative ~~Miller~~ Howard

moves to amend the bill on page 1, lines 10 by deleting the word "AND";

and on page 1, line 11, by rewriting the line to read:
"CREDIT, AND (5) CREATE AN ENHANCED TAX CREDIT FOR CIGARETTE EXPORTATION";

and on page 12, line 4, by rewriting the line to read:

"**SECTION 5.2.** G.S. 105-130.45 is amended by adding the following new subsection to read:

'(e) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.46 for the same activity.'

SECTION 5.3. This part is effective when it becomes law.

PART 6. ENHANCED CIGARETTE EXPORTATION TAX CREDIT

SECTION 6.1. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.**

(a) Definitions. – The following definitions apply in this section:

(1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.

(3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(b) Employment Level. – In order to be eligible for a full credit allowed under this section, the corporation must maintain an employment level in this State that exceeds the corporation's employment level in this State at the end of the 2004 calendar year by at least 800 full-time jobs. In the case of a successor in business, the corporation must maintain an employment level in this State that exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year by at least 800 full-time jobs. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.

(c) Credit. – A corporation that satisfies the employment level requirement under subsection (b) of this section, is engaged in the business of manufacturing cigarettes for exportation, and exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit as provided in this section. The amount of credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes exported. The amount of credit earned during the taxable year may not exceed ten million dollars ($10,000,000).

(d) Reduction of Credit. – A corporation that has previously satisfied the qualification requirements of this section but that fails to satisfy the employment level requirement in a succeeding year may still claim a partial credit for the year in which the employment level requirement is not satisfied. The partial credit allowed is equal to the credit that would otherwise be allowed under subsection (c) of this section multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds the corporation's employment level in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the case of a successor in business, the numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this

State exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year.

(e) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(f) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection (c) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(g) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(h) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

(1) A statement of the exportation volume on which the credit is based.

(2) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

(3) Any other information required by the Department of Revenue.

(i) No Double Credit. – A taxpayer may not claim this credit' and the credit allowed under G.S. 105-130.45 for the same activity.'".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ARB-65 [v.1]

SECTION 6.2. This part is effective for taxable years beginning on or after January 1, 2006, and expires for exports occurring on or after January 1, 2018."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

ORIGINAL

ATTACHMENT 14

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

93
_____ARB-~~69~~ [v.1]

adopted

Date _____,2003

Comm. Sub. [NO]
Amends Title [YES]

Representative Howard

moves to amend the bill on page 1, line 11, by adding the following immediately before the period to read:
" AND MODIFY THE BASE YEAR.";

and on page 12, line 4, by rewriting the line to read::

"**SECTION 5.2.** G.S. 105-130.45(a) reads as rewritten:

'(a) Definitions. – The following definitions apply in this section:

(1) Base year exportation volume. – The number of cigarettes manufactured and exported by a corporation during the calendar year ~~1998.~~2003.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.'

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

93
_____ARB-6~~8~~ [v.1]

SECTION 5.3. Section 5.2 of this part is effective for ~~taxable years~~ cigarettes exported ~~beginning~~ on or after January 1, 2005. The remainder of this part is effective when it becomes law.'

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 2

HB 2 ASV-33 [v.1]

adopted

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date December 9, 2003

Comm. Sub. [NO]
Amends Title [NO]

Representative McComas

moves to amend the bill on page 1, line10,
by adding after the word "ON" the phrase "AND MODIFY";
and on page 12, line 4, by ~~rewriting the line to read~~ as amended, adding the following in place of Section 5.3.:

"**SECTION 5.3.** Effective for cigarettes exported on or after January 1, 2005, G.S. 105-130.45(b), as amended by this part, reads as rewritten:

"(b) Credit. – A corporation engaged in the business of manufacturing cigarettes for exportation to a foreign country and ~~exports~~ that waterborne cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit against the taxes levied by this Part. The amount of credit allowed under this section is determined by comparing the exportation volume of the corporation in the year for which the credit is claimed with the corporation's base year exportation volume, rounded to the nearest whole percentage. The amount of credit allowed is as follows:

Current Year's Exportation Volume Compared to its Base Year's Exportation Volume	**Amount of Credit per Thousand Cigarettes Exported**
120% or more	40¢
119% – 100%	35¢
99% – 80%	30¢
79% – 60%	25¢
59% – 50%	20¢
Less than 50%	None"

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
_____ Bill _____

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

_____ASV-33 [v.1]

SECTION 5.3. Section 5.2 of this part is effective for ~~taxable years~~ beginning on or after January 1, 2005. The remainder of this part is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT ATTACHMENT 16

(Please type or use ballpoint pen)

adopted

On 1st Edition
page 5, line 1

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Wainwright
Sen.)

1 moves to amend the bill on page 5, line 3
2 ( ) WHICH CHANGES THE TITLE
3 by adding the following before the period at
4 the end:
5 "; except where public funds are expended,
6 the ~~new~~ provisions of G.S. 143-48 and
7 G.S. 143-128.2 ~~would~~ shall apply"
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SIGNED Susan Wainwright

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 2 A BILL TO BE ENTITLED AN ACT TO MAKE THE FOLLOWING CHANGES RECOMMENDED BY THE GOVERNOR: (1) APPROPRIATE TWENTY-FIVE MILLION DOLLARS FOR INDUSTRIAL SITE INFRASTRUCTURE FOR MAJOR PROJECTS; (2) MODIFY THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; (3) PROVIDE INCENTIVES FOR MAJOR PHARMACEUTICAL AND BIOPROCESSING FACILITIES BY EXTENDING THE BILL LEE ACT SUNSET FOR THESE INDUSTRIES AND AUTHORIZING SALES TAX REFUNDS FOR CONSTRUCTION MATERIALS FOR THESE INDUSTRIES; AND (4) EXTEND THE SUNSET ON THE CIGARETTE EXPORTATION TAX CREDIT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☒ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☒ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2003-2004 Standing Committees

Box Contents

Box	
5	2004 House Finance
	2004 House Finance - 3rd Extra Session, Nov. 4
	2003-2004 House Financial Institutions
	2003-2004 House Health
	2003-2004 House Insurance

2004

HOUSE FINANCE

COMMITTEE MINUTES

North Carolina General Assembly

House Committee on Finance

Minutes

~

May 20, 2004

The House Committee on Finance met on Thursday, May 20, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, Gibson, Hill, and Wood; Representatives Blackwood, Bordsen, Carney, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble; and Ex-Officio Members Representatives Brubaker and Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman Allen called the meeting to order at 8:39 am and recognized the three (3) pages present: (1) Danielle Bagley of Granville County, sponsored by Representative Crawford; (2) Lawrence Kovalcin of Watauga County, sponsored by Representative David Miner; and (3) Shannon Power of Granville County, sponsored by Representative Crawford.

Chairman Allen also made several announcements prior to consideration of the bills on the Committee's calendar. He first announced that Representative Daughtridge had recently been appointed as a member of the Finance Committee in the place of Representative McCombs, who passed away during the interim. The Chair also announced that Representative Daughtridge as well as Representative Wood had been appointed by the Co-Speakers of the House as Vice-Chairs of the Committee. He then offered them the Committee's congratulations.

As the first matter of business on the agenda, Chairman Allen recognized Representative Brubaker to explain <u>HB 1465 – ALLOW FAMILY BUSINESS TO LEASE FARMLAND</u> (see **attachment 3** for the bill and related materials). Representative Brubaker, as the bill sponsor, explained that the bill was a recommendation of the Property Tax Subcommittee of the Revenue Laws Study Committee. The bill allows farmland owned by a business entity (i.e. an L.L.C.) to keep its present-value status when the land is leased to a nonmember of the entity, as long as all members of the business entity are relatives. In addition, he noted that this land must be leased for agricultural, horticultural, and forestry purposes. Following this explanation, the Chair recognized Representative Blackwood for a question to the bill sponsor. Representative Blackwood asked Representative Brubaker if the bill applied only to land that has been traditionally farmed. Representative Brubaker responded that that was correct. Chairman Allen then recognized Representative Luebke who made a motion for a favorable report to House Bill 1465. The Chair then called the matter to a vote, and the motion carried without known objection.

Chairman Allen next recognized Representative Luebke, sponsor of **HB 1448 – NOTICE PERIOD FOR SALES AND USE TAX REFUNDS** (see **attachment 4**), to provide an explanation of the bill. Representative Luebke noted that this bill was a recommendation of the Revenue Laws Study Committee. It requires a purchaser seeking a refund of over-collected sales or use tax to provide written notice to the seller and to allow the seller 60 days to respond before the purchaser may bring a legal cause of action against the seller. Representative Luebke also noted that this bill was necessary in order to conform to the Streamlined Sales Tax Agreement. Following this explanation, Representative Luebke then moved for a favorable report on House Bill 1448. However, the Chair first recognized Representative Hackney for an inquiry. He asked why an allowance of 60 days was necessary instead of 30 days. Representative Luebke deferred to Staffperson Trina Griffin who explained that the 60 days were necessary because of, again, the Streamlined Sales Tax Agreement. Seeing no further discussion, Chairman Allen then called Representative Luebke's motion to a vote and the motion carried without known objection.

Chairman Wainwright then assumed the Chair in order for the next bill on the Committee's agenda to be considered, as Chairman Allen was the bill's sponsor. Chairman Wainwright then recognized Representative Womble who moved that the Proposed Committee Substitute (PCS) for House Bill 1227 be adopted for the Committee's consideration and the motion carried without objection. Representative G. Allen was then recognized to explain **HB 1227 – FINANCE PARKS AND HERITAGE** (see **attachment 5**). Representative Allen then yielded explanation to Secretary of the North Carolina Department of Environment and Natural Resources (NCDENR), Bill Ross. Secretary Ross, with the assistance of Staffperson Martha Harris, explained that the bill acts to authorize the State to issue or incur special indebtedness to finance the acquisition of property for two programs: (1) the Parks and Recreation Trust Fund for repairs and renovations of park facilities, capital projects, and land acquisition for the State Parks System; and (2) the Natural Heritage Trust Fund to acquire land that represents the ecological diversity of the State and land for State parks, wildlife areas, and similar public purposes. Secretary Ross noted that this bill would allow NCDENR to finance many of the lands the State needs to acquire in order to enhance parks and heritage rather than using the typical "pay-as-you-go" philosophy that the State has traditionally relied upon. He stated that the State no longer had the funds "upfront" to ensure the needs of the State Park System. Following this explanation, Chairman Wainwright recognized Representative Womble for an inquiry to the bill sponsor. Representative Womble inquired as to whether there was any opposition to the bill. Representative Allen responded that polls he had received indicated that the majority is in support of the bill. The Chair then recognized Representative Womble again following this response who moved for approval of House Bill 1227. Chairman Wainwright next recognized Representative Blackwood for a question to staff. He asked if there was a limit to the amount of debt that could be financed in the bill and Staffperson Martha Harris explained that there was a limit, referring to the bill's summary (see attachment 5). Representative Gibson was recognized next and noted his support of the bill as one of the best bills environmentally that the State of North Carolina has ever seen. Extensive discussion then ensued among the members with regard to the overall total indebtedness of the State. Representative Starnes was recognized by Chairman Wainwright and stated that he would prefer to hear from the State Treasurer's Office prior to the Committee taking a vote on the matter. Since no one from the Treasurer's office was present at that time, that office's presence before the Committee was requested immediately. Representative Starnes further stated his belief that the State continues to accumulate far too much debt at the present time, given the current state of the State and nation's economies. The Chair then recognized Representative Luebke who responded by stating that while he could certainly understand these concerns, he felt that NCDENR had made a good case for its need of this bill. He also stated his belief that the State would benefit greatly from the bill through increased tourism.

Representative Hackney was also recognized by the Chair to address Representative Starnes' concerns. Representative Hackney stated that fiscally speaking, North Carolina was in much better shape than most other states with regard to overall debt capacity. Following this, Chairman Wainwright recognized Representative McGee who stated his belief that the continued issuance of Certificates of Participation (COPs), which would act as the financing mechanism in this bill, limited the actions that future Legislators could take with regard to the State's debt capacity. Representative Hackney, however, once recognized, stated that this bill would act to finance the acquisition of land, a commodity that will only increase in value. Chairman Wainwright then recognized Chief Deputy Joe Stewart with the Office of the State Treasurer who had just arrived to address Representative Starnes' earlier inquiry as to whether the State was in a position to incur the increased debt required in this bill. Mr. Stewart informed Representative Starnes and the other members of the Committee that North Carolina's current percent of indebtedness as compared to the State's current budget totals would allow some room for the Legislature to take on additional projects requiring special financing (such as the issuance of COPs). However, Mr. Stewart also noted that while it appears to be in the State's ability to incur this additional debt, the Treasurer does not necessarily advocate that position. In addition, he stated that the indebtedness proposed in this bill would be a factor in the State's total overall fiscal rating. He also explained that the Treasurer estimates that there is approximately $300 million in indebtedness available to the State that can be borrowed without affecting the State's bond ratings. Following Mr. Stewart's response, Chairman Wainwright again recognized Representative Womble who stated he felt the bill is a good one overall – that it is good for the protection of water and air as well as tourism. He was then recognized for a motion by the Chair and moved that House Bill 1227 be given a favorable report as to the PCS and an unfavorable report as to the original bill. As there was no further discussion, Chairman Wainwright then called the motion to a vote, and the motion carried.

HB 1497 – ADOPT FLAT FEE FOR DEBT COLLECTION (see **attachment 6**) was the next bill discussed by the Committee. Chairman Allen having resumed the chair, recognized Representative Wainwright, the bill sponsor, who proceeded to explain the bill to the Committee. Representative Wainwright first noted that the bill was a recommendation of the Revenue Laws Study Committee. He stated that the bill acted to adopt a flat collection assistance fee of $5.00 for debts collected by the Department of Revenue under the Setoff Debt Collection Act. Following this brief explanation, Chairman Allen then recognized Representative Wainwright for a motion. Representative Wainwright moved that House Bill 1497 be given a favorable report. Seeing no discussion, the Chair then called the motion to a vote and it carried without objection.

Chairman Allen then recognized Representative Alexander to explain the final bill on the Committee's calendar: **HB 1356 – INCREASE FEES/QUALIFS. FOR DWI ASSESSMENTS** (see **attachment 7**). Representative Alexander noted first that the bill was a recommendation of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. She then explained that the bill acts to do the following: (1) increases the fee that a DWI offender must pay for a substance abuse assessment from $50 to $100; (2) specifically outlines what individuals are authorized to conduct substance abuse assessments; (3) requires effective October 1, 2008 that substance abuse counselor interns will no longer be allowed to conduct substance abuse assessments; and (4) directs the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to study the certification requirements for persons conducting alcohol and drug education traffic (ADET) schools as well as the fee that should be paid by a DWI offender who receives treatment or attends ADET school. Following this explanation, Representative Alexander then moved that House Bill 1356 be given a favorable report. Prior to acting on this motion, however, Chairman Allen recognized Representative Blackwood who inquired as to why it was necessary to increase the fee that a DWI offender must pay for a substance abuse assessment as much as 100 percent (from $50 to $100).

Representative Alexander, with the assistance of Michael Isen with the North Carolina Department of Health and Human Services, Division of Mental Health, explained that the reason for the increase was simply that the fee had not been increased since 1985 and the actual cost of performing an assessment is now approximately $90. Following this discussion, the Chair recognized Representative Glazier who stated his support of the bill because of its intent to increase the quality of those performing substance abuse assessments. He then made a motion that HB 1356 be given a favorable report. Chairman Allen, seeing no further discussion on the bill, called the motion to a vote and it was adopted without objection.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 9:48 am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1465 (and related materials)
4. House Bill 1448 (and related materials)
5. House Bill 1227 (and related materials)
6. House Bill 1497 (and related materials)
7. House Bill 1356 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

May 20, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. G. Allen

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1227 FINANCE PARKS AND HERITAGE *Rep. G. Allen*

HB 1356 INCREASE FEES/QUALIFS. FOR DWI ASSESSMENTS
Rep. Alexander

HB 1448 NOTICE PERIOD FOR SALES AND USE TAX REFUNDS
Rep. Luebke

HB 1465 ALLOW FAMILY BUSINESS TO LEASE FARMLAND
Rep. Brubaker

HB 1497 ADOPT FLAT FEE FOR DEBT COLLECTION *Rep. Wainwright*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, May 20, 2004**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 1227 – FINANCE PARKS AND HERITAGE – Rep. G. Allen

HB 1356 – INCREASE FEES/QUALIFS. FOR DWI ASSESSMENTS – Rep. Alexander

HB 1448 – NOTICE PERIOD FOR SALES AND USE TAX REFUNDS – Rep. Luebke

HB 1465 – ALLOW FAMILY BUSINESS TO LEASE FARMLAND – Rep. Brubaker

HB 1497 – ADOPT FLAT FEE FOR DEBT COLLECTION – Rep. Wainwright

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **5:10 P.M.** on **May 18, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 20, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Phil Woodard	Fidelity Bank - NCBA
BARDEN GRIMES	DC BEHAVIORAL HEALTH SVS / NCSAPCB
JONATHAN HOWES	NC PARTF
Mary Katherine Hackney	intern - Rep. Hackney
Linda Pearsall	Natural Heritage / ENR
Angie McMillan	The Nature Conservancy
[illegible] Holmes	CUMTF
Mike Wa[illegible]	NC. REC. & PK. SOCIETY
Andrea Reese	intern - NC PIRG
Elizabeth Ouats	NCPIRG
Duke Ch[illegible]	Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 20, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
FRAN PRESTON	NCRMA
Cam Crew	BPMHL
BILL SCOGGIN	KCLH
DAVID M. BARNES	Poyner + Spruill LLP
John McHugh	Gov office
Paul Stock	NC Bankers Assn.
Jim MARSHALL	Catawba Valley Bank - Hickory
Crawford Knott	First National Bank and Trust
Gary Dowell	RBC Centura
Dana Boole	CAHEC
FRANK Horne	Gateway Bank

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 20, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Katherine E Townsend	ARP-Phoenix 3401 Barrett Dr Ste 100 Raleigh. NC 27613
[signature]	ARP-Phoenix Asheville, NC
Elizabeth Bakanic	NCGA Intern
Chad Essick	Poyner & Spruill
Jason Reynolds	MH/DD/SAS
Spencer Clark	DMH/DD/SAS
Michael Eisen	DMH/DD/SAS
Richard Webb	NCGA Intern
FRANK M Jolly III	First Step Services 211 Six Forks Road Suite 117 RNC 27609
Craig Keller	TNC
Tamara Cheng	TNC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 20, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anna Mitchell	NCDOR
Jimmy Cooke	NCDOR
Bill Wilkes	NCDOR
Michael Brown	NCDOR
Paul Meyer	NCACC
Steve Wall	DENR
Eddie Finch	NCDOR
Mark Beacon	Capitol Group
Grady McMillan	NC - Consumer Network
Paul Zipin	OSBM
Carlton Huffman	Intern - Rep. Howard

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 20, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Adam Pridemore	NCASA
Elizabeth Self	Intern, Rep. Ross
Amy Lynch	Intern, Conservation Trust for NC
Amanda Maris	Intern, David Knight (Sierra Club)
William Moss	Intern, Sierra Club
Melissa Holer	intern, David Knight (Sierra club)
Robb Leandro	Bone & Assoc.
Elizabeth Dalton	Bone & Assoc.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1465

Short Title:	Allow Family Business to Lease Farmland.	(Public)
Sponsors:	Representatives Brubaker; Luebke, G. Allen, Hill, McGee, Miner, Wainwright, Wood, Glazier, Goodwin, and Mitchell.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW FARMLAND OWNED BY A FAMILY BUSINESS TO KEEP ITS PRESENT-USE VALUE TAX STATUS WHEN LEASED FOR FARM USE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.2 reads as rewritten:

"**§ 105-277.2. Agricultural, horticultural, and forestland – Definitions.**

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

(1) Agricultural land. – Land that is a part of a farm unit that is actively engaged in the commercial production or growing of crops, plants, or animals under a sound management program. Agricultural land includes woodland and wasteland that is a part of the farm unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A farm unit may consist of more than one tract of agricultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(1), and each tract must be under a sound management program. If the agricultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent agricultural land, protect water quality of adjacent agricultural land, or serve as buffers for adjacent livestock or poultry operations.

(1a) Business entity. – A corporation, a general partnership, a limited partnership, or a limited liability company.

(2) Forestland. – Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a sound management program. Forestland includes wasteland that is a part of the forest unit,

but the wasteland included in the unit must be appraised under the use-value schedules as wasteland. A forest unit may consist of more than one tract of forestland, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(3), and each tract must be under a sound management program.

(3) Horticultural land. – Land that is a part of a horticultural unit that is actively engaged in the commercial production or growing of fruits or vegetables or nursery or floral products under a sound management program. Horticultural land includes woodland and wasteland that is a part of the horticultural unit, but the woodland and wasteland included in the unit must be appraised under the use-value schedules as woodland or wasteland. A horticultural unit may consist of more than one tract of horticultural land, but at least one of the tracts must meet the requirements in G.S. 105-277.3(a)(2), and each tract must be under a sound management program. If the horticultural land includes less than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the woodland is to diminish wind erosion of adjacent horticultural land or protect water quality of adjacent horticultural land.

(4) Individually owned. – Owned by one of the following:

a. A natural person. For the purpose of this section, a natural person who is an income beneficiary of a trust that owns land may elect to treat the person's beneficial share of the land as owned by that person. If the person's beneficial interest is not an identifiable share of land but can be established as a proportional interest in the trust income, the person's beneficial share of land is a percentage of the land owned by the trust that corresponds to the beneficiary's proportional interest in the trust income. For the purpose of this section, a natural person who is a member of a business entity, other than a corporation, that owns land may elect to treat the person's share of the land as owned by that person. The person's share is a percentage of the land owned by the business entity that corresponds to the person's percentage of ownership in the entity.

b. A business entity having as its principal business one of the activities described in subdivisions (1), (2), and (3) and whose members are all natural persons who meet one or more of the ~~following conditions:~~conditions listed in this sub-subdivision. For the purpose of this sub-subdivision, the terms 'having as its principal business' and 'actively engaged in the business of the entity' include the leasing of the land for one of the activities

described in subdivisions (1), (2), and (3) only if all members of the business entity are relatives.

1. The member is actively engaged in the business of the entity.
2. The member is a relative of a member who is actively engaged in the business of the entity.
3. The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.

c. A trust that was created by a natural person who transferred the land to the trust and each of whose beneficiaries who is currently entitled to receive income or principal meets one of the following conditions:
1. Is the creator of the trust or the creator's relative.
2. Is a second trust whose beneficiaries who are currently entitled to receive income or principal are all either the creator of the first trust or the creator's relatives.

d. A testamentary trust that meets all of the following conditions:
1. It was created by a natural person who transferred to the trust land that qualified in that person's hands for classification under G.S. 105-277.3.
2. At the time of the creator's death, the creator had no relatives as defined in this section as of the date of death.
3. The trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes as defined in G.S. 105-278.3(d).

e. Tenants in common, if each tenant is either a natural person or a business entity described in sub-subdivision b. of this subdivision. Tenants in common may elect to treat their individual shares as owned by them individually in accordance with G.S. 105-302(c)(9). The ownership requirements of G.S. 105-277.3(b) apply to each tenant in common who is a natural person, and the ownership requirements of G.S. 105-277.3(b1) apply to each tenant in common who is a business entity.

(4a) Member. – A shareholder of a corporation, a partner of a general or limited partnership, or a member of a limited liability company.

(5) Present-use value. – The value of land in its current use as agricultural land, horticultural land, or forestland, based solely on its ability to produce income and assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and

horticultural land is to be determined by the Use-Value Advisory Board as provided in G.S. 105-277.7.

(5a) Relative. – Any of the following:

a. A spouse or the spouse's lineal ancestor or descendant.

b. A lineal ancestor or a lineal descendant.

c. A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.

d. An aunt or an uncle.

e. A spouse of a person listed in paragraphs a. through d.

For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.

(6) Sound management program. – A program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement.

(7) Unit. – One or more tracts of agricultural land, horticultural land, or forestland. Multiple tracts must be under the same ownership. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a) and share one of the following characteristics:

a. Type of classification.

b. Use of the same equipment or labor force."

SECTION 2. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

HOUSE BILL 1465:
Allow Family Business to Lease Farmland

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Brubaker
Date:	May 18, 2004	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: HB 1465 is a recommendation of the Revenue Laws Study Committee and its Property Tax Subcommittee. The bill allows farmland owned by a business entity to keep its present-use value status when the land is leased to a nonmember of the entity, as long as all members of the business entity are relatives. The land must be leased for agricultural, horticultural, or forestry purposes.

CURRENT LAW: Agricultural land, horticultural land, and forestland must meet certain size, income, and ownership requirements in order to qualify as special classes of property subject to taxation at present-use value rather than fair market value. This property must be individually owned, which means owned by a natural person, a business entity, a trust, a testamentary trust, or tenants in common. Business entity is defined in G.S. 105-277.2 as a corporation, a general partnership, a limited partnership, or a limited liability company. G.S. 105-277.2(4)b also requires that the principal business of the business entity be either agriculture, horticulture, or forestry. In addition, all members of the business entity must be natural persons who meet one or more of the following conditions:

1. The member is actively engaged in the business of the entity.
2. The member is a relative of a member who is actively engaged in the business of the entity.
3. The member is a relative of, and inherited the membership interest from, a decedent who met one or both of the preceding conditions after the land qualified for classification in the hands of the business entity.

In a 1987 Property Tax Commission decision, the Commission was confronted with a factual situation wherein agricultural land, owned by a corporation, was leased by the corporation's shareholders to a non-member. The facts were that the lessee, not the corporation, provided the capital equipment, bore the risks associated with the farming operation, and made the decisions as to the crops to be planted, the equipment needed, and the labor to be hired. The Commission concluded that the corporation was engaged in the business of leasing land and was not in the principal business of and actively engaged in the commercial production of growing crops, plants, or animals. The Commission, therefore, ordered that the county correctly denied present-use value status. Based upon this decision, the Department of Revenue has interpreted the language in G.S. 105-277.2(4)b to deny present-use value status to land owned by a business entity where the members' role consists solely of negotiating a lease of the farmland.

By contrast, the current law does not require that a natural person who owns farmland be actively engaged in the business of agriculture, horticulture, or forestry. This means that a

widow who inherits farmland from her husband will not lose the benefit of present-use value tax status if she negotiates a lease for the land to be farmed by another. However, the land still must meet the ownership requirements for a natural person and the size and income requirements for agricultural land, horticultural land, or forestland.

BILL ANALYSIS: The bill amends G.S. 105-277.2(4)b so that land owned by a business entity will not lose its present-use value status if its members lease the land for the purpose of agriculture, horticulture, or forestry and if all members of the business entity are relatives.[1] The bill adds language that the terms "having as its principal business" and "actively engaged in the business of the entity" include the leasing of land for agriculture, horticulture, or forestry as long as all members of the business entity are relatives.

This proposal will allow family businesses to keep their present-use value status if the members do not want to physically participate in farming the land or to make decisions about the farming activity. As a result farmland owned by a limited liability company whose members are a father and his three children, will not lose its present-use value status when the father, who has been physically farming the land, dies and the three children decide to lease the land to a nonmember to handle all farming activity.

EFFECT OF BILL DRAFT ON FOLLOWING SITUATIONS: The Department of Revenue offers the following situations to show the impact of this bill:

1. Husband and wife farm the land - land qualifies.
   Husband and wife form LLC and still farm - land qualifies.
   Husband dies, wife does not farm but leases land out to be farmed - land qualifies.
2. Husband and wife farm the land - land qualifies.
   Husband and wife form LLC and still farm - land qualifies.
   Land inherited by children who lease land out to be farmed. - land qualifies.
3. Husband and wife farm the land—land qualifies.
   Family held LLC formed and members all farm - land qualifies.
   Membership interests inherited by relatives who now lease out the land to be farmed - land qualifies.
4. Three non-relatives form a LLC and farm the land - land qualifies.
   The LLC stops farming and starts to lease land out to be farmed - land disqualified.

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[1] G.S. 105-277.2(5a) defines "relative as any of the following:

- A spouse or the spouse's lineal ancestor or descendant.
- A lineal ancestor or a lineal descendant.
- A brother or sister, or the lineal descendant of a brother or sister. The term brother or sister includes stepbrother or stepsister.
- An aunt or an uncle
- A spouse of a person listed in one of the categories above.

For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1465 (First Edition)

SHORT TITLE: Allow Family Business to Lease Farmland.

SPONSOR(S): Representative Brubaker

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	**No General Fund Impact**				
Local Governments	**See Assumptions and Methodology**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Local Governments

EFFECTIVE DATE: This act is effective for taxes imposed for taxable years beginning on or after July 1, 2004.

BILL SUMMARY: The bill changes the current present-use value program for property taxes to allow farmland owned by a business entity to keep its present-use value status when the land is leased to a nonmember, as long as all members of the business entity are relatives. This is a recommendation of the Revenue Laws Study Committee.

ASSUMPTIONS AND METHODOLOGY: Under the current present use value program, property can qualify for a lower valuation if it meets a series of size, use, and ownership requirements. According to a 1987 Property Tax Commission decision, if the property is owned by a business entity, members of the business entity or their relatives must be "actively engaged" in the business of farming for the property to continue to qualify for the use value program. (The Commission determined that leasing land in and of itself did not qualify as actively engaged in farming. As a result, the primary business then becomes land leasing and not farming). A similar provision does not exist for properties owned by an individual. This has the net result of disqualifying land from the program if it is owned by a family business but is leased to a non-relative. If an individual held the same property, the land would still qualify if the property were

leased. (In both cases, the leased land must still meet the remaining use and size requirements.) The bill effectively removes this distinction.

Because this is a property tax issue, no General Fund impact is expected. Fiscal Research cannot estimate the impact this change will have on local governments, as we have no data on what properties might qualify if the ownership requirements were changed. The bill will result in a loss of revenue to local governments, as it will allow more parcels to qualify for the farm use program. However, because of the limited nature of the change, the revenue loss for local governments is expected to be fairly small.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 19, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1465 A BILL TO BE ENTITLED AN ACT TO ALLOW FARMLAND OWNED BY A FAMILY BUSINESS TO KEEP ITS PRESENT-USE VALUE TAX STATUS WHEN LEASED FOR FARM USE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1448

Short Title:	Notice Period for Sales and Use Tax Refunds.	(Public)
Sponsors:	Representatives Luebke; G. Allen, Wainwright, Miner, Brubaker, Hill, Wood, and McGee.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT SELLERS BE PROVIDED WITH NOTICE AND A SIXTY-DAY PERIOD TO RESPOND TO A REQUEST FOR A REFUND OF OVER-COLLECTED SALES OR USE TAXES BEFORE A PURCHASER MAY BRING A CAUSE OF ACTION AGAINST THE SELLER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.11 reads as rewritten:

"**§ 105-164.11. Excessive and erroneous collections.**

(a) Remittance of Over-Collections to Secretary. – When the tax collected for any period is in excess of the total amount that should have been collected, the total amount collected must be paid over to the Secretary. When tax is collected for any period on exempt or nontaxable sales the tax erroneously collected shall be remitted to the Secretary and no refund shall be made to a taxpayer unless the purchaser has received credit for or has been refunded the amount of tax erroneously charged. This provision shall be construed with other provisions of this Article and given effect so as to result in the payment to the Secretary of the total amount collected as tax if it is in excess of the amount that should have been collected.

(b) Refund Procedures First Remedy. – The first course of remedy available to purchasers seeking a refund of over-collected sales or use taxes from the seller are the customer refund procedures provided in this Chapter or otherwise provided by administrative rule, bulletin, or directive on the law issued by the Secretary.

(c) Cause of Action Against Seller. – A cause of action against the seller for over-collected sales or uses taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had 60 days to respond. The notice to the seller must contain the information necessary to determine the validity of the request.

(d) Presumption of Reasonable Business Practice. – In connection with a purchaser's request from the seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice if, in the collection of sales and use

taxes, the seller uses either a provider or a system, including a proprietary system, that is certified by the State and the seller has remitted to the State all taxes collected less any deductions, credits, or collection allowances."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1448:
Notice Period for Sales & Use Tax Refunds

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	May 20, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***This bill, which is a recommendation of the Revenue Laws Study Committee, requires a purchaser seeking a refund of over-collected sales or use tax to provide written notice to the seller and to allow the seller 60 days to respond before the purchaser may bring a cause of action against the seller. This requirement is necessary to conform to the Streamlined Sales Tax Agreement.***

BILL ANALYSIS:

Under the Streamlined Sales Tax Agreement, purchasers seeking a refund of over-collected sales or use taxes must provide the seller with written notice and allow the seller 60 days in which to respond prior to bringing a cause of action against the seller.

Earlier this year, the Department of Revenue adopted this provision as part of a technical bulletin. However, retailers have expressed a preference for having the provisions codified in statute.

Therefore, this bill would codify current Department policy regarding refund procedures for over-collected sales and use tax.

The bill would become effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1448 (First Edition)

SHORT TITLE: Notice Period for Sales and Use Tax Refunds.

SPONSOR(S): Representative Luebke

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	($millions)				
	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	**(See Assumptions and Methodology)**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill requires that sellers be given notice and 60 days to respond to a purchaser request for a refund of over collected sales taxes before a purchaser can bring a cause of action against the seller. The bill is part of the State's efforts to comply with the Streamlined Sales Tax Project requirements and the recommendation of the Revenue Laws Study Committee.

ASSUMPTIONS AND METHODOLOGY: The legislation changes the process through which a purchaser can challenge a potential overpayment of sales tax to a retailer. The Department indicates that this procedural change is needed to comply with the Streamlined Sales Tax Project requirements. Because this portion only makes procedural changes, no fiscal impact is expected by either Fiscal Research or the Department of Revenue.

SOURCES OF DATA: North Carolina Department of Revenue.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 19, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1448 A BILL TO BE ENTITLED AN ACT TO REQUIRE THAT SELLERS BE PROVIDED WITH NOTICE AND A SIXTY-DAY PERIOD TO RESPOND TO A REQUEST FOR A REFUND OF OVER-COLLECTED SALES OR USE TAXES BEFORE A PURCHASER MAY BRING A CAUSE OF ACTION AGAINST THE SELLER.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1227
PROPOSED COMMITTEE SUBSTITUTE H1227-PCS80425-LCx-112

Short Title: Finance Parks and Heritage. (Public)

Sponsors:

Referred to:

April 17, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, AND THE PRESERVATION OF NATURAL HERITAGE.

The General Assembly of North Carolina enacts:

PART 1. PARKS RENOVATION AND ACQUISITION

SECTION 1.1. Authorization. – In accordance with G.S. 142-83 this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of parks projects. As used in this part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 1.2. Identification of Parks Projects. – The specific parks projects for which the special indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15.

SECTION 1.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the indebtedness will not exceed the annual amount identified in G.S. 113-44.15. If the annual amount is increased, the maximum principal amount increases accordingly.

SECTION 1.4. G.S. 113-44.15 reads as rewritten:

"**§ 113-44.15. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund

pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

~~(1)~~ ~~Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land acquisition.~~acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks

projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the lesser of the annual amount it identified in the request or the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, as enacted by this act, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of natural heritage projects. As used in this part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and (2). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the special indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9.

SECTION 2.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the indebtedness will not exceed the annual amount identified in G.S. 113-77.9. If the annual amount is increased, the maximum principal amount increases accordingly.

SECTION 2.4. G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.

(2) Any rare or endangered species on or near the land.

(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.

(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.

(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(6) Other sources of funds that may be available to assist in acquiring the land.

(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire:~~for the following purposes:

(1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes.~~purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire land~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) Subject to the limitations of subsection (b2) of this section, land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the lesser of the annual amount they identified in the request or the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each

tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 2.5. Effective Date. – This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1227

Short Title:	Finance Parks and Heritage.	(Public)
Sponsors:	Representatives G. Allen; Alexander, B. Allen, L. Allen, Bell, Bonner, Bordsen, Bowie, Carney, Coates, Crawford, Culpepper, Cunningham, Earle, England, Gibson, Goforth, Hackney, Haire, Hill, Holliman, Insko, Lucas, Luebke, McGee, McLawhorn, Miller, Miner, Parmon, Rapp, Tolson, and Warren.	
Referred to:	Finance.	

April 17, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, AND THE PRESERVATION OF NATURAL HERITAGE.

The General Assembly of North Carolina enacts:

PART 1. PARKS RENOVATION AND ACQUISITION

SECTION 1.1. Authorization. – In accordance with G.S. 142-83, as enacted by this act, this Part authorizes the issuance or incurrence of financing contract indebtedness in the maximum amount provided in this Part to be used to finance the cost of parks projects. As used in this Part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in the maximum principal amount provided in this Part in order to provide funds to the State to be used, together with any other available funds, to pay the cost of these projects.

SECTION 1.2. Identification of Parks Projects. – The specific parks projects for which the financing contract indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15.

SECTION 1.3. Maximum Amount. – The maximum principal amount of financing contract indebtedness that may be issued pursuant to this Part is the maximum amount for which the aggregate annual principal and interest payments to be made in

any year on the financing contracts will not exceed the annual amount identified in G.S. 113-44.15. If the annual amount is increased, the maximum principal amount increases accordingly.

SECTION 1.4. G.S. 113-44.15 reads as rewritten:

"**§ 113-44.15. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land ~~acquisition.~~acquisition and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall consider geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the

same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate a portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on contract indebtedness to be incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like contract indebtedness to be incurred and the annual amount it intends to make available and must request the State Treasurer to incur the indebtedness. After financing contract indebtedness has been incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the lesser of the annual amount it identified in the request or the actual aggregate principal and interest payments to be made in that year on the financing contract indebtedness, as identified by the State Treasurer."

PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, as enacted by this act, this Part authorizes the issuance or incurrence of financing contract indebtedness in the maximum amount provided in this Part to be used to finance the cost of natural heritage projects. As used in this Part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and (2). The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in the maximum principal amount provided in this Part in order to provide funds to the State to be used, together with any other available funds, to pay the cost of these projects.

SECTION 2.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the financing contract indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9.

SECTION 2.3. Maximum Amount. – The maximum principal amount of financing contract indebtedness that may be issued pursuant to this Part is the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the financing contracts will not exceed the annual amount identified in G.S. 113-77.9. If the annual amount is increased, the maximum principal amount increases accordingly.

SECTION 2.4. G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the

Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.

(2) Any rare or endangered species on or near the land.

(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.

(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.

(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(6) Other sources of funds that may be available to assist in acquiring the land.

(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire:~~for the following purposes:

(1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes.~~purposes and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire land~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~public and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) Subject to the limitations of subsection (b2) of this section, land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on contract indebtedness to be incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like contract indebtedness to be incurred and the annual amount they intend to make available and must request the State Treasurer to incur the indebtedness. After financing contract indebtedness has been incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the lesser of the annual amount they identified in the request or the actual aggregate principal and interest payments to be made in that year on the financing contract indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

PART 3. STATE CAPITAL FACILITIES FINANCE ACT

SECTION 3.1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not

exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and

b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term

through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

b. A provision providing for an adjustment based upon a percentage or percentages of a prime rate or base rate, which percentages may vary or be applied for different periods of time.

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the State Treasurer advising the State Treasurer of its intent. The State Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary

approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness,

certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall

accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been officers.

The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

(2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due.

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to

the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 3.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments,

including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – This act is effective when it becomes law.

HOUSE BILL 1227 (PCS): Finance Parks and Heritage

BILL ANALYSIS

Committee:		**Sponsor:**	Rep. Allen
Date:	May 19, 2004	**Analysis by:**	Martha H. Harris
Version:	Draft		Staff Attorney

SUMMARY: Authorizes the State to use special indebtedness to acquire property for the State Parks System and for parks, recreation, and the preservation of natural heritage.

This bill authorizes the State to issue or incur special indebtedness to finance the acquisition of property for two programs:

1. The Parks and Recreation Trust Fund for repairs and renovations of park facilities and capital projects and land acquisition for the State Parks System.
2. The Natural Heritage Trust Fund to acquire land that represents the ecological diversity of the State and land for State parks, wildlife areas, and similar public purposes.

The amount of debt that may be incurred is limited to an amount that can be supported by the funds set aside from the two Trust Funds for annual debt service payments. These two Trust Funds receive a dedicated revenue stream from the State excise tax on conveyances (the "deed stamp tax"). The bill would authorize the governing body of each Trust Fund to allocate a portion of its stream of income for debt service on debt incurred to acquire property. In the case of the Parks and Recreation Trust Fund, the maximum amount that may be so allocated is 50% of the funds designated for repairs and renovations of park facilities and capital projects and land acquisition for the State Parks System. In the case of the Natural Heritage Trust Fund, up to 50% of the annual receipts may be so allocated.

Once the Treasurer incurs the debt, the Trust Fund must pay the debt service amount into the General Fund each year until the debt is retired. Thus, the effect of the bill would be to allow the State to acquire property for parks and heritage purposes sooner, by borrowing money to be repaid from a portion of the tax revenue earmarked to the Trust Funds.

Commonly referred to as "certificates of participation," special indebtedness is debt that is secured by an interest in State property being acquired or improved. The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of special indebtedness may be the least expensive and most practical for the State to utilize. Article 9 of Chapter 142 of the General Statutes prohibits the issuance of special indebtedness except for projects specifically authorized by the General Assembly.

Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the

Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the details of the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: May 20, 2004

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: House Bill 1227 PCS-Finance Parks and Heritage

FISCAL IMPACT ($MILLION)

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
EXPENDITURES:					
Debt Service	~~19,6~~	19,1	18,6	18,0	17,5
Less: Earmarking	-19,6	-19,1	-18,6	-18,0	-17,5
Net Requirements	0,0	0,0	0,0	0,0	0,0

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of State Treasurer, Department of Natural and Economic Resources.

EFFECTIVE DATE: When the bill becomes law.

BILL SUMMARY: Authorizes the state to enter into special indebtedness to finance capital projects for the state parks system, repairs and renovations of parks, and land acquisition for state parks, wildlife areas, and similar public purposes. The amount of debt that may be incurred is limited to an amount that can be supported by funds set aside from the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund. These two special funds draw most of their proceeds from an earmarking of the state's share of the real estate conveyance tax and a portion of vehicle licensing fees.

The bill would authorize the governing body of each Trust Fund to allocate a portion of its stream of income for debt service on debt incurred to acquire property. In the case of the Parks and Recreation Trust Fund, the maximum amount that may be so allocated is 50% of 65% of the earmarked receipts designated for repairs and renovations of park facilities and

(OVER)

capital projects and land acquisition for the State Parks System. In the case of the Natural Heritage Trust Fund, up to 50% of the annual receipts may be so allocated.

After the debt has been issued or incurred, the Trustees of each fund must direct the State Treasurer to credit to the General Fund each year the lesser of the annual amount they identified in their application for debt issuance or the debt service for that year on the financing.

ASSUMPTIONS AND METHODOLOGY: The annual debt service requirements are based on a July 2002 simulation of the Office of State Treasurer for $90 million of financing, a May 1, 2003 issuance, and a 5.75% average interest rate. The revised debt service simulation, using the Treasurer's model, is based on $180 million of financing, an issuance date of March 1 2003, an average interest rate of 5.90%, and a maximum maturity would be 20 years. The total debt service requirements over the 20-year period include $180 million of principal repayment and $111.5 million of interest, for a total of $291.5 million. The 2005-06 debt service would represent the maximum annual amount for the period.

The earmarking for debt service amounts to 36% of the combined receipts for the two special funds.

15 more

Protect North Carolina's Open Space: Support H1227/S1064

Open spaces are essential to our economic well-being, tourism industry, air and water quality, and ecological balance. H1227 would enable the General Assembly to protect thousands of acres by issuing Certificates of Participation (COPs).

North Carolina's forests and farmlands are disappearing at a rate of 383 acres each day.[1] Our state loses more open space annually than all but five other states, and the rate of loss is increasing.[2] In 2000, the General Assembly pledged to support protection of one million acres of open space throughout North Carolina by the end of 2009. H1227 is a solid step in reaching this important goal.

Why Support Financing for Parks, Recreation and Natural Heritage?

- ✓ **Protect Tourism Industry:** Tourism brings 49 million visitors to North Carolina and creates $12.6 billion in business for the state each year.[3] To protect the recreational opportunities and historic sites that make the state so attractive, it is essential to protect our open spaces now.

- ✓ **Reduce Air and Water Pollution:** Open spaces protect the quality of our water supply because forests and wetlands naturally filter pollution out of rainwater and runoff. Also, by discouraging sprawling development, open space protection helps structure communities so that people drive fewer miles and emit less vehicle pollution into the air.

- ✓ **Protect Wildlife Habitat:** Forests, swamps, and other open space ecosystems support countless species throughout North Carolina, including 63 endangered species. In fact, North Carolina is home to some species found nowhere else in the world.[4]

- ✓ **Protect Land around Military Bases:** Protecting open space prevents incompatible development around the state's military bases.

How the COPs Program Works

Certificates of Participation (COPs) allow the state to incur contract indebtedness to acquire lands. COPs financing would leverage a portion of the existing dedicated source of funding for the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund.

These trust funds have a strong record of protecting North Carolina's open space. By August 2003, the Parks and Recreation Trust Fund had protected over 15,504 acres in the state park system and local governments' projects. To date, the Natural Heritage Trust Fund has protected over 210,468 acres in state parks, reserves, and recreation areas. Despite their success, these funds only have the capacity to fulfill less than half of the requests for funding. The COPs program would improve the trust funds' capacity to protect North Carolina's open space.

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[1] NC Public Interest Research Group, *Losing our Natural Heritage*, Fall 2003.
[2] Brookings Institute, *Adding It Up: Growth Trends and Policies in North Carolina*, July 2000.
[3] NC Department of Commerce, http://www.nccommerce.com/tourism/dayfair/, May 12, 2004.
[4] NC Division of Parks and Recreation, http://www.ils.unc.edu/parkproject/visit/lawa/home.html, May 13, 2004.

2004 Critical Conservation Opportunities

North Carolina needs COPs financing available immediately to take advantage of land conservation opportunities that will not exist in future years. Examples of threatened places state officials could protect with this financing tool include:

- **Lake James/Linville River** – Burke County and the Lake James region are working hard to diversify their economy. For the last 5 years Burke County, Crescent Resources/Duke Energy, State Parks, Foothills Conservancy, and environmental organizations have argued about public access and conservation on the north shore of Lake James and the Linville River. Earlier this year Burke County, Crescent Resources and the conservation community agreed that State Parks would acquire 3000 acres to expand Lake James State Park and that the Wildlife Commission would acquire about 1000 acres for gamelands and to help protect the Linville River. Land acquisition will cost approximately $25 million.

- **Military Base Protection** – The US Department of Defense will realign and close military bases beginning in 2005. The US Army, Marines, and Air Force have identified over 50,000 acres near Fort Bragg/Pope, Camp Lejeune, Cherry Point, and Seymour Johnson that should be acquired by conservation easement or fee simple to prevent encroachment by incompatible development. Goldsboro, Wayne County, the State, and the Air Force support acquisition to prevent incompatible development in accident potential zones.

  The State and Marines support acquisition of 10,400 acres of Sandy Run to protect Camp Lejeune. The State and the Army support expanding the Sandhills Gamelands by 3500 acres and protecting Carvers Creek natural area in Cumberland County. The State should commit $30 million to these high priority military base protection projects this year.

- **Mayo and Haw River State Parks** – Rockingham County has been hit hard by declines in textile and tobacco manufacturing. The county is working to diversify its economy and to protect its water resources. The 2003 General Assembly authorized the establishment of new state parks on the Mayo and Haw Rivers. State Parks has identified 1000 acres needed for each state park. Land acquisition will require approximately $10 million in funding.

- **Other threatened areas:: Eno River State Park, Roanoke/Cashie Rivers, Woodfin Watershed/Blue Ridge Parkway Protection, Blewett Falls on Pee Dee River, Jordan Lake Protection, Mountain Island Lake Protection, Hickorynut Mountain in McDowell County, Headwaters of the Green River in Henderson County, Alligator River in Tyrrell County, Caswell Gamelands.**

North Carolina's Land and Water Conservation Trust Funds

Clean Water Management Trust Fund

Established by the General Assembly in 1996 (NCGS 113-145)

Governed by 21-member Governor/General Assembly-appointed Board of Trustees

Goal: To clean up pollution in the State's surface waters and to protect unpolluted waters

Funding Source: General Appropriations

Amount Budgeted in FY03-04: $62 million

Type of Projects Funded: 1) Wastewater improvement, 2) Stormwater management, 3) Watershed planning projects, 4) Wetland and stream restoration, 5) Riparian corridor and open space acquisition

Farmland Preservation Trust Fund

Established by the General Assembly in 1986 (NCGS 106-744)

Administered by the non-profit Conservation Trust for North Carolina by agreement with the NC Department of Agriculture

Goal: To save working farms and rural lands

Funding Source: General Appropriations

Amount Budgeted in FY03-04: $0

Types of Projects Funded: Conservation easements on agricultural lands, especially lands near urban areas, waterways and environmentally sensitive areas.

Natural Heritage Trust Fund

Established by the General Assembly in 1987 (NCGS 113-77)

Governed by 12-member Governor/General Assembly-appointed Board of Trustees

Goal: To acquire ecologically significant lands, preserve cultural sites, and inventory North Carolina's significant natural areas

Funding Source: 25% of state's portion of the deed excise stamp tax and a portion of personalized license plate sales

Amount Income in 2003: $16 million

Types of Projects Funded: Land acquisition and natural area inventories

Parks and Recreation Trust Fund

Established by the General Assembly in 1994 (NCGS 113-44.15)

Governed by 11-member Governor/General Assembly-appointed Board of Trustees

Goal: To improve or expand State and local parks and fund a portion of the Coastal and Estuarine Water Beach Access Program

Funding Source: 75% of state's portion of the deed excise stamp tax

Amount Funded in 2003: $28 million

Types of Projects Funded: State park acquisition and facilities, local park acquisition and facilities, beach and waterfront access

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1227 A BILL TO BE ENTITLED AN ACT TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE AND TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, AND THE PRESERVATION OF NATURAL HERITAGE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1497

Short Title:	Adopt Flat Fee for Debt Collection.	(Public)
Sponsors:	Representatives Wainwright; Luebke, Miner, G. Allen, Brubaker, Hill, McGee, and Wood.	
Referred to:	Finance.	

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO ADOPT A FLAT COLLECTION ASSISTANCE FEE UNDER THE SETOFF DEBT COLLECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105A-13(a) reads as rewritten:

"(a) State Setoff. – To recover the costs incurred by the Department in collecting debts under this Chapter, a collection assistance fee of ~~no more than fifteen~~ five dollars ~~($15.00)~~($5.00) is imposed on each debt collected through setoff. The Department must collect this fee as part of the debt and retain it. ~~The Department must set the amount of the collection assistance fee based on its actual cost of collection under this Chapter for the immediately preceding year.~~ The collection assistance fee shall not be added to child support debts or collected as part of child support debts. Instead, the Department shall retain from collections under Division II of Article 4 of Chapter 105 of the General Statutes the cost of collecting child support debts under this Chapter."

SECTION 2. This act becomes effective for fees assessed on or after October 1, 2004.

HOUSE BILL 1497:
Adopt Flat Fee for Debt Collection

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Wainwright
Date:	May 20, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: This bill, which is a recommendation of the Revenue Laws Study Committee, would adopt a flat collection assistance fee of $5.00 for debts collected by the Department of Revenue under the Setoff Debt Collection Act.

CURRENT LAW: This act modifies the Setoff Debt Collection Act, Chapter 105A of the General Statutes. Under that Act, the Department of Revenue sends the income tax refund of an individual who owes money to a State or local agency to that agency in payment of the debt rather than to the individual. The individual's income tax refund is therefore set off against the debt the individual owes to the State or local agency.

Each year, the Department of Revenue determines its costs of running the program and recovers these costs by charging a collection assistance fee as a percentage of each debt collected. The act caps this fee at no more than $15.00 per debt, though the actual fee ends up being less. The fee is added to the debt and paid by the debtor from the refund.

BILL ANALYSIS: This bill amends G.S. 105A-13 by imposing a flat $5.00 collection assistance fee on each debt collected through setoff.

This bill would become effective for fees assessed on or after October 1, 2004.

BACKGROUND: This change was recommended to the Revenue Laws Study Committee by the Department of Revenue. Every year, the Department must attempt to determine the actual costs of collecting debts under this program. According to the Department, the process is very tedious and quite cumbersome because many different areas of the Department are affected. Thus, the "actual cost" is an estimate at best. The collection assistance fee determined by the Department for the four latest calendar years is as follows:

Calendar Year	Fee
2004	$4.42
2003	$4.32
2002	$4.12
2001	$4.45

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1497 (First Edition)

SHORT TITLE: Adopt Flat Fee for Debt Collection..

SPONSOR(S): Representative Wainwright

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**(See Assumptions and Methodology)**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Department of Revenue.

EFFECTIVE DATE: October 1, 2004

BILL SUMMARY: Under G.S. 105A-13(a) the Department of Revenue can levy a collection assistance fee to cover the cost associated with diverting a portion of an individual's income tax return to a state or local agency to settle a debt with that agency. Under current law, the Department of Revenue must set the collection assistance fee annually based on the collection costs for the previous year with a cap of $15.00. This legislation changes that arrangement and instead imposes a flat $5.00 collection assistance fee. The bill comes to Revenue Laws at the request of the Department.

ASSUMPTIONS AND METHODOLOGY: In 2002, the Department of Revenue assisted state and local agencies in collecting $22,150,562.04 from 102,426 debtors through setoffs from individual income tax refunds. In 2003, that number moved to $22,221,190.23 from 101,125 debtors.

Under the statute, the Department of Revenue must determine the actual cost of collection per debt and use that amount to determine the fee charged for collection of the debt the next year. The historic collection fees, based no this methodology, are as follows:

Calendar Year	Fee
2004	$4.42
2003	$4.32
2002	$4.12
2001	$4.45

All revenues derived from the fees remain with the Department of Revenue.

The Department indicates that calculation of the fee is time consuming and difficult and the process affects several divisions within the Department. As a result, the Department has asked that the fee be set at a flat $5.00.

Fiscal Research does not have enough information to determine the likely fees and number of debt setoffs without this legislation. Potentially the legislation could result in a small revenue increase for the Department, as it is unlikely the actual cost of collection would reach $5.00 in the next few years. The exact amount of that increase is unknown although it would likely be less than $100,000.

SOURCES OF DATA: North Carolina Department of Revenue

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 19, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1497 A BILL TO BE ENTITLED AN ACT TO ADOPT A FLAT COLLECTION ASSISTANCE FEE UNDER THE SETOFF DEBT COLLECTION ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1356

Short Title:	Increase Fees/Qualifs. for DWI Assessments.	(Public)
Sponsors:	Representatives Alexander, Sauls, Insko (Primary Sponsors); Glazier and Rapp.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO ENACT THE RECOMMENDATIONS OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO INCREASE THE QUALIFICATIONS OF PERSONS WHO WILL BE ELIGIBLE TO ADMINISTER SUBSTANCE ABUSE ASSESSMENTS, TO INCREASE THE FEE PAID BY DWI OFFENDERS FOR SUBSTANCE ABUSE ASSESSMENTS, TO STUDY THE MINIMUM QUALIFICATIONS OF INDIVIDUALS CONDUCTING ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS, AND TO STUDY THE FEE PAID BY DWI OFFENDERS FOR EDUCATION OR TREATMENT SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-142.1 is amended by adding a new subsection to read:

"(b1) Persons Authorized to Conduct Assessments. – The following individuals are authorized to conduct a substance abuse assessment under subsection (b) of this section:

(1) A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.

(2) A Certified Clinical Addiction Specialist (CCAS), as defined by the Commission.

(3) A Substance Abuse Counselor Intern who is supervised by a Certified Clinical Supervisor (CCS), as defined by the Commission, and who meets the minimum qualifications established by the Commission for individuals performing substance abuse assessments.

(4) A person licensed by the North Carolina Medical Board or the North Carolina Psychology Board.

(5) A physician certified by the American Society of Addiction Medicine (ASAM)."

SECTION 2. G.S. 122C-142.1(b1), as enacted in Section 1 of this act, reads as rewritten:

"(b1) Persons Authorized to Conduct Assessments. – The following individuals are authorized to conduct a substance abuse assessment under subsection (b) of this section:

(1) A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.

(2) A Certified Clinical Addiction Specialist (CCAS), as defined by the Commission.

~~(3) A Substance Abuse Counselor Intern who is supervised by a Certified Clinical Supervisor (CCS), as defined by the Commission, and who meets the minimum qualifications established by the Commission for individuals performing substance abuse assessments.~~

(4) A person licensed by the North Carolina Medical Board or the North Carolina Psychology Board.

(5) A physician certified by the American Society of Addiction Medicine (ASAM)."

SECTION 3. G.S. 122C-142.1(f) reads as rewritten:

"(f) Fees. – A person who has a substance abuse assessment conducted for the purpose of obtaining a certificate of completion shall pay to the assessing agency a fee of ~~fifty dollars ($50.00).~~ one hundred dollars ($100). A person shall pay to a treatment facility or school a fee of seventy-five dollars ($75.00). If the defendant is treated by an area mental health facility, G.S. 122C-146 applies after receipt of the seventy-five dollar ($75.00) fee.

A facility that provides to a person who is required to obtain a certificate of completion a substance abuse assessment, an ADET school, or a substance abuse treatment program may require the person to pay a fee required by this subsection before it issues a certificate of completion. As stated in G.S. 122C-146, however, an area facility may not deny a service to a person because the person is unable to pay.

An area facility shall remit to the Department five percent (5%) of each fee paid to the area facility under this subsection by a person who attends an ADET school conducted by the area facility. The Department may use amounts remitted to it under this subsection only to support, evaluate, and administer ADET schools."

SECTION 4. Section 2 of S.L. 2003-396 reads as rewritten:

"**SECTION 2.** The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services shall study the programs offered by assessing agencies to clients who must obtain a substance abuse assessment and a certification of completion of a substance abuse program. The study should include information on the type of testing provided by an agency, the certification requirements for persons conducting alcohol and drug education traffic schools, the treatment offered by an agency, the average duration of a program, the average cost of treatment, the rates of recidivism, ~~and~~ the adequacy of the fee paid to the assessing agency by a client for a required substance abuse ~~assessment.~~ assessment and the adequacy of the fee paid to the treatment facility or school by a client for receiving

treatment or education. The Committee must report its findings and any recommended legislation to the ~~2004 Regular Session of the 2003~~ 2005 General Assembly."

SECTION 5. Section 1 of this act becomes effective October 1, 2005, and applies to substance abuse assessments conducted on or after that date. Section 2 becomes effective October 1, 2008, and applies to substance abuse assessments conducted on or after that date. Section 3 becomes effective October 1, 2004, and applies to substance abuse assessments administered on or after that date. The remainder of this act is effective when it becomes law.

HOUSE BILL 1356:
Increase Fees/Qualifs. For DWI Assessments

BILL ANALYSIS

Committee: House Finance
Date: May 18, 2004
Version: 1st Edition

Sponsor: Rep. Alexander, Sauls and Insko
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 1356 is a recommendation of the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services. The bill is in House Finance because it increases a fee. The bill does the following:

- *Increases fee DWI offender must pay for a substance abuse assessment from $50 to $100.*
- *Lists the following individuals who are authorized to conduct substance abuse assessments: certified substance abuse counselor, certified clinical addiction specialist, substance abuse counselor intern who is supervised by a certified clinical supervisor and who meets minimum qualifications, person licensed by NC Medical Board or NC Psychology Board, physician certified by the American Society of Addiction Medicine.*
- *Beginning October 1, 2008, substance abuse counselor interns may no longer conduct DWI assessments.*
- *Directs the Joint Legislative Oversight Committee for Mental Health, Developmental Disabilities and Substance Abuse Services to study the certification requirements for persons conducting alcohol and drug education traffic (ADET) schools as well as fee that should be paid by a DWI offender who receives treatment or attends ADET school.*

CURRENT LAW: G.S. 20-17(a)(2) provides that the Division of Motor Vehicles (DMV) shall revoke the drivers' license of a person convicted of driving while impaired (DWI). DMV may restore the DWI offender's license if it receives a certificate of completion indicating that the driver has had a substance abuse assessment and either attended an ADET school or received substance abuse treatment. G.S. 20-17.6

G.S. 122C-142.1(f) provides that a person who has a substance abuse assessment done for purposes of obtaining a certificate of completion must pay $50 to the entity that conducts the assessment. The DWI offender must also pay a fee of $75 for ADET school or towards a substance abuse treatment. An area facility may not deny a service because of a person's inability to pay.

G.S. 122C-142.1(b) provides that to conduct a substance abuse assessment, a facility must use a standardized test approved by DHHS. The purpose of the DWI assessment is to determine whether the offender should attend an ADET school or obtain treatment for substance abuse. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (Commission) has adopted Administrative Rules providing the qualifications for individuals performing DWI assessments:

- A credential issued by the NC Substance Abuse Professional Certification Board (Board) that acknowledges an individual is qualified to provide counseling for persons with substance abuse disorders; or
- A masters degree, one year of supervised experience in substance abuse counseling, and registration with the Board; or
- An undergraduate degree, two years of supervised experience in substance abuse counseling, and registration with the Board; or
- Graduation from high school or the equivalent, three years of supervised experience in substance abuse counseling, and registration with the Board; or
- Licensure by the NC Board of Medical Examiners or the NC Psychology Board; or
- Certification by the American Society of Addiction Medicine (ASAM).

Based on the assessment, the facility must make a recommendation that the client either attend an ADET school or obtain treatment. The recommendation must be reviewed and signed by a certified alcoholism, drug abuse, or substance abuse counselor, as defined by the Commission; a Certified Substance Abuse Counselor; or by a physician certified by the ASAM.

BILL ANALYSIS: **Section 1** amends G.S. 122C-142.1 by requiring that as of October 1, 2005 only the following persons are authorized to administer a DWI substance abuse assessment:

- A Certified Substance Abuse Counselor (CSAC), as defined by the Commission.
- A Certified Clinical Addiction Specialist (CCAS), as defined by the Commission.
- A Substance Abuse Counselor Intern who is supervised by a Certified Clinical Supervisor (CCS), as defined by the Commission, and who meets the minimum qualifications established by the Commission for individuals performing substance abuse assessments.
- A person licensed by the NC Medical Board or the NC Psychology Board
- A physician certified by the American Society of Addiction Medicine (ASAM)

Section 2 provides that as of October 1, 2008, Substance Abuse Counselor Interns will no longer be able to administer DWI substance abuse assessments.

Section 3 amends G.S. 122C-142.1(f) to increase the fee, from $50 to $100, that a DWI offender must pay to obtain a substance abuse assessment. The fee increase applies to assessments conducted on or after October 1, 2004. (In SB 934, ratified last session, the House version of SB 934 increased this fee from $50 to $75. The ratified bill did not include an increase for this fee.)

Section 4 directs the Oversight Committee to study the certification requirements for persons conducting ADET schools and also the fee that a DWI offender should pay to attend an ADET school or receive treatment for substance abuse. The Committee is directed to submit its recommendations to the 2005 General Assembly.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1356 (First Edition)

SHORT TITLE: Increase Fees/Qualifs. for DWI Assessments.

SPONSOR(S): Representatives Alexander, Insko, and Sauls

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2004-05	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**	**FY 2008-09**
REVENUES:					
Area Mental Health Authorities*	$665,625	$887,500	$887,500	$887,500	$887,500
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Health and Human Services

EFFECTIVE DATE: October 1, 2004 for the fee change. See the bill summary for other effective dates in this bill.

*** Area Authorities will be required to divest all direct services under Mental Health Reform, including DWI assessments, within the next five-years. Divestiture will decrease and eventually eliminate the increased revenues listed above. Due to the uncertainty of when these services will be divested, Fiscal Research excluded the effect of Reform on this forecast. Please see the Assumptions and Methodology section for more details.**

BILL SUMMARY: House Bill 1356 makes several changes to the existing General Statutes governing substance abuse services provided through Area Mental Health Authorities to persons convicted of Driving While Intoxicated (DWI). Specifically, this bill makes changes to service requirements and the fee associated with DWI assessments that are either provided directly by the Area Authority or through a contract with a qualified private provider.

Section 1 – This section revises G.S. 122C-142.1 to add a subsection that sets the professional requirements for being a qualified DWI assessor. Qualified assessors are limited to the following: Certified Substance Abuse Counselors; Certified Clinical Addiction Specialists; Substance Abuse Counselor Interns who are supervised by Certified Clinical Supervisors; persons licensed by the North Carolina Medical Board or the North Carolina Psychology Board; and physicians certified

by the American Society of Addiction Medicine. These standards will become effective on October 1, 2005.

Section 2 – This section further revises the subsection of G.S. 122C-142.1 that is established in Section 1 of this bill. The professional requirements for providing DWI assessments are again changed to eliminate Substance Abuse Counselor Interns as a qualified assessor. This statutory change will become effective on October 1, 2008.

Section 3 – This section changes the fixed fee charged to offenders by providers of DWI assessment services. Currently, G.S. 122C-142.1 requires that providers charge $50 to DWI offenders who receive an assessment. This section would increase the amount of that fee to $100. This change will become effective on October 1, 2004.

Section 4 – This section revises Session Law 2003-396 to require the Mental Health, Developmental Disability, and Substance Abuse Services Joint Legislative Oversight Commission to study the service requirements and the fee associated with the Alcohol and Drug Education Traffic Schools.

ASSUMPTIONS AND METHODOLOGY: DWI Assessments are provided by a variety of providers, including the Area Mental Health Authorities and private providers. The fees charged by private providers pass directly from the DWI offenders to the private providers and have no fiscal impact to the State or local governments. *Since the Area Authorities are local governments, changes to the fee that the Area Authorities charge for DWI assessments will result in a fiscal impact.* By increasing the DWI assessment fee from $50 to $100, this bill will increase the revenues that Area Authorities collect for assessment services.

Assumptions

1. The percentage of certificates of completion, as defined in G.S. 122C-142.1, provided through services received at the Area Authorities is 32% of total certificates of completion administered in FY 2002-03.
2. The percentage of DWI assessments performed by the Area Authorities, out of total assessments performed in FY 2002-03, is equivalent to the percentage of certificates of completion provided by the Area Authorities stated in Assumption 1.
3. The number of DWI assessments in subsequent years will remain at the same level as FY 2002-03.
4. Delivery of DWI assessment services by the Area Authorities will not be impacted by the divestiture of Area Authority services through Mental Health System Reform Plan, developed pursuant to G.S. 122C-102. *Please see the note in the box on the front page and the discussion further down in this section regarding the impact of Mental Health Reform on DWI assessment services.*

Methodology

The Division of Mental Health, Developmental Disabilities, and Substance Abuse services could not provide, at this time, an accurate accounting of DWI assessments performed by the Area Authorities in FY 2002-03. The Division is still collecting this data. The Division was able to provide a total number of DWI assessments performed by all providers in FY 2002-03.

The Division was also able to provide Certificate of Completion data for FY 2002-03 by provider type. A Certificate of Completion is provided to DWI offenders when they complete the DWI assessment and all recommended treatment or education stemming from the assessment. Of all the Certificates of Completion issued, a portion is issued from the Area Authorities. Absent an accurate accounting of DWI assessments made by the Area Authorities, the Division felt that the percentage of Certificates of Completion issued by the Area Authorities would serve as a proxy for the percentage of DWI assessments.

Certificates of Completion Issued in FY 2002-03

Issuing Agency	# of Certificates	Precentage
Area Programs	6,832	32%
Private Providers	14,838	68%
Total	**21,670**	**100%**

Assessments Performed in FY 2002-03

Provider	DWI Assessments	Precentage
Area Program Estimate*	17,750	32%
Private Provider Estimate*	37,720	68%
Actual Total	**55,470**	**100%**

*Estimate based on the percentage of Certificates of Completion provided by Area Authorities in FY 2002-03

Through using the percentage of Certificates of Completion issued by the Area Authorities (32%), the FY 2002-03 number of DWI assessments performed by the Area Authorities was derived. This number (17,750) was factored with the $50 increase of the existing DWI assessment fee. **The result is a total increase in annual revenue of $887,500.** Assuming that the number of individuals seeking assessment remains relatively constant, this revenue increase would remain constant from FY 2004-05 to FY 2008-09, assuming no change in service delivery due to Mental Health System Reform. The only exception is FY 2004-05. Since this fee increase will not occur until October 1, 2004, the fee increase will only be reflected for the remaining nine months of the fiscal year.

Projected Increase in Revenues to Area Authorities

Estmated Assessments by Area Authorities	17,750
Fee Increase	$50
Total Annual Increase in Revenues	$887,500
Revenues in FY 2004-05, based on an October 1 effective date	$665,625

Mental Health Reform

According to the State Plan being implemented pursuant to G.S. 122C-102, all direct services provided by the Area Authorities will be divested and delivered through contracts with private providers. This change will occur over the next several years and will result in all DWI assessments being delivered by the private providers. This will result in a decreasing of DWI assessment revenues received by Area Authorities, as the Authorities contract for assessment services.

The challenge in forecasting this decrease in revenues is that each Area Authority will decide how to divest of these assessment services. Different Area Authorities will divest DWI assessment services at different times, without statewide uniformity. Without uniformity in the divestiture of services or sufficient detailed divesture plans from the Area Authorities, any forecast of the decrease in DWI assessment revenues would be arbitrary.

Fiscal Research chose instead to keep the expected revenues constant, isolating the impact of Reform. Legislators should be aware that Reform will likely result in these revenues decreasing for the Area Authorities and eventually ending within a five-year timeframe.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Jim Klingler

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 19, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for

H.B. 1356 A BILL TO BE ENTITLED AN ACT TO ENACT THE RECOMMENDATIONS OF THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES TO INCREASE THE QUALIFICATIONS OF PERSONS WHO WILL BE ELIGIBLE TO ADMINISTER SUBSTANCE ABUSE ASSESSMENTS, TO INCREASE THE FEE PAID BY DWI OFFENDERS FOR SUBSTANCE ABUSE ASSESSMENTS, TO STUDY THE MINIMUM QUALIFICATIONS OF INDIVIDUALS CONDUCTING ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS, AND TO STUDY THE FEE PAID BY DWI OFFENDERS FOR EDUCATION OR TREATMENT SERVICES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

May 27, 2004

The House Committee on Finance met on Thursday, May 27, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Holliman, Jones, Lewis, McGee, Rayfield, Ross, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairwoman Howard called the meeting to order at 8:35 am and recognized the four (4) pages present: (1) Elizabeth Edwards of Rowan County, sponsored by Representative Coates; (2) Elizabeth Hall of Robeson County, sponsored by Representative Warner; (3) Chris Rich of Wayne, Georgia, sponsored by Speaker Morgan; and (4) Katharina Stevens of Wake County, sponsored by Representative Munford.

Chairwoman Howard made several announcements prior to considering the bills on the Committee's calendar. She informed the members that Representative Lewis was appointed as Chair of the Subcommittee on Tax and Tags to replace the late, former Chair, Representative Eugene McCombs. She then referred **HB 1358 – RETIRED HIGHWAY PATROL SPOUSES SPECIAL PLATE** and **HB 1480 – "IN GOD WE TRUST" SPECIAL PLATE** to the Subcommittee on Tax and Tags. Finally, she referred **HB 1348 - CAMDEN COUNTY OCCUPANCY TAX** to the Subcommittee on the Occupancy Tax.

The first bill considered on the agenda was **HB 1471 – BAKERSVILLE DEANNEXATION** (see **attachment 3**). Chairwoman Howard recognized Representative Frye, the bill sponsor, to explain the bill. Representative Frye explained that the bill de-annexes two parcels of property, totaling approximately 30 acres, from the corporate limits of the Town of Bakersville. He noted that he filed the bill in response to a resolution passed by the Town Board of Bakersville requesting that these parcels be removed from the town limits after receiving a request from two property owners concerning the Town's inability to provide road, garbage, water, and sewer services to their property despite their obligation to pay town property taxes. Following this explanation, Chairwoman Howard recognized Representative Wainwright for a question. He asked Representative Frye if there was any opposition to the bill. Representative Frye responded no, that the Town was imply trying to "do the right thing" with its residents. The Chair then recognized Representative Wainwright again who moved that House Bill 1471 be given a favorable report.

Seeing no further discussion, Chairwoman Howard called the motion to a vote and it carried by consent.

Chairwoman Howard next recognized Representative Goodwin to explain **HB 1475 – BADIN SATELLITE ANNEXATION** (see **attachment 4**). Representative Goodwin explained that the bill would annex the Albemarle Correctional Institution to the Town of Badin. While the addition of this property to the Town would not serve to increase the property tax collections (as the Institution is located on state property and is, therefore, exempt from property tax), the effect of the annexation would be to increase the population of the Town by approximately 800 people, thereby increasing the sales and use tax revenues that are distributed to the Town on a per capita basis. Representative Hill was recognized by the Chair following this explanation and moved for a favorable report on the bill. As there was no further discussion, Chairwoman Howard called the motion to a vote and the motion carried without objection.

Chairman Howard next recognized Representatives Clary and Rayfield, sponsors of **HB 1520 – GASTON TEMPORARY SALES TAX REFERENDUM** (see **attachment 5**), to provide an explanation of the bill. The sponsors explained that the bill authorizes Gaston County to hold a special election on November 2, 2004 to vote on a temporary (8-year) half-cent local sales tax. The additional half-cent sales tax could be used only for economic development and tourism projects, specifically a proposed civic center. Both Representative Clary and Rayfield were pleased to report to the Committee that there was wide support from both the county and the local municipalities in Gaston County for this bill. At the sponsors' request, Chairwoman Howard then recognized Mr. Bob Morgan of the Gaston County Chamber of Commerce. Mr. Morgan stated that the Gaston community saw this bill as an opportunity to fund needed economic initiatives, if passed by the voters there. The Chair then recognized Representative Womble who asked the bill sponsors if there was any known opposition to the bill. The sponsors responding "no," Representative Womble, noting his support of the referendum component of the bill, then moved that House Bill 1520 be given a favorable report. Prior to entertaining this motion, the Chair recognized a number of Committee members for further questions and concerns. Representative Holliman was recognized next and asked if the proposed 8-year half-cent sales tax increase would be sufficient to pay for the desired civic center in Gaston. Mr. Morgan responded that after Gaston County had completed feasibility studies, the funds generated would be sufficient. Representative Bordsen was also recognized for a question. She asked why Gaston County was considering an increase in the "regressive" sales tax to fund economic development initiatives instead of using more customary funding methods such as the issuance of bonds. Mr. Morgan explained that due to recent decreases in the property tax base in Gaston County (due to enormous job losses in the manufacturing sector), the County has limited bond capacities and must focus whatever bonds are issued on educational infrastructure needs. Chairwoman Howard then recognized Representative Luebke who further expanded Representative Bordsen's concern. Representative Luebke stated that an increase in the sales tax hurts the poor and unemployed workers the most and that using such an increase for economic development (i.e. the proposed civic center) was poor public policy. Representative Carney was then recognized and countered Representative Luebke's argument. She stated that the General Assembly approved a similar tax in the recent past for Mecklenburg County (from which it had benefited greatly) and that since the bill requires a referendum where the voters of Gaston County could make a decision on the matter for themselves, she would support the bill. Representatives C. Wilson, Gibson, Jones, and McComas all expressed their support of the bill, specifically because it provided for a local referendum. Following these votes of support, Chairwoman Howard recognized Ms. Kathy Hartkopf with the North Carolina Citizens for a Sound Economy (CSE). Ms. Hartkopf explained that the CSE was not opposed to this bill and that voting for this bill would not affect a member who had signed CSE's "no new tax pledge". She stated that CSE was not involved with or opposed to the bill because it was a local issue and CSE's tax pledge applies to only new statewide taxes. Following this, Chairwoman Howard recognized

Representative Blackwood who acted to call the question before the Committee. In response, Chairwoman Howard then reminded the members of Representative Womble's earlier motion for a favorable report on House Bill 1520. As there was no further discussion, the Chair then called the motion to a vote and it carried by a majority.

HB 1430 – IRC UPDATE (see **attachment 6**), sponsored by Representative Miner, was the next bill discussed by the Committee. Chairman Howard received a motion from Representative Womble that the Proposed Committee Substitute (PCS) for HB 1430 be adopted for the Committee's discussion and that motion carried without objection. Representative Miner was then recognized to explain the bill. He first stated that the bill was a recommendation from the Revenue Laws Study Committee. He furthered explained that each year the General Assembly determines whether to update its reference to the Internal Revenue Code. Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent the State law tracks federal law. He noted that the PCS acts to update the reference to the Code to May 1, 2004, meaning that federal laws such as the Military Family Tax Relief Act of 2003, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the Pension Funding Equity Act of 2004, all enacted between June 1, 2003 and May 1, 2004 would affect State tax provisions. Following this explanation, Chairwoman Howard recognized Representative Wainwright who moved that the PCS for HB 1430 be given a favorable report, with an unfavorable report to the original bill. Seeing no further discussion, the Chair called the motion to a vote and the motion carried by consent.

Chairwoman Howard then recognized Representative C. Johnson to explain the final bill on the Committee's calendar: **HB 1553 – GRIMESLAND BOUNDARY RESTATEMENT** (see **attachment 7**). Representative Johnson explained that the bill simply acts to "ratify the boundaries of the Town of Grimesland based on a new survey along the existing commonly recognized boundary." Following this very brief explanation, the Chair recognized Representative Wainwright who moved that HB 1553 be given a favorable report. As there was no discussion, Chairwoman Howard then called the motion to a vote and it carried without objection.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:19 am.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1471 (and related materials)
4. House Bill 1475 (and related materials)
5. House Bill 1520 (and related materials)
6. House Bill 1430 (and related materials)
7. House Bill 1553 (and related materials)

CANCELLED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, May 25, 2004**

TIME: **9:00 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 1430 – IRC UPDATE– Rep. Miner

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **3:52 P.M.** on **May 24, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, May 25, 2004**

TIME: **9:00 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 1430 – IRC UPDATE– Rep. Miner

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **12:10 P.M.** on **May 20, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 1

AGENDA

House Finance Committee

May 27, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Howard

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1430 IRC UPDATE *Rep. Miner*

HB 1471 BAKERSVILLE DEANNEXATION *Rep. Frye*

HB 1475 BADIN SATELLITE ANNEXATION *Rep. Goodwin*

HB 1520 GASTON TEMPORARY SALES TAX REFERENDUM
Rep. Rayfield

HB 1553 GRIMESLAND BOUNDARY RESTATEMENT *Rep. C. Johnson*

Adjournment

CORRECTED NOTICE:
SB 20 - REMOVED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, May 27, 2004**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 1430 – IRC UPDATE – Rep. Miner

HB 1471 – BAKERSVILLE DEANNEXATION – Rep. Frye

HB 1475 – BADIN SATELLITE ANNEXATION – Rep. Goodwin

HB 1520 – GASTON TEMPORARY SALES TAX REFERENDUM – Rep. Rayfield

HB 1553 – GRIMESLAND BOUNDARY RESTATEMENT – Rep. C. Johnson

~~**SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION – Sen. Bingham**~~

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **2:30 P.M.** on **May 26, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, May 27, 2004**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bill will be considered:

HB 1430 – IRC UPDATE – Rep. Miner

HB 1471 – BAKERSVILLE DEANNEXATION – Rep. Frye

HB 1475 – BADIN SATELLITE ANNEXATION – Rep. Goodwin

HB 1520 – GASTON TEMPORARY SALES TAX REFERENDUM – Rep. Rayfield

HB 1553 – GRIMESLAND BOUNDARY RESTATEMENT – Rep. C. Johnson

SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION – Sen. Bingham

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **4:30 P.M.** on **May 25, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 27, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Finch	NCDOR
Greg Rutford	NCDOR
Karl Knapp	NCDOR
Andy Sabol	NCDOR
Bob Morgan	Gaston Chamber of Commerce
Kathy Hartkopf	NC CSE(Citizens for a Sound Economy)
Robert Pasch	Young, Moore
Rikki Blanks	House Intern
P & B	NCFB
Jerry Hardesty	NCDC/FBanks
Doug Lassiter	NCSTA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 27, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Rich Webb	NCGA Intern Rep. Alexander
Elizabeth Bakanic	NCGA Intern, Rep. Weiss
Cameron Beaney	NCDOL
Art Smith	NCDOL
Tim Minton	NC Home Builders
Cam Cavell	BPMAL
Mary Katherine Hackney	Rep. Hackney
Beau Mills	NC Metropolitan Coalition
Chad W. Essick	Poyner & Spruill LLP
Warren Plonk	OSBM
Angie Quinn	NCDOR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — May 27, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
M. Kost	CA

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1471

Short Title:	Bakersville Deannexation.	(Local)
Sponsors:	Representative Frye.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO DEANNEX TWO DESCRIBED PARCELS FROM THE CORPORATE LIMITS OF THE TOWN OF BAKERSVILLE.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Bakersville are reduced by excluding the following described parcel:

In Bakersville Township, Mitchell County, North Carolina and more particularly described as follows:

BEGINNING on a small chestnut, Bowman's corner and runs with said line 78 poles to a White Oak corner, to Fortner or Arthur Wilson's line; thence north 50 poles to a White Oak in the edge of the Laurels; thence south 50 east 20 poles to a large Spanish Oak on top of the ridge; thence north 64 east 70 poles to a stake, on the Bowman line; thence south with said line 70 poles to the BEGINNING, containing 26 acres, more or less. For title reference see Book 128 at page 133, Book 151 at page 396. Mitchell County Registry.

In Bakersfield Township, Mitchell County, described as follows: BEGINNING on a stake in the J.C. McBee line and runs S 5 degrees W 140.6 feet to a stake; thence S 36 degrees E 142.5 feet to a large oak, Jim Slagle's corner; leaving the McBee line, runs S 82 degrees E 290 feet to a locust stake on the West side of Honeycutt Creek Road, James Yelton's corner; thence N 25 degrees 30 minutes W 124.6 feet to a stake; thence N 41 degrees W 75.4 feet to a pear tree; thence N 25 degrees 30 minutes E 109.5 feet to a locust fence stake; thence S 62 degrees E 57 feet to a stake, Jim McKinney's corner; thence with the McKinney line N 5 degrees 40 minutes E 205 feet to a locust stump, Junior Carver's corner; thence N 50 degrees 25 minutes W 147.2 feet to a stake near the private road; thence N 42 degrees 20 minutes E 103.4 feet to a stake; thence S 48 degrees 10 minutes E 196 feet to a stake; thence S 76 degrees 25 minutes E 57.7 feet to a stake; thence N 85 degrees 50 minutes E 85.9 feet to a stake; thence N 72 degrees 25 minutes E 93.2 feet to a stake at intersection of private road and Junior Carver drive; leaving intersection, S 27 degrees 25 minutes E 67.1 feet to a point on West margin of

Honeycutt Road pavement; thence N 13 degrees E 198 feet to an iron; thence running with the road as follows: S 27 degrees W 120 feet; S 61 degrees W 75 feet; S 79 degrees 30 minutes W 120 feet; N 72 degrees W 73 feet; N 50 degrees W 170 feet; N 89 degrees 30 minutes W 56 feet; S 39 degrees W 175 feet; S 11 degrees W 167 feet; S 27 degrees W 73 feet; N 89 degrees 30 minutes W 88 feet; N 15 degrees 30 minutes W 58 feet to the BEGINNING, containing 3.8 acres, more or less.

SECTION 2. This act does not affect the duty to pay taxes for any prior year and does not eliminate any liens for taxes for prior years.

SECTION 3. This act becomes effective June 30, 2004.

HOUSE BILL 1471:
Bakersville Deannexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Frye
Date:	May 27, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1471 de-annexes two parcels of property, totaling approximately 30 acres, from the corporate limits of the Town of Bakersville. The act would become effective June 30, 2004.***

CURRENT LAW: A city or town may annex property by petition of owners of property to be annexed or if the property meets certain statutory requirements. If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex. The General Assembly can also de-annex property of a municipality.

BILL ANALYSIS: House Bill 1471 de-annexes two parcels of property, totaling approximately 30 acres, from the corporate limits of the Town of Bakersville. The act would become effective June 30, 2004 and would not affect the duty to pay taxes for any prior year.

BACKGROUND: The Town Board of Bakersville passed a resolution requesting that these parcels be removed from the town limits after receiving a request from two property owners concerning the town's inability to provide road, garbage, water, and sewer services to their property despite their obligation to pay property tax.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1471 A BILL TO BE ENTITLED AN ACT TO DEANNEX TWO DESCRIBED PARCELS FROM THE CORPORATE LIMITS OF THE TOWN OF BAKERSVILLE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1475

Short Title:	Badin Satellite Annexation.	(Local)
Sponsors:	Representative Goodwin.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO ANNEX THE ALBEMARLE CORRECTIONAL INSTITUTION TO THE TOWN OF BADIN.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Badin are extended to include the following described territory, which shall be considered to be satellite corporate limits until the intervening territory has been annexed:

Lying and being in Harris Township, Stanly County, and more particularly described as follows:

Being all of that certain parcel or tract of land located on the south side of Airport Road (SR 1549), 31 hundredths of a mile west from the intersection with NC 740 Highway, and composed of tracts of land previously owned by Julius F. Burleson Heirs, J. T. Russell & Sons, Inc. and Jack H. Tysinger, et al as referenced in Plat Book 17, Page 26 in the Stanly County Registry, and being more particularly described as follows:

BEGINNING at a new spike in the center line of the pavement of Airport Road, SR 1549 with a right of way of 60 feet, said new spike being N-84-01-04-W 2448.73 feet from NCGS monument "ROCKS", and thence with a new line through the lands of Jack Tysinger, et al (DB 346-476) and J. T. Russell & Sons, Inc. (DB 488-511) S-30-23-14-E 1253.66 feet to a new iron pipe in the line between the lands of J. T. Russell & Sons, Inc. and Julius F. Burleson Heirs (DB 192-13), said new iron pipe being S-60-53-07-W 63.82 feet from a new iron pipe, a corner of Julius F. Burleson Heirs and Pressley McPhail (DB 133-51); THENCE with a common line between J. T. Russell & Sons, Inc. on the right and Julius F. Burleson Heirs on the left S-60-53-07-W 938.92 feet to an existing stone; THENCE a new line through the land of Julius F. Burleson Heirs S-40-25-53 W 633.42 feet to an existing iron pipe abutting an existing stone; THENCE with a common line between the lands of Julius F. Burleson Heirs on the right, Kenneth R. Huneycutt on the left (DB 367-621 and DB 323-840) and Ray F. Flow on the left (DB 365-199) S-32-51-16 W passing an existing iron pipe at 287.39 feet, a tract corner of Kenneth R. Huneycutt, and passing another existing iron pipe at 1033.54 feet a

corner of Kenneth R. Huneycutt and Ray Flow, and continuing for a total distance of 1201.67 feet to an existing stone; THENCE with a common line between Julius F. Burleson Heirs on the right and Richmond E. Smith on the left (DB 165-217) N-47-53-31-W crossing Little Mountain Creek twice 1781.35 feet to an existing square iron rod on the north side of Little Mountain Creek; THENCE with a common line between Julius F. Burleson Heirs on the right and Richmond E. Smith on the left N-55-30-15-W 313.51 feet to a new spike in the center line of the pavement of Airport Road, said new spike being S-55-30-15-E 101.76 feet from an existing iron pipe at the base of a red oak stump, the north corner of Richmond E. Smith's land; THENCE with the center line of the pavement of Airport Road 34 calls as follows: 1) With the land of Julius F. Burleson Heirs on the right N-30-37-02-E 193.30 feet to a point, 2) N-30-57-59-E 118.97 feet to a point, 3) N-31-38-39-E 116.57 feet to a point, 4) N-33-03-18-E 78.77 feet to a point, 5) N-37-51-41E 60.84 feet to a point, 6) N-47-39-0 I -E 60.77 feet to a point, 7) N-59-20-24-E 61.60 feet to a point, 8) N-67-58-41-E 61.32 feet to a point, 9) N-74-29-57-E 59.44 feet to a point, 10) N-80-05-16-E 76.08 feet to a point, 11) N-83-46-19-E 77.20 feet to a point, 12) N-86-31-29-E 80.63 feet to a point, 13) S-89-19-38-E 76.81 feet to a point, 14) S-85-07-40-E 80.34 feet to a point, 15) S-84-17-33-E 165.88 feet to a point, 16) S-85-44-34-E 74.42 feet to a point, 17) S-88-38-47-E 73.69 feet to a point, 18) N-86-35-58-E 75.98 feet to a point, 19) N-80-58-46-E 73.87 feet to a point, 20) N-74-59-41-E 73.94 feet to a point, 21) N-70-25-09-E 73.57 feet to a point, 22) N-66-02-28-E 75.06 feet to a point, 23) N-61-30-22-E 73.22 feet to an existing spike at the intersection with the extension from the left the south line of Hercules Drive, 24) N-58-16-16-E 66.06 feet to an existing spike at the intersection with the extension from the left the north line of Hercules Drive, 25) with the land of J. T. Russell & Sons, Inc. on the right N-55-55-02-E 106.15 feet to a point, 26) N-54-25-27-E 100.62 feet to a point, 27) N-53-42-56-E 100.67 feet to a point, 28) N-52-37-14-E 98.92 feet to a point, 29) N-51-36-38-E 98.84 feet to a point, 30) N-50-52-23-E 100.50 feet to a point, 31) N-50-38-52 E 100.10 feet to a point, 32) N-49-57-58-E 102.79 feet to a point, 33) N-49-49-04-E 141.75 feet to an existing spike, 34) with the land of Jack H. Tysinger, et al on the right N-49-44-28-E 505.36 feet to the point of Beginning and containing 100.00 acres (by coordinates) subject to the right of way of Airport Road (SR 1549), meridian relative to North Carolina Grid North, ratio of precision is 1: 26,000 according to a survey map by Dent Hall Turner, RLS dated November 30, 1995 for the County of Stanly.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1475:
Badin Satellite Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Goodwin
Date:	May 27, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1475 would annex the Albemarle Correctional Institution to the Town of Badin.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 1475 would annex the Albemarle Correctional Institution to the Town of Badin. The Albemarle Correctional Institution is currently located on State property and is exempt from property tax. The area meets all of the statutory requirements for voluntary annexation required by G.S. 160A-58.1. However, since the Town of Badin would like for the property to be annexed by June 30, 2004, it is seeking to annex through the legislative process. The Town and the Department of Correction have entered into a Memorandum of Understanding whereby the parties have agreed that the proposed annexation is in the best interests of both parties. The Town will continue to provide the same services it currently provides to the area. Specifically, the area is currently served by the Badin Volunteer Fire Department and by the Badin Water District. The effect of the annexation would be to increase the population of the Town by approximately 800 people, thereby increasing the sales and use tax revenues that are distributed to the Town on a per capita basis.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1475 A BILL TO BE ENTITLED AN ACT TO ANNEX THE ALBEMARLE CORRECTIONAL INSTITUTION TO THE TOWN OF BADIN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1520

Short Title:	Gaston Temporary Sales Tax Referendum.	(Local)
Sponsors:	Representatives Clary and Rayfield (Primary Sponsors).	
Referred to:	Finance.	

May 19, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE GASTON COUNTY TO LEVY A TEMPORARY HALF CENT LOCAL SALES TAX FOR ECONOMIC DEVELOPMENT AND TOURISM PROJECTS, IF APPROVED BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Levy. – If the majority of those voting in a special election held pursuant to this act vote for the levy of the taxes, the board of commissioners of Gaston County may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

SECTION 2. Vote. – The board of commissioners of Gaston County may direct the county board of elections to conduct a special election on the question of whether to levy local one-half percent (1/2%) sales and use taxes in the county as provided in this Article. The election must be held on November 2, 2004, and must be held in accordance with the procedures of G.S. 163-287.

SECTION 3. Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this act must be in the following form:

"[ ] FOR [ ] AGAINST

One half percent (1/2%) temporary local sales and use taxes, in addition to the current local sales and use taxes, to be used only for economic development projects and tourism projects."

SECTION 4. Administration. – Except as provided in this act, the adoption, levy, collection, administration, and repeal of the additional taxes authorized by this act must be in accordance with Article 39 of Chapter 105 of the General Statutes. A tax levied under this act does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B.

A tax levied under this act does not apply to construction materials purchased to fulfill a lump-sum or unit price contract entered into or awarded before the effective

date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to this tax.

SECTION 5. Distribution. – The Secretary of Revenue must monthly distribute to Gaston County the net proceeds of the tax levied under this act. Gaston County must monthly distribute the following percentages of the net proceeds among the following municipalities. Gaston County must retain the balance of the net proceeds.

Municipality	**Percentage**
City of Belmont	3.5
City of Bessemer City	2.05
City of Cherryville	2.15
Town of Cramerton	1.2
Town of Dallas	1.35
City of Gastonia	50
City of High Shoals	0.3
City of Kings Mountain	0.3
Town of Lowell	1.05
Town of McAdenville	.25
City of Mount Holly	3.9
Town of Ranlo	0.9
Town of Spencer Mountain	0.02054
Town of Stanley	1.25

SECTION 6. Use. – A unit of local government may spend the proceeds of the tax levied under this act only for economic development projects, tourism projects, or both.

SECTION 7. Expiration. – A tax levied under this act expires eight years after the effective date of its levy. Gaston County's authorization to levy a tax under this act expires eight years after the effective date of the first tax the county levies under this act, even if the tax has not remained in effect for the entire eight-year period. Gaston County cannot extend the temporary tax unless authorized to do so by an act of the General Assembly subject to another referendum.

The expiration of a tax pursuant to this act does not affect the rights or liabilities of the county, a taxpayer, or another person arising under the expired tax; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the expired tax before its expiration.

If the Secretary receives a valid request for a refund of a tax levied under this act after the tax has expired and the net proceeds have been distributed, the Secretary must draw the refund from Gaston County's share of the net proceeds of the tax it levies under Article 39 of this Chapter.

SECTION 8. This act is effective when it becomes law.

HOUSE BILL 1520:
Gaston Temporary Sales Tax Referendum

BILL ANALYSIS

Committee: House Finance
Date: May 26, 2004
Version: 1st Edition

Sponsor: Rep. Clary and Rayfield
Analysis by: Martha Walston
Committee Counsel

SUMMARY: House Bill 1520 authorizes Gaston County to hold a special election on November 2, 2004 to vote on a temporary ½ cent local sales tax. The proceeds of the tax may be use only for economic development projects, tourism projects, or both.

CURRENT LAW: All 100 counties pay the following local sales taxes:

- 1% -revenue returned to county where tax collected.
- First ½ cent – allocated to county on per capita basis
- Second ½ cent – allocated to county on per capita basis
- Third ½ cent – ½ of revenue returned to county on per capita basis and ½ of revenue returned where tax collected. Like the State tax, this tax does not apply to food.

Mecklenburg County has a ½ cent sales tax. Proceeds of this tax may be used only for financing, constructing, operating, and maintaining local public transportation systems.

BILL ANALYSIS: House Bill 1520 is a local bill that authorizes the Gaston County Board of Commissioners to hold a special election on November 2, 2004 to vote on the question of whether to levy a ½ cent temporary local sales and use tax to be used only for economic development projects and tourism projects.

Section 4 exempts the following from the tax:

- Food exempt under the State tax
- Construction materials purchased to fulfill a lump-sum or unit price contract entered into or awarded before the effective date of the levy or to a bid made before the effective date of the levy.

Section 5 sets out a monthly distribution formula for the County and the municipalities in the County.

Section 6 restricts the use of the proceeds of the tax to economic development projects, tourism projects, or both.

Section 7 provides that the tax will expire eight years after the effective date of its levy.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1520 (First Edition)

SHORT TITLE: Gaston Temporary Sales Tax Referendum.

SPONSOR(S): Representatives Clary and Rayfield

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:					
Gaston Co. and assoc. municipalities		**(See Assumptions and Methodology)**			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Gaston County and its associated municipalities, the North Carolina Department of Revenue.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The legislation authorizes Gaston County to hold a referendum on the issue of the county levying an additional ½ cent in sales tax within the county. If the voters approve the ballot measure, the tax could be levied, with the proceeds distributed among the county and the associated municipalities according to a formula outlined in the bill. The tax would not apply to food or construction materials purchased to fulfill a contract entered into or awarded before the effective date of the levy. The tax expires eight years after the instatement of the levy. The proceeds of the tax can only be used for economic development, tourism, or both.

ASSUMPTIONS AND METHODOLOGY: In 2002-03 Gaston County raised $15.32 million from the Article 39 (first one cent) sales tax. This is the only entirely point of origin distributed sales tax. Using one-half of this amount, suggests potential revenue of $7.66 million from a half-cent tax. However, because the Article 39 tax applies to food, the 2002-03 estimate is reduced to $6.73 million to reflect the removal of food from the base. Growing this amount forward by

historical state sales tax growth rates, and anticipated rates, suggests the following potential revenue stream:

2005-06	2006-07	2007-08	2008-09	2009-10
7,529,977	7,868,826	8,262,267	8,675,381	9,109,150

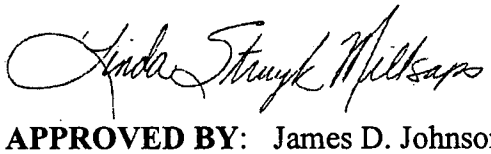
The bill divides this amount between the county and its associated municipalities by formula. The percentage each would receive under the formula, and the actual amount for 2005-06 are shown below:

	Proportion	**2005-06**
Gaston County	31.77946%	2,392,986
Belmont	3.50000%	263,549
Bessemer City	2.05000%	154,365
Cherryville	2.15000%	161,895
Cramerton	1.20000%	90,360
Dallas	1.35000%	101,655
Dellview		-
Gastonia	50.00000%	3,764,989
High Shoals*	0.30000%	22,590
Kings Mountain	0.30000%	22,590
Lowell	1.05000%	79,065
McAdenville	0.25000%	18,825
Mount Holly	3.90000%	293,669
Ranlo	0.90000%	67,770
Spencer Mountain	0.02054%	1,547
Stanley	1.25000%	94,125
TOTAL	100%	7,529,977

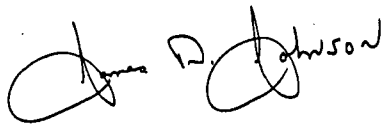
This amount is not shown in the fiscal estimate box because of the public referendum requirement.

SOURCES OF DATA: North Carolina Department of Revenue.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps



APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: May 26, 2004

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1520 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE GASTON COUNTY TO LEVY A TEMPORARY HALF CENT LOCAL SALES TAX FOR ECONOMIC DEVELOPMENT AND TOURISM PROJECTS, IF APPROVED BY THE VOTERS OF THE COUNTY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1430
PROPOSED COMMITTEE SUBSTITUTE H1430-CSLAx-45 [v.1]

5/20/2004 3:13:51 PM

Short Title: IRC Update. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~June 1, 2003,~~May 1, 2004, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina taxable income for the 2003 taxable year become effective for taxable years beginning on or after January 1, 2004.

SECTION 3. Notwithstanding the time limitations of G.S. 105-266 and G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law enacted by this act regarding the exclusion of gain on the sale or exchange of a principal residence by a member of the uniformed services or the Foreign Service of the United States is timely if a demand for the refund is filed on or before November 11, 2004.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **1**

HOUSE BILL 1430

Short Title:	IRC Update.	(Public)
Sponsors:	Representatives Miner; Luebke, G. Allen, Brubaker, Hill, McGee, Wainwright, Wood, and LaRoque.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~June 1, 2003,~~January 1, 2004, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 2. Notwithstanding Section 1 of this act, any amendments to the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina taxable income for the 2003 taxable year become effective for taxable years beginning on or after January 1, 2004.

SECTION 3. Notwithstanding the time limitations of G.S. 105-266 and G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law enacted by this act regarding the exclusion of gain on the sale or exchange of a principal residence by a member of the uniformed services or the Foreign Service of the United States is timely if a demand for the refund is filed on or before November 11, 2004.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1430:
IRC Update

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Miner
Date:	May 26, 2004	**Analysis by:**	Y. Canaan Huie and Martha Walston, staff attorneys
Version:	H1430-CSLAx-45		

SUMMARY: ***This proposed committee substitute would update to May 1, 2004, the reference to the Internal Revenue Code used in defining and determining certain State tax provisions. This bill would be effective when it becomes law.***

CURRENT LAW: North Carolina's tax law tracks many provisions of the federal Internal Revenue Code, by reference to the Code.[1] The General Assembly determines each year whether to update its reference to the Internal Revenue Code.[2] Updating the Internal Revenue Code reference makes recent amendments to the Code applicable to the State to the extent that State law tracks federal law. The General Assembly's decision whether to conform to federal changes is based on the fiscal, practical, and policy implications of the federal changes and is normally enacted in the following year, rather than in the same year the federal changes are made. Under current law, the reference date to the Code is June 1, 2003.

BILL ANALYSIS: House Bill 1430 is a recommendation of the Revenue Laws Study Committee. As introduced the bill would update the reference to the Code to January 1, 2004. Congress enacted two bills between June 1, 2003, and January 1, 2004, that would affect State tax provisions. These bills are the Military Family Tax Relief Act of 2003 (P.L. 108-121), which was signed into law on November 11, 2003, and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173), which was signed into law on December 8, 2003. On April 10, 2004, the Pension Funding Equity Act of 2004 (P.L. 108-218) was signed into law. This bill also would affect State tax provisions. The proposed committee substitute changes the date to include reference to this bill.

Military Family Tax Relief Act of 2003 (MFTRA) (P.L. 108-121).

The Military Family Tax Relief Act of 2003 makes numerous changes to the tax laws. These changes are discussed separately below.

Exclusion of gain on sale of a principal residence by a member of the uniformed services or the Foreign Service. Under current law, an individual taxpayer is allowed to exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. To qualify for this exclusion, the taxpayer must have owned and used the residence as a principal residence for at

[1] North Carolina first began referencing the Internal Revenue Code in 1967, the year it changed its taxation of corporate income to a percentage of federal taxable income.

[2] The North Carolina Constitution imposes an obstacle to a statute that automatically adopts any changes in federal tax law. Article V, Section 2(1) of the Constitution provides in pertinent part that the "power of taxation ... shall never be surrendered, suspended, or contracted away." Relying on this provision, the North Carolina court decisions on delegation of legislative power to administrative agencies, and an analysis of the few federal cases on this issue, the Attorney General's Office concluded in a memorandum issued in 1977 to the Director of the Tax Research Division of the Department of Revenue that a "statute which adopts by reference future amendments to the Internal Revenue Code would ... be invalidated as an unconstitutional delegation of legislative power."

least two of the last five years. MFTRA provided special rules for members of the uniformed services[3] or the Foreign Service of the United States. Under MFTRA the member may elect to suspend for a maximum of ten years the five-year test for period for ownership and use during certain periods of absence due to service in the uniformed services or the Foreign Service. If the election is made, the five-year period ending on the date of the sale or exchange does not include any period, up to ten years, in which the taxpayer or the taxpayer's spouse is on qualified official extended duty.[4] The effect of this provision will make it easier for military families to qualify for this exclusion. This provision is effective for sales or exchanges occurring on or after May 6, 1997. MFTRA also provides for a one-year period for taxpayers to claim refunds as a result of this provision that would otherwise be barred because of the statute of limitations. This bill provides a similar exception to the State statute of limitations.

Exclusion from gross income of certain death gratuity payments. Federal law provides that qualified military benefits are not included in gross income. Qualified military benefits include certain death gratuities. Under previous law, the amount of the military death gratuity benefit was $6,000 of which $3,000 was excluded from gross income. MFTRA increases the amount of the military death gratuity benefit to $12,000 and provides that all of it is excluded from gross income. This provision is effective for deaths occurring after September 10, 2001.

Exclusion for amounts received under the Department of Defense Homeowners Assistance Program. The Department of Defense Homeowners Assistance Program (HAP) provides payments to certain employees and members of the Armed Forces to offset the effects on housing values related to military base realignment or closure. Under the program, an eligible individual can either receive a cash payment related to the decrease in value or sell the property for a price based on the fair market value of the property before the announcement of the base realignment or closure. Previously, to the extent these payments exceeded the fair market value of any property relinquished, they were considered income. MFTRA excludes these payments from gross income. This provision is effective for payments made after November 11, 2003.

Expansion of combat zone filing rules to contingency operations. Generally, under Section 7058 of the Code the period of time for performing various acts under the Code is suspended for any individual serving in the Armed Forces of the United States in an area designated as a combat zone. North Carolina law prohibits the Secretary of Revenue from assessing penalties or interest for any period that is disregarded under Section 7058 of the Code. State law also provides that the taxpayer is granted an extension of time to file a return or take any other action regarding a State tax during this period. The federal legislation extends the special suspension rules to include persons who are not serving in a combat zone but who are deployed outside of the United States and away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation or that becomes a contingency operation.[5] This provision applies to any period for performing and action that had not expired before November 11, 2003.

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3 The uniformed services include the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the Public Health Service.

4 "Qualified official extended duty" is any period of extended duty while serving at a place of duty at least 50 miles from the taxpayer's principal residence or under orders compelling residence in government furnished quarters. "Extended duty" is a period of duty pursuant to a call to order for a period in excess of 90 days or for an indefinite period.

5 A contingency operation is a military operation that is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force, or results in the call or order to active duty of members of the uniformed services during a war or a national emergency declared by the President or Congress.

Veterans' organizations tax exemption membership requirement modification. In order to be tax-exempt as a veterans' organization under Section 501(c)(19) of the Code, certain membership requirements must be met. Under previous law, at least 75% of members were required to be past or present members of the Armed Forces and "substantially all" of the other members were required to be spouses, widows, or widowers of present or past members of the Armed Forces or cadets. MFTRA enlarged the class of individuals who must make up substantially all of the remaining membership by including ancestors and lineal descendants of present or past members of the Armed Forces or cadets. This provision became effective November 11, 2003.

Dependent Care Assistance Program payments to members of the uniformed services. As mentioned earlier, certain qualified military benefits are not included in gross income. MFTRA clarifies that dependent care assistance provided under a dependent care assistance program to a member of the uniformed services by reason the member's status or service is excludable from gross income as a qualified military benefit. This provision is effective for taxable years beginning on or after January 1, 2003.

Suspension of tax-exempt status of terrorist organizations. Under current law, the revocation of an organization's tax-exempt status is accompanied by administrative or judicial rights of appeal. Prior to the enactment of MFTRA, there was no procedure for suspending the tax-exempt status of an organization. MFTRA suspends the tax-exempt status of any organization that is exempt from tax under Section 501(a) of the Code for any period during which the organization is designated or identified by U.S. authorities as a terrorist organization or a supporter of terrorism. During the period of suspension, no deduction for any contribution to the organization is allowed under the Code. No organization or other person may directly challenge the suspension of tax-exempt status. In order to challenge the suspension of tax-exempt status, a person must challenge the underlying designation that the organization is a terrorist organization or a supporter of terrorism. Tax-exempt status is reinstated when all underlying designations have been rescinded. If it is determined that a designation was erroneous, tax-exempt status is reinstated retroactively. This provision is effective for all designations – past, present, or future. Suspension of tax-exempt status becomes effective when the designation becomes effective or November 11, 2003, whichever is later. Because this provision became effective during 2003 and could have the effect of raising taxes in the 2003 tax year for some taxpayers, this bill contains language in Section 2 that clarifies that any change in this bill that could increase taxes in the 2003 taxable year will not take effect until the 2004 taxable year.

Above-the-line deduction of overnight travel expenses of National Guard and Reserve members. Under previous law, National Guard and Reserve members could claim itemized deductions for their nonreimburseable expenses for transportation, meals, and lodging for overnight travel associated with National Guard or Reserve meetings. These expenses were only deductible to the extent they exceeded 2% of the taxpayers adjusted gross income. MFTRA allows for an above-the-line deduction so that National Guard or Reserve members may claim a deduction for these expenses regardless of whether they itemize deductions. The deduction is allowed only to the extent it does not exceed the federal per diem rate and only when the member must travel at least 100 miles from home. The deduction allowed by MFTRA is not limited to the portion that exceeds 2% of adjusted gross income.

Extension of certain tax relief provisions to astronauts. In 2001, Congress enacted the Victims of Terrorism Tax Relief Act of 2001. That act provided certain income and estate tax relief to individuals who died as a result of the terrorist attacks on September 11, 2001 or April 19, 1995 (the bombing of the Alfred P. Murrah Federal Building in Oklahoma City) or as a result of an illness that occurred as a result of an anthrax attack that occurred between September 11, 2001, and January 1, 2002. In general, under

that act, qualified individuals are exempt from federal income tax for the taxable years starting with the taxable year preceding the attack until the taxable year including death. This income tax exemption does not apply to certain deferred compensation payment or to amounts that would not have been otherwise payable without some other action occurring after September 11, 2001. That act also provides that certain death benefits are excludable from gross income and provides for a reduction in estate taxes. MFTRA extended these benefits to astronauts who lose their lives on a space mission, including those who lost their lives in the space shuttle Columbia disaster. This provision is effective for individuals whose lives are lost after December 31, 2002.

Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173).

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173) contains one significant tax provision. As part of that law, Congress enacted Health Savings Accounts (HSA). The federal legislation will allow a person to accumulate funds on a tax-preferred basis to pay for certain medical expenses. Contributions to the fund may be made by an employer, an eligible individual, or both. The earnings in the fund grow tax-free. Employer contributions to a HSA are excludable from gross income and contributions by an eligible individual are deductible in computing adjusted gross income.

Distributions from a HSA for medical expenses would be excludable from income, except for amounts distributed to pay most health insurance premiums. However, tax-free distributions from a HSA may be used to pay the following health insurance premiums: retiree health insurance premiums for individuals who have reached Medicare eligibility; premiums for COBRA coverage; premiums for qualified long-term care insurance contracts; and premiums for a health plan during a period in which an individual is receiving unemployment. Distributions from a HSA for non-medical expenses would be includible in income.

Pension Funding Equity Act of 2004 (P.L. 108-218

The Pension Funding Equity Act of 2004, signed by the President on April 10, 2004, makes changes to the Internal Revenue Code and the Employee Retirement Income Security Act (ERISA). By modifying the requirements for a qualified defined benefit pension plan, the Act changes whether a plan qualifies for special tax treatment of contributions, earnings, and distributions and therefore affects federal taxable income, which is the basis for calculating North Carolina taxable income. The Act allows employers (both pension plan sponsors across the board as well as those in specifically targeted industries) to lower the amount of both their pension contributions and premiums paid to the Pension Guaranty Corporation (PBGC). The PBGC is the government agency that insures certain underfunded benefits in defined benefit plans. Underfunded single employer defined benefit plans, those plans that do not have sufficient assets to pay benefits if the plan were to terminate, provide the greatest risk to the PBGC. Sponsors of plans that are considered underfunded must make contributions to their plans in addition to paying variable-rate premiums to the PBGC based on the amount of underfunding. Pension plan benefits promised to employees remain the same. The Act specifically provides the following temporary relief for many pension plans:

- *For years 2004 and 2005, replacement of the 30-year Treasury bond rate used to calculate employer's pension contributions and premiums paid to the PBGC with a long-term corporate bond rate.* The 30 –year Treasury bond, last issued in 2001, has had an historically low interest rate. A lower interest rate requires pension plans to make higher contributions because they are assuming a lower rate of return. The new rate is based on the four-year weighted average of high quality bond yields. Under current law, plans with funded current liabilities of less than 100% must estimate quarterly payments for the plan year. Failure to make required payments subjects the employer to excise taxes. If a plan's assets are not sufficient to cover at least 90% of its

current liability, it is subject to additional funding requirements. The Act will allow more plans to meet the magic 90% funded threshold and avoid additional contributions.

- *Deficit reduction contribution (DRC) relief to under-funded plans in the airline and steel industries, and to the Transportation Communications Union plan.* The DRC is a payment required from pension plans that are significantly underfunded. Plans that are less than 90% funded on a current liability basis generally are subject to an additional minimum funding requirement. A DRC payment is required in addition to the pension plan sponsor's normal annual contribution. The Act will allow plan sponsors that would normally be subject to DRC liability to reduce their payments by 80% for two years. During the two years of DRC relief, plan sponsors will be precluded from increasing benefits for those two years except for benefit increases required by collective bargaining agreements and increases which will be paid for by increased contributions. Plan sponsors will be required to notify plan participants that the sponsor has taken DRC relief within 30 days of filing that election, thereby putting the employees on notice that the plan sponsor is not fully funding the plan. Any plan which takes DRC relief must also report to the PBGC how much in DRC contributions the sponsor was spared, how long it would take the company to become fully funded if only regular, required contributions were made, and how the amount by which the plan is underfunded compares with the capitalization of the company.
- *Relief to targeted multi-employer plans.* The Act allows an eligible multi-employer to elect to defer amortization of up to 80% of the 2002 net experience losses for two plan years. Under current law, if a multi-employer plan has a net experience loss for a plan year, the plan's funding standard account is charged with the amount needed to amortize the net experience loss over 15 years. The Act defers funding of 80% of the 2002 actuarial loss for up to two years. It is expected that very few of the 1,600 plus multi-employer plans will meet the eligibility requirements for this relief.[6] If the eligible plan elects to defer charges attributable to its 2002 net experience loss, the plan must provide written notice of the election within 30 days to participants and beneficiaries, to each labor organization representing participants and beneficiaries, to each employer that has an obligation to contribute under the plan, and to the PBGC.

[6] Eligible multi-employer plans are those which experienced an investment loss of at least 10% of assets in the plan year beginning in 2002 and for which the negotiated contributions are expected to be insufficient to satisfy minimum funding requirements in a plan year beginning after June 30, 2003 and before July 1, 2006. Multi-employer plans are not subject to the DRC. Instead, employers paying into a multi-employer plan are subject to excise taxes if the multi-employer plan is not fully funded.

FISCAL ANALYSIS MEMORANDUM

[This fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: May 24, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1430 (Proposed Committee Substitute)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($ million)

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund					
Pension Funding Act			No estimate available		
Military Fam. Relief Act	(1.2)	(.7)	(.7)	(.7)	(.8)
Health Savings Accts.	(1.4)	(4.3)	(4.8)	(5.6)	(5.8)
Total General Fund	(2.6)	(5.0)	(5.5)	(6.3)	(6.6)

EXPENDITURES

POSITIONS:

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: This bill updates the statutory reference to the Internal Revenue Code used in defining and determining certain state income tax provisions. The referenced date is changed from June 1, 2003 to May 1, 2004.

ASSUMPTIONS AND METHODOLOGY: This bill conforms the North Carolina tax code to changes made in the Internal Revenue Code in 2003 and 2004 by Congressional approval of P.L. 108-121, The Military Family Relief Act of 2003, P.L. 108-173, The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and P.L. 108-218, The Pension Funding Equity Act of 2004.

I. The Military Family Relief Act

Of the ten major provisions in the Military Family Relief Act of 2003 (H.R. 3365), only two have a fiscal impact on North Carolina. The first major change is in the exclusion of gain from the sale of a principal residence. Current tax law allows an individual to exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale of a principal residence. The taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the date of sale. The Military Family Relief Act of 2003 allows a member of the Armed Forces, Public Health Service, National Oceanic and Atmospheric Administration, or the Foreign Service to suspend for a maximum of ten years the five-year principal residence test. To qualify, these federal employees must be stationed more than 50 miles from their principal residence for duty in excess of 90 days. The provision is effective for sales made after May 6, 1997 and these employees have one year (November 11, 2003 to November 11, 2004) to apply for a refund.

The staff of the Congressional Joint Committee on Taxation (JCT) estimates that this exclusion will cost the federal treasury $68 million in the first year due to the refund provision. The federal loss in the following years is $14 million to $17 million a year. Both the Tax Research Division of the Department of Revenue and the Fiscal Research Division of the General Assembly base the North Carolina tax impact on the JCT estimate. The chart below shows the JCT estimate of federal tax loss divided by the capital gains tax rate of 25% to determine the loss in federal taxable income. Since the Department of Defense reports that 2.44% of active military personnel in the US claim North Carolina as their residence, then this percentage multiplied by the federal taxable income yields the loss of state taxable income. Multiplying the average personal income tax paid in 2001 (6.8%) times the North Carolina taxable income results in the estimated tax loss for this provision.

	($Million)				
Exclusion on Gain of Principal Residence	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
JCT Estimate of Federal Tax Loss ($Millions)	($68.0)	($14.0)	($14.0)	($15.0)	($15.0)
Divide By Capital Gains Tax Rate on Sec 1250 gains	25%	25%	25%	25%	25%
Estimated Loss of Federal Taxable Income	($272.0)	($56.0)	($56.0)	($60.0)	($60.0)
Multiply By NC Residents as Percent of Total Military	2.44%	2.44%	2.44%	2.44%	2.44%
Estimated Loss of NC Taxable Income	($6.6)	($1.4)	($1.4)	($1.5)	($1.5)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	**($0.5)**	**($0.1)**	**($0.1)**	**($0.1)**	**($0.1)**

The second provision of the Military Family Relief Act of 2003 that has a fiscal impact on North Carolina is an above the line deduction for the travel expenses of the National Guard and Reserves. Currently, National Guard and Reserve personnel may claim as itemized deductions their non-reimbursable expenses for transportation, meals, and lodging when they stay overnight for National Guard and Reserve meetings. However, these expenses

must exceed 2% of a taxpayer's adjusted gross income (AGI) to be claimed. The provision in the Military Family Relief Act allows an above the line deduction on the transportation, meals, and lodging expenses of National Guard and Reserves who travel more than 100 miles and stay overnight at National Guard and Reserve meetings.

Again, the Joint Committee on Taxation estimate of the national revenue loss for this deduction is used. To obtain federal taxable income, the federal tax loss is divided by the average federal tax rate of 21.9%. To get state taxable income, the federal taxable income is multiplied by North Carolina's percentage of the U.S. Selected Reserve personnel (2.57%). Selected Reserve includes Air and Army National Guard; Army, Navy, Air Force, and Marine Corps Reserves, and when detached from the Department of Homeland Security to the Department of the Navy, the Coast Guard Reserve. The North Carolina taxable income is multiplied by the average income tax rate of 6.8% to obtain the North Carolina tax loss from conforming to this provision.

			($Million)		
Above the Line Deduction for Reserve and Guard	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
JCT Estimate of Federal Tax Loss ($Millions)	($90.0)	($77.0)	($78.0)	($80.0)	($82.0)
Divide By Average Federal Tax Rate	21.9%	21.9%	21.9%	21.9%	21.9%
Estimated Loss of Federal Taxable Income	($411.5)	($352.1)	($356.7)	($365.8)	($374.9)
Multiply NC Selected Reserve as Percent of Total	2.6%	2.6%	2.6%	2.6%	2.6%
Estimated Loss of NC Taxable Income	($10.6)	($9.0)	($9.1)	($9.4)	($9.6)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	($0.7)	($0.6)	($0.6)	($0.6)	($0.7)

II. Medicare Prescription Drug, Improvement, and Modernization Act

There is one provision in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (HR1) that will impact North Carolina revenues. This bill creates Health Savings Accounts (HSAs) that provide tax-favored treatment of savings for medical expenses under a high deductible health plan. A person is eligible for a HSA if he or she has a health plan with a deductible that is at least $1,000 for self only coverage or $2,000 for family coverage and the plan has an out-of-pocket expense limit that is no more than $5,000 for an individual or $10,000 for a family. Out-of-pocket expenses include deductibles, co-payments, and other amounts (other than premiums) spent for covered benefits under the plan.

Individual contributions to a HSA are deductible from adjusted gross income and employer contributions to a HSA are excludable from gross income and wages for employment tax purposes. Distributions from a HSA for qualified medical expenses are excluded from gross income. HSA distributions not spent on qualified medical expenses are included in gross income and subject to an additional 10% tax.

The Department of Insurance reported to the Fiscal Research Division in May 2004 that the following companies have high deductible health plans that are HSA eligible:

John Alden
Fortis
United Wisconsin Life
Medical Security
American Republic has a product pending approval.

As in the examples above, the Joint Committee on Taxation is used to determine the North Carolina revenue loss. The federal tax loss is divided by the average federal tax rate of 21.9% to determine the federal taxable income. State taxable income is 2.9% of the federal taxable income based on 2003 US Census data on population. Multiplying the state taxable income times the 6.8% average state income tax rate yields the state tax loss from this provision.

			($Million)		
Health Savings Account	FY 04-05	FY 05-06	FY 06-07	FY 07-08	FY 08-09
JCT Estimate of Federal Tax Loss	($160)	($474)	($533)	($597)	($650)
Divide By Average Federal Tax Rate	21.9%	21.9%	21.9%	21.9%	21.9%
Estimated Loss of Federal Taxable Income	($731.6)	($2,167.4)	($2,437.1)	($2,729.8)	($2,972.1)
Multiply By NC Population as a % of US	2.9%	2.9%	2.9%	2.9%	2.9%
Estimated Loss of NC Taxable Income	($21.2)	($62.7)	($70.5)	($78.9)	($85.9)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	**($1.4)**	**($4.3)**	**($4.8)**	**($5.4)**	**($5.8)**

III. The Pension Funding Equity Act

The primary aim of the Pension Funding Equity Act of 2004 (H.R. 3108) is to reduce mandatory corporate contributions to defined benefit pension plans in 2004 and 2005. (In defined benefit plans, employers pay monthly pensions to retired workers usually based on their salary and years of service.) More specifically, the act changes the interest rate employers use to calculate their required pension contributions, the act provides temporary relief from additional contributions required of companies that have pension plans that are less than 90% funded, and the act allows multiemployer pension plans to defer for up to three years the amortization of part of their stock market losses incurred during the 2000 to 2002 period.

The Congressional Joint Committee on Taxation (JCT) estimates this legislation will produce a federal revenue gain for the first three fiscal years. Since a portion of employer contributions to qualified retirement plans are deductible from federal income tax, then a reduction in corporate payments into retirement funds will reduce the amount of corporate deductions and thus increase taxable income. Beginning in 2007, taxable income will fall as companies increase their retirement contributions and deduct these increasing contributions. Normally the General Assembly and the Department of Revenue rely on the JCT estimates when computing the North Carolina share of tax loss or gain from legislation. When JCT

was contacted for information on the Pension Funding Equity Act of 2004, the agency declined to share the methodology they used to estimate the change in revenue. The Congressional Budget Office, a coauthor of some of the bill analysis, has been asked to intervene with JCT to provide us their methodology. Because of the complexity of this bill, no estimate will be attempted on this federal act until the legislative and Revenue staff have a chance to test the validity of the JCT estimate.

SOURCES OF DATA: Congressional Joint Committee on Taxation; Department of Revenue-Tax Research Division; Department of Defense "2002 Selected Manpower Statistics"; IRS "Statistics of Income Bulletin Fall 2003"; US Census Bureau "2003 US Statistics in Brief"; Department of Insurance

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1430 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 1553*

Short Title:	Grimesland Boundary Restatement.	(Local)
Sponsors:	Representative C. Johnson.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO RATIFY THE BOUNDARIES OF THE TOWN OF GRIMESLAND BASED ON A NEW SURVEY ALONG THE EXISTING COMMONLY RECOGNIZED BOUNDARY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of Chapter 222 of the 1893 Session Laws is rewritten to read:

"TOWN LIMITS BOUNDARY DESCRIPTION

BEGINNING at a point along the northern right of way line of N.C. Highway 33 and also being the south corner of Pitt County tax parcel 048511, the owner thereof being listed as Trustees of Pentecostal Holiness Church (said point controlled by a concrete monument set at N50°00'00"W 25.0 feet from said point); thence from said POINT OF BEGINNING continuing southwest across N.C. Highway 33 to a point on the southern right of way line of N.C. Highway 33, said point being the northwest corner of Pitt County tax parcel 006965, the owner thereof being listed as Thomas S. and Mary Gentile; thence continuing southwest approximately 123 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southeast approximately 133 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southwest approximately 59 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southeast approximately 200 feet along the boundary of said parcel 006965 to a corner of the parcel 006965; thence continuing southwest approximately 162 feet along the boundary of said parcel 006965 to a corner of the parcel 006965, said corner also being the north corner of Pitt County tax parcel 033394, the owner thereof being listed as Mary Frances N. and Gerald Edwin Whitley; thence continuing approximately 212 feet along the west boundary of said parcel 033394 to the west corner of the parcel 033394; thence continuing approximately 195 feet along the south boundary of said parcel 033394 to the south corner of the parcel 033394; thence continuing approximately 198 feet along the east boundary of said parcel 033394 to the east corner of the parcel

033394; said corner also being the west corner of Pitt County tax parcel 048140, the owner thereof being listed as Thomas S. and Mary Gentile; thence continuing approximately 68 feet along the south boundary of said parcel 048140 to the south. corner of the parcel 048140, said corner also being the west corner of Pitt County tax parcel 048131, the owner thereof being listed as Lelon A. Moore; thence continuing approximately 19 feet along the south boundary of said parcel 048131 to a point, said point being the north corner of Pitt County tax parcel 014593, the owner thereof being listed as Jenette B. Mayo; thence continuing approximately 141 feet along the west boundary of said parcel 014593 to the west corner of the parcel 014593, said corner also being the north corner of Pitt County tax parcel 014597, the owner thereof being listed as Lewis David Landen; thence continuing approximately 354 feet along the west boundary of said parcel 014597 to a point, said point also being the north corner of Pitt County tax parcel 034690, the owner thereof being listed as Lewis David Landen; thence continuing approximately 220 feet along the west boundary of said parcel 034690 to the west corner of the parcel 034690; thence continuing approximately 179 feet along the south boundary of said parcel 034690 to a point, said point also being a south corner of Pitt County tax parcel 014597, the owner thereof being listed as Lewis David Landen; thence continuing approximately 39 feet to a south corner of the parcel 014597; thence continuing south-southeast approximately 2,230 feet to the west corner of Pitt County tax parcel 034034, the owner being listed as William Howard, (Jr.) and Mildred M. Cherry; thence continuing approximately 213 feet along the south boundary of said parcel 034034 to the south corner of the parcel 034034, also being a point on the western right of way line of North Carolina Secondary Road 1777 (Chicod Street) (said point controlled by a concrete monument set at N49°00'00"E 5.0 feet from said point); thence continuing perpendicular across the right of way of North Carolina Secondary Road 1777 to a point on the east right of way line of North Carolina Secondary Road 1777; thence continuing east approximately 741 feet to a point on the west right of way line of North Carolina Secondary Road 1565 (Beaufort Street); thence continuing perpendicular across the right of way of North Carolina Secondary Road 1565 to a point on the east right of way line of North Carolina Secondary Road 1565, said point also being the west corner of Pitt County tax parcel 047448, the owner thereof being listed as Mary Frances N. and Gerald Edwin Whitley (said point controlled by a concrete monument set at N37°00'00"E 5.0 feet from said point); thence continuing approximately 202 feet along the southwest boundary of said parcel 047448 to the south corner of the parcel 047448; thence continuing east-northeast approximately 3,174 feet to the south corner of Pitt County tax parcel 011667, the owner thereof being listed as George William Huntley; thence continuing approximately 213 feet along the east boundary of said parcel 011667 to the east corner of the parcel 011667, said corner also being the north corner of Pitt County tax parcel 046974, the owner thereof being listed as Viola Godley Buck life estate; thence continuing approximately 184 feet along the north boundary of said parcel 046974, also being the south, right of way line of N.C. Highway 33, to a corner of the parcel 046974; thence continuing north-northeast across the N.C. Highway 33 right of way to a point along the north right of way line of N.C. Highway 33, said point being the south corner of Pitt County tax parcel 048498, the

owner thereof being listed as Lewis Elmore and Ruby G. Hodges (said point controlled by a concrete monument set on the northern right of way of NC Highway 33 15.0 west of said point); thence continuing approximately 29 feet along the east boundary of said parcel 048498 to a point, said point being a south corner of Pitt County tax parcel 054434, the owner thereof being listed as Lewis Elmore and Ruby G. Hodges; thence continuing approximately 363 feet to the east corner of the parcel 054434, also being a point on the south right of way line of Norfolk Southern Railroad; thence continuing on the same bearing across the Norfolk Southern Railroad right of way to a point on the north right of way line of Norfolk Southern Railroad; thence continuing in a northwest direction approximately 914 feet along the north right of way line of Norfolk Southern Railroad to a point on the east right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street), said point being the intersection of the north right of way line of Norfolk Southern Railroad and the east right of way line of North Carolina Secondary Road 1568; thence continuing approximately 202 feet along the east right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street) to a point, said point being the southwest corner of Pitt County tax parcel 019726, the owner thereof being listed as Oriental Lodge - No. 76 F. and A.M.; Trustees; thence continuing northwest across North Carolina Secondary Road 1568 (Mount Calvert Street) to a point on the west right of way line of North Carolina Secondary Road 1568 (Mount Calvert Street), said point being the east corner of Pitt County tax parcel 001086, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 111 feet northwest along the boundary of said parcel 001086 to a point also being a corner of Pitt County tax parcel 049407, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 41 feet northwest along the boundary of said parcel 049407 to a corner of the parcel 049407; thence continuing approximately 30 feet north-northeast along the boundary of said parcel 049407 to a point also being a corner of Pitt County tax parcel 001086, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 16 feet north-northeast along the boundary of said parcel 001086 to a corner of the parcel 001086; thence continuing approximately 23 feet northwest along the boundary of said parcel 001086 to a point also being a corner of Pitt County tax parcel 049407, the owner thereof being listed as Betty Lou Barr and Elijah Crandell, et al; thence continuing approximately 34 feet northwest along the boundary of said parcel 049407 to a corner of the parcel 049407; thence continuing approximately 92 feet northwest along the boundary of said parcel 049407, said corner being a point on the east right of way line of Mount Hope Street; thence continuing north approximately 130 feet along the east right of way line of Mount Hope Street to a point, said point being the intersection of the east right of way line of Mount Hope Street and the south right of way line of Tar Street; thence continuing northwest approximately 902 feet to a point on the south right of way line of North Carolina Secondary Road 1568 (Bryant Street), said point being perpendicular across the right of way of North Carolina Secondary Road 1568 (Bryant Street) from the southeast corner of Pitt County tax parcel 055723, the owner thereof being listed as Patricia M. Harvey; thence continuing northeast across North Carolina Secondary Road 1568 (Bryant Street) to a point on the northern right of way line of North Carolina

Secondary Road 1568, said point being the southeast corner of said parcel 055723; thence continuing approximately 198 feet along the east boundary of said parcel 055723 to the east corner of the parcel 055723; thence continuing approximately 82 feet along the north boundary of said parcel 055723 to the north corner of the parcel 055723, said corner also being a point on the east right of way line of Silverado Drive; thence continuing across Silverado Drive to a point on the west right of way line of Silverado Drive; said point also being the east corner of Pitt County tax parcel 048509, the owner thereof being listed as Larry C. and Claudia W. Brown; thence continuing approximately 241 feet along the north boundary of said parcel 048509 to the north corner of the parcel 048509, said corner also being a corner of Pitt County tax parcel 048504, the owner thereof being listed as Johnny L. and Hattie L. Daniels; thence continuing approximately 50 feet along the east boundary of said parcel 048504 to a point, said point also being a southeast corner of Pitt County tax parcel 035212, the owner thereof being listed as Johnny L. and Hattie L. Daniels; thence continuing approximately 102 feet along the east boundary of said parcel 035212 to a corner of the parcel 035212; thence continuing approximately 71 feet to the northeast corner of the parcel 035212; thence continuing approximately 5 feet along the north boundary of said parcel 035212 to a corner; thence continuing approximately 50 feet along the north boundary of said parcel 035212 to the northwest corner of the parcel 035212; thence continuing approximately 173 feet along the west boundary of said parcel 035212 to the west corner of the parcel 035212, said corner also being the east corner of Pitt County tax parcel 038228, the owner thereof being listed as Evelyn Littles; thence continuing approximately 233 feet along the north boundary of said parcel 038228 to the north corner of the parcel 038228, said corner also being a point on the east right of way line of North Carolina Secondary Road 1565 (Beaufort Street) (said point controlled by a concrete monument set at said point); thence continuing across North Carolina Secondary Road 1565 to a point on the west right of way line of North Carolina Secondary Road 1565, said point being perpendicular across the right of way of North Carolina Secondary Road 1565 from the north corner of the parcel 038228; thence continuing approximately 58 feet south along the west right of way line of North Carolina Secondary Road 1565 to the east corner of Pitt County tax parcel 016435, the owner thereof being listed as Evelyn M. Littles; thence continuing approximately 127 feet along the north boundary of said parcel 016435 to a point, said point also being the east corner of Pitt County tax parcel 048505, the owner thereof being listed as Evelyn M. Littles; thence continuing approximately 59 feet along the northeast boundary of said parcel 048505 to the north corner of the parcel 048508, said corner also being a point on the east boundary of Pitt County tax parcel 048507, the owner thereof being listed as James Daniels Sr. Heirs; thence continuing approximately 5 feet along the east boundary of said parcel 048507 to the east corner of the parcel 048507; thence continuing approximately 79 feet along the north boundary of said parcel 048507 to the north corner of the parcel 048507, said corner also being the east corner of Pitt County tax parcel 003004, the owner thereof being listed as Bobby Earl Bullock; thence continuing approximately 108 feet along the north boundary of said parcel 003004 to the north corner of the parcel 003004; thence continuing approximately 190 feet along

the west boundary of said parcel 003004 to a point, said point also being the north corner of Pitt County tax parcel 048506, the owner thereof being listed as Bobby Earl Bullock; thence continuing approximately 102 feet along the west boundary of said parcel 048506 to the west corner of the parcel 048506; thence continuing west-northwest approximately 1,376 feet to a point on the north right of way line of the Norfolk Southern Railroad, said point being perpendicular to the east corner of Pitt County tax parcel 026504, the owner thereof being listed as Rupert Spencer 5 and Liddie S. Hill; thence continuing perpendicular across the Norfolk Southern Railroad right of way to a point on the south right of way line of Norfolk Southern Railroad, said point being the east corner of the parcel 026504; thence continuing approximately 394 feet along the south right of way line of Norfolk Southern Railroad to a point, said point also being the north corner of Pitt County tax parcel 048513, the owner thereof being listed as Pearly A. and Thomas A. West; thence continuing approximately 82 feet along the northwest boundary of said parcel 048513 to a point, said point also being the north corner of Pitt County tax parcel 026503, the owner thereof being listed as Pearly A. and Thomas A. West; thence continuing approximately 92 feet along the northwest boundary of said parcel 026503 to the west corner of the parcel 026503; thence continuing west-northwest approximately 1,416 feet to the POINT OF BEGINNING containing approximately 349.90 acres as shown on map Z2245 prepared by Rivers and Associates, Inc., Greenville, North Carolina dated September 18, 2003 entitled "Map of Town of Grimesland Corporate Limits" and recorded in map book 60, page 68 of the Pitt County, North Carolina registry, and as also shown on map W-2622 prepared by Rivers and Associates, Inc., Greenville, North Carolina dated October 2, 2002 entitled "Map of Proposed Town Limits Redefinition", revision 7, dated September 11, 2003 both of which by reference are made a part hereof."

SECTION 2. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1553 A BILL TO BE ENTITLED AN ACT TO RATIFY THE BOUNDARIES OF THE TOWN OF GRIMESLAND BASED ON A NEW SURVEY ALONG THE EXISTING COMMONLY RECOGNIZED BOUNDARY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

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June 3, 2004

The House Committee on Finance met on Thursday, June 3, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, McGee, Rayfield, Ross, Setzer, Starnes, Weiss, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Martha Harris, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Allen, in the absence of Chairman Luebke, called the meeting to order at 8:34 am and recognized the five (5) pages present: (1) Andrew Bell of Cumberland County, sponsored by Representative Dickson; (2) Sarah Ferguson of Vance County, sponsored by Representative Warner; (3) Jessica Gulley of Cabarrus County, sponsored by Representative Gulley; (4) Ashton Piper of Franklin County, sponsored by Representative Lucy Allen; and (5) Cameron Saunders of Wake County, sponsored by Representative Miner.

The first bill considered on the agenda was **HB 1593 – SWANSBORO ANNEXATION** (see **attachment 3**). Chairman Allen recognized Representative Preston, one of the bill's sponsors, to explain the bill. Representative Preston explained that the bill would allow for the satellite annexation of property known as the River Reach Subdivision to the Town of Swansboro. She also stated that the bill was requested by both the subdivision and the Town and that there was no opposition to the measure. Following this explanation, the Chair recognized Representative Blackwood who moved that House Bill 1593 be given a favorable report. Seeing no further discussion, Chairman Allen then called the motion to a vote and it carried by consent.

Chairman Allen next recognized Representative Goodwin to explain **HB 1678 – NORWOOD ANNEXATIONS** (see **attachment 4**). Representative Goodwin explained that the bill would simply annex two tracts of land into the Town of Norwood. He stated that the bill was prompted by the requests of several property owners requesting the extension of sewer service to the area and knew of no opposition to the bill. Representative Ellis was then recognized by the Chair and moved that House Bill 1678 be given a favorable report. As there was no further discussion, Chairman Allen then called the motion to a vote and it carried without objection.

Chairman Allen next recognized Representative Stiller, sponsor of **HB 1732 – SOUTHPORT WARD BOUNDARIES** (see **attachment 5**), to provide an explanation of the

bill. Representative Stiller explained that the bill would act to clarify the ward boundaries of the City of Southport to reflect recent annexations. Seeing no discussion on the bill, Chairman Allen recognized Representative Hill who moved that the bill be given a favorable report. The Chair then called the vote and the motion carried by consent.

HB 1385 – WASHINGTON/CRESWELL SATELLITE ANNEXATIONS (see **attachment 6**), sponsored by Representative Arthur Williams, was the next bill discussed by the Committee. Chairman Luebke, having arrived at the meeting and assuming the Chair, accepted a motion from Representative Capps that the Proposed Committee Substitute (PCS) for HB 1385 be adopted for the Committee's discussion and the motion carried without objection. Representative Williams was then recognized to explain the bill. He stated that House Bill 1385 adds the City of Washington and the Town of Creswell to the list of municipalities that are removed from the 5th statutory satellite annexation standard, which restricts (caps) a municipality's satellite annexation to no more than 10% of its primary corporate limits. He noted that the PCS adds the Town of Wallace to the list. Following this explanation, Chairman Luebke recognized Representative Wainwright for a question to the bill sponsor. Representative Wainwright asked if this bill exempting the cap on satellite annexations for these municipalities was temporary or permanent. Representative Williams explained that the bill would remove the cap permanently. Following some other brief discussion, Representative Wainwright then requested that Chairman Luebke temporarily displace the bill before the Committee. Chairman Luebke, upon receiving this request, then acted to temporarily displace House Bill 1385, with the intent to bring the bill back before the Committee prior to the meeting's adjournment.

Chairwoman Luebke then recognized Representative Preston to explain the next bill on the Committee's calendar: **HB 1369 – EMERALD ISLE ANNEXATION** (see **attachment 7**). Representative Preston stated that the bill, requested by the Town of Emerald Isle, amends the Town's Charter to extend the western boundary of the Town to the Bogue Inlet channel, as it exists from time to time, whether by natural forces, acts of God, accretion, dredging, or human cause. She noted that the change in the charter would allow all upland areas connected to Bogue Banks on the western end of the island to be in the corporate limits of the Town. Seeing no discussion among the members, Chairman Luebke then recognized Representative Ellis who moved for a favorable report on House Bill 1369. The Chair then called the matter to a vote and the motion carried without objection.

The next bill considered by the Committee was **HB 919 – WORKPLACE SAFETY TAX CREDITS** (see **attachment 8**), sponsored by Representative Goodwin. Chairman Luebke accepted a motion from Representative Womble to adopt the PCS for HB 919 for purposes of the Committee discussion. The motion carried without objection. Representative Goodwin was then recognized to explain the bill. He stated that the PCS for the bill establishes a tax credit (equal to the amount of expenditure) for eligible employers that incur expenditures to voluntarily eliminate workplace hazards. He also stated that the credit could be taken against franchise tax, individual income tax, or corporate income tax liability. Representative Goodwin also explained that the PCS would require the taxpayer claiming the credit to add back to federal taxable income, for purposes of determining State taxable income, the amount of expenditures for which the taxpayer claims a credit under the workplace safety tax credit provisions. The tax credit would be effective January 1, 2004 and would sunset January 1, 2006. (The bill summary is included in attachment 8 and provides further details on the bill's provisions.) Chairman Luebke then entertained a great number of questions from the Committee members. Representative Ellis asked if any employer was eligible to receive the tax credits in the bill. Representative Goodwin explained that any employer in the State could receive these credits unless the employer has outstanding citations against them from Occupational Safety and Health (OSHA). Chairman Luebke then recognized Representative

Hackney who inquired as to his understanding that such workplace safety expenditures were already tax deductible from both federal and state taxes and wondered if the State should be offering additional tax credits and if this allowed "double dipping". He stated his belief in the potential for fraud by taxpayers simply filing for the new credit as well as taking the existing deduction. Trina Griffin, Staff, was recognized by the Chair to respond and stated that the bill restricts taxpayers from taking both the credit and deduction, but conceded that the only method of enforcing this would be through audits conducted by the Department of Revenue. The Chair next recognized Representative Womble who asked if employers in the State were not already supposed to be meeting workplace safety requirements outlined in the statutes. Representative Goodwin explained that the bill would provide a credit to those employers who are going above and beyond the OSHA requirements of safety. He also reminded Representative Womble that no company with existing OSHA violations would be eligible for the tax credit. Representative Jones was recognized next and asked the bill sponsor what benefits this bill would provide to the average blue-collar worker in North Carolina. Representative Goodwin explained that the bill, by increasing the level of safety in the workplace through better equipment, would reduce injuries, thereby increasing productivity, as well as potentially lowering worker's compensation premiums for employers. Chairman Luebke recognized Representative Bordsen next who asked what the broad intent of this proposed policy was. Representative Goodwin stated that, in the long-term, the intent of the bill is to make North Carolina workplaces safer and more technologically advanced for future generations. Representative Bordsen concluded by stating that the State had more immediate needs to address and could not afford the costs of the bill at the present time (estimated at a minimum of $1 million annually). Representative Weiss concurred with Representative Bordsen. Representative Decker was then recognized by the Chair and voiced his complete support of the bill as an excellent measure to encourage workplace safety. Representative Starnes concurred with Representative Decker, stating that workplace safety should be a top priority of legislators. Chairman Luebke then recognized three visitors to the Committee who desired to state their support of House Bill 919: Ms. Andrea Bazan-Manson, Executive Director of El Pueblo (a Latino advocacy organization); Ms. Amy Kaufman, Executive Director of the North Carolina Occupational Safety and Health Project (NCOSH); and Mr. Fred Allen of the North Carolina Aggregates Association (representing mining issues). Following this, Chairman Luebke announced that Representative Goodwin had requested that the bill be displaced from the Committee until the issues surrounding the bill could be addressed. Representative Goodwin then thanked the Committee members for their time and informed them of his hope to bring an updated version of the bill (addressing the member's concerns) back before the Committee soon.

Chairman Luebke then brought **HB 1385 – WASHINGTON/CRESWELL SATELLITE ANNEXATIONS** (see **attachment 6**), sponsored by Representative Arthur Williams, back before the Committee after being temporarily displaced earlier in the meeting at the request of Representative Wainwright. Representative Wainwright then stated his concerns had been addressed and he was now pleased to support the bill. Chairman Luebke then recognized Representative Ellis who acted to send forth an amendment (see **attachment 9**). He explained that his amendment acted to place a sunset of January 1, 2005 on the removal of the 10% satellite annexation cap. He then moved adoption of the amendment. The Chair then recognized Representative Williams who stated that he did not support the amendment. Representative Wainwright was recognized and stated that since there were a large number of municipalities already permanently exempted from this statutory requirement, he did not see why the areas of Washington, Creswell, and Wallace should be subject to a sunset. Representative Hackney agreed with Representative Wainwright, stating his belief that the decision was a local one and that the Committee should not impress restrictions on a few select communities when it has not done so on others. Seeing no further discussion on Representative Ellis' amendment, Chairman Luebke then called the amendment to a vote and it failed. Representative Wainwright then moved that the PCS

for House Bill 1385 be given a favorable report (with an unfavorable report as to the original bill). Chairman Luebke then called the motion to a vote, and the motion carried without known objection.

Chairman Luebke then referred the following bills to the Subcommittee on Tax & Tags:

1. HB 1716 – 4-H Special Registration Plate
2. HB 1717 – HOMES4NC Special License Plate
3. HB 1718 – Sport Fishing Special Registration Plate
4. HB 1719 – First in Forestry Plate Distribution
5. HB 1720 – Daughters of American Revolution Plate
6. HB 1801 – El Pueblo Special Registration Plate

Prior to adjourning the meeting, Chairman Luebke recognized four pages present at the meeting to sing an a cappella rendition of Lee Greenwood's "God Bless the USA". These pages were: (1) Ed Barthomew of Palm Beach, Florida; (2) Stacie Hudson of Craven County; (3) Jason Sexton of Granville County; and (4) Eva Skipper of Wake County. All of the members enjoyed the performance and Chairman Luebke thanked them on behalf of the Committee.

As the Committee's time had expired, Chairman Luebke adjourned the meeting at 9:53 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1593 (and related materials)
4. House Bill 1678 (and related materials)
5. House Bill 1732 (and related materials)
6. House Bill 1385 (and related materials)
7. House Bill 1369 (and related materials)
8. House Bill 919 (and related materials)
9. Ellis Amendment on House Bill 1385 (failed)
10. House Bill 1413 (and related materials) (**not discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 3, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 919 WORKPLACE SAFETY TAX CREDITS
Reps. Goodwin and McHenry

HB 1369 EMERALD ISLE ANNEXATION *Rep. Preston*

HB 1385 WASHINGTON/CRESWELL SATELLITE ANNEXATIONS
Rep. A. Williams

HB 1413 TAX CREDIT FOR LONG-TERM CARE INSURANCE
Reps. Nye, Howard, Earle, England

HB 1593 SWANSBORO ANNEXATION *Reps. Preston and K. Williams*

HB 1678 NORWOOD ANNEXATIONS *Rep. Goodwin*

HB 1732 SOUTHPORT WARD BOUNDARIES *Rep. Stiller*

Adjournment

ATTACHMENT 2

VISITOR REGISTRATION SHEET

House Finance — 6-3-2004

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Chad Essick	Poyner + Spruill LLP
Steve Sykes	NC DOL
ALLEN McNEELY	NC DOL
Cameron Bully	NCDOL
Charlie Smith	NC DVA
David Meredith	NC State Grange
ANN LORE	DUDS
Andrea Bazan Marison	El Pueblo
Fred Allen	NC Aggregates Assn.
[illegible]	COSTRAN, INC.
Art Britt	NCDOL
John Hoomani	NCDOL
Rich Webb	NCGA Intern
Elizabeth Bakanic	NCGA Intern
Kenneth N. Clark	River Reach Owners' Association
Elbert Benton	Swansboro Comm.
LARRY FAISON	TOWN of SWANSBORO
Frank. Rush	Town of Emerald Isle
Art Schools	Town of Emerald Isle
Robert PASchal	Young, Moore
Greg Radford	NC DOR
Eddie Finch	NC DOR
Angie Quinn	NCDOR
Warren Plonk	OSBM
John Molting	Gov Office
[illegible]	Capitol Group

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1593

Short Title:	Swansboro Annexation.	(Local)
Sponsors:	Representatives Preston and K. Williams (Primary Sponsors).	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF SWANSBORO.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the Town of Swansboro are extended to include the following described territory of River Reach subdivision:

Phase I, Map Book 21, Page 219, Onslow County Registry, April 19, 1983

Phase II-A, Map Book 22, Page 218, Onslow County Registry, February 12, 1985

Phase II-B, Map Book 24, Page 83, Onslow County Registry, October 28, 1986

Phase III-A, Map Book 23, Page 149, Onslow County Registry, February 19, 1986

Phase III-B, Map Book 24, Page 84, Onslow County Registry, October 28, 1986, (Section I)

Phase III-B, Map Book 29, Page 70, Onslow County Registry, December 9, 1992, (Section II).

SECTION 2. The areas annexed by this act shall be considered to be satellite corporate limits until the intervening territory has been annexed.

SECTION 3. This act becomes effective June 30, 2004.

HOUSE BILL 1593:
Swansboro Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Preston and K. Williams
Date:	June 3, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1593 would allow for the satellite annexation of property known as the River Reach Subdivision to the Town of Swansboro, effective June 30, 2004.***

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area[1] may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 1593 would annex the River Reach Subdivision to the Town of Swansboro. The subdivision has approximately 100 lots and is located ½-mile from the Town.

BACKGROUND: The subdivision is connected to the Town's sewer facilities, but the sewer lift stations, which pump its wastewater to the Town lines, is owned and operated by the homeowner's association. According to the Town, the continued safe operation and maintenance of these private lift stations are cost prohibitive to the homeowners and threaten to cause great liability and public health concerns if the lift stations go out of service due to maintenance problems or loss of electrical power. The Town cannot maintain the lift stations until the River Reach Subdivision is inside the municipal limits of Swansboro. Consequently, the homeowner's association requested annexation by the Town.

[1] G.S. 160A-58.4 provides that satellite corporate limits cannot be considered a part of a municipality's corporate limits for purposes of its ETJ. Therefore, satellite annexations have no effect upon a municipality's ETJ.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1593 A BILL TO BE ENTITLED AN ACT TO ANNEX CERTAIN DESCRIBED PROPERTY TO THE TOWN OF SWANSBORO.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1678

Short Title: Norwood Annexations. (Local)

Sponsors: Representative Goodwin.

Referred to: Finance.

May 26, 2004

A BILL TO BE ENTITLED

AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF NORWOOD.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is added to the corporate limits of the Town of Norwood:

Lake Shore Drive Area

BEGINNING AT A CORNER on the existing municipal boundary line for the Town of Norwood, said corner being near the North Carolina NAD 83 grid coordinates of 542675 feet North and 1663376 feet East, said corner being located North 75-29-42 West 1,808.65 feet from the centerline intersection of Indian Mound Road and Summit Street in Stanly County, North Carolina, said point being the westernmost corner on the boundary of Stanly County Parcel 656403328932, said corner being on the northern right-of-way for Summit Street; thence leaving the existing municipal boundary for the Town of Norwood and following the boundaries of Stanly County Parcel 656403335435 the following calls: North 14-33-05 East 5.97 feet, North 14-33-04 East 5.97 feet, North 15-59-01 East 27.24 feet, North 14-22-23 East 38.79 feet, North 16-15-42 East 36.62 feet, North 23-35-47 East 35.92 feet, North 35-44-58 East 37.67 feet, North 45-34-49 East 22.76 feet, North 49-18-25 East 22.43 feet, North 51-07-53 East 20.72 feet, North 47-40-45 East 16.23 feet, North 39-35-57 East 17.85 feet, North 34-58-21 East 22.69 feet, North 34-17-10 East 24.64 feet, North 35-04-07 East 23.51 feet, North 39-34-48 East 32.58 feet, North 42-49-50 East 32.56 feet, North 41-24-21 East 33.28 feet, North 36-08-38 East 35.20 feet, North 30-27-01 East 20.98 feet, North 27-10-22 East 20.54 feet, North 24-30-45 East 18.69 feet, North 20-41-53 East 15.22 feet, North 21-29-08 East 15.03 feet, North 25-11-24 East 18.81 feet, North 28-50-09 East 20.23 feet, North 32-55-58 East 19.09 feet, North 37-11-39 East 16.96 feet, North 40-32-10 East 17.13 feet, North 42-42-58 East 18.06 feet, North 41-52-16 East 19.86 feet, North 41-22-11 East 16.84 feet, North 38-10-21 East 16.39 feet, North 30-26-02 East 13.83 feet, North 13-09-44 East 9.89 feet, North 00-00-32 East 6.35 feet, North

06-52-30 East 8.36 feet, North 11-53-52 East 9.71 feet, North 13-36-34 East 10.10 feet, North 18-44-11 East 16.35 feet, North 24-51-29 East 14.58 feet, North 31-08-33 East 14.51 feet, North 34-07-38 East 15.16 feet, North 33-35-29 East 17.86 feet, North 32-35-47 East 17.87 feet, North 28-12-30 East 16.14 feet, North 18-05-01 East 12.89 feet, North 02-25-58 East 23.61 feet, North 03-55-49 West 21.85 feet, North 09-44-04 West 28.83 feet, North 14-05-27 West 31.32 feet, North 19-19-20 West 14.36 feet, North 26-21-53 West 12.67 feet, North 31-46-36 West 11.87 feet, North 34-39-53 West 11.43 feet, North 35-17-31 West 14.71 feet, North 35-06-06 West 13.92 feet, North 36-36-35 West 12.16 feet, North 38-06-07 West 9.32 feet, North 40-15-29 West 8.71 feet, North 33-39-51 West 11.05 feet, North 28-36-28 West 12.54 feet, North 15-42-20 West 12.48 feet, North 00-00-28 West 7.29 feet, North 16-57-14 East 6.85 feet, North 25-25-00 East 6.99 feet, North 28-32-19 East 7.32 feet, North 24-38-34 East 10.79 feet, North 21-04-30 East 10.77 feet, North 19-56-10 East 9.89 feet, North 19-07-20 East 8.38 feet, North 26-40-07 East 17.81 feet, North 33-30-40 East 21.04 feet, North 38-51-24 East 23.09 feet, North 41-26-07 East 23.40 feet, North 45-13-55 East 21.64 feet, North 46-44-13 East 20.41 feet, North 44-24-07 East 20.53 feet, North 38-26-28 East 21.89 feet, North 33-10-10 East 13.92 feet, North 30-41-53 East 13.69 feet, North 32-35-43 East 12.05 feet, North 37-23-04 East 9.25 feet, North 44-18-01 East 10.19 feet, North 46-21-15 East 13.46 feet, North 45-32-55 East 15.22 feet, North 42-14-07 East 15.23 feet, North 35-06-34 East 24.96 feet, North 25-52-30 East 23.43 feet, North 21-37-39 East 23.67 feet, North 20-20-58 East 24.73 feet, North 23-25-04 East 20.39 feet, North 23-33-25 East 20.27 feet, North 19-51-55 East 18.70 feet, North 11-50-59 East 15.74 feet, North 00-04-06 West 28.49 feet, North 07-02-55 West 33.96 feet, North 12-18-32 West 35.38 feet, North 17-11-02 West 32.28 feet, North 18-12-06 West 24.50 feet, North 16-22-41 West 25.81 feet, North 13-02-16 West 27.28 feet, North 08-34-32 West 28.71 feet, North 07-57-15 West 7.28 feet, North 05-08-35 West 7.05 feet, North 03-29-12 East 9.09 feet, North 11-38-28 East 10.79 feet, North 16-34-43 East 9.61 feet, North 14-57-21 East 9.66 feet, North 12-21-25 East 8.72 feet, North 07-17-48 East 6.83 feet, North 02-52-45 East 7.35 feet, North 01-46-34 East 7.84 feet, North 00-49-25 East 8.21 feet, North 00-25-21 East 15.05 feet, North 02-51-57 East 14.76 feet, North 05-50-58 East 13.38 feet, North 17-52-34 East 7.72 feet, North 57-11-02 West 533.37 feet, and South 08-43-29 West 544.70 feet to the southernmost corner for Stanly County Parcel 656401269110; thence following the boundaries for said parcel North 42-52-01 West 433.27 feet and North 36-14-46 West 2343.46 feet to a corner on the southern boundary of Stanly County Parcel 656401382147; thence following the southern boundaries for said parcel the following calls: North 58-32-54 East 196.61 feet, North 58-29-24 East 772.02 feet, North 58-28-56 East 222.80 feet, North 58-28-13 East 641.07 feet, South 39-11-19 East 232.76 feet, South 39-09-59 East 258.21 feet, and South 39-25-18 East 7.28 feet to the intersection of the southern boundary for said parcel and the western right-of-way for Indian Mound Road; thence crossing the right-of-way for Indian Mound Road South 79-51-08 East 68.70 feet to a point on the eastern right-of-way for Indian Mound Road, said point being the northernmost corner for Stanley County Parcel 656401369398; thence following the northeastern boundaries for said parcel the following calls: South 35-37-40 East 214.82 feet, South 40-17-56

East 258.09 feet, South 39-57-07 East 44.35 feet, and South 40-44-52 East 248.22 feet to the easternmost corner for said parcel, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery South 12-09-19 West 223.82 feet, South 16-32-58 West 325.35 feet, South 16-32-58 West 11.45 feet, and South 16-32-58 West 20.62 feet to a point on the eastern right-of-way for Indian Mound Road; thence south with said right-of-way South 36-17-01 East 545.14 feet to the westernmost corner for Stanly County Parcel 656401454426, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 21-30-52 East 26.17 feet, North 21-30-52 East 8.03 feet, North 21-30-52 East 105.37 feet, North 15-42-56 West 63.18 feet, North 72-51-16 East 46.84 feet, North 20-13-31 East 14.41 feet, North 20-07-06 East 134.06 feet, North 19-41-45 East 12.27 feet, North 19-40-59 East 596.15 feet, North 51-27-13 East 355.06 feet, North 42-05-29 East 116.57 feet, North 41-58-28 East 267.70 feet, North 30-13-29 East 466.54 feet, North 78-04-22 East 115.30 feet, North 78-04-22 East 41.10 feet, South 28-01-27 East 209.43 feet, North 54-57-11 East 186.16 feet, South 85-25-43 East 255.49 feet, South 12-27-23 East 703.18 feet, South 84-50-37 East 85.30 feet, North 20-36-46 East 1166.61 feet, North 20-38-05 East 41.28 feet, South 43-10-18 East 52.95 feet, South 43-16-05 East 391.36 feet, South 43-16-04 East 92.36 feet, South 22-55-23 West 86.93 feet, South 22-55-26 West 65.75 feet, South 22-55-25 West 47.53 feet, South 22-55-24 West 88.11 feet, South 22-55-24 West 47.20 feet, South 22-55-27 West 43.02 feet, South 22-55-24 West 50.38 feet, South 22-55-26 West 54.28 feet, South 22-55-25 West 110.89 feet, South 22-55-23 West 49.20 feet, North 71-59-02 East 150.03 feet, South 20-46-12 East 33.79 feet, South 07-22-20 East 19.00 feet, South 07-22-19 East 49.10 feet, South 07-22-18 East 50.38 feet, South 07-22-18 East 29.22 feet, South 17-52-37 West 83.69 feet, and South 17-52-37 West 36.58 feet to the northernmost corner for Stanly County Parcel 656402760300; thence crossing a portion of Lake Tillery North 62-54-03 East 982.64 feet to the westernmost corner for Stanly County Parcel 656402860912, said corner being on the western bank of Lake Tillery, thence following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 27-09-06 East 14.77 feet, North 27-09-06 East 6.22 feet, North 27-09-06 East 7.66 feet, North 27-09-06 East 144.52 feet, North 27-09-06 East 19.88 feet, North 01-12-00 West 71.02 feet, North 30-43-39 East 32.17 feet, North 30-43-40 East 20.66 feet, North 15-08-32 East 74.52 feet, North 15-08-32 East 50.77 feet, North 15-08-32 East 36.13 feet, North 15-08-32 East 60.05 feet, North 71-15-39 East 76.19 feet, North 46-57-23 East 6.15 feet, North 46-57-22 East 62.12 feet, North 35-52-58 West 28.28 feet, North 49-04-22 East 16.13 feet, North 49-15-20 East 15.42 feet, North 55-57-45 East 18.80 feet, North 56-02-00 East 14.99 feet, North 55-42-33 East 19.00 feet, North 36-23-33 East 19.23 feet, North 36-35-49 East 45.41 feet, North 36-30-58 East 15.58 feet, North 36-26-48 East 21.09 feet, North 36-33-06 East 6.31 feet, North 70-32-08 East 11.28 feet, North 70-33-25 East 28.38 feet, North 68-40-18 East 8.59 feet, North 62-33-31 East 10.85 feet, North 58-37-13 East 7.32 feet, North 58-48-03 East 7.60 feet, North 55-57-03 East 10.71 feet, North 56-55-00 East 8.36 feet, North 56-19-01 East 6.76 feet, North 55-05-22 East 7.32 feet, North 53-46-43 East 6.66 feet, North 50-29-28 East 6.48 feet,

North 46-44-09 East 5.84 feet, North 31-36-22 East 10.49 feet, North 39-16-59 East 7.11 feet, North 48-22-20 East 7.53 feet, North 50-18-17 East 8.12 feet, North 44-03-47 East 8.09 feet, North 48-29-57 East 8.68 feet, North 53-40-55 East 10.55 feet, North 58-14-33 East 9.26 feet, North 61-45-45 East 11.49 feet, North 63-01-47 East 7.71 feet, North 75-31-15 East 7.75 feet, North 85-15-27 East 6.77 feet, North 75-36-00 East 9.55 feet, North 67-18-21 East 6.64 feet, North 72-06-29 East 6.30 feet, North 82-38-37 East 7.31 feet, North 88-10-02 East 7.75 feet, North 84-18-11 East 8.79 feet, North 75-01-44 East 9.19 feet, North 55-27-36 East 11.68 feet, North 33-11-14 East 8.22 feet, North 29-18-02 East 8.17 feet, North 21-55-34 East 9.71 feet, North 24-33-05 East 7.22 feet, North 30-16-55 East 6.44 feet, North 42-15-39 East 9.29 feet, North 48-27-30 East 9.52 feet, North 47-49-47 East 8.94 feet, North 45-15-21 East 9.50 feet, North 57-28-24 East 5.93 feet, North 50-00-09, East 9.63 feet, North 30-16-36 East 8.18 feet, North 08-30-58 East 5.06 feet, North 00-44-46 West 9.75 feet, North 09-33-16 East 10.53 feet, North 13-25-43 East 11.02 feet, North 19-22-00 East 7.72 feet, North 33-40-16 East 5.86 feet, North 39-06-55 East 2.30 feet, North 39-06-55 East 9.78 feet, North 01-09-16 West 6.25 feet, North 07-34-14 East 5.68 feet, North 17-30-57 East 7.47 feet, North 14-11-55 East 9.67 feet, North 09-39-41 East 8.18 feet, North 19-20-53 East 10.93 feet, North 31-16-19 East 7.46 feet, North 42-07-05 East 9.69 feet, North 59-07-06 East 7.43 feet, North 69-45-39 East 8.13 feet, North 67-51-29 East 7.63 feet, North 64-20-26 East 16.02 feet, North 52-07-15 East 8.55 feet, North 35-31-37 East 7.53 feet, North 21-34-20 East 6.45 feet, North 20-50-22 East 8.43 feet, North 28-57-36 East 9.29 feet, North 36-20-06 East 6.75 feet, North 57-57-43 East 33.78 feet, North 41-47-43 East 7.06 feet, North 43-07-08 East 116.58 feet, North 53-59-51 East 73.00 feet, South 75-40-47 East 110.87 feet, South 65-46-22 East 90.77 feet, North 80-28-21 East 44.46 feet, South 89-03-14 East 11.63 feet, South 78-48-05 East 9.69 feet, South 72-48-02 East 7.20 feet, South 72-01-12 East 7.10 feet, South 72-04-02 East 6.31 feet, South 70-14-44 East 6.11 feet, South 67-35-32 East 6.90 feet, South 64-30-46 East 8.72 feet, South 59-12-31 East 9.53 feet, South 45-51-08 East 14.55 feet, South 45-24-26 East 5.97 feet, South 48-30-52 East 7.18 feet, South 48-58-23 East 7.62 feet, South 47-44-03 East 6.42 feet, South 44-50-24 East 8.87 feet, South 43-38-52 East 12.32 feet, South 41-12-04 East 11.39 feet, South 40-26-15 East 10.89 feet, South 43-50-20 East 10.02 feet, South 53-48-54 East 6.04 feet, South 49-56-34 East 8.17 feet, South 43-42-37 East 5.97 feet, South 39-24-09 East 5.91 feet, South 38-03-51 East 5.88 feet, South 38-53-48 East 8.96 feet, South 40-49-06 East 8.22 feet, South 37-51-16 East 8.56 feet, South 32-59-03 East 5.74 feet, South 38-25-24 East 10.06 feet, South 49-00-55 East 8.77 feet, South 50-15-28 East 10.08 feet, South 47-57-13 East 8.92 feet, South 40-23-23 East 10.22 feet, South 39-54-07 East 7.99 feet, South 43-34-31 East 7.25 feet, South 45-42-43 East 10.30 feet, South 44-20-49 East 12.16 feet, South 40-47-28 East 72.83 feet, South 40-47-28 East 111.53 feet, South 68-37-30 East 70.00 feet, North 02-12-30 East 107.00 feet, North 35-23-30 East 18.87 feet, North 34-05-57 East 4.41 feet, North 10-40-05 East 72.56 feet, North 39-21-11 East 43.30 feet, North 39-21-10 East 116.21 feet, North 33-14-12 East 49.20 feet, North 62-57-48 East 53.19 feet, North 85-20-21 East 12.29 feet, North 95-23-53 East 19.59 feet, North 85-23-53 East 37.36 feet, North 85-22-39 East 40.13 feet, North 84-53-11 East 21.22 feet, North 84-54-33 East 54.63

feet, North 84-52-59 East 60.04 feet, North 88-46-03 East 5.58 feet, North 88-06-43 East 15.88 feet, South 69-33-54 East 21.78 feet, South 37-12-28 East 25.54 feet, South 32-16-51 East 26.70 feet, South 32-16-52 East 77.63 feet, South 32-16-50 East 51.71 feet, South 37-02-29 East 211.37 feet, North 37-37-11 East 41.69 feet, North 37-40-23 East 53.96 feet, North 37-32-55 East 54.35 feet, North 37-29-01 East 44.34 feet, North 37-37-26 East 55.40 feet, North 38-24-09 East 53.11 feet, North 81-01-16 East 52.07 feet, North 81-00-45 East 57.61 feet, North 17-51-26 West 74.22 feet, South 74-37-45 West 5.25 feet, South 74-37-46 West 6.29 feet, North 03-21-13 East 14.01 feet, North 03-21-15 East 3.08 feet, North 03-18-46 East 32.43 feet, North 37-42-11 West 67.88 feet, North 49-09-57 West 56.52 feet, North 64-54-39 West 109.45 feet, North 17-50-24 West 126.02 feet, North 81-44-22 East 147.58 feet, North 32-38-44 East 61.21 feet, North 07-42-11 East 38.50 feet, North 07-46-01 East 36.52 feet, North 20-43-07 West 11.78 feet, North 20-21-15 West 11.78 feet, North 19-54-08 West 48.79 feet, North 20-05-47 West 51.35 feet, North 57-44-51 West 79.92 feet, North 57-31-05 West 47.58 feet, North 57-35-46 West 53.75 feet, North 26-02-45 East 113.56 feet, North 00-57-08 West 97.31 feet, North 55-00-00 West 138.57 feet, North 70-56-15 West 105.59 feet, North 55-07-43 West 45.15 feet, North 47-32-12 West 28.34 feet, North 47-32-13 West 8.59 feet, North 17-46-23 West 29.07 feet, South 72-49-55 West 59.92 feet, South 77-24-22 West 172.12 feet, South 18-17-14 East 348.63 feet, South 18-27-05 East 321.99 feet, South 18-06-14 East 233.99 feet, South 17-40-27 East 125.45 feet, South 26-42-50 East 190.34 feet, South 26-38-26 East 227.22 feet, South 26-27-09 East 141.50 feet, South 80-55-44 West 115.73 feet, South 80-56-15 West 216.75 feet, South 78-02-16 West 256.08 feet, South 75-33-17 West 71.65 feet, South 75-33-18 West 252.05 feet, South 72-06-29 West 256.65 feet, North 20-21-17 West 656.06 feet, North 76-43-37 West 511.39 feet, North 74-13-05 West 112.27 feet, North 74-13-05 West 1644.10 feet, South 85-34-06 West 86.64 feet, South 87-03-08 West 211.39 feet, North 66-01-39 West 107.07 feet, North 66-01-44 West 206.87 feet, South 83-52-47 West 45.26 feet, North 83-01-07 West 815.78 feet, North 07-50-51 East 87.48 feet, South 78-16-54 West 474.52 feet, South 79-11-57 West 67.54 feet, South 79-12-02 West 3.72 feet, South 79-41-09 West 51.08 feet, North 06-56-45 West 18.15 feet, North 05-10-14 West 9.61 feet, North 05-10-08 West 3.41 feet, North 04-47-54 West 3.57 feet, North 04-47-58 West 3.57 feet, North 05-22-09 West 7.81 feet, North 03-10-37 West 15.95 feet, North 04-00-56 West 20.75 feet, North 03-19-14 West 9.75 feet, North 03-20-56 West 6.13 feet, North 03-20-52 West 3.84 feet, North 04-03-31 West 14.34 feet, North 03-25-41 West 10.39 feet, North 02-44-03 West 5.87 feet, North 02-27-27 West 10.03 feet, North 02-51-37 West 14.15 feet, North 01-24-08 West 13.84 feet, North 00-37-18 West 7.15 feet, North 00-37-21 West 8.53 feet, North 02-19-57 West 40.76 feet, North 04-27-24 West 12.15 feet, North 05-09-17 West 10.69 feet, North 04-13-57 West 24.65 feet, North 02-33-06 West 13.77 feet, North 02-23-54 West 10.51 feet, North 02-23-58 West 6.52 feet, North 02-08-47 West 26.62 feet, North 03-00-31 West 29.15 feet, North 02-19-20 West 469.41 feet, North 04-17-44 East 9.23 feet, North 64-52-33 West 68.86 feet, North 79-35-17 West 70.66 feet, North 79-35-17 West 45.89 feet, North 79-46-28 West 152.65 feet, North 79-55-37 West 105.38 feet, North 79-36-45 West 103.06 feet, North 79-39-48 West 101.91 feet, North 79-43-19 West 324.60 feet, North 79-45-43

West 49.16 feet, South 04-53-13 West 22.05 feet, South 04-47-48 West 289.11 feet, South 04-47-48 West 70.23 feet, South 04-50-27 West 245.66 feet, North 59-52-09 West 37.77 feet, North 59-59-25 West 178.89 feet, South 27-30-12 West 102.89 feet, North 60-30-00 West 99.69 feet, South 27-38-57 West 130.96 feet, South 27-44-24 West 64.20 feet, North 59-19-06 West 111.50 feet, North 59-19-31 West 146.26 feet, and North 59-19-31 West 64.06 feet to the **POINT OF BEGINNING.**

The tract described above encompasses 1,022.77 Acres more or less.

South Strand Drive Area

BEGINNING AT A CORNER on the existing municipal boundary line for the Town of Norwood, said corner being near the North Carolina NAD 83 grid coordinates of 540733 feet North and 1672444 feet East, said corner being located North 44-06-34 East 136.49 feet from the centerline intersection of South Strand Drive and Tranquil Bay Circle in Stanly County, North Carolina, said point being on the northern boundary of Stanly County Parcel 657403204711, said boundary being on the western bank of Lake Tillery; thence leaving the existing municipal boundary for the Town of Norwood and following the boundaries of parcels on the western bank of Lake Tillery the following calls: North 27-30-14 East 57.24 feet, North 85-31-57 East 88.33 feet, North 51-01-33 East 8.97 feet, North 51-01-36 East 21.49 feet, North 51-01-29 East 122.88 feet, South 74-22-47 East 44.29 feet, South 74-22-47 East 46.40 feet, South 39-36-31 East 84.42 feet, South 61-05-54 East 11.95 feet, South 55-41-21 East 11.86 feet, South 61-34-56 East 132.29 feet, South 06-16-45 East 39.07 feet, South 06-16-45 East 46.65 feet, South 10-03-53 West 91.41 feet, South 19-47-14 West 110.99 feet, South 78-02-12 West 89.92 feet, North 32-34-19 West 74.00 feet, North 25-09-22 West 64.94 feet, North 25-12-08 West 7.88 feet, North 22-34-12 West 7.86 feet, North 19-23-53 West 39.44 feet, North 46-52-25 West 79.00 feet, South 75-27-30 West 63.32 feet, North 64-50-56 West 45.23 feet, South 74-37-59 West 49.46 feet, and South 74-37-59 West 38.59 feet to a point on the existing municipal boundary for the Town of Norwood, said corner being the southwestern corner for Stanly County Parcel 657403206686; thence following the existing municipal boundary the following calls: North 24-59-09 West 20.45 feet, North 24-59-26 West 16.23 feet, North 26-03-07 West 3.84 feet, North 26-03-00 West 8.27 feet, and North 24-44-12 West 64.10 feet to the **POINT OF BEGINNING.**

The tract described above encompasses 2.81 Acres more or less.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1678:
Norwood Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Goodwin
Date:	June 3, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1678 would annex two tracts of land to the corporate limits of the Town of Norwood.***

CURRENT LAW: Annexation is one method that a town may employ to extend its corporate limits, and the process must be done in accordance with Article 4A of Chapter 160A. Annexation may be either voluntary or involuntary. A voluntary annexation requires that the governing board of a municipality pass an ordinance upon presentation of a petition signed by the owners of all real property within the area to be annexed. An involuntary annexation requires, among other things, that the property meet certain characteristics:

- The area proposed to be annexed must be adjacent or contiguous to the municipality's boundaries;
- At least 1/8 of the aggregate external boundaries of the area must coincide with the municipal boundary; and
- No part of the area may be included within the boundary of another incorporated municipality.

In addition to the requirements concerning location of the area in relation to the municipality's existing boundaries, the area must also be "developed for urban purposes" by meeting one of several standards concerning population, density, and development.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: House Bill 1678 annexes two tracts of land to the Town of Norwood. The first tract is approximately 1,022 acres and the second tract is approximately 2.8 acres.

BACKGROUND: The Lake Shore Drive Area (the first tract) does not meet the statutory requirement that at least 1/8 of the aggregate external boundaries of the area coincide with the municipal boundary. However, several property owners have requested the extension of sewer service to this area. Therefore, the Town is seeking to annex the property by legislative act.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1678 A BILL TO BE ENTITLED AN ACT ADDING CERTAIN DESCRIBED PROPERTY TO THE CORPORATE LIMITS OF THE TOWN OF NORWOOD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1732

Short Title:	Southport Ward Boundaries.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE WARD BOUNDARIES OF THE CITY OF SOUTHPORT TO REFLECT RECENT ANNEXATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3.2 of the Charter of the City of Southport, being Chapter 659 of the 1983 Session Laws, reads as rewritten:

"Sec. 3.2. Wards. The City of Southport shall be divided into two wards as follows:

Ward No. 1 shall be that portion of the City lying to the eastward of the center line of Howe Street ~~from the point where this line, projected, intersects the channel of the Cape Fear River, to the intersection of said Howe Street with the northern line of the limits of the City of Southport.~~ and the Southport-Supply Road (also known as Highway 211), including any contiguous or noncontiguous areas.

Ward No. 2 shall be all that portion of the City lying to the westward of the ~~above described line.~~ centerline of Howe Street and the Southport-Supply Road (also known as Highway 211), including any contiguous or noncontiguous areas."

SECTION 2. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1732 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE WARD BOUNDARIES OF THE CITY OF SOUTHPORT TO REFLECT RECENT ANNEXATIONS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 1385
PROPOSED COMMITTEE SUBSTITUTE H1385-CSLA-47 [v.2]

6/2/2004 3:33:09 PM

Short Title: Washington/Creswell/Wallace Satellite Annex. (Local)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS BY THE CITY OF WASHINGTON AND THE TOWNS OF CRESWELL AND WALLACE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) does not apply to the City of Washington or to the Towns of Creswell and Wallace.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1385

Short Title:	Washington/Creswell Satellite Annexations.	(Local)
Sponsors:	Representative A. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS BY THE CITY OF WASHINGTON AND THE TOWN OF CRESWELL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) does not apply to the City of Washington or to the Town of Creswell.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1385:
Washington/Creswell/Wallace Satellite Annex.

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. A. Williams
Date:	June 2, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: House Bill 1385 adds the City of Washington and the Town of Creswell to the list of municipalities that are removed from the satellite annexation standard, which restricts a municipality's satellite annexation to no more than 10% of its primary corporate limits. The proposed committee substitute adds the Town of Wallace to this list.

CURRENT LAW: G.S. 160A-58.1 governs the voluntary annexation by a municipality of noncontiguous property. All property owners in the satellite area may petition for voluntary annexation of the noncontiguous property if the property meets the following five standards in G.S. 160A-58.1(b):

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits of the annexing city.

If the property does not meet the statutory requirements for annexation, the municipality does not have the authority to annex the area. However, the General Assembly can extend the corporate limits of a municipality to encompass areas that the municipality would not statutorily have the authority to annex.

BILL ANALYSIS: The proposed committee substitute for House Bill 1385 adds the City of Washington, and the Towns of Creswell and Wallace to the list of cities and towns that do not have to meet the 5th statutory standard required for voluntary satellite annexation. This means that the noncontiguous property to be annexed does not have to be within the statutory size limit.

The following cities and towns are already exempted from the 5th standard: Cities of Claremont, Concord, Conover, Gastonia, Hickory, Locust, Marion Mount Airy, New Bern, Newton, Oxford, Rockingham, Sanford, Salisbury, Southport, and Statesville, and the Towns of Bladenboro, Calabash, Catawba, Dallas, Godwin, Kenly, Louisburg, Maiden, Midland, Mocksville, Mooresville, Pembroke, Pine Level, Ranlo, Rutherfordton, Swansboro, Warsaw, and Waynesville.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1385 A BILL TO BE ENTITLED AN ACT TO REMOVE THE CAP ON SATELLITE ANNEXATIONS BY THE CITY OF WASHINGTON AND THE TOWN OF CRESWELL.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 1369

Short Title:	Emerald Isle Annexation.	(Local)
Sponsors:	Representatives Preston; and Cunningham.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE WESTERN BOUNDARY OF THE TOWN OF EMERALD ISLE EXTENDS TO THE BOGUE INLET CHANNEL AS IT FLUCTUATES OVER TIME TO ALLOW ALL UPLAND AREAS CONNECTED TO BOGUE BANKS ON THE WESTERN END OF THE ISLAND TO BE IN THE TOWN LIMITS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2.1 of the Charter of the Town of Emerald Isle, being Chapter 526 of the 1973 Session Laws, reads as rewritten:

"Sec. 2.1. Existing Corporate Boundaries. The corporate boundaries of the Town of Emerald Isle shall be as follows until changed in accordance with law: Beginning at a concrete marker at the high water mark of the Atlantic Ocean, this being the southwest corner of Wica Chemical Company property (formerly being the Roosevelt Estate southwest corner), this point also being located South 71 degrees 35 minutes West 7255.0 feet from the church spire at Salter Path Village, located North of the Salter Path Road; thence running with the Wica Chemical Company West property line North 03 degrees 35 minutes West 452.80 feet to a concrete monument marked 'A.H. (Alice Hoffman) Lane'; thence continuing same course 203.7 feet to a concrete monument at the high water mark of Bogue Sound (Wica Chemical Company northwest corner); thence continuing North 03 degrees 35 minutes West 1350 feet to a point in Bogue Sound; then in a westerly direction parallel to and 1320 feet from the water line of Bogue Sound to a point in Bogue Sound formed by the intersection of this call and a line perpendicular thereto passing through the westernmost projection of Bogue banks at the mean high water mark; thence southerly along said line as extended to a point where said line meets the high water line of the Atlantic Ocean; thence due South 2640 feet to a point in the Atlantic Ocean; thence in an easterly direction parallel to and 2640 feet from the high water line of the Atlantic Ocean to a point which is 2640 feet South 03 degrees 35 minutes East from the concrete monument which is heretofore described as the point of the beginning; thence continuing North 03 degrees 35 minutes West 2640

feet to the point of beginning. All the above courses are based on true meridian. To allow all upland areas connected to Bogue Banks on the western end of the island to be in the corporate limits, the western boundary of the town shall extend to the Bogue Inlet channel as it exists from time to time, whether by natural forces, acts of God, accretion, dredging, or human causes."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1369:
Emerald Isle Annexation

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Preston
Date:	June 1, 2004	**Analysis by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 1369 is a local bill that amends the Charter of the Town of Emerald Isle to extend the western boundary of the Town to the Bogue Inlet channel as its exists from time to time, whether by natural forces, acts of God, accretion, dredging, or human cause. This change to the charter will allow all upland areas connected to Bogue Banks on the western end of the island to be in the corporate limits of the Town.

BILL ANALYSIS: The Board of Commissioners of the Town of Emerald Isle approved a resolution on December 9, 2003, to request the General Assembly to amend the Town Charter to insure that all land at the westernmost point of Emerald Isle be included in the Town limits. Under the current charter, the Town of Emerald Isle terminates just beyond existing homes on Bogue Court. This description in the current charter does not encompass the vast majority of the existing spit. House Bill 1369 would ensure that all land on the existing spit and expanded spit that results from the Bogue Inlet Channel Erosion Response Project would be in the corporate limits.

The Town has requested the change because it will enable the town to appropriately manage environmental resources in the annexed area. More specifically, it will insure that the Town has jurisdiction to enact regulations governing the use of the spit, including the leash law, restrictions on driving on the beach, potential habitat protection areas, and other regulations.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1369 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE WESTERN BOUNDARY OF THE TOWN OF EMERALD ISLE EXTENDS TO THE BOGUE INLET CHANNEL AS IT FLUCTUATES OVER TIME TO ALLOW ALL UPLAND AREAS CONNECTED TO BOGUE BANKS ON THE WESTERN END OF THE ISLAND TO BE IN THE TOWN LIMITS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 919*
PROPOSED COMMITTEE SUBSTITUTE H919-CSSVx-43 [v.1]

6/3/2004 7:50:19 AM

Short Title: Workplace Safety Tax Credits.-AB (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW INCOME TAX CREDITS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 is amended by adding a new section to read:

"**§ 105-129.16D. Workplace safety tax credit.**

(a) Credit. – An eligible employer that makes eligible workplace safety expenditures during the taxable year is allowed a credit equal to the amount of the expenditures.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible employer. – An employer that certifies that, as of the time the employer first claims the credit, at the business location with respect to which the credit is claimed, the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.

(2) Eligible workplace safety expenditures. – Any of the following expenditures unless the expenditure was made to address a violation for which the employer was cited:

a. Expenditures to eliminate workplace hazards in order to attain certification under a North Carolina Department of Labor voluntary recognition program.

b. Expenditures to prepare an application and prepare the workplace for certification under a North Carolina Department of Labor voluntary recognition program.

c. Expenditures to eliminate workplace hazards identified through the North Carolina Department of Labor's free consultation program.

(3) Serious violation. – Defined in G.S. 95-127.

(c) Notice. – The Commissioner of Labor must notify the Department of Revenue annually of all employers who have had these citations become final orders within the past three years."

SECTION 2. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

. . .

(16) The amount of expenditures for which the taxpayer claims a credit for the taxable year under G.S. 105-129.16D."

SECTION 3. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

. . .

(9) The amount of expenditures for which the taxpayer claims a credit for the taxable year under G.S. 105-129.16D."

SECTION 4. This act becomes effective for taxable years beginning on or after January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 919*

Short Title:	Workplace Safety Tax Credits.	(Public)
Sponsors:	Representatives Goodwin and McHenry (Primary Sponsors).	
Referred to:	Occupational Safety and Health, if favorable, Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW INCOME TAX CREDITS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16 is reenacted and rewritten to read:

"**§ 105-129.16. Workplace safety tax credit.**

(a) Credit. – An eligible employer that makes eligible workplace safety expenditures during the taxable year is allowed a credit equal to the amount of the expenditures.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible employer. – An employer that certifies that, as of the time the employer first claims the credit, at the business location with respect to which the credit is claimed, the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.

(2) Eligible workplace safety expenditures. – Any of the following expenditures unless the expenditure was made to address a violation for which the employer was cited:

a. Expenditures to eliminate workplace hazards in order to attain certification under a North Carolina Department of Labor voluntary recognition program.

b. Expenditures to prepare an application and prepare the workplace for certification under a North Carolina Department of Labor voluntary recognition program.

c. Expenditures to eliminate workplace hazards identified through the North Carolina Department of Labor's free consultation program.

(3) Serious violation. – Defined in G.S. 95-127."

SECTION 2. G.S. 105-129.15A reads as rewritten:

"**§ 105-129.15A. Sunset.**

~~G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. The remainder of this~~This Article is repealed effective January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property placed in service on or after January 1, 2006."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2004.

HOUSE BILL 919:
Workplace Safety Tax Credits

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Goodwin and McHenry
Date:	June 3, 2004	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***House Bill 919 allows an eligible employer a tax credit for voluntary workplace safety efforts in an amount equal to the expenditures. The Proposed Committee Substitute would require an add-back to federal taxable income for purposes of determining State taxable income. The credit would only be available for tax years 2004 and 2005.***

CURRENT LAW: A credit against tax is an amount that is subtracted from the income tax liability of a taxpayer in a given year. A tax credit differs from a deduction in that a credit is subtracted from the tax itself, resulting in a dollar-for-dollar reduction in tax liability.

Currently, there is no tax credit available to employers for voluntary workplace safety expenditures. However, these expenses may be eligible for a deduction at the federal level as ordinary and necessary business expenses or capital expenses. In order to be eligible for tax credits under the Bill Lee Act, taxpayers must certify that the business has no citations under OSHA that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 919 establishes a credit for eligible employers that incur expenditures to voluntarily eliminate workplace hazards. The credit may be taken against franchise tax, individual income tax, or corporate income tax liability.

Eligible Employer. – An employer that certifies that, as of the time the employer first claims the credit, the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.

Amount of Credit. – An employer is allowed a credit equal to 100% of the amount of the expenditures. However, the employer may only claim 50% of the expenditures in a given taxable year, and the remainder may be carried forward for the next succeeding five years.

Eligible Expenditures. – There are three types of expenditures for which an employer may claim the credit, unless the expenditure was made to address a violation for which the employer was cited.

- Expenditures to eliminate workplace hazards in order to attain certification under a NC Department of Labor (NCDOL) voluntary recognition program.
- Expenditures to prepare an application and prepare the workplace for certification under a (NCDOL) voluntary recognition program.
- Expenditures to eliminate workplace hazards identified through the NCDOL's free consultation program.

The North Carolina Department of Labor offers a voluntary recognition program, referred to as the "Carolina Star Program," that is designed to recognize and promote effective safety and health management programs.

Notice Requirement.– The bill would require the Commissioner of Labor to report to the Department of Revenue on an annual basis of all employers who have had final orders entered against them for violations under both OSHA and MSHA.

Add-back Provision. – The Proposed Committee Substitute would require the taxpayer to add back to federal taxable income, for purposes of determining State taxable income, the amount of the expenditures for which the taxpayer claims a credit under the workplace safety tax credit provisions.

Sunset. – This tax credit would become effective for taxable years beginning on or after January 1, 2004, and is repealed effective January 1, 2006.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 919 (First Edition)

SHORT TITLE: Workplace Safety Tax Credits

SPONSOR(S): Representatives Goodwin and McHenry

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	Minimum revenue loss of $1 million in 04-05 and in 05-06*				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Labor

EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after January 1, 2004 and sunsets for taxable years beginning on or after January 1, 2006.

* See Assumptions and Methodology

BILL SUMMARY:

Creates an income tax credit equal to 100% of expenditures to eliminate workplace hazards either 1) identified through the Department of Labor's free consultation program or 2) undertaken to qualify for the Department of Labor's voluntary recognition program. The credit may be taken against the franchise tax, individual income tax or corporate income tax. Eligible taxpayers must not have had a serious Occupational Safety and Health Act (OSHA) violation within three years of credit application. The credit is only for tax year 2004 and 2005.

ASSUMPTIONS AND METHODOLOGY:

Carolina Star Safety Program

The Department of Labor has 63 companies enrolled in its Carolina Star Safety Program. To qualify for this program a company must have written procedures for its disciplinary program, employee hazard reporting system, accident/incident investigation, preventive maintenance, and emergency programs/drills. Management and employees must participate in safety and health training. Personnel are trained in CPR and first aid. The Department estimates it receives 11

Carolina Star applications per year and had 12 applications pending in May 2004. The Department of Labor has not documented the amount a company spends in preparation for Carolina Star status. Anecdotal information from seven Carolina Star companies suggests the median cost of preparing for the program is $19,000. If 12 companies a year apply for the Carolina Star Safety Program and spend $19,000 in application and preparation costs for program approval, then the proposed tax credit is worth $228,000 to these companies. For the General Fund, the revenue loss is a minimum of $228,000 per year. It is uncertain how many additional companies will be motivated by the credit to begin the Carolina Star application process within the two year time span (2004 & 2005) of the credit. Since the credit may not exceed 50% of the company's tax liability and there is a 5 year carryforward on unused credits, the fiscal impact of the 2 year credits may extend for seven fiscal years.

Consultative Services

The Department of Labor's Division of Occupational Safety and Health, Bureau of Consultative Services provides free on-site safety and health surveys, ergonomics evaluation and assistance, air sampling and analysis, noise measurements, and technical assistance. In 2002, the Department made 940 corporate consultative visits and reported 6,694 hazards. Of these hazards, Labor staff considered 4,859 (72.6%) to be serious. In 2003, 1,222 visits were made and 8,103 hazards were found. Of these hazards, 5,784 (71.4%) were labeled serious and 2,319 were classified as other than serious. From January through April 2004, the staff made 651 visits and found 4,627 hazards of which 3,264 were deemed serious (70.5%). An average of 7 hazards are found on each visit and 5 of the identified hazards are serious.

Department of Labor staff estimate that it takes approximately $150 to abate each serious hazard found by the Consultative staff. If 1,300 free inspections are performed each year and an average of 5 serious hazards are found, then the Department would expect to find 6,500 serious hazards each year that need abatement. Approximately 73% of the consultative visits are to private firms and 27% to public agencies. Since only private firms can take advantage of the tax credit, then the credit would apply to the cost of eliminating 4,745 serious hazards (73% of the 6,500 serious hazards). At $150 per hazard abatement, the credit would be worth $711,750 in 2004 and 2005 tax years. For the state, the minimum General Fund revenue loss would be $711,750 in both 2004 and 2005. As mentioned above, the credit may not exceed 50% of the company's tax liability and there is a 5 year carryforward on unused credits, thus the fiscal impact of the 2 year credits may extend for seven fiscal years.

SOURCES OF DATA: Department of Labor

TECHNICAL CONSIDERATIONS: This credit is difficult to interpret because it is written over an expired section of the statutes. The bill should be amended to create the tax credit in a new section.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 2, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

ATTACHMENT 9

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. 1385 DATE June 3, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H 1385-CSLA-47

Rep.)
) Ellis
Sen.)

moves to amend the bill on page 1, line 7

( ) WHICH CHANGES THE TITLE

by rewriting the line to read:

"SECTION 2. This act is effective when it becomes law ~~and is repealed effective July 1, 2005~~ but applies only to annexation ordinances adopted before July 1, 2005."

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1413*
PROPOSED COMMITTEE SUBSTITUTE H1413-CSLC-121 [v.2]

6/2/2004 4:45:57 PM

Short Title: Tax Credit for Long-Term Care Insurance. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 29A.6(d) of S.L. 1998-212 reads as rewritten:

"(d) Subsection (a) of this section is effective for taxable years beginning on or after ~~January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.~~ January 1, 1999. The remainder of this section is effective when it becomes law. G.S. 105 160.3(b)(7), as enacted by this ~~act,~~section, is repealed effective when G.S. 105-151.28 is repealed. ~~for taxable years beginning on or after January 1, 2004.~~"

SECTION 2. G.S. 105-151.28 is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2007."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1413*

Short Title:	Tax Credit for Long-Term Care Insurance.	(Public)
Sponsors:	Representatives Nye, Howard, Earle, England (Primary Sponsors); Barnhart, L. Allen, Bell, Church, Farmer-Butterfield, Glazier, Insko, Jones, McLawhorn, Moore, Rapp, Stiller, Wainwright, Warner, Warren, Weiss, and Wood.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 29A.6(d) of S.L. 1998-212 reads as rewritten:

"(d) Subsection (a) of this section is effective for taxable years beginning on or after ~~January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.~~ January 1, 1999. The remainder of this section is effective when it becomes law. ~~G.S. 105-160.3(b)(7), as enacted by this act, is repealed effective for taxable years beginning on or after January 1, 2004.~~"

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004.

House Bill 1413:
Tax Credit for Long-Term Care Insurance

BILL ANALYSIS

Committee: House Finance
Date: June 2, 2004
Version: H1413-CSLC-121

Sponsor: Representatives Nye, Howard, Earle, and England
Analysis by: Martha Walston, staff attorney

SUMMARY: The proposed committee substitute for House Bill 1413 would extend the 2004 sunset on the tax credit for premiums paid on long-term care insurance until January 1, 2007. The act becomes effective for taxable years beginning on or after January 1, 2004. HB 1413, as introduced, would have repealed the 2004 sunset so that the long-term tax credit would remain in effect permanently. HB 1413 is a recommendation of the Blue Ribbon Commission on Medicaid Reform.

BILL ANALYSIS: The long-term care credit, in G.S. 105-151.28, became effective for tax years beginning on or after January 1, 1999, and expired for tax years beginning on or after January 1, 2004. This State individual income tax credit was allowed for premiums paid on qualifying long-term care insurance contracts that provide insurance coverage for a taxpayer or a taxpayer's spouse, or a dependent for whom the taxpayer provides over half of the support and whose income is below an exemption amount. The credit was 15% of the premiums paid, not to exceed $350 for each qualified long-term care insurance contract for which a credit was claimed. The purpose of the sunset was to determine whether the credit actually affected taxpayers' behavior – causing them to purchase insurance when they would not otherwise do so – or if the credit merely spent State revenues without increasing the purchase of long-term care insurance.

In January 2003, the Department of Revenue reported to the Revenue Laws Study Committee that they had reviewed a sample of tax returns claiming the credit and found that in most cases, the taxpayers claiming the credit were not entitled to the credit because they had not purchased long-term care insurance. The Department provided more explicit tax instructions for the following tax year and worked with software vendors to improve the long-term care tax credit information in their programs. As a result of the Department's actions, a lower percentage of ineligible taxpayers claimed the credit that year.

This bill would extend the 2004 sunset on the long-term care insurance tax credit to taxable years beginning on or after January 1, 2007.

A long-term care insurance contract is defined in section 7702B of the Internal Revenue Code as any insurance contract under which the only insurance protection provided is for coverage of qualified long-term care services. Qualified long-term care services are those services required by a chronically ill individual and provided under a plan of care prescribed by a licensed health care practitioner. The long-term care insurance contract must also meet the following requirements:

1. Is guaranteed renewable.
2. Does not provide for a cash surrender value.

3. Provides that refunds and dividends may be used only to reduce future premiums or to increase future benefit.
4. Does not pay or reimburse expenses that are reimbursable under Medicare.
5. Satisfies consumer protection laws.

Under federal law, premiums paid on long-term care insurance contracts are treated as deductible medical expenses. Under the medical expense itemized deduction, unreimbursed medical expenses may be deducted to the extent that the expenses exceed 7.5% of adjusted gross income. To the extent a taxpayer will receive a deduction for long-term care insurance premiums under the Code, the taxpayer will receive a deduction for State income tax purposes as well since North Carolina uses federal taxable income as the starting point for calculating State taxable income. To prevent a double tax benefit in those cases, the credit is limited to those expenses for which a deduction has not been claimed.

According to a report from the Health Insurance Association of America, the following states allow an income tax credit for the payment of long-term care insurance premiums: Colorado, Louisiana, Maryland, Minnesota, New York, and Oregon.

The following states allow an income tax deduction for long-term care insurance premiums: Alabama, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maine, Missouri, Montana, Ohio, Utah, Virginia, West Virginia, and Wisconsin.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1413 (First Edition)

SHORT TITLE: Tax Credit for Long-Term Care Insurance.

SPONSOR(S): Representatives Earle, Howard, Nye, and England

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($million) FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	**(6.0)**	**(6.0)**	**(6.0)**	**(6.0)**	**(6.0)**
EXPENDITURES					
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2004.

BILL SUMMARY: The bill repeals the sunset on the long-term care insurance tax credit beginning January 1, 2004.

BACKGROUND:
The long term care insurance tax credit was one of 13 tax provisions included in the budget act for Fiscal Year 1998-99 by the 1998 General Assembly (1998 S.L. chapter 212, SB 1366). The state individual income tax credit equals 15% of the premium paid each year on long-term care insurance, but the credit may not exceed $350 for each policy for which the credit is claimed. The credit may not exceed the amount of tax owed by the taxpayer (nonrefundable), and there is no provision to allow unused portions of the credit to be carried forward. The credit became effective for the taxable year beginning on or after January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.

A taxpayer may claim a credit for policies that provide coverage for either the taxpayer, the taxpayer's spouse, or a family member for whom the taxpayer provides over half of the support

and whose income is below an exemption amount. A long term-care insurance policy is one that provides only coverage of long-term care services and that meets the following requirements:

1. Is guaranteed renewable.
2. Does not provide for a cash surrender value.
3. Provides that refunds and dividends may be used only to reduce future premiums or to increase future benefit.
4. Does not pay or reimburse expenses that are reimbursable under Medicare.
5. Satisfies consumer protection laws.

Under federal law, premiums paid on long-term care insurance contracts are treated as deductible medical expenses. Under the medical expense itemized deduction, unreimbursed medical expenses may be deducted to the extent that the expenses exceed 7.5% of adjusted gross income. To the extent a taxpayer will receive a deduction for long-term care insurance premiums under the Code, the taxpayer will receive a deduction for State income tax purposes as well since North Carolina uses federal taxable income as the starting point for calculating State taxable income. To prevent a double tax benefit in those cases, the credit is limited to those expenses for which a deduction has not been claimed.

ASSUMPTIONS AND METHODOLOGY:
Tax year 1999 is the first year that taxpayers could claim the long-term care tax credit. In the inaugural year, 21,029 tax returns claimed approximately $4.2 million in credits for an average long-term care insurance credit of $199. The total amount of credits claimed each year has been consistent except for 2001, which may be explained by a high error rate (see discussion below).

Tax Year	Number of Returns	Total Long-Term Care Credits	Average Credit Per Return
1999	21,029	$4,181,454	$198.84
2000	29,206	$5,974,615	$204.57
2001	51,959	$10,367,883	$199.54
2002	27,516	$5,652,648	$205.43

The Department of Revenue has encountered serious taxpayer problems with the long-term care insurance tax credit. Audited tax returns in 2001 showed a 91% error rate for the long-term care credit. The most common taxpayer errors were 1) claiming the credit for regular insurance premiums, 2) claiming the total amount of premiums paid as a credit instead of the $350 limit, and 3) claiming the credit in addition to deducting the long-term care premium as a medical expense. One factor that may have increased errors in 2001 was the repeal of the tax credit for child health insurance. Taxpayers may have tried to continue taking the credit on the long-term care insurance line. By rewording the tax return instructions, contacting error making tax preparers, and revising verbiage in tax preparation software, the Department of Revenue reduced the error rate in audited returns to 27% in 2002. According to preliminary estimates for the 2003 tax year, the error rate among audited returns climbed to 40%.

High error rates make it difficult to accurately project the future cost of this tax credit. Many taxpayers have thus far ignored the Department's efforts to clarify the eligibility of this credit. Accurate projections are also hampered by the lack of demographic information on North Carolina long-term care insurance policy holders. A study by the Health Insurance Association of America reports the average purchaser of long-term care insurance is 67 years old. Elderly policy holders with little taxable income would explain why only 51.2% of 86,272 long-term care insurance purchasers in this state claimed a credit in 2002 (counted married filing jointly returns as two policies). Many elderly have little taxable income because North Carolina does not tax Social Security benefits, nor does it tax the pensions of local, state and federal employees vested before August 12, 1989. Furthermore, government pensions not excluded are granted a $4000 income exemption and private pensions are given a $2000 exemption.

This fiscal note assumes that the near term General Fund revenue loss from the long-term care insurance tax credit will be in the $5.5 million to $6 million range of recent years. While the number of policy holders may increase in the next five years, this estimate assumes no growth in credits claimed due to the likelihood that the new purchases will be made by an elderly population with low state tax liability. The increase in credit claims due to growth in policies may also be countered by a reduction in credits fraudulently claimed.

Since the credit was scheduled to sunset in 2004, an increase in General Fund availability was anticipated for FY 2004-05 and beyond. Passage of this bill will again create a revenue loss of approximately $6 million a year.

SOURCES OF DATA: Department of Revenue, Department of Insurance

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 27, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 8, 2004 – 8:30 a.m.

The House Committee on Finance met on Tuesday, June 8, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Howard, Luebke, and McComas; Vice-Chairs Alexander, Daughtridge, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Leslie Oakley, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Martha Harris, Linda Millsaps, Martha Walston, and Bob Weiss. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman McComas called the meeting to order at 8:32 am and recognized the eight (8) pages present: (1) Clare Alston of Wake County, sponsored by Representative Ellis; (2) Aparna Chatterjee of Wake County, sponsored by Representative Jones; (3) Ann Donald of New Hanover County, sponsored by the Chair; (4) Patricia Harnage of Cleveland County, sponsored by Representative Clary; (5) Love Maduako of Wake County, sponsored by Representative Ellis; (6) David Point of New Hanover County, sponsored by the Chair; (7) Jason Steinberg of Columbus County, sponsored by Representative Hill; and (8) Ashley Williams of Onslow County, sponsored by Representative Keith Williams.

As the first matter of business, the Committee considered **HB 1555 – TAG AGENTS TITLE TRANSACTION FEE** (see **attachment 3**), sponsored by Representative Sutton. Chairman McComas recognized Representative Womble who made a motion that the Proposed Committee Substitute (PCS) for House Bill 1555 be adopted for the Committee's consideration. The motion carried without opposition. Chairman McComas then recognized Representative Sutton to explain the bill. Representative Sutton explained that the bill raises by $1.00 the fee for transactions with the DMV related to motor vehicle titles. The additional $1.00 in fees will be credited to the Highway Fund and the funds derived from transactions with the Division (which includes transactions by mail or internet) would be used for technology improvements within the Division. The Division would use the funds from the additional fee derived from transactions with commission contract agents for an increase in compensation to those agents, who are paid on a per transaction basis. Representative Sutton also noted that the bill provided for a 3-year sunset of the $1.00 fee increase. Following this explanation, Chairman McComas recognized Representative Holliman who voiced his support of the bill and made a motion that the PCS for House Bill 1555 be given a favorable (with an unfavorable report as to the original bill). Prior to acting on this motion, however, Chairman McComas recognized several questions from the members. Representative Womble was recognized and asked Representative Sutton if there was any opposition to the bill.

Representative Sutton stated that there was no known opposition, citing the support of the Division of Motor Vehicles on the bill. Representative Rayfield was also recognized and asked the bill sponsor why there was a sunset in the bill. Representative Sutton explained that he would prefer that there be no sunset, but placed it in the bill with the understanding that it would have a better chance of passing through the Committee. Representative Rayfield then acted to send forth an amendment (see **attachment 4**) removing the sunset from the bill and he moved its adoption. Following some brief discussion on the amendment, Chairman McComas called the vote and the amendment was adopted. Representative Holliman's motion for a favorable report on the bill, incorporating Representative Rayfield's amendment, was then called to a vote. The motion carried by a majority of the members.

Chairman McComas next recognized Representative Justice to explain **HB 1578 – PENDER RESCUE SERVICE FEE** (see **attachment 5**). Representative Justice explained that the bill authorizes the County of Pender to adopt an ordinance imposing a flat emergency medical service fee on each parcel of land in the County containing one of 32 structures listed in the bill. The fee would be a lien on the parcel and is collectible in the same manner as delinquent real property taxes. Representative Justice explained that the County has requested this bill and, upon approval of the General Assembly, plans to impose a flat emergency medical service fee of $60, which will allow the County to reduce the property tax rate for emergency medical services from 7 cents to 3 cents per $100 valuation. Following this explanation, Representative Gibson was recognized by the Chair and moved that House Bill 1578 be given a favorable report. Chairman McComas then recognized Representative Luebke for a question to the bill sponsor. He asked how the bill could be considered fair or equitable. He stated his belief that the bill was highly regressive, taxing the poor as highly as the wealthy, rather than the traditional ad valorem method (where in those with higher-valued assets pay more than those with less). Representative Justice stated that the flat fee being proposed was equitable because it placed the same value on everyone's life (for emergency medical services), whether it is someone rich or poor. Chairman McComas then recognized several individuals from Pender County who were present at the meeting: Mr. Dwight Strickland, Chair of the Pender County Board of Commissioners; Mr. Andy Hedrick, County Manager to Pender County; and Mr. Woody Sullivan, Emergency Medical Director for Pender County. Mr. Hedrick was recognized by the Chair and informed the members that this bill came to the Committee as a unanimous recommendation of the Pender County Board of Commissioners. Representative Hackney was then recognized and asked if a flat fee such as the one proposed in the bill on emergency medical services was the first of its kind in North Carolina. Staff person Martha Walston stated that from her research it was a first. Representative Hackney then stated that the Committee should be very slow and deliberate in its' consideration of this bill, given the precedence it will set. Chairman McComas then recognized Representative Bordsen who asked Mr. Hedrick if any impact studies had been done to assess the effect of the bill on the low-income population. Mr. Hedrick responded that no direct studies had been done but that the issue had been considered in the discussions of the Board of Commissioners. Chairman McComas then acted to displace the bill from the Committee's calendar at the request of the bill sponsor.

Representative Howard, sponsor of **HB 1413 – TAX CREDIT FOR LONG-TERM CARE INSURANCE** (see **attachment 6**), was next recognized by Chairman McComas to provide an explanation of her bill. Representative Gibson moved that the Proposed Committee Substitute (PCS) be adopted for the Committee's consideration and the motion carried without objection. Representative Howard then explained that the bill was a recommendation of the Blue Ribbon Commission on Medicaid Reform and would act to extend the 2004 sunset on the tax credit for premiums paid on long-term care insurance until January 1, 2008. Representative Howard stated that this bill was only a small step toward dealing with the problems in the Medicaid system and that it would take years for its' overall effect to be seen. She stated that the bill offers an incentive for

individuals to take out long-term care insurance policies so that, upon the onset of chronic illness later in life, they will not be dependent on the State for their medical needs (which is a growing financial burden to the State). Following this explanation, Chairman McComas recognized Mr. Bill Hale of the American Council of Life Insurers who spoke in support of the bill. The Chair also recognized former Representative Karen Gottobi, now Director of the Division of Aging and Adult Services in the North Carolina Department of Health and Human Services (NCDHHS). She stated her personal support of the bill and acknowledged the potential benefits of the bill in the long-term. She saw the bill as another method for people to use in their preparation for old age. Chairman McComas then recognized Representative Holliman who stated that the bill was an excellent idea and then made a motion that the PCS for House Bill 1413 be given a favorable report (with an unfavorable report as to the original bill). Chairman McComas then recognized Representative Gibson who simply commented that Representative Howard had sponsored an excellent bill. Representative Jones was then recognized and asked if no studies had been done to forecast the effect of the bill in the future. Representative Howard stated that presently no, no such studies had been done. Chairman McComas then recognized Representative Hackney who sent forth an amendment (see **attachment 7**) and moved its' adoption. Representative Hackney explained that the amendment acts to require the Legislative Research Commission to study the effectiveness of the credit and directs the Division of Aging in NCDHHS to report who is claiming/using the credit. Speaking to this amendment, Representative Howard stated that it was her opinion that this issue had already been studied extensively and felt the amendment was unnecessary. She also stated, however, that if the Committee supported the amendment, she would not dispute it. Chairman McComas then recognized Representative Luebke who offered a perfecting amendment to Representative Hackney's amendment, changing "Legislative Research Commission" to "Revenue Laws Study Committee". Chairman McComas called the vote on Representative Luebke's perfecting amendment and it was adopted. Chairman McComas then called Representative Hackney's amendment as perfected to a vote and it too was adopted. Representative Holliman's earlier motion for a favorable report as to the PCS on the bill was then presented to the Committee, incorporating the newly adopted perfected Hackney amendment. Chairman McComas then called the motion to a vote and the motion carried.

As the full House was scheduled to convene at 10:00 am, Chairman McComas adjourned the meeting at 9:41 am, to reconvene at 2:00 pm.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1555 (and related materials)
4. Rayfield Amendment on HB 1555 – **Adopted**
5. House Bill 1578 (and related materials) (**Displaced**)
6. House Bill 1413 (and related materials)
7. Hackney Amendment on HB 1413 – **Adopted**
8. Senate Bill 1063 (and related materials) (**not discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 8, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. McComas

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1413 TAX CREDIT FOR LONG-TERM CARE INSURANCE
Reps. Nye, Howard, Earle, England

HB 1555 TAG AGENTS TITLE TRANSACTION FEE *Rep. Sutton*

HB 1578 PENDER RESCUE SERVICE FEE *Rep. Justice*

SB 1063 ELIMINATE IRB WAGE STANDARD *Sen. Hartsell*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 8, 2004**

TIME: **8:30 A.M.**

LOCATION: **544 LOB**

The following bills will be considered:

HB 1413 – TAX CREDIT FOR LONG-TERM CARE INSURANCE
– Reps. Nye, Howard, Earle, and England

HB 1555 – TAG AGENTS TITLE TRANSACTION FEE – Rep. Sutton

HB 1578 – PENDER RESCUE SERVICE FEE – Rep. Justice

SB 1063 – ELIMINATE IRB WAGE STANDARD – Sen. Hartsell

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **12:50 P.M.** on **June 3, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard C Hatch	AARP
Mike Latta	AARP
John Hardin	NC Board of Science & Technology
Kay Hatcher	NC DMV
Jonia Stevens	NCDMV
Tony Spence	NCDMV
Carolyn Justus	State Rep
Harry Hutaff	N.C.S.D.A.
Jim Blackburn	NC Association of County Commissioners
Woody Sullivan	Pender County
Dwight Strickland	Pender County Commissioner

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
ANDY HEDRICK	PENDER COUNTY MANAGER
Elizabeth Bakanic	NCGA intern
Karen Gottovi	Div. of Aging + Adult Svcs DHHS
Annalee Griffin	NC ASSN. MTR. VEH. CONTRACTORS
Dan Johnston	NC ASSN. MTR VEH CONT
Helen R. Bradley	N.C ASSN MTR VEH CONT
Diane Padgett	NC Association of vehicle contractors
Woody Padgett	NC Association of Vehicle Contractors
Charlie Beasley	NC Association of Vehicle Contractors
Robert PASchal	Young, Moore
FRANK W. FOLGER	NCDOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Eddie Finch	NC DOR
Angie Quinn	NCDOR
Rich Webb	NCDOR Intern

VISITOR REGISTRATION SHEET

House Finance — 4/8/02

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
[illegible]	ACLI

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1555
PROPOSED COMMITTEE SUBSTITUTE H1555-PCS80460-SVf-44

Short Title: Tag Agents Title Transaction Fee. (Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN ADDITIONAL FEE TO BE PAID TO COMMISSION CONTRACT AGENTS FOR TRANSACTIONS RELATED TO MOTOR VEHICLE TITLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63 is amended by adding a new subsection to read:

"(h1) Commission contracts entered into by the Division under this subsection shall also provide for the payment of an additional one dollar ($1.00) of compensation to commission contract agents for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of G.S. 20-85."

SECTION 2. G.S. 20-85 is amended by adding a new subsection to read:

"(a1) An additional one dollar ($1.00) fee shall be imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section. The fees collected pursuant to this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents."

SECTION 3. This act becomes effective October 1, 2004, and applies to fees assessed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1555
PROPOSED COMMITTEE SUBSTITUTE H1555-CSSVf-44 [v.3]

6/7/2004 9:08:37 AM

Short Title: Tag Agents Title Transaction Fee. (Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN ADDITIONAL FEE TO BE PAID TO COMMISSION CONTRACT AGENTS FOR TRANSACTIONS RELATED TO MOTOR VEHICLE TITLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63 is amended by adding a new subsection to read:

"(h1) Commission contracts entered into by the Division under this subsection shall also provide for the payment of an additional one dollar ($1.00) of compensation to commission contract agents for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of G.S. 20-85."

SECTION 2. G.S. 20-85 is amended by adding a new subsection to read:

"(a1) An additional one dollar ($1.00) fee shall be imposed for any transaction assessed a fee under subdivision (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), or (a)(9) of this section. The fees collected pursuant to this section shall be credited to the North Carolina Highway Fund. The Division shall use the fees derived from transactions with the Division for technology improvements. The Division shall use the fees derived from transactions with commission contract agents for the payment of compensation to commission contract agents."

SECTION 3. This act becomes effective October 1, 2004, and shall expire on September 30, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1555

Short Title:	Tag Agents Title Transaction Fee.	(Public)
Sponsors:	Representative Sutton.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE AN ADDITIONAL FEE TO BE PAID TO COMMISSION CONTRACT AGENTS FOR TRANSACTIONS RELATED TO MOTOR VEHICLE TITLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(h) reads as rewritten:

"(h) Commission Contracts for Issuance of Plates and Certificates. – All registration plates, registration certificates, and certificates of title issued by the Division, outside of those issued from the Raleigh offices of the Division and those issued and handled through the United States mail, shall be issued insofar as practicable and possible through commission contracts entered into by the Division for the issuance of the plates and certificates in localities throughout North Carolina with persons, firms, corporations or governmental subdivisions of the State of North Carolina. The Division shall make a reasonable effort in every locality, except as noted above, to enter into a commission contract for the issuance of the plates and certificates and a record of these efforts shall be maintained in the Division. In the event the Division is unsuccessful in making commission contracts, it shall issue the plates and certificates through the regular employees of the Division. Whenever registration plates, registration certificates, and certificates of title are issued by the Division through commission contract arrangements, the Division shall provide proper supervision of the distribution. Nothing contained in this subsection will allow or permit the operation of fewer outlets in any county in this State than are now being operated.

Commission contracts entered into by the Division under this subsection shall provide for the payment of compensation on a per transaction basis. The collection of the highway use tax shall be considered a separate transaction for which one dollar and twenty-seven cents ($1.27) compensation shall be paid. The performance at the same time of one or more of the remaining transactions listed in this subsection shall be considered a single transaction for which one dollar and forty-three cents ($1.43) compensation shall be paid.

A transaction is any of the following activities:

(1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
(2) Issuance of a handicapped placard or handicapped identification card.
(3) Acceptance of an application for a personalized registration plate.
(4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
(5) Cancellation of a title because the vehicle has been junked.
(6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
(7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
(8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
(8a) Collection of civil penalties imposed for violations of G.S. 20-183.8A.
(8b) Sale of one or more inspection stickers in a single transaction to a licensed inspection station.
(9) Collection of the highway use tax.
(10) Acceptance of a temporary lien filing.

Commission contracts entered into by the Division under this subsection shall also provide for the payment of an additional one dollar ($1.00) for any transaction involving the issuance of a certificate of title, correcting a title, issuing a duplicate title, recording a lien on a title, or any other transaction affecting a new or existing title."

SECTION 2. G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

(1) Each application for certificate of title..... ~~$35.00~~$36.00
(2) Each application for duplicate or corrected certificate of title..... ~~10.00~~11.00
(3) Each application of repossessor for certificate of title..... ~~10.00~~11.00
(4) Each transfer of registration 10.00
(5) Each set of replacement registration plates..... 10.00
(6) Each application for duplicate registration card 10.00
(7) Each application for recording supplementary lien..... ~~10.00~~11.00
(8) Each application for removing a lien from a

certificate of title.....~~10.00~~11.00

(9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.....~~10.00~~11.00

(10) Each application for a salvage certificate of title made by an insurer ..... 10.00."

SECTION 3. G.S. 20-85(b) reads as rewritten:

"(b) The fees collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of this section shall be credited to the Highway Fund. Fifteen dollars ($15.00) of each title fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5.

One dollar ($1.00) of the fees collected pursuant to subdivisions (a)(1), (a)(2), (a)(3), (a)(7), (a)(8), and (a)(9) of this section derived from transactions involving certificates of title issued by the State offices of the Division or those transactions handled through the United States mail or electronic transmission shall be used for Division technology improvements."

SECTION 4. This act becomes effective October 1, 2004, and shall expire on September 30, 2007.

HOUSE BILL 1555:
Tag Agents Title Transaction Fee.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Sutton
Date:	June 8, 2004	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1555 raises the fees for transactions related to motor vehicle titles by $1.00. The additional fee for transactions performed by DMV would be used for technology improvements within the Division. The additional fee for transactions performed by commission contract agents would be used for compensation for those agents. The act would expire in three years.***

CURRENT LAW: Commission contract agents are compensated on a per transaction basis. Agents receive compensation in the amount of $1.27 for the collection of highway use tax, which is considered a separate transaction. For all other transactions, which are considered a single transaction, they receive compensation in the amount of $1.43.

Under current law, the fees for transactions related to motor vehicle titles are as follows:

Each application for certificate of title (G.S. 20-85(a)(1))	$35.00
Each application for duplicate or corrected certificate of title (G.S. 20-85(a)(2))	$10.00
Each application of repossessor for certificate of title (G.S. 20-85(a)(3))	$10.00
Each application for recording supplementary lien (G.S. 20-85(a)(7))	$10.00
Each application for removing a lien from a certificate of title (G.S. 20-85(a)(8))	$10.00
Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale (G.S. 20-85(a)(9))	$10.00

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1555 raises by $1.00 the fee for transactions with the DMV related to motor vehicle titles. The additional $1.00 in fees will be credited to the Highway Fund. The Division would use the funds from the additional $1.00 fee derived from transactions with the Division (which includes transactions by mail or Internet) for technology improvements within the Division. The Division would use the funds from the additional $1.00 fee derived from transactions with commission contract agents for the payment of compensation to those agents, which is in addition to their current rate of compensation. The act would expire in three years.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 7, 2004

TO: **Rep. Ronnie Sutton**

FROM: Bob Weiss
Fiscal Research Division

RE: HB 1555 Proposed Committee Substitute H1555-CSSVf-44 (v.3)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Highway Fund	$1,983,354	$2,697,361	$2,751,308	$701,584	
EXPENDITURES					
Highway Fund					
Computer Changes	$55,600				
Tag Agent Comp.	$1,759,516	$2,392,942	$2,440,801	$622,404	
DMV Tech Upgrades	$223,838	$304,419	$310,507	$79,180	
TOTAL	$2,038,954	$2,697,361	$2,751,308	$701,584	
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Fund, Division of Motor Vehicles

EFFECTIVE DATE: October 1, 2004 through September 30, 2007

BILL SUMMARY: Section 1 amends G.S. 20-63 by adding section (h1) to provide that DMV shall pay to Commission Contract Agents an additional $1.00 for certain title transactions listed under G.S. 20-85. Section 2 amends G.S. 20-85 to provide that an additional $1.00 fee shall be imposed for those title transactions. Where DMV processes the transaction (as opposed to a commission contract agent) the Division shall use the additional fees collected for technology improvements.

ASSUMPTIONS AND METHODOLOGY: Based on data from calendar year 2003, it is assumed that 1,983,354 title transactions will be processed in the last nine months of FY04-05 and that the number of transactions processed annually will grow by 2%. It is assumed that the percentage of transactions handled by contract agents will remain at approximately 89% and the remainder will be handled directly through DMV. Under this bill transactions under G.S. 20-85(a1), (a2), (a3), (a7), (a8), (a9) would cost an additional $1.00. The contract agents would receive an additional $1.00 from DMV for each of these transactions that they handle and the DMV would receive, and is directed to spend on technology improvements, $1.00 for transactions that DMV handles directly.
DMV estimates that the cost to reprogram the State Title and Registration System (STARS) to allow these changes would be $55,600 (620 hours of professional time at $80 per hour plus SIPS charges of $6,000).

SOURCES OF DATA: DMV

TECHNICAL CONSIDERATIONS: None

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1555 A BILL TO BE ENTITLED AN ACT TO PROVIDE AN ADDITIONAL FEE TO BE PAID TO COMMISSION CONTRACT AGENTS FOR TRANSACTIONS RELATED TO MOTOR VEHICLE TITLES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 4

EDITION No. _____

H. B. No. 1555 DATE June 8, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Rayfield
Sen.)

1 moves to amend the bill on page 1, line s 19-20

2 ( ) WHICH CHANGES THE TITLE

3 by rewriting the lines to read

4 This act becomes effective October 1, 2004, and

5 applies to fees assessed on or after this

6 date

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SIGNED _____

ADOPTED ✓ FAILED ~~TABLED~~

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1578

Short Title:	Pender Rescue Service Fee.	(Local)
Sponsors:	Representative Justice.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW PENDER COUNTY TO ASSESS AN EMERGENCY MEDICAL SERVICE FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Establishment of Emergency Medical Service Fee. – The Board of Commissioners of Pender County may by ordinance establish an Emergency Medical Service Fee. The ordinance shall become effective on July 1 of the next fiscal year after its adoption.

SECTION 2. Changes in Rate of Emergency Medical Service Fee. – Any change in the rate of the Emergency Medical Service Fee must be done by ordinance of the Pender County Board of Commissioners by June 30 of any year with an effective date of July 1 of the next fiscal year.

SECTION 3. Components of the Emergency Medical Service Fee. – The Emergency Medical Service Fee shall consist of a flat fee per parcel that contains any of the following structures:

(1) Single family home.
(2) Multifamily home.
(3) Condominium.
(4) Garden apartment.
(5) Walk-up apartment.
(6) Bank.
(7) Restaurant.
(8) Restaurant lounge.
(9) Motel.
(10) Beauty shop.
(11) Car wash.
(12) Townhouse.
(13) Country club/clubhouse.
(14) Cottage.

(15) Office.
(16) Fraternal building.
(17) Service shop/garage.
(18) Retail store.
(19) Discount store.
(20) Community/neighborhood shopping center.
(21) Storage/distribution warehouse.
(22) Commercial building.
(23) Veterinary clinic/hospital.
(24) Post office.
(25) Medical clinic.
(26) Service station/convenience store.
(27) Nursing home/rest home.
(28) Industrial (light, medium, heavy).
(29) Single-wide mobile home.
(30) Laundromat.
(31) Supermarket/grocery store.
(32) Child care center.

SECTION 4. Emergency Medical Service Fee as a Lien on Property. – The Emergency Medical Service Fee shall be a lien on property and shall be collectible in the same manner as delinquent real property taxes.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1578:
Pender Rescue Service Fee

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Carolyn H. Justice
Date:	June 7, 2004	**Analysis by:**	Martha Walston
Version:	First Edition		Committee Counsel

SUMMARY: House Bill 1578 is a local bill that authorizes the Pender County Board of Commissioners to establish by ordinance an Emergency Medical Service Fee. The fee will be a flat fee imposed on each parcel containing certain described structures.

CURRENT LAW: Counties in North Carolina use several methods to finance emergency medical services for their citizens

- G.S. 153A-149 authorizes a county to levy property taxes to provide emergency medical services up to a combined rate of $1.50 on the $100 appraised value of property.
- G.S. 153A-250 authorizes a county to adopt an ordinance granting franchises to ambulance operators on terms set by the board of commissioners. The ordinance may establish a schedule of rates, fees, and charges imposed by the franchised operators. The county may also operate or contract for ambulance services.
- G.S. 153A-301 authorizes a county to establish a service district to finance, provide, or maintain for the district ambulance and rescue services in addition to or to a greater extent than those financed, provided or maintained for the entire county. The county may levy property taxes in the district in addition to those levied throughout the county but not in excess of a rate on each $100 value of property which, when added to the rate levied countywide would exceed $1.50 on the $100 value of property. The rate may be higher only if approved by voters in the district.
- G.S. 69-25.4 authorizes a county, upon petition of 35% of taxpayers in an area of the county, to hold an election to collect a property tax not exceeding 15¢ on $100 valuation of property for providing fire protection in the district. "Fire protection" may include the levy, appropriation, and expenditure of funds for emergency medical services.

BILL ANALYSIS: HB 1578 authorizes Pender County to adopt an ordinance imposing a flat emergency medical service fee on July 1 of the next fiscal year after adoption of the ordinance. The fee would be a flat fee imposed on each parcel in the county if the parcel contains one of 32 structures listed in the bill. The fee is a lien on the parcel and is collectible in the same manner as delinquent real property taxes.

According to Andy Hedrick, County Manager, the County plans to impose a flat emergency medical service fee of $60 per parcel. This will allow the County to reduce the property tax rate for emergency medical services from 7¢ to 3¢ per $100 valuation. The list of specified structures is consistent with the list used by the County to assess property taxes.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 1413*
PROPOSED COMMITTEE SUBSTITUTE H1413-PCS10320-LC-130

Short Title: Tax Credit for Long-Term Care Insurance. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 29A.6(c) and (d) of S.L. 1998-212 read as rewritten:

"(c) The ~~Legislative Research Commission~~Revenue Laws Study Committee shall study the effectiveness of the credit enacted by this section. The Department of Revenue shall provide the ~~Commission~~ Committee data on the usage of this credit, including profiles of taxpayer categories using the credit. The Division of Aging, Department of Health and Human Services, shall provide the ~~Commission~~ Committee data on the effect of the credit on the State's Medicaid costs. The ~~Commission~~ Committee shall report its findings and recommendations to the ~~2004~~ 2006 Regular Session of the ~~2003~~ 2005 General Assembly.

(d) Subsection (a) of this section is effective for taxable years beginning on or after ~~January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.~~ January 1, 1999. The remainder of this section is effective when it becomes law. G.S. 105 160.3(b)(7), as enacted by this ~~act,~~section, is repealed effective when G.S. 105-151.28 is repealed. ~~for taxable years beginning on or after January 1, 2004.~~"

SECTION 2. G.S. 105-151.28 is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2008."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1413*
PROPOSED COMMITTEE SUBSTITUTE H1413-CSLC-121 [v.3]

6/8/2004 8:09:27 AM

Short Title: Tax Credit for Long-Term Care Insurance. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 29A.6(d) of S.L. 1998-212 reads as rewritten:

"(d) Subsection (a) of this section is effective for taxable years beginning on or after ~~January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.~~ January 1, 1999. The remainder of this section is effective when it becomes law. G.S. 105 160.3(b)(7), as enacted by this ~~act,~~section, is repealed effective when G.S. 105-151.28 is repealed. ~~for taxable years beginning on or after January 1, 2004.~~"

SECTION 2. G.S. 105-151.28 is amended by adding a new subsection to read:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after January 1, 2008."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1413*

Short Title:	Tax Credit for Long-Term Care Insurance.	(Public)
Sponsors:	Representatives Nye, Howard, Earle, England (Primary Sponsors); Barnhart, L. Allen, Bell, Church, Farmer-Butterfield, Glazier, Insko, Jones, McLawhorn, Moore, Rapp, Stiller, Wainwright, Warner, Warren, Weiss, and Wood.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. Section 29A.6(d) of S.L. 1998-212 reads as rewritten:

"(d) Subsection (a) of this section is effective for taxable years beginning on or after ~~January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.~~ January 1, 1999. The remainder of this section is effective when it becomes law. ~~G.S. 105-160.3(b)(7), as enacted by this act, is repealed effective for taxable years beginning on or after January 1, 2004.~~"

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004.

House Bill 1413:
Tax Credit for Long-Term Care Insurance

BILL ANALYSIS

Committee: House Finance
Date: June 2, 2004
Version: H1413-CSLC-121

Sponsor: Representatives Nye, Howard, Earle, and England
Analysis by: Martha Walston, staff attorney

SUMMARY: The proposed committee substitute for House Bill 1413 would extend the 2004 sunset on the tax credit for premiums paid on long-term care insurance until January 1, 2007. The act becomes effective for taxable years beginning on or after January 1, 2004. HB 1413, as introduced, would have repealed the 2004 sunset so that the long-term tax credit would remain in effect permanently. HB 1413 is a recommendation of the Blue Ribbon Commission on Medicaid Reform.

BILL ANALYSIS: The long-term care credit, in G.S. 105-151.28, became effective for tax years beginning on or after January 1, 1999, and expired for tax years beginning on or after January 1, 2004. This State individual income tax credit was allowed for premiums paid on qualifying long-term care insurance contracts that provide insurance coverage for a taxpayer or a taxpayer's spouse, or a dependent for whom the taxpayer provides over half of the support and whose income is below an exemption amount. The credit was 15% of the premiums paid, not to exceed $350 for each qualified long-term care insurance contract for which a credit was claimed. The purpose of the sunset was to determine whether the credit actually affected taxpayers' behavior - causing them to purchase insurance when they would not otherwise do so - or if the credit merely spent State revenues without increasing the purchase of long-term care insurance.

In January 2003, the Department of Revenue reported to the Revenue Laws Study Committee that they had reviewed a sample of tax returns claiming the credit and found that in most cases, the taxpayers claiming the credit were not entitled to the credit because they had not purchased long-term care insurance. The Department provided more explicit tax instructions for the following tax year and worked with software vendors to improve the long-term care tax credit information in their programs. As a result of the Department's actions, a lower percentage of ineligible taxpayers claimed the credit that year.

This bill would extend the 2004 sunset on the long-term care insurance tax credit to taxable years beginning on or after January 1, 2007.

A long-term care insurance contract is defined in section 7702B of the Internal Revenue Code as any insurance contract under which the only insurance protection provided is for coverage of qualified long-term care services. Qualified long-term care services are those services required by a chronically ill individual and provided under a plan of care prescribed by a licensed health care practitioner. The long-term care insurance contract must also meet the following requirements:

1. Is guaranteed renewable.
2. Does not provide for a cash surrender value.

3. Provides that refunds and dividends may be used only to reduce future premiums or to increase future benefit.
4. Does not pay or reimburse expenses that are reimbursable under Medicare.
5. Satisfies consumer protection laws.

Under federal law, premiums paid on long-term care insurance contracts are treated as deductible medical expenses. Under the medical expense itemized deduction, unreimbursed medical expenses may be deducted to the extent that the expenses exceed 7.5% of adjusted gross income. To the extent a taxpayer will receive a deduction for long-term care insurance premiums under the Code, the taxpayer will receive a deduction for State income tax purposes as well since North Carolina uses federal taxable income as the starting point for calculating State taxable income. To prevent a double tax benefit in those cases, the credit is limited to those expenses for which a deduction has not been claimed.

According to a report from the Health Insurance Association of America, the following states allow an income tax credit for the payment of long-term care insurance premiums: Colorado, Louisiana, Maryland, Minnesota, New York, and Oregon.

The following states allow an income tax deduction for long-term care insurance premiums: Alabama, Hawaii, Idaho, Indiana, Iowa, Kentucky, Maine, Missouri, Montana, Ohio, Utah, Virginia, West Virginia, and Wisconsin.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 3, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1413-CSLC-121 [v.2]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($million)

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	(6.0)	(6.0)	(6.0)		
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2004 and sunsets for taxable years beginning on or after January 1, 2007.

BILL SUMMARY:
The bill extends the sunset on the long-term care insurance tax credit from taxable years beginning on or after January 1, 2004 to taxable years beginning on or after January 1, 2007.

BACKGROUND:
The long term care insurance tax credit was one of 13 tax provisions included in the budget act for Fiscal Year 1998-99 by the 1998 General Assembly (1998 S.L. chapter 212, SB

1366). The state individual income tax credit equals 15% of the premium paid each year on long-term care insurance, but the credit may not exceed $350 for each policy for which the credit is claimed. The credit may not exceed the amount of tax owed by the taxpayer (nonrefundable), and there is no provision to allow unused portions of the credit to be carried forward. The credit became effective for the taxable year beginning on or after January 1, 1999, and expires for taxable years beginning on or after January 1, 2004.

A taxpayer may claim a credit for policies that provide coverage for either the taxpayer, the taxpayer's spouse, or a family member for whom the taxpayer provides over half of the support and whose income is below an exemption amount. A long term-care insurance policy is one that provides only coverage of long-term care services and that meets the following requirements:

1. Is guaranteed renewable.
2. Does not provide for a cash surrender value.
3. Provides that refunds and dividends may be used only to reduce future premiums or to increase future benefit.
4. Does not pay or reimburse expenses that are reimbursable under Medicare.
5. Satisfies consumer protection laws.

Under federal law, premiums paid on long-term care insurance contracts are treated as deductible medical expenses. Under the medical expense itemized deduction, unreimbursed medical expenses may be deducted to the extent that the expenses exceed 7.5% of adjusted gross income. To the extent a taxpayer will receive a deduction for long-term care insurance premiums under the Code, the taxpayer will receive a deduction for State income tax purposes as well since North Carolina uses federal taxable income as the starting point for calculating State taxable income. To prevent a double tax benefit in those cases, the credit is limited to those expenses for which a deduction has not been claimed.

ASSUMPTIONS AND METHODOLOGY:

Tax year 1999 is the first year that taxpayers could claim the long-term care tax credit. In the inaugural year, 21,029 tax returns claimed approximately $4.2 million in credits for an average long-term care insurance credit of $199. The total amount of credits claimed each year has been consistent except for 2001, which may be explained by a high error rate (see discussion below).

Tax Year	Number of Returns	Total Long-Term Care Credits	Average Credit Per Return
1999	21,029	$4,181,454	$198.84
2000	29,206	$5,974,615	$204.57
2001	51,959	$10,367,883	$199.54
2002	27,516	$5,652,648	$205.43

The Department of Revenue has encountered serious taxpayer problems with the long-term care insurance tax credit. Audited tax returns in 2001 showed a 91% error rate for the long-

term care credit. The most common taxpayer errors were 1) claiming the credit for regular insurance premiums, 2) claiming the total amount of premiums paid as a credit instead of the $350 limit, and 3) claiming the credit in addition to deducting the long-term care premium as a medical expense. One factor that may have increased errors in 2001 was the repeal of the tax credit for child health insurance. Taxpayers may have tried to continue taking the credit on the long-term care insurance line. By rewording the tax return instructions, contacting error making tax preparers, and revising verbiage in tax preparation software, the Department of Revenue reduced the error rate in audited returns to 27% in 2002. According to preliminary estimates for the 2003 tax year, the error rate among audited returns climbed to 40%.

High error rates make it difficult to accurately project the future cost of this tax credit. Many taxpayers have thus far ignored the Department's efforts to clarify the eligibility of this credit. Accurate projections are also hampered by the lack of demographic information on North Carolina long-term care insurance policy holders. A study by the Health Insurance Association of America reports the average purchaser of long-term care insurance is 67 years old. Elderly policy holders with little taxable income would explain why only 51.2% of 86,272 long-term care insurance purchasers in this state claimed a credit in 2002 (counted married filing jointly returns as two policies). Many elderly have little taxable income because North Carolina does not tax Social Security benefits, nor does it tax the pensions of local, state and federal employees vested before August 12, 1989. Furthermore, government pensions not excluded are granted a $4000 income exemption and private pensions are given a $2000 exemption.

This fiscal analysis assumes that the near term General Fund revenue loss from the long-term care insurance tax credit will be in the $5.5 million to $6 million range of recent years. While the number of policy holders may increase in the next five years, this estimate assumes no growth in credits claimed due to the likelihood that the new purchases will be made by an elderly population with low state tax liability. The increase in credit claims due to growth in policies may also be countered by a reduction in credits fraudulently claimed.

Since the credit was scheduled to sunset in 2004, an increase in General Fund availability was anticipated for FY 2004-05 and beyond. Passage of this bill will again create a revenue loss of approximately $6 million a year for the three years the credit is extended.

SOURCES OF DATA: Department of Revenue, Department of Insurance

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1413 A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSET ON THE LONG-TERM CARE INSURANCE TAX CREDIT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1413*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1413-ALC-73 [v.1]

Date June 8 ,2004

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative HACKNEY

moves to amend the bill on page 1, line 5,
by deleting "(d)" and substituting "(c) and (d)";

and on page 1, lines 5 – 6, Revenue Laws Study Committee
by deleting the quotation mark on line 6 and adding the following between the lines:
" ' (c) The ~~Legislative Research Commission~~ shall study the effectiveness of the credit Committee
enacted by this section. The Department of Revenue shall provide the ~~Commission~~ data
on the usage of this credit, including profiles of taxpayer categories using the credit.
The Division of Aging, Department of Health and Human Services, shall provide the
Committee ~~Commission~~ data on the effect of the credit on the State's Medicaid costs. The
Committee ~~Commission~~ shall report its findings and recommendations to the ~~2004 Regular Session~~
~~of the 2003~~ 2005 General Assembly." 2005 Regular Session
of the

SIGNED Hackney
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1063*

Short Title:	Eliminate IRB Wage Standard.	(Public)
Sponsors:	Senators Hartsell, Kerr, Albertson, Apodaca, Bingham, Dalton, Dannelly, Garrou, Jenkins, Queen, Sloan, Stevens, and Weinstein.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE WAGE STANDARD FOR INDUSTRIAL REVENUE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed industrial project or pollution control project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

~~a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and~~

~~b. That~~that the proposed project will not have a materially adverse effect on the environment.

(2) In the case of a proposed pollution control project, that the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In the case of an industrial project or a pollution control project, except a pollution control project for a public utility,

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate the project, and

c. That the financing of the project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 2. G.S. 159D-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

~~a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State; and~~

~~b.~~ ~~That~~that the proposed project will not have a materially adverse effect on the environment.

(2) In the case of a proposed pollution control project, that such project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In any case (whether the proposed project is an industrial or a pollution control project),

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and

c. That the financing of such project by the agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 3. This act is effective when it becomes law.

SENATE BILL 1063:
Eliminate IRB Wage Standard

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senators Hartsell & Kerr
Date:	June 8, 2004	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1063 would eliminate the wage standard for industrial revenue bonds. It comes as a recommendation from the Joint Select Committee on Economic Growth and Development.***

BILL ANALYSIS: Industrial Revenue Bonds offer manufacturing companies long-term debt financing at interest rates substantially below the current prime rate. Under the program, a local Financing Authority may enter into a financing agreement with a company to provide revenue bond proceeds to the company to be used to finance capital expenditures, such as fixed assets, land, buildings, new equipment, existing equipment, etc. The amounts payable by the company to the authority under the financing agreement must be sufficient to pay all of the principal and interest on the bonds.

Under current North Carolina law, the manufacturing company for whom the bonds are to be issued must pay an average weekly manufacturing wage that is either above the average weekly manufacturing wage in the county or is at least 10% above the average weekly manufacturing wage in the State. Manufacturers and economic developers have reported that it is often difficult to meet this wage standard because the companies that can most benefit from this type of financing are often those in manufacturing sectors that pay lower wages than manufacturers as a whole. This bill would remove this wage standard.

The bill comes as a recommendation from the Joint Select Committee on Economic Growth and Development. Several local economic developers, as well as the Department of Commerce, recommended this change to the Committee. The Committee believes that the removal of the wage test from the Industrial Revenue Bonds will help support small and medium sized manufacturing companies that need to retool to remain competitive in the global market.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1063 (First Edition)

SHORT TITLE: Eliminate IRB Wage Standard.

SPONSOR(S): Senator Hartsell

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:	**"See Assumptions and Methodology"**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Commerce. The bill should not affect the Department's budget requirements.

EFFECTIVE DATE: When the act becomes law.

BILL SUMMARY: Under the industrial revenue bond program in North Carolina, a local financing authority enters into financing agreements with manufacturers. Under the agreement, the authority issues tax-free revenue bonds with the proceeds being used by the company to finance land, buildings, and equipment. The amounts paid by the company to the authority under the financing agreement must be sufficient to pay the debt service on the bonds. To qualify for the financing, the manufacturer must pay an average weekly manufacturing wage that is either above the average weekly manufacturing wage in the county or is at least 10% above the average weekly manufacturing wage in the State.

SB 1063 removes the wage standard from the industrial revenue bond program.

ASSUMPTIONS AND METHODOLOGY: Discussions with the Finance Center of the Department of Commerce indicate that 8-10 projects are approved each year. The Department's objective is to get the activity level back up to around 25 projects each year.

The Department feels that the impact of the additional financing on state personal income tax collections (from the tax-exempt interest) will be insignificant because practically all of the bonds are purchased by large nationwide mutual funds. Thus, the share of the new projects held in mutual funds by North Carolina residents will be small.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: David Crotts

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 24, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 8, 2004 – 2:00 p.m.

The House Committee on Finance met on Tuesday, June 8, 2004 at 2:00 pm in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Luebke, McComas, and Miner; Vice-Chairs Alexander, Daughtridge, Gibson, and Hill; Representatives Blackwood, Bordsen, Carney, Creech, Hackney, Jones, Lewis, McGee, Munford, Rayfield, Ross, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Leslie Oakley, Dusty Rhodes, and Walter Spell. Staff persons present included David Crotts, Canaan Huie, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman McComas called the meeting to order at 2:07 pm and recognized the six (6) pages present: (1) Anna Christian Allen of Wake County, sponsored by Representative Gordon Allen; (2) Martha Browning of Wake County, sponsored by Representative Weiss; (3) Kevin Kiley of Wake County, sponsored by Speaker Morgan; (4) Emily Roofe of Moore County, sponsored by Representative Goodwin; (5) Elizabeth Song of Forsyth County, sponsored by Representative McGee; and (6) Mark Trawick of Wake County, sponsored by Speaker Morgan.

The sole matter of business of the Committee's agenda was **SB 1063 – ELIMINATE IRB WAGE STANDARD** (see **attachment 3**), sponsored by Senator Hartsell. Chairman McComas recognized the Senator to explain the bill. Senator Hartsell stated that the bill was a recommendation of the Joint Select Committee on Economic Growth and Development and eliminates the wage standard for industrial revenue bonds. Under current law, stated Senator Hartsell, a manufacturing company requesting the issuance of industrial revenue bonds must pay an average weekly manufacturing wage that is either above the average weekly manufacturing wage in the county where it is located or at least 10% above the average weekly manufacturing wage in the State. He furthered stated that many manufacturers and economic developers have reported that it is often difficult to meet this wage standard because the companies that can most benefit from this type of financing are often those in manufacturing sectors that pay lower wages than manufacturers as a whole. The Senator also noted that the bill was requested by several local economic developers and the Department of Commerce as it is their belief that the removal of the wage standard from industrial revenue bonds will help support small and medium sized manufacturing companies that need to retool to remain competitive in the changing economy/global market.

Following this explanation, Representative Luebke was recognized and stated his opposition to the bill. He noted his concern for the widening social inequality that continues to grow in the State. He expanded by stating that the standard of living for working families, especially for those employed in the manufacturing sector, is steadily decreasing and eliminating the wage standard, as

proposed in this bill, would only exacerbate the problem. Chairman McComas then recognized Representative Creech who moved that the bill be given a favorable report. Representative Womble was recognized following this and stated his belief that the bill would allow employers to reduce their wages as low as they wanted. Senator Hartsell's opinion, however, differed. He stated his belief that the bill would allow struggling companies to obtain the financing they needed to modernize and stay competitive without having to meet the wage standard and this would save jobs that would otherwise be lost.

Chairman McComas then recognized Representative Weiss who sent forth an amendment (see **attachment 4**). Representative Weiss explained rather than eliminating the wage standard, her amendment would reduce its requirements to 80% above the average weekly manufacturing wage paid in the county where the manufacturer is located. She then moved adoption of her amendment. Senator Hartsell was recognized and spoke against the amendment stating that a reduction would not have a great enough effect to provide the timely relief to the small and medium-sized manufacturers in the State needing this bill's assistance. Chairman McComas then called the Weiss amendment to a vote and the amendment failed.

Representative Womble was recognized for a question to Senator Hartsell and asked if the bill addressed the "pockets of poverty" or "development zones" that have become a significant problem recently in certain areas of the State. Senator Hartsell explained that the bill did not address this issue. Representative Womble then acted to send forth an amendment (see **attachment 5**), directing the Department of Commerce to encourage manufacturers applying for industrial revenue bonds to locate the projects in development zones. Senator Hartsell expressed no dissent on the amendment. Seeing no further discussion on the amendment, Chairman McComas then called it to a vote. The amendment was adopted without known opposition.

Representative Luebke was recognized next and acted to send forth another amendment (see **attachment 6**). He explained that his amendment was exactly like Representative Weiss' earlier amendment, except that his amendment would reduce the wage standard to 75% above the average weekly manufacturing wage paid. He then moved for the adoption of his amendment. Chairman McComas then recognized Representative Daughtridge who voiced his opposition to the amendment. He noted that there were only two states that have an existing wage standard (North Carolina being one of the two) and that the recommendation from the Joint Select Committee on Economic Development and Growth was not for a reduction of the wage standard but for the elimination. Representative Wilson also voiced her opposition on the amendment. Seeing no further discussion on the amendment and Representative Luebke having requested a roll call vote (see **attachment 7**), the Clerk called the vote. By a vote of 10 ayes and 13 nays, the amendment failed.

Chairman McComas then called the vote on the earlier motion from Representative Creech for a favorable report to Senate Bill 1063, incorporating Representative Womble's newly adopted amendment into a Proposed Committee Substitute (PCS), and the motion carried by a majority of the members. Therefore, the PCS for SB 1063 will be given a favorable report (with an unfavorable report as to the original bill).

As there was no further business before the Committee, Chairman McComas then adjourned the meeting at 3:02 pm.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 1063 (and related materials)
4. Weiss Amendment – **Failed**
5. Womble Amendment - **Adopted**
6. Luebke Amendment – **Failed**
7. Roll Call Vote on Luebke Amendment

ATTACHMENT 1

AGENDA

House Finance Committee

June 8, 2004
2:00 p.m.
Room 544 LOB
Chaired by: Rep. McComas

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 1063 ELIMINATE IRB WAGE STANDARD *Sen. Hartsell*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 8, 2004**

TIME: **2:00 P.M.**

LOCATION: **544 LOB**

The following bill will be considered:

SB 1063 – ELIMINATE IRB WAGE STANDARD – Sen. Hartsell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the Committee Clerk at the following offices at **11:00 A.M.** on **June 8, 2004**:

___Principal Clerk
___Reading Clerk - House Chamber

--- Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Don Hobart	DOC
[illegible]	NCLCU
[illegible]	NC-DOC
[illegible]	NCDOC
Emmaline Simpson	Rep. Daughtridge
Mary Katherine Hackney	Rep. Hackney
Brian Lewis	Planned Parenthood Health Sys. Inc.
Luke Gentry	Gov off
[illegible]	Gov. Office
John McHugh	Gov office
William Moss	NC Sierra Club
Jerry Dawson	ALS Association
Gillian Bolsover	The Daily Tar Heel
Elizabeth Self	Intern, Rep. Ross
Katie Jackelen	Intern, Rep Luebke

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amanda Maris	intern to David Knight, NC Sierra Club, Trusts for Public Land...
Melissa Holer	(( ))
Rick Zechini	NC Assoc. of REALTORS
[signature]	NCFPC
[signature]	LLPP
[signature]	NCAR

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 1063*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1063-CSLA-55 [v.1]

6/9/2004 9:36:29 AM

Short Title: Eliminate IRB Wage Standard. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE WAGE STANDARD FOR INDUSTRIAL REVENUE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159C-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed industrial project or pollution control project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

~~a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county, or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State, and~~

~~b.~~ ~~That~~that the proposed project will not have a materially adverse effect on the environment.

(2) In the case of a proposed pollution control project, that the project will have a materially favorable impact on the environment or will prevent or diminish materially the impact of pollution which would otherwise occur.

(2a) In the case of a hazardous waste facility or low-level radioactive waste facility that is used as a reduction, recovery or recycling facility, that such project will further the waste management goals of North Carolina and will not have an adverse effect upon public health or a significant adverse effect on the environment.

(3) In the case of an industrial project or a pollution control project, except a pollution control project for a public utility,

a. That the jobs to be generated or saved, directly or indirectly, by the proposed project will be large enough in number to have a measurable impact on the area immediately surrounding the proposed project and will be commensurate with the size and cost of the proposed project,

b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate the project, and

c. That the financing of the project by the authority will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 2. G.S. 159D-7(b) reads as rewritten:

"(b) Findings. – The Secretary shall not approve any proposed project unless the Secretary makes all of the following, applicable findings:

(1) In the case of a proposed industrial project,

~~a. That the operator of the proposed project pays, or has agreed to pay thereafter, an average weekly manufacturing wage that (i) is above the average weekly manufacturing wage paid in the county in which the project is to be located or (ii) is not less than ten percent (10%) above the average weekly manufacturing wage paid in the State; and~~

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b. That the proposed operator of the proposed project has demonstrated or can demonstrate the capability to operate such project, and

c. That the financing of such project by the agency will not cause or result in the abandonment of an existing industrial or manufacturing facility of the proposed operator or an affiliate elsewhere within the State unless the facility is to be abandoned because of obsolescence, lack of available labor in the area, or site limitations."

SECTION 3. The Department of Commerce shall encourage projects applying for industrial revenue bonds under Chapter 159C or Chapter 159D of the General Statutes to locate the projects in development zones.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1063*

Short Title:	Eliminate IRB Wage Standard.	(Public)
Sponsors:	Senators Hartsell, Kerr, Albertson, Apodaca, Bingham, Dalton, Dannelly, Garrou, Jenkins, Queen, Sloan, Stevens, and Weinstein.	
Referred to:	Finance.	

May 13, 2004

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SENATE BILL 1063:
Eliminate IRB Wage Standard

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senators Hartsell & Kerr
Date:	June 8, 2004	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1063 would eliminate the wage standard for industrial revenue bonds. It comes as a recommendation from the Joint Select Committee on Economic Growth and Development.***

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Under current North Carolina law, the manufacturing company for whom the bonds are to be issued must pay an average weekly manufacturing wage that is either above the average weekly manufacturing wage in the county or is at least 10% above the average weekly manufacturing wage in the State. Manufacturers and economic developers have reported that it is often difficult to meet this wage standard because the companies that can most benefit from this type of financing are often those in manufacturing sectors that pay lower wages than manufacturers as a whole. This bill would remove this wage standard.

The bill comes as a recommendation from the Joint Select Committee on Economic Growth and Development. Several local economic developers, as well as the Department of Commerce, recommended this change to the Committee. The Committee believes that the removal of the wage test from the Industrial Revenue Bonds will help support small and medium sized manufacturing companies that need to retool to remain competitive in the global market.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1063 (First Edition)

SHORT TITLE: Eliminate IRB Wage Standard.

SPONSOR(S): Senator Hartsell

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:	**"See Assumptions and Methodology"**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Commerce. The bill should not affect the Department's budget requirements.

EFFECTIVE DATE: When the act becomes law.

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SB 1063 removes the wage standard from the industrial revenue bond program.

ASSUMPTIONS AND METHODOLOGY: Discussions with the Finance Center of the Department of Commerce indicate that 8-10 projects are approved each year. The Department's objective is to get the activity level back up to around 25 projects each year.

The Department feels that the impact of the additional financing on state personal income tax collections (from the tax-exempt interest) will be insignificant because practically all of the bonds are purchased by large nationwide mutual funds. Thus, the share of the new projects held in mutual funds by North Carolina residents will be small.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: David Crotts

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 24, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1063 A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE WAGE STANDARD FOR INDUSTRIAL REVENUE BONDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 4

EDITION No. _____

H. B. No. _____ DATE June 8, 2004

S. B. No. 1063 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Weiss
Sen.)

1 moves to amend the bill on page 1, line 2
2 ( ) WHICH CHANGES THE TITLE
3 by replacing the word "ELIMINATE~~S~~" with
4 the word "REDUCE~~S~~"; and
5
6 on page 1, lines 10-15 by removing
7 the redlining & deleting the word "that";
8
9 and on page 2, lines 19-25 by removing
10 the redlining & deleting the word "that"
11
12 and on page 1, line 12 ~~&~~ and page 2,
13 line 21 by adding the phrase "eighty
14 percent (80%) of " after the word
15 "above"
16 and page 2, line 23
17 and on page 1, line 13, by replacing the
18 word "above" with the phrase "~~above~~ below"
19

SIGNED Jennifer Weiss

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 5

EDITION No. _____

H. B. No. 1063 DATE June 8, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Womble
)
Sen.)

moves to amend the bill on page 3, line 10

( ) WHICH CHANGES THE TITLE

by rewriting the line to read

"

Section 3. The Department of Commerce shall encourage projects applying for industrial revenue bonds under Chapter 159C or Chapter 159D of the General Statutes to locate the projects in development zones.

Section 4. This act is effective when it becomes law."

SIGNED Larry Womble

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

68365 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

ATTACHMENT 6

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE June 8, 2004

S. B. No. 1063 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) ~~Weiss~~ Luebke
Sen.)

moves to amend the bill on page 1, line 2

( ) WHICH CHANGES THE TITLE

by replacing the word "ELIMINATE~~D~~" with the word "REDUCE~~D~~"; and

on page 1, lines 10-15 by removing the redlining & deleting the word "that";

and on page 2, lines 19-25 by removing the redlining & deleting the word "that"

and on page 1, line 12 and page 2, line 21 by adding the phrase "~~seventy-five~~ 75 percent (~~75~~%) of " after the word "above"

and page 2, line 23 and on page 1, line 13, by replacing the word "above" with the phrase "~~above~~ below"

SIGNED ~~Jennifer Weiss~~ Luebke

ADOPTED ✓ FAILED _____ TABLED _____

ROLL CALL VOTE

10 YES | 13 NO = 23 (TOTAL) | FAILED | Date: 6-8-2004 | HB# | SB# 1063 | Amendment # Luebke

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander	X	
Blackwood		X
Bordsen	X	
Capps		X
Carney	X	
Creech		X
Daughtridge		X
Decker		
Ellis		
Gibson		X
Glazier		
Hackney	X	
Hill		X
Holliman		
Jones	X	
Lewis		X
McGee		X
Munford	X	
Rayfield		X
Ross	X	
Setzer		
Starnes		X
Weiss	X	
Wilson		X
Womble	X	
Wood		

MEMBER (last name)	YES	NO
Ex officio Members		
Brubaker		
Culpepper		
Cunningham		
Eddins		
Co-Chairs		
G. Allen		
Howard		
Luebke	X	
McComas		X
Miner		X
Wainwright		

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 10, 2004

The House Committee on Finance met on Thursday, June 10, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, Hill, and Wood; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Hackney, Holliman, Jones, Lewis, McGee, Rayfield, Ross, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Allen called the meeting to order at 8:35 am and recognized the six (6) pages present: (1) Anna Christian Allen of Wake County, sponsored by the Chair; (2) Martha Browning of Wake County, sponsored by Representative Weiss; (3) Ann Donald of New Hanover County, sponsored by Representative McComas; (4) David Point of New Hanover County, sponsored by Representative McComas; (5) Abby Sherrill of Caldwell County, sponsored by Representative Sherrill; and (6) Elizabeth Song of Forsyth County, sponsored by Representative McGee.

Chairman Allen recognized Representative Goodwin to explain the first bill considered by the Committee: **HB 919 – WORKPLACE SAFETY TAX CREDITS** (see **attachment 3**). This bill was first considered by the Committee at its June 3, 2004 meeting but was displaced at that time to allow the bill sponsor additional time to work on the details of the bill. Representative Carney moved that the Proposed Committee Substitute (PCS) for House Bill 919 be adopted for the Committee's consideration. The motion carried without objection. Representative Goodwin then explained that the latest PCS changed the bill from a workplace safety tax credit to a one-year pilot project grant program. He also noted that the PCS combines another grant program bill he had sponsored focusing on non-English speaking workers. As a result, the bill was no longer classified as a "finance" bill. He then requested that the Committee report the bill without prejudice and recommend that it be referred to the Appropriations Committee. Following this explanation, Chairman Allen recognized Representative Wainwright who made a motion that House Bill 919 be reported without prejudice as to the PCS, unfavorable as to the original bill, with a recommendation that the PCS be re-referred to the Committee on Appropriations. Seeing no further discussion, Chairman Allen then called the motion to a vote and it carried without objection.

Chairman Allen next recognized Representative Gibson to speak on behalf of the bill sponsor, Representative Miner, and explain **HB 1264 – MODIFY FINANCE LAWS (REGULATORY FEES)** (see **attachment 4**). Representative Gibson first moved adoption of the

bill's PCS for the purposes of Committee discussion and his motion carried without objection. He then explained that the bill was simply a regulatory fee bill that required passing annually involving the fees on insurance and public utilities. (Further detail is available in the attached bill summary.) Representative Gibson noted that there were no changes in the amounts of the fees from the previous year. Chairman Allen then recognized Representative Wainwright who made a motion that the PCS for House Bill 1264 be given a favorable report (with an unfavorable report as to the original bill). Hearing no further discussion on the bill, the Chair then called the motion to a vote and it was adopted without objection.

HB 1699 – UNC NONAPPROPRIATED CAPITAL PROJECTS (see **attachment 5**) was the next bill considered by the Committee. Since this bill was sponsored by Chairman Allen, Chairwoman Howard assumed the Chair so that he could explain his bill. Representative Allen briefly explained that the bill authorizes the construction and financing of numerous capital improvement projects at various constituent institutions of the University of North Carolina. These projects, he explained would be financed through revenue bonds and special obligation bonds, not appropriations from the General Fund. Chairwoman Howard then recognized Mr. Jeff Davies, Vice-President of the University of North Carolina, who informed the Committee that the bill was an annual one, which simply authorized some 35 capital improvement projects totaling approximately $355 million. He noted that the majority of the projects dealt with housing and dining facility needs and reiterated that these projects would be funded from housing and dining receipts, among other sources. Chairwoman Howard then recognized Representative Ross who made a motion that HB 1699 be given a favorable report. Following some other general discussion, Chairwoman Howard called the motion to a vote and it carried without known objection.

Chairman Allen then reassumed the Chair and recognized Representative Decker for explanation of **HB 1661 – CAP GAS TAX VARIABLE RATE** (see **attachment 6**). Representative Decker informed the Committee members that while there was a PCS prepared prior to the meeting, he did not wish to have it considered as staff had only at the beginning of the meeting informed him that the PCS would make the bill ineligible as it would not have an effect on the 2004-2005 budget (which is required by the rules to be eligible for consideration). As a result, he stated that he would like the Committee members to consider the original bill. He then explained that the bill places a cap, effective July 1, 2004, on the variable wholesale component of the motor fuels tax rate. He noted that he sponsored the bill as a means to try to reduce, or at least hold constant, the rapidly rising gasoline rates in the State and nation. He also stated his support for the bill as a means to "take a stand" against the Arab controlled OPEC's agenda to hurt the overall American economy. Following this explanation, Representative Hill was recognized by the Chair and moved that House Bill 1661 be given a favorable report, noting his opinion that the bill might help reduce the already exorbitant gas prices. Prior to acting on this motion, however, Representative Hackney was recognized and asked if the North Carolina Department of Transportation (NCDOT) and/or the Chairs of the Appropriations Subcommittee on Transportation had been consulted regarding the bill. Chairman Allen then asked if there was a representative from the Department of Transportation present, but there was not. Representative Hackney stated that he would prefer to hear from the NCDOT prior to moving forward with the bill. Representative Hill agreed with Representative Hackney and then acted to withdraw his motion for a favorable report. Representative Decker then stated that he had no problem with displacing the bill from the Committee and considering it again at a later meeting to allow the time needed to consult with the NCDOT on the bill. Upon receipt of Representative Decker's request, Chairman Allen then acted to displace the bill until a later date.

Chairman Allen then recognized Representative McComas to explain the last bill considered by the Committee at the meeting: **HB 1775 – MODIFY UNC SPECIAL OBLIGATION**

BONDS (see **attachment 7**). Representative Capps moved that the PCS for House Bill 1775 be adopted for Committee discussion and the motion carried without objection. Representative McComas then explained that the bill authorizes the Board of Governors of the University of North Carolina to issue certain special obligation bonds without the prior approval of the institution's board of trustees or the General Assembly. These special obligation bonds, explained Representative McComas, could be used solely for acquiring information technology equipment, laboratory and research equipment, and office equipment. He also explained that the aggregate amount of the special obligation bonds issued by the institution must be the lesser of $15 million or 5% of the annual operating revenues of the institution. Finally, he noted that the bonds were required to mature by no longer than 10 years after issuance. Following this explanation, Chairman Allen recognized Representative Howard who moved that the bill be given a favorable report as to the PCS (with an unfavorable report as to the original bill). Noting this motion, the Chair then heard comments and questions from the members. Representative Hackney stated that the bill is requesting that the General Assembly give away too much of its authority. He further inquired of Mr. Rob Nelson, Associate Vice President of Finance for the University of North Carolina, why the University System could not continue to petition the General Assembly each year for its needs, as it has always done in the past. Mr. Nelson responded by stating simply that the bill would allow the University System more flexibility among available financing mechanisms to provide for its ever-growing needs. Representative C. Wilson was recognized following this and asked Mr. Nelson what the entire University's debt ratio was currently. Mr. Nelson stated that the current debt ratio was 4.8%, and also noted that any ratio lower than 10% was considered investment grade debt availability. Chairman Allen then announced that the Committee only had approximately ten minutes remaining, since the full house session was scheduled to begin at 10:00 a.m. Representatives Womble and Creech were both recognized following this announcement and requested that the bill be displaced and taken back up by the Committee at a later meeting to allow additional time for proper debate on the bill. This request appeared to be the overall consensus of the Committee, and as there was no opposition, Chairman Allen then acted to displace House Bill 1775 until a later time.

As a final announcement, Chairman Allen referred **SB 1144 – "IN GOD WE TRUST" SPECIAL PLATES** to the Subcommittee on Tax & Tags.

The Committee's time had then expired, and Chairman Allen adjourned the meeting at 9:39am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 919 (and related materials)
4. House Bill 1264 (and related materials)
5. House Bill 1699(and related materials)
6. House Bill 1661 (and related materials) (**Displaced**)
7. House Bill 1775 (and related materials) (**Displaced**)
8. House Bill 1423 (and related materials) (**not discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 10, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Allen

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 919 WORKPLACE SAFETY TAX CREDITS
Reps. Goodwin & McHenry

HB 1264 MODIFY FINANCE LAWS *Rep. Miner*

HB 1423 APPRENTICESHIP TAX CREDIT *Reps. Howard & Sherrill*

HB 1661 CAP GAS TAX VARIABLE RATE *Reps. Decker & Pate*

HB 1699 UNC NONAPPROPRIATED CAPITAL PROJECTS
Rep. G. Allen

HB 1775 MODIFY UNC SPECIAL OBLIGATION BONDS *Rep. McComas*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 10, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, & Bill Sponsor):

HB 919 – WORKPLACE SAFETY TAX CREDITS – Reps. Goodwin & McHenry

HB 1264 – MODIFY FINANCE LAWS – Rep. Miner

HB 1423 – APPRENTICESHIP TAX CREDIT – Reps. Howard & Sherrill

HB 1661 – CAP GAS TAX VARIABLE RATE – Reps. Decker & Pate

HB 1699 – UNC NONAPPROPRIATED CAPITAL PROJECTS – Rep. G. Allen

HB 1775 – MODIFY UNC SPECIAL OBLIGATION BONDS – Rep. McComas

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas , Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **12:00 noon** on **June 9, 2004.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Hoomani	NCDoL
Art Britt	NCDoL
Cameron Bailey	NCDOL
Alesia Vick	NCDOL
Cam Cree	BPMAL
Doug Howey	NC Petroleum Mkrs Assn
Gary Harris	" " " "
Jim Blackburn	County Commissioners
[illegible]	NCSDA
Chad Essick	Poyner + Spruill LLP
Elizabeth Bakanic	NCGA intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fred Allen	NC Aggregates Assn.
CHARLES LEFFLER	NC STATE UNIVERSITY
Andy Willis	NC State
Jeff Darvin	UNC
VERRANCE TEFAVICH	UNC
Kevin FitzGerald	UNC CHAPEL HILL GO HEELS!
Lennie Collins	NC DOR
Greg Rayford	NC DOR
Debbie Holder	Utilities Commission
Dorothy Davis	Public Staff
Bob Gillam	Public Staff

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Wilkins	Utilities Commission
Jim HAVEN	Global Warming Initiatives
Kathy Hartkopf	NC Citizens for a Sound Economy
Mark Benson	Capitol Group
Sharon Miller	Carolina Utility Customers Assoc.
Elizabeth Self	Intern, Rep. Ross
WM Davis	State Construction Office
Mary Katherine Hackney	Rep. Hackney
Andy Romanet	NCLM.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 10, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Dalton	Bone & Assoc.
[illegible] Fullbright	Hunton & Wms
[illegible]	Bone & Assoc.
Gary Salamido	CSK

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H **D**

HOUSE BILL 919*
PROPOSED COMMITTEE SUBSTITUTE H919-PCS30555-SV-47

Short Title: Workplace Safety Grants and Training Courses. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF LABOR TO PROVIDE GRANTS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS AND TO PROVIDE FOR NONENGLISH LANGUAGE SAFETY TRAINING TO CONSTRUCTION WORKERS; TO ALLOW THE REDUCTION OR WAIVER OF CERTAIN CIVIL PENALTIES FOR EMPLOYERS PARTICIPATING IN THE TRAINING; AND TO APPROPRIATE FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"**§ 95-14.1. Workplace safety grant program.**

(a) Grant. – The Department of Labor shall implement a grant program under which each eligible employer that makes eligible workplace safety expenditures during a calendar year is eligible for a grant of up to one hundred percent (100%) of the amount of the expenditures.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible employer. – An employer that, at the business location with respect to which the grant is applied for, has no citations that have become a final order within the past three years under either of the following:

a. The Occupational Safety and Health Act for willful serious violations or for failing to abate serious violations.

b. The Mine Safety and Health Act for significant and substantial violations or for failing to abate significant and substantial violations.

(2) Eligible workplace safety expenditures. – Any of the following expenditures unless the expenditure was made to address a violation for which the employer was cited:

a. Expenditures to eliminate workplace hazards in order to attain certification under a North Carolina Department of Labor voluntary recognition program.

b. Expenditures to prepare an application and prepare the workplace for certification under a North Carolina Department of Labor voluntary recognition program.

c. Expenditures to eliminate workplace hazards identified through the North Carolina Department of Labor's free consultation program.

(3) Serious violation. – Defined in G.S. 95-127."

SECTION 2. There is appropriated from the General Fund to the Department of Labor the sum of one million dollars ($1,000,000) for the 2004-2005 fiscal year for the grant program created in Section 1 of this act.

SECTION 3. There is appropriated from the General Fund to the Department of Labor the sum of one hundred thousand dollars ($100,000) for the 2004-2005 fiscal year to establish a pilot program to provide non-English language safety training and materials to workers in the State's construction industry. The Department of Labor shall provide, or authorize other organizations to provide, non-English language safety training in Spanish at least once per month at community colleges or other suitable locations in the five counties with the highest per capita number of Spanish-speaking construction worker deaths during the year 2003. The Department of Labor shall develop the content of the course, and the course shall last no longer than three hours. The Community College System Office shall cooperate with the Department of Labor in the coordination of the pilot program on community college campuses.

SECTION 4. Participating construction companies who have at least seventy-five percent (75%) of their Spanish-speaking employees attend the safety course shall receive a certificate of completion valid for a period of three years. Notwithstanding any other provision of law, if there is a worker injury on a certified employer's construction site during the certification period, any civil penalty considered by the Department of Labor in connection with the injury shall be reduced by at least half the amount or may be waived in the Commissioner's discretion unless the injury was due to reckless or intentional misconduct.

SECTION 5. This act becomes effective July 1, 2004. Section 3 expires June 30, 2005. Section 4 of this act shall remain in effect as to employers certified in the pilot program.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 919*
PROPOSED COMMITTEE SUBSTITUTE H919-CSSV-47 [v.3]

6/9/2004 5:03:01 PM

Short Title: Workplace Safety Grants and Training Courses. (Public)

Sponsors:

Referred to:

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF LABOR TO PROVIDE GRANTS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS AND TO PROVIDE FOR NON-ENGLISH LANGUAGE SAFETY TRAINING TO CONSTRUCTION WORKERS; TO ALLOW THE REDUCTION OR WAIVER OF CERTAIN CIVIL PENALTIES FOR EMPLOYERS PARTICIPATING IN THE TRAINING; AND, TO APPROPRIATE FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 95 of the General Statutes is amended by adding a new section to read:

"**§ 95-14.1. Workplace safety grant program.**

(a) Grant. – The Department of Labor shall implement a grant program under which each eligible employer that makes eligible workplace safety expenditures during a calendar year is eligible for a grant of up to one hundred percent (100%) of the amount of the expenditures.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible employer. – An employer that, at the business location with respect to which the grant is applied for, has no citations that have become a final order within the past three years under either of the following:

a. The Occupational Safety and Health Act for willful serious violations or for failing to abate serious violations.

b. The Mine Safety and Health Act for significant and substantial violations or for failing to abate significant and substantial violations.

(2) Eligible workplace safety expenditures. – Any of the following expenditures unless the expenditure was made to address a violation for which the employer was cited:

a. Expenditures to eliminate workplace hazards in order to attain certification under a North Carolina Department of Labor voluntary recognition program.

b. Expenditures to prepare an application and prepare the workplace for certification under a North Carolina Department of Labor voluntary recognition program.

c. Expenditures to eliminate workplace hazards identified through the North Carolina Department of Labor's free consultation program.

(3) Serious violation. – Defined in G.S. 95-127."

SECTION 2. There is appropriated from the General Fund to the Department of Labor the sum of one million dollars ($1,000,000) for the 2004-2005 fiscal year for the grant program created in Section 1 of this act.

SECTION 3. There is appropriated from the General Fund to the Department of Labor the sum of one hundred thousand dollars ($100,000) for the 2004-2005 fiscal year to establish a pilot program to provide non-English language safety training and materials to workers in the State's construction industry. The Department of Labor shall provide, or authorize other organizations to provide, non-English language safety training in Spanish at least once per month at community colleges or other suitable locations in the five counties with the highest per capita number of Spanish speaking construction worker deaths during the year 2003. The Department of Labor shall develop the content of the course and the course shall last no longer than three hours. The Community College System Office shall cooperate with the Department of Labor in the coordination of the pilot program on community college campuses.

SECTION 4. Participating construction companies who have at least seventy-five percent (75%) of their Spanish-speaking employees attend the safety course shall receive a certificate of completion valid for a period of three years. Notwithstanding any other provision of law, if there is a worker injury on a certified employer's construction site during the certification period, any civil penalty considered by the Department of Labor in connection with the injury shall be reduced by at least half the amount or may be waived in the Commissioner's discretion unless the injury was due to reckless or intentional misconduct.

SECTION 5. This act becomes effective July 1, 2004. Section 3 expires June 30, 2005. Section 4 of this act shall remain in effect as to employers certified in the pilot program.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 919*

Short Title:	Workplace Safety Tax Credits.	(Public)
Sponsors:	Representatives Goodwin and McHenry (Primary Sponsors).	
Referred to:	Occupational Safety and Health, if favorable, Finance.	

April 8, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW INCOME TAX CREDITS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.16 is reenacted and rewritten to read:

"**§ 105-129.16. Workplace safety tax credit.**

(a) Credit. – An eligible employer that makes eligible workplace safety expenditures during the taxable year is allowed a credit equal to the amount of the expenditures.

(b) Definitions. – The following definitions apply in this section:

(1) Eligible employer. – An employer that certifies that, as of the time the employer first claims the credit, at the business location with respect to which the credit is claimed, the employer has no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.

(2) Eligible workplace safety expenditures. – Any of the following expenditures unless the expenditure was made to address a violation for which the employer was cited:

a. Expenditures to eliminate workplace hazards in order to attain certification under a North Carolina Department of Labor voluntary recognition program.

b. Expenditures to prepare an application and prepare the workplace for certification under a North Carolina Department of Labor voluntary recognition program.

c. Expenditures to eliminate workplace hazards identified through the North Carolina Department of Labor's free consultation program.

(3) Serious violation. – Defined in G.S. 95-127."

SECTION 2. G.S. 105-129.15A reads as rewritten:

"**§ 105-129.15A. Sunset.**

~~G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. The remainder of this~~This Article is repealed effective January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property placed in service on or after January 1, 2006."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 919 A BILL TO BE ENTITLED AN ACT TO ALLOW INCOME TAX CREDITS FOR VOLUNTARY WORKPLACE SAFETY EFFORTS BY EMPLOYERS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ Without prejudice as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill ~~(Committee Substitute Bill #_____)~~, and recommendation that the committee substitute bill ~~#_____~~) be re-referred to the Committee on APPROPRIATIONS.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1264
PROPOSED COMMITTEE SUBSTITUTE H1264-CSLAf-50 [v.3]

6/9/2004 2:22:14 PM

Short Title: Regulatory Fees. (Public)

Sponsors:

Referred to:

April 29, 2003

A BILL TO BE ENTITLED

AN ACT TO ADOPT REGULATORY FEES.

The General Assembly of North Carolina enacts:

TABLE OF CONTENTS

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION
PART 2. INSURANCE REGULATORY CHARGE
PART 3. GENERAL PROVISIONS

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 1.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2004.

SECTION 1.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2004-2005 fiscal year is two hundred thousand dollars ($200,000).

SECTION 1.1.(c). This section becomes effective July 1, 2004.

PART 2. INSURANCE REGULATORY CHARGE

SECTION 2.1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2004 calendar year.

SECTION 2.1.(b) This section is effective when it becomes law.

PART 3. GENERAL PROVISIONS

SECTION 3.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor do they affect the right to any

refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 3.2. Except as otherwise provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1264

Short Title:	Modify Finance Laws.	(Public)
Sponsors:	Representative Miner.	
Referred to:	Finance.	

April 29, 2003

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE FINANCE LAWS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

HOUSE BILL 1264:
Regulatory Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Miner
Date:	June 9, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1264 sets out the following regulatory fee provisions:

- *Part 1 sets the public utility regulatory fee at 0.12% for the 2004-2005 fiscal year and the electric membership corporation regulatory fee at $200,000 for the 2004-2005 fiscal year. These fees are the same as the rates established for the past two years.*
- *Part 2 sets the insurance regulatory fee at 5% for the 2004 calendar year. This rate is the same as the 2003 rate.*

BILL ANALYSIS:

PART 1. REGULATORY FEE FOR UTILITIES COMMISSION

Part 1 of the bill sets the tax rate for the public utility regulatory fee for the 2004-2005 fiscal year at 0.12%. The rate last year was the same. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair, and equitable rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 1 also sets at $200,000 for the 2004-2005 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale. This is the same rate that was in effect for the 2001-2002, 2002-2003, and 2003-2004 fiscal years. The North Carolina Electric Membership

Corporation is the only electric membership corporation that fits this description. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly enacted S.L. 1999-180, which authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, S.L. 1999-180 levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Cooperation will be passed on to its member electric membership corporations.

PART 2. INSURANCE REGULATORY CHARGE

Part 2 of this bill sets the insurance regulatory charge at 5% for the 2004 calendar year. This is the same rate set for the 2003 calendar year. The insurance regulatory charge was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's gross premiums tax liability. The insurance regulatory charge is imposed on insurance companies that pay the gross premiums tax and, beginning in 2000, on health maintenance organizations and medical service corporations. Insurance companies and medical service corporations pay a 1.9% gross premium tax rate.[1] For health maintenance organizations, the charge is levied on each organization's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The hypothetical calculation is necessary because health maintenance organizations pay premiums tax at the lower rate of 1%.

[1] The premium tax rate for medical service corporations was increased from 1% to 1.9%, effective January 1, 2004. (S.L. 2003-284)

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 9, 2004

TO: House Finance Committee

FROM: Stephanie Schmitt, Marilyn Chism
Fiscal Research Division

RE: House Bill 1264-CSLAf-50 [v.1]

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**No General Fund Impact – See Assumptions and Methodology**				
EXPENDITURES					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Utilities Commission, North Carolina Department of Insurance

EFFECTIVE DATE: Part I becomes effective July 1, 2004; Part II becomes effective when the bill becomes law.

BILL SUMMARY: Part I, Section 1.1.(a) keeps the regulatory fee rate for the Public Utilities Commission at 0.12%. This rate must be set annually and remains the same as in the previous year. Section 1.1.(b) sets the regulatory fee for the electric membership corporations at a flat $200,000. This fee has remained the same since it was first imposed in 1999.

Part II addresses the annual establishment of the insurance regulatory fee. Section 2.1.(a) keeps the insurance regulatory charge at 5%. The rate remains the same as in the previous year.

ASSUMPTIONS AND METHODOLOGY:

PART I: UTILITIES COMMISSION REGULATORY FEE

Part I of the bill sets the fees for regulation by the North Carolina Utilities Commission (Commission.) Section 1.1.(a) of the bill sets the public utility regulatory fee rate at 0.12% for FY 2004-05. Revenue from this fee, which is assessed against regulated public utilities, is used to support the operations of both the Commission and the Public Staff. The Commission estimates the 0.12% regulatory fee will produce $12,600,000 in FY 2004-05. For the same period, the Commission estimates that the combined operations of the Commission and Public Staff will require total expenditures of not less than $12,616620. The cash balance in the Commission's Accumulated Fee Margin Reserve Account and other special funds as of May 30, 2004 was $7.9 million. This represents approximately 7.5 months of operating reserve.

Section 1.1.(b) of the bill sets the public utility regulatory fee to be paid by the North Carolina Electric Membership Corporation for the 2004-05 fiscal year at $200,000. In 1999, the initial fee of $200,000 was developed as a result of discussions between the industry and the Utilities Commission, based on what the Utilities Commission believed to be the cost associated with regulating the electric membership cooperatives. In 2001 the Utilities Commission provided information to the General Assembly's Fiscal Research illustrating that these fees supported approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

PART II: INSURANCE REGULATORY CHARGE

Part II of the bill sets the insurance regulatory charge at 5% for calendar year 2004.

This fee is assessed against the 1.9% premiums tax paid by insurers or against the presumed premiums tax that would be paid by HMOs and Article 65 companies (Blue Cross/Blue Shield) if taxed at 1.9% (they are taxed at 1%). The revenue is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the insurance industry and other industries and to other departments as specified in G.S. 58-6-25(d).

The premiums tax collections for 2004-2005 is estimated to be $319.5 million. The presumed premium tax for the HMOs and Article 65 companies is estimated to be $69.3 million. With the premiums tax collections of $319.5 million and the presumed premiums tax of $69.3 million from the HMOs and Article 65 companies, the total base against which the insurance regulatory charge will be assessed is estimated to be $388.8 million. Applying the 5% regulatory fee to the $388.8 million base would generate $24.10 million in regulatory fee revenue.

The Department estimates that the operating expenses will be $25.9 million for 2004-2005 and that the reserve will have a balance of $13.85 million at the beginning of 2004-2005. The total available from the reserve fund of $13.85 million and the estimated collections of $24.10 million will be $37.95 million. The total available less the estimated operating

expenditures of $25.9 million will leave a year-end reserve balance of $12.05 million. This reserve is above one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 5%, assessed against companies that pay a premiums tax as well as HMOs and Article 65 companies, is sufficient to defray the estimated cost of the operations of the Department and provide for a reserve fund.

SOURCES OF DATA: North Carolina Utilities Commission, North Carolina Department of Insurance

TECHNICAL CONSIDERATIONS: N/A

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1264 A BILL TO BE ENTITLED AN ACT TO MODIFY THE FINANCE LAWS OF THE STATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(# ———)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill # ———), (and recommendation that the committee substitute bill # ———) be re-referred to the Committee on ———.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1699*

Short Title:	UNC Nonappropriated Capital Projects.	(Public)
Sponsors:	Representatives G. Allen; Fox, Rapp, McMahan, Church, Insko, C. Johnson, McLawhorn, and Warren.	
Referred to:	Appropriations.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. Purpose. – The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, or other funds, or any combination of these funds, but not including funds appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act including by revenue bonds, by special obligations bonds as authorized in Section 6 of this act, or by both are as follows:

1	**Appalachian State University**	
	Central Dining Facility – Supplement	$2,000,000
2	**East Carolina University**	
	Tyler & Fletcher Residence Halls – Air Conditioning and Window Upgrades	3,250,000
3	**North Carolina A&T State University**	
	Parking Deck	6,796,750
4	**North Carolina State University**	
	Dining Hall Renovations	3,000,000

		Renovation of Berry, Becton, and Bagwell Residence Halls-Supplement	4,000,000
		Student Commons Improvements	3,500,000
		Renovations to Reynolds Coliseum	1,500,000
	5	**The University of North Carolina at Asheville**	
		Governor's Village Residence Hall	12,700,000
	6	**The University of North Carolina at Chapel Hill**	
		Carmichael Fields 3 & 4	1,200,000
		Student Family Housing	19,000,000
		Morrison Residence Hall Renovations	24,000,000
		Residence Halls Phase II-Supplement	20,500,000
		Parking Facilities	17,000,000
	7	**The University of North Carolina at Charlotte**	
		Parking Deck-Supplement	4,200,000
		Greek Village Housing	21,500,000
	8	**The University of North Carolina at Greensboro**	
		Parking Deck Addition	8,000,000
		Residence Hall Renovations	4,500,000
		Dining Hall Renovations	1,500,000
		TOTAL	$158,146,750

SECTION 3. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, including by special obligations bonds as authorized in Section 6 of this act, are as follows:

	1	**Appalachian State University**	
		Steam Line Improvements	$2,000,000
	2	**East Carolina University**	
		Administrative Offices	2,500,000
		Stadium Maintenance Repairs – Phase III	2,600,000
	3	**The University of North Carolina at Chapel Hill**	
		Ambulatory Care Renovations	1,800,000
		Arthritis Research Center	1,800,000
		ITS Building-Supplement	4,000,000
		Institute for Advanced Materials, Nanoscience & Nanotechnology	3,800,000
		Educational Foundation Office Building	3,000,000

	Athletic Facilities Improvements	1,100,000
	School of Medicine Research Facilities-Addition	33,000,000
	The Daniels Building Renovations	7,000,000
	Major Infrastructure Improvements	68,436,150
	Campus Fiber Optic Wiring	8,000,000
4	**The University of North Carolina at Charlotte**	
	Student Union Building-Supplement	6,000,000
	TOTAL	$145,036,150

SECTION 4. The following projects are authorized and the Board of Governors and the respective campuses are authorized to accept gifts for the costs associated with completing the projects:

1	**North Carolina Central University**	
	Biomanufacturing Research Institute and Training Enterprise (BRITE)	$17,800,000
2	**North Carolina State University**	
	Biomanufacturing Training and Education Center (BTEC)	33,500,000
3	**The University of North Carolina at Chapel Hill**	
	Addition to WUNC Radio	1,000,000
	TOTAL	$52,300,000

SECTION 5. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of funding, the projects authorized by this act, except that the Director of the Budget shall not authorize debt financing of the projects authorized in Section 4 of this act. Before authorizing a change in cost or funding, the Director of the Budget shall consult with the Joint Legislative Commission on Governmental Operations.

SECTION 6. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Sections 2 and 3 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Sections 2 and 3 of this act plus twenty million dollars ($20,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1699:
UNC Nonappropriated Capital Projects

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. G. Allen
Date:	June 10, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1699 authorizes the construction of numerous projects by The University of North Carolina. The projects will be financed through revenue bonds and special obligation bonds, not appropriations from the General Fund. Senate Bill 1354 is a companion bill.***

CURRENT LAW: There are two types of self-liquidating bonds that may be issued by the Board of Governors of the University of North Carolina. Article 21 of Chapter 116 of the General Statutes authorizes the Board of Governors to issue revenue bonds for the types of projects enumerated in the article. The types of projects for which revenue bonds may be issued include educational buildings, dormitories, recreational facilities, dining facilities, student centers, health care buildings, parking decks, etc. The revenue bonds are payable from rentals, charges, fees, and other revenues generated by the facility. The bonds are not payable from tax revenues.

Article 3 of Chapter 116D of the General Statutes authorizes the Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The bonds are not payable from tax revenues.

BILL ANALYSIS:

Section 1. States the purpose of the act to authorize the construction and financing of the capital improvements projects at various constituent institutions of The University of North Carolina. The projects authorized by the bill would not be financed with funds appropriated from the State's General Fund; but may be financed with gifts, grants, receipts, self-liquidating indebtedness, other funds available to the constituent institutions, or a combination of any of those financing methods.

Section 2. Sets out the self-liquidating projects the Board of Governors plans to finance with revenue and/or special obligation bonds. Although the UNC revenue bond act in Chapter 116 does not require the enactment of an appropriation bill, the customary practice for UNC system revenue bond issues has been legislation that lists the specific projects to be financed and their costs.

Section 3. Sets out four additional capital improvements projects and authorizes the financing of some of the costs of those projects with special obligation bonds.

Section 4. Authorizes three additional projects, which will be financed without any debt incurred by the University. The Board of Governors and the respective campuses are authorized to accept gifts for the costs associated with completing the projects.

Section 5. Authorizes the Director of the Budget, at the request of the Board of Governors, to authorize cost increases or decreases, or changes in the method of financing for the projects authorized by the bill. The Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations, but consultation is not required.

Section 6. The UNC special obligation bond act requires that the specific projects and their costs be set forth in legislation approved by the General Assembly and that the maximum amount of special obligation bonds to be issued to finance the specific projects listed be stated. Sections 2 and 3 set forth the specific projects and their costs. This section expressly states that the maximum principal amount of special obligation bonds to be issued shall not exceed the amounts listed in Sections 2 and 3 plus $20 million for related additional costs for which bond proceeds are routinely used, such as issuance expenses, funding of reserve funds, and capitalized interest.

Section 7. The bill is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1699 (First Edition)

SHORT TITLE: UNC Nonappropriated Capital Projects.

SPONSOR(S): Representative G. Allen

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Various	See Assumptions and Methodology				
EXPENDITURES					
General Fund	0	$39,785	$8,086,496	$5,400,273	$5,607,375
POSITIONS: (cumulative)					
General Fund	0	0	53	70	70

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: University of North Carolina General Administration

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
The bill authorizes the construction and financing, without appropriation from the General Fund, of capital improvement projects of the constituent institutions of the University of North Carolina.

ASSUMPTIONS AND METHODOLOGY:
The charts on the following pages were compiled with the assistance of the Associate Vice President for Finance for the UNC Office of the President. The charts show the cost to construct and operate the proposed campus buildings and the source of funds for each facility. The effect of the bond debt on students is also shown. The University expects no increase in operating costs for renovations or for athletic facility improvement. The UNC-Chapel Hill School of Medicine Research Facilities – Addition, the NCCU Biomanufacturing Research Institute and Training Enterprise, and the NCSU Biomanufacturing Training and Education Center are the only projects that require General Fund appropriations for building operations. The Campus Fiber Optic Wiring at UNC-Chapel Hill is a supplement to a $17,533,500 project funded by the 2000 university bond program.

Section 2						
Campus	**Project**	**Amount**	**Source of Funds**	**Effect of Debt on Students**	**Increase in Annual Operating Costs**	**Source of Operating Costs**
Appalachian State University	Central Dining Facility – Supplement	$2,000,000	Dining Receipts			
East Carolina University	Tyler & Fletcher Residence Halls – AC & Window Upgrades	$3,250,000	Housing Receipts			
North Carolina A&T State University	Parking Deck	$6,796,750	Parking Receipts			
North Carolina State University	Dining Hall Renovations	$3,000,000	Dining Receipts			
	Renovation of Berry, Becton, and Bagwell Residence Halls - Supplement	$4,000,000	Housing Receipts			
	Student Commons Improvements	$3,500,000	Housing and Dining Receipts		$74,113	Housing Receipts
	Renovations to Reynolds Coliseum	$1,500,000	Debt Service Fee	$10/year		
University of North Carolina at Asheville	Governor's Village Residence Hall	$12,700,000	Housing Receipts			
University of North Carolina at Chapel Hill	Carmichael Fields 3 & 4	$1,200,000	Debt Service Fee	$4/year	$10,599	Student Recreation Fee
	Student Family Housing	$19,000,000	Housing Receipts		$2,672,800	Housing Receipts
	Morrison Residence Hall Renovations	$24,000,000	Housing Receipts		$1,906,517	Housing Receipts
	Residence Halls Phase II – Supplement	$20,500,000	Housing Receipts			
	Parking Facilities	$17,000,000	Parking Receipts			

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Charlotte	Parking Deck – Supplement	$4,200,000	Parking Receipts			
	Greek Village Housing	$21,500,000	Housing Receipts		$1,203,284	Housing Receipts
University of North Carolina at Greensboro	Parking Deck Addition	$8,400,000	Parking Receipts			
	Residence Hall Renovations	$4,500,000	Housing Receipts			
	Dining Hall Renovations	$1,500,000	Dining Receipts			

Section 3						
Campus	**Project**	**Amount**	**Source of Funds**	**Effect of Debt on Students**	**Increase in Annual Operating Costs**	**Source of Operating Costs**
Appalachian State University	Steam Line Improvements	$2,000,000	Utility Trust Fund Receipts			
East Carolina University	Administrative Offices	$2,500,000	Private Gifts and Ticket Sales		$150,832	Athletic Fee
	Stadium Maintenance Repairs	$2,600,000	Debt Service Fee and Gifts	$15/year		
University of North Carolina at Chapel Hill	Ambulatory Care Renovations	$1,800,000	Medical Faculty Practice Plan Receipts			
	Arthritis Research Center	$1,800,000	Private Gifts			
	ITS Building Supplement	$4,000,000	Telecommunications Receipts		$1,146,046	Telecom-communi-cation Receipts

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill (Continued)	Institute for Advanced Materials, Nanoscience and Nano-technology	$3,800,000	Private Gifts			
	Educational Foundation Office Building	$3,000,000	Private Gifts		$299,787	Foundation revenue
	Athletics Facilities Improvements	$1,100,000	Private Gifts			
	School of Medicine Research Facilities – Addition	$33,000,000	Facilities and Administrative Receipts		$1,800,238	General Fund
	The Daniels Building Renovations	$7,000,000	Store Receipts		$186,949	Store Receipts
	Major Infrastructure Improvements	$68,436,150	Utility Trust Fund Receipts			
	Campus Fiber Optic Wiring	$8,000,000	Telecommunications Receipts			
University of North Carolina at Charlotte	Student Union Building Supplement	$6,000,000	Receipts from Existing Fee			

Section 4						
Campus	**Project**	**Amount**	**Source of Funds**	**Effect of Debt on Students**	**Increase in Annual Operating Costs**	**Source of Operating Costs**
North Carolina Central University	Biomanufacturing Research Institute and Training Enterprise (BRITE)	$17,800,000	Golden LEAF Foundation Grant Funding		$1,686,198	General Fund
North Carolina State University	Biomanufacturing Training and Education Center (BTEC)	$33,500,000	Golden LEAF Foundation Grant Funding		$3,181,505	General Fund
University of North Carolina at Chapel Hill	Addition to WUNC Radio	$1,000,000	Private Gifts			

The following are summary details from the previous charts:

Cost of Construction = $355,482,900

Debt Payment Funding Methods

Housing Receipts	$109,450,000
Utilities Trust Fund Receipts	$70,436,150
Golden Leaf Funds	$51,300,000
Parking Receipts Total	$35,996,750
Facilities & Administrative Receipts	$33,000,000
Telecommunication Receipts	$12,000,000
Private Gifts	$10,700,000
Store Receipts	$7,000,000
Dining Receipts	$6,500,000
Existing Student Fees	$6,000,000
Student Fees	$5,300,000
Housing and Dining Receipts	$3,500,000
Debt Service Fees	$2,700,000
Debt Service Fees & Gifts	$2,600,000
Private Gifts & Ticket Sales	$2,500,000
Medical Faculty Practice Plan Receipts	$1,800,000

SOURCES OF DATA: Associate Vice President for Finance for the UNC Office of the President

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 9, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

CAPITAL IMPROVEMENT PROJECTS FUNDED FROM NON-GENERAL FUND SOURCES

The University of North Carolina

2004

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UNC Capital Projects
Funded from Non-General Fund Sources
INFORMATION SUMMARY

- Each year, the University requests legislative authorization for capital projects that the campuses propose to construct using non-General fund sources. For 2004, the list includes those projects that the campuses have identified as ready to start by the end of the 2005 calendar year.

- This packet includes 35 capital improvements projects (or project supplements) at nine institutions that have been approved by the Chancellors and Boards of Trustees of the campuses, and that require approval by the President and the Board of Governors. The packet also includes one previously approved item that requires authorization for the issuance of debt.

- The projects include residence hall, student services facilities (including dining and recreation), parking and infrastructure improvements, and academic and research facilities.

- General Fund sources support none of the construction efforts for the proposed projects.

    - Nearly 45 percent of the funds come from housing and dining receipts and parking operations.

    - Nearly 20 percent of the funds are provided by the Golden Leaf Foundation and from other private gifts.

    - Over 25 percent of the funds come from other revenues such as utilities trust funds, telecommunication reserves, medical faculty practice plan receipts, bookstore receipts, and athletics ticket sales.

    - Less than two percent (1.53%) of the funds come from student-approved (by individual project) debt service fees.

    - Less than 10 percent of the funds come from facilities and administrative receipts.

- With legislative approval of the projects, planning can begin. A detailed financial plan will be developed for each project in consultation with financial advisors and bond counsel – and approved by the Chancellors, the Boards of Trustees, the President and the Board of Governors – before construction contracts are awarded and bonds issued.

- No General Fund support will be required for other than academic facilities or facilities used for academic programs.

- All projects are part of the University's 10-year capital plan, which is updated annually and provided to the Joint Legislative Commission on Governmental Operations.

University of North Carolina
Capital Improvement Projects
From Non-General Fund Sources

	Amount
1 Appalachian State University	
Central Dining Facility - Supplement	2,000,000
Steam Line Improvements	2,000,000
2 East Carolina University	
Administrative Offices	2,500,000
Stadium Maintenance Repairs - Phase III	2,600,000
Tyler & Fletcher Residence Halls - Air Conditioning and Window Upgrades	3,250,000
3 North Carolina A&T State University	
Parking Deck	6,796,750
4 North Carolina Central University	
Biomanufacturing Research Institute and Training Enterprise (BRITE)	17,800,000
5 North Carolina State University	
Biomanufacturing Training and Education Center (BTEC)	33,500,000
Dining Hall Renovations	3,000,000
Renovation of Berry, Becton, and Bagwell Residence Halls-Supplement	4,000,000
Student Commons Improvements	3,500,000
Renovations to Reynolds Coliseum	1,500,000
6 The University of North Carolina at Asheville	
Governor's Village Residence Hall	12,700,000
7 The University of North Carolina at Chapel Hill	
Ambulatory Care Renovations	1,800,000
Arthritis Research Center	1,800,000
Carmichael Fields 3 & 4	1,200,000
ITS Building-Supplement	4,000,000
Institute for Advanced Materials, Nanoscience & Nanotechnology	3,800,000
Educational Foundation Office Building	3,000,000
Athletic Facilities Improvements	1,100,000
Addition to WUNC Radio	1,000,000
School of Medicine Research Facilities-Addition	33,000,000
Student Family Housing	19,000,000
Morrison Residence Hall Renovations	24,000,000
Residence Halls Phase II-Supplement	20,500,000
The Daniels Building Renovations	7,000,000
Parking Facilities	17,000,000
Major Infrastructure Improvements	68,436,150
8 University of North Carolina at Charlotte	
Parking Deck-Supplement	4,200,000
Greek Village Housing	21,500,000
Student Union Building-Supplement	6,000,000
9 University of North Carolina at Greensboro	
Parking Deck Addition	8,000,000
Residence Hall Renovations	4,500,000
Dining Hall Renovations	1,500,000
TOTAL	$347,482,900

University of North Carolina
Capital Improvement Projects (Bond Program Supplements)
From Non-General Fund Sources

		Amount
1	**The University of North Carolina at Chapel Hill**	
	Campus Fiber Optic Wriring	8,000,000
	TOTAL	$8,000,000

Authorization of Non-Appropriated Capital Improvements Projects

In June, 1999, the Board adopted a ten-year capital plan totaling $6.9 billion with approximately 60% of the funding to be provided by the State and the remainder to be provided from non-State resources. Since 1999, the General Assembly, at the request of the Board, has authorized non-appropriated capital improvements projects totaling $1.5 billion to be financed from available balances in University accounts or from the sale of bonds to be repaid from University receipts. This amount exceeds the original commitment made by the Board of Governors.

The University is now ready to proceed with the next year of the plan for projects to be funded from non-State resources. The proposals from the campuses continue to capitalize on the authority granted by the 2000 General Assembly allowing the Board of Governors to issue special obligation bonds – those backed by a pledge of all available institutional revenues excluding tuition receipts and state appropriations. The use of special obligation bonds enhances credit ratings and leads to bond issue savings through more competitive rates of interest. The following pages contain descriptions of each proposed project as well as the sources of project financing. A detailed financial plan will be developed for each project in consultation with financial advisors and bond counsel before bonds are issued and construction contracts are awarded.

It is recommended that the Board approve 35 capital improvements projects (or project supplements) at nine institutions totaling $355,482,900. The projects would then be forwarded to the General Assembly for authorization during the 2004 Session.

Appalachian State University

Central Dining Facility-Supplement – $2,000,000
This project was first approved by the General Assembly in 2000 but was delayed because plans call for construction on the Broom-Kirk Gymnasium site and that facility is scheduled for demolition after a new Student Recreation Center is completed. The proposed increase is based on revised cost estimates and is principally related to changes needed to comply with building codes. The proposed increase would be financed from indebtedness to be repaid from dining receipts. The total project cost would now be $17.7 million.

Steam Line Improvements – $2,000,000
This project would continue a comprehensive program to repair and/or replace steam distribution-condensate return lines in the East Campus area. The project would be financed from indebtedness to be repaid from utility trust fund receipts.

East Carolina University

Administrative Offices – $2,500,000
This project would provide for the construction of a new facility to provide office and work space for the Pirate Club and the Athletics Ticketing Offices. Conference room facilities would also be included. The project would be financed from indebtedness to be repaid from private gifts and receipts from ticket sales.

Stadium Maintenance Repairs – Phase III – $2,600,000
This project would provide for additional repairs to the 41-year old Dowdy-Ficklen Stadium. Earlier project phases previously approved by the General Assembly total $3.46 million and ECU issued debt and implemented a $15 debt service fee. The debt was retired at the end of the 2003 calendar year and the $15 debt service fee lapsed. ECU proposes to issue debt and reestablish the $15 debt service fee to finance this project that would provide critical sanitary-sewer upgrades, replacement of plumbing fixtures on the North and South sides of the stadium, renovation of the visitor's locker room, and electrical system upgrades. The indebtedness would also be retired from private gifts.

Tyler and Fletcher Residence Halls Renovations – $3,250,000
This project would provide for the upgrade of the electrical systems at two residence halls to accommodate the installation of window air conditioning units. After careful study of design alternatives, campus officials determined that it would be more cost effective to install window units than renovate the residence halls and install central air conditioning. The project would be financed from indebtedness to be repaid from housing receipts.

North Carolina A&T State University

Parking Deck – $6,796,750
This project would provide a 500-space parking deck on the campus to help address increased parking demand resulting from enrollment growth. The project would be financed from indebtedness to be repaid from parking receipts.

North Carolina Central University

Biomanufacturing Research Institute and Training Enterprise – $17,800,000

The Golden LEAF Foundation has approved a grant of $17,800,000 to NCCU to design, construct, equip, and up-fit a new biomanufacturing research building on the NCCU campus. The Golden LEAF (Long-term Economic Advancement Foundation) was created in 1999 as a non-profit corporation. It receives one half of the funds coming to North Carolina resulting from the Master Tobacco Settlement Agreement and makes grants to non-profit and government agencies. NCCU will establish a new Biomanufacturing Research Institute and Training Enterprise (BRITE). Golden LEAF funds will be used to build a state-of-the-art facility for researching a full range of biomanufacturing technologies in both basic and applied settings.

North Carolina State University

Biomanufacturing Training and Education Center – $33,500,000

The Golden LEAF Foundation has approved a grant of $33,500,000 to NCSU to design, construct, equip, and up-fit a building on the University's Centennial Campus for the Biomanufacturing Training and Education Center (BTEC). The Golden LEAF (Long-term Economic Advancement Foundation) was created in 1999 as a non-profit corporation. It receives one half of the funds coming to North Carolina resulting from the Master Tobacco Settlement Agreement and makes grants to non-profit and government agencies. BTEC is planned to be a 91,000 gross square foot facility, which will provide capstone, hands-on training and education in biomanufacturing. Included will be facilities to train students in large-scale bioprocessing and aseptic operations. Teaching facilities will be designed to standards required by industry while remaining flexible to meet the changing demands of the biomanufacturing industry.

Dining Hall Renovations – $3,000,000

This project would provide for renovations to dining halls and food service facilities in the Talley Student Center, Fountain Dining Hall and in convenience stores. The facilities would be upgraded to reflect student preferences for food-court-style service delivery. The project would be financed from indebtedness to be repaid from dining receipts.

Renovation of Berry, Becton, and Bagwell Residence Halls-Supplement – $4,000,000

This project was previously approved by the General Assembly in the 2003 legislative session. After completing programming and design for the renovations, the campus identified additional requirements that were not included in the original project scope. These requirements include the addition of new stair towers on two of the residence halls and significant modifications to the third as a result of code changes. The proposed increase would be financed from indebtedness to be repaid from housing receipts. The total project cost would be $14 million.

North Carolina State University (continued)

Student Commons Improvements – $3,500,000
This project would provide for an academic support and service center for the 440 students living in the Berry/Becton/Bagwell Quad residence halls. The Commons would include a 24-hour service desk, staff offices, convenience store, and student mailboxes on the first floor. The second floor would have a computer lab, a classroom/meeting room, and a study room for use by students in the Honors Village. The project would be financed from indebtedness to be repaid from housing and dining receipts.

Renovations to Reynolds Coliseum – $1,500,000
This project would provide for the replacement of the roof at Reynolds Coliseum and address code-related issues and asbestos removal. The proposed increase would be financed from indebtedness to be repaid from a $10 debt service fee.

The University of North Carolina at Asheville

Governors Village Residence Hall – $12,700,000
This project would provide for the construction of a 230-bed facility as the campus continues to replace the existing Governors Village built in the 1960s. The project would be financed from indebtedness to be repaid from housing receipts.

The University of North Carolina at Chapel Hill

Ambulatory Care Renovations – $1,800,000
This project would provide for the consolidation of adult and pediatric orthopedics clinics within the Ambulatory Care Center and UNC Hospitals as well as relocation of several clinics, including radiology and therapy units, to the second floor of the Ambulatory Care Center. This project would be financed from indebtedness to be repaid from Medical Faculty Practice Plan receipts.

Arthritis Research Center – $1,800,000
This project would provide for renovations to the third floor of the Thurston-Bowles Building. Administrative space within the Arthritis Research Center would be reconfigured to accommodate a planned reorganization. This project would be financed from indebtedness to be repaid from private gifts.

Carmichael Fields 3 & 4 – $1,200,000
This project would provide for the resurfacing of athletic fields with Astroturf and improvements to the fields' storm drainage system. The project would be financed from indebtedness to be repaid from a $4 per year debt service fee.

The University of North Carolina at Chapel Hill (continued)

ITS Building-Supplement – $4,000,000
This project was previously approved by the 2003 General Assembly as a request to renovate the Bennett Building for telecommunications functions. After more extensive programming and design, the campus has determined that it would be more cost effective to demolish the Bennett Building and build a new facility. The proposed increase would allow for the demolition of the existing building, the relocation of the existing duct bank and the temporary relocation of the central IT HUB during construction. The proposed increase would be financed from indebtedness to be repaid from telecommunications receipts. The total project cost would be $16.3 million.

Institute for Advanced Materials, Nanoscience & Nanotechnology – $3,800,000
This project would provide for the upfit of laboratory space in the basement of the Science Complex, Phase I facility for the new Institute. The project would be financed from indebtedness to be repaid from private gifts.

Educational Foundation Office Building – $3,000,000
This project would provide for the construction of a new facility to co-locate the functions of the Educational Foundation and the athletics ticket office. The project would be financed from indebtedness to be repaid from private gifts.

Athletic Facilities Improvements – $1,100,000
This project would provide for the addition of permanent stands and a team building for the women's softball team, consistent with Title IX requirements for gender equity in athletics programs and facilities. The project would be financed from indebtedness to be repaid from private gifts.

Addition to WUNC Radio – $1,000,000
This project would provide for a 1,600 square-foot addition to WUNC radio that would include office space, meeting rooms, and storage, as well as improvements to the Chatham County transmitter site and tower upgrade, which would include the addition of a block building and equipment. The project would be financed from indebtedness to be repaid from private gifts.

School of Medicine Research Facilities-Addition – $33,000,000
This project would add three floors to a research facility approved by the 2002 General Assembly for use by the School of Pharmacy. The increase would be financed from indebtedness to be repaid from facilities and administrative receipts.

Student Family Housing – $19,000,000
This project would provide 408 units (one and two bedroom) of new housing for student families. The project would continue the replacement of the 1960s-built Odum Village apartments. This project would be financed from indebtedness to be repaid from housing receipts.

The University of North Carolina at Chapel Hill (continued)

Morrison Residence Hall Renovations – $24,000,000
This project would provide for the complete modernization and renovation of this high-rise residence hall built in the 1960s. The project would include reconfiguration of rooms consistent with modern standards and upgrades to mechanical systems. A total of 860 beds would be available after renovations. The project would be financed from indebtedness to be repaid from housing receipts.

Residence Halls Phase II-Supplement – $20,500,000
This project was previously approved by the 2002 Session of the General Assembly. The proposed increase would enable the campus to provide apartment-style units rather than the suite-style units originally programmed. The increase would also address the severely sloped site conditions and would provide an underground parking deck. The proposed increase would be financed from indebtedness to be repaid from housing receipts. The total project cost would be $67 million.

Daniels Building Renovations – $7,000,000
This facility houses the student store which contains a general sales area, the Bulls Head Book Shop, a textbook sales area, offices and storage areas. It was built in 1968 and is in need of renovation. This project would upgrade the building's mechanical, electrical and plumbing systems and provide other improvements to address accessibility, and fire and life safety issues. The project would be financed from indebtedness to be repaid from student store receipts.

Parking Facilities – $17,000,000
This project would provide for the addition of 934 parking spaces on campus in two parking decks. One deck would be located under the planned Global and International Studies Facility and the other would be located at Jackson Circle to augment parking near the medical complex. These projects involve the relocation of utilities and the excavation of rock. The project would be financed from indebtedness to be repaid from parking receipts.

Major Infrastructure Improvements – $68,436,150
This project would provide for the addition of new sanitary sewer lines, electrical substation upgrades, duct banks, a chiller plant, chilled water systems expansion and improvements, and the replacement of aging steam lines and equipment. The project would be financed from indebtedness to be repaid from the utilities trust fund.

The University of North Carolina at Charlotte

Parking Deck-Supplement – $4,200,000
This project was previously approved by the 2002 Session of the General Assembly and would provide 600 new parking spaces on campus. Project programming, scope refinement and improved cost estimates have identified the need to increase the authorized funding. The project would be financed from indebtedness to be repaid from parking receipts. The total project cost would be $12.5 million.

The University of North Carolina at Charlotte (continued)

Greek Village Housing – $21,500,000
This project would provide housing facilities for approximately 400 student members of Greek organizations. The facilities would be 12 three-story structures, each housing up to 32 students. The facilities would include single rooms, along with kitchens, dining facilities, laundry facilities and meeting areas. The project would be financed from indebtedness to be repaid from housing receipts.

Student Union Building-Supplement – $6,000,000
This project was approved in 2003 by the General Assembly at an estimated cost of $39,700,000. The proposed increase would provide for a pedestrian connector, shell space for future expansion of the HVAC system, and additional space for student activities. The proposed increase would be financed from indebtedness to be repaid from the proceeds of an existing debt service fee – no increase in the amount of the fee is required. The total cost of the facility is now estimated to be $45.7 million.

The University of North Carolina at Greensboro

Parking Deck Addition – $8,000,000
This project would provide for the addition of 500 parking spaces, on four levels, to an existing parking deck. This proposed addition is consistent with the campus master plan. The project would be financed from indebtedness to be repaid from parking receipts.

Residence Hall Renovations – $4,500,000
This project would provide for HVAC improvements in Guilford and Mary Foust residence halls and the campus Dining Hall, each built in the 1920s. Existing chillers would be removed and the facilities would be connected to the regional chiller plant. The project would also include new HVAC equipment to include controls in the residence hall. The project would be financed from indebtedness to be repaid from housing receipts.

Dining Hall Renovations – $1,500,000
This project would provide for the removal and replacement of the existing slate roof for the 79-year-old Dining Hall. The existing roof is failing and is increasingly requiring repairs. The project would be financed from indebtedness to be repaid from dining receipts.

The General Assembly is also required to approve the financing plan when bonds are issued to provide supplemental financing for projects that are partially funded by the 2000 higher education bonds. Authorization for financing is requested for one such project at The University of North Carolina at Chapel Hill.

Institution	Project	Total Project Cost	2000 Higher Education Bond Funding	Supplemental Indebtedness	Source of Debt Repayment
UNC-CH	Campus Fiber-Optic Wiring	$25,533,500	$17,533,500	$8,000,000	Telecommunications Receipts

SUMMARY OF FUNDING

All Projects
2004 Session

Source	Amount	Percent of Total
Housing Receipts Total	$112,600,000	31.68%
Utilities Trust Funds and Telecomm. Reserves	$82,436,150	23.19%
Golden Leaf Foundation Funds	$51,300,000	14.43%
Parking Receipts Total	$35,996,750	10.13%
Facilities & Administrative Receipts	$33,000,000	9.28%
Other Revenue*	$15,050,000	4.23%
Private Gifts	$12,950,000	3.64%
Dining Receipts	$6,850,000	1.93%
Student Fees	$5,300,000	1.49%
Total	$355,482,900	100%

* Note - Other Revenue includes Medical Faculty Practice Receipts, Bookstore Receipts, Receipts from an Existing Fee, and Ticket sales.

University of North Carolina
Capital Improvement Projects
From Non-General Fund Sources

	Amount	Method of Financing
Appalachian State University		
R&S Central Dining Facility - Supplement	2,000,000	Indebtedness and Dining Receipts
S Steam Line Improvements	2,000,000	Indebtedness and Utility Trust Fund Receipts
East Carolina University		
S Administrative Offices	2,500,000	Indebtedness and Private Gifts and Ticket Sales
S Stadium Maintenance Repairs - Phase III	2,600,000	Indebtedness and Debt Service Fee and Gifts
R&S Tyler & Fletcher Residence Halls - Air Conditioning and Window Upgrades	3,250,000	Indebtedness and Housing Receipts
North Carolina A&T State University		
R&S Parking Deck	6,796,750	Indebtedness and Parking Receipts
North Carolina Central University		
~~S~~ Biomanufacturing Research Institute and Training Enterprise (BRITE)	17,800,000	Golden Leaf Foundation Grant Funding
North Carolina State University		
~~S~~ Biomanufacturing Training and Education Center (BTEC)	33,500,000	Golden Leaf Foundation Grant Funding
R&S Dining Hall Renovations	3,000,000	Indebtedness and Dining Receipts
R&S Renovation of Berry, Becton, and Bagwell Residence Halls-Supplement	4,000,000	Indebtedness and Housing Receipts
R&S Student Commons Improvements	3,500,000	Indebtedness and Housing and Dining Receipts
R&S Renovations to Reynolds Coliseum –	1,500,000	Indebtedness and Debt Service Fee
The University of North Carolina at Asheville		
R&S Governor's Village Residence Hall	12,700,000	Indebtedness and Housing Receipts
The University of North Carolina at Chapel Hill		
S Ambulatory Care Renovations	1,800,000	Indebtedness and Medical Faculty Practice Plan Receipts
S Arthritis Research Center	1,800,000	Indebtedness and Private Gifts
S Carmichael Fields 3 & 4 – Rec	1,200,000	Indebtedness and Debt Service Fee
S ITS Building-Supplement	4,000,000	Indebtedness and Telecommunications Receipts
S Institute for Advanced Materials, Nanoscience & Nanotechnology	3,800,000	Indebtedness and Private Gifts
S Educational Foundation Office Building	3,000,000	Indebtedness and Private Gifts
S Athletic Facilities Improvements	1,100,000	Indebtedness and Private Gifts

S	~~Addition to WUNC Radio~~	1,[redacted]000	Private Gifts
S	School of Medicine Research Facilities-Addition	33,000,000	Indebtedness and Facilities and Administrative Receipts
R&S	Student Family Housing	19,000,000	Indebtedness and Housing Receipts
R&S	Morrison Residence Hall Renovations	24,000,000	Indebtedness and Housing Receipts
R&S	Residence Halls Phase II-Supplement	20,500,000	Indebtedness and Housing Receipts
S	The Daniels Building Renovations	7,000,000	Indebtedness and Store Receipts
R&S	Parking Facilities	17,000,000	Indebtedness and Parking Receipts
S	Major Infrastructure Improvements	68,436,150	Indebtedness and Utility Trust Fund Receipts
	8 University of North Carolina at Charlotte		
R&S	Parking Deck-Supplement	4,200,000	Indebtedness and Parking Receipts
R&S	Greek Village Housing	21,500,000	Indebtedness and Housing Receipts
S	Student Union Building-Supplement	6,000,000	Indebtedness and Receipts from Existing Fee
	9 University of North Carolina at Greensboro		
R&S	Parking Deck Addition	8,000,000	Indebtedness and Parking Receipts
R&S	Residence Hall Renovations	4,500,000	Indebtedness and Housing Receipts
R&S	Dining Hall Renovations	1,500,000	Indebtedness and Dining Receipts
	TOTAL	$347,482,900	

Housing Receipts Total	$112,600,000	32.40%
Utilities Trust Funds & Telecomm. Reserves	$74,436,150	21.42%
Golden Leaf Funds	$51,300,000	14.76%
Parking Receipts Total	$35,996,750	10.36%
Facilities & Administrative Receipts	$33,000,000	9.50%
Other Revenue*	$15,050,000	4.33%
Private Gifts	$12,950,000	3.73%
Dinining Receipts	$6,850,000	1.97%
Student Fees	$5,300,000	1.53%

* Note - Other Revenue includes Medical Faculty Practice Plan Receipts, Bookstore Receipts, Receipts from an Existing Fee, and Ticket Sales.

University of North Carolina
Capital Improvement Projects (Bond Program Supplements)
From Non-General Fund Sources

		Amount	Method of Financing
1	**The University of North Carolina at Chapel Hill**		
	Campus Fiber Optic Wriring	8,000,000	Telecommunications Receipts
	TOTAL	$8,000,000	

2004 Non-Appropriated Capital Improvements - Operating Impact

Non-Appropriated Projects	Project Capital Cost	Estimated Year of Completion	Estimated Operating Impact First Full Year of Operation	Estimated Operating Impact Twenty-Year Average	Operating Impact on the General Fund***
EAST CAROLINA UNIVERSITY					
Administrative Offices	$2,500,000	2006	107,919	150,832	NONE
NORTH CAROLINA CENTRAL UNIVERSITY					
Biomanufacturing Research Institute and Training Enterprise (BRITE)	$17,800,000	2007	2,681,070	1,686,198	YES
NORTH CAROLINA STATE UNIVERSITY					
Biomanufacturing Training and Education Center	$33,500,000	2007	5,058,622	3,181,505	YES
Student Commons Improvements	$3,500,000	2006	53,447	74,113	NONE
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL					
Carmichael Fields 3 & 4	$1,200,000	2006	11,319	10599	NONE
Daniels Building Renovation	$7,000,000	2006	139,529	186,949	NONE
Educational Foundation Office Building	$3,000,000	2006	228,119	299,787	NONE
School of Medicine Research Facilities-Addition	$33,000,000	2007	4,388,524	5,400,714	YES
ITS Building-Supplement	$4,000,000	2008	947,832	1,146,046	NONE
Student Family Housing	$19,000,000	2005	1,880,883	2,672,800	NONE
Morrison Residence Hall Renovations	$24,000,000	2007	1,593,485	1,906,517	NONE
UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE					
Greek Village Housing	$21,500,000	2006	1,056,095	1,203,284	NONE
GRAND TOTALS	170,000,000		18,146,844	17,919,344	12,128,216

** Assume funds available July 1, 2004. Accordingly, assume all following actions in planning and construction process are based on this date for funding.*

*** Assume 3% increase per year for salary/benefits and 5% increase for non-personnel/utilities.*

*** Reflects the first full year operating costs of projects

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1699 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1661
PROPOSED COMMITTEE SUBSTITUTE H1661-CSLAf-51 [v.1]

6/7/2004 6:13:02 PM

Short Title: Cap Gas Tax Variable Rate. (Public)

Sponsors:

Referred to:

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AT THE AMOUNT OF THE COMPONENT FOR THE PERIOD BEGINNING JANUARY 1, 2005.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢)a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. On or after July 1, 2005, the variable wholesale component may not exceed the amount of the variable wholesale component for the period beginning January 1, 2005.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. This act is effective when it becomes law and applies to rates set on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1661

Short Title:	Cap Gas Tax Variable Rate.	(Public)
Sponsors:	Representatives Decker, Pate (Primary Sponsors); Frye, Goodwin, Hill, Justice, LaRoque, McGee, McHenry, Moore, Munford, and Warner.	
Referred to:	Finance.	

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AT ITS CURRENT RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢)a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than six and eight-tenths cents (6.8¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. This act is effective when it becomes law and applies to rates set on or after that date.

HOUSE BILL 1661:
Cap Gas Tax Variable Rate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Decker
Date:	June 9, 2004	**Analysis by:**	Martha Walston
Version:	Proposed Committee Sub		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1661 would cap the variable wholesale component of the motor fuels tax rate at its amount for the period beginning January 1, 2005.

CURRENT LAW: North Carolina imposes a motor fuels excise tax on all motor fuel sold, distributed, or used in the State. The tax is remitted by the wholesale distributor to the suppliers, as trustees for the State, at the terminal rack. The rate of the tax is 17.5 cents per gallon, plus the greater of 3.5 cents per gallon or 7 % of the average wholesale price of motor fuel. The wholesale price component of the rate is set every six months by the Secretary of Revenue based on the average price during the previous period. As of January 1, 2004, the total tax rate was 24.3 cents per gallon.

The term "motor fuels" is defined as gasoline, diesel fuel, and blended fuel. (G.S. 105-449.60)

The revenue collected from the motor fuels tax is distributed as follows:

½ of 1 cent of the tax imposed per gallon is allocated as follows:

- 19/32 of each half cent to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 3/32 of each half cent to the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 5/16 of each half cent to the Water and Air Quality Account

Of the remaining proceeds, 75% is allocated to the Highway Fund and 25% is allocated to the Highway Trust Fund.

BILL ANALYSIS: The proposed committee substitute for House Bill 1661 would cap the wholesale price component of the rate to be set for the period beginning January 1, 2005.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 9, 2004

TO: **House Finance Committee**

FROM: Bob Weiss
Fiscal Research Division

RE: House Bill 1661-CSLAf-51v1

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**$0**	**$0**	**$0**	**$0**	**$0**
Highway Fund					
Highway Trust Fund					
EXPENDITURES					

POSITIONS:
NOTE: Under the assumed scenario there is no fiscal impact. Under other scenarios there could be a significant revenue impact. See Assumptions and Methodology.

PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED: Highway Fund and Highway Trust Fund

EFFECTIVE DATE: When the bill becomes law. It would apply to rates set on or after that date.

BILL SUMMARY: Caps the variable wholesale component of the motor fuels tax rate at the rate to be set for the period beginning January 1, 2005.

ASSUMPTIONS AND METHODOLOGY: The motor fuels tax rate in North Carolina consists of a fixed rate of 17.5 cents per gallon plus a variable rate that is the greater of 3.5 cents per gallon or 7% of the wholesale price (weighted average of gasoline and diesel fuel) for a six month period as published by the US Department of Energy's Energy Information Administration.

Through June 30, 2004 the variable rate is 6.8 cents per gallon and the total tax is 24.3 cents per gallon. On June 15, 2004 the Department of Revenue will set the rate for the period July through December 2004. That rate is based on wholesale prices in the period October 2003 through March 2004 and is expected to be 24.6 cents per gallon, an increase of .3 cents per gallon, based on a variable rate of 7.1 cents per gallon and a fixed rate of 17.5 cents per gallon.

The variable rate will be set again in December 2004 when the Energy Information Administration publishes the new data on prices in the April 2004 through September 2004 period. That rate will be in effect from January through June 2005. The PCS would cap the variable rate at the rate in effect at that time.

The revenue impact of the bill will be determined by the variable rate set in December 2004 and how that compares to prices in subsequent period. It is assumed for purposes of this note that the variable rate will be as forecast by the North Carolina Office of State Budget and Management (OSBM) in April 2004. OSBM forecasts that the rate set in December 2004 will be the peak for the next five years. If that is the case the variable rate would always be under the cap and there would be no revenue impact.

	Variable Rate			
	State Forecast cents/gal	Cap cents/gal	Over cap cents/gal	Difference $ millions (half year)
Current	6.8		0	
Jul-04	7.1		0	
Jan-05	7.2	7.2	0	$0
Jul-05	6.8	7.2	0	$0
Jan-06	6.5	7.2	0	$0
Jul-06	6.2	7.2	0	$0
Jan-07	6.3	7.2	0	$0
Jul-07	6.5	7.2	0	$0
Jan-08	6.6	7.2	0	$0
Jul-08	6.8	7.2	0	$0
Jan-09	6.9	7.2	0	$0

The OSBM forecast is only one of many possible scenarios for prices and tax rates. Based on prices observed in April through June 2004 the variable rate could be set at 8 or 9 cents per gallon in December. However, if prices were to decline from that level in the next few years there would still be no impact on collections. But if prices continue to rise then the cap would reduce motor fuels tax collections by approximately $53 million for every penny that the cap is below the current formula. Three quarters of that amount would be lost to the Highway Fund and one quarter lost to the Highway Fund.

SOURCES OF DATA: Office of State Budget and Management, North Carolina Department of Revenue, US Department of Energy – Energy Information Administration.

For a history of tax rates see: http://www.dor.state.nc.us/taxes/motor/rates.html

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1775
PROPOSED COMMITTEE SUBSTITUTE H1775-CSLA-57 [v.3]

6/9/2004 6:52:58 PM

Short Title: Modify UNC Special Obligation Bonds. (Public)

Sponsors:

Referred to:

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR CERTAIN EQUIPMENT PROJECTS WITHOUT PRIOR APPROVAL OF THE GENERAL ASSEMBLY OR THE BOARD OF TRUSTEES OF THE INSTITUTION WHERE THE PROJECT IS LOCATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116D-26(b) reads as rewritten:

"(b) Approval Required. – Prior approval by the General Assembly is not required for the issuance of special obligation bonds, the proceeds of which are to be used solely for acquiring equipment and the aggregate amount of which is the lesser of fifteen millions dollars ($15,000,000) for each constituent institution or five percent (5%) of the annual operating revenues of the institution for whose benefit the special obligation bonds are to be issued, as shown in its most recent audited financial statements. Prior approval by a board of trustees is not required, if the board of trustees adopts a resolution waiving its authority to approve or disapprove these special obligation bonds. For the purpose of this subsection, equipment means information technology equipment, laboratory and research equipment, and office equipment. The term does not include vehicles. The Board of Governors shall not issue any other special obligation bonds ~~for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds~~ under this Article until (i) the board of trustees of each institution for whose benefit the bonds are to be issued has approved the issuance of the bonds, and (ii) the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need

for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article."

SECTION 2. G.S. 116D-26(c) reads as rewritten:

"(c) Term; Form. – The special obligation bonds of each issue shall be dated, shall mature at any times not exceeding 30 years from their dates, shall bear interest at any rates as may be determined by the Board of Governors, and may be redeemable before maturity at the option of the Board, at any prices and under any terms and conditions as may be fixed by the Board prior to the issuance of the special obligation bonds. The special obligation bonds of issue not requiring approval by a board of trustees or by the General Assembly under subsection (b) of this section shall mature at any times not exceeding 10 years from their dates. The Board of Governors shall determine the form and manner of execution of the special obligation bonds and shall fix the denominations of the special obligation bonds and the places of payment of principal and interest, which may be at any bank or trust company within or without the State. Notwithstanding any of the other provisions of this Article or any recitals in any special obligation bonds issued under the provisions of this Article, all special obligation bonds shall be negotiable instruments under the laws of this State, subject only to the provisions for registration in a resolution authorizing the issuance of the special obligation bonds or a trust agreement securing the bonds. The Board of Governors may sell the special obligation bonds in any manner, at public or private sale, and for any price, as it may determine to be for its best interests.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1775

Short Title:	Modify UNC Special Obligation Bonds.	(Public)
Sponsors:	Representative McComas.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ISSUE SPECIAL OBLIGATION BONDS FOR CERTAIN EQUIPMENT PROJECTS WITHOUT PRIOR APPROVAL OF THE GENERAL ASSEMBLY OR THE BOARD OF TRUSTEES OF THE INSTITUTION WHERE THE PROJECT IS LOCATED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116D-26(b) reads as rewritten:

"(b) Approval Required. – Prior approval by a board of trustees or by the General Assembly is not required for the issuance of special obligation bonds, the proceeds of which are to be used solely for acquiring equipment and the aggregate amount of which does not exceed five percent (5%) of the annual operating revenues of the institution for whose benefit the special obligation bonds are to be issued, as shown in its most recent audited financial statements. The Board of Governors shall not issue any other special obligation bonds ~~for a project at an institution unless the board of trustees of that institution has approved the issuance of bonds for that project. The Board of Governors shall not issue special obligation bonds~~ under this Article until (i) the board of trustees of each institution for whose benefit the bonds are to be issued have approved the issuance of the bonds, and (ii) the effective date of legislation enacted by the General Assembly authorizing the undertaking of the special obligation bond project to be financed and fixing the maximum aggregate principal amount of special obligation bonds that shall be issued for that purpose. In submitting proposed special obligation bond projects to the General Assembly for approval, the Board of Governors shall submit information on the need for each project, project costs, estimates of increased operating costs upon completion, estimated debt service requirements, and the sources and amounts of obligated resources to be pledged for the repayment of the bonds. If the obligated resources to repay the bonds or to operate the proposed project potentially involve increased costs to students or to the General Fund, these costs shall be identified in the Board of Governors' submission.

Except as provided in this Article, special obligation bond projects may be undertaken, special obligation bonds may be issued, and other powers vested in the Board of Governors under this Article may be exercised by the Board without obtaining the consent of any department, division, commission, board, bureau, or agency of the State and without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions, or things which are specifically required by this Article."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1775:
Modify UNC Special Obligation Bonds

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McComas
Date:	June 9, 2004	**Analysis by:**	Martha Walston
Version:	H1775-CSLA-57		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1775 authorizes the Board of Governors of the University of North Carolina to issue the following special obligation bonds without the prior approval of the institution's board of trustees or the General Assembly:

- *The proceeds of the special obligation bonds are used solely for acquiring information technology equipment, laboratory and research equipment, and office equipment.*
- *The aggregate amount of the special obligation bonds issued by the institution must be the lesser of $15 million or 5% of the annual operating revenues of the institution.*
- *The bonds shall mature at any times not exceeding 10 years from their dates.*

CURRENT LAW: There are two types of self-liquidating bonds that may be issued by the Board of Governors of the University of North Carolina. Article 21 of Chapter 116 of the General Statutes authorizes the Board of Governors to issue revenue bonds for the types of projects enumerated in the article. The types of projects for which revenue bonds may be issued include educational buildings, dormitories, recreational facilities, dining facilities, student centers, health care buildings, parking decks, etc. The revenue bonds are payable from rentals, charges, fees, and other revenues generated by the facility. The revenue bonds are not payable from tax revenues.

Article 3 of Chapter 116D of the General Statutes authorizes the Board of Governors to issue special obligation bonds payable with any sources of income or receipts of the Board of Governors or a constituent or affiliated institution, but not including tuition payments or appropriations from the General Fund from State revenues. The bond proceeds could be used for construction, improvement, and acquisition of any capital facilities located at UNC constituent and affiliated institutions. The bonds are not payable from tax revenues.

BILL ANALYSIS: HB 1775 authorizes the Board of Governors to issue certain special obligation bonds without prior approval of the General Assembly and without prior approval of the board of trustees of the institution for which the bonds are issued if the board adopts a resolution waiving its authority to approve or disapprove the bonds. The special obligations are defined as follows:

- The proceeds of the special obligation bonds are used solely for acquiring information technology equipment, laboratory and research equipment, and office equipment.
- The aggregate amount of the special obligation bonds issued by the institution must be the lesser of $15 million or 5% of the annual operating revenues of the institution, as shown in its most recent audited financial statements.
- The bonds must mature at any times not exceeding 10 years from their date.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 9, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1775-CSLA-57v3

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	No Fiscal Impact				
Special Revenue Funds	No Estimate Available				
EXPENDITURES					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Board of Governors of the University of North Carolina

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
The bill authorizes the Board of Governors of the University of North Carolina to issue special obligation bonds for equipment without the approval of the General Assembly or the board of trustees of the institution where the project is located. The bond amount is equal to the lesser of $15 million or 5% of the annual operating revenue of the institution for whose benefit the bonds are to be issued. The bonds must have a maturity of 10 years or less.

ASSUMPTIONS AND METHODOLOGY:

This bill is intended to give the UNC administration another financing option for large equipment purchases. The bill is also intended to give the University a financing tool for equipment purchases that is less expensive than the traditional lease purchase option. Since there is no data available on the extent the University system might use this financing tool, no estimate can be made on this bill. However, it can be stated that without an appropriation for bond repayment, these special obligation bonds will not be used for General Fund projects.

The UNC Associate Vice President of Finance provided an example of the bond cap using the most recent audited financial statement of the UNC system. The total operating revenue column includes appropriations, grants, and contracts. The chart illustrates that the $15 million cap on equipment bonds will only restrict spending by North Carolina State University and UNC-Chapel Hill.

The University of North Carolina
Limit on Equipment Bonds

Institution	Total Operating Revenue	5% Limit	$15 mil. Limit
Appalachian State University	$ 109,360,564	$ 5,468,028	$ 5,468,028
East Carolina University	277,563,289	13,878,164	13,878,164
Elizabeth City State University	12,725,803	636,290	636,290
Fayetteville State University	22,449,408	1,122,470	1,122,470
North Carolina A & T State University	74,742,263	3,737,113	3,737,113
North Carolina Central University	41,382,010	2,069,101	2,069,101
North Carolina School of the Arts	11,125,368	556,268	556,268
North Carolina State University	423,528,000	21,176,400	15,000,000
UNC-Asheville	21,637,906	1,081,895	1,081,895
UNC-Chapel Hill	1,003,567,789	50,178,389	15,000,000
UNC-Charlotte	118,288,867	5,914,443	5,914,443
UNC-Greensboro	107,888,463	5,394,423	5,394,423
UNC-Pembroke	21,757,067	1,087,853	1,087,853
UNC-Wilmington	83,076,567	4,153,828	4,153,828
Western Carolina University	47,983,420	2,399,171	2,399,171
Winston-Salem State University	19,174,731	958,737	958,737
Total	**$2,396,251,515**	**$119,812,573**	**$ 78,457,784**

SOURCES OF DATA: Associate Vice President of Finance for the University of North Carolina

TECHNICAL CONSIDERATIONS:

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1423
PROPOSED COMMITTEE SUBSTITUTE H1423-CSLA-53 [v.2]

6/9/2004 5:54:01 PM

Short Title: Apprenticeship Tax Credit. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR EMPLOYERS WHO PARTICIPATE IN AN APPRENTICESHIP PROGRAM APPROVED BY THE DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for employing apprentices.**

(a) Credit. – An eligible taxpayer is allowed a credit equal to fifteen percent (15%) of the wages it paid to registered apprentices during the taxable year. A taxpayer is eligible if it has participated in an approved apprenticeship program and has not violated any State or federal apprenticeship law or regulation.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its income to this State.

(c) Documentation. – In order to claim the credit allowed by this section the taxpayer must make available to the Department a written certification from the Apprenticeship and Training Bureau of the Department of Labor containing the name and taxpayer identification number of each registered apprentice employed by the taxpayer during the taxable year and stating whether the employer has violated any State or federal apprenticeship law or regulations.

(d) Definitions. – The following definitions apply in this section:

(1) Approved apprenticeship program. – An apprenticeship program approved by the Department of Labor pursuant to Chapter 94 of the General Statutes.

(2) Registered apprentice. – An employee that is registered in an approved apprenticeship program."

SECTION 2. G.S. 105-129.15A reads as rewritten

"**§ 105-129.15A. Sunset.**

G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. G.S. 105-129.16D is repealed effective for taxable years beginning on or after January 1, 2008. The remainder of this Article is repealed effective January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property placed in service on or after January 1, 2006."

SECTION 3. There is appropriated from the General Fund to the Department of Labor the sum of five thousand dollars ($5,000) for the 2004-2005 fiscal year to fund administrative costs associated with implementing the tax credit for employing apprentices under G.S. 105-129.16D.

SECTION 4. Sections 1 and 2 of this act become effective for taxable years beginning on or after January 1, 2005. The remaining sections of this act become effective July 1, 2004. The fact that an apprenticeship was approved before January 1, 2005, does not render it ineligible for the credit provided in this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1423

Short Title:	Apprenticeship Tax Credit.	(Public)
Sponsors:	Representatives Howard, Sherrill (Primary Sponsors); Bowie, Goodwin, Gorman, LaRoque, Moore, Parmon, and Pate.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR EMPLOYERS WHO PARTICIPATE IN AN APPRENTICESHIP PROGRAM APPROVED BY THE DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for employing apprentices.**

(a) Credit. – An eligible taxpayer is allowed a credit equal to fifteen percent (15%) of the wages it paid to registered apprentices during the taxable year. A taxpayer is eligible if it has participated in an approved apprenticeship program and has not violated any State or federal apprenticeship law or regulation.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its income to this State.

(c) Documentation. – In order to claim the credit allowed by this section the taxpayer must make available to the Department a written certification from the Apprenticeship and Training Bureau of the Department of Labor containing the name and taxpayer identification number of each registered apprentice employed by the taxpayer during the taxable year and stating whether the employer has violated any State or federal apprenticeship law or regulations.

(d) Definitions. – The following definitions apply in this section:

(1) Approved apprenticeship program. – An apprenticeship program approved by the Department of Labor pursuant to Chapter 94 of the General Statutes.

(2) Registered apprentice. – An employee that is registered in an approved apprenticeship program."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2005. The fact that an apprenticeship was approved before January 1, 2005, does not render it ineligible for the credit provided in this act.

HOUSE BILL 1423:
Apprenticeship Tax Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard and Sherrill
Date:	June 9, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: House Bill 1423 allows a credit against the franchise tax or the income tax of an employer who hires employees registered in an apprenticeship program approved by the Department of Labor. The credit is equal to 15% of the wages paid to registered apprentices during the taxable year, and is effective for taxable years beginning on or after January 1, 2005.

The proposed committee substitute repeals the credit effective for taxable years beginning on or after January 1, 2008, and appropriates $5,000 to the Department of Labor for fiscal year 2004 - 2005 for administrative costs of implementing the tax credit for employing apprentices.

CURRENT LAW: The Department of Labor contains an Apprenticeship and Training Division which sets up apprenticeship programs Under Chapter 94 of the General Statutes, these programs are established by private employers or under the sponsorship of joint labor-management communities. Skilled consultants provide technical assistance, monitoring, and consulting services to qualified employers willing to take on the responsibilities and obligations of program sponsorship. An Apprenticeship Council, composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large, aids in formulating policies for the administration of Chapter 94. At least once a year the Apprenticeship Council must report to the Commissioner of Labor, to the Legislature, and to the public of its activities and findings. There must be a written and signed training agreement between the sponsor and an apprentice. This agreement must be approved by the Department of Labor.

An apprentice is defined as a person at least 16 years of age who is covered by a written apprenticeship agreement which provides for not less than 2,000 hours of reasonably continuous employment of the person for his or her participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended.

BILL ANALYSIS: House Bill 1423 adds a new section to Article 3B (Business and Energy Tax Credits) of the revenue laws that allows a credit to employers who employ apprentices under the Department of Labor's apprenticeship program. This credit is equal to 15% of the wages paid to registered apprentices during a taxable year. The credit may be taken against the franchise tax or income tax of the employer and any unused portion of the credit may be carried forward for the succeeding five years. To claim the credit, the employer must furnish the Department of Revenue with certain documentation.

An individual taxpayer or corporate taxpayer must reduce the amount of the credit if the individual taxpayer is a nonresident or part-year resident of the State or if the corporate taxpayer has multistate business income. The credit is adjusted to reflect the income generated by the taxpayer in North Carolina.

The proposed committee substitute repeals the apprenticeship tax credit effective for taxable years beginning on or after January 1, 2008. The remaining credits in Article 3B sunset January 1, 2006.

The proposed committee substitute also includes an appropriation of $5,000 to the Department of Labor for the 2004-2005 fiscal year to fund administrative costs associated with implementing the apprenticeship tax credit.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 9, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1423-CSLA-53v2

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		($27.4 mil.)	($28.9 mil.)	($30.5 mil.)	
EXPENDITURES					
General Fund	$5,000				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Labor; Department of Revenue

EFFECTIVE DATE: Sections 1 and 2 (tax credit) of this act become effective for taxable years beginning on or after January 1, 2005 and sunset effective for taxable years beginning on or after January 1,2008. The remaining sections of this act become effective July 1, 2004.

BILL SUMMARY: This act creates a tax credit equal to 15% of the wages paid to registered apprentices. The credit may be claimed against either the franchise tax or the income tax. To claim a tax credit, the taxpayer must make available to the Department of Revenue a written certification from the Department of Labor that contains the name and

taxpayer identification number of the registered apprentice and a verification that the employer has not violated any state or federal apprenticeship laws or regulations.

BACKGROUND: The North Carolina Department of Labor's Apprenticeship and Training Bureau administers the National Apprenticeship Act of 1937 for the U.S. Department of Labor. North Carolina is one of 27 states authorized to directly administer the federal apprenticeship program. An apprentice is a person at least 16 years old that agrees to complete a minimum of 2,000 hours of "reasonably continuous" employment and receive a minimum of 144 hours of instruction in an occupation. The Department of Labor approves written apprenticeship agreements between apprentices and employers specifying the terms of the apprenticeship. Upon completion of an apprenticeship, the apprentice receives a journeyman certificate that is recognized nationally.

ASSUMPTIONS AND METHODOLOGY:
Apprenticeships are found in all industries in the state. In the 2002 Annual Report for the Apprenticeship and Training Bureau, the Department of Labor identified 24% of apprentices to be in construction, 23% in Services, 22% in Manufacturing, 21% in Public Administration, and 10% in Other (Retail, Mining, Utilities, Etc.). The Department of Labor provided the General Assembly's Fiscal Research Division with a CD listing all apprentices for 2001, 2002, and 2003. As shown in the chart below, 1,534 employers registered 14,910 apprentices with the Department of Labor in 2003. Since the proposed tax credit can only be taken by for-profit firms, the number of apprentices in nonprofit and government agencies were subtracted to get a private firms total of 8,175 apprentices in 2003.

	# of Employers	# of Apprentices	# Apprentices in private firms
2001	1,532	9,792	6,770
2002	1,571	13,410	7,888
2003	1,534	14,910	8,175

The Department of Labor does not collect the wage information needed to compute the fiscal impact of HB 1423. To get the wages paid to apprentices, the Department of Labor provided the Employment Security Commission (ESC) with the Social Security numbers of all registered apprentices in 2003. ESC used quarterly Unemployment Insurance (UI) wage records received from employers to match with the Labor records. ESC determined the median apprentice wage income in 2003 was $20,039.

Based on the ESC findings, the 8,175 private firm apprentices were paid $163.8 million in wages in 2003. To calculate the number of apprentices and their wages in future years, projections from Economy.com are used. In the March 2004 Regional Financial Review, Economy.com projects national employment to increase annually from 2005 to 2008 in the range of 1.3% to 1.7%. The chart below assumes the midpoint of this range for an annual increase in employment of 1.5%. It is assumed that the hiring of apprentices will mirror overall employment. Economy.com estimates wage growth for the period 2004 through

2008 will range from 3.5% to 4.3%. The chart below assumes a 4% annual growth rate in wages. Again, it is assumed that apprentices will receive pay increases equal to regular employees.

The tax credit in HB 1423 is in effect for tax years 2005, 2006 and 2007. For the 2005 tax year, it is assumed that employers will claim 15% of $182.5 million in wages ($27.4 million) on their returns in FY 2005-06 (see chart below). It is assumed that all employers are able to take the credit in the year they file their returns. The chart shows the impact for the 2006 and 2007 tax years.

	Apprentices	Median Wage	Total Apprentice Wages	15% Tax Credit
2003	8,175	$20,039	$163,818,825	$24,572,824
2004	8,298	$20,841	$172,934,967	$25,940,245
2005	8,422	$21,674	$182,539,964	$27,380,995
2006	8,548	$22,541	$192,681,748	$28,902,262
2007	8,677	$23,443	$203,413,138	$30,511,971

Section 3 of the bill appropriates $5,000 to the Department of Labor in FY 2004-05 for administrative expenses associated with the credit. If the Department of Labor has to develop a form to be completed by the employer and the Department, then there will be an administrative cost for this credit. However, the Department of Labor would incur no costs if it could submit to Revenue an electronic database of registered apprentices listing names, Social Security numbers, company names, etc. that can be matched to tax returns. As for administrative expense for the Department of Revenue, it would not incur costs if the documentation certifying apprenticeships were filed with the tax return. The apprentice documents would be scanned like any other forms.

SOURCES OF DATA: Department of Labor; Employment Security Commission; Economy.com

TECHNICAL CONSIDERATIONS:

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 15, 2004

The House Committee on Finance met on Tuesday, June 15, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, and C. Wilson; and Ex-Officio Member, Representative Cunningham. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, and Dusty Rhodes. Staff persons present included Richard Bostic, David Crotts, Chloe Gossage, Trina Griffin, Martha Harris, Martha Walston, and Bob Weiss. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Wainwright called the meeting to order at 8:34 am and recognized the seven (7) pages present: (1) Lynwood Ebrom of Wake County, sponsored by Speaker Black; (2) Craig Franklin of Burke County, sponsored by Representative Church; (3) Eric McCombs of Wake County, sponsored by Representative Miner; (4) Santana Miller of Brunswick County, sponsored by Representative Stiller; (5) Alecia Murphy of New Hanover County, sponsored by Representative Wright; (6) Latoya Perry of Cumberland County, sponsored by Representative Lucas; and (7) Ben Yancey of Wake County, sponsored by Speaker Black.

Prior to consideration of the Committee's agenda, Chairman Wainwright announced that **SB 1114 – SPECIAL LICENSE PLATES** was referred to the Subcommittee on Tax and Tags.

Chairman Wainwright then recognized Representative Ray to explain the first bill considered by the Committee: **HB 1671 – MOORESVILLE STREETS AND SIDEWALKS** (see **attachment 3**). Representative Ray explained that the bill acts to repeal the special provisions in the Mooresville Town Charter that apply to street and sidewalk improvements. She noted that with the repeal, the Town would be subject to the default provisions in Chapter 160A regarding street and sidewalk improvements. (Further detail of this bill is provided in the bill summary contained in attachment 3). Seeing no discussion on the bill, Chairman Wainwright recognized Representative Setzer who moved that House Bill 1671 be given a favorable report. The Chairman then called the motion to a vote and it carried without opposition.

Chairman Wainwright called upon Staffperson Martha Walston next to speak on behalf of the bill sponsor, Senator Hartsell (who was not present at the meeting), and explain **SB 1096 – CONCORD/KANNAPOLIS BOUNDARIES ADJUSTED** (see **attachment 4**). Ms. Walston explained that the bill, which was mutually requested by the Cities of Concord and Kannapolis, acts

to adjust the boundaries between each of the municipalities. Following this brief explanation, Representative Weiss was recognized and moved that Senate Bill 1096 be given a favorable report. Having no further discussion on the bill, Chairman Wainwright called the motion to a vote and it carried without objection.

HB 1594 – ALARM SYSTEMS LICENSURE FEES (see **attachment 5**) was the next bill considered by the Committee. Chairman Wainwright recognized the bill sponsor, Representative Haire, to explain the bill. Representative Haire explained that the bill would authorize the Alarm Systems Licensing Board to raise two existing fees and create a new fee under the Alarm System Licensing Act. He also stated that he introduced the bill at the request of the Board and that the bill was supported by the North Carolina Burglar and Fire Alarm Association. (Further explanation of the bill is provided in the bill summary, which is contained in attachment 5.) Following Representative Haire's explanation, Chairman Wainwright recognized Representative Holliman who asked the bill sponsor how long it had been since the Board had received a fee increase. Representative Haire stated that there had been no fee increase since 1992. He also noted that the Board was running a surplus in funds; however, due to the budget crisis in recent years, the Governor had seized those funds in order to help balance the budget. Representative Glazier was recognized following this and moved that House Bill 1594 be given a favorable report. Prior to acting on this motion, however, Chairman Wainwright recognized Representative Cunningham who expressed a series of concerns and asked several questions regarding the specific powers that the Board would gain with the passage of this bill. Given the nature of these concerns, Chairman Wainwright then acted to displace the bill from the Committee's consideration to allow Representative Cunningham and the bill sponsor to discuss the concerns raised.

Chairman Wainwright then recognized Representative Gibson, who spoke in place of the bills sponsors, Senators Kerr and Jenkins, for explanation of **SB 1098 – FINANCE CANCER CENTER & CARDIO INSTITUTE** (see **attachment 6**). Representative Hill was recognized by the Chair and moved the adoption of the Proposed Committee Substitute (PCS) for Senate Bill 1098 for the purposes of discussion. The motion carried without objection. Representative Gibson spoke briefly stating that this bill was essential to future job growth and economic development in North Carolina. He also stated that the bill served as an excellent complement to the generous funding the State has done overall for the entire system of the University of North Carolina. Martha Harris, with Staff, was then recognized to speak more specifically as to the provisions of the bill. She stated that the bill authorized the State to use special indebtedness to finance five health and biotechnology facilities in the UNC System. These projects include a Cancer Center at UNC-Chapel Hill, a Cardiovascular Institute at East Carolina University, a Bioinformatics Center at UNC-Charlotte, a Pharmacy Program at Elizabeth City State University, and a Health Partnership Center at UNC-Asheville. Ms. Harris also explained that the bill provides that the Health and Wellness Trust Fund must transfer to the General Fund each fiscal year the estimated debt service on the indebtedness authorized in the bill. She explained that the amount transferred each year is capped in the bill at 60% of the Trust Fund's receipts for the year and that if the required debt service exceeds the cap, the Tobacco Trust Fund must transfer the balance. Finally, Ms. Harris explained that the bill enacts statutory framework for the study of a new type of State special indebtedness called "RECOP indebtedness," which involves lower debt service payments during the term of the debt in exchange for a larger payment due at maturity.

Following this explanation, Chairman Wainwright recognized an individual from each of the UNC institutions that would benefit from the bill. Dr. Bill Roper, Dean of the UNC-Chapel Hill School of Medicine and CEO of UNC Healthcare was recognized first and spoke of the great need for a new cancer hospital in the State (see **attachment 7**). He stated that the bill would provide

$180 million for the construction of a state-of-the-art facility devoted to the treatment and research of cancer. He also noted that North Carolina continues to grow in population, yet continues to utilize a treatment facility that is over 50 years old, which was originally constructed for the treatment of tuberculosis. Dr. Steve Ballard, Chancellor of East Carolina University, was recognized next by the Chairman and spoke in support of the proposed Cardiovascular Institute at ECU (see **attachment 8**). He stated that ECU had been planning for such a facility for nearly 10 years. He also informed the Committee members of the tremendous need for the facility, specifically noting that eastern North Carolina has the highest cardiovascular disease rate in the State yet the fewest resources to treat it. The Chancellor of UNC-Charlotte, Dr. Jim Woodward, was the next speaker recognized by the Chair. Dr. Woodward stated that the Charlotte area of the State was the highest in population and desperately needs to broaden its base by developing research facilities in the area of information technology. He stated that the proposed $35 million "Bioinformatics" Center (see **attachment 9**) would provide this needed boost in economic development. Chairman Wainwright next recognized Dr. Mickey Burnim, Chancellor of Elizabeth City State University, who highly advocated for the proposed School of Pharmacy at ECSU, stating that it would serve a real healthcare need in North Carolina by directly addressing the drastic shortage of pharmacists in the State. He also stated that for the $28 million investment provided in the bill, ECSU anticipated an economic impact in the area of $104 million. He also stated that some 230 jobs would be created in the construction of the School of Pharmacy and 216 jobs would be created among faculty, staff, and operations personnel upon the School's completion. As the last speaker, Dr. Jim Mullen, Chancellor of UNC-Asheville, was recognized to address the Committee. Dr. Mullen stated his support for $35 million in funding for a Health Partnership Center at UNCA (see **attachment 10**). He stated that this center is a recommendation from a UNCA faculty study of nearly 20 years and would be used to address the obesity epidemic in the State, as well as diabetes, poor nutrition, and other ailments. Dr. Mullen reported that the proposed Health Partnership Center, in addition to opportunities for academic studies, would provide health outreach programs to the citizens of western North Carolina.

Following these statements, Chairman Wainwright then opened the floor for Committee debate. He did, however, first note to the Committee members that it was the Chair's intent to take a vote on the bill prior to the close of the meeting. Representative Ellis was then recognized and stated that while he agreed that the facilities proposed in the bill are needed, he had definite concerns as to the proposed funding mechanism in the bill. He characterized this financing method as "risky" at best. Representative Capps was also recognized and expressed similar concerns as to the financing method in the bill, citing that the interest costs on the debt were far too high. Chairman Wainwright recognized Representative Daughtridge next who stated the importance of the bill to continued economic growth and job development in North Carolina. He reminded the Committee members of one of the recommendations of the Joint Select Committee on Small Business Economic Development that the State should focus growth on jobs in the healthcare industry. Representative Hackney was recognized next and stated that now was the best time in years to borrow money since interest rates were so low presently. He also stated that the Cancer Hospital at UNC-Chapel Hill was one of the most needed projects in the entire State. Representative Decker also voiced his support of the bill, stating that it provided for and addressed a good balance of healthcare needs in North Carolina.

Representative Weiss was recognized next and acted to send forth an amendment (see **attachment 11**). She stated her concern that the bill should not take funds from the Health and Wellness and Tobacco Trust Funds to pay the debt service on the new debt issued in the bill. She stated that her amendment removed the provisions involving the Trust Funds and, as a result, service on the new debt would fall solely upon the General Fund. Following this explanation of her amendment, she moved its adoption. Representative Gibson spoke against the amendment, stating

that the bill should be passed in the form that it was presented to the Committee. Representatives Hackney and Alexander spoke in support of the amendment. Chairman Wainwright, seeing no further discussion on the amendment, then called the amendment to a vote. Division among the members was requested and by a vote of 11 ayes and 11 nays, the amendment failed for lack of a majority.

Chairman Wainwright then recognized the two bill sponsors, Senators Kerr and Jenkins, who stated their support of the provisions in the PCS prepared by the House (many of which were added since the passage of the original bill in the Senate). Representative Creech was then recognized by the Chair and voiced his concern of the financing proposed in the bill. He stated that the General Assembly continues to issue more and more debt and that this debt continues to place the State in more and more jeopardy. Representative Howard was recognized next and made a motion that the House PCS for Senate Bill 1098 be given a favorable report (with an unfavorable report as to the original bill), and recommendation that the House PCS be re-referred to the Committee on Appropriations. Following some brief general discussion on the motion, Chairman Wainwright then called the matter to a vote and the motion carried.

Chairman Wainwright then adjourned the meeting at 9:49 am.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1671 (and related materials)
4. Senate Bill 1096 (and related materials)
5. House Bill 1594 (and related materials) (**Displaced**)
6. Senate Bill 1098 (and related materials)
7. Handout from UNC-Chapel Hill on proposed Cancer Hospital
8. Handout from East Carolina University on proposed Cardiovascular Institute
9. Handout from UNC-Charlotte on proposed Bioinformatics Center
10. Handout from UNC-Asheville on proposed Health Partnership Center
11. Weiss Amendment on Senate Bill 1098 (**Failed**)
12. House Bill 1661 (and related materials) (**not discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 15, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Wainwright

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1594 ALARM SYSTEMS LICENSURE FEES *Rep. Haire*

HB 1661 CAP GAS TAX VARIABLE RATE *Reps. Decker & Pate*

HB 1671 MOORESVILLE STREETS AND SIDEWALKS *Rep. Ray*

SB 1096 CONCORD/KANNAPOLIS BOUNDARIES ADJUSTED
Sen. Hartsell

SB 1098 FINANCE CANCER CENTER & CARDIO INSTITUTE
Sens. Jenkins & Kerr

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on FINANCE will meet as follows:

DAY & DATE: **Tuesday, June 15, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, & Bill Sponsor):

HB 1594 – ALARM SYSTEMS LICENSURE FEES – Rep. Haire

HB 1661 – CAP GAS TAX VARIABLE RATE – Reps. Decker & Pate

HB 1671 – MOORESVILLE STREETS AND SIDEWALKS – Rep. Ray

SB 1096 – CONCORD/KANNAPOLIS BOUNDARIES ADJUSTED – Sen. Hartsell

SB 1098 – FINANCE CANCER CENTER & CARDIO INSTITUTE
– Sens. Jenkins & Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke,
McComas , Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee assistant at the following offices at **11:10am** on **June 10, 2004.**

___Principal Clerk
___Reading Clerk - House Chamber

Jason A. Cannon (Committee Assistant)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Erin Culbreth	UNC
Leslie Bevacqua Coma	NCCBI
BERRY JENKINS	CAROLINAS AGC
Tom Keating	House Intern
Christie Barbee	CAPH
MARY BECK	UNC Health Care
KAREN McCALL	UNC Health Care
Gaurie Moore	ECU
GARY R VANDERPOOL	ECU
ROBERT J. THOMPSON	ECU
Keith Ray	UNCA
Wayne McDevitt	UNCA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anne Coates	UNC-Chapel
M. J. Lewis	East Carolina University
AUSTIN BUNCH	EAST CAROLINA UNIVERSITY
Kevin FitzGerald	UNC CHAPEL HILL
Betty R. McCain	UNC-Chapel Hill
WAYNE E. CASCIO	East Carolina University
Debbie Dibbert	UNC Chapel Hill
Elliott Robinson	Elizabeth City State Univ.
Boyd Cauble	City of Charlotte
DAVID DUNN	UNC CHARLOTTE
Mark Fleming	University System

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Wayne Woodard	NC Dept. of Justice
Charles McDarris	Attorney - NC Alarm Systems Licensing Bd.
Bill Roper	UNC Health Care System
Steve Ballard	East Carolina U.
J. WOODWARD	UNC CHARLOTTE
Mickey BURNIM	ELIZABETH CITY STATE UNIV.
Jim MULLEN	UNC Asheville
BEN CALVO	UNC CH
Tom Shea	UNC - CH
JIM HEDRICK	UNC - CH
Shirley Earp	UNC - CH

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Katherine Hackney	Intern - Rep. Hackney
Mark Beason	Capitol Group
Michelle Frazier	NC Bar Ass'n
Camille Steele	Kennedy Covington
Dini Holman	CUMTF
DAVID BARNES	Payne + Spruce CLV
Christie Craig	Wakemed
Emily Graham	Wakemed
Nadine O'Malley	NC AHEC Program
PARKER OVERTON	CV CENTER
Harvey R. Lewis	E. R. Lewis Const Co Inc
WALTER L. WILLIAMS	TRADEOPLCO (ECU)

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
NICK SMITH	ABC NEWS 411 LIBERTY AVE DURHAM, NC
Joe [illegible]	Gov Off.
John Mattingly	Gov Office
Susanne Sartelle	Greenville - Pitt Co. Chamber of Commerce
Henry Hinton	Greenville Chamber
Allen Thomas	East Carolina University
Joel K. Butler	University Health Systems (Greenville)
Linda C. Roberson	University Health Systems - Pitt Cty Marial (Greenville)
Kathy Hawkins	Progress Energy
Elizabeth Dalton	Bone & Assoc.
John Holton	Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Lasater	Dept. of State Treasurer
John McLawhorn	DST
Angie Corenevsky	Helms Mulliss & Wicker
Rikki Blanks	House Intern
Elizabeth Bakanic	NCGA Intern
Elizabeth Self	House Intern
Camille Kluth-Leach	Interim Legal Counsel, NC A&T State Univ
Cameron Bailey	NCDOL
Art Britt	NCDOL
LERITH LORESH	OSBM
Milton Alford	OSBM

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Hutaff	N.C.S.D.A
Tod Thorne	Coalition for East Carolina PAC
Ray Craft	CITY COUNCIL GREENVILLE
Marvin W. Davis	City of Greenville
Dave Holec	City of Greenville
Tom McClure	Western Carolina University
Elite Spear	Bd of Visitors, Lineberger Center
Ed Turlington	Brooks Pierce

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1671*

Short Title:	Mooresville Streets and Sidewalks.	(Local)
Sponsors:	Representatives Ray; and Setzer.	
Referred to:	Finance.	

May 26, 2004

A BILL TO BE ENTITLED

AN ACT REPEALING ARTICLE VIII OF THE CHARTER OF THE TOWN OF MOORESVILLE, SO THAT THE GENERAL LAW ON STREET AND SIDEWALK IMPROVEMENTS WILL APPLY.

The General Assembly of North Carolina enacts:

SECTION 1. Article VIII of the Charter of the Town of Mooresville, as enacted by Section 1 of S.L. 1975-239, entitled "Street and Sidewalk Improvements", is repealed in its entirety.

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1671:
Mooresville Streets and Sidewalks

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Ray
Date:	June 15, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1671 would repeal the special provisions in the Mooresville Town Charter that apply to street and sidewalk improvements. With this repeal, the Town would be subject to the default provisions in Chapter 160A regarding street or sidewalk improvements.***

The companion bill, Senate Bill 1288, passed 2nd and 3rd reading in the Senate on June 10, 2004.

CURRENT LAW: The current town charter provides specific measures for the Board of Commissioners to order street improvements and to assess property owners. Under the charter, the Board of Commissioners has the authority, under certain circumstances, to assess the cost for improvements against the abutting property owners without a petition by those owners requesting the improvements.

BILL ANALYSIS: House Bill 1671 would repeal the provisions relating to street and sidewalk improvements in the Town Charter, and the law would default to the provisions of Chapter 160A. Article 10 of Chapter 160A provides for special assessments for street and sidewalk improvements and Article 15 of Chapter 160A provides for the general authority and control of the streets and sidewalks by the local government.

Under Article 10, a city has no authority to levy special assessments for street or sidewalk improvements unless it receives a petition for the improvements signed by at least a majority of the property owners to be assessed, who must represent a majority of the lineal feet of frontage of lands abutting the street to be improved.

BACKGROUND: This bill was requested by the Board of Commissioners in Mooresville.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1671 A BILL TO BE ENTITLED AN ACT REPEALING ARTICLE VIII OF THE CHARTER OF THE TOWN OF MOORESVILLE, SO THAT THE GENERAL LAW ON STREET AND SIDEWALK IMPROVEMENTS WILL APPLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1096

Short Title:	Concord/Kannapolis Boundaries Adjusted.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE BOUNDARIES BETWEEN THE CITIES OF CONCORD AND KANNAPOLIS AS MUTUALLY AGREED UPON.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the City of Kannapolis and is added to the corporate limits of the City of Concord:

CODDLE CREEK TREATMENT PLANT PROPERTY

That property is generally known as the Coddle Creek Treatment Plant Property and more particularly as Cabarrus County Parcel 4691567945. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.

BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being the northeastern corner for Cabarrus County Parcel 4691581178 and being on the southern right of way for Davidson Highway, NC 73, said corner being located North 83-15-50 East 1,246 feet from the centerline intersection of Davidson highway, NC 73, and Riding Trail Lane in Cabarrus County, North Carolina, said corner being near the NAD 83 grid coordinates of 1495252 feet East and 618327 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003; thence easterly with the southern right of way for Davidson Highway, NC 73, North 81-06-15 East 14.55 feet and North 81-02-34 East 83.90 feet to the northwestern corner for Cabarrus County Parcel 4691670620; thence following the boundaries for Cabarrus County Parcel 4691567945 the following calls: South 12-02-45 East 873.29 feet, South 88-07-07 East 630.09 feet, South 86-25-25 East 1.00 feet, South 88-07-59 East 90.17 feet, South 73-18-03 East 1.31 feet, South 74-42-07 East 189.98 feet, South 73-18-03 East 1.31 feet, South 87-52-10 East 99.19 feet, South 87-53-05 East 391.14 feet, South 05-16-56 West 143.92 feet, South 51-54-26 West 1683.16 feet, South 51-54-26 West 0.26 feet, North 28-34-59 West 125.41 feet, North 30-52-16 West 33.13 feet, North 31-36-27 West 66.78 feet, North 29-05-29 West 160.43 feet, North 28-36-38

West 12.53 feet, North 26-04-09 West 100.12 feet, North 21-42-57 West 62.16 feet, North 29-31-34 West 16.23 feet, North 33-19-35 West 10.92 feet, North 34-27-55 West 17.12 feet, North 34-27-55 West 34.13 feet, North 29-10-46 West 147.68 feet, North 22-34-01 West 5.21 feet, North 24-09-11 West 61.10 feet, North 22-10-24 West 143.08 feet, North 18-36-56 West 6.27 feet, North 25-30-18 West 125.41 feet, North 32-33-16 West 59.47 feet, North 25-18-35 West 14.03 feet, North 27-53-50 West 19.24 feet, North 34-34-33 West 24.67 feet, North 41-06-44 West 20.91 feet, North 41-06-44 West 24.72 feet, North 29-18-36 West 32.68 feet, North 48-11-45 West 17.44 feet, North 34-55-19 West 20.96 feet, North 23-26-30 West 25.14 feet, North 30-32-05 West 31.49 feet, North 15-53-29 West 36.52 feet, North 34-49-28 West 28.02 feet, South 88-19-34 East 96.29 feet, South 88-37-23 East 13.00 feet, South 88-39-16 East 55.89 feet, South 88-40-20 East 18.88 feet, South 88-06-23 East 351.82 feet, North 11-52-10 West 230.94 feet, North 11-52-56 West 112.92 feet, North 11-53-42 West 115.22 feet, North 11-54-06 West 113.95 feet, and North 11-55-49 West 273.92 feet to the **POINT OF BEGINNING**.

The tract described above encompasses 33.856 acres more or less.

The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 2. The following described property is removed from the corporate limits of the City of Kannapolis and is added to the corporate limits of the City of Concord:

PROPERTIES SOUTH OF ROXIE STREET

That property is generally known as the properties south of Roxie Street and more particularly as Cabarrus County Parcels 5622689204, 5622686154, 5622684055, 5622672947, and 5622670828. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.

BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being within the right of way for Dale Earnhardt Boulevard in Cabarrus County, North Carolina, said corner being located South 19-46-55 East 71 feet from the centerline intersection of Dale Earnhardt Boulevard and the exit ramp for Interstate 85, said corner being near the NAD 83 grid coordinates of 1527061 feet East and 628360 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003; thence southerly with the centerline of Dale Earnhardt Boulevard the following calls: South 31-12-11 East 11.17 feet, South 31-12-11 East 7.66 feet, and South 31-12-11 East 76.24 feet to a point with the right of way for Dale Earnhardt Boulevard; thence westerly with the southern boundaries for Cabarrus County Parcels 5622689204, 5622686154, 5622684055, 5622672947, and 5622670828 the following calls: South 62-14-42 West 45.77 feet, South 67-04-01 West 306.20 feet, South 67-04-08 West 228.43 feet, South 67-03-38 West 108.82 feet, South 67-03-38 West 99.80 feet, South 67-03-19 West 239.04 feet, South 67-03-00 West 71.78 feet, South 67-03-00 West 85.14 feet, and South 67-05-37 West 78.84 to the southernmost corner for Cabarrus County Parcel 5622670828; thence northerly with the western boundary for Cabarrus County Parcel 5622670828 the following calls: North 33-41-24 West 1.58

feet, North 32-54-43 West 85.36 feet, North 32-54-43 West 25.70 feet, and North 32-54-43 West 49.75 feet to the northwestern corner for Cabarrus County Parcel 5622670828, said corner being on the southern right of way for Roxie Street; thence easterly with the southern right of way for Roxie Street the following calls: North 72-26-47 East 96.36 feet, North 70-34-38 East 22.93 feet, North 70-38-28 East 117.65 feet, North 70-01-01 East 2.93 feet, North 69-45-06 East 29.98 feet, North 69-43-20 East 30.12 feet, North 69-29-04 East 206.34 feet, North 69-08-44 East 2.81 feet, North 69-29-07 East 76.21 feet, North 69-29-07 East 126.92 feet, North 69-05-55 East 213.55 feet, North 69-04-32 East 20.48 feet, North 69-51-10 East 20.50 feet, North 69-52-38 East 280.50 feet, and North 68-27-18 East 32.52 feet to the **POINT OF BEGINNING.**
The tract described above encompasses 3.651 acres more or less.
The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 3. The following described property is removed from the corporate limits of the City of Concord and is added to the corporate limits of the City of Kannapolis:

PROPERTIES NORTH OF ROXIE STREET

That property is generally known as the properties north of Roxie Street and more particularly as Cabarrus County Parcels 5622587061, 5622574958, 5622571902, 5622478889, 5622477806, and 5622581188. The boundary is described for location purposes using metes and bounds bearings and distances derived from Cabarrus County digital cadastral data dated September 23rd, 2003.
BEGINNING AT A CORNER on the existing municipal boundary line for the City of Kannapolis, said corner being in the southern right of way for Roxie Street, said point being the northwestern corner for Cabarrus County Parcel 5622670828, said corner being near the NAD 83 grid coordinates of 1525860 feet East and 627919 feet North based upon the Cabarrus County Parcel data acquired on September 23rd, 2003, said corner being located South 66-38-04 West 1,282 feet from the centerline intersection of Dale Earnhardt Boulevard and the exit ramp for Interstate 85; thence easterly with the southern right of way for Roxie Street the following calls: North 19-42-57 West 100.78 feet, North 19-41-11 West 239.12 feet, North 19-41-11 West 0.01 feet, North 19-41-11 West 12.45 feet, North 57-17-40 East 86.75 feet, North 57-17-00 East 420.45 feet, North 57-11-49 East 19.04 feet, North 58-13-17 East 30.14 feet, North 58-09-03 East 310.79 feet, North 58-08-24 East 41.80 feet, North 57-01-52 East 147.35 feet, South 33-06-46 East 1.05 feet, North 47-16-46 East 0.75 feet, South 32-10-41 East 45.21 feet, South 33-06-46 East 39.90 feet, South 33-11-45 East 60.27 feet, South 31-45-06 East 81.84 feet, South 32-38-47 East 197.89 feet, South 67-02-31 West 0.89 feet, South 32-03-22 East 134.95 feet, North 06-13-33 East 3.46 feet, South 32-56-35 East 18.61 feet, South 32-56-35 East 58.55 feet, South 32-56-35 East 39.84 feet, South 32-57-56 East 71.53 feet, and South 32-57-56 East 13.46 feet to the **POINT OF BEGINNING.**
The tract described above encompasses 14.613 acres more or less.
The Tax Maps, Parcel identifications and other records used in the preparation of these descriptions are incorporated herein by reference.

SECTION 4. Section 3 of this act shall have no effect upon the validity of any liens of the City of Concord for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Concord.

SECTION 5. Sections 1 and 2 of this act shall have no effect upon the validity of any liens of the City of Kannapolis for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the City of Kannapolis.

SECTION 6. This act becomes effective June 30, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1096 A BILL TO BE ENTITLED AN ACT TO ADJUST THE BOUNDARIES BETWEEN THE CITIES OF CONCORD AND KANNAPOLIS AS MUTUALLY AGREED UPON.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1594

Short Title: Alarm Systems Licensure Fees. (Public)

Sponsors: Representative Haire.

Referred to: Finance.

May 20, 2004

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE ALARM SYSTEMS LICENSING BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74D-7(e) reads as rewritten:

"(e) The Board may charge fees as follows:

(1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars ($150.00).

(2) A new or renewal license fee in an amount not to exceed ~~three hundred fifty dollars ($350.00).~~five hundred dollars ($500.00).

(3) A late license renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the license.

(4) A registration fee in an amount not to exceed ~~twenty dollars ($20.00)~~fifty dollars ($50.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.

(5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars ($10.00).

(6) A branch office certificate fee not to exceed one hundred fifty dollars ($150.00).

(7) A fee not to exceed one hundred dollars ($100.00) for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.

All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering this Chapter."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1594:
Alarm Systems Licensure Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Haire
Date:	June 15, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1594 would authorize the Alarm Systems Licensing Board to raise two existing fees and to create a new fee under the Alarm Systems Licensing Act. The act would be effective when it becomes law.***

CURRENT LAW: The Alarm Systems Licensing Board is established within the Department of Justice and, along with the Private Protective Services Board, falls under the administration and oversight of the Private Protective Services Section of the Department. Although under the Department, the Private Protective Services Section receives no General Fund dollars and is supported by receipts received from the regulated industries of both boards.

The Alarm Systems Board currently has statutory authority to levy the following fees:

(1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars ($150.00).
(2) A new or renewal license fee in an amount not to exceed three hundred fifty dollars ($350.00).
(3) A late license renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the license.
(4) A registration fee in an amount not to exceed twenty dollars ($20.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.
(5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars ($10.00).
(6) A branch office certificate fee not to exceed one hundred fifty dollars ($150.00).

BILL ANALYSIS: House Bill 1594 makes the following changes with regard to fees charged by the Alarm Systems Licensing Board:

- **Increases the statutory maximum for a new or renewal license fee from $350 to $500.**

  A person must be licensed in order to engage in the alarm systems business in this State. The application process includes a criminal record check as well as a determination by the Board that the person has the necessary training, qualifications, and experience to be licensed. The applicant must also provide a certificate of liability insurance coverage. The Board has indicated that although it is seeking to raise the statutory cap, it has no plans to raise this fee at this time. However, the Board would like to have the authority to do so in the future if the need arises.

- **Increases the statutory maximum for the registration fee from $20 to $50.**

  All employees of a licensee must be registered with the Board. To register an employee, a licensee must submit a set of fingerprints, a recent photograph, and statements of any criminal records from each area where the employee has resided in the preceding 4 years. In 1992, G.S. 74D-8 was

amended to change the period of a registration permit from one to two years. The $20 registration fee, however, was not increased to coincide with the expanded registration period. The Board has indicated that it intends to increase this fee to $40.

- **Establishes a new fee not to exceed $100 for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.**

  The purpose of this new fee is to address the additional processing time required for applications that must be returned to applicants due to errors, omissions, missing documents, etc. According to the Board, they received approximately 4,800 "correctable" registration applications last year, 1,200 of which were alarm registration applications. Although this bill would set the maximum at $100, the Board is considering levying only a $25 fee for "correctable" registration applications and only a $50 fee for "correctable" license applications to help cover the staff costs for reviewing and processing applications for a second time.

BACKGROUND: The statutory maximums for these fees were last raised in 1992. This bill was introduced at the request of the Alarm Systems Licensing Board and is supported by the North Carolina Burglar and Fire Alarm Association.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1594 (First Edition)

SHORT TITLE: Alarm Systems Licensure Fees.

SPONSOR(S): Representative Haire

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:	**Private Protective Services Section (Special Fund)**				
	$97,500	**$97,500**	**$273,750**	**$273,750**	**$273,750**
EXPENDITURES:					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Private Protective Services Section - Alarm Systems Licensing Board (Dept. of Justice)

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY:
Amends GS 74D-7(e) to increase new or renewal license fee to $500 (was, $350) and registration fee to $50 (was, $20). Enacts new GS 74D-7(e)(7) authorizing additional fee of up to $100 for reconsideration of license or registration permits returned due to correctable errors.
Source: Bill Digest H.B. 1594 (05/20/2004)

ASSUMPTIONS AND METHODOLOGY:
The Alarm Systems Licensing Board and the Private Protective Services Board fall under the administration and oversight of the Private Protective Services Section (PPS) of the Department of Justice. These Boards are supported entirely by receipts received from the industries they regulate. They share a joint operating budget with annual expenditures of approximately $1.4 million; each Board also has a separate Recovery Fund account.

In 2002, the Office of State Budget and Management transferred $200,000 from the operating budget of these Boards to the General Fund to help address the budget shortfall. In the past three years, average expenditures have exceeded average revenues – in FY 2002-03, expenditures exceeded revenue by $145,000. Average monthly expenditures were $121,047 this year, compared to average monthly revenues of $111,071. The Private Protective Services Board has increased its fees, which were not at the statutory maximums, to raise additional revenue. The

Alarm Services Licensure Board already charges the maximum fees in statute, and thus would require legislative authority to raise its fees.

In addition, the Alarm Board has identified what it believes to be an error in the General Statutes. In 1992, G.S. 74D was amended to change the period of a registration permit from one to two years. The registration fee was $20 by statute, and was not increased to coincide with the longer registration term. This legislation would authorize the Board to increase the registration fee up to $50. It is the Board's intention to increase the fee from $20 to $40, which is projected to generate an additional $140,000 over the two-year period, or an average of $70,000 per year (7,000 applications per two-year period). This amount, along with increases in Private Protective Services (PPS) fees that have already been implemented, is expected to bring revenue even with operating expenditures. If the Board increased the fee to $50, the average increase in revenue would be $105,000 per year.

This bill also includes an increase in the licensing fees from $350 to $500. The Board states that it has pledged to the Burglar & Fire Alarm Association that it will not implement any increases presently, and is requesting the authority to increase fees in case it needs to do so in the future. The Board receives approximately 850 applications over two years, so the fee increase, if implemented, would generate approximately $127,500 over two years, or an average of $63,750 per year.

The Bill also includes a "reconsideration fee" not to exceed $100. The Board requested this fee to address the issue of applications submitted that must be returned to the applicant due to errors, missing documents, or other reasons, and must then be processed by staff a second time. During the past year, there were 1,200 "correctable" Alarm registration applications. The Board has not made a final decision on what amount might be assessed, but is considering $25 for registration applications and $50 for license applications. The Board estimates that there will be approximately 1,000 registration returns and 50 license application returns per year. At the maximum proposed under this bill, the fee would generate approximately $105,000 per year. At the levels anticipated by the Board, the fees would generate approximately $27,500 per year.

Please note: The amounts in the box on page 1 assume the Board's planned or considered increases for the first two years, and the maximum allowable increases for the next three years.

SOURCES OF DATA: Department of Justice, Private Protective Services Section

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Chloe Gossage

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 14, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1098
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1098-PCS65457-LCx-144

Short Title: State Health and Biotechnology Financing. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, TO SUPPORT REPAYMENT OF THE DEBT FROM THE HEALTH AND WELLNESS AND TOBACCO TRUST FUNDS, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of acquiring, constructing, and equipping the following projects. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

(1) One hundred eighty million dollars ($180,000,000) for a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.

(2) Sixty million dollars ($60,000,000) for the North Carolina Cardiovascular Diseases Institute at East Carolina University.

(3) Thirty-five million dollars ($35,000,000) for a Bioinformatics Center at the University of North Carolina at Charlotte.

(4) Twenty-eight million dollars ($28,000,000) for a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the stand-alone facility.

(5) Thirty-five million dollars ($35,000,000) for a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.

SECTION 2. G.S. 147-86.30 reads as rewritten:

"**§ 147-86.30. Health and Wellness Trust Fund established.**

(a) Fund Established. – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer to ~~that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) ~~Creation of Fund Reserve. The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by Senate Bill 1098, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) the amount certified by the Treasurer and (ii) all uncommitted moneys in the Fund as of the end of the previous fiscal year plus sixty percent (60%) of the Fund's receipts for the current fiscal year. As soon as practicable after issuing this warrant, the chair of the Commission must certify in writing to the chair of the Tobacco Trust Fund Commission created in G.S. 143-717 the amount, if any, by which the amount certified by the Treasurer exceeds the amount of the warrant.

(d) Use of ~~Nonreserved~~ Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. ~~all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to~~

~~subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

(1) To address the health needs of vulnerable and underserved populations in North Carolina.

(2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 3. G.S. 143-719 reads as rewritten:

"**§ 143-719. Tobacco Trust Fund; creation; ~~investment.~~investment; priority use.**

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – The Commission shall not spend moneys in the Fund in accordance with G.S. 143-720 or G.S. 143-721 in a fiscal year until after the

requirements of this subsection have been satisfied. As soon as practicable each fiscal year after receiving the certification from the chair of the Health and Wellness Trust Fund Commission pursuant to G.S. 147-86.30, the chair of the Commission must issue a warrant in the certified amount, if any, from the Fund to the General Fund."

SECTION 4. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"**§ 142-95. RECOP indebtedness.**

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accreting and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 5.(a) Findings. – The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible public financing tools not previously considered in North Carolina. In light of the value

of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 5.(b) Study. – The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

(1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.
(2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.
(3) The availability of alternative financing opportunities and their relative costs to the State.
(4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.
(5) Factors that affect which circumstances might make RECOP financing more or less desirable.
(6) The impact on the State's credit rating of various debt options in various situations.
(7) Any other issues the State Treasurer considers relevant.

SECTION 5.(c) Report. – The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

SECTION 6. Sections 2 and 3 of this act become effective July 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1098
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1098-CSLCx-144 [v.1]

Short Title: State Health and Biotechnology Financing. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, TO SUPPORT REPAYMENT OF THE DEBT FROM THE HEALTH AND WELLNESS AND TOBACCO TRUST FUNDS, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of acquiring, constructing, and equipping the following projects. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

(1) One hundred eighty million dollars ($180,000,000) for a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.

(2) Sixty million dollars ($60,000,000) for the North Carolina Cardiovascular Diseases Institute at East Carolina University.

(3) Thirty-five million dollars ($35,000,000) for a Bioinformatics Center at the University of North Carolina at Charlotte.

(4) Twenty-eight million dollars ($28,000,000) for a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the stand-alone facility.

(5) Thirty-five million dollars ($35,000,000) for a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.

SECTION 2. G.S. 147-86.30 reads as rewritten:

"**§ 147-86.30. Health and Wellness Trust Fund established.**

(a) Fund Established. – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer to ~~that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) ~~Creation of Fund Reserve. The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by Senate Bill 1098, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) the amount certified by the Treasurer and (ii) all uncommitted moneys in the Fund as of the end of the previous fiscal year plus sixty percent (60%) of the Fund's receipts for the current fiscal year. As soon as practicable after issuing this warrant, the chair of the Commission must certify in writing to the chair of the Tobacco Trust Fund Commission created in G.S. 143-717 the amount, if any, by which the amount certified by the Treasurer exceeds the amount of the warrant.

(d) Use of ~~Nonreserved~~ Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. ~~all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to~~

~~subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

(1) To address the health needs of vulnerable and underserved populations in North Carolina.

(2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 3. G.S. 143-719 reads as rewritten:

"**§ 143-719. Tobacco Trust Fund; creation; ~~investment.~~investment; priority use.**

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – The Commission shall not spend moneys in the Fund in accordance with G.S. 143-720 or G.S. 143-721 in a fiscal year until after the

requirements of this subsection have been satisfied. As soon as practicable each fiscal year after receiving the certification from the chair of the Health and Wellness Trust Fund Commission pursuant to G.S. 147-86.30, the chair of the Commission must issue a warrant in the certified amount, if any, from the Fund to the General Fund."

SECTION 4. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"**§ 142-95. RECOP indebtedness.**

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section, to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund Non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accreting and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 5.(a) Findings. – The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible public financing tools not previously considered in North Carolina. In light of the value

of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 5.(b) Study. – The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

(1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.

(2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.

(3) The availability of alternative financing opportunities and their relative costs to the State.

(4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.

(5) Factors that affect which circumstances might make RECOP financing more or less desirable.

(6) The impact on the State's credit rating of various debt options in various situations.

(7) Any other issues the State Treasurer considers relevant.

SECTION 5.(c) Report. – The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

SECTION 6 Sections 2 and 3 of this act become effective July 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1098

Short Title:	Finance Cancer Center & Cardio Institute.	(Public)
Sponsors:	Senators Jenkins, Kerr, Albertson, Holloman, Swindell, Thomas; Bingham, Blake, Carpenter, Carrington, Dalton, Dannelly, Dorsett, Forrester, Garrou, Garwood, Hargett, Hartsell, Hoyle, Hunt, Kinnaird, Lucas, Malone, Purcell, Queen, Rand, Smith, Soles, Stevens, and Weinstein.	
Referred to:	Finance.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO IMPROVE HEALTH CARE BY AUTHORIZING SPECIAL INDEBTEDNESS TO FINANCE A CANCER TREATMENT CENTER AT THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND A CARDIOVASCULAR DISEASES INSTITUTE AT EAST CAROLINA UNIVERSITY.

Whereas, the University of North Carolina at Chapel Hill, with its Hospitals, Health Care System, and Lineberger Comprehensive Cancer Center, is emerging as a national leader in cancer prevention, early detection, and therapy – an intertwined approach to reduce the burden of cancer in North Carolina. To complete this mission, an expanded, $180-million, freestanding North Carolina Clinical Cancer Center replacing its antiquated facility is needed; and

Whereas, because cancer increases ten-fold at 65 years of age, demographic trends and the attractiveness of the region for retirees will nearly double the number of cancers; and

Whereas, in addition, the number of cancer patients seen at UNC from across the State is increasing yearly due to its multidisciplinary approach to cancer care; and

Whereas, enhanced clinical research opportunities afforded by the new Clinical Cancer Center will bring the highest level of care and innovation to the citizens of North Carolina; and

Whereas, quality of care amenities and support services for all patients, especially those volunteering for clinical trials, are inadequate and will be incorporated in the new Clinical Cancer Center; and

Whereas, seamless integration of high-technology imaging and genetic analysis for early detection and therapeutic interventions will improve cancer care and will require a specifically designed facility; and

Whereas, space is needed for a cancer prevention clinic focused on surviving patients, their families, and high-risk individuals, integrating all forms of prevention and early detection research; and

Whereas, cutting-edge therapeutic research engendered by the new Clinical Cancer Center will stimulate the State's biotechnology and pharmaceutical industry; and

Whereas, genetics and technology will drive the next era of cancer care. Genetic targeting of prevention, early detection, and therapy will become modern medicine's dominant paradigm. Therapy will be followed with new imaging techniques. These developments will drive both the standard of care and the clinical research agenda at world-class institutions. UNC's new Clinical Cancer Center, complete with a nationally recognized clinical and prevention research agenda, will bring these benefits to all citizens of North Carolina; and

Whereas, genetic analysis will identify high-risk families. Knowledge of inherited genes will provide clues about families that need special attention. Targeted prevention strategies and sophisticated detection techniques, such as using computerized mammography or proteomic analysis of blood for tumor markers, will be applied to high-risk families; and

Whereas, gene expression patterns will guide treatment and novel imaging techniques will follow responses. Genetic technology will measure gene expression patterns in patients' cancers, allowing doctors to accurately predict response to therapy and to select individualized treatment. The multiple gene mutations that cause each cancer produce subtle changes in expression of the 35,000 genes encoded in our DNA. Bioinformatics algorithms will catalog these complex patterns from breast, colon, lung, prostate, leukemia, lymphoma, melanoma, and other cancers, providing a precise molecular signature of a patient's cancer with a predictive power that greatly exceeds current technology; and

Whereas, as these tests are perfected, medical science will be able to categorize for example, which women's breast cancer will respond to conventional therapy and which will not. For the former, patient confidence in the chosen chemotherapy or biologic therapy will be high. For the latter, the psychological impact will be great, but rather than waiting for therapeutic failure, patients and doctors can choose other options, like a trial of experimental therapy specifically designed for that patient's molecular subtype. The effect of standard and experimental therapies will be followed by novel imaging technologies, such as PET scans, that assess a tumor's biologic activity and not just its size; and

Whereas, the State of North Carolina has one of the highest incidences of advanced cardiovascular disease in the nation, killing one in four North Carolinians yearly; and

Whereas, in North Carolina cardiovascular diseases lead hospital admissions and in the years 1995 and 1996 alone resulted in over 304,000 inpatient admissions with parallel associated costs exceeding over $4 billion; and

Whereas, this State has the fifteenth highest death rate from cardiac illnesses in the country and the fourth highest death rate from stroke in the United States; and

Whereas, the 29 counties of Eastern North Carolina are plagued by a multiplier of the average death rate because of limited access to clinical care, inadequate diagnostic outreach, a paucity of new technology and lagging prevention methods; and

Whereas, working together through the University Health Systems of Eastern Carolina, the Brody School of Medicine at East Carolina University and Pitt County Memorial Hospital have become the major resources for treatment, education, and research for these costly diseases and in recent years have extended services and programs to the entire State; and

Whereas, there is both a desire and a need to expand the clinical and basic research efforts at the Brody School of Medicine, and to provide education and training through a new multidisciplinary, internationally recognized cardiovascular disease institute that would serve all citizens of the State; and

Whereas, the broad areas of focus of this expanded clinical and research effort would include heart and vascular disease, hypertension, and stroke, as well as developing new technologies in surgery and medicine; and

Whereas, this effort would be comprised of two structural components: a cardiovascular clinical research and education center and a basic science research center; and

Whereas, an integrative approach would be used that would effectively integrate cardiovascular service lines; and

Whereas, these centers would also house a central cardiovascular data center that would be a repository for all images, diagnostic and medical records, and hemodynamic demographic data related to the hospital and center; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of acquiring, constructing, and equipping the following projects. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

(1) One hundred eighty million dollars ($180,000,000) for a new cancer rehabilitation and treatment center and adjacent physicians' office building to be located at the University of North Carolina Hospitals at Chapel Hill.

(2) Sixty million dollars ($60,000,000) for the North Carolina Cardiovascular Diseases Institute at East Carolina University.

SECTION 2. This act is effective when it becomes law.

SB 1098 (PCS): State Health & Biotechnology Financing

BILL ANALYSIS

Committee: House Finance
Date: June 15, 2004
Version: CSLCx-144

Sponsor: Sen. Jenkins
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The proposed committee substitute for Senate Bill 1098 does four things:

1. *Authorizes the State to use special indebtedness to finance five health and biotechnology facilities in the UNC system. (The Senate version authorized special indebtedness only for the first two of the five projects.)*
2. *Provides that the Health and Wellness Trust Fund must transfer to the General Fund each fiscal year the estimated debt service on the indebtedness authorized in this bill. The amount transferred each year is capped at 60% of the Trust Fund's receipts for the year. If the debt service exceeds the cap, the Tobacco Trust Fund must transfer the balance. (Added in PCS.)*
3. *Enacts a statutory framework for a new type of State special indebtedness called "RECOP indebtedness," which would involve lower debt service payments during the term of the debt in exchange for a larger payment due at maturity. RECOP indebtedness could not be issued unless the General Assembly enacted legislation specifically providing for the projects or refunding to be financed with RECOPs. (Added in PCS.)*
4. *Directs the Treasurer to study RECOP indebtedness and report to Gov Ops by February 1, 2005. (Added in PCS.)*

FIVE PROJECTS:

Section 1 of the proposed committee substitute for Senate Bill 1098 would authorize the issuance of special indebtedness for the following capital projects:

Purpose	Amount in Millions
Cancer Center at UNC-CH	$180
Cardiovascular Institute at ECU	$60
Bioinformatics Center at UNC-C	$35
Pharmacy Program at ECSU	$28
Health Partnership Center at UNC-A	$35

Commonly referred to as "certificates of participation," special indebtedness is nonvoted debt that is secured only by an interest in State property being acquired or improved. There is no pledge of the State's faith and credit or taxing power to secure the debt. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered

against the State, but the State property that serves as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of special indebtedness may be the least expensive and most practical for the State to utilize. Article 9 of Chapter 142 of the General Statutes prohibits the issuance of special indebtedness except for projects specifically authorized by the General Assembly.

Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the details of the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

HEALTH AND WELLNESS TRUST FUND and TOBACCO TRUST FUND:

The proposed committee substitute for Senate Bill 1098 would provide that up to 60% of the annual receipts of the Health and Wellness Trust Fund would be used to reimburse the General Fund each year for debt service on debt authorized by the bill. (The bill eliminates the requirement that 50% of annual receipts be reserved.) If the uncommitted balance in the Health and Wellness Trust Fund from earlier years plus 60% of current receipts are insufficient in any fiscal year to cover the debt service, the Tobacco Trust Fund would reimburse the General Fund for the balance. These provisions become effective July 1, 2004.

The Health and Wellness Trust Fund receives annual tobacco settlement payments to be used to improve the health and wellness of North Carolinians. In order to build up a fund reserve for future projects, the governing body of the Trust Fund must reserve 50% of each annual payment beginning in 2001. The Commission may spend unreserved funds and investment earnings in the reserve to award grants to state and local agencies and to nonprofit corporations.

The Tobacco Trust fund receives annual tobacco settlement payments to be used to assist tobacco producers, tobacco allotment holders, and persons engaged in tobacco related businesses.

In late 1998, forty-six states and several U.S. territories reached an agreement to settle the lawsuits they had filed against the major cigarette manufacturers. The terms of the settlement were incorporated into an agreement known as the Master Settlement Agreement. The Master Settlement Agreement contractually imposes some restrictions on tobacco marketing and requires the tobacco companies to make annual payments to the states. As part of the North Carolina consent decree, the judge (at the request of the Attorney General) awarded 50% of the settlement funds to the State's Settlement Reserve Fund and 50% to a nonprofit corporation, the Golden L.E.A.F. Foundation, that will assist tobacco-dependent and economically-affected communities. The 50% that is paid to the Settlement Reserve Fund is divided equally between the Health and Wellness Trust Fund and the Tobacco Trust Fund.

STATUTORY FRAMEWORK FOR RECOPs:

Section 4 of the proposed committee substitute for Senate Bill 1098 would enact the statutory framework for a new type of special indebtedness to be called Real Estate Certificates of Participation (RECOP) indebtedness. RECOP indebtedness is a form of special indebtedness that is intended to be structured so that the principal and a portion of the interest is not paid in installments over the term of the debt. This portion of the interest compounds and is payable, along with the principal, only at maturity or earlier redemption. This structure is intended to reduce ongoing debt service payments and provide for payment of the remaining obligation at a time when the property securing the debt will most likely have appreciated substantially in value.

Like other special indebtedness, RECOP indebtedness may be incurred only if the amount and specific purposes have been authorized in an act of the General Assembly. RECOP indebtedness differs from current law special indebtedness in several ways:

- Special indebtedness may be incurred only for capital projects. RECOP indebtedness may be incurred to retire existing State debt as well as for capital projects.
- Special indebtedness may be secured only by the capital facilities being constructed, renovated, or repaired with the proceeds of the debt. RECOP indebtedness may be secured by these projects but may also be secured by any other State property. The property to serve as collateral would be selected by the Governor after first consulting with the Joint Governmental Commission on Governmental Operations. The choice of collateral must also be approved by the Council of State.

- State property law does not apply to a transfer of an interest in State property to secure special indebtedness or, in the case of default, to repay special indebtedness. With RECOP indebtedness, there is an additional exemption from State property law for transfers when the proceeds are used first to pay RECOP indebtedness, even if there is no default.

A major difference between RECOP indebtedness and the types of debt the State and local governments normally incur involves the payment of principal and interest. The usual practice is for the governmental entity to pay off the principal during the term of the debt while also paying interest. Normally, the outstanding principal balance declines relatively steadily during the term of the debt. With RECOP indebtedness, it is intended that no principal would be paid off during the term of the debt. In addition, it is intended that only part of the interest would be paid during the term of the debt. Postponing these payments until maturity makes the debt service payments during the life of the debt much lower than with traditional debt. The entire principal becomes due at maturity along with that portion of the interest that was not paid in installments.

TREASURER STUDY:

Section 5 of the bill sets out findings of the General Assembly and requires the State Treasurer to conduct a study of RECOP indebtedness. The findings indicate that there may be circumstances in which the State would benefit from taking advantage of flexible financing tools such as RECOPs, but that more information is needed for the General Assembly to consider such a policy decision. The bill directs the State Treasurer to study the effects of using RECOPs either for new projects or refunding outstanding debt and to report the results of the study and any recommendations by February 1, 2005, to the Joint Legislative Commission on Governmental Operations.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 15, 2004

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: Senate Bill 1098-CSLCx-144v1

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
EXPENDITURES					
Debt Service*	.4	1.8	6.9	18.8	28.2
HWTF Trust Fund Earmark.	-.4	-1.8	-6.9	-18.8	-28.2
Net General Fund	**.0**	**.0**	**.0**	**.0**	**.0**
Operating and Maint. Exp.		(See "Assumptions and Methodology")			

PRINCIPAL DEPARTMENT AFFECTED: The oversight and issuance of the debt instruments will be issued by the Department of State Treasurer. The cost of issuing the instruments is financed from the proceeds of the sales.

EFFECTIVE DATE: When it becomes law.

*The maximum annual debt service is $35.42 million in FY 2010-11. The total interest on the $338 million of debt is $229.6 million.

BILL SUMMARY: Special Indebtedness. Authorizes the State to use special indebtedness to finance the following facilities:

1. $180 million for a new cancer rehabilitation and treatment center and adjacent physicians' office building to be located at the University of North Carolina Hospitals at Chapel Hill.
2. $60 million for the North Carolina Cardiovascular Diseases Institute at East Carolina University.
3. $35 million for a Bioinformatics Center at the University of North Carolina at Charlotte.
4. $28 million for a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the stand-alone facility.
5. $35 million for a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.

Special indebtedness is non-voted debt that is secured only by an interest in State property being acquired or improved. Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the details of the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

The bill provides that the Health and Wellness Trust Fund must transfer to the General Fund each fiscal year the estimated debt service on the indebtedness authorized in this bill. The amount transferred each year is capped at 60% of the Trust Fund's receipts for the year. If the debt service exceeds the cap, the Tobacco Trust Fund must transfer the balance.

The bill requires the State Treasurer to conduct a study of proposed real estate certificates of participation (RECOP) indebtedness for new projects or refunding outstanding debt and to report the results of the study and any recommendations by February 1, 2005, to the Joint Legislative Commission on Governmental Operations. RECOP indebtedness would be a form of special indebtedness structured so that the principal and a portion of the interest are not paid in installments over the term of the debt. This portion of the interest would compound and be payable, along with the principal, only at maturity or earlier redemption.

ASSUMPTIONS AND METHODOLOGY:

Debt Service. The starting point in the analysis is a projection of the construction cash flow needs of the two facilities. The needs estimates were provided by the fiscal officers of the affected campuses.

	($Mil.) Total Project Cost	CASH FLOW NEEDS ($Mil.)					
		2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Cancer Center	180.00	6.20	11.54	33.48	33.21	50.08	45.49
Cardio Center	60.00	2.10	2.10	27.90	27.90		
Bioformatics Center	35.00	1.23	1.22	16.28	16.28		
ECSU Pharmacy School	28.00	.98	.98	13.02	13.02		
UNC-A	35.00	1.23	1.22	16.28	16.28		
TOTAL	338.00	11.74	17.06	106.95	106.68	50.08	45.49

The Department of State Treasurer provided an analysis of debt service costs for the original size and construction cash flow needs schedule of a proposed package of certificates of participation. These estimates were modified by Fiscal Research to fit the revised cash flow needs. The modification used the State Treasurer's debt service calculation model. The key assumptions in the analysis include:

a. The construction cash flow needs for each fiscal year would be addressed by the issuance of debt instruments in August of that year.
b. The maximum maturity of each debt issuance is 20 years.
c. The average interest rate for the August 2004 issuance is 5.25%. For other debt, a 6.15% rate was used.

The principal is repaid in equal installments on the anniversary date of the debt. For example, one-year instruments would be redeemed on August 1, 2005. Interest payments are made every six months.

Operations and Maintenance. General Administration of the University of North Carolina provided the following estimates on the operating costs for the proposed facilities.

2004 Non-Appropriated Capital Improvements - Operating Impact*

Non-Appropriated Projects	Project Capital Cost	Estimated Year of Completion	Estimated Operating Impact First Full Year of Operation	Estimated Operating Impact Twenty-Year Average	Operating Impact on the General Fund**
EAST CAROLINA UNIVERSITY					
Eastern Carolina Cardiovascular Institute	$60,000,000	2007	2,540,223	3,620,851	2,540,223
ELIZABETH CITY STATE UNIVERSITY					
School of Pharmacy	$28,000,000	2007	546,846	773,527	546,846
UNC - ASHEVILLE					
Center for Health Promotion and Wellness	$35,000,000	2008	806,043	1,029,156	806,043
UNC - CHARLOTTE					
Bioinformatics Center	$35,000,000	2008	1,892,393	2,692,978	1,892,393
UNC HEALTH CARE SYSTEM					
North Carolina Cancer Hospital	$180,000,000	2009	4,480,790	4,999,783	1,000,000
GRAND TOTALS	338,000,000		10,266,295	13,116,295	6,785,505

* Assumes 3% increase per year for salary/benefits and 5% increase for non-personnel/utilities.

** Reflects the first full year operating costs of projects

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1098 A BILL TO BE ENTITLED AN ACT TO IMPROVE HEALTH CARE BY AUTHORIZING SPECIAL INDEBTEDNESS TO FINANCE A CANCER TREATMENT CENTER AT THE UNIVERSITY OF NORTH CAROLINA HOSPITALS AT CHAPEL HILL AND A CARDIOVASCULAR DISEASES INSTITUTE AT EAST CAROLINA UNIVERSITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill, ~~(Committee Substitute Bill #_____)~~, and recommendation that the House committee substitute bill ~~#_____)~~ be re-referred to the Committee on APPROPRIATIONS.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

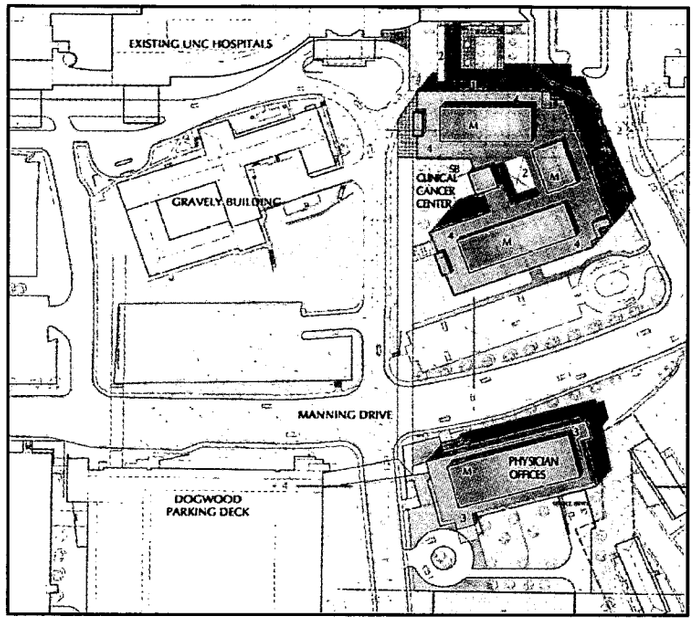
☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 7

Site of Proposed North Carolina Cancer Hospital



A Major Economic Stimulus for North Carolina

A recent study by the Association of American Medical Colleges found that the state's economy gets a boost from medical colleges and teaching hospitals, which contribute $10.3 billion a year through business spending, employment, taxes and out-of-state visitors. The study found that for every dollar spent by these major medical institutions in North Carolina, an additional $1.30 is generated indirectly, providing a total impact of $2.30.

Beyond increasing the numbers of nurses, physicians and other personnel needed to staff the new hospital, the new NC Cancer Hospital will boost the North Carolina economy by increasing UNC research funding for prevention and control and clinical research from its current 3-4 percent annual rise to 7-8 percent each year. The new facility will increase UNC's capabilities to serve as a test site for even more novel cancer therapies and prevention studies, attracting increased funding from government agencies such as the National Institutes of Health and the National Cancer Institute, organizations such as the American Cancer Society and the Breast Cancer Research Foundation, and industry, such as pharmaceutical and biotech[illegible] companies. Conservatively, the new facility will generate $26 million in additional funding, representing 340 FTEs and a probable 25 new clinical faculty who spend about half their time conducting research.

In sum, money spent on this project would not only serve patients from all over North Carolina and enhance the science and technology of cancer research and treatment. It will also greatly expand the North Carolina economy, now and in the future.

UNC HEALTH CARE

The North Carolina Cancer Hospital

A Priority of the University of North Carolina

The UNC Health Care System is planning a new $180 million North Carolina Cancer Hospital and adjacent physicians office building. Both are to be sited on Manning Drive, connected to the UNC Hospitals complex and convenient to the UNC Lineberger Research Building. Many faculty, staff and [illegible]nt committees are working with the architects to design the physical space needed to expand and [illegible]nce patient care services and integrate the latest advances in science with highly skilled physicians and other providers.

The planned North Carolina Cancer Hospital will be the headquarters for the clinical cancer programs of the UNC Health Care System and its renowned UNC Lineberger Comprehensive Cancer Center. It is part of the UNC Hospitals' Master Facility Plan and has been approved by the UNC Health Care System's Board. The UNC-Chapel Hill Board of Trustees and the UNC Board of Governors have also endorsed it as a top priority.

A bill to authorize this important project passed the North Carolina Senate overwhelmingly last summer and had strong support in the North Carolina House of Representatives. We are hopeful that when the General Assembly reconvenes for its short session in May 2004 it will approve funding for the Cancer Hospital.

The Growing Need for the North Carolina Cancer Hospital

The number of patients coming to UNC for their cancer care has increased 35 percent in the last six years. The UNC Health Care System treats cancer patients from all 100 counties and provides multidisciplinary programs for most cancers - giving patients the combined expertise of several medical specialists in one place, often in one visit. In fiscal year 2003, UNC Hospitals admitted 3,510 patients for whom cancer was the primary, secondary, or tertiary diagnosis, and cancer patients made over 85,000 outpatient visits.

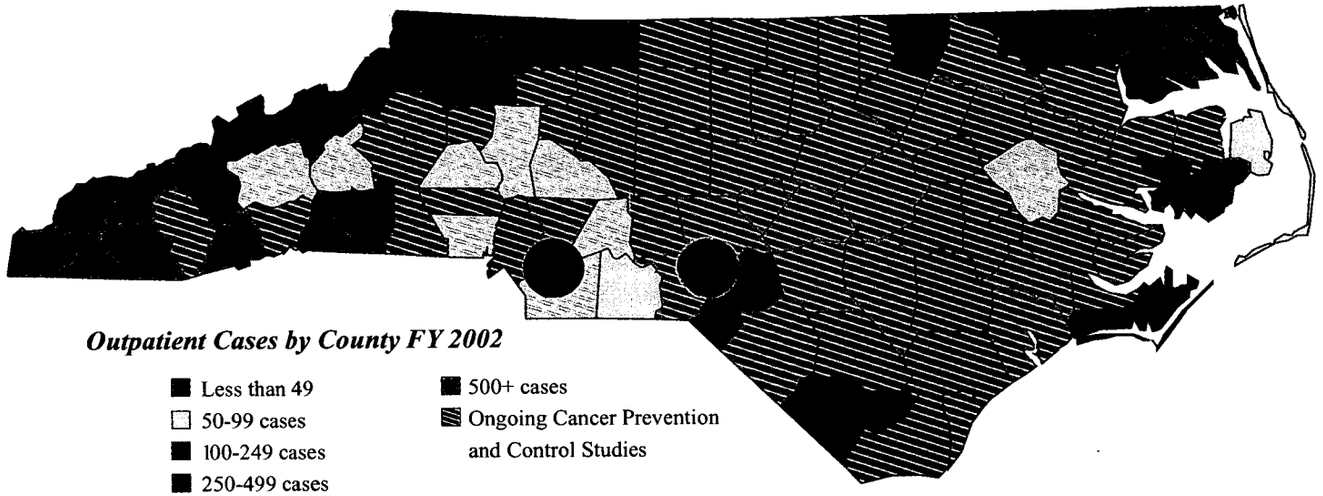
Over the next thirty years, the aging of the population will nearly double the number of North Carolina cancer cases seen each year. The attractiveness of North Carolina for retirees is also significantly increasing cancer cases in North Carolina. Unfortunately, no North Carolina care facility will lack for cancer patients. The ability to provide the highest-quality care in the most cost-effective manner will require communication and integration of local care with technologically driven therapeutics and diagnostics at centers such as UNC.

From Screening to Treatment, We Cover North Carolina

UNC Offers 21st Century Cancer Care in a 1950s Facility

UNC Lineberger Comprehensive Cancer Center is one of only 39 National Cancer Institute (NCI) designated Comprehensive Cancer Centers in the country. It ranks in the top ten institutions nationally in the number of grants from the NCI, and many of the latest advances in cancer diagnostics and therapy are available at UNC. However, it is increasingly difficult to provide leading-edge technology and therapies in a reconditioned and crowded 1950s tuberculosis sanatorium. UNC Hospitals will continue to renovate as much as possible to make the space safe and functional for staff and patients, but these are some of the challenges of the current facility:

- The chemotherapy infusion area is inadequate and overcrowded, even with recent expansion. The infusion area is also remote from the clinics, requiring fragile patients to travel difficult distances.
- Outpatient clinic facilities are overcrowded, with poor patient flow, inadequate waiting and support space, no storage, and limited privacy for patients and families. Private space for providers to meet with patients and their families to counsel them is extremely limited.
- The radiology area, which cannot accommodate the current volume of patients requiring care, cannot be expanded in its present location. New technology is difficult to introduce into the aging facilities and the limited space available. Patient waiting and changing areas are located on main corridors, creating privacy concerns.
- New technology does not fit well into the building. In some locations, ceiling heights are only 6 1/2 feet high. Building systems constantly need refurbishing and repair.
- Support space for patient education, staff conferences, counseling, teaching, and clinical research presents a constant challenge.
- Space is limited for clinical research staff who work with clinical protocols, which are essential for testing treatment options, increasing the knowledge base for new treatment opportunities, and offering patients novel treatments.
- The facility's ambiance is not conducive to the healing process and does not provide the supportive environment essential to patient care.
- The new North Carolina Cancer Hospital, an addition to UNC Hospitals, will address these and other deficiencies, as well as provide the healing environment that patients with cancer need and deserve as they fight their illnesses.



Outpatient Cases by County FY 2002

- Less than 49
- 50-99 cases
- 100-249 cases
- 250-499 cases
- 500+ cases
- Ongoing Cancer Prevention and Control Studies

The Benefits of the New North Carolina Cancer Hospital

The new North Carolina Cancer Hospital will not only create the physical space to expand and enhance patient care, it will also create an even higher quality of care by integrating the latest advances in science with highly skilled physicians and other providers. This new integrated space will accomplish the following:

- provide more room for a growing patient population;
- have specially designed facilities for high-technology tumor imaging, genetic analysis, and novel treatments;
- incorporate amenities and support services for all patients;
- enhance clinical research and innovative care options;
- incorporate teleconferencing facilities to include community-based physicians in treatment planning for their patients, allowing most treatments to be continued in their home communities;
- pair cancer care with a prevention clinic focused on surviving patients, their families as well as high-risk individuals and their families;
- enhance our multidisciplinary clinics, where a host of experts can interact with patients at one time, speeding the decision making and permitting an informed opinion that incorporates the skills of all disciplines in one visit; and
- stimulate growth in the state's biotechnology and pharmaceutical industries by promoting the development and evaluation of leading-edge therapies in clinical trials research.

Finally, the new North Carolina Cancer Hospital will harness the power of genetics and technology, which form the foundation of the next era of cancer care. Genetic targeting for prevention, early detection, and therapy will become modern medicine's dominant paradigm. In the hands of skilled and compassionate physicians, these developments will drive both the standard of care and the clinical research agenda at world-class institutions. The North Carolina Cancer Hospital, complete with a nationally recognized clinical and prevention research agenda, will bring these advances to all citizens of North Carolina.

ATTACHMENT 8

Eastern Carolina Cardiovascular Institute

A partnership between THE HEALTH SCIENCES DIVISION AT EAST CAROLINA UNIVERSITY and UNIVERSITY HEALTH SYSTEMS OF EASTERN CAROLINA

In North Carolina, the death rate attributable to cardiovascular diseases is one of the highest in the country. The Brody School of Medicine, which is part of the Health Sciences Division of East Carolina University, has joined forces with University Health Systems of Eastern North Carolina, to address this problem. Together, these two institutions will work to decrease mortality and morbidity from cardiovascular disease through the creation of the Eastern Carolina Cardiovascular Institute.

Facts about CARDIOVASCULAR DISEASE in North Carolina

- One in four North Carolinians suffers from cardiovascular disease.
- Cardiovascular disease (CVD) accounts for 40% of all deaths in North Carolina.
- North Carolina has the 15th highest death rate from cardiac illness and fourth highest death rate from stroke-related illness in the nation.
- The 29 counties of eastern North Carolina have the highest incidence of cardiovascular disease when compared to the rest of the state:
  - > Death rate from stroke is 35% higher
  - > Death rate from heart disease is 23% higher
- If eastern North Carolina were taken as a state and ranked against all other states in terms of premature mortality, it would rank 50th; only Mississippi would have a higher rate.
- The national economic burden from CVD is more than $350 billion annually. In North Carolina, the cost is estimated to be more than $6 billion annually.

Creating the EASTERN CAROLINA CARDIOVASCULAR INSTITUTE

University Health Systems, the Health Sciences Division of ECU and the Brody School of Medicine propose an expansion of existing clinical care and research efforts, as well as education and training programs addressing CVD, through the creation of a multidisciplinary and internationally recognized cardiovascular institute. University Health Systems and Pitt County Memorial Hospital, the primary teaching hospital for the medical school, have agreed to build a new 120 to 150-bed hospital dedicated to cardiovascular care. The cost of this hospital is estimated at $150 million and will be funded through private dollars. In conjunction with this project, the Brody School of Medicine and the Health Sciences Division at ECU propose construction of a cardiovascular research and education center that will include outpatient clinics for CVD patients, a conference center and space for basic science research, clinical trials and preventive medicine. This project, if approved by the General Assembly, will be funded by the state at an estimated cost of $60 million.

The partnership of the facilities named above, in collaboration with other University Health Systems hospitals and UNC constituents, will form the Eastern Carolina Cardiovascular Institute.

University Health Systems of Eastern Carolina

East Carolina University

Benefits of the EASTERN CAROLINA CARDIOVASCULAR INSTITUTE

- The institute will provide leading edge treatment of and research into CVD through basic science research, innovative technology, clinical trials and the recruitment and retention of skilled physicians.
- The institute will allow the citizens of North Carolina to be among the first to benefit from innovations in CVD prevention and treatment.
- Facilities will be located centrally in the region with the highest incidence of CVD.
- The Institute, through partnership with University Health Systems, provides a unique opportunity to establish a $210 million facility at a cost of $60 million in state funds.
- Dr. W. Randolph Chitwood, an internationally recognized leader in innovative surgery and pioneer of robotic surgery, will provide leadership for the institute.
- The Institute builds on the reputation of an internationally recognized CV program.

citizens of North Carolina will be among the first to benefit from innovations in cardiovascular disease prevention and treatment

Economic Impact of the EASTERN CAROLINA CARDIOVASCULAR INSTITUTE

Direct impact : Construction }	
Payroll	$ 96,284,144
Construction	204,296,700
Total short term benefit	300,580,844

Annual Long Term Operations }	
Payroll	$ 17,564,400
Purchases	2,460,000
Visitors	1,766,250
Total annual long term benefit	21,790,650

Annual Indirect Impact on Local Economy }	$ 34,288,423

UNCCHARLOTTE

June 15, 2004

Proposed Bioinformatics Center

The University of North Carolina at Charlotte

Introduction

Because the Charlotte region is the largest in the state, the health of its economy is important to all of North Carolina. Every recent study of the region's economy or the economy of some part of the region has concluded that the economic base needs to be broadened. In particular, it needs to be broadened into sectors that are increasingly dependent on science and technology. The sectors with the greatest growth potential are in biotechnology/biomedicine, that is, areas where the biological and biomedical sciences are the bases for new products and services that find value in the market place.

Given that UNC Charlotte is the only large, comprehensive university within a radius of approximately ninety miles from the center of Charlotte, the University must provide research and instructional programs that support these sectors. The University has understood its responsibility and has worked to develop and carry out such programs. Clear examples of the university's response can be found in the research that undergirds two doctoral programs initiated in 1998 – Biology and Information Technology.

Background

Advances in molecular biology and the equipment available for research have allowed the increasingly rapid sequencing of large portions of the genomes of several species. The resulting deluge of information on cellular and biomolecular structures and systems and the requirements for storing and organizing these data are challenging information scientists as never before to develop new techniques and methods for data storage and retrieval, analysis, and visualization. The intersection of biology and information technology has created the new field of bioinformatics and a sub-field, medical informatics, concerned with structures and algorithms for the manipulation of medical data. As concerns for patient privacy and business security increase, the challenge of managing large data sets is becoming even more pressing. North Carolina has identified biotechnology as an important economic sector and is developing new initiatives to provide the climate, research, and training needed to attract biotech industry to the state and to commercialize new discoveries. In support of these initiatives, UNC Charlotte proposes to establish the Bioinformatics Center on the Charlotte Research Institute campus, integrating the University's existing research strengths in information security and biology with those in chemistry, physics, mathematics, computer science, public policy, sociology, and health-related sciences.

The Center

The Charlotte Research Institute (CRI) is located on one hundred acres adjacent to Route 29 ("millennial" campus). CRI's vision is to enhance the technology infrastructure of the Charlotte region by facilitating the development of intellectual capital through global collaboration with industry, academia, and government to create a top-tier interdisciplinary technology research community. Two buildings are under construction on the CRI campus – the Applied Optics and Physics Building and the Engineering Research Building. The proposed Bioinformatics Center will be the third building in this important research endeavor at UNC Charlotte, a three-story, traditional brick building of 102,000 net square feet, with facilities that will be a resource for industrial collaboration and training as well as research and graduate education:

- Functional Genomics/Proteomics Laboratory
- Bio-imaging Laboratory
- Image Processing Laboratory
- Protein Structure/Function Laboratory
- Computational Chemistry Laboratory
- Computational Diagnostics Laboratory
- Data Mining Laboratory
- Large Memory/Advanced Signal Processing Facility
- Information Integration Security/Privacy Laboratory

In addition to laboratory space for faculty and graduate students, the Center will provide extensive space for collaboration with industry, public-private partnerships, and outreach training, and will be an intellectual resource for industry in commercializing new technologies. Few universities can match UNC Charlotte's track record for bringing technology to the marketplace. After normalizing per $10M of R&D expenditures for 2002-03, the University ranked first in the nation in start-ups formed, third in patents issued, and fifth in licenses executed. The Center will build on the strength of research already being conducted in the areas of biomedical data visualization, imaging and imaging processing; medical dataset modeling, micro-array data analysis, gene and protein interactions, protein structure and function prediction, sequence analysis, biomedical information retrieval, feature extraction, large memory system security, biomathematics, data mining, and the storage and analysis of large databases. In addition, the Center will build on the strength of UNC Charlotte's prominence in cyber-security as one of the few universities designated by the National Security Agency as a center of Academic Excellence. Security remains a major obstacle for many businesses, and particularly for the pharmaceutical industry, in moving data over networks, and UNC Charlotte's eBusiness Technology Institute is already collaborating with major banks to solve security problems associated with large databases.

The need for the Bioinformatics Center is critical. With UNC Charlotte's strength and North Carolina's growing biotechnology industry, now is the time to create an internationally competitive Center in the Charlotte region.

Economic Impact

The direct impact will come from the construction of the $35M facility, the increase in funded research made possible by the facility, and the start-up companies that derive from this research. It is estimated that the construction will create an average of 243 jobs annually for the two year construction period. By 2010, research activities in the Center will be responsible for approximately 600 permanent jobs.

Although the measurable impact of the Center will be considerable, the greatest impact will come because the economic base of the Charlotte region will have been visibly broadened into a science-based sector of great potential for growth.

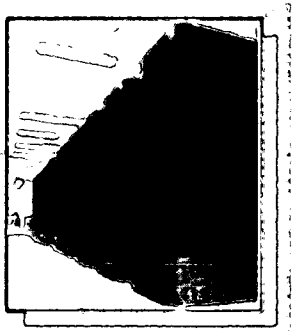
GTL Hallmarks

Open Access to Data and Facilities

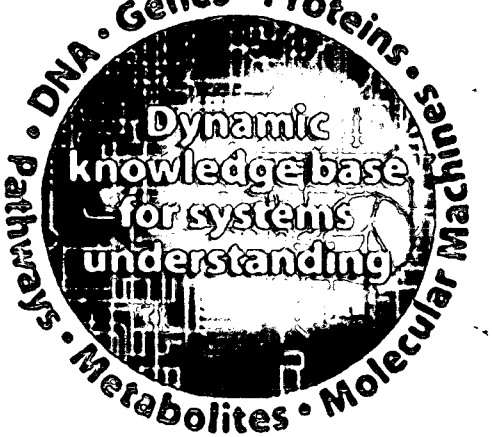
Technology Integration for Tomorrow's Biology and Applications

Advanced Technologies

Informatics and Databases



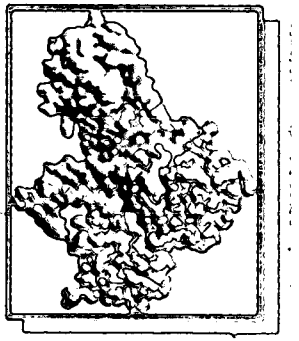
Microbial Genomics



Biosystems Training

High-Throughput Analysis and Production

Computing and Simulation



These facilities would serve as focal points for the life sciences research community, providing a national venue to pursue multidisciplinary systems biology and promote cross-disciplinary education.

UNC Asheville's N.C. Center for Health & Wellness Promotion

Executive Summary

What Is It?

The N.C. Center for Health & Wellness Promotion is a unique academic and outreach initiative, with 3 key components:

1. Wellness Education

- Focus on prevention of chronic disease (e.g. obesity diabetes) particularly among children and senior citizens
- New major in health promotion
- Undergraduate research
  - Student research, internships, fieldwork and outreach
  - Graduates will develop worksite wellness programs & work in hospital, corporate and community health settings

2. Outreach & Partnerships

- Public-private partnership with Western North Carolina health care, education and civic community.
- Students will work with underserved populations to close the health disparity gap.
- WNC Senior Wellness Institute will bring research and expertise on healthy lifestyles directly to senior citizens.
- Center will develop networks of community-campus partnerships for health & wellness.

3. Workplace Wellness

- UNC Asheville will model a healthy workplace environment.
- Plans include a program like *Be Active North Carolina*, a unique public-private program helping businesses, schools and government create healthier work sites, campuses and offices.

Why Do We Need It?

- Prevention is as important as treatment when it comes to long-term health & wellness.
- As part of the university system's efforts to treat and cure disease, UNC Asheville's academic/outreach initiative can help prevent chronic diseases like diabetes.

How Will It Impact North Carolina?

Economic Impact

- $153 million in immediate economic impact.
- Ongoing boost for WNC travel & tourism; corporate recruitment; alternative medicine; entrepreneurial activity; health-related R&D.

Health & Wellness Impact

- Every $1 invested in preventive programs result in $2-5 savings for employers.
- Studies show healthier workplaces can save employers 25%, including lower medical costs.

How Much Will It Cost?

Estimated cost for the 110,000-square-foot academic and outreach building is $35 million.

- The building will provide sorely-needed space for classrooms, faculty offices, labs and research facilities as well as conference space.
- The program and building meets needs identified by campus leaders over the last 20 years.
- An adjoining multi-purpose building will be 100% financed with private funds.

UNC Asheville's N.C. Center for Health & Wellness Promotion

Overview

UNC Asheville's proposed N.C. Center for Health & Wellness Promotion is a unique academic and outreach initiative, built around a new health promotion degree program, undergraduate research and a public-private partnership with Western North Carolina's health care community.

Childhood obesity and senior citizen wellness will be the focus of student research, internships and fieldwork and outreach. Students will work with underserved populations to close the health disparity gap; develop worksite wellness programs; and prepare themselves to work in hospital, corporate and community health settings.

Need

By any measure, North Carolina is failing virtually every health and wellness test. Daily headlines about obesity and its impact only touch on the problem.

- North Carolina ranks among the nation's highest in obesity, but lowest in exercise.
- Two out of every three North Carolinians are overweight or obese.
- One fourth of our children are overweight, and numbers are rising – especially among African-American children. Childhood obesity has *tripled* in the last 20 years.
- Deaths linked to weight and poor health – like stroke, diabetes and heart disease – are climbing steadily, especially among the African-American population.

The cost of this failure is dramatic – in loss of life, quality of life and in dollars. Some 25,000 North Carolina deaths are attributable to these factors each year. Physical inactivity, poor nutrition, obesity and addictions cost North Carolina almost $16 billion each year.

Justification

As North Carolina and its universities chart the health care course ahead, it's clear that prevention must be part of the solution. Clinically focused programs that treat disease are vital. But scientific evidence proves that preventive health education is the cornerstone on which a healthy society is built.

UNC Asheville has developed a bold initiative around health and wellness, building on strategic priorities identified over the last 20 years. It combines innovative academic research and targeted community outreach, focusing on the critical issues of childhood obesity and senior citizen wellness. ***It's a new approach to prevention, fueled by new leadership and new collaboration.***

The centerpiece is UNCA's new Health Promotions degree program, located in a state-of-the-art complex for innovative health and wellness education, training and research that also offers health-focused community outreach activities and conference space. It will have three main areas of focus:

1. ***Wellness Education*** – UNCA's new major in Public Health Promotion is the first for the Department of Health and Fitness. It involves interdisciplinary studies and hands-on collaborative learning, in conjunction with its Sports Medicine minor. Students will focus on prevention in public, private and non-profit sectors and work with underserved populations to close health disparity gaps.
2. ***Wellness Outreach & Partnership*** – UNCA will enhance opportunities to link preventive health education and health promotion with regional community health needs and the local health care community. The *WNC Senior Wellness Institute* will bring research and expertise on healthy lifestyles directly to WNC's growing population of senior citizens. The Center will serve as a model of community-campus partnerships for health promotion.
3. ***Workplace Wellness*** – UNCA's programs will become a model for workplace wellness and the facility will be conducive to learning, teaching and enhanced productivity. Plans include a program similar to *Be Active North Carolina*, a unique public-private program that provides innovative wellness assistance to businesses, schools and government in creating healthier work sites, campuses and offices.

Economic Impact
The Center is expected to have an immediate and short-term impact as well as a dramatic, long-term economic impact on Western North Carolina, including:

- *Construction & operation* -- $148 million in economic impact generated by construction; and $5 million in annual economic impact (salaries, purchases etc.) during operation.
- *Corporate & individual relocation* – Center will elevate WNC's viability as an attractive business relocation site, and will support regional economic development efforts.
- *Boosting WNC travel & tourism* – WNC's No. 1 industry will be strengthened with the Center's regional meetings and conferences. It will also promote healthy lifestyles, supporting the outdoor & adventure recreation industry.
- *Supporting alternative medicine development* – The Center will strengthen WNC's position as a mecca of alternative medicine.
- *Fueling health-related entrepreneurs* – Goods and services, or consulting start-ups will provide specialized support to communities and workplaces pursuing healthier lifestyles.
- *R&D* -- Linkages with emerging economies, such as biotechnology, nutraceuticals (nutrition and diet connections), biomanufacturing and research will also lead to start-up activity in WNC.
- *Increased job productivity on the job* – In North Carolina, sedentary lifestyles cost over $6.2 billion each year. Studies show employers lose $10,000 per worker per year due to illness, absence and non-productivity. The Center will partner with WNC employers to help businesses create worksites that are conducive to enhanced productivity.
- *Return on investment* – Every dollar spent on worksite health promotion programs will bring employers $2 to $5 in cost-savings. Studies show workplace wellness programs can realize employers a savings of 25%, including lower medical costs.

Footprint
The Center will be housed in an approximately 110,000-square-foot building focused on the program's three core components:

- *Academic* – It will house the expanded Health & Fitness Department's classrooms, equipment and facilities; provide a new home for the Student Health Services; the counseling center; and accommodate campus meetings. It will include a cardiovascular center, a bioinformatics lab and a muscle strength and endurance training facility.

- *Community Outreach* – The learning labs will also be used in community outreach and public-private partnerships. Existing health/fitness facilities will be enhanced to permit use for community outreach, especially for children and seniors. The Center will also provide flexible space for large community forums and events.

- *Workplace Wellness* – The Center will support UNCA's efforts to revamp its campus workplace wellness program, by providing faculty and staff with accessible, high-quality tools to lead healthier lifestyles.

Adjacent or adjoining will be a multi-purpose facility that will be 100% financed by private funds.

Cost
The cost of the academic building is $35 million.

Time Line
Planning will begin immediately, in 2004-05. Construction is expected to begin in 2005-06, and be completed by 2009. Full implementation of the Center's programming is expected to begin in 2009.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 11

EDITION No. _____

H. B. No. _____ DATE June 15, 2004

S. B. No. 1098 Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSLCx-144 v.1

Rep.) Weiss

Sen.)

moves to amend the bill on page 1, line S 4-5

(✓) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"BIOTECHNOLOGY RESEARCH,"

and on page 2, line 4 through page 4, line 4 by deleting the lines & renumbering the remaining sections accordingly;

and on page 5, lines 29-30 by rewriting the lines to read:

"SECTION 4. This act is effective when it becomes law.".

11 ayes
11 nayes

SIGNED Jennifer Weiss

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1661
PROPOSED COMMITTEE SUBSTITUTE H1661-CSLA-58 [v.2]

6/14/2004 12:11:34 PM

Short Title: Cap Gas Tax Variable Rate. (Public)

Sponsors:

Referred to:

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AT THE COMPONENT FOR THE PERIOD BEGINNING JULY 1, 2004.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than seven and one-tenths cents (7.1¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. This act is effective when it becomes law and applies to rates set on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **1**

HOUSE BILL 1661

Short Title:	Cap Gas Tax Variable Rate.	(Public)
Sponsors:	Representatives Decker, Pate (Primary Sponsors); Frye, Goodwin, Hill, Justice, LaRoque, McGee, McHenry, Moore, Munford, and Warner.	
Referred to:	Finance.	

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AT ITS CURRENT RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢)a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than six and eight-tenths cents (6.8¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. This act is effective when it becomes law and applies to rates set on or after that date.

HOUSE BILL 1661:
Cap Gas Tax Variable Rate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Decker
Date:	June 14, 2004	**Analysis by:**	Martha Walston
Version:	H1661-CSLA-58		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1661 would cap the variable wholesale component of the motor fuels tax rate at its amount for the period beginning July 1, 2004. This amount will be announced June 15th and is expected to be 7.1¢ a gallon.

CURRENT LAW: North Carolina imposes a motor fuels excise tax on all motor fuel sold, distributed, or used in the State. The tax is remitted by the wholesale distributor to the suppliers, as trustees for the State, at the terminal rack. The rate of the tax is 17.5 cents per gallon, plus the greater of 3.5 cents per gallon or 7 % of the average wholesale price of motor fuel. The wholesale price component of the rate is set every six months by the Secretary of Revenue based on the average price during the previous period. As of January 1, 2004, the total tax rate was 24.3 cents per gallon.

The term "motor fuels" is defined as gasoline, diesel fuel, and blended fuel. (G.S. 105-449.60)

The revenue collected from the motor fuels tax is distributed as follows:

½ of 1 cent of the tax imposed per gallon is allocated as follows:

- 19/32 of each half cent to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 3/32 of each half cent to the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 5/16 of each half cent to the Water and Air Quality Account

Of the remaining proceeds, 75% is allocated to the Highway Fund and 25% is allocated to the Highway Trust Fund.

BILL ANALYSIS: The proposed committee substitute for House Bill 1661 would cap the wholesale price component of the rate to be set for the period beginning July 1, 2004, which will be 7.1 cents a gallon.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 14, 2004

TO: **House Finance Committee**

FROM: Bob Weiss
Fiscal Research Division

RE: House Bill 1661-CSLA -59v3

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Section 1					
REVENUES					
Highway Fund	**($37,500,000)**		**No Estimate Available**		
Highway Trust Fund	**($12,500,000)**		**No Estimate Available**		
TOTAL	**($50,000,000)**				
Section 2					
REVENUES					
Highway Fund	($11,967,750)	($12,278,250)	($12,658,500)	($13,063,500)	($13,520,250)
Highway Trust Fund	($3,989,250)	($4,092,750)	($4,219,500)	($4,354,500)	($4,506,750)
Comm. LUST Fund	$13,144,579	$13,485,611	$13,903,253	$14,348,078	$14,849,741
NonComm LUST Fnd	$2,612,959	$2,680,751	$2,763,773	$2,852,198	$2,951,921
Water &Air Quality	$199,463	$204,637	$210,975	$217,725	$225,338

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Fund, Highway Trust Fund, Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds, Water and Air Quality Account.

EFFECTIVE DATE: Section 1 is effective when the bill becomes law and applies to rates set on or after that date. Section 2 becomes effective for distributions made on or after July 1, 2004.

BILL SUMMARY: Caps the variable wholesale component of the motor fuels tax rate at 7.1 cents per gallon. Raises the amount allocated from the motor fuels tax to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund, and the Water and Air Quality Account from 0.5 cents per gallon to 0.8 cents per gallon and changes the proportions allocated to each of these funds. The Commercial LUST Fund allocation is increased from 19/32 to 17/25 (approximately 59% to 68%), the Noncommercial LUST Fund allocation is increased from 3/32 to 3/25 (9% to 12%), and the Water and Air Quality Account allocation is decreased from 5/16 to 1/5 (31% to 20%).

ASSUMPTIONS AND METHODOLOGY:

Section 1

The motor fuels tax rate in North Carolina consists of a fixed rate of 17.5 cents per gallon plus a variable rate that is the greater of 3.5 cents per gallon or 7% of the wholesale price (weighted average of gasoline and diesel fuel) for a six month period as published by the US Department of Energy's Energy Information Administration.

Through June 30, 2004 the variable rate is 6.8 cents per gallon and the total tax is 24.3 cents per gallon. On June 15, 2004 the Department of Revenue will set the rate for the period July through December 2004. That rate is based on wholesale prices in the period October 2003 through March 2004 and is expected to be 7.1 cents per gallon for a total of 24.6 cents per gallon. This will be an increase of .3 cents per gallon over the rate in effect from January through June of 2004. The bill will cap the variable rate in the future at 7.1 cents per gallon.

The revenue impact of the bill will be determined by the amount, if any, that the variable rate that would be set by the formula in the current law exceeds 7.1 cents per gallon. It is assumed here that prices remain generally high during the remaining three and a half months of the base period and that the adjustment that would take place in January under current law would be to 9.0 cents per gallon for the variable rate, an increase of 1.9 cents per gallon and 1.9 cents per gallon above the cap in the bill. The fiscal impact for the second half of FY 2004-05 would then be annual taxable sales of 5.3 billion gallons times 1.9 cents per gallon divided by two (to account for the six month period). The result is a loss in revenues from the motor fuels tax of approximately $50 million. Because three-fourths of the motor fuels tax goes to the Highway Fund and one-fourth to the Highway Trust Fund, the fiscal impact would be $37.5 million to the Highway Fund and $12.5 million to the Highway Trust Fund. (The Wildlife Resources Fund receives 1/6 of one percent of the Highway Fund share for boating and water safety activities and would lose about $62,500.) No estimates are made of revenue losses beyond FY 2004-05. The forecast prepared by the North Carolina Office of State Budget and Management in April 2004 indicated that the calculated variable rate in

future years would fall below the proposed cap. If that is the case there would be no fiscal impact in the ensuing years. However, the OSBM forecast has probably been overtaken by events and should be considered one of many possible scenarios.

Section 2

Section 2 raises the amount allocated to the Commercial and Noncommercial LUST Fund accounts and the Water and Air Quality Account by 0.3 cents per gallon and consequently lowers the amount allocated to the Highway Fund and Highway Trust Fund. The calculations are based on the taxable amount of motor fuels sold as projected by the Office of State Budget and Management:

FY2004-05	5,319 million gallons
FY2005-06	5,457
FY2006-07	5,626
FY2007-08	5,806
FY2008-09	6,009

SOURCES OF DATA: Office of State Budget and Management, North Carolina Department of Revenue, US Department of Energy – Energy Information Administration.

For a history of tax rates see: http://www.dor.state.nc.us/taxes/motor/rates.html

TECHNICAL CONSIDERATIONS: None

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 17, 2004

The House Committee on Finance met on Thursday, June 17, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, and Dusty Rhodes. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Doug Holbrook, Linda Millsaps, Susan Sitze, Martha Walston, and Bob Weiss. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman Miner called the meeting to order at 8:36 am and recognized the six (6) pages present: (1) Aaron Goodson of Cumberland County, sponsored by Representative McAllister; (2) Gini Gregg of Edgecombe County, sponsored by Representative Tolson; (3) Kayla Hall of Stokes County, sponsored by Representative Baker; (4) Eric McCombs of Wake County, sponsored by Representative Miner; (5) Charles Neal of New Hanover County, sponsored by Representative McComas; and (6) Noelle Saleh of Wake County, sponsored by Speaker Black.

Prior to consideration of the Committee's agenda, Chairman Miner announced that **HB 1348 – CAMDEN COUNTY OCCUPANCY TAX** and **HB 1721 – CURRITUCK OCCUPANCY TAX CHANGES** were referred to the Subcommittee on Occupancy Tax.

Representative Haire was then recognized to explain the first bill considered by the Committee: **HB 1594 - ALARM SYSTEMS LICENSURE FEES** (see **attachment 3**). This bill was first considered by the Committee at its June 15, 2004 meeting but was displaced due to several concerns raised by Representative Cunningham at that meeting. Representative Hair explained that those concerns had now been resolved and requested the Committee's support. As there was no further discussion, Chairman Miner recognized Representative Howard who moved that House Bill 1594 be given a favorable report. Chairman Miner then called the matter to a vote, and the motion carried without objection.

The next bill considered by the Committee was **HB 1354 – STRENGTHEN DOMESTIC VIOLENCE LAWS** (see **attachment 4**). Chairman Miner recognized Representative Luebke who moved that the Proposed Committee Substitute (PCS) for HB 1354 be before the Committee for discussion and that motion carried without objection. The Chair then recognized the bill sponsors, Representatives Sherrill and McLawhorn, to explain the bill.

Representative Sherrill stated that the bill was a recommendation of the House Select Committee on Domestic Violence and had already been successfully reported out of the Judiciary I Committee. She explained to the members that the bill was before the House Finance Committee because it contained a fee. The fee, which is contained in Section 4.2 of the bill, was for $100 and was to be assessed on attorneys who practice in North Carolina but are not licensed to practice law in the State. Following this explanation, Chairman Miner recognized Representative Ross who stated her knowledge that, as a practicing attorney, this fee would simply be considered a cost of doing business. Staffperson Doug Holbrook also noted that almost every state in the nation charges such a fee, with most states charging much more than the bill's proposed $100. Following some other brief discussion, Chairman Miner then recognized Representative Howard who moved that the PCS for House Bill 1354 be given a favorable report (with an unfavorable report as to the existing committee substitute) and recommendation that the new Committee Substitute be re-referred to the Committee on Appropriations. As there was no further discussion, Chairman Miner then called the motion to a vote and it carried without objection.

HB 1655 – INCENTIVE FOR HIGHER WAGES (see **attachment 5**) was the next bill considered by the Committee. Chairman Miner recognized the bill sponsor, Representative Luebke, to explain the bill. Representative Luebke then explained that he filed the bill due to his concerns for the growing gap between the "excessive" compensation received by top executive relative to the average worker. He stated that the bill acted to limit the corporate deduction for employee compensation to an amount not to exceed 50 times the compensation paid to the corporation's lowest paid full-time employee for each taxable year. Following this, the Chair recognized David Crotts with the Fiscal Research staff to explain the fiscal impact of the bill. Mr. Crotts stated that from his analysis, the bill would have minimal fiscal impact because it simply would not affect that many corporations. Chairman Miner then opened the floor for Committee discussion on the bill. Representative Womble was recognized and stated his belief that the bill was fair and that he knew of no opposition to the bill. He then moved that the bill be given a favorable report. Chairman Miner recognized Representative Munford next who stated his concern that the bill was too broad. He noted that while he agreed with Representative's Luebke intent, he stated that the bill could have some negative unintended consequences. Representative Munford stated that by forcing companies to increase their wages for lower-paid employees one year that might be profitable in order to avoid increased tax liability, could lead to pay cuts, job layoffs, etc. for future years not are not as profitable. Representative Daughtridge was also recognized and stated another issue of concern. He pointed out that companies could increase wages as means to avoid a higher tax liability (as the bill is intended), but that these companies could (after increasing employee wages) cut benefits to those employees. Representative Lewis was then recognized and stated his belief that the bill would hurt the efforts the state has made and continues to make in recruiting business to North Carolina. Chairman Miner recognized Representative Allen next who requested to hear the position of the North Carolina Citizens for Business and Industry (NCCBI) on the bill. Ms. Leslie Bevocqua-Coman with NCCBI was then recognized by the Chair and stated that her organization did not support the bill. Following this, Representative Bordsen was recognized and stated her support for the bill. She shared the concern of Representative Luebke on the widening wage gap and stated that it was time for some policy controls to address the problem. Representative Wilson was then recognized and asked staff if policies similar policies to this proposal were used in other states. Trina Griffin, with Research Staff, explained that the bill was modeled after a bill from the State of Wisconsin, but that she had not researched whether or not similar were on the books in other states. Representative Wilson then made a substitute motion to move the bill into a specially formed subcommittee to allow for more study on the issue. Representative Luebke was recognized and opposed the substitute motion. Chairman Miner then elected to act upon the earlier motion of Representative Womble that the bill receive a favorable report. The ayes and nays having been

requested by Representative Luebke (see **attachment 6)**, the Clerk then called the roll. By a vote of 4 in the affirmative and 20 in the negative, the motion failed.

Chairman Miner recognized Representative Decker to explain the next bill considered by the Committee: **HB 1661 – CAP GAS TAX VARIABLE RATE** (see **attachment 7**). The Committee first considered this bill at its June 10, 2004 meeting. However, the bill was displaced at that time at the request of the bill sponsor. Representative Carney was recognized and moved that the PCS for HB 1661 be adopted for discussion purposes. The motion carried without objection. Representative Decker briefly explained the purpose of the bill again stating that the bill caps the variable wholesale component of the motor fuels tax rate at 7.1 cents (the set rate effective June 15, 2004). The effect of the cap, if gas prices remain the same as they are presently, is a savings estimated at approximately 1.9 cents per gallon of gasoline. However, the effective loss to the Highway Trust Funds could be as much as $50 million annually. (Further detail of the bill is available in the attached bill summary and fiscal note). He then moved that the PCS for his bill be given a favorable report. Following this explanation and motion, Chairman Miner recognized several groups in the audience to speak briefly on the bill. Mr. Berry Jenkins of the North Carolina GO Transportation Coalition, Ms. Betsy Bailey of the Public Transportation Association, and Ms. Christine Barbee with the Asphalt Pavement Association all spoke in opposition to the bill. Each stated that while the intention of the bill was good, the potential loss of funding to the Highway Trust funds would far outweigh the limited savings at the gas pump. The Chair also recognized Mr. Doug Hewey, Government Affairs Director with the North Carolina Petroleum Marketers Association, who spoke in support of the bill. Following these speakers, debate ensued among the members. Given the great debate on the bill, Chairman Miner then acted to refer the bill to a special subcommittee for further study. The Subcommittee is comprised of the following Committee members: Representative Carney (Chair), Representative McGee, Representative McComas, and Representative Ross.

As the final bill on the agenda, Chairman Miner called upon Representative Justice to explain **HB 1578 – PENDER RESCUE SERVICE FEE** (see **attachment 8**). Representative McComas moved that the PCS for HB 1578 be adopted for the purposes of discussion and that motion carried without objection. Representative Justice then reminded the members that this bill was first considered by the Committee at its June 8, 2004 meeting and was displaced to allow for the specific details of the bill to be worked out. (The bill summary is attached to these minutes and provides a detailed description of the bill.) She stated that the new PCS before the Committee provides a sunset in the bill of 3 years. Following some minimal questions from the members to the bill sponsor, the Chair recognized Representative McComas for a motion. Representative McComas moved that the PCS for HB 1578 be given a favorable report (with an unfavorable report as to the original bill). Chairman Miner then called the motion to a vote and the motion carried.

Having no further business before the Committee, Chairman Miner adjourned the meeting at 9:51 am.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1594 (and related materials)
4. House Bill 1354 (and related materials)
5. House Bill 1655 (and related materials)
6. Roll Call Vote on House Bill 1655 (**Failed**)
7. House Bill 1661 (and related materials) (**Referred to Special Subcommittee)**
8. House Bill 1578 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

June 17, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Miner

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1354 STRENGTHEN DOMESTIC VIOLENCE LAWS
Reps. McLawhorn & Sherrill

HB 1578 PENDER RESCUE SERVICE FEE *Rep. Justice*

HB 1594 ALARM SYSTEMS LICENSURE FEES *Rep. Haire*

HB 1655 INCENTIVE FOR HIGHER WAGES *Rep. Luebke*

HB 1661 CAP GAS TAX VARIABLE RATE *Reps. Decker & Pate*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 22, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1415 – ALTERNATIVE R&D TAX CREDIT
– Reps. Daughtridge & Wainwright

HB 1416 – EXTEND AND EXPAND JDIG – Reps. Daughtridge & Wainwright

HB 1609 – CORRECT STREAMLINED SALES TAX INEQUITY – Rep. Miner

HB 1760 – NO CREDIT FOR NET JOB LOSS – Rep. Luebke

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:25 a.m.** on **June 17, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lennie Collins	NC DOR
Mary Katherine Hackney	Intern - Rep. Hackney
Bee Weathington	NC Petroleum Council
Jeanne Miller	Exxon Mobil Corp.
Mark Deason	Capitol Group
Mitch Alford	OSBM
Mary Gurganis	NC Bar Assoc.
T Harrelson	Lobbyist
L Starcrost	DOT
Ronnie Bower	Family Violence Prevention Center of Orange County
Mercedes Bransfield	Family Violence Prevention Center of Orange County

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dwight Strickland	Pender County Commissioner
ANDY HEDRICK	PENDER COUNTY MANAGER
Eugene B Meadows	Pender County Commissioner
DON [illegible]	NDOC
[illegible]	CNCSR
Kit Gruelle	Cal. Comm on POST
BRAD JOHNSON	Chatham Co. Sheriff
John Mathews	Gov. Office
DONNA ALDERMAN	NCDOR
Monika Johnson Hostler	NCCASA
Kathy Hawkins	Progress Energy

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Crosby	UNC TV
Dave Ingram	WSJ
Andy Barnett	NCHA
Tim Minton	NC Home Builders
Max Hamilton	Jennifer Weiss Son
Mike Okun	NC State AFL-CIO
V L McBride	NCHA
Dale Simpson	CABC
Colleen Kochanek	Hafer & Caldwell, P.A.
Mark Fleming	University System
Rory Rogers	West

VISITOR REGISTRATION SHEET

House Finance — 6/17/04

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Johnny Lee	Peace @ Work
Will Pulk	NCDOJ
Beth Froehling	NCCADV
JOHN GUARD	Pitt Co. Sheriff's Office
Barry Bryant	Governor's Crime Commission
Cam Cover	BPMHL
BERRY JENKINS	CAROLINAS AGC
John Kuhn	NCFDC
Jim Blackburn	NC Association of County Commissioners
Carolyn Justice	Representative
Argie Harris	Maupin Taylor
[illegible]	CADA
Lou Wilson	NCALTCF
Doug Cassiter	NCSTA
Ken Melton	D.O.R.
Dexter Matthews	ENR - Waste Management

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1594

Short Title:	Alarm Systems Licensure Fees.	(Public)
Sponsors:	Representative Haire.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE ALARM SYSTEMS LICENSING BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE ALARM SYSTEMS LICENSING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74D-7(e) reads as rewritten:

"(e) The Board may charge fees as follows:

(1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars ($150.00).

(2) A new or renewal license fee in an amount not to exceed ~~three hundred fifty dollars ($350.00).~~ five hundred dollars ($500.00).

(3) A late license renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the license.

(4) A registration fee in an amount not to exceed ~~twenty dollars ($20.00)~~ fifty dollars ($50.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.

(5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars ($10.00).

(6) A branch office certificate fee not to exceed one hundred fifty dollars ($150.00).

(7) A fee not to exceed one hundred dollars ($100.00) for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.

All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purpose of defraying the expense of administering this Chapter."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1594:
Alarm Systems Licensure Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Haire
Date:	June 15, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1594 would authorize the Alarm Systems Licensing Board to raise two existing fees and to create a new fee under the Alarm Systems Licensing Act. The act would be effective when it becomes law.***

CURRENT LAW: The Alarm Systems Licensing Board is established within the Department of Justice and, along with the Private Protective Services Board, falls under the administration and oversight of the Private Protective Services Section of the Department. Although under the Department, the Private Protective Services Section receives no General Fund dollars and is supported by receipts received from the regulated industries of both boards.

The Alarm Systems Board currently has statutory authority to levy the following fees:

(1) A nonrefundable initial license application fee in an amount not to exceed one hundred fifty dollars ($150.00).
(2) A new or renewal license fee in an amount not to exceed three hundred fifty dollars ($350.00).
(3) A late license renewal fee to be paid in addition to the renewal fee due in an amount not to exceed one hundred dollars ($100.00), if the license has not been renewed on or before the expiration date of the license.
(4) A registration fee in an amount not to exceed twenty dollars ($20.00) plus any fees charged to the board for background checks by the State Bureau of Investigation.
(5) A fee for reregistration of an employee who changes employment to another licensee, not to exceed ten dollars ($10.00).
(6) A branch office certificate fee not to exceed one hundred fifty dollars ($150.00).

BILL ANALYSIS: House Bill 1594 makes the following changes with regard to fees charged by the Alarm Systems Licensing Board:

- **Increases the statutory maximum for a new or renewal license fee from $350 to $500.**

  A person must be licensed in order to engage in the alarm systems business in this State. The application process includes a criminal record check as well as a determination by the Board that the person has the necessary training, qualifications, and experience to be licensed. The applicant must also provide a certificate of liability insurance coverage. The Board has indicated that although it is seeking to raise the statutory cap, it has no plans to raise this fee at this time. However, the Board would like to have the authority to do so in the future if the need arises.

- **Increases the statutory maximum for the registration fee from $20 to $50.**

  All employees of a licensee must be registered with the Board. To register an employee, a licensee must submit a set of fingerprints, a recent photograph, and statements of any criminal records from each area where the employee has resided in the preceding 4 years. In 1992, G.S. 74D-8 was

amended to change the period of a registration permit from one to two years. The $20 registration fee, however, was not increased to coincide with the expanded registration period. The Board has indicated that it intends to increase this fee to $40.

- **Establishes a new fee not to exceed $100 for each reconsideration of a license or registration permit that has been filed or returned to the applicant for correctable errors.**

  The purpose of this new fee is to address the additional processing time required for applications that must be returned to applicants due to errors, omissions, missing documents, etc. According to the Board, they received approximately 4,800 "correctable" registration applications last year, 1,200 of which were alarm registration applications. Although this bill would set the maximum at $100, the Board is considering levying only a $25 fee for "correctable" registration applications and only a $50 fee for "correctable" license applications to help cover the staff costs for reviewing and processing applications for a second time.

BACKGROUND: The statutory maximums for these fees were last raised in 1992. This bill was introduced at the request of the Alarm Systems Licensing Board and is supported by the North Carolina Burglar and Fire Alarm Association.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1594 (First Edition)

SHORT TITLE: Alarm Systems Licensure Fees.

SPONSOR(S): Representative Haire

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:	**Private Protective Services Section (Special Fund)**				
	$97,500	**$97,500**	**$273,750**	**$273,750**	**$273,750**
EXPENDITURES:					
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Private Protective Services Section - Alarm Systems Licensing Board (Dept. of Justice)

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY:
Amends GS 74D-7(e) to increase new or renewal license fee to $500 (was, $350) and registration fee to $50 (was, $20). Enacts new GS 74D-7(e)(7) authorizing additional fee of up to $100 for reconsideration of license or registration permits returned due to correctable errors.
Source: Bill Digest H.B. 1594 (05/20/2004)

ASSUMPTIONS AND METHODOLOGY:
The Alarm Systems Licensing Board and the Private Protective Services Board fall under the administration and oversight of the Private Protective Services Section (PPS) of the Department of Justice. These Boards are supported entirely by receipts received from the industries they regulate. They share a joint operating budget with annual expenditures of approximately $1.4 million; each Board also has a separate Recovery Fund account.

In 2002, the Office of State Budget and Management transferred $200,000 from the operating budget of these Boards to the General Fund to help address the budget shortfall. In the past three years, average expenditures have exceeded average revenues – in FY 2002-03, expenditures exceeded revenue by $145,000. Average monthly expenditures were $121,047 this year, compared to average monthly revenues of $111,071. The Private Protective Services Board has increased its fees, which were not at the statutory maximums, to raise additional revenue. The

Alarm Services Licensure Board already charges the maximum fees in statute, and thus would require legislative authority to raise its fees.

In addition, the Alarm Board has identified what it believes to be an error in the General Statutes. In 1992, G.S. 74D was amended to change the period of a registration permit from one to two years. The registration fee was $20 by statute, and was not increased to coincide with the longer registration term. This legislation would authorize the Board to increase the registration fee up to $50. It is the Board's intention to increase the fee from $20 to $40, which is projected to generate an additional $140,000 over the two-year period, or an average of $70,000 per year (7,000 applications per two-year period). This amount, along with increases in Private Protective Services (PPS) fees that have already been implemented, is expected to bring revenue even with operating expenditures. If the Board increased the fee to $50, the average increase in revenue would be $105,000 per year.

This bill also includes an increase in the licensing fees from $350 to $500. The Board states that it has pledged to the Burglar & Fire Alarm Association that it will not implement any increases presently, and is requesting the authority to increase fees in case it needs to do so in the future. The Board receives approximately 850 applications over two years, so the fee increase, if implemented, would generate approximately $127,500 over two years, or an average of $63,750 per year.

The Bill also includes a "reconsideration fee" not to exceed $100. The Board requested this fee to address the issue of applications submitted that must be returned to the applicant due to errors, missing documents, or other reasons, and must then be processed by staff a second time. During the past year, there were 1,200 "correctable" Alarm registration applications. The Board has not made a final decision on what amount might be assessed, but is considering $25 for registration applications and $50 for license applications. The Board estimates that there will be approximately 1,000 registration returns and 50 license application returns per year. At the maximum proposed under this bill, the fee would generate approximately $105,000 per year. At the levels anticipated by the Board, the fees would generate approximately $27,500 per year.

Please note: The amounts in the box on page 1 assume the Board's planned or considered increases for the first two years, and the maximum allowable increases for the next three years.

SOURCES OF DATA: Department of Justice, Private Protective Services Section

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Chloe Gossage

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Fiscal Research Division

DATE: June 14, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1594 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE ALARM SYSTEMS LICENSING BOARD TO INCREASE CERTAIN FEES AND ESTABLISH A NEW FEE UNDER THE ALARM SYSTEMS LICENSING ACT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1354
PROPOSED COMMITTEE SUBSTITUTE H1354-CSSA-23 [v.3]

6/16/2004 3:55:02 PM

Short Title: Strengthen Domestic Violence Laws. (Public)

Sponsors:

Referred to:

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

PART I. DOMESTIC VIOLENCE OFFENDER TREATMENT

SECTION 1.1. G.S. 15A-1343 reads as rewritten:

"**§ 15A-1343. Conditions of probation.**

(a) In General. – The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.

(b) Regular Conditions. – As regular conditions of probation, a defendant must:

(1) Commit no criminal offense in any jurisdiction.

(2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.

(3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.

(4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).

(5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.

(6) Pay a supervision fee as specified in subsection (c1).

(7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.

(8) Notify the probation officer if he fails to obtain or retain satisfactory employment.

(9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).

(10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.

(11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.

(12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11).

(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15, 2002.

(2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Repealed by Session Laws 1997-57, s. 3.

(3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that

would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

~~(9a) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) the program is approved by the Domestic Violence Commission.~~

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

(1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).

(2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.

(3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.

(4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.

(5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless

the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.

(6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation.

(b3) Screening and Assessing for Chemical Dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) operated by the Department of Correction must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

(c) Statement of Conditions. – A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which he is being released. If any modification of the terms of that probation is subsequently made, he must be given a written statement setting forth the modifications.

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of thirty dollars ($30.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon written motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the factors set out in G.S. 15A-1340.35 and G.S. 15A-1340.36. As used herein, "reparation" shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein "aggrieved party" includes individuals, firms, corporations, associations, other organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered

only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.

(e) Costs of Court and Appointed Counsel. – Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The cost of appointed counsel or public defender services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount of those costs to be repaid and the method of payment.

(f) Repealed by Session Laws 1983, c. 561, s. 5.

(g) Probation Officer May Determine Payment Schedules. – If a person placed on supervised probation is required as a condition of that probation to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

SECTION 1.2. G.S. 143B-262 is amended by adding a new subsection to read:

"(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete a domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program."

SECTION 1.3. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART II. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT

SECTION 2.1. G.S. 17C-6(a)(2) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a

permanent position. The standards for entry level employment shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions."

SECTION 2.2. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.1 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

SECTION 2.3. G.S. 17C-6(a)(14) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions."

SECTION 2.4. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.3 of this part is available no later than March 1, 2005.

SECTION 2.5. G.S. 17C-6(a) is amended by adding a new subdivision to read:

"(15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (14) of this subsection."

SECTION 2.6. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.5 of this part are implemented no later than March 1, 2005.

SECTION 2.7. G.S. 17E-4(a)(2) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent ~~position;~~ position. The standards for entry level employment of officers shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term 'officers' shall include justice officers as defined in G.S. 17E-2(3)a.,

except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;".

SECTION 2.8. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.7 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than March 1, 2005.

SECTION 2.9. G.S. 17E-4(a)(10) reads as rewritten:

"(10) Enter into contracts incident to the administration of its authority pursuant to this ~~Chapter.~~Chapter;".

SECTION 2.10. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term 'justice officer' shall include those defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;".

SECTION 2.11. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.9 of this part is available no later than March 1, 2005.

SECTION 2.12. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (11) of this subsection."

SECTION 2.13. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.11 of this part are implemented no later than March 1, 2005.

SECTION 2.14. The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the General Assembly on or before March 1, 2005, on the exact standards implemented and the dates they were implemented.

SECTION 2.15. This part is effective when it becomes law.

PART III. STUDY OF ANTI-VIOLENCE EDUCATION IN SCHOOLS AND TRAINING FOR SCHOOL PERSONNEL

SECTION 3.1. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study the issue of anti-violence programs in the schools. In studying this issue, the Department shall answer the following:

(1) How are schools currently addressing anti-violence in their curriculum;
(2) How do current curriculums vary at each grade level, K-12;
(3) Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence;
(4) Should the State require every public school to have an anti-violence program of instruction incorporated into the curriculum;
(5) Should an anti-violence program be required at every grade level;
(6) What would be an appropriate curriculum for each grade level;
(7) What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence;
(8) Should the State implement a particular anti-violence curriculum or allow individual schools to choose an appropriate curriculum from an approved list; and
(9) What is the fiscal impact of implementing an anti-violence program for all schools, including additional staffing needs, if any.

In studying this issue, the Department shall examine some of the anti-violence programs that are in use throughout the country. In addition to any other specific programs examined, the Department shall review in detail the "Second Step" program developed by the Committee for Children.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than October 1, 2004, and a final report to the Joint Legislative Education Oversight Committee and the General Assembly on or before January 15, 2005.

SECTION 3.2. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence. In studying this issue, the Department shall answer the following:

(1) What type of training is currently available and/or required for school personnel.
(2) Should training be required for school personnel.
(3) If training should be required, which school personnel should be required to receive the training.
(4) What type of training should be required.
(5) What is the fiscal impact of requiring school personnel to receive such training.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than October 1, 2004, and a final report to the Joint Legislative

Education Oversight Committee and the General Assembly on or before January 15, 2005.

SECTION 3.3. This part is effective when it becomes law.

PART IV. LEGAL SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE

SECTION 4.1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"Article 37B.

"Domestic Violence Victim Assistance Act.

"**§ 7A-474.6. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for domestic violence victims in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through established legal services programs in this State.

"**§ 7A-474.7. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

(1) "Domestic violence victim" means a resident of North Carolina that has been subjected to acts of domestic violence as defined in G.S. 50B-1. A resident is not required to seek a protective order under Chapter 50B of the General Statutes to qualify as a domestic violence victim under this Article.

(2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.

(3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area.

"**§ 7A-474.8. Eligible activities and limitations.**

(a) Eligible Activities. – Funds appropriated under this Article shall be used only for the following purposes:

(1) To provide legal assistance to domestic violence victims;

(2) To provide education to domestic violence victims regarding their rights and duties under the law;

(3) To involve the private bar in the representation of domestic violence victims pursuant to this Article.

(b) Eligible Cases. – The funds shall be prioritized by each legal services program to serve the greatest number of eligible clients, with emphasis placed on representation of clients needing legal assistance with proceedings pursuant to Chapter 50B of the General Statutes. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

(1) Actions for protective orders issued pursuant to Chapter 50B of the General Statutes;

(2) Child custody and visitation issues; and

(3) Legal services which ensure the safety of the client and the client's children.

(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

(1) To provide legal assistance with respect to any criminal proceeding; or

(2) To provide legal assistance to any prisoner within the North Carolina Department of Correction with regard to the terms of that person's incarceration.

"**§ 7A-474.9. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, and Legal Aid Society of Northwest North Carolina receiving the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties. Funds shall be allocated to each program based on the counties served by that program using the following formula:

(1) Twenty percent (20%) based on a fixed equal dollar amount for each county;

(2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs.

"**§ 7A-474.10. Records and reports.**

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the General Assembly on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the General Assembly shall be made by January 15 of each year beginning January 15, 2006."

SECTION 4.2. G.S. 84-4.1 reads as rewritten:

"**§ 84-4.1. Limited practice of out-of-state attorneys.**

(a) Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of that state and in good standing therein, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the litigation. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

(1) The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.

(2) A statement, signed by the client, setting forth the client's address and declaring that the client has retained the attorney to represent the client in the proceeding.

(3) A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until the final determination thereof, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.

(4) A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing.

(5) A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.

(6) A statement accurately disclosing a record of all that attorney's disciplinary history. Discipline shall include (i) public discipline by any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.

(7) A fee in the amount of one hundred dollars ($100.00).

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application.

(b) Fees collected under this section shall be remitted to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9."

SECTION 4.3. Section 4.1 of this part is effective when it becomes law. Section 4.2 of this part becomes effective July 1, 2004, and applies to all motions filed on or after that date. The remainder of this part is effective when it becomes law.

PART V. ADDITIONAL FUNDING FOR VICTIM SERVICES

SECTION 5.1. There is appropriated from the General Fund to the Department of Administration, to be credited to the Domestic Violence Center Fund established under G.S. 50B-9, the sum of two million dollars ($2,000,000) for the 2004-2005 fiscal year. It is the intent of the General Assembly that this become a recurring appropriation.

SECTION 5.2. This part becomes effective July 1, 2004.

PART VI. DOMESTIC VIOLENCE ADVOCATES ON CHILD FATALITY TASK FORCE

SECTION 6.1. G.S. 7B-1402 reads as rewritten:

"**§ 7B-1402. Task Force – creation; membership; vacancies.**

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

(1) The Chief Medical Examiner;
(2) The Attorney General;
(3) The Director of the Division of Social Services;
(4) The Director of the State Bureau of Investigation;
(5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
(6) The Director of the Governor's Youth Advocacy and Involvement Office;
(7) The Superintendent of Public Instruction;
(8) The Chairman of the State Board of Education;
(9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
(10) The Secretary of the Department of Health and Human Services;
(11) The Director of the Administrative Office of the Courts;
(12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
(13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;

(14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;

(15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;

(16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;

(17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;

(18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;

(18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;

(19) ~~Two public members,~~One public member, appointed by the Speaker of the House of Representatives;

(20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;

(21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;

(22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;

(22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;

(23) ~~Two public members,~~One public member, appointed by the President Pro Tempore of the Senate; and

(24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in

the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

SECTION 6.2. The public members serving on the Child Fatality Task Force on the effective date of this act shall complete their current terms. The new appointments contained in Section 1 of this act shall take effect at the end of those terms.

SECTION 6.3. This part is effective when it becomes law.

PART VII. STUDY OF MENTAL HEALTH SERVICES FOR DOMESTIC VIOLENCE VICTIMS

SECTION 7.1. The Department of Health and Human Services shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The plan will address providing diagnostic and referral services for any client suspected of having a mental illness or a substance abuse problem. The plan will also address the delivery of appropriate services to clients meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102. Services must be best practices, as determined by the Department. The Department will consult various stakeholders in the domestic violence network of organizations. The Department will also consider the delivery of services to children identified through domestic violence programs. The Department shall also consider the fiscal impact, if any, of implementing the plan developed pursuant to this study.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services no later than October 1, 2004, and a final report to the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services and the General Assembly on or before January 15, 2005.

SECTION 7.2. This part is effective when it becomes law.

PART VIII. STUDY OF CLE CREDIT FOR PRO BONO LEGAL REPRESENTATION

SECTION 8.1. The North Carolina State Bar, in cooperation with the North Carolina Bar Association, shall study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar shall consider what types of pro bono legal representation, if any, should qualify for CLE credit and what administrative requirements would be necessary to provide such credit. The Bar shall specifically look at the possible benefits of providing CLE credit for pro bono legal representation to domestic violence victims. The Bar shall also consider the fiscal impact, if any, of providing the credit.

The Bar shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 8.2. This part is effective when it becomes law.

PART IX. DOMESTIC RELATIONSHIP AGGRAVATING FACTOR

SECTION 9.1. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.

(3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(4) The defendant was hired or paid to commit the offense.

(5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

(7) The offense was especially heinous, atrocious, or cruel.

(8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.

(10) The defendant was armed with or used a deadly weapon at the time of the crime.

(11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.

(12) The defendant committed the offense while on pretrial release on another charge.

(13) The defendant involved a person under the age of 16 in the commission of the crime.

(14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.

(15) The defendant took advantage of a position of trust or ~~confidence~~ confidence, including a domestic relationship, to commit the offense.
(16) The offense involved the sale or delivery of a controlled substance to a minor.
(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
(18) The defendant does not support the defendant's family.
(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
(19) The serious injury inflicted upon the victim is permanent and debilitating.
(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

SECTION 9.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART X. CREATE STRANGULATION OFFENSE

SECTION 10.1. G.S. 14-32.4 reads as rewritten:

"**§ 14-32.4. Assault inflicting serious bodily ~~injury.~~injury; strangulation; penalties.**

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony."

SECTION 10.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XI. AMEND HABITUAL MISDEMEANOR ASSAULT STATUTE

SECTION 11.1. G.S. 14-33.2 reads as rewritten:

"**§ 14-33.2. Habitual misdemeanor assault.**

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of ~~G.S. 14-33(c) or G.S. 14-34~~G.S. 14-33 and causes physical

injury, or G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault. ~~been convicted of five or more prior misdemeanor convictions, two of which were assaults.~~ A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony."

SECTION 11.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

PART XII. DOMESTIC VIOLENCE OFFENSE TRACKING

SECTION 12.1. Article 86 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1382.1. Reports of disposition; domestic violence; sentencing.**

(a) When a defendant is found guilty of an offense involving assault, or communicating a threat, the presiding judge shall determine whether the defendant and victim had a personal relationship. If the judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The clerk of court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

(b) If the presiding judge determines that there was a personal relationship between the defendant and the victim, and a sentence to community punishment is imposed, the judge shall determine whether the defendant shall comply with one or more of the special conditions of probation set forth at G.S. 15A-1343(b1), in addition to any other authorized punishment. Notwithstanding the provisions of G.S. 15A-1340.11(6)c., the court may require the defendant to comply with the provisions of G.S. 15A-1343(b1)(3c).

(c) The following definitions apply to this section:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.

(3) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals."

SECTION 12.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART XIII. AMEND PROBATION RULES

SECTION 13.1. G.S. 15A-1343.2 reads as rewritten:

"**§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

(b) Purposes of Probation for Community and Intermediate Punishments. – The Department of Correction shall develop a plan to handle offenders sentenced to community and intermediate punishments. The probation program designed to handle these offenders shall have the following principal purposes: to hold offenders accountable for making restitution, to ensure compliance with the court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment or education programs, and to protect the public safety.

(c) Probation Caseload Goals. – It is the goal of the General Assembly that, subject to the availability of funds, caseloads for probation officers supervising persons sentenced to community punishment should not exceed an average of 90 offenders per officer, and caseloads for offenders sentenced to intermediate punishments should not exceed an average of 60 offenders per officer by July 1, 1998.

(d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court makes specific findings that longer or shorter periods of probation are necessary, the length of the original period of probation for offenders sentenced under Article 81B shall be as follows:

(1) For misdemeanants sentenced to community punishment, not less than six nor more than 18 months;

(2) For misdemeanants sentenced to intermediate punishment, not less than 12 nor more than 24 months;

(3) For felons sentenced to community punishment, not less than 12 nor more than 30 months; and

(4) For felons sentenced to intermediate punishment, not less than 18 nor more than 36 months.

If the court finds at the time of sentencing that a longer period of probation is necessary, that period may not exceed a maximum of five years, as specified in G.S. 15A-1342 and G.S. 15A-1351.

Extension. – The court may with the consent of the offender extend the original period of the probation if necessary to complete a program of restitution or to complete medical or psychiatric treatment ordered as a condition of probation. This extension may be for no more than three years, and may only be ordered in the last six months of the original period of probation.

(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of Community Corrections in the Department of Correction may require an offender sentenced to community punishment to any of the following:

(1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this ~~supervision;~~supervision.

(2) Report to the offender's probation officer on a frequency to be determined by the ~~officer; or~~officer.

(3) Submit to substance abuse assessment, monitoring or treatment.

(4) Submit to a curfew that requires the offender to remain in a specified place for a specified period each day and wear a device that permits

the offender's compliance with the condition to be monitored electronically.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of Community Corrections in the Department of Correction may require an offender sentenced to intermediate punishment to any of the following:

(1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this ~~supervision;~~supervision.

(2) Submit to a curfew ~~which~~ that requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored ~~electronically;~~electronically.

(3) Submit to substance abuse assessment, monitoring or ~~treatment;~~ ~~or~~treatment.

(4) Participate in an educational or vocational skills development program.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated to him or her by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 19, s. 3.

(h) Definitions. – For purposes of this section, the definitions in G.S. 15A-1340.11 apply."

SECTION 13.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XIV. STUDY OF MISDEMEANOR OFFENSE CLASSIFICATIONS

SECTION 14.1. The General Assembly finds that the North Carolina Sentencing and Policy Advisory Commission has adopted formal criteria for classifying felony offenses. The Sentencing Commission has identified three general types of harms: harms to persons (including both physical and mental injury); harms to property; and (3) harms to society. The degrees of harm are divided into three levels:

(1) Injury to person, property, or society;

(2) Significant injury to person, property, or society, and

(3) Serious injury to person, property, or society. The stated purpose of establishing the criteria was "to create a rational and consistent philosophical basis for classifying offenses; to assure proportionality in severity; and to provide a guidepost for classifying new crimes in the future."

In contrast to the felony classification criteria, the Commission did not create classification criteria for misdemeanors. However, the current misdemeanor sentencing laws include an assault offense that has serious injury as an element – even though "serious injury to a person" is a category of harm for felony offense classification. The General Assembly finds that the classification of assault offenses that involve serious injury as misdemeanors is inconsistent with the Sentencing Commission's classification of felonies based on harm.

The North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of the General Statutes, shall study the classification of misdemeanor offenses. In particular, the Commission shall examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. The Commission shall develop a system for classifying misdemeanor offenses on the basis of their severity. The Commission may consider reclassifying existing offenses and creating new offenses in order to insure proportionality and consistency. The Commission shall report its findings and recommendations to the 2005 General Assembly, 2005 Regular Session. The report shall describe the status of the Commission's work, and shall include any completed policy recommendations and proposed legislation. The Commission shall make a final report to the 2005 General Assembly, 2006 Regular Session.

SECTION 14.2. This part is effective when it becomes law.

PART XV. WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL RELEASE CONDITIONS

SECTION 15.1. G.S. 15A-401 reads as rewritten:

"**§ 15A-401. Arrest by law-enforcement officer.**

(a) Arrest by Officer Pursuant to a Warrant. –

(1) Warrant in Possession of Officer. – An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.

(2) Warrant Not in Possession of Officer. – An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.

(b) Arrest by Officer Without a Warrant. –

(1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.

(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or

d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; ~~or~~

e. Has committed a misdemeanor under ~~G.S. 50B-4.1(a).~~G.S. 50B-4.1(a); or

f. Has violated a pretrial release order entered under G.S. 15A-534.1(a)(2).

(3) Repealed by Session Laws 1991, c. 150.

(4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.

(c) How Arrest Made. –

(1) An arrest is complete when:

a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or

b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.

(2) Upon making an arrest, a law-enforcement officer must:

a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,

b. Inform the arrested person that he is under arrest, and

c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

(d) Use of Force in Arrest. –

(1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:
a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or
b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:
a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;
b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or
c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force. –

(1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:
a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,
b. The officer has reasonable cause to believe the person to be arrested is present, and
c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there

is reasonable cause to believe that the giving of such notice would present a clear danger to human life.

(2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.

(f) Use of Deadly Weapon or Deadly Force to Resist Arrest. –

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the officer is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article."

SECTION 15.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XVI. CONFORM STATE FIREARMS LAW TO FEDERAL LAW

SECTION 16.1. G.S. 14-415.1 reads as rewritten:

"**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any ~~handgun or other firearm~~ firearm~~with a barrel length of less than 18 inches or an overall length of less than 26 inches.~~ or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer.

Every person violating the provisions of this section shall be punished as a Class G felon.

~~Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.~~

(b) Prior convictions which cause disentitlement under this section shall only include:

(1) Felony convictions in North Carolina that occur before, on, or after December 1, 1995; and

(2) Repealed by Session Laws 1995, c. 487, s. 3.

(3) Violations of criminal laws of other states or of the United States that occur before, on, or after December 1, 1995, and that are substantially

similar to the crimes covered in subdivision (1) which are punishable where committed by imprisonment for a term exceeding one year.

When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is permissible, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified to a superior court of this State from the custodian of records of any state or federal court shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type of offense and the penalty therefore, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein."

SECTION 16.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

PART XVII. SPECIFICALLY ALLOW CROSS WARRANTS

SECTION 17.1. G.S. 15A-304 reads as rewritten:

"**§ 15A-304. Warrant for arrest.**

(a) Definition. – A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) When Issued. – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(c) Statement of the Crime. – The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe

that a crime has been committed and that the person to be arrested committed it. The information must be shown by one or more of the following:

(1) Affidavit;

(2) Oral testimony under oath or affirmation before the issuing official; or

(3) Oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other. Prior to the use of audio and video transmission pursuant to this subdivision, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge and the chief district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

If the information is insufficient to show probable cause, the warrant may not be issued. A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

(e) Order for Arrest. – The order for arrest must direct that a law-enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) Who May Issue. – A warrant for arrest, valid throughout the State, may be issued by:

(1) A Justice of the Supreme Court.

(2) A judge of the Court of Appeals.

(3) A judge of the superior court.

(4) A judge of the district court, as provided in G.S. 7A-291.

(5) A clerk, as provided in G.S. 7A-180 and 7A-181.

(6) A magistrate, as provided in G.S. 7A-273."

SECTION 17.2. This part is effective when it becomes law.

PART XVIII. CLARIFY NURSE'S PRIVILEGE

SECTION 18.1. G.S. 8-53.13 reads as rewritten:

"**§ 8-53.13. Nurse privilege.**

No person licensed pursuant to Article 9A of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional nursing services, and which information was necessary to enable that person to render professional nursing services, except that the presiding judge of a superior or district court may compel disclosure if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule. Nothing in this section shall preclude the admission of otherwise admissible written or printed medical records in any judicial proceeding."

SECTION 18.2. G.S. 8-53.1 reads as rewritten:

"**§ 8-53.1. Physician-patient and nurse privilege waived in child abuse.**

Notwithstanding the provisions of G.S. ~~8-53,~~ 8-53 and G.S. 8-53.13, the physician-patient, or nurse privilege shall not be a ground for excluding evidence

regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina."

SECTION 18.3. This part becomes effective December 1, 2004.

PART XIX. TEMPORARY CHILD CUSTODY IN DOMESTIC VIOLENCE HEARINGS

SECTION 19.1. G.S. 50-13.2(b) reads as rewritten:

"(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic ~~violence.~~violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2), and (3). ~~Such orders may include a designation of time and place for the exchange of children away from the abused party, the participation of a third party, or supervised visitation.~~ If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child."

SECTION 19.2. G.S. 50B-2 reads as rewritten:

"**§ 50B-2. Institution of civil action; motion for emergency relief; temporary ~~orders.~~ orders; temporary custody.**

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the

summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is in the best interests of the minor child and is necessary for the safety of the minor child. If the court determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the

aggrieved party or a minor child, the magistrate may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the magistrate finds that the order is in the best interests of the minor child and is necessary for the safety of the minor child. If the magistrate determines that it is in the best interest of the minor child for the other party to have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody ~~to~~ pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The Clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 19.3. G.S. 50B-3(a)(4) reads as rewritten:

"**§ 50B-3. Relief.**

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order to bring about a cessation of acts of domestic violence. The orders may:

...

(4) Award temporary custody of minor children and establish temporary visitation ~~rights;~~rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process;"

..."

SECTION 19.4. G.S. 50B-3 is amended by adding the following new subsection to read:

"(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

(1) In awarding custody or visitation rights, the court shall base its decision on the best interests of the minor child with particular consideration given to the safety of the minor child.

(2) For purposes of determining custody and visitation issues, the court shall consider:

a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.

b. Whether the minor child was present during acts of domestic violence.

c. Whether a weapon was used or threatened to be used during any act of domestic violence.

d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.

e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.

f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.

g. Whether there is a pattern of abuse against an aggrieved party or the minor child.

h. Whether a party has abused or endangered the minor child during visitation.

i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.

j. Whether a party has improperly concealed or detained the minor child.

k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.

(3) If the court awards custody, the court shall also consider whether visitation is in the best interest of the minor child. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:

a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.

b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.

c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.

d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.

e. Ordering the noncustodial parent to pay the costs of supervised visitation.

f. Prohibiting overnight visitation.

g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.

h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.

i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter."

SECTION 19.5. G.S. 50B-3(b) reads as rewritten:

"(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed one year, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current ~~order.~~order: provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered, including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved."

SECTION 19.6. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XX. PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST DOMESTIC VIOLENCE VICTIMS

SECTION 20.1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"**§ 50B-5.5. Employment discrimination unlawful.**

No employer may discharge, demote, or deny a promotion or other benefit of employment to any employee for taking reasonable time off from work to obtain or attempt to obtain any relief provided by this Chapter. The employee shall notify the employer of the reason for taking time off at the time the request is made, and if practicable, shall make the request and state the reason in writing. If requested by the employer, the employee shall also provide documentation to the employer of the reason for taking time off. Documentation may include a copy of a protective order or other evidence that the employee has appeared in court. The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to that Article."

SECTION 20.2. G.S. 95-241(a) reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following:

(1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
   a. Chapter 97 of the General Statutes.
   b. Article 2A or Article 16 of this Chapter.
   c. Article 2A of Chapter 74 of the General Statutes.
   d. G.S. 95-28.1.
   e. Article 16 of Chapter 127A of the General Statutes.
   f. G.S. 95-28.1A.

(2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.

(3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes.

(4) Comply with the provisions of Article 27 of Chapter 7B of the General Statutes.

(5) Seek relief under Chapter 50B of the General Statutes."

SECTION 20.3. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XXI. PRIVACY FOR 50B INTAKE

SECTION 21.1. G.S. 50B-2(d) reads as rewritten:

"(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms ~~which~~ that are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. The ~~Clerk~~ clerk shall

provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 21.2. This part is effective when it becomes law.

PART XXII. TRAINING FOR JUDGES AND COURT PERSONNEL

SECTION 22.1. The North Carolina Supreme Court is respectfully requested to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

SECTION 22.2. The Administrative Office of the Courts shall study the issue of training for court personnel in the area of domestic violence. The study shall examine the following:

(1) The extent to which training is currently being done.

(2) The need for additional training.

(3) The amount and types of training that would be most appropriate.

(4) The potential costs and sources of funding for any additional training.

The Administrative Office of the Courts shall report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

SECTION 22.3. This part is effective when it becomes law.

PART XXIII. EFFECTIVE DATE

SECTION 23.1. Except as otherwise provided in this act, this act is effective when it becomes law.

HOUSE BILL 1354

Short Title:	Strengthen Domestic Violence Laws.	(Public)
Sponsors:	Representatives McLawhorn, Sherrill (Primary Sponsors); Adams, Alexander, L. Allen, Bordsen, Bowie, Carney, Coates, Crawford, Cunningham, Dickson, Farmer-Butterfield, Fisher, Frye, Gibson, Glazier, Goforth, Howard, Insko, Jeffus, Justice, Luebke, McAllister, Moore, Parmon, Pate, Rapp, Rayfield, Ross, Stam, Stiller, Wainwright, Warren, Weiss, and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

PART I. DOMESTIC VIOLENCE OFFENDER TREATMENT

SECTION 1.1. G.S. 15A-1343 reads as rewritten:

"**§ 15A-1343. Conditions of probation.**

(a) In General. – The court may impose conditions of probation reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so.

(b) Regular Conditions. – As regular conditions of probation, a defendant must:

(1) Commit no criminal offense in any jurisdiction.

(2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.

(3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.

(4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).

(5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.
(6) Pay a supervision fee as specified in subsection (c1).
(7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.
(8) Notify the probation officer if he fails to obtain or retain satisfactory employment.
(9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).
(10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.
(11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.
(12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11).

(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15, 2002.

(2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Repealed by Session Laws 1997-57, s. 3.

(3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

(7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises

while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

~~(9a) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) the program is approved by the Domestic Violence Commission.~~

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

(1) Register as required by G.S. 14-208.7 if the offense is a reportable conviction as defined by G.S. 14-208.6(4).

(2) Participate in such evaluation and treatment as is necessary to complete a prescribed course of psychiatric, psychological, or other rehabilitative treatment as ordered by the court.

(3) Not communicate with, be in the presence of, or found in or on the premises of the victim of the offense.

(4) Not reside in a household with any minor child if the offense is one in which there is evidence of sexual abuse of a minor.

(5) Not reside in a household with any minor child if the offense is one in which there is evidence of physical or mental abuse of a minor, unless the court expressly finds that it is unlikely that the defendant's harmful or abusive conduct will recur and that it would be in the minor child's best interest to allow the probationer to reside in the same household with a minor child.

(6) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation.

Defendants subject to the provisions of this subsection shall not be placed on unsupervised probation.

(b3) Screening and Assessing for Chemical Dependency. – A defendant ordered to submit to a period of residential treatment in the Drug Alcohol Recovery Treatment program (DART) operated by the Department of Correction must undergo a screening to determine chemical dependency. If the screening indicates the defendant is chemically dependent, the court shall order an assessment to determine the appropriate level of treatment. The assessment may be conducted either before or after the court imposes the condition, but participation in the program shall be based on the results of the assessment.

(c) Statement of Conditions. – A defendant released on supervised probation must be given a written statement explicitly setting forth the conditions on which he is being released. If any modification of the terms of that probation is subsequently made, he must be given a written statement setting forth the modifications.

(c1) Supervision Fee. – Any person placed on supervised probation pursuant to subsection (a) of this section shall pay a supervision fee of thirty dollars ($30.00) per month, unless exempted by the court. The court may exempt a person from paying the fee only for good cause and upon written motion of the person placed on supervised probation. No person shall be required to pay more than one supervision fee per month. The court may require that the fee be paid in advance or in a lump sum or sums, and a probation officer may require payment by such methods if he is authorized by subsection (g) to determine the payment schedule. Supervision fees must be paid to the clerk of court for the county in which the judgment was entered or the deferred prosecution agreement was filed. Fees collected under this subsection shall be transmitted to the State for deposit into the State's General Fund.

(d) Restitution as a Condition of Probation. – As a condition of probation, a defendant may be required to make restitution or reparation to an aggrieved party or parties who shall be named by the court for the damage or loss caused by the defendant arising out of the offense or offenses committed by the defendant. When restitution or reparation is a condition imposed, the court shall take into consideration the factors set out in G.S. 15A-1340.35 and G.S. 15A-1340.36. As used herein, "reparation" shall include but not be limited to the performing of community services, volunteer work, or doing such other acts or things as shall aid the defendant in his rehabilitation. As used herein "aggrieved party" includes individuals, firms, corporations, associations, other

organizations, and government agencies, whether federal, State or local, including the Crime Victims Compensation Fund established by G.S. 15B-23. A government agency may benefit by way of reparation even though the agency was not a party to the crime provided that when reparation is ordered, community service work shall be rendered only after approval has been granted by the owner or person in charge of the property or premises where the work will be done.

(e) Costs of Court and Appointed Counsel. – Unless the court finds there are extenuating circumstances, any person placed upon supervised or unsupervised probation under the terms set forth by the court shall, as a condition of probation, be required to pay all court costs and costs for appointed counsel or public defender in the case in which he was convicted. The cost of appointed counsel or public defender services shall be determined in accordance with rules adopted by the Office of Indigent Defense Services. The court shall determine the amount of those costs to be repaid and the method of payment.

(f) Repealed by Session Laws 1983, c. 561, s. 5.

(g) Probation Officer May Determine Payment Schedules. – If a person placed on supervised probation is required as a condition of that probation to pay any moneys to the clerk of superior court, the court may delegate to a probation officer the responsibility to determine the payment schedule. The court may also authorize the probation officer to transfer the person to unsupervised probation after all the moneys are paid to the clerk. If the probation officer transfers a person to unsupervised probation, he must notify the clerk of that action."

SECTION 1.2. G.S. 143B-262 is amended by adding a new subsection to read:

"(e) The Department, in consultation with the Domestic Violence Commission, and in accordance with established best practices, shall establish a domestic violence treatment program for offenders sentenced to a term of imprisonment in the custody of the Department and whose official record includes a finding by the court that the offender committed acts of domestic violence.

The Department shall ensure that inmates, whose record includes a finding by the court that the offender committed acts of domestic violence, complete the domestic violence treatment program prior to the completion of the period of incarceration, unless other requirements, deemed critical by the Department, prevent program completion. In the event an inmate does not complete the program during the period of incarceration, the Department shall document, in the inmate's official record, specific reasons why that particular inmate did not or was not able to complete the program."

SECTION 1.3. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART II. DOMESTIC VIOLENCE TRAINING FOR LAW ENFORCEMENT

SECTION 2.1. G.S. 17C-6(a)(2) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include at least 16 hours of education and training in response to, and investigation of, domestic violence cases. The training shall include investigation for evidence based prosecutions."

SECTION 2.2. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.1 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than January 1, 2005.

SECTION 2.3. G.S. 17C-6(a)(14) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include a minimum of two hours, every two years, of training in response to, and investigation of, domestic violence cases. The training shall include investigation for evidence based prosecutions."

SECTION 2.4. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.3 of this part is available no later than January 1, 2005. Criminal Justice Officers already certified prior to January 1, 2005, shall have until December 31, 2006, to complete the initial requirement for domestic violence in-service training required by Section 2.3 of this part.

SECTION 2.5. G.S. 17C-6(a) is amended by adding a new subdivision to read:

"(15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (14) of this subsection."

SECTION 2.6. The North Carolina Criminal Justice Education and Training Standards Commission shall ensure that the standards and training required for certification under Section 2.5 of this part are implemented no later than January 1, 2005.

SECTION 2.7. G.S. 17E-4(a)(2) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent ~~position;~~ position. The standards for entry level employment of officers shall include at least 16 hours of training in response to, and investigation of, domestic violence cases. The training shall include investigation for evidence based prosecutions. For purposes of the domestic violence training requirement, the term 'officers' shall include justice officers as defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;".

SECTION 2.8. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence education and training required by Section 2.7 of this part is incorporated into all Basic Law Enforcement Training (BLET) courses as soon as practicable. However, the domestic violence education and training shall be part of the required BLET curriculum no later than January 1, 2005.

SECTION 2.9. G.S. 17E-4(a)(10) reads as rewritten:

"(10) Enter into contracts incident to the administration of its authority pursuant to this ~~Chapter.~~Chapter;".

SECTION 2.10. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include a minimum of two hours, every two years, of training in response to, and investigation of, domestic violence cases. The training shall include investigation for evidence based prosecutions. For purposes of the domestic violence training requirement, the term 'justice officer' shall include those defined in G.S. 17E-2(3)a., except that the term shall not include 'special deputy sheriffs' as defined in G.S. 17E-2(3)a.;".

SECTION 2.11. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the domestic violence in-service training required by Section 2.9 of this part is available no later than January 1, 2005. Justice Officers already certified prior to January 1, 2005, shall have until December 31, 2006 to complete the initial requirement for domestic violence in-service training required by Section 2.9 of this part.

SECTION 2.12. G.S. 17E-4(a) is amended by adding a new subdivision to read:

"(12) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (11) of this subsection."

SECTION 2.13. The North Carolina Sheriffs' Education and Training Standards Commission shall ensure that the standards and training required for

certification under Section 2.11 of this part are implemented no later than January 1, 2005.

SECTION 2.14. This part is effective when it becomes law.

PART III. STUDY OF ANTI-VIOLENCE EDUCATION IN SCHOOLS AND TRAINING FOR SCHOOL PERSONNEL

SECTION 3.1. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study the issue of anti-violence programs in the schools. In studying this issue, the Department shall answer the following:

(1) How are schools currently addressing anti-violence in their curriculum;
(2) How do current curriculums vary at each grade level, K-12;
(3) Do currently used curriculums address physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence;
(4) Should the State require every public school to have an anti-violence program of instruction incorporated into the curriculum;
(5) Should an anti-violence program be required at every grade level;
(6) What would be an appropriate curriculum for each grade level;
(7) What minimum requirements should be present in an appropriate curriculum to ensure that the curriculum addresses physical violence, mental or verbal abuse, and domestic and relationship violence;
(8) Should the State implement a particular anti-violence curriculum or allow individual schools to choose an appropriate curriculum from an approved list;
(9) What is the fiscal impact of implementing an anti-violence program for all schools, including additional staffing needs, if any.

In studying this issue, the Department shall examine some of the anti-violence programs that are in use through out the country. In addition to any other specific programs examined, the Department shall review in detail the "Second Step" program developed by the Committee for Children.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 3.2. The North Carolina Department of Public Instruction, in collaboration with the State Board of Education, shall study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic violence and relationship violence. In studying this issue, the Department shall answer the following:

(1) What type of training is currently available and/or required for school personnel.
(2) Should training be required for school personnel.

(3) If training should be required, which school personnel should be required to receive the training.
(4) What type of training should be required.
(5) What is the fiscal impact of requiring school personnel to receive such training.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and to the Joint Legislative Education Oversight Committee no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 3.3. This part is effective when it becomes law.

PART IV. LEGAL SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE

SECTION 4.1. Chapter 7A of the General Statutes is amended by adding a new Article to read:

"Article 37B.

"Domestic Violence Victim Assistance Act.

"**§ 7A-474.6. Legislative findings and purpose.**

The General Assembly of North Carolina declares it to be its purpose to provide access to legal representation for domestic violence victims in certain kinds of civil matters. The General Assembly finds that such representation can best be provided in an efficient, effective, and economic manner through established legal services programs in this State.

"**§ 7A-474.7. Definitions.**

The following definitions shall apply throughout this Article, unless the context otherwise requires:

(1) "Domestic violence victim" means a resident of North Carolina that has been subjected to acts of domestic violence as defined in G.S. 50B-1. A resident is not required to seek a protective order under Chapter 50B of the General Statutes to qualify as a domestic violence victim under this Article.

(2) "Legal assistance" means the provision of any legal services, as defined by Chapter 84 of the General Statutes, consistent with this Article. Provided, that all legal services provided hereunder shall be performed consistently with the Rules of Professional Conduct promulgated by the North Carolina State Bar. Provided, further, that no funds appropriated under this Article shall be used for lobbying to influence the passage or defeat of any legislation before any municipal, county, state, or national legislative body.

(3) "Established legal services program" means the following not-for-profit corporations using State funds to serve the counties listed: Legal Aid Society of Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties; Pisgah Legal Services, serving Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties; and Legal Aid of North Carolina; or any successor entity or entities of the named organizations, or, should any

of the named organizations dissolve, the entity or entities providing substantially the same services in substantially the same service area.

"**§ 7A-474.8. Eligible activities and limitations.**

(a) Eligible Activities. – Funds appropriated under this Article shall be used only for the following purposes:

(1) To provide legal assistance to domestic violence victims;

(2) To provide education to domestic violence victims regarding their rights and duties under the law;

(3) To involve the private bar in the representation of domestic violence victims pursuant to this Article.

(b) Eligible Cases. – The funds shall be prioritized by each legal services program to serve the greatest number of eligible clients, with emphasis placed on representation of clients needing legal assistance with proceedings pursuant to Chapter 50B of the General Statutes. Legal assistance shall be provided to eligible clients under this Article only in the following types of cases:

(1) Actions for protective orders issued pursuant to Chapter 50B of the General Statutes;

(2) Child custody and visitation issues; and

(3) Legal services which ensure the safety of the client and the client's children.

(c) Limitations. – No funds appropriated under this Article shall be used for any of the following purposes:

(1) To provide legal assistance with respect to any criminal proceeding; or

(2) To provide legal assistance to any prisoner within the North Carolina Department of Correction with regard to the terms of that person's incarceration.

"**§ 7A-474.9. Funds.**

Funds to provide representation pursuant to this Article shall be provided to the North Carolina State Bar for provision of direct services by and support of the established legal services programs. The North Carolina State Bar shall allocate these funds directly to each of the established legal services programs with Pisgah Legal Services receiving the allocation for Buncombe, Henderson, Madison, Polk, Rutherford, and Transylvania Counties, and Legal Aid Society of Northwest North Carolina receiving the allocation for Davie, Forsyth, Iredell, Stokes, Surry, and Yadkin Counties. Funds shall be allocated to each program based on the counties served by that program using the following formula:

(1) Twenty percent (20%) based on a fixed equal dollar amount for each county;

(2) Eighty percent (80%) based on the rate of civil actions filed pursuant to Chapter 50B of the General Statutes in that county.

The North Carolina State Bar shall not use any of these funds for its administrative costs.

"**§ 7A-474.10. Records and reports.**

The established legal services programs shall keep appropriate records and make periodic reports, as requested, to the North Carolina State Bar. The North Carolina State Bar shall report annually to the General Assembly on the amount of the funds disbursed and the use of the funds by each legal services program receiving funds. The report to the General Assembly shall be made by January 15 of each year beginning January 15, 2006."

SECTION 4.2. G.S. 84-4.1 reads as rewritten:

"**§ 84-4.1. Limited practice of out-of-state attorneys.**

(a) Any attorney domiciled in another state, and regularly admitted to practice in the courts of record of that state and in good standing therein, having been retained as attorney for a party to any civil or criminal legal proceeding pending in the General Court of Justice of North Carolina, the North Carolina Utilities Commission, the North Carolina Industrial Commission, the Office of Administrative Hearings of North Carolina, or any administrative agency, may, on motion, be admitted to practice in that forum for the sole purpose of appearing for a client in the litigation. The motion required under this section shall be signed by the attorney and shall contain or be accompanied by:

(1) The attorney's full name, post-office address, bar membership number, and status as a practicing attorney in another state.

(2) A statement, signed by the client, setting forth the client's address and declaring that the client has retained the attorney to represent the client in the proceeding.

(3) A statement that unless permitted to withdraw sooner by order of the court, the attorney will continue to represent the client in the proceeding until the final determination thereof, and that with reference to all matters incident to the proceeding, the attorney agrees to be subject to the orders and amenable to the disciplinary action and the civil jurisdiction of the General Court of Justice and the North Carolina State Bar in all respects as if the attorney were a regularly admitted and licensed member of the Bar of North Carolina in good standing.

(4) A statement that the state in which the attorney is regularly admitted to practice grants like privileges to members of the Bar of North Carolina in good standing.

(5) A statement to the effect that the attorney has associated and is personally appearing in the proceeding, with an attorney who is a resident of this State and is duly and legally admitted to practice in the General Court of Justice of North Carolina, upon whom service may be had in all matters connected with the legal proceedings, or any disciplinary matter, with the same effect as if personally made on the foreign attorney within this State.

(6) A statement accurately disclosing a record of all that attorney's disciplinary history. Discipline shall include (i) public discipline by

any court or lawyer regulatory organization, and (ii) revocation of any pro hac vice admission.

(7) A fee in the amount of one hundred dollars ($100.00).

Compliance with the foregoing requirements does not deprive the court of the discretionary power to allow or reject the application.

(b) Fees collected under this section shall be remitted to the North Carolina State Bar for the provision of services described in G.S. 7A-474.9."

SECTION 4.3. Section 4.1 of this part is effective when it becomes law. Section 4.2 of this part becomes effective July 1, 2004, and applies to all motions filed on or after that date. The remainder of this part is effective when it becomes law.

PART V. DOMESTIC VIOLENCE OFFENDER FEE AND ADDITIONAL FUNDING FOR VICTIM SERVICES

SECTION 5.1. G.S. 50B-3 is amended by adding a new subsection to read:

"(a1) If, upon completion of the 10-day hearing, the court issues a protective order, the court shall require the defendant to pay a fee in the amount of one hundred dollars ($100.00). This fee shall be assessed only upon the initial issuance of the order, and not upon any renewal of the same order."

SECTION 5.2. There is appropriated from the General Fund to the Department of Administration, to be credited to the Domestic Violence Center Fund established under G.S. 50B-9, the sum of two million dollars ($2,000,000) for the 2004-2005 fiscal year. It is the intent of the General Assembly that this become a recurring appropriation.

SECTION 5.3. This part becomes effective July 1, 2004. Section 5.1 of this part applies to all orders issued on or after that date.

PART VI. DOMESTIC VIOLENCE ADVOCATES ON CHILD FATALITY TASK FORCE

SECTION 6.1. G.S. 7B-1402 reads as rewritten:

"**§ 7B-1402. Task Force – creation; membership; vacancies.**

(a) There is created the North Carolina Child Fatality Task Force within the Department of Health and Human Services for budgetary purposes only.

(b) The Task Force shall be composed of 35 members, 11 of whom shall be ex officio members, four of whom shall be appointed by the Governor, 10 of whom shall be appointed by the Speaker of the House of Representatives, and 10 of whom shall be appointed by the President Pro Tempore of the Senate. The ex officio members other than the Chief Medical Examiner shall be nonvoting members and may designate representatives from their particular departments, divisions, or offices to represent them on the Task Force. The members shall be as follows:

(1) The Chief Medical Examiner;
(2) The Attorney General;
(3) The Director of the Division of Social Services;
(4) The Director of the State Bureau of Investigation;
(5) The Director of the Division of Maternal and Child Health of the Department of Health and Human Services;

(6) The Director of the Governor's Youth Advocacy and Involvement Office;
(7) The Superintendent of Public Instruction;
(8) The Chairman of the State Board of Education;
(9) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services;
(10) The Secretary of the Department of Health and Human Services;
(11) The Director of the Administrative Office of the Courts;
(12) A director of a county department of social services, appointed by the Governor upon recommendation of the President of the North Carolina Association of County Directors of Social Services;
(13) A representative from a Sudden Infant Death Syndrome counseling and education program, appointed by the Governor upon recommendation of the Director of the Division of Maternal and Child Health of the Department of Health and Human Services;
(14) A representative from the North Carolina Child Advocacy Institute, appointed by the Governor upon recommendation of the President of the Institute;
(15) A director of a local department of health, appointed by the Governor upon the recommendation of the President of the North Carolina Association of Local Health Directors;
(16) A representative from a private group, other than the North Carolina Child Advocacy Institute, that advocates for children, appointed by the Speaker of the House of Representatives upon recommendation of private child advocacy organizations;
(17) A pediatrician, licensed to practice medicine in North Carolina, appointed by the Speaker of the House of Representatives upon recommendation of the North Carolina Pediatric Society;
(18) A representative from the North Carolina League of Municipalities, appointed by the Speaker of the House of Representatives upon recommendation of the League;
(18a) A representative from the North Carolina Domestic Violence Commission, appointed by the Speaker of the House of Representatives upon recommendation of the Director of the Commission;
(19) ~~Two public members,~~One public member, appointed by the Speaker of the House of Representatives;
(20) A county or municipal law enforcement officer, appointed by the President Pro Tempore of the Senate upon recommendation of organizations that represent local law enforcement officers;
(21) A district attorney, appointed by the President Pro Tempore of the Senate upon recommendation of the President of the North Carolina Conference of District Attorneys;

(22) A representative from the North Carolina Association of County Commissioners, appointed by the President Pro Tempore of the Senate upon recommendation of the Association;

(22a) A representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore of the Senate upon recommendation of the Executive Director of the Coalition;

(23) ~~Two public members,~~One public member, appointed by the President Pro Tempore of the Senate; and

(24) Five members of the Senate, appointed by the President Pro Tempore of the Senate, and five members of the House of Representatives, appointed by the Speaker of the House of Representatives.

(c) All members of the Task Force are voting members. Vacancies in the appointed membership shall be filled by the appointing officer who made the initial appointment. Terms shall be two years. The members shall elect a chair who shall preside for the duration of the chair's term as member. In the event a vacancy occurs in the chair before the expiration of the chair's term, the members shall elect an acting chair to serve for the remainder of the unexpired term."

SECTION 6.2. The public members serving on the Child Fatality Task Force on the effective date of this act shall complete their current terms. The new appointments contained in Section 1 of this act shall take effect at the end of those terms.

SECTION 6.3. This part is effective when it becomes law.

PART VII. STUDY OF MENTAL HEALTH SERVICES FOR DOMESTIC VIOLENCE VICTIMS

SECTION 7.1. The Department of Health and Human Services shall study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs. The plan will address providing diagnostic and referral services for any client suspected of having a mental illness or a substance abuse problem. The plan will also address the delivery of appropriate services to clients meeting the target population criteria, as defined in the State Plan developed pursuant to G.S. 122C-102. Services must be best practices, as determined by the Department. The Department will consult various stakeholders in the domestic violence network of organizations. The Department will also consider the delivery of services to children identified through domestic violence programs. The Department shall also consider the fiscal impact, if any, of implementing the plan developed pursuant to this study.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 7.2. This part is effective when it becomes law.

PART VIII. STUDY OF CLE CREDIT FOR PRO BONO LEGAL REPRESENTATION

SECTION 8.1. The North Carolina State Bar, in cooperation with the North Carolina Bar Association, shall study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar

shall consider what types of pro bono legal representation, if any, should qualify for CLE credit and what administrative requirements would be necessary to provide such credit. The Bar shall specifically look at the possible benefits of providing CLE credit for pro bono legal representation to domestic violence victims. The Bar shall also consider the fiscal impact, if any, of providing the credit.

The Bar shall make a preliminary report to the House Select Committee on Domestic Violence no later than October 1, 2004, and a final report to the General Assembly on or before January 15, 2005.

SECTION 8.2. This part is effective when it becomes law.

PART IX. DOMESTIC RELATIONSHIP AGGRAVATING FACTOR

SECTION 9.1. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy. A "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of felony or violent misdemeanor offenses, or delinquent acts that would be felonies or violent misdemeanors if committed by an adult, and having a common name or common identifying sign, colors, or symbols.

(3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.

(4) The defendant was hired or paid to commit the offense.

(5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.

(6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.

(7) The offense was especially heinous, atrocious, or cruel.

(8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.

(9) The defendant held public office at the time of the offense and the offense related to the conduct of the office.
(10) The defendant was armed with or used a deadly weapon at the time of the crime.
(11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
(12) The defendant committed the offense while on pretrial release on another charge.
(13) The defendant involved a person under the age of 16 in the commission of the crime.
(14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
(15) The defendant took advantage of a position of trust or ~~confidence~~ confidence, including a domestic relationship, to commit the offense.
(16) The offense involved the sale or delivery of a controlled substance to a minor.
(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
(18) The defendant does not support the defendant's family.
(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
(19) The serious injury inflicted upon the victim is permanent and debilitating.
(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

SECTION 9.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART X. CREATE STRANGULATION OFFENSE

SECTION 10.1. G.S. 14-32.4 reads as rewritten:

"**§ 14-32.4. Assault inflicting serious bodily ~~injury.~~injury; strangulation; penalties.**

(a) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts serious bodily injury is guilty of a Class F felony. "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement,

coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Unless the conduct is covered under some other provision of law providing greater punishment, any person who assaults another person and inflicts physical injury by strangulation is guilty of a Class H felony."

SECTION 10.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XI. AMEND HABITUAL MISDEMEANOR ASSAULT STATUTE

SECTION 11.1. G.S. 14-33.2 reads as rewritten:

"**§ 14-33.2. Habitual misdemeanor assault.**

A person commits the offense of habitual misdemeanor assault if that person violates any of the provisions of G.S. 14-33~~(c)~~and causes physical injury, or ~~G.S. 14-34~~ G.S. 14-34, and has two or more prior convictions for either misdemeanor or felony assault. ~~been convicted of five or more prior misdemeanor convictions, two of which were assaults.~~ A conviction under this section shall not be used as a prior conviction for any other habitual offense statute. A person convicted of violating this section is guilty of a Class H felony."

SECTION 11.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this part are not abated or affected by this part, and the statutory provisions that would be applicable but for this part remain applicable to those prosecutions.

PART XII. DOMESTIC VIOLENCE OFFENSE TRACKING

SECTION 12.1. Article 86 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"**§ 15A-1382.1. Reports of disposition; domestic violence; sentencing.**

(a) When a defendant is found guilty of an offense involving assault, or communicating a threat, the presiding judge shall determine whether the defendant and victim had a personal relationship. If the presiding judge determines that there was a personal relationship between the defendant and the victim, then the judge shall indicate on the form reflecting the judgment that the case involved domestic violence. The Clerk of Court shall insure that the official record of the defendant's conviction includes the court's determination, so that any inquiry into the defendant's criminal record will reflect that the offense involved domestic violence.

(b) If the court determines that there was a personal relationship between the defendant and the victim, and a sentence to community punishment is imposed, the court shall determine whether the defendant shall comply with one or more of the special conditions of probation set forth at G.S. 15A-1343(b1), in addition to any other authorized punishment. Notwithstanding the provisions of G.S. 15A-1340.11(6)c., the court is authorized to require the defendant to comply with the provisions of G.S. 15A-1343(b1)(3c).

(c) The following definitions apply to this section:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "An offense involving assault" includes any offense where an assault occurred, whether or not the conviction is for an offense under Article 8 of Chapter 14 of the General Statutes.

(3) "Inquiry" shall include any lawful review of the criminal records of persons convicted of an offense in this State, whether by law enforcement personnel or by private individuals."

SECTION 12.2. This part is effective December 1, 2004, and applies to offenses committed on or after that date.

PART XIII. AMEND PROBATION RULES

SECTION 13.1. G.S. 15A-1343.2 reads as rewritten:

"**§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

(b) Purposes of Probation for Community and Intermediate Punishments. – The Department of Correction shall develop a plan to handle offenders sentenced to community and intermediate punishments. The probation program designed to handle these offenders shall have the following principal purposes: to hold offenders accountable for making restitution, to ensure compliance with the court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment or education programs, and to protect the public safety.

(c) Probation Caseload Goals. – It is the goal of the General Assembly that, subject to the availability of funds, caseloads for probation officers supervising persons sentenced to community punishment should not exceed an average of 90 offenders per officer, and caseloads for offenders sentenced to intermediate punishments should not exceed an average of 60 offenders per officer by July 1, 1998.

(d) Lengths of Probation Terms Under Structured Sentencing. – Unless the court makes specific findings that longer or shorter periods of probation are necessary, the length of the original period of probation for offenders sentenced under Article 81B shall be as follows:

(1) For misdemeanants sentenced to community punishment, not less than six nor more than 18 months;

(2) For misdemeanants sentenced to intermediate punishment, not less than 12 nor more than 24 months;

(3) For felons sentenced to community punishment, not less than 12 nor more than 30 months; and

(4) For felons sentenced to intermediate punishment, not less than 18 nor more than 36 months.

If the court finds at the time of sentencing that a longer period of probation is necessary, that period may not exceed a maximum of five years, as specified in G.S. 15A-1342 and G.S. 15A-1351.

Extension. – The court may with the consent of the offender extend the original period of the probation if necessary to complete a program of restitution or to complete medical or psychiatric treatment ordered as a condition of probation. This extension

may be for no more than three years, and may only be ordered in the last six months of the original period of probation.

(e) Delegation to Probation Officer in Community Punishment. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of Community Corrections in the Department of Correction may require an offender sentenced to community punishment to any of the following:

(1) Perform up to 20 hours of community service, and pay the fee prescribed by law for this ~~supervision;~~supervision.

(2) Report to the offender's probation officer on a frequency to be determined by the ~~officer; or~~officer.

(3) Submit to substance abuse assessment, monitoring or treatment.

(4) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored electronically.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Division of Community Corrections in the Department of Correction may require an offender sentenced to intermediate punishment to any of the following:

(1) Perform up to 50 hours of community service, and pay the fee prescribed by law for this ~~supervision;~~supervision.

(2) Submit to a curfew which requires the offender to remain in a specified place for a specified period each day and wear a device that permits the offender's compliance with the condition to be monitored ~~electronically;~~electronically.

(3) Submit to substance abuse assessment, monitoring or ~~treatment; or~~treatment.

(4) Participate in an educational or vocational skills development program.

If the Division imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

If the probation officer exercises authority delegated to him or her by the court pursuant to this subsection, the offender may file a motion with the court to review the action taken by the probation officer. The offender shall be given notice of the right to seek such a court review. The Division may exercise any authority delegated to it under this subsection only if it first determines that the offender has failed to comply with one or more of the conditions of probation imposed by the court.

(g) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 19, s. 3.

(h) Definitions. – For purposes of this section, the definitions in G.S. 15A-1340.11 apply."

SECTION 13.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XIV. STUDY OF MISDEMEANOR OFFENSE CLASSIFICATIONS

SECTION 14.1. The General Assembly finds that the North Carolina Sentencing and Policy Advisory Commission has adopted formal criteria for classifying felony offenses. The Sentencing Commission has identified three general types of harms: harms to persons (including both physical and mental injury); harms to property; and (3) harms to society. The degrees of harm are divided into three levels:

(1) Injury to person, property, or society;

(2) Significant injury to person, property, or society, and

(3) Serious injury to person, property, or society. The stated purpose of establishing the criteria was "to create a rational and consistent philosophical basis for classifying offenses; to assure proportionality in severity; and to provide a guidepost for classifying new crimes in the future."

In contrast to the felony classification criteria, the Commission did not create classification criteria for misdemeanors. However, the current misdemeanor sentencing laws include an assault offense that has serious injury as an element – even though "serious injury to a person" is a category of harm for felony offense classification. The General Assembly finds that the classification of assault offenses that involve serious injury as misdemeanors is inconsistent with the Sentencing Commission's classification of felonies based on harm.

The General Assembly directs the North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of the General Statutes, to study the classification of misdemeanor offenses. In particular, the Commission shall examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. The Commission shall develop a system for classifying misdemeanor offenses on the basis of their severity. The Commission may consider reclassifying existing offenses and creating new offenses in order to insure proportionality and consistency. The Commission shall report its findings and recommendations to the 2005 General Assembly, 2005 Regular Session. The report shall describe the status of the Commission's work, and shall include any completed policy recommendations and proposed legislation. The Commission shall make a final report to the 2005 General Assembly, 2006 Regular Session.

SECTION 14.2. This part is effective when it becomes law.

PART XV. WARRANTLESS ARREST FOR VIOLATION OF PRETRIAL RELEASE CONDITIONS

SECTION 15.1. G.S. 15A-401 reads as rewritten:

"**§ 15A-401. Arrest by law-enforcement officer.**

(a) Arrest by Officer Pursuant to a Warrant. –

(1) Warrant in Possession of Officer. – An officer having a warrant for arrest in his possession may arrest the person named or described therein at any time and at any place within the officer's territorial jurisdiction.

(2) Warrant Not in Possession of Officer. – An officer who has knowledge that a warrant for arrest has been issued and has not been executed, but who does not have the warrant in his possession, may arrest the person named therein at any time. The officer must inform the person arrested that the warrant has been issued and serve the warrant upon him as soon as possible. This subdivision applies even though the arrest process has been returned to the clerk under G.S. 15A-301.

(b) Arrest by Officer Without a Warrant. –

(1) Offense in Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe has committed a criminal offense in the officer's presence.

(2) Offense Out of Presence of Officer. – An officer may arrest without a warrant any person who the officer has probable cause to believe:

a. Has committed a felony; or

b. Has committed a misdemeanor, and:

1. Will not be apprehended unless immediately arrested, or

2. May cause physical injury to himself or others, or damage to property unless immediately arrested; or

c. Has committed a misdemeanor under G.S. 14-72.1, 14-134.3, 20-138.1, or 20-138.2; or

d. Has committed a misdemeanor under G.S. 14-33(a), 14-33(c)(1), 14-33(c)(2), or 14-34 when the offense was committed by a person with whom the alleged victim has a personal relationship as defined in G.S. 50B-1; ~~or~~

e. Has committed a misdemeanor under ~~G.S. 50B-4.1(a).~~G.S. 50B-4.1(a); or

f. Has violated a pretrial release order entered under G.S. 15A-534.1(2).

(3) Repealed by Session Laws 1991, c. 150.

(4) A law enforcement officer may detain an individual arrested for violation of an order limiting freedom of movement or access issued pursuant to G.S. 130A-475 or G.S. 130A-145 in the area designated by the State Health Director or local health director pursuant to such order. The person may be detained in such area until the initial appearance before a judicial official pursuant to G.S. 15A-511 and G.S. 15A-534.5.

(c) How Arrest Made. –

(1) An arrest is complete when:

a. The person submits to the control of the arresting officer who has indicated his intention to arrest, or

b. The arresting officer, with intent to make an arrest, takes a person into custody by the use of physical force.

(2) Upon making an arrest, a law-enforcement officer must:

a. Identify himself as a law-enforcement officer unless his identity is otherwise apparent,

b. Inform the arrested person that he is under arrest, and

c. As promptly as is reasonable under the circumstances, inform the arrested person of the cause of the arrest, unless the cause appears to be evident.

(d) Use of Force in Arrest. –

(1) Subject to the provisions of subdivision (2), a law-enforcement officer is justified in using force upon another person when and to the extent that he reasonably believes it necessary:

a. To prevent the escape from custody or to effect an arrest of a person who he reasonably believes has committed a criminal offense, unless he knows that the arrest is unauthorized; or

b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect an arrest or while preventing or attempting to prevent an escape.

(2) A law-enforcement officer is justified in using deadly physical force upon another person for a purpose specified in subdivision (1) of this subsection only when it is or appears to be reasonably necessary thereby:

a. To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force;

b. To effect an arrest or to prevent the escape from custody of a person who he reasonably believes is attempting to escape by means of a deadly weapon, or who by his conduct or any other means indicates that he presents an imminent threat of death or serious physical injury to others unless apprehended without delay; or

c. To prevent the escape of a person from custody imposed upon him as a result of conviction for a felony.

Nothing in this subdivision constitutes justification for willful, malicious or criminally negligent conduct by any person which injures or endangers any person or property, nor shall it be construed to excuse or justify the use of unreasonable or excessive force.

(e) Entry on Private Premises or Vehicle; Use of Force. –

(1) A law-enforcement officer may enter private premises or a vehicle to effect an arrest when:

a. The officer has in his possession a warrant or order or a copy of the warrant or order for the arrest of a person, provided that an officer may utilize a copy of a warrant or order only if the

original warrant or order is in the possession of a member of a law enforcement agency located in the county where the officer is employed and the officer verifies with the agency that the warrant is current and valid; or the officer is authorized to arrest a person without a warrant or order having been issued,

b. The officer has reasonable cause to believe the person to be arrested is present, and

c. The officer has given, or made reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice would present a clear danger to human life.

(2) The law-enforcement officer may use force to enter the premises or vehicle if he reasonably believes that admittance is being denied or unreasonably delayed, or if he is authorized under subsection (e)(1)c to enter without giving notice of his authority and purpose.

(f) Use of Deadly Weapon or Deadly Force to Resist Arrest. –

(1) A person is not justified in using a deadly weapon or deadly force to resist an arrest by a law-enforcement officer using reasonable force, when the person knows or has reason to know that the officer is a law-enforcement officer and that the office is effecting or attempting to effect an arrest.

(2) The fact that the arrest was not authorized under this section is no defense to an otherwise valid criminal charge arising out of the use of such deadly weapon or deadly force.

(3) Nothing contained in this subsection (f) shall be construed to excuse or justify the unreasonable or excessive force by an officer in effecting an arrest. Nothing contained in this subsection (f) shall be construed to bar or limit any civil action arising out of an arrest not authorized by this Article."

SECTION 15.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date.

PART XVI. CONFORM STATE FIREARMS LAW TO FEDERAL LAW

SECTION 16.1. G.S. 14-415.1 reads as rewritten:

"**§ 14-415.1. Possession of firearms, etc., by felon prohibited.**

(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any ~~handgun or other firearm~~ firearm~~with a barrel length of less than 18 inches or an overall length of less than 26 inches,~~ or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer.

Every person violating the provisions of this section shall be punished as a Class G felon.

~~Nothing in this subsection would prohibit the right of any person to have possession of a firearm within his own home or on his lawful place of business.~~

(b) Prior convictions which cause disentitlement under this section shall only include:

(1) Felony convictions in North Carolina that occur before, on, or after December 1, 1995; and

(2) Repealed by Session Laws 1995, c. 487, s. 3.

(3) Violations of criminal laws of other states or of the United States that occur before, on, or after December 1, 1995, and that are substantially similar to the crimes covered in subdivision (1) which are punishable where committed by imprisonment for a term exceeding one year.

When a person is charged under this section, records of prior convictions of any offense, whether in the courts of this State, or in the courts of any other state or of the United States, shall be admissible in evidence for the purpose of proving a violation of this section. The term "conviction" is defined as a final judgment in any case in which felony punishment, or imprisonment for a term exceeding one year, as the case may be, is permissible, without regard to the plea entered or to the sentence imposed. A judgment of a conviction of the defendant or a plea of guilty by the defendant to such an offense certified to a superior court of this State from the custodian of records of any state or federal court shall be prima facie evidence of the facts so certified.

(c) The indictment charging the defendant under the terms of this section shall be separate from any indictment charging him with other offenses related to or giving rise to a charge under this section. An indictment which charges the person with violation of this section must set forth the date that the prior offense was committed, the type of offense and the penalty therefore, and the date that the defendant was convicted or plead guilty to such offense, the identity of the court in which the conviction or plea of guilty took place and the verdict and judgment rendered therein."

SECTION 16.2. This part becomes effective December 1, 2004, and applies to offenses committed on or after that date. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutory provisions that would be applicable but for this act remain applicable to those prosecutions.

PART XVII. SPECIFICALLY ALLOW CROSS WARRANTS

SECTION 17.1. G.S. 15A-304 reads as rewritten:

"**§ 15A-304. Warrant for arrest.**

(a) Definition. – A warrant for arrest consists of a statement of the crime of which the person to be arrested is accused, and an order directing that the person so accused be arrested and held to answer to the charges made against him. It is based upon a showing of probable cause supported by oath or affirmation.

(b) When Issued. – A warrant for arrest may be issued, instead of or subsequent to a criminal summons, when it appears to the judicial official that the person named should be taken into custody. Circumstances to be considered in determining whether the person should be taken into custody may include, but are not limited to, failure to appear when previously summoned, facts making it apparent that a person summoned

will fail to appear, danger that the person accused will escape, danger that there may be injury to person or property, or the seriousness of the offense.

(c) Statement of the Crime. – The warrant must contain a statement of the crime of which the person to be arrested is accused. No warrant for arrest, nor any arrest made pursuant thereto, is invalid because of any technicality of pleading if the statement is sufficient to identify the crime.

(d) Showing of Probable Cause. – A judicial official may issue a warrant for arrest only when he is supplied with sufficient information, supported by oath or affirmation, to make an independent judgment that there is probable cause to believe that a crime has been committed and that the person to be arrested committed it. The information must be shown by one or more of the following:

(1) Affidavit;

(2) Oral testimony under oath or affirmation before the issuing official; or

(3) Oral testimony under oath or affirmation presented by a sworn law enforcement officer to the issuing official by means of an audio and video transmission in which both parties can see and hear each other. Prior to the use of audio and video transmission pursuant to this subdivision, the procedures and type of equipment for audio and video transmission shall be submitted to the Administrative Office of the Courts by the senior regular resident superior court judge and the chief district court judge for a judicial district or set of districts and approved by the Administrative Office of the Courts.

If the information is insufficient to show probable cause, the warrant may not be issued. A judicial official shall not refuse to issue a warrant for the arrest of a person solely because a prior warrant has been issued for the arrest of another person involved in the same matter.

(e) Order for Arrest. – The order for arrest must direct that a law-enforcement officer take the defendant into custody and bring him without unnecessary delay before a judicial official to answer to the charges made against him.

(f) Who May Issue. – A warrant for arrest, valid throughout the State, may be issued by:

(1) A Justice of the Supreme Court.

(2) A judge of the Court of Appeals.

(3) A judge of the superior court.

(4) A judge of the district court, as provided in G.S. 7A-291.

(5) A clerk, as provided in G.S. 7A-180 and 7A-181.

(6) A magistrate, as provided in G.S. 7A-273."

SECTION 17.2. This part is effective when it becomes law.

PART XVIII. CLARIFY NURSE'S PRIVILEGE

SECTION 18.1. G.S. 8-53.13 reads as rewritten:

"**§ 8-53.13. Nurse privilege.**

No person licensed pursuant to Article 9A of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional nursing services, and which information was necessary to enable that

person to render professional nursing services, except that the presiding judge of a superior or district court may compel disclosure if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule. Nothing in this section shall preclude the admission of otherwise admissible written or printed medical records in any judicial proceeding."

SECTION 18.2. G.S. 8-53.1 reads as rewritten:

"**§ 8-53.1. Physician-patient and nurse privilege waived in child abuse.**

Notwithstanding the provisions of G.S. ~~8-53,~~ 8-53 and 8-53.13, the physician-patient or nurse privilege shall not be a ground for excluding evidence regarding the abuse or neglect of a child under the age of 16 years or regarding an illness of or injuries to such child or the cause thereof in any judicial proceeding related to a report pursuant to the North Carolina Juvenile Code, Chapter 7B of the General Statutes of North Carolina."

SECTION 18.3. This part becomes effective December 1, 2004.

PART XIX. TEMPORARY CHILD CUSTODY IN DOMESTIC VIOLENCE HEARINGS

SECTION 19.1. G.S. 50-13.2(b) reads as rewritten:

"(b) An order for custody of a minor child may grant joint custody to the parents, exclusive custody to one person, agency, organization, or institution, or grant custody to two or more persons, agencies, organizations, or institutions. Any order for custody shall include such terms, including visitation, as will best promote the interest and welfare of the child. If the court finds that domestic violence has occurred, the court shall enter such orders that best protect the children and party who were the victims of domestic ~~violence.~~violence, in accordance with the provisions of G.S. 50B-3(a1)(1), (2) and (3). ~~Such orders may include a designation of time and place for the exchange of children away from the abused party, the participation of a third party, or supervised visitation.~~ If a party is absent or relocates with or without the children because of an act of domestic violence, the absence or relocation shall not be a factor that weighs against the party in determining custody or visitation. Absent an order of the court to the contrary, each parent shall have equal access to the records of the minor child involving the health, education, and welfare of the child."

SECTION 19.2. G.S. 50B-2 reads as rewritten:

"**§ 50B-2. Institution of civil action; motion for emergency relief; temporary ~~orders.~~ orders; temporary custody.**

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5.

(b) Emergency Relief. – A party may move the court for emergency relief if he or she believes there is a danger of serious and immediate injury to himself or herself or a minor child. A hearing on a motion for emergency relief, where no ex parte order is entered, shall be held after five days' notice of the hearing to the other party or after five days from the date of service of process on the other party, whichever occurs first, provided, however, that no hearing shall be required if the service of process is not completed on the other party. If the party is proceeding pro se and does not request an ex parte hearing, the clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall effect service of the summons, complaint, notice, and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c) Ex Parte Orders. – Prior to the hearing, if it clearly appears to the court from specific facts shown, that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the court may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts provided, however, that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the court finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the court finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the court shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the court finds that the order is necessary for the safety of the minor child. If the court determines that the other party may have contact with the minor child or children, the court shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. Upon the issuance of an ex parte order under this subsection, a hearing shall be held within 10 days from the date of issuance of the order or within seven days from the date of service of process on the other party, whichever occurs later. If an aggrieved party acting pro se requests ex parte relief, the clerk of superior court shall schedule an ex parte hearing with the district court division of the General Court of Justice within 72 hours of the filing for said relief, or by the end of the next day on which the district court is in session in the county in which the action was filed, whichever shall first occur. If the district court is not in session in said county, the aggrieved party may contact the clerk of superior court in any other county within the same judicial district who shall schedule an ex parte hearing with the district court division of the General Court of Justice by the end of the next day on which said court division is in session in that county. Upon the issuance of an ex parte order under this subsection, if the party is proceeding pro se, the Clerk shall set a date for hearing and issue a notice of hearing within the time periods provided in this subsection, and shall

effect service of the summons, complaint, notice, order and other papers through the appropriate law enforcement agency where the defendant is to be served.

(c1) Ex Parte Orders by Authorized Magistrate. – The chief district court judge may authorize a magistrate or magistrates to hear any motions for emergency relief ex parte. Prior to the hearing, if the magistrate determines that at the time the party is seeking emergency relief ex parte the district court is not in session and a district court judge is not and will not be available to hear the motion for a period of four or more hours, the motion may be heard by the magistrate. If it clearly appears to the magistrate from specific facts shown that there is a danger of acts of domestic violence against the aggrieved party or a minor child, the magistrate may enter ~~such~~ orders as it deems necessary to protect the aggrieved party or minor children from ~~such~~ those acts, except that a temporary order for custody ex parte and prior to service of process and notice shall not be entered unless the magistrate finds that the child is exposed to a substantial risk of ~~bodily~~ physical or emotional injury or sexual abuse. If the magistrate finds that the child is exposed to a substantial risk of physical or emotional injury or sexual abuse, upon request of the aggrieved party, the magistrate shall consider and may order the other party to stay away from a minor child, or to return a minor child to, or not remove a minor child from, the physical care of a parent or person in loco parentis, if the magistrate finds that the order is necessary for the safety of the minor child. If the magistrate determines that the other party may have contact with the minor child or children, the magistrate shall issue an order designed to protect the safety and well-being of the minor child and the aggrieved party. The order shall specify the terms of contact between the other party and the minor child and may include a specific schedule of time and location of exchange of the minor child, supervision by a third party or supervised visitation center, and any other conditions that will ensure both the well-being of the minor child and the aggrieved party. An ex parte order entered under this subsection shall expire and the magistrate shall schedule an ex parte hearing before a district court judge by the end of the next day on which the district court is in session in the county in which the action was filed. Ex parte orders entered by the district court judge pursuant to this subsection shall be entered and scheduled in accordance with subsection (c) of this section.

(c2) The authority granted to authorized magistrates to award temporary child custody ~~to~~ pursuant to subsection (c1) of this section and pursuant to G.S. 50B-3(a)(4) is granted subject to custody rules to be established by the supervising chief district judge of each judicial district.

(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The Clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 19.3. G.S. 50B-3(a)(4) reads as rewritten:

"**§ 50B-3. Relief.**

(a) The court, including magistrates as authorized under G.S. 50B-2(c1), may grant any protective order to bring about a cessation of acts of domestic violence. The orders may:

...

(4) Award temporary custody of minor children and establish temporary visitation ~~rights;~~rights pursuant to G.S. 50B-2 if the order is granted ex parte, and pursuant to subsection (a1) of this section if the order is granted after notice or service of process;"

..."

SECTION 19.4. G.S. 50B-3 is amended by adding the following new subsection to read:

"(a1) Upon the request of either party at a hearing after notice or service of process, the court shall consider and may award temporary custody of minor children and establish temporary visitation rights as follows:

(1) In awarding custody or visitation rights, the court shall give primary consideration to the safety of the minor child.

(2) For purposes of determining custody and visitation issues, the court shall consider:

a. Whether the minor child was exposed to a substantial risk of physical or emotional injury or sexual abuse.

b. Whether the minor child was present during acts of domestic violence.

c. Whether a weapon was used or threatened to be used during any act of domestic violence.

d. Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the minor child.

e. Whether a party placed the aggrieved party or the minor child in reasonable fear of imminent serious bodily injury.

f. Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.

g. Whether there is a pattern of abuse against an aggrieved party or the minor child.

h. Whether a party has abused or endangered the minor child during visitation.

i. Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.

j. Whether a party has improperly concealed or detained the minor child.

k. Whether a party has otherwise acted in a manner that is not in the best interest of the minor child.

(3) If the court awards custody, the court shall also consider visitation. If ordering visitation, the court shall provide for the safety and well-being of the minor child and the safety of the aggrieved party. The court may consider any of the following:

a. Ordering an exchange of the minor child to occur in a protected setting or in the presence of an appropriate third party.
b. Ordering visitation supervised by an appropriate third party, or at a supervised visitation center or other approved agency.
c. Ordering the noncustodial parent to attend and complete, to the satisfaction of the court, an abuser treatment program as a condition of visitation.
d. Ordering either or both parents to abstain from possession or consumption of alcohol or controlled substances during the visitation or for 24 hours preceding an exchange of the minor child.
e. Ordering the noncustodial parent to pay the costs of supervised visitation.
f. Prohibiting overnight visitation.
g. Requiring a bond from the noncustodial parent for the return and safety of the minor child.
h. Ordering an investigation or appointment of a guardian ad litem or attorney for the minor child.
i. Imposing any other condition that is deemed necessary to provide for the safety and well-being of the minor child and the safety of the aggrieved party.

If the court grants visitation, the order shall specify dates and times for the visitation to take place or other specific parameters or conditions that are appropriate. A person, supervised visitation center, or other agency may be approved to supervise visitation after appearing in court or filing an affidavit accepting that responsibility and acknowledging accountability to the court.

(4) A temporary custody order entered pursuant to this Chapter shall be without prejudice and shall be for a fixed period of time not to exceed one year. Nothing in this section shall be construed to affect the right of the parties to a de novo hearing under Chapter 50 of the General Statutes. Any subsequent custody order entered under Chapter 50 of the General Statutes supersedes a temporary order issued pursuant to this Chapter."

SECTION 19.5. G.S. 50B-3(b) reads as rewritten:

"(b) Protective orders entered pursuant to this Chapter shall be for a fixed period of time not to exceed one year. The court may renew a protective order for a fixed period of time not to exceed one year, including an order that previously has been renewed, upon a motion by the aggrieved party filed before the expiration of the current ~~order.~~order; provided, however, that a temporary award of custody entered as part of a protective order may not be renewed to extend a temporary award of custody beyond the maximum one-year period. The court may renew a protective order for good cause. The commission of an act as defined in G.S. 50B-1(a) by the defendant after entry of the current order is not required for an order to be renewed. Protective orders entered,

including consent orders, shall not be mutual in nature except where both parties file a claim and the court makes detailed findings of fact indicating that both parties acted as aggressors, that neither party acted primarily in self-defense, and that the right of each party to due process is preserved."

SECTION 19.6. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XX. PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST DOMESTIC VIOLENCE VICTIMS

SECTION 20.1. Chapter 50B of the General Statutes is amended by adding a new section to read:

"**§ 50B-5.5. Employment discrimination unlawful.**

No employer may discharge, demote, or deny a promotion or other benefit of employment to any employee for taking time off from work to obtain or attempt to obtain any relief provided by this Chapter. The employee shall notify the employer of the reason for taking time off at the time the request is made. If requested by the employer, the employee shall also provide documentation to the employer of the reason for taking time off. Documentation may include a copy of a protective order or other evidence that the employee has appeared in court. The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to that Article."

SECTION 20.2. G.S. 95-241(a) reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following:

(1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
   a. Chapter 97 of the General Statutes.
   b. Article 2A or Article 16 of this Chapter.
   c. Article 2A of Chapter 74 of the General Statutes.
   d. G.S. 95-28.1.
   e. Article 16 of Chapter 127A of the General Statutes.
   f. G.S. 95-28.1A.

(2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.

(3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes.

(4) Comply with the provisions of Article 27 of Chapter 7B of the General Statutes.

(5) Seek relief under Chapter 50B of the General Statutes."

SECTION 20.3. This part becomes effective October 1, 2004, and applies to actions filed on or after that date.

PART XXI. PRIVACY FOR 50B INTAKE

SECTION 21.1. G.S. 50B-2(d) reads as rewritten:

"(d) Pro Se Forms. – The clerk of superior court of each county shall provide to pro se complainants all forms which are necessary or appropriate to enable them to proceed pro se pursuant to this section. The clerk shall, whenever feasible, provide a private area for complainants to fill out forms and make inquiries. The ~~Clerk~~ clerk shall provide a supply of pro se forms to authorized magistrates who shall make the forms available to complainants seeking relief under subsection (c1) of this section."

SECTION 21.2. This part is effective when it becomes law.

PART XXII. TRAINING FOR JUDGES AND COURT PERSONNEL

SECTION 22.1. The North Carolina Supreme Court is respectfully requested to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

SECTION 22.2. The Administrative Office of the Courts shall study the issue of training for court personnel in the area of domestic violence. The study shall examine the following:

(1) The extent to which training is currently being done.

(2) The need for additional training.

(3) The amount and types of training that would be most appropriate.

(4) The potential costs and sources of funding for any additional training.

The Administrative Office of the Courts shall report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

SECTION 22.3. This part is effective when it becomes law.

PART XXIII. EFFECTIVE DATE

SECTION 23.1. This act is effective when it becomes law.

EXAMPLE 1: Defendant assaults his girlfriend and causes physical injury. The defendant and girlfriend live together.

Prior Record: (1) Assault Inflicting Serious Injury (Class A1, one point)
(2) Assault on a Female (Class A1, one point)

	Charge	Elements	Classification	Possible Sentence
Current Law	Assault on a Female		A1 Misdemeanor	1-75 days C/I/A
Current Law	Simple Assault		Class 2 Mis.	1-45 days C/I
Bill	Habitual Misdemeanor Assault	Physical Injury	Class H felony (PRL I)*	Min. range: 6-8 months, C/I/A (Agg. Range)

* If the defendant had any other offenses with points, he would move up from PRL I.

EXAMPLE 2: Husband assaults wife in their home. He causes injury by strangulation.

Prior Record: (1) Simple Assault (Class 2 Misdemeanor, No points).

Current Law	Assault with deadly weapon with intent to kill and causing serious injury	1- Serious Injury 2- Intent to Kill 3 - Hands as "deadly weapon"	Class C felony	Min. range: 58-73 months Active
Current Law	Assault with a deadly weapon causing serious injury	1- Serious Injury 2- Hands as "deadly weapon"	Class E felony	Min. range: 20-25 months I/A
Current Law	Assault with a deadly weapon with intent to kill	1-Intent to kill 2- Hands as "deadly weapon"	Class E felony	Min. range: 20-25 months I/A
Bill	Physical Injury by Strangulation	1- Physical injury	Class H felony	Min. range: 6-8 months* C/I/A (Agg. Range).
Current Law	Assault on a Female		A1 Misdemeanor	1-75 days C/I/A
Current Law	Simple Assault		Class 2 Mis.	1-45 days C/I

PRIOR RECORD LEVEL

	I 0 Pts	II 1-4 Pts	III 5-8 Pts	IV 9-14 Pts	V 15-18 Pts	VI 19+ Pts	
A	Life Imprisonment Without Parole or Death as Established by Statute						
	A	A	A	A	A	A	DISPOSITION
	240-300	288-360	336-420	384-480	Life Imprisonment Without Parole		Aggravated
B1	192-240	230-288	269-336	307-384	346-433	384-480	PRESUMPTIVE
	144-192	173-230	202-269	230-307	260-346	288-384	Mitigated
	A	A	A	A	A	A	DISPOSITION
	157-196	189-237	220-276	251-313	282-353	313-392	Aggravated
B2	125-157	151-189	176-220	201-251	225-282	251-313	PRESUMPTIVE
	94-125	114-151	132-176	151-201	169-225	188-251	Mitigated
	A	A	A	A	A	A	DISPOSITION
	73-92	100-125	116-145	133-167	151-188	168-210	Aggravated
C	58-73	80-100	93-116	107-133	121-151	135-168	PRESUMPTIVE
	44-58	60-80	70-93	80-107	90-121	101-135	Mitigated
	A	A	A	A	A	A	DISPOSITION
	64-80	77-95	103-129	117-146	133-167	146-183	Aggravated
D	51-64	61-77	82-103	94-117	107-133	117-146	PRESUMPTIVE
	38-51	46-61	61-82	71-94	80-107	88-117	Mitigated
	I/A	I/A	A	A	A	A	DISPOSITION
	25-31	29-36	34-42	46-58	53-66	59-74	Aggravated
E	20-25	23-29	27-34	37-46	42-53	47-59	PRESUMPTIVE
	15-20	17-23	20-27	28-37	32-42	35-47	Mitigated
	I/A	I/A	I/A	A	A	A	DISPOSITION
	16-20	19-24	21-26	25-31	34-42	39-49	Aggravated
F	13-16	15-19	17-21	20-25	27-34	31-39	PRESUMPTIVE
	10-13	11-15	13-17	15-20	20-27	23-31	Mitigated
	I/A	I/A	I/A	I/A	A	A	DISPOSITION
	13-16	15-19	16-20	20-25	21-26	29-36	Aggravated
G	10-13	12-15	13-16	16-20	17-21	23-29	PRESUMPTIVE
	8-10	9-12	10-13	12-16	13-17	17-23	Mitigated
	C/I/A	I/A	I/A	I/A	I/A	A	DISPOSITION
	6-8	8-10	10-12	11-14	15-19	20-25	Aggravated
H	5-6	6-8	8-10	9-11	12-15	16-20	PRESUMPTIVE
	4-5	4-6	6-8	7-9	9-12	12-16	Mitigated
	C	C/I	I	I/A	I/A	I/A	DISPOSITION
	6-8	6-8	6-8	8-10	9-11	10-12	Aggravated
I	4-6	4-6	5-6	6-8	7-9	8-10	PRESUMPTIVE
	3-4	3-4	4-5	4-6	5-7	6-8	Mitigated

HOUSE BILL 1354:
Strengthen Domestic Violence Laws

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. McLawhorn & Sherrill
Date:	June 17, 2004	**Summary by:**	Trina Griffin
Version:	H1354-CSSA-23		Committee Counsel

SUMMARY: House Bill 1354 strengthens the laws against domestic violence, provides additional assistance to domestic violence victims and makes other changes as recommended by the House Select Committee on Domestic Violence.

This bill has been referred to House Finance because it creates a new $100 fee assessed on out-of-state attorneys seeking limited admission to practice in North Carolina.

BILL ANALYSIS (FEE PROVISION ONLY)*:

Section 4.2 creates a $100 fee for pro hac vice motions in North Carolina. A pro hac vice motion occurs when an out of state attorney, who is not licensed to practice law in North Carolina, asks a North Carolina court to allow that attorney to appear in court in North Carolina for one particular case. Currently, North Carolina does not charge any fee for these motions, although many states do.

The fees collected under this section would go to the North Carolina State Bar to fund the Domestic Violence Victim Assistance Act created in Section 4.1.

Fees are charges for services received and must not be more than the amount needed to cover the cost of the service. If a fee exceeds this cost, it is no longer a fee, it is a tax. However, even if some revenue raised by a fee is used for purposes other than the regulation or protection of an item or activity on which the fee is imposed, it will still be considered a fee as long as the expenditure of revenue bears a direct and reasonable relationship to the primary purpose of enforcing the laws governing them.

Arguably, there is an issue as to whether this $100 fee is, in fact, a fee or is more appropriately characterized as a tax. The distinction is relevant to the extent that taxes, unlike most fees, are subject to certain constitutional restrictions. This fee could be characterized as a tax for two reasons: (1) there does not appear to be a direct correlation between the amount of the fee and the cost to the court system for processing *pro hac vice* motions; and (2) the proceeds of the fee would not be used to defray the costs of the department or agency providing the service, but would be remitted to the North Carolina State Bar to fund legal services for domestic violence victims. However, if a court were to find that a "direct and reasonable relationship" exists between the regulation of the practice of law by out-of-state attorneys and the funding of legal services for domestic violence victims, then the $100 charge would likely be upheld as a fee.

*See attached summary prepared by Susan Sitze and Hal Pell for complete bill analysis.

HOUSE BILL 1354:
Strengthen Domestic Violence Laws

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. McLawhorn & Sherrill
Date:	June 17, 2004	**Summary by:**	Susan L. Sitze & Hal Pell
Version:	H1354-CSSA-23		Staff Attorneys

SUMMARY: ***House Bill 1354 strengthens the laws against domestic violence, provides additional assistance to domestic violence victims and makes other changes as recommended by the House Select Committee on Domestic Violence.***

BILL ANALYSIS:

Part I – Domestic Violence Offender Treatment

Section 1.1 requires attendance and completion of an abuser treatment program while on probation if the court finds that the defendant is responsible for acts of domestic violence and there is a program reasonably available to the defendant. If the court makes those findings, the court must order the treatment as a regular condition of probation unless the court finds that it would not be in the best interest of justice.

Section 1.2 requires the Department of Correction to establish a domestic violence treatment program for offenders in the custody of the Department whose official record includes a finding by the court that the offender committed acts of domestic violence. The Department must ensure that those inmates complete the domestic violence treatment program prior to being released, unless other requirements, deemed critical by the Department prevent program completion. If the inmate does not complete the program, the Department must document, in the inmate's official record, specific reasons why that inmate did not or was not able to complete the program.

Section 1.3 provides that this part is effective December 1, 2004 and applies to offenses committed on or after that date.

Part II – Domestic Violence Training for Law Enforcement

Sections 2.1 through 2.15 require the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission to establish minimum standards for training of law enforcement officers in domestic violence. The training standards shall be developed for entry-level employment, for in-service training, and for certification of instructors, and shall include training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence based prosecutions.

The Commissions must have the training in place no later than March 1, 2005 and shall report to the General Assembly on or before March 1, 2005 on the exact standards implemented and the date they were implemented.

Part III – Study of Anti-Violence Education in Schools and Training for School Personnel

Section 3.1 requires the Department of Public Instruction, in collaboration with the State Board of Education, to study the issue of anti-violence programs in schools. The Department is directed to address several questions and to look at different programs used across the country.

The Department shall issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by October 1, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

Section 3.2 requires the Department of Public Instruction, in collaboration with the State Board of Education, to study training for school personnel dealing with students who are victims of physical violence and mental or verbal abuse, particularly instances of domestic and relationship violence.

The Department shall issue a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee by October 1, 2004, and a final report to Education Oversight and the General Assembly by January 15, 2005.

Part IV – Legal Services for Victims of Domestic Violence

Section 4.1 creates a new Domestic Violence Victim Assistance Act to provide legal services to domestic violence victims. This section requires the North Carolina State Bar to disperse funds under this act to legal services organizations that provide legal services to domestic violence victims.

The funds are disbursed to the organizations based on the counties they serve, with each county receiving a fixed 20% amount and the remaining 80% of the funds distributed to the counties based on the rate of actions filed for 50B domestic violence protective orders in that county.

Section 4.2 creates a $100 fee for pro hac vice motions in North Carolina. A pro hac vice occurs when an out of state attorney, who is not licensed to practice law in North Carolina, asks a North Carolina court to allow that attorney to appear in court in North Carolina for one particular case. Currently, North Carolina does not charge any fee for these motions, although many states do.

The fees collected under this section would go to the North Carolina State Bar to fund the Domestic Violence Victim Assistance Act created in Section 4.1.

Part V – Additional Funding for Victim Services

Sections 5.1 through 5.2 appropriates two million dollars from the General Fund to the Department of Administration, to be credited to the Domestic Violence Center Fund. This fund provides grants to agencies that provide direct services for domestic violence victims.

Part VI – Domestic Violence Advocates on Child Fatality Task Force

Sections 6.1 through 6.3 add two domestic violence advocates to the Child Fatality Task Force. This provision removes 2 public members from the task force and adds a representative from the North Carolina Domestic Violence Commission, appointed by the Speaker, and a representative from the North Carolina Coalition Against Domestic Violence, appointed by the President Pro Tempore. The public members being removed shall complete their current terms.

Part VII – Study of Mental Health Services for Domestic Violence Victims

Section 7.1 requires the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse service needs, including providing diagnostic and referral services.

The Department shall make a preliminary report to the House Select Committee on Domestic Violence and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services by October 1, 2004, and a final report to Mental Health Oversight and the General Assembly by January 15, 2005.

Part VIII – Study of CLE Credit for Pro Bono Legal Representation

Section 8.1 requires the North Carolina State Bar, in cooperation with the North Carolina Bar Association, to study the issue of providing Continuing Legal Education (CLE) credit to active attorneys for providing pro bono legal representation. The Bar shall make a preliminary report to the House Select Committee on Domestic Violence by October 1, 2004 and a final report to the General Assembly by January 15, 2005.

Part IX – Domestic Relationship Aggravating Factor

Section 9.1 would amend the portion of the Criminal Procedure Act that applies to aggravating the sentence for a defendant who has been convicted of a felony offense. In felony sentencing, there are three ranges for the sentencing judge to determine a **minimum** sentence length.

Following is an example of the sentencing options for a person who has been convicted of a Class D felony, and who has no prior record points (no prior offenses):

Aggravated Range: 64-80 Months

Presumptive Range: 51-64 Months

Mitigated Range: 38-51 Months

If a court finds that aggravating or mitigating circumstances exist, it may depart from the presumptive range. If the aggravating factors present outweigh the mitigating factors that may be present, then the court may sentence in the aggravated range (and vice versa). [note: if a firearm is used, displayed, or threatened to be used in the course of the offense, a separate statute provides that an additional 60 months may be added to the minimum sentence.]

One of the current statutory aggravating factors is set forth at G.S. 15A-1340.16(d)(15): "The defendant took advantage of a position of trust or confidence to commit the offense." The factor has generally been applied to defendants who have been in a fiduciary relationship with the victim, e.g., embezzled money from the victim.

The proposed amendment would clarify that a defendant may also take advantage of the trust or confidence in a domestic relationship to commit the offense. "Domestic relationship" is not defined in the section; however, domestic violence is defined by statute [G.S. 50B-1(a)], and applies to those whom the defendant has a "personal relationship." G.S. 14-134.3, Domestic Criminal Trespass, has a more restrictive application. It applies to a present or former spouse, or where the parties had lived together as married. The State has the burden of proving that the defendant did, in fact, take advantage of the relationship to commit the offense. If the trial judge sentences in the aggravated (or mitigated) range, then the judge must make written findings.

Part X – Create Strangulation Offense

Section 10.1 would create a new criminal offense: assault by strangulation. The offense would be a Class H felony. The State would have the burden of proving that the defendant attempted to strangle the victim, and cause physical injury by the act of strangulation. A first time offender would be subject to community punishment, intermediate punishment, or an active sentence. The presumptive range for an active sentence would be a minimum of 5-6 months.

Although the term "serious bodily injury" is defined by statute, the terms "serious injury" and "physical injury" are not. Whether or not serious or physical injury has occurred is a jury determination, based upon common law.

Background: "Death by strangulation", is an accepted medical conclusion and finding in North Carolina homicide cases following the introduction of evidence by testifying medical examiners or health care professionals. Symptoms of strangulation include scleral hemorrhaging (blood vessels in the eyes), and a swollen tongue bleeding around the edges.

The act of "non-fatal" strangulation, or the attempt to strangle, may be charged as a "simple assault (Class 2 misdemeanor), or as a Class A1 misdemeanor if the victim is a female (Assault on a Female), or if serious injury is inflicted.

A Class 2 misdemeanant (first time offender) is subject to a maximum of 30 days community punishment. Class A1 misdemeanant (first offense) may receive up to 60 days of community punishment, intermediate punishment, or active sentence.

If a court finds that the perpetrator used his hands as a deadly weapon, and inflicted serious injury, then the defendant may be found guilty as a Class E felon. A Class E felon is subject to either an intermediate punishment, or an active minimum sentence of 20-25 months (presumptive range).

Strangulation has been found to be a significant lethality factor in domestic violence cases. In North Carolina, five of the 74 domestic violence homicide victims in 2002 were strangled to death.

Other Jurisdictions: It is a felony in Missouri to commit a domestic assault by "choking or strangulation". Virginia, as part of its armed robbery statute, provides that if an armed robbery is accomplished by "partial strangulation, or suffocation," then the defendant is subject to a minimum sentence of five years in prison and up to a life sentence.

Part XI – Amend Habitual Misdemeanor Assault Statute

Section 11.1 would amend the Habitual misdemeanor assault statute by:

- Reducing the number of necessary prior convictions from five to two;
- Allowing any prior assault conviction (whether misdemeanor or felony) to count as a prior conviction;
- Require that the assault involved physical injury to the victim; and
- Providing that a conviction of the statutory offense could not be used as a prior felony conviction for any other habitual offense statute.

Currently, an offender must have five prior misdemeanor convictions, two of which are assault convictions, to qualify as a habitual misdemeanor assault offender on a third assault conviction.

Part XII – Domestic Violence Offense Tracking

Section 12.1 would add a new provision to provide for reporting offenses involving domestic violence. In cases involving assault or communicating a threat, the judge would determine whether there was a personal relationship between the offender and the victim. If so, there would be an annotation on the judgment to reflect that the case involved domestic violence. The clerk of court would be required to make the appropriate entry into the offender's official criminal record to reflect that the offense involved domestic violence.

- The offender would have to be in a personal relationship, as defined by statute.
- The entry would be made in all cases (including a murder), where the underlying conduct was assaultive in nature.
- Any person making a lawful inquiry into a person's criminal history would be able to determine that the person had been convicted of an offense involving domestic violence.

If the judge determines that there was a personal relationship, then the judge is also required to determine whether the defendant should be required to comply with any special conditions of probation. Due to an ambiguity in the statutes, the new provision makes clear that the judge may (but is not required to) sentence the defendant to house arrest with electronic monitoring.

Background: Federal law prohibits persons convicted of a misdemeanor involving domestic violence from possessing a firearm. Currently, there is no consistent and uniform method to insure that convictions involving domestic violence are reflected in a person's official criminal record. In addition, although "assault on a female" is generally used in domestic violence cases, there is no accurate method for collecting accurate data on DV cases. Consequently, there has been some difficulty in providing information to assist policymakers in determining whether any changes in the judicial response to DV crimes are needed.

Part XIII – Amend Probation Rules

Section 13.1 allows the Division of Community Corrections, Department of Correction to place an offender on house arrest and electronic monitoring, whether the defendant has been sentenced to community or intermediate punishment. The Division would have this delegated authority unless the presiding judge determines that delegation is not appropriate.

Part XIV – Study of Misdemeanor Offense Classifications

Section 14.1 requires the North Carolina Sentencing and Policy Advisory Commission to study the classification of misdemeanor offenses, and to develop a system for classifying misdemeanor offenses based upon their severity. The Commission is required to examine the classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses. This section includes a finding by the General Assembly that the classification of assault offenses that cause serious injury as misdemeanors is inconsistent with the Commission's own classification of felonies based upon harm. The Commission is required to report to the 2005 General Assembly, 2005 Regular Session, with its findings and recommendations (status and any completed recommendations). A final report is due to the 2005 General Assembly, 2006 Regular Session.

Background: The Commission has adopted formal criteria for the classification of felony offenses, but did not create any classification criteria for misdemeanors. Although the felony classification criteria includes "serious injury" to the person, the current offense of assault causing serious injury is a misdemeanor.

Part XV – Warrantless Arrest for Violation of Pretrial Release Conditions

Section 15.1 amends the law to provide that if a law enforcement officer has probable cause to believe that a person has violated a condition of a pretrial release order in a domestic violence case, then the officer may arrest the defendant without a warrant. The arrest must be based upon a violation of one of the following provisions of a release order issued under G.S. 15A-534.1(2):

a. That the defendant stay away from the home, school, business or place of employment of the alleged victim;

b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged victim;

c. That the defendant refrain from removing, damaging or injuring specifically identified property;

d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.

A pretrial release order in a domestic violence case may be entered where the defendant has been arrested for assault on, communicating a threat to, domestic criminal trespass, or committing various felonies upon a spouse or former spouse, or upon someone with whom the defendant has lived as if married.

Background: Current law allows an officer to arrest a defendant without a warrant if the officer has probable cause to believe that the defendant has violated a specified condition of a protective order entered under G.S. 50B-4.1 (i.e., threatened, abusing or following the victim; harassing the victim; interfering with the victim; or going to the residence or household of the victim). A person may seek a protective order under G.S. 50B without seeking the arrest of the person alleged to have committed an act of domestic violence.

Part XVI – Conform State Firearms Law to Federal Law

Section 16.1 amends North Carolina law to provide that a person who is a convicted felon may not possess any firearm. A "firearm" would be defined to parallel the definition of "firearm" under federal law. Current State law allows a convicted felon to won guns with a barrel length that is 18 inches or longer, or an overall length of 26 inches or more. It also allows convicted felons to possess any firearm in their home or "place of business".

Background: Under federal law, any person convicted of a felony in North Carolina would be prohibited from owning any type of firearm.

Part XVII – Specifically Allow Cross Warrants

Section 17.1 clarifies that a judicial official cannot refuse to issue a warrant solely because a warrant had been issued for the arrest of another person in the same case.

Background: Information was provided to the Criminal Law issues subcommittee that magistrates were failing to make individual probable cause determinations [as a "policy"] if a warrant had previously been issued in the same matter.

Part XVIII – Clarify Nurse's Privilege

Section 18.1 clarifies that if a written or printed record (as opposed to live testimony) is otherwise admissible (e.g., not excluded by the hearsay rule), then it may be entered into evidence. The nurse's privilege applies to any information that the nurse acquired that was necessary to render professional nursing services. If the information was not necessary to the rendering of services, then the nurse may be required to disclose the information. A presiding judge may compel the disclosure of evidence if the judge believes that its disclosure is necessary for a proper administration of justice.

Background: Generally, the information may be introduced by the custodian of the records of the health care facility where the records are located.

Section 18.2 makes a technical change to add the nurse's privilege (passed last Session), in the provision that excludes evidence of child abuse from the physician-patient privilege in juvenile proceedings.

Part XIX – Temporary Child Custody in Domestic Violence Hearings

Sections 19.1 through 19.6 remove the current limitations under which courts may address temporary custody under Chapter 50B.

Custody under Chapter 50B at the ex parte stage: These sections would amend the law regarding ex parte custody orders by allowing the court to enter orders at that stage if the child is exposed to a substantial risk of physical or emotional injury (not "bodily" injury) or sexual abuse. This would give the court more discretion in deciding when a child is at risk.

The changes would also require the court, if requested by the aggrieved party, to consider whether the other party should stay away from the child, or return the child to, or not remove the child from, the physical case of a parent or person in loco parentis. If the court decides the other party should have contact with the child, it would be required to issue an order specifying the terms of contact to protect the safety of the child and the aggrieved party.

The same provisions would apply to an authorized magistrate issuing an ex parte protective order.

Custody under Chapter 50B at a hearing following notice to the other party: These sections would create new requirements for the court when deciding whether to award temporary custody and visitation rights at a hearing under Chapter 50B after the other party has received notice or service of process. Rather than being discretionary, the court would be required to consider the issue of custody upon the request of either party. However, it would ultimately be within the discretion of the court to decide whether to actually grant an award of custody.

In determining whether custody and visitation should be awarded, the court would be required to consider the following listed factors:

- Whether the child was exposed to a substantial risk of physical or emotional injury or sexual abuse.
- Whether the child was present during acts of domestic violence.
- Whether a weapon was used or threatened to be used during any act of domestic violence.
- Whether a party caused or attempted to cause serious bodily injury to the aggrieved party or the child.
- Whether a party placed the aggrieved party or the child in reasonable fear of imminent serious bodily injury.
- Whether a party caused an aggrieved party to engage involuntarily in sexual relations by force, threat, or duress.
- Whether there is a pattern of abuse against an aggrieved party or the child.
- Whether a party has abused or endangered the child during visitation.
- Whether a party has used visitation as an opportunity to abuse or harass the aggrieved party.

- Whether a party has improperly concealed or detained the child.
- Whether a party has otherwise acted in a manner that is not in the best interest of the child.

If the court decides to award temporary custody, then the court would also be required to consider visitation. If ordering visitation, the court must provide for the safety and well being of both the child and the aggrieved party. The order must give specific parameters or conditions for the visitation, and may include any of the following:

- Exchange of the child in a protected setting.
- Supervised visitation.
- Treatment for the noncustodial parent.
- Restricting either parent from possessing or consuming controlled substances.
- Requiring the noncustodial parent to pay for supervised visitation.
- Prohibiting overnight visitation.
- Requiring a bond for the return of the child.
- Ordering an investigation or appointment of GAL for the child.
- Any other conditions deemed necessary.

Duration of orders: The duration of temporary custody orders entered under Chapter 50B are limited to a maximum of one year. While a protective order can generally be renewed indefinitely, any provisions awarding custody would not be eligible for renewal beyond the initial one year period. In addition, any subsequent custody order entered under Chapter 50 would supersede a temporary order entered under Chapter 50B.

Custody under Chapter 50: G.S. 50-13.2 is amended so that the new provisions set out in Chapter 50B, requiring courts to consider specific listed factors, would apply in all custody cases where the court finds that domestic violence has occurred.

Part XX – Prohibit Employment Discrimination Against Domestic Violence Victims

Sections 20.1 and 20.2 add a section to Chapter 50B prohibiting employers from discriminating against an employee for taking reasonable time off to appear in court when he or she is seeking relief under Chapter 50B. The employee would be required to notify the employer of the reason for the absence and supply documentation to the employer, if requested, to prove that he or she did have to miss work to appear in court.

This provision would be enforced by the Commissioner of Labor pursuant to Article 21 of Chapter 95 (Retaliatory Employment Discrimination). Under Article 21, if an employee feels that a violation has occurred, he or she may file a complaint with the Commissioner, who will initiate an investigation. If the Commissioner determines that there is reason to believe the allegations are true, the Commissioner may try to resolve the alleged violation through informal methods. If the Commissioner is unsuccessful, he or she must file a civil action on behalf of the employee or issue a right to sue letter to the employee enabling the employee to bring a civil action. The court may award any or all of the following types of relief:

- An injunction to enjoin continued violation.

- Reinstatement of the employee.
- Reinstatement of full fringe benefits and seniority rights.
- Compensation for lost wages, lost benefits, and other economic losses. (If the court finds that the violation was willful, the court shall treble the amount of damages awarded.)

Part XXI – Privacy for 50B Intake

Section 21.1 requires the clerk of superior court, whenever feasible, to provide a private area for 50B complainants to fill out forms and make inquiries.

Part XXII – Training for Judges and Court Personnel

Section 22.1 requests the North Carolina Supreme Court to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases.

Section 22.2 directs the Administrative Office of the Courts to study the issue of training for court personnel in the area of domestic violence, and to report its findings and recommendations to the 2005 Regular Session of the 2005 General Assembly.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1354 (Second Edition)

SHORT TITLE: Strengthen Domestic Violence Laws.

SPONSOR(S): Representatives Sherrill and McLawhorn

FISCAL IMPACT

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2004-05	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**	**FY 2008-09**
REVENUES:	$1,000,000	$1,000,000	$1,000,000	$1,000,000	$1,000,000
OPERATING EXPENDITURES:	$3,910,824	$18,954,737	$30,806,406	$5,931,101**	$5,961,547**
Department of Correction-Operating	-	$13,086,150	$24,909,423	No est. avail**	No est. avail**
Department of Correction-Capital	There are no available prison beds in this time frame. This note assumes the use of contractual prison beds ($57.92 per bed per day). In the long term, due to the limited availability of contractual beds, the State will need to construct new cells at $56,500 per bed. Construction would have to begin in FY 04-5 for beds to be available in FY 07-08.				
Judicial Branch	$1,809,068	$3,293409	$3,293,409	$3,293409	$3,293409
Positions	25				
Department of Justice	$121,756	$121,756	$121,756	$121,756	$121,756
Positions	2				
Department of Administration	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Community College System	-	$453,422	$481,818	$515,936	$546,382
POSITIONS TOTAL:	27	-	-	-	-
Judicial Branch	25				
Department of Justice	2				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts, Department of Correction, Department of Justice, Department of Administration, Community College System.

EFFECTIVE DATE: Upon ratification, except criminal penalty section: December 1, 2004. *This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: Effective for offenses committed on or after Dec. 1, 2004, adds new GS 15A-1353(b)(12) to make as regular probation condition that defendant attend and complete abuser treatment program if court finds defendant is responsible for acts of domestic violence and there is program, approved by Domestic Violence Commission, reasonably available to defendant, unless court finds program would not be in best interests of justice. Effective for offenses committed on or after Dec. 1, 2004, amends GS 143B-262 to require Department of Correction, in consultation with Domestic Violence Commission, to establish domestic violence treatment program for offenders sentenced to term of imprisonment in custody of Department and whose record includes court finding that offender committed acts of domestic violence; requires offender to complete program before completing incarceration, with specified exception. Amends various provisions in GS Ch. 17C and 17E to require specified entry-level and in-service domestic violence training for law enforcement officers; amount of training hours and effective dates for training to be determined by the Standards Commission. Requires Department of Public Instruction, in collaboration with State Board of Education, to study issue of anti-violence programs in schools and training for school personnel dealing with students who are victims of domestic and relationship violence; specifies reporting dates to legislative committees.

Adds new Art. 37B to GS Ch. 7B to create Domestic Violence Victim Assistance Act. Funds appropriated under art. shall be used to (1) provide legal assistance to domestic violence victims; (2) provide education to domestic violence victims concerning their legal rights and duties; and (3) involve private bar in representation of domestic violence victims. Emphasis to be placed on representing clients needing legal assistance with GS Ch. 50B proceedings. Funds to be provided to NC State Bar for provision of direct services by and support of established legal services programs as specified in bill; State Bar to report as specified in bill to General Assembly on use and disbursement of funds. Amends GS 84-4.1 (limited practice of out-of-state attorneys) to add $100 fee with motion to practice in NC, with funds being remitted to NC State Bar for above-described act; effective for motions filed on or after July 1, 2004.

Effective July 1, 2004, appropriates $2 million for 2004-2005 from General Fund to Department of Administration, to be credited to Domestic Violence Center Fund established under GS 50B-9. Amends GS 7B-1402 to add following members to Child Fatality Task Force: (1) representative from NC Domestic Violence Commission, appointed by House Speaker upon recommendation by Commission Director; and (2) representative from NC Coalition Against Domestic Violence, appointed by Senate Pres. Pro. Tem upon recommendation of coalition's Executive Director. Deletes two public members from Commission. Requires Department of Health and Human Services to study and develop plan for serving clients of domestic violence

programs with mental health and substance abuse service needs; specifies reporting to legislative committee. Requires NC State Bar, in cooperation with NC Bar Association, to study issue of providing CLE credit to attorneys for providing pro bono legal representation, and specifically for such representation to domestic violence victims; specifies reporting to legislative committee.

Effective for offenses committed on or after Dec. 1, 2004, (1) amends statutory aggravating factor in GS 15B-1340.16(d)(15) (taking advantage of position of trust) to specifically include domestic relationship; (2) amends GS 14-32.4 to provide that person who assaults another person and inflicts physical injury by strangulation is guilty of Class H felony; (3) amends GS 14-33.2 (habitual misdemeanor assault) to require proof of two or more prior convictions for either misdemeanor or felony assault (now, requires proof of five or more prior misdemeanor convictions, two or which were misdemeanor assaults); provides that conviction of GS 14-33.2 may not be used as prior conviction for any other habitual offense statute; and (4) amends GS 15A-1343.2(e) (delegation to probation officer in community punishment) to add within delegation probationer's submission to curfew requiring probationer to remain in specified place for specified period each day and wear electronic monitoring device.

Effective for offenses committed on or after Dec. 1, 2004, adds new GS 15A-1382.1 to provide that when defendant is convicted of offense involving assault or communicating threat and judge determines that victim had personal relationship [as defined in GS 50B-1(b)] between defendant and victim, then judge must indicate on judgment that case involved domestic violence; clerk must insure that official record of defendant's conviction includes this determination. If community punishment is imposed, court must determine whether defendant must comply with special conditions of probation under GS 15A-1343(b1); judge is also authorized to require electronic monitoring under GS 15A-1343(b1)(3c), despite the provisions of GS 15A-1340.11(6)c.

Directs Sentencing and Policy Advisory Commission to study classification of misdemeanor offenses, particularly classification of assault offenses in relation to property offenses, crimes against society, and felony assault offenses; Commission to develop system for classifying misdemeanor offenses based on their severity. Specifies reporting to General Assembly.

Effective for offenses committed on or after Dec. 1, 2004, amends GS 15A-401(b)(2) to authorize law enforcement officer to make arrest without arrest warrant when defendant has violated pretrial release order entered under GS 15A-534.1(2) (apparently intends (a)(2), which concerns judge's imposition of conditions when defendant was released after being charged with domestic violence crime). Effective for offenses committed on or after Dec. 1, 2004, amends GS 14-415.1 to prohibit convicted felon from possessing any firearm (now, only handgun or firearm with barrel length less than 18 inches or overall length less than 26 inches). Deletes provision that allows convicted felon to possess firearm in own home or place of business. Amends GS 15A-304 to provide that judicial official may not refuse to issue arrest warrant solely because prior arrest warrant had been issued for another person involving same matter.

Effective for actions filed on or after Oct. 1, 2004, amends GS 50B-2(c) (ex parte order by judge) and (d) (ex parte order by authorized magistrate) to permit, if court or magistrate finds that child is exposed to substantial risk of physical or emotional injury or sexual abuse, on request of

aggrieved party, court or magistrate may order other party to stay away from minor child, or return minor child to, or not remove minor child from, physical care of parent or person in loco parentis, if court or magistrate finds order is necessary for child's safety. Court or magistrate may specify terms of contact, if permitted, between minor child and other party, as set out in bill.

Effective for actions filed on or after Oct. 1, 2004, (1) adds new GS 50B-3(a1) to provide that, on request of either party at hearing after notice or service of process, court shall consider and may award temporary custody of minor children and establish temporary visitation rights as set out in bill; (2) amends GS 50B-3(b) to provide that temporary award of custody may not be renewed to extend such custody beyond maximum one-year period; (3) adds new GS 50B-5.5 and amends GS 95-241(a) to prohibit employment discrimination against domestic violence victims.

Requests NC Supreme Court to adopt rules establishing minimum standards of education and training for district court judges in handling civil and criminal domestic violence cases. Requires Administrative Office of Courts to study issue of training for court personnel in domestic violence issues and report findings and recommendations to 2005 legislative session.

Source: Bill Digest H.B. 1354 (05/11/2004)

ASSUMPTIONS AND METHODOLOGY: This domestic violence legislation makes large-scale changes to criminal law statutes as well as numerous other aspects of the law affecting the appropriations process. This fiscal note will examine the bill by section.

Section I requires all domestic violence offenders sentenced to the Department of Correction either for probation or prison to complete an abuser treatment program. This requirement will have costs, which cannot be determined exactly, because offender information systems, both in the courts and Corrections, do not identify offenders as perpetrators of domestic violence. A subsequent section of the bill (Part XII) directs the Administrative Office of the Courts (AOC) to develop a tracking measure within its Automated Court Information System (ACIS) to identify these offenders.

For offenders sentenced to probation, this bill moves participation in an abuser treatment program from the list of optional conditions to the mandatory list, assuming a program is "reasonably available." These programs currently exist in 76 counties, and are funded by the Domestic Violence Commission in the Department of Administration. They may not have capacity for all probationers as currently funded. The Division of Prisons will need to work with the Domestic Violence Commission to develop a program appropriate for abusers that takes into account the Division's other offender management priorities, such as inmate disciplinary status, as well as the length of sentence.

Section II requires domestic violence training for entry-level law enforcement officers, as well as regular in-service training for active law enforcement officers. This section would have fiscal impact upon both the Department of Justice and the Community Colleges. The Department of Justice would require two additional positions to coordinate and perform the in-service training requirement in the bill, costing $121,000 per year.

The Community College System provides Basic Law Enforcement Training (BLET), where the additional entry-level training would be added under this bill. Adding time to the BLET curriculum, based on current-year full-time equivalents, would be around $450,000 in the second year of the analysis time-frame, going up to $546,000 by year 5 due to enrollment increases. Any costs for in-service training in the Community Colleges cannot be determined.

Section III directs the Department of Public Instruction to study the issue of anti-violence programs in the schools, as well as training for school personnel in dealing with students who are victims of abuse. This section is not expected to have any fiscal impact.

Section IV creates a new fund to provide legal services for domestic violence victims. This fund would be administered by the State Bar, and would be funded by a new $100 *pro hac vice* fee, a fee charged to attorneys not licensed in North Carolina who wish to participate in a case here. The Administrative Office of the Courts estimates the fee could generate $1 million per year. The funds will be passed through to the State Bar to be used in individual counties on a formula basis: 20% of the funds shall be based on an even-share basis, 80% based on the rate of domestic violence protective orders issued under GS 50B in that county. This section becomes effective July 1, 2004.

Section V appropriates $2 million recurring from the General Fund to the Domestic Violence Center Fund. This section becomes effective July 1, 2004.

Section VI adds two domestic violence advocates to the Child Fatality Task Force. This section has no expected fiscal impact.

Section VII directs the Department of Health and Human Services to study and develop a plan for serving clients of domestic violence programs with mental health and substance abuse needs. As this section requires a study, it has no expected fiscal impact. The findings of the study, due to the 2005 session of the General Assembly, may have fiscal impact.

Section VIII directs the State Bar to study the issue of providing Continuing Legal Education credit to active attorneys for pro bono legal representation in domestic violence proceedings for victims. This section has no expected fiscal impact.

Section IX modifies an existing felony aggravating factor, which can be used to extend a sentence to prison; the factor allows sentence enhancement for abuse in a position of trust, including a domestic relationship. This may have some fiscal impact, but cannot be projected since aggravating factors reflect judicial discretion within the sentencing grid.

Section X creates a Class H felony for assault by strangulation inflicting serious injury. The new strangulation assault offense may have significant impact on the prison population, as well as court operations. The offense represents roughly $1.3 million in court impact in the first year. Felonies are usually tried in Superior Court rather than District Court; felony trials also generally take

longer than misdemeanor trials. Trials in Superior Court involve juries and much more prosecutor preparation time. AOC also expects the trial rate to increase. Misdemeanor offenses often result in guilty pleas, rather than trials. Defendants charged with felonies are more likely to go to trial than to plead, one estimate suggests they are twice as likely to go to trial. Given the high volume of assault cases, any increase in felony trial rate can result in large impact on court resources.

Based on a survey of District Attorneys as to the frequency of strangulation as a component of existing assault crimes, the AOC estimates that there will be 5,665 charges of the new Assault Involving Strangulation offense. These cases would most likely be tried in Superior Court, although District Court judges can hear guilty pleas in Class H felony cases. These additional costs are based on higher costs of running trials in Superior versus District Court. In order to deal with this higher court caseload, the AOC will need two additional Superior Court judges, two court reporters, six Assistant District Attorneys, and two deputy clerks of court.

Since strangulation is a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this bill on the state prison population. It is not known how many offenders might be sentenced under this bill. If, for example, there were three Class H convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year.

The Sentencing Commission did attempt, however, to project the scope of impact resulting from this change using the AOC's District Attorney survey. According to data extracted by the AOC, there were 21,805 defendants charged with simple assault, 2,241 defendants charged with assault inflicting serious injury, 29,248 defendants charged with assault on a female, and 11,955 defendants charged with other Class A1 misdemeanor assaults. The AOC estimates that physical injury by strangulation was involved in the following:

- 7% (n=1,527) of simple assault cases;
- 12% (n=269) of assault inflicting serious injury cases;
- 12% (n=3,510) of assault on a female cases;
- 3% (n=359) of other Class A1 misdemeanor assault cases.

An estimated 5,665 cases may be affected by this proposal. In FY 2002-03, 32.9% of offenders convicted of a Class H felony received an active punishment with an average estimated time served of 10.5 months. The remaining 67.1% of offenders convicted of a Class H felony received a non-active punishment. The revocation rate for these offenders was 49.5%. Assuming that 29.3% of Class H charges result in Class H convictions, there would be an estimated 1,660 convictions for this offense per year. If this were the case, the combination of active sentences and probation revocations would result in the need for 478 additional prison beds the first full year (2005-06) of operation and 961 additional prison beds the second year (2006-07). Because this is a new crime and the projection must be based on survey data rather than existing judicial practice, the Sentencing Commission cannot use its simulation model to forecast impact. Instead, they are providing a two-year projection based simply on current numbers and expected growth. These offenders, at Class H, would not be expected to stack up in the system due to long sentences.

Rows 4 and 5 in the following chart show the impact of this bill. As shown in bold in the chart below, the Sentencing Commission estimates this specific legislation might add up to 1,091 inmates to the prison system by the end of FY 2006-07.

	June 30 2004	June 30 2005	June 30 2006	June 30 2007	June 30 2008
1. Projected No. Of Inmates Under Current Structured Sentencing Act[1]	35,851	36,787	37,739	38,687	39,557
2. Projected No. of Prison Beds (DOC Expanded Capacity)[2]	34,561	34,729	34,729	34,729	34,729
3. No. of Beds Over/Under No. of Inmates Under Current Structured Sentencing Act	-1,290	-2,058	-3,010	-3,958	-4,828
4. No. of Projected Additional Inmates Due to this Bill[3]	0	0	521	1,091	N/A
5. No. of Additional Beds Needed Each Fiscal Year Due to this Bill[3]	0	0	521	570	N/A

These beds would be over and above those already needed by the prison system, so they would have to be procured either by finding space through contracts and temporary beds or constructing new prison facilities. As a practical matter, some temporary or contractual beds will be needed to carry forward until new facilities could be constructed. Projecting from current average incarceration costs per day of $57.92, and assuming 3% annual inflation, we assume the annual operating cost for a prison bed to be $23,100 for 2005-06, and $23,793 for 2006-07. Applying these rates to the numbers projected for the strangulation offense, we expect a cost to the Department of Correction of $11,041,800 in 2005-06 and $22,865,073 in 2006-07.

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[1] The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts.

[2] Projected number of prison beds is based on beds completed or funded and under construction as of 12/14/02. The number of beds assumes the Department of Correction will operate at an Expanded Operating Capacity (EOC), which is the number of beds above 100% or Standard Operating Capacity. The EOC is authorized by previous court consent decrees or departmental policy. ***These bed capacity figures do not include the potential loss in bed capacity due to any proposals in the 2003 Session to eliminate prison beds or close prisons. Figures include three new prisons due to open in 2003-04.***

[3] Criminal Penalty bills effective December 1, 2003 will only affect inmate population for one month of FY 2003-04, June 2004, due to the lag time between when an offense is committed and an offender is sentenced.

Assuming that the Department will construct new beds for the longer-term effects of this legislation, the Department would need to begin planning construction of new facilities to expand capacity by about 1,000 beds (strangulation as well as the Habitual Misdemeanant statute discussed below). Using an average of the construction costs of minimum and medium prison beds ($56,500), the cost of 1,000 new beds would be $56,500,000.

Section XI amends the Habitual Misdemeanor Assault statute so that a conviction of an assaultive misdemeanor, when the offender has two prior assault convictions and the assault causes physical injury, becomes a Class H felony. This bill changes the existing habitual misdemeanor offense by lowering the threshold at which an offender qualifies for the charge. Under current law, an offender must have been convicted of five prior misdemeanors, two of which are assaults, in order to be charged as a habitual misdemeanant. The AOC estimates that an additional 1,527 offenders would be eligible for the habitual misdemeanor charge given the lower threshold under this bill, and that 24% of them (366) would likely be charged as such, based on the survey of District Attorneys. This increase would likely cost the court system about $65,000 in the first year of the bill's effective date. This section would add approximately 130 prison beds to the capacity need, assuming that 100% of the offenders convicted under this statute received an active sentence. If judges sentenced these offenders using similar practice to existing Class H felonies, this section would only add 45 new beds by year 2 (2006-07).

Assuming the same prison operating costs as for Section X, we would assume that prison costs for this section to range from $1,039,500 to $3,049,200 in each year.

Section XII provides for a reporting system in the Administrative Office of the Courts to record whether an offense involves domestic violence. This section also authorizes the use of house arrest for offenders placed on Community Supervision; house arrest is currently authorized only for Intermediate offenders. Program development for the reporting system would require $132,000 for contractual programmers and implementation training. The courts also expect an increase in trial time to establish the existence of the domestic relationship, costing about $290,000. There is no estimate on the impact of the house arrest provision.

Section XIII amends the Delegated Authority statute that allows the Department of Correction to enhance a probationer's punishment without returning to court in response to violations. This provision allows probation officers to place a Community offender on electronic house arrest. Delegated Authority is seldom used, and hence impact cannot be projected from this section.

Section XIV directs the Sentencing Commission to study misdemeanor offense classifications. The Sentencing Commission estimates a need for $20,000 for contractual consulting services and travel to perform the research and analysis necessary for this study.

Section XV authorizes warrantless arrest for violation of a pretrial release order. This may result in more jail beds used for pretrial abusers, but there is no information on which to base an impact estimate.

Section XVI makes conforming changes to state firearm laws to mirror existing federal law. It is expected to have no state level fiscal impact.

Section XVII prohibits a judicial official from refusing to issue a warrant for arrest solely because a prior warrant has been issued for the arrest of another person involved in the same matter. This is expected to have no fiscal impact on the state.

Section XVIII amends the nurse's privilege laws to clarify that the privilege does not preclude the admission of otherwise admissible written or printed medical records. This should have no fiscal impact.

Section XIX expands the circumstances under which a temporary child custody award may be made as part of an ex parte domestic violence protective order and gives the court specific factors to consider in deciding custody in domestic violence cases. A survey of District Court judges implies no significant fiscal impact from this change.

Section XX prohibits employers from firing, or otherwise discriminating against, an employee because the employee has taken time off work to seek relief under Chapter 50B.

Section XXI requires Clerks of Superior Court, where feasible, to provide a private area for complainants in domestic violence cases filing for protective orders under GS 50B to fill out forms and ask questions. Court facilities are the responsibility of county governments; as such, providing private space for handling domestic violence cases does not affect state resources. The AOC has conducted a survey of clerks, and has learned that many already have provision for private space, either through construction or through creative use of existing space.

Section XXII requests that the Supreme Court adopt rules establishing domestic violence training requirements for judges and requires AOC to study the issue of domestic violence training for other court personnel. As this is a study provision, no cost is expected, but the study's findings may indicate the need for future expansion of the AOC training budget.

Section XXIII is the effective date of the whole bill. It is effective upon ratification, except that the criminal penalty sections, IX, X, and XI, are effective on December 1, 2004, which is the standard date for criminal law changes.

SOURCES OF DATA: Administrative Office of the Courts; NC Sentencing and Policy Advisory Commission; Department of Correction; Community College System; Department of Public Instruction.

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Publication

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 16, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1354 A BILL TO BE ENTITLED AN ACT TO STRENGTHEN THE LAWS AGAINST DOMESTIC VIOLENCE, TO PROVIDE ADDITIONAL ASSISTANCE TO DOMESTIC VIOLENCE VICTIMS, AND TO MAKE OTHER CHANGES AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (# 2),-☐ ~~which changes the title~~, unfavorable as to ~~the original bill~~ Committee Substitute Bill # 1, and recommendation that the committee substitute bill # 2 be re-referred to the Committee on APPROPRIATIONS.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 1655

Short Title:	Incentive for Higher Wages.	(Public)
Sponsors:	Representatives Luebke; Insko and Womble.	
Referred to:	Finance.	

May 25, 2004

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE CORPORATE DEDUCTION FOR EXCESSIVE COMPENSATION OF CORPORATE EXECUTIVES RELATIVE TO RANK AND FILE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(16) The amount by which the corporation's deduction under section 162 of the Code for compensation paid to any employee or officer for the taxable year exceeds an amount equal to 50 times the annual compensation of the corporation's lowest paid full-time employee for the taxable year."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004. Notwithstanding G.S. 105-163.41, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2004, and before January 1, 2005, with respect to an underpayment of corporation income tax to the extent the underpayment was created or increased by this act.

HOUSE BILL 1655:
Incentive for Higher Wages

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	June 17, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1655 would limit the corporate deduction for employee compensation to an amount not to exceed 50 times the compensation paid to the corporation's lowest paid full-time employee for the taxable year.

This act would become effective for taxable years beginning on or after January 1, 2004.

CURRENT LAW: Section 162 of the Internal Revenue Code allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries, wages, commissions, bonuses, or other compensation it pays to its employees for personal services actually rendered. To be deductible, the compensation must be ordinary and necessary, reasonable in amount, based on services rendered, and actually paid or incurred in the year for which the deduction is claimed as shown by payroll records.

Congress enacted legislation in 1993 to limit the corporate tax deductibility of executive pay. Under current law, Section 162(m) limits the corporate tax deduction for compensation paid to the CEO and the next four highest-paid executive officers to $1 million per person. This cap represented roughly the median level of total compensation for large firms' CEOs at the time the legislation was enacted.

BILL ANALYSIS: House Bill 1655 would limit the corporate deduction for employee compensation by requiring an add-back to federal taxable income at the State level in an amount by which the federal deduction under IRC §162 exceeds an amount equal to 50 times the annual compensation of the corporation's lowest paid full-time employee for the taxable year.

For example, if a corporation employs an individual with an annual salary of $1,000,000 (and that salary is eligible for a deduction under IRC §162) and the lowest paid employee earns $15,000 per year, then the corporation would be required to add $250,000 back to its federal taxable income for purposes of determining State net income.

$15,000		$1,000,000
x 50	→	-$750,000
$750,000		$250,000

This act would become effective for taxable years beginning on or after January 1, 2004. The bill also provides that corporations would not be assessed penalties for any underpayment during the current tax year to the extent the underpayment of tax was created as the result of this act.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 16, 2004

TO: Representative Luebke

FROM: David Crotts
Fiscal Research Division

RE: HB 1655 (First Edition)

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (x)**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES:					
State General Fund					

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is administered by the Department of Revenue. The enactment of the bill is not expected to affect the budget requirements of the Department.

BILL SUMMARY: Requires a corporation to add back to taxable income the amount by which the corporation's deduction under federal tax code for compensation paid to an employee or officer exceeds an amount equal to 50 times the annual compensation of the corporation's lowest paid full-time employee. The change is effective for tax years beginning on or after Jan. 1, 2004. Allows an exemption from the penalty for underpayment of estimated taxes for a tax year beginning during the 2004 calendar year if the underpayments result from the enactment of this bill.

ASSUMPTIONS AND METHODOLOGY: For the purpose of this analysis it was assumed that the lowest paid fully employed worker in a company earns the minimum wage of $5.15 per hour. This is equivalent to $10,300 per year based on 50 weeks of work.

A review of the annual shareholder reports of a wide variety of companies indicates that for many companies the amount of compensation that would no longer be deductible is fairly small. For example, the amount is around .25% of net income for mid-sized companies. For the largest companies, the share was as low as .075% due to the fact that there is a "fixed cost" part of the compensation package (if net income for Company A is 100 times the amount for Company B, the compensation of high-level executives in Company A will be less than 100 times the amount of compensation in Company B). .

Another issue affecting the estimate has to do with different company practices for expensing stock options. This has been a controversial issue in the financial reporting industry and is important issue due to the fact that options have become a significant share of the total compensation package of top executives.

A third issue is that since 1993 there has been an expense cap of $1 million for the compensation of top executives of public companies. Thus, the expense base for federal tax purposes is not the full amount of the compensation.

Finally, the number of employees whose compensation would be affected by the bill is fairly small. In a typical company there would be about 5 executives affected and some of these would have a compensation package that exceeds the threshold by a small amount.

The determination of the additional General Fund revenue under this act would require a very detailed review by the Department of Revenue of actual tax returns as well as research into 10-K reports and shareholder statements of publicly-traded corporations. Based on the data we have available at the present time, the potential revenue gain under the bill is fairly small, relative to the size of the corporate tax base.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: David Crotts

APPROVED BY:

DATE:

HB 1655

Golden parachute limits studied

Taxes would be paid based on lowest worker's pay

BY ANNE KRISHNAN
akrishnan@heraldsun.com; 419-6642

Some state lawmakers are trying to take the air out of the golden parachutes used by executives in North Carolina.

Created in the 1980s as million-dollar payouts for officials who lost their jobs following a merger or acquisition, so-called golden parachutes have become expected parts of executives' employment contracts.

LUEBKE

And now executives don't have to lose their jobs to collect millions under these change in control agreements.

As Rep. Paul Luebke, D-Durham, has watched executive compensation skyrocket and golden parachutes proliferate, he's become concerned about the disparity between companies' lowest and highest paid employees.

To tackle the issue, Luebke and two other legislators have introduced a bill that caps the level at which companies would be able to deduct executive pay, including golden parachutes, from their taxes as business expenses.

The bill, which will be discussed in the House finance committee on Thursday, would require companies to pay taxes on the amount that an executive's compensation exceeds 50 times the pay of its lowest employee, Luebke said.

So if a company's lowest-paid worker makes $20,000 a year, individual executives wouldn't be able to make more than $1 million a year without the company los-

see PARACHUTE | page B2

PARACHUTE

FROM PAGE B1

ing a tax deduction, he said. If the company raises that employee's salary to $30,000 a year, executive pay would theoretically be capped at $1.5 million.

Luebke hopes the bill would help curb the types of payouts that executives with Central Carolina Bank's parent company will receive as a result of arranging the bank's merger with Atlanta-based SunTrust Banks.

"Although the CCB golden parachutes were not the immediate impetus for my bill, the phrase 'golden parachute bill' captures very well the kinds of extremely high business expenses that North Carolina taxpayers ought not to be subsidizing via corporate income tax deductions," he said.

According to documents filed with the Securities and Exchange Commission, seven National Commerce Financial executives will share golden parachutes worth $17 million in severance pay when the merger becomes effective — even if they don't lose their jobs. The executives also will receive immediate vesting in stock options potentially worth tens of millions more, as well as unspecified retention bonuses of SunTrust stock.

NCF Chief Executive William R. Reed stands to receive at least $2.5 million, while chief operating officer Richard Furr, who's based in Durham, and chief credit officer J. Scott Edwards could receive more than $2 million apiece. Under Luebke's bill, NCF's lowest paid worker would have to make $50,000 for Reed's entire golden parachute to be tax deductible in North Carolina.

"There's a fairly widespread belief among our citizens that CEO compensation is pretty out of control," Luebke said. "[The bill] might encourage a company to think twice before giving such a high level of golden parachutes."

Standard practice

Federal tax law also penalizes executives and their companies for "excessive golden parachutes." If change-in-control payments are more than three times greater than the executive's average compensation over the past five years, the executive must pay excise taxes and the company loses its federal tax deduction over a certain level.

According to NCF's regulatory filing, the company will reimburse its executives if their golden parachutes incur federal excise taxes.

An NCF spokeswoman declined to discuss the specifics of the bank's golden parachutes. The company doesn't discuss employee contracts, she said, noting that change-in-control contracts are standard in the banking industry.

"We're in an industry that has a lot of mergers, and employee contracts are in place to make sure the team is retained," spokeswoman Eileen Sarro said.

Golden parachutes have indeed become expected parts of executive compensation packages, said Virginia Rosenbaum, a senior analyst with the Investor Responsibility Research Center, a research and consulting firm based in Washington, D.C.

The IRRC said in a January report that more than 73 percent of companies it analyzed had golden parachute provisions. Two years ago, the IRRC noted golden parachutes at 67.7 percent of the companies it studied.

Golden parachutes arose alongside corporate takeover defenses such as poison pills as part of the leveraged buyout wave of the 1980s, said Robert Bushman, an accounting professor at UNC's Kenan-Flagler School of Business.

The practice was originally conceived as an incentive for officers to pursue high-value mergers or acquisitions for their companies, even if it meant they might lose their jobs, said Michael Bradley, a corporate finance professor at Duke University's Fuqua Business School.

But by the early to mid-1990s, the golden parachute's mechanics had changed for many companies, he said. "It shifted to where it was the change in control, not the leaving of office, that triggered the parachute."

While critics focus on the fact that golden parachutes enhance executives' wealth, scholars said the bonuses often continue to serve their original purpose by encouraging leaders to sell their companies to create value for shareholders.

Even if executives don't lose their jobs, in agreeing that their companies will be acquired they're also agreeing to "be smaller fish in a bigger sea," Bushman said. "Looking at ego, it's possible that would cause a management team to be reluctant to allow the takeover to occur when they're running the show."

Executives who stay in smaller roles with the merged company frequently receive retention bonuses on top of their other golden parachutes, Bradley said.

"They have a lot of firm-specific capital that the acquirer would like to utilize," he said.

Razor's edge

Bradley and Bushman acknowledged that golden parachutes could — like anything — be abused.

"It's a razor's edge," Bradley said. "You want to give them incentive to give up control if there's a higher valued bidder, but not so much incentive that they sell the firm too cheaply."

For instance, newspaper reports surfaced in September 2002 that executives of the Maryland CareFirst Blue Cross plan asked for millions in bonuses as a condition of being purchased by Virginia's for-profit Trigon Blue plan. When Trigon turned down the nonprofit insurer's request, CareFirst agreed to sell itself to California's WellPoint Health Networks, which offered bonuses and severance packages totaling $119.7 million to CareFirst executives.

Maryland's insurance commissioner blocked the proposed acquisition in March 2003, ruling that CareFirst executives didn't exercise due diligence in deciding to sell the company, choosing a buyer and negotiating the sale's terms and conditions. The purchase price didn't reflect CareFirst's fair value, Commissioner Steven Larsen wrote in his decision.

While activist shareholders have been looking closely at corporate governance for decades, scandals at companies such as Enron and Tyco have made the public highly sensitized to the subject, Bushman said.

In the end, it's impossible to know how much executives are truly motivated by golden parachutes, he said.

"You've got to look at the outcome," Bushman said.

Under the terms of the $6.98 billion deal announced May 9, NCF shareholders would receive $8.625 plus 0.3713 SunTrust share for each NCF share. Based on SunTrust's closing price on the Friday before the merger was announced, the transaction was valued at $33.46 per NCF share. That's a 19 percent premium over National Commerce's closing stock price on Thursday, May 6 — the day before NCF shares surged 13 percent on speculation a deal was imminent.

"For a bank, I think that's a pretty good premium," Bradley said.

ROLL CALL VOTE

4 YES 20 NO = 24 (TOTAL) FAILED Date: 6-17-2004 HB# 1655
SB# _____
Amendment # _____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander		X
Blackwood		X
Bordsen	X	
Capps		X
Carney		X
Creech		X
Daughtridge		X
Decker		X
Ellis		X
Gibson		
Glazier		X
Hackney		
Hill		X
Holliman		
Jones		X
Lewis		
McGee		X
Munford		X
Rayfield		
Ross		
Setzer		X
Starnes		X
Weiss	X	
Wilson		X
Womble	X	
Wood		

MEMBER (last name)	YES	NO
Ex officio Members		
Brubaker		
Culpepper		
Cunningham		
Eddins		
Co-Chairs		
G. Allen		X
Howard		X
Luebke	X	
McComas		X
Miner		X
Wainwright		

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1661
PROPOSED COMMITTEE SUBSTITUTE H1661-CSLA-59 [v.3]

6/14/2004 5:06:35 PM

Short Title: Cap Gas Tax Variable Rate. (Public)

Sponsors:

Referred to:

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AND INCREASE THE AMOUNT OF TAX DISTRIBUTED TO VARIOUS FUNDS AND ACCOUNTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢)a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than seven and one-tenth cents (7.1¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. G.S. 105-449.125 reads as rewritten:

"**§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

The Secretary shall allocate the amount of revenue collected under this Article from an excise tax of ~~one-half cent (1/2¢)~~eight-tenths cent (0.8¢) a gallon to the following funds and accounts in the fraction indicated:

Fund or Account	Amount
Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund	~~Nineteenthirty-seconds~~ Seventeen twenty-fifths

Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund	Three ~~thirty-seconds~~ twenty-fifths
Water and Air Quality Account	~~Five-sixteenths.~~One-fifth.

The Secretary shall allocate seventy-five percent (75%) of the remaining excise tax revenue collected under this Article to the Highway Fund and shall allocate twenty-five percent (25%) to the Highway Trust Fund.

The Secretary shall charge a proportionate share of a refund allowed under this Article to each fund or account to which revenue collected under this Article is credited. The Secretary shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

SECTION 3. Section 1 of this act is effective when it becomes law and applies to rates set on or after that date. Section 2 of this act becomes effective for distributions made on or after July 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1661

Short Title:	Cap Gas Tax Variable Rate.	(Public)
Sponsors:	Representatives Decker, Pate (Primary Sponsors); Frye, Goodwin, Hill, Justice, LaRoque, McGee, McHenry, Moore, Munford, and Warner.	
Referred to:	Finance.	

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE AT ITS CURRENT RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-449.80(a) reads as rewritten:

"(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢)a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than six and eight-tenths cents (6.8¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1."

SECTION 2. This act is effective when it becomes law and applies to rates set on or after that date.

HOUSE BILL 1661:
Cap Gas Tax Variable Rate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Decker
Date:	June 16, 2004	**Analysis by:**	Martha Walston
Version:	H1661-CSLA-59		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1661 does two things:

- *Caps the variable wholesale component of the motor fuels tax rate at its amount for the period beginning July 1, 2004. This amount was set on June 15 at 7.1¢ a gallon (effective when it becomes law)*
- *Increases the amount of motor fuels tax distributed to various funds and accounts. (effective for distributions made on or after July 1, 2004)*

CURRENT LAW: North Carolina imposes a motor fuels excise tax on all motor fuel sold, distributed, or used in the State. The tax is remitted by the wholesale distributor to the suppliers, as trustees for the State, at the terminal rack. The rate of the tax is 17.5 cents per gallon, plus the greater of 3.5 cents per gallon or 7 % of the average wholesale price of motor fuel. The wholesale price component of the rate is set every six months by the Secretary of Revenue based on the average price during the previous period. As of January 1, 2004, the total tax rate was 24.3 cents per gallon.

The term "motor fuels" is defined as gasoline, diesel fuel, and blended fuel. (G.S. 105-449.60)

The revenue collected from the motor fuels tax is distributed as follows:
½ of 1 cent of the tax imposed per gallon is allocated as follows:

- 19/32 of each half cent to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 3/32 of each half cent to the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 5/16 of each half cent to the Water and Air Quality Account

Of the remaining proceeds, 75% is allocated to the Highway Fund and 25% is allocated to the Highway Trust Fund.

BILL ANALYSIS: The PCS for House Bill 1661 would cap the wholesale price component of the rate set for the period beginning July 1, 2004, which is 7.1 cents a gallon. The PCS also changes the distribution of the motor fuels tax revenue as follows:
Allocates 0.8¢ (was 1/2¢) a gallon to the following funds and accounts:

- 17/25 (was 19/32) to Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund
- 3/25 (was 3/32) to the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund
  1/5 (was 5/16) to the Water And Air Quality Account

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 14, 2004

TO: **House Finance Committee**

FROM: Bob Weiss
Fiscal Research Division

RE: House Bill 1661-CSLA -59v3

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Section 1					
REVENUES					
Highway Fund	**($37,500,000)**		**No Estimate Available**		
Highway Trust Fund	**($12,500,000)**		**No Estimate Available**		
TOTAL	**($50,000,000)**				
Section 2					
REVENUES					
Highway Fund	($11,967,750)	($12,278,250)	($12,658,500)	($13,063,500)	($13,520,250)
Highway Trust Fund	($3,989,250)	($4,092,750)	($4,219,500)	($4,354,500)	($4,506,750)
Comm. LUST Fund	$13,144,579	$13,485,611	$13,903,253	$14,348,078	$14,849,741
NonComm LUST Fnd	$2,612,959	$2,680,751	$2,763,773	$2,852,198	$2,951,921
Water &Air Quality	$199,463	$204,637	$210,975	$217,725	$225,338

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Fund, Highway Trust Fund, Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds, Water and Air Quality Account.

EFFECTIVE DATE: Section 1 is effective when the bill becomes law and applies to rates set on or after that date. Section 2 becomes effective for distributions made on or after July 1, 2004.

BILL SUMMARY: Caps the variable wholesale component of the motor fuels tax rate at 7.1 cents per gallon. Raises the amount allocated from the motor fuels tax to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund, and the Water and Air Quality Account from 0.5 cents per gallon to 0.8 cents per gallon and changes the proportions allocated to each of these funds. The Commercial LUST Fund allocation is increased from 19/32 to 17/25 (approximately 59% to 68%), the Noncommercial LUST Fund allocation is increased from 3/32 to 3/25 (9% to 12%), and the Water and Air Quality Account allocation is decreased from 5/16 to 1/5 (31% to 20%).

ASSUMPTIONS AND METHODOLOGY:

Section 1

The motor fuels tax rate in North Carolina consists of a fixed rate of 17.5 cents per gallon plus a variable rate that is the greater of 3.5 cents per gallon or 7% of the wholesale price (weighted average of gasoline and diesel fuel) for a six month period as published by the US Department of Energy's Energy Information Administration.

Through June 30, 2004 the variable rate is 6.8 cents per gallon and the total tax is 24.3 cents per gallon. On June 15, 2004 the Department of Revenue will set the rate for the period July through December 2004. That rate is based on wholesale prices in the period October 2003 through March 2004 and is expected to be 7.1 cents per gallon for a total of 24.6 cents per gallon. This will be an increase of .3 cents per gallon over the rate in effect from January through June of 2004. The bill will cap the variable rate in the future at 7.1 cents per gallon.

The revenue impact of the bill will be determined by the amount, if any, that the variable rate that would be set by the formula in the current law exceeds 7.1 cents per gallon. It is assumed here that prices remain generally high during the remaining three and a half months of the base period and that the adjustment that would take place in January under current law would be to 9.0 cents per gallon for the variable rate, an increase of 1.9 cents per gallon and 1.9 cents per gallon above the cap in the bill. The fiscal impact for the second half of FY 2004-05 would then be annual taxable sales of 5.3 billion gallons times 1.9 cents per gallon divided by two (to account for the six month period). The result is a loss in revenues from the motor fuels tax of approximately $50 million. Because three-fourths of the motor fuels tax goes to the Highway Fund and one-fourth to the Highway Trust Fund, the fiscal impact would be $37.5 million to the Highway Fund and $12.5 million to the Highway Trust Fund. (The Wildlife Resources Fund receives 1/6 of one percent of the Highway Fund share for boating and water safety activities and would lose about $62,500.) No estimates are made of revenue losses beyond FY 2004-05. The forecast prepared by the North Carolina Office of State Budget and Management in April 2004 indicated that the calculated variable rate in

future years would fall below the proposed cap. If that is the case there would be no fiscal impact in the ensuing years. However, the OSBM forecast has probably been overtaken by events and should be considered one of many possible scenarios.

Section 2

Section 2 raises the amount allocated to the Commercial and Noncommercial LUST Fund accounts and the Water and Air Quality Account by 0.3 cents per gallon and consequently lowers the amount allocated to the Highway Fund and Highway Trust Fund. The calculations are based on the taxable amount of motor fuels sold as projected by the Office of State Budget and Management:

FY2004-05	5,319 million gallons
FY2005-06	5,457
FY2006-07	5,626
FY2007-08	5,806
FY2008-09	6,009

SOURCES OF DATA: Office of State Budget and Management, North Carolina Department of Revenue, US Department of Energy – Energy Information Administration.

For a history of tax rates see: http://www.dor.state.nc.us/taxes/motor/rates.html

TECHNICAL CONSIDERATIONS: None

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1578
PROPOSED COMMITTEE SUBSTITUTE H1578-CSLAf-63 [v.2]

6/16/2004 4:51:14 PM

Short Title: Pender Rescue Service Fee. (Local)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW PENDER COUNTY TO ASSESS AN EMERGENCY MEDICAL SERVICE FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Establishment of Emergency Medical Service Fee. – The Board of Commissioners of Pender County may by ordinance establish an Emergency Medical Service Fee. The ordinance shall become effective on July 1 of the next fiscal year after its adoption.

SECTION 2. Changes in Rate of Emergency Medical Service Fee. – Any change in the rate of the Emergency Medical Service Fee must be done by ordinance of the Pender County Board of Commissioners by June 30 of any year with an effective date of July 1 of the next fiscal year.

SECTION 3. Components of the Emergency Medical Service Fee. – The Emergency Medical Service Fee shall consist of a flat fee per parcel that contains any of the following structures:

(1) Single family home.
(2) Multifamily home.
(3) Condominium.
(4) Garden apartment.
(5) Walk-up apartment.
(6) Bank.
(7) Restaurant.
(8) Restaurant lounge.
(9) Motel.
(10) Beauty shop.
(11) Car wash.
(12) Townhouse.
(13) Country club/clubhouse.

(14) Cottage.
(15) Office.
(16) Fraternal building.
(17) Service shop/garage.
(18) Retail store.
(19) Discount store.
(20) Community/neighborhood shopping center.
(21) Storage/distribution warehouse.
(22) Commercial building.
(23) Veterinary clinic/hospital.
(24) Post office.
(25) Medical clinic.
(26) Service station/convenience store.
(27) Nursing home/rest home.
(28) Industrial (light, medium, heavy).
(29) Single-wide mobile home.
(30) Laundromat.
(31) Supermarket/grocery store.
(32) Child care center.

SECTION 4. Emergency Medical Service Fee as a Lien on Property. – The Emergency Medical Service Fee shall be a lien on property and shall be collectible in the same manner as delinquent real property taxes.

SECTION 5. This act is effective when it becomes law, and expires July 1, 2007. A lien for an emergency medical service fee outstanding before July 1, 2007, may be collected after that date.

(14) Cottage.
(15) Office.
(16) Fraternal building.
(17) Service shop/garage.
(18) Retail store.
(19) Discount store.
(20) Community/neighborhood shopping center.
(21) Storage/distribution warehouse.
(22) Commercial building.
(23) Veterinary clinic/hospital.
(24) Post office.
(25) Medical clinic.
(26) Service station/convenience store.
(27) Nursing home/rest home.
(28) Industrial (light, medium, heavy).
(29) Single-wide mobile home.
(30) Laundromat.
(31) Supermarket/grocery store.
(32) Child care center.

SECTION 4. Emergency Medical Service Fee as a Lien on Property. – The Emergency Medical Service Fee shall be a lien on property and shall be collectible in the same manner as delinquent real property taxes.

SECTION 5. This act is effective when it becomes law, and expires July 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1578

Short Title:	Pender Rescue Service Fee.	(Local)
Sponsors:	Representative Justice.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW PENDER COUNTY TO ASSESS AN EMERGENCY MEDICAL SERVICE FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Establishment of Emergency Medical Service Fee. – The Board of Commissioners of Pender County may by ordinance establish an Emergency Medical Service Fee. The ordinance shall become effective on July 1 of the next fiscal year after its adoption.

SECTION 2. Changes in Rate of Emergency Medical Service Fee. – Any change in the rate of the Emergency Medical Service Fee must be done by ordinance of the Pender County Board of Commissioners by June 30 of any year with an effective date of July 1 of the next fiscal year.

SECTION 3. Components of the Emergency Medical Service Fee. – The Emergency Medical Service Fee shall consist of a flat fee per parcel that contains any of the following structures:

(1) Single family home.
(2) Multifamily home.
(3) Condominium.
(4) Garden apartment.
(5) Walk-up apartment.
(6) Bank.
(7) Restaurant.
(8) Restaurant lounge.
(9) Motel.
(10) Beauty shop.
(11) Car wash.
(12) Townhouse.
(13) Country club/clubhouse.
(14) Cottage.

(15) Office.
(16) Fraternal building.
(17) Service shop/garage.
(18) Retail store.
(19) Discount store.
(20) Community/neighborhood shopping center.
(21) Storage/distribution warehouse.
(22) Commercial building.
(23) Veterinary clinic/hospital.
(24) Post office.
(25) Medical clinic.
(26) Service station/convenience store.
(27) Nursing home/rest home.
(28) Industrial (light, medium, heavy).
(29) Single-wide mobile home.
(30) Laundromat.
(31) Supermarket/grocery store.
(32) Child care center.

SECTION 4. Emergency Medical Service Fee as a Lien on Property. – The Emergency Medical Service Fee shall be a lien on property and shall be collectible in the same manner as delinquent real property taxes.

SECTION 5. This act is effective when it becomes law.

HOUSE BILL 1578:
Pender Rescue Service Fee

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Carolyn H. Justice
Date:	June 16, 2004	**Analysis by:**	Martha Walston Committee Counsel
Version:	Proposed Committee Substitute		

SUMMARY: House Bill 1578 is a local bill that authorizes the Pender County Board of Commissioners to establish by ordinance an Emergency Medical Service Fee. The fee will be a flat fee imposed on each parcel containing certain described structures, and sunsets July 1, 2007.

CURRENT LAW: Counties in North Carolina use several methods to finance emergency medical services for their citizens

- G.S. 153A-149 authorizes a county to levy property taxes to provide emergency medical services up to a combined rate of $1.50 on the $100 appraised value of property.
- G.S. 153A-250 authorizes a county to adopt an ordinance granting franchises to ambulance operators on terms set by the board of commissioners. The ordinance may establish a schedule of rates, fees, and charges imposed by the franchised operators. The county may also operate or contract for ambulance services.
- G.S. 153A-301 authorizes a county to establish a service district to finance, provide, or maintain for the district ambulance and rescue services in addition to or to a greater extent than those financed, provided or maintained for the entire county. The county may levy property taxes in the district in addition to those levied throughout the county but not in excess of a rate on each $100 value of property which, when added to the rate levied countywide would exceed $1.50 on the $100 value of property. The rate may be higher only if approved by voters in the district.
- G.S. 69-25.4 authorizes a county, upon petition of 35% of taxpayers in an area of the county, to hold an election to collect a property tax not exceeding 15¢ on $100 valuation of property for providing fire protection in the district. "Fire protection" may include the levy, appropriation, and expenditure of funds for emergency medical services.

BILL ANALYSIS: HB 1578 authorizes Pender County to adopt an ordinance imposing a flat emergency medical service fee on July 1 of the next fiscal year after adoption of the ordinance. The fee would be a flat fee imposed on each parcel in the county if the parcel contains one of 32 structures listed in the bill. The fee is a lien on the parcel and is collectible in the same manner as delinquent real property taxes. The act sunsets July 1, 2007.

According to Andy Hedrick, County Manager, the County plans to impose a flat emergency medical service fee of $60 per parcel. This will allow the County to reduce the property tax rate for emergency medical services from 7¢ to 3¢ per $100 valuation. The list of specified structures is consistent with the list used by the County to assess property taxes.

Memorandum

North Carolina Association of County Commissioners

Mailing Address: P. O. Box 1488, Raleigh, NC 27602-1488
Street Address: Albert Coates Local Government Center, 215 N. Dawson Street, Raleigh, NC 27603
Telephone: 919-715-2893 • *Fax:* 919-733-1065 • *Email:* ncacc@ncacc.org • website: http://www.ncacc.org

TO: **Rep. Carolyn Justice**

FROM: **Jim Blackburn, General Counsel**

DATE: **June 16, 2004**

SUBJECT: **Fees, User Charges**

In response to your question related to fees charged by counties, Local Government Finance in North Carolina by David Lawrence at the Institute of Government lists the following user charges, fees and charges Incident to Regulation and other fees imposed by counties in North Carolina.

I. User Charges
- A. Water and Sewer Service Charges
- B. Solid Waste Collection and Disposal Fees
- C. Off Street Parking Charges
- D. Airport Fees (various)
- E. Ambulance Fees
- F. Recreation and Cultural Charges
- G. Public Health and Mental Health Service Charges
- H. 911 Charges

II. Fees and Charges Incident to Regulations.
- A. "The statute that authorizes the regulatory program only occasionally includes explicit authorization to levy fees as an incident to the regulation. However, it is well accepted that the authority to make reasonable charges incident to regulation is subsumed in the police power. That is, the power to carry on a regulatory program necessarily includes the power to make charges incident thereto." Included among these are Building Inspection Fees and others.
- B. As of 2001, G.S. 143-517 requires each county to "ensure that emergency medical services are provided to its citizens." Note that this provision of services is mandatory.

III. Other Fees
- A. Impact Fees (Facility Fees of Project Fees). Authority granted to some local governments.
- B. Election Fees
- C. Register of Deeds Fees
- D. Court Fees
  1. Facilities Fees
  2. Arrest Fees
  3. Civil Process Fees
  4. Jail Fees
- E. Scrap Tire Disposal Fees

* Election Fees, Register of Deed Fees, Court Fees, and Scrap Tire Disposal Fees are fees that are set by the State of North Carolina for the benefit of counties to use for prescribed purposes.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1578 A BILL TO BE ENTITLED AN ACT TO ALLOW PENDER COUNTY TO ASSESS AN EMERGENCY MEDICAL SERVICE FEE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 22, 2004 ~ 8:30 a.m.

The House Committee on Finance met on Tuesday, June 22, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairwoman Howard called the meeting to order at 8:36 am and recognized the six (6) pages present: (1) Kate Hooks of New Hanover County, sponsored by Representative McComas; (2) Jeremy Lee of Catawba County, sponsored by Representative Setzer; (3) Emilie Mademann of Iredell County, sponsored by the Chair; (4) Katherine Mattingly of Mecklenburg County, sponsored by Speaker Black; (5) Shelbey Wolf of Mecklenburg County, sponsored by Representative Alexander; and (6) Isaac Wood of Wake County, sponsored by Representative Ross.

As the first matter of business, Chairwoman Howard acted to place **HB 1526 – RANDLEMAN SATELLITE ANNEXATIONS** (see **attachment 3**) on the calendar for the Committee's immediate consideration. The Chair recognized the bill sponsor, Representative Culp, who explained the bill. He noted first that the bill applied only to voluntary annexations and had been requested by the City of Randleman. He then explained that the bill would remove the requirement that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits when noncontiguous property is annexed by the City of Randleman. As there was no discussion on the bill, Chairwoman Howard then recognized Representative Ellis who moved that House Bill 1526 be given a favorable report. Chairman Howard then called the matter to vote and the motion carried without objection.

Representative Daughtridge was then recognized to explain the next bill considered by the Committee: **HB 1416 – EXTEND AND AMEND JDIG** (see **attachment 4**). Representative Allen made a motion that the Proposed Committee Substitute (PCS) for House Bill 1416 be adopted for the Committee's discussion and that motion carried without objection. Representative Daughtridge then explained that the bill would do the following: extend the sunset of the Job Development Investment Grant (JDIG) Program, increase the number of agreements that could be entered into during a year, clarify that the JDIG agreements are binding, add a requirement for an

additional provision in each agreement, make a technical correction, and change the date and required contents of the required annual reports. (Further details of this bill's provisions are available in the attached summary.) Following this explanation, Chairwoman Howard recognized Representative Holliman, who, after stating the support the JDIG Program had provided in his district in Davidson County, moved that the PCS for HB 1416 be given a favorable report. The Chair accepted this motion and then recognized Representative Womble. Representative Womble noted his support of the bill and asked the bill sponsor if there was any opposition to the bill. Representative Daughtridge responded that he was unaware of any specific opposition, aside from the continuing debate of whether the State should offer incentives such as JDIG to businesses in exchange for job development. Representative Luebke was then recognized by the Chair for two points. He first stated his belief that the General Assembly would be better off funding educational infrastructure needs as opposed to offering these incentives. However, he did state that he would support the bill. Secondly, Representative Luebke acted to send forth and amendment (see **attachment 5**). He explained that the amendment added a provision to the bill to authorize the General Assembly to hire a consultant to conduct a comprehensive, systematic study of the JDIG Program and report to the 2005 Session. He then moved the adoption of his amendment. Following a few brief comments, Chairwoman Howard then called the Luebke amendment to a vote and it was adopted without objection. The Chair then recognized several members of the audience to speak on the bill. Mr. Donnie Hicks of Gaston County, representing the North Carolina Economic Developers Association, and Ms. Leslie Coman, representing the North Carolina Citizens for Business and Industry (NCCBI), both spoke in support of the bill, noting that it would provide needed help to the communities throughout the State. However, Ms. Perry Morgan of the North Carolina Federation of Independent Businesses spoke in opposition to the bill. She stated that taxes are too high on small businesses, and instead of offering incentives, the State should consider reducing these taxes. She also stated that JDIG incentives were being specifically targeted for political purposes and urged the members of the Committee to oppose the bill. Following these comments, Representative Weiss was recognized by the Chair to send forth an amendment (see **attachment 6**). Representative Weiss explained that the amendment acted to shorten the sunset on the bill from 2009 to 2007. She stated that the amendment would limit the expansion of JDIG to only 2 years instead of 4. She then moved the adoption of her amendment. Representative Daughtridge was recognized to respond and voiced his opposition to this amendment by stating that 2 years was not enough time for the JDIG program to be adequately expanded as recruitment efforts alone can take years. Representative Hackney was recognized next and stated his support of the Weiss amendment. He specifically stated that, in his opinion, more intense oversight was needed on this Program. Seeing no further discussion on the Weiss amendment, Chairwoman Howard then called the amendment to a vote. Division having been called, the amendment was adopted by a vote of 16 ayes and 9 nays. Chairwoman Howard then recognized Representative Wilson for a comment on the bill. She stated that purpose of the JDIG program was to provide opportunities to companies that are "huge" to bring jobs into this State. She also noted that this bill should be a "no brainer" for the Committee members. Having no further discussion on the bill, the Chair then recognized Representative Holliman who reiterated his earlier motion that the PCS for House Bill 1416 (incorporating the newly adopted amendments) be given a favorable report (with an unfavorable report as to the original bill). Chairwoman Howard then called the motion to a vote and it carried by a majority.

The next bill considered by the Committee was **HB 1609 – CORRECT STREAMLINED SALES TAX INEQUITY** (see **attachment 7**). Chairwoman Howard recognized Representative Miner, the bill sponsor, to explain the bill. Representative Miner explained that House Bill 1609 exempts from the sales and use tax, delivery charges for the delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. Representative Miner also sent forth a technical amendment (see **attachment 8**), which he explained acted simply

to conform the bill to the national agreement on the Streamlined Sales Tax. He moved the adoption of his amendment and, seeing no discussion, Chairwoman Howard called the matter to a vote. The amendment was adopted. Representative Ellis was then recognized and moved that a Committee Substitute, incorporating the newly adopted amendment, for HB 1609 be given a favorable report (with an unfavorable report as to the original bill). Accepting the requests of Representatives Holliman and Hackney to be excused from the vote on this bill, Chairwoman Howard then called the motion to a vote. The motion carried without known objection.

HB 1415 – ALTERNATIVE R&D TAX CREDIT (see **attachment 9**) was the last bill considered by the Committee. Chairwoman Howard recognized the bill sponsor, Representative Daughtridge, to explain the bill. Representative Daughtridge explained briefly that the bill acts to create an alternative tax credit for research and development expenditures. Representative Daughtridge then sent forth a technical/conforming amendment (see **attachment 10**), which simply extended the effective date of the bill until the 2005 tax year. He moved for the adoption of his amendment and Chairwoman Howard, seeing no debate, called the matter to a vote. The amendment was adopted without known opposition. The Chair then recognized several members of the audience who spoke in support of the bill: Molly Broad, President of the University of North Carolina; Leslie Coman, with North Carolina Citizens for Business and Industry; and Jim Fain, Secretary of the North Carolina Department of Commerce. Following this, Representative Ellis was recognized and moved that the PCS for House Bill 1415, incorporating the newly adopted amendment, be given a favorable report (with an unfavorable report as to the original bill). Following some general discussion between Representative Luebke and Fiscal Research Staff, the Chair then called the motion to a vote and it carried by consent.

Having no further business before the Committee, Chairwoman Howard then adjourned the meeting at 9:50 a.m. to reconvene 15 minutes after the adjournment of the Special Joint Session.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1526 (and related materials)
4. House Bill 1416 (and related materials)
5. Luebke Amendment on HB 1416 (**Adopted**)
6. Weiss Amendment on HB 1416 (**Adopted**)
7. House Bill 1609 (and related materials)
8. Miner Technical Amendment on HB 1609 (**Adopted**)
9. House Bill 1415 (and related materials)
10. Daughtridge Technical Amendment on HB 1415
11. House Bill 1760 (and related materials) (**not discussed – pulled prior to meeting by bill sponsor**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 22, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Howard

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1415 ALTERNATIVE R&D TAX CREDIT
Reps. Daughtridge & Wainwright

HB 1416 EXTEND AND EXPAND JDIG *Reps. Daughtridge & Wainwright*

HB 1609 CORRECT STREAMLINED SALES TAX INEQUITY *Rep. Miner*

HB 1760 NO CREDIT FOR NET JOB LOSS *Rep. Luebke*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 22, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1415 – ALTERNATIVE R&D TAX CREDIT
– Reps. Daughtridge & Wainwright

HB 1416 – EXTEND AND EXPAND JDIG – Reps. Daughtridge & Wainwright

HB 1609 – CORRECT STREAMLINED SALES TAX INEQUITY – Rep. Miner

HB 1760 – NO CREDIT FOR NET JOB LOSS – Rep. Luebke

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:25 a.m.** on **June 17, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 22, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Lao Rubent	CYPC
Mary Musacchio	SAS
Brad Lamb	NC Consumer Council
Michelle Kerr	NCPIRG
Chris Beacham	NC DOC
Jim Fain	NC DOC
Holly Broad	UNC
Mark Fleming	University System
Boyd Cauble	City of Charlotte
Amna Cameron	NC Budget and Tax Center
Stephanie McGarrah	NC DOC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 22, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ralph C. Moore	Commercial Printing Co. Raleigh, NC
Mark Beason	Capitol Group
Catherine Davis	Electric Cities of NC
[illegible]	NCEITA
Jean Myers	NCEITA
Ed Turlington	Brooks Pierce
John Hardin	NC Board of Science & Technology
Alison Daly	" "
Leslie Bevacqua Comer	NCCBX
Don McCorquodale	SAS
PERRI MORGAN	NFIB

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 22, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Scholl	NCDOR
Carlton Huffman	NCGA intern
Mary Katherine Hackney	Intern - Rep. Hackney
Elizabeth Self	Intern - Rep. Ross
Elizabeth Bakanic	NCGA intern
Rick Webb	NCGA intern
Ken Atkins	Raleigh Chamber
Donny Hicks	Gaston County EDC
John Peterson	NCEDA
Chad Essick	Poyner & Spruill, LLP
Barry Long	Long Printing Co.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 22, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
RON OTTAVIO	WACHOVIA
Jane Wooten	Wachovia
Christa Kiser	Wachovia
Jonetta Allen	WACHOVIA
Naomi Kountz	Wachovia
Marsha Nardone	Wachovia
Jennifer Miley	Wachovia
Eddie Finch	NCDOR
Angie Swain	NCDOR
Jonathan Tart	NCDOR
Greg Radford	NCDOR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 22, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	Association of County Commissioners
Sue Kitchen	NCMC
Debra D	BellSouth
John McAlister	Duke Energy

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1526*

Short Title:	Randleman Satellite Annexations.	(Local)
Sponsors:	Representative Culp.	
Referred to:	Finance.	

May 19, 2004

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE CITY OF RANDLEMAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 2002-121 reads as rewritten:

"**SECTION 1.** G.S. 160A-58.1(b)(5) does not apply to the Cities of Claremont, Concord, Conover, Newton, Randleman, Sanford, and Southport, and the Towns of Maiden, Midland, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1526:
Randleman Satellite Annexations

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Culp
Date:	June 21, 2004	**Summary by:**	Martha Walston*
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1526 would add the City of Randleman to the list of cities that may annex satellite areas without meeting the standard that limits the size of the area within the satellite corporate limits.***

Senate Bill 1177 is the companion bill, and is in the House Rules Committee.

CURRENT LAW: G.S. 160A-58.1 and 160A-58.7 govern the voluntary annexation by a municipality of noncontiguous property.

G.S. 160A-58.1 provides that all property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

G.S. 160-58.7 provides the process a city must follow when the city is the property owner of the satellite area. This process requires that the city comply with S. 160A-58.1 as described above.

BILL ANALYSIS: House bill 1526 would remove the requirement that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits when noncontiguous property is annexed by the City of Randleman. The act is effective when it becomes law.

BACKGROUND: The cities of Hickory, New Bern, Newton, Sanford, Southport, Statesville, Kenly, Troy, Mt. Airy, Mooresville, Marion, Oxford, Rockingham, Conover, and Claremont and the towns of Bladenboro, Calabash, Catawba, Dallas, Godwin, Kenly, Louisburg, Mocksville, Mooresville, Pembroke, Pine Level, Ranlo, Rutherfordton, Maiden, Midland, Swansboro, Warsaw and Waynesville have already eliminated the 5th standard for all annexations by the municipality.

*Erika Churchill, staff attorney, contributed substantially to this summary.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1526 A BILL TO BE ENTITLED AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATIONS BY THE CITY OF RANDLEMAN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1416*
PROPOSED COMMITTEE SUBSTITUTE H1416-CSLY-32 [v.4]

6/16/2004 4:09:41 PM

Short Title: Extend and Amend JDIG. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; TO ALLOW THE ECONOMIC INVESTMENT COMMITTEE TO ENTER INTO MORE AGREEMENTS UNDER THE PROGRAM; TO MAKE TECHNICAL CORRECTIONS; TO EXPAND THE TERMS THAT MUST BE INCLUDED IN AGREEMENTS; AND TO EASE REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S 143B-437.62 reads as rewritten:

"**§ 143B-437.62. ~~Authority.~~Sunset.**

The authority of the Committee to enter into new agreements ~~begins January 1, 2003, and~~ expires January 1, ~~2005.~~2009."

SECTION 2. G.S. 143B-437.52(b) reads as rewritten:

"(b) Cap. – The maximum number of agreements the Committee may enter into each calendar year is ~~15.~~25."

SECTION 3. G.S. 143B-437.52(d) reads as rewritten:

"(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The designation contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related ~~entity~~ member of the business."

SECTION 4. G.S. 143B-437.57(a) is amended by adding a new subdivision to read:

"(a) Terms. – Each community economic development agreement shall include at least the following:

...

(25) A provision encouraging the business to contract with small businesses headquartered in the State for goods and services."

SECTION 5. G.S. 143B-437.57 is amended by adding a new subsection to read:

"(c) Agreement Binding. – A community economic development agreement is a binding obligation of the State and is not subject to State funds being appropriated by the General Assembly."

SECTION 6. G.S. 143B-437.58(a) reads as rewritten:

"(a) No later than ~~February~~ March 1 of each year, for the preceding grant year, every business that is awarded a grant under this Part shall submit to the Committee ~~a copy of its State and federal tax returns showing business and nonbusiness income and~~ a report showing withholdings as a condition of its continuation in the grant program. In addition, the business shall submit to the Committee an annual payroll report showing the eligible positions that are created during the base years and the new eligible positions created during each subsequent year of the grant. Upon request of the Committee, the business shall also submit a copy of its State and federal tax returns. Payroll and tax information submitted under this subsection is tax information subject to G.S. 105-259. When making a submission under this section, the business must pay the Committee a fee of one thousand five hundred dollars ($1,500). The fee is due at the time the submission is made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the Office of State Budget and Management shall determine the allocation of the fee imposed by this section among their agencies. The proceeds of the fee are receipts of the agency to which they are credited."

SECTION 7. Sections 5 and 6 of this act become effective October 31, 2002. Section 4 of this act is effective when it becomes law and applies to agreements entered into on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1416*

Short Title:	Extend and Expand JDIG.	(Public)
Sponsors:	Representatives Daughtridge, Wainwright (Primary Sponsors); G. Allen, Dickson, Harrell, L. Johnson, LaRoque, McComas, Owens, Tolson, Walker, L. Allen, Farmer-Butterfield, Fisher, Glazier, Goodwin, Gorman, Jeffus, Jones, McHenry, Moore, Preston, Steen, and Womble.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM AND TO ALLOW THE ECONOMIC INVESTMENT COMMITTEE TO ENTER INTO MORE AGREEMENTS UNDER THE PROGRAM AND TO COMMIT MORE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S 143B-437.62 reads as rewritten:

"**§ 143B-437.62. ~~Authority.~~Sunset.**

The authority of the Committee to enter into new agreements ~~begins January 1, 2003, and~~ expires January 1, ~~2005.~~2009."

SECTION 2. G.S. 143B-437.52 reads as rewritten:

"**§ 143B-437.52. Job Development Investment Grant Program.**

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into negotiated agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

(1) The project proposed by the business will create, during the term of the agreement, a net increase in employment in this State by the business.

(2) The project will benefit the people of this State by increasing opportunities for employment and by strengthening this State's economy by, for example, providing worker training opportunities,

constructing and enhancing critical infrastructure, increasing development in strategically important industries, or increasing the State and local tax base.

(3) The project is consistent with economic development goals for the State and for the area where it will be located.

(4) A grant under this Part is necessary for the completion of the project in this State.

(5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project.

(b) Cap. – The maximum number of agreements the Committee may enter into each calendar year is ~~15.~~25.

(c) Ceiling. – The maximum amount of total annual liability for grants for agreements entered into in any single calendar year may not exceed ~~ten~~ eighteen million dollars ~~($10,000,000).~~($18,000,000). No agreement may be entered into that, when considered together with other existing agreements entered into during that calendar year, could cause the State's potential total annual liability for grants entered into in that calendar year to exceed this amount.

(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and G.S. 143B-437.57(a)(11), the Committee may designate that the increase or maintenance of employment is measured at the level of a division or another operating unit of a business, rather than at the business level, if both of the following conditions are met:

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The designation contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related entity of the business."

SECTION 3. This act becomes effective January 1, 2004, and applies to agreements entered into after that date.

House Bill 1416:
Extend and Amend JDIG

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	Friday, June 18, 2004	**Analysis by:**	Y. Canaan Huie
Version:	PCS to 1st		Staff Attorney

SUMMARY: This bill would extend the sunset of the Job Development Investment Grant (JDIG) Program, increase the number of agreements that could be entered into during a year, clarify that the JDIG agreements are binding, add a requirement for an additional provision in each agreement, make a technical correction, and changes the date and required contents of annual reports.

ANALYSIS: The Job Development investment Grant (JDIG) Program is an economic development incentive program that was created by the General Assembly in 2002. Under the program, grantee businesses are given an annual grant for a period of up to 12 years. The grant is based on a percentage of personal income tax withholdings from new positions created by the grantee business.

When the JDIG Program was created in 2002, the General Assembly put some significant limitations on the program in order to give the General Assembly time to evaluate the program before a significant amount of funds had been committed. First, the General Assembly put a sunset on the ability of the Economic Investment Committee (EIC) to enter into new agreements under the program. The authority of the EIC to enter into new agreements did not begin until January 1, 2003, and is set to expire January 1, 2005. Second, the EIC may enter into no more than 15 new agreements each year. Third, the maximum annual liability for agreements entered into during any calendar year may not exceed $10 million.

This bill would ease two of the three restrictions mentioned above. First the bill extends the authority of the EIC to enter into new agreements by four years – until January 1, 2009. Second, beginning with the 2004 calendar year, the EIC would be allowed to enter into a maximum of 25 new agreements a year rather than 15. This bill does not change the cap on the maximum annual liability from grants entered into during any particular year. The Joint Select Committee on Economic Growth and Development recommended these provisions.

In addition, this bill would change the date upon which reports under the program are due from the grantee business and the requirement that the grantee business submit a copy of its State and federal returns each year. The reporting date would be changed from February 1 to March 1. The grantee business would be required to submit a copy of its State and federal tax returns only upon request of the EIC. The Department of Commerce has found that the federal and State tax returns provide little information that is directly relevant to the administration of the program. In addition, some grantee businesses have reported that their tax returns, particularly federal tax returns, are extremely voluminous. The Department felt that in most cases this requirement would be a burden on both the grantee business and the EIC and that it would yield little, if any, relevant information.

This bill would make a technical correction to the way in which employment is measured. In addition, this bill would clarify that commitments made under the JDIG program are binding commitments of the State and are not subject to annual appropriations.

Finally, this bill require each community economic development agreement to include a provision encouraging the business to contract with small businesses headquartered in North Carolina. Currently,

agreements must contain several provisions encouraging, but not requiring, grantee businesses to act in certain ways. This provision would express the desire of the State that the grantee businesses contract with local small businesses. This provision was a recommendation of the Joint Select Committee on Small Business Economic Development.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1416 (First Edition)

SHORT TITLE: Extend and Expand JDIG.

SPONSOR(S): Representatives Wainwright and Daughtridge

FISCAL IMPACT

	Yes (X)	No ( )	No Estimate Available ( )		
	FY 2004-05	**FY 2005-06**	**FY 2006-07**	**FY 2007-08**	**FY 2008-09**
REVENUES:					
EXPENDITURES:	**$0**	**$18million**	**$36 million**	**$54 million**	**$72 million**
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Commerce

EFFECTIVE DATE: January 1, 2004

BILL SUMMARY:
May 12, 2004
H 1416. EXTEND AND EXPAND JDIG. TO EXTEND THE SUNSET ON THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM AND TO ALLOW THE ECONOMIC INVESTMENT COMMITTEE TO ENTER INTO MORE AGREEMENTS UNDER THE PROGRAM AND TO COMMIT MORE FUNDS. Amends GS 143B-437.62 to extend until Jan. 1, 2009 (now, expires Jan. 1, 2005) the authority of the state Economic Investment Committee to enter into new agreements under GS Ch. 143B, Art. 10, Part 2G, "Job Development Investment Grant Program." Amends GS 143B-437.52(c) to increase the maximum amount of total annual liability allowed for grants for agreements entered into in any single calendar year from $10 million to $18 million. Effective Jan. 1, 2004; applies to agreements entered into after that date.

Source: Bill Digest H.B. 1416 (05/12/2004)

ASSUMPTIONS AND METHODOLOGY:
Expanding the annual cap on grants awarded from $10 million to $18 million will increase the potential liability by $18 million each year the sunset on JDIG is extended. Therefore, in the first

year, the fiscal impact will be $88 million, the second year, $36 million, the third year, $54 million and so on. Extending the sunset to 2009 will have a potential cumulative fiscal impact of $90 million. The actual impact will depend upon how quickly the companies awarded the grants begin operations. Since the amount of the grant is determined by the company's withholdings, the company would have to have employees working before they would be eligible for their first grant payment. For instance, if a company is awarded a grant in the 2004 calendar year and hires employees that same year, the first grant disbursement will be made in the 2005 fiscal year. However, it is likely that some of the grants awarded in one calendar year will not actually impact the state budget until one or two years later. This would be the case if a grant is awarded to a company that doesn't plan on beginning operation in the same year. Increasing the number of projects eligible per year would not have a fiscal impact, as the amounts appropriated are dependent upon the grant cap of $18 million annually.

SOURCES OF DATA: Department of Commerce

TECHNICAL CONSIDERATIONS: none

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Kelly Huffstetler

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 21, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

JDIG GRANT PROGRAM BRINGS NEW JOBS TO NORTH CAROLINA

- Created in 2002 in response to legislative concerns that North Carolina lacked the incentive tools necessary to recruit **major, high impact business projects** that could create **large numbers of new jobs**.
- A five-person team evaluates industry projects considering North Carolina -- Secretary of Commerce, Secretary of Revenue, State Budget Director and two public members appointed by the House and Senate.
- Team evaluates select projects from both new and existing industries on a wide array of factors, looking for quality projects that would not locate in North Carolina without significant state incentives.
- Once a project is selected, the committee may offer a grant that can be paid over 12 years and would be measured as a percentage of new withholdings taxes paid by the new jobs.
- By identifying **new jobs** that would not come to the state without the grant, and by measuring the grant based on withholding taxes paid by those jobs, the program is essentially **self-funding**.

JDIG BENEFITS RURAL AND URBAN COUNTIES

- When grants are made in urban counties, **25% of the grant award** is placed in the Utility Account of the Industrial Development Fund to **fund new economic development infrastructure in rural counties**.
- While grants have been awarded in urban counties such as Wake, Guilford and Mecklenburg, grants have also been awarded in distressed and rural counties such as **Davidson, Rockingham, and Edgecombe.**
- The Committee has targeted grants at projects considering other lower-tier, rural or distressed counties, but was unable to secure them. These included **Burke, Cleveland, Lenoir, Rutherford, Nash, Gaston, Cabarrus and Davidson counties.**
- The Committee is currently considering grant proposals in connection with **ten projects considering rural counties**.

JDIG WORKS FOR LARGE PROJECTS THAT BENEFIT SMALL BUSINESS

- JDIG grants target large projects that could **put hundreds or thousands of North Carolinians to work.**
- **Large projects** serve as the **"anchor tenants" of local economies.** They use local small businesses for their services, repairs and supplies. The salaries they pay their employees fuel hundreds of small businesses in the community.
- Large industries are the **heart of North Carolina's economy**. From 1993 to 2001, large businesses (500+ employees) grew the fastest of all businesses. They pay the highest wages of all businesses, and they employ more than half of our State's workers.
- With only 15 grants per year, the Committee must be selective. Providing grants to businesses that employ only a handful of new jobs would not be an effective use of the grants.

JDIG PROGRAM DESIGNED TO BE SELF-FUNDING

- Targets companies and projects that would not come to North Carolina without a grant. Uses the **new taxes** paid by the **new jobs** to fund the grant.
- JDIG grants do not "take" revenues from other programs. They create **new revenue** for the state and are funded from that new income stream.
- **Revenue benefits to the state must always exceed the costs of the grants**. The program uses a **conservative model** designed by Dr. Mike Walden at N.C. State University to measure the economic impact of the projects.
- Program places **caps on the amount of the grant** a company can receive in any year, and **caps the maximum amount that can be paid per job.** It only grants back a percentage of withholding taxes paid – usually around 60%. And 25% of that amount, when paid to urban companies, is kept by the state to fund rural infrastructure.

AVERAGE WAGE FOR JDIG GRANTS IS HIGH

- The **average wage for the new jobs** recruited under the JDIG program to date is more than **$42,000** annually.
- The program focuses on **quality jobs** that can put North Carolinians to work for **good wages.**

Prepared by N.C. Dept. of Commerce

Expand and Extend the JDIG Program

Recommendation of Legislative Joint Select Committee on Economic Growth and Development

What is the Job Development Investment Grant Program (JDIG)?

- Provides grants to strategic industries considering North Carolina as a competitive location for a new facility or expansion. Modeled on similar programs in South Carolina and 14 other states.
- Targets projects that *would not come to North Carolina without a grant.* In exchange for a commitment to come to the state, grants are awarded based on the amount of withholding taxes paid by the new jobs.
- In urban counties (Tiers 4 and 5), 25% of each grant is paid into a rural infrastructure fund to assist economic development in Tiers 1, 2 and 3.
- Grants are approved by a five-member committee (Commerce Secretary, Revenue Secretary, State Budget Director, 2 public members appointed by House and Senate). State revenues from the project must exceed costs for a grant to be awarded.
- Program enacted with broad support in House and Senate in December 2002. Our state was losing manufacturing jobs by the tens of thousands. We needed a powerful tool to recruit new, sustainable industries to the state, and JDIG is getting the job done.
- Program allows only 15 grants to be awarded in a calendar year. Those 15 grants combined can cost the state no more than $10 million in any calendar year. Program expires in 2005.

What is Being Recommended This Year?

- Extend the program through **2009.**
- Increase the number of annual grants from **15 to 25.**
- Increase the annual cap from **$10 million to at least $18 million.**

Why Expand the JDIG Program?

- JDIG is North Carolina's most powerful recruitment tool. It works! To date it has recruited **14 major competitive industry projects** to the state from new and existing North Carolina companies.
- These companies will create more than 5,300 **new jobs** and will invest **$600 million** in North Carolina. Total impact on gross state product: **$12 billion over 12 years.** Total amount for rural infrastructure fund: **$ 19.1 million.**
- The presence of these companies, over the life of the grants, should generate **$189 million in new revenues** to the state and more than **12,800 new jobs in the state's economy**. Total maximum cost to state over 12 years: $59.3 million. **Return on investment: $3 dollars in new revenue for every $1 dollar in grants.**
- The JDIG program was critical in the companies' decisions to locate in North Carolina. They were all considering other states for their projects.
- Grant committee expects to reach its cap of 15 grants by late summer. If the program is not expanded, North Carolina will be unable to award grants to key projects we are competing for. NCDOC currently is receiving 40 new projects per month.

Groups That Supported Passage of JDIG in 2002:

- *N.C. Economic Development Board*
- *N.C. Citizens for Business and Industry*
- *N.C. Economic Developers Association*
- *NCEITA*
- *N.C. Workforce Development Commission*
- *ElectriCities*
- *N.C. Regional Partnerships for Economic Development*
- *NC Biosciences*
- *Local Chambers of Commerce (e.g., Winston-Salem, Wilmington, Charlotte, Raleigh)*

Where Have Grants Been Awarded to Date?

- Wake County – 400 jobs – Infineon Technologies
- Union County – 300 jobs – Goodrich
- Mecklenburg County – 405 jobs – General Dynamics
- Wake County – 275 jobs – R.H. Donnelley
- New Hanover County – 200 jobs – GE Nuclear Energy
- Rockingham County – 200 jobs – AFG Wipes
- Mecklenburg County – 350 jobs – Time Warner Cable
- New Hanover County – 1, 211 jobs – Cellco Partnership/Verizon
- Davidson County – 330 jobs – Unilin
- Guilford County – 900 jobs – Citi Cards/Citigroup
- Catawba County – 200 jobs – ZF Lemforder
- Durham County – 200 jobs – Merck & Co., Inc.
- Durham County – 258 jobs – Harris Microwave Communications Division
- Edgecombe County – 130 jobs – Superior Essex, Inc.

Where Else Have Grants Been Used to Recruit Businesses?

- NCDOC has marketed the program in a number of counties to industries that chose to locate elsewhere. For example: (Tier 2 – 3 counties ▪ Tier 3 -- 1 county ▪ Tier 4 – 2 counties ▪ Tier 5 – 1 county)

  Burke County ▪ Cleveland County ▪ Lenoir County ▪ Rutherford County ▪ Nash County Gaston County, ▪ Cabarrus County ▪ Davidson County

- NCDOC and the grant committee are currently using the program to pursue other high-impact, confidential projects in other counties across the state. Confidential projects under consideration: Rural counties – 10 projects. Urban counties – 14 projects.

- 25% of any JDIG grant awarded in a Tier 4 or 5 county funds new money for rural infrastructure grants in Tier 1, 2 or 3 counties.

What Could the Program Do If Expanded?

- Based on past performance, if JDIG were expanded to 25 grants and a cap of $18 million, North Carolina could reasonably expect to use the program to attract projects in a single year that secure **7,400 new jobs** paying **average salaries of $42,200** and roughly **$880 million in new investment.**

- The multiplier effect of these projects would be expected to create a total of **18,000 new jobs in the economy** and a **$10.7 billion increase in gross state product** over the 12 years of the grants.

- The grants, over a 12-year period could cost up to $82 million but would be expected to generate **$186 million** in net new revenue to the state. **$26 million** would be generated for rural infrastructure grants.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1416 A BILL TO BE ENTITLED AN ACT TO EXTEND THE SUNSET ON THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM AND TO ALLOW THE ECONOMIC INVESTMENT COMMITTEE TO ENTER INTO MORE AGREEMENTS UNDER THE PROGRAM AND TO COMMIT MORE FUNDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1416*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1416-ALY-55 [v.1]

Date June 22 ,2004

Comm. Sub. [YES]
Amends Title [YES]
H1416-CSLY-32

Representative Luebke

moves to amend the bill on page 1, line 6, by adding the following before the word "AND":

"TO AUTHORIZE A STUDY OF THE PROGRAM BY THE GENERAL ASSEMBLY;";

and on page 2, line 29, by rewriting that line to read:

"**SECTION 7.** The General Assembly shall conduct a comprehensive systematic study of the Job Development Investment Grant Program. The General Assembly may hire a consultant to perform the study required by this section. ~~There is appropriated from the General Fund to the General Assembly the sum of three hundred thousand dollars ($300,000) for the 2004-2005 fiscal year to conduct this study~~. The study shall be completed and submitted to the full 2005 General Assembly no later than April 1, 2005. The study shall include an examination of the following:

(1) The costs of the program on an aggregate basis, an enterprise tier area basis, and a project basis. This study shall include an examination of the amount spent per job on an aggregate basis, an enterprise tier area basis, and a project basis.

(2) The costs of the program in relation to other State economic development incentive programs.

(3) The costs of the program in relation to economic development programs located in nearby states and other states with which the State frequently competes for jobs.

(4) The extent to which the program has been utilized in geographically diverse parts of the State and the extent to which the program has been utilized in urban, suburban, and rural settings.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1416*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1416-ALY-55 [v.1]

(5) Any other matter the General Assembly finds relevant to a study of the program.

SECTION 8. Sections 5 and 6 of this act become effective October 31,".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 6

EDITION No. PCS

H. B. No. 1416 DATE June 22, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Sen.) Weiss

1 moves to amend the bill on page 1, line 12

2 ( ) WHICH CHANGES THE TITLE

3 by changing "2009." to "2007."

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SIGNED Jennifer Weiss

ADOPTED ✓ division 16 yes 9 no FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1609*

Short Title:	Correct Streamlined Sales Tax Inequity.	(Public)
Sponsors:	Representative Miner.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO ADOPT A PROVISION ALLOWED UNDER THE STREAMLINED SALES TAX AGREEMENT THAT TREATS ALL PRINTERS EQUALLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"**§ 105-164.13. Retail sales and use tax.**

The sale at retail, the use, storage or consumption in this State of the following tangible personal property and services is specifically exempted from the tax imposed by this Article:

...

(49a) Delivery charges for delivery or distribution of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

...."

SECTION 2. This act becomes effective October 1, 2004, and applies to sales made on or after that date.

HOUSE BILL 1609:
Correct Streamlined Sales Tax Inequity

BILL ANALYSIS

Committee: House Finance
Date: June 22, 2004
Version: 1st Edition

Introduced by: Rep. Miner
Summary by: Trina Griffin
Committee Counsel

SUMMARY: House Bill 1609 adopts a provision permissible under the Streamlined Sales Tax Agreement that would exempt from the sales and use tax delivery charges, including postage, for the delivery of direct mail.

CURRENT LAW: The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax administration for both Main Street and remote sellers for all types of commerce. Forty-two of the 45 states with a sales and use tax, as well as the District of Columbia, are involved in the Project. As of April 2004, 20 states have enacted all or part of the conforming legislation, and the process of compliance certification has begun.

At this point, participation by vendors is voluntary; states cannot require out-of-state vendors to collect sales and use taxes without Congressional action. One objective of the Project is to convince Congress or the U.S. Supreme Court to grant collection authority over remote sales to the states that enact the streamlined system embodied in the multistate agreement, on the premise that the system eliminates the burdens on interstate commerce that have been the justification for denying states that authority. In late 2003, H.R. 3184 and S. 1736 were introduced in Congress, which would authorize member states to require sellers to collect and remit sales and use taxes with respect to remote sales to purchasers located in the member states. Those bills are still pending.

Generally speaking, one of the primary objectives of the Project is to simplify sales and use tax administration by eliminating multiple rates, caps, and thresholds. However, the Agreement does allow states the option of exempting certain items from application of the sales and use tax, including delivery charges for the delivery of direct mail.

Under current law, delivery charges, including postage, are taxable in North Carolina.[1] "Delivery charges" are those charges imposed by the retailer for preparation and delivery of personal property services to a location designated by the consumer. It includes transportation, shipping, postage, handling, crating, and packing. "Direct mail" is defined as printed material delivered or distributed by the United States Postal Service or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser when the cost of the items is not billed directly to the recipients. The term does not include multiple items of printed material delivered to a single address.

[1] At least one state Supreme Court has found that the United States Constitution prohibits the taxation of pass-through postage charges on catalogs and fliers mailed by a retailer (*H.J. Wilson Co. Inc. v. Mississippi State Tax Commission*). The court held that postage is an obligation of the U.S. government and that the state is constitutionally prohibited from taxing postage charges.

BILL ANALYSIS: House Bill 1609 exempts from the sales and use tax, delivery charges for the delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser. This exemption is not required by the Streamlined Sales Tax Agreement for compliance, but is a permissible exemption.

BACKGROUND: Prior to 2002, delivery charges were not taxable for in-state transactions subject to sales tax where the title to the property passed at the point of origin. Under the Streamlined Agreement, all delivery charges are included in the sales price of an item and therefore subject to tax. In order to conform to the Agreement, the General Assembly removed the sales tax exemption for delivery charges on in-state transactions, effective January 1, 2002.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1609 (First Edition)

SHORT TITLE: Correct Streamlined Sales Tax Inequity.

SPONSOR(S): Representative Miner

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($) FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**(204,549)**	**(364,331)**	**(379,997)**	**(396,337)**	**(412,587)**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, Sales Tax Division.

EFFECTIVE DATE: October 1, 2004.

BILL SUMMARY: Under current law, embedded postage in a direct mail item is subject to sales tax, as are any other delivery charges. This provision makes embedded postage exempt from sales tax if the postage is separated from printing charges associated with direct mail when the client is billed. It also exempts the remaining delivery charges for direct mail from sales tax if the charges were separately stated.

ASSUMPTIONS AND METHODOLOGY: In May and June 2004, Fiscal Research surveyed the largest printers of direct mail in North Carolina based on an industry association provided list of their largest members. These printers were asked to examine their 2002 records and identify the amount of postage that would have been subject to sales tax in 2002, but would not be under the legislation. The four printers that responded with data indicated that their change in tax liability for 2002, in total, would have been $46,409.

According to the Print Market Atlas, in 2002 there were $1,096,280,000 in North Carolina shipments of the category, "general commercial printing". All these shipments are assumed to be direct mail printing. The atlas also listed $99,640,000 in "quick printing", a portion of which was likely direct mail. Using the total amount for "general commercial printing" and 25% of the amount for "quick printing" creates a proxy for the total North Carolina direct mail market of $1.121 billion. Industry data suggests that the four responding printing companies, in total,

represent approximately 15.52% of the direct mail market. Using this number as a proxy for tax liability suggests total industry tax liability of $299,027 in 2002. The numbers in the fiscal impact box were adjusted for inflation and the January 1, 2005, effective date.

The legislation also affects the taxability of shipping charges for printed material that is later delivered as direct mail. The four responding companies indicated that they did not deliver their product in this manner. However, industry representatives indicate that at least some direct mail printers deliver their products in this manner. The estimate is increased by 10% to account for this type of delivery.

While the Streamlined Sales Tax Agreement does not require the change, it is allowed under that program.

SOURCES OF DATA: 2003 Print Market Atlas and the Printing Industry of the Carolinas, Inc, individual company data.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 18, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1609 A BILL TO BE ENTITLED AN ACT TO ADOPT A PROVISION ALLOWED UNDER THE STREAMLINED SALES TAX AGREEMENT THAT TREATS ALL PRINTERS EQUALLY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 8

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1609*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1609-ASV-37 [v.1]

Date June 22 ,2004

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative _____

moves to amend the bill on page 1, line 12 by deleting the words:
"or distribution ".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1415*
PROPOSED COMMITTEE SUBSTITUTE H1415-CSLY-34 [v.1]

6/18/2004 1:27:22 PM

Short Title: Alternative R&D Tax Credit. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO CREATE AN ALTERNATIVE RESEARCH AND DEVELOPMENT TAX CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) The credits allowed in this section and the credit allowed in Article 3F of this Chapter are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year."

SECTION 2. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3F.

"Research and Development.

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) through 3: Reserved.

(4) North Carolina university research expenses. – Any amount paid or incurred to a research university for qualified research performed in this State or basic research performed in this State.

(5) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(6) Qualified North Carolina research expenses. – Qualified research expenses for research performed in this State.

(7) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Related person. – Defined in G.S. 105-163.010.

(9) Research university. – An institution of higher education that meets one or both of the following conditions:

a. It is classified as one of the following in the most recent edition of 'A Classification of Institutions of Higher Education', the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(10) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000).

"**§ 105-129.51. Administration; sunset.**

(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.

(b) This Article is repealed for taxable years beginning on or after January 1, 2009.

(c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10 are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year. It may elect a different credit for different expenses in a subsequent taxable year.

"**§ 105-129.52. Tax election; cap.**

(a) Tax Election. – The credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the credit is first claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years.

"**§ 105-129.53. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the

credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-129.54. Reports.**

The Department of Revenue must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding December 31:

(1) The number of taxpayers that claimed a credit allowed in this Article, itemized by the categories of small business, low-tier, other, and university research.

(2) The amount of each credit claimed in each category.

(3) The total cost to the General Fund of the credits claimed.

"**§ 105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

(1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three percent (3%).

(2) Low-tier research. – For expenses with respect to research performed in an enterprise tier one, two, or three area, the applicable percentage is three percent (3%).

(3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	$50 million	1%
$50 million	$200 million	2%
$200 million	–	3%

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to fifteen percent (15%) of the expenses."

SECTION 3. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(30) To publish the information required under G.S. 105-129.55 and to prove that a business does not meet the definition of 'small business'

under Article 3F of this Chapter because the annual receipts of the business, combined with the annual receipts of all related persons, exceeds the applicable amount."

SECTION 4. G.S. 105-129.10 and G.S. 105-129.51(c) are repealed.

SECTION 5. Section 4 of this act becomes effective for taxable years beginning on or after January 1, 2006. The remainder of this part becomes effective for taxable years beginning on or after January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1415*

Short Title:	Alternative R&D Tax Credit.	(Public)
Sponsors:	Representatives Daughtridge, Wainwright (Primary Sponsors); G. Allen, Dickson, Harrell, L. Johnson, LaRoque, McComas, Owens, Tolson, Walker, L. Allen, Blackwood, Fisher, Glazier, Jeffus, McGee, and Moore.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

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The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) The credits allowed in this section and the credit allowed in Article 3F of this Chapter are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year."

SECTION 2. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3F.

"Research and Development.

"**§ 105-129.50. Definitions.**

The definitions in section 41 of the Code apply in this Article. In addition, the following definitions apply in this Article:

(1) through (4) Reserved.

(5) North Carolina research university. – An institution of higher education that meets one or both of the following conditions:

a. It is located in North Carolina and is classified as one of the following in the most recent edition of 'A Classification of Institutions of Higher Education', the official report of The Carnegie Foundation for the Advancement of Teaching:

1. Doctoral/Research Universities, Extensive or Intensive.
2. Masters Colleges and Universities, I or II.
3. Baccalaureate Colleges, Liberal Arts or General.

b. It is a constituent institution of The University of North Carolina.

(6) North Carolina university research expenses. – Any amount paid or incurred to a North Carolina research university for qualified research performed in this State or basic research performed in this State.

(7) Period of measurement. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(8) Qualified North Carolina research expenses. – Qualified research expenses for research performed in this State.

(9) Receipts. – Defined in the Small Business Size Regulations of the federal Small Business Administration.

(10) Related person. – Defined in G.S. 105-163.010.

(11) Small business. – A business whose annual receipts, combined with the annual receipts of all related persons, for the applicable period of measurement did not exceed one million dollars ($1,000,000).

"**§ 105-129.51. Administration; sunset.**

(a) A taxpayer is eligible for the credit allowed in this Article if it satisfies the requirements of G.S. 105-129.4(b), (b2), (b3), and (b4) relating to wage standard, health insurance, environmental impact, and safety and health programs, respectively.

(b) This Article is repealed for taxable years beginning on or after January 1, 2009.

(c) The credit allowed in this Article and the credits allowed in G.S. 105-129.10 are exclusive. A taxpayer may elect to take only one of the three credits with respect to its research activities in a taxable year. It may elect a different credit for different expenses in a subsequent taxable year.

"**§ 105-129.52. Tax election; cap.**

(a) Tax Election. – The credit allowed in this Article is allowed against the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the return on which the first installment of the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed against the same tax.

(b) Cap. – A credit allowed in this Article may not exceed fifty percent (50%) of the amount of tax against which it is claimed for the taxable year, reduced by the sum of all other credits allowed against that tax, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of credit, including carryforwards, claimed by the taxpayer under this Article against each tax for the taxable year. Any unused portion of a credit allowed in this Article may be carried forward for the succeeding 15 years.

"**§ 105-129.53. Substantiation.**

To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary. Every taxpayer claiming a credit under this Article must maintain and make available for inspection by the Secretary any records the Secretary considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the

credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

"**§ 105-129.54. Reports.**

The Department of Revenue must report to the Revenue Laws Study Committee and to the Fiscal Research Division of the General Assembly by May 1 of each year the following information for the 12-month period ending the preceding December 31:

(1) The number of taxpayers that claimed each credit allowed in this Article.

(2) The amount of each credit claimed.

(3) The total cost to the General Fund of the credits claimed.

"**§ 105-129.55. Credit for North Carolina research and development.**

(a) Qualified North Carolina Research Expenses. – A taxpayer that has qualified North Carolina research expenses for the taxable year is allowed a credit equal to a percentage of the expenses, determined as provided in this subsection. If part of the taxpayer's qualified North Carolina research expenses qualifies under subdivision (2) of this subsection and the remainder qualifies under subdivision (3) of this subsection, the applicable percentages apply separately to each part of the expenses.

(1) Small business. – If the taxpayer was a small business as of the last day of the taxable year, the applicable percentage is three percent (3%).

(2) Low-tier research. – For expenses with respect to research performed in an enterprise tier one, two, or three area, the applicable percentage is three percent (3%).

(3) Other research. – For expenses not covered under subdivision (1) or (2) of this subsection, the percentages provided in the table below apply to the taxpayer's qualified North Carolina research expenses during the taxable year at the following levels:

Expenses Over	Up To	Rate
-0-	$50 million	1%
$50 million	$200 million	2%
$200 million	–	3%

(b) North Carolina University Research Expenses. – A taxpayer that has North Carolina university research expenses for the taxable year is allowed a credit equal to fifteen percent (15%) of the expenses."

SECTION 3. G.S. 105-129.10 and G.S. 105-129.51(c) are repealed.

SECTION 4. Section 3 of this act becomes effective for taxable years beginning on or after January 1, 2006. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2005.

HOUSE BILL 1415:
Alternative R&D Tax Credit

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	
Date:	June 18, 2004	**Summary by:**	Y. Canaan Huie
Version:	PCS to 1st Edition		Committee Counsel

SUMMARY: ***House Bill 1415 would create an alternative tax credit for research and development expenditures. This bill would become effective with the 2005 tax year.***

ANALYSIS: Under the Bill Lee Act, a taxpayer is allowed a credit for increases in research and development expenditures. The research and development tax credit uses the federal credit for research and development as its starting point. The credit is equal to 5% of the State's apportioned share of the taxpayer's expenditures for increasing research and development. The credit is based on the federal credit as of January 1, 1999. In the past, the federal credit had expired and then been renewed retroactively, creating uncertainty for taxpayers. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications. This credit has a carryforward period of 15 years rather than the standard 5-year period.

In order to be eligible for the research and development credit under the Bill Lee Act, a taxpayer must meet all of the general eligibility requirements of that Act. These include satisfying requirements related to employee wages, the principal activity of the establishment, the provision of health insurance, the taxpayer's Occupational Safety and Health Act record, the taxpayer's environmental record, and the absence of overdue tax debts. Under the Bill Lee, the R&D credit may be applied against either the income tax, the franchise tax, or the gross premiums tax. The amount of credit taken in a particular may not exceed 50% of the liability for the tax against which it is claimed.

The alternative credit created in this bill differs from the R&D credit allowed under the Bill Lee Act in the following ways:

- Bill Lee Act limitations on the principal activity of the establishment at which the R&D is conducted do not apply. This will allow more taxpayers to claim a credit for R&D expenditures than under current law.
- The taxpayer is not required to have no overdue tax debts. The taxpayer must still satisfy Bill Lee Act requirements related to employee wages, the principal activity of the establishment, the provision of health insurance, the taxpayer's Occupational Safety and Health Act record, and the taxpayer's environmental record.
- The new credit is based on North Carolina research and development expenditures rather than on an apportioned share of nationwide increases in expenditures. The rate is determined as follows:
  - For small businesses, the credit is 3%.
  - For research and development conducted in enterprise tiers one, two, or three, the credit is 3%.
  - For other research and development expenditures, the rate ranges from 1% to 3% as the amount of those expenditures increases.
- An additional credit of 15% of research and development expenses is allowed for research and development conducted in North Carolina by a research university.

The credit would expire for taxable years beginning on or after January 1, 2009. The bill further requires the Department of Revenue to make annual reports regarding the credit to the Revenue Laws Study Committee and the Fiscal Research Division.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 21, 2004

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: House Bill 1415 – Alternative R & D Tax Credit (With House Finance Amend.)

FISCAL IMPACT (Millions)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
State General Fund		-15.8	-22.0	-23.4	-13.9

PRINCIPAL DEPARTMENT AFFECTED: The corporate income tax is administered by the Department of Revenue. The enactment of the bill should not affect the Department 's budget requirements.

EFFECTIVE DATE: Business activities undertaken on or after July 1, 2005. The new credit sunsets on January 1, 2009.

BILL SUMMARY: Under the current Bill Lee Act (tax incentives for industry recruitment) there is a credit for research and development expenditures. There are two alternative credits available to taxpayers: (1) a credit of 5% of the increase in research and development expenses that are apportioned to North Carolina and (2) a credit of 25% of the State's apportioned share of the federal alternative incremental credit (helps start-up companies).

The legislation moves the State research and development credit out of the Bill Lee Act and allows taxpayers the option of using the existing credit system (incremental credit or alternative credit) or a new restructured credit. The new credit contains the following features:

- The credit is no longer limited to just certain types of businesses.
- The taxpayer must still satisfy requirements relating to wage standard, health insurance, environmental impact, and safety and health programs.
- The credit may not exceed 50% of tax, with a 15-year carry forward.
- The new credit is a flat rate for qualified North Carolina research expenses, based on federal definitions of this term.

The structure for the new credit is as follows:

- Small business (annual gross receipts below $1 million) - 3%.
- Research conducted in Tier 1, 2, or 3 (distress tiers under Bill Lee Act) - 3%.
- Other research costs - 1% for expenses up to $50 million, 2% for expenses between $50 million and $200 million, and 3% for expenses above $200 million.
- Research payments to N.C. research universities – additional credit of 15%.

ASSUMPTIONS AND METHODOLOGY: Data compiled by the Department of Revenue from a review of the tax returns of taxpayers taking the existing credit indicates usage of $7.0 million per year. There were 216 applications for the credit in 2000 and 141 in 2001. These numbers may differ from the number of taxpayers taking the credit because the credit can be taken against either the franchise or the income tax.

The Department of Commerce staff, in conjunction with the Department of Revenue, has reviewed the tax returns for the largest 25 taxpayers taking the current R & D credit. These companies generated 77% of the R & D credit for 1999-2001. From the tax return detail supplied by these companies, Commerce was able to simulate the impact of the new credit.

For other potential users, the starting point in developing a simulation was a National Science Foundation survey of R & D spending for 1988. The data is compiled by the state but is not broken down in enough detail to allow an industry-specific calculation of the impact of the credit. To achieve this end, Commerce "sensitized" the NSF data by using information from the 1997 Economic Census of the Census Bureau (U.S. Department of Commerce) and wage data from the N.C. Employment Security Commission. This enabled the creation of industry average of research and development spending. In addition, Commerce discussed research activity with universities across the state.

The Department of Commerce, in cooperation with the Department of Revenue, determined from a review of tax returns that companies applying for the R & D credit, on average, are able to use 32% of the credit. This usage rate was applied to the categories of the new credit.

After the potential credits were calculated under the new system, it was determined that the additional annual revenue loss would be $13.2 million for the 2005 tax year if all taxpayers were able to use the new credit. However, the ability of a taxpayer to choose between the existing credit system and the new credit adds $3.0 million to the cost of the bill, bring the total annualized cost for the 2005 tax year to $16.2 million.

The new credit is effective for eligible research expenditures made on or after Jul 1, 2005. Thus, there will be no impact on the 2004-05 fiscal year. For 2005-06 the fiscal effect is based on 50% of the 2005 tax year impact (equals $8.1 million) plus the impact on estimated tax payments for the 2006 tax returns. For the purpose of this analysis, we have assumed that 45% of the annualized amount of the 2006 tax year credit would be taken during the April-June 2006 period based on the "safe harbor" provision requiring estimated payments of at least 90% of annual liability during the tax year (for four payments). This is equal to $7.7 million, bringing the total 2005-06 impact to $15.8 million.

For future years, the annual impact of the credit overhaul is expected to grow at a rate of 6%. This assumption ties closely to the forecast of North Carolina personal income growth as projected by Global Insight (forecasting firm used by Office of State Budget and Management) and Economy.com (forecast used by Fiscal Research Division). The future fiscal year estimates are based on the assumption that 45% of the annual tax year impact will occur during the April-June period of the tax year and the remainder during the July-March period (subsequent fiscal year).

Finally, the estimates have been adjusted for the fact that under current law the Bill Lee Act credits for research and development sunset on January 1, 2006 and the fact that the new credit expires on January 1, 2009.

FISCAL RESEARCH DIVISION: (919) 733-4910

New Research & Development Tax Credit Fact Sheet (House Bill 1415) *Prepared by NC Department of Commerce*

What Is It?

- A new, alternative method of providing tax credits for businesses that conduct research and development (R&D) in North Carolina.
- The proposed alternative provides better incentives for more North Carolina businesses that conduct R&D, with special emphasis on smaller businesses, rural R&D, and R&D conducted with NC public and private universities.

Who Has Recommended It?

Legislative Joint Select Committee on Economic Growth and Development
Legislative Joint Select Committee on Small Business ▪ *N.C. Economic Development Board* ▪ *N.C. Department of Commerce* ▪ *N.C. Economic Developers Association*
N.C. Citizens for Business & Industry ▪ *NCEITA* ▪ *N.C. Biosciences Org.*

What Is An R&D Tax Credit?

- A tax credit for business dollars spent on research and development to improve products and processes and to develop new products.
- NC currently has an R&D credit, but it does not work for many businesses.

Why Are R&D Tax Credits Important?

- In the new economy, competing states are aggressively pursuing research-based businesses – biotech, information technology, advanced manufacturing. Effective R&D tax credits make it easier to recruit and retain these businesses and to grow them from scratch.
- Research dollars represent investments in the state's economy – e.g., salaries of research workers and expenses associated with doing research.
- Every dollar spent by businesses on R&D generates at least 1.7 that amount in the state's economy. Some estimates put the multiplier as high as 3 times.
- An R&D tax credit encourages existing businesses to modernize in a time of fierce overseas competition.

What Does The New Credit Do?

- Provides companies a new incentive to <u>increase</u> R&D <u>in North Carolina</u>.
- Provides a simpler formula for computing the credit.
- Makes more small companies eligible and gives them a bigger credit.
- Does not harm existing NC businesses claiming the current credit.
- Is easier for the state to explain and sell to new businesses.
- Makes North Carolina more competitive with other states.
- Encourages investment of research dollars in NC public and private universities.

How Does The New Credit Work?

- Provides small businesses a flat credit of 3% for their NC research expenses.
- Provides 3% flat credit for research expenses in rural, less prosperous counties (Tiers 1-3).
- Provides a graduated credit of between 1 and 3% for other businesses, encouraging them to increase the volume of R&D they do in North Carolina.
- Provides a tax credit of 15% for private research contracted through universities in NC. Encourages businesses doing university research to do it in NC.

Why Do We Need An Alternative Credit?

- The current credit applies to a limited number of industries -- and it does not apply to those businesses that primarily do research.
- The current credit does not have special provisions to encourage small business or rural-based research.
- The current credit is complex. Smaller businesses are likely to avoid it.
- The current credit is not measured against research done in North Carolina. It uses a complex and confusing apportionment formula that does not measure NC research only.

Why Create An Alternative Credit and Keep The Current Existing Credit In Place?

- **Only one of the two credits can be claimed by a taxpayer** in a tax year. It gives taxpayers a choice.
- The choice will exist for one year only. The existing R&D credit is scheduled to expire on Dec. 31, 2005.
- Many existing businesses currently use the existing credit and have made planning decisions around it through 2005. Those expectations should be not be upset.
- Having the alternative credit will allow feedback from industry and a comparison of the usage of the two credits.

What Safeguards Exist?

- Like the current credit, the alternative credit cannot be claimed against more than 50% of a business' annual corporate or franchise tax liability.
- Businesses claiming the credit must meet the wage standard, pay health insurance, and have an appropriate environmental and OSHA record.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1415 A BILL TO BE ENTITLED AN ACT TO CREATE AN ALTERNATIVE RESEARCH AND DEVELOPMENT TAX CREDIT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 10

EDITION No. PCC

H. B. No. 1415 DATE June 22, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Daughtridge
Sen.)

moves to amend the bill on page 4, line 7

( ) WHICH CHANGES THE TITLE

by rewriting that line to read:

"business activities occurring on or after July 1, 2005.";

and on page 3, line 43,

by changing "105-129.55" to "105-129.54"

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1760

Short Title:	No Credit for Net Job Loss.	(Public)
Sponsors:	Representatives Luebke; B. Allen, England, Farmer-Butterfield, Glazier, Holliman, Hunter, Lucas, Parmon, Rapp, Weiss, and Womble.	
Referred to:	Finance.	

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) Limitation. – A taxpayer is not allowed a credit under this section for the taxable year if the lowest number of the taxpayer's full-time employees in this State during the taxable year is more than fifteen percent (15%) below the highest number of the taxpayer's full-time employees in this State at any time during the five preceding taxable years."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004.

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 22, 2004 ~ After Adjournment of the Special Joint Session

The House Committee on Finance met on Tuesday, June 22, 2004 fifteen minutes after the adjournment of the Special Joint Session in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Howard and Wainwright; Vice-Chair Hill; and Representatives Blackwood, Bordsen, Carney, Creech, Holliman, Jones, Lewis, Ross, Weiss, and C. Wilson. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. The staff person present was Martha Walston. The Agenda is attached and incorporated into these minutes as **attachment 1**. There were no visitors present at the meeting.

Chairwoman Howard called the meeting to order at 4:59 pm and recognized Representative Barnhart to explain the first bill on the agenda: **HB 1687 – CABARRUS BOARD OF EQUALIZATION AND REVIEW** (see **attachment 2**). Representative Barnhart explained that the bill authorizes the appointment of a special board of equalization and review in Cabarrus County and repeals a prior conflicting local act. He also noted that the bill had been favorably reported from the Committee on Local Government I. Seeing no discussion on the bill, Chairwoman Howard then recognized Representative Creech who made a motion that House Bill 1687 be given a favorable report. The Chair then called the motion to a vote and it carried without objection.

Chairwoman Howard then acted to add **SB 1127 – INCORPORATE WALLBURG** (see **attachment 3**) to the Committee's agenda for immediate consideration. The bill sponsor, Senator Bingham, was then recognized to explain the bill. The Senator explained that the bill would incorporate the Town of Wallburg in Davidson County. He noted that the bill received a favorable recommendation from the Joint Legislative Commission on Municipal Incorporations and was urgently placed before the Committee because the bill must be ratified by June 30, 2004 in order for the Town to receive "shared revenues" for the 2004-2005 fiscal year. Following this explanation, the Chair recognized Representative Creech who asked if there was any opposition to the bill. Senator Bingham stated that there was no opposition and noted that the bill was requested by the Town. Seeing no further questions, Chairwoman Howard then recognized Representative Creech who moved that Senate Bill 1127 be given a favorable report. The Chair then called the matter to a vote and the motion carried without objection.

The next bill considered by the Committee was **HB 1730 – HOLDEN BEACH SEWER TREATMENT FEE** (see **attachment 4**). Chairwoman Howard recognized Representative Stiller, the bill sponsor, to explain the bill. Representative Stiller explained very briefly that House Bill 1730 authorizes the Town of Holden Beach to create a fee-supported sewer treatment district. The Chair recognized Representative Creech who asked the bill sponsor if there was any opposition to the bill. Representative Stiller stated that there was no opposition to his knowledge and also noted that he

filed the bill at the request of the Town. Representative Wainwright was then recognized and moved that House Bill 1730 be given a favorable report. Chairwoman Howard called the vote and the motion carried without objection.

Chairwoman Howard then again recognized Representative Stiller to explain **HB 1733 – SOUTHPORT UTILITY UNDERGROUNDING** (see **attachment 5**). Representative Stiller explained that the bill would allow the City of Southport to assess benefited property for the placement of utility lines underground. He stated that the City of Southport had requested the bill and that he knew of no opposition. He also acted to send forth a technical amendment (see **attachment 6**), which mended the bill to state, "A utility shall have no obligation to place its lines underground...unless and until it receives payment for its costs to do so." He then moved adoption of this amendment. Seeing no discussion on the amendment, Chairwoman Howard then called the amendment to a vote and it was adopted without objection. Representative Hill was then recognized by the Chair and moved that a Committee Substitute for House Bill 1730, incorporating the newly adopted amendment, be given a favorable report (unfavorable as to the original bill). As there was no further discussion on the bill, the Chair then called the vote and the motion carried without objection.

HB 1734 – OCEAN ISLE CANAL DREDGING (see **attachment 7**) was the final bill considered by the Committee. Chairwoman Howard once again recognized Representative Stiller to explain the bill. Representative Hill made a motion that the Proposed Committee Substitute (PCS) for House Bill 1734 be adopted for the purposes of Committee discussion and that motion carried without objection. Representative Stiller then explained that the bill would allow the Town of Ocean Isle Beach to create a fee-supported canal-dredging district for all properties that are contiguous to a canal within the Town limits. He also informed the members that the Town had passed a local resolution requesting the legislation. Following this explanation, Representative Hill was recognized and stated his belief that the bill was an excellent idea. He also asked Representative Stiller if he had heard of any opposition to the proposed legislation. Representative Stiller stated that he was unaware of any opposition. Representative Hill then moved that the PCS for HB 1734 be given a favorable report (with an unfavorable report as to the original bill). Seeing no further discussion, Chairwoman Howard then called the motion to a vote, and it was carried without objection.

Having no further business before the Committee, Chairwoman Howard then adjourned the meeting at 5:11 p.m.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. House Bill 1687 (and related materials)
3. Senate Bill 1127(and related materials)
4. House Bill 1730 (and related materials)
5. House Bill 1733 (and related materials)
6. Stiller Technical Amendment on HB 1733 (**Adopted**)
7. House Bill 1734 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

June 22, 2004
(After Session)
Room 544 LOB
Chaired by: Rep. Howard

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1687 CABARRUS BOARD OF EQUALIZATION AND REVIEW
Reps. L. Johnson & Barnhart

HB 1730 HOLDEN BEACH SEWER TREATMENT FEE *Rep. Stiller*

HB 1733 SOUTHPORT UTILITY UNDERGROUNDING *Rep. Stiller*

HB 1734 OCEAN ISLE CANAL DREDGING *Rep. Stiller*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 22, 2004**

TIME: **15 Minutes After the Adjournment of Session**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1687 – CABARRUS BOARD OF EQUALIZATION AND REVIEW – Reps. L. Johnson & Barnhart

HB 1730 – HOLDEN BEACH SEWER TREATMENT FEE – Rep. Stiller

HB 1733 – SOUTHPORT UTILITY UNDERGROUNDING – Rep. Stiller

HB 1734 – OCEAN ISLE CANAL DREDGING – Rep. Stiller

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:30 a.m.** on **June 22, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 1687*
Committee Substitute Favorable 6/10/04

Short Title: Cabarrus Board of Equalization and Review. (Local)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

...

(3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having

custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

c. In any year of general reappraisal, the chair of the board may divide the board into two or more separate panels with a minimum of three members each. The board members on each panel may be interchanged during the year. A decision by the panel has the same effect as a decision by the entire board.

...

(5) ~~Duty to Change Abstracts and Records~~Powers After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this ~~subsection,~~section, the board may continue to meet to carry out the following duties:

a. To hear and decide all appeals relating to discovered property under G.S. ~~105-312(d) and (k).~~105-312.

b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).

c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.

d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

e. To exercise its authority under G.S. 105-282.1(a1) to accept an application for exemption or exclusion that was filed after the statutory deadline.

f. To make any changes authorized by G.S. 105-325."

SECTION 2. S.L. 2000-92 is repealed.

SECTION 3. Section 1 of this act applies to Cabarrus County only.

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1687:
Cabarrus Board of Equalization & Review

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Johnson & Barnhart
Date:	June 18, 2004	**Summary by:**	R. Erika Churchill
Version:	2nd Edition		Committee Counsel

SUMMARY: ***House Bill 1687 would authorize the appointment of a special board of equalization and review for Cabarrus County and repeal a prior conflicting local act. The 2nd Edition of House Bill 1687 was given a favorable report in House Local Government I.***

CURRENT LAW & BILL ANALYSIS: A board of equalization and review is a committee appointed by the county commissioners to review the county's property tax listings and appraisals and to hear taxpayers' appeals concerning the listing or appraisal of their property. The board of county commissioners performs these functions if it chooses not to appoint a special board of equalization and review. Appeals from a special board of equalization and review are directly to the Property Tax Commission, unless the county provides for an appeal to the board of county commissioners. General law authorizes counties to appoint special boards of equalization and review. G.S. 105-322.

House Bill 1687 would make the following local modifications to the general law for the County of Cabarrus:

1. The board of equalization and review may be divided into two or more separate panels with a minimum membership of three persons. A decision by the panel has the effect of a decision by the entire board of equalization and review.
2. After adjournment of the Board of Equalization and Review, that board may continue to meet to carry out the following duties:
    a. To hear and decide all appeals relating to discovered property. (General law restricts this authority to the discovery and listing of property and the settlement of the county's claim for taxes arising from that discovery.)
    b. Approve an untimely application for exemption or exclusion applicable to only the tax year in which the application was filed if good cause is shown for the untimely filing.
    c. To authorize a change to the tax abstracts as permitted in G.S. 105-325. (General law grants this authority to the Board of County Commissioners once the board of equalization and review has finished its work.)
3. Repeal S.L. 2000-92. S.L. 2000-92 granted the Cabarrus County Board of Equalization and Review the authority to meet after its formal adjournment to perform duties not then authorized by general statute. Those duties were subsequently authorized by general statute for all counties (S.L. 2001-139), and it is that statute that is being amended by Section 1 of the bill.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
H.B. 1687 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 1127
Finance Committee Substitute Adopted 6/16/04

Short Title: Incorporate Wallburg. (Local)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF WALLBURG.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Wallburg is enacted to read:

"CHARTER OF THE TOWN OF WALLBURG.

"ARTICLE I. INCORPORATION AND CORPORATE POWERS.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Wallburg are a body corporate and politic under the name 'Town of Wallburg'. The Town of Wallburg has all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general laws of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with law, the boundaries of the Town of Wallburg are as follows:

Beginning at a point in the centerline intersection of Secondary Road #1730 (Wallburg/Union Cross Road) and running thence in an easterly direction following the Forsyth County/Davidson County line to the northwest corner of PIN# 6862-02-69-9020; thence along the western boundary of PIN# 6862-02-69-9020; thence in a southerly direction along the western boundary of PIN # 6862-02-78-0144; thence in a southerly direction along the western boundary of PIN # 6862-02-77-0331 and easterly direction along the southern boundary of PIN # 6862-02-77-0331; thence in a northerly direction along the western boundary of PIN # 6862-02-86-4846 and easterly along the northern boundary of the following three parcels, (1) PIN # 6862-02-86-4846, (2) PIN # 6862-02-86-7823, (3) PIN # 6862-02-96-3711; thence in a southerly direction along the eastern boundary of the following two parcels, (1) PIN # 6862-02-96-3711, (2) PIN # 6862-02-96-2045 to the northern boundary of PIN # 6862-02-95-4143; thence in a westerly, southerly, and easterly direction along PIN # 6862-02-95-4143 to the centerline intersection of Secondary Road # 1733 (Georgetown Road); thence along the eastern and southern boundary of PIN # 6862-04-84-9252 to the northeast corner of PIN # 6862-04-74-2013 and in a southerly direction along the eastern boundary and

westerly along the southern boundary of PIN # 6862-04-74-2013 to the northeast corner of PIN # 6862-04-73-8146; thence in a southerly direction along the PIN # 6862-04-73-8146 to the northern boundary of PIN # 6862-04-72-8400; thence in an easterly direction along the northern boundary and in a southerly direction along the eastern boundary of PIN # 6862-04-72-8400 and in a southerly direction along the eastern boundary of the following 4 parcels, (1) PIN # 6862-04-92-2009, (2) PIN # 6862-04-81-6713, (3) PIN # 6862-04-81-3468, (4) PIN # 6862-04-81-4199 to the southwest corner of PIN # 6862-04-91-6241; thence in an easterly direction along the southern boundary and in a northerly direction along the eastern boundary of PIN # 6862-04-91-6241 to the northwest corner of PIN # 6872-03-00-2722; thence in an easterly and southerly direction along the northern and eastern boundary of PIN # 6872-03-00-2722 to the centerline intersection of Secondary Road # 1741 (Wallburg-High Point Road) and running thence in an easterly direction, along the centerline of Wallburg-High Point Road to the northeast corner of PIN # 6871-01-19-5161; thence in a southerly direction along the eastern boundary and westerly along the southern boundary of PIN # 6871-01-19-5161 and westerly along the southern boundary of PIN # 6871-01-18-0987 to the boundary of PIN # 6871-01-08-8339; thence in a southerly direction along the eastern boundary of PIN # 6871-01-08-8339 and southerly along the eastern boundary and westerly along the southern boundary of PIN # 6871-01-08-6182; thence in a westerly direction along the southern boundary of the following 4 parcels, (1) PIN # 6871-01-08-2334, (2) PIN # 6861-02-98-9167, (3) PIN # 6861-02-98-8359, (4) PIN # 6861-02-98-7437 and northerly along the western boundary of PIN # 6861-02-98-6556 and continuing in a northerly direction along the eastern boundary of PIN # 6861-02-88-7858 to the centerline intersection of Secondary Road # 1741 (Wallburg-High Point Road); thence continuing on from the centerline intersection of Wallburg-High Point Road in a northerly direction along the eastern boundary of PIN # 6862-04-80-2633 to the southern boundary of PIN # 6862-04-81-4199; thence in a westerly direction along the northern boundary of PIN # 6862-04-80-2633 to the centerline intersection of Secondary Road #1741 (Wallburg-High Point Road) and thence from the center line intersection of Wallburg-High Point Road in a westerly and southerly direction along the northern and western boundary of PIN # 6862-04-80-2633 and continuing westerly to the northwest corner of PIN # 6861-02-69-2593; thence continuing westerly, southerly and easterly along the boundary of PIN # 6861-02-69-2593 to the southwest corner of PIN # 6862-04-80-2633; thence in an easterly direction along the southern boundary of PIN # 6862-04-80-2633 and PIN # 6861-02-89-1437 to the boundary of PIN # 6861-02-88-7858 and continuing in a southerly direction along the western boundary of the following 3 parcels, (1) PIN # 6861-02-88-7858, (2) PIN # 6861-02-87-2956, (3) PIN # 6861-02-87-2574 to the boundary of PIN # 6861-02-76-6889; thence in a easterly and southerly along the northern and eastern boundary of PIN # 6861-02-76-6889 and continuing southerly along the eastern boundary of the following 4 parcels, (1) PIN # 6861-02-86-4378, (2) PIN # 6861-02-86-4264, (3) PIN # 6861-02-86-5006, (4) PIN # 6861-02-85-2672 and westerly along the southern boundary and northerly on the western boundary of PIN #

6861-02-85-2672 to the southeast corner of PIN # 6861-02-75-8237; thence in a westerly direction along the southern boundary of the following 3 parcels, (1) PIN # 6861-02-75-8237, (2) PIN # 6861-02-75-126, (3) PIN # 6861-02-65-3377 and continuing in a northerly direction along the western boundary of PIN # 6861-02-65-3377 to the centerline intersection of Secondary Road # 1749 (Stoney Ridge Road); thence in a westerly direction along the centerline intersection of Stoney Ridge Road to the northeast corner of PIN # 6861-01-45-9232; thence in a southerly and westerly direction along the eastern and southern boundary of PIN # 6861-01-45-9232; thence in a southerly direction along the eastern boundary the following 2 parcels, (1) PIN # 6861-03-44-6877, (2) PIN # 6861-03-44-7508 to the centerline intersection of Secondary Road # 2995 (Johnson Road); thence continuing in a westerly direction to the centerline intersection of North NC Hwy 109; thence southerly direction on North NC Hwy 109 to the northeast corner of PIN # 6861-03-43-2478; thence westerly and southerly direction along the northern and western boundary of PIN # 6861-03-43-2478 and southerly along the western boundary of PIN # 6861-03-42-3828; thence southerly direction along the eastern boundary of the following 10 parcels, (1) PIN # 6861-03-32-7590, (2) PIN # 6861-03-32-8365, (3) PIN # 6861-03-32-8292, (4) PIN # 6861-03-32-9132, (5) PIN # 6861-03-31-9977, (6) PIN # 6861-03-41-0802, (7) PIN # 6861-03-41-0720, (8) PIN # 6861-03-41-0427, (9) PIN # 6861-03-41-0185, (10) PIN # 6861-03-40-1971 to the centerline intersection of Secondary Road #2964 (Oak Street); thence in a southerly direction to southeast corner of PIN # 6861-03-40-0675; thence in a westerly direction along the southern boundary of PIN # 6861-03-40-0675; thence in a westerly and then northerly direction along the boundary of PIN # 6861-03-30-9773 and thence in a northerly direction along the boundary of PIN # 6861-03-30-9849 to the centerline intersection of Secondary Road # 1997 (Eden Park Drive); continuing in a westerly direction along the southern boundary of PIN # 6861-03-30-6879 to the southeast corner of PIN # 6861-03-21-8461; thence in a northerly and westerly direction along the eastern and northern boundary of PIN # 6861-03-21-8461 continuing in a westerly and northerly direction along the boundary of PIN # 6861-03-22-2156; thence continuing in a northerly direction along the western boundary of the following 7 parcels, (1) PIN # 6861-03-22-1365, (2) PIN # 6861-03-22-1418, (3) PIN # 6861-03-22-0584, (4) PIN # 6861-03-22-0584, (5) PIN # 6861-03-22-0657, (6) PIN # 6861-03-22-0716, (7) PIN # 6861-03-12-9848 to the centerline intersection of Secondary Road # 1751 (Shady Grove Church Road) and thence continuing in a westerly direction on Shady Grove Church Road to the southeast corner of PIN # 6851-04-93-7638; thence in a northerly direction along the eastern boundary of PIN # 6851-04-93-7638; thence in a westerly direction along the southwestern of PIN # 6851-04-94-6468 to the southeast corner of PIN # 6851-02-95-0214; thence in a northerly and easterly direction along the eastern boundary of PIN # 6851-02-95-0214; thence in a southeasterly direction along the southwestern boundary of PIN # 6861-03-24-0560 to the centerline intersection of Secondary Road # 1751 (Shady Grove Church Road); thence continuing in an easterly direction on Shady Grove Church Road to the southwestern corner of PIN # 6861-03-34-3400; thence in a northerly direction along the western boundary of PIN # 6861-03-34-3400; thence in a westerly and

northerly direction along the western boundary of PIN # 6861-03-33-1685 to the boundary of PIN # 6861-01-35-4668; thence in an easterly, northerly and westerly direction along the southern, eastern and northern boundary of PIN # 6861-01-35-4668 to the southwestern corner of PIN # 6861-01-36-8115; thence in a northerly direction along the western boundary of the following 3 parcels, (1) PIN # 6861-01-36-8115, (2) PIN # 6861-01-36-9371, (3) PIN # 6861-01-36-9523; thence in an easterly direction along the northern boundary of PIN # 6861-01-36-9523 to the southwestern corner of PIN # 6861-01-46-0617; thence in a northerly and easterly direction along the western and northern boundary of PIN # 6861-01-46-0617 to the centerline intersection of North NC Hwy 109; thence continuing in a northerly direction on North NC Hwy 109 to the southeast corner of PIN # 6861-01-39-6482; thence in a northerly direction along the eastern boundary of PIN # 6861-01-39-6482; thence in a northerly, westerly and easterly direction along the eastern boundary of PIN # 6862-03-32-0247; thence in a northwesterly direction along the northern boundary of PIN # 6862-03-32-0247 to the southeast corner boundary of PIN # 6862-03-34-4226; thence continuing in a westerly and southerly direction along the northern and western boundary of PIN # 6862-03-34-4226; thence in a southerly and westerly direction along the northern boundary of PIN # 6862-03-32-0247 to the centerline intersection of Secondary Road #1773 (Motsinger Road); thence continuing in a southerly direction on Motsinger Road to the southwest corner of PIN # 6862-03-12-2667; thence continuing in a northerly, westerly, southerly and easterly direction along the eastern, northern and western boundary of PIN # 6852-04-72-6540 to the centerline intersection of Secondary Road #1700 (Friendship-Ledford Road); thence continuing in a southerly direction on Friendship-Ledford Road to the northeast corner of PIN # 6851-01-28-4557; thence in a westerly and northerly direction along the northern boundary of PIN # 6851-01-28-4557 to the eastern boundary of PIN # 6852-03-11-0324; thence in a northerly direction along the eastern boundary of PIN # 6852-03-11-0324 to centerline intersection of Secondary Road #1711 (Gumtree Road); thence continuing across Gumtree Road to the southwest corner of PIN # 6852-03-23-1651; thence in a northerly and northeasterly direction along the western and northern boundary of PIN # 6852-03-23-1651 to the centerline intersection of Secondary Road #1700 (Friendship-Ledford Road); thence continuing across Friendship-Ledford Road in a northeasterly direction along the southeastern boundary of the following 3 parcels, (1) PIN # 6852-03-24-2274, (2) PIN # 6852-03-24-6800, (3) PIN # 6852-03-24-8961 to the southeast corner boundary of PIN # 6852-01-25-8744; thence continuing in a northerly and easterly direction along the eastern boundary of PIN # 6852-01-25-8744 to the centerline intersection of Secondary Road #1711 (Gumtree Road); thence in a northeasterly direction on Gumtree Road to the northeast corner of PIN # 6852-01-16-7536; thence in a westerly direction along the northern boundary of PIN # 6852-01-16-7536 to the northeast corner of PIN # 6852-01-06-2193; thence in a westerly and southern direction along the northern and western boundary of PIN # 6852-01-06-2193 to the centerline intersection of Secondary Road #1700 (Friendship-Ledford Road); thence continuing north on Friendship-Ledford Road to southeast corner boundary of PIN # 6842-02-97-6174; thence in westerly direction along the southern boundary of PIN # 6842-02-97-6174; thence in a northerly

direction along the western boundary of the following 6 parcels, (1) PIN # 6842-02-97-6217, (2) PIN # 6842-02-97-6400, (3) PIN # 6842-02-97-5578, (4) PIN # 6842-02-97-5745, (5) PIN # 6842-02-97-5817, (6) PIN # 6842-02-98-8101 to the centerline intersection of Secondary Road #1708 (Mt. Vernon Church Road); thence in a northeasterly direction along Mt. Vernon Church Road to the southwest corner boundary of PIN # 6842-02-98-8101; thence in a northerly direction along the western boundary of PIN # 6842-02-98-8101; thence in a northerly and easterly direction along the western and northern boundary of PIN # 6842-02-98-7532; thence in a easterly and northerly direction along the southern and eastern boundary of PIN # 6852-01-09-2040 to the southeast corner of the southern boundary of PIN # 6852-01-09-9621; thence continuing in an easterly and northerly direction along the southern and eastern boundary of PIN # 6852-01-09-9621 to centerline intersection of Secondary Road #1709 (Rex Road); thence continuing in a northerly direction on Rex Road to the Forsyth/Davidson County line; thence following the Forsyth/Davidson County line in an easterly direction to the centerline intersection of Secondary Road #1730 (Wallburg/Union Cross Road) which is the beginning.

All references to the PIN # herein are references to Davidson county tax map system as of March 17, 2003. A copy shall be maintained in the records of the town of Wallburg.

"Section 2.2. **Annexation.** (a) The Town of Wallburg shall not extend its boundaries into Forsyth County by annexation pursuant to Article 4A of Chapter 160A of the General Statutes.

(b) The Town of Wallburg shall not extend its boundaries in Davidson County by annexation east of the line shown on the map dated March 16, 2004, entitled "Proposed Town of Wallburg," as prepared by the City of High Point Department of Planning and Development. That line begins at the place where Abbots Creek Church Road (S.R. 1734) intersects the Forsyth/Davidson County line; then south along Abbots Creek Church Road to its intersection with Moore Road (S.R. 1745); then west and south along Moore Road to its intersection with Mock Road (S.R. 1744); then south along Mock Road to its intersection with Old Greensboro Road (S.R. 1756); then west and south along Old Greensboro Road to N.C. Highway 109.

(c) G.S. 160A-58.1(b)(2) does not apply to the Town of Kernersville as it relates to the Town of Wallburg.

(d) G.S. 160A-58.1(b)(2) does not apply to the City of Winston-Salem as it relates to the Town of Wallburg.

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Wallburg is the Mayor and Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2005 provided for by Section 4.1 of this Charter, Jack Craven is hereby appointed Mayor and Ronnie Bailey, Zane Hedgecock, Sue Martin, Daphne Rogers, and Mark Swaim are appointed Council Members of the Town of Wallburg, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this

section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2005.

"Section 3.3. **Manner of Electing Town Council; Term of Office.** The qualified voters of the entire Town shall elect the members of the Town Council and, except as provided in this section, they shall serve four-year terms. In 2005, the two candidates receiving the highest numbers of votes shall be elected to four-year terms and the three candidates receiving the next highest numbers of votes shall be elected to two-year terms. In 2007, and quadrennially thereafter, three members shall be elected to four-year terms. In 2009, and quadrennially thereafter, two members shall be elected to four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** The qualified voters of the entire Town shall elect the Mayor. In 2005, and quadrennially thereafter, the Mayor shall be elected for a term of four years. The Mayor shall be the official head of Town government and shall preside at all meetings of the Council, shall have the right to vote only when there is an equal division on any question or matter before the Council, and shall exercise the powers and duties conferred by law or as directed by the Council.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Elections shall be conducted on a nonpartisan basis and results determined by a plurality as provided in G.S. 163-292.

"ARTICLE V. ADMINISTRATION.

"Section 5.1. **Town to Operate Under Mayor-Council Plan.** The Town shall operate under the Mayor-Council form of government as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"Section 5.2. **Town Attorney.** The Council shall appoint a Town Attorney licensed to practice law in North Carolina. It shall be the duty of the Town Attorney to represent the Town, advise Town officials, and perform other duties as required by law or as directed by the Town Council. The Town Attorney shall serve at the pleasure of the Town Council.

"Section 5.3. **Town Clerk.** The Council shall appoint a Town Clerk who shall perform duties as required by law or as directed by the Town Council. The Town Clerk shall serve at the pleasure of the Council.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Town of Wallburg shall be subject to municipal taxes levied for the year beginning July 1, 2004, and for that purpose the Town shall obtain from Davidson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2004.

"Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2004-2005 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 2004-2005, ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance and thereafter in accordance with the schedule in G.S. 105-360. If the effective date of the incorporation is prior to

July 1, 2004, the Town may adopt a budget ordinance for fiscal year 2003-2004 without following the timetable in the Local Government Budget and Fiscal Control Act, but shall follow the sequence of actions in the spirit of the act insofar as practical. No ad valorem taxes may be levied for the 2003-2004 fiscal year.

"Section 6.3. **Ad Valorem Taxes.** The Town Council shall not increase the ad valorem tax rate more than $0.10/$100.00 valuation above the ad valorem tax rate established on the date of incorporation of the Town of Wallburg without the vote or consent of a majority of the qualified voters of the Town of Wallburg. The election on the question of increasing the ad valorem tax rate shall be conducted in accordance with G.S. 160A-209."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 1127:
Incorporate Wallburg

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Bingham
Date:	June 22, 2004	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1127 incorporates the Town of Wallburg in Davidson County, effective when this bill becomes law. The 2nd Edition makes two substantive changes to the bill:***

- ***It limits the Town of Wallburg's ability to annex.***
- ***It removes the provisions from the bill requiring a referendum on incorporation by the qualified voters of the proposed area to be incorporated.***

BILL ANAYSIS AND BACKGROUND: The Joint Legislative Commission on Municipal Incorporations met on June 15, 2004, and found that the proposed Town of Wallburg met the standards required by Article 20 of Chapter 120 of the General Assembly and therefore the Commission recommends incorporation of the area as the Town of Wallburg.

The Commission received a petition signed by 51% of the area's population proposing the incorporation of the area. The assessment of the petition to incorporate Wallburg by the Division of Community Assistance, Department of Commerce, found that approximately 2,761 people reside in the proposed area to be annexed, representing a population density of 458.24 persons per square mile. G.S. 120-167 requires a permanent population of at least 100 and the population density must be at least 250 persons per square mile. DOA's analysis also indicated that 41.33% of the area is developed; G.S. 120-168 requires that at least 40% of the area must be developed for residential, commercial, industrial, institutional, or governmental uses.

G.S. 120-169.1 requires that the proposed town must provide at least four municipal services. The Town of Wallburg plans to provide police protection, water distribution, street maintenance, and zoning. The proposed Town plans to contract with Davidson County Sheriff's Department for police protection and with Davidson Water Incorporated for water distribution. Zoning will be administered through a contract with Davidson County and street maintenance will be contracted with DOT. To meet its financial obligations, the Town proposes a $.05 property tax rate. This tax rate will yield annual property tax revenue of approximately $105,525. The proposed Town's charter provides that the tax rate may not be increased more than $.10/$100 valuation above the tax rate established on the date of incorporation without a vote or consent of a majority of the qualified voters of the Town.

G.S. 120-166(a) establishes criteria for incorporation based upon the nearness of the proposed town to existing municipalities and their respective populations. However, G.S. 120-166(b)(3) provides that municipalities within the distances described in subsection (a) may by resolution express their approval of the incorporation. The proposed Town of Wallburg has obtained resolutions expressing approval of its incorporation from Town of Kernersville and the Cities of Winston-Salem and High Point provided that Wallburg include a statement in its charter providing that it will not annex certain areas in Forsyth and Davidson Counties. The 2nd Edition of Senate Bill 1127 contains this statement on page 5, beginning on line 19.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1127 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF WALLBURG.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1730

Short Title:	Holden Beach Sewer Treatment Fee.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF HOLDEN BEACH TO IMPOSE A SEWER TREATMENT FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Fee-Supported District. – A municipality may create a fee-supported sewer treatment district for all properties that are or can be served by the sewage collection and treatment plant serving properties within the Town.

SECTION 2. Creation of Fee-Supported District. – The Town may adopt a resolution establishing a fee-supported sewer treatment district.

SECTION 3. Imposition of Annual Fees. – The Town may impose annual fees for the availability of sewer service within the district. The Board shall set same on or before July 1 each year.

SECTION 4. Fees. – The fees imposed by the municipality may not exceed the cost of providing the sewer collection facility within the municipality and the cost of the contract with a county to provide it with the facilities to transport, treat, and dispose of the municipality's effluent. Said fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from the availability of sewage treatment.

SECTION 5. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the sewer district fees.

SECTION 6. Use of Fees. – The Town shall credit the fees collected within the district to a separate fund to be used only to pay the debt service for the sewer system. The governing board of the municipality shall administer the fund to provide for the payment of said sewer services provided by the county.

SECTION 7. Abolition of District. – Upon finding that there is no longer a need for a given fee-supported district, the governing board of the municipality may repeal the resolution establishing the district and thus abolish the district.

SECTION 8. This act applies only within the Town of Holden Beach.

SECTION 9. This act is effective when it becomes law.

HOUSE BILL 1730:
Holden Beach Sewer Treatment Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	June 22, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1730 authorizes the Town of Holden Beach to create a fee-supported sewer treatment district.

CURRENT LAW: G.S. 160A-312 authorizes cities to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of a public enterprise, which includes wastewater collection, treatment, and disposal systems of all types. Cities are also authorized to establish a schedule of rates and fees for the use of the services furnished by any public enterprise. Under this authority, only actual users of the particular service may be charged fees for its use. Alternatively, a city may require payment of a periodic availability charge. Under either option, the fees must reflect the cost of the service and could not include capital costs.

BILL ANALYSIS: House Bill 1730 authorizes the Town of Holden Beach to create a fee-supported sewer treatment district. The Town would be authorized to impose annual fees for the availability of sewer service within the district. The fees may not exceed the cost of providing the sewer collection facility and the cost of the contract with a county to provide it with the facilities to transport, treat, and dispose of the waste. The fees would be imposed on owners of each dwelling unit or parcel of property that could or does benefit from the availability of sewage treatment. The fees would be collected in the same manner as *ad valorem* taxes. The revenues from the fees would be used only to pay the debt service for the sewer system.

This method of financing would enable the Town to impose the fees on owners of vacant lots, which arguably it could not do under provisions of current law, as well as enable the Town to use the fees for the capital costs associated with constructing the sewer system.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1730 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF HOLDEN BEACH TO IMPOSE A SEWER TREATMENT FEE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1733

Short Title:	Southport Utility Undergrounding.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE CITY OF SOUTHPORT TO ASSESS BENEFITED PROPERTY FOR UNDERGROUNDING UTILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the City of Southport, being Chapter 659 of the 1983 Session laws, is amended by adding a new Article to read:

"ARTICLE X. SPECIAL ASSESSMENT AUTHORITY FOR PLACEMENT OF UTILITIES UNDERGROUND.

"**Sec. 10.1.** Special Assessment Authority for Placement of Utilities Underground. In addition to the assessment authority provided in G.S. 160A-216, the Board of Aldermen may make special assessments against benefited property within the corporate limits for placing utility lines underground. For the purpose of this section, utility lines include electrical distribution, telephone, and cable television lines. Any assessments made under this section shall be made in accordance with the procedural requirements of Article 10 of Chapter 160A of the General Statutes."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1733:
Southport Utility Undergrounding

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Stiller
Date:	June 22, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1733 would allow the city to Southport to assess benefited property for the placement of utility lines underground.***

CURRENT LAW: Article 10 of Chapter 160 authorizes a city to make special assessments against benefited property within its corporate limits for:

(1) Constructing, reconstructing, paving, widening, installing curbs and gutters, and otherwise building and improving streets;
(2) Constructing, reconstructing, paving, widening, and otherwise building or improving sidewalks in any public street;
(3) Constructing, reconstructing, extending, and otherwise building or improving water systems;
(4) Constructing, reconstructing, extending, or otherwise building or improving sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems;
(5) Constructing, reconstructing, extending, and otherwise building or improving storm sewer and drainage systems.

Whenever a city decided to finance a proposed project by special assessments, it must adopt a preliminary resolution containing, among other things, a statement of intent, a general description of the nature and location of the project, and a statement concerning the proposed basis for making assessments. The city must hold a public hearing on the preliminary resolution. Once the total cost of the project has been determined, the city must prepare a preliminary assessment roll containing a brief description of each lot to be assessed, the basis for the assessment the amount assesses against each, and the terms of payment. A public hearing must also be held on the preliminary assessment roll. Once the roll is confirmed, property owners are given notice and payment is due within 30 days after publication of the notice.

BILL ANALYSIS: House Bill 1733 would add a new Article to the Charter of the City of Southport that would allow the governing body to make special assessments against benefited property for the placement of utility lines underground. Utility lines would include electrical distribution, telephone, and cable television lines. The assessments would be made in accordance with the procedural requirements of Article 10 of Chapter 160A of the General Statutes.

ATTACHMENT 6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1733

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1733-ALB-146 [v.2]

Date June 22 ,2004

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Stiller

moves to amend the bill on page 1, line 15, by deleteing the quotation mark and adding the following after line 15:

"**Sec. 10.2.** Obligation of Utility. A utility shall have no obligation to place its lines underground pursuant to this section unless and until it receives payment for its costs to do so.""

SIGNED Brenner L. Stiller
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1733 A BILL TO BE ENTITLED AN ACT TO ALLOW THE CITY OF SOUTHPORT TO ASSESS BENEFITED PROPERTY FOR UNDERGROUNDING UTILITIES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1734
PROPOSED COMMITTEE SUBSTITUTE H1734-CSLAf-65 [v.1]

6/21/2004 6:46:50 PM

Short Title: Ocean Isle Canal Dredging. (Local)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF OCEAN ISLE BEACH TO IMPOSE A CANAL DREDGING FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Fee-Supported Canal Dredging District. – A municipality by resolution may create a fee-supported canal dredging district for all properties that are contiguous to a canal within the corporate limits.

SECTION 2. Imposition of Annual Fees. – A municipality may impose annual fees for the dredging of canals, both natural and concrete, within the corporate limits. The governing board shall establish the fees on or before July 1 each year.

SECTION 3. Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the island.

SECTION 4. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the canal dredging fees.

SECTION 5. Use of Fees. – A municipality shall credit the fees collected within the district to a separate fund to be used only to pay the bill that is received for canal dredging. The governing board shall administer the fund to provide for the payment of canal dredging.

SECTION 6. Abolition of District. – Upon finding that there is no longer a need for a given fee-supported district, the governing board may repeal the resolution establishing the district and thus abolish the district.

SECTION 7. This act applies only within the municipal boundaries of the Town of Ocean Isle Beach.

SECTION 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1734

Short Title:	Ocean Isle Canal Dredging.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF OCEAN ISLE BEACH TO IMPOSE A CANAL DREDGING FEE.

The General Assembly of North Carolina enacts:

SECTION 1. Fee-Supported Canal Dredging District. – A municipality by resolution may create a fee-supported canal dredging district for all properties that are contiguous to a canal within the corporate limits.

SECTION 2. Imposition of Annual Fees. – A municipality may impose annual fees for the dredging of canals, both natural and concrete, within the corporate limits. The governing board shall establish the fees on or before July 1 each year.

SECTION 3. Fees. – The fees imposed by the municipality may not exceed the cost of providing for the dredging of the canals within the municipality. The fees shall be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system on the island.

SECTION 4. Billing of Fees. – The municipality may include a fee imposed under this section on the property tax bill for each parcel of property lying within the municipal limits on which the fee is imposed. Said fee shall be collected in the same manner as provided for in the General Statutes for the collection of ad valorem taxes, and remedies available by statute for the collection of taxes shall apply to the collection of the sewer district fees.

SECTION 5. Use of Fees. – A municipality shall credit the fees collected within the district to a separate fund to be used only to pay the bill that is received for canal dredging. The governing board shall administer the fund to provide for the payment of canal dredging.

SECTION 6. Abolition of District. – Upon finding that there is no longer a need for a given fee-supported district, the governing board may repeal the resolution establishing the district and thus abolish the district.

SECTION 7. This act applies only within the municipal boundaries of the Town of Ocean Isle Beach.

SECTION 8. This act is effective when it becomes law.

HOUSE BILL 1734:
Ocean Isle Canal Dredging

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Stiller
Date:	June 18, 2004	**Analysis by:**	Martha Walston
Version:	H1734-CSLAf-65		Committee Counsel

SUMMARY: House Bill 1734 is a local bill that would allow the Town of Ocean Isle Beach to create a fee-supported canal dredging district for all properties that are contiguous to a canal. The fee may not exceed the cost of dredging and will be imposed on owners of each dwelling unit or parcel that could or does benefit from water access through the canal system. The PCS makes a technical correction.

BILL ANALYSIS: House Bill 1734 authorizes the Town of Ocean Isle Beach to create a fee-supported canal dredging district for properties that are contiguous to a canal within the town limits. The annual fee may not exceed the cost of providing for the dredging of canals, both natural and concrete, and would be imposed on owners of each dwelling unit or parcel of property that could or does benefit from water access through the canal system.

The dredging fee may be included on the property tax bill and collected in the same manner as property taxes. The remedies for collection of taxes will also apply to the collection of these fees.

The fees collected shall be placed in a separate fund to be used only to pay the bill for canal dredging.

On March 10, 2004, the Town of Ocean Isle Beach adopted a resolution to propose the above legislation. This legislation was proposed to provide the means to remove the silt and sand that have flowed into the canals in the Town impeding the navigability of the canals. These canals provide water access from the Intracoastal Waterway to lots and rights-of-way within the Town limits.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1734 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF OCEAN ISLE BEACH TO IMPOSE A CANAL DREDGING FEE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 23, 2004 ~ 8:30 a.m.

The House Committee on Finance met on Wednesday, June 23, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Chloe Gossage, Trina Griffin, Martha Harris, Jim Mills, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Allen, in Chairman Luebke's absence, called the meeting to order at 8:33 am and recognized the six (6) pages present: (1) Chelsea Allen of McDowell County, sponsored by Representative Gillespie; (2) Whitney Averette of Franklin County, sponsored by Representative Lucy Allen; (3) Jeremy Lee of Catawba County, sponsored by Representative Setzer; (4) Emilie Mademann of Iredell County, sponsored by Representative Howard; (5) David McCollum of Wake County, sponsored by Representative Gordon Allen; and (6) Aaron Wheeler of McDowell County, sponsored by Representative Gillespie.

Senator Kerr was recognized by Chairman Allen to explain the first bill considered by the Committee: **SB 1064 – FINANCE PARKS, HERITAGE, AND CLEAN WATER** (see **attachment 3**). Representative Gibson made a motion that the Proposed Committee Substitute (PCS) for Senate Bill 1064 be adopted for the Committee's discussion and that motion carried without objection. Senator Kerr then explained that the bill would authorize the State to use special indebtedness for capital projects for the State Parks System; for parks, recreation, and the preservation of natural heritage; and for clean water conservation. Senator Kerr noted that repayment of the debt for these purposes would be made from existing revenue streams dedicated to the Parks and Recreation Trust Fund, the Natural Heritage Trust Fund, and the Clean Water Management Trust Fund, respectively. Finally, he explained that the House proposed committee substitute would limit this authorization to a total of $68 million: $26 million to acquire land near military bases; $5 million for existing State park capital improvements; and $37 million for land acquisition for new and existing State parks and capital improvements for existing State parks. Following this explanation, Chairman Luebke, having arrived at the meeting, assumed the Chair. He then recognized Representative Howard who reviewed the bill and expressed the hope that the differences between the House and Senate on the bill could be resolved in a conference committee, moved that the House Proposed Committee Substitute be given a favorable report (with unfavorable report to the second Senate Committee Substitute, which was before the Committee)

and recommendation that the House PCS be re-referred to the Appropriations Committee. Representative Hackney was then recognized and asked Secretary of the North Carolina Department of Environment and Natural Resources (NCDENR), Bill Ross, his opinion of the limitations placed on the bill by the House Committee Substitute. Secretary Ross stated that while NCDENR would have preferred the bill without such stringent limitation, the Department continues to feel that this indebtedness is essential to the future of North Carolina's parks and water resources. Representative Capps was recognized next and, noting that the Trust Funds involved with the bill held cash balances, asked why there was a need to issue the special indebtedness authorized in the bill. Mr. Bill Holman, Executive Director of the North Carolina Clean Water Management Trust Fund, was recognized to respond and stated that the cash balances were representative of funds that were already committed to other projects. Representative Creech was then recognized and stated his belief that the State already had a number of parks that it can't keep up and that the State continues to amass more and more debt. Representative Hackney and Womble responded by stating that these accusations were not true and that the State had done an excellent job in park preservation and maintenance. Representative Carney was recognized next and commented that the bill was an excellent effort in her opinion. She stated that bills such as these which focus on the State's parks and clean water were usually highly supported by average citizens. As there was no further discussion, Chairman Luebke then called the earlier motion made by Representative Howard for a favorable report as to the PCS for SB 1064 (and recommendation that it be re-referred to the Committee on Appropriations) to a vote. The motion carried.

The next bill considered by the Committee was **HB 1423 – APPRENTICESHIP TAX CREDIT** (see **attachment 4**). Chairman Luebke recognized Representative Howard, the bill sponsor, to explain the bill. Representative Womble made a motion that the PCS be before the Committee for discussion purposes. The motion carried without objection. Representative Howard then explained that the bill allows a credit against the franchise tax or the income tax of an employer who hires employees registered in an apprenticeship program approved by the Department of Labor. She stated that the credit would be equal to 15 percent of the wages paid to registered apprentices per taxable year. She also noted that the bill would be effective beginning in January of 2005, would sunset in 3 years (2008), and appropriated $5,000 for to the Department of Labor for the administrative costs associated with the implementation of the tax credit. Following this explanation, Representative Hackney was recognized for an inquiry. He asked the fiscal staff for an elaboration of the fiscal impact on the bill. Staff then informed the members that the fiscal impact is estimated to exceed $100 million before it sunsets in 2008. Representative Hackney stated his opinion that a 15% credit was far more than the State could afford and suggested that Representative Howard consider a lesser rate. Representative Howard responded by stating that the credit would allow employers to hire more apprentices and that this would help with job growth among the State's displaced workforce. She further stated that employing apprentices involves a significant financial investment by employers and that this credit would help to offset those costs. The Committee then engaged in a series of questions regarding the Apprenticeship Program in the Department of Labor. Ms. Brenda Saunders, Assistant Bureau Chief for the Apprenticeship and Training Bureau for the Department of Labor fielded these inquiries. Chairman Luebke next recognized Representative Hackney who acted to send forth an amendment (see **attachment 5**) reducing the tax credit from 15 percent to 5 percent of the wages paid to registered apprentices. He stated that while he favored providing assistance to employers who hired apprentices, the 15% credit was simply too expensive. He then moved adoption of his amendment. Representative Daughtridge was recognized and spoke in opposition to the amendment. He stated that employers who hire apprentices are spending far more than 15% in the costs of training alone. He stated that 15%, in his opinion was reasonable and that 5% was too low. Representative Gibson was also recognized to speak against the amendment. He stated that the amendment was trying to hurt a bill focused on helping the existing businesses in the State. Given the consensus of the Committee,

Chairman Luebke then recognized Representative Hackney who withdrew his amendment. Following some other brief comments, the Chair then recognized Representative Blackwood who moved that the PCS for House Bill 1423 be given a favorable report (with an unfavorable report as to the original bill) and recommendation that the PCS be re-referred to the Committee on Appropriations. Seeing no further discussion, Chairman Luebke then called the motion a to vote and it carried by a majority.

HB 1795 – MODIFY YOUTH FACILITY DEBT AUTHORIZATION (see **attachment 6**) was the next bill considered by the Committee. As Chairman Luebke was the sponsor of this bill, he requested that Chairwoman Howard assume the Chair so that he could present his bill. Chairman Howard having then assumed the Chair, Representative Luebke was recognized to explain the bill. Representative Allen made a motion that the PCS for House Bill 1795 be adopted for the purposes of discussion and the motion carried without objection. Representative Luebke then explained that the bill reauthorizes debt issuance for the Department of Juvenile Justice and Delinquency Prevention (DJJDP) due to modifications in a project involving the construction of new youth facilities. Representative Luebke noted that the project had been modified so that a greater number of smaller youth facilities could be constructed for juveniles closer to their home areas. He also noted that the bill did not authorize new debt. Rather, the debt service funds for the project were set aside in 2003-2004. Following this explanation, Chairwoman Howard recognized Representative Ross who stated her support of the bill and noted that the DJJDP had done a great job with past projects and funding. She then moved that the PCS for HB 1795 be given a favorable report (with an unfavorable report as to the original bill). Representative Hackney was recognized next and stated that he agreed with the sentiments of Representative Ross. He stated that places more facilities at a smaller throughout the communities of the State was certainly an action in the best interest of North Carolinians. As there was no further discussion on the bill, Chairwoman Howard then called Representative Ross' motion to a vote and it carried without objection.

Chairman Luebke then reassumed the Chair and called upon Senator Bingham for the last bill considered by the Committee: **SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION** (see **attachment 7**). Representative Allen moved that the PCS for SB 20 be before the Committee for discussion. His motion carried without objection. The Senator then explained that the bill before the Committee was a product of nearly 1½ years of work. He explained that the bill would act to regulate Professional Employer Organizations (PEOs) in the State under North Carolina Department of Insurance, all of which are currently unregulated. He stated that PEOs provide health insurance (and many other types of insurance) to small businesses in the State at a discounted rate. However, he noted that due to this lack of regulation, PEOs had begun to abuse the businesses they serve. Following this explanation, Representative Wainwright pointed out that the Committee's time was running thin and that he would prefer to have a more through explanation of the bill at a later Committee meeting. Chairman Luebke agreed with Representative Wainwright and displaced SB 20. He assured Senator Bingham that the bill would be considered more fully at the Committee meeting on Thursday, June 24, 2004.

As the Committee's time had then expired, Chairman Luebke adjourned the meeting at 9:59 a.m.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 1064 (and related materials)
4. House Bill 1423 (and related materials)
5. Hackney Amendment on HB 1423 (**Withdrawn**)
6. House Bill 1795 (and related materials)
7. Senate Bill 20 (and related materials) (**Displaced**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 23, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1423 APPRENTICESHIP TAX CREDIT *Reps. Howard & Sherrill*

HB 1795 MODIFY YOUTH FACILITY DEBT AUTHORIZATION
Rep. Luebke

SB 20 REGULATE PROFESSIONAL EMPLOYER ORGANIZATION
Sen. Bingham

SB 1064 FINANCE PARKS, HERITAGE, AND CLEAN WATER
Sen. Kerr

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 23, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1423 – APPRENTICESHIP TAX CREDIT – Reps. Howard & Sherrill

HB 1795 – MODIFY YOUTH FACILITY DEBT AUTHORIZATION – Rep. Luebke

SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION – Sen. Bingham

SB 1064 – FINANCE PARKS, HERITAGE, AND CLEAN WATER – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **4:50 p.m.** on **June 22, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ 8:30 a.m.

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Bakanic	NCGA Intern
Rich Webb	NCGA Intern
[illegible]	TNC
DAVE Simpson	CAMPBELL AGC
John McAlister	Duke Energy
[illegible]	NC Sierra, TPL
Bill Ross	NC DENR
John McMillan	MFGS
[illegible]	CTNC
[illegible]	Bone + Assoc
Ken Melton	D.O.R.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ 8:30 a.m.

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sperus Pleggen	State Court Office
George Sweat	DJJDP
Dwayne Patterson	"
Joanne McDaniel	"
William Moss	Sierra Club
Eric Johnson	Z. Smith Reynolds Fdn
[illegible]	[illegible]
Greg Radford	NC DOR
Erin Kinney	NC Conservation Network
[illegible]	NC. Conservation Network
Christine Wunsche	NC PIRG

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ 8:30 a.m.

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Rogers	D&NR
FRANK W. FOLGER	NCDOT
[signature]	NCDOC
[signature]	TNC
Tamara Cheng	TNC
Janice Burke	Treasurer
LEWIS LEDFORD	DENR - Parks
[signature]	CWMTF
DAVID BARNES	Poyner + Spruill LLP
Chad Essick	Poyner & Spruill LLP
LARRY DIX	DJJDP

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ 8:30 a.m.

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Hooman	NCDOL
Brenda Saunders	NCDOL
Art Britt	NCDOL
Cameron Kelly	NCDOL
Barbara Levine	NCIC
Marisol Jiménez	El Pueblo, Inc.
Andrea Bazán-Manson	EL PUEBLO
Harry Hurtaff	N.C. S.D.A.
Angie Harris	Maupin Taylor
Cam Crew	BBMH
BILL HALE	CASTLETON GROUP

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ 8:30 a.m.

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kathy Hawkins	Progress Energy
Betty Turner	Bank of America
Jim Blackburn	County Commissioners Assoc
[illegible]	Gov Office
Bill Scoggin	KCLH
Paul Meyer	NCACC
Alysia Vick	NCDOL
Teri Gutierrez	NCIW

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1064

Finance Committee Substitute Adopted 6/8/04
Appropriations/Base Budget Committee Substitute Adopted 6/9/04
Fourth Edition Engrossed 6/10/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1064-CSLCx-149 [v.9]

6/21/2004 3:19:33 PM

Short Title: Finance Parks, Heritage, and Clean Water. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND CLEAN WATER CONSERVATION; TO USE FUNDS CURRENTLY DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS; TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE STATE; AND TO MAKE CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

PART 1. PARKS RENOVATION AND ACQUISITION

SECTION 1.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of parks projects. As used in this part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 1.2. Identification of Parks Projects. – The specific parks projects for which the special indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15, but are limited to the following projects:

(1) To acquire by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment

by incompatible development. The maximum amount for this purpose is twenty-six million dollars ($26,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 2 and 3 of this act.

(2) To make capital improvements to an existing State park as part of its expansion. The maximum amount for this purpose is five million dollars ($5,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 2 and 3 of this act.

(3) To make capital improvements to an existing State park as part of its expansion and to acquire up to 6,000 acres to expand an existing State park, to provide gamelands to help protect North Carolina rivers, and for two new State parks along North Carolina rivers. The maximum amount for this purpose is thirty-seven million dollars ($37,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 2 and 3 of this act.

SECTION 1.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued or incurred pursuant to this part is the lesser of (i) the sum of the dollar amounts listed in Section 1.2 of this part or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified by the Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the maximum principal amount increases accordingly, but not above the sum of the dollar amounts listed Section 1.2 of this part. The amount of special indebtedness to be issued or incurred at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 1.4. G.S. 113-44.15 reads as rewritten:

"**§ 113-44.15. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land ~~acquisition.~~acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or

public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this ~~subsection,~~section, the North Carolina Parks and Recreation Authority shall ~~consider~~ make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of natural heritage projects. As used in this part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and

(2). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the special indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9, but are limited to the following projects:

(1) To acquire by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development. The maximum amount for this purpose is twenty-six million dollars ($26,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 3 of this act.

(2) To make capital improvements to an existing State park as part of its expansion. The maximum amount for this purpose is five million dollars ($5,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 3 of this act.

(3) To make capital improvements to an existing State park as part of its expansion and to acquire up to 6,000 acres to expand an existing State park, to provide gamelands to help protect North Carolina rivers, and for two new State parks along North Carolina rivers. The maximum amount for this purpose is thirty-seven million dollars ($37,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 3 of this act.

SECTION 2.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the lesser of (i) the sum of the dollar amounts listed in Section 2.2 of this part or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified in G.S. 113-77.9. If the annual amount is increased, the maximum principal amount increases accordingly, but not above the sum of the dollar amounts listed in Section 2.2 of this part.. The amount of special indebtedness to be issued at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.4. G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed

pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.

(2) Any rare or endangered species on or near the land.

(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.

(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.

(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(6) Other sources of funds that may be available to assist in acquiring the land.

(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire:~~for the following purposes:

(1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes.~~purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire land~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) Subject to the limitations of subsection (b2) of this section, to acquire land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The

Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad

valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 2.5. G.S. 113-77.7 is amended by adding a new subsection to read:

"(d) Monies in the Fund are appropriated annually and may be used for the purposes provided in G.S. 113-77.9."

PART 3. CLEAN WATER CONSERVATION

SECTION 3.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of clean water projects. As used in this part, the term "clean water project" means a capital project for one or more purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.2. Identification of Clean Water Projects. – The specific clean water projects for which the special indebtedness may be used are to be identified by the Clean Water Management Trust Fund Board of Trustees as provided in G.S. 113A-256(j), but are limited to the following projects:

(1) To acquire by conservation easement or fee simple up to 17,000 acres near North Carolina military bases in order to prevent encroachment by incompatible development. The maximum amount for this purpose is twenty-six million dollars ($26,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 2 of this act.

(2) To make capital improvements to an existing State park as part of its expansion. The maximum amount for this purpose is five million dollars ($5,000,000) minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 2 of this act.

(3) To make capital improvements to an existing State park as part of its expansion and to acquire up to 6,000 acres to expand an existing State park, to provide gamelands to help protect North Carolina rivers, and for two new State parks along North Carolina rivers. The maximum amount for this purpose is thirty-seven million dollars ($37,000,000)

minus the amount of special indebtedness issued or incurred for this purpose under parts 1 and 2 of this act.

SECTION 3.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the lesser of (i) the sum of the dollar amounts listed in Section 3.2 of this part or (ii) the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified in G.S. 113A-256. If the annual amount is increased, the maximum principal amount increases accordingly, but not above the sum of the dollar amounts listed in Section 3.2 of this part. The amount of special indebtedness to be issued at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.4. G.S. 113A-253(c) reads as rewritten:

"(c) Fund Purposes. – Moneys from the Fund are appropriated annually and may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational ~~uses.~~uses, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water ~~supplies.~~supplies, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water ~~quality.~~quality, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(4) To restore previously degraded lands to reestablish their ability to protect water ~~quality.~~quality, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.
(8) To facilitate planning that targets reductions in surface water pollution.
(9) To fund operating expenses of the Board of Trustees and its staff."

SECTION 3.5. G.S. 113A-256 is amended by adding a new subsection to read:

"(j) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 4. GENERAL PROVISIONS

SECTION 4. It is the intent of the General Assembly that the proceeds of special indebtedness issued under this act shall be applied for the purposes provided in this act, including the acquisition by conservation easement, or otherwise, of land near military bases to prevent encroachment. This acquisition shall be a high priority because of its vital importance to the State of North Carolina.

SECTION 4.1. None of the proceeds of special indebtedness authorized by this act may be used to acquire any property by eminent domain.

SECTION 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 1064

Finance Committee Substitute Adopted 6/8/04
Appropriations/Base Budget Committee Substitute Adopted 6/9/04
Fourth Edition Engrossed 6/10/04

Short Title: Finance Parks, Heritage, and Clean Water. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND CLEAN WATER CONSERVATION, TO USE FUNDS CURRENTLY DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS, AND TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE STATE; AND TO MAKE CLARIFYING CHANGES.

The General Assembly of North Carolina enacts:

PART 1. PARKS RENOVATION AND ACQUISITION

SECTION 1.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of parks projects. As used in this part, the term "parks projects" means capital projects for the State Parks System, repairs and renovations of park facilities, and land acquisition for the State Parks System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 1.2. Identification of Parks Projects. – The specific parks projects for which the special indebtedness may be used are to be identified by the North Carolina Parks and Recreation Authority as provided in G.S. 113-44.15.

SECTION 1.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the lesser of one hundred five million dollars ($105,000,000) or the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified in G.S. 113-44.15. If the

annual amount is increased, the maximum principal amount increases accordingly, but not above one hundred five million dollars ($105,000,000). The amount of special indebtedness to be issued at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 1.4. G.S. 113-44.15 reads as rewritten:

"**§ 113-44.15. Parks and Recreation Trust Fund.**

(a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.

(b) Use. – Funds in the Trust Fund are annually appropriated to the North Carolina Parks and Recreation Authority and, unless otherwise specified by the General Assembly or the terms or conditions of a gift or grant, shall be allocated and used as follows:

(1) Sixty-five percent (65%) for the State Parks System for capital projects, repairs and renovations of park facilities, and land ~~acquisition.~~acquisition, and to retire debt incurred for these purposes under Article 9 of Chapter 142 of the General Statutes.

(2) Thirty percent (30%) to provide matching funds to local governmental units or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for local park and recreation purposes. The appraised value of land that is donated to a local government unit or public authority may be applied to the matching requirement of this subdivision. These funds shall be allocated by the North Carolina Parks and Recreation Authority based on criteria patterned after the Open Project Selection Process established for the Land and Water Conservation Fund administered by the National Park Service of the United States Department of the Interior.

(3) Five percent (5%) for the Coastal and Estuarine Water Beach Access Program.

(b1) Geographic Distribution. – In allocating funds in the Trust Fund under this subsection, the North Carolina Parks and Recreation Authority shall ~~consider~~ make geographic distribution across the State to the extent practicable.

(b2) Administrative Expenses. – Of the funds appropriated to the North Carolina Parks and Recreation Authority from the Trust Fund each year, no more than three percent (3%) may be used by the Department for operating expenses associated with managing capital improvements projects, acquiring land, and administration of local grants programs.

(c) Reports. – The North Carolina Parks and Recreation Authority shall report no later than October 1 of each year to the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on allocations from the Trust Fund from the prior fiscal year. The

Authority also shall provide a progress report no later than March 15 of each year to the same recipients on the activities of and the expenditures from the Trust Fund for the current fiscal year.

(d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this section. In order to allocate funds for debt service reimbursement, the Authority must identify to the State Treasurer the specific parks projects for which it would like special indebtedness to be issued or incurred and the annual amount it intends to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a parks project requested by the Authority, the Authority must credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL HERITAGE

SECTION 2.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of natural heritage projects. As used in this part, the term "natural heritage projects" means acquiring land for parks, recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and (2). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.2. Identification of Natural Heritage Projects. – The specific natural heritage projects for which the special indebtedness may be used are to be identified by the Trustees of the Natural Heritage Trust Fund as provided in G.S. 113-77.9.

SECTION 2.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the lesser of sixty-five million dollars ($65,000,000) or the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified in G.S. 113-77.9. If the annual amount is increased, the maximum principal amount increases accordingly, but not above sixty-five million dollars ($65,000,000). The amount of special indebtedness to be issued at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 2.4. G.S. 113-77.9 reads as rewritten:

"**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust Fund.**

(a) Proposals. – From time to time, but at least once each year, the Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands to be acquired with funds from the Fund. For each tract or interest proposed, the

Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the Trustees with the following information:

(1) The value of the land for recreation, forestry, fish and wildlife habitat, and wilderness purposes, and its consistency with the plan developed pursuant to the State Parks Act, the State's comprehensive plan for outdoor recreation, parks, natural areas development, and wildlife management goals and objectives.

(2) Any rare or endangered species on or near the land.

(3) Whether the land contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon.

(4) Whether the land contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature.

(5) The extent to which the land represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas.

(6) Other sources of funds that may be available to assist in acquiring the land.

(7) The State department or division that will be responsible for managing the land.

(8) What assurances exist that the land will not be used for purposes other than those for which it is being acquired.

(9) Whether the site or structure is of such historical significance as to be essential to the development of a balanced State program of historic properties.

(b) Land Acquisition and Debt Service. – The Trustees may authorize expenditures from the Fund ~~to acquire:~~for the following purposes:

(1) To acquire land ~~Land~~ that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure their preservation and conservation for recreational, scientific, educational, cultural, and aesthetic ~~purposes.~~purposes, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire land~~Land~~ as additions to the system of parks, State trails, aesthetic forests, fish and wildlife management areas, wild and scenic rivers, and natural areas for the beneficial use and enjoyment of the ~~public.~~public, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) Subject to the limitations of subsection (b2) of this section, to acquire land that contributes to the development of a balanced State program of historic properties.

(b1) Priorities. – In authorizing expenditures from the Fund to acquire land pursuant to this Article, the first priority shall be the protection of land with outstanding natural or cultural heritage values. Land with outstanding natural heritage values is land that is identified by the North Carolina Natural Heritage Program as having State or national significance. Land with outstanding cultural heritage values is land that is identified, inventoried, or evaluated by the Department of Cultural Resources. The Trustees shall be guided by any priorities established by the Secretary, the Chairman of the Wildlife Resources Commission, the Commissioner of Agriculture, and the Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of this section.

(b2) Historic Properties. – The Trustees may authorize expenditure of up to twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b) of this section. No other funds in the Fund may be used for expenditures to acquire land under subdivision (3) of subsection (b) of this section.

(b3) Debt. – Of the funds credited annually to the Fund pursuant to G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific natural heritage projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a natural heritage project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer.

(c) Other Purposes. – The Trustees may authorize expenditures from the Fund to pay for the inventory of natural areas conducted under the Natural Heritage Program established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the General Statutes. The Trustees may also authorize expenditures from the Fund to pay for conservation and protection planning and for informational programs for owners of natural areas, as defined in G.S. 113A-164.3.

(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A State agency with management responsibility for land acquired pursuant to this Article may enter into a management agreement or lease with a county, city, town, or private nonprofit organization qualified under G.S. 105-151.12 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement or lease shall be executed by the Department of Administration pursuant to G.S. 143-341.

(d1) Local Reimbursement. – In any county in which real property was purchased pursuant to subsection (d) of this section as additions to the fish and wildlife management areas and where less than twenty-five percent (25%) of the land area is privately owned at the time of purchase, that county and any other local taxing unit shall be annually reimbursed, for a period of 20 years, from funds available to the North Carolina Wildlife Resources Commission in an amount equal to the amount of ad valorem taxes that would have been paid to the taxing unit if the property had remained subject to taxation.

(e) Reports. – The Secretary shall maintain and revise twice each year a list of acquisitions made pursuant to this Article. The list shall include the acreage of each tract, the county in which the tract is located, the amount paid from the Fund to acquire the tract, and the State department or division responsible for managing the tract. The Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative Commission on Governmental Operations, the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission within 30 days after each revision.

(f) Hunting and Fishing. – No provision of this Article shall be construed to eliminate hunting and fishing, as regulated by the laws of the State of North Carolina, upon properties purchased pursuant to this Article."

SECTION 2.5. G.S. 113-77.7 is amended by adding a new subsection to read:

"(d) Monies in the Fund are appropriated annually and may be used for the purposes provided in G.S. 113-77.9."

PART 3. CLEAN WATER CONSERVATION

SECTION 3.1. Authorization. – In accordance with G.S. 142-83, this part authorizes the issuance or incurrence of special indebtedness in the maximum principal amount provided in this part to be used to finance the cost of clean water projects. As used in this part, the term "clean water project" means a capital project for one or more purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.2. Identification of Clean Water Projects. – The specific clean water projects for which the special indebtedness may be used are to be identified by the Clean Water Management Trust Fund Board of Trustees as provided in G.S. 113A-256(j).

SECTION 3.3. Maximum Amount. – The maximum principal amount of special indebtedness that may be issued pursuant to this part is the lesser of three hundred fifty million dollars ($350,000,000) or the maximum amount for which the aggregate annual principal and interest payments to be made in any year on the special indebtedness will not exceed the annual amount identified in G.S. 113A-256. If the annual amount is increased, the maximum principal amount increases accordingly, but not above three hundred fifty million dollars ($350,000,000). The amount of special indebtedness to be issued at any time is determined in accordance with Article 9 of Chapter 142 of the General Statutes.

SECTION 3.4. G.S. 113A-253(c) reads as rewritten:

"(c) Fund Purposes. – Moneys from the Fund are appropriated annually and may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational ~~uses.~~uses, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water ~~supplies.~~supplies, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water ~~quality.~~quality, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(4) To restore previously degraded lands to reestablish their ability to protect water ~~quality.~~quality, and to retire debt incurred for this purpose under Article 9 of Chapter 142 of the General Statutes.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff."

SECTION 3.5. G.S. 113A-256 is amended by adding a new subsection to read:

"(j) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize expenditure of a portion to reimburse the General Fund for debt service on special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for debt service reimbursement, the Trustees must identify to the State Treasurer and the Department of Administration the specific capital

projects for which they would like special indebtedness to be issued or incurred and the annual amount they intend to make available, and request the State Treasurer to issue or incur the indebtedness. After special indebtedness has been issued or incurred for a capital project requested by the Trustees, the Trustees must direct the State Treasurer to credit to the General Fund each year the actual aggregate principal and interest payments to be made in that year on the special indebtedness, as identified by the State Treasurer."

PART 4. GENERAL PROVISIONS

SECTION 4. It is the intent of the General Assembly that the proceeds of special indebtedness issued under this act shall be applied for the purposes provided in this act, including the acquisition by conservation easement, or otherwise, of land near military bases to prevent encroachment. This acquisition shall be a high priority because of its vital importance to the State of North Carolina.

SECTION 4.1. None of the proceeds of special indebtedness authorized by this act may be used to acquire any property by eminent domain.

SECTION 5. This act is effective when it becomes law.

SENATE BILL 1064 (HPCS): Finance Parks, Heritage, & Clean Water

BILL ANALYSIS

Committee: House Finance
Date: June 22, 2004
Version: Draft PCS

Sponsor: Sen. John Kerr
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The fourth edition of Senate Bill 1064 would do the following:

1. *Authorize the State to use special indebtedness for capital projects (i) for the State Parks System; (ii) for parks, recreation, and the preservation of natural heritage; and (iii) for clean water conservation. Repayment of the debt for these purposes would be made from existing revenue streams dedicated to the Parks and Recreation Trust Fund, the Natural Heritage Trust Fund, and the Clean Water Management Trust Fund, respectively.* ***The House proposed committee substitute would limit this authorization to a total of $68 million: $26 million to acquire land near military bases; $5 million for existing State park capital improvements; and $37 million for land acquisition for new and existing State parks and capital improvements for existing State parks.***
2. *Require the Parks and Recreation Authority to allocate funds from the Trust Fund with a geographic distribution across the State to the extent practicable.*
3. *Clarify that revenue in the trust funds is annually appropriated for the purposes for which expenditures are authorized.*
4. *State the intent of the General Assembly that the purposes for which indebtedness may be incurred include, as a high priority, acquiring land near military bases to prevent encroachment.*
5. *Provide that none of the debt proceeds may be used to acquire property by eminent domain.*

Purposes: This bill authorizes the State to issue or incur special indebtedness to finance the acquisition of property for three programs:

1. The Parks and Recreation Trust Fund for repairs and renovations of park facilities and capital projects and land acquisition for the State Parks System.
2. The Natural Heritage Trust Fund to acquire land that represents the ecological diversity of the State and land for State parks, wildlife areas, and similar public purposes.
3. The Clean Water Management Trust Fund for capital projects to acquire riparian buffers, acquire property interests to conserve surface water and drinking water supplies, coordinate with other public programs for lands

adjoining water bodies, and to restore the ability of degraded lands to protect water quality.

The proceeds of the indebtedness may not be used to acquire property by eminent domain. The bill states the intent of the General Assembly that the purposes for which the debt proceeds may be used include, as a high priority, acquiring land near military bases to prevent encroachment.

Amount: The amount of debt that may be incurred is limited to the lesser of a dollar amount for each type of project authorized and the amount that can be supported by the funds set aside from the three Trust Funds for annual debt service payments. The three trust funds will have to work together to keep the total debt below the maximum dollar amounts for the authorized projects, which are as follows:

$26 million	Acquire property near military bases to prevent encroachment
$5 million	Capital projects for an existing State park
$37 million	Land acquisition for existing and new State parks and capital projects for an existing State park

TOTAL $68 million

These three Trust Funds have dedicated revenue sources. The Parks Fund and the Natural Heritage Fund both receive a stream of revenue from the State excise tax on conveyances (the "deed stamp tax") and from vanity license plate fees. The Clean Water Management Trust Fund receives a statutory annual appropriation of $100 million. This bill would authorize the governing body of each Fund to allocate a portion of its stream of income for debt service on debt incurred to acquire property.

In the case of the Parks and Recreation Trust Fund, the Authority can allocate up to 50% of the two-thirds portion of their income designated for repairs and renovations of park facilities and capital projects and land acquisition for the State Parks System. The Authority may not allocate any of the income currently designated for local government grants or for beach access.

In the case of the Natural Heritage Trust Fund, up to 50% of the annual receipts may be allocated for debt service. In the case of the Clean Water Management Trust Fund, the $68 million cap on outstanding debt automatically limits the allocation to about 10% of the annual income stream.

Debt Service Support: The governing body of each trust fund can select a project and allocate a portion of the fund's revenue stream for special indebtedness to finance the project. Once the debt is issued, the governing body is required to credit the debt service amount to the General Fund each year.

Parks and Recreation Allocations: Under current law, the governing body of the Parks and Recreation Trust Fund is required, in allocating funds, to "consider"

geographic distribution across the State to the extent practicable. This bill changes the word "consider" to "make", thus requiring allocations to be distributed across the State to the extent practicable.

Clarifying Changes: The three Trust Funds receive annual statutory transfers and/or appropriations that they are authorized to use for the purposes provided by statute. The Parks and Recreation Trust Fund statute specifically provides that the moneys in the trust fund are annually appropriated for those purposes. This bill adds similar language to clarify that the moneys in the Natural Heritage Trust Fund and the Clean Water Management Trust Fund are also annually appropriated for the purposes authorized by statute.

Parks and Recreation Trust Fund: The Parks and Recreation Trust Fund was created in 1994. The money in the fund is designated 65% for capital expenditures for the State Parks System, 30% for matching funds for local government park and recreation purposes, and 5% for the Coastal and Estuarine Water Beach Access Program. Only one-half of the 65% designated for capital expenditures can be allocated for debt service under this bill. The Trust Fund receives annually 75% of the State's share of the excise tax on real estate transactions and $5 of the fee for each personalized license plate. Its cash balance as of June 7, 2004 was $21.1 million.

Natural Heritage Trust Fund: The Natural Heritage Trust Fund was established in 1987. The money in the fund may be used to acquire land that represents the ecological diversity of North Carolina, land for State parks, wildlife areas, and similar public purposes, and land that contributes to a balanced State program of historic properties. Special indebtedness could be issued for parks, wildlife areas, and similar purposes under this bill but not for historic properties. The Trust Fund receives annually 25% of the State's share of the excise tax on real estate transactions; $15 of the fee for each personalized license plate; $15 of the fee for each out-of-state collegiate license plate; and $10 of the fee for each 'First in Forestry' license plate. Its cash balance as of June 7, 2004 was $13.2 million.

Clean Water Management Trust Fund: The Clean Water Management Trust Fund was created in 1996. Its purpose is to help local governments, state agencies, and conservation non-profit groups finance projects to protect and restore surface water quality. Special indebtedness could be used under this bill for capital projects to acquire riparian buffers, to acquire property interests that will conserve surface water and drinking water supplies, to coordinate with other public programs for lands adjoining water bodies, and to restore the ability of degraded lands to protect water quality. The debt could not be used to repair failing waste treatment systems and septic tank systems, to improve stormwater controls and management practices, or for planning. The Trust Fund receives a statutory annual appropriation of $100 million. Its cash balance as of June 7, 2004 was $109.6 million.

Special Indebtedness: Commonly referred to as "certificates of participation," special indebtedness is debt that is secured by an interest in State property being

acquired or improved. There is no pledge of the State's taxing power or full faith and credit. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered against the State, but any property that serves as security could be disposed of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. In each case, the debt is nonvoted. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of special indebtedness may be the least expensive and most practical for the State to utilize. Article 9 of Chapter 142 of the General Statutes prohibits the issuance of special indebtedness except for projects specifically authorized by the General Assembly.

Procedure: Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the details of the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 22, 2004

TO: House Finance Committee

FROM: David Crotts
Fiscal Research Division

RE: SB 1064 (Proposed House Committee Substitute) Finance Parks, Heritage and Clean Water

---

FISCAL IMPACT ($MILLION)

	Yes (x)	No ( )	No Estimate Available ( )		
	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
EXPENDITURES:					
Debt Service	7.4	7.2	7.0	6.8	6.0
Less: Earmarking*	-7.4	-7.2	-7.0	-6.8	-6.0
Net Requirements	0	0	0	0	0

PRINCIPAL DEPARTMENTS AFFECTED: Department of State Treasurer, Department of Natural and Economic Resources. The enactment of the bill should not affect the budget requirements of either department.

EFFECTIVE DATE: When the bill becomes law.

*Represents potential amount of earmarking of proceeds of the specified funds in order to finance the debt service on the instruments.

BILL SUMMARY: Authorizes the state to enter into special indebtedness to finance capital projects for:

(1) State parks system

(2) Parks, recreation, and the preservation of natural heritage

(3) Clean water conservation.

The amount of debt that may be incurred is limited to the lesser of the amount allocated to each of the following categories below, or the amount that can be supported by the funds set aside from three trust funds for annual debt service payments. The allocation of the $68 million maximum debt issuance is:

1) $26 million to acquire by conservation easement or fee simple title up to 17,000 near military bases in the state to prevent encroachment by incompatible development.
2) $5 million for capital improvements to an existing State park as part of its expansion.
3) $37 million for making capital improvements to an existing State park as part of its expansion and to acquire up to 6,000 acres to expand an existing State park, to provide gamelands to help protect rivers in the State, and for two new State parks along North Carolina rivers.

The debt service support would come from the Parks and Recreation Trust Fund, the Natural Heritage Trust Fund, and the Clean Water Management Trust Fund. The first two trust funds draw most of their proceeds from an earmarking of the state's share of the real estate conveyance tax. Under current budgetary law, the Clean Water Management Trust Fund is supposed to receive $100 million of General Fund appropriations each year.

The bill would authorize the governing body of the Parks and Recreation Trust Fund and the Natural Heritage Trust Fund to allocate a portion of their respective streams of income for debt service on financing incurred. In the case of the Parks and Recreation Trust Fund, the maximum amount that may be so allocated is 50% of the 65% share of earmarked receipts designated for repairs and renovations of park facilities and capital projects and land acquisition for the State Parks System. In the case of the Natural Heritage Trust Fund, up to 50% of the annual receipts may be so allocated.

After the debt has been issued or incurred, the Trustees of the Parks and Recreation Trust Fund, the Natural Heritage Trust Fund, and the Clean Water Management Trust Fund must direct the State Treasurer to credit to the General Fund each year the lesser of the annual amount they identified in their application for debt issuance or the debt service for that year on the financing.

ASSUMPTIONS AND METHODOLOGY: The annual debt service requirements are based on a July 2002 simulation of the Office of State Treasurer for $90 million of financing, a May 1, 2003 issuance, and a 5.75% average interest rate. The revised debt service simulation, using the Treasurer's model methodology, is based on $68 million of financing, an issuance date of March 1 2005, an average interest rate of 5.90%, and a maximum maturity of 20 years. The total debt service requirements over the 20-year period include $68.0 million of principal repayment and $42.1 million of interest, for a total of $110.1 million. The 2005-06 debt service would represent the maximum annual amount for the period.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute #2 for
S.B. 1064 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS, RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND CLEAN WATER CONSERVATION, TO USE FUNDS CURRENTLY DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS, AND TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE STATE; AND TO MAKE CLARIFYING CHANGES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to Senate Committee Substitute Bill # 2, and recommendation that the House Committee Substitute Bill ~~#~~) be re-referred to the Committee on APPROPRIATIONS.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1423
PROPOSED COMMITTEE SUBSTITUTE H1423-CSLA-53 [v.2]

6/9/2004 5:54:01 PM

Short Title: Apprenticeship Tax Credit. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR EMPLOYERS WHO PARTICIPATE IN AN APPRENTICESHIP PROGRAM APPROVED BY THE DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for employing apprentices.**

(a) Credit. – An eligible taxpayer is allowed a credit equal to fifteen percent (15%) of the wages it paid to registered apprentices during the taxable year. A taxpayer is eligible if it has participated in an approved apprenticeship program and has not violated any State or federal apprenticeship law or regulation.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its income to this State.

(c) Documentation. – In order to claim the credit allowed by this section the taxpayer must make available to the Department a written certification from the Apprenticeship and Training Bureau of the Department of Labor containing the name and taxpayer identification number of each registered apprentice employed by the taxpayer during the taxable year and stating whether the employer has violated any State or federal apprenticeship law or regulations.

(d) Definitions. – The following definitions apply in this section:

(1) Approved apprenticeship program. – An apprenticeship program approved by the Department of Labor pursuant to Chapter 94 of the General Statutes.

(2) Registered apprentice. – An employee that is registered in an approved apprenticeship program."

SECTION 2. G.S. 105-129.15A reads as rewritten

"**§ 105-129.15A. Sunset.**

G.S. 105-129.16 is repealed effective for business property placed in service on or after January 1, 2002. G.S. 105-129.16D is repealed effective for taxable years beginning on or after January 1, 2008. The remainder of this Article is repealed effective January 1, 2006. The repeal of G.S. 105-129.16A applies to renewable energy property placed in service on or after January 1, 2006."

SECTION 3. There is appropriated from the General Fund to the Department of Labor the sum of five thousand dollars ($5,000) for the 2004-2005 fiscal year to fund administrative costs associated with implementing the tax credit for employing apprentices under G.S. 105-129.16D.

SECTION 4. Sections 1 and 2 of this act become effective for taxable years beginning on or after January 1, 2005. The remaining sections of this act become effective July 1, 2004. The fact that an apprenticeship was approved before January 1, 2005, does not render it ineligible for the credit provided in this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1423

Short Title:	Apprenticeship Tax Credit.	(Public)
Sponsors:	Representatives Howard, Sherrill (Primary Sponsors); Bowie, Goodwin, Gorman, LaRoque, Moore, Parmon, and Pate.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR EMPLOYERS WHO PARTICIPATE IN AN APPRENTICESHIP PROGRAM APPROVED BY THE DEPARTMENT OF LABOR.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for employing apprentices.**

(a) Credit. – An eligible taxpayer is allowed a credit equal to fifteen percent (15%) of the wages it paid to registered apprentices during the taxable year. A taxpayer is eligible if it has participated in an approved apprenticeship program and has not violated any State or federal apprenticeship law or regulation.

(b) Allocation. – If the taxpayer is an individual who is a nonresident or a part-year resident, the taxpayer must reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. If the taxpayer is not an individual and is required to apportion its multistate business income to this State, the taxpayer must reduce the amount of the credit by multiplying it by the apportionment fraction used to apportion its income to this State.

(c) Documentation. – In order to claim the credit allowed by this section the taxpayer must make available to the Department a written certification from the Apprenticeship and Training Bureau of the Department of Labor containing the name and taxpayer identification number of each registered apprentice employed by the taxpayer during the taxable year and stating whether the employer has violated any State or federal apprenticeship law or regulations.

(d) Definitions. – The following definitions apply in this section:

(1) Approved apprenticeship program. – An apprenticeship program approved by the Department of Labor pursuant to Chapter 94 of the General Statutes.

(2) Registered apprentice. – An employee that is registered in an approved apprenticeship program."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2005. The fact that an apprenticeship was approved before January 1, 2005, does not render it ineligible for the credit provided in this act.

HOUSE BILL 1423:
Apprenticeship Tax Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Howard and Sherrill
Date:	June 9, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: House Bill 1423 allows a credit against the franchise tax or the income tax of an employer who hires employees registered in an apprenticeship program approved by the Department of Labor. The credit is equal to 15% of the wages paid to registered apprentices during the taxable year, and is effective for taxable years beginning on or after January 1, 2005.

The proposed committee substitute repeals the credit effective for taxable years beginning on or after January 1, 2008, and appropriates $5,000 to the Department of Labor for fiscal year 2004 - 2005 for administrative costs of implementing the tax credit for employing apprentices.

CURRENT LAW: The Department of Labor contains an Apprenticeship and Training Division which sets up apprenticeship programs Under Chapter 94 of the General Statutes, these programs are established by private employers or under the sponsorship of joint labor-management communities. Skilled consultants provide technical assistance, monitoring, and consulting services to qualified employers willing to take on the responsibilities and obligations of program sponsorship. An Apprenticeship Council, composed of four representatives each from employer and employee organizations respectively and three representatives from the public at large, aids in formulating policies for the administration of Chapter 94. At least once a year the Apprenticeship Council must report to the Commissioner of Labor, to the Legislature, and to the public of its activities and findings. There must be a written and signed training agreement between the sponsor and an apprentice. This agreement must be approved by the Department of Labor.

An apprentice is defined as a person at least 16 years of age who is covered by a written apprenticeship agreement which provides for not less than 2,000 hours of reasonably continuous employment of the person for his or her participation in an approved schedule of work experience and for organized, related supplemental instruction in technical subjects related to the trade. A minimum of 144 hours of related supplemental instruction for each year of apprenticeship is recommended.

BILL ANALYSIS: House Bill 1423 adds a new section to Article 3B (Business and Energy Tax Credits) of the revenue laws that allows a credit to employers who employ apprentices under the Department of Labor's apprenticeship program. This credit is equal to 15% of the wages paid to registered apprentices during a taxable year. The credit may be taken against the franchise tax or income tax of the employer and any unused portion of the credit may be carried forward for the succeeding five years. To claim the credit, the employer must furnish the Department of Revenue with certain documentation.

An individual taxpayer or corporate taxpayer must reduce the amount of the credit if the individual taxpayer is a nonresident or part-year resident of the State or if the corporate taxpayer has multistate business income. The credit is adjusted to reflect the income generated by the taxpayer in North Carolina.

The proposed committee substitute repeals the apprenticeship tax credit effective for taxable years beginning on or after January 1, 2008. The remaining credits in Article 3B sunset January 1, 2006.

The proposed committee substitute also includes an appropriation of $5,000 to the Department of Labor for the 2004-2005 fiscal year to fund administrative costs associated with implementing the apprenticeship tax credit.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 22, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1423-CSLA-53v2

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		($27.4 mil.)	($28.9 mil.)	($30.5 mil.)	
EXPENDITURES					
General Fund	$5,000				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Labor; Department of Revenue

EFFECTIVE DATE: Sections 1 and 2 (tax credit) of this act become effective for taxable years beginning on or after January 1, 2005 and sunset effective for taxable years beginning on or after January 1,2008. The remaining sections of this act become effective July 1, 2004.

BILL SUMMARY: This act creates a tax credit equal to 15% of the wages paid to registered apprentices. The credit may be claimed against either the franchise tax or the income tax. To claim a tax credit, the taxpayer must make available to the Department of Revenue a written certification from the Department of Labor that contains the name and

taxpayer identification number of the registered apprentice and a verification that the employer has not violated any state or federal apprenticeship laws or regulations.

BACKGROUND: The North Carolina Department of Labor's Apprenticeship and Training Bureau administers the National Apprenticeship Act of 1937 for the U.S. Department of Labor. North Carolina is one of 27 states authorized to directly administer the federal apprenticeship program. An apprentice is a person at least 16 years old that agrees to complete a minimum of 2,000 hours of "reasonably continuous" employment and receive a minimum of 144 hours of instruction in an occupation. The Department of Labor approves written apprenticeship agreements between apprentices and employers specifying the terms of the apprenticeship. Upon completion of an apprenticeship, the apprentice receives a journeyman certificate that is recognized nationally.

ASSUMPTIONS AND METHODOLOGY:
Apprenticeships are found in all industries in the state. In the 2002 Annual Report for the Apprenticeship and Training Bureau, the Department of Labor identified 24% of apprentices to be in construction, 23% in Services, 22% in Manufacturing, 21% in Public Administration, and 10% in Other (Retail, Mining, Utilities, Etc.). The Department of Labor provided the General Assembly's Fiscal Research Division with a CD listing all apprentices for 2001, 2002, and 2003. As shown in the chart below, 1,534 employers registered 14,910 apprentices with the Department of Labor in 2003. Since the proposed tax credit can only be taken by for-profit firms, the number of apprentices in nonprofit and government agencies were subtracted to get a private firms total of 8,175 apprentices in 2003.

	# of Employers	# of Apprentices	# Apprentices in private firms
2001	1,532	9,792	6,770
2002	1,571	13,410	7,888
2003	1,534	14,910	8,175

The Department of Labor does not collect the wage information needed to compute the fiscal impact of HB 1423. To get the wages paid to apprentices, the Department of Labor provided the Employment Security Commission (ESC) with the Social Security numbers of all registered apprentices in 2003. ESC used quarterly Unemployment Insurance (UI) wage records received from employers to match with the Labor records. ESC determined the median apprentice wage income in 2003 was $20,039.

Based on the ESC findings, the 8,175 private firm apprentices were paid $163.8 million in wages in 2003. To calculate the number of apprentices and their wages in future years, projections from Economy.com are used. In the March 2004 Regional Financial Review, Economy.com projects national employment to increase annually from 2005 to 2008 in the range of 1.3% to 1.7%. The chart below assumes the midpoint of this range for an annual increase in employment of 1.5%. It is assumed that the hiring of apprentices will mirror overall employment. Economy.com estimates wage growth for the period 2004 through

2008 will range from 3.5% to 4.3%. The chart below assumes a 4% annual growth rate in wages. Again, it is assumed that apprentices will receive pay increases equal to regular employees.

The tax credit in HB 1423 is in effect for tax years 2005, 2006 and 2007. For the 2005 tax year, it is assumed that employers will claim 15% of $182.5 million in wages ($27.4 million) on their returns in FY 2005-06 (see chart below). It is assumed that all employers are able to take the credit in the year they file their returns. The chart shows the impact for the 2006 and 2007 tax years.

	Apprentices	Median Wage	Total Apprentice Wages	15% Tax Credit
2003	8,175	$20,039	$163,818,825	$24,572,824
2004	8,298	$20,841	$172,934,967	$25,940,245
2005	8,422	$21,674	$182,539,964	$27,380,995
2006	8,548	$22,541	$192,681,748	$28,902,262
2007	8,677	$23,443	$203,413,138	$30,511,971

Section 3 of the bill appropriates $5,000 to the Department of Labor in FY 2004-05 for administrative expenses associated with the credit. If the Department of Labor has to develop a form to be completed by the employer and the Department, then there will be an administrative cost for this credit. However, the Department of Labor would incur no costs if it could submit to Revenue an electronic database of registered apprentices listing names, Social Security numbers, company names, etc. that can be matched to tax returns. As for administrative expense for the Department of Revenue, it would not incur costs if the documentation certifying apprenticeships were filed with the tax return. The apprentice documents would be scanned like any other forms.

SOURCES OF DATA: Department of Labor; Employment Security Commission; Economy.com

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1423 A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT FOR EMPLOYERS WHO PARTICIPATE IN AN APPRENTICESHIP PROGRAM APPROVED BY THE DEPARTMENT OF LABOR.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to the original bill ~~(Committee Substitute Bill #),~~ (and recommendation that the committee substitute bill ~~#~~) be re-referred to the Committee on APPROPRIATIONS.)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 5

EDITION No. _____

H. B. No. 1423 Withdrawn DATE June 23, 2004

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H1423-CSLA-53

Rep.) Hackney
)
Sen.)

1 moves to amend the bill on page 1, line 9 and ~~8~~ 10
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "fifteen percent (15%)" and
4 substituting "five percent (5%)".
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SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1795
PROPOSED COMMITTEE SUBSTITUTE H1795-CSLA-62 [v.1]

6/15/2004 9:36:12 PM

Short Title: Modify Youth Facility Debt Authorization. (Public)

Sponsors:

Referred to:

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORIZATION FOR SPECIAL INDEBTEDNESS FOR YOUTH DEVELOPMENT CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 46A.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 46A.2.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to ~~six million seven hundred eighty thousand dollars ($6,780,000)~~four million four hundred sixty thousand dollars ($4,460,000) of ~~financing contract~~ special indebtedness to be used for ~~(i)~~ design, construction drawings, and solicitation of bids for construction of ~~three~~ up to 13 youth development centers totaling up to ~~500~~ 512 beds to be operated by the Department of Juvenile Justice and Delinquency ~~Prevention and (ii) utility infrastructure and site work for one of the three centers.~~Prevention. The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to incur special indebtedness~~execute and deliver one or more financing contracts in a maximum principal amount of six million seven hundred eighty thousand dollars ($6,780,000)~~ in order to provide funds to the State to be used, together with any other available funds, to pay these costs. The State Construction Office shall manage the planning and design of the youth development centers and shall administer funds provided pursuant to this section for planning and design."

SECTION 2. This act is effective when it becomes law.

HOUSE BILL 1795

Short Title:	Modify Youth Facility Debt Authorization.	(Public)
Sponsors:	Representatives Luebke; and Ross.	
Referred to:	Finance.	

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORIZATION FOR SPECIAL INDEBTEDNESS FOR YOUTH DEVELOPMENT CENTERS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 46A.2 of S.L. 2003-284 reads as rewritten:

"**SECTION 46A.2.** In accordance with G.S. 142-83, as enacted by this act, this section authorizes the issuance or incurrence of up to ~~six million seven hundred eighty thousand dollars ($6,780,000)~~four million four hundred sixty thousand dollars ($4,460,000) of ~~financing contract~~ special indebtedness to be used for ~~(i)~~ design, construction drawings, and solicitation of bids for construction of ~~three~~ up to 13 youth development centers totaling up to ~~500~~ 512 beds to be operated by the Department of Juvenile Justice and Delinquency ~~Prevention and (ii) utility infrastructure and site work for one of the three centers.~~Prevention. The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to incur special indebtedness~~execute and deliver one or more financing contracts in a maximum principal amount of six million seven hundred eighty thousand dollars ($6,780,000)~~ in order to provide funds to the State to be used, together with any other available funds, to pay these costs. The State Construction Office shall manage the planning and design of the youth development centers and shall administer funds provided pursuant to this section for planning and design."

SECTION 2. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of up to eighty-one million three hundred forty thousand dollars ($81,340,000) of special indebtedness to be used for costs of construction, other than costs described in Section 1 of this act, of up to 13 youth development centers totaling up to 512 beds to be operated by the Department of Juvenile Justice and Delinquency Prevention and to be located at sites throughout the State. The State, with the prior approval of the State Treasurer and the Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to incur special indebtedness in order

to provide funds to the State to be used, together with any other available funds, to pay these costs.

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1795:
Modify Youth Facility Debt Authorization

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Luebke
Date:	June 23, 2004	**Summary by:**	Jim Mills, Fiscal Research & Trina Griffin, Committee Counsel
Version:	PCS for 1st Edition		

SUMMARY: ***House Bill 1795 modifies the authorization for special indebtedness for youth development centers due to project modification. The Proposed Committee Substitute deletes Section 2 of the bill, which authorized the issuance of approximately $81 million for construction costs of these centers.***

CURRENT LAW: The Department of Juvenile Justice and Delinquency Prevention (DJJDP) operates 626 beds at five Youth Development Centers. For the most part, the buildings are old, outdated and in need of replacement or significant renovation. Section 46A.2 of the 2003 Budget Bill (HB 397) authorized issuance of up to $6,780,000 in debt for the cost of the following:

- Planning, design, construction drawings, and administrative funds for solicitation of bids for up to three new juvenile Youth Development Centers and up to 500 beds.
- Site work/utility infrastructure for one of three facilities.

DJJDP began preliminary planning using funds on hand soon after the 2003 Session. This planning process resulted in a consensus finding of DJJDP and its Advisory Council that the State should build smaller facilities located closer to a juveniles' family and local services. DJJDP is now recommending the planning, design, and construction of up to 512 beds at up to 13 facilities. Most facilities would be 32-bed prototype units.

DJJDP has used internal funds up to this point to complete preliminary planning. According to State Construction and DJJDP, these funds will be depleted by August 2004. The Department of the State Treasurer and the State Bond Counsel indicated that before debt could be issued to continue the planning process, the language in the 2003 provision would need to be modified to reflect any changes in project scope.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1795 changes the 2003 language to reflect the changes in the project's scope by stating that debt is authorized to pay for facility design, construction drawings, and solicitation of bids for up to 13 facilities and up to 512 beds.

The PCS also reduces the amount authorized from $6,780,000 to $4,460,000. The amount of $4,460,000 is actual amount needed to complete all planning and design steps prior to starting construction according to the State Construction Office. The additional amount in 2003 was for site work and utility infrastructure at one of three larger facilities that was contemplated in 2003. It is recommended that the cost of site work and infrastructure be included as part of construction costs if debt is authorized separately for construction of new facilities.

The debt amount listed in HB 1795 is not new debt. Debt service funds were set aside last year. HB 1795 only reauthorizes debt issuance due to project modification. According to the Department of State Treasurer, the total cost with debt service would be $7,217,150 over 20 years at 5.5% interest using Certificates of Participation.

The House budget bill has a related budget provision. HB 1414, Section 16.3, outlines the type of planning and design information that DJJDP is required to submit to various committees before starting construction.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1795 A BILL TO BE ENTITLED AN ACT TO MODIFY THE AUTHORIZATION FOR SPECIAL INDEBTEDNESS FOR YOUTH DEVELOPMENT CENTERS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1795 A BILL TO BE ENTITLED AN ACT TO MODIFY THE AUTHORIZATION FOR SPECIAL INDEBTEDNESS FOR YOUTH DEVELOPMENT CENTERS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 20
Finance Committee Substitute Adopted 7/10/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S20-CSLAf-66 [v.4]

6/22/2004 9:43:43 PM

Short Title: Regulate Professional Employer Organization. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 89 of Chapter 58 of the General Statutes is rewritten to read:

"Article 89.

"North Carolina Professional Employer Organization Act.

"Part 1. In General.

"**§ 58-89-1. Title.**

This Article shall be known and may be cited as the "North Carolina Professional Employer Organization Act".

"**§ 58-89-5. Definitions.**

In this Article:

(1) "Applicant" means a person applying for a license or a group license under this Article.

(2) "Assigned employee" means an employee who is performing services for a client company under a contract between a licensee and a client company in which employment responsibilities are shared or allocated. "Assigned employee" does not include a temporary employee. Individuals who are directors, shareholders, partners, and managers of a client company are assigned employees to the extent the licensee and the client have agreed that those individuals are assigned employees and provided that those individuals meet the criteria of this subdivision and act as operational managers or perform reviews for the client company.

(3) "Audited GAAP financial statement" means a financial statement that is audited by an independent certified public accountant and presented in accordance with generally accepted accounting principles.

(4) "Client company" or "client" means a person that contracts with a licensee and is assigned employees by the licensee under that contract.

(5) "Control", including the terms "controlling", "controlled by", and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if any natural person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by rule of the Commissioner. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) "Financial responsibility" means the current and expected future condition of financial solvency sufficient to support a reasonable expectation that an applicant or licensee can successfully conduct its business without jeopardizing the interests of its assigned employees, client companies, or the public.

(7) "Good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for state and federal laws.

(8) "Hazardous financial condition" has the same meaning as in G.S. 58-47-60(9).

(9) "Licensee" means a person licensed under this Article to provide professional employer services. The term includes a professional employer organization group licensed under G.S. 58-89-35(b). Unless specifically stated otherwise in this Article, "licensee" includes persons who are licensed under this Article pursuant to alternative licensing procedures as set forth in G.S. 58-89-76.

(10) "Managed services" means services provided by an organization that is the sole employer of employees whom it supplies to staff and manage a specific portion of a company's workforce or a specific facility within a company on an ongoing basis. The managed services organization has responsibility for ensuring the capabilities and skills of the employees it supplies or provides, for all employer functions, for supervisory responsibility over the employees, and for management accountability of the facility or function.

(11) "PEO agreement" means a written contract by and between a client company and a professional employer organization that provides:
a. For the allocation and sharing between the client company and the licensee of the responsibilities of employers with respect to the assigned employees, including hiring, firing, and disciplining of employees; and
b. That the licensee and the client company assume the responsibilities required by this Article.

(12) "Person" has the same meaning as in G.S. 58-1-5(9).

(13) "Personnel placement service" means a job placement service offered through an organization that assists persons seeking employment to find a job with companies that are seeking employees. Companies that hire persons through a personnel placement service are the sole employers of the persons hired, and the personnel placement service does not have any responsibility as an employer.

(14) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee. "Professional employer leasing services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision.

(15) "Professional employer organization" or "PEO" means a person that offers professional employer services and includes "staff leasing services companies", "employee leasing companies", "staff leasing companies", and "administrative employers" who offer or propose to offer professional employer services in this State.

(16) "Professional employer organization group" or "PEO group" means a combination of professional employer organizations that operates under a group license issued under this Article or is otherwise subject to group licensure requirements under G.S. 58-89-35(b).

(17) "Temporary employees" means persons employed under an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client's workforce in a special work situation, including:

a. An employee absence;
b. A temporary skill shortage;
c. A seasonal workload; or
d. A special assignment or project.

"**§ 58-89-10. North Carolina Professional Employer Organization Advisory Council.**

(a) There is created the North Carolina Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner on the regulation of professional employer organizations, as requested by the Commissioner. The Council shall consist of 11 members as follows:

(1) The Commissioner of Insurance or the Commissioner's designee, ex officio.
(2) The Commissioner of Labor or the Commissioner's designee, ex officio.
(3) The Chair of the North Carolina Industrial Commission or the Chair's designee, ex officio.
(4) Two members appointed by the Governor, from a list of five persons recommended by the North Carolina Industrial Commission.
(5) Two members appointed by the Governor who are not involved directly or indirectly with the professional employer services industry.
(6) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate.
(7) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has 3,000 or more assigned employees.
(8) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives.
(9) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has less than 3,000 assigned employees.

Initial terms begin January 1, 2005.

(b) Other than the initial members of the Council and members of the Council serving ex officio, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

(1) The following initial members shall serve terms of three years:
a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

c. One member appointed by the Governor who is not directly involved with the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the House of Representatives who is involved with a professional employer organization.

(2) The following initial members shall serve terms of two years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

c. One member appointed by the Governor who is not directly or indirectly involved in the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who is involved with a professional employer organization.

(c) The Commissioner of Insurance shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Insurance shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

"**§ 58-89-15. Rules.**

(a) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this Article.

(b) Each licensee and each person subject to licensure requirements under this Article are subject to the provisions of this Article and to the rules adopted by the Commissioner.

(c) Nothing in this Article preempts the existing statutory or rule-making authority of any other State agency or entity to regulate professional employer services in a manner consistent with the statutory authority of that State agency or entity.

"**§ 58-89-20. Interagency cooperation.**

A State agency, in performing duties under other law that affects the regulation of professional employer services, shall cooperate with the Commissioner as necessary to implement, administer, and enforce this Article.

"**§ 58-89-25. Effect of other law on client companies and assigned employees.**

(a) This Article does not exempt a client company of a licensee, or any assigned employee, from any other license requirements imposed under local, State, or federal law.

(b) An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification.

(c) A licensee is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a State agency or other political subdivision of the State, including a county or city, by entering into a PEO agreement with a client company and assigned employees.

(d) With respect to a bid, contract, purchase order, program, or agreement entered into with the State or a political subdivision of the State, or State program or benefit otherwise available to a client company, a client company's status, certification, or qualification pursuant to the bid, contract, benefit, program, agreement, or State program shall not be affected because the client company has entered into an agreement with a licensee or utilizes the services of a licensee.

(e) Nothing in this Article or in any PEO agreement or other professional employer services contract shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client company, professional employer organization, or any assigned employee under the National Labor Relations Act, 29 U.S.C. § 151, et seq.

"**§ 58-89-30. Other provisions of this Chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, and 58-3-100 shall apply to all persons licensed under this Article and all persons subject to licensure requirements under this Article.

"**§ 58-89-31. Tax credits and other incentives.**

For purposes of determination of tax credits and other economic incentives provided by the State and based on employment, covered employees are considered employees solely of the client. A client shall be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client. Each professional employer organization must provide, upon request by a client, employment information that is required by any agency or department of the State responsible for administration of any tax credit or economic incentive and that is necessary to support a request, claim, application, or other action by a client seeking the tax credit or economic incentive.

"Part 2. License Requirements and Limitations.

"**§ 58-89-35. License required; professional employer organization groups.**

(a) No person shall engage in or offer professional employer services in this State unless the person holds a license issued under this Article.

(b) Two or more professional employer organizations that are controlled by the same ultimate parent, entity, or persons may be licensed as a professional employer organization group. A professional employer organization group may satisfy the reporting and financial requirements of this Article on a consolidated basis. As a condition of licensure as a professional employer organization group, each professional employer organization that is a member of the group shall guarantee payment of all financial obligations of every other member. Notwithstanding the definition of "person" in this Article, whenever two or more entities combine to seek issuance of a single license under this Article, the requirements for group licensure under this subsection shall be met before issuance of a license and any license issued will be a group license issued pursuant to this subsection.

"**§ 58-89-40. Qualifications for controlling person.**

(a) To be qualified to serve as a controlling person of a licensee under this Article, the controlling person shall be at least 18 years of age, be of good moral character, and have educational, managerial, or business experience relevant to:

(1) Operation of a professional employer organization; or

(2) Service as a controlling person of a professional employer organization.

(b) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76 or to entities that are controlling persons.

"**§ 58-89-45. Reserved.**

"**§ 58-89-50. Surety bond; letter of credit.**

(a) An applicant for licensure shall file with the Commissioner a surety bond in the amount of one hundred thousand dollars ($100,000) in favor of the State of North Carolina.

(b) The surety bond required by this section shall be in a form acceptable to the Commissioner, issued by an insurer authorized by the Commissioner to write surety business in this State, and maintained in force while the license remains in effect or any obligations or liabilities of the applicant, licensee or PEO previously licensed by this State remain outstanding.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is provided to the Commissioner.

(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.

(e) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(f) In lieu of the surety bond required by this section, an applicant may submit to the Commissioner an irrevocable letter of credit in a form acceptable to the Commissioner issued by a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or may maintain on deposit with the Commissioner an amount equal to the amount required under subsection (a) of this

section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject to the same conditions as the surety bond.

(g) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

"**§ 58-89-55. Reserved.**

"**§ 58-89-60. License application.**

(a) Every applicant for licensure shall file with the Commissioner, on a form prescribed by the Commissioner, the following information:

(1) The name, organizational structure, and date of organization of the applicant, the addresses of the principal office and of all offices in this State, the name of the contact person, the type of operations within this State, and the taxpayer or employer identification number.

(2) A list by jurisdiction of each name under which the applicant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, names of successor business entities. The list required by this subdivision shall include the parent company name and any trade name, trademark, or service mark of the applicant.

(3) A list of all officers and controlling persons of the applicant, their biographical information, including their management background, and an affidavit from each attesting to his or her good moral character and management competence.

(4) The location of the business records of the applicant.

(5) An attestation, executed by the chief financial officer and chief executive officer of the applicant, that the applicant is current as of the date the application is submitted with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any such obligations are in dispute with a client as of the date the application is submitted and the disputed amount is material when considered in the context of the applicant's most recent audited financial statement, then the applicant shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

(6) Any other information the Commissioner deems necessary and requires by rule to establish that the applicant and the officers and controlling persons are of good moral character, have business integrity, and have financial responsibility.

(b) Every applicant shall file with the Commissioner evidence of financial responsibility. Evidence of financial responsibility includes an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or licensee is not in a hazardous financial condition and attached to which is a separate document signed by the chief executive and the chief financial officer certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or

misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may, in the Commissioner's discretion, accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commissioner if the Commissioner deems such acceptance appropriate. The Commissioner may, in the Commissioner's discretion, impose conditions upon such acceptance of financial statements prepared more than 90 days prior to submission.

(c) Every applicant shall submit to the Commissioner the application fee pursuant to G.S. 58-89-65.

(d) Every applicant shall furnish the Commissioner a complete set of fingerprints and a recent photograph in a form prescribed by the Commissioner of each officer, director, and controlling person. Each set of fingerprints shall be certified by an authorized law enforcement officer.

Upon request by the Department, the Department of Justice shall provide to the Department from the State and National Repositories of Criminal Histories the criminal history of any applicant and the officer, director, and controlling person of any applicant. Along with the request, the Department shall provide to the Department of Justice the fingerprints of the person that is the subject of the request, a form signed by the person that is the subject of the request consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(e) An application for licensure of a professional employer organization group shall contain the information and submissions required by this section for each member of the group.

(f) No application is complete until the Commissioner has received all information and submissions required under subsections (a) through (e) of this section. Subsections (a) through (e) of this section do not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

(g) The Commissioner may deny the license of an applicant under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds that a controlling person has:

(1) Made any untrue material statement regarding the background or experience of any controlling person;

(2) Violated, or failed to comply with, any professional employer services law or any rule or order of the Commissioner or of any other State official responsible for the regulation of professional employer services;

(3) Obtained or attempted to obtain the license through misrepresentation or fraud;

(4) Been convicted of a felony;

(5) Been found in a final judgment or administrative proceeding to have committed fraud or an unfair trade practice; or

(6) Been a controlling person in another professional employer organization that has had its license or registration suspended, terminated, or revoked by any state.

(h) If the Commissioner finds that the applicant has not fully met the requirements for licensure, the Commissioner shall refuse to issue the license and shall notify the applicant in writing of the denial, stating the grounds for the denial. The application may also be denied for any reason for which a license may be suspended or terminated under G.S. 58-89-155. To obtain a review to determine the reasonableness of the Commissioner's denial, the applicant shall make written demand upon the Commissioner within 30 days after notice is given under G.S. 150B-38(c). The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. If the applicant disagrees with the outcome of the review and seeks a hearing, under Article 3A of Chapter 150B of the General Statutes, on the outcome of the review, the applicant shall make a written demand upon the Commissioner for the hearing within 30 days after notice of the outcome of the review is given under G.S. 150B-38(c).

(i) Removal, demotion, or discharge of a controlling person in response to an order of the Commissioner of the alleged unsuitability of that person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge.

(j) The Commissioner may, in the Commissioner's discretion, waive the required evaluation of an officer, director or controlling person if that officer, director or controlling person has been evaluated previously under this Article.

(k) After denial, suspension, or termination of a license, and before issuing a new license or reinstating a license, the Commissioner shall review and consider:

(1) The extent to which the applicant or licensee has adequately corrected any problems; and

(2) Whether the applicant or licensee has demonstrated that the applicant or licensee had exercised due diligence to avoid the reason or reasons for the denial or termination.

The applicant or licensee bears the burden of proof with respect to subdivisions (1) and (2) of this subsection.

"**§ 58-89-65. Fees.**

(a) Each applicant for a professional employer organization license or limited professional employer organization license shall pay to the Commissioner, before the issuance of the license, a nonrefundable application fee of one thousand dollars ($1,000).

(b) Each licensee shall pay to the Commissioner when filing the information required under G.S. 58-89-70(d) an annual filing fee of one thousand dollars ($1,000).

(c) Each applicant for alternative licensing under G.S. 58-89-76 and each applicant for renewal of a license provided under G.S. 58-89-76 shall pay to the Commissioner, before issuance or renewal of the license, a fee of five hundred dollars ($500.00).

(d) When the Commissioner finds that a licensee has committed an act that is a ground for disciplinary violation under G.S. 58-89-155 or that a licensee has committed a prohibited act in violation of G.S. 58-89-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article.

"**§ 58-89-70. License issuance and maintenance.**

(a) The Commissioner shall issue a license to an applicant whom the Commissioner determines has satisfied the requirements of this Article not later than the 90th day after the date on which the completed application is filed with the Commissioner. The Commissioner shall notify an applicant of any deficiency in the application not later than the 60th day after the date on which the Commissioner receives the application.

(b) A license issued by the Commissioner under this Article shall remain in effect until revoked, suspended, surrendered, or otherwise terminated.

(c) By obtaining licensure under this Article, the controlling persons of a licensee certify, under penalty of law, their compliance with the requirements of licensure and of operation as a professional employer organization pursuant to this Article.

(d) Within 120 days after the end of each fiscal year, each licensee shall file with the Commissioner all of the following information:

(1) Evidence of "financial responsibility" as set forth in G.S. 58-89-60(b).

(2) Any information required by G.S. 58-89-60(a) for which there has been a change since the last or initial filing. Any change of controlling

persons may subject the licensee to a background investigation of those controlling persons as required by G.S. 58-89-60.

(3) The annual filing fee, pursuant to G.S. 58-89-65.

(4) Any other information the Commissioner determines is needed for the review of a licensee.

(e) In order to maintain licensure, each licensee may be required to file with the Commissioner no later than 45 days after the end of each quarter of the fiscal year:

(1) A financial statement for the preceding quarter that is not audited but is set forth in a format similar to the annual audited GAAP financial statement; and

(2) An attestation, executed by the chief financial officer and the chief executive officer of the licensee, that the licensee is current with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any of the obligations listed in this subdivision are in dispute with a client and the disputed amount is material when considered in the context of the licensee's most recent audited financial statement, then the licensee shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

"**§ 58-89-75. Limited license.**

The Commissioner, by rule, shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State.

"**§ 58-89-76. Alternative licensing.**

The Commissioner, by rule, may provide for the acceptance of an affidavit by a bonded, independent, and qualified assurance organization that has been approved by the Commissioner certifying the qualifications of a professional employer organization for licensing under this Article in lieu of the requirements of G.S. 58-89-40 through G.S. 58-89-60. A professional employer organization licensed under this section shall be exempt from the provisions of G.S. 58-89-70(c), (d), and (e).

"**§ 58-89-80. License not assignable; change of name or location.**

(a) A licensee shall not conduct business under any name other than that specified in the license. A license issued under this Article is not assignable. A licensee shall not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. The Commissioner shall not authorize the use of a name that is so similar to that of a public office or agency or to that of another licensee that the public may be confused or misled by the name's use. A licensee shall not conduct business under more than one name unless the licensee has obtained a separate license for each name or the licensee is operating under a group license pursuant to G.S. 58-89-35.

(b) Except as provided in this subsection, a licensee may change the licensee's licensed name only once in a calendar year by notifying the Commissioner and paying a fee for the change of name. The fee for a name change shall be fifty dollars ($50.00). A licensee may change the licensee's name without the payment of the name change fee if the name change is submitted with the information required by G.S. 58-89-70(d). If a

licensee has changed its name once during a calendar year, the licensee shall not change its name again unless the name change is approved by the Commissioner.

(c) A licensee shall notify the Commissioner in writing within 30 days of any change in the status of the licensee, including:

(1) Any change in the location of the licensee's primary business office;

(2) The addition of or change in the location of any other business offices providing professional employer services in this State; and

(3) A change in the location of business records maintained by the licensee.

(d) A licensee may advertise in this State using only the name that is on the license issued by the Commissioner.

(e) Each written proposal provided to a prospective client company and each PEO agreement between a licensee and a client company or assigned employee shall clearly identify the name of the licensee.

"**§ 58-89-85. Supervision; rehabilitation; liquidation.**

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is bankrupt or in a hazardous financial condition, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter.

"**§ 58-89-90. Reserved.**

"Part 3. Licensee Duties and Responsibilities.

"**§ 58-89-95. Agreement; notice.**

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. This written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.

"**§ 58-89-100. Contract requirements.**

A contract between a licensee and a client company shall provide:

(1) That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a client company may retain such sufficient direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it

may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.

(2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.

(3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.

(4) That the licensee reserves a right to hire, fire, and discipline the assigned employees.

(5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.

(6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement.

"**§ 58-89-105. Employee benefit plans; required disclosure; other reports.**

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(b) A client company may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(c) If a licensee offers to its assigned employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(1) Utilize a third-party administrator licensed or registered to do business in this State;

(2) Hold all plan assets, including participant contributions, in a trust account; and

(3) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(d) For purposes of this section, a "health benefit plan that is not fully insured by an authorized insurer" includes any arrangement except an arrangement under which an insurance company licensed to write insurance in this State has issued an insurance policy that covers all of the obligations of the health benefit plan.

"**§ 58-89-110. Workers' compensation insurance.**

(a) A licensee or the licensee's client company shall provide workers' compensation insurance coverage through a licensed insurance carrier or a licensed

self-insurance plan for the licensee's assigned employees as provided in Chapter 97 of the General Statutes, the Workers' Compensation Act. To the extent that the licensee secures and maintains workers' compensation coverage for assigned employees, the carrier may elect to provide such coverage to the licensee pursuant to either the multiple coordinated policy method, as set forth in subsection (b) of this section, or the single policy method, as set forth in subsection (c) of this section.

(b) If the licensee provides workers' compensation coverage pursuant to the multiple coordinated policy method, the licensee shall secure a separate policy for each client company of the licensee. Each policy shall identify the name of the client company and the licensee. The licensee shall be named as the insured and identify the client company. The licensee shall specify that it is the labor contractor for the client company by using the designation "L/C/F" on the policy.

Each policy shall expire on the same date. The policy shall not include coverage for nonleased employees of the client company or employees solely employed by the licensee. Only the licensee, as the first-named insured under such a policy, may request the insurer to cancel the policy. Each policy shall be sent to the licensee as the named insured.

The client company of a licensee shall have a continuing obligation to provide coverage as required by Chapter 97 of the General Statutes, the Workers' Compensation Act, for any employees of the client company who are not assigned employees and not otherwise covered under a policy described in this subsection.

If a client company of a licensee leases employees from more than one licensee, there shall be a separate policy for the assigned employees of each licensee.

The workers' compensation carrier also shall issue a policy covering the internal employees of the licensee unless they are otherwise covered.

All policies written in accordance with this subsection by the same insurance carrier that reference the same licensee as labor contractor shall be combined for premium discount purposes.

When policies written in accordance with this subsection are written by the same insurance carrier, the carrier and licensee may agree to a retrospective rating program or any other permitted pricing program.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

(c) If the licensee provides workers' compensation coverage pursuant to the single policy method, the insurer shall issue to the licensee a single policy covering all assigned employees in this State in accordance with Chapter 97 of the General Statutes, the Workers' Compensation Act, and any other applicable laws or rating plans of this State.

As a condition of issuing a single policy, the licensee shall provide to the insurer of the policy all of the following information regarding each client company of the licensee with assigned employees in this State:

(1) The correct legal name, any fictitious names, and the federal identification number.

(2) The name and address of the president and chief executive officer.
(3) The business mailing address.
(4) The business telephone number and facsimile number.

The licensee shall also provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

The insurer shall issue to each client company of the licensee a certificate of insurance on the single policy. The certificate of insurance shall require that the insurer provide notice of cancellation to the licensee and the client company of the licensee.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

If the insurer fails to provide individual notices of cancellation to the licensee and the client company, the insurer shall remain liable on the risk for losses incurred by the client company that would have been covered by the workers' compensation policy prior to the attempted cancellation.

(d) A license shall not be issued to any professional employer organization unless the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, and that the premium paid by the licensee is commensurate with exposure and anticipated claim experience for all employees covered under policies in the name of the licensee.

(e) Each licensee shall maintain and make available to its workers' compensation carrier on an annual basis the following information:

(1) The correct name and federal identification number of each client company.
(2) A listing of all covered employees provided to each client company, by classification code.
(3) The total eligible wages, by classification code, and the premiums due to the carrier for the employees provided to each client company.
(4) Sufficient information to permit the calculation of an experience modification factor for each client company upon termination of the professional employer relationship. Information accruing during the term of the leasing arrangement that is used to calculate an experience modification factor for a client company upon termination of the leasing relationship shall continue to be used in the future experience ratings of the licensee.

(f) Every Form 19 "Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission" filed with the Industrial Commission shall identify by name and address both the licensee and the client company employing the employee who is the subject of the Form 19.

(g) A licensee shall, within 30 days of initiation or termination of the licensee's relationship with any client company, notify its workers' compensation carrier, the Commissioner, and the North Carolina Industrial Commission of both the initiation and

termination of the relationship. If the client company terminates the relationship between the licensee and the client company, the notice required by this subsection shall be given within 10 days of the licensee's actual knowledge of the termination.

(h) If the professional employer services arrangement with a client company is terminated, the client company shall be assigned an experience modification factor that reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for assigned employees under the PEO agreement.

(i) A client company shall not enter into a PEO agreement or be eligible for workers' compensation coverage in the voluntary market if the client-workers' company owes its current or prior carrier any premium for workers' compensation insurance, or if the client company owes its current or prior professional employer organization amounts due under the PEO agreement, except for premiums or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and rules, a licensee may rely on a statement by the client company that the client company has met any and all prior premium or fee obligations, unless the licensee has actual knowledge to the contrary.

(j) This section shall not prevent a client company of a licensee from providing workers' compensation insurance coverage for assigned employees coemployed by the client company and the licensee through a policy of insurance issued by a licensed insurance carrier in the name of the client company as the insured.

(k) Irrespective of whether the licensee or client company maintains the policy of workers' compensation insurance for the covered employees pursuant to the PEO agreement, the licensee and the client company shall be entitled to the exclusivity of the remedy under both the workers' compensation and the employer liability provision of the workers' compensation policy or plan that either party has secured and shall both be afforded the protections provided under Chapter 97 of the General Statutes. The licensee shall be entitled, along with the client company, to the exclusivity of the remedy under both the workers' compensation and employers' liability provision of the workers' compensation policy or plan that either party has secured.

(l) All assigned risk policies for client companies of the same licensee shall be assigned to one workers' compensation carrier in the State and in other states to the extent possible.

"**§ 58-89-112. Liabilities.**

Subject to any contrary provisions thereof, the PEO agreement shall be interpreted for purposes of insurance, bonding, and employer's liability as follows:

(1) A licensee is not liable for the acts, errors, or omissions of a client company or of any assigned employee or for the quality, adequacy, or safety of the goods or services produced or sold in the client company's business. A client company is not liable for the acts, errors, or omissions of a licensee or of any employee of a licensee. Nothing in this section limits any contractual liability between a licensee and the client company or limits any liability or responsibility under this Article.

(2) Employees assigned to a client company by a licensee are the employees of the client company for the purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client company unless the employees are included by specific reference in the applicable PEO agreement, insurance contract, or bond.

"**§ 58-89-115. Benefit plan notice.**

(a) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall disclose all of the following information to the Commissioner and each client company:

(1) The type of coverage.

(2) The identity of each insurer for each type of coverage.

(3) The amount of benefits provided for each type of coverage and to whom or on whose behalf benefits are to be paid.

(4) The policy limits on each insurance policy.

(5) Whether the coverage is fully insured, partially insured, or fully self-funded.

(b) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

(c) Whenever any insurance policy or benefit plan is cancelled, the insurance company writing the policy shall provide a notice of cancellation as required by this Chapter.

(d) The licensee shall notify the client company and the Commissioner in writing about a discontinuance and replacement, if any, of any health plan or workers' compensation insurance coverage no later than 10 business days after the discontinuance.

(e) The Commissioner, by rule, may require a licensee to file other reports that are reasonably necessary for the administration and enforcement of this Article.

"**§ 58-89-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95 and 96 of the General Statutes. The Employment Security Commission shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the Employment Security Commission.

"**§ 58-89-125. Posting requirements.**

(a) Each licensee shall post the license issued under this Article in a conspicuous place in the licensee's principal place of business in this State.

(b) Each licensee shall display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is licensed and regulated by the Commissioner and that any questions or complaints may be directed to the Commissioner.

"**§ 58-89-130. Contractual duties.**

Each licensee is responsible for the licensee's contractual duties and responsibilities to manage, maintain, collect, and make timely payments for all of the following:

(1) Insurance premiums.

(2) Benefit and welfare plans.

(3) Other employee withholding.

(4) Any other expressed responsibility that is within the scope of the PEO agreement and that fulfills the duties imposed under this Article.

"**§ 58-89-135. Compliance with other laws.**

Each licensee shall comply with all appropriate State and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

"**§ 58-89-140. Required information.**

Each licensee shall:

(1) Maintain adequate books and records regarding the licensee's duties and responsibilities, including accounting and employment records relating to all PEO agreement activities, for a minimum of three years.

(2) Maintain and make available at all times to the Commissioner the following information, which shall be treated as proprietary and confidential and which is exempt from disclosure to persons other than other governmental agencies that have a reasonable, legitimate purpose for obtaining the information:

a. The correct name, address, and telephone number of each client company.

b. Each client company contract or PEO agreement.

c. A listing of each client company by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget.

"**§ 58-89-145. Examinations.**

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may, in the Commissioner's discretion, accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"**§ 58-89-150. Agent for service of process.**

Each resident licensee shall maintain a registered agent for the service of process in this State. The Commissioner shall be each nonresident licensee's agent for service of process as provided in Article 16 of this Chapter.

"Part 4. Penalties and Sanctions.

"**§ 58-89-155. Grounds for disciplinary action.**

(a) The Commissioner may take disciplinary action against a licensee or any person subject to licensure requirements under this Article on any of the following grounds:

(1) Being convicted or having an officer or controlling person of the licensee convicted of:

a. Bribery, fraud, or intentional or material misrepresentation in obtaining or attempting to obtain a license;

b. A crime that relates to the operation of a professional employer organization or the ability of the licensee or any officer or controlling person of the licensee to operate a professional employer organization;

c. A crime that relates to the classification, misclassification, or underreporting of employees required by State law;

d. A crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance;

e. A crime that relates to fraud, deceit, or misconduct in the operation of a professional employer service; or

f. A crime that involves dishonesty or breach of trust.

(2) Engaging in professional employer services or offering to engage in the provision of professional employer services without a license.

(3) Failure to provide notice in writing of the discontinuance and replacement, if any, of any insurance coverage, to the Commissioner and client company within 10 business days of the discontinuance of any insurance coverage pursuant to G.S. 58-89-115.

(4) Failure to provide the notice required by G.S. 58-50-40.

(5) Failure to satisfy any of the requirements for licensure in this Article.

(b) For purposes of this section, a conviction includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

"**§ 58-89-160. Sanctions.**

(a) On a finding that a ground for disciplinary action exists under G.S. 58-89-155, the Commissioner may suspend or terminate a license, impose a civil penalty, and seek an order of restitution under G.S. 58-2-70.

(b) On termination of a license, the licensee shall immediately return the terminated license to the Commissioner.

(c) Any disciplinary action taken, any temporary or permanent termination of a license, or any determination that an officer or controlling person is unqualified shall be made by the Commissioner subject to Article 3A of Chapter 150B of the General Statutes.

"**§ 58-89-165. Injunctions; civil remedies; cease and desist orders.**

(a) In addition to the penalties and other enforcement provisions of this Article, if any person violates this Article or any rule implementing this Article, the Commissioner

may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Article, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(c) When the Commissioner finds that an activity in violation of this Article presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(d) In addition to the penalties and other enforcement provisions of this Article, any person who violates this Article is subject to G.S. 58-2-70.

(e) The Commissioner is not required to post a bond for injunctive relief under this section.

"**§ 58-89-170. Prohibited acts.**

No person shall do any of the following:

(1) Engage in or offer professional employer services without holding a license under this Article as a professional employer organization.

(2) Use the name or title "staff leasing company", "employee leasing company", "licensed staff leasing company", "staff leasing services company", "professional employer organization", or "administrative employer" or otherwise represent that the person is licensed under this Article unless the person holds a license issued under this Article.

(3) Represent as the person's own the license of another person or represent that a person is licensed if the person does not hold a license.

(4) Give materially false or forged evidence to the Commissioner in connection with obtaining or maintaining a license or in connection with disciplinary proceedings under this Article.

(5) Use or attempt to use a license that has been suspended or terminated.

"**§ 58-89-175. Criminal penalty.**

A person who violates G.S. 58-89-170 commits a Class H felony. Any officer or controlling person who willfully violates any provision of this Article may be subject to any and all criminal penalties available under State law."

SECTION 2. The Department of Insurance shall report to the 2005 General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the Department shall recommend any statutory changes required to regulate professional employer organizations and enforce Article 89 of Chapter 58 of the General Statutes.

SECTION 3. A person registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act may continue to operate pending approval of the person's application for a license as long as the application is filed with the Commissioner no later than April 1, 2005. If the application for licensure is denied, the person shall cease offering professional employer services in this State. A person not registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act shall not engage in or offer professional employer services in this State until the person has been issued a license under this act.

SECTION 4. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5. This act becomes effective January 1, 2005, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date.

SENATE BILL 20
Finance Committee Substitute Adopted 7/10/03

Short Title: Regulate Professional Employer Organization. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 89 of Chapter 58 of the General Statutes is rewritten to read:

"Article 89.

"North Carolina Professional Employer Organization Act.

"Part 1. In General.

"**§ 58-89-1. Title.**

This Article shall be known and may be cited as the "North Carolina Professional Employer Organization Act".

"**§ 58-89-5. Definitions.**

In this Article:

(1) "Applicant" means a person applying for a license or a group license under this Article.

(2) "Assigned employee" means an employee who is performing services for a client company under a contract between a licensee and a client company in which employment responsibilities are shared or allocated. "Assigned employee" does not include a temporary employee. Individuals who are directors, shareholders, partners, and managers of a client company are assigned employees to the extent the licensee and the client have agreed that those individuals are assigned employees and provided that those individuals meet the criteria of this subdivision and act as operational managers or perform reviews for the client company.

(3) "Audited GAAP financial statement" means a financial statement that is audited by an independent certified public accountant and presented in accordance with generally accepted accounting principles.

(4) "Client company" means a person that contracts with a licensee and is assigned employees by the licensee under that contract.

(5) "Control", including the terms "controlling", "controlled by", and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if any natural person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by rule of the Commissioner. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) "Financial responsibility" means the current and expected future condition of financial solvency sufficient to support a reasonable expectation that an applicant or licensee can successfully conduct its business without jeopardizing the interests of its assigned employees, client companies, or the public.

(7) "Good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for State and federal laws.

(8) "Hazardous financial condition" has the same meaning as in G.S. 58-47-60(9).

(9) "Licensee" means a person licensed under this Article to provide professional employer services. The term includes a professional employer organization group licensed under G.S. 58-89-35. Unless specifically stated otherwise in this Article, "licensee" includes persons who are licensed under this Article pursuant to alternative licensing procedures as set forth in G.S. 58-89-76.

(10) "Managed services" means services provided by an organization that is the sole employer of employees whom it supplies to staff and manage a specific portion of a company's workforce or a specific facility within a company on an ongoing basis. The managed services organization has responsibility for ensuring the capabilities and skills of the employees it supplies or provides, for all employer functions, for supervisory responsibility over the employees, and for management accountability of the facility or function.

(11) "PEO agreement" means a written contract by and between a client company and a professional employer organization that provides:

a. For the allocation and sharing between the client company and the licensee of the responsibilities of employers with respect to the assigned employees, including hiring, firing, and disciplining of employees; and

b. That the licensee and the client company assume the responsibilities required by this Article.

(12) "Person" has the same meaning as in G.S. 58-1-5(9).

(13) "Personnel placement service" means a service that offers job placement services in which the personnel placement service organization assists persons interested in finding a job with companies that are seeking employees. Companies that hire persons through a personnel placement service are the sole employers of the persons hired, and the personnel placement service does not have any responsibility as an employer.

(14) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee. "Professional employer leasing services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision.

(15) "Professional employer organization" means a person that offers professional employer services and includes "staff leasing services companies", "employee leasing companies", "staff leasing companies", and "administrative employers" who offer or propose to offer professional employer services in this State.

(16) "Professional employer organization group" means a combination of professional employer organizations that operates under a group license issued under this Article.

(17) "Temporary employees" means persons employed under an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client's workforce in a special work situation, including:

a. An employee absence;

b. A temporary skill shortage;

c. A seasonal workload; or

d. A special assignment or project.

"**§ 58-89-10. North Carolina Professional Employer Organization Advisory Council.**

(a) There is created the North Carolina Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner on the regulation of professional employer organizations, as requested by the Commissioner. The Council shall consist of 11 members as follows:

(1) The Commissioner of Insurance or the Commissioner's designee, ex officio.

(2) The Commissioner of Labor or the Commissioner's designee, ex officio.

(3) The Chair of the North Carolina Industrial Commission or the Chair's designee, ex officio.

(4) Two members appointed by the Governor, from a list of five persons recommended by the North Carolina Industrial Commission.

(5) Two members appointed by the Governor who are not involved directly or indirectly with the professional employer services industry.

(6) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate.

(7) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has 3,000 or more assigned employees.

(8) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives.

(9) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has less than 3,000 assigned employees.

Initial terms begin January 1, 2004.

(b) Other than the initial members of the Council, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

(1) The following initial members shall serve terms of three years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

c. One member appointed by the Governor who is not directly involved with the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the House of Representatives who is involved with a professional employer organization.

(2) The following initial members shall serve terms of two years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

c. One member appointed by the Governor who is not directly or indirectly involved in the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who is involved with a professional employer organization.

(c) The Commissioner of Insurance shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Insurance shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

"**§ 58-89-15. Rules.**

(a) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this Article.

(b) Each licensee is subject to this Article and to the rules adopted by the Commissioner.

(c) Nothing in this Article preempts the existing statutory or rule-making authority of any other State agency or entity to regulate professional employer services in a manner consistent with the statutory authority of that State agency or entity.

"**§ 58-89-20. Interagency cooperation.**

A State agency, in performing duties under other law that affects the regulation of professional employer services, shall cooperate with the Commissioner as necessary to implement, administer, and enforce this Article.

"**§ 58-89-25. Effect of other law on client companies and assigned employees.**

(a) This Article does not exempt a client company of a licensee, or any assigned employee, from any other license requirements imposed under local, State, or federal law.

(b) An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification.

(c) A licensee is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a State agency or other political subdivision of the State, including a county or city, by entering into a PEO agreement with a client company and assigned employees.

(d) With respect to a bid, contract, purchase order, program, or agreement entered into with the State or a political subdivision of the State, or State program or benefit otherwise available to a client company, a client company's status, certification, or qualification pursuant to the bid, contract, benefit, program, agreement, or State program shall not be affected because the client company has entered into an agreement with a licensee or utilizes the services of a licensee.

(e) Nothing in this Article or in any professional employer services contract shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client company, professional employer organization, or any assigned employee under the National Labor Relations Act, 29 U.S.C. § 151, et seq.

"**§ 58-89-30. Other provisions of this Chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, and 58-3-100 shall apply to persons licensed under this Article.

"Part 2. License Requirements and Limitations.

"**§ 58-89-35. License required; professional employer organization groups.**

(a) No person shall engage in or offer professional employer services in this State unless the person holds a license issued under this Article.

(b) Two or more professional employer organizations that are controlled by the same ultimate parent, entity, or persons may be licensed as a professional employer organization group. A professional employer organization group may satisfy the reporting and financial requirements of this Article on a consolidated basis. As a condition of licensure as a professional employer organization group, each professional employer organization that is a member of the group shall guarantee payment of all financial obligations of every other member.

"**§ 58-89-40. Qualifications for controlling person.**

(a) To be qualified to serve as a controlling person of a licensee under this Article, the controlling person shall be at least 18 years of age, be of good moral character, and have educational, managerial, or business experience relevant to:

(1) Operation of a professional employer organization; or

(2) Service as a controlling person of a professional employer organization.

(b) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76 or to entities that are controlling persons.

"**§ 58-89-45. Reserved.**

"**§ 58-89-50. Surety bond; letter of credit.**

(a) An applicant for licensure shall acquire and maintain a surety bond for the benefit of the Commissioner in an amount of seventy-five thousand dollars ($75,000).

(b) The surety bond required by this section shall be in a form prescribed by the Commissioner and issued by an insurer authorized by the Commissioner to write surety business in this State.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is provided to the Commissioner.

(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.

(e) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(f) In lieu of the surety bond required by this section, an applicant may submit to the Commissioner an irrevocable letter of credit issued by a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or may maintain on deposit with the Commissioner an amount equal to the amount required under subsection (a) of this section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject to the same conditions as the surety bond.

(g) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

"**§ 58-89-55. Reserved.**

"**§ 58-89-60. License application.**

(a) Every applicant for licensure shall file with the Commissioner, on a form prescribed by the Commissioner, the following information:

(1) The name, organizational structure, and date of organization of the applicant, the addresses of the principal office and of all offices in this State, the name of the contact person, the type of operations within this State, and the taxpayer or employer identification number.

(2) A list by jurisdiction of each name under which the applicant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, names of successor business entities. The list required by this subdivision shall include the parent company name and any trade name, trademark, or service mark of the applicant.

(3) A list of all officers and controlling persons of the applicant, their biographical information, including their management background, and an affidavit from each attesting to his or her good moral character and management competence.

(4) The location of the business records of the applicant.

(5) An attestation, executed by the chief financial officer, the chief executive officer, and a controlling person of the applicant, that the licensee is current as of the date the application is submitted with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any such obligations are in dispute as of the date the application is submitted with a client company and the disputed amount is material when considered in the context of the applicant's most recent audited financial statement, then the applicant shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

(6) Any other information the Commissioner deems necessary and requires by rule to establish that the applicant and the officers and controlling persons are of good moral character, business integrity, and financial responsibility.

(b) Every applicant shall file with the Commissioner evidence of financial responsibility. Evidence of financial responsibility includes an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or licensee is not in a hazardous financial condition and attached to which is a separate document signed by the chief executive officer, the chief financial officer, and any other controlling person of the licensee certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commission if the Commissioner deems it appropriate and subject to conditions imposed by the Commissioner.

(c) Every applicant shall submit to the Commissioner the application fee pursuant to G.S. 58-89-65.

(d) Every applicant shall furnish the Commissioner a complete set of fingerprints and a recent passport-size, full-face photograph of each controlling person. Each controlling person's fingerprints shall be certified by an authorized law enforcement officer.

The Department of Justice may provide to the North Carolina Department of Insurance from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a professional employer organization under this Article. Along with the request, the Department shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required

by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Insurance shall keep all information obtained pursuant to this subsection confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(e) An application for licensure of a professional employer organization group shall contain the information and submissions required by this section for each member of the group.

(f) No application is complete until the Commissioner has received all information and submissions required under subsections (a) through (e) of this section. Subsections (a) through (e) of this section do not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

(g) The Commissioner may deny the license of an applicant under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds that a controlling person has:

(1) Made any untrue material statement regarding the background or experience of any controlling person;

(2) Violated, or failed to comply with, any professional employer services law or any rule or order of the Commissioner or of any other State official responsible for the regulation of professional employer services;

(3) Obtained or attempted to obtain the license through misrepresentation or fraud;

(4) Been convicted of a felony;

(5) Been found in a final judgment or administrative proceeding to have committed fraud or an unfair trade practice; or

(6) Been a controlling person in another professional employer organization that has had its license or registration suspended, terminated, or revoked by any state.

(h) If the Commissioner finds that the applicant has not fully met the requirements for licensure, the Commissioner shall refuse to issue the license and shall notify the applicant in writing of the denial, stating the grounds for the denial. The

application may also be denied for any reason for which a license may be suspended or terminated under G.S. 58-89-155. Within 30 days after service of the notification, the applicant may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(i) Removal, demotion, or discharge of a controlling person in response to an order of the Commissioner of the alleged unsuitability of that person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge.

(j) A controlling person who has been evaluated by the Commissioner under this Article is not required to be reevaluated if that person changes the person's affiliation or employment from one applicant or licensee to another applicant or licensee.

(k) After denial, suspension, or termination of a license, and before issuing a new license or reinstating a license, the Commissioner shall review and consider:

(1) The extent to which the applicant or licensee has adequately corrected any problems; and

(2) Whether the applicant or licensee has demonstrated that the applicant or licensee had exercised due diligence to avoid the reason or reasons for the denial or termination.

The applicant or licensee bears the burden of proof with respect to subdivisions (1) and (2) of this subsection.

"**§ 58-89-65. Fees.**

(a) Each applicant for a professional employer organization license or limited professional employer organization license shall pay to the Commissioner, before the issuance of the license, a nonrefundable application fee of one thousand dollars ($1,000).

(b) Each licensee shall pay to the Commissioner when filing the information required under G.S. 58-89-70(d) an annual filing fee of one thousand dollars ($1,000).

(c) Each applicant for alternative licensing under G.S. 58-89-76 and each applicant for renewal of a license provided under G.S. 58-89-76 shall pay to the Commissioner, before issuance or renewal of the license, a fee of five hundred dollars ($500.00).

(d) When the Commissioner finds that a licensee has committed an act that is a ground for disciplinary violation under G.S. 58-89-155 or that a licensee has committed a prohibited act in violation of G.S. 58-89-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article.

"**§ 58-89-70. License issuance and maintenance.**

(a) The Commissioner shall issue a license to an applicant whom the Commissioner determines has satisfied the requirements of this Article. The Commissioner shall notify an applicant of any deficiency in the application not later than the 60th day after the date on which the Commissioner receives the application. The Commissioner shall issue the license not later than the 90th day after the date on which the completed application is filed with the Commissioner.

(b) A license issued by the Commissioner under this Article shall remain in effect until revoked, suspended, surrendered, or otherwise terminated.

(c) By obtaining licensure under this Article, the controlling persons of a licensee certify, under penalty of law, their compliance with the requirements of licensure and of operation as a professional employer organization pursuant to this Article.

(d) Within 120 days after the end of each fiscal year, each licensee shall file with the Commissioner all of the following information:

(1) Evidence of "financial responsibility" as set forth in G.S. 58-89-60(b).

(2) Any information required by G.S. 58-89-60(a)(1), (2), (3), or (4) for which there has been a change since the last or initial filing. Any change of controlling persons may subject the licensee to a background investigation of those controlling persons as required by G.S. 58-89-60.

(3) Information required by G.S. 58-89-60(a)(6).

(4) The annual filing fee, pursuant to G.S. 58-89-65.

(5) Any other information the Commissioner determines is needed for the review of a licensee.

(e) In order to maintain licensure, each licensee may be required to file with the Commissioner no later than 45 days after the end of each quarter of the fiscal year:

(1) A financial statement for the preceding quarter that is not audited and is set forth in a format similar to the annual audited GAAP financial statement; and

(2) An attestation, executed by the chief financial officer, the chief executive officer, and a controlling person of the licensee, that the licensee is current with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any of the obligations listed in this subdivision are in dispute with a client and the disputed amount is material when considered in the context of the licensee's most recent audited financial statement, then the licensee shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

"**§ 58-89-75. Limited license.**

The Commissioner by rule shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State.

"**§ 58-89-76. Alternative licensing.**

The Commissioner, by rule, may provide for the acceptance of an affidavit by a bonded, independent, and qualified assurance organization that has been approved by the Commissioner certifying the qualifications of a professional employer organization for licensing under this Article in lieu of the requirements of G.S. 58-89-40 through G.S. 58-89-60.

"**§ 58-89-80. License not assignable; change of name or location.**

(a) A licensee shall not conduct business under any name other than that specified in the license. A license issued under this Article is not assignable. A licensee shall not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. The Commissioner shall not authorize the use of a name that is so similar to that of a public office or agency or to that of another licensee that the public may be confused or misled by the name's use. A licensee shall not conduct business under more than one name unless the licensee has obtained a separate license for each name or the licensee is operating under a group license pursuant to G.S. 58-89-35.

(b) Except as provided in this subsection, a licensee may change the licensee's licensed name only once in a calendar year by notifying the Commissioner and paying a fee for the change of name. The fee for a name change shall be fifty dollars ($50.00). A licensee may change the licensee's name without the payment of the name change fee if the name change is submitted with the information required by G.S. 58-89-70(d). If a licensee has changed its name once during a calendar year, the licensee shall not change its name again unless the name change is approved by the Commissioner.

(c) A licensee shall notify the Commissioner in writing within 30 days of any change in the status of the licensee, including:

(1) Any change in the location of the licensee's primary business office;

(2) The addition of more business offices; or

(3) A change in the location of business records maintained by the licensee.

(d) A licensee may advertise in this State using only the name that is on the license issued by the Commissioner.

(e) Each written proposal provided to a prospective client company and each PEO agreement between a licensee and a client company or assigned employee shall clearly identify the name of the licensee.

"**§ 58-89-85. Supervision; rehabilitation; liquidation.**

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is bankrupt or in a hazardous financial condition, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that

has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter.

"**§ 58-89-90. Reserved.**

"Part 3. Licensee Duties and Responsibilities.

"**§ 58-89-95. Agreement; notice.**

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. This written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.

"**§ 58-89-100. Contract requirements.**

A contract between a licensee and a client company shall provide:

(1) That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a client company may retain such sufficient direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.

(2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.

(3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.

(4) That the licensee reserves a right to hire, fire, and discipline the assigned employees.

(5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.

(6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the

termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement.

"**§ 58-89-105. Employee benefit plans; required disclosure; other reports.**

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(b) A client company may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(c) If a licensee offers to its assigned employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(1) Utilize a third-party administrator licensed or registered to do business in this State;

(2) Hold all plan assets, including participant contributions, in a trust account; and

(3) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(d) For purposes of this section, a "plan of self-insurance" includes any arrangement except an arrangement under which an insurance company licensed to write insurance in this State has issued an insurance policy that covers all of the obligations of the health benefit plan.

"**§ 58-89-110. Workers' compensation insurance.**

(a) A licensee or the licensee's client company shall provide workers' compensation insurance coverage through a licensed insurance carrier or a licensed self-insurance plan for the licensee's assigned employees as provided in Chapter 97 of the General Statutes, the Workers' Compensation Act. To the extent that the licensee secures and maintains workers' compensation coverage for assigned employees, the carrier may elect to provide such coverage to the licensee pursuant to either the multiple coordinated policy method, as set forth in subsection (b) of this section, or the single policy method, as set forth in subsection (c) of this section.

(b) If the licensee provides workers' compensation coverage pursuant to the multiple coordinated policy method, the licensee shall secure a separate policy for each client company of the licensee. Each policy shall identify the name of the client company and the licensee. The licensee shall be named as the insured and identify the client company. The licensee shall specify that it is the labor contractor for the client company by using the designation "L/C/F" on the policy.

Each policy shall expire on the same date. The policy shall not include coverage for nonleased employees of the client company or employees solely employed by the licensee. Only the licensee, as the first-named insured under such a policy, may request the insurer to cancel the policy. Each policy shall be sent to the licensee as the named insured.

The client company of a licensee shall have a continuing obligation to provide coverage as required by Chapter 97 of the General Statutes, the Workers' Compensation Act, for any employees of the client company who are not assigned employees and not otherwise covered under a policy described in this subsection.

If a client company of a licensee leases employees from more than one licensee, there shall be a separate policy for the assigned employees of each licensee.

The workers' compensation carrier also shall issue a policy covering the internal employees of the licensee unless they are otherwise covered.

All policies written in accordance with this subsection by the same insurance carrier that reference the same licensee as labor contractor shall be combined for premium discount purposes.

When policies written in accordance with this subsection are written by the same insurance carrier, the carrier and licensee may agree to a retrospective rating program or any other permitted pricing program.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

(c) If the licensee provides workers' compensation coverage pursuant to the single policy method, the insurer shall issue to the licensee a single policy covering all assigned employees in this State in accordance with Chapter 97 of the General Statutes, the Workers' Compensation Act, and any other applicable laws or rating plans of this State.

As a condition of issuing a single policy, the licensee shall provide to the insurer of the policy all of the following information regarding each client company of the licensee with assigned employees in this State:

(1) The correct legal name, any fictitious names, and the federal identification number.

(2) The name and address of the president and chief executive officer.

(3) The business mailing address.

(4) The business telephone number and facsimile number.

The licensee shall also provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

The insurer shall issue to each client company of the licensee a certificate of insurance on the single policy. The certificate of insurance shall require that the insurer provide notice of cancellation to the licensee and the client company of the licensee.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

If the insurer fails to provide individual notices of cancellation to the licensee and the client company, the insurer shall remain liable on the risk for losses incurred by the client company that would have been covered by the workers' compensation policy prior to the attempted cancellation.

(d) A license shall not be issued to any professional employer organization unless the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, and that the premium paid by the licensee is

commensurate with exposure and anticipated claim experience for all employees covered under policies in the name of the licensee.

(e) Each licensee shall maintain and make available to its workers' compensation carrier on an annual basis the following information:

(1) The correct name and federal identification number of each client company.

(2) A listing of all covered employees provided to each client company, by classification code.

(3) The total eligible wages, by classification code, and the premiums due to the carrier for the employees provided to each client company.

(4) Sufficient information to permit the calculation of an experience modification factor for each client company upon termination of the professional employer relationship. Information accruing during the term of the leasing arrangement that is used to calculate an experience modification factor for a client company upon termination of the leasing relationship shall continue to be used in the future experience ratings of the licensee.

(f) Every Form 19 "Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission" filed with the Industrial Commission shall identify by name and address both the licensee and the client company employing the employee who is the subject of the Form 19.

(g) A licensee shall, within 30 days of initiation or termination of the licensee's relationship with any client company, notify its workers' compensation carrier, the Commissioner, and the North Carolina Industrial Commission of both the initiation and termination of the relationship. If the client company terminates the relationship between the licensee and the client company, the notice required by this subsection shall be given within 10 days of the licensee's actual knowledge of the termination.

(h) If the professional employer services arrangement with a client company is terminated, the client company shall be assigned an experience modification factor that reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for assigned employees under the PEO agreement.

(i) A client company shall not enter into a PEO agreement or be eligible for workers' compensation coverage in the voluntary market if the client-workers' company owes its current or prior carrier any premium for workers' compensation insurance, or if the client company owes its current or prior professional employer organization amounts due under the PEO agreement, except for premiums or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and rules, a licensee may rely on a statement by the client company that the client company has met any and all prior premium or fee obligations, unless the licensee has actual knowledge to the contrary.

(j) This section shall not prevent a client company of a licensee from providing workers' compensation insurance coverage for assigned employees coemployed by the

client company and the licensee through a policy of insurance issued by a licensed insurance carrier in the name of the client company as the insured.

(k) Irrespective of whether the licensee or client company maintains the policy of workers' compensation insurance for the covered employees pursuant to the PEO agreement, the licensee and the client company shall be entitled to the exclusivity of the remedy under both the workers' compensation and the employer liability provision of the workers' compensation policy or plan that either party has secured and shall both be afforded the protections provided under Chapter 97 of the General Statutes. The licensee shall be entitled, along with the client company, to the exclusivity of the remedy under both the workers' compensation and employers' liability provision of the workers' compensation policy or plan that either party has secured.

(l) All assigned risk policies for client companies of the same licensee shall be assigned to one workers' compensation carrier in the State and in other states to the extent possible.

"**§ 58-89-112. Liabilities.**

Subject to any contrary provisions thereof, the PEO agreement shall be interpreted for purposes of insurance, bonding, and employer's liability as follows:

(1) A licensee is not liable for the acts, errors, or omissions of a client company or of any assigned employee or for the quality, adequacy, or safety of the goods or services produced or sold in the client company's business. A client company is not liable for the acts, errors, or omissions of a licensee or of any employee of a licensee. Nothing in this section limits any contractual liability between a licensee and the client company or limits any liability or responsibility under this Article.

(2) Employees assigned to a client company by a licensee are the employees of the client company for the purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client company unless the employees are included by specific reference in the applicable PEO agreement, insurance contract, or bond.

"**§ 58-89-115. Benefit plan notice.**

(a) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall disclose all of the following information to the Commissioner and each client company:

(1) The type of coverage.

(2) The identity of each insurer for each type of coverage.

(3) The amount of benefits provided for each type of coverage and to whom or on whose behalf benefits are to be paid.

(4) The policy limits on each insurance policy.

(5) Whether the coverage is fully insured, partially insured, or fully self-funded.

(b) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall provide to the insurer the name and

address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

(c) Whenever any insurance policy or benefit plan is cancelled, the insurance company writing the policy shall provide a notice of cancellation as required by this Chapter.

(d) The licensee shall notify the client company and the Commissioner in writing about a discontinuance and replacement, if any, of any health plan or workers' compensation insurance coverage no later than 10 business days after the discontinuance.

(e) The Commissioner by rule may require a licensee to file other reports that are reasonably necessary for the administration and enforcement of this Article.

"**§ 58-89-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95 and 96 of the General Statutes. The Employment Security Commission shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the Employment Security Commission.

"**§ 58-89-125. Posting requirements.**

(a) Each licensee shall post the license issued under this Article in a conspicuous place in the licensee's principal place of business in this State.

(b) Each licensee shall display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is licensed and regulated by the Commissioner and that any questions or complaints may be directed to the Commissioner.

"**§ 58-89-130. Contractual duties.**

Each licensee is responsible for the licensee's contractual duties and responsibilities to manage, maintain, collect, and make timely payments for all of the following:

(1) Insurance premiums.

(2) Benefit and welfare plans.

(3) Other employee withholding.

(4) Any other expressed responsibility that is within the scope of the PEO agreement and that fulfills the duties imposed under this Article.

"**§ 58-89-135. Compliance with other laws.**

Each licensee shall comply with all appropriate State and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

"**§ 58-89-140. Required information.**

Each licensee shall:

(1) Maintain adequate books and records regarding the licensee's duties and responsibilities, including accounting and employment records relating to all PEO agreement activities, for a minimum of three years.

(2) Maintain and make available at all times to the Commissioner the following information, which shall be treated as proprietary and confidential and which is exempt from disclosure to persons other than

other governmental agencies that have a reasonable, legitimate purpose for obtaining the information:

a. The correct name, address, and telephone number of each client company.

b. Each client company contract or PEO agreement.

c. A listing of each client company by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget.

"**§ 58-89-145. Examinations.**

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"**§ 58-89-150. Agent for service of process.**

Each resident licensee shall maintain a registered agent for the service of process in this State. The Commissioner shall be each nonresident licensee's agent for service of process as provided in Article 16 of this Chapter.

"Part 4. Penalties and Sanctions.

"**§ 58-89-155. Grounds for disciplinary action.**

(a) The Commissioner may take disciplinary action against a licensee on any of the following grounds:

(1) Being convicted or having an officer or controlling person of the licensee convicted of:

a. Bribery, fraud, or intentional or material misrepresentation in obtaining or attempting to obtain a license;

b. A crime that relates to the operation of a professional employer organization or the ability of the licensee or any officer or controlling person of the licensee to operate a professional employer organization;

c. A crime that relates to the classification, misclassification, or underreporting of employees required by State law;

d. A crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance;

e. A crime that relates to fraud, deceit, or misconduct in the operation of a professional employer service; or

f. A crime that involves dishonesty or breach of trust.

(2) Engaging in professional employer services or offering to engage in the provision of professional employer services without a license.

(3) Failure to provide notice in writing of the discontinuance and replacement, if any, of any insurance coverage, to the Commissioner and client company within 10 business days of the discontinuance of any insurance coverage pursuant to G.S. 58-89-115.

(4) Failure to provide the notice required by G.S. 58-50-40.

(5) Failure to satisfy any of the requirements for licensure in this Article.

(b) For purposes of this section, a conviction includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

"**§ 58-89-160. Sanctions.**

(a) On a finding that a ground for disciplinary action exists under G.S. 58-89-155, the Commissioner may suspend or terminate a license, impose a civil penalty, and seek an order of restitution under G.S. 58-2-70.

(b) On termination of a license, the licensee shall immediately return the terminated license to the Commissioner.

(c) Any disciplinary action taken, any temporary or permanent termination of a license, or any determination that an officer or controlling person is unqualified shall be made by the Commissioner subject to Article 3A of Chapter 150B of the General Statutes.

"**§ 58-89-165. Injunctions; civil remedies; cease and desist orders.**

(a) In addition to the penalties and other enforcement provisions of this Article, if any person violates this Article or any rule implementing this Article, the Commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person in violation of this Article may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Article, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(d) When the Commissioner finds that an activity in violation of this Article presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(e) In addition to the penalties and other enforcement provisions of this Article, any person who violates this Article is subject to G.S. 58-2-70.

(f) The Commissioner is not required to post a bond for injunctive relief under this section.

"**§ 58-89-170. Prohibited acts.**

No person shall do any of the following:

(1) Engage in or offer professional employer services without holding a license under this Article as a professional employer organization.

(2) Use the name or title "staff leasing company", "employee leasing company", "licensed staff leasing company", "staff leasing services company", "professional employer organization", or "administrative employer" or otherwise represent that the person is licensed under this Article unless the person holds a license issued under this Article.

(3) Represent as the person's own the license of another person or represent that a person is licensed if the person does not hold a license.

(4) Give materially false or forged evidence to the Commissioner in connection with obtaining a license or in connection with disciplinary proceedings under this Article.

(5) Use or attempt to use a license that has been suspended or terminated.

"**§ 58-89-175. Criminal penalty.**

A person who violates G.S. 58-89-170 commits a Class H felony. Any officer or controlling person who willfully violates any provision of this Article may be subject to any and all criminal penalties available under State law."

SECTION 2. The Department of Insurance shall report to the 2005 General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the Department shall recommend any statutory changes required to regulate professional employer organizations and enforce Article 89 of Chapter 58 of the General Statutes.

SECTION 3. Each professional employer organization operating within this State as of January 1, 2004, shall complete its initial licensing not later than 180 days after January 1, 2004. Each professional employer organization not operating within this State as of January 1, 2004, shall complete its initial licensing prior to commencement of operations within this State.

SECTION 4. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5. This act becomes effective January 1, 2004, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date.

SENATE BILL 20:
Regulate Professional Employer Organization

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Bingham
Date:	June 22, 2004	**Analysis by:**	Martha Walston, committee counsel and Frank Folger, Department of Insurance
Version:	S20-CSLAf-66[v.4]		

SUMMARY: Senate Bill 20 is intended to enhance the regulatory oversight of professional employer organizations (PEOs). If enacted, the bill would supplant the current registration scheme found in Article 89 of Chapter 58 (G.S. 58-89-1 through 58-89-30). The bill is in House Finance because it imposes fees.

BACKGROUND: The professional employer organization industry is known as an employee leasing industry. A PEO establishes a contractual relationship with a client company. Under the contract, a co-employment relationship is created between the client company, the PEO, and the employees of the client company. The PEO becomes the employer of the client company's employees and assumes the obligations related to human resources, workers' compensation, payroll, labor law compliance, employment taxes and employment benefits as provided in the contract. Currently, seventeen states, including North Carolina, provide some form of licensing, registration, or regulation for PEO's.

In 1002, the General Assembly enacted SB 1281 (S.L. 2002-168) which requires PEOs to register with the Department of Insurance. The registration consists of the completion of an application and payment of a one-time fee of $250. A person cannot perform professional employer services without being registered with the Department. A person who violates the registration requirement may be subjected to a Class H felony.

BILL ANALYSIS (provided by Frank Folger with the Department of Insurance):
The following is a section-by-section summary, and within that a statute-by-statute summary, of SB 20:

SECTION 1. Includes the entire newly-created statutory structure for licensing and regulation of PEOs as a rewrite of Article 89. It restructures the Article into four (4) parts.

Part 1. In General

§58-89-1. States the title of the Act.

§58-89-5. Creates new definitions in addition to existing definitions.

§58-89-10. Establishes an 11-member council, chaired by the Commissioner of Insurance, to advise, consult and make recommendations to the Commissioner on the regulation of PEOs.

§58-89-15 Grants the Commissioner rulemaking authority to carry out the Article's provisions and subjects PEOs to the Article and rules adopted thereunder.

§58-89-20. Requires interagency cooperation in the regulation of PEOs.

§58-89-25. Clarifies that the Article does not exempt any client company or any assigned employee from any other license requirement. An assigned employee who is licensed, certified or registered is considered an employee of the client company for purposes of the license, certification, or registration. The existence of a PEO agreement does not affect or alter the client company's contractual abilities and relationship with the State or any other entity or any other labor related rights, obligations or agreements..

§58-89-30. Sets forth the Chapter 58 statutes applicable to PEOs.

§58-89-31. Provides that a client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of employment of covered employees of the client.

Part 2. License Requirements and Limitations

§58-89-35. Requires licensure of any person providing professional employer services in this State, and authorizes the licensure of PEO groups.

§58-89-40. Requires each controlling person be 18; be of good moral character; and have the requisite education or experience to operate or serve as a controlling person of a PEO. Exempts alternative licensees from this statute.

§58-89-50. Requires each applicant for licensure to file a $100,000 (was $75,000 in Senate version) surety bond with the Commissioner or submit an irrevocable letter of credit to or deposit cash or securities with the Commissioner in the same amount. Exempts alternative licensees from this statute.

§58-89-60. Sets forth what must be submitted in the application for licensure, including attestation by the CFO and CEO that the applicant for licensure is current in all its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits; evidence of financial responsibility, an application fee of $500 for alternative licensing and $1000 for all others; and fingerprints and photos for officers, directors and controlling persons. Application for a PEO group must contain required submissions and information for each member of the group. Alternative licensees are exempt from this statute. Also sets forth the specific grounds for which and administrative procedures by which the Commissioner may deny an applicant licensure, including any reason which is grounds for suspending or terminating an existing license pursuant to G.S. 58-89-155.

§58-89-65 Requires an annual license continuation fee of $500 for alternative licensees (pursuant to G.S. 58-89-70) and $1000 for all other licensees; and allows the Department to charge a licensee for reasonable fees and costs incurred in investigating, inspecting, examining and enforcing the Article when ruling of a violation of the Article by the licensee is final.

§58-89-70. Sets forth procedural requirements governing licensure and maintenance of a license.

§58-89-75. Requires the Commissioner adopt rules for limited licensure.

§58-89-76. Authorizes the Commissioner to adopt rules for accepting an affidavit by a qualified assurance organization approved by the Commissioner certifying qualifications of a PEO for

licensure in lieu of compliance with the general requirements for licensure under 58-89-40 through 58-89-60.

§58-89-80. Prohibits the misleading use of names by a licensee; limits licensee name changes; requires notice of change in business office and business record locations; and prohibits the misleading use of names in advertising.

§58-89-85. Authorizes the Commissioner upon the requisite determination to commence a supervision proceeding or seek an order to rehabilitate or liquidate a licensee.

Part 3. Licensee Duties and Responsibilities

§58-89-95. Provides that terms of a PEO agreement must be in writing and that the licensee give written notice of the agreement as it affects assigned employees to each employee assigned to a client company work site no later than the first payday after the date the individual became an assigned employee.

§58-89-100. Sets forth the required provisions of the contract between the PEO and the client company, including the PEOs responsibility regarding payment of wages, payment of payroll taxes, collection of taxes from payroll, and the specific allocation or designation of responsibility to obtain workers compensation coverage from an entity authorized to do business in this State.

§58-89-105. Authorizes a licensed PEO and client company, each, to sponsor and maintain employee benefit plans for assigned employees and requires any health benefit plan not fully insured by an authorized insurer, be administered by a TPA licensed or registered to do business in N.C., all plan assets be held in a trust account, and actuarially sound reserves be provided for the plan.

§58-89-110. Requires that either the licensed PEO or the client company provide workers comp insurance coverage through a licensed insurer or as a licensed self-insurer and, in the case of the licensed PEO providing coverage, allows the use of either a multiple coordinated policy method or a single policy method of coverage. This statute sets forth the requirements when using each type of methodology.

§58-89-112. Provides for default allocation of liability, subject to contrary contractual provisions and dictates the default rule for who's covered under certain liability insurance and bonds.

§58-89-115. Sets forth insurance and health benefit plans disclosures that must be made by the PEO to the Commissioner and each client company. Also sets forth cancellation notice requirements and related matters.

§58-89-120. Establishes the licensed PEO as the employer for purposes of Chapters 95 and 96 of the General Statutes and requires ESC cooperation in investigating applicants and licensees.

§58-89-125. Requires each licensee to post its license in a conspicuous place in its principal place of business and notice in each client company that the location is licensed by the Commissioner, with contact information.

§58-89-130. Requires each licensee to manage, maintain, collect and make timely payments for all its contractual responsibilities and statutory duties.

§58-89-135. Requires licensee compliance with all appropriate State and federal laws for reporting, sponsoring, filing, and maintaining benefit/welfare plans.

§58-89-140. Requires each licensee maintain adequate business records regarding its duties and responsibilities for at least 3 years and maintain and make available to the Commissioner at all times client company contact information, PEO agreements, and a listing of each client company by classification code

§58-89-145. Authorizes the Commissioner to examine any licensee, in accordance with the Examination Law (G.S. 58-2-131 through 58-2-134) and to accept a foreign examination report in lieu of conducting an in-State examination.

§58-89-150. Requires each licensee maintain a N.C. registered agent for service of process but makes the Commissioner the agent for nonresidents.

Part 4. Penalties and Sanctions

§58-89-155. Authorizes the Commissioner to take disciplinary action against a PEO for grounds including: convictions for certain crimes by its controlling persons, acting as an unlicensed PEO; and failure to meet notice requirements.

§58-89-160. Authorizes the Commissioner, upon the requisite determination, to suspend or terminate the license, impose a civil penalty, seek an order of restitution under 58-2-70, or utilize any combination of sanctions against a PEO.

§58-89-165. Authorizes the Commissioner to seek injunctive relief against any person violating the Article or any rule implementing the Article; issue a cease and desist order against a violator of the Article, applicable rule or order; issue an emergency cease and desist order when the violation presents an immediate danger to the public. Any violator is subject to enforcement provisions of 58-2-70.

§58-89-170. Prohibits any person from acting as a PEO without a license; any PEO from misrepresenting itself; or any PEO from providing false or forged evidence in connection with licensure; or any PEO from using a terminated or suspended license.

§58-89-175. Subjects violators of 58-89-170 to a Class H felony criminal penalty and specifies that any officer or controlling person willfully violating any Article provision may be subject to any and all criminal penalties available under State law.

SECTION 2. Requires the Dept. of Insurance to report to the 2005 General Assembly on the implementation, administration, and enforcement of the newly rewritten Article in Section 1 of the bill and recommend any statutory changes needed to regulate PEOs and enforce the Article.

SECTION 3. Allows for continued operation for PEOs registered as of the effective date of the act pending approval of the application if the application for licensure is filed by April 1, 2005.

SECTION 4. Is a severability clause provision.

SECTION 5. Makes the act effective January 1, 2005 and applicable to contracts entered into, any business conducted, and any actions taken on or after that date.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: **June 22, 2004**

TO: House Finance Committee

FROM: Marilyn Chism
Fiscal Research Division

RE: SB 20 PCS (S20-CSLAf-66[v.2])– Regulate Professional Employer Organization

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
GENERAL FUND					
REVENUES					
DOJ		No Estimate available			
DOI		No Net Impact *			
EXPENDITURES					
DOJ		No Estimate available			
DOI		No Net Impact*			
* See Technical Considerations for explanation.					
INS. REG. FUND					
REVENUES	$99,000	$99,000	$99,000	$99,000	$99,000
EXPENDITURES					
Nonrecurring	$24,230				
Recurring	$98,939	$197,878	$197,878	$197,878	$197,878
Net Ins. Reg. Fund	**($24,169)**	**($98,878)**	**($98,878)**	**($98,878)**	**($98,878)**
POSITIONS:					
Insurance Reg. Fund					

DOI 2 2 2 2 2

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Departments of Insurance, Justice and Correction; Administrative Office of the Courts (AOC); Employment Security Commission

EFFECTIVE DATE: This act becomes effective January 1, 2005.

BILL SUMMARY: Senate Bill 20 would require Professional Employer Organizations (PEO's) to be licensed in order to do business in this State. The PCS changes the effective date from January 1, 2004 to January 1, 2005. In 2002, the General Assembly enacted SB 1281 [S.L. 2002-168] which requires PEO's to register with the Department of Insurance. The registration consists of the completion of an application and payment of a one-time fee of $250.00. A person cannot perform professional employer services without being registered with the Department. A person who violates the registration requirement may be subjected to a Class H felony. Senate Bill 20 imposes additional requirements on PEO's and gives the Department of Insurance disciplinary authority over licensees.

ASSUMPTIONS AND METHODOLOGY:

Insurance Regulatory Fund Revenue: This bill would require PEO's to apply for licensure and to submit a $1,000 application fee that will be deposited into the Insurance Regulatory Fund. Each licensed PEO would also be required to apply for license renewal and to submit a $1,000 renewal fee, also to be deposited into the Insurance Regulatory Fund. Currently, there are 11 registered PEO groups with 49 member companies, 84 individually registered PEO's, and 4 PEO's with pending registrations. Thus, the revenue from the application fee for the 99 (11 groups + 84 individuals + 4 pending) is expected to be $99,000 annually. The Department expects that there will be some growth in the number of licensed PEO's. However, at this time, there is not sufficient data or experience on which to estimate what that growth will be.

Department of Insurance Expenditures: Senate Bill 20 requires the Department of Insurance to administer the licensing laws for PEO's. The Commissioner of Insurance would have the authority to adopt rules necessary to administer the licensing laws and to take appropriate disciplinary actions. The Commissioner would also serve as the chair of the North Carolina Professional Employer Organization Advisory Council and the Department would provide meeting space and clerical and other services required by the Council to conduct its business.

The Department will be responsible for monitoring and regulating PEO's to ensure their compliance with the licensing laws similarly to the manner in which it currently provides oversight and regulation of insurance companies and continuing care entities. These responsibilities will include financial regulation such as reviewing and evaluating applications for initial license, reviewing annual financial statements, and making recommendations about additional financial oversight in the event of financial problems. Non-financial regulation of PEO'S involves the prompt and thorough investigation of

questionable insurance activities regarding unauthorized/unapproved insurance products offered to the public. Currently, there are 11 registered PEO groups, 84 registered PEO's and 4 pending registrations.

The Department estimates that the fiscal impact of administering the licensing laws and regulating the PEO's is $197,878 recurring and $24,230 nonrecurring. The recurring cost will cover the salaries, benefits, and operating cost for an Insurance Company Examiner III, who will be responsible for the financial regulation of the PEO's, and an Insurance Compliance Analyst Supervisor, who will be responsible for the non-financial regulation of the PEO's. The salary and benefits for a grade 80 Examiner is $72,484, based on a mid-point salary of $62,857 and benefits of $9,627. The salary and benefits for a grade 73 Compliance Analyst is $53,510 based on mid-point salary of $45,709 benefits of $7,801. The total operating cost for the two positions is $71,084 and includes $60,000 for travel and $11,084 for materials, supplies, training, and continuing education. Assuming the positions are effective January 1, 2005, the first year recurring cost would be $98,939. The nonrecurring cost of $24,230 will cover the cost of computer equipment as well as office and furniture equipment.

The Department would not incur any cost for the Council meetings because the bill specifically indicates that the Council members will not receive compensation or per diem. Also, because the Department has attorneys on staff who are responsible for developing rules, Fiscal Research does not anticipate that the Department will need any additional resources to develop rules necessary to administer the licensing requirements.

The Department is funded by the Insurance Regulatory Fund (IRF). However, as required by G.S. § 58-6-25, moneys in the IRF may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The statute further provides that all money credited to the IRF shall be used to reimburse the General Fund for the enumerated purposes. To comply with the statute, funds are appropriated from the General Fund to the Department of Insurance for all authorized expenditures of the IRF. The IRF in turns reimburses the General Fund for the appropriation. Accordingly, any use of the IRF authorized by this bill would require a General Fund appropriation to the Department. The IRF would reimburse the General Fund for the appropriation such that the expenditure would have no net effect on the General Fund.

Judicial Branch: Section 1 of this bill includes a statutory provision that would make it a Class H felony for any person who engaged in enumerated prohibited acts. For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 1 would create a new offense, punishable as a Class H felony. The AOC is unable to provide an estimate of the impact of this bill, but believes that the impact will not be significant. The staff at the AOC believe that the majority of PEO's would comply with the proposed licensing requirements found in this bill. Thus, the AOC does not project a significant number of Class H felony charges under section 1 of this bill.

Correction: The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The incarceration fiscal notes are based on December 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. That means the number of beds needed is always equal to the projected additional inmates due to a bill.

As with the AOC's analysis, the Sentencing Commission cannot project the number of convictions that would result from the new Class H felony in Section 1 of this legislation. Since the proposed section creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact on the prison population. It is not known how many offenders might be sentenced under this subsection. If, for example, there were three convictions for this offense per year, this would result in the need for one additional prison bed in the first year and two additional prison beds in the second year due to active sentences and post-release sentencing revocations. In FY 2005-06, the first year of prison impact, each prison bed will cost, on average, $23,854 per year to operate.[1] In addition, approximately 64 percent of Class H felons receive non-active sentences. The majority receive an intermediate sentence or supervised probation, and are supervised by the Division of Community Corrections at a cost of $1.75 to $10.06 per offender per day.

Justice: Section 1 authorizes the Department of Justice to provide state and national fingerprint checks for any applicant for licensure as a PEO. These checks are conducted by the State Bureau of Investigation (SBI) within the Department. Neither the Department of Insurance nor the Fiscal Research can project the number of applicants who would require background checks each year as a result of this bill. Thus, we cannot project the amount of additional revenue from the criminal record checks.

The applicant would pay for the criminal record check. The SBI charges $38 for each state and national fingerprint check, of which $22 is remitted to the Federal Bureau of Investigation. The remaining $16 is used to support the functions of the identification unit, which conducts the criminal history background checks. Each employee can process approximately 9,600 background checks per year, and the SBI is able to accommodate some increase in background checks within its existing staffing level. If the increase in workload

[1] Operating costs are based on actual 2002-03 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate is added each year.

due to new record checks were greater than the unit's capacity, the SBI would need authorization for additional positions supported by the receipts collected from the applicants/ licensees.

SOURCES OF DATA: Insurance, Justice, Correction, AOC.

TECHNICAL CONSIDERATIONS: The bill requires the revenue collected from the application and renewal fees to be deposited into the Insurance Regulatory Fund and authorizes those fees to be used to implement the bill. As noted above, the Insurance Regulatory Fund can only be used to reimburse the General Fund for money appropriated to the Department of Insurance for specified purposes. Thus, under existing law, in order to use fees deposited into the Insurance Regulatory Fund, it would be necessary to first appropriate funds from the General Fund to the Department of Insurance.

North Carolina General Assembly

House Committee on Finance

Minutes

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June 23, 2004 ~ After Session

The House Committee on Finance met on Wednesday, June 23, 2004 after session in Room 544 of the Legislative Office Building. The following members were present: Chairpersons Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Gibson, Hill, and Wood; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Glazier, Hackney, Jones, Lewis, Ross, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, and Dusty Rhodes. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Luebke called the meeting to order at 4:57 pm and recognized Representative Alexander who announced that two occupancy tax bills had been successfully discussed in the Occupancy Tax Subcommittee.

Representative Gibson was then recognized to explain the first bill considered by the Committee: **SB 1118 – SPECIAL LICENSE PLATES** (see **attachment 3**). Representative Gibson informed the Committee that he was explaining the bill on behalf of the sponsor, Senator Kerr, who could not attend the committee meeting due to the Senate being in session. Chairman Luebke recognized Representative Howard who moved that the Proposed Committee Substitute (PCS) for SB 1118 be before the Committee for discussion and that motion carried without objection. The Chair then recognized Representative Gibson who explained the bill and introduced an amendment (see **attachment 4**) that added a $10 fee to the Daughters of the American Revolution (DAR) license plate purchase. Representative Gibson further explained that the increased revenue would go to the Daughters of the American Revolution Fund to be used by the National Society of the Daughters of the American Revolution as they see fit. Chairman Luebke then recognized Representative Wainwright who proceeded to ask the staff what difference did the new amendment make to the PCS. Martha Walston answered that the new amendment allowed only a spouse or registered member of the DAR to apply for the special tag. Representative Wainwright proceeded to follow up with a question concerning why it was necessary to be able to provide lineage of ancestry in order to be allowed to join the National Society of the Daughters of the American Revolution. Representative Wainwright stated that he felt it was unfair to all citizens of North Carolina if the availability of the license plate could be exclusionary. After an explanation by Ms. Angie Waldorf concerning the nature of the society, Chairman Luebke recognized Representative Gibson who motioned to displace SB 1118 until a quick resolution could be worked out as to the concerns raised by Representative Wainwright.

The next bill considered by the Committee was **SB 1144 – "In God We Trust" Special Plates** (see **attachment 5**). Chairman Luebke recognized Representative Wainwright who explained the bill on behalf of Senator Thomas who was unavailable due to the Senate being in session. Representative Wainwright stated that this bill would help to aid military personnel and their families through the current financial tough times. The bill would allow the purchase of a special license plate with the phrase "In God We Trust" for $50 by anyone who felt so inclined. A portion of the $50 fee would be set aside in a Trust Fund to help military personnel and their families in times of financial need. Chairman Luebke then recognized Representative Creech who inquired as to how long the special plates program had been running through the Department of Motor Vehicles and how long had the standard of 300 requests had been necessary. Chairman Luebke directed the question to Tony Spencer of the DMV who answered that the issuance of special plates had begun in the early 1980s and the necessary standard of 300 requests for a plate to be made had been in place since the beginning. Representative Creech was then recognized by Chairman Luebke and he spoke in support of the troops and National Guard of North Carolina but said that he did not support the bill because it creates yet another "special plate" which could confuse state law enforcement officials. Chairman Luebke then recognized Representative Ross who vowed to support the bill but noted that this would be the first bill to open up the question of religious beliefs and First Amendment freedoms as inscribed in the United States Constitution. The Chair then recognized Representative Jones who informed the Committee that the use of the word "God" in relation to government had been upheld in a recent Supreme Court decision, and then proceeded to ask about diversity in the Adjutant General's office of the NC National Guard. Representative Wilson answered Representative Jones's concern by stating that she had not heard of, nor foresaw, any diversity problems in the National Guard. At that point Chairman Luebke recognized Representative McComas who made a motion for a favorable report. As there was no further discussion, Chairman Luebke called the motion to a vote and it carried.

SB 1118 – SPECIAL LICENSE PLATES (see **attachment 3**), which had been previously displaced, was reintroduced for consideration by the Committee. Chairman Luebke recognized staff member Martha Walston was asked to explain a perfecting amendment introduced by Representative Gibson to quell the concerns of possible exclusion raised earlier by Representative Wainwright. The perfecting amendment removed the requirement of having to be a member, or spouse of a member, of the National Society of the Daughters of the American Revolution in order to be eligible to apply for the special DAR license plate. Representative Womble raised similar concerns to those raised by Representative Wainwright. The Chair then recognized Representative Gibson who told the Committee that the new perfecting amendment took out everything exclusionary in the bill. The Chair then called a vote on the perfecting amendment and it passed without objection. Seeing no further debate on the original amendment introduced by Representative Gibson, Chairman Luebke brought the original amendment, which had been perfected, to a vote and it passed without objection. Upon recognition by Chairman Luebke, Representative Howard moved that the PCS for SB 1118 be given a favorable report (with an unfavorable report as to the original bill). Seeing no further substantive debate Chairman Luebke called the motion to a vote and the motion carried.

Having no further business before the Committee, Chairman Luebke adjourned the meeting at 5:35 pm.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 1118 (and related materials)
4. Gibson Amendment on Senate Bill 1118 (**Adopted**)
5. Senate Bill 1144 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

June 23, 2004
(After Session)
Room 544 LOB
Chaired by: Rep. Luebke

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

SB 1118 SPECIAL LICENSE PLATES *Sen. Kerr*

SB 1144 "IN GOD WE TRUST" SPECIAL PLATES *Sen. Thomas*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 23, 2004**

TIME: **15 Minutes After the Adjournment of Session**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

SB 1118 – SPECIAL LICENSE PLATES – Sen. Kerr

SB 1144 – "IN GOD WE TRUST" SPECIAL PLATES – Sen. Thomas

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **11:50 a.m.** on **June 23, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ After Session

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marisol Jiménez	El Pueblo, Inc.
Jon Carr	Jordan Price
Jamie Stevens	NCDMV
Jony Spence	NC DMV
Angela Swaseby	DAR
Rich Webb	NCGA Intern
Elizabeth Self	Intern, Rep. Ross
Mary K. Hackney	Intern, Rep. Hackney
John Holton	Intern, Rep. Luebke
Stephanie Simpson	NC Assn. of Realtors
Elizabeth Bakanic	NCGA Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 23, 2004 ~ After Session

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michelle L. Lewis	Dunn, NC
Ken Eudy	Capitol

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1118

Finance Committee Substitute Adopted 6/3/04

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1118-CSLAf-61 [v.5]

6/22/2004 3:40:30 PM

Short Title: Special License Plates. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO REDISTRIBUTE THE FUNDS DERIVED FROM THE FIRST IN FORESTRY SPECIAL PLATE, TO AUTHORIZE DMV TO ISSUE A RETIRED HIGHWAY PATROL SPECIAL PLATE TO THE SURVIVING SPOUSES OF RETIRED HIGHWAY PATROLMEN AND TO AUTHORIZE DMV TO ISSUE THE FOLLOWING NEW SPECIAL PLATES: DAUGHTERS OF THE AMERICAN REVOLUTION, EL PUEBLO, HOMES4NC, NC 4-H DEVELOPMENT FUND, SPORT FISHING, COMMERCIAL FISHING, AND A HIGH SCHOOL INSIGNIA PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b)(36a) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(10a) Commercial Fishing. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of commercial fishing in North Carolina. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(11e) Daughters of the American Revolution. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase and picture appropriate to the organization. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(14a) El Pueblo. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-18.12. The plate shall bear the El Pueblo logo and the words "El Pueblo." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(16f) High School Insignia Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public high school in North Carolina.

...

(18a) HOMES4NC Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear 'HOMES4NC', the logo of the North Carolina Association of Realtors Housing Opportunity Foundation, and shall be developed in conjunction with that organization. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate.

...

(28e) North Carolina 4-H Development Fund. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or insignia representing The North Carolina 4-H Development Fund.

...

(36a) Retired Highway Patrol. ~~– Issuable~~ The plate authorized by this subdivision ~~to an individual who has retired from the North Carolina Highway Patrol. The plate~~ shall bear the phrase "SHP, Retired." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. The plate is issuable to one of the following:

a. An individual who has retired from the North Carolina Highway Patrol.

b. The surviving spouse of a person who had a retired highway patrol plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry.

...

(41a) Sport Fishing. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase and picture appropriate to the subject of sport fishing in North Carolina. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled

veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$30.00
El Pueblo	$30.00
Historical Attraction	$30.00
HOMES4NC	$30.00
North Carolina 4-H Development Fund	$30.00
Personalized	$30.00
State Attraction	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Be Active NC	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00

Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Crystal Coast	$10	$20	0	0
Ducks Unlimited	$10	$10	0	0
El Pueblo	$10	$20	0	0
First in Forestry	$10	~~0~~$10	~~$10~~0	0
Goodness Grows	$10	$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
HOMES4NC	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Litter Prevention	$10	$10	0	0
March of Dimes	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
NC 4-H Development Fund	$10	$20	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0

Out-of-state Collegiate Insignia	10	0	$15	0
Personalized	$10	0	$15	$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding two new subsections to read:

"(b31) North Carolina 4-H Development Fund. – The Division must receive 300 or more applications for a North Carolina 4-H Development Fund plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of North Carolina 4-H Development Fund plates to The North Carolina 4-H Development Fund, to be used to support county and State 4-H programs and to provide funding for repairs and renovations at North Carolina 4-H camps and conference centers.

(b32) High School Insignia Plate. – The Division must receive 300 or more applications for a high school insignia plate for a public high school in North Carolina before a high school insignia plate may be issued for that school. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of high school insignia plates to the Department of Public Instruction to be deposited into the State Aid to Local School Administrative Units account. The Division must also send the Department of Public Instruction information as to the number of plates sold representing a particular high school. The Department of Public Instruction must annually transfer the money in the State Aid to Local School Administrative Units account that is derived from the sale of the high school insignia plates to the high schools which have a high school insignia plate in proportion to the number of high school insignia plates sold representing that school. The high school must use the money for academic enhancement.

(b33) HOMES4NC. – The Division must receive 300 or more applications for the HOMES4NC plate before the plate may be developed. The Division shall transfer

quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the HOMES4NC plates to the NCAR Housing Opportunity Foundation to promote safe, decent, and affordable housing for all in North Carolina.

(b34) First in Forestry. – The Division must receive 300 or more applications for the First in Forestry plate before the plate may be developed. The Division shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Division of Forest Resources for a State forests and forestry education program and shall transfer quarterly one-half of the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the First in Forestry plates to the Forest Education and Conservation Foundation for their programs.

(b35) El Pueblo. - The Division must receive 300 or more applications for the El Pueblo plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Plate Account derived from the sale of the El Pueblo plates to El Pueblo, Inc., for its Scholarship Fund which provides scholarships for Latino students entering any community college, college, or university in North Carolina."

SECTION 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1118
Finance Committee Substitute Adopted 6/3/04

Short Title: Special License Plates. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE DMV TO ISSUE A RETIRED HIGHWAY PATROL SPECIAL PLATE TO THE SURVIVING SPOUSES OF RETIRED HIGHWAY PATROLMEN AND TO ISSUE A 4-H SPECIAL REGISTRATION PLATE AND A HIGH SCHOOL INSIGNIA PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b)(36a) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(15c) 4-H Foundation of North Carolina. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or insignia representing The 4-H Foundation of North Carolina, Inc.

...

(16f) High School Insignia Plate. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate may bear a phrase or an insignia representing a public high school in North Carolina.

...

(36a) Retired Highway Patrol. ~~—Issuable~~ The plate authorized by this subdivision ~~to an individual who has retired from the North Carolina Highway Patrol. The plate~~ shall bear the phrase "SHP, Retired." The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate. The plate is issuable to one of the following:

a. An individual who has retired from the North Carolina Highway Patrol.

b. The surviving spouse of a person who had a retired highway patrol plate at the time of death so long as the surviving spouse continues to renew the plate and does not remarry."

SECTION 2. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$30.00
Historical Attraction	$30.00
Personalized	$30.00
State Attraction	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
High School Insignia	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Be Active NC	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00
First in Forestry	$20.00
4-H Foundation of NC	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Save the Sea Turtles	$20.00

Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 3. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Crystal Coast	$10	$20	0	0
Ducks Unlimited	$10	$10	0	0
First in Forestry	$10	0	$10	0
4-H Foundation of NC	$10	$10	0	0
Goodness Grows	$10	$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	$10	$10	0	0
High School Insignia	$10	$15	0	0
Historical Attraction	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Litter Prevention	$10	$10	0	0
March of Dimes	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
Nurses	$10	$15	0	0

Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	10	0	$15	0
Personalized	$10	0	$15	$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 4. G.S. 20-81.12 is amended by adding two new subsections to read:

"(b31) 4-H Foundation of North Carolina. – The Division must receive 300 or more applications for a 4-H Foundation of North Carolina plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of 4-H Foundation of North Carolina plates to The 4-H Foundation of North Carolina, Inc., to be used to support county and State 4-H programs and to provide funding for repairs and renovations at North Carolina 4-H camps and conference centers.

(b32) High School Insignia Plate. – The Division must receive 300 or more applications for a high school insignia plate for a public high school in North Carolina before a high school insignia plate may be issued for that school. The Division must transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of high school insignia plates to the Department of Public Instruction to be deposited into the State Aid to Local School Administrative Units account. The Division must also send the Department of Public Instruction information as to the number of plates sold representing a particular high school. The Department of Public Instruction must annually transfer the money in the State Aid to Local School Administrative Units account that is derived from the sale of the high school insignia plates to the high schools which have a high school insignia plate in proportion to the number of high school insignia plates sold representing that school. The high school must use the money for academic enhancement."

SECTION 5. This act is effective when it becomes law.

SENATE BILL 1118:
Special License Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 16, 2004	**Summary by:**	Martha Walston
Version:	PCS for 2nd Edition		Committee Counsel

SUMMARY: Senate Bill 1118 amends the special license plate statutes as follows:

- ***Allows the surviving spouse of a person who retired from the highway patrol to be eligible to purchase a 'Retired Highway Patrol' special registration plate***
- ***Adds authority to develop and issue the following new special plates: Daughters of the American Revolution, El Pueblo, High School Insignia Plates, HOMES4NC, The North Carolina 4-H Development Fund, Sport Fishing, and Commercial Fishing***
- ***Redistributes the funds derived from the First in Forestry Plate***

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 100 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee.[1] The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers.[2] The Centers are located in Brunswick, Camden, Carteret, Caswell, Macon, Tyrell, and Watauga Counties. The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in addition to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: The **proposed committee substitute** for Senate Bill 1118 makes the following changes to two existing special registration plate bills:

Retired Highway Patrol - The Division of Motor Vehicles may issue a special license plate to not only a person who has retired from the Highway Patrol but also to a retired sheriff if the sheriff served for at least 10 years before retiring and to a retired law enforcement officer. Last session the General Assembly allowed the surviving spouse of a retired law enforcement officer to continue to renew the plate so long as the spouse does not remarry. Senate Bill 1118 would allow the surviving spouse of someone who has retired from the highway patrol to purchase a 'Retired Highway Patrol' special plate. The bill adopts the restrictions placed by the Senate last session on the ability of surviving spouses of law enforcement

[1] One registration plate is issued free of charge to a recipient of the Congressional Medal of Honor, a 100% Disabled Veteran, or an ex-prisoner of war. Four special registration plates are exempt from the $10 special plate fee: active member of the National Guard, Legion of Valor, Purple Heart Recipient, and the Silver Star Recipient.

[2] There are 10 Visitors' Centers. Two of the centers that do not receive State funding are located in Dare County and the third one is located in McDowell County.

officers to receive a 'Retired Law Enforcement Officer' special plate: the surviving spouse may continue to renew the plate so long as the spouse does not remarry.

First In Forestry – Redistributes the proceeds from the plate so that the $10 currently going to the Natural Heritage Trust Fund will go to the Collegiate and Cultural Plate Account (1/2 to Division of Forest Resources for a State forests and forestry education program and 1/2 to Forest Education and Conservation Foundation for their programs).

The **proposed committee substitute** also authorizes DMV to issue the following new special plates. The Division must receive at least 300 applications for a plate before it may be issued. Each of the plates would be on a "First in Flight" background:

Daughters of the American Revolution – Issued for the additional fee of $10 going to the Special Registration Plate Account.

El Pueblo – Issued for an additional fee of $30. $20 of the additional fee would go to El Pueblo, Inc. for its Scholarship Fund which provides scholarships for Latino students entering any community college, college, or university in North Carolina.

High School Insignia – Authorizes DMV to issue a special registration plate for a public high school in North Carolina. The plate would bear a phrase or insignia representing the high school. The recipient of the plate must pay the regular registration fee plus an additional $25 fee. The additional fee would be distributed as follows:

- $10 to the Special Registration Plate Account (SRPA)
- $15 to the Collegiate and Cultural Attraction Plate Account (CCAPA) to be transferred quarterly to the Department of Public Instruction to be deposited into the State Aid to Local School Administrative Units account. DPI would annually transfer the money in that account that is derived from the sale of these special plates to the high schools that have a high school insignia plate in proportion to the number of high school insignia plates sold representing that school. The schools must use the money for academic enhancement.

HOMES4NC Plate – Issued for an additional fee of $30 to be distributed as follows: $10 to the SRPA and $20 to the North Carolina Association of Realtors Housing Opportunity Foundation to promote safe, decent, and affordable housing for all in North Carolina. The plate will bear "HOMES4NC" and the logo of the Association.

North Carolina 4-H Development Fund – Issued for an additional fee of $30 to be distributed as follows: $10 to the SRPA and $20 to The North Carolina 4-H Development Fund to be used to support county and State 4-H programs and to provide funding for repairs and renovations at North Carolina 4-H camps and conference centers. The plate may bear a phrase or insignia representing The North Carolina 4-H Development Fund. 4-H serves almost 200,000 youth in North Carolina and over 7 million youth nationally each year. 4-H will celebrate its State centennial in 2009.

Sport Fishing – Issued for an additional fee of $10 to be distributed to the Special Registration Plate Account. The plate may bear a phrase and picture appropriate to the subject of sport fishing in North Carolina.

Commercial Fishing – Issued for an additional fee of $10 to be distributed to the Special Registration Plate Account. The plate may bear a phrase and picture appropriate to the subject of commercial fishing in North Carolina.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 22, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: Senate Bill 1118-CSLAf-61[v4]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Highway Fund – Special Registration Plate Acct					
Retired Highway Patrol			No fiscal impact		
High School plates			No Estimate Available		
6 new plates	$18,000	$18,000	$18,000	$18,000	$18,000
Natural Heritage Trust Fund			No fiscal impact		
Collegiate and Cultural Attraction Plate Acct					
High School			No Estimate Available		
4-H Foundation	$6,000	$6,000	$6,000	$6,000	$6,000
El Pueblo	$6,000	$6,000	$6,000	$6,000	$6,000
HOMES4NC	$6,000	$6,000	$6,000	$6,000	$6,000
EXPENDITURES					
Highway Fund – Special Registration Plate Acct					
High School plate			No Estimate Available		
6 new plates	$26,640				

PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
This act authorizes the Division of Motor Vehicles (DMV) to issue a Retired Highway Patrol special plate to the surviving spouse of retired Highway Patrolmen. The bill redistributes the funds for the First in Forestry plate from the Natural Heritage Trust Fund to the Division of Forest Resources. The bill also authorizes the issuance of plates for the following organizations and activities: Daughters of the American Revolution, El Pueblo, HOMES4NC, NC 4-H Development Fund, sport fishing, commercial fishing, and high schools.

ASSUMPTIONS AND METHODOLOGY:
The change in the Retired Highway Patrol plate will not create a fiscal impact. The bill simply lets the surviving spouse renew an existing plate, so no new plates will be sold. In fact, it should keep the Special Registration Plate Account from losing revenue due to the death of any of the 864 retired Highway Patrolmen that currently have the plates. It is not known how many surviving spouses will choose to continue the retiree plate.

The redistribution of funds for the First in Forestry plate will have no impact on the Natural Heritage Trust Fund. This plate has not received the minimum 300 plate requests and has not been issued.

No estimate is available for the number of high school insignia plates that might meet the 300-plate minimum. According to the Department of Public Instruction, there were 338 public high schools in North Carolina in FY 2002-03. For the other six new special plates, this fiscal analysis assumes that the plate applicants already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The analysis also assumes the issuance of the minimum 300 license plates in FY 2004-05 and renewal of those plates in the following years. There is a one-time cost of $100 to design a new plate and an average programming cost of $3,560 per plate to change the State Titling and Registration System (STARS). There is also a one-time cost to manufacture the special plate. The cost of a DMV recommended two-color plate is $2.59. For 300 new plates in FY 2004-05, the manufacturing cost is $777 (300 plate minimum X $2.59). The total one-time cost for a new plate is $4,437 and is paid from the Special Registration Plate Account. For 6 new plates, the total cost is $26,640 (rounded).

In addition to the normal $20 registration fee, each special plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. For the 300-plate minimum, this account will receive $3,000 a year for each plate. For the 6 new plates, the minimum revenue each year is $18,000.

In addition to the $10 Special Registration Plate Account fee, several plates have fees for fund raising purposes. These additional fees are first deposited into the Collegiate and Cultural Attraction Plate Account and then transferred to the designated beneficiary. The 4-H plate has a $20 fee that is deposited into to the 4-H Foundation of North Carolina, Inc. to be used to repair and renovate 4-H camps and conference centers. The HOMES4NC plate has a $20 fee that goes to the NCAR Housing Opportunity Foundation to promote safe, decent, and affordable housing. The El Pueblo plate has a $20 fee that goes to El Pueblo, Inc. for its Scholarship Fund for Latino students entering any community college, college, or university in North Carolina. The high school plate has a $15 fee that is returned to the high school to use for academic enhancement.

SOURCES OF DATA: Division of Motor Vehicles; Department of Public Instruction

TECHNICAL CONSIDERATIONS: None

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1118 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE DMV TO ISSUE A RETIRED HIGHWAY PATROL SPECIAL PLATE TO THE SURVIVING SPOUSES OF RETIRED HIGHWAY PATROLMEN AND TO ISSUE A 4-H SPECIAL REGISTRATION PLATE AND A HIGH SCHOOL INSIGNIA PLATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to Senate Committee Substitute Bill. ~~_____), (and recommendation that the committee substitute bill # _____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1118

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1118-ALAf-40 [v.3]

Date June 23 ,2004

Comm. Sub. [YES]
Amends Title [NO]
PCS to second edition

Representative Gibson

perfecting amendment deletes

moves to amend the bill [on page 1, line 25, by adding the following after the period:
"The plate is issuable to one of the following:
a. A member of the National Society Daughters of the American Revolution who certifies that she is a current member of the Society and who provides her national membership number.
b. The spouse of a member of the National Society Daughters of the American Revolution who certifies that he is the spouse of a current member of the Society and who provides his spouse's national membership number."]

on page 3, lines 32 and 33, by adding the following between those lines:
"Daughters of the American Revolution $20.00";

on page 4, lines 25 and 26, by adding the following between those lines:
"Daughters of the American Revolution $10 $10 0 0";

and on page 6, lines 17 and 18, by adding the following new subsection between those lines:
"(b36) Daughters of the American Revolution. – The Division must receive 300 or more applications for a Daughters of the American Revolution plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Daughters of the American Revolution plates to the North Carolina Daughters of the American Revolution License Plate Trust Fund located in Wilmington, North Carolina, to be used to carry out the objectives of the National Society Daughters of the American

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1118

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1118-ALAf-40 [v.3]

Revolution including the protection of historical spots and the erection of monuments, the encouragement and support of historical research and educational endeavors, the preservation of historical documents and relics, and the promotion of all patriotic celebrations."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 1144*
Second Edition Engrossed 6/2/04

Short Title:	"In God We Trust" Special Plates.	(Public)
Sponsors:	Senators Thomas; Apodaca, Holloman, Albertson, Carpenter, Dalton, Dannelly, Dorsett, Foxx, Garrou, Hargett, Jenkins, Kerr, Lucas, Malone, Moore, Nesbitt, Purcell, Rand, Sloan, Smith, Swindell, Tillman, Weinstein, and White.	
Referred to:	Finance.	

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN "IN GOD WE TRUST" SPECIAL REGISTRATION PLATE WITH THE PROCEEDS GOING TO THE AUBREY MCLELLAN SOLDIER AND AIRMAN ASSISTANCE FUND FOR FAMILIES OF DEPLOYED NORTH CAROLINA NATIONAL GUARDSMEN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.

(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) In God We Trust."

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(19a) In God We Trust. – Issuable to the registered owner of a motor vehicle in accordance with G.S. 20-81.12. The plate shall bear the phrase 'In God We Trust.'

~~(19a)~~(19b) International Association of Fire Fighters. – Issuable to a member of the International Association of Fire Fighters. The plate shall bear the logo of the International Association of Fire Fighters. The Division may not issue the plate authorized by this subdivision unless it receives at least 300 applications for the plate."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"**§ 20-79.7. Fees for special registration plates and distribution of the fees.**

(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$30.00
Historical Attraction	$30.00
In God We Trust	$30.00
Personalized	$30.00
State Attraction	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00

Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Be Active NC	$20.00
Ducks Unlimited	$20.00
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Crystal Coast	$10	$20	0	0
Ducks Unlimited	$10	$10	0	0
First in Forestry	$10	0	$10	0

Goodness Grows	$10	$15	0	0
Harley Owners' Group	$10	$10	0	0
Historical Attraction	$10	$20	0	0
In God We Trust	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Litter Prevention	$10	$10	0	0
March of Dimes	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	$10	0	$15	0
Personalized	$10	0	$15	$5
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b31) In God We Trust. – The Division must receive 300 or more applications for the In God We Trust plate before the plate may be developed. The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of the In God We Trust plates to the Department of Crime Control and Public Safety to be deposited into The N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership to help provide assistance to the families of North Carolina National Guardsmen who have been activated and deployed in federal service."

SECTION 6. This act is effective when it becomes law.

SENATE BILL 1144:
'In God We Trust' Special Plates

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Thomas
Date:	June 22, 2004	**Summary by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1144 authorizes the Division of Motor Vehicles to issue a special registration plate to the owner of a motor vehicle that bears the phrase 'In God We Trust'. The plate would not be a 'First in Flight' plate, but would have its own unique design. The Division would have to receive at least 300 applications for the plate before it could be issued. The cost of the plate would be $30; of that amount $20 would go to the N.C. Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership to provide emergency financial assistance to members and families of the NC National Guard.***

CURRENT LAW: The Division of Motor Vehicles is authorized to issue more than 100 special license plates. As a general rule, the fee for a special registration plate is the regular vehicle registration fee plus a $10 special registration plate fee. The $10 special registration plate fee is credited to the Special Registration Plate Account. After deducting the cost of the plates from this account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The remaining revenue in the account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Human Resources to promote travel accessibility for disabled persons (17%).

The cost of some special plates includes a fee in additional to the $10 special registration plate fee. In those instances, the first $10 goes to the special registration plate fund and the remainder is transferred quarterly to designated beneficiaries of the additional fee amount.

BILL ANALYSIS: Senate Bill 1144 authorizes DMV to issue a specialized 'In God We Trust' license plate upon the receipt of 300 applications. The plate would be one of only six plates that are authorized to have their own, unique design. The recipient of the plate must pay the regular registration fee plus an additional $20 fee. The additional fee will be distributed as follows:

- $10 to the Special Registration Plate Account (SRPA)
- $20 to the Collegiate and Cultural Attraction Plate Account (CCAPA) to be transferred quarterly to the Department of Crime Control and Public Safety to be deposited into The N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership.

The purpose of the N.C. National Guard Soldiers and Airmen Assistance Fund is to give emergency financial assistance to current members and families of the NC National Guard. The emergency grants or loans are made on a first come, first-serve basis. Funds may be provided for utilities, food, rent, mortgage, and medical needs. Only one grant may be awarded annually to an eligible member. In most cases, payments are made directly to the creditor. A grant or loan may not exceed $500 annually. A council approved by the Adjutant General reviews each request, determines eligibility, and disperses the funds.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1144 (Second Edition)

SHORT TITLE: "In God We Trust" Special Plates.

SPONSOR(S): Senator Thomas

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Highway Fund – Special Registration Plate Acct	$3,000	$3,000	$3,000	$3,000	$3,000
Collegiate and Cultural Attraction Plate Acct	$6,000	$6,000	$6,000	$6,000	$6,000
EXPENDITURES					
Highway Fund – Special Registration Plate Acct	$4,440				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation – Division of Motor Vehicles

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:
The bill authorizes the Division of Motor Vehicles (DMV) to issue a special registration plate with the logo "In God We Trust" to benefit the N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership for assistance to the families of North Carolina National Guardsmen activated and deployed in federal service. The bill allows this special plate to have a different background other than the "First in Flight" plate background.

BACKGROUND:
Neighboring states Virginia and South Carolina have approved the "In God We Trust" special license plates. South Carolina sold 89,000 of the plates in 2003 and sold 33,000 in the first four months of 2004. Louisiana has also approved the plate.

In 2003, North Carolina had 236,446 active personalized plates where the tag owner chooses his/her own letters and numbers. Last year, the state also had 95,607 specialty plates representing various organizations. The Friends of the Great Smokey Mountains National Park had the largest number of plates in 2003 with 6,345.

ASSUMPTIONS AND METHODOLOGY:
This fiscal analysis assumes that the applicants for the "In God We Trust" special plate already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The analysis also assumes the issuance of the minimum 300 license plates in FY 2004-05 and renewal of those plates in the following years. There is a one-time cost of $100 to design a new plate and an average programming cost of $3,560 per plate to change the State Titling and Registration System (STARS). There is also a one-time cost to manufacture the special plate. The cost of a DMV recommended two-color plate is $2.59. For 300 new plates in FY 2004-05, the manufacturing cost is $777 (300 plate minimum X $2.59). The total one-time cost for the new plate is $4,437 and is paid from the Special Registration Plate Account.

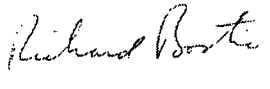
In addition to the normal $20 registration fee, each special plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. For the 300-plate minimum, this account will receive $3,000 a year. The "In God We Trust" plate also has a $20 fee that is deposited into the Collegiate and Cultural Attraction Plate Account then transferred to the Department of Crime Control and Public Safety for the N.C. National Guard Soldiers and Airmen Assistance Fund of The Minuteman Partnership for assistance to the families of North Carolina National Guardsmen activated and deployed in federal service. For the 300 plate minimum, this fund will earn $6,000 a year.

SOURCES OF DATA: Division of Motor Vehicles

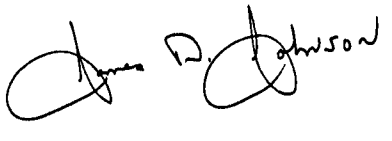
TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Richard Bostic



APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: June 3, 2004

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1144 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE AN "IN GOD WE TRUST" SPECIAL REGISTRATION PLATE WITH THE PROCEEDS GOING TO THE AUBREY MCLELLAN SOLDIER AND AIRMAN ASSISTANCE FUND FOR FAMILIES OF DEPLOYED NORTH CAROLINA NATIONAL GUARDSMEN.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 24, 2004

The House Committee on Finance met on Thursday, June 24, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Glazier, Hackney, Holliman, Lewis, McGee, Munford, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, Dusty Rhodes, and Paul Rucho. Staff persons present included Richard Bostic, Marilyn Chism, David Crotts, Chloe Gossage, Trina Griffin, Martha Harris, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman Wainwright called the meeting to order at 8:35 am and recognized the seven (7) pages present: (1) Katie Harrington of Gaston County, sponsored by Representative Clary; (2) Jeremy Lee of Catawba County, sponsored by Representative Setzer; (3) Emilie Mademann of Iredell County, sponsored by Representative Howard; (4) Johnathan Malini of Guilford County, sponsored by Representative Jeffus; (5) William Stout of Cumberland County, sponsored by Representative Warner; (6) Alyson Webber of Gaston County, sponsored by Representative Clary; and (7) Luke Woodcock of Pender County sponsored by Representative Justice.

As the first matter of business, Chairman Wainwright called upon Senator Bingham to explain: **SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION** (see **attachment 3**). Representative Hill made a motion that the new Proposed Committee Substitute (PCS) for Senate Bill 20 be adopted for the Committee's discussion and that motion carried without objection. This bill was first discussed by the Committee at its' June 23, 2004 morning meeting but was displaced due to the lack of time. A description of the bill is provided in the minutes from that meeting as well as in the attached bill summary. Representative Womble was recognized following Senator Bingham's explanation, and stated his support of the bill in that it protects the consumer. He also asked to hear from the Employment Security Commission on the bill, but no one from the agency was present at the meeting. Representative Hill was recognized next and, stating his status as a small business owner, made a motion that the House PCS for SB 20 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute before the Committee). Seeing no further discussion, Chairman Wainwright then called the motion to a vote and it carried without objection.

The next bill considered by the Committee was **SB 852 – ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS** (see **attachment 4**). Chairman Wainwright recognized

Senator Nesbitt, on behalf of the bill sponsor former Senator Metcalf, to explain the bill. The Senator stated that the bill would provide Internet access by organ procurement organizations and eye banks operating in North Carolina to information in the Division of Motor Vehicles records pertaining to organ donation. Following this brief explanation, Senator Nesbitt then requested that the Chairman refer the bill to a special subcommittee for further discussion and debate. Chairman Wainwright then acted to refer the bill to a special subcommittee composed of the following: Representative Holliman (Chair), Representative McGee, Representative Carney, Representative Ross, and Representative Daughtridge.

HB 1602 – TAX CREDIT FOR CERTAIN REAL PROP. DONATIONS (see **attachment 5**) was the next bill considered by the Committee. Representative Allen moved that the PCS for HB 1602 be adopted for discussion purposes and the motion carried without objection. Chairman Wainwright then recognized Representative McComas, the bill's sponsor, to explain the bill. Representative McComas explained that the bill postpones until 2007 (currently 2005) the imposition on partnerships and limited liability companies of the dollar amount limitation on the credit allowed for real property donations. He also stated that he knew of no opposition to the bill, noting the support of the environmental lobby. The Chair then recognized Representative Luebke who was dissatisfied with the fiscal estimates available on the bill. He further stated that while he agreed with the concept of the bill, the State could not afford to pass it into legislation as its fiscal impact was simply too high. (Fiscal Research estimated the impact at approximately $3.7 million per year for the next two years.) Representative Carney was recognized next by the Chair and asked how many acres had been donated in total under this tax credit. Bill Flurnowe with the North Carolina Department of Environment and Natural Resources (NCDENR) stated that through 2002, 108,900 acres of land had been donated under the credit, valued at an estimated $304 million. Representative Carney then offered her support to the bill, stating that the cost of the credit was far less than what the State would have incurred to purchase the land. Chairman Wainwright then recognized Representative Ellis who moved that the PCS for House Bill 1602 be given a favorable report (with an unfavorable report as to the original bill). As there was no further discussion, Chairman Wainwright then called the motion to a vote and it carried by a majority.

Chairman Wainwright then acted to add **SB 1356 – GIBSONVILLE WHITSETT BOUNDARY** (see **attachment 6**) to the Committee's calendar for immediate consideration. He recognized the bill sponsor, Senator Berger, to explain the bill. The Senator stated that the bill would remove one eight-acre tract of land from the Town of Gibsonville and place it in the Town of Whitsett. He stated that the property is currently in Gibsonville, but is surrounded on all sides by Whitsett. Chairman Wainwright recognized Representative Howard following this explanation. She moved that Senate Bill 1356 be given a favorable report. Seeing no further discussion, the Chair then called the matter to a vote and the motion carried without objection.

Chairman Wainwright recognized Senator Hartsell to explain the next bill considered by the Committee: **SB 1145 – REVENUE LAWS TECHNICAL CHANGES** (see **attachment 7**). Representative Howard moved that the PCS for SB 1145 be before the Committee for discussion. Her motion carried without objection. The Senator then explained that the bill before the Committee made a variety of technical and clarifying changes to the revenue laws of the State. (Further detail of the bill is provided in the attached bill summary.) Chairman Wainwright, following this brief explanation, recognized Representative Wilson who acted to send forth an amendment (see **attachment 8**). Representative Wilson stated that the amendment added the requirement that, under the Bill Lee Act, companies must show a net job increase for the prior 12-month period in order to take and receive the job creation tax credit. She stated that the amendment was non-controversial and that the North Carolina Department of Revenue (NCDOR) did not object. Representative Wilson then moved the adoption of her amendment. Chairman

Wainwright then called the vote on the motion, and the amendment was adopted. The members then engaged in some brief discussion on the bill. Following this, the Chair recognized Representative Ellis who moved that the House Committee Substitute for SB 1145 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute). Chairman Wainwright called the vote and the motion carried by consent.

The Chair again recognized Representative McComas to explain the final bill considered at the meeting: **HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS** (see **attachment 9**). Representative Allen moved that the PCS for HB 1389 be adopted by the Committee for discussion and his motion carried without objection. Representative McComas then explained that the bill was a recommendation of the Joint Legislative Transportation Oversight Study Committee and authorizes the Department of Transportation to issue GARVEE bonds or other eligible debt financing instruments to finance Federal-aid projects. He stated that federal funds would be used to pay a portion of principal, interest, and related bond issuance costs. Representative McComas then acted to send forth an amendment (see **attachment 10**) stating that the DOT must present its implementation plans for the issuance of the GARVEE bonds to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee. He then moved adoption of his amendment and the amendment was adopted. Representative Ellis was then recognized and voiced his concerns on the bill, noting that it could potentially hurt the State if federal funds were withheld at any time in the future. He stated that the bill only places the State in further debt. Chairman Wainwright recognized Representative Howard next who sent forth and moved the adoption of a technical amendment (see **attachment 11**). As there was no discussion, the Chair then called the technical amendment to a vote and it was adopted without objection. A great degree of discussion on the bill then ensued amongst the members. Given this degree of discussion and the lack of adequate time to properly debate the bill, Chairman Wainwright then acted to displace the bill for further discussion at a later Committee meeting.

As the Committee's time had then expired, Chairman Wainwright acted to adjourn the meeting at 10:06 a.m.

Respectfully submitted,

Representative William Wainwright
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 20 (and related materials)
4. Senate Bill 852 (and related materials) (**Referred to Special Subcommittee**)
5. House Bill 1602 (and related materials)
6. Senate Bill 1356 (and related materials)
7. Senate Bill 1145 (and related materials)
8. Wilson Amendment on Senate Bill 1145 (**Adopted**)
9. House Bill 1389 (and related materials) (**Displaced**)
10. McComas Amendment on House Bill 1389 (**Adopted**)
11. Howard Technical Amendment on House Bill 1389 (**Adopted**)
12. House Bill 1760 (and related materials) (**Not Discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 24, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Wainwright

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1389 DOT AUTHORITY TO ISSUE GARVEE BONDS *Rep. McComas*

HB 1602 TAX CREDIT FOR CERTAIN REAL PROP. DONATIONS *Rep. McComas*

HB 1760 NO CREDIT FOR NET JOB LOSS *Rep. Luebke*

SB 20 REGULATE PROFESSIONAL EMPLOYER ORGANIZATION *Sen. Bingham*

SB 852 ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS *Sen. Nesbitt*

SB 1145 REVENUE LAWS TECHNICAL CHANGES *Sen. Hartsell*

Adjournment

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, June 24, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS – Rep. McComas

HB 1602 – TAX CREDIT FOR CERTAIN REAL PROP. DONATIONS – Rep. McComas

HB 1760 – NO CREDIT FOR NET JOB LOSS – Rep. Luebke

SB 20 – REGULATE PROFESSIONAL EMPLOYER ORGANIZATION – Sen. Bingham

SB 852 – ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS – Sen. Nesbitt

SB 1145 – REVENUE LAWS TECHNICAL CHANGES – Sen. Hartsell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **3:15 p.m.** on **June 23, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
A. Holmes	CWMTF
Elizabeth Serf	Intern, Rep. Ross
Mary K Hackney	Intern - Rep. Hackney
Rich Webb	Intern Rep Alexander
Elizabeth Bakanic	Intern, Rep. Weiss
Hugh Tilson	NCHA
Megan Wilson	Z. Smith Reynolds Fdn.
Duke [illegible]	Intern
Kara Brewer	Carolina Donor Services
Jane Corrado	Carolina Donor Services
John Boadish	AOA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marjorie Jernigan	Carolina Donor Services SB852
Teresa Bordeaux	Carolina Donor Services SB852
Cam Cover	BPMHL
DON HOBART	DOC
Harry Kaplan	NCLHW
Frank W. Foley	NCDOT
Bill Flournoy	DENR
Barbara Levine	NCIC
Wayne Hurdle	DMV-DOT
MARK FOSTER	NCDOT
Calvin Leggett	NCDOT

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Angie Corenevsky	Helms Mulliss & Wicker
[illegible]	D. State Treasurer
Andy Sabol	NC DOR
Lennie Collins	NC DOR
Greg Radford	NC DOR
Angie Quinn	NCDOR
Eddie Finch	NCDOR
[illegible]	Cassett Groves
DAVID BARNES	Poyner & Spruill LLP
Chad Essick	Poyner & Spruill, LLP
JIM HOBBS	NCHLA

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 24, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Fred Allen	NC Aggregates Assn.
Jim Blackburn	Association of County Commissioners
Bill Scoggin	KCCH
Kathy Hawkins	Progress Energy
Jerry Haddock	NC Pork Co / Food Banks
Janice Burke	Treasurer's Office

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 20

Finance Committee Substitute Adopted 7/10/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S20-CSLAf-66 [v.5]

6/23/2004 7:29:57 PM

Short Title: Regulate Professional Employer Organization. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 89 of Chapter 58 of the General Statutes is rewritten to read:

"Article 89.

"North Carolina Professional Employer Organization Act.

"Part 1. In General.

"**§ 58-89-1. Title.**

This Article shall be known and may be cited as the "North Carolina Professional Employer Organization Act".

"**§ 58-89-5. Definitions.**

In this Article:

(1) "Applicant" means a person applying for a license or a group license under this Article.

(2) "Assigned employee" means an employee who is performing services for a client company under a contract between a licensee and a client company in which employment responsibilities are shared or allocated. "Assigned employee" does not include a temporary employee. Individuals who are directors, shareholders, partners, and managers of a client company are assigned employees to the extent the licensee and the client have agreed that those individuals are assigned employees and provided that those individuals meet the criteria of this subdivision and act as operational managers or perform reviews for the client company.

(3) "Audited GAAP financial statement" means a financial statement that is audited by an independent certified public accountant and presented in accordance with generally accepted accounting principles.

(4) "Client company" or "client" means a person that contracts with a licensee and is assigned employees by the licensee under that contract.

(5) "Control", including the terms "controlling", "controlled by", and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if any natural person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by rule of the Commissioner. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) "Financial responsibility" means the current and expected future condition of financial solvency sufficient to support a reasonable expectation that an applicant or licensee can successfully conduct its business without jeopardizing the interests of its assigned employees, client companies, or the public.

(7) "Good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for state and federal laws.

(8) "Hazardous financial condition" has the same meaning as in G.S. 58-47-60(9).

(9) "Licensee" means a person licensed under this Article to provide professional employer services. The term includes a professional employer organization group licensed under G.S. 58-89-35(b). Unless specifically stated otherwise in this Article, "licensee" includes persons who are licensed under this Article pursuant to alternative licensing procedures as set forth in G.S. 58-89-76.

(10) "Managed services" means services provided by an organization that is the sole employer of employees whom it supplies to staff and manage a specific portion of a company's workforce or a specific facility within a company on an ongoing basis. The managed services organization has responsibility for ensuring the capabilities and skills of the employees it supplies or provides, for all employer functions, for supervisory responsibility over the employees, and for management accountability of the facility or function.

(11) "PEO agreement" means a written contract by and between a client company and a professional employer organization that provides:
a. For the allocation and sharing between the client company and the licensee of the responsibilities of employers with respect to the assigned employees, including hiring, firing, and disciplining of employees; and
b. That the licensee and the client company assume the responsibilities required by this Article.

(12) "Person" has the same meaning as in G.S. 58-1-5(9).

(13) "Personnel placement service" means a job placement service offered through an organization that assists persons seeking employment to find a job with companies that are seeking employees. Companies that hire persons through a personnel placement service are the sole employers of the persons hired, and the personnel placement service does not have any responsibility as an employer.

(14) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee. "Professional employer leasing services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision.

(15) "Professional employer organization" or "PEO" means a person that offers professional employer services and includes "staff leasing services companies", "employee leasing companies", "staff leasing companies", and "administrative employers" who offer or propose to offer professional employer services in this State.

(16) "Professional employer organization group" or "PEO group" means a combination of professional employer organizations that operates under a group license issued under this Article or is otherwise subject to group licensure requirements under G.S. 58-89-35(b).

(17) "Temporary employees" means persons employed under an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client's workforce in a special work situation, including:

a. An employee absence;
b. A temporary skill shortage;
c. A seasonal workload; or
d. A special assignment or project.

"**§ 58-89-10. North Carolina Professional Employer Organization Advisory Council.**

(a) There is created the North Carolina Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner on the regulation of professional employer organizations, as requested by the Commissioner. The Council shall consist of 11 members as follows:

(1) The Commissioner of Insurance or the Commissioner's designee, ex officio.

(2) The Commissioner of Labor or the Commissioner's designee, ex officio.

(3) The Chair of the North Carolina Industrial Commission or the Chair's designee, ex officio.

(4) Two members appointed by the Governor, from a list of five persons recommended by the North Carolina Industrial Commission.

(5) Two members appointed by the Governor who are not involved directly or indirectly with the professional employer services industry.

(6) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate.

(7) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has 3,000 or more assigned employees.

(8) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives.

(9) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has less than 3,000 assigned employees.

Initial terms begin January 1, 2005.

(b) Other than the initial members of the Council and members of the Council serving ex officio, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

(1) The following initial members shall serve terms of three years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

c. One member appointed by the Governor who is not directly involved with the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the House of Representatives who is involved with a professional employer organization.

(2) The following initial members shall serve terms of two years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

c. One member appointed by the Governor who is not directly or indirectly involved in the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who is involved with a professional employer organization.

(c) The Commissioner of Insurance shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Insurance shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

"**§ 58-89-15. Rules.**

(a) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this Article.

(b) Each licensee and each person subject to licensure requirements under this Article are subject to the provisions of this Article and to the rules adopted by the Commissioner.

(c) Nothing in this Article preempts the existing statutory or rule-making authority of any other State agency or entity to regulate professional employer services in a manner consistent with the statutory authority of that State agency or entity.

"**§ 58-89-20. Interagency cooperation.**

A State agency, in performing duties under other law that affects the regulation of professional employer services, shall cooperate with the Commissioner as necessary to implement, administer, and enforce this Article.

"**§ 58-89-25. Effect of other law on client companies and assigned employees.**

(a) This Article does not exempt a client company of a licensee, or any assigned employee, from any other license requirements imposed under local, State, or federal law.

(b) An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification.

(c) A licensee is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a State agency or other political subdivision of the State, including a county or city, by entering into a PEO agreement with a client company and assigned employees.

(d) With respect to a bid, contract, purchase order, program, or agreement entered into with the State or a political subdivision of the State, or State program or benefit otherwise available to a client company, a client company's status, certification, or qualification pursuant to the bid, contract, benefit, program, agreement, or State program shall not be affected because the client company has entered into an agreement with a licensee or utilizes the services of a licensee.

(e) Nothing in this Article or in any PEO agreement or other professional employer services contract shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client company, professional employer organization, or any assigned employee under the National Labor Relations Act, 29 U.S.C. § 151, et seq.

"**§ 58-89-30. Other provisions of this Chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, and 58-3-100 shall apply to all persons licensed under this Article and all persons subject to licensure requirements under this Article.

"**§ 58-89-31. Tax credits and other incentives.**

For purposes of determination of tax credits and other economic incentives provided by the State and based on employment, covered employees are considered employees solely of the client. A client shall be entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of covered employees of the client. Each professional employer organization must provide, upon request by a client, employment information that is required by any agency or department of the State responsible for administration of any tax credit or economic incentive and that is necessary to support a request, claim, application, or other action by a client seeking the tax credit or economic incentive.

"Part 2. License Requirements and Limitations.

"**§ 58-89-35. License required; professional employer organization groups.**

(a) No person shall engage in or offer professional employer services in this State unless the person holds a license issued under this Article.

(b) Two or more professional employer organizations that are controlled by the same ultimate parent, entity, or persons may be licensed as a professional employer organization group. A professional employer organization group may satisfy the reporting and financial requirements of this Article on a consolidated basis. As a condition of licensure as a professional employer organization group, each professional employer organization that is a member of the group shall guarantee payment of all financial obligations of every other member. Notwithstanding the definition of "person" in this Article, whenever two or more entities combine to seek issuance of a single license under this Article, the requirements for group licensure under this subsection shall be met before issuance of a license and any license issued will be a group license issued pursuant to this subsection.

"**§ 58-89-40. Qualifications for controlling person.**

(a) To be qualified to serve as a controlling person of a licensee under this Article, the controlling person shall be at least 18 years of age, be of good moral character, and have educational, managerial, or business experience relevant to:

(1) Operation of a professional employer organization; or

(2) Service as a controlling person of a professional employer organization.

(b) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76 or to entities that are controlling persons.

"**§ 58-89-45. Reserved.**

"**§ 58-89-50. Surety bond; letter of credit.**

(a) An applicant for licensure shall file with the Commissioner a surety bond in the amount of one hundred thousand dollars ($100,000) in favor of the State of North Carolina.

(b) The surety bond required by this section shall be in a form acceptable to the Commissioner, issued by an insurer authorized by the Commissioner to write surety business in this State, and maintained in force while the license remains in effect or any obligations or liabilities of the applicant, licensee or PEO previously licensed by this State remain outstanding.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is provided to the Commissioner.

(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.

(e) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(f) In lieu of the surety bond required by this section, an applicant may submit to the Commissioner an irrevocable letter of credit in a form acceptable to the Commissioner issued by a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or may maintain on deposit with the Commissioner an amount equal to the amount required under subsection (a) of this

section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject to the same conditions as the surety bond.

(g) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

"**§ 58-89-55. Reserved.**

"**§ 58-89-60. License application.**

(a) Every applicant for licensure shall file with the Commissioner, on a form prescribed by the Commissioner, the following information:

(1) The name, organizational structure, and date of organization of the applicant, the addresses of the principal office and of all offices in this State, the name of the contact person, the type of operations within this State, and the taxpayer or employer identification number.

(2) A list by jurisdiction of each name under which the applicant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, names of successor business entities. The list required by this subdivision shall include the parent company name and any trade name, trademark, or service mark of the applicant.

(3) A list of all officers and controlling persons of the applicant, their biographical information, including their management background, and an affidavit from each attesting to his or her good moral character and management competence.

(4) The location of the business records of the applicant.

(5) An attestation, executed by the chief financial officer and chief executive officer of the applicant, that the applicant is current as of the date the application is submitted with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any such obligations are in dispute with a client as of the date the application is submitted and the disputed amount is material when considered in the context of the applicant's most recent audited financial statement, then the applicant shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

(6) Any other information the Commissioner deems necessary and requires by rule to establish that the applicant and the officers and controlling persons are of good moral character, have business integrity, and have financial responsibility.

(b) Every applicant shall file with the Commissioner evidence of financial responsibility. Evidence of financial responsibility includes an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or licensee is not in a hazardous financial condition and attached to which is a separate document signed by the chief executive and the chief financial officer certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or

misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may, in the Commissioner's discretion, accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commissioner if the Commissioner deems such acceptance appropriate. The Commissioner may, in the Commissioner's discretion, impose conditions upon such acceptance of financial statements prepared more than 90 days prior to submission.

(c) Every applicant shall submit to the Commissioner the application fee pursuant to G.S. 58-89-65.

(d) Every applicant shall furnish the Commissioner a complete set of fingerprints and a recent photograph in a form prescribed by the Commissioner of each officer, director, and controlling person. Each set of fingerprints shall be certified by an authorized law enforcement officer.

Upon request by the Department, the Department of Justice shall provide to the Department from the State and National Repositories of Criminal Histories the criminal history of any applicant and the officer, director, and controlling person of any applicant. Along with the request, the Department shall provide to the Department of Justice the fingerprints of the person that is the subject of the request, a form signed by the person that is the subject of the request consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department shall keep all information obtained pursuant to this subsection confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(e) An application for licensure of a professional employer organization group shall contain the information and submissions required by this section for each member of the group.

(f) No application is complete until the Commissioner has received all information and submissions required under subsections (a) through (e) of this section. Subsections (a) through (e) of this section do not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

(g) The Commissioner may deny the license of an applicant under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds that a controlling person has:

(1) Made any untrue material statement regarding the background or experience of any controlling person;

(2) Violated, or failed to comply with, any professional employer services law or any rule or order of the Commissioner or of any other State official responsible for the regulation of professional employer services;

(3) Obtained or attempted to obtain the license through misrepresentation or fraud;

(4) Been convicted of a felony;

(5) Been found in a final judgment or administrative proceeding to have committed fraud or an unfair trade practice; or

(6) Been a controlling person in another professional employer organization that has had its license or registration suspended, terminated, or revoked by any state.

(h) If the Commissioner finds that the applicant has not fully met the requirements for licensure, the Commissioner shall refuse to issue the license and shall notify the applicant in writing of the denial, stating the grounds for the denial. The application may also be denied for any reason for which a license may be suspended or terminated under G.S. 58-89-155. To obtain a review to determine the reasonableness of the Commissioner's denial, the applicant shall make written demand upon the Commissioner within 30 days after notice is given under G.S. 150B-38(c). The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. If the applicant disagrees with the outcome of the review and seeks a hearing, under Article 3A of Chapter 150B of the General Statutes, on the outcome of the review, the applicant shall make a written demand upon the Commissioner for the hearing within 30 days after notice of the outcome of the review is given under G.S. 150B-38(c).

(i) Removal, demotion, or discharge of a controlling person in response to an order of the Commissioner of the alleged unsuitability of that person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge.

(j) The Commissioner may, in the Commissioner's discretion, waive the required evaluation of an officer, director or controlling person if that officer, director or controlling person has been evaluated previously under this Article.

(k) After denial, suspension, or termination of a license, and before issuing a new license or reinstating a license, the Commissioner shall review and consider:

(1) The extent to which the applicant or licensee has adequately corrected any problems; and

(2) Whether the applicant or licensee has demonstrated that the applicant or licensee had exercised due diligence to avoid the reason or reasons for the denial or termination.

The applicant or licensee bears the burden of proof with respect to subdivisions (1) and (2) of this subsection.

"**§ 58-89-65. Fees.**

(a) Each applicant for a professional employer organization license or limited professional employer organization license shall pay to the Commissioner, before the issuance of the license, a nonrefundable application fee of one thousand dollars ($1,000).

(b) Each licensee shall pay to the Commissioner when filing the information required under G.S. 58-89-70(d) an annual filing fee of one thousand dollars ($1,000).

(c) Each applicant for alternative licensing under G.S. 58-89-76 and each applicant for renewal of a license provided under G.S. 58-89-76 shall pay to the Commissioner, before issuance or renewal of the license, a fee of five hundred dollars ($500.00).

(d) When the Commissioner finds that a licensee has committed an act that is a ground for disciplinary violation under G.S. 58-89-155 or that a licensee has committed a prohibited act in violation of G.S. 58-89-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article.

"**§ 58-89-70. License issuance and maintenance.**

(a) The Commissioner shall issue a license to an applicant whom the Commissioner determines has satisfied the requirements of this Article not later than the 90th day after the date on which the completed application is filed with the Commissioner. The Commissioner shall notify an applicant of any deficiency in the application not later than the 60th day after the date on which the Commissioner receives the application.

(b) A license issued by the Commissioner under this Article shall remain in effect until revoked, suspended, surrendered, or otherwise terminated.

(c) By obtaining licensure under this Article, the controlling persons of a licensee certify, under penalty of law, their compliance with the requirements of licensure and of operation as a professional employer organization pursuant to this Article.

(d) Within 120 days after the end of each fiscal year, each licensee shall file with the Commissioner all of the following information:

(1) Evidence of "financial responsibility" as set forth in G.S. 58-89-60(b).

(2) Any information required by G.S. 58-89-60(a) for which there has been a change since the last or initial filing. Any change of controlling

persons may subject the licensee to a background investigation of those controlling persons as required by G.S. 58-89-60.

(3) The annual filing fee, pursuant to G.S. 58-89-65.

(4) Any other information the Commissioner determines is needed for the review of a licensee.

(e) In order to maintain licensure, each licensee may be required to file with the Commissioner no later than 45 days after the end of each quarter of the fiscal year:

(1) A financial statement for the preceding quarter that is not audited but is set forth in a format similar to the annual audited GAAP financial statement; and

(2) An attestation, executed by the chief financial officer and the chief executive officer of the licensee, that the licensee is current with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any of the obligations listed in this subdivision are in dispute with a client and the disputed amount is material when considered in the context of the licensee's most recent audited financial statement, then the licensee shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

"**§ 58-89-75. Limited license.**

The Commissioner, by rule, shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State.

"**§ 58-89-76. Alternative licensing.**

The Commissioner, by rule, may provide for the acceptance of an affidavit by a bonded, independent, and qualified assurance organization that has been approved by the Commissioner certifying the qualifications of a professional employer organization for licensing under this Article in lieu of the requirements of G.S. 58-89-40 through G.S. 58-89-60. A professional employer organization licensed under this section shall be exempt from the provisions of G.S. 58-89-70(c), (d), and (e).

"**§ 58-89-80. License not assignable; change of name or location.**

(a) A licensee shall not conduct business under any name other than that specified in the license. A license issued under this Article is not assignable. A licensee shall not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. The Commissioner shall not authorize the use of a name that is so similar to that of a public office or agency or to that of another licensee that the public may be confused or misled by the name's use. A licensee shall not conduct business under more than one name unless the licensee has obtained a separate license for each name or the licensee is operating under a group license pursuant to G.S. 58-89-35.

(b) Except as provided in this subsection, a licensee may change the licensee's licensed name only once in a calendar year by notifying the Commissioner and paying a fee for the change of name. The fee for a name change shall be fifty dollars ($50.00). A licensee may change the licensee's name without the payment of the name change fee if the name change is submitted with the information required by G.S. 58-89-70(d). If a

licensee has changed its name once during a calendar year, the licensee shall not change its name again unless the name change is approved by the Commissioner.

(c) A licensee shall notify the Commissioner in writing within 30 days of any change in the status of the licensee, including:

(1) Any change in the location of the licensee's primary business office;

(2) The addition of or change in the location of any other business offices providing professional employer services in this State; and

(3) A change in the location of business records maintained by the licensee.

(d) A licensee may advertise in this State using only the name that is on the license issued by the Commissioner.

(e) Each written proposal provided to a prospective client company and each PEO agreement between a licensee and a client company or assigned employee shall clearly identify the name of the licensee.

"**§ 58-89-85. Supervision; rehabilitation; liquidation.**

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is bankrupt or in a hazardous financial condition, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter.

"**§ 58-89-90. Reserved.**

"Part 3. Licensee Duties and Responsibilities.

"**§ 58-89-95. Agreement; notice.**

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. This written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.

"**§ 58-89-100. Contract requirements.**

A contract between a licensee and a client company shall provide:

(1) That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a client company may retain such sufficient direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it

may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.

(2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.

(3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.

(4) That the licensee reserves a right to hire, fire, and discipline the assigned employees.

(5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.

(6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement.

"**§ 58-89-105. Employee benefit plans; required disclosure; other reports.**

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(b) A client company may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(c) If a licensee offers to its assigned employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(1) Utilize a third-party administrator licensed or registered to do business in this State;

(2) Hold all plan assets, including participant contributions, in a trust account; and

(3) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(d) For purposes of this section, a "health benefit plan that is not fully insured by an authorized insurer" includes any arrangement except an arrangement under which an insurance company licensed to write insurance in this State has issued an insurance policy that covers all of the obligations of the health benefit plan.

"**§ 58-89-110. Workers' compensation insurance.**

(a) A licensee or the licensee's client company shall provide workers' compensation insurance coverage through a licensed insurance carrier or a licensed

self-insurance plan for the licensee's assigned employees as provided in Chapter 97 of the General Statutes, the Workers' Compensation Act. To the extent that the licensee secures and maintains workers' compensation coverage for assigned employees, the carrier may elect to provide such coverage to the licensee pursuant to either the multiple coordinated policy method, as set forth in subsection (b) of this section, or the single policy method, as set forth in subsection (c) of this section.

(b) If the licensee provides workers' compensation coverage pursuant to the multiple coordinated policy method, the licensee shall secure a separate policy for each client company of the licensee. Each policy shall identify the name of the client company and the licensee. The licensee shall be named as the insured and identify the client company. The licensee shall specify that it is the labor contractor for the client company by using the designation "L/C/F" on the policy.

Each policy shall expire on the same date. The policy shall not include coverage for nonleased employees of the client company or employees solely employed by the licensee. Only the licensee, as the first-named insured under such a policy, may request the insurer to cancel the policy. Each policy shall be sent to the licensee as the named insured.

The client company of a licensee shall have a continuing obligation to provide coverage as required by Chapter 97 of the General Statutes, the Workers' Compensation Act, for any employees of the client company who are not assigned employees and not otherwise covered under a policy described in this subsection.

If a client company of a licensee leases employees from more than one licensee, there shall be a separate policy for the assigned employees of each licensee.

The workers' compensation carrier also shall issue a policy covering the internal employees of the licensee unless they are otherwise covered.

All policies written in accordance with this subsection by the same insurance carrier that reference the same licensee as labor contractor shall be combined for premium discount purposes.

When policies written in accordance with this subsection are written by the same insurance carrier, the carrier and licensee may agree to a retrospective rating program or any other permitted pricing program.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

(c) If the licensee provides workers' compensation coverage pursuant to the single policy method, the insurer shall issue to the licensee a single policy covering all assigned employees in this State in accordance with Chapter 97 of the General Statutes, the Workers' Compensation Act, and any other applicable laws or rating plans of this State.

As a condition of issuing a single policy, the licensee shall provide to the insurer of the policy all of the following information regarding each client company of the licensee with assigned employees in this State:

(1) The correct legal name, any fictitious names, and the federal identification number.

(2) The name and address of the president and chief executive officer.
(3) The business mailing address.
(4) The business telephone number and facsimile number.

The licensee shall also provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

The insurer shall issue to each client company of the licensee a certificate of insurance on the single policy. The certificate of insurance shall require that the insurer provide notice of cancellation to the licensee and the client company of the licensee.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

If the insurer fails to provide individual notices of cancellation to the licensee and the client company, the insurer shall remain liable on the risk for losses incurred by the client company that would have been covered by the workers' compensation policy prior to the attempted cancellation.

(d) A license shall not be issued to any professional employer organization unless the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, and that the premium paid by the licensee is commensurate with exposure and anticipated claim experience for all employees covered under policies in the name of the licensee.

(e) Each licensee shall maintain and make available to its workers' compensation carrier on an annual basis the following information:

(1) The correct name and federal identification number of each client company.
(2) A listing of all covered employees provided to each client company, by classification code.
(3) The total eligible wages, by classification code, and the premiums due to the carrier for the employees provided to each client company.
(4) Sufficient information to permit the calculation of an experience modification factor for each client company upon termination of the professional employer relationship. Information accruing during the term of the leasing arrangement that is used to calculate an experience modification factor for a client company upon termination of the leasing relationship shall continue to be used in the future experience ratings of the licensee.

(f) Every Form 19 "Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission" filed with the Industrial Commission shall identify by name and address both the licensee and the client company employing the employee who is the subject of the Form 19.

(g) A licensee shall, within 30 days of initiation or termination of the licensee's relationship with any client company, notify its workers' compensation carrier, the Commissioner, and the North Carolina Industrial Commission of both the initiation and

termination of the relationship. If the client company terminates the relationship between the licensee and the client company, the notice required by this subsection shall be given within 10 days of the licensee's actual knowledge of the termination.

(h) If the professional employer services arrangement with a client company is terminated, the client company shall be assigned an experience modification factor that reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for assigned employees under the PEO agreement.

(i) A client company shall not enter into a PEO agreement or be eligible for workers' compensation coverage in the voluntary market if the client-workers' company owes its current or prior carrier any premium for workers' compensation insurance, or if the client company owes its current or prior professional employer organization amounts due under the PEO agreement, except for premiums or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and rules, a licensee may rely on a statement by the client company that the client company has met any and all prior premium or fee obligations, unless the licensee has actual knowledge to the contrary.

(j) This section shall not prevent a client company of a licensee from providing workers' compensation insurance coverage for assigned employees coemployed by the client company and the licensee through a policy of insurance issued by a licensed insurance carrier in the name of the client company as the insured.

(k) Irrespective of whether the licensee or client company maintains the policy of workers' compensation insurance for the covered employees pursuant to the PEO agreement, the licensee and the client company shall be entitled to the exclusivity of the remedy under both the workers' compensation and the employer liability provision of the workers' compensation policy or plan that either party has secured and shall both be afforded the protections provided under Chapter 97 of the General Statutes. The licensee shall be entitled, along with the client company, to the exclusivity of the remedy under both the workers' compensation and employers' liability provision of the workers' compensation policy or plan that either party has secured.

(l) All assigned risk policies for client companies of the same licensee shall be assigned to one workers' compensation carrier in the State and in other states to the extent possible.

"**§ 58-89-112. Liabilities.**

Subject to any contrary provisions thereof, the PEO agreement shall be interpreted for purposes of insurance, bonding, and employer's liability as follows:

(1) A licensee is not liable for the acts, errors, or omissions of a client company or of any assigned employee or for the quality, adequacy, or safety of the goods or services produced or sold in the client company's business. A client company is not liable for the acts, errors, or omissions of a licensee or of any employee of a licensee. Nothing in this section limits any contractual liability between a licensee and the client company or limits any liability or responsibility under this Article.

(2) Employees assigned to a client company by a licensee are the employees of the client company for the purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client company unless the employees are included by specific reference in the applicable PEO agreement, insurance contract, or bond.

"**§ 58-89-115. Benefit plan notice.**

(a) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall disclose all of the following information to the Commissioner and each client company:

(1) The type of coverage.

(2) The identity of each insurer for each type of coverage.

(3) The amount of benefits provided for each type of coverage and to whom or on whose behalf benefits are to be paid.

(4) The policy limits on each insurance policy.

(5) Whether the coverage is fully insured, partially insured, or fully self-funded.

(b) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

(c) Whenever any insurance policy or benefit plan is cancelled, the insurance company writing the policy shall provide a notice of cancellation as required by this Chapter.

(d) The licensee shall notify the client company and the Commissioner in writing about a discontinuance and replacement, if any, of any health plan or workers' compensation insurance coverage no later than 10 business days after the discontinuance.

(e) The Commissioner, by rule, may require a licensee to file other reports that are reasonably necessary for the administration and enforcement of this Article.

"**§ 58-89-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95 and 96 of the General Statutes. The Employment Security Commission shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the Employment Security Commission.

"**§ 58-89-125. Posting requirements.**

(a) Each licensee shall post the license issued under this Article in a conspicuous place in the licensee's principal place of business in this State.

(b) Each licensee shall display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is licensed and regulated by the Commissioner and that any questions or complaints may be directed to the Commissioner.

"**§ 58-89-130. Contractual duties.**

Each licensee is responsible for the licensee's contractual duties and responsibilities to manage, maintain, collect, and make timely payments for all of the following:

(1) Insurance premiums.

(2) Benefit and welfare plans.

(3) Other employee withholding.

(4) Any other expressed responsibility that is within the scope of the PEO agreement and that fulfills the duties imposed under this Article.

"**§ 58-89-135. Compliance with other laws.**

Each licensee shall comply with all appropriate State and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

"**§ 58-89-140. Required information.**

Each licensee shall:

(1) Maintain adequate books and records regarding the licensee's duties and responsibilities, including accounting and employment records relating to all PEO agreement activities, for a minimum of three years.

(2) Maintain and make available at all times to the Commissioner the following information, which shall be treated as proprietary and confidential and which is exempt from disclosure to persons other than other governmental agencies that have a reasonable, legitimate purpose for obtaining the information:

a. The correct name, address, and telephone number of each client company.

b. Each client company contract or PEO agreement.

c. A listing of each client company by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget.

"**§ 58-89-145. Examinations.**

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may, in the Commissioner's discretion, accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"**§ 58-89-150. Agent for service of process.**

Each resident licensee shall maintain a registered agent for the service of process in this State. The Commissioner shall be each nonresident licensee's agent for service of process as provided in Article 16 of this Chapter.

"Part 4. Penalties and Sanctions.

"**§ 58-89-155. Grounds for disciplinary action.**

(a) The Commissioner may take disciplinary action against a licensee or any person subject to licensure requirements under this Article on any of the following grounds:

(1) Being convicted or having an officer or controlling person of the licensee convicted of:

a. Bribery, fraud, or intentional or material misrepresentation in obtaining or attempting to obtain a license;

b. A crime that relates to the operation of a professional employer organization or the ability of the licensee or any officer or controlling person of the licensee to operate a professional employer organization;

c. A crime that relates to the classification, misclassification, or underreporting of employees required by State law;

d. A crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance;

e. A crime that relates to fraud, deceit, or misconduct in the operation of a professional employer service; or

f. A crime that involves dishonesty or breach of trust.

(2) Engaging in professional employer services or offering to engage in the provision of professional employer services without a license.

(3) Failure to provide notice in writing of the discontinuance and replacement, if any, of any insurance coverage, to the Commissioner and client company within 10 business days of the discontinuance of any insurance coverage pursuant to G.S. 58-89-115.

(4) Failure to provide the notice required by G.S. 58-50-40.

(5) Failure to satisfy any of the requirements for licensure in this Article.

(b) For purposes of this section, a conviction includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

"**§ 58-89-160. Sanctions.**

(a) On a finding that a ground for disciplinary action exists under G.S. 58-89-155, the Commissioner may suspend or terminate a license, impose a civil penalty, and seek an order of restitution under G.S. 58-2-70.

(b) On termination of a license, the licensee shall immediately return the terminated license to the Commissioner.

(c) Any disciplinary action taken, any temporary or permanent termination of a license, or any determination that an officer or controlling person is unqualified shall be made by the Commissioner subject to Article 3A of Chapter 150B of the General Statutes.

"**§ 58-89-165. Injunctions; civil remedies; cease and desist orders.**

(a) In addition to the penalties and other enforcement provisions of this Article, if any person violates this Article or any rule implementing this Article, the Commissioner

may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Article, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(c) When the Commissioner finds that an activity in violation of this Article presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(d) In addition to the penalties and other enforcement provisions of this Article, any person who violates this Article is subject to G.S. 58-2-70.

(e) The Commissioner is not required to post a bond for injunctive relief under this section.

"**§ 58-89-170. Prohibited acts.**

No person shall do any of the following:

(1) Engage in or offer professional employer services without holding a license under this Article as a professional employer organization.

(2) Use the name or title "staff leasing company", "employee leasing company", "licensed staff leasing company", "staff leasing services company", "professional employer organization", or "administrative employer" or otherwise represent that the person is licensed under this Article unless the person holds a license issued under this Article.

(3) Represent as the person's own the license of another person or represent that a person is licensed if the person does not hold a license.

(4) Give materially false or forged evidence to the Commissioner in connection with obtaining or maintaining a license or in connection with disciplinary proceedings under this Article.

(5) Use or attempt to use a license that has been suspended or terminated.

"**§ 58-89-175. Criminal penalty.**

A person who violates G.S. 58-89-170 commits a Class H felony. Any officer or controlling person who willfully violates any provision of this Article may be subject to any and all criminal penalties available under State law.

"**§ 58-89-180. Application to unlicensed professional employer organizations.**

Notwithstanding any other provision of law, each provision in this Article applies to persons subject to licensure under this Article, whether licensed under this Article or not."

SECTION 2. The Department of Insurance shall report to the 2005 General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the Department shall recommend any statutory changes required to regulate professional employer organizations and enforce Article 89 of Chapter 58 of the General Statutes.

SECTION 3. A person registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act may continue to operate pending approval of the person's application for a license as long as the application is filed with the Commissioner no later than April 1, 2005. If the application for licensure is denied, the person shall cease offering professional employer services in this State. A person not registered to engage in and offer professional employer services in this State, pursuant to G.S. 58-89-15, on the last day prior to the effective date of this act shall not engage in or offer professional employer services in this State until the person has been issued a license under this act.

SECTION 4. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5. This act becomes effective January 1, 2005, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 20

Finance Committee Substitute Adopted 7/10/03

Short Title: Regulate Professional Employer Organization. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 89 of Chapter 58 of the General Statutes is rewritten to read:

"Article 89.

"North Carolina Professional Employer Organization Act.

"Part 1. In General.

"**§ 58-89-1. Title.**

This Article shall be known and may be cited as the "North Carolina Professional Employer Organization Act".

"**§ 58-89-5. Definitions.**

In this Article:

(1) "Applicant" means a person applying for a license or a group license under this Article.

(2) "Assigned employee" means an employee who is performing services for a client company under a contract between a licensee and a client company in which employment responsibilities are shared or allocated. "Assigned employee" does not include a temporary employee. Individuals who are directors, shareholders, partners, and managers of a client company are assigned employees to the extent the licensee and the client have agreed that those individuals are assigned employees and provided that those individuals meet the criteria of this subdivision and act as operational managers or perform reviews for the client company.

(3) "Audited GAAP financial statement" means a financial statement that is audited by an independent certified public accountant and presented in accordance with generally accepted accounting principles.

(4) "Client company" means a person that contracts with a licensee and is assigned employees by the licensee under that contract.

(5) "Control", including the terms "controlling", "controlled by", and "under common control with" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if any natural person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by rule of the Commissioner. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(6) "Financial responsibility" means the current and expected future condition of financial solvency sufficient to support a reasonable expectation that an applicant or licensee can successfully conduct its business without jeopardizing the interests of its assigned employees, client companies, or the public.

(7) "Good moral character" means a personal history of honesty, trustworthiness, fairness, a good reputation for fair dealings, and respect for the rights of others and for State and federal laws.

(8) "Hazardous financial condition" has the same meaning as in G.S. 58-47-60(9).

(9) "Licensee" means a person licensed under this Article to provide professional employer services. The term includes a professional employer organization group licensed under G.S. 58-89-35. Unless specifically stated otherwise in this Article, "licensee" includes persons who are licensed under this Article pursuant to alternative licensing procedures as set forth in G.S. 58-89-76.

(10) "Managed services" means services provided by an organization that is the sole employer of employees whom it supplies to staff and manage a specific portion of a company's workforce or a specific facility within a company on an ongoing basis. The managed services organization has responsibility for ensuring the capabilities and skills of the employees it supplies or provides, for all employer functions, for supervisory responsibility over the employees, and for management accountability of the facility or function.

(11) "PEO agreement" means a written contract by and between a client company and a professional employer organization that provides:

a. For the allocation and sharing between the client company and the licensee of the responsibilities of employers with respect to the assigned employees, including hiring, firing, and disciplining of employees; and

b. That the licensee and the client company assume the responsibilities required by this Article.

(12) "Person" has the same meaning as in G.S. 58-1-5(9).

(13) "Personnel placement service" means a service that offers job placement services in which the personnel placement service organization assists persons interested in finding a job with companies that are seeking employees. Companies that hire persons through a personnel placement service are the sole employers of the persons hired, and the personnel placement service does not have any responsibility as an employer.

(14) "Professional employer services" means an arrangement by which employees of a licensee are assigned to work at a client company and in which employment responsibilities are in fact shared by the licensee and the client company in accordance with G.S. 58-89-100, the employee's assignment is intended to be of a long-term or continuing nature, rather than temporary or seasonal in nature, and a majority of the workforce at a client company work site or a majority of the personnel of a specialized group within that workforce consists of assigned employees of the licensee. "Professional employer leasing services" does not include services that provide temporary employees or independent contractors, a personnel placement service, managed services, payroll services that do not involve employee staffing or leasing, the sharing of employees by commonly owned companies within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended, or similar groups that do not meet the requirements of this subdivision.

(15) "Professional employer organization" means a person that offers professional employer services and includes "staff leasing services companies", "employee leasing companies", "staff leasing companies", and "administrative employers" who offer or propose to offer professional employer services in this State.

(16) "Professional employer organization group" means a combination of professional employer organizations that operates under a group license issued under this Article.

(17) "Temporary employees" means persons employed under an arrangement by which an organization hires its own employees and assigns them to a client company to support or supplement the client's workforce in a special work situation, including:

a. An employee absence;

b. A temporary skill shortage;

c. A seasonal workload; or
d. A special assignment or project.

"**§ 58-89-10. North Carolina Professional Employer Organization Advisory Council.**

(a) There is created the North Carolina Professional Employer Organization Advisory Council to advise, consult with, and make recommendations to the Commissioner on the regulation of professional employer organizations, as requested by the Commissioner. The Council shall consist of 11 members as follows:

(1) The Commissioner of Insurance or the Commissioner's designee, ex officio.
(2) The Commissioner of Labor or the Commissioner's designee, ex officio.
(3) The Chair of the North Carolina Industrial Commission or the Chair's designee, ex officio.
(4) Two members appointed by the Governor, from a list of five persons recommended by the North Carolina Industrial Commission.
(5) Two members appointed by the Governor who are not involved directly or indirectly with the professional employer services industry.
(6) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate.
(7) One member appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has 3,000 or more assigned employees.
(8) One member of the General Assembly, appointed by the General Assembly in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives.
(9) One member appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, who is a representative of the professional employer services industry and who is involved with a professional employer organization that has less than 3,000 assigned employees.

Initial terms begin January 1, 2004.

(b) Other than the initial members of the Council, members of the Council shall serve three-year terms. Initial members of the Council shall serve staggered terms as follows:

(1) The following initial members shall serve terms of three years:
a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.
b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

c. One member appointed by the Governor who is not directly involved with the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the House of Representatives who is involved with a professional employer organization.

(2) The following initial members shall serve terms of two years:

a. One member appointed by the Governor from the list recommended by the North Carolina Industrial Commission.

b. The member of the General Assembly appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

c. One member appointed by the Governor who is not directly or indirectly involved in the professional employer services industry.

d. The member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who is involved with a professional employer organization.

(c) The Commissioner of Insurance shall serve as chair of the Council and shall call all meetings of the Council.

(d) The Governor may remove any member of the Council appointed by the Governor for misconduct, incompetence, or neglect of duty. The General Assembly may remove any member appointed by it for the same reasons. The appointing authority making the original appointment shall appoint successors.

(e) All vacancies occurring on the Council shall be filled, for the unexpired term, by the appointing authority making the original appointment. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

(f) The Department of Insurance shall furnish the Council with meeting space and clerical and other services required by the Council to conduct its business.

(g) The members of the Council shall not receive compensation or per diem for their service on the Council.

"**§ 58-89-15. Rules.**

(a) The Commissioner may adopt rules necessary to implement, administer, and enforce the provisions of this Article.

(b) Each licensee is subject to this Article and to the rules adopted by the Commissioner.

(c) Nothing in this Article preempts the existing statutory or rule-making authority of any other State agency or entity to regulate professional employer services in a manner consistent with the statutory authority of that State agency or entity.

"**§ 58-89-20. Interagency cooperation.**

A State agency, in performing duties under other law that affects the regulation of professional employer services, shall cooperate with the Commissioner as necessary to implement, administer, and enforce this Article.

"**§ 58-89-25. Effect of other law on client companies and assigned employees.**

(a) This Article does not exempt a client company of a licensee, or any assigned employee, from any other license requirements imposed under local, State, or federal law.

(b) An employee who is licensed, registered, or certified under law and who is assigned to a client company is considered to be an employee of the client company for the purpose of that license, registration, or certification.

(c) A licensee is not engaged in the unauthorized practice of an occupation, trade, or profession that is licensed, certified, or otherwise regulated by a State agency or other political subdivision of the State, including a county or city, by entering into a PEO agreement with a client company and assigned employees.

(d) With respect to a bid, contract, purchase order, program, or agreement entered into with the State or a political subdivision of the State, or State program or benefit otherwise available to a client company, a client company's status, certification, or qualification pursuant to the bid, contract, benefit, program, agreement, or State program shall not be affected because the client company has entered into an agreement with a licensee or utilizes the services of a licensee.

(e) Nothing in this Article or in any professional employer services contract shall affect, modify, or amend any collective bargaining agreement or the rights or obligations of any client company, professional employer organization, or any assigned employee under the National Labor Relations Act, 29 U.S.C. § 151, et seq.

"**§ 58-89-30. Other provisions of this Chapter.**

G.S. 58-2-45, 58-2-50, 58-2-55, 58-2-60, 58-2-65, 58-2-69, 58-2-70, 58-2-75, 58-2-100, 58-2-155, 58-2-163, 58-2-180, 58-2-185, 58-2-200, and 58-3-100 shall apply to persons licensed under this Article.

"Part 2. License Requirements and Limitations.

"**§ 58-89-35. License required; professional employer organization groups.**

(a) No person shall engage in or offer professional employer services in this State unless the person holds a license issued under this Article.

(b) Two or more professional employer organizations that are controlled by the same ultimate parent, entity, or persons may be licensed as a professional employer organization group. A professional employer organization group may satisfy the reporting and financial requirements of this Article on a consolidated basis. As a condition of licensure as a professional employer organization group, each professional employer organization that is a member of the group shall guarantee payment of all financial obligations of every other member.

"**§ 58-89-40. Qualifications for controlling person.**

(a) To be qualified to serve as a controlling person of a licensee under this Article, the controlling person shall be at least 18 years of age, be of good moral character, and have educational, managerial, or business experience relevant to:

(1) Operation of a professional employer organization; or

(2) Service as a controlling person of a professional employer organization.

(b) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76 or to entities that are controlling persons.

"**§ 58-89-45. Reserved.**

"**§ 58-89-50. Surety bond; letter of credit.**

(a) An applicant for licensure shall acquire and maintain a surety bond for the benefit of the Commissioner in an amount of seventy-five thousand dollars ($75,000).

(b) The surety bond required by this section shall be in a form prescribed by the Commissioner and issued by an insurer authorized by the Commissioner to write surety business in this State.

(c) The surety bond required by this section may be exchanged or replaced with another surety bond that meets the requirements of this section if 90 days' advance written notice is provided to the Commissioner.

(d) A licensee shall not require a client company to contribute in any manner to the payment of the surety bond required by this section.

(e) Notice of cancellation or nonrenewal of the surety bond required by this section shall be provided to the Commissioner in writing at least 45 days before cancellation or nonrenewal.

(f) In lieu of the surety bond required by this section, an applicant may submit to the Commissioner an irrevocable letter of credit issued by a financial institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or may maintain on deposit with the Commissioner an amount equal to the amount required under subsection (a) of this section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject to the same conditions as the surety bond.

(g) This section does not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

"**§ 58-89-55. Reserved.**

"**§ 58-89-60. License application.**

(a) Every applicant for licensure shall file with the Commissioner, on a form prescribed by the Commissioner, the following information:

(1) The name, organizational structure, and date of organization of the applicant, the addresses of the principal office and of all offices in this State, the name of the contact person, the type of operations within this State, and the taxpayer or employer identification number.

(2) A list by jurisdiction of each name under which the applicant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, names of successor business entities. The list required by this subdivision shall include the parent company name and any trade name, trademark, or service mark of the applicant.

(3) A list of all officers and controlling persons of the applicant, their biographical information, including their management background, and an affidavit from each attesting to his or her good moral character and management competence.

(4) The location of the business records of the applicant.

(5) An attestation, executed by the chief financial officer, the chief executive officer, and a controlling person of the applicant, that the licensee is current as of the date the application is submitted with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any such obligations are in dispute as of the date the application is submitted with a client company and the disputed amount is material when considered in the context of the applicant's most recent audited financial statement, then the applicant shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

(6) Any other information the Commissioner deems necessary and requires by rule to establish that the applicant and the officers and controlling persons are of good moral character, business integrity, and financial responsibility.

(b) Every applicant shall file with the Commissioner evidence of financial responsibility. Evidence of financial responsibility includes an audited GAAP financial statement, prepared as of a date not more than 90 days before the date of application that demonstrates that the applicant or licensee is not in a hazardous financial condition and attached to which is a separate document signed by the chief executive officer, the chief financial officer, and any other controlling person of the licensee certifying that (i) each has reviewed the financial statement; (ii) based on each signatory's knowledge, the financial statement does not contain any untrue or misleading statement of material fact or omit a fact with respect to the period covered by the financial statement; and (iii) based on each signatory's knowledge, the financial statement fairly presents in all material respects the financial condition of the licensee as of, and for, the period presented in the financial statement.

Notwithstanding the requirements of this subsection, the Commissioner may accept an audited GAAP financial statement that has been prepared more than 90 days before submission to the Commission if the Commissioner deems it appropriate and subject to conditions imposed by the Commissioner.

(c) Every applicant shall submit to the Commissioner the application fee pursuant to G.S. 58-89-65.

(d) Every applicant shall furnish the Commissioner a complete set of fingerprints and a recent passport-size, full-face photograph of each controlling person. Each controlling person's fingerprints shall be certified by an authorized law enforcement officer.

The Department of Justice may provide to the North Carolina Department of Insurance from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a professional employer organization under this Article. Along with the request, the Department shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required

by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation may forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Insurance shall keep all information obtained pursuant to this subsection confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information.

In the event that an applicant has secured a professional employer organization license in another state in which the professional employer organization's controlling persons have completed a criminal background investigation within 12 months of this application, a certified copy of the report from the appropriate authority of that state may satisfy the requirement of this subsection. This subsection also applies to a change in a controlling party of a professional employer organization. For purposes of investigation under this subsection, the Commissioner shall have all the power conferred by G.S. 58-2-50 and other applicable provisions of this Chapter.

(e) An application for licensure of a professional employer organization group shall contain the information and submissions required by this section for each member of the group.

(f) No application is complete until the Commissioner has received all information and submissions required under subsections (a) through (e) of this section. Subsections (a) through (e) of this section do not apply to persons who are licensed pursuant to the alternative licensing procedures set forth in G.S. 58-89-76.

(g) The Commissioner may deny the license of an applicant under this Article if, after notice to the applicant and an opportunity for a hearing, the Commissioner finds that a controlling person has:

(1) Made any untrue material statement regarding the background or experience of any controlling person;

(2) Violated, or failed to comply with, any professional employer services law or any rule or order of the Commissioner or of any other State official responsible for the regulation of professional employer services;

(3) Obtained or attempted to obtain the license through misrepresentation or fraud;

(4) Been convicted of a felony;

(5) Been found in a final judgment or administrative proceeding to have committed fraud or an unfair trade practice; or

(6) Been a controlling person in another professional employer organization that has had its license or registration suspended, terminated, or revoked by any state.

(h) If the Commissioner finds that the applicant has not fully met the requirements for licensure, the Commissioner shall refuse to issue the license and shall notify the applicant in writing of the denial, stating the grounds for the denial. The

application may also be denied for any reason for which a license may be suspended or terminated under G.S. 58-89-155. Within 30 days after service of the notification, the applicant may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome.

(i) Removal, demotion, or discharge of a controlling person in response to an order of the Commissioner of the alleged unsuitability of that person is an affirmative defense to any claim by that individual based on the removal, demotion, or discharge.

(j) A controlling person who has been evaluated by the Commissioner under this Article is not required to be reevaluated if that person changes the person's affiliation or employment from one applicant or licensee to another applicant or licensee.

(k) After denial, suspension, or termination of a license, and before issuing a new license or reinstating a license, the Commissioner shall review and consider:

(1) The extent to which the applicant or licensee has adequately corrected any problems; and

(2) Whether the applicant or licensee has demonstrated that the applicant or licensee had exercised due diligence to avoid the reason or reasons for the denial or termination.

The applicant or licensee bears the burden of proof with respect to subdivisions (1) and (2) of this subsection.

"**§ 58-89-65. Fees.**

(a) Each applicant for a professional employer organization license or limited professional employer organization license shall pay to the Commissioner, before the issuance of the license, a nonrefundable application fee of one thousand dollars ($1,000).

(b) Each licensee shall pay to the Commissioner when filing the information required under G.S. 58-89-70(d) an annual filing fee of one thousand dollars ($1,000).

(c) Each applicant for alternative licensing under G.S. 58-89-76 and each applicant for renewal of a license provided under G.S. 58-89-76 shall pay to the Commissioner, before issuance or renewal of the license, a fee of five hundred dollars ($500.00).

(d) When the Commissioner finds that a licensee has committed an act that is a ground for disciplinary violation under G.S. 58-89-155 or that a licensee has committed a prohibited act in violation of G.S. 58-89-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article.

"**§ 58-89-70. License issuance and maintenance.**

(a) The Commissioner shall issue a license to an applicant whom the Commissioner determines has satisfied the requirements of this Article. The Commissioner shall notify an applicant of any deficiency in the application not later than the 60th day after the date on which the Commissioner receives the application. The Commissioner shall issue the license not later than the 90th day after the date on which the completed application is filed with the Commissioner.

(b) A license issued by the Commissioner under this Article shall remain in effect until revoked, suspended, surrendered, or otherwise terminated.

(c) By obtaining licensure under this Article, the controlling persons of a licensee certify, under penalty of law, their compliance with the requirements of licensure and of operation as a professional employer organization pursuant to this Article.

(d) Within 120 days after the end of each fiscal year, each licensee shall file with the Commissioner all of the following information:

(1) Evidence of "financial responsibility" as set forth in G.S. 58-89-60(b).

(2) Any information required by G.S. 58-89-60(a)(1), (2), (3), or (4) for which there has been a change since the last or initial filing. Any change of controlling persons may subject the licensee to a background investigation of those controlling persons as required by G.S. 58-89-60.

(3) Information required by G.S. 58-89-60(a)(6).

(4) The annual filing fee, pursuant to G.S. 58-89-65.

(5) Any other information the Commissioner determines is needed for the review of a licensee.

(e) In order to maintain licensure, each licensee may be required to file with the Commissioner no later than 45 days after the end of each quarter of the fiscal year:

(1) A financial statement for the preceding quarter that is not audited and is set forth in a format similar to the annual audited GAAP financial statement; and

(2) An attestation, executed by the chief financial officer, the chief executive officer, and a controlling person of the licensee, that the licensee is current with respect to all of its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits. If any of the obligations listed in this subdivision are in dispute with a client and the disputed amount is material when considered in the context of the licensee's most recent audited financial statement, then the licensee shall disclose the nature of the dispute causing the obligations to be unpaid and the amount of money in controversy.

"**§ 58-89-75. Limited license.**

The Commissioner by rule shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State.

"**§ 58-89-76. Alternative licensing.**

The Commissioner, by rule, may provide for the acceptance of an affidavit by a bonded, independent, and qualified assurance organization that has been approved by the Commissioner certifying the qualifications of a professional employer organization for licensing under this Article in lieu of the requirements of G.S. 58-89-40 through G.S. 58-89-60.

"**§ 58-89-80. License not assignable; change of name or location.**

(a) A licensee shall not conduct business under any name other than that specified in the license. A license issued under this Article is not assignable. A licensee shall not conduct business under any fictitious or assumed name without prior written authorization from the Commissioner. The Commissioner shall not authorize the use of a name that is so similar to that of a public office or agency or to that of another licensee that the public may be confused or misled by the name's use. A licensee shall not conduct business under more than one name unless the licensee has obtained a separate license for each name or the licensee is operating under a group license pursuant to G.S. 58-89-35.

(b) Except as provided in this subsection, a licensee may change the licensee's licensed name only once in a calendar year by notifying the Commissioner and paying a fee for the change of name. The fee for a name change shall be fifty dollars ($50.00). A licensee may change the licensee's name without the payment of the name change fee if the name change is submitted with the information required by G.S. 58-89-70(d). If a licensee has changed its name once during a calendar year, the licensee shall not change its name again unless the name change is approved by the Commissioner.

(c) A licensee shall notify the Commissioner in writing within 30 days of any change in the status of the licensee, including:

(1) Any change in the location of the licensee's primary business office;

(2) The addition of more business offices; or

(3) A change in the location of business records maintained by the licensee.

(d) A licensee may advertise in this State using only the name that is on the license issued by the Commissioner.

(e) Each written proposal provided to a prospective client company and each PEO agreement between a licensee and a client company or assigned employee shall clearly identify the name of the licensee.

"**§ 58-89-85. Supervision; rehabilitation; liquidation.**

If at any time the Commissioner determines, after notice and an opportunity for the licensee to be heard, that a licensee (i) has been or will be unable, in such a manner as may endanger the ability of the licensee, to fully perform its obligations pursuant to this Article or (ii) is bankrupt or in a hazardous financial condition, the Commissioner may either (i) commence a supervision proceeding pursuant to Article 30 of this Chapter or (ii) apply to the Superior Court of Wake County or to the federal bankruptcy court that

has previously taken jurisdiction over the licensee, if applicable, for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or to liquidate a licensee in accordance with Article 30 of this Chapter.

"**§ 58-89-90. Reserved.**

"Part 3. Licensee Duties and Responsibilities.

"**§ 58-89-95. Agreement; notice.**

(a) A licensee shall establish the terms of a PEO agreement by a written contract between the licensee and the client company.

(b) The licensee shall give written notice of the agreement, by agreement or otherwise, as it affects assigned employees to each employee assigned to a client company work site. This written notice shall be given to each assigned employee not later than the first payday after the date on which that individual becomes an assigned employee.

(c) The licensee shall give each employee written notice when the employee ceases to be an employee of the licensee.

"**§ 58-89-100. Contract requirements.**

A contract between a licensee and a client company shall provide:

(1) That the licensee reserves a right of direction and control over employees assigned to a client company's work sites. However, a client company may retain such sufficient direction and control over the assigned employees as is necessary to conduct the client company's business and without which the client company would be unable to conduct its business, to discharge any fiduciary responsibility that it may have, or to comply with any applicable licensure, regulatory, or statutory requirement of the client company. The PEO agreement shall provide that employment responsibilities not allocated to the licensee by the PEO agreement or this section remain with the client company.

(2) That the licensee assumes responsibility for the payment of wages to the assigned employees as agreed to in the PEO agreement.

(3) That the licensee assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on assigned employees.

(4) That the licensee reserves a right to hire, fire, and discipline the assigned employees.

(5) That the licensee retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of this State.

(6) That responsibility to obtain workers' compensation coverage for assigned employees, from an entity authorized to do business in this State and otherwise in compliance with all applicable requirements, shall be specifically allocated in the PEO agreement to either the client company or the licensee. If the responsibility is allocated to the licensee under any such agreement, that agreement shall require that the licensee maintain and provide to the client company, at the

termination of the agreement if requested by the client company, records regarding the loss experience related to workers' compensation insurance provided to assigned employees pursuant to the agreement.

"**§ 58-89-105. Employee benefit plans; required disclosure; other reports.**

(a) A licensee may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(b) A client company may sponsor and maintain employee benefit plans for the benefit of assigned employees.

(c) If a licensee offers to its assigned employees any health benefit plan that is not fully insured by an authorized insurer, the plan shall:

(1) Utilize a third-party administrator licensed or registered to do business in this State;

(2) Hold all plan assets, including participant contributions, in a trust account; and

(3) Provide sound reserves for the plan as determined using generally accepted actuarial standards.

(d) For purposes of this section, a "plan of self-insurance" includes any arrangement except an arrangement under which an insurance company licensed to write insurance in this State has issued an insurance policy that covers all of the obligations of the health benefit plan.

"**§ 58-89-110. Workers' compensation insurance.**

(a) A licensee or the licensee's client company shall provide workers' compensation insurance coverage through a licensed insurance carrier or a licensed self-insurance plan for the licensee's assigned employees as provided in Chapter 97 of the General Statutes, the Workers' Compensation Act. To the extent that the licensee secures and maintains workers' compensation coverage for assigned employees, the carrier may elect to provide such coverage to the licensee pursuant to either the multiple coordinated policy method, as set forth in subsection (b) of this section, or the single policy method, as set forth in subsection (c) of this section.

(b) If the licensee provides workers' compensation coverage pursuant to the multiple coordinated policy method, the licensee shall secure a separate policy for each client company of the licensee. Each policy shall identify the name of the client company and the licensee. The licensee shall be named as the insured and identify the client company. The licensee shall specify that it is the labor contractor for the client company by using the designation "L/C/F" on the policy.

Each policy shall expire on the same date. The policy shall not include coverage for nonleased employees of the client company or employees solely employed by the licensee. Only the licensee, as the first-named insured under such a policy, may request the insurer to cancel the policy. Each policy shall be sent to the licensee as the named insured.

The client company of a licensee shall have a continuing obligation to provide coverage as required by Chapter 97 of the General Statutes, the Workers' Compensation Act, for any employees of the client company who are not assigned employees and not otherwise covered under a policy described in this subsection.

If a client company of a licensee leases employees from more than one licensee, there shall be a separate policy for the assigned employees of each licensee.

The workers' compensation carrier also shall issue a policy covering the internal employees of the licensee unless they are otherwise covered.

All policies written in accordance with this subsection by the same insurance carrier that reference the same licensee as labor contractor shall be combined for premium discount purposes.

When policies written in accordance with this subsection are written by the same insurance carrier, the carrier and licensee may agree to a retrospective rating program or any other permitted pricing program.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

(c) If the licensee provides workers' compensation coverage pursuant to the single policy method, the insurer shall issue to the licensee a single policy covering all assigned employees in this State in accordance with Chapter 97 of the General Statutes, the Workers' Compensation Act, and any other applicable laws or rating plans of this State.

As a condition of issuing a single policy, the licensee shall provide to the insurer of the policy all of the following information regarding each client company of the licensee with assigned employees in this State:

(1) The correct legal name, any fictitious names, and the federal identification number.

(2) The name and address of the president and chief executive officer.

(3) The business mailing address.

(4) The business telephone number and facsimile number.

The licensee shall also provide to the insurer the name and address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

The insurer shall issue to each client company of the licensee a certificate of insurance on the single policy. The certificate of insurance shall require that the insurer provide notice of cancellation to the licensee and the client company of the licensee.

Whenever a policy written in accordance with this subsection is cancelled, the insurance company writing the policy shall provide individual notices of cancellation as required by this Chapter to the licensee and the client company of the licensee.

If the insurer fails to provide individual notices of cancellation to the licensee and the client company, the insurer shall remain liable on the risk for losses incurred by the client company that would have been covered by the workers' compensation policy prior to the attempted cancellation.

(d) A license shall not be issued to any professional employer organization unless the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, and that the premium paid by the licensee is

commensurate with exposure and anticipated claim experience for all employees covered under policies in the name of the licensee.

(e) Each licensee shall maintain and make available to its workers' compensation carrier on an annual basis the following information:

(1) The correct name and federal identification number of each client company.

(2) A listing of all covered employees provided to each client company, by classification code.

(3) The total eligible wages, by classification code, and the premiums due to the carrier for the employees provided to each client company.

(4) Sufficient information to permit the calculation of an experience modification factor for each client company upon termination of the professional employer relationship. Information accruing during the term of the leasing arrangement that is used to calculate an experience modification factor for a client company upon termination of the leasing relationship shall continue to be used in the future experience ratings of the licensee.

(f) Every Form 19 "Employer's Report of Employee's Injury or Occupational Disease to the Industrial Commission" filed with the Industrial Commission shall identify by name and address both the licensee and the client company employing the employee who is the subject of the Form 19.

(g) A licensee shall, within 30 days of initiation or termination of the licensee's relationship with any client company, notify its workers' compensation carrier, the Commissioner, and the North Carolina Industrial Commission of both the initiation and termination of the relationship. If the client company terminates the relationship between the licensee and the client company, the notice required by this subsection shall be given within 10 days of the licensee's actual knowledge of the termination.

(h) If the professional employer services arrangement with a client company is terminated, the client company shall be assigned an experience modification factor that reflects its experience during the experience period specified by the approved experience rating plan, including, if applicable, experience incurred for assigned employees under the PEO agreement.

(i) A client company shall not enter into a PEO agreement or be eligible for workers' compensation coverage in the voluntary market if the client-workers' company owes its current or prior carrier any premium for workers' compensation insurance, or if the client company owes its current or prior professional employer organization amounts due under the PEO agreement, except for premiums or amounts due that are subject to dispute. For the purposes of this section and compliance with other laws and rules, a licensee may rely on a statement by the client company that the client company has met any and all prior premium or fee obligations, unless the licensee has actual knowledge to the contrary.

(j) This section shall not prevent a client company of a licensee from providing workers' compensation insurance coverage for assigned employees coemployed by the

client company and the licensee through a policy of insurance issued by a licensed insurance carrier in the name of the client company as the insured.

(k) Irrespective of whether the licensee or client company maintains the policy of workers' compensation insurance for the covered employees pursuant to the PEO agreement, the licensee and the client company shall be entitled to the exclusivity of the remedy under both the workers' compensation and the employer liability provision of the workers' compensation policy or plan that either party has secured and shall both be afforded the protections provided under Chapter 97 of the General Statutes. The licensee shall be entitled, along with the client company, to the exclusivity of the remedy under both the workers' compensation and employers' liability provision of the workers' compensation policy or plan that either party has secured.

(l) All assigned risk policies for client companies of the same licensee shall be assigned to one workers' compensation carrier in the State and in other states to the extent possible.

"**§ 58-89-112. Liabilities.**

Subject to any contrary provisions thereof, the PEO agreement shall be interpreted for purposes of insurance, bonding, and employer's liability as follows:

(1) A licensee is not liable for the acts, errors, or omissions of a client company or of any assigned employee or for the quality, adequacy, or safety of the goods or services produced or sold in the client company's business. A client company is not liable for the acts, errors, or omissions of a licensee or of any employee of a licensee. Nothing in this section limits any contractual liability between a licensee and the client company or limits any liability or responsibility under this Article.

(2) Employees assigned to a client company by a licensee are the employees of the client company for the purposes of general liability insurance, automobile insurance, fidelity bonds, surety bonds, and liquor liability insurance carried by the client company unless the employees are included by specific reference in the applicable PEO agreement, insurance contract, or bond.

"**§ 58-89-115. Benefit plan notice.**

(a) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall disclose all of the following information to the Commissioner and each client company:

(1) The type of coverage.

(2) The identity of each insurer for each type of coverage.

(3) The amount of benefits provided for each type of coverage and to whom or on whose behalf benefits are to be paid.

(4) The policy limits on each insurance policy.

(5) Whether the coverage is fully insured, partially insured, or fully self-funded.

(b) With respect to any insurance or benefit plan provided by a licensee for the benefit of its assigned employees, a licensee shall provide to the insurer the name and

address of the insurance agent or broker responsible for securing the policy of insurance on behalf of the licensee.

(c) Whenever any insurance policy or benefit plan is cancelled, the insurance company writing the policy shall provide a notice of cancellation as required by this Chapter.

(d) The licensee shall notify the client company and the Commissioner in writing about a discontinuance and replacement, if any, of any health plan or workers' compensation insurance coverage no later than 10 business days after the discontinuance.

(e) The Commissioner by rule may require a licensee to file other reports that are reasonably necessary for the administration and enforcement of this Article.

"**§ 58-89-120. Unemployment taxes; payroll.**

A licensee is the employer of an assigned employee for purposes of Chapters 95 and 96 of the General Statutes. The Employment Security Commission shall cooperate with the Commissioner in the investigation of applicants and licensees and shall provide the Commissioner with access to all relevant records and data in the custody of the Employment Security Commission.

"**§ 58-89-125. Posting requirements.**

(a) Each licensee shall post the license issued under this Article in a conspicuous place in the licensee's principal place of business in this State.

(b) Each licensee shall display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is licensed and regulated by the Commissioner and that any questions or complaints may be directed to the Commissioner.

"**§ 58-89-130. Contractual duties.**

Each licensee is responsible for the licensee's contractual duties and responsibilities to manage, maintain, collect, and make timely payments for all of the following:

(1) Insurance premiums.

(2) Benefit and welfare plans.

(3) Other employee withholding.

(4) Any other expressed responsibility that is within the scope of the PEO agreement and that fulfills the duties imposed under this Article.

"**§ 58-89-135. Compliance with other laws.**

Each licensee shall comply with all appropriate State and federal laws relating to reporting, sponsoring, filing, and maintaining benefit and welfare plans.

"**§ 58-89-140. Required information.**

Each licensee shall:

(1) Maintain adequate books and records regarding the licensee's duties and responsibilities, including accounting and employment records relating to all PEO agreement activities, for a minimum of three years.

(2) Maintain and make available at all times to the Commissioner the following information, which shall be treated as proprietary and confidential and which is exempt from disclosure to persons other than

other governmental agencies that have a reasonable, legitimate purpose for obtaining the information:

a. The correct name, address, and telephone number of each client company.

b. Each client company contract or PEO agreement.

c. A listing of each client company by classification code as described in the "Standard Industrial Classification Manual" published by the United States Office of Management and Budget.

"**§ 58-89-145. Examinations.**

(a) The Commissioner may conduct an examination of a licensee as often as the Commissioner considers appropriate.

(b) An examination under this Article shall be conducted in accordance with the Examination Law of this Chapter, G.S. 58-2-131 through G.S. 58-2-134.

(c) In lieu of an examination of any foreign or alien person licensed under this Article, the Commissioner may accept an examination report on the licensee prepared by the appropriate regulator for the licensee's state of domicile.

(d) When making an examination under this Article, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

"**§ 58-89-150. Agent for service of process.**

Each resident licensee shall maintain a registered agent for the service of process in this State. The Commissioner shall be each nonresident licensee's agent for service of process as provided in Article 16 of this Chapter.

"Part 4. Penalties and Sanctions.

"**§ 58-89-155. Grounds for disciplinary action.**

(a) The Commissioner may take disciplinary action against a licensee on any of the following grounds:

(1) Being convicted or having an officer or controlling person of the licensee convicted of:

a. Bribery, fraud, or intentional or material misrepresentation in obtaining or attempting to obtain a license;

b. A crime that relates to the operation of a professional employer organization or the ability of the licensee or any officer or controlling person of the licensee to operate a professional employer organization;

c. A crime that relates to the classification, misclassification, or underreporting of employees required by State law;

d. A crime that relates to the establishment or maintenance of a self-insurance program, whether health insurance, workers' compensation insurance, or other insurance;

e. A crime that relates to fraud, deceit, or misconduct in the operation of a professional employer service; or

f. A crime that involves dishonesty or breach of trust.

(2) Engaging in professional employer services or offering to engage in the provision of professional employer services without a license.

(3) Failure to provide notice in writing of the discontinuance and replacement, if any, of any insurance coverage, to the Commissioner and client company within 10 business days of the discontinuance of any insurance coverage pursuant to G.S. 58-89-115.

(4) Failure to provide the notice required by G.S. 58-50-40.

(5) Failure to satisfy any of the requirements for licensure in this Article.

(b) For purposes of this section, a conviction includes an adjudication of guilt, a plea of guilty, and a plea of nolo contendere.

"**§ 58-89-160. Sanctions.**

(a) On a finding that a ground for disciplinary action exists under G.S. 58-89-155, the Commissioner may suspend or terminate a license, impose a civil penalty, and seek an order of restitution under G.S. 58-2-70.

(b) On termination of a license, the licensee shall immediately return the terminated license to the Commissioner.

(c) Any disciplinary action taken, any temporary or permanent termination of a license, or any determination that an officer or controlling person is unqualified shall be made by the Commissioner subject to Article 3A of Chapter 150B of the General Statutes.

"**§ 58-89-165. Injunctions; civil remedies; cease and desist orders.**

(a) In addition to the penalties and other enforcement provisions of this Article, if any person violates this Article or any rule implementing this Article, the Commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Commissioner determines are necessary to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person in violation of this Article may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The Commissioner may issue, in accordance with G.S. 58-63-32, a cease and desist order upon a person that violates any provision of this Article, any rule or order adopted by the Commissioner, or any written agreement entered into with the Commissioner. The cease and desist order may be subject to judicial review under G.S. 58-63-35.

(d) When the Commissioner finds that an activity in violation of this Article presents an immediate danger to the public that requires an immediate final order, the Commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains effective for 90 days. If the Commissioner begins nonemergency cease and desist proceedings, the emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction in accordance with G.S. 58-63-35.

(e) In addition to the penalties and other enforcement provisions of this Article, any person who violates this Article is subject to G.S. 58-2-70.

(f) The Commissioner is not required to post a bond for injunctive relief under this section.

"**§ 58-89-170. Prohibited acts.**

No person shall do any of the following:

(1) Engage in or offer professional employer services without holding a license under this Article as a professional employer organization.

(2) Use the name or title "staff leasing company", "employee leasing company", "licensed staff leasing company", "staff leasing services company", "professional employer organization", or "administrative employer" or otherwise represent that the person is licensed under this Article unless the person holds a license issued under this Article.

(3) Represent as the person's own the license of another person or represent that a person is licensed if the person does not hold a license.

(4) Give materially false or forged evidence to the Commissioner in connection with obtaining a license or in connection with disciplinary proceedings under this Article.

(5) Use or attempt to use a license that has been suspended or terminated.

"**§ 58-89-175. Criminal penalty.**

A person who violates G.S. 58-89-170 commits a Class H felony. Any officer or controlling person who willfully violates any provision of this Article may be subject to any and all criminal penalties available under State law."

SECTION 2. The Department of Insurance shall report to the 2005 General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the Department shall recommend any statutory changes required to regulate professional employer organizations and enforce Article 89 of Chapter 58 of the General Statutes.

SECTION 3. Each professional employer organization operating within this State as of January 1, 2004, shall complete its initial licensing not later than 180 days after January 1, 2004. Each professional employer organization not operating within this State as of January 1, 2004, shall complete its initial licensing prior to commencement of operations within this State.

SECTION 4. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 5. This act becomes effective January 1, 2004, and applies to any contracts entered into, any business conducted, and any actions taken on or after that date.

SENATE BILL 20:
Regulate Professional Employer Organization

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Bingham
Date:	June 23, 2004	**Analysis by:**	Martha Walston, committee counsel and Frank Folger, Department of Insurance
Version:	S20-CSLAf-66[v.5]		

SUMMARY: ***Senate Bill 20 is intended to enhance the regulatory oversight of professional employer organizations (PEOs). If enacted, the bill would supplant the current registration scheme found in Article 89 of Chapter 58 (G.S. 58-89-1 through 58-89-30). The bill is in House Finance because it imposes fees.***

BACKGROUND: The professional employer organization industry is known as an employee leasing industry. A PEO establishes a contractual relationship with a client company. Under the contract, a co-employment relationship is created between the client company, the PEO, and the employees of the client company. The PEO becomes the employer of the client company's employees and assumes the obligations related to human resources, workers' compensation, payroll, labor law compliance, employment taxes and employment benefits as provided in the contract. Currently, seventeen states, including North Carolina, provide some form of licensing, registration, or regulation for PEO's.

In 1002, the General Assembly enacted SB 1281 (S.L. 2002-168) which requires PEOs to register with the Department of Insurance. The registration consists of the completion of an application and payment of a one-time fee of $250. A person cannot perform professional employer services without being registered with the Department. A person who violates the registration requirement may be subjected to a Class H felony.

BILL ANALYSIS (provided by Frank Folger with the Department of Insurance):
Following is a section-by-section summary, and within a statute-by-statute summary, of SB 20:

SECTION 1. Includes the entire newly-created statutory structure for licensing and regulation of PEOs as a rewrite of Article 89. It restructures the Article into four (4) parts.

Part 1. In General

§58-89-1. States the title of the Act.

§58-89-5. Creates new definitions in addition to existing definitions.

§58-89-10. Establishes an 11-member council, chaired by the Commissioner of Insurance, to advise, consult and make recommendations to the Commissioner on the regulation of PEOs.

§58-89-15 Grants the Commissioner rulemaking authority to carry out the Article's provisions and subjects PEOs to the Article and rules adopted thereunder.

§58-89-20. Requires interagency cooperation in the regulation of PEOs.

§58-89-25. Clarifies that the Article does not exempt any client company or any assigned employee from any other license requirement. An assigned employee who is licensed, certified or registered is considered an employee of the client company for purposes of the license, certification, or registration. The existence of a PEO agreement does not affect or alter the client company's contractual abilities and relationship with the State or any other entity or any other labor related rights, obligations or agreements..

§58-89-30. Sets forth the Chapter 58 statutes applicable to PEOs.

§58-89-31. Provides that a client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of employment of covered employees of the client.

Part 2. License Requirements and Limitations

§58-89-35. Requires licensure of any person providing professional employer services in this State, and authorizes the licensure of PEO groups.

§58-89-40. Requires each controlling person be 18; be of good moral character; and have the requisite education or experience to operate or serve as a controlling person of a PEO. Exempts alternative licensees from this statute.

§58-89-50. Requires each applicant for licensure to file a $100,000 (was $75,000 in Senate version) surety bond with the Commissioner or submit an irrevocable letter of credit to or deposit cash or securities with the Commissioner in the same amount. Exempts alternative licensees.

§58-89-60. Sets forth what must be submitted in the application for licensure, including attestation by the CFO and CEO that the applicant for licensure is current in all its obligations for payroll, payroll-related taxes, workers' compensation insurance, and employee benefits; evidence of financial responsibility, an application fee of $500 for alternative licensing and $1000 for all others; and fingerprints and photos for officers, directors and controlling persons. Application for a PEO group must contain required submissions and information for each member of the group. Alternative licensees are exempt from this statute. Also sets forth the specific grounds for which and administrative procedures by which the Commissioner may deny an applicant licensure, including any reason which is grounds for suspending or terminating an existing license pursuant to G.S. 58-89-155.

§58-89-65 Requires an annual license continuation fee of $500 for alternative licensees (pursuant to G.S. 58-89-70) and $1000 for all other licensees; and allows the Department to charge a licensee for reasonable fees and costs incurred in investigating, inspecting, examining and enforcing the Article when ruling of a violation of the Article by the licensee is final.

§58-89-70. Sets forth procedural requirements governing licensure and maintenance of a license.

§58-89-75. Requires the Commissioner adopt rules for limited licensure.

§58-89-76. Authorizes the Commissioner to adopt rules for accepting an affidavit by a qualified assurance organization approved by the Commissioner certifying qualifications of a PEO for licensure in lieu of compliance with the general requirements for licensure under 58-89-40 through 58-89-60.

§58-89-80. Prohibits the misleading use of names by a licensee; limits licensee name changes; requires notice of change in business office and business record locations; and prohibits the misleading use of names in advertising.

§58-89-85. Authorizes the Commissioner upon the requisite determination to commence a supervision proceeding or seek an order to rehabilitate or liquidate a licensee.

Part 3. Licensee Duties and Responsibilities

§58-89-95. Provides that terms of a PEO agreement must be in writing and that the licensee give written notice of the agreement as it affects assigned employees to each employee assigned to a client company work site no later than the first payday after the date the individual became an assigned employee.

§58-89-100. Sets forth the required provisions of the contract between the PEO and the client company, including the PEOs responsibility regarding payment of wages, payment of payroll taxes, collection of taxes from payroll, and the specific allocation or designation of responsibility to obtain workers compensation coverage from an entity authorized to do business in this State.

§58-89-105. Authorizes a licensed PEO and client company, each, to sponsor and maintain employee benefit plans for assigned employees and requires any health benefit plan not fully insured by an authorized insurer, be administered by a TPA licensed or registered to do business in N.C., all plan assets be held in a trust account, and actuarially sound reserves be provided for the plan.

§58-89-110. Requires that either the licensed PEO or the client company provide workers comp insurance coverage through a licensed insurer or as a licensed self-insurer and, in the case of the licensed PEO providing coverage, allows the use of either a multiple coordinated policy method or a single policy method of coverage. This statute sets forth the requirements when using each type of methodology.

§58-89-112. Provides for default allocation of liability, subject to contrary contractual provisions and dictates the default rule for who's covered under certain liability insurance and bonds.

§58-89-115. Sets forth insurance and health benefit plans disclosures that must be made by the PEO to the Commissioner and each client company. Also sets forth cancellation notice requirements and related matters.

§58-89-120. Establishes the licensed PEO as the employer for purposes of Chapters 95 and 96 of the General Statutes and requires ESC cooperation in investigating applicants and licensees.

§58-89-125. Requires each licensee to post its license in a conspicuous place in its principal place of business and notice in each client company that the location is licensed by the Commissioner, with contact information.

§58-89-130. Requires each licensee to manage, maintain, collect and make timely payments for all its contractual responsibilities and statutory duties.

§58-89-135. Requires licensee compliance with all appropriate State and federal laws for reporting, sponsoring, filing, and maintaining benefit/welfare plans.

§58-89-140. Requires each licensee maintain adequate business records regarding its duties and responsibilities for at least 3 years and maintain and make available to the Commissioner at all times client company contact information, PEO agreements, and a listing of each client company by classification code

§58-89-145. Authorizes the Commissioner to examine any licensee, in accordance with the Examination Law (G.S. 58-2-131 through 58-2-134) and to accept a foreign examination report in lieu of conducting an in-State examination.

§58-89-150. Requires each licensee maintain a N.C. registered agent for service of process but makes the Commissioner the agent for nonresidents.

Part 4. Penalties and Sanctions

§58-89-155. Authorizes the Commissioner to take disciplinary action against a PEO for grounds including: convictions for certain crimes by its controlling persons, acting as an unlicensed PEO; and failure to meet notice requirements.

§58-89-160. Authorizes the Commissioner, upon the requisite determination, to suspend or terminate the license, impose a civil penalty, seek an order of restitution under 58-2-70, or utilize any combination of sanctions against a PEO.

§58-89-165. Authorizes Commissioner to seek injunctive relief against any person violating the Article or any rule implementing the Article; issue a cease and desist order against a violator of the Article, applicable rule or order; issue an emergency cease and desist order when the violation presents an immediate danger to the public. Any violator is subject to enforcement provisions of 58-2-70.

§58-89-170. Prohibits any person from acting as a PEO without a license; any PEO from misrepresenting itself; or any PEO from providing false or forged evidence in connection with licensure; or any PEO from using a terminated or suspended license.

§58-89-175. Subjects violators of 58-89-170 to a Class H felony criminal penalty and specifies that any officer or controlling person willfully violating any Article provision may be subject to any and all criminal penalties available under State law.

§58-89-180. Provides that the provisions of the Article apply to unauthorized PEOs.

SECTION 2. Requires the Dept. of Insurance to report to the 2005 General Assembly on the implementation, administration, and enforcement of the newly rewritten Article in Section 1 of the bill and recommend any statutory changes needed to regulate PEOs and enforce the Article.

SECTION 3. Allows for continued operation for PEOs registered as of the effective date of the act pending approval of the application if the application for licensure is filed by April 1, 2005.

SECTION 4. Is a severability clause provision.

SECTION 5. Makes the act effective January 1, 2005 and applicable to contracts entered into, any business conducted, and any actions taken on or after that date.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 24, 2004

TO: House Finance Committee

FROM: Marilyn Chism, Chloe Gossage, Dave Crotts
Fiscal Research Division

RE: SB 20 (House Finance PCS) – Regulate Professional Employer Organization

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
GENERAL FUND					
REVENUES					
Justice	See Assumptions & Methodology				
Insurance	No Net Impact *				
EXPENDITURES					
Justice	See Assumptions & Methodology				
Insurance	No Net Impact*				
Correction	See Assumptions & Methodology				
Judicial Branch	See Assumptions & Methodology				
* See Technical Considerations for explanation.					
INS. REG. FUND					
REVENUES	$99,000	$99,000	$99,000	$99,000	$99,000
EXPENDITURES					
Nonrecurring	$24,230				
Recurring	$98,939	$197,878	$197,878	$197,878	$197,878
Net Ins. Reg. Fund	**($24,169)**	**($98,878)**	**($98,878)**	**($98,878)**	**($98,878)**
POSITIONS:					
Insurance Reg. Fund					
DOI	2	2	2	2	2

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Departments of Insurance, Justice and Correction; Administrative Office of the Courts (AOC); Employment Security Commission

EFFECTIVE DATE: This act becomes effective January 1, 2005.

BILL SUMMARY: Senate Bill 20 would require Professional Employer Organizations (PEO's) to be licensed in order to do business in this State. The PCS changes the effective date from January 1, 2004 to January 1, 2005. In 2002, the General Assembly enacted SB 1281 [S.L. 2002-168] which requires PEO's to register with the Department of Insurance. The registration consists of the completion of an application and payment of a one-time fee of $250.00. A person cannot perform professional employer services without being registered with the Department. A person who violates the registration requirement may be subjected to a Class H felony. Senate Bill 20 imposes additional requirements on PEO's and gives the Department of Insurance disciplinary authority over licensees. Finally, the proposed committee substitute specifies that the client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of employment of covered employees of the client.

ASSUMPTIONS AND METHODOLOGY:

Insurance Regulatory Fund Revenue: This bill would require PEO's to apply for licensure and to submit a $1,000 application fee that will be deposited into the Insurance Regulatory Fund. Each licensed PEO would also be required to apply for license renewal and to submit a $1,000 renewal fee, also to be deposited into the Insurance Regulatory Fund. Currently, there are 11 registered PEO groups with 49 member companies, 84 individually registered PEO's, and 4 PEO's with pending registrations. Thus, the revenue from the application fee for the 99 (11 groups + 84 individuals + 4 pending) is expected to be $99,000 annually. The Department expects that there will be some growth in the number of licensed PEO's. However, at this time, there is not sufficient data or experience on which to estimate what that growth will be.

Department of Insurance Expenditures: Senate Bill 20 requires the Department of Insurance to administer the licensing laws for PEO's. The Commissioner of Insurance would have the authority to adopt rules necessary to administer the licensing laws and to take appropriate disciplinary actions. The Commissioner would also serve as the chair of the North Carolina Professional Employer Organization Advisory Council and the Department would provide meeting space and clerical and other services required by the Council to conduct its business.

The Department will be responsible for monitoring and regulating PEO's to ensure their compliance with the licensing laws similarly to the manner in which it currently provides oversight and regulation of insurance companies and continuing care entities. These responsibilities will include financial regulation such as reviewing and evaluating applications for initial license, reviewing annual financial statements, and making recommendations about additional financial oversight in the event of financial problems. Non-financial regulation of PEO'S involves the prompt and thorough investigation of questionable insurance activities regarding unauthorized/unapproved insurance products offered to the public. Currently, there are 11 registered PEO groups, 84 registered PEO's and 4 pending registrations.

The Department estimates that the fiscal impact of administering the licensing laws and regulating the PEO's is $197,878 recurring and $24,230 nonrecurring. The recurring cost will cover the salaries, benefits, and operating cost for an Insurance Company Examiner III, who will be responsible for the financial regulation of the PEO's, and an Insurance Complaint Analyst

Supervisor, who will be responsible for the non-financial regulation of the PEO's. The salary and benefits for a grade 80 Examiner is $72,484, based on a mid-point salary of $62,857 and benefits of $9,627. The salary and benefits for a grade 73 Compliance Analyst is $53,510 based on mid-point salary of $45,709 benefits of $7,801. The total operating cost for the two positions is $71,084 and includes $60,000 for travel and $11,084 for materials, supplies, training, and continuing education. Assuming the positions are effective January 1, 2005, the first year recurring cost would be $98,939. The nonrecurring cost of $24,230 will cover the cost of computer equipment as well as office and furniture equipment.

The Department would not incur any cost for the Council meetings because the bill specifically indicates that the Council members will not receive compensation or per diem. Also, because the Department has attorneys on staff who are responsible for developing rules, Fiscal Research does not anticipate that the Department will need any additional resources to develop rules necessary to administer the licensing requirements.

The Department is funded by the Insurance Regulatory Fund (IRF). However, as required by G.S. § 58-6-25, moneys in the IRF may be spent only pursuant to appropriation by the General Assembly and in accordance with the line item budget enacted by the General Assembly. The statute further provides that all money credited to the IRF shall be used to reimburse the General Fund for the enumerated purposes. To comply with the statute, funds are appropriated from the General Fund to the Department of Insurance for all authorized expenditures of the IRF. The IRF in turns reimburses the General Fund for the appropriation. Accordingly, any use of the IRF authorized by this bill would require a General Fund appropriation to the Department. The IRF would reimburse the General Fund for the appropriation such that the expenditure would have no net effect on the General Fund.

Justice: Section 1 authorizes the Department of Justice to provide state and national fingerprint checks for any applicant for licensure as a PEO. These checks are conducted by the State Bureau of Investigation (SBI) within the Department. Neither the Department of Insurance nor the Fiscal Research can project the number of applicants who would require background checks each year as a result of this bill. Thus, we cannot project the amount of additional revenue from the criminal record checks.

The applicant would pay for the criminal record check. The SBI charges $38 for each state and national fingerprint check, of which $22 is remitted to the Federal Bureau of Investigation. The remaining $16 is used to support the functions of the identification unit, which conducts the criminal history background checks. Each employee can process approximately 9,600 background checks per year, and the SBI is able to accommodate some increase in background checks within its existing staffing level. If the increase in workload due to new record checks were greater than the unit's capacity, the SBI would need authorization for additional positions supported by the receipts collected from the applicants/ licensees.

Tax credits and other incentives. The language included in the bill clarifies the existing administrative practice of the Department of Revenue on the question of whether Bill Lee Act credits are allowed in the co-employment situation. Thus, there is no fiscal impact from this provision.

Criminal & Civil Penalties

Section 1 of this bill includes a statutory provision that would make it a Class H felony for any person who engaged in enumerated prohibited acts. These enumerated acts are almost identical to those in existing statute for PEO registrants (also punishable as a Class H felony), the same group that would be licensed under this PCS. The last act, using or attempting to use a license that has been suspended or terminated, is new in this Bill. The Department of Insurance does not anticipate many offenses under the new prohibited act, as terminated licenses must be returned to the Board. There is not likely to be significant impact from this penalty unless a significant number of PEO's operate without a valid license.

Judicial Branch: For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

The AOC is unable to provide an estimate of the impact of the Class H penalty in this bill, but believes that the impact will not be significant. The staff at the AOC believe that the majority of PEO's would comply with the proposed licensing requirements found in this bill. Thus, the AOC does not project a significant number of Class H felony charges under section 1 of this bill.

In addition to the criminal penalty, the Commissioner is authorized to impose a civil penalty against a PEO. This could increase the workload and cases in civil court. Without additional information on the number and complexity of cases that may arise, we cannot project the impact on the court system.

Correction: The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The incarceration fiscal notes are based on December 2003 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory board, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, there are no surplus prison beds available for the five year Fiscal Note horizon and beyond. That means the number of beds needed is always equal to the projected additional inmates due to a bill.

As with the AOC's analysis, the Sentencing Commission cannot project the number of convictions that would result from the new Class H felony in Section 1 of this legislation. Since the proposed section expands an existing offense, the Sentencing Commission does not have any historical data from which to estimate the impact on the prison population. It is not known how many offenders might be sentenced under this subsection. If, for example, there were three convictions for this offense per year, this would result in the need for one additional prison bed in the first year and two additional prison beds in the second year due to active sentences and post-release sentencing revocations. In FY 2005-06, the first year of prison impact, each prison

bed will cost, on average, $23,854 per year to operate.[1] In addition, approximately 64 percent of Class H felons receive non-active sentences. The majority receive an intermediate sentence or supervised probation, and are supervised by the Division of Community Corrections at a cost of $1.75 to $10.06 per offender per day.

SOURCES OF DATA: Department of Insurance, Department of Justice, Department of Correction, Sentencing Policy and Advisory Commission, Administrative Office of the Courts.

TECHNICAL CONSIDERATIONS: The bill requires the revenue collected from the application and renewal fees to be deposited into the Insurance Regulatory Fund and authorizes those fees to be used to implement the bill. As noted above, the Insurance Regulatory Fund can only be used to reimburse the General Fund for money appropriated to the Department of Insurance for specified purposes. Thus, under existing law, in order to use fees deposited into the Insurance Regulatory Fund, it would be necessary to first appropriate funds from the General Fund to the Department of Insurance.

[1] Operating costs are based on actual 2002-03 costs for each custody level as provided by the Department of Correction. These costs include security, inmate programs, inmate costs (food, medical etc.) and administrative overhead costs for the Department and the Division of Prisons. A 3% annual inflation rate is added each year.

Senate Bill 20 Regulate Professional Employer Organizations

Senate Bill 20, Regulate Professional Employer Organizations was introduced in the 2003 Session by Senators Bingham and Rand. Its purpose is to establish licensing requirements for employee leasing services, commonly referred to as PEOs.

PEOs are an increasingly attractive option for small and start up businesses. They provide on an outsourced basis the functions of an employer's human resources operation, thereby allowing a small business to focus on its core business operations. In addition, PEOs lower the cost of operations for small businesses because they have purchasing power in the health insurance and workers comp markets. PEOs are not temp agencies. They co-employ full-time employees of their client businesses.

The need for licensing arises from the actions of individuals who have used the PEO model to perpetuate frauds on small businesses. For instance, bad actors claiming to provide PEO services have contracted with small businesses to provide workers comp and health insurance, accepted the premiums but failed to obtain the promised coverage. As a result, employees and employers are left without expected and needed benefits.

In 2002 the General Assembly passed legislation requiring that all PEOs doing business in North Carolina register with the Department of Insurance. There are currently 125 PEOs registered to do business in North Carolina.

Senate Bill 20 was the subject of substantial negotiations during the 2003 session of the General Assembly. The parties involved included the bill sponsors (Senators Bingham and Rand), representatives of the Employment Security Commission, the Department of Insurance and the Carolinas Association of Professional Employers (CAPEO). All of those parties are now in agreement that Senate Bill 20 represents effective and appropriate regulation of the PEO industry. The bill passed the Senate in July, 2003 by a unanimous vote.

Senate Bill 20 places significant requirements and restrictions on PEOs that do business in North Carolina and empowers the Commissioner of Insurance to enforce these provisions. Among other things, this legislation:

1. Establishes qualifications for owners or "controlling persons" of PEOs.

2. Requires that a background investigation be performed on each applicant.

3. Requires that an applicant provide evidence of "financial responsibility" to act as a PEO.

4. Requires that a licensee maintain a surety bond or irrevocable letter of credit with DOI.

5. Requires that a PEO file audited financial statements with DOI on an annual basis. Those financial statements must be attested to by the PEO's CEO in a fashion similar to the Sarbanes - Oxley requirement.

6. Requires full disclosure of the terms of any insurance or benefit provided by a PEO for the benefit of its assigned employees.

7. Requires that the PEO and the insurer notify the customer and DOI of the discontinuance or replacement of any health plan or workers' comp insurance coverage within 10 days of its discontinuance.

8. Makes it clear that a small business that uses a PEO is eligible for tax credits and other incentives authorized by existing statutes. The bill does not create any new credits or incentives and does not make the PEO eligible for such benefits.

9. The costs associated with this legislation will be covered from the Insurance Regulatory Fund. The General Fund impact (e.g. courts, corrections) are expected to be minimal.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 20 A BILL TO BE ENTITLED AN ACT TO REQUIRE LICENSURE OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill ~~(#),~~ ☐ ~~which changes the title~~, unfavorable as to Senate Committee Substitute Bill. ~~#), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 852

Health & Human Resources Committee Substitute Adopted 6/5/03
Finance Committee Substitute Adopted 7/15/03
Appropriations/Base Budget Committee Substitute Adopted 7/17/03

Short Title: Organ Donor Org's./Access to DMV Records. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INTERNET ACCESS BY ORGAN PROCUREMENT ORGANIZATIONS AND EYE BANKS TO INFORMATION IN DIVISION OF MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION; TO ESTABLISH THE "LICENSE TO GIVE TRUST FUND" TO FUND INITIATIVES THAT EDUCATE AND PROMOTE ORGAN AND TISSUE DONATION; AND TO INCREASE THE FEE FOR ISSUANCE, RENEWAL, AND DUPLICATION OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD AND PROVIDE THAT THE PROCEEDS OF THE INCREASE SHALL BE USED TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, on-line Organ Donor Internet site. The purpose of the Organ Donor Internet site is to enable organ procurement organizations and eye banks to have timely access to the names of individuals who have stated to the Division the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card. The data available on the Organ Donor Internet site shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that only organ procurement organizations and eye banks operating in this State have access to the Organ Donor Internet site in read-only format. The Division of Motor Vehicles shall enable organ procurement organizations and eye banks operating in this State to have on-line access in read-only format to the Organ Donor Internet site through a unique identifier and password issued to the organ procurement organization or eye bank by the Division of Motor Vehicles. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in

damages for access to or disclosure of the information. When accessing and using information obtained from the Organ Donor Internet site, organ procurement organizations and eye banks shall comply with the requirements of Part 3 of Article 16 of Chapter 130A of the General Statutes.

SECTION 2. G.S. 20-43.1 reads as rewritten:

"**§ 20-43.1. Disclosure of personal information in motor vehicle records.**

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information."

SECTION 3. G.S. 20-7.3 reads as rewritten:

"**§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.**

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer a donor card to each applicant for a drivers license. Each organ donor card made available at drivers license offices shall include the following:

(1) A statement informing the individual that organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Internet site listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.

(2) The type of information that will be made available on the Organ Donor Internet site."

SECTION 4.(a) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"**§ 20-7.4. License to Give Trust Fund established.**

(a) There is established the License to Give Trust Fund. Revenue in the Fund includes amounts credited by the Division as required by law, and other funds. Any

surplus in the Fund shall not revert but shall be used for the purposes stated in this section. The Fund shall be kept on deposit with the State Treasurer, as in the case of other State Funds, and may be invested by the State Treasurer in any lawful securities for investment of State funds. The License to Give Trust Fund is subject to oversight by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(b) The purposes for which funds may be expended by the License to Give Trust Fund Commission from the License to Give Trust Fund are as follows:

(1) As grants-in-aid for initiatives that educate about and promote organ and tissue donation and health care decision making at life's end.

(2) Expenses of the License to Give Trust Fund Commission as authorized in G.S. 20-7.5."

SECTION 4.(b) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new sections to read:

"**§ 20-7.5. License to Give Trust Fund Commission established.**

(a) There is established the License to Give Trust Fund Commission. The Commission shall be located in the Department of Administration for budgetary and administrative purposes only. The Commission may allocate funds from the License to Give Trust Fund for the purposes authorized in G.S. 20-7.4. The Commission shall have 15 members, appointed as follows:

(1) Four members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate:

a. One representative of Carolina Donor Services.

b. One representative of LifeShare of The Carolinas.

c. Two members who have demonstrated an interest in organ and tissue donation and education.

(2) Four members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives:

a. One representative of The North Carolina Eye Bank, Inc.

b. One representative of The Carolinas Center for Hospice and End-of-Life Care.

c. Two members who have demonstrated an interest in promoting advance care planning education.

(3) Seven members by the Governor:

a. Three members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State.

b. One member who is a transplant physician licensed to practice medicine in this State.

c. One member who has demonstrated an interest in organ and tissue donation and education.

d. One member who has demonstrated an interest in promoting advance care planning education.

e. A representative of the North Carolina Department of Transportation.

(b) The Commission shall elect from its membership a chair and a vice-chair for two-year terms. The Secretary of Administration shall provide meeting facilities for the Commission as required by the Chair.

(c) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the members shall be paid from the License to Give Trust Fund.

(d) The members of the Commission shall comply with G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the License to Give Trust Fund to a nonprofit entity of which the member is an officer, director, or employee, or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor.

"**§ 20-7.6. Powers and duties of the License to Give Trust Fund Commission.**

The License to Give Trust Fund Commission has the following powers and duties:

(1) Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.

(2) Accept gifts or grants from other sources to further the purposes of the License to Give Trust Fund. Such gifts or grants shall be transmitted to the State Treasurer for credit to the Fund.

(3) Hire staff or contract for other expertise for the administration of the Fund. Expenses related to staffing shall be paid from the License to Give Trust Fund."

SECTION 5.(a) G.S. 20-7(i), as amended by Section 36.1 of S.L. 2003-284, reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee For Each Year
Class A	~~$4.25~~$4.30
Class B	~~4.25~~4.30
Class C	~~3.00~~3.05

The fee for a motorcycle endorsement is one dollar and seventy-five cents ($1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement."

SECTION 5.(b) G.S. 20-14 reads as rewritten:

"**§ 20-14. Duplicate licenses.**

A person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars and five cents ~~($10.00)~~ ($10.05) and giving the Division satisfactory proof that any of the following has occurred:

(1) The person's license has been lost or destroyed.

(2) It is necessary to change the name or address on the license.

(3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.

(4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 5.(c) The Division of Motor Vehicles shall retain a portion of the proceeds of the increase in drivers license and duplicate license fees enacted in this Section to offset the actual cost of developing and maintaining the on-line Organ Donor Internet site established pursuant to Section 1 of this act. Proceeds remaining after deduction of amounts for development and maintenance costs shall be credited to the License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4 and 20-7.5.

SECTION 6. Sections 4(a) and 5 of this act become effective November 1, 2003. The remainder of this act becomes effective January 1, 2004.

SENATE BILL 852:
Organ Donor Org's./Access to DMV Records.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Metcalf
Date:	June 24, 2004	**Summary by:**	Trina Griffin
Version:	4th Edition		Committee Counsel

SUMMARY: ***Senate Bill 852 would provide Internet access by organ procurement organizations and eye banks operating in this State to information in the Division of Motor Vehicle (Division) records pertaining to organ donation. The bill would establish the "License to Give Trust Fund" (Fund) to finance initiatives that educate and promote organ and tissue donation. The Fund would be financed through an increase in the fee for a drivers license, a duplicate license, and an identification card. Finally, it would establish a fifteen-member License to Give Trust Fund Commission (Commission) with powers and duties described below in more detail.***

CURRENT LAW: The Uniform Anatomical Gift Act (**G.S. 130A, Part 3**) regulates the process for the making and receiving of anatomical gifts in this State. Anyone 18 years of age or older may make a gift by will, card or other document as long as the document is signed by the donor in the presence of two witnesses. The gift does not have to be made to a specified donee. Generally people become donors either through their wills or through another document that is commonly referred to as an organ donor card or a declaration of anatomical gift. A donor may amend or revoke a gift:

- By execution and delivery of a signed statement to the donee
- By an oral statement made in the presence of two persons and communicated to the donee
- By a statement addressed to an attending physician and communicated to the donee
- By a signed card or document found on the individual or in the individual's effects, and made known to the donee

The Uniform Driver's License Act (Article 2 of Chapter 20 of the General Statutes) regulates and prescribes the conditions upon which licenses to operate automobiles are issued. G.S. 20-7.3 requires the Division to make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division must obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks.

BILL ANALYSIS:

Organ Donor Internet Site

Section 1 of the bill would require the Division to establish and maintain a statewide, on-line Organ Donor Internet site to enable organ procurement organizations and eye banks operating in this State to have timely access to the names of individuals who have stated to the Division their intent to be an organ donor and have an organ donation symbol on their drivers license or special identification card. The data available on the Internet site would be limited to the individual's: (1) first, middle, and last name, (2) date of birth, (3) address, (4) sex, (5) county of residence, and (6) drivers license number. The organ procurement organizations and eye banks would have on-line access in read-only format to the Internet site through a unique identifier and password issued to the organ procurement organization or eye bank by the Division.

Section 2 of the bill would permit disclosure of personal information authorized under Section 1 to organ procurement organizations and eye banks operating in this State. Employees of the Division who provide access to or disclosure of information in good-faith compliance with the act would not be liable in damages for access to or disclosure of the information.

Section 3 of the bill would require each organ donor card made available at drivers license offices to include the following:

1. A statement informing the individual that organ procurement organizations and eye banks would have read-only access to the Internet site listing those individuals submitting organ donor cards to the Division at the time of drivers license application or renewal.
2. The type of information that would be made available on the Internet site.

License To Give Trust Fund

Section 4 of the bill would establish a Fund to be kept on deposit with the State Treasurer that would be subject to oversight by the State Auditor. The License to Give Trust Fund Commission, which is established by this bill, would be authorized to expend funds from the License to Give Trust Fund for the following purposes:

1. As grants-in aid for initiatives that educate and promote organ and tissue donation and health care decision-making at life's end.
2. Expenses of the Commission.

License to Give Trust Fund Commission

Section 4(b) of the bill would establish a Commission within the Department of Administration with the following powers and duties:

1. Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.
2. Accept gifts or grants form other sources that shall be transmitted to the State Treasurer for credit to the Fund.
3. Hire staff or contract for other expertise for the administration of the Fund.

The Commission would consist of 15 members as follows:

Number	Member Qualification
	(4) APPOINTEES OF THE PRESIDENT PRO TEMPORE
1	Representative of Carolina Donor Services
1	Representative of LifeShare of the Carolinas
2	Members who have demonstrated an interest in organ and tissue donation and education
	(4) APPOINTEES OF THE SPEAKER
1	Representative of the NC Eye Bank
1	Representative of The Carolinas Center for Hospice and End-of-Life Care
2	Members who have demonstrated an interest in promoting advance care planning education

(7) APPOINTEES OF THE GOVERNOR	
3	Members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State
1	Member who is a transplant physician licensed to practice medicine in this State
1	Member who has demonstrated an interest in organ and tissue donation and education
1	Member who has demonstrated an interest in promoting advance care planning education
1	Representative of the NC Department of Transportation
15	**Total Members**

Commission members would elect a chair and a vice-chair from its membership. Per diem, subsistence, and travel expenses of the members would be paid from the Fund. The Secretary of Administration would provide meeting facilities for the Commission. The members of the Commission must comply with G.S. 14-234, prohibiting conflicts of interest. In addition, a member would not be able to vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the Fund to a nonprofit or governmental entity of which the member is an employee. To violate such conflict of interest would result in a Class 1 misdemeanor.

Increase in Drivers License Fee

Section 5 of the bill would increase the following fees to fund the "License to Give Trust Fund": Class A or Class B driver's license by 25 cents to $4.30, Class C driver's license by five cents to $3.05, and duplicate licenses by five cents to $10.05. The bill provides that the Division of Motor Vehicles may retain a portion of the proceeds of the fee increase to offset its start–up and first year maintenance costs of the Organ Donor Internet site.

License Fee	Current Fee Amount	Proposed Fee Amount
Class A and Class B Drivers License	$4.25 a year	$4.30 a year
Class C Drivers License	$3.00 a year	$3.05 a year
Duplicate License & Identification Card	$10.00	$10.05

Effective Date

The bill, which passed both Senate Health and Senate Finance Committees in 2003, provides that the fee increases would become effective November 1, 2003, and that the remainder of the bill would become effective January 1, 2004. These dates will need to be revised.

Dianna Jessup, counsel to the Senate Health and Human Resources Committee and Amy Compeau, Research Assistant, contributed substantially to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1602*
PROPOSED COMMITTEE SUBSTITUTE H1602-CSLA-64 [v.1]

6/18/2004 4:51:33 PM

Short Title: Delays $ limit on credit for partnerships. (Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO DELAY THE IMPOSITION ON PARTNERSHIPS OF THE DOLLAR AMOUNT LIMITATION ON THE CREDIT ALLOWED FOR REAL PROPERTY DONATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2001-335 reads as rewritten:

" **SECTION 3.** This act becomes effective for taxable years beginning on or after January 1, 2002. Section 2 of this act expires for taxable years beginning on or after January 1, ~~2005.~~2007."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1602*

Short Title:	Tax Credit for Certain Real Prop. Donations.	(Public)
Sponsors:	Representative McComas.	
Referred to:	Finance.	

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO RECODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS AND TO INCREASE THE CREDIT FOR CERTAIN PASS-THROUGH ENTITIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 4 of Chapter 105 of the General Statutes is amended by adding a new Part to read:

"Part 6. Tax Credit for Certain Real Property Donations.

"**§ 105-163.021. Tax credit allowed.**

(a) Qualified Donation. – A person who makes a qualified donation of an interest in real property located in North Carolina during the taxable year that is useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, or (iv) other similar land conservation purposes is allowed a credit against the tax imposed by Article 4 of this Chapter equal to twenty-five percent (25%) of the fair market value of the donated property interest. To be eligible for this credit, the interest in property must be donated in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under the Code. Lands required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance are not eligible for this credit. To support the credit allowed by this section, the taxpayer must file with the income tax return for the taxable year in which the credit is claimed a certification by the Department of Environment and Natural Resources that the property donated is suitable for one or more of the valid public benefits set forth in this subsection. The certification for a qualified donation made by a pass-through entity must be filed by the pass-through entity.

(b) Corporations. – The aggregate amount of credit allowed to a corporation in a taxable year under this section for one or more qualified donations, whether made

directly or indirectly as owner of a pass-through entity, may not exceed five hundred thousand dollars ($500,000). That portion of a qualifying donation that is the basis for a credit allowed under this section is not eligible for deduction as a charitable contribution under G.S. 105-130.9.

(b1) Individuals. – The aggregate amount of credit allowed to an individual in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of a pass-through entity, may not exceed two hundred fifty thousand dollars ($250,000). In the case of property owned by a married couple, if both spouses are required to file North Carolina income tax returns, the credit allowed by this section may be claimed only if the spouses file a joint return. If only one spouse is required to file a North Carolina income tax return, that spouse may claim the credit allowed by this section on a separate return.

(b2) Pass-Through Entities. – The aggregate amount of credit allowed to a pass-through entity in a taxable year under this section for one or more qualified donations, whether made directly or indirectly as owner of another pass-through entity, may not exceed five hundred thousand dollars ($500,000). Each individual who is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed two hundred fifty thousand dollars ($250,000). Each corporation that is an owner of a pass-through entity is allowed as a credit an amount equal to the owner's allocated share of the credit to which the pass-through entity is eligible under this subsection, not to exceed five hundred thousand dollars ($500,000).

(c) Cap; Carryforward. – The credit allowed by this section may not exceed the amount of tax imposed by Article 4 of this Chapter for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer. Any unused portion of this credit may be carried forward for the next succeeding five years.

(d) Marshland. – In the case of marshland for which a claim has been filed pursuant to G.S. 113-205, the offer of donation must be made before December 31, 2003, to qualify for the credit allowed by this section."

SECTION 2. G.S. 105-130.34 is repealed.

SECTION 3. G.S. 105-151.12 is repealed.

SECTION 4. This act is effective for taxable years beginning on or after January 1, 2005.

HOUSE BILL 1602:
Tax Credit for Certain Real Property Donations

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McComas
Date:	June 23, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: The proposed committee substitute for House Bill 1602 postpones until 2007 (now 2005) the imposition on partnerships and limited liability companies of the dollar amount limitation on the credit allowed for real property donations.

CURRENT LAW: The conservation tax credits in G.S. 105-151.12 and 105-130.34 are allowed to individual and corporate taxpayers who make a qualified donation of an interest in North Carolina real property that is useful for public beach access or use, public access to public waters or trails, fish and wildlife conservation, or other similar land conservation purposes. The tax credit is equal to 25% of the fair market value of the property donated to the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions. The credit for a corporation is taken against income tax and may not exceed $500,000. The credit for an individual is taken against income tax and may not exceed $250,000. Both corporate and individual taxpayers are allowed to carry forward for five years any unused portion of the credit.

In S.L. 2001-335, the General Assembly corrected and clarified the law governing allocation of partnerships' tax credits, so that any dollar amount limitation on a credit allowed to a partnership applies to the total credit. The limited amount is then allocated by the partnership among the partners on a proportional basis. However, this dollar amount limitation was delayed until 2005 for partnerships that are allowed a credit for real property donations.

BILL ANALYSIS: The PCS for House Bill 1602 would postpone the dollar amount limitation for partnerships until taxable years beginning on or after January 1, 2007.

BACKGROUND: Generally partnerships are treated under North Carolina law as under federal law. Both North Carolina and federal law recognize that a partnership is a separate entity. When the partnership is entitled to a tax credit, the partnership allocates the credit among its partners on a proportional basis. The partners can then claim the amount of credit allocated to them. This is done because the partnership itself is not a taxable entity. Under prior North Carolina law, a partnership that passed an income tax credit through to its partners would be subject to all limitations on the credit, except for two[1]:

1. The limitation that the credit may not exceed the amount of the income tax imposed on the taxpayer.

[1] All limitations on the tax credit also apply to each partner individually.

2. A cap on the otherwise allowable amount of the credit, expressed as a specific maximum dollar amount or a specific percentage of the tax imposed on the taxpayer.

Federal law does not recognize the second of these, the exemption from a specific dollar amount limitation. Additionally, North Carolina does not recognize such an exemption for S. corporations.[2] Thus, this provision of North Carolina law regarding taxation of partnerships was inconsistent with both federal law regarding taxation of partnerships and North Carolina law regarding taxation of S. Corporations.

S.L. 2001-335 removed the partnership's exemption from the specific dollar amount limitation. This makes North Carolina law consistent with federal law on this point as well as consistent with North Carolina law regarding S corporations. Limited liability companies are treated like partnerships under North Carolina law for income tax purposes. Thus, this change also applies to limited liability companies.

The 2001 change affects relatively few tax credits. The following tax credits have specific dollar amount limitations:

- Worker training (G.S. 105-129.11)
- Investing in central administrative office property (G.S. 105-129.12)
- Investing in business property (G.S. 105-129.16)
- Investing in renewable energy property (G.S. 105-129.16A)
- Real property donations (G.S. 105-151.12)
- Conservation tillage equipment (G.S. 105-151.13)
- Construction of a poultry composting facility (G.S. 105-151.25)

S.L. 2001-335 delayed until 2005 the imposition on partnerships and limited liability companies of the dollar amount limitation on the credit allowed for real property donations.

[2] An S corporation is a business entity that is similar in most respects to a partnership for tax purposes.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 23, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1602-CSLA-64 [v.1] Delay $ Limit on Credit for Partnerships

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund	See Assumptions and Methodology				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Department of Environment and Natural Resources

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: This act delays from 2005 to 2007 the imposition of the dollar amount limitation on pass-through entities for the tax credit on certain real property donations.

BACKGROUND: In 2001, the General Assembly approved HB 146 (S.L. 2001-335) to modify the pass-through distribution of partnership income tax credits to conform to federal law. Prior to 2001, when a tax credit was capped at a specific dollar amount, each owner in a pass-through entity was allowed to take that dollar amount of credit. Under federal law, the total credit amount was shared proportionally with the investors in the pass-through entity based on their share of ownership. HB 146 placed this total credit amount limitation on tax credits for worker training, conservation tillage equipment, poultry composting facility, investment in business property, renewable energy property, and administrative

office property, and real property donations. For the tax credit on real property donations, the limitation was delayed until January 1, 2005. For income tax law, a pass-through entity is a limited partnership, a general partnership, a joint venture, a subchapter S corporation, or a limited liability company that is owned by individuals or other entities in which the income, losses, and credits "pass through" the entity to the owner in proportion to ownership share.

ASSUMPTIONS AND METHODOLOGY: Based on the tax credits taken by pass-through entities from 2000 to 2004, this bill will increase the General Fund revenue loss due to the conservation tax credit. Upon the request of the General Assembly's Fiscal Research Division, the Department of Environment and Natural Resources provided a list of all companies that have applied for the conservation credit in the last five years. The companies on the list were matched against incorporation records kept by the Secretary of State to determine how each company was incorporated. The list contained 82 companies that were either limited partnerships or limited liability companies that fit the qualification of pass-through entity.

The chart below shows the conservation donations for 2001 with the company names deleted. The Amount column has the value of the conservation easement, donation, or bargain sale for each property. Since the number of investors for each company is unknown, for this analysis it is assumed that each company has five investors. The number of investors is important because until December 31, 2004, each investor can take the total credit amount. Thus, for Company D, the $3.6 million donation is divided by five investors to give each investor a $720,000 donation. This donation is multiplied by 25% to get an $180,000 tax credit per investor. The total tax credit for Company D under current law is $900,000 or $180,000 credit times five investors. If this same donation were made after January 1, 2005 when the limitation of HB 146 (S.L. 2001-335) takes effect, the maximum credit amount that all five investors would have to share would be $250,000. This would save the General Fund $650,000 on the tax credit for Company D.

Entity	Amount	Donation per Investor (Assume 5 Investors)	25% credit per investor	Total Credit until Dec 31, 2004	Total Credit after Jan 1, 2005
Company A	$1,525,000	$305,000	$76,250	$381,250	$250,000
Company B	$1,939,000	$387,800	$96,950	$484,750	$250,000
Company C	$2,144,537	$428,907	$107,227	$536,134	$250,000
Company D	$3,600,000	$720,000	$180,000	$900,000	$250,000
Company E	$670,000	$134,000	$33,500	$167,500	$167,500
Company F	$330,000	$66,000	$16,500	$82,500	$82,500
Company G	$364,000	$72,800	$18,200	$91,000	$91,000
Company H	$425,000	$85,000	$21,250	$106,250	$106,250
Company I	$92,000	$18,400	$4,600	$23,000	$23,000
Company J	$3,900,000	$780,000	$195,000	$975,000	$250,000
				$3,747,384	$1,720,250

For the ten donations made by pass-through entities in 2001, the state had an estimated revenue loss of $3.7 million. Had the donations been made under the law that takes effect January 1, 2005, the revenue loss would have been $1.7 million for a savings to the state of $2 million. Extension of the dollar amount limitation will negate such savings to the General Fund for two years. Using the same assumption of five investors per company, the chart below shows the cost of the conservation credits for 81 donations from 2001 to 2004. On average, the difference between the tax credit awarded until December 31, 2004 and the credit awarded after January 1, 2005 is $189,309. For 20 donations a year, this would equal a General Fund revenue loss of approximately $3.7 million annually.

	Donations	Total Credit until Dec 31 2004	Total Credit after Jan 1 2005	Difference	Difference per Credit	
2001	10	$3,747,384	$1,720,250	$2,027,134	$202,713	
2002	18	$7,089,550	$3,210,200	$3,879,350	$215,519	
2003	28	$6,550,274	$3,479,274	$3,071,000	$109,679	
2004	25	$10,698,060	$4,827,500	$5,870,560	$234,822	
	81					
				$14,848,044	$183,309	per credit

SOURCES OF DATA: Department of Environment and Natural Resources – N.C. Conservation Tax Credit Program; Department of Secretary of State

TECHNICAL CONSIDERATIONS: None

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1602 A BILL TO BE ENTITLED AN ACT TO RECODIFY THE CREDIT FOR CERTAIN REAL PROPERTY DONATIONS AND TO INCREASE THE CREDIT FOR CERTAIN PASS-THROUGH ENTITIES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#_____~~), ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1356

Short Title:	Gibsonville Whitsett Boundary.	(Local)
Sponsors:	Senator Berger.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO TRANSFER CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF GIBSONVILLE TO THE TOWN OF WHITSETT, SUCH PROPERTY BEING TOTALLY SURROUNDED BY THE TOWN OF WHITSETT.

The General Assembly of North Carolina enacts:

SECTION 1. The following described property is removed from the corporate limits of the Town of Gibsonville and is added to the corporate limits of the Town of Whitsett:

A tract of land in Rock Creek Township, Guilford County, adjoining State Road #3064 and being described as follows:

BEGINNING at an iron stake in the northern portion of the right of way of N. C. State Rd. #3064 (also known as Whitsett Park Road) and running thence North 84 deg. 52' 30" West 417.50 ft. to an iron pin; thence North 05 deg. 17' East 836.22 ft. to an iron pin; thence South 83 deg. 53' 20" East 418 ft. to an iron pin; thence South 05 deg. 17' 50" West 829.0 ft to the POINT AND PLACE OF THE BEGINNING and containing 7.98 acres more or less as shown on the survey performed by N. Glenn Walker, Surveyor, dated March 11, 1968 and being the same property as conveyed in Deed Book 3826 page 1277.

SECTION 2. Section 1 of this act has no effect upon the validity of any liens of the Town of Gibsonville for ad valorem taxes or special assessments outstanding before the effective date of this act. Such liens may be collected or foreclosed upon after the effective date of this act as though the property was still within the corporate limits of the Town of Gibsonville.

SECTION 3. This act becomes effective June 30, 2004.

SENATE BILL 1356:
Gibsonville Whitsett Boundary.

BILL ANALYSIS

Committee:	Senate Finance	**Introduced by:**	Senator Berger
Date:	June 9, 2004	**Summary by:**	R. Erika Churchill
Version:	1st Edition		Committee Counsel

SUMMARY: ***The bill would adjust the boundaries of the Towns of Gibsonville and Whitsett as agreed upon by those two towns.***

CURRENT LAW: Annexation is a method by which towns and cities grow. The town or city must follow statutorily prescribed steps in order to take in an area to its boundaries. North Carolina law sets forth four (4) basic ways in which a town or city may annex an area: voluntary annexation, nonvoluntary annexation, satellite annexation, and legislative act. The general statutes do not set forth a process by which a town may deannex an area.

BILL ANALYSIS: The bill would remove one eight-acre tract of land from the Town of Gibsonville and place it in the Town of Whitsett. The property is currently in the Town of Gibsonville, but is surrounded on all sides by the Town of Whitsett.

The act is effective June 30, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1356 A BILL TO BE ENTITLED AN ACT TO TRANSFER CERTAIN PROPERTY FROM THE CORPORATE LIMITS OF THE TOWN OF GIBSONVILLE TO THE TOWN OF WHITSETT, SUCH PROPERTY BEING TOTALLY SURROUNDED BY THE TOWN OF WHITSETT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1145

Finance Committee Substitute Adopted 6/7/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1145-CSLCx-150 [v.6]

6/23/2004 1:30:03 PM

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES AND TO PROHIBIT THE USE OF FUTURE ROOM TAX COLLECTIONS IN CERTAIN COUNTIES AND CITIES TO DEVELOP OR CONSTRUCT A HOTEL OR SIMILAR LODGING FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30C.3(b) of S.L. 2002-126, as amended by Section 37A.4 of S.L. 2003-284, reads as rewritten:

"**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. This section ~~is~~ and Section 37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or after July 1, 2005."

SECTION 2. The lead-in language of Section 2 of S.L. 2003-360 reads as rewritten:

"**SECTION 2.** The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Sections ~~1~~ 1, 5, and 6 of this act are as follows:".

SECTION 3.(a) S.L. 2003-405 is reenacted.

SECTION 3.(b) This section is effective on and after August 12, 2003, and is repealed effective on the date that S.L. 2003-405 is repealed.

SECTION 4.(a) G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section for estates of decedents dying on or after January 1, 2002, is the maximum credit for state death taxes allowed under section 2011 of the Code without regard to the phase-out and termination of that credit under subdivision (b)(2) and subsection (f) of that ~~section.~~ section and without regard to the deduction for state death taxes allowed under section 2058 of the

Code. If any property in the estate is located in a state other than North Carolina, the amount of tax payable depends on whether the decedent was a resident of this State at death. If the decedent was a resident of this State at death, the amount of tax due under this section is reduced by the lesser of the amount of the death tax paid the other state or an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of the estate that has a tax situs in another state and the denominator of which is the value of the decedent's gross estate. If the decedent was not a resident of this State at death, the amount of tax due under this section is an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of real property that is located in North Carolina plus the gross value of any personal property that has a tax situs in North Carolina and the denominator of which is the value of the decedent's gross estate. For purposes of this section, the gross value of property is its gross value as finally determined in the federal estate tax proceedings."

SECTION 4.(b) This section is repealed effective for the estates of decedents dying on or after July 1, 2005.

SECTION 5. G.S. 105-113.5 reads as rewritten:

"**§ 105-113.5. Tax on cigarettes.**

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of two and one-half mills per individual cigarette.

~~This tax does not apply to any of the following:~~

~~(1) Sample cigarettes distributed without charge in packages containing five or fewer cigarettes.~~

~~(2) Cigarettes in a package of cigarettes given without charge by the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government.~~"

SECTION 6. G.S. 105-113.68(a)(2) is repealed.

SECTION 7. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes ~~on wine~~ levied under G.S. 105-113.80(b) on wine shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 8. G.S. 105-113.108(a) reads as rewritten:

"(a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized substances to indicate payment of the tax required by this Article. Dealers shall report the taxes payable under this Article at the time and on the ~~form~~ return prescribed by the Secretary. ~~Dealers~~ Notwithstanding any other provision of law, dealers are not required to give their name, address, social security number, or other identifying information on the ~~form.~~return and the return is not required to be verified by oath or affirmation. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person."

SECTION 8.1. G.S. 105-114.1(b), as amended by ratified Senate Bill 51, 2003 General Assembly, reads as rewritten:

"(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns seventy percent (70%) or more of the capital interests in a limited liability company, the corporation or group of corporations must include in its three tax bases pursuant to G.S. 105-122~~under this Article~~ the same percentage of (i) the limited liability company's capital stock, surplus, and undivided profits; (ii) fifty-five percent (55%) of the limited liability company's appraised ad valorem tax value of property; and (iii) the limited liability company's actual investment in tangible property in this State, as appropriate.~~the limited liability company's net assets.~~"

SECTION 9. G.S. 105-129.2 is amended by adding a new subdivision to read:

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

. . .

(12a) Interstate air courier. – Defined in G.S. 105-164.3."

SECTION 10. 105-129.4(b2) reads as rewritten:

"(b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed when the jobs are created and each year it claims an installment or carryforward of the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed when the taxpayer engages in the activity that qualifies for the credit and each year it claims an installment or carryforward of the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims a credit or an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit."

SECTION 11. G.S. 105-129.4(b6) reads as rewritten:

"(b6) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under this Article if, at the time the taxpayer claims the credit or an installment or carryforward of the credit, the taxpayer has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved."

SECTION 12. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by ~~March~~ April 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of claims for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.

(3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.

(4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.

(5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.

(6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.

(7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed."

SECTION 13. G.S. 105-129.9(d) reads as rewritten:

"(d) Expiration. – As used in this subsection, the term 'disposed of' means disposed of, taken out of service, or moved out of State.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, ~~taken out of service, or moved out of State,~~ the credit expires and the taxpayer may not take any remaining installment of the credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty

percent (20%) or less of the cost of the machinery and equipment that were disposed of, or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved."

SECTION 14. G.S. 105-129.35(c)(4) reads as rewritten:

"(4) State Historic Preservation Officer. – Defined in G.S. ~~105-129.6.~~105-129.36."

SECTION 15. G.S. 105-130.4(a)(6) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

. . .

(6) 'Public utility' means any corporation that is subject to control of one of more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal ~~Power~~ Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State."

SECTION 16.(a) G.S. 105-130.46 reads as rewritten:

"**§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.**

(a) Purpose. – The credit authorized by this section is intended to enhance the economy of this State by encouraging qualifying cigarette manufacturers to increase

employment in this State with the purpose of expanding this State's economy, the use of the North Carolina State Ports, and the use of other State goods and services, including tobacco.

(b) Definitions. – The following definitions apply in this section:

(1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.

(3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(c) Employment Level. – In order to be eligible for a full credit allowed under this section, the corporation must maintain an employment level in this State that exceeds the corporation's employment level in this State at the end of the 2004 calendar year by at least 800 full-time jobs. In the case of a successor in business, the corporation must maintain an employment level in this State that exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year by at least 800 full-time jobs. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.

(d) Credit. – A corporation that satisfies the employment level requirement under subsection ~~(b)~~(c) of this section, is engaged in the business of manufacturing cigarettes for exportation, and exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit as provided in this section. The amount of credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes exported. The amount of credit earned during the taxable year may not exceed ten million dollars ($10,000,000).

(e) Reduction of Credit. – A corporation that has previously satisfied the qualification requirements of this section but that fails to satisfy the employment level requirement in a succeeding year may still claim a partial credit for the year in which the employment level requirement is not satisfied. The partial credit allowed is equal to the credit that would otherwise be allowed under subsection ~~(c)~~(d) of this section multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds the corporation's employment level in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the case of a successor in business, the numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year.

(f) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(g) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection ~~(e)~~(d) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(h) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(i) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

(1) A statement of the exportation volume on which the credit is based.

(2) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

(3) Any other information required by the Department of Revenue.

(j) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.45 for the same activity.

(k) Reports. – Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006."

SECTION 16.(b) This section is effective for taxable years beginning on or after January 1, 2006, and expires for exports occurring on or after January 1, 2018.

SECTION 17. G.S. 105-160.3(b)(6) is repealed.

SECTION 18. G.S. 105-164.3(28) reads as rewritten:

"(28) Prepared food. – Food that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not ~~otherwise process.~~heat, mix, or sell with eating utensils.

a. It is sold in a heated state or it is heated by the retailer.

b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This sub-subdivision does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.

c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws."

SECTION 19. G.S. 105-164.3(37) reads as rewritten:

"(37) Sales price. – The total amount or consideration for which personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:

1. The retailer's cost of the property sold.
2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
3. Charges by the retailer for any services necessary to complete the sale.
4. Delivery charges.
5. Installation charges.
6. The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.
7. Credit for trade-in.

b. The term does not include any of the following:

1. Discounts, including cash, term, or coupons, that are not reimbursed by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.

3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer."

SECTION 20. G.S. 105-164.4B(a)(3) reads as rewritten:

"(3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:

a. The business or home address of the purchaser.

b. The billing address of the purchaser or, if the product is a prepaid telephone calling service that authorizes the purchase of mobile telecommunications service, the location associated with the mobile telephone number.

c. The ~~billing address of the purchaser.~~address from which tangible personal property was shipped or from which a service was provided."

SECTION 21.(a) G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – **(Effective July 1, 2004 and applicable to sales made on or after that date)** The State is allowed quarterly refunds of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. ~~services and of~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.

(2) The type of property purchased.

(3) The project for which the property was used.

(4) If the property was purchased in this State, the county in which it was purchased.

(5) If the property was not purchased in this State, the county in which the property was used.

(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 21.(b) This section becomes effective July 1, 2004.

SECTION 22. G.S. 105-164.29A reads as rewritten:

"**§ 105-164.29A. State government exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. ~~105-164.13(51),~~105-164.13(52), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 22.5. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts."

SECTION 23. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public ~~Safety~~ Safety, the Division of Motor Vehicles of the Department of Transportation, or the International Fuel Tax Association, Inc., when the information is needed to fulfill a duty imposed on the Department of ~~Revenue or~~ Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation.~~Safety.~~"

SECTION 24. G.S. 105-449.47(a1) reads as rewritten:

"(a1) Registration and Identification Marker. – When the Secretary registers a motor carrier, the Secretary must issue at least one identification marker for each motor vehicle operated by the motor carrier. A motor carrier must keep records of identification markers issued to it and must be able to account for all identification markers it receives from the Secretary. Registrations and identification markers issued by the Secretary are for a calendar year. ~~The Secretary may renew a registration or an~~

~~identification marker without issuing a new registration or identification marker.~~ All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or Article 36C or 36D of this Subchapter.

A motor carrier must carry a copy of its registration in each motor vehicle operated by the motor carrier when the vehicle is in this State. A motor vehicle must clearly display an identification marker at all times. The identification marker must be affixed to the vehicle for which it was issued in the place and manner designated by the authority that issued it."

SECTION 25. G.S. 105-449.52(a) reads as rewritten:

"(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

(1) Operates in this State or causes to be operated in this State a motor vehicle that ~~does not~~either fails to carry the registration card required by this Article or ~~does not~~fails to display an identification marker in accordance with this Article. The amount of the penalty is one hundred dollars ($100.00).

(2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars ($100.00) for each identification marker the carrier is unable to account for.

(3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars ($1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

A penalty imposed under this section is payable to the Department of ~~Revenue~~ Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles. When a motor vehicle is found to be operating without a registration card or an identification marker or with an identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty."

SECTION 26. G.S. 105-449.54 reads as rewritten:

"**§ 105-449.54. Commissioner of Motor Vehicles made process agent of nonresident motor carriers.**

~~The acceptance by~~By operating a motor vehicle on the highways of this State, a nonresident motor carrier consents to the appointment of ~~of the rights and privileges conferred by the laws now or hereafter in force in this State permitting the operation of~~

~~motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either personally or through an agent or employee, on the public highways of this State, or the operation by such nonresident, either personally or through an agent or employee, of a motor vehicle on the public highways of this State other than as so permitted or regulated, shall be deemed equivalent to the appointment by such nonresident motor carrier of~~ the Commissioner of Motor Vehicles as its attorney in fact and process agent for ~~Vehicles, or his successor in office, to be his true and lawful attorney and the attorney of his executor or administrator, upon whom may be served~~ all summonses or other lawful process or notice in any action, ~~assessment proceeding~~assessment, or other proceeding ~~against him or his executor or administrator, arising out of or by reason of any provisions of this Article relating to such vehicle or relating to the liability for tax with respect to operation of such vehicle on the highways of this State. Said acceptance or operation shall be a signification by such nonresident motor carrier of his agreement that any such process against or notice to him or his executor or administrator shall be of the same legal force and validity as if served on him personally, or on his executor or administrator. All of the provisions of G.S. 1-105 following the first paragraph thereof shall be applicable with respect to the service of process or notice pursuant to this section.~~under this Chapter."

SECTION 27. G.S. 105-449.60(7) reads as rewritten:

"**§ 105-449.60. Definitions.**

The following definitions apply in this Article:

. . .

(7) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes ~~kerosene and biodiesel.~~biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and kerosene. The term does not include jet fuel sold to a buyer who is certified to purchase jet fuel under the Code."

SECTION 28. The lead-in language of G.S. 105-449.72(a) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or an irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:".

SECTION 29. G.S. 105-449.74 reads as rewritten:

"**§ 105-449.74. Issuance of license.**

Upon approval of an application, the Secretary must issue a license to the ~~applicant as well as a duplicate copy of the license for each place of business of the~~ applicant. A supplier's license must indicate the category of the supplier. A license holder must maintain and display a copy of the license issued under this Part in a conspicuous place at each place of business of the license holder. A license is not transferable and remains in effect until surrendered or cancelled."

SECTION 30. G.S. 105-449.81(3a) reads as rewritten:

"An excise tax at the motor fuel rate is imposed on motor fuel that is:

. . .

(3a) Fuel ~~grade ethanol~~ alcohol or biodiesel, if it meets either ~~that meets any~~ of the following descriptions:

a. Is removed from a terminal or another storage and distribution facility, unless the removed fuel is received by a supplier for subsequent sale.

b. Is imported to this State outside the terminal transfer system by a means other than a marine vessel, a transport truck, or a railroad tank car."

SECTION 31. G.S. 105-449.123 reads as rewritten:

"**§ 105-449.123. Marking requirements for dyed ~~diesel~~ fuel storage facilities.**

(a) Requirements. – A person who is a retailer of dyed ~~diesel~~ motor fuel or who stores both dyed and undyed ~~diesel~~ motor fuel for use by that person or another person must mark the storage facility for the dyed ~~diesel~~ motor fuel as follows in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle.

(1) The storage tank of the storage facility must be marked if the storage tank is visible.

(2) The fillcap or spill containment box of the storage facility must be marked.

(3) The dispensing device that serves the storage facility must be marked.

(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 32. G.S. 105-469 reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).

(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales

tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this ~~Chapter.~~ Chapter and under Chapter 1096 of the 1967 Session Laws.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 33. G.S. 119-15.1 reads as rewritten:

"**§ 119-15.1. List of persons who must have a license.**

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

(1) A kerosene supplier.

(2) A kerosene distributor.

(3) A kerosene terminal operator.

(b) Exception. – A kerosene supplier license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal operator license is not required if the ~~supplier~~ terminal operator is licensed as a ~~supplier~~ terminal operator under Part 2 of Article 36C of Chapter 105 of the General Statutes."

SECTION 34. G.S. 119-19 reads as rewritten:

"**§ 119-19. Authority of Secretary to cancel a license.**

The Secretary of Revenue may cancel a license issued under ~~G.S. 119-16.2~~this Article upon the written request of the license holder. The Secretary may summarily cancel a license issued under ~~G.S. 119-16.2 or~~ this Article or under Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary finds that the license holder is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary may cancel the license of a license holder who files a false report under this Article or fails to file a report required under this Article after holding a hearing on whether the license should be cancelled.

The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must either return to the license holder the

bond filed by the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond."

SECTION 35. G.S. 120-70.108(a) reads as rewritten:

"(a) The Revenue Laws Study Committee shall establish a Property Tax Subcommittee consisting of ~~six~~ up to eight members. The Senate cochair of the Committee shall designate ~~three~~ up to four members appointed by the President Pro Tempore of the Senate to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The House cochair of the Committee shall designate ~~three~~ up to four members appointed by the Speaker of the House of Representatives to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The Subcommittee shall meet upon the call of the Subcommittee cochairs."

SECTION 36.(a) G.S. 153A-155(d) reads as rewritten:

"(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(b) G.S. 160A-215(d) reads as rewritten:

"(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(c) This section becomes effective October 1, 2004.

SECTION 37. The title of Article 16 of Chapter 153A of the General Statutes reads as rewritten:

"Article 16.

County Service Districts; County Research and Production Service ~~Districts.~~ Districts; County Economic Development and Training Districts."

SECTION 38. G.S. 153A-317.11 reads as rewritten:

"**§ 153A-317.11. Purpose ~~for which districts may be created.~~and nature of districts.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community

college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district any of the education, training, and related services, facilities, or functions that a county or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county. A district created under this Part is a special tax area under Section 2(4) of Article V of the North Carolina Constitution."

SECTION 39. G.S. 153A-317.17 reads as rewritten:

"**§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, ~~in order to finance, provide, or maintain for the district a skills training center provided therein~~for the purposes listed in G.S. 153A-317.11 within the district in addition to or to a greater extent than ~~worker training facilities~~ the same purposes provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars ($1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars ($100.00) value of property subject to taxation."

SECTION 40.(a) Section 6 of Chapter 650 of the 1987 Session Laws is codified as the first two paragraphs of G.S. 159-99.

SECTION 40.(b) Sections 7 and 5 of Chapter 650 of the 1987 Session Laws are codified as the second and third paragraphs, respectively, of G.S. 159-100.

SECTION 40.(c) Article 5A of Chapter 159 of the General Statutes, as amended by this section, reads as rewritten:

"Article 5A.

"Capital Appreciation Bonds.

"**§ 159-99. ~~Issuance of capital appreciation bonds pursuant to the Local Government Bond Act.~~Definition; terms and conditions.**

(a) Capital Appreciation Bond Defined. – For purposes of this ~~act,~~Article, the term 'capital appreciation ~~bonds' means any bond or bonds~~ bond' means a bond that meets all of the following conditions:

(1) It is sold, at public or private sale, at a price substantially less, as conclusively determined by the issuer ~~thereof,~~of the bond, than the principal amount ~~thereof and compounded~~ of the bond.

(2) Compounded interest ~~thereon~~ on the bond is payable at ~~maturity, but only if such bond or bonds are~~maturity.

(3) The bond is designated as a capital appreciation ~~bonds~~ bond within the meaning of this ~~act~~ Article by the proceedings of the issuer ~~thereof providing for the issuance of such bonds.~~of the bond providing for its issuance.

(b) Calculating Principal Amount. – For purposes of calculating the aggregate principal amount of bonds within the meaning of any constitutional or statutory limitation on the incurrence of debt, the aggregate principal amount of any capital appreciation bonds ~~shall be~~is the aggregate of the initial offering prices at which ~~such~~ the bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchaser ~~thereof~~ of the bonds in a private placement, in either case without reduction to reflect underwriters' discount or placement agents' or other intermediaries' fees.

(c) Terms and Conditions. – The proceedings providing for the issuance of any ~~such~~ capital appreciation bonds may provide for the issuance of terms bonds or serial bonds, or both, the establishment of sinking funds for or the redemption of term bonds, the issuance of capital appreciation bonds at the same time and as part of the same issue of any other type of bonds, the method of calculating the principal amount of any ~~such~~ capital appreciation bonds outstanding for the purpose of determining, within the meaning of ~~such~~ the proceedings and otherwise, application of debt service provisions, funds into which debt service payments are to be deposited, application of redemption provisions, bondowners' voting rights and consents, pro rata application of available ~~funds and such other matters as may be deemed appropriate by the issuer.~~funds, and any other matters the issuer considers appropriate.

~~Local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~

"**§ 159-100. ~~Issuance of capital appreciation bonds pursuant to The State and Local Government Revenue Bond Act.~~Authorization.**

(a) Revenue Bond Act. – The State and local governmental units are ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond ~~Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~Act.

(b) Local Government Bond Act. – Local governmental units are authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act. In connection with the issuance of a series of bonds containing capital

appreciation bonds issued by local governmental units pursuant to The Local Government Bond Act, the Local Government Commission ~~is hereby authorized to~~ may require that annual debt service on ~~such~~ the series of bonds be as nearly level or equal as possible taking into consideration prevailing financial techniques, including, without limitation, the postponement of principal maturities in early years of the issue and the use of capitalized interest. The Local Government Commission ~~is hereby further authorized to~~ may also limit the amount of a series of bonds that may be issued as capital appreciation bonds and to make the issuance of any ~~such~~ capital appreciation bonds subject to a finding by the Commission or the issuer that the issuance of ~~such~~ the bonds will not increase the aggregate amount of debt service payable on ~~such~~ the series of bonds of which ~~such~~ the capital appreciation bonds constitute a part.

(c) Future Acts. – ~~The State and local~~ Local governmental units are ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of any law enacted in the future.~~hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~"

SECTION 41.(a) Sections 2, 4, and 5 of Chapter 650 of the 1987 Session Laws are codified as G.S. 142-15.3.

SECTION 41.(b) G.S. 142-15.3, as codified by this section, reads as rewritten:

"**§ 142-15.3. Capital appreciation bonds.**

(a) Cross-Reference. – The provisions of G.S. 159-99 govern capital appreciation bonds.

(b) Authorization. – The State ~~and local governmental units are hereby~~is authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond ~~Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~Act. The State is ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of applicable law and ~~law and to the extent that the provisions of such law are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds. The State and local governmental units are hereby authorized to issue capital appreciation bonds~~ pursuant to the provisions of any law enacted in the future.~~hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~"

SECTION 42.(a) G.S. 153A-155 is amended by adding a new subsection to read:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used directly or indirectly for development or construction of a hotel or another transient lodging facility."

SECTION 42.(b) G.S. 160A-215 is amended by adding a new subsection to read:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used directly or indirectly for development or construction of a hotel or another transient lodging facility."

SECTION 42.(c) This section becomes effective July 1, 2004, and applies to taxes that accrue on or after that date.

SECTION 43. Except as otherwise provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1145

Finance Committee Substitute Adopted 6/7/04

Short Title: Revenue Laws Technical Changes. (Public)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30C.3(b) of S.L. 2002-126, as amended by Section 37A.4 of S.L. 2003-284, reads as rewritten:

"**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and applies to the estates of decedents dying on or after that date. This section ~~is~~ and Section 37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or after July 1, 2005."

SECTION 2. The lead-in language of Section 2 of S.L. 2003-360 reads as rewritten:

"**SECTION 2.** The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Sections ~~1~~ 1, 5, and 6 of this act are as follows:".

SECTION 3.(a) S.L. 2003-405 is reenacted.

SECTION 3.(b) This section is effective on and after August 12, 2003, and is repealed effective on the date that S.L. 2003-405 is repealed.

SECTION 4.(a) G.S. 105-32.2(b) reads as rewritten:

"(b) Amount. – The amount of the estate tax imposed by this section for estates of decedents dying on or after January 1, 2002, is the maximum credit for state death taxes allowed under section 2011 of the Code without regard to the phase-out and termination of that credit under subdivision (b)(2) and subsection (f) of that ~~section.~~section and without regard to the deduction for state death taxes allowed under section 2058 of the Code. If any property in the estate is located in a state other than North Carolina, the amount of tax payable depends on whether the decedent was a resident of this State at death. If the decedent was a resident of this State at death, the amount of tax due under this section is reduced by the lesser of the amount of the death tax paid the other state or an amount computed by multiplying the credit by a fraction, the numerator of which is

the gross value of the estate that has a tax situs in another state and the denominator of which is the value of the decedent's gross estate. If the decedent was not a resident of this State at death, the amount of tax due under this section is an amount computed by multiplying the credit by a fraction, the numerator of which is the gross value of real property that is located in North Carolina plus the gross value of any personal property that has a tax situs in North Carolina and the denominator of which is the value of the decedent's gross estate. For purposes of this section, the gross value of property is its gross value as finally determined in the federal estate tax proceedings."

SECTION 4.(b) This section is repealed effective for the estates of decedents dying on or after July 1, 2005.

SECTION 5. G.S. 105-113.5 reads as rewritten:

"**§ 105-113.5. Tax on cigarettes.**

A tax is levied on the sale or possession for sale in this State, by a distributor, of all cigarettes at the rate of two and one-half mills per individual cigarette.

~~This tax does not apply to any of the following:~~

~~(1) Sample cigarettes distributed without charge in packages containing five or fewer cigarettes.~~

~~(2) Cigarettes in a package of cigarettes given without charge by the manufacturer of the cigarettes to an employee of the manufacturer who works in a factory where cigarettes are made, if the cigarettes are not taxed by the federal government.~~"

SECTION 6. G.S. 105-113.68(a)(2) is repealed.

SECTION 7. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes ~~on wine~~ levied under G.S. 105-113.80(b) on wine shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 8. G.S. 105-113.108(a) reads as rewritten:

"(a) Revenue Stamps. – The Secretary shall issue stamps to affix to unauthorized substances to indicate payment of the tax required by this Article. Dealers shall report the taxes payable under this Article at the time and on the ~~form~~ return prescribed by the Secretary. ~~Dealers~~ Notwithstanding any other provision of law, dealers are not required to give their name, address, social security number, or other identifying information on the ~~form.~~return and the return is not required to be verified by oath or affirmation. Upon

payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person."

SECTION 9. G.S. 105-129.2 is amended by adding a new subdivision to read:

"**§ 105-129.2. Definitions.**

The following definitions apply in this Article:

. . .

(12a) Interstate air courier. – Defined in G.S. 105-164.3."

SECTION 10. 105-129.4(b2) reads as rewritten:

"(b2) Health Insurance. – A taxpayer is eligible for a credit for creating jobs or for worker training under this Article if the taxpayer provides health insurance for the positions for which the credit is claimed when the jobs are created and each year it claims an installment or carryforward of the credit. A taxpayer is eligible for the other credits under this Article if the taxpayer provides health insurance for all of the full-time positions at the location with respect to which the credit is claimed when the taxpayer engages in the activity that qualifies for the credit and each year it claims an installment or carryforward of the credit. For the purposes of this subsection, a taxpayer provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims a credit or an installment or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer continues to provide health insurance for the jobs for which the credit was claimed or the full-time jobs at the location with respect to which the credit was claimed. If the taxpayer ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining installment or carryforward of the credit."

SECTION 11. G.S. 105-129.4(b6) reads as rewritten:

"(b6) Overdue Tax Debts. – A taxpayer is not eligible for a credit allowed under this Article if, at the time the taxpayer claims the credit or an installment or carryforward of the credit, the taxpayer has received a notice of an overdue tax debt and that overdue tax debt has not been satisfied or otherwise resolved."

SECTION 12. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by ~~March~~ April 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of claims for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.

(3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.

(4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.

(5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.

(6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.

(7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed."

SECTION 13. G.S. 105-129.9(d) reads as rewritten:

"(d) Expiration. – As used in this subsection, the term 'disposed of' means disposed of, taken out of service, or moved out of State.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are disposed of, ~~taken out of service, or moved out of State,~~ the credit expires and the taxpayer may not take any remaining installment of the credit for that machinery and equipment unless the cost of that machinery and equipment is offset in the same taxable year by the taxpayer's new investment in eligible machinery and equipment placed in service in the same enterprise tier, as provided in this subsection. If, during the taxable year the taxpayer disposed of the machinery and equipment for which installments remain, there has been a net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same enterprise tier as the machinery and equipment that were disposed of, and the amount of this reduction is greater than twenty percent (20%) of the cost of the machinery and equipment that were disposed of, then the taxpayer forfeits the remaining installments of the credit for the machinery and equipment that were disposed of. If the amount of the net reduction is equal to twenty percent (20%) or less of the cost of the machinery and equipment that were disposed of, or if there is no net reduction, then the taxpayer does not forfeit the remaining installments of the expired credit. In determining the amount of any net reduction during the taxable year, the cost of machinery and equipment the taxpayer placed in service during the taxable year and for which the taxpayer claims a credit under Article 3B of this Chapter may not be included in the cost of all the taxpayer's eligible machinery and equipment that are in service. If in a single taxable year machinery and equipment with respect to two or more credits in the same tier are disposed of, the net reduction in the cost of all the taxpayer's eligible machinery and equipment that are in service in the same tier is compared to the total cost of all the machinery and equipment for which credits expired in order to determine whether the remaining installments of the credits are forfeited.

The expiration of a credit does not prevent the taxpayer from taking the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

If, in one of the seven years in which the installment of a credit accrues, the machinery and equipment with respect to which the credit was claimed are moved to an area in a higher-numbered enterprise tier, or are moved from a development zone to an area that is not a development zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the machinery and equipment had been placed in service initially in the area to which they were moved."

SECTION 14. G.S. 105-129.35(c)(4) reads as rewritten:

"(4) State Historic Preservation Officer. – Defined in G.S. ~~105-129.6.~~105-129.36."

SECTION 15. G.S. 105-130.4(a)(6) reads as rewritten:

"(a) As used in this section, unless the context otherwise requires:

. . .

(6) 'Public utility' means any corporation that is subject to control of one of more of the following entities: the North Carolina Utilities Commission, the Federal Communications Commission, the Interstate Commerce Commission, the Federal ~~Power~~ Energy Regulatory Commission, or the Federal Aviation Agency; and that owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications, the transportation of goods or persons, or the production, storage, transmission, sale, delivery or furnishing of electricity, water, steam, oil, oil products, or gas. The term also includes a motor carrier of property whose principal business activity is transporting property by motor vehicle for hire over the public highways of this State."

SECTION 16.(a) G.S. 105-130.46 reads as rewritten:

"**§ 105-130.46. Credit for manufacturing cigarettes for exportation while increasing employment and utilizing State Ports.**

(a) Purpose. – The credit authorized by this section is intended to enhance the economy of this State by encouraging qualifying cigarette manufacturers to increase employment in this State with the purpose of expanding this State's economy, the use of the North Carolina State Ports, and the use of other State goods and services, including tobacco.

(b) Definitions. – The following definitions apply in this section:

(1) Employment level. – The total number of full-time jobs and part-time jobs converted into full-time equivalences.

(2) Exportation. – The shipment of cigarettes manufactured in the United States to a foreign country sufficient to relieve the cigarettes in the shipment of the federal excise tax on cigarettes.

(3) Full-time job. – A position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(4) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes

invested with the rights and assumes the burdens of the predecessor corporation and continues the cigarette exportation business.

(c) Employment Level. – In order to be eligible for a full credit allowed under this section, the corporation must maintain an employment level in this State that exceeds the corporation's employment level in this State at the end of the 2004 calendar year by at least 800 full-time jobs. In the case of a successor in business, the corporation must maintain an employment level in this State that exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year by at least 800 full-time jobs. A job is located in this State if more than fifty percent (50%) of the employee's duties are performed in this State.

(d) Credit. – A corporation that satisfies the employment level requirement under subsection ~~(b)~~(c) of this section, is engaged in the business of manufacturing cigarettes for exportation, and exports cigarettes and other tobacco products through the North Carolina State Ports during the taxable year is allowed a credit as provided in this section. The amount of credit allowed under this section is equal to forty cents (40¢) per one thousand cigarettes exported. The amount of credit earned during the taxable year may not exceed ten million dollars ($10,000,000).

(e) Reduction of Credit. – A corporation that has previously satisfied the qualification requirements of this section but that fails to satisfy the employment level requirement in a succeeding year may still claim a partial credit for the year in which the employment level requirement is not satisfied. The partial credit allowed is equal to the credit that would otherwise be allowed under subsection ~~(c)~~(d) of this section multiplied by a fraction. The numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds the corporation's employment level in this State at the end of the 2004 calendar year. The denominator of the fraction is 800. In the case of a successor in business, the numerator of the fraction is the number of full-time jobs by which the corporation's employment level in this State exceeds all its predecessor corporations' combined employment levels in this State at the end of the 2004 calendar year.

(f) Allocation. – The credit allowed by this section may be taken against the income taxes levied under this Part or the franchise taxes levied under Article 3 of this Chapter. When the taxpayer claims a credit under this section, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under this Part with any remaining percentage to be applied against the taxes levied under Article 3 of this Chapter. This election is binding for the year in which it is made and for any carryforwards. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(g) Ceiling. – The total amount of credit that may be taken in a taxable year under this section may not exceed the lesser of the amount of credit which may be earned for that year under subsection ~~(c)~~(d) of this section or fifty percent (50%) of the amount of tax against which the credit is taken for the taxable year reduced by the sum of all other credits allowable, except tax payments made by or on behalf of the taxpayer. This limitation applies to the cumulative amount of the credit allowed in any tax year,

including carryforwards claimed by the taxpayer under this section or G.S. 105-130.45 for previous tax years.

(h) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the next succeeding 10 years. All carryforwards of a credit must be taken against the tax against which the credit was originally claimed. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

(i) Documentation of Credit. – A corporation that claims the credit under this section must include the following with its tax return:

(1) A statement of the exportation volume on which the credit is based.

(2) A list of the corporation's export volumes shown on its monthly reports to the Alcohol and Tobacco Tax and Trade Bureau of the United States Treasury for the months in the tax year for which the credit is claimed.

(3) Any other information required by the Department of Revenue.

(j) No Double Credit. – A taxpayer may not claim this credit and the credit allowed under G.S. 105-130.45 for the same activity.

(k) Reports. – Any corporation that takes a credit under this section must submit an annual report by May 1 of each year to the Senate Finance Committee, the House of Representatives Finance Committee, the Senate Appropriations Committee, the House of Representatives Appropriations Committee, and the Fiscal Research Division of the General Assembly. The report must state the amount of credit earned by the corporation during the previous year, the amount of credit including carryforwards claimed by the corporation during the previous year, and the percentage of domestic leaf content in cigarettes produced by the corporation during the previous year. The first reports required under this section are due by May 1, 2006."

SECTION 16.(b) This section is effective for taxable years beginning on or after January 1, 2006, and expires for exports occurring on or after January 1, 2018.

SECTION 17. G.S. 105-160.3(b)(6) is repealed.

SECTION 18. G.S. 105-164.3(28) reads as rewritten:

"(28) Prepared food. – Food that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not ~~otherwise process.~~heat, mix, or sell with eating utensils.

a. It is sold in a heated state or it is heated by the retailer.

b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This sub-subdivision does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.

c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws."

SECTION 19. G.S. 105-164.3(37) reads as rewritten:

"(37) Sales price. – The total amount or consideration for which personal property or services are sold, leased, or rented. The consideration may be in the form of cash, credit, property, or services. The sales price must be valued in money, regardless of whether it is received in money.

a. The term includes all of the following:
   1. The retailer's cost of the property sold.
   2. The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, and any other expense of the retailer.
   3. Charges by the retailer for any services necessary to complete the sale.
   4. Delivery charges.
   5. Installation charges.
   6. The value of exempt personal property given to the consumer when taxable and exempt personal property are bundled together and sold by the retailer as a single product or piece of merchandise.
   7. Credit for trade-in.

b. The term does not include any of the following:
   1. Discounts, including cash, term, or coupons, that are not reimbursed by a third party, are allowed by the retailer, and are taken by a consumer on a sale.
   2. Interest, financing, and carrying charges from credit extended on the sale, if the amount is separately stated on the invoice, bill of sale, or a similar document given to the consumer.
   3. Any taxes imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer."

SECTION 20. G.S. 105-164.4B(3) reads as rewritten:

"(3) Delivery address unknown. – When a seller of a product does not know the address where a product is received, the sale is sourced to the first address or location listed in this subdivision that is known to the seller:

a. The business or home address of the purchaser.
b. The billing address of the purchaser or, if the product is a prepaid telephone calling service that authorizes the purchase of mobile telecommunications service, the location associated with the mobile telephone number.
c. The ~~billing address of the purchaser.~~address from which tangible personal property was shipped or from which a service was provided."

SECTION 21.(a) G.S. 105-164.14(e) reads as rewritten:

"(e) State Agencies. – **(Effective July 1, 2004 and applicable to sales made on or after that date)** The State is allowed quarterly refunds of local sales and use taxes paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that become a part of or annexed to a building or structure that is owned or leased by the State agency and is being erected, altered, or repaired for use by the State agency. ~~services and of~~

A person who pays local sales and use taxes on building materials or other tangible personal property for a State building project shall give the State agency for whose project the property was purchased a signed statement containing all of the following information:

(1) The date the property was purchased.
(2) The type of property purchased.
(3) The project for which the property was used.
(4) If the property was purchased in this State, the county in which it was purchased.
(5) If the property was not purchased in this State, the county in which the property was used.
(6) The amount of sales and use taxes paid.

If the property was purchased in this State, the person shall attach a copy of the sales receipt to the statement. A State agency to whom a statement is submitted shall verify the accuracy of the statement.

Within 15 days after the end of each calendar quarter, every State agency shall file with the Secretary a written application for a refund of taxes to which this subsection applies paid by the agency during the quarter. The application shall contain all information required by the Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General Fund."

SECTION 21.(b) This section becomes effective July 1, 2004.

SECTION 22. G.S. 105-164.29A reads as rewritten:

"**§ 105-164.29A. State government exemption process.**

(a) Application. – To be eligible for the exemption provided in G.S. ~~105-164.13(51),~~105-164.13(52), a State agency must obtain from the Department a sales tax exemption number. The application for exemption must be in the form required by the Secretary, be signed by the State agency's head, and contain any information required by the Secretary. The Secretary must assign a sales tax exemption number to a State agency that submits a proper application.

(b) Liability. – A State agency that does not use the items purchased with its exemption number must pay the tax that should have been paid on the items purchased, plus interest calculated from the date the tax would otherwise have been paid."

SECTION 22.5. G.S. 105-243.1(e) reads as rewritten:

"(e) Use. – The fee is a receipt of the Department and must be applied to the costs of collecting overdue tax debts. The proceeds of the fee must be credited to a special account within the Department and may be expended only as provided in this subsection. The proceeds of the fee may not be used for any purpose that is not directly

and primarily related to collecting overdue tax debts. The Department may apply the proceeds of the fee to pay contractors for collecting tax debts under subsection (b) of this section and to pay the fee the United States Department of the Treasury charges for setoff to recover tax owed to North Carolina. The remaining proceeds of the fee may be spent only pursuant to appropriation by the General Assembly. The fee proceeds do not revert but remain in the special account until spent for the costs of collecting overdue tax debts."

SECTION 23. 105-259(b)(7) reads as rewritten:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

. . .

(7) To exchange information with the Division of the State Highway Patrol of the Department of Crime Control and Public ~~Safety~~ Safety, the Division of Motor Vehicles of the Department of Transportation, or the International Fuel Tax Association, Inc., when the information is needed to fulfill a duty imposed on the Department of ~~Revenue or~~ Revenue, the Division of the State Highway Patrol of the Department of Crime Control and Public Safety, or the Division of Motor Vehicles of the Department of Transportation.~~Safety.~~"

SECTION 24. G.S. 105-449.47(a1) reads as rewritten:

"(a1) Registration and Identification Marker. – When the Secretary registers a motor carrier, the Secretary must issue at least one identification marker for each motor vehicle operated by the motor carrier. A motor carrier must keep records of identification markers issued to it and must be able to account for all identification markers it receives from the Secretary. Registrations and identification markers issued by the Secretary are for a calendar year. ~~The Secretary may renew a registration or an identification marker without issuing a new registration or identification marker.~~ All identification markers issued by the Secretary remain the property of the State. The Secretary may withhold or revoke a registration or an identification marker when a motor carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or Article 36C or 36D of this Subchapter.

A motor carrier must carry a copy of its registration in each motor vehicle operated by the motor carrier when the vehicle is in this State. A motor vehicle must clearly display an identification marker at all times. The identification marker must be affixed to the vehicle for which it was issued in the place and manner designated by the authority that issued it."

SECTION 25. G.S. 105-449.52(a) reads as rewritten:

"(a) Penalty. – A motor carrier who does any of the following is subject to a civil penalty:

(1) Operates in this State or causes to be operated in this State a motor vehicle that ~~does not~~either fails to carry the registration card required by this Article or ~~does not~~fails to display an identification marker in

accordance with this Article. The amount of the penalty is one hundred dollars ($100.00).

(2) Is unable to account for identification markers the Secretary issues the motor carrier, as required by G.S. 105-449.47. The amount of the penalty is one hundred dollars ($100.00) for each identification marker the carrier is unable to account for.

(3) Displays an identification marker on a motor vehicle operated by a motor carrier that was not issued to the carrier by the Secretary under G.S. 105-449.47. The amount of the penalty is one thousand dollars ($1,000) for each identification marker unlawfully obtained. Both the licensed motor carrier to whom the Secretary issued the identification marker and the motor carrier displaying the unlawfully obtained identification marker are jointly and severally liable for the penalty under this subdivision.

A penalty imposed under this section is payable to the Department of ~~Revenue~~ Revenue, the Department of Crime Control and Public Safety, or the Division of Motor Vehicles. When a motor vehicle is found to be operating without a registration card or an identification marker or with an identification marker the Secretary did not issue for the vehicle, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty."

SECTION 26. G.S. 105-449.54 reads as rewritten:

"**§ 105-449.54. Commissioner of Motor Vehicles made process agent of nonresident motor carriers.**

~~The acceptance by~~By operating a motor vehicle on the highways of this State, a nonresident motor carrier consents to the appointment of ~~of the rights and privileges conferred by the laws now or hereafter in force in this State permitting the operation of motor vehicles, as evidenced by the operation of a motor vehicle by such nonresident, either personally or through an agent or employee, on the public highways of this State, or the operation by such nonresident, either personally or through an agent or employee, of a motor vehicle on the public highways of this State other than as so permitted or regulated, shall be deemed equivalent to the appointment by such nonresident motor carrier of~~ the Commissioner of Motor Vehicles as its attorney in fact and process agent for ~~Vehicles, or his successor in office, to be his true and lawful attorney and the attorney of his executor or administrator, upon whom may be served~~ all summonses or other lawful process or notice in any action, ~~assessment proceeding~~assessment, or other proceeding ~~against him or his executor or administrator, arising out of or by reason of any provisions of this Article relating to such vehicle or relating to the liability for tax with respect to operation of such vehicle on the highways of this State. Said acceptance or operation shall be a signification by such nonresident motor carrier of his agreement that any such process against or notice to him or his executor or administrator shall be of the same legal force and validity as if served on him personally, or on his executor or administrator. All of the provisions of G.S. 1-105 following the first paragraph thereof~~

~~shall be applicable with respect to the service of process or notice pursuant to this section.~~under this Chapter."

SECTION 27. G.S. 105-449.60(7) reads as rewritten:

"**§ 105-449.60. Definitions.**

The following definitions apply in this Article:

...

(7) Diesel fuel. – Any liquid, other than gasoline, that is suitable for use as a fuel in a diesel-powered highway vehicle. The term includes ~~kerosene and biodiesel.~~biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and kerosene. The term does not include jet fuel sold to a buyer who is certified to purchase jet fuel under the Code."

SECTION 28. The lead-in language of G.S. 105-449.72(a) reads as rewritten:

"(a) Initial Bond. – An applicant for a license as a refiner, a terminal operator, a supplier, an importer, a blender, a permissive supplier, or a distributor must file with the Secretary a bond or an irrevocable letter of credit. A bond or irrevocable letter of credit must be conditioned upon compliance with the requirements of this Article, be payable to the State, and be in the form required by the Secretary. The amount of the bond or irrevocable letter of credit is determined as follows:".

SECTION 29. G.S. 105-449.74 reads as rewritten:

"**§ 105-449.74. Issuance of license.**

Upon approval of an application, the Secretary must issue a license to the ~~applicant as well as a duplicate copy of the license for each place of business of the~~ applicant. A supplier's license must indicate the category of the supplier. A license holder must maintain and display a copy of the license issued under this Part in a conspicuous place at each place of business of the license holder. A license is not transferable and remains in effect until surrendered or cancelled."

SECTION 30. G.S. 105-449.81(3a) reads as rewritten:

"An excise tax at the motor fuel rate is imposed on motor fuel that is:

...

(3a) Fuel ~~grade ethanol~~ alcohol or biodiesel, if it meets either ~~that meets any~~ of the following descriptions:

a. Is removed from a terminal or another storage and distribution facility, unless the removed fuel is received by a supplier for subsequent sale.

b. Is imported to this State outside the terminal transfer system by a means other than a marine vessel, a transport truck, or a railroad tank car."

SECTION 31. G.S. 105-449.123 reads as rewritten:

"**§ 105-449.123. Marking requirements for dyed ~~diesel~~ fuel storage facilities.**

(a) Requirements. – A person who is a retailer of dyed ~~diesel~~ motor fuel or who stores both dyed and undyed ~~diesel~~ motor fuel for use by that person or another person must mark the storage facility for the dyed ~~diesel~~ motor fuel as follows in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage

facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle.

(1) The storage tank of the storage facility must be marked if the storage tank is visible.

(2) The fillcap or spill containment box of the storage facility must be marked.

(3) The dispensing device that serves the storage facility must be marked.

(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 32. G.S. 105-469 reads as rewritten:

"**§ 105-469. Secretary to collect and administer local sales and use tax.**

(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

(1) The Secretary must allocate one-half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b).

(2) The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this ~~Chapter.~~ Chapter and under Chapter 1096 of the 1967 Session Laws.

(b) The Secretary shall require retailers who collect use tax on sales to North Carolina residents to ascertain the county of residence of each buyer and provide that information to the Secretary along with any other information necessary for the Secretary to allocate the use tax proceeds to the correct taxing county."

SECTION 33. G.S. 119-15.1 reads as rewritten:

"**§ 119-15.1. List of persons who must have a license.**

(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

(1) A kerosene supplier.

(2) A kerosene distributor.
(3) A kerosene terminal operator.

(b) Exception. – A kerosene supplier license is not required if the supplier is licensed as a supplier under Part 2 of Article 36C of Chapter 105 of the General Statutes. A kerosene distributor is required to have a kerosene distributor license only if the distributor imports kerosene. Other kerosene distributors may elect to have a kerosene license. A kerosene terminal operator license is not required if the ~~supplier~~ terminal operator is licensed as a ~~supplier~~ terminal operator under Part 2 of Article 36C of Chapter 105 of the General Statutes."

SECTION 34. G.S. 119-19 reads as rewritten:

"**§ 119-19. Authority of Secretary to cancel a license.**

The Secretary of Revenue may cancel a license issued under ~~G.S. 119-16.2~~this Article upon the written request of the license holder. The Secretary may summarily cancel a license issued under ~~G.S. 119-16.2 or~~ this Article or under Article 36C or 36D of Chapter 105 of the General Statutes when the Secretary finds that the license holder is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary may cancel the license of a license holder who files a false report under this Article or fails to file a report required under this Article after holding a hearing on whether the license should be cancelled.

The Secretary must send a person whose license is summarily cancelled a notice of the cancellation and must give the person an opportunity to have a hearing on the cancellation within 10 days after the cancellation. The Secretary must give a person whose license may be cancelled after a hearing at least 10 days' written notice of the date, time, and place of the hearing. A notice of a summary license cancellation and a notice of hearing must be sent by registered mail to the last known address of the license holder.

When the Secretary cancels a license and the license holder has paid all taxes and penalties due under this Article, the Secretary must either return to the license holder the bond filed by the license holder or notify the person liable on the bond and the license holder that the person is released from liability on the bond."

SECTION 35. G.S. 120-70.108(a) reads as rewritten:

"(a) The Revenue Laws Study Committee shall establish a Property Tax Subcommittee consisting of ~~six~~ up to eight members. The Senate cochair of the Committee shall designate ~~three~~ up to four members appointed by the President Pro Tempore of the Senate to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The House cochair of the Committee shall designate ~~three~~ up to four members appointed by the Speaker of the House of Representatives to serve on the Subcommittee and shall name one of those members a cochair of the Subcommittee. The Subcommittee shall meet upon the call of the Subcommittee cochairs."

SECTION 36.(a) G.S. 153A-155(d) reads as rewritten:

"(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in

which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the ~~15th~~ 20th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(b) G.S. 160A-215(d) reads as rewritten:

"(d) Administration. – The taxing city shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the city finance officer in monthly installments on or before the ~~fifteenth~~ 20th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the taxing city. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the city finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

SECTION 36.(c) This section becomes effective October 1, 2004.

SECTION 37. The title of Article 16 of Chapter 153A of the General Statutes reads as rewritten:

"Article 16.

County Service Districts; County Research and Production Service ~~Districts.~~ Districts; County Economic Development and Training Districts."

SECTION 38. G.S. 153A-317.11 reads as rewritten:

"**§ 153A-317.11. Purpose ~~for which districts may be created.~~and nature of districts.**

The board of commissioners of any county may define a county economic development and training district, as provided in this Part, to finance, provide, and maintain for the district a skills training center in cooperation with its community college branch in or for the county to prepare residents of the county to perform manufacturing, research and development, and related service and support jobs in the pharmaceutical, biotech, life sciences, chemical, telecommunications, and electronics industries, and allied, ancillary, and subordinate industries, to provide within the district any of the education, training, and related services, facilities, or functions that a county or a city is authorized by general law to provide, finance, or maintain, and to promote economic development in the county. The skills training center and related services shall be financed, provided, or maintained in the district either in addition to or to a greater extent than training facilities and services are financed, provided, or maintained in the entire county. A district created under this Part is a special tax area under Section 2(4) of Article V of the North Carolina Constitution."

SECTION 39. G.S. 153A-317.17 reads as rewritten:

"**§ 153A-317.17. Taxes authorized; rate limitation.**

A county may levy property taxes within an economic development and training district, in addition to those levied throughout the county, ~~in order to finance, provide, or maintain for the district a skills training center provided therein~~for the purposes listed

in G.S. 153A-317.11 within the district in addition to or to a greater extent than ~~worker training facilities~~ the same purposes provided for the entire county. In addition, a county may allocate to a district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes within a district may be expended only to pay annual debt service on up to one million two hundred thousand dollars ($1,200,000) of the capital costs of a skills training center provided for the district and any other services or facilities provided by a county in response to a recommendation of an advisory committee.

Property subject to taxation in a newly established district or in an area annexed to an existing district is subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of eight cents (8¢) on each one hundred dollars ($100.00) value of property subject to taxation."

SECTION 40.(a) Section 6 of Chapter 650 of the 1987 Session Laws is codified as the first two paragraphs of G.S. 159-99.

SECTION 40.(b) Sections 7 and 5 of Chapter 650 of the 1987 Session Laws are codified as the second and third paragraphs, respectively, of G.S. 159-100.

SECTION 40.(c) Article 5A of Chapter 159 of the General Statutes, as amended by this section, reads as rewritten:

"Article 5A.

"Capital Appreciation Bonds.

"§ 159-99. ~~Issuance of capital appreciation bonds pursuant to the Local Government Bond Act.~~**Definition; terms and conditions.**

(a) Capital Appreciation Bond Defined. – For purposes of this ~~act,~~Article, the term 'capital appreciation ~~bonds' means any bond or bonds~~ bond' means a bond that meets all of the following conditions:

(1) It is sold, at public or private sale, at a price substantially less, as conclusively determined by the issuer ~~thereof,~~of the bond, than the principal amount ~~thereof and compounded~~ of the bond.

(2) Compounded interest ~~thereon~~ on the bond is payable at ~~maturity, but only if such bond or bonds are~~maturity.

(3) The bond is designated as a capital appreciation ~~bonds~~ bond within the meaning of this ~~act~~ Article by the proceedings of the issuer ~~thereof providing for the issuance of such bonds.~~of the bond providing for its issuance.

(b) Calculating Principal Amount. – For purposes of calculating the aggregate principal amount of bonds within the meaning of any constitutional or statutory limitation on the incurrence of debt, the aggregate principal amount of any capital appreciation bonds ~~shall be~~is the aggregate of the initial offering prices at which ~~such~~ the bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchaser ~~thereof~~ of the bonds in a private placement, in either case without reduction to reflect underwriters' discount or placement agents' or other intermediaries' fees.

(c) Terms and Conditions. – The proceedings providing for the issuance of any ~~such~~ capital appreciation bonds may provide for the issuance of terms bonds or serial bonds, or both, the establishment of sinking funds for or the redemption of term bonds, the issuance of capital appreciation bonds at the same time and as part of the same issue of any other type of bonds, the method of calculating the principal amount of any ~~such~~ capital appreciation bonds outstanding for the purpose of determining, within the meaning of ~~such~~ the proceedings and otherwise, application of debt service provisions, funds into which debt service payments are to be deposited, application of redemption provisions, bondowners' voting rights and consents, pro rata application of available ~~funds and such other matters as may be deemed appropriate by the issuer.~~funds, and any other matters the issuer considers appropriate.

~~Local governmental units are hereby authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~

"§ 159-100. ~~Issuance of capital appreciation bonds pursuant to The State and Local Government Revenue Bond Act.~~Authorization.

(a) Revenue Bond Act. – The State and local governmental units are ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond ~~Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~Act.

(b) Local Government Bond Act. – Local governmental units are authorized to issue capital appreciation bonds pursuant to the provisions of The Local Government Bond Act. In connection with the issuance of a series of bonds containing capital appreciation bonds issued by local governmental units pursuant to The Local Government Bond Act, the Local Government Commission ~~is hereby authorized to~~ may require that annual debt service on ~~such~~ the series of bonds be as nearly level or equal as possible taking into consideration prevailing financial techniques, including, without limitation, the postponement of principal maturities in early years of the issue and the use of capitalized interest. The Local Government Commission ~~is hereby further authorized to~~ may also limit the amount of a series of bonds that may be issued as capital appreciation bonds and to make the issuance of any ~~such~~ capital appreciation bonds subject to a finding by the Commission or the issuer that the issuance of ~~such~~ the bonds will not increase the aggregate amount of debt service payable on ~~such~~ the series of bonds of which ~~such~~ the capital appreciation bonds constitute a part.

(c) Future Acts. – ~~The State and local~~ Local governmental units are ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of any law ~~hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not~~

~~expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~enacted in the future."

SECTION 41.(a) Sections 2, 4, and 5 of Chapter 650 of the 1987 Session Laws are codified as G.S. 142-15.3.

SECTION 41.(b) G.S. 142-15.3, as codified by this section, reads as rewritten:

"**§ 142-15.3. Capital appreciation bonds.**

(a) Cross-Reference. – The provisions of G.S. 159-99 govern capital appreciation bonds.

(b) Authorization. – The State ~~and local governmental units are hereby~~is authorized to issue capital appreciation bonds pursuant to the provisions of The State and Local Government Revenue Bond ~~Act and to the extent that the provisions of said act are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~Act. The State is ~~hereby~~ authorized to issue capital appreciation bonds pursuant to the provisions of applicable law and ~~law and to the extent that the provisions of such law are inconsistent with the issuance of such bonds, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds. The State and local governmental units are hereby authorized to issue capital appreciation bonds~~ pursuant to the provisions of any law ~~hereafter enacted, including laws enacted at the same session of the General Assembly at which this act is enacted, and to the extent that the provisions of such laws are inconsistent with the issuance of such bonds and provided such provisions are not expressly contrary, such inconsistent provisions are hereby amended to the extent of such inconsistency so as to permit the issuance of such bonds.~~enacted in the future."

SECTION 42. Except as otherwise provided in this act, this act is effective when it becomes law.

SENATE BILL 1145 (HPCS): Revenue Laws Technical Changes

BILL ANALYSIS

Committee: House Finance
Date: June 23, 2004
Version: PCS for 1st Edition

Sponsor: Sen. Hartsell
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: This draft bill makes one substantive change and makes the following technical and clarifying changes to the revenue laws and related statutes. The substantive change is in Section 42, described below. Sections in bold were added by the proposed committee substitute.

Section	Explanation
1	Clarifies that estate tax changes have uniform sunset date.
2	Supplies a missing cross-reference in UNC self-liquidating bond legislation.
3	Reenacts the 2003 session law relating to ESC surtax delay, in order to correct a technical omission.
4	Clarifies that calculation of State estate tax without regard to federal phase-out and termination of federal credit for state death taxes includes disregarding the federal deduction that replaces the federal credit January 1, 2005.
5	Deletes obsolete provisions.
6	Deletes definition of term no longer used in statutes.
7	Corrects grammatical issue.
8	Updates terminology in controlled substance tax law and clarifies provision complying with Fifth Amendment protection against self-incrimination.
8.1	**Clarifies the mechanism for calculating the franchise tax on LLC assets attributed to a controlling corporation.**
9	Adds cross-reference to defined term.
10	Provides that Bill Lee Act health insurance requirement begins when jobs are created or when qualifying investment is made and continues when credit, installment, or carryforward is claimed. Current law refers only to when installment or carryforward is claimed. This change conforms to the current practice of the Department.
11	Clarifies that Bill Lee Act tax debt requirement begins when credit is claimed and continues when installment or carryforward is claimed. Current law refers only to when installment or carryforward is claimed.
12	Delays report deadline by one month in order to allow time for quality of report to be improved.
13	Clarifies that loss of the Bill Lee machinery and equipment tax credit because property is disposed of is the same if the property is taken out of service or moved out of state.
14	Corrects incorrect cross-reference
15	Updates terminology. In 1977, the Federal Energy Regulatory Commission replaced the Federal Power Commission established in 1920. It is responsible

	for issuing licenses for the development of water and electrical power and prohibiting operators from restricting output or restraining trade in electrical energy.
16	Corrects cross-references in new tobacco export credit.
17	Deletes cross-reference to repealed statute.
18	Clarifies the prepared food definition exception for food that is sliced, repackaged, or pasteurized by the retailer.
19	Restores provision inadvertently deleted in earlier legislation.
20	Corrects erroneous language.
21	Removes extraneous language that resulted from redlining conflicts between two laws enacted in 2003.
22	Corrects cross-reference.
22.5	Clarifies prohibition against using debt collection fee for any purpose not directly related to collecting overdue tax debts. If the fee were used for another purpose, it would be a penalty and all proceeds would be required by the Constitution to go to public schools.
23	Restores reference to DMV that was inadvertently deleted from secrecy provision by 2003 legislation.
24	Removes administration option that is not used and is not allowed by the International Fuel Tax Agreement, which North Carolina has followed since 1992.
25	Clarifies when penalty applies and expands who the penalty is paid to, in order to reflect recent reorganization of the Division of Motor Vehicles.
26	Modernizes language.
27	Adds additional examples of fuels included in definition of diesel fuel under current law. This definition applies in the fuel tax and inspection tax statutes.
28	Extends to letters of credit the condition requirements that apply to bonds.
29	Provides that licensee rather than Department will make extra copies of license when there is more than one place of business.
30	Clarifies that biodiesel and all fuel alcohols are treated the same as fuel grade ethanol. This change conforms to the current practice of the Department.
31	Corrects incorrect terminology.
32	Adds missing reference to Mecklenburg one-cent sales tax.
33	Corrects incorrect terminology.
34	Conforms cross-references to reflect statutes repealed and added in 2003.
35	Provides that the property tax subcommittee of the Revenue Laws Study Committee may consist of up to eight members.
36	Conforms the date for filing a local occupancy tax return to the current law date for filing a monthly sales tax return.
37	Conforms title of Article to reflect addition of Part 3 in 2003.
38	Clarifies that county economic development and training districts are special tax areas authorized by Section 2(4) of Article V of the N.C. Constitution.
39	Conforms purposes for which economic development and training district taxes may be levied to match the purposes for which the districts may be created.
40, 41	Codifies uncodified portions of 1987 Session Law and reorganizes codified

	portions of the same law.
42	**For local occupancy taxes subject to the uniform provisions for occupancy taxes, this section prohibits the use of the tax proceeds to develop or construct a hotel or similar facility. The rationale for this change is that local occupancy taxes collected by hotels and motels should not be used to subsidize their competitors. This change would apply only to future collections of tax. The change would not affect Wake or Mecklenburg County. It affects only those local governments that are subject to the uniform provisions governing occupancy taxes. The governments currently covered by the uniform provisions are listed below:** **Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties.** **The Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and the municipalities in Avery and Brunswick Counties.**
43	Section 3 is effective on and after August 12, 2003. Section 15 is effective for same period that cigarette export credit is in effect. Section 19 becomes effective July 1, 2004. Section 32 becomes effective October 1, 2004. The remainder of the act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1145 (First Edition)

SHORT TITLE: Revenue Laws Technical Changes.

SPONSOR(S): Senator Hartsell

FISCAL IMPACT ($MIL.)

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY2008-09
REVENUES					
State General Fund	-	$5.4	-	-	-

PRINCIPAL DEPARTMENT AFFECTED: The tax is collected by the Department of Revenue. The enactment of the legislation is not expected to affect the budget requirements of the Department.

EFFECTIVE DATE: Deaths occurring on or after January 1, 2005.

Issue Background: The federal Economic Growth and Tax Reconciliation Act of 2001 provided for the phase-out between 2002 and 2005 of the credit allowed under the federal estate tax for state death taxes. North Carolina, like most states, has repealed its regular inheritance/estate tax in lieu of an estate tax ("pickup tax") that is based on the amount of the federal credit. Without further changes by the General Assembly, the repeal of the federal credit would have automatically repealed the North Carolina estate tax.

As part of the 2002 budget package, amended during the 2003 session, the North Carolina estate tax was partially decoupled from the federal estate tax until July 1, 2005. Thus, the North Carolina estate tax continues to be levied without regard to the phase-out of the federal credit. However, under the "partial conformity" solution adopted by the General Assembly in 2002 and amended in 2003, the North Carolina tax is calculated using other provisions of federal estate tax law in effect on the date of the decedent's death. For example, the federal "unified credit" used to calculate the State estate tax, which effectively sets the threshold for taxability of an estate, is the credit in effect as of the decedent's death. Under the federal Act, the amount effectively exempted under the unified credit was increased from $700,000 to $1 million in 2002, and then phased up over a period of years to $3.5 million in 2009. The partial conformity solution in current state law adjusts for the federal exemption increase so that estates do not have to file a North Carolina return if no federal return is required.

By remaining coupled to the federal estate tax base, the N. C. estate tax will incorporate a provision of federal law effective beginning in 2005 that will allow a deduction for State death taxes paid in lieu of the previously allowed credit for State death taxes paid. Allowing the deduction of State death taxes for purposes of determining the State death tax base will result in a circular calculation because the tax being calculated results in a deduction from the tax base, which then alters the calculation of the tax owed. When the federal provision allowing a deduction for State death taxes takes effect, a series of calculations will be required to calculate the North Carolina estate tax.

BILL SUMMARY: The effect of SB 1145 is to create an addition to the federal taxable estate for N.C. estate tax purposes that is equal to the amount of the federal deduction for State death taxes paid.

ASSUMPTIONS AND METHODOLOGY: The estates affected by the enactment of these provisions are those for deaths occurring between January 1, 2005 and June 30, 2005. The reason is that under current law, North Carolina will lose its estate tax base on July 1, 2005. Thus there would no impact of the proposal after that date. In addition, estates are not required to pay the tax until nine months after a death. This means that the reduction in General Fund revenue will take place during the period October 1, 2005 - March 31, 2006.

The estimated impact was based mostly on a refinement of some numbers from a similar proposal in Maryland. The Maryland estimates, which were based on an analysis of tax returns, had to be adjusted for the fact that Maryland still has a regular inheritance tax (though spouses and lineal ancestors are exempt) and the fact that North Carolina is a larger state.

The Maryland numbers indicate that the impact of the identical proposal will be 10.8% of baseline "death tax" collections in that state. We adjusted this ratio for the fact that the estate tax portion of their death tax is smaller due to the fact that a regular tax continues in place. The ratio selected for our analysis is 9.0%.

The North Carolina tax base is running around $120 million per year. Applying 9% to this estimate yields a 12-month cost of $10.8 million. The six-month impact under the bill is equal to 50% of this annual amount.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: David Crotts

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 2, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1145 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill (~~#_____~~), ☒ which changes the title, unfavorable as to Senate Committee Substitute Bill. ~~#_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1145

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1145-ALCx-80 [v.1]

Date June 24 ,2004

Comm. Sub. [NO]
Amends Title [YES]
~~Second Edition~~ PCS

Representative C Wilson

moves to amend the bill on page 1, line 3,
by ~~adding the following immediately before the period:~~ deleting "STATUTES" and substituting
"~~AND~~ TO CLARIFY THAT THE CREDIT FOR CREATING JOBS IS ALLOWED ONLY FOR NEW JOBS CREATED IN THIS STATE";

STATUTES;

and on page ~~19~~, line ~~26~~, 43 44
by renumbering Section ~~42~~ as Section ~~43~~ and adding a new Section ~~42~~ 43 to read:
"**SECTION ~~42~~ 43.(a)** G.S. 105-129.8 reads as rewritten:
"**§ 105-129.8. Credit for creating jobs.**

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more full-time employees, and hires an additional full-time employee during the taxable year to fill a new position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars ($4,000) per job.

Area Enterprise Tier	**Amount of Credit**
Tier One	$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

(a1) Positions. – A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area. The number of new positions a taxpayer fills during the taxable year is determined by subtracting the highest number of

full-time employees the taxpayer had in this State at any time during the 12-month period preceding the beginning of the taxable year from the number of full-time employees the taxpayer has in this State at the end of the taxable year.

(a2) Installments. – The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit must be taken in equal installments over the four years following the taxable year in which the additional employee was hired and is conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.5.

(a3) Transferred Jobs. – Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the position filled by the employee is moved to an area in a higher- or lower-numbered enterprise tier, or is moved from a development zone to an area that is not a development zone, the remaining installments of the credit must be calculated as if the position had been created initially in the area to which it was moved.

(b) Repealed by Session Laws 1989, c. 111, s. 1.

(b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

(d) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in a specific area within two years of the date the letter is signed qualifies for the credit in the amount allowed by this section based on the area's enterprise tier and development zone designation for that year even though the employees are not hired that year. In the case of an interstate air courier that has or is constructing a hub in this State, the applicable time period is seven years. The credit shall be available in the taxable year after at least twenty employees have been hired if the hirings are within the applicable commitment period. The conditions outlined in subsection (a) apply to a credit taken under this

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1145

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1145-ALCx-80 [v.1]

subsection except that if the area is redesignated to a higher-numbered enterprise tier or loses its development zone designation after the year the letter of commitment was signed, the credit is allowed based on the area's enterprise tier and development zone designation for the year the letter was signed. If the taxpayer does not hire the employees within the applicable period, the taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, the taxpayer may take the credit under that subsection.

(e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.'

SECTION 42.(b) This section becomes effective for taxable years beginning on or after January 1, 2004."

SIGNED C. Wilson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1389*
PROPOSED COMMITTEE SUBSTITUTE H1389-CSLA-67 [v.5]

6/23/2004 6:32:21 PM

Short Title: GARVEE Bonds Issuance. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE TREASURER TO ISSUE "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION AND TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt financing instruments to finance Federal-aid projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). These bonds shall be issued by the State Treasurer on behalf of the Department. The State Treasurer shall develop and adopt appropriate debt instruments, consistent with the terms of the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision. Prior to issuance of any GARVEE or other eligible debt instrument using federal funds to pay a portion of principal, interest, and related bond issuance costs, the State Treasurer shall determine (1) that the principal and interest of such debt does not exceed the total amount of federal transportation funds authorized to the state in the prior federal fiscal year; and (2) that the principal and interest of such debt does not exceed 15% of the expected federal revenue shown for the seven year period in the most recently adopted Transportation Improvement Program."

SECTION 2. The Secretary of the Department of Transportation and the State Treasurer shall jointly form a committee to develop a plan to implement the provisions of this act. The plan shall address all financial, legal, and practical issues involved in issuing "GARVEE" bonds. The two Departments shall jointly submit their implementation plan to the cochairs of the Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 3. The Department of Transportation shall develop proposed criteria to use in selection of projects to fund with "GARVEE" bonds. The Department shall submit the proposed criteria to the cochairs of the Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 4. Section 1 of this act becomes effective July 1, 2005. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1389*

Short Title:	DOT Authority to Issue GARVEE Bonds.	(Public)
Sponsors:	Representatives McComas; Crawford, Stiller, and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ISSUE "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS AND TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt financing instruments to finance Federal-aid projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). The State Treasurer shall develop and adopt appropriate debt instruments, as authorized by the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision."

SECTION 2. The Secretary of the Department of Transportation and the State Treasurer shall jointly form a committee to develop a plan to implement the provisions of this act. The plan shall address all financial, legal, and practical issues involved in issuing "GARVEE" bonds. The plan shall also include any projects the Department of Transportation proposes to fund with "GARVEE" bonds. The two Departments shall jointly submit their implementation plan to the cochairs of the Transportation Appropriations Subcommittee, and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 3. Section 1 of this act becomes effective July 1, 2005. The remainder of this act is effective when it becomes law.

HOUSE BILL 1389:
DOT Authority to Issue GARVEE Bonds

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McComas
Date:	June 23, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: House Bill 1389 is a recommendation of the Transportation Oversight Study Committee. The proposed committee substitute for the bill does the following:

- **Authorizes the Department of Transportation (DOT) to issue GARVEE bonds or other eligible debt financing instruments to finance Federal-aid projects. (effective July 1, 2005).**
- **Places a cap on the debt issuance.**
- **Directs the Secretary of DOT and the State Treasurer to jointly form a committee to develop a plan to implement the act.**
- **Directs DOT to develop proposed criteria to use in selection of projects to fund with GARVEE bonds.**

BACKGROUND: GARVEE bonds are Grant Anticipation Revenue Vehicles, authorized by federal law, that permit states to use anticipated future federal highway funds to finance highway project construction. Candidate projects for GARVEE financing are typically larger projects that have the following characteristics:

- They are large enough to merit borrowing rather than pay-as-you-go grant funding, with the costs of delay outweighing the costs of financing
- They do not have access to a revenue stream (such as local taxes or tolls) and other forms of repayment (such as state appropriations) are not feasible
- The sponsors (generally state DOTs) are willing to reserve a portion of future year Federal-aid highway funds to satisfy debt service requirements.

GARVEES must be issued by a state, a political subdivision of a state, or a public authority. A state may elect to pledge their obligations of future Federal-aid funds as the only security backing the federal share of the obligation to investors (non-recourse GARVEES) or to pledge other sources of revenue as a back-stop for the future federal-aid funds (back-stopped GARVEES).

BILL ANALYSIS: Section 1 of House Bill 1389 authorizes DOT to issue GARVEE bonds or other eligible debt financing instruments to finance Federal-aid projects using federal funds to pay a portion of principal, interest, and related bond issuance costs. Prior to issuance of the bonds, the State Treasurer shall determine (1) that the principal and interest of this debt does

not exceed the total amount of federal transportation funds authorized to the State in the prior federal fiscal year, and (2) that the principal and interest of the debt does not exceed 15% of the expected federal revenue shown for the seven year period in the most recently adopted Transportation Improvement Program.

Sections 2 of House Bill 1389 directs the Secretary of DOT and the State Treasurer to form a committee to develop a plan to implement the act. This plan must be submitted to the cochairs of the Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

Section 3 of House Bill 1389 directs the DOT to develop proposed criteria to select the projects to fund with GARVEE bonds. The criteria must also be submitted to the Transportation Appropriations Subcommittee and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 10

EDITION No. _____

H. B. No. 1389 DATE June 24, 2004

S. B. No. _____ Amendment No. _____

COMMITTEE SUBSTITUTE H1389-CSLA-67[V.5] (to be filled in by Principal Clerk)

Rep.) McComas

Sen.)

moves to amend the bill on page 2, lines 5 & 6

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"Implementation plan ~~for approval~~ to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1";

On page 2, lines 10 ~~delete the phrase~~ and 11 by rewriting the lines to read

"shall submit the proposed criteria ~~for approval~~ to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 11

EDITION No. _____

H. B. No. 1389 DATE June 24, 2004

S. B. No. _____ Amendment No. _____ (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE H1389-CSLA-67[V5]

Rep.) Howard
)
Sen.)

moves to amend the bill on page 1, line 15

( ) WHICH CHANGES THE TITLE

by deleting the word "Treasurer" on that line

and on page 1, line 2 of the title by deleting "TREASURER".

SIGNED Julia Howard

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1760
PROPOSED COMMITTEE SUBSTITUTE H1760-CSLYx-37 [v.3]

6/21/2004 5:24:57 PM

Short Title: No Credit for Net Job Loss. (Public)

Sponsors:

Referred to:

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) Limitation. – If the lowest number of the taxpayer's full-time employees in this State during the taxable year is less than eighty-five percent (85%) of the highest number of the taxpayer's full-time employees in this State at any time during the five preceding taxable years, a taxpayer is neither allowed a credit under this section for the taxable year nor may the taxpayer claim a carryforward of a credit earned in a previous year."

SECTION 2. This act becomes effective for business activities occurring on or after January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1760

Short Title:	No Credit for Net Job Loss.	(Public)
Sponsors:	Representatives Luebke; B. Allen, England, Farmer-Butterfield, Glazier, Holliman, Hunter, Lucas, Parmon, Rapp, Weiss, and Womble.	
Referred to:	Finance.	

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) Limitation. – A taxpayer is not allowed a credit under this section for the taxable year if the lowest number of the taxpayer's full-time employees in this State during the taxable year is more than fifteen percent (15%) below the highest number of the taxpayer's full-time employees in this State at any time during the five preceding taxable years."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004.

House Bill 1760:
No Credit for Net Job Loss

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	June 23, 2004	**Analysis by:**	Y. Canaan Huie
Version:	H1760-CSLYx-37		Staff Attorney

SUMMARY: ***This bill would disallow a credit under the Bill Lee Act for research and development, and a carryforward of such a credit, if a taxpayer experiences a significant job loss. This bill would be effective for business activities occurring on or after January 1, 2004.***

ANALYSIS: The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. In order to be eligible for a credit under the Act, the taxpayer must satisfy certain eligibility requirements with regards to the activity of the business, wages paid to employees, the provision of health insurance to employees, the business's environmental and safety records, and the business's record of tax compliance.

Under the Bill Lee Act, a taxpayer is allowed a credit for increasing expenditures for research and development activities. The research and development tax credit uses the federal credit for research and development as its starting point. The credit is equal to 5% of the State's apportioned share of the taxpayer's expenditures for increasing research and development. The credit is based on the federal credit as of January 1, 1999. In the past, the federal credit had expired and then been renewed retroactively, creating uncertainty for taxpayers. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications. This credit has a carryforward period of 15 years rather than the standard 5-year period. There is currently no requirement for this credit related to the retention of jobs in the State.

This bill would disallow a credit to a taxpayer if that taxpayer had a significant reduction in its labor force in this State. Under this bill, if a taxpayers employment level in this State was less than 85% of its highest amount over the preceding five years, the taxpayer would not be eligible for a credit. In addition, this bill would prohibit a taxpayer from taking a carryforward of a credit earned in a previous year when the taxpayer experiences a job loss of this magnitude. Currently, there is no provision in the credit related to maintaining a certain employment level.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 23, 2004

TO: Representative Luebke

FROM: David Crotts
Fiscal Research Division

RE: House Bill 1760 (Proposed House Finance Comm. Sub.) No Credit for Net Job Loss.

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
State General Fund	(See "Assumptions and Methodology")				

PRINCIPAL DEPARTMENT AFFECTED: The taxes affected by the Bill Lee Act credits are administered by the Department of Revenue. The enactment of the bill is not expected to affect the Department's budget requirements.

BILL SUMMARY: Under the current Bill Lee Act (tax incentives for industry recruitment), there is a credit for research and development expenditures. This credit applies to companies in certain industry classifications. The Bill Lee Act sunsets January 1, 2006.

The bill specifies that a credit is not allowed in cases where the lowest number of the taxpayer's full time employees in the State is more than 15% below the highest number of the taxpayer's employees in the State at any time in the previous five years. The disallowance applies both to the credit for activity during the tax year and the carryforward of a credit from a prior year. A carryforward can occur when the credit claimed in a given year exceeds 50% of the tax due.

The change is effective for tax years beginning on or after January 1, 2004.

ASSUMPTIONS AND METHODOLOGY: We do not have access to current employment data of various companies (data is a few months old) and we do not have any way of knowing how the employment levels for individual companies will change during the remainder of 2004 and future years. However, based on a review of news reports of potential layoffs, employment rankings of various financial publications (*Business North Carolina, Triangle Business Journal*), and the Bill Lee Act tabulations of the Department of Revenue for credits generated and credits claimed for tax returns processed during 2002 and 2003, it appears that the bill may eliminate a substantial amount of the credits for a small number of companies. Of this group, only 1 or 2 companies have significant R & D credits.

It is difficult to determine the relevance of the DOR reporting data on the R & D tax credit due to the ongoing activities of the Project Compliance program (audits of Bill Lee Act credits) as well as the year to year volatility of the carry forward loss amount. It is possible, based on the review of the DOR data that the revenue impact during the next couple of years could be over $2 million of reduced credits.

The impact could continue past the January 1, 2006 sunset of the Bill Lee Act due to the language that applies the credit disallowance to carry forward credits.

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 29, 2004

The House Committee on Finance met on Tuesday, June 29, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Glazier, Hackney, Holliman, Lewis, McGee, Munford, Ross, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Martha Harris, Jeff Hudson, Canaan Huie, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Miner called the meeting to order at 8:42 am and immediately called HB 1430 – IRC UPDATE AND OTHER TAX CHANGES (see **attachment 3**) to the Committee members' attention. He informed the members that this bill was originally heard and favorably reported out of the House Finance Committee at its' May 27, 2004 meeting. However, due to material changes made in the Senate, the bill was now back before the Committee for concurrence. Chairman Miner recognized Martha Walston, Staff, to explain the changes made in the Senate. She stated that the changes included: an extension of the Low-Income Housing Credit Sunset, a clarification of the sales tax incentives for major projects, an authorization to the Administrative Office of the Courts to impose a family court fee, and an act to maintain the current sales tax rate on electricity used by manufacturers. Following this, Representative Howard was recognized and, stating concerns with the family court fee in the bill, made a recommendation that the House do not concur and request appointment of conferees. Representative Hackney was then recognized and stated that the family court fee was a benefit to parents who can only see their children under supervision. Given the discussion, Chairman Miner then displaced the bill.

Chairman Miner then called upon Representative Tolson to explain the next bill: HB 1636 – RENEWABLE FUEL TAX CREDITS (see **attachment 4**). Representative Allen moved that the Proposed Committee Substitute (PCS) for House Bill 1636 be adopted for the Committee's discussion and that motion carried without objection. Representative Tolson explained that the bill would create three new tax credits: an income or franchise tax credit of 15% for constructing a facility for dispensing renewable fuel, an income or franchise tax credit of 25% for constructing a facility to produce renewable fuel, and a motor fuels tax credit for distributing biodiesel equal to $1.00 per gallon of unblended diesel. Following this explanation, Representative Luebke was recognized to send forth an amendment (see **attachment 5**). His amendment simply acted to make the bill sunset in 2010, rather then 2011 as the bill was written. He stated that it is customary that all bills sunset within a five year and moved the adoption of his amendment. The Chair recognized

Representative Tolson to speak on the amendment and he expressed no opposition. Seeing no further discussion, Chairman Miner then called the Luebke amendment to a vote and it was adopted. The Chair recognized Representative Gibson next who acted to send forth another amendment (see **attachment 6**). Representative Gibson explained that the amendment deleted the third credit in the bill (motor fuels tax credit) due to concerns expressed by the Department of Transportation as to the fiscal impact of the credit. The Chair again recognized the bill sponsor to address the amendment. Representative Tolson stated that he did not object to the amendment, noting that he was open to compromise and simply wanted the bill to move forward. Representative Gibson then moved adoption of his amendment. Seeing no further discussion, Chairman Miner called the Gibson amendment to a vote and it was adopted without objection. The Chair then recognized Representative Holliman who made a motion that a new PCS for HB 1636, incorporating the newly adopted Luebke and Gibson amendments, be given a favorable report (with an unfavorable report as to the original bill). Chairman Miner called the motion to a vote and it carried.

The next bill considered by the Committee was **HB 1760 – NO CREDIT FOR NET JOB LOSS** (see **attachment 7**). Representative Allen moved that the Committee adopt the PCS for HB 1760 for the purposes of discussion and the motion carried without objection. Chairman Miner then recognized the bill sponsor, Representative Luebke to explain the bill. He first stated that the PCS combined the contents of HB 1495 – Clawback Failed Incentives with the original HB 1760. He then explained that the bill would disallow a credit under the Bill Lee Act for research and development, and a carryforward of such a credit, if a taxpayer experiences a significant job loss. He stated that the bill would also require monitoring, reporting, and publication of economic development incentive clawbacks and would require "first source" hiring agreements for economic development agreements. The Chair recognized Representative Hill following this explanation and moved that the PCS for House Bill 1760 be given a favorable report (with an unfavorable report as to the original bill). Prior to acting on this motion however, Chairman Miner recognized Representative Daughtridge who spoke in opposition to the bill. He stated that the tax credit for research and development should not be directly dependent on job creation (or loss). Representative Luebke responded that the two are in fact tied together. He further stated that the point of the State offering incentives was to create jobs for the citizens of North Carolina. Representative Ellis was recognized next and stated his agreement with Representative Daughtridge. He conveyed his opinion that restricting the incentives that a company can take for research and development with positive job growth will only act as a disincentive for companies to invest in research and development to begin with. Chairman Miner then recognized Representative Daughtridge who sent forth an amendment (see **attachment 8**). His amendment deleted lines 9-16 on page 2 of the bill and made some other technical changes. The effect of the amendment was to delete the section of the bill tying the research and development credit to jobs. He then moved adoption of his amendment. Seeing no discussion on the Daughtridge amendment, Chairman Miner called the matter to a vote and the amendment was adopted. The Chair then recognized Representative Hill who reiterated his earlier motion that the PCS for HB 1760, incorporating the adoption of the Daughtridge amendment, be given a favorable report. As there was no further discussion on the bill, Chairman Miner then called this motion to a vote and it carried by a majority.

SB 1414 – MEDICAL BOARD FEES (see **attachment 9**) was the next bill considered by the Committee. Chairman Miner recognized Senator Rand, on behalf of the bill sponsor Senator Purcell, to explain the bill. Senator Rand stated that the bill simply increases various Medical Board licensing fees and would be effective on November 1, 2004. He also stated that a number of physicians as well as the Medical Society had been consulted and were in support of the bill. Representative Gibson was recognized following this brief explanation and acted to send forth an amendment (see **attachment 10**). He stated that his amendment would "provide a sales tax

exemption for sales of certain property to interstate air businesses". Chairman Miner recognized Representative Luebke to speak on the amendment. He expressed concern that the amendment was completely unrelated to the original intent of SB 1414 and requested that the bill be displaced. Prior to the Chair taking action, however, Senator Rand requested that Representative Gibson withdraw his amendment so as not to delay the passage of the bill. Representative Gibson then acted to withdraw his amendment. Chairman Miner recognized Representative Hill next who moved that Senate Bill 1414 be given a favorable report. Seeing no further discussion, the Chair then called the motion to a vote and it was adopted without known objection.

Chairman Miner again recognized Senator Rand to explain the next bill considered by the Committee: **SB 277 – EXEMPT UNIVERSITY TRUST PROPERTY** (see **attachment 11**). Senator Rand stated that the bill acts to exempt educational property held by a non-profit entity for the sole benefit of a public or private university located in the State, a community college, or a combination of these entities from property tax. He further stated that the bill also expands the definition of educational purposes to include the operation of a student housing facility or a student dining facility. Finally, he noted that the bill would be effective retroactively to July 1, 2001. Chairman Miner then recognized Representative Womble to speak on the bill. Representative Womble stated his support of the bill, specifically to the benefit for Winston-Salem State University located in his district, and then moved that SB 277 be given a favorable report. Representative Luebke was recognized next and asked to hear the position of the North Carolina Association of County Commissioners (NCACC) on the bill. Jim Blackburn, Counsel to the NCACC, then addressed the Committee and spoke in opposition to the bill. He stated that his agency objected to the "unwarranted intrusion into the local property tax base" proposed in the bill. As there was no further discussion on the bill, Chairman Miner then called Representative Womble's earlier motion to a vote, and it carried by a majority.

Chairman Miner next acted to replace **HB 1430 – IRC UPDATE AND OTHER TAX CHANGES** (see **attachment 3**) before the Committee. Representative Howard was recognized and stated that her earlier concerns with the family court fees had been addressed. She then acted to withdraw her earlier recommendation for non-concurrence. She then moved that the Committee offer a recommendation that the House do concur with the Senate Committee Substitute before the Committee. Following some general commentary from the members, Chairman Miner called the motion for recommendation of concurrence to a vote and it carried.

The final bill considered by the Committee was **HB 1427 – REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS** (see **attachment 12**). Representative Glazier moved that the PCS for HB 1427 be adopted by the Committee for discussion. His motion carried without objection. Chairman Miner recognized the bill sponsor, Representative Wainwright, to explain the bill. Representative Wainwright stated that the bill was a recommendation of the Joint Legislative Commission on Seaford and Aquaculture. He further stated that the bill would: establish a Recreational Shellfish License, direct the Marine Fisheries Commission to establish training requirements for shellfish cultivation lease holders, amend the fees for shellfish cultivation leases, and authorize the Marine Fisheries Commission to study issues related to the cultivation of shellfish. Representative Wainwright also presented to the Committee Mr. Preston Pate, Director of the North Carolina Division of Marine Fisheries, for any questions. Representative Glazier was then recognized and asked the bill sponsor if there was any opposition to the bill. Representative Wainwright stated that all affected parties had been consulted and were in agreement. Representative Glazier then moved that the PCS for HB 1427 be given a favorable report (with an unfavorable report as to the original bill). As there was no further discussion on this bill, Chairman Miner then called the motion to a vote and it carried without known objection.

Having no further business before the Committee, Chairman Miner then adjourned the meeting at 10:01 a.m.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1430 (and related materials)
4. House Bill 1636 (and related materials)
5. Luebke Amendment on House Bill 1636 (**Adopted**)
6. Gibson Amendment on House Bill 1636 (**Adopted**)
7. House Bill 1760 (and related materials)
8. Daughtridge Amendment on House Bill 1760 (**Adopted**)
9. Senate Bill 1414 (and related materials)
10. Gibson Amendment on Senate Bill 1414 (**Withdrawn**)
11. Senate Bill 277 (and related materials)
12. House Bill 1427 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

June 29, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Miner

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke
Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1427 REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS *Rep. Wainwright*

HB 1430 IRC UPDATE AND OTHER TAX CHANGES *Rep. Miner*
(FOR CONCURRENCE)

HB 1636 RENEWABLE ENERGY TAX CREDITS *Rep. Tolson*

HB 1760 NO CREDIT FOR NET JOB LOSS *Rep. Luebke*

SB 277 EXEMPT HIGHER ED. PROPERTY *Sen. Rand*

SB 1414 MEDICAL BOARD FEES *Sen. Purcell*

Adjournment

CORRECTED NOTICE – SB 277 ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 29, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1427 – REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS – Rep. Wainwright

HB 1430 – IRC UPDATE AND OTHER TAX CHANGES – Rep. Miner

HB 1636 – RENEWABLE ENERGY TAX CREDITS – Rep. Tolson

HB 1760 – NO CREDIT FOR NET JOB LOSS – Rep. Luebke

SB 277 - EXEMPT HIGHER ED. PROPERTY – Sen. Rand

SB 1414 – MEDICAL BOARD FEES – Sen. Purcell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **2:35 p.m.** on **June 28, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, June 29, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1427 – REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS – Rep. Wainwright

HB 1430 – IRC UPDATE AND OTHER TAX CHANGES – Rep. Miner

HB 1636 – RENEWABLE ENERGY TAX CREDITS – Rep. Tolson

HB 1760 – NO CREDIT FOR NET JOB LOSS – Rep. Luebke

SB 1414 – MEDICAL BOARD FEES – Sen. Purcell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **1:45 p.m.** on **June 24, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 29, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Marshall	NC Div. of Marine Fisheries
Leslie Winner	UNC
Jim Blackburn	Association of County Commissioners
David Baker	NC DOR
FRANK W FOLGER	NC DOT
Chris Beacham	NC DOC
John Hardin	NC Board of Science & Technology
Joe Dale	Gov. Off.
DAVID DUNN	UNC CHARLOTTE
Johanna Reese	DENR
Preston Pate	NC DMF

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 29, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	DENR
DAVID BARNES	Poyner + Spruill LLP
Kaitlyn Bailey	
Michelle Frazier	NC Bar Ass'n
[illegible]	[illegible]
[illegible]	[illegible]
Ken Melton	D.O.R.
[illegible]	Capstrat
Dascheil Propes	NCDOI
Andy Sabol	NCDOR
Jonathan TART	NCDOR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 29, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Greg Radford	NC DOR
Bill Weatherspoon	NC Petroleum Council
Steve Woodson	NC Farm Bureau
Mitch Peele	NC Farm Bureau
Anne Tazewell	TJCOG
Tobin Freid	TJCOG
Camille Stell	KCLH
BOB KUCAB	NCHFA
Angie Harris	Maupin Taylor
MARK SHELBURNE	NCHFA
Erin Kinney	NCCanNet

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 29, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Larry Shirley	State Energy Office
Eddie Finch	NCDOR
Angie Quinn	NCDOR
Elizabeth Self	Intern, Rep. Ross
Rich Webb	Intern, Rep. Alexander
Elizabeth Bakanic	Intern, Rep. Weiss
Mary K Hackney	Intern, Rep. Hackney
ML Singletary	Intern, Rep. Coates
Glenn Lamm	UTU
Richard Westbrook	UTU
Conn Carey	BPOE #6

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 29, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michael A. Thompson	Dominion NC Power
Mike Fleming	University System
John McMillan	MF&S
JERRY Schill	NC Fisheries Association
Chad Essick	Edmisten + Webb
Nancy Thompson	UNCIC
Dana Simpson	Smith Anderson
John McHugh	Gov office
Gary Harris	NCPMA
PAP	NCFD
PERRI MORGON	NFIB

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 1430

Committee Substitute Favorable 5/27/04
Senate Finance Committee Substitute Adopted 6/16/04

Short Title: IRC Update and Other Tax Changes. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO SET THE PUBLIC UTILITY AND INSURANCE REGULATORY FEES, TO EXTEND THE SUNSET ON THE LOW-INCOME HOUSING TAX CREDIT, TO CLARIFY THE SALES TAX INCENTIVES FOR MAJOR PROJECTS, TO MAINTAIN THE CURRENT SALES TAX RATES ON ELECTRICITY USED BY MANUFACTURERS, AND TO ESTABLISH FAMILY COURT FEES.

The General Assembly of North Carolina enacts:

PART 1. IRC UPDATE

SECTION 1.1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(b) Definitions. – The following definitions apply in this Article:

...

(1b) Code. – The Internal Revenue Code as enacted as of ~~June 1, 2003,~~May 1, 2004, including any provisions enacted as of that date which become effective either before or after that date."

SECTION 1.2. Notwithstanding Section 1.1 of this part, any amendments to the Internal Revenue Code enacted after June 1, 2003, that increase North Carolina taxable income for the 2003 taxable year become effective for taxable years beginning on or after January 1, 2004.

SECTION 1.3. Notwithstanding the time limitations of G.S. 105-266 and G.S. 105-266.1, a refund for an overpayment of tax resulting from a change in the law enacted by this part regarding the exclusion of gain on the sale or exchange of a principal residence by a member of the uniformed services or the Foreign Service of the United States is timely if a demand for the refund is filed on or before November 11, 2004.

SECTION 1.4. This part is effective when it becomes law.

PART 2. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 2.1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of one percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2004.

SECTION 2.2. The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2004-2005 fiscal year is two hundred thousand dollars ($200,000).

SECTION 2.3. This part becomes effective July 1, 2004.

PART 3. INSURANCE REGULATORY CHARGE

SECTION 3.1. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is five percent (5%) for the 2004 calendar year.

SECTION 3.2. This part is effective when it becomes law.

PART 4. EXTEND LOW-INCOME HOUSING CREDIT SUNSET

SECTION 4.1. G.S. 105-129.45 reads as rewritten:

"**§ 105-129.45. Sunset.**

This Article is repealed effective January 1, ~~2006.~~2010. The repeal applies to developments to which federal credits are allocated on or after January 1, ~~2006.~~2010."

SECTION 4.2. G.S. 105-129.42 reads as rewritten:

"**§ 105-129.42. Credit for low-income housing awarded a federal credit allocation on or after January 1, 2003.**

(a) Definitions. – The following definitions apply in this section:

(1) Qualified Allocation Plan. – The plan governing the allocation of federal low-income housing tax credits for a particular year, as approved by the Governor after a public hearing and publication in the North Carolina Register.

(2) Qualified North Carolina low-income housing development. – A qualified low-income project or building that is allocated a federal tax credit under section 42(h)(1) of the Code and is described in subsection (c) of this section.

(3) Qualified residential unit. – A housing unit that meets the requirements of section 42 of the Code.

(b) Credit. – A taxpayer who is allocated a federal low-income housing tax credit under section 42 of the Code to construct or substantially rehabilitate a qualified North Carolina low-income housing development is allowed a credit equal to a percentage of the development's ~~eligible~~qualified basis, as determined pursuant to ~~section 42(d)~~section 42 of the Code. For the purpose of this section, ~~eligible~~qualified basis is calculated based on the information contained in the carryover allocation and is not recalculated to reflect subsequent increases or decreases. No credit is allowed for a development that uses tax-exempt bond financing.

(c) Developments and Amounts. – The following table sets out the housing developments that are qualified North Carolina low-income housing developments and are allowed a credit under this section. The table also sets out the percentage of the development's ~~eligible~~qualified basis for which a credit is allowed. The designation of a

county or city as Low Income, Moderate Income, or High Income and determinations of affordability are made by the Housing Finance Agency in accordance with the Qualified Allocation Plan in effect as of the time the federal credit is allocated. A change in the income designation of a county or city after a federal credit is allocated does not affect the percentage of the developer's ~~eligible~~qualified basis for which a credit is allowed. The affordability requirements set out in the chart apply for the duration of the federal tax credit compliance period. If in any year a taxpayer fails to meet these affordability requirements, the credit is forfeited under subsection (h) of this section.

Type of Development	Percentage of Basis for Which Credit Is Allowed
Forty percent (40%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of area median income and the units are in a Low-Income county or city.	Thirty percent (30%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is fifty percent (50%) or less of the area median income and the units are in a Moderate-Income county or city.	Twenty percent (20%)
Fifty percent (50%) of the qualified residential units are affordable to households whose income is forty percent (40%) or less of the area median income and the units are in a High-Income county or city.	Ten percent (10%)
Twenty-five percent (25%) of the qualified residential units are affordable to households whose income is thirty percent (30%) or less of the area median income and the units are in a High-Income county or city.	Ten percent (10%)

(d) Election. – When a taxpayer to whom a federal low-income housing credit is allocated submits to the Housing Finance Agency a request to receive a carryover allocation for that credit, the taxpayer must elect a method for receiving the tax credit allowed by this section. A taxpayer may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the Housing Finance Agency. Neither a direct tax refund nor a loan received as the result of the transfer of the credit is considered taxable income under this Chapter.

Under the direct tax refund method, a taxpayer elects to apply the credit allowed by this section to the taxpayer's liability under Article 4 of this Chapter. If the credit allowed by this section exceeds the amount of tax imposed by Article 4 for the taxable year, reduced by the sum of all other credits allowable, the Secretary must refund the excess. In computing the amount of tax against which multiple credits are allowed,

nonrefundable credits are subtracted before this credit. The provisions that apply to an overpayment of tax apply to the refundable excess of a credit allowed under this section.

Under the loan method, a taxpayer elects to transfer the credit allowed by this section to the Housing Finance Agency and receive a loan from that Agency for the amount of the credit. The terms of the loan are specified by the Housing Finance Agency in accordance with the Qualified Allocation Plan.

(e) Exception When No Carryover. – If a taxpayer does not submit to the Housing Finance Agency a request to receive a carryover allocation, the taxpayer must elect the method for receiving the credit allowed by this section when the taxpayer submits to the Agency federal Form 8609. A taxpayer to whom this subsection applies claims the credit for the taxable year in which the taxpayer submits federal Form 8609.

(f) Pass-Through Entity. – Notwithstanding the provisions of G.S. 105-131.8 and G.S. 105-269.15, a pass-through entity that qualifies for the credit provided in this Article does not distribute the credit among any of its owners. The pass-through entity is considered the taxpayer for purposes of claiming the credit allowed by this Article. If a return filed by a pass-through entity indicates that the entity is paying tax on behalf of the owners of the entity, the credit allowed under this Article does not affect the entity's payment of tax on behalf of its owners.

(g) Return and Payment. – A taxpayer may claim the credit allowed by this section on a return filed for the taxable year in which the taxpayer receives a carryover allocation of a federal low-income housing credit. The return must state the name and location of the qualified low-income housing development for which the credit is claimed.

If a taxpayer chooses the loan method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the amount of credit allowed the taxpayer. The Agency must loan the taxpayer the amount of the credit on terms consistent with the Qualified Allocation Plan. The Housing Finance Agency is not required to make a loan to a qualified North Carolina low-income housing development until the Secretary transfers the credit amount to the Agency.

If the taxpayer chooses the direct tax refund method for receiving the credit allowed under this section, the Secretary must transfer to the Housing Finance Agency the refundable excess of the credit allowed the taxpayer. The Agency holds the refund due the taxpayer in escrow, with no interest accruing to the taxpayer during the escrow period. The Agency must release the refund to the taxpayer upon the occurrence of the earlier of the following:

(1) The Agency determines that the taxpayer has complied with the Qualified Allocation Plan and has completed at least fifty percent (50%) of the activities included in the development's ~~eligible~~qualified basis.

(2) Within 30 days after the date the development is placed in service.

(h) Forfeiture. – A taxpayer that receives a credit under this section must immediately report any recapture event under section 42 of the Code to the Housing Finance Agency. If the taxpayer or any of its owners are required under section 42(j) of the Code to recapture all or part of a federal credit with respect to a qualified North

Carolina low-income development, the taxpayer forfeits the corresponding part of the credit allowed under this section. This requirement does not apply in the following circumstances:

(1) When the recapture of part or all of the federal credit is the result of an event that occurs in the sixth or a subsequent calendar year after the calendar year in which the development was awarded a federal credit allocation.

(2) The taxpayer elected to transfer the credit allowed by this section to the Housing Finance Agency.

(i) Liability From Forfeiture. – A taxpayer that forfeits all or part of the credit allowed under this section is liable for all past taxes avoided and any refund claimed as a result of the credit plus interest at the rate established under G.S. 105-241.1(i). The interest is computed from the date the Secretary transferred the credit amount to the Housing Finance Agency. The past taxes, refund, and interest are due 30 days after the date the credit is forfeited. A taxpayer that fails to pay the taxes, refund, and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 4.3. This part is effective when it becomes law.

PART 5. SALES TAX CLARIFICATION

SECTION 5.1. G.S. 105-164.14(j)(1) reads as rewritten:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

(1) Refund. – The owner of an eligible facility is allowed an annual refund of sales and use taxes paid by it under this Article on qualified building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. Liability incurred indirectly by the owner for sales and use taxes on these items is considered tax paid by the owner. Building materials, building supplies, fixtures, and equipment are qualified if they are installed in the construction of the facility. Purchases for subsequent repair, renovation, or equipment replacement are not qualified.

A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the State's fiscal year. Refunds applied for after the due date are barred.

..."

SECTION 5.2. This part becomes effective July 1, 2004, and applies to sales made on or after that date.

PART 6. MAINTAIN CURRENT SALES TAX RATES ON ELECTRICITY USED BY MANUFACTURERS

SECTION 6.1. G.S. 105-164.4(a)(1g) is repealed.

SECTION 6.2. G.S. 105-164.4(a)(1f)b. is reenacted.

SECTION 6.3. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

"(1h) The rate of seventeen-hundredths percent (0.17%) applies to the sales price of electricity sold to an aluminum smelting facility for use in connection with the operation of that facility and measured by a separate meter or measuring device."

SECTION 6.4. This part becomes effective October 1, 2004, and applies to sales of electricity made on or after that date. Section 6.3 of this part expires for sales made on or after October 1, 2007.

PART 7. FAMILY COURT FEES

SECTION 7.1. Article 28 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-314.1. Family court fees.**

(a) The Administrative Office of the Courts may charge a uniform fee of not more than thirty dollars ($30.00) per hour to persons receiving the services of a supervised visitation and exchange center through a family court program. The fees collected under this section may be used by the Director of the Administrative Office of the Courts to support the continued operation of supervised visitation and exchange centers which provide services to family court clients regarding domestic violence, substance abuse, mental illness, parental alienation, and other issues.

(b) The Director of the Administrative Office of the Courts may establish a procedure for persons to apply for a reduction in the fee, based upon the person's ability to pay as a result of indigence, status as a victim of domestic violence, or other circumstances."

SECTION 7.2. This part is effective when it becomes law.

PART 8. GENERAL PROVISIONS

SECTION 8.1. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does this act affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 8.2. Except as otherwise provided in this act, this act is effective when it becomes law.

HOUSE BILL 1430:
IRC Update & Other Tax Law Changes

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Miner
Date:	June 25, 2004	**Analysis by:**	Finance Team
Version:	3rd Edition		

SUMMARY: House Bill 1430 would do the following:

- *It would update to May 1, 2004, the reference to the Internal Revenue Code used in defining and determining certain State tax provisions.*
- *It would set the rates for the public utility regulatory fee at 0.12% for the 2004-2005 fiscal year and the electric membership corporation regulatory fee at $200,000 for the 2004-2005 fiscal year. These fees are the same as the rates established for the past two years.*
- *It would set the insurance regulatory fee at 5% for the 2004 calendar year. This rate is the same as the 2003 rate.*
- *It would extend the credit on the low-income housing tax credit from January 1, 2006, until January 1, 2010.*
- *It would clarify the sales tax incentives for major projects.*
- *It would maintain the current sales tax rate on electricity used by manufacturers.*
- *It would authorize the Administrative Office of the Courts to impose a family court fee.*

HOUSE BILL 1430 IS BACK IN THE HOUSE FOR CONCURRENCE. THE BILL WAS REFERRED TO HOUSE FINANCE BECAUSE THE SENATE CHANGES WERE RULED MATERIAL.

PART 1. UPDATE IRC CODE

Part 1 of the PCS for House Bill 1430 is a recommendation of the Revenue Laws Study Committee. Congress enacted two bills between June 1, 2003, and January 1, 2004, that would affect State tax provisions. These bills are the Military Family Tax Relief Act of 2003 (P.L. 108-121), which was signed into law on November 11, 2003, and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173), which was signed into law on December 8, 2003. On April 10, 2004, the Pension Funding Equity Act of 2004 (P.L. 108-218) was signed into law. This bill also would affect State tax provisions. Part 1 updates to May 1, 2004, the reference to the Internal Revenue Code so that North Carolina's tax law reflects these changes to the federal Code. (A more detailed explanation of these changes is available; please request one if you would like one.)

PART 2. REGULATORY FEE FOR UTILITIES COMMISSION[1]

Part 2 of the bill sets the tax rate for the public utility regulatory fee for the 2004-2005 fiscal year at 0.12%. The rate last year was the same. This rate must be set by the General Assembly each year. The utility regulatory fee is a tax that was first imposed in 1989. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating public utilities. The regulatory fee is imposed on all utilities that are subject to regulation by the North Carolina

[1] This part is identical to part 1 of HB 1264, which passed 3rd reading in the House on June 17th.

Utilities Commission. The fee is a percentage of the utility's North Carolina jurisdictional revenues. In general, jurisdictional revenue is derived from providing utility service in North Carolina.

In addition to funding the State's cost in regulating public utilities, the money in the Utilities Commission and Public Staff Fund is currently used to finance the work of the Study Commission on the Future of Electric Service in North Carolina. The General Assembly established the Commission in 1997 to examine the cost, adequacy, availability, and pricing of electric rates and service in North Carolina to determine whether legislation is necessary to assure an adequate and reliable source of electricity and economical, fair, and equitable rates for all consumers of electricity in North Carolina. Section 14.10 of S.L. 2000-67, the Current Operations and Capital Improvements Appropriations Act of 2000, extended the life of the Study Commission and its funding from the Utilities Commission and Public Staff Fund through June 30, 2006.

Part 2 also sets at $200,000 for the 2004-2005 fiscal year the annual public utility regulatory fee imposed on electric membership corporations whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale. This is the same rate that was in effect for the 2001-2002, 2002-2003, and 2003-2004 fiscal years. The North Carolina Electric Membership Corporation is the only electric membership corporation that fits this description. The proceeds of the fee are credited to the Utilities Commission and Public Staff Fund and used to defray the State's cost in regulating electric membership corporations.

The 1999 General Assembly enacted S.L. 1999-180, which authorized electric membership corporations to form subsidiary corporations that may provide energy services and products, telecommunications services and products, and water and wastewater collection and treatment. The subsidiaries must fully compensate the electric membership corporation for its use of the corporation's personnel, services, equipment, and property. The Utilities Commission is charged with regulating this aspect of the subsidiary's business and, to pay for this regulation, S.L. 1999-180 levied a flat-rate regulatory fee to be paid annually by the North Carolina Electric Membership Corporation. The General Assembly must establish the fee amount each year. The North Carolina Electric Membership Corporation is the only electric membership corporation whose principal purpose is to furnish or cause to be furnished bulk electric supplies at wholesale as provided in G.S. 117-16. It is a "generation and supply cooperative" owned by its members. Its members are all but one of the existing North Carolina electric membership corporations, which are "distribution cooperatives." Thus, the fee imposed on the North Carolina Electric Membership Cooperation will be passed on to its member electric membership corporations.

PART 3. INSURANCE REGULATORY CHARGE[2]

Part 3 of this bill sets the insurance regulatory charge at 5% for the 2004 calendar year. This is the same rate set for the 2003 calendar year. The insurance regulatory charge was enacted in 1991 to defray the State's cost of regulating the insurance industry. The charge is a percentage of each insurance company's gross premiums tax liability. The insurance regulatory charge is imposed on insurance companies that pay the gross premiums tax and, beginning in 2000, on health maintenance organizations and medical service corporations. Insurance companies and medical service corporations pay a 1.9% gross premium tax rate.[3] For health maintenance organizations, the charge is levied on each organization's hypothetical gross premiums tax liability determined at the 1.9% gross premiums tax rate applied to its premiums base. The

[2] This part is identical to part 2 of HB 1264, which passed 3rd reading in the House on June 17th.

[3] The premium tax rate for medical service corporations was increased from 1% to 1.9%, effective January 1, 2004. (S.L. 2003-284)

hypothetical calculation is necessary because health maintenance organizations pay premiums tax at the lower rate of 1%.

PART 4. EXTEND LOW-INCOME HOUSING CREDIT SUNSET[4]

Part 4 of this bill extends the sunset on the low-income housing tax credit from January 1, 2006, until January 1, 2010. Developers of low-income housing begin their work months in advance and need to know what financing will be available as they secure options on sites. The bill extends the sunset now, thereby giving developers certainty about the credit's availability as they begin to plan the projects for which they will apply with the N.C. Housing Finance Agency in 2006 to build. The bill also makes a technical change by replacing the term 'eligible basis' with the term 'qualified basis'.

Congress enacted the Low Income Housing Tax Credit in 1986 to fund housing for low- and moderate-income households. Each state receives a limited amount of credit each year. The IRS allocates the per capita low-income housing tax credit to state housing agencies, such as the North Carolina Housing Financing Agency (HFA), who in turn allocate the credit to project developers who agree to lower project rents for low-income tenants. In 1999, North Carolina authorized a State income tax credit modeled after the federal housing credit. To benefit from the credit, a project developer had to sell the tax credits to receive funds to finance the project; developers indicated that the State tax credit sold for no more than 45 cents on the dollar. In 2002, the General Assembly changed the State credit to be a percentage of the basis of the housing project that qualifies for the federal credit as opposed to a percentage of the federal credit itself. Under the revised credit, a developer may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the HFA in return for a 0% interest 30-year balloon loan equal to the credit amount.[5] Neither a direct tax refund nor a loan received as a result of the transfer of the credit is considered taxable income by the State. Although a direct tax refund would be taxable as income by the IRS, a private letter ruling from the IRS provides that the loan proceeds would not.

The General Assembly modified the credit in 2002 to promote efficiency and cost savings. The modified credit eliminated the need to sell the credit and ensured that each State dollar dedicated for low-income housing is used to develop that housing. It is saving the State revenue over a five-year period while maintaining the same level of investment in low-income housing developments.[6] The innovative approach adopted by the General Assembly in 2002 has received a national award. The HFA found that in 2003 the percentage of federal credits used to develop projects in rural counties rose from about 25% to about 50% and it found that all urban projects have some units affordable to families below 30% of the median, including DHHS clients. The HFA also notes that the federal credits have become attractive to more purchasers since the buyer does not need to also purchase a state credit. This results in higher prices for federal credits and more affordable housing for North Carolina.

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[4] This part is substantially the same as SB 1326, introduced by Sen. Kerr.

[5] Owners of all but one of the 51 rental developments awarded federal credits in 2003 elected to use the State credit as part of their funding. All 50 project developers chose the 30-year no interest loan option.

[6] From 2000 to 2002, the State housing credit leveraged $420 million of rental development. A total of 120 projects with 5,900 units were awarded $140 million of State housing credits for an average of $24,000 per unit in State investment. In 2003, the credit leveraged $197 million of rental development. A total of 49 projects with 2,336 units were awarded $33.2 million of State housing credit for an average of $14,200 per unit of State investment.

PART 5. SALES TAX CLARIFICATION

During the 2nd extra session of 2003[7], the General Assembly created an annual refund of State and local sales taxes paid on construction materials and fixtures for facilities that involve the investment of more than $100 million by the taxpayer and are primarily used for either of the following two industries:

- Bioprocessing
- Pharmaceutical and Medicine Manufacturing and the Distribution of Pharmaceuticals and Medicines

The refund became effective for sales taxes paid on or after January 1, 2004. The taxpayer must apply for the refund within six months after the end of the State's fiscal year. If, after obtaining a refund, the taxpayer does not end up investing the required amount, the taxpayer forfeits the refund.

Part 5 of this bill clarifies that the sales tax refund is allowed only for materials and fixtures purchased during the construction of the facility and not for purchases made for subsequent repairs, renovation, or equipment replacement.

PART 6. MAINTAIN CURRENT SALES TAX ON ELECTRICITY USED BY MANUFACTURERS

Generally, electricity that is sold to a manufacturer for use at a manufacturing facility and that is separately metered or measured is subject to the sales and use tax at a rate of 2.83% – most other sales of electricity are taxed at the rate of 3%. In 2001, the General Assembly reduced the sales tax on electricity sold to manufacturers who use more than 900,000 megawatt-hours of electricity annually, effective January 1, 2002.[8] At this point, there are no manufacturers in the State that use this volume of electricity annually.[9] As part of the 2001 legislation, the General Assembly established a rate schedule that would reduce the sales tax on electricity sold to manufacturers who use more than 5,000 megawatt-hours annually but less than 900,000, effective July 1, 2005.[10]

Part 6 of this bill would repeal the 2001 legislation, effective October 1, 2004. The taxation of electricity used by manufacturers would remain at the current rate of 2.83%. This part would also provide that electricity sold to an aluminum smelting facility for use in connection with the operation of that facility and measured by a separate meter or measuring device would be taxable at 0.17%. The provision establishing the lower rate for an aluminum smelting facility would sunset for sales made on or after October 1, 2007. At this time, the State does not have an aluminum smelting facility. However, the retention of the lower rate for three more years encourages the operation of such a facility in North Carolina.

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[7] S.L. 2003-435.

[8] S.L. 2001-476, as amended by S.L. 2001-487

[9] The only manufacturer who used this volume of electricity at the time the General Assembly changed the law was Alcoa.

[10]

Megawatt-hours used annually	Rate
5,000 or less	2.83%
Over 5,000 and up to 250,000	2.25%
Over 250,000 and up to 900,000	2.0%
Over 900,000	.17%

PART 7. FAMILY COURT FEES

Part 7 would authorize the Administrative Office of the Courts to charge a fee to persons receiving services of a supervised visitation and exchange center through a family court program. These centers provide a safe "pick-up/drop-off" place for custody exchanges between estranged parents. There are only a few of these centers in North Carolina. The current programs are funded by federal Violence Against Women Act funds. With this funding, the centers are only able to serve families with a history of domestic violence. Some centers, especially the one in the 12th Judicial District, would like to broaden their reach to serve other clients involved with custody issues.

The fee may not exceed $30 per hour and the Director of AOC may establish a procedure for a person to apply for a reduction in the fee, based upon the person's ability to pay as a result of indigence, status as a victim of domestic violence, or other circumstances. The fee revenue would be used to support the continued operation of these centers. The use of the services is permissive.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1430 (Third Edition)

SHORT TITLE: IRC Update.

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($Million)

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund					
IRC Update	(2.6)	(5.0)	(5.5)	(6.3)	(6.6)
Low-Income Housing				(18.6)	(37.5)
Sales Tax Clarification			No Fiscal Impact		
Electricity Sales Tax	0	9.65	9.68	9.71	9.74
Total General Fund	(2.6)	4.65	4.18	(15.2)	(34.4)
Utilities Special Fund	$12.6				
Insurance Reg. Fund	$24.1				
AOC – Family Court Fee			No Estimate Available		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue; Utilities Commission; Department of Insurance; North Carolina Housing Finance Agency; Administrative Office of the Courts

EFFECTIVE DATE: Part 2 (Utilities Commission fee) and Part 5 (sales tax clarification) become effective July 1, 2004. Part 6 (electricity sales tax) becomes effective October 1, 2004 and applies to sales of electricity made on or after that date. All other parts of the bill are effective when the act becomes law.

BILL SUMMARY: This act updates the reference to the Internal Revenue Code used in defining and determining certain state tax provisions, sets the public utility and insurance regulatory fees, extends the sunset on the low-income housing tax credit, clarifies the sales tax incentives for major projects, maintains the current sales tax rates on electricity sold to manufacturers, sets temporary sales tax rate on electricity sold to aluminum smelters; and creates a fee for services received from a supervised visitation and exchange center through a family court program.

ASSUMPTIONS AND METHODOLOGY:

PART 1. IRC Update

Part 1 of the bill conforms the North Carolina tax code to changes made in the Internal Revenue Code in 2003 and 2004 by Congressional approval of P.L. 108-121, The Military Family Relief Act of 2003, P.L. 108-173, The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and P.L. 108-218, The Pension Funding Equity Act of 2004.

I. The Military Family Relief Act

Of the ten major provisions in the Military Family Relief Act of 2003 (H.R. 3365), only two have a fiscal impact on North Carolina. The first major change is in the exclusion of gain from the sale of a principal residence. Current tax law allows an individual to exclude up to $250,000 ($500,000 if married filing a joint return) of gain realized on the sale of a principal residence. The taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the date of sale. The Military Family Relief Act of 2003 allows a member of the Armed Forces, Public Health Service, National Oceanic and Atmospheric Administration, or the Foreign Service to suspend for a maximum of ten years the five-year principal residence test. To qualify, these federal employees must be stationed more than 50 miles from their principal residence for duty in excess of 90 days. The provision is effective for sales made after May 6, 1997 and these employees have one year (November 11, 2003 to November 11, 2004) to apply for a refund.

The staff of the Congressional Joint Committee on Taxation (JCT) estimates that this exclusion will cost the federal treasury $68 million in the first year due to the refund provision. The federal loss in the following years is $14 million to $17 million a year. Both the Tax Research Division of the Department of Revenue and the Fiscal Research Division of the General Assembly base the North Carolina tax impact on the JCT estimate. The chart below shows the JCT estimate of federal tax loss divided by the capital gains tax rate of 25% to determine the loss in federal taxable income. Since the Department of Defense reports that 2.44% of active military personnel in the US claim North Carolina as their residence, then this percentage multiplied by the federal taxable income yields the loss of state taxable income. Multiplying the average personal income tax paid in 2001 (6.8%) times the North Carolina taxable income results in the estimated tax loss for this provision.

			($Million)		
Exclusion on Gain of Principal Residence	**FY 04-05**	**FY 05-06**	**FY 06-07**	**FY 07-08**	**FY 08-09**
JCT Estimate of Federal Tax Loss ($Millions)	($68.0)	($14.0)	($14.0)	($15.0)	($15.0)
Divide By Capital Gains Tax Rate on Sec 1250 gains	25%	25%	25%	25%	25%
Estimated Loss of Federal Taxable Income	($272.0)	($56.0)	($56.0)	($60.0)	($60.0)
Multiply By NC Residents as Percent of Total Military	2.44%	2.44%	2.44%	2.44%	2.44%
Estimated Loss of NC Taxable Income	($6.6)	($1.4)	($1.4)	($1.5)	($1.5)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	**($0.5)**	**($0.1)**	**($0.1)**	**($0.1)**	**($0.1)**

The second provision of the Military Family Relief Act of 2003 that has a fiscal impact on North Carolina is an above the line deduction for the travel expenses of the National Guard and Reserves. Currently, National Guard and Reserve personnel may claim as itemized deductions their non-reimbursable expenses for transportation, meals, and lodging when they stay overnight for National Guard and Reserve meetings. However, these expenses must exceed 2% of a taxpayer's adjusted gross income (AGI) to be claimed. The provision in the Military Family Relief Act allows an above the line deduction on the transportation, meals, and lodging expenses of National Guard and Reserves who travel more than 100 miles and stay overnight at National Guard and Reserve meetings.

Again, the Joint Committee on Taxation estimate of the national revenue loss for this deduction is used. To obtain federal taxable income, the federal tax loss is divided by the average federal tax rate of 21.9%. To get state taxable income, the federal taxable income is multiplied by North Carolina's percentage of the U.S. Selected Reserve personnel (2.57%). Selected Reserve includes Air and Army National Guard; Army, Navy, Air Force, and Marine Corps Reserves, and when detached from the Department of Homeland Security to the Department of the Navy, the Coast Guard Reserve. The North Carolina taxable income is multiplied by the average income tax rate of 6.8% to obtain the North Carolina tax loss from conforming to this provision.

			($Million)		
Above the Line Deduction for Reserve and Guard	**FY 04-05**	**FY 05-06**	**FY 06-07**	**FY 07-08**	**FY 08-09**
JCT Estimate of Federal Tax Loss ($Millions)	($90.0)	($77.0)	($78.0)	($80.0)	($82.0)
Divide By Average Federal Tax Rate	21.9%	21.9%	21.9%	21.9%	21.9%
Estimated Loss of Federal Taxable Income	($411.5)	($352.1)	($356.7)	($365.8)	($374.9)
Multiply NC Selected Reserve as Percent of Total	2.6%	2.6%	2.6%	2.6%	2.6%
Estimated Loss of NC Taxable Income	($10.6)	($9.0)	($9.1)	($9.4)	($9.6)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	($0.7)	($0.6)	($0.6)	($0.6)	($0.7)

II. Medicare Prescription Drug, Improvement, and Modernization Act

There is one provision in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (HR1) that will impact North Carolina revenues. This bill creates Health Savings Accounts (HSAs) that provide tax-favored treatment of savings for medical expenses under a high deductible health plan. A person is eligible for a HSA if he or she has a health plan with a deductible that is at least $1,000 for self only coverage or $2,000 for family coverage and the plan has an out-of-pocket expense limit that is no more than $5,000 for an individual or $10,000 for a family. Out-of-pocket expenses include deductibles, co-payments, and other amounts (other than premiums) spent for covered benefits under the plan.

Individual contributions to a HSA are deductible from adjusted gross income and employer contributions to a HSA are excludable from gross income and wages for employment tax purposes. Distributions from a HSA for qualified medical expenses are excluded from gross income. HSA distributions not spent on qualified medical expenses are included in gross income and subject to an additional 10% tax.

The Department of Insurance reported to the Fiscal Research Division in May 2004 that the following companies have high deductible health plans that are HSA eligible:

John Alden
Fortis
United Wisconsin Life
Medical Security
American Republic has a product pending approval.

As in previous examples, the Joint Committee on Taxation is used to determine the North Carolina revenue loss. The federal tax loss is divided by the average federal tax rate of 21.9% to determine the federal taxable income. State taxable income is 2.9% of the federal taxable income based on 2003 US Census population data. Multiplying the state taxable income times the 6.8% average state income tax rate yields the state tax loss from this provision.

			$Million)		
Health Savings Account	**FY 04-05**	**FY 05-06**	**FY 06-07**	**FY 07-08**	**FY 08-09**
JCT Estimate of Federal Tax Loss	($160)	($474)	($533)	($597)	($650)
Divide By Average Federal Tax Rate	21.9%	21.9%	21.9%	21.9%	21.9%
Estimated Loss of Federal Taxable Income	($731.6)	($2,167.4)	($2,437.1)	($2,729.8)	($2,972.1)
Multiply By NC Population as a % of US	2.9%	2.9%	2.9%	2.9%	2.9%
Estimated Loss of NC Taxable Income	($21.2)	($62.7)	($70.5)	($78.9)	($85.9)
Multiply By NC Average Tax Rate	6.8%	6.8%	6.8%	6.8%	6.8%
Estimated NC Tax Loss	**($1.4)**	**($4.3)**	**($4.8)**	**($5.4)**	**($5.8)**

III. The Pension Funding Equity Act

The primary aim of the Pension Funding Equity Act of 2004 (H.R. 3108) is to reduce mandatory corporate contributions to defined benefit pension plans in 2004 and 2005. (In defined benefit plans, employers pay monthly pensions to retired workers usually based on their salary and years of service.) More specifically, the act changes the interest rate employers use to calculate their required pension contributions, provides temporary relief from additional contributions required of companies that have pension plans that are less than 90% funded, and allows multiemployer pension plans to defer for up to three years the amortization of part of the stock market losses that they incurred during the 2000 to 2002 period.

The Congressional Joint Committee on Taxation (JCT) estimates this legislation will produce a federal revenue gain for the first three fiscal years, then a loss in later years. Since a portion of employer contributions to qualified retirement plans is deductible from federal income tax, then a reduction in corporate payments into retirement funds will reduce the amount of corporate deductions and, thus, increase taxable income. Beginning in 2007, taxable income will fall as companies increase their retirement contributions and deduct these increasing contributions.

Normally the General Assembly and the Department of Revenue rely on the JCT estimates when computing the North Carolina share of tax loss or gain from federal legislation. When JCT was contacted for information on the Pension Funding Equity Act of 2004, the agency declined to share the methodology they used to estimate the change in revenue. The Congressional Budget

Office, a co-author of some of the bill analysis, was also contacted and referred all questions to JCT. Because of the complexity of this bill and the uncertainty of whether N.C. companies will take advantage of the bill's provisions, no estimate will be attempted on this federal act until the legislative and Revenue staff can verify the validity of the JCT estimate.

PART 2. Regulatory Fee for Utilities Commission

Part 2 of the bill sets the fees for regulation by the North Carolina Utilities Commission (Commission). Section 2.1 sets the public utility regulatory fee rate at 0.12% for FY 2004-05 (same rate as FY 2003-04). Revenue from this fee, which is assessed against regulated public utilities, is used to support the operations of both the Commission and the Public Staff. The Commission estimates the 0.12% regulatory fee will produce $12,600,000 in FY 2004-05. For the same period, the Commission estimates that the combined operations of the Commission and Public Staff will require total expenditures of not less than $12,616,620. The cash balance in the Commission's Accumulated Fee Margin Reserve Account and other special funds as of May 30, 2004 was $7.9 million. This represents approximately 7.5 months of operating reserve. At fiscal year end, the Commission estimates it will have a cash balance of approximately $6.95 million in the fund.

Section 2.2 sets the public utility regulatory fee to be paid by the North Carolina Electric Membership Corporation for the 2004-05 fiscal year at $200,000. This fee has remain unchanged since 1999 when discussions between the Utilities Commission and the industry determined $200,000 was the cost associated with regulating the electric membership cooperatives. In 2001, the Utilities Commission provided information to the General Assembly's Fiscal Research illustrating that these fees supported approximately 4000 hours of accounting, engineering, and legal time. This fee amount must be set by the General Assembly each year.

PART 3. Insurance Regulatory Charge

Part 3 of the bill sets the insurance regulatory charge at 5% for calendar year 2004. This fee is assessed against the 1.9% premiums tax paid by insurers and Article 65 companies (Blue Cross/Blue Shield) or against the presumed premiums tax that would be paid by HMOs if taxed at 1.9% (they are taxed at 1%). The revenue is used to reimburse the General Fund for appropriations to the Department of Insurance to pay expenses incurred in regulating the insurance industry and other industries and to other departments as specified in G.S. 58-6-25(d).

The total of the premiums tax collections for FY 2004-05 and the presumed premiums tax is estimated to be $388.8 million. Applying the 5% regulatory fee to the $388.8 million base would generate $24.10 million in regulatory fee revenue.

The Department estimates that the operating expenses will be $25.9 million for FY 2004-05 and that the reserve will have a balance of $13.85 million at the beginning of FY 2004-05. The total available from the reserve fund of $13.85 million and the estimated collections of $24.10 million will be $37.95 million. The total available less the estimated operating expenditures of $25.9 million will leave a year-end reserve balance of $12.05 million. By statute, the reserve balance shall not exceed one-third of the estimated operating expenses. The $12.05 estimated reserve is above one-third of the estimated operating expenditures.

Based on the above, the regulatory surcharge rate of 5%, assessed against companies that pay a premiums tax as well as the HMOs, is sufficient to defray the estimated cost of the operations of the Department and provide for a reserve fund.

PART 4. Extend Low-Income Housing Credit Sunset

Part 4 of the bill extends the Low-Income Housing Tax Credit program from 2006 to 2010. In the Tax Reform Act of 1986, Congress created the Low-Income Housing Tax Credit (LIHTC) program to fund housing for low and moderate-income households. The North Carolina Housing Finance Agency receives a per capita tax credit that can be used for new construction or rehabilitation of housing. Beginning in 2003, the per capita federal credit amount was indexed to the CPI. From 1987 to 1999, this federal credit helped finance the construction of 21,423 low-income housing units in the state.

In 1999, the General Assembly created a state low-income housing credit equal to a percentage of the federal LIHTC. North Carolina is now one of 14 states with a low-income housing tax credit program. The state low-income tax credit was revised in 2002. Instead of a percentage of the federal credit, the housing developer's tax credit is a percentage of the eligible basis of the housing project that qualifies for the federal LIHTC. The tax credit amount is based upon city/county income and the affordability of the constructed housing units as follows:

Type of Development	Percentage of Basis for which Credit is Allowed
• Units are in a "Low Income" county or city • 40% of the qualified residential units are affordable to households whose income is 50% or less of area median income	30%
• Units are in a Moderate Income county or city • 50% of the qualified residential units are affordable to households whose income is 50% or less of the area median income	20%
• Units are in a High Income county or city • 50% of the qualified residential units are affordable to households whose income is 40% or less of the area median income	10%
• Units are in a High Income county or city • 25% of the qualified residential units are affordable to households whose income is 30% or less of the area median income	10%

A developer may elect to receive the credit in the form of either a direct tax refund or a loan generated by transferring the credit to the Housing Finance Agency (HFA). The HFA will offer the developer a 0% interest 30-year balloon (no payments until maturity) loan equal to the credit amount. Neither a direct tax refund nor a loan received as a result of the transfer of the credit is considered taxable income by the State.

CURRENT CREDIT PROGRAM

The 2003 tax year is the first year under the revised state low-income housing tax credit. The Housing Finance Agency (HFA) awarded $33,659,990 in state tax credits to 50 housing projects. All 50 project developers chose the 30 year no interest loan option. The Secretary of Revenue will transfer half of the 2003 credit amount, $16,829,995, to the HFA in July 2004 and transfer the remaining half of the credit in July 2005. In the remaining two years of the tax credit program, the cost to the General Fund is estimated to be $34.9 million in Tax Year 2004 and $36.5 million in Tax Year 2005 as shown in the chart below.

Award Year	Population	Fed Tax Credit Per Capita Amount	Federal Tax Credit (FTC)	FTC % of Basis	Basis Amount	Average State Tax Credit	Utilization	$ Impact
2004	8,407,248	$1.80	$15.1 mil.	8.5%	$178.0 mil.	20%	98%	$34.9 mil.
2005	8,557,738	$1.85	$15.8 mil.	8.5%	$186.2 mil.	20%	98%	$36.5 mil.

The actual fiscal year revenue loss is different from the tax year credits awarded, because the payments are spread over two fiscal years as shown in the chart below.

Tax Year	FY 04-05	FY 05-06	FY 06-07	FY 07-08
2003	$16,829,995	$16,829,995		
2004		$17,447,512	$17,447,512	
2005			$17,759,823	$17,759,823
Total	**$16,829,995**	**$34,277,507**	**$35,207,335**	**$17,759,823**

CREDIT FORMULA

The following factors must be estimated in order to determine the state tax credit.

I. POPULATION

In Notice 2004-21, the Internal Revenue Service (IRS) directs North Carolina to use 8,407,248 as its population estimate for the federal low-income housing tax credit in 2004. This 2004 population estimate is actually from the July 2003 estimate for North Carolina done by the U.S. Census Bureau.

The State Demographics Unit in the North Carolina Office of State Budget and Management estimates the state population will grow 17.9% from 2000 to 2010. Dividing this decade growth

projection by 10 yields an annual population growth of 1.79% that is applied to the 2004 estimate. Future year state populations are shown below.

Award Year	Population
2004	8,407,248
2005	8,557,738
2006	8,710,921
2007	8,866,847
2008	9,025,563
2009	9,187,121
2010	9,351,570

II. FEDERAL PER CAPITA CREDIT AMOUNT

Notice 2004-21 also sets the federal per capita credit amount for 2004 at $1.80. Beginning in 2003, this per capita credit amount is adjusted annually by the Consumer Price Index (CPI) and is rounded down to the nearest .05. The chart below shows the CPI projected by the U.S. Bureau of Labor Statistics for the years 2004 through 2011. The base rate of $1.80 is adjusted by the CPI as shown in the Actual column. The results of rounding down the rates to the nearest .05 are shown in the Rounded column.

	CPI	Actual	Rounded
2004	1.9%	$1.80	
2005	1.3%	$1.83	$1.80
2006	1.9%	$1.86	$1.85
2007	2.4%	$1.89	$1.85
2008	2.3%	$1.94	$1.90
2009	2.3%	$1.98	$1.95
2010	2.3%	$2.03	$2.00
2011	2.2%	$2.07	$2.05

The Rounded per capita amount multiplied by the Population estimate yields the annual federal low-income housing tax credit for the state. The North Carolina Housing Finance Agency may award these tax credits to developers of low-income housing projects.

Award Year	Population	Fed Tax Credit Per Capita Amount	Federal Tax Credit (FTC)
2004	8,407,248	$1.80	$15,133,046
2005	8,557,738	$1.80	$15,403,928
2006	8,710,921	$1.85	$16,115,204
2007	8,866,847	$1.85	$16,403,666
2008	9,025,563	$1.90	$17,148,570
2009	9,187,121	$1.95	$17,914,886
2010	9,351,570	$2.00	$18,703,141

III. STATE TAX CREDIT

The state tax credit is applied against the basis of the housing projects funded by the federal tax credits. Basis for this credit is the total cost of constructing the buildings minus items not subject to depreciation such as land and reserves. The Housing Finance Agency estimates the federal tax credit is equal to 8.5% of the eligible basis in the funded properties . Dividing the federal tax credit amount by 8.5% gives the project basis amount.

Award Year	Federal Tax Credit (FTC)	FTC % of Basis	Basis Amount
2004	$15,133,046	8.5%	$178,035,840
2005	$15,403,928	8.5%	$181,222,682
2006	$16,115,204	8.5%	$189,590,639
2007	$16,403,666	8.5%	$192,984,311
2008	$17,148,570	8.5%	$201,747,885
2009	$17,914,886	8.5%	$210,763,361
2010	$18,703,141	8.5%	$220,036,949

The state low-income housing tax credit varies by county income at rates of 10% (high income), 20% (moderate income), and 30% (low income). The HFA staff estimates the state credit in future years will average 20%. The 20% credit average is consistent with the 19.1% actual credit average in 2003. Finally, the HFA assumes that developers will utilize 95% of all credits. In 2003, 50 of 51 projects accepted the state credit for a utilization rate of 98%. This analysis assumes the 98% rate due to the 30-year no interest loan option of the credit.

Award Year	Basis Amount	Average State Tax Credit	Utilization	$ Impact
2004	$178,035,840	20%	98%	$34,895,025
2005	$181,222,682	20%	98%	$35,519,646
2006	$189,590,639	20%	98%	$37,159,765
2007	$192,984,311	20%	98%	$37,824,925
2008	$201,747,885	20%	98%	$39,542,586
2009	$210,763,361	20%	98%	$41,309,619
2010	$220,036,949	20%	98%	$43,127,242

IV. FISCAL IMPACT OF CREDIT EXTENSION

This bill extends the state low-income housing tax credit four additional years – tax years 2006 through 2009. However, the tax year impacts shown above must be distributed by fiscal years. This analysis assumes that the project developers will continue to take the 30-year no interest loans. This means each tax year's credit amount will be transferred to the HFA in two annual installment payments. For example, the 2006 tax year credit amount will be paid in July 2007 (FY 2007-08) and July 2008 (FY 2008-09). The following chart shows the fiscal year impact of the tax credit program until its sunset date.

Tax Year	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
2006	$18,579,883	$18,579,883			
2007		$18,912,463	$18,912,463		
2008			$19,771,293	$19,771,293	
2009				$20,654,809	$20,654,809
Total	**$18,579,883**	**$37,492,345**	**$38,683,755**	**$40,426,102**	**$20,654,809**

PART 5. Sales Tax Clarification

Section 5.1 clarifies that the sales tax refund on building materials, authorized in House Bill 2 of the 2003 Special Session, only applies to materials purchased for initial construction of projects valued at or over $100 million. Items purchased for repairs and renovations, and well as replacement equipment, would not qualify for a refund. Since this section codifies the Department of Revenue's current interpretation and practice, there is no fiscal impact.

PART 6. Maintain Current Sales Tax Rates on Electricity

Section 6.1 repeals the graduated sales tax rates on electricity purchased by manufacturers. These rates were enacted in Senate Bill 748 during the 2001 Session in reaction to an administrative ruling on the taxability of electricity in aluminum smelting operations. The Secretary of Revenue issued a Directive on February 14, 2000 that ruled electricity is not "an ingredient or component part of the materials being produced by a manufacturer in the operation of an arc furnace or an induction furnace". The Secretary determined that electricity is a form of energy, not a form of matter or tangible property that the Legislature intended to exempt from tax. The Directive overruled previous private letter rulings from the Sales and Use Tax Division of the Department of Revenue that allowed a sales tax exemption for arc furnaces. Effective March 1, 2000, electricity used in arc furnaces once again became subject to the 2.83% sales tax. The Directive clarified that electricity used in induction furnaces is not tax exempt. The state's only aluminum smelter, Alcoa Badin Works, began paying the 2.83% tax in March 2000.

Senate Bill 843 was introduced on April 4, 2001 to reverse the Revenue decision by exempting "sales to a manufacturer of electricity that is separately metered or measured and that is used in the electrolytic smelting process to manufacture aluminum." House Bill 959 went even further by exempting electricity sold to electrical charging processing, arc furnaces, and electrolytic process for manufacturing. While these bills failed to pass out of the Finance committees, the issue was revived on the House floor as an amendment to Senate Bill 748, Bill Lee Act Changes. The final version of SB 748 had a tax rate of .17% beginning January 1, 2002 for those manufacturers who use over 900,000 megawatt hours of power each year. The only firm eligible for this low rate is Alcoa Badin Works when at full production. SB 748 also included the following additional rates beginning in July 1, 2005:

2% = for manufacturers using between 250,000 and 900,000 megawatt hours each year
2.25% = for manufacturers using between 5,000 and 250,000 megawatt hours each year
2.83% = for manufacturers using less than 5,000 megawatt hours each year (current tax)

By repealing G. S. 105-164.4(a)(1g) and preventing the reduction of tax rates on electricity on July 1, 2005, the state will save approximately $9.6 million to $9.7 million each fiscal year. In February 2004, the major electric utilities in the state were asked to submit a list of their

manufacturing customers that consumed more than 5,000-megawatt hours of electricity each year. Each utility was asked to provide the amount of megawatt hours used and the amount paid by each manufacturer in fiscal year 2003. The current and proposed tax rates were applied to this data and the results are shown below.

Annual Megawatts	Tax Rate	Duke Energy Customers	Progress Energy Customers	Dominion Customers	ElectriCities West Region
Over 5,000 and up to 250,000	2.25%	531	595	26	5
Over 250,000 and up to 900,000	2%	2	12	1	0
Over 900,000	0.17%	0	0	0	0
General Fund Loss		**($3,131,175)**	**($6,026,335)**	**($400,766)**	**($35,203)**
Total General Fund Loss			**($9,593,479)**		

When the proposed tax rates are applied to customer bills in 2003, the General Fund loss of sales tax revenue equals approximately $9.6 million. To determine the future revenue loss from the new rates, the state's two major electric utilities were asked for their projection of electricity consumption by the manufacturing sector. Progress Energy replied that the projected growth in its industrial sector is .8% a year from 2004 to 2012. Duke Energy projects a .63% decline in consumption each year from 2004 to 2012. Applying these change rates to the manufacturer electricity consumption in 2003 yields the following revenue loss estimates for the 2% and 2.25% tax rates (Dominion and ElectriCities were held constant). Neither of the state's major utilities nor the Department of Revenue reported any facilities that qualified for the .17% tax rate.

	Duke Energy Customers	Progress Energy Customers	Dominion Customers	ElectriCities West Customers	Total
FY 2003-04	($3,131,175)	($6,026,335)	($400,766)	($35,203)	($9,593,479)
FY 2004-05	($3,111,449)	($6,074,546)	($400,766)	($35,203)	($9,621,963)
FY 2005-06	($3,091,846)	($6,123,142)	($400,766)	($35,203)	($9,650,958)
FY 2006-07	($3,072,368)	($6,172,127)	($400,766)	($35,203)	($9,680,464)
FY 2007-08	($3,053,012)	($6,221,504)	($400,766)	($35,203)	($9,710,485)
FY 2008-09	($3,033,778)	($6,271,276)	($400,766)	($35,203)	($9,741,023)
FY 2009-10	($3,014,665)	($6,321,446)	($400,766)	($35,203)	($9,772,081)

Section 6.3 reestablishes the .17% tax rate for aluminum smelting facilities for the period October 1, 2004 to October 1, 2007. As mentioned above, the debate on reduced rates began with Revenue ruling that electricity used in aluminum smelting was taxable at the Alcoa Badin plant. Unfortunately, Alcoa closed the Badin Works and laid off 300+ employees in

August 2002. (Alcoa permanently closed similar aging aluminum smelter facilities in Troutdale, Oregon and Rockdale, Texas.) The Badin plant continues to operate its anode and ingot casting facilities to supply material to Alcoa locations across the U.S. Analysts for the aluminum industry predict the aluminum smelters at Badin will not reopen until a strong economic recovery boosts demand and pushes prices up to make the plant competitive with newer facilities and low cost foreign producers. It is not known if the current upswing in the economy will make the Badin plant profitable enough to restart production. When the plant is in full production, the reduction in tax from 2.83% to .17% creates a General Fund revenue loss of $800,000 a year. Since it is unknown if and when the Badin plant will reopen, there is no revenue estimate for this section.

PART 7. Family Court Fees

Part 7 allows the Administrative Office of the Courts (AOC) to establish a fee of up to $30 for using a supervised custody/exchange center. These centers exist in several judicial districts and are funded by federal Violence Against Women Act (VAWA) funds. Use of these federal funds means that the centers can only serve a domestic violence victim population. By authorizing this fee, these centers can establish a separate funding source allowing them to serve any divorced couple with custody exchange issues. It is believed the fees will be deposited into a receipt fund within AOC with its use limited to supporting these centers. Section 7.1(b) authorizes AOC to set up a sliding scale of costs based on indigency. This is standard practice in the court system, and the language clearly waives the fee for Domestic Violence victims who are already getting services paid by VAWA. There is no estimate available on the revenue generated by this fee since it is unknown how many judicial districts will choose to impose it.

SOURCES OF DATA: Congressional Joint Committee on Taxation; Department of Revenue-Tax Research Division; Department of Defense "2002 Selected Manpower Statistics"; IRS "Statistics of Income Bulletin Fall 2003"; US Census Bureau "2003 US Statistics in Brief"; Department of Insurance; North Carolina Utilities Commission; NC Housing Finance Agency, Internal Revenue Service, State Demographics Unit in the North Carolina Office of State Budget and Management, Bureau of Labor Statistics; Progress Energy; Duke Energy; Dominion; ElectriCities of North Carolina; Alcoa

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic, Marilyn Chism, Doug Holbrook, Linda Millsaps, and Stephanie Schmitt

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 17, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 1430 A BILL TO BE ENTITLED AN ACT TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE USED IN DEFINING AND DETERMINING CERTAIN STATE TAX PROVISIONS, TO SET THE PUBLIC UTILITY AND INSURANCE REGULATORY FEES, TO EXTEND THE SUNSET ON THE LOW-INCOME HOUSING TAX CREDIT, TO CLARIFY THE SALES TAX INCENTIVES FOR MAJOR PROJECTS, TO MAINTAIN THE CURRENT SALES TAX RATES ON ELECTRICITY USED BY MANUFACTURERS, AND TO ESTABLISH FAMILY COURT FEES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☒ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1636
PROPOSED COMMITTEE SUBSTITUTE H1636-CSLC-153 [v.2]

6/28/2004 11:49:01 AM

Short Title: Renewable Fuel Tax Credits. (Public)

Sponsors:

Referred to:

May 24, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX CREDITS FOR DISPENSING, PROCESSING, AND DISTRIBUTING RENEWABLE FUELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15 is amended by adding a new subdivision to read:

"(8) Renewable fuel. – Either of the following:

a. Biodiesel, as defined in G.S. 105-449.60.

b. Ethanol either unmixed or in mixtures with gasoline that are seventy percent (70%) or more ethanol by volume."

SECTION 2. Article 3B of Chapter 105 of the General Statutes is amended by adding the following new section to read:

"**§ 105-129.16D. Credit for constructing renewable fuel facilities.**

(a) Dispensing Credit. – A taxpayer that constructs and installs and places in service in this State a qualified commercial facility for dispensing renewable fuel is allowed a credit equal to fifteen percent (15%) of the cost to the taxpayer of constructing and installing the part of the dispensing facility, including pumps, storage tanks, and related equipment, that is directly and exclusively used for dispensing or storing renewable fuel. A facility is qualified if the equipment used to store or dispense renewable fuel is labeled for this purpose and clearly identified as associated with renewable fuel.

The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in three equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the portion of the facility directly and exclusively used for dispensing or storing renewable fuel is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The

taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(b) Production Credit. – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal annual installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(c) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to the costs of constructing and installing a facility may not take the credit allowed in this section with respect to the same costs.

(d) Sunset. – This section is repealed for taxable years beginning on or after January 1, 2011."

SECTION 3. Part 4 of Article 36C of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-449.111. Credit for distributing biodiesel.**

(a) Credit. – A licensed distributor that distributes biodiesel is allowed a credit against the taxes imposed by this Article. The credit is equal to one dollar ($1.00) per gallon of unblended biodiesel. The credit must be claimed on the same return on which the tax liability for the biodiesel is originally reported. The taxpayer must submit any information or documentation required by the Secretary. The credit may not exceed the amount of tax liability reported on the return.

(b) Sunset. – This section is repealed effective July 1, 2011."

SECTION 4. Section 3 of this act becomes effective July 1, 2005. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1636

Short Title:	Renewable Energy Tax Credits.	(Public)
Sponsors:	Representatives Tolson; Goodwin, A. Williams, McLawhorn, and Luebke.	
Referred to:	Finance.	

May 24, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX CREDITS FOR PURCHASING, DISPENSING, AND PROCESSING RENEWABLE FUELS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.15 is amended by adding a new subdivision to read:

"(8) Renewable fuel. – Either of the following:

a. Biodiesel derived from pure virgin soybean oil in a two percent (2%) minimum blend.

b. Ethanol or methanol either unmixed or in mixtures with gasoline that are seventy percent (70%) or more ethanol or methanol by volume."

SECTION 2. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for renewable fuel.**

(a) Purchase. – A taxpayer that purchases at retail 750 or more gallons of renewable fuel during the taxable year is allowed a credit equal to ten percent (10%) of the cost of the fuel. For fuel purchased for business use, the credit allowed by this section may not exceed one thousand two hundred dollars ($1,200) for the taxable year. For fuel purchased for nonbusiness use, the credit allowed by this section may not exceed three hundred fifty dollars ($350.00) for the taxable year.

(b) Distribution. – A taxpayer that constructs and installs and places in service in this State a commercial facility for dispensing renewable fuel is allowed a credit equal to fifteen percent (15%) of the cost to the taxpayer of constructing and installing the dispensing facility, including pumps, storage tanks, and related equipment.

(c) Processing. – A taxpayer that constructs and places in service in this State a commercial facility for processing renewable fuel is allowed a credit equal to twenty-five percent (25%) of the cost to the taxpayer of constructing and equipping the

facility. The entire credit may not be taken for the taxable year in which the facility is placed in service but must be taken in seven equal installments beginning with the taxable year in which the facility is placed in service. If, in one of the years in which the installment of a credit accrues, the facility with respect to which the credit was claimed is disposed of or taken out of service, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17.

(d) No Double Credit. – A taxpayer that claims any other credit allowed under this Chapter with respect to an activity described in subsections (a) through (c) of this section may not take the credit allowed in this section with respect to the same activity."

SECTION 3. This act becomes effective for taxable years beginning on or after January 1, 2005.

HOUSE BILL 1636 (PCS): Renewable Fuel Tax Credits

BILL ANALYSIS

Committee: House Finance
Date: June 29, 2004
Version: PCS for 1st Edition

Sponsor: Rep. Tolson
Summary by: Martha H. Harris
Staff Attorney

SUMMARY: House Bill 1636 would provide three new tax credits: an income or franchise tax credit for constructing a facility for dispensing renewable fuel, an income or franchise tax credit for constructing a facility to produce renewable fuel, and a motor fuels tax credit for distributing biodiesel. Renewable fuel is defined as biodiesel or ethanol.

CURRENT LAW: Article 3B of Chapter 105 of the General Statutes allows an income or franchise tax credit of 35% of the cost of constructing or purchasing renewable energy property, up to $250,000 per installation for non-residential property. Renewable energy property may include equipment for producing biodiesel or ethanol.

BILL ANALYSIS: Sections 1 and 2 of the bill would add two new credits to Article 3B, a 15% credit for the costs of constructing a facility for dispensing renewable fuel and a 25% credit for the costs of constructing a facility for producing renewable fuel. These credits would become effective beginning with the 2005 tax year. The dispensing credit must be taken in three annual installments and the production credit must be taken in seven annual installments. There is no double credit – the taxpayer must choose between any available credits and take only one with respect to the same costs.

Like the other credits in Article 3B, the new credits may be claimed against income tax or franchise tax. Each credit is limited to 50% of the amount of tax liability against which it is claimed. Any excess may be carried forward for up to five years. Article 3B is set to sunset January 1, 2006. If that sunset is extended, the new credits are set to sunset in 2011.

Section 3 of the bill would add a motor fuels tax credit for distributing biodiesel, effective July 1, 2005. The amount of the credit would be $1.00 per gallon of unblended biodiesel. The credit would sunset in 2011.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 28, 2004

TO: House Finance Committee

FROM: Alexei Pavlichev and Richard Bostic
Fiscal Research Division

RE: House Bill 1636-CSLC-153 [v.2]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		No Estimate Available *			
Highway Fund **		$675,000	$675,000	$675,000	$675,000
Highway Trust Fund**		$225,000	$225,000	$225,000	$225,000

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: Section 3 becomes effective on July 1, 2005 and is repealed effective July 1, 2011. The remainder of this act becomes effective for taxable years beginning on or after January 1, 2005 and is repealed effective for taxable years on or after January 1, 2011.

* While no estimate is made on the number of facilities constructed, the cost per credit is estimated to be $7,500 per dispensing facility, $2.4 million per biodiesel production facility, and $12.5 million per ethanol production facility. See the Assumptions and Methodology section.
**Minimum revenue loss from distribution credit based on current biodiesel consumption.

BILL SUMMARY:
This act creates the following new tax credits:
1) **Credit for dispensing renewable fuel** – The credit is equal to15% of the cost to construct and install a renewable fuel dispensing facility, but must be taken in three equal annual installments. The credit is taken against franchise and income tax liability.
2) **Credit for producing renewable fuel** – The credit is equal to 25% of the cost to construct and place in service a commercial facility for processing renewable fuel. The credit is taken against franchise and income tax liability in seven equal annual installments.
3) **Credit for distributing biodiesel** – This credit for licensed distributors is equal to $1 per gallon of unblended biodiesel and is claimed against motor fuel tax liability.

ASSUMPTIONS AND METHODOLOGY:

Energy Tax Credit Success

According to a February 2001 report of the National Conference of State Legislatures (NCSL) titled "State Alternative Fuel Vehicle Incentives: A Decade and More of Lessons Learned," state alternative fuel vehicle incentives do not stimulate widespread conversion to alternative fuels.

Based on the report, which has analyzed more than 200 various state incentives around the nation, the successful incentives are:

- Focused on reducing emissions or petroleum use.
- Large enough to entice consumers to buy an alternative fuel vehicle.
- Grant-based in most cases.
- Easy for consumers to receive and for the state to administer.
- Focused on developing a fueling infrastructure in addition to encouraging consumers to buy alternative fuel vehicles.

The best incentives, according to the report, combine all the characteristics into one package. Incentives that fail to meet even one of these criteria are likely to fail to meet their goals.

North Carolina has not had much success with tax credits for building alternative fuel facilities. A corporate income tax credit for the construction of a fuel ethanol distillery was approved in 1979 (GS 105-130.27), but the credit expired in 1998 without being used. Similar tax credits to encourage the construction of a methane gas facility, a peat facility, wind energy devices, and an olivine brick facility were repealed in 1999 without ever being used.

The renewable energy credits in GS 105-129.16A have been used. From April 2003 to March 2004, 11 corporate taxpayers claimed $636,001 and 222 individual taxpayers claimed $143,970 in renewable energy credits. These credits can be used for solar, wind, hydroelectric, and biomass projects. Building an ethanol or biodiesel production facility is eligible under this credit, but none have been built.

Dispensing Credit

According to the Department of Energy Clean Cities Program, there are two ethanol-refueling stations in North Carolina. Both of these stations are owned by the state and provide services only to N.C. Motor Fleet Management.

With regard to biodiesel, the major vendor of this type of fuel in the state is the Grain Growers Cooperative, Inc (the Cooperative). According to a Cooperative's representative, the Cooperative purchases around 900,000 gallons of B100 biodiesel fuel annually at a price of $2.50 per gallon. This fuel is then sold to several biodiesel fueling stations in the state. Based on data from the National Biodiesel Board, there are four retail biodiesel fueling sites in North Carolina, which also operate as conventional gas stations.

At this time it is not possible to estimate the number of refueling stations that will be built due to this credit and the distributor credit in section 3 of the bill. The General Assembly's Fiscal Research Division is seeking data from Kansas and Colorado on their experience with alternative fuel dispensing credits. Kansas has a credit equal to 50% of the cost of constructing a fueling station up to $200,000 and Colorado has a 50% tax credit for the cost of construction, reconstruction, or acquisition of a refueling station.

What is the fiscal impact to the General Fund for each fueling station that is built with a tax credit? According to information provided by a representative of the Marketing Department of VeraSun Energy in South Dakota, the average cost of constructing a facility for dispensing alternative fuel is approximately $50,000. This cost includes pumps, storage, and related equipment. Based on this estimate, each dispensing facility would qualify for a tax credit of $7,500, which will be claimed in three equal annual installments. Since the tax credit begins in tax year 2005, the first credit can be claimed as early as FY 2005-06. Box 1 outlines the fiscal impact associated with construction of one alternative fuel dispensing facility.

Box 1: Fiscal Impact of Constructing one Alternative Fuel Dispensing Facility

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Alterative Fuel Dispensing Facility	$0	($2,500)	($2,500)	($2,500)	$0

Production Credit

This bill proposes a tax credit equal to 25 percent of the costs of constructing and equipping a commercial facility for processing alternative fuel. The entire credit must be taken in seven equal annual installments beginning with the taxable year in which facility is placed in service. Based on information provided by the Grain Growers Cooperative, Inc., there are some initiatives to construct a biodiesel-production facility as well as ethanol-production facilities in North Carolina. However, these initiatives are at early stages of planning, and it is unlikely that any significant progress in the construction of any alternative fuel production facility will be completed in 2005. Based on the joint study by AUS Consultants and SJH

Company, it takes on average 12-14 months to construct an ethanol production facility. The Grain Growers Cooperative, Inc. has indicated that it takes the same time to construct a biodiesel production facility. Based on these assumptions, it is projected that the earliest date when any renewable fuel facility may become operational is July 2006.

I. Biodiesel-Production Facility

The Center for Agribusiness and Economic Development at the University of Georgia has conducted a study on the feasibility of biodiesel production in this state. This study contains analysis of estimated capital costs associated with construction of biodiesel production facilities of various production capacities. According to the information provided by a representative of the Grain Growers Cooperative, the biodiesel production facility that may potentially be constructed in North Carolina will have a production capacity close to 15 million gallons per year. The estimated capital cost of constructing such a facility is $9,600,000, according to the University of Georgia study. Based on this estimate, each biodiesel production facility will qualify for a tax credit of $2.4 million taken in seven equal annual installments of $342,857. Since no facility is under construction and it would take 12 to 14 months to construct a new facility, it is assumed the first credit would be taken in tax year 2006. The earliest fiscal impact on the General Fund for the credit would be FY 2006-07. Box 2 outlines the fiscal impact associated with construction of one alternative fuel dispensing facility.

Box 2: Estimated Tax Credit for Constructing one Biodiesel Production Facility

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Biodiesel-Production Facility	$0	$0	($342,857)	($342,857)	($342,857)

II. Ethanol Production Facility

According to an employee of the Marketing Department of VeraSun Energy Corporation in Aurora, South Dakota, the average cost of constructing an ethanol-production facility is $1.00 per gallon of its name plate design capacity. VeraSun Energy estimates the name plate design capacity for the average ethanol plant to be 50 million gallons per year. Therefore, it would cost approximately $50,000,000 to construct an average-size ethanol facility in North Carolina. Based on this estimate, each ethanol production facility would qualify for a tax credit of $12.5 million taken in seven equal annual installments of $1,785,714. Like biodiesel, no facility is under construction and it would take 12 to 14 months to construct a new facility, thus it is assumed the first credit would be taken in tax year 2006. The earliest fiscal impact on the General Fund for the credit would be FY 2006-07. Box 3 outlines the fiscal impact associated with construction of one ethanol production facility.

Box 3: Estimated Tax Credit for Constructing one Ethanol Production Facility

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Ethanol Production Facility	$0	$0	($1,785,714)	($1,785,714)	($1,785,714)

Biodiesel Distribution Credit

Section 3 of the bill proposes a tax credit of $1 per gallon to a licensed distributor of unblended biodiesel fuel, beginning July 1, 2005. As mentioned earlier, the only company that currently distributes unblended biodiesel in North Carolina is the Grain Growers Cooperative, Inc. The group distributes 900,000 gallons of biodiesel fuel annually to retail vendors in the state, which blend the fuel and sell it to consumers. At a minimum, current biodiesel distributors will earn $900,000 in credits against their motor fuel tax liability. Since motor fuel tax is distributed 75% to the Highway Fund and 25% to the Highway Trust Fund, the credit will produce a revenue loss of $675,000 to the Highway Fund and $225,000 to the Highway Trust Fund beginning in FY 2005-06.

Box 4: Estimated Tax Credit for Distributing Biodiesel Based on Current Consumption

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Biodiesel Distribution	$0	($900,000)	($900,000)	($900,000)	($900,000)

This large tax subsidy for biodiesel should encourage distributors to lower the price per gallon and make blended biodiesel competitive with diesel. A more competitive price along with the construction credits should result in additional pumps being installed to give consumers the option to buy biodiesel. To estimate the potential impact of this credit, the General Assembly's Fiscal Research Division is requesting data on the $1 per gallon biodiesel credit in Indiana. Data is not yet available on the biodiesel gallonage sold before and after this credit was enacted, but Indiana does have 24 stations selling biodiesel.

The biodiesel subsidy along with the construction credit may prompt the building of a biodiesel production facility in North Carolina. As stated above, a biodiesel plant can produce 15 million gallons a year. Assuming the facility will maintain the production of biodiesel fuel at the annual rate of 15 million gallons, the distribution of this gallonage will result in a $15 million annual tax credit starting in July 2006. This $15 million revenue loss will be distributed $11,250,000 to the Highway Fund and $3,750,000 to the Highway Trust Fund. Box 5 outlines the fiscal impact associated with credit for distributing biodiesel from a biodiesel production facility operating in North Carolina by FY2006-07.

Box 5: Estimated Tax Credit for Distributing Biodiesel Assuming Construction of a Biodiesel Production Facility

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
GF REVENUES					
Biodiesel Distribution	$0	$0	($15,000,000)	($15,000,000)	($15,000,000)

SOURCES OF DATA:
AUS Consultants/SJH & Company
Beaufort County Economic Development Commission
Grain Growers Cooperative, Inc.
National Conference of State Legislatures
University of Georgia – Center for Agribusiness and Economic Development
U.S. Department of Energy Clean Cities Program
U.S. National Biodiesel Board
VeraSun Energy Corporation

TECHNICAL CONSIDERATIONS: None

BIODIESEL FUEL

Description

Biodiesel is a diesel replacement fuel made from feedstocks such as soybean or canola oils, animal fats, and waste vegetable oils. The feedstock is refined in a process called transesterification. In this process, the oil in the feedstock reacts with an alcohol to remove the glycerin, which is sold as a by-product. Biodiesel is registered as a fuel and fuel additive with the Environmental Protection Agency and meets clean diesel standards established by the California Air Resources Board. DOE and the U. S. Department of Transportation have designated pure Biodiesel (B 100) as an alternative fuel. The federal Energy Policy Act of 1992 requires that some of the cars and other light duty vehicles bought by certain fleets use alternative fuels, which include natural gas electricity and several other fuels as well as B 100.

Biodiesel fuel has the potential to revolutionize the motor fuel industry. For the first time, motor fuel can be manufactured from domestically produced materials, freeing dependence from foreign oil producers, and eliminating environmentally destructive drilling, super tanker transport ships, and other expensive and unsustainable practices. In addition, Biodiesel reduces pollution emissions from diesel engines up to 90%, is cleaner burning, reduces required engine maintenance, has better lubricitive properties, and (best of all), the exhaust smells like french-fried potatoes. Biodiesel is easily made from waste vegetable oil, a product of fast-food and restaurant fryers which is frequently considered a disposal problem. Many individuals are able to obtain the used oil free of charge from these establishments.

Like petroleum diesel, Biodiesel operates in compression-ignition engines. Blends of up to 20% Biodiesel mixed with petroleum diesel fuels (B 20) can be used in nearly all diesel equipment and are compatible with most storage and distribution equipment. Higher blends with up to 100% Biodiesel can be used in many engines built since 1994 with little or no modification.

Biodiesel can also be used to fuel domestic space heaters and furnaces at a substantial savings in expense. Blends of Biodiesel and regular petroleum diesel fuels are also possible. Blends of as little as 1-2% Biodiesel are shown to improve engine life and cleanliness, and concentrations of 20% Biodiesel have demonstrated the ability to reduce tailpipe emissions and smoke as much as 60%.

A significant reduction in the production of global carbon dioxide is possible if petroleum diesel fuel were largely replaced by the use of Biodiesel, which produces no net gain in CO^2. The carbon molecules present in Biodiesel once existed as free CO^2 in the atmosphere before being locked up in the growing plant's cells. Burning the esters contained in Biodiesel releases these carbon molecules back to the atmosphere where they originated. Petroleum based fuels, on the other hand, release carbon that has been trapped out of circulation for millions of years. Such additional carbon dioxide in the earth's atmosphere is generally recognized to be the cause of global warming.

Pros and Cons

The principal benefit of using Biodiesel is that it reduces most types of air emissions. Specifically, using Biodiesel in a conventional diesel engine substantially reduces emissions of unburned hydrocarbons, carbon monoxide, and particulate matter as compared to emissions from diesel fuel. In addition, the exhaust emissions of sulfur oxides and sulfates (major components of acid rain) from Biodiesel are essentially eliminated compared to diesel. These reductions increase as the amount of Biodiesel blended into diesel fuel increases.

In addition, neat Biodiesel is nontoxic and biodegradable. The oil content of the fuel helps lubricate the engine, which can increase its life. The absence of sulfur in Biodiesel can extend the life of catalytic converters.

The major disadvantage of Biodiesel is that it is substantially more expensive than petroleum diesel. DOE estimated that in February 2003 B20 cost $ 1.95 per gallon in New England, compared to $ 1.83 for diesel. In the Mid-Atlantic states in December 2003, the price of B20 was $ 1.84, compared to $ 1.59 for diesel. The difference in price depends on the feedstock, the location of the refinery and customer, and the quantity of diesel that is purchased. Biodiesel produced from waste vegetable oil is substantially less expensive than that produced from virgin soybean oil, although it is still more expensive than petroleum diesel.

While Biodiesel reduces most air emissions, it can increase nitrogen oxides (NOx) emissions. These emissions increase with the concentration of Biodiesel in the fuel. Some Biodiesel feedstocks produce more NOx than others, and some additives have shown promise in mitigating these increases. NOx, like unburned hydrocarbons, is a precursor to ozone (smog).

In addition, Biodiesel can damage rubber hoses in some engines, particularly in cars built before 1994. Finally, Biodiesel cleans dirt from the engine, which then collects in the fuel filter and can clog it. Clogging occurs most often when Biodiesel is first used after a period of operation with petroleum diesel, so filters should be changed after the first several hours of Biodiesel use.

Where Biodiesel Is Being Used

Biodiesel is widely used in Europe, where many passenger vehicles are diesel powered. There are approximately 40 refineries in the European Union producing up to 1.4 million metric tons of Biodiesel annually. These plants are mainly located in Germany, Italy, Austria, France and Sweden, each of which has legislation to promote and regulate the use of Biodiesel. In France, all diesel fuel sold contains 5% Biodiesel.

More than 400 U. S. vehicle fleets currently use Biodiesel commercially, including the four branches of the military, dozens of school districts, Yellowstone National Park, several city bus systems, and several universities including Harvard and the University of Michigan.

Dozens of states have passed legislation favorable to Biodiesel in recent years, ranging from tax exemptions to infrastructure incentives. In 2002, Minnesota enacted the first-ever statewide law requiring the state's diesel fuel to be comprised of 2% Biodiesel.

Biodiesel Procedure

Any form of fatty oils from vegetable or animal sources can be converted into useable fuel. These oils contain esters, which are the part that is valuable as fuel, and glycerin, which is a waste product in the fuel production, but a potentially valuable substance when used in the production of soaps, lotions, skin oils, and more. The process of separating these elements from the oil is called transesterification, and afterwards, the esters (fuel) and glycerin form stratified layers in the reaction vessel, and are simply drained off to their respective storage containers. If not utilized as a product in its own right, the glycerin can simply be composted. Production of Biodiesel produces no pollutants. In fact, Biodiesel itself is non-toxic and biodegradable. It can be handled and stored exactly like petroleum fuels.

Simply described, a measured volume of vegetable oil is mixed with a solution of methanol and household lye (sodium hydroxide). This mixture is then heated, stirred for an interval, and then allowed to settle. Approximately 80% of the oil volume becomes fuel, and the remainder is glycerin, fatty acids, and other useless materials. Further adjustments to the pH of the fuel product, and "washing" to remove free fatty acids and excess methanol and unreacted lye are required, and are also not difficult to accomplish. The product of this process usually requires no further finishing and is useable as fuel immediately.

Several chemical processes can be used to make methyl ester (Biodiesel), depending on the materials available, the quality of the product desired, and the complexity of the process. Ethanol (grain alcohol) can be substituted for the methanol. Although the purchase price is higher, ethanol is considered to produce a superior grade of fuel. Potassium hydroxide can be used in place of sodium hydroxide, which results in the glycerin being a superior fertilizer for plants when composted. There are some processes (patented) which use a two-stage method utilizing acid (usually sulfuric acid) for the first step, and a base such as lye for the second. This process has the advantage of being "foolproof", and results in fuel that has a neutral pH. Researchers are perfecting a continuous process that does not require batch processing. Various methods can be used to reclaim and reuse the methanol used for the reaction.

Biodiesel can also be made from virgin feedstock, and when properly produced and refined, the "waste" glycerin can be sold as food-grade, suitable for use in foods, cosmetics, soaps, and pharmaceutical purposes. Food grade glycerin is quite valuable, and can sell for many times the price of the fuel produced.

For Additional Information

More on the process of transesterification: www.esemag.com/0501/diesel.html

Government websites:

U.S. Dept. of Energy (DOE)'s Natural Biofuels Development Program: www.ott.doe.gov/biofuels

U.S. DOE, Office of Energy Efficiency and Renewable Energy: www.eren.doe.gov

Bioenergy Information Network: http://bioenergy.ornl.gov

Biomass Resource Information Clearinghouse: http://rredc.nrel.gov/biomass

Biomass Research and Development Institute: http://bioproducts-bioenergy.gov

Biodiesel in North Carolina:

The Piedmont Biofuels Cooperative: http://biofuels.coop

The North Carolina Sustainable Energy Association: http://www.ncsustainableenergy.org

Biodiesel in use: http://www.trianglecleancities.org/pr-07.html

Other websites:

http://www.biomass.org

www.Biodiesel.org

www.journeytoforever.org/Biodiesel.html

http://www.livejournal.com/community/Biodiesel/18607.html

http://www.worldenergy.net/pdfs/newsstories/20040411_Mlivecom_fuels_drivers.pdf

Prepared by Mary Katherine Hackney for Rep. Joe Hackney—for additional information or sources, contact her at hackneyin@ncleg.net.

5/29/04

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1636 A BILL TO BE ENTITLED AN ACT TO PROVIDE TAX CREDITS FOR PURCHASING, DISPENSING, AND PROCESSING RENEWABLE FUELS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 5

EDITION No. PCS

H. B. No. 1636 DATE June 29, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Luebke
Sen.)

1 moves to amend the bill on page 2, lines 18 and 28
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "2011" on each line and
4 substituting "2010".
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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

ATTACHMENT 6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1636

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

H1636-ALC-104 [v.1]

Date June 29 ,2004

Comm. Sub. [YES]
Amends Title [YES]
PCS

Representative Gibson

moves to amend the bill on page 1, lines 2 – 3,
by deleting the phrase "DISPENSING, PROCESSING, AND DISTRIBUTING" and substituting the phrase "DISPENSING AND PROCESSING";

and on page 2, lines 19 – 31,
by rewriting the lines to read:
"**SECTION 3.** This act becomes effective for taxable years beginning on or after January 1, 2005."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1760
PROPOSED COMMITTEE SUBSTITUTE H1760-CSLYx-38 [v.2]

6/29/2004 8:18:29 AM

Short Title: Clawback Failed Incentives. (Public)

Sponsors:

Referred to:

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS; TO PROVIDE FOR FIRST SOURCE HIRING AGREEMENTS FOR INCENTIVE GRANTS AND LOANS; AND TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by March 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of claims for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.

(3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.

(4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.

(5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.

(6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.

(7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed.

(8) The number and amount of credits forfeited under G.S. 105-129.4(d) and the reason for the forfeiture.

(9) The number and amount of assessments for credits erroneously claimed under this Article that are not included in subdivision (8) of this subsection."

SECTION 2. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) Limitation. – If the lowest number of the taxpayer's full-time employees in this State during the taxable year is less than eighty-five percent (85%) of the highest number of the taxpayer's full-time employees in this State at any time during the five preceding taxable years, a taxpayer is neither allowed a credit under this section for the taxable year nor may the taxpayer claim a carryforward of a credit earned in a previous year."

SECTION 3. Article 10 of Chapter 143B of the General Statutes is amended by adding the following new sections to read:

"**§ 143B-435.1. Clawbacks.**

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business' performance of its responsibilities and a mechanism for obtaining repayment if the clawback is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its web site and update it every six months.

(d) Report. – The Department of Commerce shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year on all clawbacks that have been triggered under programs it administers and its progress on obtaining repayment. The report must include the name of each business, the event that triggered the clawback, and the amount to be repaid.

"**§ 143B-435.2. First source hiring.**

In order for a business to be eligible for a direct economic development grant or loan under this Article for the purposes of job creation or from the One North Carolina Industrial Recruitment Competitive Fund, the business must have entered into a first source hiring contract to utilize the State Employment Security Commission and any cooperating local agency as a first source for recruitment and referral of applicants for

new and replacement employment associated with the grant or loan. To meet the first source hiring requirement under the contract, the business must allow the agency three days to refer applicants. Upon request of the business in the case of an emergency, the agency may waive the three-day period. Under the contract, the business must interview and consider qualified candidates referred by the agency concurrently with interviewing other candidates. The Secretary of Commerce may waive this requirement for projects in enterprise tiers one and two and in areas of especially severe economic distress, as determined by the Secretary."

SECTION 4. Section 2 of this act is effective for business activities occurring on or after January 1, 2004. The remainder of this act becomes effective July 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1760

Short Title:	No Credit for Net Job Loss.	(Public)
Sponsors:	Representatives Luebke; B. Allen, England, Farmer-Butterfield, Glazier, Holliman, Hunter, Lucas, Parmon, Rapp, Weiss, and Womble.	
Referred to:	Finance.	

May 31, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.10 is amended by adding a new subsection to read:

"(d) Limitation. – A taxpayer is not allowed a credit under this section for the taxable year if the lowest number of the taxpayer's full-time employees in this State during the taxable year is more than fifteen percent (15%) below the highest number of the taxpayer's full-time employees in this State at any time during the five preceding taxable years."

SECTION 2. This act becomes effective for taxable years beginning on or after January 1, 2004.

House Bill 1760:
Clawback Failed Incentives

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	June 25, 2004	**Analysis by:**	Y. Canaan Huie
Version:	H1760-CSLYx-38		Staff Attorney

SUMMARY: This bill would disallow a credit under the Bill Lee Act for research and development, and a carryforward of such a credit, if a taxpayer experiences a significant job loss. This bill would also require monitoring, reporting, and publication of economic development incentive clawbacks and would require first source hiring agreements for economic development agreements.

ANALYSIS:

Research and Development Credit. The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. In order to be eligible for a credit under the Act, the taxpayer must satisfy certain eligibility requirements with regards to the activity of the business, wages paid to employees, the provision of health insurance to employees, the business's environmental and safety records, and the business's record of tax compliance.

Under the Bill Lee Act, a taxpayer is allowed a credit for increasing expenditures for research and development activities. The research and development tax credit uses the federal credit for research and development as its starting point. The credit is equal to 5% of the State's apportioned share of the taxpayer's expenditures for increasing research and development. The credit is based on the federal credit as of January 1, 1999. In the past, the federal credit had expired and then been renewed retroactively, creating uncertainty for taxpayers. Expiration of the federal credit will not affect the State credit. If the federal credit is later modified, the General Assembly can consider whether to update its cross-reference to adopt the federal modifications. This credit has a carryforward period of 15 years rather than the standard 5-year period. There is currently no requirement for this credit related to the retention of jobs in the State.

This bill would disallow a credit to a taxpayer if that taxpayer had a significant reduction in its labor force in this State. Under this bill, if a taxpayers employment level in this State was less than 85% of its highest amount over the preceding five years, the taxpayer would not be eligible for a credit. In addition, this bill would prohibit a taxpayer from taking a carryforward of a credit earned in a previous year when the taxpayer experiences a job loss of this magnitude.

This part of the bill would become effective for business activities occurring on or after January 1, 2004.

Clawbacks. This bill defines a "clawback" as a requirement that all or part of an economic development incentive be returned if a recipient does not fulfill the requirements related to the receipt of the incentive. Many of the State's economic development incentive programs contain clawbacks. Examples of clawbacks include the following:

1. Under the Bill Lee Act, a credit may expire or be forfeited if certain conditions are not satisfied. If a credit expires, a taxpayer may not take any remaining installments of the credit, but is not

required to pay back installments of the credit previously taken. If a credit is forfeited, a taxpayer is required to pay all taxes previously avoided due to the credit.

2. Agreements under the Job Development Investment Grant Program must contain a provision requiring the repayment of all grant proceeds if the business does not maintain operations in the State for a period of at least 150% of the term of the agreement. These agreements may contain other clawback provisions.
3. Under the One North Carolina Fund, agreements contain a provision requiring recapture of grant funds if a business fails to act in accordance with the agreement.

This bill would require the Department of Commerce to catalog and report on all clawbacks in State and federal programs it administers. The catalog would include a description of each clawback, the program to which it applies, and a citation to its source. The Department would be required to report the catalog on its website and update it every six months. The Department would report to the Revenue Laws Study Committee by April 1 and October 1 each year on all clawbacks. Similarly, the bill would require the Department of Revenue to report on forfeitures or assessments related to credits taken under the Bill Lee Act. This report would be part of a larger report that the Department of Revenue is currently required to publish by March 1 of each year.

This part of the bill would become effective July 1, 2004.

First Source Hiring. This bill would require a recipient of an economic development grant or loan administered by the Department of Commerce to enter into a first source hiring contract to utilize the Employment Security Commission and its local agency for recruitment and referral of new workers. Under such a contract, the business would agree to allow the ESC or its local agency three days to refer applicants for open positions. This requirement could be waived in emergency situations. The business would be required to interview and consider qualified candidates referred by the ESC or local agencies concurrently with interviewing other candidates. The requirement of a first source hiring agreement could be waived by the Secretary of Commerce in enterprise tier areas one and two and in areas of especially severe economic distress. The first source hiring agreement would not require that the business hire employees from any particular group of applicants – it would merely require that one specific group be considered first.

This part of the bill would become effective July 1, 2004.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 28, 2004

TO: House Finance Committee

FROM: David Crotts, Kelly Huffstetler
Fiscal Research Division

RE: House Bill 1760 (Prop. Comm. Sub. CSLYx-38) Clawback Failed Incentives.

FISCAL IMPACT

Yes (x) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
State General Fund	(See "Assumptions and Methodology")				

PRINCIPAL DEPARTMENT AFFECTED: Department of Commerce and Department of Revenue.

BILL SUMMARY: Research and Development Tax Credit. Under the current Bill Lee Act (tax incentives for industry recruitment), there is a credit for research and development expenditures. This credit applies to companies in certain industry classifications. The Bill Lee Act sunsets January 1, 2006.

The bill specifies that a credit is not allowed in cases where the lowest number of the taxpayer's full time employees in the State is more than 15% below the highest number of the taxpayer's employees in the State at any time in the previous five years. The disallowance applies both to the credit for activity during the tax year and the carryforward of a credit from a prior year. A carryforward can occur when the credit claimed in a given year exceeds 50% of the tax due.

The change is effective for tax years beginning on or after January 1, 2004.

Bill Lee Act clawbacks. The bill requires monitoring, reporting, and publication of economic development incentive clawbacks and requires first source hiring agreements for economic development agreements. *Source: Bill Drafting*

ASSUMPTIONS AND METHODOLOGY: Research and development tax credit. We do not have access to current employment data of various companies (data is a few months old) and we do not have any way of knowing how the employment levels for individual companies will change during the remainder of 2004 and future years. However, based on a review of news reports of potential layoffs, employment rankings of various financial publications (*Business North Carolina, Triangle Business Journal*), and the Bill Lee Act tabulations of the Department of Revenue for credits generated and credits claimed for tax returns processed during 2002 and 2003, it appears that the bill may eliminate a substantial amount of the credits for a small number of companies. Of this group, only 1 or 2 companies have significant R & D credits.

It is difficult to determine the relevance of the DOR reporting data on the R & D tax credit due to the ongoing activities of the Project Compliance program (audits of Bill Lee Act credits) as well as the year to year volatility of the carry forward loss amount. It is possible, based on the review of the DOR data that the revenue impact during the next couple of years could be over $2 million of reduced credits.

The impact could continue past the January 1, 2006 sunset of the Bill Lee Act due to the language that applies the credit disallowance to carry forward credits.

Bill Lee Act clawbacks.

SOURCES OF DATA: Bill Drafting

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1495

Short Title:	Clawback Failed Incentives.	(Public)
Sponsors:	Representatives Luebke, Coates, Cole (Primary Sponsors); Bell, Bordsen, Dickson, Fisher, Fox, Glazier, Hackney, Haire, C. Johnson, McLawhorn, Parmon, Rapp, Sutton, Wainwright, Warren, Weiss, A. Williams, and Yongue.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PUBLICATION, MONITORING, AND REPORTING ON ECONOMIC DEVELOPMENT INCENTIVE CLAWBACKS AND TO PROVIDE FOR FIRST SOURCE HIRING AGREEMENTS FOR INCENTIVE GRANTS AND LOANS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding the following new sections to read:

"**§ 143B-435.1. Clawbacks.**

(a) Clawback Defined. – For the purpose of this Article, a clawback is a requirement that all or part of an economic development incentive will be returned if the recipient business does not fulfill its responsibilities under the incentive law, contract, or both.

(b) Findings. – The General Assembly finds that in order for a clawback to be effective, there must be monitoring and reporting regarding the business' performance of its responsibilities and a mechanism for obtaining repayment if the clawback is triggered. Clawback provisions are essential to protect the State's investment in a private business and ensure that the public benefits from the incentive will be secured.

(c) Catalog. – The Department of Commerce shall catalog all clawbacks in State and federal programs it administers, whether provided by statute, by rule, or under a contract. The catalog must include a description of each clawback, the program to which it applies, and a citation to its source. The Department shall publish the catalog on its web site and update it every six months.

(d) Report. – The Department of Commerce shall report to the Revenue Laws Study Committee by April 1 and October 1 of each year on all clawbacks that have been triggered under programs it administers and its progress on obtaining repayment. The

report must include the name of each business, the event that triggered the clawback, and the amount to be repaid.

"**§ 143B-435.2. First source hiring.**

In order for a business to be eligible for an economic development grant or loan under this Article or from the One North Carolina Industrial Recruitment Competitive Fund, the business must have entered into a first source hiring contract to utilize the State Employment Security Commission and any cooperating local agency as its first source for recruitment and referral of applicants for new and replacement employment. Under the contract, the business must allow the agency three days to refer applicants. Upon request of the business in the case of an emergency, the agency may waive the three-day period. Under the contract, the business must interview and consider qualified candidates referred by the agency before interviewing other candidates. The term of the first source contract must be at least as long as the term of the grant or loan agreement under this Article. The Secretary of Commerce may waive this requirement for projects in enterprise tiers one and two and in areas of especially severe economic distress, as determined by the Secretary."

SECTION 1.(b) There is appropriated from the General Fund to the Department of Commerce the sum of seven thousand dollars ($7,000) for the 2004-2005 fiscal year to implement this section.

SECTION 2.(a) G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by March 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

(1) The number of claims for each credit allowed in this Article.

(2) The number and enterprise tier area of new jobs with respect to which credits were generated and to which credits were claimed.

(3) The cost and enterprise tier area of machinery and equipment with respect to which credits were generated and to which credits were claimed.

(4) The number of new jobs created by businesses located in development zones, and the percentage of jobs at those locations that were filled by residents of the zones.

(5) The amount and enterprise tier area of worker training expenditures with respect to which credits were generated and to which credits were claimed.

(6) The amount and enterprise tier area of new research and development expenditures with respect to which credits were generated and to which credits were claimed.

(7) The cost and enterprise tier area of real property investment with respect to which credits were generated and to which credits were claimed.

(8) The number and amount of credits forfeited under G.S. 105-129.4(d) and the reason for the forfeiture.

(9) The number and amount of assessments for credits erroneously claimed under this Article that are not included in subdivision (8) of this subsection."

SECTION 2.(b) There is appropriated from the General Fund to the Department of Revenue the sum of seven thousand dollars ($7,000) for the 2004-2005 fiscal year to implement this section.

SECTION 3. This act becomes effective July 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
H.B. 1760 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT THE RESEARCH AND DEVELOPMENT TAX CREDIT IS NOT ALLOWED TO EMPLOYERS WHO SUBSTANTIALLY REDUCE JOBS IN NORTH CAROLINA.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 8

EDITION No. PCS

H. B. No. 1760 DATE June 29, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Daughtridge
Sen.)

moves to amend the bill on page 2, line 5 9-16

( ) WHICH CHANGES THE TITLE

by deleting the lines;

and on page 1, line 3 by deleting "CLAWBACKS;"
and substituting "CLAWBACKS, AND"

and on page 1, lines 5-7 by rewriting the lines
to read: "AND LOANS." ;

and on page 3, lines 9-11 by rewriting the
lines to read:

SECTION 3. This act ~~is~~ becomes effective July 1, 2004.

SIGNED Bill Daughtridge

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 1414

Short Title:	Medical Board Fees.	(Public)
Sponsors:	Senator Purcell.	
Referred to:	Finance.	

May 28, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN INCREASE IN CERTAIN MEDICAL BOARD FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-15 reads as rewritten:

"**§ 90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9, 90-10, or 90-13 ~~by examination~~ shall pay to the North Carolina Medical Board ~~a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00).~~ an application fee of three hundred fifty dollars ($350.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of ~~twenty-five dollars ($25.00),~~ one hundred dollars ($100.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of

money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount."

SECTION 2. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee of ~~one hundred twenty-five dollars ($125.00).~~ one hundred seventy-five dollars ($175.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of ~~twenty dollars ($20.00)~~ fifty dollars ($50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

SECTION 3. This act becomes effective November 1, 2004.

SENATE BILL 1414:
Medical Board Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Purcell
Date:	June 25, 2004	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1414 increases various Medical Board licensing fees. The bill becomes effective November 1, 2004.***

BILL ANALYSIS: Senate Bill 1414 increases the following fees imposed by the North Carolina Medical Board, effective November 1, 2004:

	Current Fee Amount	Proposed Fee Amount
License to practice medicine by examination (GS 90-9 and GS 90-10)	Up to $400 plus the cost of the examination materials	$350
License to practice medicine without examination (GS 90-13)	Up to $250	$350
Resident training license (GS 90-12) *(License to practice in a medical education and training program)*	$25	$100
Annual registration fee to practice medicine (GS 90-15.1)	$125	$175
Additional fee for late registration	$20	$50

BACKGROUND: The North Carolina Medical Board issued a report in May 2004 documenting the reasons for its request for fee increases. The Board currently employs 40 people divided among nine different departments. It services a population of 21,462 in-state physicians, 7,766 out-of-state physicians, 2,414 physician assistants, 2,185 nurse practitioners, and 57 clinical pharmacist practitioners.

In its report, the Medical Board notes that its Licensing Department has .28 full time employees (FTE) per 1,000 practicing in-state physicians. The national average is .65 FTEs per 1,000 physicians. The Investigative Department has .85 FTEs per 1,000 physicians; the national average is 1.46. Based on the current workload of the Legal Department, the Board believes it needs one additional attorney and one additional staff person in that department. The Board also believes the Medical Director needs the assistance of a part-time staff physician to assist in its review of complaints, malpractice payment reports, and investigations.

By the year 2005, the expenses of the Board will exceed revenues without any staff increases and with only modest increases for inflation and salaries. The Board believes the fee increases requested in this bill will give it the resources necessary to meet its needs until the year 2010.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1414 (First Edition)

SHORT TITLE: Medical Board Fees.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund			No Fiscal Impact		
Medical Board	$1,700,527	$1,738,554	$1,779,555	$1,823,863	$1,871,857
EXPENDITURES	See ASSUMPTIONS AND METHODOLOGY				
POSITIONS: (cumulative)	No Estimate Available				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Medical Board

EFFECTIVE DATE: This act becomes effective November 1, 2004.

BILL SUMMARY: The proposed bill amends GS 90-15 to increase the fee to practice medicine and surgery and to increase the fee for limited license to practice in a medical education and training program. The bill amends GS 90-15.1 to increase the annual registration fee for the practice of medicine and the penalty for failure to register.

ASSUMPTIONS AND METHODOLOGY:

Justification for Fee Increase

According to the NC Medical Board (Board) report issued in May 2004, the main reason for the fee increase is the necessity to meet the Board's growing staffing requirements. In particular, the report indicates that the Board's Licensing Department has .28 full time employees (FTEs) per 1,000 practicing in-state physicians, which is below the national average of .65 FTEs. Similarly, the employees-physicians ratio in the Board's Investigative Department is .85 FTEs per 1,000 physicians that is below the national average of 1.46 FTEs per 1,000 physicians. The report also cites the Board's Legal Department is being understaffed. During the past five years, the number

of cases referred to the Legal department has increased by 60 percent. Furthermore, the Legal Department staff responds to numerous outside inquiries from members of the public, physicians, and attorneys. In addition, the Legal Department advises the Board in connection with internal matters such as investigations, licensing applications, and committee reports. Currently the Legal Department does not have adequate human resources to effectively handle its workload, which leads to increasing number of pending cases. As of May 2004, there were 208 such cases.

To meet its current workload requirement, the Board needs one additional attorney and one additional staff person in that department. The Board's Medical Director also needs a part-time staff physician to assist in complaint review, malpractice payment reports, and investigations.

According to the Board's estimate by the year 2005, its expenses will exceed revenues with only conservative adjustments for inflation and salaries, even if no additional staff is hired. The Board believes the fee increases requested in this bill will give it the resources necessary to meet its needs until the year 2010.

According to the Board, the amount of requested fees increase is reasonable. Thus, North Carolina ranks 10th in physician population but only 38th in annual registration fees. Even with an increase to $175, the state would be ranked 22nd in annual registration fees and its registration fee would be comparable to the national average of $171. The national average application fee for license by endorsement is $317 and for a license by examination is $328. A fee of $350 for both types of licenses, requested by the Board, would more closely mirror the national average and would more closely approximate the actual costs to process these applications, according the Board's estimate.

Proposed Fee Changes

The changes in fees requested by the Board are presented in Table 1.

Table 1. Proposed Fee Changes

Fee	Current Fee	Proposed Fee
License to practice medicine by examination (GS 90-9 and GS 90-10)	Up to $400	$350
License to practice medicine without examination (GS 90-13)	Up to $250	$350
Resident training license (GS 90-12)(License to practice in a medical education and training program)	$25	$100
Annual registration fee to practice medicine (GS 90-15.1)	$125	$175
Additional fee for late registration	$20	$50

Table 2 contains information for the last five years on the number of licenses for each category, the number of physicians who registered late, as well as the average percentage change for each category, based on the five-year data.

Table2. Change in Number and Percentage of Licenses

License type	1999	2000	2001	2002	2003	Average Percent Change
License to practice medicine by examination	352	396	390	420	340	-0.1%
License to practice medicine without examination	1,278	1,213	1,329	1,196	1,168	-2.0%
Resident training license	1,412	1,583	1,667	1,744	2,001	9.2%
Annual registration fee to practice medicine	26,295	28,735	25,963	26,581	27,307	1.2%
Additional fee for late registration	N/A	N/A	N/A	1,444	1,665	15.3%

For this analysis, it is assumed that the number of licenses for each category will continue to change at the same average rate as shown in Table 2. Based on this rate, Table 3 provides estimates of the annual revenue for the next five years generated from issuing the licenses at current rates.

Table3. Estimated Revenue from Licenses at the Current Rate

License type	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
License to practice medicine by examination	$135,874	$135,748	$135,622	$135,497	$135,371
License to practice medicine without examination	$286,254	$280,620	$275,098	$269,684	$264,377
Resident training license	$54,624	$59,645	$65,129	$71,116	$77,654
Annual registration fee to practice medicine	$3,453,859	$3,494,823	$3,536,273	$3,578,214	$3,620,653
Additional fee for late registration	$38,396	$44,273	$51,049	$58,862	$67,870
Total	**$3,969,007**	**$4,015,110**	**$4,063,171**	**$4,113,373**	**$4,165,926**

Finally, Table 4 provides estimates of the annual revenue for the next five years generated from issuing the licenses at proposed rates and annual revenue gain for the Board.

Table4. Estimated Revenue from Licenses at the Current Rate

License type	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
License to practice medicine by examination	$118,890	$118,780	$118,670	$118,560	$118,450
License to practice medicine without examination	$400,755	$392,869	$385,137	$377,558	$370,128
Resident training license	$218,495	$238,582	$260,515	$284,464	$310,615
Annual registration fee to practice medicine	$4,835,402	$4,892,752	$4,950,782	$5,009,500	$5,068,914
Additional fee for late registration	$95,991	$110,682	$127,622	$147,154	$169,676
Total	**$5,669,534**	**$5,753,664**	**$5,842,725**	**$5,937,236**	**$6,037,783**
Revenue Gain	**$1,700,527**	**$1,738,554**	**$1,779,555**	**$1,823,863**	**$1,871,857**

SOURCES OF DATA: North Carolina Medical Board.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 9, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1414 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE AN INCREASE IN CERTAIN MEDICAL BOARD FEES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1414

S1414-ALCx-105 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date June 29 ,2004

Comm. Sub. [NO]
Amends Title [YES]
First Edition

Representative Gibson

moves to amend the bill on page 1, line 2,
by adding the following immediately before the period:
"AND TO PROVIDE A SALES TAX EXEMPTION FOR SALES OF CERTAIN PROPERTY TO INTERSTATE AIR BUSINESSES";

and on page 2, line 26,
by rewriting the line to read:

"**SECTION 3.(a)** G.S. 105-164.13(45) reads as rewritten:

'(45) Sales ~~of the following items~~ to an interstate air business, or to a person that leases commercial aircraft to an interstate air business, of tangible personal property that becomes a component part of or is dispensed as a lubricant into commercial aircraft during its maintenance, repair, or overhaul. For the purpose of this subdivision, commercial aircraft includes only aircraft that has a certified maximum take-off weight of more than 12,500 pounds and is regularly used to carry for compensation passengers, commercial freight, or individually addressed letters and packages. ~~passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories.~~'

SECTION 3.(b) G.S. 105-164.3 is amended by adding two new subdivisions to read:

'(14c) Interstate air business. – An interstate air courier, an interstate freight air carrier, or an interstate passenger air carrier.

...

(15b) Interstate freight air carrier. – A person whose primary business is scheduled freight air transportation, as defined in the North American

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1414

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1414-ALCx-105 [v.1]

Industry Classification System adopted by the United States Office of Management and Budget, in interstate commerce.'

SECTION 4. Section 3 of this act becomes effective October 1, 2004, and applies to sales made on or after that date. The remainder of this act becomes effective November 1, 2004."

SIGNED G Gibson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 277
Finance Committee Substitute Adopted 5/15/03
Third Edition Engrossed 5/20/03

Short Title: Exempt Higher Ed. Property. (Public)

Sponsors:

Referred to:

March 4, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT ENTITY FOR A PUBLIC OR PRIVATE UNIVERSITY OR COMMUNITY COLLEGE LOCATED IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-278.4 reads as rewritten:

"**§ 105-278.4. Real and personal property used for educational purposes.**

(a) Buildings. – Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation ~~if:~~ if all of the following requirements are met:

(1) Owned by ~~an educational institution (including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution);~~ either of the following:
   a. An educational institution; or
   b. A nonprofit entity for the sole benefit of a constituent or affiliated institution of The University of North Carolina, an institution as defined in G.S. 116-22, a North Carolina community college, or a combination of these;

(2) The owner is not organized or operated for profit and no officer, shareholder, member, or employee of the owner or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services;

(3) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(4) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution ~~(as~~

~~defined herein)~~ and wholly and exclusively used by the occupant for nonprofit educational purposes.

(b) Land. – Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

(1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;

(2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and

(3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.

(c) Partial Exemption. – Notwithstanding the exclusive-use requirements of subsections (a) and (b), above, if part of a property that otherwise meets the requirements of one of those subsections is used for a purpose that would require exemption if the entire property were so used, the valuation of the part so used shall be exempted from taxation.

(d) Public Use. – The fact that a building or facility is incidentally available to and patronized by the general public, so long as there is no material amount of business or patronage with the general public, ~~shall~~ does not defeat the exemption granted by this section.

(e) Personal Property. – Personal property owned by a church, a religious body, or an educational institution ~~(including a university, college, school, seminary, academy, industrial school, public library, museum, and similar institution)~~ shall be exempted from taxation if:

(1) The owner is not organized or operated for profit, and no officer, shareholder, member, or employee of the owner, or any other person is entitled to receive pecuniary profit from the owner's operations except reasonable compensation for services; and

(2) Used wholly and exclusively for educational purposes by the owner or held gratuitously by a church, religious body, or nonprofit educational institution ~~(as defined herein)~~ other than the owner, and wholly and exclusively used for nonprofit educational purposes by the possessor.

(f) Definitions. – The following definitions apply in this section:

(1) Educational institution. – The term includes a university, a college, a school, a seminary, an academy, an industrial school, a public library, a museum, and similar institutions.

(2) Educational purpose. – A purpose ~~An educational purpose within the meaning of this section is one~~ that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills

of individual persons. The operation of a student housing facility, a student dining facility, a golf course, a tennis court, a sports arena, a similar sport property, or a similar recreational sport property for the use of students or faculty is also an educational purpose, regardless of the extent to which the property is also available to and patronized by the general public."

SECTION 2. G.S. 105-381(a)(1) reads as rewritten:

"(1) For the purpose of this subsection, a valid defense shall include the following:

a. A tax imposed through clerical error;

b. An illegal tax;

c. A tax levied for an illegal purpose.

d. A tax that has been repealed retroactively."

SECTION 3. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2001.

SENATE BILL 277:
Exempt University Trust Property

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Senator Rand
Date:	June 28, 2004	**Analysis by:**	Martha Walston
Version:	3rd Edition		Committee Counsel

SUMMARY: SB 277 exempts from property tax educational property held by a nonprofit entity for the sole benefit of a public or private university located in the State, a community college, or a combination of these entities.

SB 277 expands the definition of educational purposes to include the operation of a student housing facility or a student dining facility.

The bill is effective retroactively to July 1, 2001.

CURRENT LAW: Under current law, real property used for educational purposes is exempt from property tax only if the property meets all of the following requirements:

- It is owned by an educational institution. "Educational institution" includes a university, college, school, seminary, academy, industrial school, public library, museum and similar institution.
- The owner is not organized or operated for profit.
- The property is of a kind commonly employed in the performance of activities that are incident to the operation of an educational institution.
- The property is exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution and used exclusively for non-profit educational purposes. "Educational purpose" includes one that has as its objective the education or instruction of human beings, or comprehends the transmission of information and the training or development of knowledge or skills of individual persons. The term also includes the operation of a golf course, tennis court, sports arena, similar sports property or similar recreational sport property for the use of students or faculty, regardless of the extent to which the general public uses the property.

BILL ANALYSIS: Senate Bill 277 expands the property tax exemption for educational institutions to also include real property owned by a non-profit entity for the sole benefit of:

- A constituent or affiliated institution of The University of North Carolina.
- An institution as defined in G.S. 116-22 which includes an institution with a main permanent campus in the State that is not owned or operated by the State and is accredited by the Southern Association of Colleges and Schools, awards a postsecondary degree, and is not a seminary, Bible school, Bible college or similar religious institution.

- A community college.
- Any combination of these.

In addition, the bill amends the definition of "educational purpose" to include the operation of a student housing facility or a student dining facility.

The bill also makes other clarifying changes.

Finally, the bill is effective retroactively to July 1, 2001 and provides that a taxpayer may assert as a valid defense to the enforcement of the collection of a tax that the tax has been repealed retroactively.

EFFECTIVE DATE: The bill is effective retroactively for taxes imposed for taxable years beginning on or after July 1, 2001.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 277 (SCS)

SHORT TITLE: Exempt University Trust Property

SPONSOR(S): Senator Rand

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($) FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund	* No General Fund Impact *				
Local Governments					
Watagua Co./Boone	(600,000)	(200,000)	(200,000)	(200,000)	(200,000)
Lenoir Co./LaGrange	(618)	(206)	(206)	(206)	(206)
New Hanover/ Wilmington	* See Assumptions and Methodology *				
Iredell Co./Statesville	(12,435)	(4,145)	(4,145)	(4,145)	(4,145)
Hertford Co./ Murfreesboro	* See Assumptions and Methodology *				
Camden County	(2,427)	(809)	(809)	(809)	(809)
Other Local Governments	* See Assumptions and Methodology *				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Property Tax Division, the University System, the Community College System, and local governments.

EFFECTIVE DATE: Effective for taxable years beginning July 1, 2001.

BILL SUMMARY: The bill expands the ownership requirements for a property tax exemption for an educational institution to include ownership by a nonprofit entity that holds the property for the benefit of a constituent or affiliated institution of the University of North Carolina or a community college. It also makes this change retroactive to July 1, 2001.

ASSUMPTIONS AND METHODOLOGY: The fiscal impact of the bill is determined by the location and corporate structure of properties related to the University System and the Community College System. In terms of the University System, there are 16 constituent institutions of the University of North Carolina. There are also five (5) affiliated institutions – the University Hospitals, the Arboretum (Asheville), the School of Science and Math (Durham) the NC School for the Arts, and the WUNC public television station. Should any of these organizations choose to form

a nonprofit entity to hold property in trust, that property would now become exempt. As such, the legislation puts these properties held in trust in the same category, for local tax purposes, as the constituent institutions themselves. To date, only six (6) of the constituent institutions have formed these organizations and acquired property. The institutions, the amount of acreage held, and the value of that property are as follows:

Institution	Acreage of Non-State Land	Exempt	Assoc. Tax Value
Appalachian State University	37.3	No	24,314,800
Fayetteville State University	5.2	Yes	1,617,500
NC School of the Arts	4.3	Yes	6,110,000
NC A&T State University	2.0	Yes	4,610,400
UNC - Pembroke	13.0	Yes	8,315,000
Winston-Salem State University	3.3	Yes	374,500

University General Administration also reports the North Carolina Central University is also in the process of developing this type of non-profit structure. A similar structure may also be in development for the School for the Arts in Winston-Salem.

According to data compiled by UNC General Administration, all but one of the properties listed above are exempt from taxation, either through a decision of the assessor or county commission. In the case of Winston-Salem State University and North Carolina A&T University, the property is being exempted because it is held by the university's own foundation. The property held for Appalachian State University is in dispute, as it is owned by a nonprofit other than the university foundation. The county and the city of Boone have deemed the property taxable. The university appealed to the North Carolina Property Tax Commission, which ruled in favor of the local governments. The Appalachian case is now on appeal to the court system. If the local governments prevail in the Appalachian case, the bill will have the effect of removing the property from the local tax rolls. Using the current property tax rates, local officials estimate annual losses of approximately $200,000 for Watagua County and the Town of Boone, although the university system uses a lower estimate.

In future years, the losses could grow substantially if the university system shifts more of its projects to this new structure. As a result, the $200,000 loss noted above is a minimum annual estimate. However, because the bill makes the change retroactive the impacted local governments would have to refund two years of taxes already paid by the universities and affiliated institutions, thus tripling the cost in the first year.

The second impact relates to the community colleges. On May 12, 2003, the community college system office surveyed all 58 community colleges to determine the potential impact of exempting property used for community colleges, that is not already exempt, that may become exempt under the bill. Of the 44 responding institutions, four colleges and the community college foundation office indicated that they utilize property that may become exempt under the legislation. The institutions and associated available information are shown below:

Institution	Current Property Owner	Tax Value	Revenue Loss
Lenoir Community College	LeGrange Redevelopment Foundation	16,500	206
Cape Fear Community College	Individuals	unknown	unknown
	Storage World	unknown	unknown
Mitchell Community College	Davis Hospital Foundation	471,000	4,145
Roanoke Chowan Comm. College	CADA	unknown	unknown
	Family Life Center	unknown	unknown
NC Comm. College Foundation	NC Comm. College Foundation	117,216	809

The corresponding revenue losses for those with a tax value listed are included in the fiscal impact box. Again, because of the July 1, 2001 effective date the impact local governments would be required to return two years worth of previously collected taxes in 2003-04 and start the exemption, effectively tripling the loss for 2003-04.

All of these estimates are minimum estimates as the out year impact could be broader if the Community College System alters their behavior because of this bill.

SOURCES OF DATA: UNC – General Administration, NC Community College System Office and individual colleges, and County Assessors.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director, Fiscal Research Division

DATE: May 15, 2003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 277 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT ENTITY FOR A PUBLIC OR PRIVATE UNIVERSITY OR COMMUNITY COLLEGE LOCATED IN NORTH CAROLINA.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1427*
PROPOSED COMMITTEE SUBSTITUTE H1427-CSSB-56 [v.1]

6/28/2004 10:47:57 AM

Short Title: Rec. Shellfish License/Amend Shellfish Laws. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A RECREATIONAL SHELLFISH LICENSE, TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH, AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-168 is amended by adding a new subdivision to read:

"(7a) 'RSL' means Recreational Shellfish License."

SECTION 2. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – Except as provided in ~~G.S. 113-173(f),~~G.S. 113-173(f) and G.S. 113-174(e), all licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 3. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – Except as provided in ~~G.S. 113-173(d),~~G.S. 113-173(d) and G.S. 113-174(c), the Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 4. G.S. 113-169.2 reads as rewritten:

"**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) ~~License or Endorsement Necessary to Take or Sell Shellfish.~~ Requirement. – It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means or in quantities greater than the personal use limits set forth in subsection (i) of this section by any means~~ as part of a commercial fishing

operation without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(b) Repealed by Session Laws 1998-225, s. 4.17.

(c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars ($25.00) upon proof that the license applicant is a North Carolina resident.

~~(d) License Available for Inspection. – It is unlawful for any individual to take shellfish in quantities greater than the personal use limits set forth in subsection (i) of this section from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.~~

(e) Repealed by Session Laws 1998-225, s. 4.17.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, ~~grandparent's~~ grandparent's, or guardian's shellfish license or a parent's, grandparent's, or guardian's shellfish endorsement of a SCFL.

~~(i) Taking Shellfish Without a License for Personal Use. –~~

~~(1) A person may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. One bushel of oysters per day.~~

~~b. One half bushel of scallops per day.~~

~~c. One hundred clams per day.~~

~~d. Ten conchs per day.~~

~~e. One hundred mussels per day.~~

~~(2) Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. Two bushels of oysters per day.~~

~~b. One bushel of scallops per day.~~

~~c. Two hundred clams per day.~~
~~d. Twenty conchs per day.~~
~~e. Two hundred mussels per day.~~"

SECTION 5. G.S. 113-173(j)(4) is repealed.

SECTION 6. Article 14A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-174. Recreational Shellfish License.**

(a) License Required. – Except as provided in subsection (i) of this section, it is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without holding a RSL. As used in this section, shellfish are taken for personal use if the shellfish are not taken for the purpose of sale. The RSL entitles the licensee to take shellfish for personal use subject to the following possession limits:

(1) A person holding a RSL may take shellfish for personal use in quantities up to:
a. One bushel of oysters per day.
b. One-half bushel of scallops per day.
c. One hundred clams per day.
d. Ten conchs per day.
e. One hundred mussels per day.

(2) Two or more persons, one of whom holds a RSL, who are using a vessel to take shellfish for personal use may take shellfish for personal use in quantities up to:
a. Two bushels of oysters per day.
b. One bushel of scallops per day.
c. Two hundred clams per day.
d. Twenty conchs per day.
e. Two hundred mussels per day.

(b) Sale of Fish Prohibited. – It is unlawful for the holder of a RSL or for a person who is exempt under subsection (i) of this section to sell fish taken under the RSL or pursuant to the exemption.

(c) Purchase; Renewal. – A RSL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RSL may be renewed by mail.

(d) Replacement RSL. – The provisions of G.S. 113-168.1(h) apply to this section.

(e) Duration; Fees. – The RSL shall be valid for a one-year period from the date of purchase. The fee for a RSL shall be ten dollars ($10.00).

(f) RSL Available for Inspection. – It is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without having ready at hand for inspection a valid RSL. A holder of a RSL shall not refuse to exhibit the RSL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(g) Assignment and Transfer Prohibited. – A RSL is not transferable. Except as provided in subsection (i) of this section, it is unlawful to buy, sell, lend, borrow, assign,

or otherwise transfer a RSL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RSL.

(h) Reporting Requirements. – The holder of a RSL shall comply with the biological data sampling and survey programs of the Commission and the Division.

(i) Exemption. – A person who is under 16 years of age may take shellfish for personal use in coastal fishing waters without holding a RSL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RSL or if the person has in the person's possession a valid RSL issued to the person's parent, grandparent, or guardian."

SECTION 7. G.S. 113-201 reads as rewritten:

"**§ 113-201. ~~Authority~~ Legislative findings and declaration of policy; authority of Marine Fisheries Commission.**

(a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

(b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds.

(c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases. These training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to an applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission."

SECTION 8. G.S. 113-202(d) reads as rewritten:

"(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in

subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00)."

SECTION 9. G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of ~~April~~ July following the ~~tenth~~ fifth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~10~~ five years ~~effective~~ from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~fifty dollars ($50.00).~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of ~~April~~ July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after ~~said~~ that date, the rental is ~~five dollars ($5.00)~~ten dollars ($10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of ~~April~~ July must be paid in advance at the rate of one dollar ($1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

SECTION 10. G.S. 113-202(l) reads as rewritten:

"(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.

(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.

(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.

(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.

(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

(8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions ~~of this paragraph~~ of this subsection, his leasehold shall not be terminated under subdivision (5) of ~~this subsection.~~subsection (l) of this section."

SECTION 11. G.S. 113-202.1(d) reads as rewritten:

"(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for ~~an initial~~a new or renewal water column amendment is one hundred dollars ($100.00) an ~~acre for each of the first four years for which the amendment is issued and five hundred dollars ($500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars ($500.00) an~~ acre. If ~~a year for which~~ a water column amendment is issued ~~is~~ for less than a 12-month period, the rental ~~for that year~~ shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202."

SECTION 12. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(l) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 13. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 14. Sections 7, 10, 12, 13, and 14 of this act are effective when this act becomes law. Sections 8, 9, and 11 of this act become effective July 1, 2005. Sections 1 through 6 of this act become effective July 1, 2005, and expire July 1, 2008.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1427*

Short Title:	Rec. Shellfish License/Amend Shellfish Laws.	(Public)
Sponsors:	Representative Wainwright.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A RECREATIONAL SHELLFISH LICENSE, TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH, AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-168 is amended by adding a new subdivision to read:

"(7a) 'RSL' means Recreational Shellfish License."

SECTION 2. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – Except as provided in ~~G.S. 113-173(f),~~G.S. 113-173(f) and G.S. 113-174(e), all licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 3. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – Except as provided in ~~G.S. 113-173(d),~~G.S. 113-173(d) and G.S. 113-174(c), the Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 4. G.S. 113-169.2 reads as rewritten:

"**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) ~~License or Endorsement Necessary to Take or Sell Shellfish.~~ Requirement. – It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means or in quantities greater than the personal use limits set forth in subsection (i) of this section by any means~~ as part of a commercial fishing operation without holding either a shellfish license or a shellfish endorsement of a

SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(b) Repealed by Session Laws 1998-225, s. 4.17.

(c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars ($25.00) upon proof that the license applicant is a North Carolina resident.

(d) License Available for Inspection. – It is unlawful for any individual to take shellfish ~~in quantities greater than the personal use limits set forth in subsection (i) of this section~~ from the public or private grounds of the State as part of a commercial fishing operation without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.

(e) Repealed by Session Laws 1998-225, s. 4.17.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, grandparent's or guardian's shellfish license.

~~(i) Taking Shellfish Without a License for Personal Use.~~

~~(1) A person may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. One bushel of oysters per day.~~

~~b. One half bushel of scallops per day.~~

~~c. One hundred clams per day.~~

~~d. Ten conchs per day.~~

~~e. One hundred mussels per day.~~

~~(2) Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. Two bushels of oysters per day.~~

~~b. One bushel of scallops per day.~~

~~c. Two hundred clams per day.~~

~~d. Twenty conchs per day.~~
~~e. Two hundred mussels per day.~~"

SECTION 5. G.S. 113-173(j)(4) is repealed.

SECTION 6. Article 14A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-174. Recreational Shellfish License.**

(a) License Required. – Except as provided in subsection (i) of this section, it is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without holding a RSL. As used in this section, shellfish are taken for personal use if the shellfish are not taken for the purpose of sale. The RSL entitles the licensee to take shellfish for personal use subject to the following possession limits:

(1) A person holding a RSL may take shellfish for personal use in quantities up to:
a. One bushel of oysters per day.
b. One-half bushel of scallops per day.
c. One hundred clams per day.
d. Ten conchs per day.
e. One hundred mussels per day.

(2) Two or more persons, one of whom holds a RSL, who are using a vessel to take shellfish for personal use may take shellfish for personal use in quantities up to:
a. Two bushels of oysters per day.
b. One bushel of scallops per day.
c. Two hundred clams per day.
d. Twenty conchs per day.
e. Two hundred mussels per day.

(b) Sale of Fish Prohibited. – It is unlawful for the holder of a RSL or for a person who is exempt under subsection (i) of this section to sell fish taken under the RSL or pursuant to the exemption.

(c) Purchase; Renewal. – A RSL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RSL may be renewed by mail.

(d) Replacement RSL. – The provisions of G.S. 113-168.1(h) apply to this section.

(e) Duration; Fees. – The RSL shall be valid for a one-year period from the date of purchase. The fee for a RSL shall be ten dollars ($10.00).

(f) RSL Available for Inspection. – It is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without having ready at hand for inspection a valid RSL. A holder of a RSL shall not refuse to exhibit the RSL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(g) Assignment and Transfer Prohibited. – A RSL is not transferable. Except as provided in subsection (i) of this section, it is unlawful to buy, sell, lend, borrow, assign,

or otherwise transfer a RSL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RSL.

(h) Reporting Requirements. – The holder of a RSL shall comply with the biological data sampling and survey programs of the Commission and the Division.

(i) Exemption. – A person who is under 16 years of age may take shellfish for personal use in coastal fishing waters without holding a RSL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RSL or if the person has in the person's possession a valid RSL issued to the person's parent, grandparent, or guardian."

SECTION 7. G.S. 113-201 reads as rewritten:

"**§ 113-201. ~~Authority~~ Legislative findings and declaration of policy; authority of Marine Fisheries Commission.**

(a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

(b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds.

(c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases. These training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to an applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission."

SECTION 8. G.S. 113-202(d) reads as rewritten:

"(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in

subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00)."

SECTION 9. G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of ~~April~~ July following the ~~tenth~~ fifth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~10~~ five years ~~effective~~ from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~fifty dollars ($50.00).~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of ~~April~~ July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after ~~said~~ that date, the rental is ~~five dollars ($5.00)~~ten dollars ($10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of ~~April~~ July must be paid in advance at the rate of one dollar ($1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

SECTION 10. G.S. 113-202(l) reads as rewritten:

"(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.

(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.

(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.

(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.

(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

(8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions ~~of this paragraph~~ of this subsection, his leasehold shall not be terminated under subdivision (5) of ~~this subsection.~~subsection (l) of this section."

SECTION 11. G.S. 113-202.1(d) reads as rewritten:

"(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for ~~an initial~~a new or renewal water column amendment is one hundred dollars ($100.00) an ~~acre for each of the first four years for which the amendment is issued and five hundred dollars ($500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars ($500.00) an~~ acre. If ~~a year for which~~ a water column amendment is issued ~~is~~ for less than a 12-month period, the rental ~~for that year~~ shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202."

SECTION 12. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(l) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 13. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 14. Sections 7, 10, 12, 13, and 14 of this act are effective when this act becomes law. Sections 8, 9, and 11 of this act become effective July 1, 2004. Sections 1 through 6 of this act become effective July 1, 2005, and expire July 1, 2008.

HOUSE BILL 1427:
Rec. Shellfish License/Amend Shellfish Laws.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Wainwright
Date:	June 29, 2004	**Summary by:**	Jeff Hudson
Version:	Proposed Committee Substitute H1427-CSSB-56 [v.1]		Staff Attorney

SUMMARY: ***House Bill 1427 would establish a Recreational Shellfish License, direct the Marine Fisheries Commission to establish training requirements for shellfish cultivation lease holders, amend the fees for shellfish cultivation leases, and authorize the Marine Fisheries Commission to study issues related to the cultivation of shellfish. House Bill 1427 was recommended by the Joint Legislative Commission on Seafood and Aquaculture.***

BACKGROUND:

The Division of Marine Fisheries (Division) in the Department of Environment and Natural Resources requested that the Joint Legislative Commission on Seafood and Aquaculture recommend legislation to establish a Recreational Shellfish License. The Division hopes that the license will provide information on the effort of recreational fishers in taking shellfish. The Division agreed to the sunset of the license requirement if it is found that there is little recreational effort or that the license is not providing useful information.

The Marine Fisheries Commission (MFC) included a number of recommendations related to the State's shellfish cultivation lease program in its Oyster Fishery Management Plan and in its Hard Clam Fishery Management Plan. These Shellfish Plans included recommendations related to the terms of and fees for shellfish cultivation leases, training requirements for holders of shellfish cultivation leases, and issues related to the termination and corporate ownership of shellfish cultivation leases. The MFC requested that the Joint Legislative Commission on Seafood and Aquaculture recommend legislation to implement the Shellfish Plan recommendations.

CURRENT LAW AND BILL ANALYSIS:

Shellfish License Requirements

G.S. 113-169.2 (Shellfish license for North Carolina residents without a SCFL) provides that it is unlawful to take shellfish without holding either a shellfish license or a shellfish endorsement of a Standard Commercial Fishing License (SCFL). G.S. 113-169.2 also provides an exemption from the license requirement for individuals who take small amounts of shellfish for personal use (not for sale).

Sections 1 through 6 of H1427 would repeal the personal use exemption and require individuals who take small amounts of shellfish for personal use to obtain an annual, ten dollar ($10.00) Recreational Shellfish License.

Shellfish Cultivation Lease Terms and Fees

The following table sets out the current law on the terms of and fees for shellfish cultivation leases and the changes that H1427 would make to the law.

Current Law (G.S. 113-202 and G.S. 113-202.1)	H1427 Change
Length of term of bottom shellfish cultivation lease: 10 years	Section 9 would decrease the length of the term to 5 years
Initial application filing fee for a bottom shellfish cultivation lease: One hundred dollars ($100.00)	Section 8 would increase the fee to two hundred dollars ($200.00)
Renewal application filing fee for a bottom shellfish cultivation lease: Fifty dollars ($50.00)	Section 9 would increase the fee to one hundred dollars ($100.00)
Annual rental fee for a bottom shellfish cultivation lease: Five dollars ($5.00) per acre	Section 9 would increase the annual fee to ten dollars ($10.00) per acre
Annual rental fee for a water column shellfish cultivation lease: One hundred dollars ($100.00) for the first four years and five hundred dollars ($500.00) per year thereafter	Section 11 would alter the annual fee structure so that the fee would be one hundred dollars ($100.00) per year for all years

Training Requirements

Under current law, there are no training requirements for persons who hold shellfish cultivation leases.

Section 7 of H1427 would direct the Marine Fisheries Commission (MFC) to adopt rules to establish training requirements for persons who apply for shellfish cultivation leases. The training requirements would be designed to encourage the productive use of shellfish cultivation leases. The training requirements would not apply to a person who already holds a shellfish cultivation lease that is meeting shellfish production requirements. Section 10 would add failure to comply with the training requirements to the list of conditions for which a shellfish cultivation lease may be terminated.

Marine Fisheries Commission Studies

Section 12 authorizes the MFC to study whether and how to establish a process by which shellfish cultivation leases that have been terminated may be leased without reverting to public bottom.

Section 13 authorizes the MFC to study issues related to corporate ownership of shellfish cultivation leases.

Proposed Committee Substitute

The Proposed Committee Substitute for H1427 delays the effective date of the provisions amending the terms of and fees for shellfish cultivation leases to July 1, 2005 and makes two clarifying and conforming changes.

EFFECTIVE DATE:

The provisions related to the establishment of the Recreational Shellfish License become effective July 1, 2005 and expire July 1, 2008. The provisions amending the terms of and fees for shellfish cultivation leases become effective July 1, 2005. All other provisions of this act become effective when the act becomes law.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 28, 2004

TO: **Representative Wainwright**

FROM: Kelly Huffstetler
Fiscal Research Division

RE: House Bill 1427-CSSB-56v1

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**No estimate available; insufficient data.**				
EXPENDITURES	**Impact will be minimal**				
POSITIONS:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources and the Wildlife Resources Commission

EFFECTIVE DATE: July 1, 2005

BILL SUMMARY:

The bill would establish a Recreational Shellfish License, direct the Marine Fisheries Commission to establish training requirements for shellfish cultivation lease holders, amend

the fees for shellfish cultivation leases, and authorize the Marine Fisheries Commission to study issues related to the cultivation of shellfish. House Bill 1427 was recommended by the Joint Legislative Commission on Seafood and Aquaculture.

ASSUMPTIONS AND METHODOLOGY:

Revenues

The Division of Marine Fisheries does not keep statistics on the number of persons who take shellfish for personal use. They were unable to estimate the number of licenses they will sell under this new law. Therefore, no estimate is available on additional revenue anticipated.

This bill also shortens the length of the bottom shellfish cultivation lease from ten years to five years and increases the fees for the initial application for a lease, lease renewals and rental fees for leases. Sufficient data was not available from the Division to estimate the additional revenues due to these changes.

Expenditures

The costs associated with the bill will be minimal. The Division indicated that they can administer the sale of the new license with no additional staff and with current operating resources. The Division would like to take advantage of the automated licensing system operated by the Wildlife Resources Commission. To accommodate additional license types, the Wildlife system will require some modification and upgrades but the cost could be absorbed in the Division of Marine Fisheries current budget.

SOURCES OF DATA: The Division of Marine Fisheries

TECHNICAL CONSIDERATIONS: none

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1427 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A RECREATIONAL SHELLFISH LICENSE, TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH, AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

June 30, 2004

The House Committee on Finance met on Wednesday, June 30, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Cole, Creech, Ellis, Glazier, Hackney, Harrell, Holliman, Jones, Lewis, McGee, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman McComas called the meeting to order at 8:35 am and recognized the five (5) pages present at the meeting: (1) Elizabeth Johnson of Lincoln County, sponsored by Representative Kiser; (2) Jeffrey Miller of Wake County, sponsored by Representative Eddins; (3) Tara Scheidt of Rowan County, sponsored by Representative Coates; (4) Patrick Vollmer of Watauga County, sponsored by Speaker Black; and (5) D'Andrea Williams of Cumberland County, sponsored by Representative McAllister.

The Chair then immediately called **HB 1348 – CAMDEN COUNTY OCCUPANCY TAX** (see **attachment 3**) before the Committee for consideration. Representative Owens, the bill sponsor, was recognized to explain the bill. Representative Owens explained that the bill authorizes Camden County to levy a 6% room occupancy tax. He noted that, currently, Camden County does not have any lodging facilities (i.e. hotels) but is requesting the tax for planning purposes. He also stated that the bill had been heard in the House Finance Subcommittee on the Occupancy Tax and was reported favorably. Seeing no discussion on the bill, Chairman McComas then recognized Representative Allen who moved that the bill be given a favorable report. The Chair then called the motion to a vote and it carried without objection.

Representative Owens was recognized once again to explain the next bill considered: **HB 1721 – CURRITUCK OCCUPANCY TAX CHANGES** (see **attachment 4**). Representative Hill moved that the Proposed Committee Substitute (PCS) for House Bill 1721 be adopted for the Committee's discussion and that motion carried without objection. Representative Owens then explained that the bill authorizes Currituck County to increase its occupancy tax from 4% to 6% and to use two-thirds of the proceeds from the additional tax for tourism promotion and the remaining one-third for tourism-related expenditures. He additionally stated that this bill had also been favorably reported out of the House Finance Subcommittee on the Occupancy Tax. Following this explanation, Representative Hill moved that the PCS for HB 1721 be given a favorable report (with

an unfavorable report as to the original bill). Seeing no further discussion, Chairman McComas then called the matter to a vote and the motion carried without objection.

The next bill considered by the Committee was **SB 1171 – MOTOR FUEL TAX CHANGES** (see **attachment 5**), sponsored by Senator Kerr. Representative Holliman moved that the Committee adopt the PCS for SB 1171 for the purposes of discussion and the motion carried without objection. Chairman McComas then recognized Senator Kerr to explain his bill. Senator Kerr stated that the bill was a recommendation from the Revenue Laws Study Committee and makes numerous changes to the motor fuels tax statutes and allows the Department of Revenue to appoint employees of the Motor Fuels Tax Division as revenue law enforcement officers. Following this explanation, the Chair recognized Representative Decker who acted to send forth an amendment (see **attachment 6**). He explained that his amendment would effectively add the provisions of one of his own bills (HB 1661) to the bill. (HB 1661 was heard in the Committee at its' June 17, 2004 but was referred to a special subcommittee. The bill acts to place a cap on the variable rate of the gasoline tax.) Given the nature of the amendment, Chairman McComas acted to consult with the Rules Chairman, Representative Culpepper, as to whether Representative Decker's amendment was germane. As a result, the bill was temporarily displaced.

Chairman McComas recognized Representative Barnhart next to explain **HB 1688 – CONCORD ANNEXATION EFFECTIVE DATE** (see **attachment 7**). Representative Barnhart stated that the bill would allow a deferred effective date for certain voluntary annexations of the City of Concord that had become the subject of recent legal battles. He informed the Committee members that there was no controversy on the bill. Seeing no discussion, Representative Howard was recognized by the Chair and moved that HB 1688 be given a favorable report. The motion was then called to a vote and it carried by consent.

The Chair then acted to replace **SB 1171 – MOTOR FUEL TAX CHANGES** (see **attachment 5**) before the Committee. Chairman McComas announced that after conferring with the Rules Chairman, the amendment offered by Representative Decker (see **attachment 6**) was ruled germane to the bill. Senator Kerr was then recognized and spoke in opposition to the amendment. He stated that while he understood Representative Decker's intent, he felt that the amendment would only complicate the bill and make it controversial. He also stated that given the limited time period left in the session, the amendment would weaken the bill's chances of successfully passing on the House floor. Representative Decker stated that the amendment was the right thing to do for the people of the State, especially the poor, who are currently highly burdened by the extremely high price of gasoline. Representative Ellis, however, stated that the amendment would cause a significant loss of revenue to the Highway Trust Fund and would restrict the ability of the Department of Transportation to effectively maintain the State's roads. Representative Ross reminded the Committee members that Representative Decker's bill, HB 1661, which addresses the subject of the amendment, was already in a special subcommittee for consideration and that the bill should be considered there. Representative Decker then moved adoption of his amendment and requested the ayes and nays. The Chair then called the amendment to a vote and the Clerk called the roll (see **attachment 8**). By a vote of 3 ayes and 25 nays, the amendment failed. Chairman McComas then recognized Representative Wainwright who moved that the House PCS for SB 1171 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill before the Committee). Following some brief discussion among the members, the Chair then called the vote and the motion carried.

Chairman McComas next recognized Representative Ray, on behalf of the bill sponsor Senator Hoyle, to explain the next bill considered by the Committee: **SB 754 – STOCK CAR RACING THEME SPECIAL PLATES** (see **attachment 9**). Representative Ray explained that

the bill would authorize the Division of Motor Vehicles to issue as many as 30 different stock car racing plates for an additional fee of $30. She stated that the plates do not have to be a "First in Flight" plate, but would bear an emblem, seal, or design displaying themes of NASCAR, a NASCAR team, or a NASCAR driver. On a final note, she informed the Committee members that the bill had been reported favorably out of the House Finance Subcommittee on Tax and Tags. Following this explanation, Chairman McComas recognized Representative Wainwright, who, noting his support of the bill, moved that it be given a favorable report. Following some very brief discussion, the Chair then called the motion to a vote and it carried.

The final bill considered by the Committee was **SB 6 – INCREASE REGULATION OF AMUSEMENT DEVICES** (see **attachment 10**). Representative Luebke moved that the House PCS for SB 6 be adopted by the Committee for discussion. However, Representative Ellis objected to the motion and requested that the members vote by division. Chairman McComas then called the motion to adopt the PCS for discussion purposes to a vote and the motion carried by a majority. Representative Culpepper was then recognized to explain the bill. He first provided a brief history of the video gaming industry in North Carolina. He then discussed the summary of the bill for the members. (The bill summary and fiscal memorandum are attached as attachment 10). He noted that the most important provisions in the bill include the following:

- Owners of machines would be required to register machines annually with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division). Currently, the county sheriff's administered this registration requirement.
- Upon registration, the Division would affix a decal to the machine. The absence of a decal would be prima facie evidence that the machine is illegal and the owner would be subject to criminal penalties.
- If a machine is moved from one location to another, the owner would have to notify the Division within five days and before the machine is made operational.
- The Division would have the authority to enter any location where a video gaming machine is being operated or housed to inspect the machine.
- Finally, it would become permissible to warehouse a registered machine.

Following this lengthy explanation, Chairman McComas recognized Representative Luebke who moved that the House PCS for SB 6 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill originally before the Committee). Prior to acting on the motion, however, the Chair recognized several speakers from the audience to briefly address the Committee. Mr. George Trent of Trent Brothers Amusement Co. was the first speaker recognized. He stated his support of the bill, noting that his small business included a wide range of video games, including video poker. He also pointed out that, in recent years, video poker had become an increasingly important part of his business. Mr. Tommy Allen, Sheriff of Anson County, representing the North Carolina Sheriff's Association was recognized next and spoke in opposition to the bill. He informed the Committee members that the Sheriff's Association's position was for a total ban on video poker. Ms. Julie Loflin of Southern Amusements in Denton, North Carolina, was the next speaker. She voiced her support for the bill as a small business owner and reminded the members of the many jobs the video gaming industry provides to North Carolinians. Mr. John Rustin representing the North Carolina Family Policy Council (NCFPC) was recognized next. He spoke in opposition to the bill, stating that the position of the NCFPC was for a complete ban of video poker. Chairman McComas next recognized Mr. Richard Frye, owner of Sandhills Amusement in Southern Pines, who spoke in support of SB 6. He provided statistics to the members, stating that an estimated 13,000 to 19,000 jobs in North Carolina would be lost if a complete ban was placed on video gaming. He stated that this would result in a tremendous cost to the State in unemployment benefits as well as sales tax revenues. He also stated that even if the industry were ban, video gaming would nonetheless continue. Ms. Patrice Roesler of the North

Carolina Association of County Commissioners (NCACC) was the last speaker recognized. Ms. Roesler stated that the NCACC's official position was in accord with the North Carolina Sheriff's Association for a complete ban of video poker/gaming.

The Chair then recognized members of the Committee to debate the bill. Representative Glazier was recognized and stated his opinion that since a bill to outright ban the video gaming industry was not presented to the Committee, that the bill before the Committee, which increased regulation, was better than no action at all. Representative Ellis was recognized next and stated that in 2000, the North Carolina General Assembly was asked to ban all video gaming machines in light of the problems experienced in South Carolina with the industry. He additionally reminded the members that all 100 Sheriffs in the state as well as all 100 counties were in favor of a complete ban on "this highly addictive form of electronic gambling." He then acted to send forth an amendment (see **attachment 11**). He explained that the amendment would act to return the bill to its original status prior to the House PCS, which, in effect, would have created a ban on all video gaming in North Carolina except for on Indian Reservations (as they are protected from state law by the Federal Government). Upon receipt of this amendment, the Chair acted to consult with the Rules Chairman, Representative Culpepper, as to the appropriateness of the amendment to the bill. Representative Culpepper ruled that the amendment was not germane to the bill and stated that Representative's Ellis amendment was in fact a motion to substitute a bill, which is not provided for under House Rule 43. Chairman McComas concurred with this ruling and the amendment was ruled out of order. Representative Luebke was then recognized and moved that the PCS for SB 6 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill originally before the Committee). Representative Ellis then disputed the ruling of the Chair, but then respectfully requested that if he could not offer his amendment, that the Committee oppose the passage of the bill. Representative Blackwood was recognized and requested the ayes and nays on the bill. Chairman McComas then presented Representative Luebke's motion to the Committee and the Clerk called the roll (see **attached 12**). By a vote of 19 to 11, the motion carried.

The Committee's time had then expired and Chairman McComas adjourned the meeting at 9:58 a.m.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1348 (and related materials)
4. House Bill 1721 (and related materials)
5. Senate Bill 1171 (and related materials)
6. Decker Amendment on Senate Bill 1171 (**Failed**)
7. House Bill 1688 (and related materials)
8. Roll Call Vote on Decker Amendment on Senate Bill 1171
9. Senate Bill 754 (and related materials)
10. Senate Bill 6 (and related materials)
11. Ellis Amendment on Senate Bill 6 (**Ruled Out of Order under House Rule 43**)
12. Roll Call Vote on Senate Bill 6
13. Senate Bill 420 (and related materials) (**not discussed**)

ATTACHMENT 1

AGENDA

House Finance Committee

June 30, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. McComas

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1348 CAMDEN COUNTY OCCUPANCY TAX *Rep. Owens*

HB 1688 CONCORD ANNEXATION EFFECTIVE DATE *Rep. Barnhart*

HB 1721 CURRITUCK OCCUPANCY TAX CHANGES *Rep. Owens*

SB 6 BAN VIDEO POKER/ALL BUT RESERVATIONS *Sen. Albertson*

SB 420 WINSTON-SALEM AUTO TAX *Sen. Garrou*

SB 754 STOCK CAR RACING THEME SPECIAL PLATES *Sen. Hoyle*

SB 1171 MOTOR FUELS TAX CHANGES *Sen. Kerr*

Adjournment

CORRECTED NOTICE –
HB 1763 REMOVED / SB 6 ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, June 30, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1348 – CAMDEN COUNTY OCCUPANCY TAX – Rep. Owens

HB 1688 – CONCORD ANNEXATION EFFECTIVE DATE – Rep. Barnhart

HB 1721 – CURRITUCK OCCUPANCY TAX CHANGES – Rep. Owens

~~**HB 1763 – INCREASE REGULATION OF AMUSEMENT DEVICES – Reps. Culpepper, Harrell, G. Allen, & Owens**~~

SB 6 – BAN VIDEO POKER/ALL BUT RESERVATIONS – Sen. Albertson

SB 420 – WINSTON-SALEM AUTO TAX – Sen. Garrou

SB 754 – STOCK CAR RACING THEME SPECIAL PLATES – Sen. Hoyle

SB 1171 – MOTOR FUELS TAX CHANGES – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **5:00 pm** on **June 29, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

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HB 1763 – INCREASE REGULATION OF AMUSEMENT DEVICES
– Reps. Culpepper, Harrell, G. Allen, & Owens

SB 420 – WINSTON-SALEM AUTO TAX – Sen. Garrou

SB 754 – STOCK CAR RACING THEME SPECIAL PLATES – Sen. Hoyle

SB 1171 – MOTOR FUELS TAX CHANGES – Sen. Kerr

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 noon** on **June 29, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 30, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dovard Padgett	Music Vendors, Inc. Jacksonville, NC
Eddie Aldridge	Carolina Music Co, Greenville, NC
James A. Thorpe Jr.	Thorpe Music Co., Rocky Mount, N.C.
Larry Dunton	Central Carolina Amso. Durham, NC
Keith Coffin	Southern Amusement, Inc
Larry Crisp	Jackpot Distributing, Hickory NC
Steve Henderson	Operators Dist. Inc Archdale, NC
G.W. Trent, Jr.	Trent Bros. Music Co, Inc.
Julie Coffin	Southern Amusements, Inc, Dunton NC
Fred Ayers	Colonial Vending Co
Richard Frye	Sandhill Amusements, Inc.

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 30, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Patton	Patton Bros Inc.
Karl Knapp	DOR
Bill Spencer	DOR
Donna Alderman	DOR
Lennie Collins	DOR
Greg Redford	DOR
Ken Pike	NCALE
Ken Melton	D.O.R.
W L Chaney	ALE
Casandra Skinner	ALE
Mike Robertson	ALE

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 30, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Marvin Waters	CCPS
Mark Deason	Capital Group
DAVID BARNES	Poyner + Spruill LLP
Carol Lauer	EGHS
John Rustin	NC Family Policy Council
Martin Brannon	NC Dept of Revenue
JOHN D PANZA	NC DOR Motor Fuels
Rich Webb	NCGA Intern
Elizabeth Bakanic	NCGA Intern
Elizabeth Self	NCGA Intern
[illegible]	watauga county services office

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — June 30, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
WALTER S. THOMPSON	WATAUGA CO. SHERIFF'S OFFICE BOONE, N.C. 28607
Eddie Caldwell	NC Sheriffs Assn
Tommy Allen	Sheriff of Anson Co. Wadesboro, NC 28170
	NCRA -

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1348

Short Title:	Camden County Occupancy Tax.	(Local)
Sponsors:	Representative Owens.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CAMDEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. (a) Authorization and Scope. – The Camden County Board of Commissioners may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

SECTION 1.(c) Distribution and Use of Tax Revenue. – Camden County shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Camden Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Camden County and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Camden Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Camden County shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

SECTION 3. G.S. 153A-155(g) reads as rewritten:

"(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus, Camden, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

SECTION 4. This act is effective when it becomes law.

HOUSE BILL 1348:
Camden County Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Owens
Date:	June 30, 2004	**Summary by:**	Trina Griffin
Version:	1st Edition		Committee Counsel

SUMMARY: ***House Bill 1348 authorizes Camden County to levy a 6% room occupancy tax. The tax conforms to the uniform occupancy tax provisions and was given a favorable report by the Occupancy Tax Subcommittee.***

CURRENT LAW: Currently, Camden County does not have authority to levy a room occupancy tax. The only city in Camden County is Elizabeth City, which lies mostly in Pasquotank County. Its authority to levy an occupancy tax is contingent on whether Pasquotank County exercises its authority to levy, which it currently does. Thus, Elizabeth City is not currently levying an occupancy tax, but it could do so if Pasquotank were to repeal or reduce its tax.

BILL ANALYSIS: House Bill 1348 authorizes Camden County to levy a 6% room occupancy tax. The proceeds must be remitted to a county Tourism Development Authority (TDA), which must use two-thirds of the proceeds to promote travel and tourism and one-third for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines.

UNIFORM OCCUPANCY TAX PROVISIONS	HB 1348
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.	Conforms
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.	Conforms
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.	Conforms
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.	Conforms
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.	Conforms

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative

provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1348 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CAMDEN COUNTY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H D

HOUSE BILL 1721
Committee Substitute Favorable 6/10/04
PROPOSED COMMITTEE SUBSTITUTE H1721-CSSVx-52 [v.2]

6/23/2004 2:06:48 PM

Short Title: Currituck Occupancy Tax Changes. (Local)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INCREASE IN THE CURRITUCK COUNTY OCCUPANCY TAX AND TO CHANGE THE PURPOSES FOR WHICH THE TAX MAY BE USED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws and Chapter 155 of the 1999 Session Laws, is amended by adding a new subsection to read:

"(a2) Second Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) and (a1) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of up to two percent (2%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsection (a) and (a1)."

SECTION 2. Section 1(e) of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"(e) Use of tax revenue. Currituck County shall use ~~at least seventy five percent (75%) of~~ the net proceeds of the tax levied under subsection (a) of this section only for ~~tourist related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services.~~ tourism-related expenditures, including beach nourishment. ~~The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose.~~ Currituck County ~~may~~ shall use at least two-thirds of the net proceeds of the tax levied under subsection (a1) and (a2) of this ~~section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum.~~

~~Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist-related purposes. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~ section to promote travel and tourism and shall use the remainder of those funds for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for any of the following:

a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies.

b. The nonfederal share of the cost required to construct these projects.

c. The costs associated with providing enhanced public beach access.

d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

(2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(4) Tourism-related expenditures. – Expenditures that, in the judgment of the Currituck County Board of Commissioners, are designed to increase the use of lodging facilities, meeting facilities, recreational facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures and beach nourishment."

SECTION 3. Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws and Chapter 155 of the 1999 Session Laws, is amended by adding a new section to read:

"Section 1.1. Currituck County Tourism Development Authority. – (a) Appointment and Membership. – When the board of commissioners adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The Authority shall be composed of six members: five voting members and one ex officio nonvoting member. The ex officio nonvoting member shall be the county's designated travel and tourism representative. The voting members shall be as follows:

(1) The county commissioner representing the Moyock Township.

(2) The county commissioner representing the Crawford Township.

(3) The county commissioner representing the Poplar Branch Township.

(4) The county commissioner representing the Fruitville Township.

(5) The at-large county commissioner.

(b) Administration. – The resolution creating the Authority shall designate one member of the Authority to serve as the initial chair and provide for the members' terms of office and for the filling of vacancies on the Authority. After the initial term, the Authority must elect a chair from among its members. The members of the Authority shall serve without pay. The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Currituck County shall be the ex officio finance officer of the Authority.

(c) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the county, sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

(d) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the board of commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require."

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **2**

HOUSE BILL 1721
Committee Substitute Favorable 6/10/04

Short Title: Currituck Occupancy Tax Changes. (Local)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW AN INCREASE IN THE CURRITUCK COUNTY OCCUPANCY TAX AND TO CHANGE THE PURPOSES FOR WHICH THE TAX MAY BE USED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1(a1) of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"(a1) Additional occupancy tax. In addition to the tax authorized by subsection (a) of this section, the Currituck County Board of Commissioners may levy a room occupancy tax of ~~one percent (1%)~~ up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under subsection (a). The levy, collection, administration, and repeal of the tax authorized by this subsection shall be in accordance with the provisions of this act. Currituck County may not levy a tax under this subsection unless it also levies the tax under subsection (a)."

SECTION 2. Section 1(e) of Chapter 209 of the 1987 Session Laws, as amended by Chapter 155 of the 1991 Session Laws, reads as rewritten:

"(e) Use of tax revenue. Currituck County shall use ~~at least seventy-five percent (75%) of~~ the net proceeds of the tax levied under subsection (a) of this section only for ~~tourist-related purposes, including construction and maintenance of public facilities and buildings, garbage, refuse, and solid waste collection and disposal, police protection, and emergency services. The remainder of the net proceeds of the tax levied under subsection (a) shall be deposited in the Currituck County General Fund and may be used for any lawful purpose.~~ tourism-related expenditures. Currituck County ~~may~~ shall use at least two-thirds of the net proceeds of the tax levied under subsection (a1) of this ~~section, to the extent that they are needed, for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for the capital costs, operation, and maintenance of the Currituck Wildlife Museum shall be used for tourist-related purposes. As used in this subsection, 'net proceeds' means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the~~

~~finance officer.~~ section to promote travel and tourism and shall use the remainder of those funds for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Beach nourishment. – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the shorelines of the Atlantic Ocean of North Carolina and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for any of the following:

a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies.

b. The nonfederal share of the cost required to construct these projects.

c. The costs associated with providing enhanced public beach access.

d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

(2) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(3) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in these activities.

(4) Tourism-related expenditures. – Expenditures that, in the judgment of the Currituck County Board of Commissioners, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a county by attracting tourists or business travelers to the county. The term includes tourism-related capital expenditures and beach nourishment."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1721:
Currituck Occupancy Tax Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Owens
Date:	June 30, 2004	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***The Proposed Committee Substitute for House Bill 1721 authorizes Currituck County to increase its occupancy tax from 4% to 6% and to use 2/3 of the proceeds from the additional tax for tourism promotion and 1/3 of the proceeds for tourism-related expenditures. It also modifies the use of the first 3% by requiring that 100% of the net proceeds be used for tourism-related expenditures, including beach nourishment. The PCS was given a favorable report by the Occupancy Tax Subcommittee.***

CURRENT LAW: Currituck County has the authority to levy a 4% occupancy tax. Of the first 3%, the county must use at least 75% of the net proceeds for tourist-related purposes, which may include the construction and maintenance of public facilities and buildings, garbage collection, police protection, and emergency services. The county may use the remaining 25% of the first 3% for any lawful purpose. The county may use the net proceeds of the additional 1% for capital costs, operation, and maintenance of the Currituck Wildlife Museum. Whatever is not needed for that purpose shall be used for tourist-related purposes.

BILL ANALYSIS: The Proposed Committee Substitute for House Bill 1721 does the following:

- It modifies the use provisions for the first 3% by requiring that 100% of the net proceeds be used for tourism-related expenditures, which may include beach nourishment.
- It authorizes Currituck County to levy an additional 2% occupancy tax.
- It requires the county to use two-thirds of the proceeds of the second 3% (the additional 1% the county already has authority to levy + the 2% additional tax in the bill) for tourism promotion and one-third for tourism-related expenditures.
- It requires the county to establish a Tourism Development Authority, composed of the five county commissioners and the county's designated travel and tourism representative, to administer the occupancy tax proceeds.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by the House Finance subcommittee in 1993.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute #1 for
H.B. 1721 A BILL TO BE ENTITLED AN ACT TO ALLOW AN INCREASE IN THE CURRITUCK COUNTY OCCUPANCY TAX AND TO CHANGE THE PURPOSES FOR WHICH THE TAX MAY BE USED.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill # 2, ☐ ~~which changes the title~~, unfavorable as to ~~(the original bill)~~ Committee Substitute Bill # 1. ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1171
Finance Committee Substitute Adopted 6/9/04
Third Edition Engrossed 6/17/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1171-CSSV-55 [v.1]

6/29/2004 4:33:25 PM

Short Title: Motor Fuels Tax Changes. (Public)

Sponsors:

Referred to:

May 19, 2004

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TAXATION OF MOTOR FUELS; TO ALLOW THE SECRETARY OF REVENUE TO APPOINT EMPLOYEES OF THE MOTOR FUELS TAX DIVISION AS REVENUE LAW ENFORCEMENT OFFICERS; AND TO TRANSFER THE AUDIT FUNCTIONS FOR THE INTERNATIONAL REGISTRATION PLAN TO THE DEPARTMENT OF REVENUE FROM THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-236(2) reads as rewritten:

"**§ 105-236. Penalties.**

Penalties assessed by the Secretary under this Subchapter are assessed as an additional tax. Except as otherwise provided by law, and subject to the provisions of G.S. 105-237, the following penalties shall be applicable:

...

(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars ($5.00). In cases in which the taxpayer fails to obtain a license as required under G.S. 105-449.65 or G.S. 105-449.131, the Secretary may assess a penalty of one thousand dollars ($1,000)."

SECTION 2. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the

responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.

(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.

(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:

a. G.S. 14-91 (Embezzlement of State Property).

b. G.S. 14-92 (Embezzlement of Funds).

c. G.S. 14-100 (Obtaining Property By False Pretenses).

d. G.S. 14-119 (Forgery).

e. G.S. 14-120 (Uttering Forged Paper).

f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

SECTION 3. G.S. 105-449.46 reads as rewritten:

"**§ 105-449.46. Inspection of books and records.**

The Secretary and his authorized agents and representatives shall have the right at any reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this ~~Article.~~Article or to the registration fee imposed by Article 3 of Chapter 20 of the General Statutes."

SECTION 4. G.S. 105-449.86(a) reads as rewritten:

"(a) Tax. – An excise tax at the motor fuel rate is imposed on dyed diesel fuel acquired to operate any of the following:

(1) Repealed by Session Laws 2003-349, s. 10.8, effective January 1, 2004.

(2) Either a local bus or an intercity bus that is allowed by § 4082(b)(3) of the Code to use dyed diesel fuel.

(3) A highway vehicle that is owned by or leased to an educational organization that is not a public school and is allowed by § 4082(b)(1) or (b)(3) of the Code to use dyed diesel fuel.

~~(4) A highway vehicle that is owned by or leased to the American Red Cross and is allowed by § 4082 of the Code to use dyed diesel fuel.~~"

SECTION 5.(a) G.S. 105-449.95 is recodified as G.S. 105-449.106A.

SECTION 5.(b) G.S. 105-449.106A, as recodified by this act, reads as rewritten:

"**§ 105-449.106A. Quarterly ~~hold harmless~~ refund for licensed distributors and some licensed importers.**

(a) ~~Calculation.~~ Application. – ~~At the end of each calendar quarter, the Secretary must review the amount of discounts each~~ A licensed distributor or licensed importer may receive a quarterly refund as allowed under this section. To receive a refund, a distributor or importer must apply for the refund. The application must show the amount of discounts received under ~~G.S. 105-449.93(b). The Secretary must determine if the amount of discounts the distributor or importer received under that subsection in each month of the quarter is less than~~ G.S. 105-449.93(b) and the amount the distributor or importer would have received if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier during each month of the quarter under the following schedule:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

(b) ~~Refund.~~ Refund Amount. – If the amount the licensed distributor or licensed importer received under G.S. 105-449.93(b) for a month in the quarter is less than the amount the distributor or importer would have received on the distributor's or importer's taxable gasoline purchases under the monthly schedule in subsection (a) of this section, the ~~Secretary must send the~~ distributor or importer is allowed a refund equal to ~~a refund check for~~ the difference. In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for gasoline purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 6. G.S. 105-449.115 reads as rewritten:

"**§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car or transport truck.**

(a) Issuance. – A person may not transport motor fuel by railroad tank car or transport truck unless the person has a shipping document for its transportation that complies with this section. A terminal operator and the operator of a bulk plant must give a shipping document to the person who operates a railroad tank car or a transport truck into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) Content. – A shipping document issued by a terminal operator or the operator of a bulk plant must contain the following information and any other information required by the Secretary:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
(2) The date the motor fuel was loaded.
(3) The gross gallons loaded.
(4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.

(5) If the document is issued by a terminal operator, the document must be machine printed and it must contain the following information:
a. The net gallons loaded.
b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel.

(c) Reliance. – A terminal operator or bulk plant operator may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of fuel from the represented destination state.

(d) Duties of Transporter. – A person to whom a shipping document was issued must do all of the following:
(1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it. When operating an empty transport, carry the shipping document in the conveyance for the motor fuel last contained in the conveyance.
(2) Show the shipping document to a law enforcement officer upon request when transporting the motor fuel described in it.
(3) Deliver motor fuel described in the shipping document to the destination state printed on it unless the person does all of the following:
a. Notifies the Secretary before transporting the motor fuel into a state other than the printed destination state that the person has received instructions since the shipping document was issued to deliver the motor fuel to a different destination state.
b. Receives from the Secretary a confirmation number authorizing the diversion.
c. Writes on the shipping document the change in destination state and the confirmation number for the diversion.
(4) Give a copy of the shipping document to the distributor or other person to whom the motor fuel is delivered.

(e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by railroad tank car or transport truck may not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than North Carolina. To determine if the shipping document shows North Carolina as the destination state, the person to whom the fuel is delivered must examine the shipping document and must keep a copy of the shipping document. The person must keep a copy at the place of business where the motor fuel was delivered for 90 days from the date of delivery and must keep it at that place or another place for at least three years from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

(f) Sanctions Against Transporter. – The following acts are grounds for a civil penalty payable to the ~~Department of Transportation, Division of Motor Vehicles~~Department of Crime Control and Public Safety, or the Department of Revenue:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

The penalty imposed under this subsection is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed.

(g) Sanctions Against Terminal Operator. – The Secretary may assess a civil penalty of five thousand dollars ($5,000) against a terminal operator for issuing a shipping document that does not satisfy the requirements of subsection (b) of this section."

SECTION 7. G.S. 119-15 is amended by adding the following two new subdivisions:

"**§ 119-15. Definitions that apply to Article.**

The following definitions apply in this Article:

...

(1a) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel from either of the following:

a. A person who is not required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for dyed diesel fuel to be used for nonhighway purposes.

b. Another dyed diesel fuel distributor.

(1b) Dyed diesel fuel. – Defined in G.S. 105-449.60."

SECTION 8. G.S. 119-15.1(a) reads as rewritten:

"(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

(1) A kerosene supplier.

(2) A kerosene distributor.

(3) A kerosene terminal operator.

(4) A dyed diesel fuel distributor."

SECTION 9. G.S. 20-91 reads as rewritten:

"**§ 20-91. Audit of vehicle registrations under the International Registration Plan.**

(a) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9.

(b) The ~~Division~~ Department of Revenue may audit a person who registers or is required to register a vehicle under the International Registration Plan to determine if the person has paid the registration fees due under this Article. A person who registers a vehicle under the International Registration Plan must keep any records used to determine the information provided to the Division when registering the vehicle. The

records must be kept for three years after the date of the registration to which the records apply. The ~~Division~~ Department of Revenue may examine these records during business hours. If the records are not located in North Carolina and an auditor must travel to the location of the records, the registrant shall reimburse North Carolina for per diem and travel expense incurred in the performance of the audit. If more than one registrant is audited on the same out-of-state trip, the per diem and travel expense may be prorated.

The ~~Commissioner~~ Secretary of Revenue may enter into reciprocal audit agreements with other agencies of this State or agencies of another jurisdiction for the purpose of conducting joint audits of any registrant subject to audit under this section.

(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

(1) A registrant failed or refused to make acceptable records available for audit as provided by law; or

(2) A registrant misrepresented, falsified or concealed records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The ~~Commissioner~~ Commissioner, based on information provided by the Department of Revenue audit, may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The Commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars ($10.00).

The results of any audit conducted under this section shall be provided to the Division. The notice of any assessments ~~will~~ shall be sent by the Division to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal privileges.

(d) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9."

SECTION 10. Sections 1, 5, and 6 of this act become effective January 1, 2005. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 1171
Finance Committee Substitute Adopted 6/9/04
Third Edition Engrossed 6/17/04

Short Title: Motor Fuels Tax Changes. (Public)

Sponsors:

Referred to:

May 19, 2004

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE TAXATION OF MOTOR FUELS; TO ALLOW THE SECRETARY OF REVENUE TO APPOINT EMPLOYEES OF THE MOTOR FUELS TAX DIVISION AS REVENUE LAW ENFORCEMENT OFFICERS; AND TO TRANSFER THE AUDIT FUNCTIONS FOR THE INTERNATIONAL REGISTRATION PLAN TO THE DEPARTMENT OF REVENUE FROM THE DIVISION OF MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-236(2) reads as rewritten:

"**§ 105-236. Penalties.**

Penalties assessed by the Secretary under this Subchapter are assessed as an additional tax. Except as otherwise provided by law, and subject to the provisions of G.S. 105-237, the following penalties shall be applicable:

...

(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars ($5.00). In cases in which the taxpayer fails to obtain a license as required under G.S. 105-449.65 or G.S. 105-449.131, the Secretary may assess a penalty of one thousand dollars ($1,000)."

SECTION 2. G.S. 105-236.1(a) reads as rewritten:

"(a) General. – The Secretary may appoint employees of the Unauthorized Substances Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the excise tax on unauthorized substances imposed by Article 2D of this Chapter.

The Secretary may appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the taxes on motor fuels imposed by Articles 36B, 36C, and 36D of this Chapter and by Chapter 119 of the General Statutes.

The Secretary may appoint employees of the Criminal Investigations Division to serve as revenue law enforcement officers having the responsibility and subject-matter jurisdiction to enforce the following tax violations and criminal offenses:

(1) The felony and misdemeanor tax violations in G.S. 105-236.

(2) The misdemeanor tax violations in G.S. 105-449.117 and G.S. 105-449.120.

(3) The following criminal offenses when they involve a tax imposed under Chapter 105 of the General Statutes:

a. G.S. 14-91 (Embezzlement of State Property).

b. G.S. 14-92 (Embezzlement of Funds).

c. G.S. 14-100 (Obtaining Property By False Pretenses).

d. G.S. 14-119 (Forgery).

e. G.S. 14-120 (Uttering Forged Paper).

f. G.S. 14-401.18 (Sale of Certain Packages of Cigarettes)."

SECTION 3. G.S. 105-449.46 reads as rewritten:

"**§ 105-449.46. Inspection of books and records.**

The Secretary and his authorized agents and representatives shall have the right at any reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this ~~Article.~~Article or to the registration fee imposed by Article 3 of Chapter 20 of the General Statutes."

SECTION 4. G.S. 105-449.86(a) reads as rewritten:

"(a) Tax. – An excise tax at the motor fuel rate is imposed on dyed diesel fuel acquired to operate any of the following:

(1) Repealed by Session Laws 2003-349, s. 10.8, effective January 1, 2004.

(2) Either a local bus or an intercity bus that is allowed by § 4082(b)(3) of the Code to use dyed diesel fuel.

(3) A highway vehicle that is owned by or leased to an educational organization that is not a public school and is allowed by § 4082(b)(1) or (b)(3) of the Code to use dyed diesel fuel.

~~(4) A highway vehicle that is owned by or leased to the American Red Cross and is allowed by § 4082 of the Code to use dyed diesel fuel.~~"

SECTION 5.(a) G.S. 105-449.95 is recodified as G.S. 105-449.106A.

SECTION 5.(b) G.S. 105-449.106A, as recodified by this act, reads as rewritten:

"**§ 105-449.106A. Quarterly ~~hold harmless~~ refund for licensed distributors and some licensed importers.**

(a) ~~Calculation.~~ Application. – ~~At the end of each calendar quarter, the Secretary must review the amount of discounts each~~ A licensed distributor or licensed importer may receive a quarterly refund as allowed under this section. To receive a refund, a

distributor or importer must apply for the refund. The application must show the amount of discounts received under ~~G.S. 105-449.93(b). The Secretary must determine if the amount of discounts the distributor or importer received under that subsection in each month of the quarter is less than~~ G.S. 105-449.93(b) and the amount the distributor or importer would have received if the distributor or importer had been allowed a discount on taxable gasoline purchased by the distributor or importer from a supplier during each month of the quarter under the following schedule:

Amount of Gasoline Purchased Each Month	Percentage Discount
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%.

(b) ~~Refund.~~ Refund Amount. – If the amount the licensed distributor or licensed importer received under G.S. 105-449.93(b) for a month in the quarter is less than the amount the distributor or importer would have received on the distributor's or importer's taxable gasoline purchases under the monthly schedule in subsection (a) of this section, the ~~Secretary must send the~~ distributor or importer is allowed a refund equal to ~~a refund check for~~ the difference. In determining the amount of discounts a distributor or importer received under G.S. 105-449.93(b) for gasoline purchased in a month, a distributor or importer is considered to have received the amount of any discounts the distributor or importer could have received under that subsection but did not receive because the distributor or importer failed to pay the tax due to the supplier by the date the supplier had to pay the tax to the State."

SECTION 6. G.S. 105-449.115 reads as rewritten:

"**§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car or transport truck.**

(a) Issuance. – A person may not transport motor fuel by railroad tank car or transport truck unless the person has a shipping document for its transportation that complies with this section. A terminal operator and the operator of a bulk plant must give a shipping document to the person who operates a railroad tank car or a transport truck into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) Content. – A shipping document issued by a terminal operator or the operator of a bulk plant must contain the following information and any other information required by the Secretary:

(1) Identification, including address, of the terminal or bulk plant from which the motor fuel was received.
(2) The date the motor fuel was loaded.
(3) The gross gallons loaded.
(4) The destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent.
(5) If the document is issued by a terminal operator, the document must be machine printed and it must contain the following information:
a. The net gallons loaded.

b. A tax responsibility statement indicating the name of the supplier that is responsible for the tax due on the motor fuel.

(c) Reliance. – A terminal operator or bulk plant operator may rely on the representation made by the purchaser of motor fuel or the purchaser's agent concerning the destination state of the motor fuel. A purchaser is liable for any tax due as a result of the purchaser's diversion of fuel from the represented destination state.

(d) Duties of Transporter. – A person to whom a shipping document was issued must do all of the following:

(1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it. When operating an empty transport, carry the shipping document in the conveyance for the motor fuel last contained in the conveyance.

(2) Show the shipping document to a law enforcement officer upon request when transporting the motor fuel described in it.

(3) Deliver motor fuel described in the shipping document to the destination state printed on it unless the person does all of the following:

a. Notifies the Secretary before transporting the motor fuel into a state other than the printed destination state that the person has received instructions since the shipping document was issued to deliver the motor fuel to a different destination state.

b. Receives from the Secretary a confirmation number authorizing the diversion.

c. Writes on the shipping document the change in destination state and the confirmation number for the diversion.

(4) Give a copy of the shipping document to the distributor or other person to whom the motor fuel is delivered.

(e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by railroad tank car or transport truck may not accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is a state other than North Carolina. To determine if the shipping document shows North Carolina as the destination state, the person to whom the fuel is delivered must examine the shipping document and must keep a copy of the shipping document. The person must keep a copy at the place of business where the motor fuel was delivered for 90 days from the date of delivery and must keep it at that place or another place for at least three years from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

(f) Sanctions Against Transporter. – The following acts are grounds for a civil penalty payable to the ~~Department of Transportation, Division of Motor Vehicles~~Department of Crime Control and Public Safety, or the Department of Revenue:

(1) Transporting motor fuel in a railroad tank car or transport truck without a shipping document or with a false or an incomplete shipping document.

(2) Delivering motor fuel to a destination state other than that shown on the shipping document.

The penalty imposed under this subsection is payable by the person in whose name the conveyance is registered, if the conveyance is a transport truck, and is payable by the person responsible for the movement of motor fuel in the conveyance, if the conveyance is a railroad tank car. The amount of the penalty is five thousand dollars ($5,000). A penalty imposed under this subsection is in addition to any motor fuel tax assessed.

(g) Sanctions Against Terminal Operator. – The Secretary may assess a civil penalty of five thousand dollars ($5,000) against a terminal operator for issuing a shipping document that does not satisfy the requirements of subsection (b) of this section."

SECTION 7. G.S. 119-15 is amended by adding the following two new subdivisions:

"**§ 119-15. Definitions that apply to Article.**

The following definitions apply in this Article:

...

(1a) Dyed diesel fuel distributor. – A person who acquires dyed diesel fuel from either of the following:

a. A person who is not required to be licensed under Part 2 of Article 36C of Chapter 105 of the General Statutes and who maintains storage facilities for dyed diesel fuel to be used for nonhighway purposes.

b. Another dyed diesel fuel distributor.

(1b) Dyed diesel fuel. – Defined in G.S. 105-449.60."

SECTION 8. G.S. 119-15.1(a) reads as rewritten:

"(a) License. – A person may not engage in business in this State as any of the following unless the person has a license issued by the Secretary authorizing the person to engage in business:

(1) A kerosene supplier.

(2) A kerosene distributor.

(3) A kerosene terminal operator.

(4) A dyed diesel fuel distributor."

SECTION 9. G.S. 20-91 reads as rewritten:

"**§ 20-91. Audit of vehicle registrations under the International Registration Plan.**

(a) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9.

(b) The ~~Division~~ Department of Revenue may audit a person who registers or is required to register a vehicle under the International Registration Plan to determine if the person has paid the registration fees due under this Article. A person who registers a vehicle under the International Registration Plan must keep any records used to determine the information provided to the Division when registering the vehicle. The records must be kept for three years after the date of the registration to which the records apply. The ~~Division~~ Department of Revenue may examine these records during business hours. If the records are not located in North Carolina and an auditor must

travel to the location of the records, the registrant shall reimburse North Carolina for per diem and travel expense incurred in the performance of the audit. If more than one registrant is audited on the same out-of-state trip, the per diem and travel expense may be prorated.

The ~~Commissioner~~ Secretary of Revenue may enter into reciprocal audit agreements with other agencies of this State or agencies of another jurisdiction for the purpose of conducting joint audits of any registrant subject to audit under this section.

(c) If an audit is conducted and it becomes necessary to assess the registrant for deficiencies in registration fees or taxes due based on the audit, the assessment will be determined based on the schedule of rates prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. If, during an audit, it is determined that:

(1) A registrant failed or refused to make acceptable records available for audit as provided by law; or

(2) A registrant misrepresented, falsified or concealed records, then all plates and cab cards shall be deemed to have been issued erroneously and are subject to cancellation. The ~~Commissioner~~ Commissioner, based on information provided by the Department of Revenue audit, may assess the registrant for an additional percentage up to one hundred percent (100%) North Carolina registration fees at the rate prescribed for that registration year, adding thereto and as a part thereof an amount equal to five percent (5%) of the tax to be collected. The Commissioner may cancel all registration and reciprocal privileges.

As a result of an audit, no assessment shall be issued and no claim for refund shall be allowed which is in an amount of less than ten dollars ($10.00).

The results of any audit conducted under this section shall be provided to the Division. The notice of any assessments ~~will~~ shall be sent by the Division to the registrant by registered or certified mail at the address of the registrant as it appears in the records of the Division of Motor Vehicles in Raleigh. The notice, when sent in accordance with the requirements indicated above, will be sufficient regardless of whether or not it was ever received.

The failure of any registrant to pay any additional registration fees or tax within 30 days after the billing date, shall constitute cause for revocation of registration license plates, cab cards and reciprocal privileges.

(d) Repealed by Session Laws 1995 (Regular Session, 1996), c. 756, s. 9."

SECTION 10. Sections 3 and 9 of this act become effective July 1, 2004. Sections 1, 5, and 6 of this act become effective January 1, 2005. The remainder of this act is effective when it becomes law.

SENATE BILL 1171:
Motor Fuel Tax Changes

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Kerr
Date:	June 30, 2004	**Summary by:**	Cindy Avrette
Version:	3rd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1171 is a recommendation of the Revenue Laws Study Committee. It makes numerous changes to the motor fuels tax statutes and allows the Department of Revenue to appoint employees of the Motor Fuels Tax Division as revenue law enforcement officers.***

The only change in the Proposed Committee Substitute is a revision of the effective date.

BILL ANALYSIS: Section 1 allows the Secretary to impose a $1,000 penalty for failure to obtain a license under G.S. 105-449.65 or G.S. 105-449.131[1]. Currently, the Secretary has general authority to impose a penalty for failure to obtain a license. Under that general authority, the amount of the penalty imposed is equal to 5% of the amount prescribed for the license for each month the taxpayer fails to obtain the license, with a maximum penalty of 25% of the amount prescribed for the license. Because this general authority limits the penalty to a percentage of the amount prescribed for the license, it effectively bars assessing a penalty when there is no charge to obtain a license. There is no charge for the licenses issued pursuant to G.S. 105-449.65 or G.S. 105-449.131. This provision becomes effective January 1, 2005.

Section 2 allows the Secretary of Revenue to appoint up to 11 employees of the Motor Fuels Tax Division as revenue law enforcement officers. The Secretary has the general authority under G.S. 105-236.1 to appoint employees of the Criminal Investigations Division as law enforcement officers. This bill would give the Secretary the additional authority to appoint employees of the Motor Fuels Tax Division as law enforcement officers. The employees would have subject matter jurisdiction to enforce the motor fuels taxes imposed by Articles 36B, 36C, and 36D of Chapter 105. As law enforcement officers, these Department of Revenue employees would be entitled to increased pension benefits such as a 5% contribution to a 401(k) plan, early retirement, enhanced compensation for work-related disability, and a separation allowance that increases benefits for an officer who retires before becoming eligible for social security (the allowance ends when the officer begins receiving social security). This section is effective when it becomes law.

Sections 3 and 9 transfer audit functions related to the International Registration Plan from the Department of Transportation, Division of Motor Vehicles to the Department of Revenue, Motor Fuels Tax Division. The International Registration Plan is the mechanism through which interstate motor carriers are licensed. It helps to ensure that the proper amount of motor fuels

[1] G.S. 105-449.65 is contained in the Article dealing with gasoline, diesel fuel, and blended fuel, and requires the following to have a license: refiners, suppliers, terminal operator, importers, exporters, blenders, motor fuel transporters, and distributors who purchase motor fuel from an elective or permissive supplier at an out-of-state terminal for import into this State. G.S. 105-449.131 is contained in the Article dealing with alternative fuels and requires the following to have a license: providers of alternative fuel, bulk-end users, and retailers.

tax is credited to each jurisdiction in which the motor carrier travels. It has been suggested that the Department of Revenue has more expertise in auditing taxpayers and would be a more appropriate home for these audit functions. The positions associated with these audit functions will be transferred through an administrative transfer when the bill becomes law.

Section 4 exempts motor fuel acquired to operate a highway vehicle owned by or leased to the American Red Cross from the motor fuel excise tax. In Department of Employment v. United States, 385 U.S. 355, 87 S.Ct. 464 (1966), the United States Supreme Court ruled that the Red Cross is an instrumentality of the United States for state tax immunity purposes. This provision codifies the current administrative practice of the Department of Revenue. This section is effective when it becomes law.

Section 5 provides that a licensed distributor or licensed importer may apply for a quarterly refund equal to the difference between the amount the distributor or importer would have received under the discount provisions as they existed prior to 1996 and the amount the distributor or importer currently receives under G.S. 105-449.93(b). The hold harmless provision was created in 1996 as part of the overhaul of motor fuels taxation. It ensured that a licensed distributor or licensed importer would not receive less of a discount under the new system that it did under the old. Currently, 20% of licensed distributors were not licensed in 1996. These distributors are able to take advantage of the hold harmless provision even though they never received the benefit of the discount in place prior to 1996. Under current law, the licensed distributor or importer does not have to do anything to receive this refund; the Secretary of Revenue must determine the difference and send a refund to the distributor or importer. The original bill would have eliminated the quarterly refund. This section becomes effective January 1, 2005.

Section 6 allows the Secretary of Revenue to assess a penalty of $5,000 on a terminal operator who fails to issue a shipping document that satisfies the requirements for the shipping document. Under G.S. 105-449.115, shipping documents issued by a terminal operator must contain the following information: 1) identification of the terminal or bulk plant from which the fuel was received, 2) the date the fuel was loaded, 3) the gross gallons loaded, 4) the destination state of the motor fuel, 5) the net gallons loaded, and 6) a tax responsibility statement indicating the name of the supplier that is responsible for the tax. The Motor Fuels Tax Division has noticed a problem with some terminal operators failing to issue proper shipping documents. Without an accurate shipping document, it is difficult, if not impossible, for the Department to ensure that the proper amount of tax is being paid.

Section 6 also requires a person operating an empty transport to carry the shipping document in the conveyance for the motor fuel last contained in the conveyance. The US Department of Transportation already requires a transporter to carry this information. This requirement will help the Motor Fuels Division in its enforcement of fuel tax evasion by identifying the product that was last hauled by the transporter and determining if the transporter is truly empty at the time of investigation. If there is product in the conveyance, then Motor Fuels would have the last known delivery to determine if the transporter 'short dropped' the product. The Division

could also use the information to verify that the product that was delivered to a retail location is what the retail station had facilities to store. This section becomes effective January 1, 2005.

Sections 7 and 8 make changes to Chapter 119 necessitated by legislation enacted in 2003. In 2003, the General Assembly voted to apply the inspection tax to dyed diesel fuels. The inspection tax is imposed on all fuel types at the rate of ¼¢ per gallon. Proceeds of the tax are used to offset the expenses of administering the motor fuels taxes. The changes in these two sections are needed to apply the tax to distributors who purchase only dyed diesel fuel. These two sections are effective when they become law.

Section 10 is the effective date section. It is effective when it becomes law.

Canaan Huie, counsel to the Revenue Laws Study Committee, contributed significantly to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1171 (Third Edition)

SHORT TITLE: Motor Fuels Tax Changes.

SPONSOR(S): Senator Kerr

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Highway Fund					
Penalties		No Estimate Available			
Red Cross Exemption		No Fiscal Impact			
Refund to Distributors		No Fiscal Impact			
Dyed Diesel		No Fiscal Impact			
EXPENDITURES					
¼ Cent Inspection Tax					
Law Enforcement	$28,976	$9,791	$9,791	$9,791	$9,791
Highway Trust Fund					
IRP Positions		No Fiscal Impact			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue, Department of Transportation – Division of Motor Vehicles, Department of Crime Control and Public Safety

EFFECTIVE DATE: Sections 3 and 9 (Transfer of IRP Audit Responsibility) become effective July 1, 2004. Sections 1 (Penalty), 5 (Quarterly Refund), and 6 (Penalty) become effective January 1, 2005. The remainder of the act is effective when it becomes law.

BILL SUMMARY:

The act modifies the penalties charged for violation of motor fuel tax laws; allows the Secretary of Revenue to appoint up to 11 employees of the Motor Fuels Tax Division as Revenue Law Enforcement Officers; exempts the American Red Cross from paying the excise tax on dyed diesel fuel; changes refund to licensed distributors from automatic to paid upon application; conforms state law to federal on shipping documents in fuel transport trucks; and transfers the audit functions for the International Registration Plan from the Division of Motor Vehicles to the Department of Revenue.

ASSUMPTIONS AND METHODOLOGY:

Penalties

Sections 1 and 6 create new penalties. Section 1 allows the Secretary of Revenue to impose a $1,000 civil penalty on refiners, suppliers, terminal operators, importers, exporters, blenders, motor fuel transporters and certain distributors that fail to obtain a license. The current law bars the Department from charging a penalty because there is no fee for the license. The Department estimates a maximum of 5 violators a year. Since the penalty is discretionary, this fiscal analysis will not estimate any revenue resulting from this section. If penalty revenue were received it would be deposited into the Highway Fund as nontax revenue according to G.S. 105-449.127.

Section 6 allows the Secretary of Revenue to impose a civil penalty of $5,000 on an oil terminal operator who fails to issue a bill of laden that does not meet departmental requirements. Without an accurate bill of laden, the Department cannot ensure that the proper tax amount is being charged. The Department has experienced regular noncompliance by one terminal operator and thinks this provision will remedy the situation. Again, no estimate is possible due to the discretionary nature of the penalty.

Section 6 also contains an amendment to the duties of a fuel transporter. The bill adds the sentence "When operating an empty transport, carry the shipping document in the conveyance for the motor fuel last contained in the conveyance." This conforms state statutes to federal law in this matter. There are no additional penalties assessed. No fiscal impact is expected from this amendment.

Law Enforcement

Section 2 allows the Secretary of Revenue to appoint up to 11 employees of the Motor Fuels Tax Division to serve as revenue law enforcement officers. The Motor Fuels Tax Division currently employs the following six investigator positions: a Motor Fuels Tax Investigator Supervisor, 4 Motor Fuels Tax Investigators, and a Tax Fraud Investigator. Only the Tax Fraud Investigator has law enforcement status. Giving the other 5 employees law enforcement authority will require a minimum appropriation of $28,976 in FY 2004-05. Of this amount, $9,791 is recurring for an employer contribution to a 401K plan the State makes on behalf of sworn law enforcement officers. The $19,185 in non-recurring expense is for needed equipment and for enrollment in the Basic Law Enforcement Training course at a community college.

This increased appropriation would come from the ¼ cent inspection tax on motor fuel. The investigator positions are an administrative expense of the inspection tax as authorized by G.S. 119-18(b). Administrative costs are deducted from the tax before distribution of the tax proceeds to the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund and the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

Transfer Positions

On May 4, 2004, the Office of State Budget and Management (OSBM) approved the transfer of $375,932 and six positions responsible for International Registration Plan (IRP) vehicle registration audits from the Division of Motor Vehicles of the Department of Transportation to the Department of Revenue. Sections 3 and 9 conform the statutory language to this administrative change. The transfer will not increase the budget for this unit, thus there is no fiscal impact for these sections of the bill.

Red Cross Exemption

Section 4 exempts the American Red Cross from paying the excise tax on dyed diesel fuel. The U.S. Supreme Court ruled in the Department of Employment v. United States that the American Red Cross is an instrumentality of the United States for state tax immunity purposes. While the Red Cross is not exempt by statute, the Department of Revenue has administratively recognized their federal exemption status and has refunded their tax payments. Since this section conforms statute to departmental policy, there is no fiscal impact for this section.

Distributor Refund

Section 5 changes the hold harmless provision enacted in 1996 to ensure that licensed motor fuel distributors and certain licensed importers would not receive less of a discount under the new system (Tax at the Rack) than they did under the old system. Currently the Department automatically sends refunds to distributors on a quarterly basis. Under this bill, the distributors have to apply for the refund and show how the amount was calculated. Currently 250 distributors receive $1.5 million in refunds each year due to this provision. No savings are anticipated in the short term.

Dyed Fuel Distributors

Sections 7 and 8 amend statutes to conform to legislation on dyed diesel fuel that was approved in the 2003 Session. There is no fiscal impact from these sections.

SOURCES OF DATA: Department of Revenue

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 28, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1171 A BILL TO BE ENTITLED AN ACT TO MODIFY THE TAXATION OF MOTOR FUELS; TO ALLOW THE SECRETARY OF REVENUE TO APPOINT EMPLOYEES OF THE MOTOR FUELS TAX DIVISION AS REVENUE LAW ENFORCEMENT OFFICERS; AND TO TRANSFER THE AUDIT FUNCTIONS FOR THE INTERNATIONAL REGISTRATION PLAN TO THE DEPARTMENT OF REVENUE FROM THE DIVISION OF MOTOR VEHICLES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House Committee Substitute Bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate Committee Substitute Bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 6

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1171

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1171-ALY-69 [v.1]

Date June 30 ,2004

Comm. Sub. [NO]
Amends Title [YES]
S1171-CSSV-55

Representative Decker

moves to amend the bill on page 1, line 5, by deleting the word "AND";

and on page 1, line 7, by replacing "VEHICLES." with "VEHICLES; AND TO CAP THE VARIABLE WHOLESALE COMPONENT OF THE MOTOR FUELS TAX RATE.";

and on page 6, lines 40-41, by rewriting those lines to read:

"**SECTION 10.** G.S. 105-449.80(a) reads as rewritten:

'(a) Rate. – The motor fuel excise tax rate is a flat rate of seventeen and one-half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one-half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater. In no case may the variable wholesale component be greater than seven and one-tenths cents (7.1¢) a gallon.

The two base periods are six-month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six-month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six-month period that begins the following July 1.'

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1171

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1171-ALY-69 [v.1]

SECTION 11. Sections 1, 5, and 6 of this act become effective January 1, 2005. The remainder of this act is effective when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ____✓____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1688

Short Title: Concord Annexation Effective Date. (Local)

Sponsors: Representative Barnhart.

Referred to: Finance.

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW A DEFERRED EFFECTIVE DATE FOR CERTAIN VOLUNTARY ANNEXATIONS OF THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 160A-31(d), the City Council of the City of Concord may make annexation ordinances adopted pursuant to Part 1 of Article 4A of Chapter 160A of the General Statutes effective on any specified date within 24 months from the date of passage of the annexation ordinance if that ordinance applies to some or all of the following described property:

TRACT ONE (31.87 acres for Phase 1 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side of Piney Church Road, and being a tract of land containing 31.87 acres, bounded on the West by Dan Moser Co., Inc. and on the East by St. Andrews Place, and being more particularly described as follows:

BEGINNING at an existing iron within Piney Church Road, said iron being a front common corner of Crawford Love, Terry Lamb, and Donald Reid, and runs thence with the line of Crawford Love, N. 61-41-36 E. 166.30 feet to an iron, a rear corner of Love; thence continuing with the line of Love, N. 41-15-39 W. 263.13 feet to an iron in the line of Dan Moser Co.; thence with the line of Dan Moser Co., N. 33-22-32 E. 1805.36 feet to a point, a new corner; thence a new line S. 49-58-02 E. 189.82 feet to a point; thence continuing a new line, S. 27-26-57 E. 160.38 feet; thence continuing a new line, S. 62-33-03 W. 210.70 feet to a point; thence continuing a line with a curve having a radius of 125.00 feet and a length of 63.65 feet with a chord bearing S. 47-57-48 W. and a chord distance of 62.96 feet to a point; thence continuing a new line, S. 33-22-32 W. 202.12 feet to a point; thence continuing a new line, S. 45-18-45 E. 578.43 feet to a point; thence continuing a new line, S. 44-41-15 W. 18.00 feet to a point; thence continuing eight new lines as follows:

(1) S. 45-18-45 E. 110.00 feet to a point;

(2) S. 44-41-15 W. 71.65 feet to a point;

(3) S. 44-41-15 W. 41.00 feet to a point;
(4) S. 39-13-39 W. 55.15 feet to a point;
(5) S. 38-14-18 W. 27.48 feet to a point;
(6) S. 21-00-51 W. 30.32 feet to a point;
(7) S. 20-33-51 W. 46.66 feet to a point; and
(8) S. 19-01-17 W. 461.00 feet to a point;

thence continuing a new line, S. 70-58-43 E. 85.00 feet to a point; thence with the line of a curve having a radius of 25.00 feet, an arc distance 39.27 feet, with a chord bearing N. 64-01-17 E. and a chord distance of 35.36 feet to a point; thence continuing a new line, S. 71-22-38 E. 210.01 feet to a point in the rear line of Lot 28, St Andrews Place, Phase I, Map II; thence with the rear line of St Andrews Place, Phase I, Map II, S. 19-01-17 W. 310.87 feet to an existing iron near the northern edge of Piney Church Road; thence N. 61-01-07 W. 118.65 feet to a point within Piney Church Road, in the front line of Margaret H. Jarrell; thence with the front line of Jarrell, N. 63-26-14 W. 149.15 feet to an existing iron; thence N. 73-41-16W. 188.28 feet to an iron, a corner of Piney Grove Methodist Church; thence with the front line of said church, N. 79-10-30 W. 96.17 feet to an existing iron; thence continuing with the line of said church and with the line of Rufus Reid, S. 89-18-46 W. 250.07 feet to an iron in the front line of Reid; thence with the front line of Rufus N. Reid and Terry C. Lamb, N. 74-50-56 W. 469.98 feet to the point of BEGINNING, containing 31.87 acres, more or less, as shown on a boundary survey of Phase One (1), BRANDON RIDGE SUBDIVISION, by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT TWO (18.23 acres for Phase 2 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side but not adjoining Piney Church Road, bounded on the East by Dan Moser Co. and on the North by Southbrook Subdivision, and being more particularly described as follows:

BEGINNING at an existing iron in the line of Dan Moser Co., said iron being a rear corner of Lot 114, Southbrook, Phase II, III & IV, and runs thence with the line of Southbrook Subdivision, S. 44-52-58 E. 836.71 feet to a stone in the rear line of Lot 107; thence continuing with the rear line of Southbrook Subdivision, S. 45-18-45 E. 309.33 feet to a point in the rear line of Lot 100, Southbrook Subdivision; thence a new line, S. 44-41-15 W. 160.00 feet to a point; thence continuing fourteen (14) new lines as follows:

(1) S. 45-18-45 E. 34.87 feet to a point;
(2) S. 44-41-15 W. 160.00 feet to a point;
(3) S. 45-18-45 E. 22.27 feet to a point;
(4) S. 44-41-15 W. 160.00 feet to a point;
(5) N. 45-18-45 W. 22.27 feet to a point;
(6) S. 44-41-15 W. 110.00 feet to a point;
(7) N. 45-18-45 W. 82.00 feet to a point;
(8) S. 44-41-15 W. 160.00 feet to a point;
(9) N. 45-18-45 W. 23.00 feet to a point;
(10) S. 44-41-15 W. 128.00 feet to a point;

(11) N. 45-18-45 W. 110.00 feet to a point;
(12) N. 44-41-15 E. 18.00 feet to a point;
(13) N. 45-18-45 W. 578.43 feet to a point;
(14) N. 33-22-32 E. 202.12 feet to a point;

thence with the line of a curve having a radius of 125.00 feet for an arc distance of 63.65 feet and a chord bearing of N. 47-57-48 E. 62.96 feet to a point; thence continuing a new line, N. 62-33-03 E. 210.70 feet to a point; thence continuing a new line, N. 27-26-57 W. 160.38 feet to a point; thence continuing a new line, N. 49-58-02 W. 189.82 feet to a point in the line of Dan Moser Co.; thence with the line of Dan Moser Co., N. 33-22-32 E. 378.23 feet to the point of BEGINNING, containing 18.23 acres, more or less, as shown on a boundary survey of Phase II, BRANDON RIDGE SUBDIVISION by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT THREE (21.95 acres for Phase 3 of Brandon Ridge Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side, but not adjoining Piney Church Road, bounded on the South by St Andrews Place, Phase I, Map II, on the East by Sarah S. Lowder, and on the North by Southbrook Subdivision, and being more particularly described as follows:

BEGINNING at a concrete monument, said monument being the rear common corner of Lots 32 and 33, St Andrews Place, Phase I, Map II, Map Book 32, Page 44, Cabarrus County Registry, and runs thence with the line of St Andrews Place, Phase I, Map II, S. 68-39-37 E. 750.05 feet to a concrete monument, a rear corner of Lot 57, St Andrews Place, in the line of Sarah S. Lowder; thence with the line of Lowder, N. 25-28-53 E. 774.78 feet to a existing iron in the rear line of Lot 91, Southbrook Subdivision; thence with the rear line of Southbrook Subdivision, N. 45-18-45 W. 703.30 feet to a point in the rear line of Lot 100, Southbrook Subdivision; thence eighteen (18) new lines as follows:

(1) S. 44-41-15 W. 160.00 feet to a point;
(2) S. 45-18-45 E. 34.87 feet to a point;
(3) S. 44-41-15 W. 160.00 feet to a point;
(4) S. 45-18-45 E. 22.27 feet to a point;
(5) S. 44-41-15 W. 160.00 feet to a point;
(6) N. 45-18-45 W. 22.27 feet to a point;
(7) S. 44-41-15 W. 110.00 feet to a point;
(8) N. 45-18-45 W. 82.00 feet to a point;
(9) S. 44-41-15 W. 160.00 feet to a point;
(10) N. 45-18-45 W. 23.00 feet to a point;
(11) S. 44-41-15 W. 199.65 feet to a point;
(12) S. 44-41-15 W. 41.00 feet to a point;
(13) S. 39-13-39 W. 55.15 feet to a point;
(14) S. 38-14-18 W. 27.48 feet to a point;
(15) S. 21-00-51 W. 30.32 feet to a point;
(16) S. 20-33-51 W. 46.66 feet to a point;
(17) S. 19-01-17 W. 461.00 feet to a point; and

(18) S. 70-58-43 E. 85.00 feet to a point;
thence with the curve of a line having a radius of 25.00 feet for an arc length of 39.27 feet and a chord bearing N. 64-01-17 E. and chord distance 35.36 feet to a point; thence continuing a new line S. 71-22-38 E. 210.01 feet to a point in the rear line of Lot 28 St Andrews Place, Phase I, Map II, Map Book 33, Page 44, Cabarrus County Registry; thence with the rear line of St Andrews Place, Phase I, Map II, N. 19-01-17 E. 407.58 feet to the point of BEGINNING, containing 21.95 acres, more or less, as shown on a boundary survey of Phase III, BRANDON RIDGE SUBDIVISION, by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated October 18, 2002.

TRACT 4 (22.04 acres for Park Place Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the West side of Zion Church Road, bounded on the North by Windrose Subdivision, on the South by Robert Earl Morris, and on the West by Phillip W. Cline, and being more particularly described as follows:

BEGINNING at a point in the centerline of Zion Church Road, said point being about 1300 feet from Highway 601, and being a southeast front corner of Kristopher W. Widenhouse (Deed Book 2819, Page 86), and runs thence with the rear line of Widenhouse and Windrose, Phase III, N. 88-32-55 W. 639.08 feet to an iron, a rear corner of Lot 63, Windrose, in the line of Lot 64; thence with the line of Lot 64 of Windrose, S. 13-42-42 W. 61.19 feet to an iron, a rear corner of Lot 64, Windrose; thence continuing with Windrose Subdivision, N. 88-33-27 W. 1,323.94 feet to an iron in the line of Phillip W. Cline, a rear corner of Lot 16, Windrose, Phase I, Map Book 23, Page 81; thence with the line of Phillip W. Cline, S. 4-42-59 E. 853.99 feet to a point in Irish Buffalo Creek; thence with the line of Robert Earl Morris, N. 73-25-25 E. (passing an iron at 25.00 feet) for a total distance of 444.13 feet to an iron; thence continuing with the line of Morris, N. 67-35-47 E. 1196.61 feet to an iron in the rear line of Marie P. Greene, Trustee; thence with the rear line of Greene and Richard Burris, N. 40-54-42 E. 167.79 feet to an iron, a rear corner of Burris; thence with the line of Burris, S. 88-52-15 E. (passing an iron at 197.72 feet) for a total distance of 210.00 feet to a point; thence within Zion Church Road, N. 19-25-28 E. 164.99 feet to the point of BEGINNING, containing 22.04 acres, more or less, as shown on a boundary survey by Spratt & Brooks Land Surveying, Richard Boyd Brooks, P.L.S., dated July 23, 2002.

TRACT 5 (155.571 acres for Morrison Creek Subdivision):

Lying and being in Number Eleven (11) Township, Cabarrus County, North Carolina, on the North side of Zion Church Road, bounded on the North by T. W. Farlow (now or formerly), Melvin Green (now or formerly), and others, on the West by Colonial Hills Subdivision and others, and on the East by Whitehurst Partners, Phillip W. Cline, and others, and being more particularly described as follows:

BEGINNING at an existing iron within Zion Church Road, said iron being located N. 62-36-02 E. 694.70 feet from a nail in the centerline of the road intersection, and runs thence with the line of Colonial Hills Subdivision, Phase I, Maps 2, 3, & 4 and with the line of Pacajero Realty (now or formerly) N. 14-08-57 W. 2,662.04 feet to an iron, a corner of Pacajero Realty, LLC; thence with the line of Pacajero Realty, LLC, S. 83-42-57 E. 186.19 feet to a iron, a corner of T. W. Farlow (now or formerly); thence

with the line of Farlow, S. 83-24-54 E. 540.85 feet to an iron, a corner of Farlow; thence continuing with the line of Farlow, N. 12-28-30 W. 514.33 feet to an iron; thence continuing with the line of Farlow, N. 89-51-03 E. 327.75 feet to an iron, a corner of Green; thence with the line of Green (now or formerly), N. 89-42-21 E. 473.60 to an iron within the sewer easement; thence continuing with the line of Green (now or formerly), N. 68-03-21 E. (passing an iron at 1,334.36 feet) for a total distance of 1,430.72 feet to a point in the line of Phillip W. Cline (now or formerly); thence with the line of Cline and the centerline of Irish Buffalo Creek the following courses and distances:

(1) S. 42-38-21 W. 161.00 feet;
(2) S. 06-41-59 E. 98.27 feet;
(3) S. 19-51-00 E. 310.19 feet;
(4) S. 08-39-56 E. 121.00 feet;
(5) S. 28-47-24 W. 122.25 feet;
(6) S. 48-48-04 W. 118.87 feet;
(7) S. 24-15-14 W. 120.97 feet;
(8) S. 48-01-38 W. 69.89 feet;
(9) N. 83-43-26 W. 55.12 feet;
(10) S. 18-42-48 W. 53.62 feet;
(11) S. 52-16-45 W. 124.82 feet;
(12) S. 15-04-29 W. 165.70 feet;
(13) S. 21-55-55 W. 120.13 feet;
(14) S. 06-08-25 W. 56.78 feet;
(15) S. 66-04-06 E. 34.48 feet to a point;

thence S. 74-48-06 E. 207.44 feet to a point; thence S. 58-02-37 E. 111.34 feet to a point; thence S. 66-56-18 E. 209.70 feet to a point; thence N. 81-23-45 E. 158.61 feet to a point, a corner of Whitehurst Partners; thence with the line of Whitehurst Partners (now or formerly), S. 16-54-37 E. 807.50 feet an iron; thence continuing with the line of Whitehurst Partners and the Elma J. Green Estate, S. 03-09-16 W. (passing an iron at 209.86 feet) for a total distance of 319.96 feet to an iron; thence with the line of the Elma J. Green Estate, S. 10-28-49 E. 101.05 feet to an iron; thence continuing with the Elma J. Green Estate, S. 10-28-49 E. 31.33 feet to an iron at or near the centerline of Zion Church Road; thence within Zion Church Road, S. 62-00-07 W. 620.20 feet to an iron in the front line of John Willie Reid (now or formerly); thence with the line of Reid, within Zion Church Road, N. 83-01-04 W. 800.00 feet to a spike in the line of Bernard W. Moncur, Jr. (now or formerly); thence leaving Zion Church Road and with the line of Mildred R. Reid (now or formerly), N. 41-10-38 W. 177.37 feet to an iron; thence continuing with the line of Reid and others, S. 58-23-21 W. 1,243.49 feet to an iron, the point of BEGINNING, containing 155.571 acres, more or less, as survey and platted by Jackie G. Duncan, P.L.S., dated May 11, 2001.

SECTION 2. This act becomes effective June 30, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1688 A BILL TO BE ENTITLED AN ACT TO ALLOW A DEFERRED EFFECTIVE DATE FOR CERTAIN VOLUNTARY ANNEXATIONS OF THE CITY OF CONCORD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 8

ROLL CALL VOTE

3 YES 25 NO = 28 (TOTAL) FAILS Date: 6/30/04 HB# ____ SB# 1171 Amendment # Decker

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander		X
Blackwood		X
Bordsen		X
Capps		X
Carney		X
Cole		X
Creech	X	
Daughtridge		X
Decker	X	
Ellis		X
Gibson		
Glazier		X
Hackney		X
Harrell		X
Hill		X
Holliman		X
Jones		X
Lewis		X
McGee	X	
Munford		
Rayfield		
Ross		X
Setzer		
Starnes		
Weiss		X
Wilson		X
Womble		X
Wood		

MEMBER (last name)	YES	NO
Ex officio Members		
Brubaker		
Culpepper		X
Cunningham		X
Eddins		
Co-Chairs		
G. Allen		X
Howard		X
Luebke		
McComas		X
Miner		
Wainwright		X

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 754*
Finance Committee Substitute Adopted 6/17/04
PROPOSED COMMITTEE SUBSTITUTE S754-PCS75352-LA-68

Short Title: Stock Car Racing Theme Special Plates. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE STOCK CAR RACING THEME SPECIAL PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.

(6) Stock Car Racing Theme."

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(44c) Stock Car Racing Theme. – Issuable to the registered owner of a motor vehicle pursuant to G.S. 20-81.12. This is a series of plates bearing an emblem, seal, other symbol, or design displaying themes of professional stock car auto racing, or professional stock car auto racing drivers. The Division shall not develop any plate in the series without a license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The plate shall be designed in consultation with and approved by the person authorized to provide the State with the license to use the words, symbols, trademarks, or designs associated with the plate. The Division shall not pay a royalty for the license to use the copyrighted or registered words, symbols, trademarks, or designs associated with the plate."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$30.00
Historical Attraction	$30.00
Personalized	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00

Surveyor Plate	$25.00
The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Be Active NC	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Crystal Coast	$10	$20	0	0
Ducks Unlimited	$10	$10	0	0

First in Forestry	$10	0	$10	0
Goodness Grows	$10	$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	$10	$10	0	0
Historical Attraction	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Litter Prevention	$10	$10	0	0
March of Dimes	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	10	0	$15	0
Personalized	$10	0	$15	$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b31) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Department of Correction may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's

specifications, including durability and retroreflectivity, and provided the plates are manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Department of Correction for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motorsports Foundation, Inc."

SECTION 6. G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

(1) Each application for certificate of title $35.00
(2) Each application for duplicate or corrected certificate of title 10.00
(3) Each application of repossessor for certificate of title 10.00
(4) Each transfer of registration 10.00
(5) Each set of replacement registration plates 10.00
(6) Each application for duplicate registration card 10.00
(7) Each application for recording supplementary lien 10.00
(8) Each application for removing a lien from a certificate of title 10.00
(9) Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale 10.00
(10) Each application for a salvage certificate of title made by an insurer ..... ~~10.00.~~10.00
(11) Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4 ..... 25.00."

SECTION 7. This act becomes effective October 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 754*
Finance Committee Substitute Adopted 6/17/04

Short Title: Stock Car Racing Theme Special Plates. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE STOCK CAR RACING THEME SPECIAL PLATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, the name of the State of North Carolina, which may be abbreviated, and the year number for which it is issued or the date of expiration. A plate issued for a commercial vehicle, as defined in G.S. 20-4.2(1), and weighing 26,001 pounds or more, must bear the word "commercial," unless the plate is a special registration plate authorized in G.S. 20-79.4 or the commercial vehicle is a trailer or is licensed for 6,000 pounds or less. The plate issued for vehicles licensed for 7,000 pounds through 26,000 pounds must bear the word "weighted".

Except as otherwise provided in this subsection, a registration plate issued by the Division for a private passenger vehicle or for a private hauler vehicle licensed for 6,000 pounds or less shall be a "First in Flight" plate. A "First in Flight" plate shall have the words "First in Flight" printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. The following special registration plates do not have to be a "First in Flight" plate. The design of the plates that are not "First in Flight" plates must be approved by the Division and the State Highway Patrol for clarity and ease of identification.

(1) Friends of the Great Smoky Mountains National Park.
(2) Rocky Mountain Elk Foundation.
(3) Blue Ridge Parkway Foundation.
(4) Friends of the Appalachian Trail.
(5) NC Coastal Federation.
(6) Stock Car Racing Theme."

SECTION 2. G.S. 20-79.4(b) is amended by adding a new subdivision to read:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

(44c) Stock Car Racing Theme. – Issuable to the registered owner of a motor vehicle pursuant to G.S. 20-81.12. This is a series of plates bearing an emblem, seal, other symbol or design displaying themes of professional stock car auto racing, or professional stock car auto racing drivers. The Division shall not develop any plate in the series without a license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate. The plate shall be designed in consultation with and approved by the person authorized to provide the State with the license to use the words, symbols, trademarks, or designs associated with the plate. The Division shall not pay a royalty for the license to use the copyrighted or registered words, symbols, trademarks, or designs associated with the plate."

SECTION 3. G.S. 20-79.7(a) reads as rewritten:

"(a) Fees. – Upon request, the Division shall provide and issue free of charge one registration plate to a recipient of the Congressional Medal of Honor, a 100% disabled veteran, and an ex-prisoner of war. All other special registration plates, including additional Congressional Medal of Honor, 100% Disabled Veteran, and Ex-Prisoner of War plates, are subject to the regular motor vehicle registration fee in G.S. 20-87 or G.S. 20-88 plus an additional fee in the following amount:

Special Plate	Additional Fee Amount
Crystal Coast	$30.00
Historical Attraction	$30.00
Personalized	$30.00
State Attraction	$30.00
Stock Car Racing Theme	$30.00
Buffalo Soldiers	$25.00
Collegiate Insignia	$25.00
Goodness Grows	$25.00
Kids First	$25.00
Olympic Games	$25.00
NC Agribusiness	$25.00
NC Coastal Federation	$25.00
Nurses	$25.00
(Effective until June 30, 2006)	
Rocky Mountain Elk Foundation	$25.00
Special Olympics	$25.00
Surveyor Plate	$25.00

The V Foundation for Cancer Research Division	$25.00
University Health Systems of Eastern Carolina	$25.00
Animal Lovers	$20.00
Audubon North Carolina	$20.00
Be Active NC	$20.00
Ducks Unlimited	$20.00
(Effective until June 30, 2006)	
Harley Owners' Group	$20.00
First in Forestry	$20.00
Litter Prevention	$20.00
March of Dimes	$20.00
Omega Psi Phi Fraternity	$20.00
Save the Sea Turtles	$20.00
Scenic Rivers	$20.00
School Technology	$20.00
Soil and Water Conservation	$20.00
Special Forces Association	$20.00
Support Public Schools	$20.00
Wildlife Resources	$20.00
Zeta Phi Beta Sorority	$20.00
Active Member of the National Guard	None
100% Disabled Veteran	None
Ex-Prisoner of War	None
Legion of Valor	None
Purple Heart Recipient	None
Silver Star Recipient	None
All Other Special Plates	$10.00."

SECTION 4. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. – The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), the Natural Heritage Trust Fund (NHTF), which is established under G.S. 113-77.7, and the Parks and Recreation Trust Fund, which is established under G.S. 113-44.15, as follows:

Special Plate	SRPA	CCAPA	NHTF	PRTF
Animal Lovers	$10	$10	0	0
Audubon North Carolina	$10	$10	0	0
Be Active NC	$10	$10	0	0
Buffalo Soldiers	$10	$15	0	0
Crystal Coast	$10	$20	0	0
Ducks Unlimited	$10	$10	0	0
First in Forestry	$10	0	$10	0

Goodness Grows	$10	$15	0	0
(Effective until June 30, 2006)				
Harley Owners' Group	$10	$10	0	0
Historical Attraction	$10	$20	0	0
In-State Collegiate Insignia	$10	$15	0	0
Kids First	$10	$15	0	0
Litter Prevention	$10	$10	0	0
March of Dimes	$10	$10	0	0
NC Agribusiness	$10	$15	0	0
NC Coastal Federation	$10	$15	0	0
Nurses	$10	$15	0	0
Olympic Games	$10	$15	0	0
Omega Psi Phi Fraternity	$10	$10	0	0
Out-of-state Collegiate Insignia	10	0	$15	0
Personalized	$10	0	$15	$5
(Effective until June 30, 2006)				
Rocky Mountain Elk Foundation	$10	$15	0	0
Save the Sea Turtles	$10	$10	0	0
Scenic Rivers	$10	$10	0	0
School Technology	$10	$10	0	0
Soil and Water Conservation	$10	$10	0	0
Special Forces Association	$10	$10	0	0
Special Olympics	$10	$15	0	0
State Attraction	$10	$20	0	0
Stock Car Racing Theme	$10	$20	0	0
Support Public Schools	$10	$10	0	0
Surveyor Plate	$10	$15	0	0
The V Foundation for Cancer Research	$10	$15	0	0
University Health Systems of Eastern Carolina	$10	$15	0	0
Wildlife Resources	$10	$10	0	0
Zeta Phi Beta Sorority	$10	$10	0	0
All other Special Plates	$10	0	0	0."

SECTION 5. G.S. 20-81.12 is amended by adding a new subsection to read:

"(b31) Stock Car Racing Theme. – The Division may issue any plate in this series without a minimum number of applications if the person providing the State with the license to use the words, logos, trademarks, or designs associated with the plate produces the plate for the State without a minimum order quantity.

The cost of the Stock Car Racing Theme plate shall include all costs to produce blank plates for issuance by the Division. Notwithstanding G.S. 66-58(b), the Division or the Department of Correction may contract for the production of the blank plates in this series to be issued by the Division, provided the plates meet or exceed the State's specifications including durability and retroreflectivity, and provided the plates are

manufactured using high-quality embossable aluminum. The cost of the blank plates to the State shall be substantially equivalent to the price paid to the Department of Correction for license tags, as provided in G.S. 66-58(b)(15).

The Division shall transfer quarterly the money in the Collegiate and Cultural Attraction Plate Account derived from the sale of Stock Car Racing Theme plates to the North Carolina Motor Sports Foundation, Inc."

SECTION 6. G.S. 20-85(a) reads as rewritten:

"(a) The following fees are imposed concerning a certificate of title, a registration card, or a registration plate for a motor vehicle. These fees are payable to the Division and are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

(1)	Each application for certificate of title	$35.00
(2)	Each application for duplicate or corrected certificate of title	10.00
(3)	Each application of repossessor for certificate of title	10.00
(4)	Each transfer of registration	10.00
(5)	Each set of replacement registration plates	10.00
(6)	Each application for duplicate registration card	10.00
(7)	Each application for recording supplementary lien	10.00
(8)	Each application for removing a lien from a certificate of title	10.00
(9)	Each application for certificate of title for a motor vehicle transferred to a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale	10.00
(10)	Each application for a salvage certificate of title made by an insurer	~~10.00.~~10.00
(11)	Each set of replacement Stock Car Racing Theme plates issued under G.S. 20-79.4	25.00."

SECTION 7. This act becomes effective October 1, 2004.

SENATE BILL 754:
Stock Car Racing Theme Special Plates

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Senator Hoyle
Date:	June 29, 2004	**Analysis by:**	Martha Walston
Version:	S754-PCS75352-LA-68		Committee Counsel

SUMMARY: Senate Bill 754 authorizes the Division of Motor Vehicles to issue as many as 30 different stock car racing theme plates for an additional fee of $30. The plates do not have to be a "First in Flight" plate. There are no minimum applications required before a plate can be developed if the person providing the State with the license to use the designs produces the plates for the State without a minimum order quantity.

$20 of the additional $30 fee is transferred quarterly to the North Carolina Motorsports Foundation, Inc. The cost of a replacement plate is $25.

HB 1160, sponsored by Representatives Goodwin, L. Johnson, and Ray, is a companion bill.

The Proposed Committee Substitute makes one technical correction.

BILL ANALYSIS: Senate Bill 754 directs the Division to issue a Racing Theme special license plate. The special plate may bear an emblem, seal, other symbol or design displaying themes of National Association of Stock Car Auto Racing (NASCAR), or a NASCAR team or NASCAR driver. The Race Team plates are authorized under current law as a professional sports team.

The bill provides that the plate would not have to be a "First in Flight " plate. There is the potential for at least 30 different special plates under this legislation. The Division will not develop a plate without a license to use copyrighted or registered words, symbols, trademarks, or designs. The Division will not have to pay a royalty for the license to use these designs. [1]

The plate shall be designed in consultation with and approved by the person authorized to provide the State with the license to use the designs. The Division may contract for the production of the blank plates in this series, provided the plates the plates meet or exceed the State's expectations and are manufactured using high-quality embossable aluminum.

The $30 additional fee will be allocated as follows:

- $10 to the Special Registration Plate Account. (After deducting the cost of the plates from this Account, $525,000 is annually appropriated to provide operating assistance for seven Visitor Centers. The remaining revenue in the Account is transferred quarterly to the Department of Commerce for advertising (33%), the Department of Transportation for highway beautification (50%), and the Department of Health and Human Services to promote travel accessibility for disabled persons in the State (17%).
- $20 to the Collegiate and Cultural Attraction Plate Account to be transferred to the North Carolina Motorsports Foundation, Inc., a nonprofit organization organized to work with

[1] Two professional sports teams, the Carolina Hurricanes (NHL) and Carolina Panthers (NFL), and the Harley-Davidson Motor Company, Inc. allow the DMV to use their logos without payment of royalties. (G.S. 20-79.4(b)(34) and G.S. 20-79.4(b)(26c))

individuals and organizations involved in the motorsports industry in North Carolina who have an interest in benefiting other charitable 501(c)(3) organizations and improving economic development in North Carolina.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 754 (Second Edition)

SHORT TITLE: Stock Car Racing Theme Special Plates.

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		No Fiscal Impact			
Highway Fund					
-Special Registration Plate Account		See Assumptions and Methodology			
-Replacement Fee		See Assumptions and Methodology			
Collegiate and Cultural Attraction Plate Acct.		See Assumptions and Methodology			
EXPENDITURES					
Highway Fund Special Registration Plate Account		See Assumptions and Methodology			

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles; Department of Correction

EFFECTIVE DATE: The act becomes effective October 1, 2004.

BILL SUMMARY: The bill authorizes the Division of Motor Vehicles (DMV) to issue a series of Stock Car Racing Theme special license plates with no plate application minimum. The Stock Car Racing Theme license plates are exempt from using the "First in Flight" plate background. The DMV shall not develop any plate in the series without a license to use copyrighted or registered words, symbols, trademarks, or designs associated with the plate and can contract with any person authorized to provide such licenses. DMV shall not pay a royalty for the use of the copyrighted or registered words, symbols, trademarks, or designs associated with the plate. DMV and/or the Department of Correction may also contract for the production of blank plates in this series, provided the plates meet or exceed the State's specifications.

ASSUMPTIONS AND METHODOLOGY:

Plate Fee

In addition to the normal $20 vehicle registration fee for private passenger vehicles, each applicant for a Racing Theme plate pays $30. Of this amount, $10 is deposited into the Special Registration Plate Account to pay for plate expenses. The remaining $20 fee is deposited into the Collegiate and Cultural Attraction Plate Account then transferred to the North Carolina Motor Sports Foundation, Inc.

The Special Registration Plate Account should net up to $6 after expenses for each Stock Car Racing Theme plate. The proposed legislation allows the DMV and/or Department of Correction to contract out the production of the Stock Car Racing Theme plates. It is assumed that Race Plate Marketing, LLC, the main vendor of racing specialty plates, will be used. Race Plate Marketing, LLC currently offers plates for 28 NASCAR drivers and will supply the state with the special plates with graphics for a fee of approximately $4 per plate. The state will then emboss and package the plates for citizens. Given the colors and the design of the Stock Car Racing Theme plate, the $4 charge is in line with expected state cost. For the typical special plate, the production cost is approximately $3 per plate based on one color design. The cost per plate increases if more color is added or the design is complex. For renewals, the entire $10 plate fee goes into the Special Registration Plate Account.

How many Stock Car Racing Theme plates will be sold? While the stock car racing fan base is large in North Carolina, it is unknown how many fans will be willing to pay the annual $50 price of this specialty plate. Other North Carolina professional sport plates have not sold well. According DMV statistics for 2003, the agency has sold 1,405 Carolina Panthers football plates and 1,074 Hurricanes hockey plates. The proponents of the bill project 48,000 stock car racing plates sold the first year and 76,000 plates sold the second year based on sales in West Virginia and Mississippi. In 2003, West Virginia had 9,238 cars with NASCAR license plates or .57% of the total vehicles registered. If this .57% rate is applied to the 6.6 million registered passenger cars and trucks in North Carolina, the number would be approximately 38,000 plates sold.

Replacement Fee

Section 6 of the bill adds a $25 fee for each set of replacement registration plates issued under the revised statute. The replacement registration fee for a standard plate is $10. Currently, the DMV replaces less than 1% of plates annually; however, the racing theme special plates might be more susceptible to theft and loss. It is not possible to estimate how many plates will need replacement.

SOURCES OF DATA: NC Division of Motor Vehicles; Race Plate Marketing, LLC; West Virginia DMV FY 2003 Annual Report

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 17, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 754 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE STOCK CAR RACING THEME SPECIAL PLATES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 6

Judiciary I Committee Substitute Adopted 4/17/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S6-CSSWxf-79 [v.1]

6/29/2004 7:03:50 PM

Short Title: Increase Regulation of Amusement Devices. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE REGULATION OF THE POSSESSION OR OPERATION OF VIDEO GAMING MACHINES AND TO PROVIDE FUNDING FOR THIS REGULATION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-306(c) reads as rewritten:

"(c) Any video machine, the operation of which is made lawful by ~~subsection~~ subdivision (b)(2)of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than ~~that which~~ what is allowed by law. In addition, if the machine has an attract chip ~~which~~ that allows programming, the static display shall contain the same ~~message.~~message regarding the illegality of payments in excess of those allowed by law. All machines referred to in subdivision (b)(2) of this section shall be equipped with a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued."

SECTION 1.(b) All machines required to be equipped with the hand count feature required under this section shall be equipped with the feature within 60 days after the effective date of this act.

SECTION 2.(a) G.S. 14-306.1 reads as rewritten:

"**§ 14-306.1. Types of machines and devices prohibited by law; penalties.**

(a) Ban on New Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (c) of this section unless either:

(1) Such machine was:

a. Lawfully in operation, and available for play, within this State on or before June 30, 2000; and

b. Listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year; or

(2) Such machine is within the scope of the exclusion provided in G.S. 14-306(b)(1).

(b) Prohibition of More Than Three Existing Video Gaming Machines at One Location. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation at one location more than three video gaming machines as defined in subsection (c).

(c) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine ~~which~~ that requires deposit of any coin, token, or use of any credit card, debit card, or any other payment method ~~that requires payment~~ in order to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(d) Age Requirement. – It shall be an infraction for any person under the age of 18 years to play any video gaming machine defined in subsection (c) of this section. It shall be unlawful for the operator of the video gaming machine to knowingly allow a person under the age of 18 years to play any video gaming machine as proscribed by this subsection.

(e) Hours of Operation. – It shall be unlawful to operate or allow the operation of any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.

(f) Plain View. – Any video gaming machine available for operation shall be in plain view of persons visiting the premises.

(g) Advertising Prohibited. – It is unlawful to advertise the operation of video gaming machines by use of on-premise or off-premise signs.

(g1) Serial Number Required. - Every video gaming machine shall have a unique serial number that shall be permanently affixed to the machine.

(g2) Certain Display Prohibited. - No video gaming machine shall visually display the words "jackpot," "casino," or "Las Vegas," nor shall any machine audibly emit those words.

(h) Proximity to Other Locations Regulated; Permanent Building Required. – Each location where it is lawful to operate any video gaming machines as defined in G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where such machines are operated. For the purpose of this section, a location is a permanent building having, or being within, a single exterior structure. Notwithstanding this subsection, two or more places where video gaming machines were lawfully operated under separate ownership on June 30, 2000, shall be considered to be separate locations more than 300 feet from each other, regardless of the distance from each other or whether they are located in the same building or edifice. Video gaming machines as defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

(i) Annual Registration With ~~Sheriff.~~ The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety. – ~~No later than October 1, 2000, the~~ On or before July 1 of every year, the owner of any video ~~game~~ gaming machine ~~which is~~ regulated by this section ~~shall register the machine with the Sheriff of the county in which the machine is located~~ shall register each machine with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division) using a standardized registration form or online process supplied by the ~~Sheriff.~~Division. The registration shall contain all of the following information for each machine:

(1) The name and address of the owner.
(2) The serial number of the machine.
(3) The name and address of the location of the machine at the time of registration.
(4) The name of the owner of the location of the machine.

~~The registration form shall be signed under oath by the~~ The owner of the ~~machine.~~ machine shall sign the registration form under oath. A material false statement or omission in the registration form shall subject the owner to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. The owner of the machine shall pay to the Division a fee of three hundred dollars ($300.00) for each machine registered, payable on July 1 of every year. Fees collected pursuant to this subsection shall be used by the Division for administering and enforcing this section and G.S. 14-298, 14-306, 14-306.2, and 14-309. ~~At any time that the video gaming machine is moved to a different location, the owner shall reregister the machine with the Sheriff prior to its being placed in operation. At a minimum, the registration form shall require that the registrant provide evidence of the date on which the machine was placed in operation, the serial number of the machine, the location of the facility at which the machine is operated, and the name of the owner of the facility at which the machine is operated. Each Sheriff shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2000, on the total number of machines registered in that county, itemizing how many locations have one, two, or~~

~~three machines.~~ Upon proper registration and payment of the fee, the Division shall affix a decal that has a unique number to the machine.

(i1) Notification Required When Machine Relocated. - The owner of a registered machine shall report any change in the location of the machine to the Division within five days of the relocation and before the machine is operational.

(i2) Authority to Enter to Inspect. - Persons owning or controlling any location where a video gaming machine is operated or housed shall allow the Division to enter the location at any time to inspect the machine.

~~(j) Report on Receipts and Prizes and Merchandise Awarded. The owner of each machine or the agent of that owner shall report each calendar quarter to the Department of Revenue, under oath on a form provided by that Department, the total amount of gross receipts itemized by each machine, the number of machines at that location, and the total value of prizes and merchandise awarded to players of each machine at that location. The report shall be filed by the fifteenth day of the month after the quarter ends. Failure of the owner or agent to timely file the required report, or filing a report containing a material false statement shall subject the owner of the machine to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. Upon request of the Sheriff of the county, the Department of Revenue shall forward a copy of the report to the Sheriff of the county where the machines are located. The Department of Revenue shall compile the reports and make a summary report each quarter to the Joint Legislative Commission on Governmental Operations.~~

~~(k) Report to 2001 Session. The North Carolina Sheriffs' Association, Inc., after consultation with the Division of Alcohol Law Enforcement, and the Conference of District Attorneys of North Carolina, shall report to the Joint Legislative Commission on Governmental Operations no later than January 1, 2001, its estimates of the costs of the registration process and the cost of enforcement of this section, along with suggested fees to make the registration and enforcement self-supporting, and recommendations as to a system with registration at the State level and primary enforcement at the local level. Such fee schedule is not effective until approved by the General Assembly.~~

(l) Exemption for Certain Machines. – This section shall not apply to assemblers, manufacturers, and transporters of video gaming machines who assemble, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games, and does not apply to those who assemble, manufacture, and sell such machines for the use only by a federally recognized Indian Tribe if such machines may be lawfully used on Indian Land under the Indian Gaming Regulatory Act.

(m) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine ~~except~~ unless:

(1) ~~in~~ The machine is being warehoused in conjunction with the permitted assembly, manufacture, and transportation of such machines under subsection (l) of this ~~section.~~section; or

(2) The machine is registered under subsection (i) of this section.

(n) Exemption for Activities Under IGRA. – This section does not make any activities of a federally recognized Indian Tribe unlawful or against public policy,

which are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory Act, Public Law 100-497.

(o) No Local Preemption. – This section does not preempt any more restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General Statutes or under Article 19 of Chapter 160A of the General Statutes.

(p) No person who has been convicted:

(1) Once under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of one year.

(2) Twice under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of two years.

(3) Three or more times under G.S. 14-309(a) or (b) may own or possess any video gaming machine.

(q) Not Legalizing Unlawful Activity. – This section does not make lawful any activity which is currently unlawful."

SECTION 2.(b) Notwithstanding G.S. 14-306.1(i), owners of video gaming machines regulated under G.S. 14-306.1 and that meet the criteria set forth in G.S. 14-306.1(a)(1) shall register and pay the fee for all machines with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety no later than October 1, 2004.

SECTION 3. G.S. 14-298 reads as rewritten:

"**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~Seizure of unlawful gaming items.**

(a) ~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Any law enforcement officer, including an agent of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, may seize ~~that~~ any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, that is in the possession or use of any person within the limits of their ~~jurisdiction,~~ jurisdiction when probable cause exists as to the unlawful possession or use. ~~to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.~~

(b) Any law enforcement agency in possession of an item seized pursuant to subsection (a) of this section shall retain the item pending a disposition order from a district or superior court judge. At the conclusion of any criminal proceeding regarding an item seized, upon application by the law enforcement agency, district attorney, or owner of the seized item, and after notice and opportunity to be heard by all parties, if the court determines that the item was unlawfully possessed at the time it was seized, the court shall enter an order releasing the item to the law enforcement agency to be destroyed or used for training purposes. If the court determines that the item was lawfully possessed at the time it was seized, the item shall be ordered released to its owner upon satisfactory proof of ownership."

SECTION 4. G.S. 14-309 reads as rewritten:

"**§ 14-309. Violation made ~~criminal.~~criminal; prima facie evidence of violation.**

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for a second offense and a Class H felony for a third or subsequent offense.

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.1 involving the operation of five or more machines prohibited by that section or knowingly owning or possessing a machine that violates G.S. 14-306.1(a)(1), is guilty of a Class G felony.

(c) The absence of the decal on a machine that is affixed by the Division of Alcohol Law Enforcement pursuant to G.S. 14-306.1(i) shall be prima facie evidence that the person knowingly owned or possessed a machine that violates G.S. 14-306.1(a)(1)."

SECTION 5. G.S. 14-307 reads as rewritten:

"**§ 14-307. Issuance of license prohibited.**

There shall be no ~~State, county,~~ county or municipal tax levied for the privilege of operating the machines or devices the operation of which is prohibited by G.S. 14-304 through 14-309."

SECTION 6. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Illegal Video Gaming Machine Tax.

"**§ 105-113.120. Purpose.**

The purpose of this Article is to levy an excise tax to generate revenue for the General Fund. Nothing in this Article may in any manner provide immunity from criminal prosecution for a person who possesses an illegal video gaming machine.

"**§ 105-113.121. Definitions.**

The following definitions apply in this Article:

(1) Illegal video gaming machine. – A video gaming machine that is prohibited under G.S. 14-306.1.

(2) Local law enforcement agency. – A municipal police department, a county police department, or a sheriff's office.

(3) Person. – Defined in G.S. 105-228.90.

(4) Secretary. – Defined in G.S. 105-228.90.

(5) State law enforcement agency. – Any State agency, force, department, or unit responsible for enforcing criminal laws.

(6) Video gaming machine. – Defined in G.S. 14-306.1.

"**§ 105-113.122. Excise tax on illegal video gaming machines.**

(a) Tax Imposed. – An excise tax at the rate of five thousand dollars ($5,000) per machine is levied on the possession of an illegal video gaming machine.

(b) Revenue Stamps. – The Secretary shall issue stamps to affix to illegal video gaming machines to indicate payment of the tax required by this Article. A person who possesses an illegal video gaming machine shall report the taxes payable under this Article at the time and on the form prescribed by the Secretary. A person who possesses an illegal video gaming machine is not required to give his or her name, address, social

security number, or other identifying information on the form. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(c) Reports. – Every local law enforcement agency and every State law enforcement agency must report to the Department within 48 hours after seizing an illegal video gaming machine, or making an arrest of an individual in possession of an illegal gaming machine, upon which a stamp has not been affixed. The report must be in the form prescribed by the Secretary and it must include the time and place of the arrest or seizure, the identification of an individual in possession of the illegal video gaming machine and that individual's social security number, and any other information prescribed by the Secretary. The report must be made when the arrest or seizure involves any illegal video gaming machine upon which a stamp has not been affixed as required by this Article:

(d) Payment. – The tax imposed by this Article is payable by any person who actually or constructively possesses an illegal video gaming machine in this State upon which the tax has not been paid, as evidenced by a stamp. The tax is payable within 48 hours after the person acquires actual or constructive possession of a non-tax-paid illegal video gaming machine, exclusive of Saturdays, Sundays, and legal holidays of this State, in which case the tax is payable on the next working day. Upon payment of the tax, the person shall permanently affix the appropriate stamps to the illegal video gaming machine. Once the tax due on an illegal video gaming machine has been paid, no additional tax is due under this Article even though the illegal video gaming machine may be handled by other people.

(e) Administration. – Article 9 of this Chapter applies to this Article.

"§ 105-113.123. Assessments.

Notwithstanding any other provision of law, an assessment against a person who possesses an illegal video gaming machine to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the person in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the person at the person's last known address or served in person. If the person does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the procedure set forth in G.S. 105-241.1(g) for jeopardy assessments or the procedure set forth in G.S. 105-242, including causing execution to be issued immediately against the personal property of the person, unless the person files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the person has a legal, equitable, or beneficial interest. The person may seek review of the assessment as provided in Article 9 of this Chapter.

"§ 105-113.124. Confidentiality of information.

Notwithstanding any other provision of law, information obtained pursuant to this Article is confidential and may not be disclosed or, unless independently obtained, used in a criminal prosecution other than a prosecution for a violation of this Article. Stamps issued pursuant to this Article may not be used in a criminal prosecution other than a prosecution for a violation of this Article. A person who discloses information obtained pursuant to this Article is guilty of a Class 1 misdemeanor. This section does not prohibit the Secretary from publishing statistics that do not disclose the identity of persons or the contents of particular returns or reports.

"**§ 105-113.125. Use of tax proceeds.**

(a) Special Account. – The Secretary shall credit the net proceeds of the tax levied by this Article to a special nonreverting account, to be called the State Illegal Video Gaming Machine Tax Account, until the tax proceeds are unencumbered. In determining the amount of the net proceeds to be credited, the Secretary shall deduct from the gross proceeds the expenses of the Department of Revenue in performing the duties imposed by this Article. The Secretary shall remit the unencumbered net proceeds as provided in this section on a quarterly or more frequent basis. Net proceeds are unencumbered when either of the following occurs:

(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.

(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.

(b) Distribution. –The Secretary shall remit the unencumbered net proceeds that were collected by assessment to the State or local law enforcement agency that conducted the investigation of a person that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the State Illegal Video Gaming Machine Tax Account. The amount of refunded taxes that had been distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency."

SECTION 7. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 8. This act becomes effective October 1, 2004, and applies to illegal video gaming machines possessed on or after that date.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 29, 2004

TO: Rep. Bill Culpepper

FROM: Denise Thomas DT
Fiscal Research Division

RE: PCS S6-CSSWxf-79 [v.1], Increase Regulation of Amusement Devices

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Registration Fees	$2,268,900	$2,268,900	$2,268,900	$2,268,900	$2,268,900
Excise Tax	Unable to determine				
EXPENDITURES					
AOC	Unable to determine				
Correction	Unable to determine				
ALE	$2,260,547	$1,274,014	$1,274,014	$1,274,014	$1,274,014
DOR	Unable to determine				
POSITIONS:	24	24	24	24	24

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Administrative Office of the Courts; Correction; Crime Control and Public Safety; Revenue

EFFECTIVE DATE: October 1, 2004

BILL SUMMARY: amends the statutes regulating video gaming machines as follows:

- All machines would be required to be equipped with a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued and to have a unique serial number permanently affixed to the machine.
- Machines would be prohibited from visually displaying the words "jackpot," "casino," or "Las Vegas," and from audibly emitting any of those words.
- Owners of machines would be required to register machines annually with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division). Currently, sheriffs administer this registration requirement. Upon registration, the Division would affix a decal to the machine. The absence of a decal would be prima facie evidence that the machine is illegal and subject to criminal penalties. If a machine is moved from one location to another, the owner would have to notify the Division within five days and before the machine is operational. The Division would have the authority to enter any location where a video gaming machine is being operated or housed to inspect the machine. It would become permissible to warehouse a registered machine.
- Persons convicted of violating the video gaming law would not be permitted to own any video gaming machines for certain periods of time.
- The statute authorizing destruction of gaming tables would be updated to permit seizure and eventual destruction of the items seized, or returned to the owner if the items seized were lawfully possessed at the time seized.
- The penalty for knowingly owning or possessing an illegal video gaming machine would be increased from a Class 1 misdemeanor for the first offense to a Class G felony.
- The bill would also add the following to support the enforcement of the video gaming laws:
    - An annual registration fee of $300 per machine, payable by the owner of the machine to the Division. The proceeds would be used by the Division to administer the registration process and enforce the video gaming laws.
    - An excise tax of $5,000/machine for illegal machines. After the costs of administering the tax are credited to the Department of Revenue, the Department would remit the balance of the tax funds to the law enforcement agency that conducted the investigation that led to the assessment. The tax would apply to illegal machines possessed on or October 1, 2004.

ASSUMPTIONS AND METHODOLOGY:
Current law allows only those video gaming machines that were lawfully in operation in the state on or before June 30, 2000. Owners of these machines must report on a quarterly basis to the Department of Revenue (DOR) the "gross receipts from video gaming machines, itemized by each machine, the total number of machines at each location, and the total value

of prizes and merchandise awarded to players of each machine at a location." Section 2 of the bill establishes an annual $300 registration fee on each video gaming machine. As of December 31, 2002, (the most recent date for which DOR has usable data), there were 9,025 video gaming machines in service at 4,063 locations. Excluded from this total are about 1,000 machines that were identified as "out of service" for any reason. To estimate the impact of the proposed bill, it is assumed that operators would dispose of those machines that are either out of service or have gross annual receipts of less than $300. As a result, an estimated 7,563 video gaming machines would be registered in FY 2004-05 with a projected $2,268,900 in registration fees collected.

	Number of Machines
Total Machines in Service	9,025
Machines reported as having some gross receipts	8,228
Machines reported as having annual gross receipts greater than $300	7,563

Administrative Office of the Courts

Several provisions add requirements for owners of gaming machines. Violation of new requirements would be subject to the general criminal penalties in G.S. 7A-309 (which applies to violations of G.S. 14-304 through -309, and includes both misdemeanor and felony punishments). The additional opportunities to violate the regulations of gaming machines can be expected to translate into some additional charges, but AOC has no data from which to make an estimate.

Section 4 of the bill amends G.S. 14-309 making it a Class G felony to knowingly own or possess a machine that was not lawfully under G.S. 14-306.1(a)(1). Such an offense is now a Class 1 misdemeanor for the first offense, a Class I felony for a second offense, or a Class H felony for a third or subsequent offense. AOC data for calendar 2003 reveal one Class 1 misdemeanor under G.S. 7A-306.1(a). Unless the number of charges increases from enhanced enforcement or some other reason, AOC would not expect a major impact from this provision of the bill standing alone.

Section 6 of the bill enacts a new Article levying a tax on illegal video gaming machines. Information gathered pursuant to the new Article is confidential. (For example, a person who has an illegal gaming machine must file a report for payment of the tax, but the person is not required to give his or her name, social security number or other identifying information; stamps are issued that may be affixed to the illegal machine, proving payment of the tax.) It is a misdemeanor for any person to release information obtained under the Article. Presumably, the custodians of such information are state employees, who would comply with the non-disclosure, and AOC would expect relatively few charges. AOC is unable to estimate how many new criminal charges or civil actions might arise from failures to pay the tax.

AOC has no data from which to estimate the impact of this bill. However increased

workload of the district court judges, superior court judges, district attorneys, clerks, and court reporters would be expected. There would also be an increase in expenditures for jury fees and indigent defense. AOC staff indicated that the court system is under funded, overstretched, and in need of significant additional resources to manage the demands of the existing workload. Therefore any impact on the courts is substantial under current circumstances and the court system cannot absorb any additional workload without additional resources

Department of Correction

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate its impact on the prison population. It is not known how many offenders might be convicted and sentenced for the proposed offense. If, for example, there were two Class G convictions under this proposed bill per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The daily operating cost per inmate ranges from $46.23 for minimum security to $74.56 for close security, with an average cost for all custody levels of $57.92. Those offenders not given active sentences (58%) would be supervised by the Division of Community Corrections at a cost of $8.40 to $10.06 per offender per day.

Every Class 1 misdemeanor conviction has the potential to impact the Department of Correction through probation supervision, payments to counties for jailed offenders, or, for offenders with a prior record, a short prison term. Class 1 misdemeanants may be sentenced to community, intermediate, or active punishments. Depending on Prior Record Level and sanction, the potential impact on DOC ranges from $0 to $5,520 per offender. Based on prior-year data, the most likely punishment is supervised or unsupervised probation. Supervised probation, without community service, would cost approximately $639 per offender per year. About 17 percent of Class 1 misdemeanants received active sentences. The majority of these sentences are less than 90 days, which means that the offenders serve their time in a county jail. The Department of Correction reimburses the county at a rate of $18 per offender per day for sentences between 30 and 90 days. Sentences of more than 90 days are served in prison at a cost of $46 per offender per day. For offenders sentenced to unsupervised probation, ordered only to pay fines or restitution, or sentenced to active time of less than 30 days, there is no impact on the Department of Correction.

Department of Crime Control and Public Safety, Alcohol Law Enforcement Division

Under the proposed bill, all video gaming machines shall be registered with the Alcohol Law Enforcement (ALE) Division in the Department of Crime Control and Public Safety no later than October 1, 2004. The proceeds from the annual registration of $300 per machine will be used to cover ALE's costs of registration, monitoring, and other enforcement activities. The bill requires ALE to develop a registration process using either a standardized registration form or an on-line process. ALE would have primary responsibility for enforcement of the registration requirements, including on site inspection of video gaming machines. ALE indicated that the following staff and other resources would be needed to implement the proposed bill in the first year:

20 New Agent Positions	$ 1,809,060
BLET Training	$ 134,370
Reclassification of existing agents to supervisory positions	$ 153,287
Administrative Assistant II	$ 35,878
Office Assistant IV (2 positions)	$ 56,113
Accounting Technician	$28,056
Computer equipment, desks, etc for support staff	$ 18,783
Specialized Training	$ 25,000
Total	**$2,260,547**

Of this amount, $986,533 is non-recurring cost associated with training, vehicles, equipment, etc,

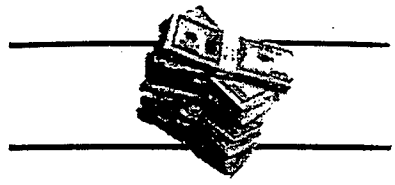
Department of Revenue

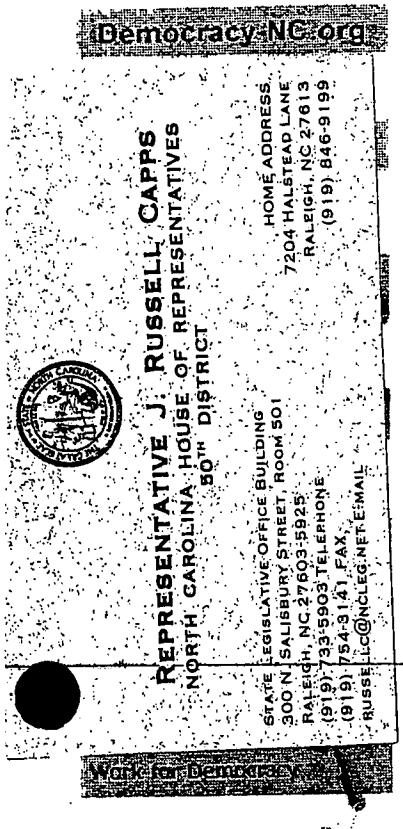
Section 6 of the bill establishes a $5,000 excise tax, to be collected by the Department of Revenue (DOR), on all illegal video gaming machines. There is no data available from which to estimate the number of illegal machines that would be subject to this tax or the potential cost to DOR to collect this tax. The bill does allow DOR to deduct from the excise taxes collected, the expenses incurred in performing the duties imposed by the bill.

SOURCES OF DATA: Administrative Office of the Courts; Department of Crime Control and Public Safety; NC Sentencing and Policy Advisory Commission; and the Department of Revenue

TECHNICAL CONSIDERATIONS: none

Money in Politics Research





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VIDEO POKER AND POLITICAL CORRUPTION

On June 29, Democracy North Carolina filed a COMPLAINT AND REQUEST FOR INVESTIGATION (see link at bottom of this page), asking the State Board of Elections to investigate "certain campaign contributions related to the video-poker industry which appear to involve political corruption, money laundering, and a possible conspiracy by members of the industry to violate campaign-finance statutes."

EXCERPTS FROM COMPLAINT CONTINUE:

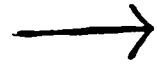
"This complaint is based on research into more than $100,000 in campaign contributions given during the 2002 election cycle by donors with ties to the video-poker industry (not counting its lobbyists). The donors include amusement machine distributors, as well as the owners of truck stops, strip clubs, pool halls, convenience stores, bars, and 'gift stores' that are basically video-poker game rooms. Our research shows that many of these contributions came from donors who have been cited, sometimes repeatedly, for engaging in various illegal gambling practices or whose illegal operations caused law enforcement officials to seize their poker machines. Other contributions came from donors who say they were unaware that a relative or friend in the video-poker business apparently made a political donation in their name. And others came from donors who admit they were paid or reimbursed for making a political donation to help an associate in the video-poker industry.

"Our research indicates that many of the problematic donations have ties to Southland Amusements of Wilmington or its owner Robert E. 'Bobby' Huckabee III. Huckabee chairs the Legislative Committee of the N.C. Amusement Machine Association, which is waging a vigorous fight to stop legislation that would ban video-poker machines in the state. . . ."

"The pattern of giving indicates that the industry believes it should focus its contributions on members of the N.C. House of Representatives and particularly on Rep. James B. Black of Matthews, the House Speaker in 2001-2002 and House Co-Speaker in 2003-2004. . . . We must emphasize that we have NO evidence or indication that Speaker Black has any involvement or knowledge of the apparent illegal campaign contributions described in this document. In fact, descriptions of numerous donors on his campaign disclosure reports suggest he did not realize they were connected to the video-poker industry."

"The focus of this call for an investigation is not on any recipient but on the political donors who appear to have violated numerous campaign finance laws in an effort to funnel tens of thousands of dollars into the 2002 election. The pertinent violations include:

- exceeding the contribution limit,



- making donations in the name of another,
- making anonymous donations,
- using corporate money for political donations,
- reimbursing individuals who made donations,
- making donations in cash in excess of $100,
- making donations in exchange for material benefits,
- illegal solicitation of donations,
- providing false information,
- coercion of others to commit one or more of these offenses, and
- conspiracy to make illegal donations."

"The focus of this call for an investigation is not on any recipient but on the political donors who appear to have violated numerous campaign finance laws in an effort to funnel tens of thousands of dollars into the 2002 election. . . . The pattern of corrupt behavior appears to extend beyond the acts of one individual or company in the video-poker business. The evidence points to a level of corruption that permeates the industry, from officials in key positions of its trade association to 'mom-and-pop' distributors to owners of the corner store that profits from the industry's illegal gambling operations."

"The priority focus should be on the industry, not the recipients, because the industry appears to be expanding from illegal schemes for making money to illegal schemes for gaining an advantage inside the General Assembly. Politicians trapped in a fundraising arms race with their political rivals, with no alternative except to rely on private sources of money, become the target of these schemes. We are concerned that an industry described as 'the crack cocaine of gambling' aims to use its illegal profits to gain political protection so it can expand and pose an even greater threat to our democracy."

CLICK HERE to view the Complaint and Request for Investigation

CLICK HERE to view the $121,000 of industry donations that we examined

CLICK HERE to view a sample of news articles

CLICK HERE to view documents from the NC Amusement Machine Association

CLICK HERE to view a sample of documents related to donors

Democracy North Carolina : Money Research

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Published: Jun 30, 2004
Modified: Jun 30, 2004 3:00 AM

New scrutiny of video poker

Political watchdog alleges corruption

By DAN KANE, Staff Writer

A campaign-finance watchdog group filed a complaint Tuesday with the state Board of Elections, asking for a full investigation of political contributions connected to the video poker industry.

The complaint said that the contributions "appear to involve political corruption, money laundering, and a possible conspiracy by members of the industry to violate campaign-finance statutes."

Democracy North Carolina said it made the complaint after reviewing more than $100,000 in campaign contributions during the 2002 election cycle by donors with ties to the industry.

"Our research shows that many of these contributions came from donors who have been cited, sometimes repeatedly, for engaging in various illegal gambling practices or whose illegal operations caused law enforcement officials to seize their video poker machines," the complaint said.

Other contributions, the complaint said, came from donors who said they were unaware a friend or relative in the video poker business made a contribution in their names, or from donors who admitted they were paid or reimbursed to make a donation to help someone involved in video poker.

The findings caught the attention of FBI agents who have been investigating the video poker industry. Frank Perry, special agent in charge of the Raleigh FBI office, said Tuesday his agents have interviewed some donors identified by Democracy North Carolina.

"We have conducted a number of interviews regarding allegations of improper, if not illegal, contributions," Perry said.

Much of the money went to N.C. House members, particularly Democratic Speaker Jim Black of Mecklenburg County. He has so far prevented a vote on legislation that would ban video poker, saying it would cost about 3,500 people their jobs. The Senate has twice voted to ban video poker at the request of the N.C. Sheriffs Association.

Black supports legislation that would require convenience stores and other businesses that have the machines to pay a $125 quarterly fee to the state Alcohol Law Enforcement division, which would take over regulation of video poker from sheriffs.

The House Finance Committee is scheduled to debate the issue today.

Staff writer Dan Kane can be reached at 829-4861 or dkane@newsobserver.com.

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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 6

S6-ALB-155 [v.1]

ruled out of order under Rule 43

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Date June 30 ,2004

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Ellis

moves to amend the bill on page 1, line 2, through the end of the bill, by deleting those lines and substituting the following:

"AN ACT TO PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A VALID TRIBAL-STATE COMPACT.

Whereas, the State of North Carolina desires to clearly set forth its policy against commercial forms of gaming; and

Whereas, the State of North Carolina desires to recognize the unique relationship between it and the federally recognized Indian tribe within the State; and

Whereas, the State of North Carolina desires to make it clear that it does not consider the activities of the Eastern Band of Cherokee Indians conducted pursuant to the Compact between it and the Eastern Band of Cherokee Indians to be commercial gaming because the Federal Indian Gaming Regulatory Act restricts the use of proceeds from gaming operations conducted by federally recognized Indian tribes to governmental services and activities that further the self-determination of the tribe; and

Whereas, the State of North Carolina desires to reaffirm that all activities conducted pursuant to such Compact or any amendment thereto are not commercial gaming and that same are lawful and not against the public policy of the State of North Carolina; and

Whereas, the State of North Carolina recognizes the tribe's substantial capital investment in reliance on the Compact, the payments made by the tribe pursuant to the Compact, and the creation of jobs and other positive impacts the tribe's activities have brought to the entire economy of Western North Carolina; and

Whereas, the State through this legislation intends to make it clear that the State will honor its commitments under the Compact and amendments, to further express its legislative intent to fully recognize the rights of the tribe in its special sovereign governmental authority to conduct gaming on tribal lands, and to express the intent of the State to recognize as lawful, on tribal lands, all gaming activities conducted by the tribe pursuant to the approved Tribal-State Compact as the same may from time to time be amended by the tribe and the State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-306.1 is repealed.

SECTION 2. Part 1 of Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

(a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (b) of this section, except for the exemption for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be lawful to operate and possess machines as listed in subsection (b) of this section if conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and G.S. 71A-8.

(b) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as, by way of illustration:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c) Exemption for Certain Machines. – This section shall not apply to assemblers, repairers, manufacturers, and transporters of video gaming machines who assemble, repair, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games and does not apply to those who assemble, repair, manufacture, and sell such machines for use only by a federally recognized Indian tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

(d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the permitted assembly, repair, manufacture, and transportation of such machines under subsection (c) of this section.

(e) Exemption for Activities Under IGRA. – Notwithstanding any other prohibitions in State law, the form of Class III gaming otherwise prohibited by subsections (a) through (d) of this section may be legally conducted on Indian lands which are held in trust by the United States Government for and on behalf of federally recognized Indian tribes if conducted in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 3. G.S. 14-306.2 reads as rewritten:

"**§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.**

A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes for the purposes of G.S. 18B-1005(a)(3)."

SECTION 4. G.S. 147-12(14) reads as rewritten:

"(14) ~~To~~ Notwithstanding subsections (a) through (d) of G.S. 14-306.1A, to negotiate and enter into Class III Tribal-State gaming compacts, and amendments thereto, on behalf of the ~~State~~ State, consistent with State law (G.S. 14-306.1A(e) and G.S. 71A-8) and the Indian Gaming Regulatory Act, Public Law 100-497, as necessary to allow a federally recognized Indian tribe to operate gaming ~~activities~~ activities, including those games allowed pursuant to G.S. 14-306.1A(e), in this State as permitted under federal law."

SECTION 5. G.S. 71A-8 reads as rewritten:

"**§ 71A-8. Authorization for federally recognized Indian tribes.**

In recognition of the governmental relationship between the State, federally recognized Indian tribes and the United States, a federally recognized Indian tribe may conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497, that are in accordance with a valid Tribal-State compact executed by the Governor pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the Indian Gaming Regulatory Act, and such ~~games~~ games, including those permitted under G.S. 14-306.1A(e), shall ~~not be unlawful or~~ be lawful and not against the public policy of the State ~~if the State permits such gaming for any purpose by any person, organization, or entity.~~ if conducted by a federally recognized Indian tribe on federal Indian Trust Lands within the State in accordance with a Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 6. G.S. 14-298 reads as rewritten:

"**§ 14-298. Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.**

All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. ~~14-306.1,~~ 14-306.1A is in the possession or use of any person within the limits of their jurisdiction, to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction. This section does not prohibit any activities which are legally conducted by a federally recognized Indian tribe pursuant to G.S. 14-306.1A(e), 147-12(14), and 71A-8."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 6

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S6-ALB-155 [v.1]

SECTION 7. Effective with respect to offenses committed on or after December 1, 2004, G.S. 14-309(b) is repealed.

SECTION 8. G.S. 105-256(d)(1) is repealed, but that repeal does not affect reports for activities prior to December 1, 2004.

SECTION 9. This act becomes effective December 1, 2004, and applies to offenses committed on or after that date but also applies to compacts and amendments thereto executed before that date. If a court of competent jurisdiction in this State issues a stay to prohibit possession or operation of video gaming machines by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact, because that activity is not allowed on non-Indian lands, this act is suspended and shall not have the force of law until such time as the stay is dissolved or a final order is entered. If a court of competent jurisdiction in this State issues a final order that prohibits the possession or operation of video gaming machines by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact, because that activity is not allowed on non-Indian lands, this act is void."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 6:
Increase Regulation of Amusement Devices

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Culpepper, Harrell, G. Allen, Owens
Date:	June 30, 2004		
Version:	PCS S6-CSSWxf-79	**Summary by:**	Dianna Jessup, Staff Attorney Research Division

SUMMARY: The bill would amend the statutes regulating video gaming machines as follows:

- *All machines would be required to be equipped with a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued and to have a unique serial number permanently affixed to the machine.*
- *Machines would be prohibited from visually displaying the words "jackpot," "casino," or "Las Vegas," and from audibly emitting any of those words.*
- *Owners of machines would be required to register machines annually with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division). Currently, sheriffs administer this registration requirement. Upon registration, the Division would affix a decal to the machine. The absence of a decal would be prima facie evidence that the machine is illegal and subject to criminal penalties. If a machine is moved from one location to another, the owner would have to notify the Division within five days and before the machine is operational. The Division would have the authority to enter any location where a video gaming machine is being operated or housed to inspect the machine. It would become permissible to warehouse a registered machine.*
- *Persons convicted of violating the video gaming law would not be permitted to own any video gaming machines for certain periods of time.*
- *The statute authorizing destruction of gaming tables would be updated to permit seizure and eventual destruction of the items seized, or returned to the owner if the items seized were lawfully possessed at the time seized.*
- *The penalty for knowingly owning or possessing an illegal video gaming machine would be increased from a Class 1 misdemeanor for the first offense to a Class G felony.*

The bill would also add the following to support the enforcement of the video gaming laws:

- *An annual registration fee of $300/per machine, payable by the owner of the machine to the Division. The proceeds would be used by the Division to administer the registration process and enforce the video gaming laws.*
- *An excise tax of $5,000/machine for illegal machines. After the costs of administering the tax are credited to the Department of Revenue, the Department would remit the balance of the tax funds to the law enforcement agency that conducted the investigation that led to the assessment.*

The act would become effective October 1, 2004, and would apply to illegal machines possessed on or after that date.

CURRENT LAW AND BACKGROUND: North Carolina law allows pursuant to G.S. 14-306(b)(2), operation of machines that limit to eight the number of accumulated credits or replays that may be played at one time and that award free replays or paper coupons exchangeable for prizes or merchandise valued at or less than $10, but not exchangeable or convertible to money. Machines that do not give replays, credits, or coupons are legal as well. Machines that give cash payouts are illegal.

In 2000, the General Assembly enacted legislation that established new prohibitions, registration requirements, and reporting requirements for video gaming machines (machines). This act [S.L. 2000-151 (SB 1542)] also increased the penalties for violating gaming laws. This bill was enacted when South Carolina passed legislation that prohibited gaming machines in that state, generating concern that a large number of video gaming machines would be moved into North Carolina for operation.

General Regulation and Prohibitions. A "video gaming machine" is defined as a slot machine, as defined in G.S. 14-306(a), and other forms of electrical, mechanical, or computer games, such as video poker, that require coin or token deposit, or use of a credit card, debit card, or other method of payment to activate play. The definition of "video gaming machine" excludes a machine operated and played for amusement that involves the use of skill or dexterity to solve problems or tasks or to make scores or tallies and does not, issue, display, or otherwise record any form of record capable of being redeemed, exchanged, or repurchased for cash, cash equivalent, or prizes, or does not award free replays.

It is unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any machine unless the machine was in lawful operation and available for play within North Carolina on or before June 30, 2000, and was listed in the State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year. All lawful machines must have been registered with the sheriff of the county where the machine was located by October 1, 2000 and must be re-registered every time the machine is moved from one location to another. Lawful machines must have a sticker in view of the player that informs the player that it is a criminal violation to pay more than that, which is allowed by law.

Only three machines may be operated or kept in possession for the purpose of operation at one location. Locations must be permanent buildings. Each location must be at least 300 feet away from any other location where other machines are located.

The following are also violations of the video gaming statutes:

- A person under 18 playing a machine (a violation is an infraction, which is a noncriminal violation of law not punishable by imprisonment).
- An operator of a machine knowingly allowing a person under the age of 18 to play a machine.
- The operation of or allowing the operation of any machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.
- The operation of a machine that is not in plain view of persons visiting the premises.
- Advertising the operation of machines by use of on-premise or off-premise signs.
- Warehousing machines, except in conjunction with the permitted assembly, manufacture, and transportation of these machines.

Penalties. Under G.S. 14-309(a) any person who violates any provision of G.S. 14-304 through G.S. 14-309 is guilty of a Class 1 misdemeanor for the first offense, a Class I felony for a second offense, and a Class H felony for a third or subsequent offense. However, G.S. 14-309(b) provides that a violation of the provisions of G.S. 14-306.1 involving the operation of five or more video gaming machines is a Class G felony.

A person convicted under G.S. 14-309(a) once may not possess any machines for a period of one year, twice may not possess any machines for a period of two years, three or more times may not possess any machines.

A violation of G.S. 14-306.1 is a violation of the gambling statutes for purposes of G.S. 18B-1005(a)(3). G.S. 18B-1005(a)(3) provides that it is unlawful for an ABC permittee, or the permittee's agent or employee, to knowingly allow a violation of the gambling statutes on the licensed premises.

Law enforcement officers may seize and destroy any machine prohibited by G.S. 14-306 or G.S. 14-306.1.

BILL ANALYSIS:

Section 1 would require video machines that award free plays or paper coupons that may be exchanged for prizes or merchandise with a value not exceeding $10 to have a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued. These machines would have to be equipped with the hand count feature by December 1, 2004.

Section 2 would amend the law regulating video gaming machines [defined in G.S. 14-306.1(c)] as follows:

Registration, Changing Locations, Warehousing and Inspection: Currently, a video gaming machine is registered with the sheriff in the county where the machine is located, and is only re-registered when it is moved. By October 1, 2004, and annually thereafter on or before July 1, owners of video gaming machines lawfully in operation and available for play within this State on or before June 30, 2000 and listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year, would have to register their machines with the Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety and pay a $300 fee per machine. Fees collected by the Division would be used to administer the registration process and enforce the video gaming statutes. Upon registration, the Division would affix a decal to the machine that has a unique number. If a machine is moved, the owner would have to notify the Division within five days and before the machine is operational. Registered machines could be warehoused (currently, they cannot be warehoused).

Serial Number: Every machine would be required to have a unique serial number permanently affixed to the machine.

Certain Display Prohibited: No machine would be permitted to visually display the words "jackpot," "casino," or "Las Vegas," nor would any machine be permitted to audibly emit those words.

Entry to Inspect: Persons owning or controlling any location where a video gaming machine is operated or housed would be required to permit the Division to enter the location at any time to inspect the machine.

Reports Deleted or Moved : A report by the Sheriff's Association to the 2001 Session would be deleted; the quarterly report by owners of machines to the Department of Revenue would be deleted.

Conviction Results: Anyone convicted of violating the gaming machine laws (G.S. 14-309 (a) *or* (b)) would be prohibited from owning a video gaming machine for a certain amount of time, depending upon the number of convictions. A person who has been convicted three or more times would be prohibited from owning a video gaming machine.

Section 3 would update a statute dating back to the 1700's to permit any law enforcement officer to seize any illegal gaming table, punchboard, slot machine, or video gaming machine when probable cause exists as to the unlawful possession or use. The new language would provide a legal process that could be undertaken for destruction of the item or return of the item to its owner. If the court finds that the item was unlawfully possessed, it could be destroyed or retained by law enforcement for training purposes. If the court finds that the item was lawfully possessed, it would have to be returned to the owner.

Section 4 would amend the criminal penalty section of the gaming statutes to make it a Class G felony to knowingly own or possess an illegal machine, i.e. a video gaming machine that was not lawfully in operation and available for play within the State on or before June 30, 2000 and listed in this State by January 31, 2000 for ad valorem taxes. This section would also add that the absence of a decal on a machine affixed by the Division would be prima facie evidence that the person knowingly owned or possessed an illegal machine. That is, absence of a decal would be sufficient evidence to show that a person knowingly owned or possessed an illegal machine.

Section 5 contains a conforming change to the gaming machine statutes.

Section 6 would amend the State's tax code to add an "Illegal Video Gaming Machine Tax." A tax in the amount of $5,000 per machine would be levied on the possession of illegal video gaming machines. The tax would be payable within 48 hours after the person acquires actual or constructive possession of a non-tax-paid illegal video gaming machine. Net proceeds of the tax would be distributed to State or local law enforcement agencies that conducted the investigation of a person that lead to the assessment of the tax.

It is unclear whether State or federal courts would view this as a tax or as an additional criminal penalty. If the courts found this to be an additional criminal penalty it would be subject to all federal and State Constitutional requirements and limitations regarding the imposition and use of criminal penalties. This provision is modeled after North Carolina's Unauthorized Substance Tax over which there has been extensive litigation at the federal and State levels with conflicting results.

North Carolina courts and federal courts have reached different conclusions as to whether the Unauthorized Substances Tax (at least as it was in effect in 1993 and 1994) is in fact a criminal penalty. In 1996, the North Carolina Court of Appeals ruled that the Unauthorized Substances Tax was not a criminal penalty and that prosecution for the underlying drug offense was not barred by a previous assessment of the tax. State v. Ballenger, 123 N.C.App. 179, 472 S.E.2d 572 (1996). This decision was upheld by the North Carolina Supreme Court in a per curiam decision issued without an opinion in 1997. State v. Ballenger, 345 N.C. 626, 481 S.E.2d 84; *cert. denied* Ballenger v. North Carolina, 522 U.S. 817, 118 S.Ct. 68 (1997). In a separate case decided in 1998 however, the federal Court of Appeals held that the Unauthorized Substances Tax was a criminal penalty and that constitutional standards for criminal proceedings applied. Lynn v. West, 134 F.3d 582 (1998). However, under North Carolina law, with the exception of decisions of the United States Supreme Court federal appellate court decisions are not binding on North Carolina courts. *See;* State v. Adams, 132 N.C.App. 819, 513 S.E.2d 588 (1999).

Therefore, despite a federal appellate court opinion to the contrary, the Unauthorized Substances Tax is properly treated as a tax rather than as a criminal penalty.

Both the North Carolina court and the federal court based their decisions on the framework laid out in Department of Revenue v. Kurt Ranch, 511 U.S. 767, 114 S.Ct. 1937 (1994). That case involved the Dangerous Drug Tax Act in effect in Montana. In that case, the United States Supreme Court found that the "tax" levied by Montana was really a criminal penalty. The court looked at several factors in coming to this conclusion. First, the rate of the tax imposed in Montana was extremely high – up to 400% of the market value of the drugs seized. Second, the tax had an obvious deterrent effect. The court stated, however, that, "neither a high rate of taxation nor an obvious deterrent purpose automatically marks this tax as a form of punishment." *Id.*, at 780. The Supreme Court noted that other factors also set the tax apart from most taxes. Notably, the tax was conditioned on the commission of a crime. *Id.*, at 781. Additionally, the tax purported to be a property tax but was levied on property that the taxpayer neither owned nor possessed at the time of the assessment. *Id.*, at 783.

Both the North Carolina court and the federal court found that the first two considerations were also present with the North Carolina Unauthorized Substance Tax. The courts disagreed whether the other two factors were present.[1] The North Carolina court noted that the tax was due regardless of whether an arrest was ever made and that the tax was due at the time of possession.[2] Ballenger, 123 N.C. App. at 183. The federal court noted, however, that the tax was based on the commission of a crime in that the tax had never been voluntarily paid, had been assessed only on individuals who had been arrested, and did not apply to lawful possessors of controlled substances (i.e. doctors or pharmacists). Lynn, 134 F.3d at 590-591. Additionally, the federal court noted that tax had no relationship to lawful possession. *Id.*

Based on the criteria laid out in Kurt Ranch, it is possible a court could find this "tax" to actually be an additional criminal penalty. First, it is unclear how the amount of tax relates to the value of the illegal machine. The net revenues associated with legal machines vary widely. One can assume that the revenues associated with illegal machines would be higher than those associated with legal machines, but it is not clear how high the rate of tax is in relation to the value of the illegal machine. Second, it is clear that the proposed tax is intended to have a deterrent effect. One could argue that the only intended effect of the tax is deterrence since all of the net proceeds of the tax would be disbursed to law enforcement agencies who conduct investigations that lead to the assessment of the tax. Third, it could be argued that this tax is conditioned upon the commission of a crime. Fourth, although the proposed tax purports to be a tax, payment of the tax neither grants a privilege to the taxpayer nor is it a condition precedent to lawfully engaging in the activity.

If the courts were to find that this were a criminal penalty rather than a tax, all of the constitutional requirements and restrictions related to criminal penalties would be implicated. Such a determination could have numerous consequences, including the following:

- Assessment of the tax and imposition of criminal penalties would be subject to Double Jeopardy analysis. This means that if the tax were assessed and paid, later criminal proceedings would be

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[1] As the dissent in Ballenger pointed out, however, the Supreme Court in Kurt Ranch did not state that the presence of all these factors was necessary to find the tax to be a criminal penalty. Ballenger, 123 N.C.App. at 185 (Smith, J. dissenting). In Kurt Ranch, the Supreme Court held that, "taken as a whole, [the Montana] drug tax is a concoction of anomalies, too far-removed in crucial respects from a standard tax assessment to escape characterization as punishment for the purpose of Double Jeopardy analysis." Kurt Ranch, 511 U.S. at 783.

[2] In Montana, the tax was due only upon arrest. The tax was therefore only due once the individual no longer had possession of the drug since the drug would have been confiscated by the authorities.

barred. Conversely, the tax could not be imposed after criminal proceedings had concluded. The State could assess the tax and impose criminal penalties only if both actions took place in one judicial proceeding.

- The State would have to prove possession of the illegal video gaming machine beyond a reasonable doubt in order to assess the tax.
- The proceeds of the penalty would be required to be used for public schools under Article IX, Section 7 of the North Carolina Constitution.

Section 7 is a severability clause.

Section 8 would make the act effective October 1, 2004 and apply to illegal gaming machines possessed on or after that date.

S6-SMSW-001

Canaan Huie, Attorney, Bill Drafting, contributed to this summary.

North Carolina General Assembly

House Committee on Finance

Minutes

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June 30, 2004

The House Committee on Finance met on Wednesday, June 30, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Cole, Creech, Ellis, Glazier, Hackney, Harrell, Holliman, Jones, Lewis, McGee, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, David Crotts, Trina Griffin, Canaan Huie, Linda Millsaps, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman McComas called the meeting to order at 8:35 am and recognized the five (5) pages present at the meeting: (1) Elizabeth Johnson of Lincoln County, sponsored by Representative Kiser; (2) Jeffrey Miller of Wake County, sponsored by Representative Eddins; (3) Tara Scheidt of Rowan County, sponsored by Representative Coates; (4) Patrick Vollmer of Watauga County, sponsored by Speaker Black; and (5) D'Andrea Williams of Cumberland County, sponsored by Representative McAllister.

The Chair then immediately called **HB 1348 – CAMDEN COUNTY OCCUPANCY TAX** (see **attachment 3**) before the Committee for consideration. Representative Owens, the bill sponsor, was recognized to explain the bill. Representative Owens explained that the bill authorizes Camden County to levy a 6% room occupancy tax. He noted that, currently, Camden County does not have any lodging facilities (i.e. hotels) but is requesting the tax for planning purposes. He also stated that the bill had been heard in the House Finance Subcommittee on the Occupancy Tax and was reported favorably. Seeing no discussion on the bill, Chairman McComas then recognized Representative Allen who moved that the bill be given a favorable report. The Chair then called the motion to a vote and it carried without objection.

Representative Owens was recognized once again to explain the next bill considered: **HB 1721 – CURRITUCK OCCUPANCY TAX CHANGES** (see **attachment 4**). Representative Hill moved that the Proposed Committee Substitute (PCS) for House Bill 1721 be adopted for the Committee's discussion and that motion carried without objection. Representative Owens then explained that the bill authorizes Currituck County to increase its occupancy tax from 4% to 6% and to use two-thirds of the proceeds from the additional tax for tourism promotion and the remaining one-third for tourism-related expenditures. He additionally stated that this bill had also been favorably reported out of the House Finance Subcommittee on the Occupancy Tax. Following this explanation, Representative Hill moved that the PCS for HB 1721 be given a favorable report (with

an unfavorable report as to the original bill). Seeing no further discussion, Chairman McComas then called the matter to a vote and the motion carried without objection.

The next bill considered by the Committee was **SB 1171 – MOTOR FUEL TAX CHANGES** (see **attachment 5**), sponsored by Senator Kerr. Representative Holliman moved that the Committee adopt the PCS for SB 1171 for the purposes of discussion and the motion carried without objection. Chairman McComas then recognized Senator Kerr to explain his bill. Senator Kerr stated that the bill was a recommendation from the Revenue Laws Study Committee and makes numerous changes to the motor fuels tax statutes and allows the Department of Revenue to appoint employees of the Motor Fuels Tax Division as revenue law enforcement officers. Following this explanation, the Chair recognized Representative Decker who acted to send forth an amendment (see **attachment 6**). He explained that his amendment would effectively add the provisions of one of his own bills (HB 1661) to the bill. (HB 1661 was heard in the Committee at its' June 17, 2004 but was referred to a special subcommittee. The bill acts to place a cap on the variable rate of the gasoline tax.) Given the nature of the amendment, Chairman McComas acted to consult with the Rules Chairman, Representative Culpepper, as to whether Representative Decker's amendment was germane. As a result, the bill was temporarily displaced.

Chairman McComas recognized Representative Barnhart next to explain **HB 1688 – CONCORD ANNEXATION EFFECTIVE DATE** (see **attachment 7**). Representative Barnhart stated that the bill would allow a deferred effective date for certain voluntary annexations of the City of Concord that had become the subject of recent legal battles. He informed the Committee members that there was no controversy on the bill. Seeing no discussion, Representative Howard was recognized by the Chair and moved that HB 1688 be given a favorable report. The motion was then called to a vote and it carried by consent.

The Chair then acted to replace **SB 1171 – MOTOR FUEL TAX CHANGES** (see **attachment 5**) before the Committee. Chairman McComas announced that after conferring with the Rules Chairman, the amendment offered by Representative Decker (see **attachment 6**) was ruled germane to the bill. Senator Kerr was then recognized and spoke in opposition to the amendment. He stated that while he understood Representative Decker's intent, he felt that the amendment would only complicate the bill and make it controversial. He also stated that given the limited time period left in the session, the amendment would weaken the bill's chances of successfully passing on the House floor. Representative Decker stated that the amendment was the right thing to do for the people of the State, especially the poor, who are currently highly burdened by the extremely high price of gasoline. Representative Ellis, however, stated that the amendment would cause a significant loss of revenue to the Highway Trust Fund and would restrict the ability of the Department of Transportation to effectively maintain the State's roads. Representative Ross reminded the Committee members that Representative Decker's bill, HB 1661, which addresses the subject of the amendment, was already in a special subcommittee for consideration and that the bill should be considered there. Representative Decker then moved adoption of his amendment and requested the ayes and nays. The Chair then called the amendment to a vote and the Clerk called the roll (see **attachment 8**). By a vote of 3 ayes and 25 nays, the amendment failed. Chairman McComas then recognized Representative Wainwright who moved that the House PCS for SB 1171 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill before the Committee). Following some brief discussion among the members, the Chair then called the vote and the motion carried.

Chairman McComas next recognized Representative Ray, on behalf of the bill sponsor Senator Hoyle, to explain the next bill considered by the Committee: **SB 754 – STOCK CAR RACING THEME SPECIAL PLATES** (see **attachment 9**). Representative Ray explained that

the bill would authorize the Division of Motor Vehicles to issue as many as 30 different stock car racing plates for an additional fee of $30. She stated that the plates do not have to be a "First in Flight" plate, but would bear an emblem, seal, or design displaying themes of NASCAR, a NASCAR team, or a NASCAR driver. On a final note, she informed the Committee members that the bill had been reported favorably out of the House Finance Subcommittee on Tax and Tags. Following this explanation, Chairman McComas recognized Representative Wainwright, who, noting his support of the bill, moved that it be given a favorable report. Following some very brief discussion, the Chair then called the motion to a vote and it carried.

The final bill considered by the Committee was **SB 6 – INCREASE REGULATION OF AMUSEMENT DEVICES** (see **attachment 10**). Representative Luebke moved that the House PCS for SB 6 be adopted by the Committee for discussion. However, Representative Ellis objected to the motion and requested that the members vote by division. Chairman McComas then called the motion to adopt the PCS for discussion purposes to a vote and the motion carried by a majority. Representative Culpepper was then recognized to explain the bill. He first provided a brief history of the video gaming industry in North Carolina. He then discussed the summary of the bill for the members. (The bill summary and fiscal memorandum are attached as attachment 10). He noted that the most important provisions in the bill include the following:

- Owners of machines would be required to register machines annually with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division). Currently, the county sheriff's administered this registration requirement.
- Upon registration, the Division would affix a decal to the machine. The absence of a decal would be prima facie evidence that the machine is illegal and the owner would be subject to criminal penalties.
- If a machine is moved from one location to another, the owner would have to notify the Division within five days and before the machine is made operational.
- The Division would have the authority to enter any location where a video gaming machine is being operated or housed to inspect the machine.
- Finally, it would become permissible to warehouse a registered machine.

Following this lengthy explanation, Chairman McComas recognized Representative Luebke who moved that the House PCS for SB 6 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill originally before the Committee). Prior to acting on the motion, however, the Chair recognized several speakers from the audience to briefly address the Committee. Mr. George Trent of Trent Brothers Amusement Co. was the first speaker recognized. He stated his support of the bill, noting that his small business included a wide range of video games, including video poker. He also pointed out that, in recent years, video poker had become an increasingly important part of his business. Mr. Tommy Allen, Sheriff of Anson County, representing the North Carolina Sheriff's Association was recognized next and spoke in opposition to the bill. He informed the Committee members that the Sheriff's Association's position was for a total ban on video poker. Ms. Julie Loflin of Southern Amusements in Denton, North Carolina, was the next speaker. She voiced her support for the bill as a small business owner and reminded the members of the many jobs the video gaming industry provides to North Carolinians. Mr. John Rustin representing the North Carolina Family Policy Council (NCFPC) was recognized next. He spoke in opposition to the bill, stating that the position of the NCFPC was for a complete ban of video poker. Chairman McComas next recognized Mr. Richard Frye, owner of Sandhills Amusement in Southern Pines, who spoke in support of SB 6. He provided statistics to the members, stating that an estimated 13,000 to 19,000 jobs in North Carolina would be lost if a complete ban was placed on video gaming. He stated that this would result in a tremendous cost to the State in unemployment benefits as well as sales tax revenues. He also stated that even if the industry were ban, video gaming would nonetheless continue. Ms. Patrice Roesler of the North

Carolina Association of County Commissioners (NCACC) was the last speaker recognized. Ms. Roesler stated that the NCACC's official position was in accord with the North Carolina Sheriff's Association for a complete ban of video poker/gaming.

The Chair then recognized members of the Committee to debate the bill. Representative Glazier was recognized and stated his opinion that since a bill to outright ban the video gaming industry was not presented to the Committee, that the bill before the Committee, which increased regulation, was better than no action at all. Representative Ellis was recognized next and stated that in 2000, the North Carolina General Assembly was asked to ban all video gaming machines in light of the problems experienced in South Carolina with the industry. He additionally reminded the members that all 100 Sheriffs in the state as well as all 100 counties were in favor of a complete ban on "this highly addictive form of electronic gambling." He then acted to send forth an amendment (see **attachment 11**). He explained that the amendment would act to return the bill to its original status prior to the House PCS, which, in effect, would have created a ban on all video gaming in North Carolina except for on Indian Reservations (as they are protected from state law by the Federal Government). Upon receipt of this amendment, the Chair acted to consult with the Rules Chairman, Representative Culpepper, as to the appropriateness of the amendment to the bill. Representative Culpepper ruled that the amendment was not germane to the bill and stated that Representative's Ellis amendment was in fact a motion to substitute a bill, which is not provided for under House Rule 43. Chairman McComas concurred with this ruling and the amendment was ruled out of order. Representative Luebke was then recognized and moved that the PCS for SB 6 be given a favorable report (with an unfavorable report as to the Senate Committee Substitute bill originally before the Committee). Representative Ellis then disputed the ruling of the Chair, but then respectfully requested that if he could not offer his amendment, that the Committee oppose the passage of the bill. Representative Blackwood was recognized and requested the ayes and nays on the bill. Chairman McComas then presented Representative Luebke's motion to the Committee and the Clerk called the roll (see **attached 12**). By a vote of 19 to 11, the motion carried.

The Committee's time had then expired and Chairman McComas adjourned the meeting at 9:58 a.m.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1348 (and related materials)
4. House Bill 1721 (and related materials)
5. Senate Bill 1171 (and related materials)
6. Decker Amendment on Senate Bill 1171 (**Failed**)
7. House Bill 1688 (and related materials)
8. Roll Call Vote on Decker Amendment on Senate Bill 1171
9. Senate Bill 754 (and related materials)
10. Senate Bill 6 (and related materials)
11. Ellis Amendment on Senate Bill 6 (**Ruled Out of Order under House Rule 43**)
12. Roll Call Vote on Senate Bill 6
13. Senate Bill 420 (and related materials) (**not discussed**)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 6

Judiciary I Committee Substitute Adopted 4/17/03

Short Title: Ban Video Poker/All But Reservations. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A VALID TRIBAL-STATE COMPACT.

Whereas, the State of North Carolina desires to clearly set forth its policy against commercial forms of gaming; and

Whereas, the State of North Carolina desires to recognize the unique relationship between it and the federally recognized Indian tribe within the State; and

Whereas, the State of North Carolina desires to make it clear that it does not consider the activities of the Eastern Band of Cherokee Indians conducted pursuant to the Compact between it and the Eastern Band of Cherokee Indians to be commercial gaming because the Federal Indian Gaming Regulatory Act restricts the use of proceeds from gaming operations conducted by federally recognized Indian tribes to governmental services and activities that further the self-determination of the tribe; and

Whereas, the State of North Carolina desires to reaffirm that all activities conducted pursuant to such Compact or any amendment thereto are not commercial gaming and that same are lawful and not against the public policy of the State of North Carolina; and

Whereas, the State of North Carolina recognizes the tribe's substantial capital investment in reliance on the Compact, the payments made by the tribe pursuant to the Compact, and the creation of jobs and other positive impacts the tribe's activities have brought to the entire economy of Western North Carolina; and

Whereas, the State through this legislation intends to make it clear that the State will honor its commitments under the Compact and amendments, to further express its legislative intent to fully recognize the rights of the tribe in its special sovereign governmental authority to conduct gaming on tribal lands, and to express the intent of the State to recognize as lawful, on tribal lands, all gaming activities conducted

by the tribe pursuant to the approved Tribal-State Compact as the same may from time to time be amended by the tribe and the State; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-306.1 is repealed.

SECTION 2. Part 1 of Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-306.1A. Types of machines and devices prohibited by law; penalties.**

(a) Ban on Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (b) of this section, except for the exemption for a federally recognized Indian tribe under subsection (e) of this section for whom it shall be lawful to operate and possess machines as listed in subsection (b) of this section if conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe, as provided in G.S. 147-12(14) and G.S. 71A-8.

(b) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as, by way of illustration:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine which requires deposit of any coin or token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2) unless conducted in accordance with an approved Class III Tribal-State Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8. For the purpose of this section, a video gaming machine does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(c) Exemption for Certain Machines. – This section shall not apply to assemblers, repairers, manufacturers, and transporters of video gaming machines who assemble, repair, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games and does not apply to those who assemble, repair, manufacture, and sell such machines for

use only by a federally recognized Indian tribe if such machines may be lawfully used on Indian land under the Indian Gaming Regulatory Act.

(d) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine except in conjunction with the permitted assembly, repair, manufacture, and transportation of such machines under subsection (c) of this section.

(e) Exemption for Activities Under IGRA. – Notwithstanding any other prohibitions in State law, the form of Class III gaming otherwise prohibited by subsections (a) through (d) of this section may be legally conducted on Indian lands which are held in trust by the United States Government for and on behalf of federally recognized Indian tribes if conducted in accordance with an approved Class III Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 3. G.S. 14-306.2 reads as rewritten:

"**§ 14-306.2. Violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A a violation of the ABC laws.**

A violation of ~~G.S. 14-306.1~~ G.S. 14-306.1A is a violation of the gambling statutes for the purposes of G.S. 18B-1005(a)(3)."

SECTION 4. G.S. 147-12(14) reads as rewritten:

"(14) ~~To~~ Notwithstanding subsections (a) through (d) of G.S. 14-306.1A, to negotiate and enter into Class III Tribal-State gaming compacts, and amendments thereto, on behalf of the ~~State~~ State, consistent with State law (G.S. 14-306.1A(e) and G.S. 71A-8) and the Indian Gaming Regulatory Act, Public Law 100-497, as necessary to allow a federally recognized Indian tribe to operate gaming ~~activities~~ activities, including those games allowed pursuant to G.S. 14-306.1A(e), in this State as permitted under federal law."

SECTION 5. G.S. 71A-8 reads as rewritten:

"**§ 71A-8. Authorization for federally recognized Indian tribes.**

In recognition of the governmental relationship between the State, federally recognized Indian tribes and the United States, a federally recognized Indian tribe may conduct games consistent with the Indian Gaming Regulatory Act, Public Law 100-497, that are in accordance with a valid Tribal-State compact executed by the Governor pursuant to G.S. 147-12(14) and approved by the U.S. Department of Interior under the Indian Gaming Regulatory Act, and such ~~games~~ games, including those permitted under G.S. 14-306.1A(e), shall ~~not be unlawful or~~ be lawful and not against the public policy of the State ~~if the State permits such gaming for any purpose by any person, organization, or entity.~~ if conducted by a federally recognized Indian tribe on federal Indian Trust Lands within the State in accordance with a Tribal-State Gaming Compact applicable to that tribe as provided in G.S. 147-12(14) and G.S. 71A-8."

SECTION 6. G.S. 14-298 reads as rewritten:

"**§ 14-298. Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.**

All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game

machine prohibited to be used by G.S. 14-306 or G.S. ~~14-306.1,~~ 14-306.1A is in the possession or use of any person within the limits of their jurisdiction, to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction. This section does not prohibit any activities which are legally conducted by a federally recognized Indian tribe pursuant to G.S. 14-306.1A(e), 147-12(14), and 71A-8."

SECTION 7. Effective with respect to offenses committed on or after December 1, 2002, G.S. 14-309(b) is repealed.

SECTION 8. G.S. 105-256(d)(1) is repealed, but that repeal does not affect reports for activities prior to December 1, 2003.

SECTION 9. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date but also applies to compacts and amendments thereto executed before that date. If a court of competent jurisdiction in this State issues a stay to prohibit possession or operation of video gaming machines by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact, because that activity is not allowed on non-Indian lands, this act is suspended and shall not have the force of law until such time as the stay is dissolved or a final order is entered. If a court of competent jurisdiction in this State issues a final order that prohibits the possession or operation of video gaming machines by a federally recognized Indian tribe, as authorized by a valid Tribal-State Compact, because that activity is not allowed on non-Indian lands, this act is void.

ATTACHMENT 12

ROLL CALL VOTE

19 YES | 11 NO = 30 (TOTAL) | PASSES | Date: June 30, 2004 | HB# _____ | SB# 6 (PCS) | Amendment # _____

HOUSE STANDING COMMITTEE ON FINANCE

MEMBER (last name)	YES	NO
Alexander		X
Blackwood		X
Bordsen	X	
Capps		X
Carney	X	
Cole	X	
Creech		X
Daughtridge	X	
Decker	X	
Ellis		X
Gibson		
Glazier		X
Hackney	X	
Harrell	X	
Hill		
Holliman	X	
Jones	X	
Lewis	X	
McGee		X
Munford		
Rayfield		
Ross		X
Setzer	X	
Starnes		X
Weiss	X	
Wilson		X
Womble	X	
Wood		

MEMBER (last name)	YES	NO
Ex officio Members		
Brubaker		
Culpepper	X	
Cunningham	X	
Eddins		
Co-Chairs		
G. Allen	X	
Howard	X	
Luebke	X	
McComas		X
Miner		
Wainwright	X	

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 6 A BILL TO BE ENTITLED AN ACT TO PROHIBIT THE POSSESSION OR OPERATION OF VIDEO GAMING MACHINES EXCEPT BY A FEDERALLY RECOGNIZED INDIAN TRIBE AS AUTHORIZED BY THE INDIAN GAMING REGULATORY ACT AND A VALID TRIBAL-STATE COMPACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House Committee Substitute Bill (#———), ☒ which changes the title, unfavorable as to Senate Committee Substitute Bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 420

Short Title:	Winston-Salem Auto Tax.	(Local)
Sponsors:	Senator Garrou.	
Referred to:	Finance.	

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CITY OF WINSTON-SALEM TO COLLECT A TAX OF UP TO TWENTY DOLLARS ON VEHICLES RESIDENT IN THE CITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-97(b) reads as rewritten:

"(b) General Municipal Vehicle Tax. – Cities and towns may levy a tax of not more than ~~five dollars ($5.00)~~ twenty dollars ($20.00) per year upon any vehicle resident in the city or town. The proceeds of the tax may be used for any lawful purpose."

SECTION 2. This act applies to the City of Winston-Salem only.

SECTION 3. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 420 (1st Edition)

SHORT TITLE: Winston-Salem Auto Tax

SPONSOR(S): Senator Garrou

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08
REVENUES					
General Fund		* No General Fund Impact *			
Winston Salem	$1,510,000	$1,479,800	$1,450,204	$1,421,200	$1,392,776

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: City of Winston-Salem.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill authorizes the City of Winston-Salem to collect a general municipal vehicle tax of up to $20 on any vehicle resident in the city. The current tax is $10.

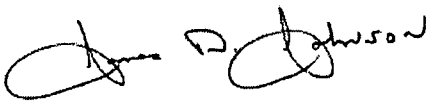
ASSUMPTIONS AND METHODOLOGY: For the city of Winston-Salem, the municipal vehicle tax rate is $10 per vehicle. According to the Forsyth County Tax Office, there are 151,000 vehicles resident in the city. Based on this information, the total annual revenue from levying the tax in Winston-Salem is $1,510,000. If the municipal vehicle tax rate changes to $20 per vehicle, it would increase the city's revenue from this tax by another $1,510,000. According to DMV data, the number of cars in Winston-Salem was decreasing at an average rate of 2 percent during the years 2000-2002. This number is used to decrease revenues in the out years.

SOURCES OF DATA: Winton-Salem Budget Office, Forsyth County Tax Office, NC Division of Motor Vehicles.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director, Fiscal Research Division



DATE: May 7, 2003

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 1, 2004

The House Committee on Finance met on Thursday, July 1, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Decker, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Ellis, Hackney, Harrell, Holliman, Lewis, McGee, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, Martha Walston, and Bob Weiss. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman Allen called the meeting to order at 8:37 am and recognized the ten (10) pages present: (1) Vanessa Armstrong of Wake County, sponsored by Representative Miner; (2) Zack Bridges of Cleveland County, sponsored by Representative Moore; (3) Cliff Collins of Yadkin County, sponsored by Representative Holmes; (4) Adam Everett of Catawba County, sponsored by Representative Hilton; (5) Henry Hutoff of Cumberland County, sponsored by Representative Dickson; (6) Clarke Mann of Lee County, sponsored by Representative Sauls; (7) Alex Martin of Cleveland County, sponsored by Representative Moore; (8) Michael Martin of Wake County, sponsored by Representative Holliman; (9) Lauren Mercer of Pamlico County, sponsored by Representative Gorman; and (10) Jeffrey Turner of Wayne County, sponsored by Representative Pate.

Chairman Allen recognized Senator Purcell to explain **SB 1128 – LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE** (see **attachment 3**). Senator Purcell explained that the bill authorized the Department of Justice to charge a $38 fee to check the criminal background of all licensed locksmith service providers in the State. This Bill changes the language of the 2003 legislation, which did not include language authorizing the North Carolina Locksmith Licensing Board to collect the fees associated with conducting the criminal history record check. A technical amendment was added to the bill. The Chair recognized Representative Hill who moved that Senate Bill 1128 be given a favorable report. As there was no further discussion the matter was brought to a vote by the chair and the motion carried.

Senator Purcell was then again recognized to explain the second bill considered by the Committee: **SB 1254 – Respiratory Care Board Background Checks/Fees** (see **attachment 4**). Senator Purcell explained that this bill authorized a fee of $38 for the authorization of a criminal background check by the Department of Justice for those persons engaged in respiratory care. The Chair recognized Representative Alexander who moved for a favorable report on Senate Bill 1254. Representative Blackwood was then recognized and he inquired as to what degree of criminality

would the background checks be subject to. Senator Purcell responded by saying that the main purpose was to make sure that respiratory care workers had not committed criminal behavior while working in other states. Chairman Allen then recognized Representative Womble who proceeded to ask who would be charged the $38 fee. Senator Purcell stated that the applicant was responsible for covering that cost. Seeing no further discussion on the matter Chairman Allen called the motion of giving Senate Bill 1254 a favorable report to a vote and it carried without objection.

The next bill considered by the Committee was **SB 1265 – Orange/Chatham Boundary** (see **attachment 5**). Chairman Allen recognized Representative Hackney to explain the bill. He stated that the bill changes the laws of 1770 governing the adjoining boundary of Orange and Chatham counties and it memorializes a 1989 agreement between the two counties. The Chair recognized Representative Womble who asked if all the kinks and "skirmishes" between both sides had been worked out up to this point. Representative Hackney responded to Representative Womble's concern by saying that the County Commissioners of both Orange and Chatham counties had passed resolutions in support of this bill. Representative Womble, upon being recognized by the Chair, then moved for a favorable report for Senate Bill 1265. Chairman Allen brought the motion to a vote and it carried without objection.

SB 852 – Organ Donor Organizations Access to DMV Records (see **attachment 6**) was the next bill considered by the Committee. Chairman Allen recognized Senator Nesbitt to explain the bill. Senator Nesbitt explained that the bill had been referred to a special subcommittee chaired by Representative Holliman and that the subcommittee had worked out all the main concerns expressed at the Committees June 24, 2004 meeting. According to Senator Nesbitt, 3 million North Carolinians are signed up as organ donors through the DMV, yet 200 people each year die because they do not receive the proper organ in time. This bill would establish a secure data file to expedite the process of organ donation. The bill would also establish the "License to Give Trust Fund" to finance initiatives that educate and promote organ and tissue donation which would be financed through a one-time $0.05 increase in the fee for a drivers license. The Chair then recognized Representative Ross who sent forth a technical amendment to the bill that would help to ease the facility of information. The amendment was called to a vote and adopted (see **attachment 7**). The motion was brought to a vote and it carried. Chairman Allen then recognized Representative Capps who asked which organs are the ones donated and how do you choose. Jane Corrado from Carolina Donor Services was then recognized by the Chair to answer the question posed by Representative Capps. Ms. Corrado explained that the decision was specific and lied ultimately with the family of the donor. The medical history was looked at to deal with diseases and possible complications. The Chair then recognized Representative Blackwood who asked if preference was given to North Carolina citizens since the funds used to provide the organ donation service came from the taxpayers. Ms. Corrando answered that North Carolina citizens were first priority, with regional and national organ recipients being next in line. Chairman Allen then recognized Doug Wickham from Life Tree, Inc. to speak on the bill. Mr. Wickham explained that there was an ethical dilemma that led a redefinition of death in order to increase the supply of organs. He further stated there was a need to deal with this question before any tax funds should be used. The Chair then recognized Representative Ellis, and he proceeded to raise the issue of expanding government and raising tax burdens. Representative Ellis wanted to remove sections 4 and 5 of the bill that provided extra funds for an educational program concerning organ donation. He then sent forward an amendment that would remove the extra costs of the educational aspects enclosed in sections 4 and 5 of the bill (see **attachment 8**). The amendment was brought to a vote by Chairman Allen and failed. Representative Luebke was recognized next by the Chair and made a motion for a favorable report concerning the House Proposed Committee Substitute for Senate Bill 852, unfavorable as to the original bill. Seeing no further debate Chairman Allen brought the motion to a vote and it carried with no opposition.

Chairman Allen recognized Representative McComas to explain the next bill considered by the Committee: **HB 1389 – DOT Authority to Issue GARVEE Bonds** (see **attachment 9**). Representative Weiss was recognized and moved that the PCS for HB 1389 be adopted for discussion purposes. The motion carried without objection. Representative McComas sent forth a perfecting amendment to correct grammatical errors contained in the bill; it carried (see **attachment 10**). The bill had been previously considered in the June 24, 2004 Committee meeting. Chairman Allen then recognized Representative Ellis who raised a concern for giving out a loan before the federal grant from the government was given. He said that this put the bond buyers at an unnecessary risk and exposed the State to possible debt. He strongly stated his opposition to the bill. The Chair next recognized Representative Blackwood who asked the bill sponsor if these bonds would expedite the construction of highway projects. Representative McComas answered that it is his estimate that projects could be completed two to three years faster with the money brought in by the GARVEE bonds. Chairman Allen then recognized Representative McComas who proceeded to move for a favorable on PCS for House Bill 1389, incorporating the amendment, with an unfavorable report as to the original bill. Chairman Allen brought the matter to a vote, upon seeing no further discussion, and it carried.

Next, Chairman Allen called upon Representative Lewis to explain **SB 1305 – VARIOUS SATELLITE ANNEXATIONS** (see **attachment 11**). Representative Setzer moved that the PCS for SB 1305 be adopted for the purposes of discussion and that motion carried without objection. Representative Lewis explained that the bill would add the Town of Angier in Harnett County to the list of cities and towns that may annex satellite areas without meeting the standard that limits the size of the area within the satellite corporate limits. Following some minimal questions from the members to the bill sponsor, the Chair recognized Representative Howard for a motion. Representative Howard moved that the PCS for SB 1305 be given a favorable report (with an unfavorable report as to the original bill). Chairman Allen then called the motion to a vote and the motion carried.

Chairman Allen then added **SB 933 – Wetlands Reimbursement/Local Tax Base** to the Committee's agenda for immediate consideration (see **attachment 12**). The Chair recognized Representative Wainwright to speak on the bill. He explained that the bill provided targeted relief to Tier One and Tier Two counties who had lost land from their local tax base due to wetland mitigation. Its effect would be to provide limited relief to local governments hit hard by construction projects that require the purchase of large tracts of land to preserve the surrounding environment. The drain on the tax base, which encompasses the majority of the revenue for local government, would be offset by State funds. Larry Meadows, the County Manager for Jones County, was then recognized by Chairman Allen to speak on the bill. He stated the concerns of local government and stated his strong support for the positive effects that would arise from the bill. The Chair then recognized Representative McComas who moved for a favorable report and seeing no further debate, the matter was voted on and carried unanimously.

Chairman Allen then added one final bill to the Committee's agenda for immediate consideration: **SB 1384 – Amend Barbering Laws/Increase Fees** (see **attachment 13**). Representative Holliman was recognized by the Chair to speak on the bill. He briefly went over the changes that would occur to the current laws should the bill pass. Chairman Allen then recognized Representative Howard who proposed an amendment that would delete the fee increase from the bill (see **attachment 14**). The amendment was immediately taken to a vote and it passed unanimously. The Chair then recognized Representative Wainwright who moved for a favorable report with the amendment rolled into a Committee Substitute, unfavorable as to the original bill. The motion carried without opposition.

Having no further business before the Committee, Chairman Allen adjourned the meeting at 9:54 am.

Respectfully submitted,

Representative Gordon Allen
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 1128 (and related materials)
4. Senate Bill 1254 (and related materials)
5. Senate Bill 1265 (and related materials)
6. Senate Bill 852 (and related materials)
7. Ross Technical Amendment on Senate Bill 852 (**Adopted**)
8. Ellis Amendment on Senate Bill 852 (**Failed**)
9. House Bill 1389 (and related materials)
10. Amendment on House Bill 1389 (**Adopted**)
11. Senate Bill 1305 (and related materials)
12. Senate Bill 933 (and related materials)
13. Senate Bill 1384 (and related materials)
14. Amendment on Senate Bill 1384 (**Adopted**)

AGENDA

ATTACHMENT 1

House Finance Committee

July 1, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Allen

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1389 DOT AUTHORITY TO ISSUE GARVEE BONDS *Rep. McComas*

SB 852 ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS
Sen. Nesbitt

SB 1128 LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE
Sen. Purcell

SB 1254 RESPIRATORY CARE BD/BACKGROUND CHECKS/FEES
Sen. Purcell

SB 1265 ORANGE/CHATHAM BOUNDARY *Sen. Kinnaird*

SB 1305 VARIOUS MUNICIPALITIES SATELLITE ANNEXATIONS
Sen. Stevens

Adjournment

CORRECTED NOTICE:
SB 852 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 1, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS – Rep. McComas

HB 1700 – DURHAM VEHICLE TAX SUNSET REPEALED/USES – Rep. Miller

SB 852 – ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS – Sen. Nesbitt

SB 1128 – LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE – Sen. Purcell

SB 1254 – RESPIRATORY CARE BD/BACKGROUND CHECKS/FEES – Sen. Purcell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **3:05 p.m.** on **June 30, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

CORRECTED NOTICE #2:
HB 1700 – REMOVED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 1, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS – Rep. McComas

~~**HB 1700 – DURHAM VEHICLE TAX SUNSET REPEALED/USES – Rep. Miller**~~

SB 852 – ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS – Sen. Nesbitt

SB 1128 – LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE – Sen. Purcell

SB 1254 – RESPIRATORY CARE BD/BACKGROUND CHECKS/FEES – Sen. Purcell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **3:25 p.m.** on **June 30, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

CORRECTED NOTICE #3:
SB 1265 & SB 1305 ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 1, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS – Rep. McComas

SB 852 – ORGAN DONOR ORG'S./ACCESS TO DMV RECORDS – Sen. Nesbitt

SB 1128 – LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE – Sen. Purcell

SB 1254 – RESPIRATORY CARE BD/BACKGROUND CHECKS/FEES – Sen. Purcell

SB 1265 – ORANGE/CHATHAM BOUNDARY – Sen. Kinnaird

SB 1305 - VARIOUS MUNICIPALITIES SATELLITE ANNEXATIONS – Sen. Stevens

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **4:25 p.m.** on **June 30, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 1, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1389 – DOT AUTHORITY TO ISSUE GARVEE BONDS – Rep. McComas

HB 1700 – DURHAM VEHICLE TAX SUNSET REPEALED/USES – Rep. Miller

SB 1128 – LOCKSMITH CRIMINAL HISTORY RECORD CHECK FEE – Sen. Purcell

SB 1254 – RESPIRATORY CARE BD/BACKGROUND CHECKS/FEES – Sen. Purcell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:55 p.m.** on **June 30, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 1, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Metcalf	Asheville, NC
Mary Thomsen	REBIC
DAVID BARNES	Poyner + Spruill LLP
Doug Wickham	Life Tree, Inc
Rose McCreery	Life Tree
BERRY JENKINS	CAROLINAS AGC
MARK FOSTER	NCDOT
Anne Meyer	NC Assoc. County Cmrs.
Kelly Laughton	Henderson County
Rich Webb	NCGA Intern
Elizabeth Bakanic	NCGA Intern

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 1, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Self	NCGA Intern
Christie Barbee	CAPA
John Long	Martin Marietta
Marjorie Jernigan	
Teresa Bordeaux	SB852 - Carolina Donor Services Volunteer
Jane Corrado	Carolina Donor Services
Angie Whitenee	NC Democratic House Committee
Kathy Daniel	DMV - DRIVER LICENSE
Janice Burke	Dept of State Treasurer
Angie Corenevsky	Helms Mulliss & Wicker
Mark Pearson	Capitol Group

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 1, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Michelle Frazier	NC Bar Ass'n
Mary Gurganus	↓
Tim Minton	NC Home Builders
Joe McClees	McClees Consulting Inc
Larry Williams	Carolina Donors
Mike Stanley	NCDOT
Hal Miller	NCACC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1128*
Finance Committee Substitute Adopted 5/27/04

Short Title: Locksmith Criminal History Record Check Fee. (Public)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF JUSTICE TO CHARGE EACH APPLICANT FOR A LOCKSMITH LICENSE OR AN APPRENTICE DESIGNATION A CRIMINAL HISTORY RECORD CHECK FEE AND TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 74F-6(16) reads as rewritten:

"(16) Request that the Department of Justice conduct criminal history record checks of applicants for licensure and apprenticeships pursuant to ~~G.S. 114-19.8A.~~G.S. 114-19.15."

SECTION 2. G.S. 74F-18(b) reads as rewritten:

"(b) All applicants for licensure or apprentice designation shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or apprentice designation to an applicant. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 1128:
Locksmith Criminal History Record Check Fee

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Purcell
Date:	July 1, 2004	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1128 clarifies that the North Carolina Locksmith Licensing Board has the authority to charge applicants a fee to cover the cost of conducting a criminal history background check and to remit the monies to the Department of Justice.***

CURRENT LAW: In 2001, the General Assembly enacted the Locksmith Licensure Act requiring all persons performing locksmith services in the State to be licensed, effective January 1, 2003. In 2003, the licensing requirements were amended to require a criminal history background check performed by the North Carolina Department of Justice. The Department of Justice charges a fee for conducting criminal history background checks. Currently the charge for a statewide and a federal criminal history check is $38.00. The 2003 legislation did not include language authorizing the Board to collect the fees associated with conducting the criminal history record check.

BILL ANALYSIS: Senate Bill 1128 would clarify that the Locksmith Licensing Board is authorized to collect any fees required by the Department of Justice for conducting the required criminal background check and to remit those funds to the Department of Justice. The bill also makes a technical correction by fixing an incorrect citation in G.S. 74F-6(16).

The act would become effective when it becomes law.

Erika Churchill, counsel for Senate Finance, contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1128 (First Edition)

SHORT TITLE: Locksmith Criminal History Record Check Fee.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
EXPENDITURES					
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice; Locksmith Licensing Board

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The bill authorizes the North Carolina Department of Justice to charge each applicant for a locksmith license or an apprentice designation a criminal history record check fee.

ASSUMPTIONS AND METHODOLOGY: This act appears to be a technical correction in the statutes, because GS 114-19.12 allows the Department of Justice to "provide to the North Carolina Locksmith Licensing Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure as a locksmith or an apprentice". The statute further states that the Department "may charge a fee to offset the cost incurred by it to conduct a criminal record check ....the fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information". Based on this statute, the Locksmith Licensing Board at its October 29, 2003 meeting approved a $38 background check fee to be paid by the applicant to the SBI beginning November 15, 2003.

SOURCES OF DATA: North Carolina Locksmith Licensing Board October 29, 2003 minutes

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: May 23, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1128 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE NORTH CAROLINA DEPARTMENT OF JUSTICE TO CHARGE EACH APPLICANT FOR A LOCKSMITH LICENSE OR AN APPRENTICE DESIGNATION A CRIMINAL HISTORY RECORD CHECK FEE AND TO MAKE A TECHNICAL CORRECTION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 1254
Finance Committee Substitute Adopted 6/3/04

Short Title: Respiratory Care Bd/Background Checks/Fees. (Public)

Sponsors:

Referred to:

May 24, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO PROVIDE CRIMINAL RECORD CHECKS TO THE RESPIRATORY CARE BOARD FOR APPLICANTS FOR LICENSURE AND TO CHARGE A FEE FOR CONDUCTING THE CHECKS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-652 reads as rewritten:

"**§ 90-652. Powers and duties of the Board.**

The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity. The Department of Justice may provide a criminal record check to the Board for a person who has applied for a license through the Board. The Board shall provide to the Department of Justice, along with the request, the fingerprints of the applicant, any additional information required by the Department of Justice, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the

General Statutes. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(2) Establish and adopt rules necessary to conduct its business, carry out its duties, and administer this Article.

(3) Adopt and publish a code of ethics.

(4) Deny, issue, suspend, revoke, and renew licenses in accordance with this Article.

(5) Conduct investigations, subpoena individuals and records, and do all other things necessary and proper to discipline persons licensed under this Article and to enforce this Article.

(6) Employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article and purchase or rent office space, equipment, and supplies.

(7) Adopt a seal by which it shall authenticate its proceedings, official records, and licenses.

(8) Conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

(9) Establish certain reasonable fees as authorized by this Article for applications for examination, licensure, provisional licensure, renewal of licensure, and other services provided by the Board.

(10) Submit an annual report to the North Carolina Medical Board, the North Carolina Hospital Association, the North Carolina Society of Respiratory Care, the Governor, and the General Assembly of all the Board's official actions during the preceding year, together with any recommendations and findings regarding improvements of the practice of respiratory care.

(11) Publish and make available upon request the licensure standards prescribed under this Article and all rules adopted pursuant to this Article.

(12) Request and receive the assistance of State educational institutions or other State agencies.

(13) Establish and approve continuing education requirements for persons seeking licensure under this Article."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 1254:
Respiratory Care Bd/Background Checks/Fees

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Senator Purcell
Date:	June 28, 2004	**Analysis by:**	R. Erika Churchill
Version:	2nd Edition		Committee Counsel

SUMMARY: *Senate Bill 1254 clarifies that the North Carolina Respiratory Care Board has the authority to conduct a criminal history check and charge applicants a fee to cover the cost of conducting the criminal history background check and to remit the monies to the Department of Justice.*

CURRENT LAW: In 2000, the State began licensing those persons engaged in the practice of respiratory care. In the licensing process, the North Carolina Respiratory Care Board has the authority to "determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure." The Board may investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity. The Board does not have the specific authority to conduct a national criminal history check, which is needed for the Federal Bureau of Investigation to conduct such a check.

BILL ANALYSIS: SB 1254 would grant the authority to the Board to conduct a statewide and nationwide criminal history check, charge the required fee for conducting that check and remit the fee money to the North Carolina Department of Justice.

This act would become effective when it becomes law.

BACKGROUND: The Department of Justice charges a fee for conducting criminal history background checks. Currently the charge for a statewide and a federal criminal history check is $38.00

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1254 (First Edition)

SHORT TITLE: Respiratory Care Bd/Background Checks/Fees

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($) FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		**No General Fund Impact**			
Dept. of Justice/SBI	**7,600**	**7,600**	**7,600**	**7,600**	**7,600**
EXPENDITURES					
Dept. of Justice/SBI		*** See Assumptions and Methodology ***			
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice, State Bureau of Investigation

EFFECTIVE DATE: When it becomes law

BILL SUMMARY: The legislation authorizes the Department of Justice to provide criminal record checks to the Respiratory Care Board for applicants for licensure. The Department is also authorized to charge a fee for conducting the service.

ASSUMPTIONS AND METHODOLOGY: The Department of Justice provides criminal background checks for non-criminal justice agencies at a charge of $14 per state check and $38 per state/national check. These funds are used to partially support the operations of the Identification Section of the State Bureau of Investigation, which conducts the background checks.

According to Respiratory Care Board, there are approximately 200 applications per year for licensure. Multiplying this by the current state and federal background check charge of $38 suggests a revenue gain for the Department of Justice of approximately $7,600. Of this amount, $22 per background check - $4,400 per year – will be remitted to the Federal Bureau of Investigation for national background checks. While the additional background checks will result

in additional costs for the Department, the 200 applications are not expected to require additional positions.

SOURCES OF DATA: Respiratory Care Board, State Bureau of Investigation

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps, Chloe Gossage, Michele Nelson

and

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 2, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1254 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF JUSTICE TO PROVIDE CRIMINAL RECORD CHECKS TO THE RESPIRATORY CARE BOARD FOR APPLICANTS FOR LICENSURE AND TO CHARGE A FEE FOR CONDUCTING THE CHECKS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1265

State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 6/24/04

Short Title: Orange/Chatham Boundary. (Local)

Sponsors:

Referred to:

May 24, 2004

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE BOUNDARY LINE BETWEEN ORANGE AND CHATHAM COUNTIES TO MEMORIALIZE A 1989 AGREEMENT BETWEEN THOSE TWO COUNTIES WHICH WAS ALREADY REFLECTED IN THE 2000 CENSUS.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding Chapter 27, Laws of 1770, the boundary line between Chatham County and Orange County shall be as follows:

Beginning at an existing point, the Southeast corner of Orange County and the Southwest corner of Durham County, said point being in the Northern line of Chatham County said point being a concrete post with a copper disk, stamped "CO. LINE, DURHAM CO., NO. 1 1968, ORANGE CO. MONUMENT", having a coordinate value of N 234,423.870 meters (m) E 608,128.788 meters. (m) as designated to be the corner of Durham and Orange Counties, and the northern line of Chatham County, by the courts of North Carolina. Thence S 86° 56' 43.24" W 925.452 meters (m) to a concrete monument set with aluminum disk (#3) East of Mt Carmel Church Road (SR 1008 and SR 1003) having a coordinate value of N 234,374.554m E 607,204.651m, said point being designated as NCGS station, County Line 3, PID AB2055. Thence S 87° 40' 19.44" W 1,690.615m to a concrete monument set with aluminum disk (#4) East of Clearwater Lake Drive (SR 1918 and SR 1780) having a coordinate value of N 234,305.883m E 605,515.431m, said point being designated as NCGS station, County Line 4, PID AB2056. Thence S 87° 19' 01.23" W 1,763.003m to a concrete monument set with aluminum disk (#5) East of Old Lystra Road (SR 1915 and SR 1724) having a coordinate value of N 234,223.357m E 603,754.361m, said point being designated as NCGS station, County Line 5, PID AB2057. Thence S 87° 33' 27.40" W 1,563.940m to an aluminum Disk set (#6) in the East end of an asphalt traffic island at the intersection of Smith Level Road (SR 1919) with US 15-501 having a coordinate value of N 234,156.710m E 602,191.842m, said point being designated as NCGS station County

Line 6, PID AB2058. Thence S 87° 47' 41.52" W 37.347m to a concrete monument set with aluminum disk (#7) West of Smith Level Road (SR 1919) having a coordinate value of N 234,155.273m E 602,154.523m, said point being designated as NCGS station County Line 7, PID AB2059. Thence N 83° 36' 42.54" W 2299.666m to a Berntsen aluminum monument set with brass disk (#8) in the Margaret Daniel Property (Orange County PIN 9766-99-1332) having a coordinate value of N 234,411.143m E 599,869.136 said point being designated as County Line 8. Thence N 83° 13' 04.69" W 1214.099m to a concrete monument set with aluminum disk (#9) East of Poythress Road (SR 1939 and SR 1534) having a coordinate value of N 234,554.519m E 598,663.533m, said point being designated as NCGS station County Line 9, PID AB2061. Thence S 39° 39' 39.13" W 50.139m to a concrete monument set with aluminum disk (#10) East of Poythress Road (SR 1939 and SR 1534) having a coordinate value of N 234,515.920m E 598,631.532m, said point being designated as NCGS station County Line 10, PID AB2062. Thence N 84° 54' 42.26" W 246.205m to Existing Rebar in a concrete post (#11) the Southeast corner of lot 5, Section 2, Wolfs Pond Subdivision, (Plat Book 19 Page 149 OCR) having a coordinate value of N 234,537.756m E 598,386.297m, said point being designated as County Line 11. Thence N 84° 31' 30.43" W 690.729m to Feno monument set with brass disk replacing an existing iron pipe (#12) the Southwest corner of Lot 5, Section 4, Wolfs Pond Subdivision, (Plat Book 22 Page 59 OCR) having a coordinate value of N 234,603.658m E 597,698.719m said point being designated as County Line 12. Thence N 03° 32' 14.02" W 60.959m to a Feno monument set with brass disk (#13) in the line of said Lot 5 having a coordinate value of N 234,664.501m E 597,694.958m said point being designated as County Line 13. Thence N 83° 16' 04.99" W 2422.591m to a concrete monument set with aluminum disk (#14) South of Jones Ferry Road (SR 1942 and SR 1540) having a coordinate value of N 234,948.488m E 595,289.070m, said point being designated as NCGS station County Line 14, PID AB2063.

Thence N 83° 15' 33.17" W 2231.659m to a concrete monument set with aluminum disk (#15) to a point in the Walter Braxton Durham Et Al property (Orange County PIN 9747-62-6596) having a coordinate value of N 235,210.435m E 593,072.838m, said point being designated as County Line 15. Thence N 82° 55' 46.72" W 1587.051m to a concrete monument set with aluminum disk (#16) East of White Cross Road (SR 1951 and SR 1541) having a coordinate value of N 235,405.782m E 591,497.855m, said point being designated as NCGS station County Line 16, PID AB2064. Thence N 82° 53' 40.81" W 1668.976m to a Feno monument set with brass disk (#17) in the Walter Atwater property (Orange PIN 9737-43-8522) having a coordinate value of N 235,612.224m E 589,841.696m, said point being designated as County Line 17. Thence N 00° 03' 37.30" E 169.913m to a Feno monument set with brass disk (#18) in the said Walter Atwater property having a coordinate value of N 235,782.137m E 589,841.875m, said point being designated as County Line 18. Thence N 84° 25' 40.82" W 246.394m crossing Collins Mt. Road (SR 1954 and SR 1542) to a Feno monument set with brass disk (#19) in the said Walter Atwater property having a coordinate value of N 235,806.061m E 589,596.645m, said point being designated as County Line 19. Thence S 12° 42' 08.03" W 161.903m to a Feno monument set with brass disk (#20) in

the said Walter Atwater property having a coordinate value of N 235,648.120m E 589,561.045m, said point being designated as County Line 20. Thence N 83° 04' 05.12" W 1544.721m to a concrete monument set with aluminum disk (#21) East of Crawford Dairy Road (SR 1956 and SR 1539) having a coordinate value of N 235,834.552m E 588,027.615m, said point being designated as NCGS station County Line 21, PID AB2066. Thence N 82° 29' 19.27" W 967.680m to a computed point in the Haw River (#22) having a coordinate value of N 235,961.049m E 587,068.239m, said point being designated as NCGS station County Line 22, PID AB2077. Also being the ending point, the Southwest corner of Orange County, the Northern boundary line of Chatham County and in the East line of Alamance County.

All coordinates and bearings are based on the North American Datum of 1983/86. All coordinates and distances are in meter units. All pertinent information used in describing this boundary was obtained from the October 2002 plat titled "Resurvey of The CHATHAM-ORANGE COUNTY LINE," Page 1 of 2 and Page 2 of 2, a North Carolina Geodetic Survey prepared by Gary W. Thompson, PLS 2694.

SECTION 2.(a) As to any territory that under Section 1 of this act is moved from Orange County to Chatham County, on and after January 1, 2005, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in the area so transferred, which previously would have been recorded in Orange County, shall be recorded in Chatham County. As to any territory that under Section 1 of this act is moved from Chatham County to Orange County, on and after January 1, 2005, all papers, documents, and instruments required or permitted to be filed or registered, involving residents and property in the area so transferred, which previously would have been recorded in Chatham County, shall be recorded in Orange County.

SECTION 2.(b) All public records related to residents and property in any area that Section 1 of this act may have transferred to another county which were filed or recorded prior to January 1, 2005, shall remain in the county where filed or recorded, and such records shall be valid public records as to the property and persons involved even though they are recorded in a county where the property is no longer located.

SECTION 2.(c) In the case of any territory transferred from one county to another by Section 1 of this act, unpaid taxes or tax liens on property subject to taxation in the area transferred by Section 1 of this act shall continue to be valid and enforceable by the prior county, including the foreclosure remedies and the remedies of attachment and garnishment provided for by law.

SECTION 2.(d) No cause of action, including criminal actions, involving persons or property in any area transferred from one county to another under Section 1 of this act which is pending on January 1, 2005, shall be abated by virtue of this act, and such actions shall continue in the same county unless changed under some other provision of law.

SECTION 2.(e) The Board of Elections of Orange County shall immediately upon this act becoming law transfer to the Chatham County Board of Elections the voter registration records pertaining to persons residing in any area transferred to Chatham County by Section 1 of this act, and thereafter the registered voters so transferred shall

be validly registered to vote in Chatham County. The Board of Elections of Chatham County shall immediately upon this act becoming law transfer to the Orange County Board of Elections the voter registration records pertaining to persons residing in any area transferred to Orange County by Section 1 of this act, and thereafter the registered voters so transferred shall be validly registered to vote in Orange County.

SECTION 2.(f) The Jury Commissions of Orange and Chatham Counties shall revise their jury lists to add to or eliminate therefrom those persons subject to jury duty who reside in any area transferred from one county to another by Section 1 of this act, said revised jury lists to be effective January 1, 2005.

SECTION 3. This act becomes effective January 1, 2005, except it also applies as to the 2004 election cycle.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1265 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE BOUNDARY LINE BETWEEN ORANGE AND CHATHAM COUNTIES TO MEMORIALIZE A 1989 AGREEMENT BETWEEN THOSE TWO COUNTIES WHICH WAS ALREADY REFLECTED IN THE 2000 CENSUS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 852

Health & Human Resources Committee Substitute Adopted 6/5/03
Finance Committee Substitute Adopted 7/15/03
Appropriations/Base Budget Committee Substitute Adopted 7/17/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S852-CSSVf-56 [v.2]

6/30/2004 4:37:15 PM

Short Title: Organ Donor Org's./Access to DMV Records. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INTERNET ACCESS BY ORGAN PROCUREMENT ORGANIZATIONS AND EYE BANKS TO INFORMATION IN DIVISION OF MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION; TO ESTABLISH THE "LICENSE TO GIVE TRUST FUND" TO FUND INITIATIVES THAT EDUCATE AND PROMOTE ORGAN AND TISSUE DONATION; AND TO INCREASE THE FEE FOR ISSUANCE, RENEWAL, AND DUPLICATION OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD AND PROVIDE THAT THE PROCEEDS OF THE INCREASE SHALL BE USED TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, on-line Organ Donor Internet site. The purpose of the Organ Donor Internet site is to enable federally designated organ procurement organizations and eye banks to have timely access to the names of individuals who have stated to the Division the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card. The data available on the Organ Donor Internet site shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that only federally designated organ procurement organizations and eye banks operating in this State have access to the Organ Donor Internet site in read-only format. The Division of Motor Vehicles shall enable federally designated organ procurement organizations and eye banks operating in this State to have on-line access in read-only format to the Organ Donor Internet site through a unique identifier and password issued

to the organ procurement organization or eye bank by the Division of Motor Vehicles. The read-only information from the Organ Donor Internet site will be used for the sole purpose of seeking consent from the individual's next of kin for organ, tissue, or eye donation. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in damages for access to or disclosure of the information. When accessing and using information obtained from the Organ Donor Internet site, federally designated organ procurement organizations and eye banks shall comply with the requirements of Part 3 of Article 16 of Chapter 130A of the General Statutes.

SECTION 2. G.S. 20-43.1 reads as rewritten:

"**§ 20-43.1. Disclosure of personal information in motor vehicle records.**

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to federally designated organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information."

SECTION 3. G.S. 20-7.3 reads as rewritten:

"**§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.**

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer an organ donation brochure and a donor card to each applicant for a drivers license. The organ donation brochure shall include the following:

(1) A statement informing the individual that federally designated organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Internet site listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.

(2) The type of information that will be made available on the Organ Donor Internet site."

SECTION 4.(a) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"**§ 20-7.4. License to Give Trust Fund established.**

(a) There is established the License to Give Trust Fund. Revenue in the Fund includes amounts credited by the Division as required by law, and other funds. Any surplus in the Fund shall not revert but shall be used for the purposes stated in this section. The Fund shall be kept on deposit with the State Treasurer, as in the case of other State Funds, and may be invested by the State Treasurer in any lawful securities for investment of State funds. The License to Give Trust Fund is subject to oversight by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(b) The purposes for which funds may be expended by the License to Give Trust Fund Commission from the License to Give Trust Fund are as follows:

(1) As grants-in-aid for initiatives that educate about and promote organ and tissue donation and health care decision making at life's end.

(2) Expenses of the License to Give Trust Fund Commission as authorized in G.S. 20-7.5."

SECTION 4.(b) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new sections to read:

"**§ 20-7.5. License to Give Trust Fund Commission established.**

(a) There is established the License to Give Trust Fund Commission. The Commission shall be located in the Department of Administration for budgetary and administrative purposes only. The Commission may allocate funds from the License to Give Trust Fund for the purposes authorized in G.S. 20-7.4. The Commission shall have 15 members, appointed as follows:

(1) Four members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate:
   a. One representative of Carolina Donor Services.
   b. One representative of LifeShare of The Carolinas.
   c. Two members who have demonstrated an interest in organ and tissue donation and education.

(2) Four members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives:
   a. One representative of The North Carolina Eye Bank, Inc.
   b. One representative of The Carolinas Center for Hospice and End-of-Life Care.
   c. Two members who have demonstrated an interest in promoting advance care planning education.

(3) Seven members by the Governor:
   a. Three members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State.
   b. One member who is a transplant physician licensed to practice medicine in this State.

c. One member who has demonstrated an interest in organ and tissue donation and education.

d. One member who has demonstrated an interest in promoting advance care planning education.

e. A representative of the North Carolina Department of Transportation.

(b) The Commission shall elect from its membership a chair and a vice-chair for two-year terms. The Secretary of Administration shall provide meeting facilities for the Commission as required by the Chair.

(c) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the members shall be paid from the License to Give Trust Fund.

(d) The members of the Commission shall comply with G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the License to Give Trust Fund to a nonprofit entity of which the member is an officer, director, or employee, or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor.

"**§ 20-7.6. Powers and duties of the License to Give Trust Fund Commission.**

The License to Give Trust Fund Commission has the following powers and duties:

(1) Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.

(2) Accept gifts or grants from other sources to further the purposes of the License to Give Trust Fund. Such gifts or grants shall be transmitted to the State Treasurer for credit to the Fund.

(3) Hire staff or contract for other expertise for the administration of the Fund. Expenses related to staffing shall be paid from the License to Give Trust Fund."

SECTION 5.(a) G.S. 20-7(i) reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee For Each Year
Class A	~~$4.25~~4.30
Class B	~~4.25~~4.30
Class C	~~3.00~~3.05

The fee for a motorcycle endorsement is one dollar and seventy-five cents ($1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement."

SECTION 5.(b) G.S. 20-14 reads as rewritten:

"**§ 20-14. Duplicate licenses.**

A person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars and five cents ~~($10.00)~~ ($10.05) and giving the Division satisfactory proof that any of the following has occurred:

(1) The person's license has been lost or destroyed.

(2) It is necessary to change the name or address on the license.

(3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.

(4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 5.(c) The Division of Motor Vehicles shall retain a portion of the proceeds of the increase in drivers license and duplicate license fees enacted in this Section to offset the actual cost of developing and maintaining the on-line Organ Donor Internet site established pursuant to Section 1 of this act. Proceeds remaining after deduction of amounts for development and maintenance costs shall be credited to the License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4 and 20-7.5.

SECTION 6. Sections 4(a) and 5 of this act become effective November 1, 2004. The remainder of this act becomes effective January 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 852

Health & Human Resources Committee Substitute Adopted 6/5/03
Finance Committee Substitute Adopted 7/15/03
Appropriations/Base Budget Committee Substitute Adopted 7/17/03

Short Title: Organ Donor Org's./Access to DMV Records. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE INTERNET ACCESS BY ORGAN PROCUREMENT ORGANIZATIONS AND EYE BANKS TO INFORMATION IN DIVISION OF MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION; TO ESTABLISH THE "LICENSE TO GIVE TRUST FUND" TO FUND INITIATIVES THAT EDUCATE AND PROMOTE ORGAN AND TISSUE DONATION; AND TO INCREASE THE FEE FOR ISSUANCE, RENEWAL, AND DUPLICATION OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD AND PROVIDE THAT THE PROCEEDS OF THE INCREASE SHALL BE USED TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Transportation, Division of Motor Vehicles, shall establish and maintain a statewide, on-line Organ Donor Internet site. The purpose of the Organ Donor Internet site is to enable organ procurement organizations and eye banks to have timely access to the names of individuals who have stated to the Division the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card. The data available on the Organ Donor Internet site shall be limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. The Division of Motor Vehicles shall ensure that only organ procurement organizations and eye banks operating in this State have access to the Organ Donor Internet site in read-only format. The Division of Motor Vehicles shall enable organ procurement organizations and eye banks operating in this State to have on-line access in read-only format to the Organ Donor Internet site through a unique identifier and password issued to the organ procurement organization or eye bank by the Division of Motor Vehicles. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this section are not liable in

damages for access to or disclosure of the information. When accessing and using information obtained from the Organ Donor Internet site, organ procurement organizations and eye banks shall comply with the requirements of Part 3 of Article 16 of Chapter 130A of the General Statutes.

SECTION 2. G.S. 20-43.1 reads as rewritten:

"**§ 20-43.1. Disclosure of personal information in motor vehicle records.**

(a) The Division shall disclose personal information contained in motor vehicle records in accordance with the federal Driver's Privacy Protection Act of 1994, as amended, 18 U.S.C. §§ 2721, et seq.

(b) As authorized in 18 U.S.C. § 2721, the Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(11).

(c) The Division shall not disclose personal information for the purposes specified in 18 U.S.C. § 2721(b)(12) unless the Division receives prior written permission from the person about whom the information is requested.

(d) As authorized in 18 U.S.C. § 2721, the Division may disclose personal information to organ procurement organizations and eye banks operating in this State for the purpose of identifying individuals who have indicated an intent to be an organ donor. Personal information authorized under this subsection is limited to the individual's first, middle, and last name, date of birth, address, sex, county of residence, and drivers license number. Employees of the Division who provide access to or disclosure of information in good-faith compliance with this subsection are not liable in damages for access to or disclosure of the information."

SECTION 3. G.S. 20-7.3 reads as rewritten:

"**§ 20-7.3. Availability of organ, eye, and tissue donor cards at motor vehicle offices.**

The Division shall make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. The Division shall obtain donor cards from qualified organ, eye, or tissue procurement organizations or tissue banks, as defined in G.S. 130A-403. The Division shall offer a donor card to each applicant for a drivers license. Each organ donor card made available at drivers license offices shall include the following:

(1) A statement informing the individual that organ procurement organizations and eye banks have read-only access to the Department-operated Organ Donor Internet site listing those individuals who have stated to the Division of Motor Vehicles the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license or special identification card.

(2) The type of information that will be made available on the Organ Donor Internet site."

SECTION 4.(a) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new section to read:

"**§ 20-7.4. License to Give Trust Fund established.**

(a) There is established the License to Give Trust Fund. Revenue in the Fund includes amounts credited by the Division as required by law, and other funds. Any

surplus in the Fund shall not revert but shall be used for the purposes stated in this section. The Fund shall be kept on deposit with the State Treasurer, as in the case of other State Funds, and may be invested by the State Treasurer in any lawful securities for investment of State funds. The License to Give Trust Fund is subject to oversight by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(b) The purposes for which funds may be expended by the License to Give Trust Fund Commission from the License to Give Trust Fund are as follows:

(1) As grants-in-aid for initiatives that educate about and promote organ and tissue donation and health care decision making at life's end.

(2) Expenses of the License to Give Trust Fund Commission as authorized in G.S. 20-7.5."

SECTION 4.(b) Article 2 of Chapter 20 of the General Statutes is amended by adding the following new sections to read:

"**§ 20-7.5. License to Give Trust Fund Commission established.**

(a) There is established the License to Give Trust Fund Commission. The Commission shall be located in the Department of Administration for budgetary and administrative purposes only. The Commission may allocate funds from the License to Give Trust Fund for the purposes authorized in G.S. 20-7.4. The Commission shall have 15 members, appointed as follows:

(1) Four members by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate:

a. One representative of Carolina Donor Services.

b. One representative of LifeShare of The Carolinas.

c. Two members who have demonstrated an interest in organ and tissue donation and education.

(2) Four members by the General Assembly, upon the recommendation of the Speaker of the House of Representatives:

a. One representative of The North Carolina Eye Bank, Inc.

b. One representative of The Carolinas Center for Hospice and End-of-Life Care.

c. Two members who have demonstrated an interest in promoting advance care planning education.

(3) Seven members by the Governor:

a. Three members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State.

b. One member who is a transplant physician licensed to practice medicine in this State.

c. One member who has demonstrated an interest in organ and tissue donation and education.

d. One member who has demonstrated an interest in promoting advance care planning education.

e. A representative of the North Carolina Department of Transportation.

(b) The Commission shall elect from its membership a chair and a vice-chair for two-year terms. The Secretary of Administration shall provide meeting facilities for the Commission as required by the Chair.

(c) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as applicable. Per diem, subsistence, and travel expenses of the members shall be paid from the License to Give Trust Fund.

(d) The members of the Commission shall comply with G.S. 14-234 prohibiting conflicts of interest. In addition to the restrictions imposed under G.S. 14-234, a member shall not vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the License to Give Trust Fund to a nonprofit entity of which the member is an officer, director, or employee, or to a governmental entity of which the member is an employee or a member of the governing board. A violation of this subsection is a Class 1 misdemeanor.

"**§ 20-7.6. Powers and duties of the License to Give Trust Fund Commission.**

The License to Give Trust Fund Commission has the following powers and duties:

(1) Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.

(2) Accept gifts or grants from other sources to further the purposes of the License to Give Trust Fund. Such gifts or grants shall be transmitted to the State Treasurer for credit to the Fund.

(3) Hire staff or contract for other expertise for the administration of the Fund. Expenses related to staffing shall be paid from the License to Give Trust Fund."

SECTION 5.(a) G.S. 20-7(i), as amended by Section 36.1 of S.L. 2003-284, reads as rewritten:

"(i) Fees. – The fee for a regular drivers license is the amount set in the following table multiplied by the number of years in the period for which the license is issued:

Class of Regular License	Fee For Each Year
Class A	~~$4.25~~4.30
Class B	~~4.25~~4.30
Class C	~~3.00~~3.05

The fee for a motorcycle endorsement is one dollar and seventy-five cents ($1.75) for each year of the period for which the endorsement is issued. The appropriate fee shall be paid before a person receives a regular drivers license or an endorsement."

SECTION 5.(b) G.S. 20-14 reads as rewritten:

"**§ 20-14. Duplicate licenses.**

A person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars and five cents ~~($10.00)~~ ($10.05) and giving the Division satisfactory proof that any of the following has occurred:

(1) The person's license has been lost or destroyed.

(2) It is necessary to change the name or address on the license.

(3) Because of age, the person is entitled to a license with a different color photographic background or a different color border.

(4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

SECTION 5.(c) The Division of Motor Vehicles shall retain a portion of the proceeds of the increase in drivers license and duplicate license fees enacted in this Section to offset the actual cost of developing and maintaining the on-line Organ Donor Internet site established pursuant to Section 1 of this act. Proceeds remaining after deduction of amounts for development and maintenance costs shall be credited to the License to Give Trust Fund established under G.S. 20-7.4 and shall be used for the purposes authorized under G.S. 20-7.4 and 20-7.5.

SECTION 6. Sections 4(a) and 5 of this act become effective November 1, 2003. The remainder of this act becomes effective January 1, 2004.

SENATE BILL 852:
Organ Donor Org's./Access to DMV Records.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Metcalf
Date:	July 1, 2004	**Summary by:**	Trina Griffin
Version:	PCS for 4th Edition		Committee Counsel

SUMMARY: Senate Bill 852 would provide Internet access by organ procurement organizations (OPOs) and eye banks operating in this State to information in the Division of Motor Vehicle (Division) records pertaining to organ donation. The bill would establish the "License to Give Trust Fund" (Fund) to finance initiatives that educate and promote organ and tissue donation. The Fund would be financed through an increase in the fee for a drivers license, a duplicate license, and an identification card. Finally, it would establish a fifteen-member License to Give Trust Fund Commission (Commission) with powers and duties described below in more detail.

CURRENT LAW: The Uniform Anatomical Gift Act (G.S. 130A, Part 3) regulates the process for the making and receiving of anatomical gifts in this State. Anyone 18 years of age or older may make a gift by will, card or other document as long as the document is signed by the donor in the presence of two witnesses. The gift does not have to be made to a specified donee. Generally people become donors either through their wills or through another document that is commonly referred to as an organ donor card or a declaration of anatomical gift. If a person does not have a signed donor card (or other signed document) at death, the decision of organ and tissue donation is made by an individual's next of kin.

The Division of Motor Vehicles is required to make organ, eye, and tissue donor cards available to interested individuals in each office authorized to issue drivers licenses or special identification cards. In addition to making organ donor cards available, DMV also asks people who are being issued or renewing a drivers license if they would like to be an organ donor. If a person indicates that he or she would like to be an organ donor, then a heart symbol is placed on their drivers license. This symbol, however, does not represent a legally binding declaration of a desire to make an anatomical gift. The family members of a potential donor who has a heart symbol on his or her license would still be required to give their consent.

The donation process begins with hospitals, which are required by federal law to notify their federally designated OPO of all deaths or impending brain deaths. Currently, there are two federally designated organ procurement organizations and one eye bank in North Carolina (Carolina Donor Services, LifeShare of the Carolinas, and the NC Eye Bank). Once contacted, a trained representative of the OPO goes to the hospital to speak with the family of the potential donor and evaluate donation potential. Hospitals are required to provide the OPO with access to a patient's medical record s for the purpose of determining donation potential. The OPO representative discusses donation potential with the family members. They are made aware of the option to donate as well as their option to decline. The OPOs must obtain written consent of the individual's next of kin to procure the individual's organs for donation.

BILL ANALYSIS:

Organ Donor Internet Site

Section 1 of the bill would require DMV to establish and maintain a statewide, on-line Organ Donor Internet site to enable federally designated OPOs and eye banks operating in this State to have timely access to the names of individuals who have stated to the Division their intent to be an organ donor and have an organ donation symbol on their drivers license or special identification card. The data available on the Internet site would be limited to the individual's: (1) first, middle, and last name, (2) date of birth, (3) address, (4) sex, (5) county of residence, and (6) drivers license number. The OPOs and eye banks would have on-line access in read-only format to the Internet site through a unique identifier and password issued to the OPO or eye bank by the Division.

Section 2 of the bill would permit disclosure of personal information authorized under Section 1 to OPOs and eye banks operating in this State. Federal law prohibits the disclosure of personal information obtained by a state motor vehicle department in connection with a motor vehicle record. One exception to this rule is the use of information in connection with organ donation initiatives. This section references the federal law authorizing disclosure of this information. Employees of DMV who provide access to or disclosure of information in good-faith compliance with the act would not be liable in damages for access to or disclosure of the information.

Under current law, DMV is required to offer a donor card to each applicant for a drivers license. **Section 3** of the bill would require DMV to offer, in addition to organ donor cards, organ donation brochures that include the following:

1. A statement informing the individual that federally designated organ procurement organizations and eye banks have read-only access to the Internet site listing those individuals who have stated to DMV the individual's intent to be an organ donor and have an organ donation symbol on the individual's drivers license.
2. The type of information that would be made available on the Internet site.

License To Give Trust Fund

Section 4 of the bill would establish a Fund to be kept on deposit with the State Treasurer that would be subject to oversight by the State Auditor. The License to Give Trust Fund Commission, which is established by this bill, would be authorized to expend funds from the License to Give Trust Fund for the following purposes:

1. As grants-in aid for initiatives that educate and promote organ and tissue donation and health care decision-making at life's end.
2. Expenses of the Commission.

License to Give Trust Fund Commission

Section 4(b) of the bill would establish a Commission within the Department of Administration with the following powers and duties:

1. Establish general policies and guidelines for awarding grants-in-aid to nonprofit entities to conduct education and awareness activities on organ and tissue donation and advance care planning.
2. Accept gifts or grants form other sources that shall be transmitted to the State Treasurer for credit to the Fund.
3. Hire staff or contract for other expertise for the administration of the Fund.

The Commission would consist of 15 members as follows:

Number	Member Qualification
	(4) APPOINTEES OF THE PRESIDENT PRO TEMPORE
1	Representative of Carolina Donor Services
1	Representative of LifeShare of the Carolinas
2	Members who have demonstrated an interest in organ and tissue donation and education
	(4) APPOINTEES OF THE SPEAKER
1	Representative of the NC Eye Bank
1	Representative of The Carolinas Center for Hospice and End-of-Life Care
2	Members who have demonstrated an interest in promoting advance care planning education
	(7) APPOINTEES OF THE GOVERNOR
3	Members representing organ, tissue, and eye recipients, families of recipients, or families of donors. Of these three, one each from the mountain, heartland, and coastal regions of the State
1	Member who is a transplant physician licensed to practice medicine in this State
1	Member who has demonstrated an interest in organ and tissue donation and education
1	Member who has demonstrated an interest in promoting advance care planning education
1	Representative of the NC Department of Transportation
15	**Total Members**

Commission members would elect a chair and a vice-chair from its membership. Per diem, subsistence, and travel expenses of the members would be paid from the Fund. The Secretary of Administration would provide meeting facilities for the Commission. The members of the Commission must comply with G.S. 14-234, prohibiting conflicts of interest. In addition, a member would not be able to vote on, participate in the deliberations of, or otherwise attempt through his or her official capacity to influence the vote on allocations of moneys from the Fund to a nonprofit or governmental entity of which the member is an employee. To violate such conflict of interest would result in a Class 1 misdemeanor.

Increase in Drivers License Fee

Section 5 of the bill would increase the fees for Class A, B, and C drivers licenses by $.05 per year multiplied by the number of years in the period for which the license is issued. Most licenses are currently issued for a period of 5 years. The bill also increases the fee for a duplicate license by $.05. The bill provides that the Division of Motor Vehicles may retain a portion of the proceeds of the fee increase to offset its start–up and first year maintenance costs of the Organ Donor Internet site.

License Fee	Current Fee Amount	Proposed Fee Amount
Class A and Class B Drivers License	$4.25 a year	$4.30 a year
Class C Drivers License	$3.00 a year	$3.05 a year
Duplicate License & Identification Card	$10.00	$10.05

Effective Date

The fee increases would become effective November 1, 2004, and that the remainder of the bill would become effective January 1, 2005.

Dianna Jessup, counsel to the Senate Health and Human Resources Committee, and Amy Compeau, Research Assistant, contributed substantially to this summary.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: June 30, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: Senate Bill 852 -House PCS Organ Donor Org's/Access to DMV Records

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FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($Million)

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
License to Give Trust Fund (LGTF)	.22	.34	.35	.36	.37
EXPENDITURES					
LGTF	See Assumptions and Methodology				
POSITIONS:					
LGTF Commission	Authorized, but not yet determined				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Transportation - Division of Motor Vehicles; Department of Administration, Department of State Treasurer

EFFECTIVE DATE: Sections 4(a) (Trust Fund) and 5 (drivers license fees) of this act become effective November 1, 2004. The remainder of this act becomes effective January 1, 2005.

BILL SUMMARY: The bill establishes an on-line Organ Donor Internet site in the Division of Motor Vehicles (DMV). The site will list those who choose to be an organ donor when getting

their driver licenses. The site is only for North Carolina organ procurement organizations and eye banks. A License to Give Trust Fund is established with funding provided by a 5 cent increase per year in Class A, B, and C driver licenses and duplicate licenses. The new Trust Fund will pay the Internet expenses of DMV, the administrative cost of the new License to Give Trust Fund Commission, and grants to promote organ and tissue donation.

ASSUMPTIONS AND METHODOLOGY:

REVENUES

Section 5 of the bill increases duplicate drivers license fee by 5 cents and Class A, B, and C drivers license fee by 5 cents per year for a five-year license. The number of transactions processed by DMV in fiscal year 2002-03 is shown below.

	FY 02-03 Actual Transactions
Class A&B License	9,344
Class C License	1,179,935
Duplicate License	560,354

For future year drivers license transactions, DMV suggests a 2% a year growth rate. Class A, B, and C transactions are multiplied by $.25 (5 years X $.05) and duplicate licenses are multiplied by $.05.

	FY 04-05 Est Transactions	FY05-06 Est Transactions	FY 06-07 Est Transactions	FY 07-08 Est Transactions	FY 08-09 Est Transactions
Class A&B License	9,721	9,916	10,114	10,317	10,523
Class C License	1,227,604	1,252,156	1,277,200	1,302,744	1,328,798
Duplicate License	582,992	594,652	606,545	618,676	631,050

Increased Fee	FY 04-05 Est Transactions	FY05-06 Est Transactions	FY 06-07 Est Transactions	FY 07-08 Est Transactions	FY 08-09 Est Transactions
Class A&B License	$2,430	$2,479	$2,529	$2,579	$2,631
Class C License	$306,901	$313,039	$319,300	$325,686	$332,200
Duplicate License	$29,150	$29,733	$30,327	$30,934	$31,552
	$338,481	$345,251	$352,156	$359,199	$366,383

With a November 1, 2004 effective date, first year revenue will be for eight months. Assuming that transactions are distributed equally throughout the fiscal year, the FY 04-05 revenue increase will be $.22 million for eight months. The proceeds of this fee increase are deposited into the License to Give Trust Fund. The Fund is managed by the State Treasurer and audited by the State Auditor.

EXPENDITURES

Section 4(a) authorizes the new License to Give Trust Fund Commission to spend the License to Give Trust Fund for 1) grants for "initiatives that educate about and promote organ and tissue donation and health care decision making at life's end" and 2) expenses of the Commission. Section 4(b) allows the 15-member Commission to be paid per diem and necessary travel and subsistence expenses. This section also allows the Commission to hire staff. No estimate of Commission expenses is available at this time.

Section 5(c) allows DMV to retain a portion of the proceeds of the increased drivers license fee to pay for the cost of developing and maintaining the on-line Organ Donor Internet site. DMV estimates that it will take $50,000 to establish an Internet site and $10,000 a year to maintain it.

Section 4(b) of the bill has a Class 1 misdemeanor for violations of conflict of interest law by members of the License to Give Trust Fund Commission. The Administrative Office of the Courts (AOC) does not predict any significant fiscal impact on the courts. Since the provision applies only to the 15 Commission members, AOC assumes that, with the potential of a possible rare exception over many years, these appointees will be aware of and will comply with the conflict of interest prohibitions. Similarly, the Sentencing Commission does not expect convictions for this proposed offense to have a significant impact on the prison population.

SOURCES OF DATA: Division of Motor Vehicles

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 7

EDITION No. _____

H. B. No. _____ DATE 7/1/04

S. B. No. 852 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CSSVF-56

(Rep.) Ross
Sen.)

moves to amend the bill on page 2, lines 35 and 36

( ) WHICH CHANGES THE TITLE

by deleting the word "brochure" and substituting the word "information".

on page 2, line 35 by deleting the word "an".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 8

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 852 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Ellis
Sen.)

moves to amend the bill on page 3, line 1

( ) WHICH CHANGES THE TITLE

~~by~~ through page 5, line 22 by deleting the lines;

and on page 5, lines 23-24 by rewriting the lines to read:

"SECTION 4. This act becomes effective January 1, 2005.".

and on page 1, lines 4-10 by rewriting the lines to read:

"MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION."

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute #3 for
S.B. 852 A BILL TO BE ENTITLED AN ACT TO PROVIDE INTERNET ACCESS BY ORGAN PROCUREMENT ORGANIZATIONS AND EYE BANKS TO INFORMATION IN DIVISION OF MOTOR VEHICLE RECORDS PERTAINING TO ORGAN DONATION; TO ESTABLISH THE "LICENSE TO GIVE TRUST FUND" TO FUND INITIATIVES THAT EDUCATE AND PROMOTE ORGAN AND TISSUE DONATION; AND TO INCREASE THE FEE FOR ISSUANCE, RENEWAL, AND DUPLICATION OF A DRIVERS LICENSE OR SPECIAL IDENTIFICATION CARD AND PROVIDE THAT THE PROCEEDS OF THE INCREASE SHALL BE USED TO IMPLEMENT THIS ACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill #3.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1389*
PROPOSED COMMITTEE SUBSTITUTE H1389-CSLA-69 [v.1]

6/29/2004 9:47:50 PM

Short Title: GARVEE Bonds. (Public)

Sponsors:

Referred to:

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. The Secretary of the Department of Transportation and the State Treasurer shall jointly form a committee to develop a plan for issuance of "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt financing instruments to finance Federal-aid projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). The plan shall address all financial, legal, and practical issues involved in issuing "GARVEE" bonds. The two Departments shall jointly submit their implementation plan to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 2. The Department of Transportation shall develop proposed criteria to use in selection of projects to fund with "GARVEE" bonds. The Department shall submit the proposed criteria to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1389*

Short Title:	DOT Authority to Issue GARVEE Bonds.	(Public)
Sponsors:	Representatives McComas; Crawford, Stiller, and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 12, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ISSUE "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS AND TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(12b) To issue "GARVEE" bonds (Grant Anticipation Revenue Vehicles) or other eligible debt financing instruments to finance Federal-aid projects using federal funds to pay a portion of principal, interest, and related bond issuance costs, as authorized by 23 U.S.C. § 122, as amended (the National Highway System Designation Act of 1995, Pub. L. 104-59). The State Treasurer shall develop and adopt appropriate debt instruments, as authorized by the State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, for use under this subdivision."

SECTION 2. The Secretary of the Department of Transportation and the State Treasurer shall jointly form a committee to develop a plan to implement the provisions of this act. The plan shall address all financial, legal, and practical issues involved in issuing "GARVEE" bonds. The plan shall also include any projects the Department of Transportation proposes to fund with "GARVEE" bonds. The two Departments shall jointly submit their implementation plan to the cochairs of the Transportation Appropriations Subcommittee, and the cochairs of the Joint Legislative Transportation Oversight Committee by March 1, 2005.

SECTION 3. Section 1 of this act becomes effective July 1, 2005. The remainder of this act is effective when it becomes law.

HOUSE BILL 1389:
DOT Authority to Issue GARVEE Bonds

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. McComas
Date:	June 29, 2004	**Analysis by:**	Martha Walston
Version:	H1389-CSLA-69[v.1]		Committee Counsel

SUMMARY: House Bill 1389 is a recommendation of the Transportation Oversight Study Committee. The proposed committee substitute for the bill does the following:

- **Directs the Secretary of DOT and the State Treasurer to jointly form a committee to develop a plan for issuance of "GARVEE" bonds.**
- **Directs DOT to develop proposed criteria to use in selection of projects to fund with GARVEE bonds.**
- **The implementation plan and the criteria must be submitted to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1, 2005.**

BACKGROUND: GARVEE bonds are Grant Anticipation Revenue Vehicles, authorized by federal law, that permit states to use anticipated future federal highway funds to finance highway project construction. Candidate projects for GARVEE financing are typically larger projects that have the following characteristics:

- They are large enough to merit borrowing rather than pay-as-you-go grant funding, with the costs of delay outweighing the costs of financing
- They do not have access to a revenue stream (such as local taxes or tolls) and other forms of repayment (such as state appropriations) are not feasible
- The sponsors (generally state DOTs) are willing to reserve a portion of future year Federal-aid highway funds to satisfy debt service requirements.

GARVEES must be issued by a state, a political subdivision of a state, or a public authority. A state may elect to pledge their obligations of future Federal-aid funds as the only security backing the federal share of the obligation to investors (non-recourse GARVEES) or to pledge other sources of revenue as a back-stop for the future federal-aid funds (back-stopped GARVEES).

BILL ANALYSIS:

Sections 1 of House Bill 1389 directs the Secretary of DOT and the State Treasurer to form a committee to develop a plan for issuance of "GARVEE" bonds. This plan must be submitted to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1, 2005.

Section 2 of House Bill 1389 directs the DOT to develop proposed criteria to use in the selection of projects to fund with GARVEE bonds. The criteria must also be submitted to the Transportation Appropriations Subcommittee or the Joint Legislative Transportation Oversight Committee by March 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 10

EDITION No. _____

H. B. No. 1389 DATE July 1, 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) McComas

Sen.)

1 moves to amend the bill on page 1, lines 15 & 19

2 ( ) WHICH CHANGES THE TITLE

3 by deleting the word "or" and substituting

4 the word "and".

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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1389 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ISSUE "GARVEE" GRANT ANTICIPATION REVENUE VEHICLE BONDS AND TO DIRECT THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND THE STATE TREASURER TO DEVELOP AN IMPLEMENTATION PLAN FOR ISSUANCE OF THE BONDS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(# ———)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill # ———), (and recommendation that the committee substitute bill # ———) be re-referred to the Committee on ———.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1305

Finance Committee Substitute Adopted 6/7/04

PROPOSED HOUSE COMMITTEE SUBSTITUTE S1305-CSLA-71 [v.3]

6/30/2004 5:08:22 PM

Short Title: Angier Satellite Annexation. (Local)

Sponsors:

Referred to:

May 25, 2004

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY THE TOWN OF ANGIER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Angier, Bladenboro, Catawba, Maiden, Midland, Pine Level, Ranlo, Swansboro, and Warsaw."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1305

Finance Committee Substitute Adopted 6/7/04

Short Title: Various Municipalities Satellite Annexations. (Local)

Sponsors:

Referred to:

May 25, 2004

A BILL TO BE ENTITLED

AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY VARIOUS MUNICIPALITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Gastonia, Locust, Newton, Sanford, Salisbury, and Southport, and the Towns of Apex, Bladenboro, Catawba, Fuquay-Varina, Garner, Holly Springs, Knightdale, Leland, Maiden, Midland, Morrisville, Pine Level, Ranlo, Rolesville, Swansboro, ~~and Warsaw.~~ Wallace, Warsaw, Wendell, and Zebulon."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 1305:
Various Municipalities Satellite Annexation

BILL ANALYSIS

Committee: House Finance
Date: June 30, 2004
Version: PCS to 2nd Edition

Introduced by: Senator Stevens
Summary by: R. Erika Churchill
Committee Counsel

SUMMARY: ***The proposed committee substitute for Senate Bill 1305, a local bill, would add the town of Angier in Harnett County to the list of cities and towns that may annex satellite areas without meeting the standard that limits the size of the area within the satellite corporate limits.***

CURRENT LAW: G.S. 160A-58.1 and 160A-58.7 govern the voluntary annexation by a municipality of noncontiguous property.

G.S. 160A-58.1 provides that all property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

G.S. 160-58.7 provides the process a city must follow when the city is the property owner of the satellite area. This process requires that the city comply with the provisions of G.S. 160A-58.1 as described above.

BILL ANALYSIS: The proposed committee substitute for Senate Bill 1305 would remove the requirement that the area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed 10% of the area within the primary corporate limits when noncontiguous property is annexed by the town of Angier.

The act is effective when it becomes law.

BACKGROUND: The cities of Hickory, New Bern, Newton, Sanford, Southport, Statesville, Kenly, Troy, Mt. Airy, Mooresville, Marion, Oxford, Rockingham, Conover, and Claremont and the towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, Maiden, Midland, Swansboro, Warsaw and Waynesville have already eliminated the 5th standard for all annexations by the municipality.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1305 A BILL TO BE ENTITLED AN ACT CONCERNING VOLUNTARY SATELLITE ANNEXATION BY VARIOUS MUNICIPALITIES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 933*

Short Title: Wetlands Reimbursement/Local Tax Base. (Public)

Sponsors: Senators Hargett; Apodaca, Holloman, Stevens, and Tillman.

Referred to: Finance.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES THAT ACQUIRE LAND FOR WETLANDS MITIGATION TO REIMBURSE THE COUNTY IN WHICH THE LAND IS LOCATED FOR ITS LOST TAXES DUE TO THE ACQUISITION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"**§ 153A-15.1. Agreement to make payment in lieu of future ad valorem taxes required before wetlands acquisition by a unit of local government.**

(a) Condemnation. – Notwithstanding the provisions of G.S. 153A-15, Chapter 40A of the General Statutes, or any other general law or local act conferring the power of eminent domain, before a final judgment may be entered or a final condemnation resolution adopted in an action of condemnation initiated by a unit of local government whose property is exempt from tax under Section 2(3) of Article V of the North Carolina Constitution, whereby the condemnor seeks to acquire land for the purpose of wetlands mitigation, the condemnor shall agree in writing to pay to the county where the land is located a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the condemnor.

(b) Purchase. – Notwithstanding the provisions of G.S. 130A-55, 153A-15, 153A-158, 160A-240.1, or any other general law or local act conferring the power to acquire real property, before any unit of local government whose property is exempt from tax under Section 2(3) of Article V of the North Carolina Constitution purchases any land for the purpose of wetlands mitigation, the unit shall agree in writing to pay to the county where the land is located a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the acquiring unit.

(c) Definition. – For purposes of this section, the "estimated amount of ad valorem taxes that would have accrued for the next 20 years" means the total assessed value of the acquired land excluded from the county's tax base multiplied by the tax rate set by the county board of commissioners in its most recent budget ordinance adopted under Chapter 159 of the General Statutes, and then multiplied by 20.

(d) Exception. – This section does not apply to any condemnation or acquisition of land by a city or special district if the land to be condemned or acquired is within the corporate limits of that city or special district or within the county where the city or special district is located.

(e) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 2. G.S. 143-214.11 is amended by adding a new subsection to read:

"(g) Payment for Taxes. – A State agency acquiring land to restore, enhance, preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the county in accordance with G.S. 146-22.3."

SECTION 3. G.S. 143-214.12(a) reads as rewritten:

"(a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established as a nonreverting fund within the Department. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for monetary contributions and donations or dedications of interests in real property to promote projects for the restoration, enhancement, preservation, or creation of wetlands and riparian areas and for payments made in lieu of compensatory mitigation as described in subsection (b) of this section. No funds shall be expended from this Fund for any purpose other than those directly contributing to the acquisition, perpetual maintenance, enhancement, restoration, or creation of wetlands and riparian areas in accordance with the basinwide plan as described in G.S. 143-214.10. The cost of acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3 when the Department is the State agency making the acquisition."

SECTION 4. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"**§ 146-22.3. Acquisition of land to be used to restore, enhance, preserve, or create wetlands.**

(a) Payment. – A State agency that acquires land by purchase for the purpose of restoring, enhancing, preserving, or creating wetlands as required by a permit or an authorization issued by the United States Army Corps of Engineers under 33 U.S.C. § 1344 must pay to the county in which the land is located, as reimbursement, a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years had the land not been acquired by the State agency.

(b) Exception. – This section does not apply when the land purchased by the State agency and the wetlands permitted to be lost are located in the same county. In other circumstances, the governing body of the county and the State agency may enter into a written agreement to waive payment.

(c) Amount. – The estimated amount of ad valorem taxes that would have accrued for the next 20 years is the total assessed value of the acquired land excluded from the county's tax base multiplied by the tax rate set by the county board of commissioners in its most recent budget ordinance adopted under Chapter 159 of the General Statutes, and then multiplied by 20.

(d) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 5. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"**§ 146-22.4. Acquisition of wetlands from private mitigation banking companies.**

(a) Payment for Taxes. – A State agency that acquires wetlands from a private mitigation banking company must pay a sum in lieu of ad valorem taxes to the county where the wetlands are located. The sum is equal to the estimated amount of ad valorem taxes that would have accrued for the next 20 years as computed in G.S. 146-22.3(c).

(b) Requirement for Acquisition. – A State agency may require, as a condition of accepting a donation of wetlands by a private mitigation banking company, that the company make adequate provisions for the long-term maintenance and management of the wetlands. These provisions may include reimbursement to the agency for payment of a sum in lieu of ad valorem taxes.

(c) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 6. Article 6 of Chapter 146 of the General Statutes is amended by adding a new section to read:

"**§ 146-22.5. Reimbursement of payment in lieu of future ad valorem taxes.**

(a) If a State agency acquires land under G.S. 146-22.3 or G.S. 146-22.4 and later uses this land to mitigate wetlands permitted to be lost in the same county, then the county shall reimburse the State agency for a percentage of the estimated amount of ad valorem taxes paid for the land in accordance with G.S. 146-22.3 minus ten percent (10%) of this amount times the number of years the State agency held the land before the wetlands were lost.

(b) Application. – This section applies only to land acquired in counties designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

SECTION 7. This act is effective when it becomes law and applies to transfers made on or after that date.

SENATE BILL 933:
Wetlands Reimbursement/Local Tax

BILL ANALYSIS

Committee:	Senate Finance	**Introduced by:**	Senator Hargett
Date:	June 16, 2004	**Summary by:**	R. Erika Churchill
Version:	1st Edition		Committee Counsel

SUMMARY: Senate Bill 933 does all of the following:

- *Requires a unit of local government that purchases or condemns land for the purpose of wetlands mitigation to pay to the county where the land is located a sum equal to the estimated amount of ad valorem taxes that would have accrued to the county for the next 20 years.*
- *Requires a State agency that purchases land for wetlands mitigation to pay the 20 years of lost taxes to the county where the land is located.*
- *Exempts the following from the required payment of lost ad valorem taxes:*
  1. *Condemnation or acquisition of land by a city or special district when the land is located in the corporate limits of the city or special district, or within the county, where the city or special district is located.*
  2. *Purchase of land by a State agency when the land purchased and the wetlands permitted to be lost are located in the same county.*
  3. *The written agreement between the governing board of a county and the State agency to waive any required payment.*
- *Requires a county to reimburse a State agency for the payment if the State purchased land, or was given wetlands, in a county and at a later time used that land to mitigate wetlands permitted to be lost in that same county.*
- *The bill applies only to land in Tier one and Tier two counties.*

CURRENT LAW: The Wetlands Restoration Program and Fund were established by the General Assembly in 1996 to restore wetlands lost or impaired through human activities and to assist those who must meet wetlands mitigation requirements imposed by the U.S. Army Corps of Engineers as a condition of obtaining Section 404 permits for wetlands alteration. (Section 404 of the U.S. Clean Water Act, which controls the placement of dredged or fill materials in the waters of the U.S. and adjoining wetlands, is the nearest thing to a national wetlands law.) Under the current federal environmental regulations, when wetlands are lost or impaired, other land in the same river basin or sub river basin must be set aside to "make up" for the lost wetlands. This practice is referred to as compensatory wetland mitigation, and the State is subject to these federal permitting requirements.

When a State agency or local government for wetlands mitigation acquires wetlands, this land is removed from the tax base of the county or city where the land is located as State and local governments are exempt from property taxes. This loss particularly affects Tier 1 and Tier 2 counties, those counties that are considered most in need of economic development because of high unemployment, low per capita income, and low population growth.

Wetlands include pocosins, freshwater marshes, swamp forests, and bottomland hardwood forests. In the past two decades, wetlands have been altered because of development and agricultural and timber operations.

BILL ANALYSIS:

- ***Section 1*** requires a unit of local government that has acquired land by condemnation or purchase for the purpose of wetlands mitigation, to pay the county where the land is located a sum that is equal to the estimated amount of property taxes that would have accrued to the county for the next 20 years had the land not been acquired by the local government.

  Exception: This section does not apply to the condemnation or acquisition of land by a city or special district if the land is located in the corporate limits of the city or special district, or within the county, where the city or special district is located.

  "Estimated amount of ad valorem taxes that would have accrued for the next 20 years" is defined as the total assessed value of the acquired land excluded from the county's tax base multiplied by the current county tax rate multiplied by 20.
- ***Sections 2 and 4*** require a State agency that is acquiring land for wetlands mitigation to pay to the county where the land is located a sum in lieu of property taxes lost by the county.

  Exception: The payment is not required by a State agency when the land purchased by the State agency and the wetlands permitted to be lost are located in the same county. Also the governing board of the county and the State agency may agree in writing to waive the payment.
- ***Section 3*** provides that if DENR is the State agency acquiring property in a county for wetlands mitigation, then DENR may use money in the Wetlands Restoration Fund to pay the amount of lost property taxes. (The Wetlands Restoration Fund is a nonreverting fund.)
- ***Section 5*** provides that if a State agency acquires wetlands from a private mitigation banking company, the agency must pay a sum in lieu of property tax to the county where the wetlands are located. However, as a condition of accepting the donation from the private mitigation banking company, the State agency may require the company to make adequate provisions for the long-term maintenance and management of wetlands. These provisions may include reimbursement to the agency for payment of a sum in lieu of property taxes. A private mitigation banking company trades in properties that may be eligible as mitigation lands.
- ***Section 6*** requires a county to reimburse a State agency for the payment made in lieu of property taxes if the State agency purchased land in a county for future wetlands mitigation and later used this land to mitigate wetlands permitted to be lost in the same county. The amount reimbursed to the State agency is a percentage based upon the number of years the State agency held the land before the wetlands were lost.
- ***Section 7*** makes the act effective when it becomes law and applicable to transfers made on or after that date.

Martha Walston contributed to this summary.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 933 (First Edition)

SHORT TITLE: Wetlands Reimbursement/Local Tax Base.

SPONSOR(S): Senator Hargett

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Local Governments	No Exact Estimate Available – See Assumptions				
EXPENDITURES					
General Fund	No General Fund Impact				
Dept. of Transportation	102,816	102,816	102,816	102,816	102,816
Wetlands Trust Fund	34,272	34,272	34,272	34,272	34,272

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Local Governments, and other State agencies.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: When the State or a local government acquires property, that property becomes exempt from tax and is removed from the tax base. The bill requires that a state agency that purchases land for wetlands mitigation pay the county where the land is located an amount approximately equal to twenty years of ad valorem taxes on the property. This does not apply if the migration property and the improvements are made in the same county. If the State makes payment to the home county, and later uses the land for mitigation in the same county, the county must return at least a portion of the payment to the State. At the local level, the bill also requires that municipalities and counties that purchase land for mitigation, outside of the geographic limits of the home county, make a similar payment to the county were the land is purchased. The amount of the payment from the purchasing government to the county government where the property lies is defined as the total value of the land excluded by the purchase times the current rate of tax, times twenty (value x rate x 20). All provision of this bill apply only to land purchased in tier one and tier two counties.

ASSUMPTIONS AND METHODOLOGY: This bill is not expected to impact cost estimates associated with construction projects for community colleges, state universities, or prisons, based on current construction plans. The bill does not affect projects funded by the Clean Water Management Trust Fund, which is statutorily banned from funding compensatory mitigation projects. Fiscal Research believes the primary state impact will be in the areas of highway construction and the wetlands restoration. **As a result, no direct general fund impact is expected.**

The bill is likely to affect both the Ecosystem Enhancement Program and local governments.

Ecosystem Enhancement Program: Historically the primary state agency purchasers of mitigation land have been the North Carolina Department of Transportation, making purchases to mitigate road activity, and the Wetlands Restoration Program. In 2003, the compensatory mitigation efforts of these two agencies were joined through a Memorandum of Agreement between the parties, and renamed the Ecosystem Enhancement Program (EEP).

The Ecosystem Enhancement Program is estimated to have costs of $137,088 annually associated with this bill. This estimate assumes that 224 acres are purchased annually at an average cost of $4,000 acre. Applying the average property tax rate for tier 1 and tier 2 counties from 2002-03 of $0.765/100 equals a property tax payment of $30.60 per acre. That amount multiplied by 20 (the payment of 20 years of taxes) creates the total payment of $612.00 per acre. The total of 224 acres multiplied by the total payment per acre results in the lump sum of **$137,088 annually**. (Or 224 acres * $4,000 per acre * $0.765/100 tax rate * 20 = $137,088). Approximately 75% of this money is expected to come from the Department of Transportation, with the balance drawn from the Wetlands Trust Fund. This division is reflected in the fiscal impact box.

Local Governments

All payments from NCDOT and the Wetlands Restoration Trust are revenues for local governments. The property taxes that must be paid to the county where the land is located is estimated as the assessed value of the acquired land excluded from the county's tax base multiplied by the tax rate set by the county Board of Commissioners in its most recent adopted budget ordinance multiplied by 20. For example, if property valued at $100,000 were acquired in a county with a $.76 per $100 value property tax rate, the acquirer must pay the county a sum of $15,200 ($100,000 / $100 * .76 * 20).

Local governments will see a gain of $685,440 ($137,088 * 5 years)) over five years. However, some of that gain may be offset by local government payment into the Wetland Restoration Program to cover their mitigation needs.

Local government revenues and tax payments may also be impacted by changes in property tax rates. Due to the instability of property tax rates in the state, in general, and especially in tier 1 and tier 2 counties, there is no accurate way to predict how tax rates may change in future years. Some rates may increase depending on the economy and smaller tax base growth, while others may stabilize or decrease because of this legislation.

The reimbursement amount paid by the county to state agencies if the property acquired is later used to mitigate wetlands permitted to be lost in the county is the estimated amount of property taxes paid minus ten percent (10%) times the number of years the agency held the land before the wetlands were lost. For example, if the property above was used 10 years later to mitigate wetlands that were permitted to be lost in the county, the county must reimburse the state a sum of $6,840 ($760 - ($760*.10) * 10).

SOURCES OF DATA: Ecosystem Enhancement Program and the North Carolina Department of Revenue.

TECHNICAL CONSIDERATIONS: The tier designations are created as a part of the Bill Lee Act. This act is scheduled to sunset in 2005. As a result, unless otherwise instructed, no tier designations will be developed by the Department of Commerce after 2005.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps, Stephanie Schmitt, and Jennifer Haygood.

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 16, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 933 (First Edition)

SHORT TITLE: Wetlands Reimbursement/Local Tax Base.

SPONSOR(S): Senator Hargett

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Local Governments	**No Exact Estimate Available – See Assumptions**				
EXPENDITURES					
General Fund	**No General Fund Impact**				
Dept. of Transportation	**102,816**	**102,816**	**102,816**	**102,816**	**102,816**
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PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Local Governments, and other State agencies.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: When the State or a local government acquires property, that property becomes exempt from tax and is removed from the tax base. The bill requires that a state agency that purchases land for wetlands mitigation pay the county where the land is located an amount approximately equal to twenty years of ad valorem taxes on the property. This does not apply if the migration property and the improvements are made in the same county. If the State makes payment to the home county, and later uses the land for mitigation in the same county, the county must return at least a portion of the payment to the State. At the local level, the bill also requires that municipalities and counties that purchase land for mitigation, outside of the geographic limits of the home county, make a similar payment to the county were the land is purchased. The amount of the payment from the purchasing government to the county government where the property lies is defined as the total value of the land excluded by the purchase times the current rate of tax, times twenty (value x rate x 20). All provision of this bill apply only to land purchased in tier one and tier two counties.

ASSUMPTIONS AND METHODOLOGY: This bill is not expected to impact cost estimates associated with construction projects for community colleges, state universities, or prisons, based on current construction plans. The bill does not affect projects funded by the Clean Water Management Trust Fund, which is statutorily banned from funding compensatory mitigation projects. Fiscal Research believes the primary state impact will be in the areas of highway construction and the wetlands restoration. **As a result, no direct general fund impact is expected.**

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The Ecosystem Enhancement Program is estimated to have costs of $137,088 annually associated with this bill. This estimate assumes that 224 acres are purchased annually at an average cost of $4,000 acre. Applying the average property tax rate for tier 1 and tier 2 counties from 2002-03 of $0.765/100 equals a property tax payment of $30.60 per acre. That amount multiplied by 20 (the payment of 20 years of taxes) creates the total payment of $612.00 per acre. The total of 224 acres multiplied by the total payment per acre results in the lump sum of **$137,088 annually**. (Or 224 acres * $4,000 per acre * $0.765/100 tax rate * 20 = $137,088). Approximately 75% of this money is expected to come from the Department of Transportation, with the balance drawn from the Wetlands Trust Fund. This division is reflected in the fiscal impact box.

Local Governments
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The reimbursement amount paid by the county to state agencies if the property acquired is later used to mitigate wetlands permitted to be lost in the county is the estimated amount of property taxes paid minus ten percent (10%) times the number of years the agency held the land before the wetlands were lost. For example, if the property above was used 10 years later to mitigate wetlands that were permitted to be lost in the county, the county must reimburse the state a sum of $6,840 ($760 - ($760*.10) * 10).

SOURCES OF DATA: Ecosystem Enhancement Program and the North Carolina Department of Revenue.

TECHNICAL CONSIDERATIONS: The tier designations are created as a part of the Bill Lee Act. This act is scheduled to sunset in 2005. As a result, unless otherwise instructed, no tier designations will be developed by the Department of Commerce after 2005.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps, Stephanie Schmitt, and Jennifer Haygood.

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 16, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for

S.B. 933 A BILL TO BE ENTITLED AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES THAT ACQUIRE LAND FOR WETLANDS MITIGATION TO REIMBURSE THE COUNTY IN WHICH THE LAND IS LOCATED FOR ITS LOST TAXES DUE TO THE ACQUISITION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1384*
Finance Committee Substitute Adopted 6/17/04

Short Title: Amend Barbering Laws/Increase Fees. (Public)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF BARBERING, AUTHORIZING THE STATE BOARD OF BARBER EXAMINERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE LAWS OR RULES REGULATING THE PRACTICE OF BARBERING, AND INCREASING FEES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 86A-4 reads as rewritten:

"**§ 86A-4. State Board of Barber Examiners; appointment and qualifications; term of office; removal.**

(a) The State Board of Barber Examiners is established to consist of five members appointed by the Governor. Four shall be licensed barbers; the other shall be a person who is not licensed under this Chapter and who shall represent the interest of the public at large.

(b) No member appointed to the Board on or after July 1, 1981, shall serve more than three complete consecutive three-year terms, except that each member shall serve until the member's successor is appointed and qualifies.

No person who has been employed by the North Carolina State Board of Barber Examiners and has been removed for just cause shall be appointed within five years of the removal to serve as a Board member.

(c) The Governor may remove any member for good cause shown and may appoint members to fill unexpired terms.

(d) Notwithstanding subsections (a) and (b) of this section, a licensed barber who holds an officer position on the National Association of Barber Boards of America may be appointed by the Governor to serve on the Board as the 'public at large' member for the three-year term beginning July 1, 2004, if the Governor determines that there is not a public member willing to serve on the Board for this three-year term."

SECTION 1.(b) This section expires July 1, 2007.

SECTION 2. G.S. 86A-5(a) reads as rewritten:

"(a) The Board has the following powers and duties:

(1) To see that inspections of barbershops and schools are conducted to determine compliance with sanitary regulations. The Board may appoint inspectors as ~~necessary;~~necessary.

(2) To adopt sanitary regulations concerning barber schools and shops and procedural rules in accordance with the guidelines established in ~~G.S. 86A-15;~~G.S. 86A-15.

(3) To review the barber licensing laws of other states and to determine which are the substantive equivalent of the laws of North Carolina for purposes of ~~G.S. 86A-12;~~G.S. 86A-12.

(4) To conduct examinations of applicants for certificate of registration as registered barber, registered apprentice and barber school instructor.

(5) To employ and fix the compensation of personnel that the Board deems necessary to carry out the provisions of this Chapter.

(6) To assess civil penalties pursuant to G.S. 86A-27."

SECTION 3. G.S. 86A-6 reads as rewritten:

"**§ 86A-6. Office; seal; officers and executive ~~secretary;~~director; funds.**

The Board shall maintain a suitable office in Raleigh, and shall adopt and use a common seal for the authentication of its orders and records. The Board shall annually elect its own officers, and in addition, may elect or appoint a full-time executive ~~secretary~~ director who shall not be a member of the Board, and whose salary shall be fixed by the Board. The executive ~~secretary~~ director shall turn over to the State Treasurer to be credited to the State Board of Barber Examiners all funds collected or received under this Chapter, the funds to be held and expended under the supervision of the Director of the Budget, exclusively for the enforcement and administration of the provisions of this Chapter. Nothing herein shall be construed to authorize any expenditure in excess of the amount available from time to time in the hands of the State Treasurer derived from fees collected under the provisions of this Chapter and received by the State Treasurer pursuant to the provisions of this section."

SECTION 4. G.S. 86A-9 reads as rewritten:

"**§ 86A-9. Board to conduct examinations not less than four times each year.**

The Board shall conduct examinations of applicants for certificates of registration to practice as registered barbers and registered apprentices, not less than four times each year, at such times and places as will prove most convenient and as the Board may determine. The Board may adopt rules establishing procedures for the administration of examinations."

SECTION 5. G.S. 86A-17(b) reads as rewritten:

"(b) A registered barber whose certificate of registration has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the required late fee and furnishing a health certificate if required by the ~~Board; provided, however, a~~ Board. Where a registered barber's certificate of registration has expired for a period greater than six months, the Board may impose civil penalties pursuant to G.S. 86A-27. A registered barber whose certificate has expired for a period of five years shall be required to take the clinical examination prescribed by the State Board of Barber

Examiners and otherwise comply with the provisions of this Chapter before engaging in the practice of barbering. No registered barber who is reissued a certificate under this subsection shall be required to serve an apprenticeship as a prerequisite to reissuance of the certificate."

SECTION 6. Chapter 86A of the General Statutes is amended by adding a new section to read:

"**§ 86A-20.1. Enjoining illegal practices.**

The Board, the Department of Health and Human Services, or any county or district health director may apply to the superior court for an injunction to restrain any person from violating the provisions of this Chapter or the Board's rules. Actions under this section shall be brought in the county where the defendant resides or maintains his or her principal place of business or where the alleged acts occurred."

SECTION 7. G.S. 86A-22 reads as rewritten:

"**§ 86A-22. Licensing and regulating barber schools and colleges.**

The North Carolina State Board of Barber Examiners may approve barber schools or colleges in the State, and may prescribe rules and regulations for their operation. The Board shall adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber school or college shall be approved by the Board unless the school or college meets all of the following requirements:

(1) Each school shall provide a course of instruction of at least 1528 hours.

(2) Each school shall ~~have at least two instructors, except that nonprofit schools shall have at least one instructor for every 20 enrolled students. Each instructor must hold a valid instructor's certificate issued by the Board. At least one instructor must be on the premises of a barber school during regular instruction hours.~~ employ at least two instructors for the first 40 enrolled students and employ at least one additional instructor for every additional 20 enrolled students. Schools that are organized as nonprofits and have obtained a ruling from the Internal Revenue Service recognizing their tax-exempt status shall have at least one instructor for every 20 enrolled students. No school, whether for profit or nonprofit, shall provide practical training and theoretical training simultaneously unless at least two instructors are present.

(3) An application for a student's permit, on a form prescribed by the Board, must be filed with the Board before the student enters school. No student may enroll without having obtained a student's permit.

(4) Each student enrolled shall be given a complete course of instruction on the following subjects: hair cutting; shaving; shampooing, and the application of creams and lotions; care and preparation of tools and implements; scientific massaging and manipulating the muscles of the scalp, face, and neck; sanitation and hygiene; shedding and regrowth of hair; elementary chemistry relating to sterilization and antiseptics; instruction on common skin and scalp diseases to the extent that they

may be recognized; pharmacology as it relates to preparations commonly used in barbershops; instruction in the use of electrical appliances and the effects of the use of these on the human skin; structure of the skin and hair; nerve points of the face; the application of hair dyes and bleaches; permanent waving; marcelling or hair pressing; frosting and streaking; and the statutes and regulations relating to the practice of barbering in North Carolina. The Board shall specify the minimum number of hours of instruction for each subject required by this subsection.

(5) Each school shall file an up-to-date list of its students with the Board at least once a month. If a student withdraws or transfers, the school shall file a report with the Board stating the courses and hours completed by the withdrawing or transferring student. The school shall also file with the Board a list of students who have completed the amount of work necessary to meet the licensing requirements.

(6) Each school shall comply with the sanitary requirements of G.S. 86A-15.

(7) a. Each school shall provide a guaranty bond unless the school has already provided a bond or an alternative to a bond under G.S. 115D-95.

The North Carolina State Board of Barber Examiners may revoke the approval of a school that fails to maintain a bond or an alternative to a bond pursuant to this subdivision or G.S. 115D-95.

b. When application is made for approval or renewal of approval, the applicant shall file a guaranty bond with the clerk of the superior court of the county in which the school will be located. The bond shall be in favor of the students. The bond shall be executed by the applicant as principal and by a bonding company authorized to do business in this State. The bond shall be conditioned to provide indemnification to any student, or his parent or guardian, who has suffered a loss of tuition or any fees by reason of the failure of the school to offer or complete student instruction, academic services, or other goods and services related to course enrollment for any reason, including the suspension, revocation, or nonrenewal of a school's approval, bankruptcy, foreclosure, or the school ceasing to operate.

The bond shall be in an amount determined by the Board to be adequate to provide indemnification to any student, or his parent or guardian, under the terms of the bond. The bond amount for a school shall be at least equal to the maximum amount of prepaid tuition held at any time during the last fiscal

year by the school. The bond amount shall also be at least ten thousand dollars ($10,000).

Each application for approval shall include a letter signed by an authorized representative of the school showing in detail the calculations made and the method of computing the amount of the bond pursuant to this subpart and the rules of the Board. If the Board finds that the calculations made and the method of computing the amount of the bond are inaccurate or that the amount of the bond is otherwise inadequate to provide indemnification under the terms of the bond, the Board may require the applicant to provide an additional bond.

The bond shall remain in force and effect until cancelled by the guarantor. The guarantor may cancel the bond upon 30 days notice to the Board. Cancellation of the bond shall not affect any liability incurred or accrued prior to the termination of the notice period.

c. An applicant that is unable to secure a bond may seek a waiver of the guaranty bond from the Board and approval of one of the guaranty bond alternatives set forth in this subpart. With the approval of the Board, an applicant may file with the clerk of the superior court of the county in which the school will be located, in lieu of a bond:

1. An assignment of a savings account in an amount equal to the bond required (i) which is in a form acceptable to the Board; (ii) which is executed by the applicant; and (iii) which is executed by a state or federal savings and loan association, state bank, or national bank, that is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (iv) for which access to the account in favor of the State of North Carolina is subject to the same conditions as for a bond in subpart b. above.
2. A certificate of deposit (i) which is executed by a state or federal savings and loan association, state bank, or national bank, which is doing business in North Carolina and whose accounts are insured by a federal depositors corporation; and (ii) which is either payable to the State of North Carolina, unrestrictively endorsed to the Board; in the case of a negotiable certificate of deposit, is unrestrictively endorsed to the Board; or in the case of a nonnegotiable certificate of deposit, is assigned to the Board in a form satisfactory to the Board; and (iii) for which access to the certificate of deposit in favor of the

State of North Carolina is subject to the same conditions as for a bond in subpart b. above."

SECTION 8. G.S. 86A-24(b) reads as rewritten:

"(b) An apprentice license expires on May 31 of each year. Every holder of an apprentice license shall annually renew the apprentice license by the expiration date and pay the required renewal fee. An apprentice license issued under this Chapter is automatically suspended by operation of law after failure to renew the apprentice license by the expiration date. An apprentice whose apprentice license has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the required late fee. The certificate of registration of an apprentice is valid only so long as the apprentice works under the supervision of a registered barber. The registered barber shall remain present on the premises of the barbershop at all times while the apprentice is working. No apprentice shall operate a barbershop."

SECTION 9. G.S. 86A-25 reads as rewritten:

"**§ 86A-25. Fees collectible by Board.**

The State Board of Barber Examiners shall charge fees not to exceed the following:

Certificate of registration or renewal as a barber	$ ~~30.00~~60.00
Certificate of registration or renewal as an apprentice barber	~~30.00~~60.00
Barbershop permit or renewal	~~30.00~~60.00
Examination to become a registered barber	~~50.00~~100.00
Examination to become a registered apprentice barber	~~50.00~~100.00
Late fee for restoration of an expired barber certificate within first year after expiration	~~20.00~~40.00
Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration	~~40.00~~80.00
Late fee for restoration of an expired apprentice certificate within first year after expiration	~~20.00~~40.00
Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate	~~25.00~~50.00
Late fee for restoration of an expired barbershop certificate	~~25.00~~50.00
Examination to become a barber school instructor	~~95.00~~190.00
Student permit	~~15.00~~30.00
Issuance of any duplicate copy of a license, certificate, or permit	~~7.50~~15.00
Barber school permit or renewal	~~75.00~~150.00
Late fee for restoration of an expired barber school certificate	~~50.00~~100.00
Barber school instructor certificate or renewal	~~50.00~~100.00
Late fee for restoration of an expired barber school instructor certificate within first year after expiration	~~25.00~~50.00
Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration	~~50.00~~100.00
Inspection of newly established barbershop	~~70.00~~140.00

Inspection of newly established barber school ..... ~~125.00~~250.00
Issuance of a registered barber or
apprentice certificate by certification ..... ~~70.00~~140.00
Barbers 70 years and older certificate or renewal ..... No ~~charge.~~charge
Reasonable charges for certified copies of public documents
Reasonable charges for duplication services and material."

SECTION 10. G.S. 86A-26 reads as rewritten:

"**§ 86A-26. Barbering among members of same family.**

This Chapter shall not prohibit a member of a family from practicing barbering on a member of his or her family. For purposes of this section, 'a member of his or her family' means a spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or stepchild."

SECTION 11. Chapter 86A of the General Statutes is amended by adding a new section to read:

"**§ 86A-27. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Board may assess a civil penalty not in excess of five hundred dollars ($500.00) per offense for the violation of any section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Board shall consider the following factors:

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties for violations of this Chapter and rules adopted by the Board.

(d) Costs. – The Board may in a disciplinary proceeding charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

SECTION 12. This act is effective when it becomes law.

SENATE BILL 1384 :
Amend Barbering Laws/Increase Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Albertson
Date:	June 29, 2004	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1384 makes several changes to the laws governing barbering and it doubles the fees the State Board of Bar Examiners may impose. The bill becomes effective when it becomes law.***

BILL ANALYSIS: Senate Bill 1384 makes the following changes to the laws governing barbering upon the request of the State Board of Bar Examiners:

Section	Explanation
1	There are five members on the State Board of Barber Examiners. The Governor appoints the members. Four of the members must be licensed barbers and the fifth member is an at large member who is not licensed by the Board. The Board does not currently have an at-large member and has not had one for about a year since the former at large member resigned. The members serve for a three-year term. Under the current law, a member may not serve more than three complete consecutive three-year terms. One of the board members whose third consecutive term expires July 1, 2004, is Donald Baker. He also serves as a vice-president on the National Association of Barber Board of America. He is scheduled to become the president of the National Board in September 2006. No barber in North Carolina has achieved this national recognition. However, the member may not serve as an officer on the National Board unless he is a member of the State Board. Section 1 would allow the Governor to appoint a member of the Board who holds an officer position on the National Board to serve as the 'public at large' member for the three-year term beginning July 1, 2004, if the Governor determines that there is not a public member willing to serve on the Board for this three-year term. The provision would sunset July 1, 2007.
2	• Gives the Board the authority to employ and pay personnel. The Board currently employs a staff of six people. The staff is currently employed under the State Personnel Act but they are paid through the revenues of the Board. • Gives the Board the authority to assess civil penalties, as provided in section 10 of the bill.
3	Changes the title of 'executive secretary' to 'executive director'.
4	Gives the Board the authority to adopt rules establishing procedures for the administration of exams. To become a barber, a person must attend an approved school, complete an apprenticeship, and pass a clinical examination given by the Board. The Board must conduct exams at least four times a year. The Board currently has internal policies for administering the exams, but it does not have rules.

Section	Explanation
5	Gives the Board the authority to assess a civil penalty against a registered barber whose certificate of registration has expired for a period greater than six months.
6	Gives the Board, the Department of Health and Human Services, or any county or district health director the authority to bring an action in superior court against a person who violates the provisions of this Chapter 86A or rules adopted by the Board. The action must be brought in the county where the defendant resides, where the defendant maintains a principal place of business, or where the alleged acts occurred.
7	• Gives the Board the authority to adopt rules establishing criteria for barber schools and colleges to maintain their accreditation. • Provides that each school must employ at least two instructors for the first 40 students and one instructor for every additional 20 students. A nonprofit school may continue to employ one instructor for every 20 students. • No school may provide practical training or theoretical training simultaneously unless at least two instructors are present.
8	Requires a registered barber to be on the premises of the barbershop at all times while an apprentice is working.
9	Doubles the fees the Board is allowed to charge and gives the Board the authority to charge reasonable fees for certified copies of public documents and for duplication services and materials.
10	Defines a 'member of her or her family' to mean a spouse, brother, sister, parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepparent, or step child.
11	• Authorizes the Board to assess a civil penalty for violations of this Chapter 86A or rules adopted by the Board. The proceeds of the penalties imposed must be remitted to the Civil Penalty and Forfeiture Fund. The Board must establish a schedule of civil penalties; a penalty may not exceed $500 per offense. • It allows the Board to charge the costs of a disciplinary proceeding, including reasonable attorney fees, to the licensee against whom the proceedings were brought.
12	The bill becomes effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 14

EDITION No. _____

H. B. No. _____ DATE July 1, 2004

S. B. No. 1384 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Howard
Sen.)

1 moves to amend the bill on page 6, line 14
2 ( ) WHICH CHANGES THE TITLE
3 ~~by~~ through page 7, line 6 by deleting
4 the lines.
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SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1384 A BILL TO BE ENTITLED AN ACT AMENDING THE LAWS REGULATING THE PRACTICE OF BARBERING, AUTHORIZING THE STATE BOARD OF BARBER EXAMINERS TO ASSESS CIVIL PENALTIES FOR VIOLATIONS OF THE LAWS OR REGULATING THE PRACTICE OF BARBERING, AND INCREASING FEES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 7, 2004

The House Committee on Finance met on Wednesday, July 7, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Alexander, Daughtridge, Gibson, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Cole, Creech, Glazier, Hackney, Holliman, Jones, McGee, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, and Walter Spell. Staff persons present included Richard Bostic, Gerry Cohen, Trina Griffin, Martha Harris, Jeff Hudson, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairwoman Howard called the meeting to order at 8:37 am and recognized the five (5) pages present: (1) Wilder Clark of Cleveland County, sponsored by Representative Moore; (2) Matt Light of Rockingham County, sponsored by Representative Sexton; (3) Jamal Scott of Mecklenburg County, sponsored by Representative Earle; (4) Joshua Scott of Mecklenburg County, sponsored by Representative Earle; and (5) Robert Tomsick of Orange County, sponsored by Joe Hackney.

Representative Crawford was then recognized to explain the first bill considered by the Committee: **HB 1343 – MOPED ID TAGS** (see **attachment 3**). Representative G. Allen was recognized for a motion to have the Proposed Committee Substitute (PCS) for HB 1343 be before the Committee for discussion and that motion carried without objection. Chairwoman Howard then recognized Representative Crawford who spoke on the bill. The bill allows moped dealers to sell identification tags so that mopeds in the State of North Carolina can be easily identified. The bill would institute a $25 one-time fee for the purchase of the ID tag. Chairwoman Howard recognized Representative Blackwood who asked if the ID tag was removable, to which Representative Crawford answered that the ID tag acted like a license plate and was therefore not removable. Chairwoman Howard then recognized Representative G. Allen who moved for a favorable report on the PCS of House Bill 1343, with an unfavorable report as to the original bill. Seeing no further debate, Chairwoman Howard brought the matter to a vote and the motion carried.

The next bill considered by the Committee was **SB 848 – Advanced Vehicle Research Center Initiatives** (see **attachment 4**). Chairwoman Howard recognized Representative Glazier who moved that the Proposed Committee Substitute (PCS) for SB 848 be before the committee for discussion and that motion carried without objection. The Chair then proceeded to recognize Representatives L. Allen and Tolson who mutually explained the bill before the Committee. The bill provides a tax incentive for an advanced research center in Northampton County. The incentive is in the form of a tax credit with the total amount of tax credits being allowed in a calendar year

capped at no more than $5 million. The Chair recognized Representative Holliman who motioned to give a favorable report to the PCS for Senate Bill 848, unfavorable as to the original bill. Noting the motion, the Chair recognized Representative Cole who asked the bill sponsors for the specifics of how the facilities would be utilized. Chairwoman Howard recognized Mr. Dick Dale who said that facilities similar to this one in other states had been looked at as models. This facility would provide a close testing center for government vehicles using biodiesel fuels. Representative Cole was granted a follow-up question by the Chair and asked what the State investment was in this project. Mr. Richard Bostic, Fiscal Research, answered by saying that the tax credits were capped at $5 million a year for two years, but that he expected the Federal government to contribute funds. Chairwoman Howard then recognized Representative Weiss who asked if the center was just in the planning stages or if there had been commitments by companies to actively participate. Representative Tolson responded by saying that the interest exhibited by companies will grow further when the State of North Carolina makes tax incentives like those in this bill more available. Representative Weiss then questioned the need for the tax credit incentives to be at such high percentages. The Chair then recognized Representative Creech who said he saw the construction of new facilities as an unnecessary expense when existing facilities could be leased. Chairwoman Howard then recognized Representative Weiss who introduced an amendment that proposed to change the tax credit incentives to smaller percentages. Representative Weiss explained the amendment and then moved the adoption of the amendment. The Chair then brought the matter to a vote, and the amendment was adopted (see **attachment 5**). Representative Holliman then reiterated his previous motion for a favorable report as to the PCS for Senate Bill 848 (incorporating the newly adopted amendment), and seeing no further debate, Chairwoman Howard brought the motion to a vote. The motion carried.

SB 1244 – AMEND NC CEMETERY ACT/INCREASE FEES (see **attachment 6**) was the next bill considered by the Committee. Representative G. Allen was recognized by the Chair to speak on the bill. He explained that the bill gives the North Carolina Cemetery Commission the authority to increase several of its fees and it increases the amounts that must be deposited into care and maintenance trust funds. Chairwoman Howard then recognized Representative Holliman who asked how long it had been since the fees had been increased. Claud Whitener, Director of the North Carolina Cemetery Commission, was recognized by the Chair to help answer the question. He said that it had been close to 20 years since the last time the fees were increased, and that this bill would "future proof" the existence of the association by increasing the cap of the fees and providing the Commission with greater flexibility. The fees would not be immediately levied since they were not all necessary at the present time. Chairwoman Howard proceeded to recognize Representative McGee who inquired as to whether the current fee caps that the Cemetery Commission operated under were at their maximum. Mr. Whitener responded that the fees were already at the maximum they can charge by law. He further stated that the Commission was currently running a deficit due to a lack of funding (all of which is through fees). The Chair then recognized Representative Holliman who introduced an amendment that would have Tier statuses according to the Bill Lee Act analyzed on a yearly basis (see **amendment 7**), rather than the current 3 years. He moved adoption of the amendment, and Chairwoman Howard brought the motion to a vote. The amendment was adopted without opposition. Representative Holliman then moved for a favorable report for the PCS of Senate Bill 1244, unfavorable as to the original bill. Seeing no further debate, Chairwoman Howard called the motion to a vote and it carried.

Chairwoman Howard then recognized Representative Wainwright to explain the next bill considered by the Committee: HB 1427 – AMEND SHELLFISH LAWS (see **attachment 8**). The Committee first considered this bill at its June 29, 2004 meeting. It was passed at that meeting by the Committee, but due to concerns that arose on the floor of the House the bill was brought

back to Committee in its revised version. Representative Wainwright motioned for the Proposed Committee Substitute to be before the Committee for discussion, it passed without objection. He then explained that the PCS took out the provision requiring fishermen to have a recreational shellfish license, but left everything else in the bill untouched. The Chair recognized Representative Blackwood who proceeded to ask why the bottom shellfish cultivation lease had been reduced from 10 to 5 years. Chairwoman Howard directed the question to Mr. Preston Pate, Director of the North Carolina Division of Marine Fisheries, who explained that the reduction in lease time ensures that people holding the lease are actually successfully cultivating shellfish. The Chair then recognized Representative Glazier who motioned for a favorable report for the PCS of House Bill 1427, unfavorable as to original bill. The motion was brought to a vote and it carried.

The next bill discussed was **HB 1700 – DURHAM VEHICLE TAX SUNSET EXTENDED/USES** (see **attachment 9**). Chairwoman Howard then proceeded to recognize Representative G. Allen who motioned for the Proposed Committee Substitute for House Bill 1700 to be before the Committee for discussion. The motion carried without objection. The Chair then recognized Representative Miller who explained that the bill repeals the sunset on the City of Durham vehicle tax and the purposes for which the funds generated by the tax may be used. Chairwoman Howard then recognized Representative Luebke who motioned for a favorable report for the PCS for House Bill 1700, unfavorable as to the original bill. Seeing no further debate on the matter, the Chair brought the motion to a vote and it carried.

As the final bill on the agenda, Chairwoman Howard called upon Senator Hartsell to explain **SB 1315 – CABARRUS BOARD OF EQUALIZATION AND REVIEW** (see **attachment 10**). Representative Weiss moved that the PCS for SB 1315 be adopted for the purposes of discussion and that motion carried without objection. The Chair then recognized Senator Hartsell who briefly stated that the bill would set up a year-round board of equalization that would regulate taxes in Cabarrus County. Chairwoman Howard then recognized Representative Glazier who moved for a favorable report for the Proposed Committee Substitute of Senate Bill 1315, unfavorable as to original bill. Chairwoman Howard then called the motion to a vote and the motion carried.

Having no further business before the Committee, Chairwoman Howard adjourned the meeting at 9:39 am.

Respectfully submitted,

Representative Julia Howard
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. House Bill 1343 (and related materials)
4. Senate Bill 848 (and related materials)
5. Amendment for Senate Bill 848 (**Adopted**)
6. Senate Bill 1244 (and related materials)
7. Amendment for Senate Bill 1244 (**Adopted**)
8. House Bill 1427 (and related materials)
9. House Bill 1700 (and related materials)
10. Senate Bill 1315 (and related materials)

AGENDA

ATTACHMENT 1

House Finance Committee

July 7, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Howard

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 1343 MOPED ID TAGS *Rep. Crawford*

HB 1427 REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS
Rep. Wainwright

HB 1700 DURHAM VEHICLE TAX SUNSET REPEALED/USES
Rep. Miller

SB 848 VETERINARY BD. AGREEMENTS/IMPAIRED VETS
Rep. L. Allen

SB 1244 AMEND NC CEMETERY ACT/INCREASE FEES *Sen. Hoyle*

SB 1315 CABARRUS BOARD OF EQUALIZATION AND REVIEW
Sen. Hartsell

Adjournment

CORRECTED NOTICE:
HB 1700 & SB 848 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Wednesday, July 7, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 1343 – MOPED ID TAGS – Rep. Crawford

HB 1427 – REC. SHELLFISH LICENSE/AMEND SHELLFISH LAWS – Rep. Wainwright

HB 1700 – DURHAM VEHICLE TAX SUNSET REPEALED/USES – Rep. Miller

SB 848 – VETERINARY BD. AGREEMENTS/IMPAIRED VETS – Sen. Gulley

SB 1244 – AMEND NC CEMETERY ACT/INCREASE FEES – Sen. Hoyle

SB 1315 – CABARRUS BOARD OF EQUALIZATION AND REVIEW – Sen. Hartsell

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **11:50 a.m.** on **July 6, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 7, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[illegible]	BPMHL
Paul Fogleman	Infam Inc.
Katie Jackelen	Intern
Rich Webb	Intern
Claud Whitener III	NC Cemetery Comm.
Tom Proctor	MID-ATLANTIC ASSOCIATES, INC.
Chad Mastny	Husker Communications
RICHARD DELL	ADVANCED VEHICLE RESEARCH
[illegible]	Capitol Group
Johanna Reese	DENR
Vann Rogerson	NC Northeast Partnership / DOC

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 7, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gary Brown	Northampton County
Mollie Rason	NCVMA
[illegible]	NCVMB
Cora Cole-McFadden	Durham City Council
Diane Catotti	Durham City Council
Theodore L. Voorhees	City of Durham
Andy Romanet	NCLM
Steve Woodson	NC Farm Bureau
Mary K Hackney	Intern - Dep. Hackney
Henry M Lancaster III	LCA / FDMANC

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1343*
PROPOSED COMMITTEE SUBSTITUTE H1343-CSSVf-58 [v.5]

7/6/2004 5:09:09 PM

Short Title: Moped ID Tags. (Public)

Sponsors:

Referred to:

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO REQUIRE MOPED IDENTIFICATION TAGS, TO AUTHORIZE THE ESTABLISHMENT OF A PRIVATE MOPED REGISTRATION SYSTEM, TO AUTHORIZE MOPED DEALERS TO CHARGE A ONE-TIME FEE TO PURCHASERS OF NEW AND USED MOPEDS, AND TO ESTABLISH A PENALTY FOR FAILURE TO COMPLY WITH THE REGISTRATION OR DISPLAY REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new Part to read:

"Part 3B. Moped Identification Tags.

"**§ 20-71.6. Moped identification tags.**

(a) Tags Required. – Every moped, as defined in G.S. 105-164.3 and operated in the State, shall display a permanent identification tag. The tag must display information for identification and enforcement purposes and be approved by the Commissioner.

(b) Duties of Moped Dealer. – A moped dealer shall attach the approved tag to each moped sold by the dealer in this State. The moped dealer shall collect a one-time only fee from the purchaser of a new moped or a used moped that does not have an identification tag in the amount established by the North Carolina Motorcycle Dealers Association pursuant to this section. Moped dealers shall remit, on a quarterly basis, the proceeds of the fee to the North Carolina Motorcycle Dealers Association. Moped dealers shall also make an effort to promote awareness of the tag requirement.

(c) Fee. – The North Carolina Motorcycle Dealers Association shall establish a fee not to exceed twenty-five dollars ($25.00) to be collected by moped dealers from each purchaser of a new or used moped. The proceeds of the fee shall be used to develop the permanent identification tags, to establish and maintain a moped registration system, and to promote awareness of the tag requirement.

(d) Registration System. – The North Carolina Motorcycle Dealers Association shall establish and maintain a moped registration system identifying moped owners and their corresponding identification tag information. The registration system shall be accessible only to law enforcement and to moped dealers.

(e) Transfer of Ownership. – The identification tag required by subsection (a) of this section shall not be removed upon the transfer of title of a moped. A person who purchases a used moped from a person other than a moped dealer shall register the moped with a moped dealer without having to pay the fee in subsection (c) of this section.

(f) Violations. – A moped dealer who fails to attach a tag to a moped at the time of sale, or a person who operates a moped upon the public highways and streets of this State without displaying the tag, or a person who fails to register a moped as required by this section shall have committed an infraction and shall pay a penalty of twenty-five dollars ($25.00) plus court costs in the sum of fifty dollars ($50.00). Court costs assessed under this section are for the support of the General Court of Justice and shall be remitted to the State Treasurer. Conviction of an infraction under this section has no other consequence.

(g) Reporting Requirement. – The North Carolina Motorcycle Dealers Association shall report annually to the Joint Legislative Transportation Oversight Committee on the collection and expenditure of fees."

SECTION 2. This act becomes effective January 1, 2005 and applies to violations occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

HOUSE BILL 1343*

Short Title:	Moped ID Tags.	(Public)
Sponsors:	Representatives Crawford; and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO REQUIRE MOPED IDENTIFICATION TAGS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 20 of the General Statutes is amended by adding a new Part to read:

"Part 3B. Moped Identification Tags.

"**§ 20-71.6. Moped identification tags.**

(a) Tags Required. – Every moped, as defined in G.S. 105-164.3 and operated in the State, shall display a permanent identification tag. The tag must display information for identification and enforcement purposes and be approved by the Commissioner.

(b) Duties of Moped Dealer. – A moped dealer shall attach the approved tag to each moped sold by the dealer in this State. The moped dealer may collect a one-time only fee not exceeding twenty-five dollars ($25.00) from the purchaser of the new or used moped. Moped dealers shall make an effort to promote awareness of the tag requirement.

(c) Violations. – A moped dealer who fails to attach a tag to a moped at the time of sale or a person who operates a moped upon the public highways and streets of this State without displaying the tag is guilty of a Class 3 misdemeanor."

SECTION 2. This act becomes effective October 1, 2004.

HOUSE BILL 1343:
Moped ID Tags

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Crawford
Date:	July 7, 2004	**Summary by:**	Trina Griffin
Version:	PCS for 1st Edition		Committee Counsel

SUMMARY: ***House Bill 1343 would require all mopeds to display a permanent identification tag; it would require moped dealers to attach the identification tag to each moped sold by the dealer and to charge a fee not exceeding $25 to purchasers of new and used mopeds; and it would create a Class 3 misdemeanor for failure to comply with the identification tag requirements. The bill would also require moped dealers to promote awareness of the tag requirement.***

The Proposed Committee Substitute makes the following changes:

- ***It requires the North Carolina Motorcycle Dealers Association (Association) to establish and maintain a moped registration system identifying moped owners and their corresponding identification tag information. The information would be accessible only to law enforcement and moped dealers.***
- ***It clarifies that the Association is authorized to establish a fee not exceeding $25 that will be collected by moped dealers from purchasers of new and used mopeds for purposes of developing the tags, establishing and maintaining the registration system, and promoting awareness of the tag requirement.***
- ***It provides that, upon transfer of title, a subsequent purchaser who purchases a moped from a person other than a dealer would be required to register the moped with a dealer without having to pay the fee.***
- ***It changes the penalty for failure to comply with the registration or display requirements from a Class 3 misdemeanor to an infraction.***
- ***It requires the Association to report annually to the Joint Legislative Transportation Oversight Committee on the collection and expenditure of fees.***
- ***It revises the effective date from October 1, 2004 to January 1, 2005.***

CURRENT LAW: A moped is defined as a vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 30 miles per hour on a level surface. Mopeds are not required to be registered as motor vehicles in this State.

BILL ANALYSIS: House Bill 1343 establishes a private registration system for mopeds and authorizes moped dealers to collect a fee not exceeding $25 from purchasers of new mopeds and used mopeds that do not already have an identification tag. The proceeds of the fee would be remitted to the North Carolina Motorcycle Dealers Association in order to cover the costs of developing the identification tags, establishing and maintaining a registration system, and promoting awareness of the tag requirement.

Specifically, the bill does the following:

- It requires every moped purchased in this State to display an approved permanent identification tag.

- It requires moped dealers to attach the approved tag to each moped sold by the dealer in this State.
- It authorizes moped dealers to collect a one-time fee not exceeding $25 from purchasers of new mopeds and used mopeds that do not have an identification tag and remit the proceeds on a quarterly basis to the NC Motorcycle Dealers Association.
- It requires moped dealers to make efforts to promote awareness of the tag requirement.
- It requires the North Carolina Motor Vehicle Dealers Association to establish and maintain a moped registration system identifying moped owners and their corresponding identification tag information. The registration system would be accessible only to law enforcement and moped dealers.
- It authorizes the North Carolina Motor Vehicle Dealers Association to establish a fee not exceeding $25 to be collected by moped dealers from each purchaser of a new or used moped. The proceeds of the fee are to be used to develop the permanent identification tags, to establish and maintain a moped registration system, and to promote awareness of the tag requirement.
- It requires a person who purchases a used moped from someone other than a moped dealer to register the moped without having to pay the registration fee. The identification tag issued at the time of original purchase would be permanent to the moped, but the subsequent purchaser would be required to provide the required information for purposes of keeping ownership information current in the moped registration system.
- It creates an infraction that carries a $25 penalty plus $50 in court costs for all of the following violations:
    - A dealer who fails to attach the identification tag at the time of sale.
    - A person who operates a moped on the public highways and streets of this State without displaying the tag.
    - A person who fails to register a moped as required.
- It requires the North Carolina Motor Vehicle Dealers Association to report annually to the Joint Legislative Transportation Oversight Committee on the collection and expenditure of fees.

BACKGROUND: The provisions of this bill were added to HB 471 (CDL/DWI Changes) during the 2003 Session. The bill passed the House, but the Senate amended the bill to require a study of the moped identification tag provisions by the Joint Legislative Transportation Oversight Committee. The Committee did not study this issue at any length but heard briefly from the North Carolina Motorcycle Dealers Association, who believe that the tags will help law enforcement identify mopeds and enforce the appropriate law and to track stolen mopeds. In its report to the 2004 General Assembly, the Transportation Oversight Committee recommended the moped identification tag provisions in the same format in which they were referred to the Committee.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 6, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: House Bill 1343-CSSVf-58[v.4]

FISCAL IMPACT

Yes ( ) **No ( )** **No Estimate Available (X)**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Highway Fund	No Fiscal Impact				
General Fund	No Estimate Available*				
Civil Penalty and Forfeiture Fund	No Estimate Available**				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Joint Legislative Transportation Oversight Committee

EFFECTIVE DATE: This act becomes effective January 1, 2005 and applies to violations occurring on or after that date.

* All court costs paid by those committing an infraction are deposited in the General Fund.
** The $25 infractions penalty is deposited into this fund and given to schools in county where infraction occurred.

BILL SUMMARY: The bill requires a purchaser of a new or used moped to purchase a moped identification tag from a moped dealer for a fee of up to $25. All fee revenue will be remitted to the North Carolina Motorcycle Dealers Association for use in establishing and maintaining a moped registration system. Failure to purchase a moped tag is an infraction with a penalty of $25 and $50 court costs.

ASSUMPTIONS AND METHODOLOGY:
A lobbyist for the North Carolina Motorcycle Dealers Association estimates there are 1,000 mopeds sold each year. If the maximum of $25 is charged per moped tag, then the Association will receive $25,000 a year for its moped identification efforts. None of the tag funds will go into state Highway Fund or Highway Trust Fund.

There is a $25 penalty and $50 court costs for not purchasing the moped tag. The $25 penalty proceeds go to the Civil Penalty and Forfeiture Fund and the court costs are deposited into the state General Fund. There is no estimate of the number of infractions that might occur each year.

SOURCES OF DATA: North Carolina Motorcycle Dealers Association

TECHNICAL CONSIDERATIONS:

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1343 A BILL TO BE ENTITLED AN ACT TO REQUIRE MOPED IDENTIFICATION TAGS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill ~~(# _____)~~, ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill # _____), (and recommendation that the committee substitute bill # _____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 848
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S848-CSLC-161 [v.1]

7/1/2004 5:06:28 PM

Short Title: Advanced Vehicle Research Center Incentive. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX INCENTIVE FOR AN ADVANCED VEHICLE RESEARCH CENTER IN NORTHAMPTON COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3B of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-129.16D. Credit for advanced vehicle research center.**

(a) Definitions. – The following definitions apply in this section:

(1) Advanced vehicle research center – A facility designed to conduct transportation research, development, and testing of vehicles using advanced technologies, which may include hybrid and multi-fuel systems, drive-by-wire, intelligent highway, and non-fossil fuel technologies.

(2) Advanced vehicle research entity – An entity chartered to operate an advanced vehicle research center in the State

(3) Related entity – Defined in G.S. 105-130.7A.

(b) Credit. – A taxpayer that contributes cash or property to an advanced vehicle research entity for construction or operation of an advanced vehicle research center is allowed a credit equal to a percentage of the value of the contribution. A contribution is for construction or operation of an advanced vehicle research center if the advanced vehicle research entity receiving the contribution contracts in writing to use the contribution for this purpose and agrees in the contract to repay to the taxpayer, with interest, any part of the contribution not used for this purpose. The credit may not be taken for the year in which the contribution is made but must be taken for the taxable year beginning during the calendar year in which the application for the credit becomes effective as provided in this section.

(c) Amount. – If the center is located in an enterprise tier one area, the amount of the credit is one hundred percent (100%) of the first five hundred thousand dollars ($500,000) in value, fifty percent (50%) of the next five hundred thousand dollars ($500,000) in value, and twenty-five percent (25%) of the remaining value of the contribution. If the center is not located in an enterprise tier one area, the amount of the credit is twenty-five percent (25%) of the value of the contribution.

(d) Limitations. – No credit is allowed to a taxpayer that is a related entity with respect to the advanced vehicle research entity. No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution.

(e) Application. – To be eligible for the tax credit provided in this section, the taxpayer must request the credit on an application filed with the Secretary on or before April 15 of the year following the calendar year in which the contribution was made. The Secretary may grant extensions of this deadline, as the Secretary finds appropriate, upon the request of the taxpayer, except that the application may not be filed after September 15 of the year following the calendar year in which the contribution was made. An application is effective for the year in which it is timely filed. The application must be on a form prescribed by the Secretary and must include any supporting documentation that the Secretary may require.

(f) Ceiling. – The total amount of all tax credits allowed to taxpayers under this section for contributions made in a calendar year may not exceed a maximum of five million dollars ($5,000,000). The Secretary of Revenue must calculate the total amount of tax credits requested on the applications filed under this section. If the total amount of tax credits requested for contributions made in a calendar year exceeds the maximum amount, the Secretary must allow a portion of the credits requested by allocating the maximum amount in tax credits in proportion to the size of the credit requested by each taxpayer. If a credit is reduced pursuant to this subsection, the Secretary must notify the taxpayer of the amount of the reduction of the credit on or before December 31 of the year the application was filed. The Secretary's allocations based on applications filed pursuant to this section are final and will not be adjusted to account for credits applied for but not claimed.

(g) Forfeiture – A taxpayer forfeits a credit allowed under this section to the extent the advanced vehicle research entity uses the taxpayer's contribution for any purpose other than construction or operation of an advanced vehicle research center. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2004, and applies to contributions made on or after July 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 848

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/03

Short Title: Veterinary Bd. Agreements/Impaired Vets. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA VETERINARY MEDICAL BOARD TO ENTER INTO AGREEMENTS WITH ORGANIZATIONS THAT HAVE DEVELOPED PROGRAMS FOR IMPAIRED VETERINARY PERSONNEL.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-187.15. Board agreement for programs for impaired veterinary personnel.**

(a) The Board may enter into agreements with organizations that have developed programs for impaired veterinary personnel. Activities to be covered by these agreements may include investigation, review, and evaluation of records, reports, complaints, litigation, and other information about the practices or the practice patterns of veterinary personnel licensed or registered by the Board as these matters may relate to impaired veterinary personnel. Organizations having programs for impaired veterinary personnel may include a statewide supervisory committee or various regional or local components or subgroups.

(b) Agreements authorized under this section shall include provisions for the impaired veterinary personnel organizations to: (i) receive relevant information from the Board and other sources; (ii) conduct any investigation, review, or evaluation in an expeditious manner; (iii) provide assurance of confidentiality of nonpublic information and of the process; (iv) make reports of investigations and evaluations to the Board; and (v) implement any other related activities for operating and promoting a coordinated and effective process. The agreement shall include provisions assuring basic due process for veterinary personnel who become involved.

(c) Organizations entering into agreements with the Board shall establish and maintain a program for impaired veterinary personnel licensed or registered by the Board for the purpose of identifying, reviewing, and evaluating the ability of those

veterinarians or veterinary technicians to function as veterinarians or veterinary technicians and provide programs for treatment and rehabilitation. The Board may provide funds for the administration of these impaired veterinary personnel peer review programs. The Board may adopt rules pursuant to Chapter 150B of the General Statutes to apply to the operation of impaired veterinary personnel programs, with provisions for: (i) definitions of impairment; (ii) guidelines for program elements; (iii) procedures for receipt and use of information of suspected impairment; (iv) procedures for intervention and referral; (v) arrangements for monitoring treatment, rehabilitation, posttreatment support, and performance; (vi) reports of individual cases to the Board; (vii) periodic reporting of statistical information; (viii) assurance of confidentiality of nonpublic information and of the process; and (ix) other necessary measures.

(d) Upon investigation and review of a veterinarian licensed by the Board or a veterinary technician registered with the Board, or upon receipt of a complaint or other information, an impaired veterinary personnel organization that enters into an agreement with the Board shall report to the Board detailed information about any veterinarian licensed or veterinary technician registered by the Board if:

(1) The veterinarian or veterinary technician constitutes an imminent danger to the public, to patients, or to himself or herself.

(2) The veterinarian or veterinary technician refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence.

(3) It reasonably appears that there are other grounds for disciplinary action.

(e) Any confidential information or other nonpublic information acquired, created, or used in good faith by an impaired veterinary personnel organization or the Board regarding a participant pursuant to this section shall remain confidential and shall not be subject to discovery or subpoena in a civil case, nor subject to disclosure as a public document by the Board pursuant to Chapter 132 of the General Statutes. No person participating in good faith in an impaired veterinary personnel program developed under this section shall be required in a civil case to disclose any information, including opinions, recommendations, or evaluations, acquired or developed solely in the course of participating in the program.

(f) Impaired veterinary personnel activities conducted in good faith pursuant to any program developed under this section shall not be grounds for civil action under the laws of this State, and the activities are deemed to be State directed and sanctioned and shall constitute "State action" for the purposes of application of antitrust laws."

SECTION 2. This act is effective when it becomes law.

SENATE BILL 848 (PCS): Advanced Vehicle Research Center

BILL ANALYSIS

Committee: House Finance
Date: July 6, 2004
Version: Draft

Sponsor: Sen. Gulley
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The proposed House Committee Substitute for SB 848 deletes the original contents of the bill and adds a franchise or income tax credit for contributions made to an advanced vehicle research center, effective for contributions made on or after July 1, 2004.

This bill would add a new tax credit to Article 3B of Chapter 105 of the General Statutes. This credit would be for contributions by unrelated parties to an advanced vehicle research center for construction or operation of the center. An advanced vehicle research center is a facility for research and development of advanced technology vehicles. A contribution is eligible for the credit to the extent the taxpayer receives nothing of value in exchange.

The amount of the credit depends on the location of the research center. If the center is in tier one, the taxpayer would receive a 100% credit for the first $500,000 contributed. The taxpayer would receive 50% of the next $500,000 contributed and 25% of any excess contributed. If the research center is not in tier one, the credit is 25% of the amount contributed.

Like the other credits in Article 3B , the new credit may be claimed against income tax or franchise tax. The credit is allowed to individuals, partnerships, corporations, and LLCs. The general law provides that a pass-through entity (partnership, S corporation, LLC) may pass the credit through to its partners/members in proportion to the ownership share of each.

The credit is limited to 50% of the amount of tax liability against which it is claimed. Any excess may be carried forward for up to five years. Article 3B is set to sunset January 1, 2006.

The new credit would be subject to an annual ceiling of $5 million on the amount of credits that can be taken by all taxpayers combined. The amount of any carryforwards from a previous year is not included in determining whether the ceiling has been reached. If the amount claimed by all taxpayers exceeds the $5 million ceiling, the credit claimed by each taxpayer is reduced proportionally until the total reduced amount does not exceed the ceiling. The administration of this ceiling results in a one-year delay on the tax period for which the credit can be taken. Each taxpayer must apply for the credit in one year and then take the credit in the following year. The delay gives the State time to determine in advance of a taxable year whether the credits claimed for that year will exceed the ceiling and to notify taxpayers of any reduction in the credits claimed in the event the amount claimed by all taxpayers exceeds the ceiling.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 6, 2004

TO: House Finance Committee

FROM: Richard Bostic
Fiscal Research Division

RE: Senate Bill 848-CSLC-161[v.1]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($million)

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		(5.0)*	(5.0)*		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Revenue

EFFECTIVE DATE: This act is effective for taxable years beginning on or after January 1, 2004, and applies to contributions made on or after July 1, 2004. The tax credit sunsets for taxable years beginning on or after January 1, 2006.

* Statutory maximum

BILL SUMMARY: The bill creates a tax credit for contributions of cash or property for the construction and operation of an advanced vehicle research center. If the research center is in a tier one county, the maximum credit per taxpayer is 100% of the first $500,000 donated, 50% of the next $500,000 donated, and 25% of all remaining donations. If the research center is not located in a tier one county, then the credit is capped at 25%. The state will award no more than $5 million in credits each tax year.

ASSUMPTIONS AND METHODOLOGY:
The new tax credit for advanced vehicle research center is limited to tax years 2004 and 2005 by its placement in Article 3B of Chapter 105 of the General Statutes that sunsets on January 1, 2006. Since the application for a tax credit is submitted to the Department of Revenue by April 15 in the year following the calendar year in which the contribution was made, the fiscal impact for tax year 2004 will be in FY 2005-06 and the impact for tax year 2005 will be in FY 2006-07. With a $5 million cap on this tax credit each year, the maximum state General Fund revenue loss due to this tax credit is $10 million over two years.

Ten million dollars is twice what a consultant projected for tax eligible donations. The consulting firm TGI Inc. estimated $5 million from tax credit eligible donations in the project's stage 2 from 2005 until 2010. On the other hand in the project's stage 4, from 2006 to 2013, there is $75.65 million in private funding that is not eligible for the tax credit because of the limitation in proposed G.S.105-129.16D (d) that states "No credit is allowed to the extent the taxpayer receives anything of value in exchange for the contribution".

Will the proposed center receive donations in 2004 and 2005 without the $4 million state appropriation it requested for FY 2004-05? While no decisions are final, the conference committee on the state budget bill has suggested only a $200,000 appropriation for the center. Page 5 of the feasibility study identifies a significant challenge for success is " the need for federal, state, and local assistance in the start-up of the enterprise". The project timetable for the new center includes a $4 million state grant to fund the purchase of 620 acres of land and to begin construction on a 2.5 mile test track. State funds were also to be used to hire 6 personnel. The consultant questioned whether the lack of state support may harm the center's pursuit of $18.35 million in federal funding of facilities in the initial phases of the project.

Utilities and other donors that have an interest in furthering economic development in Northeast North Carolina may take a wait and see attitude until the state and federal government invest in the project. The proposed tax credits may sunset before project viability can be ascertained.

SOURCES OF DATA: "A Report on the Feasibility and Viability of a Center for Research, Engineering and Development of Alternative Fuel Vehicles in Northeast North Carolina" by TGI Inc. for the North Carolina Northeast Development Partnership for Economic Development; TGI Inc. consultant Richard Dell

TECHNICAL CONSIDERATIONS: None

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☒ Committee Substitute for
S.B. 848 A BILL TO BE ENTITLED AN ACT ALLOWING THE NORTH CAROLINA VETERINARY MEDICAL BOARD TO ENTER INTO AGREEMENTS WITH ORGANIZATIONS THAT HAVE DEVELOPED PROGRAMS FOR IMPAIRED VETERINARY PERSONNEL.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 5

EDITION No. _____

H. B. No. _____

S. B. No. 848 PCS

COMMITTEE SUBSTITUTE _____

DATE July 7, 2004

Amendment No. _____
(to be filled in by Principal Clerk)

Rep.) Weiss
Sen.)

moves to amend the bill on page 2, line 2

( ) WHICH CHANGES THE TITLE

by deleting "one hundred percent (100%)" and substituting "seventy-five percent (75%)" and on page 2, line 3 by ~~deleting~~ deleting "fifty percent (50%)" and substituting "forty percent (40%)"

SIGNED Jennifer Weiss

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 1244
Finance Committee Substitute Adopted 6/17/04

Short Title: Amend NC Cemetery Act/Increase Fees. (Public)

Sponsors:

Referred to:

May 24, 2004

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA CEMETERY COMMISSION TO INCREASE CERTAIN FEES AND MAKING CLARIFYING CHANGES UNDER THE NORTH CAROLINA CEMETERY ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 65-54 reads as rewritten:

"**§ 65-54. Annual budget of Commission; collection of funds.**

The Commission shall prepare an annual budget and shall collect the sums of money required for this budget from yearly fees and from any other sources provided in this Article. On or before July 1 of each year, each licensed cemetery shall pay a license fee to be set by the Commission in an amount not to exceed ~~three hundred dollars ($300.00).~~six hundred dollars ($600.00). In addition, each licensed cemetery shall pay to the Commission an inspection fee for each grave space, niche, or mausoleum crypt ~~sold~~ when the certificate of interment right is issued and shall pay a fee for each vault, ~~niche,~~ belowground crypt, ~~mausoleum crypt,~~ memorial, or opening and closing of a grave space that is included in a preneed cemetery contract. The inspection fee for each grave space, niche, or mausoleum crypt is payable when the ~~item is sold~~certificate of interment right is issued and may not exceed ~~two dollars ($2.00).~~four dollars ($4.00). The fee for each of the listed items that are included in a preneed cemetery contract is payable when the contract is made and may not exceed ~~five dollars ($5.00).~~ten dollars ($10.00)."

SECTION 2. G.S. 65-55(c) reads as rewritten:

"(c) Upon receipt of the application and filing fee ~~of eight hundred dollars ($800.00),~~to be set by the Commission in an amount not to exceed one thousand six hundred dollars ($1,600), the Commission shall cause an investigation to be made to establish the following criteria for approval of the application:

(1) The creation of a legal entity to conduct cemetery business, and its proposed financial structure.

(2) A perpetual care trust fund agreement, with an initial deposit of not less than fifty thousand dollars ($50,000) and with a bank cashier's check or certified check attached for the amount made payable to the trustee. The trust fund agreement must be executed by the applicant, accepted by the trustee, and conditioned only upon approval of the application.

(3) A plat of the land to be used for the cemetery, showing the location of the cemetery and the access roads to the cemetery.

(4) Designation by the legal entity wishing to establish a cemetery of a general manager. The general manager must be a person of good moral character and have at least one year's experience in cemeteries.

(5) Development plans sufficient to ensure the community that the cemetery will provide adequate cemetery services and that the property is suitable for use as a cemetery."

SECTION 3. G.S. 65-57(c) reads as rewritten:

"(c) The application shall be accompanied by an initial filing fee ~~of four hundred dollars ($400.00)~~to be set by the Commission in an amount not to exceed one thousand dollars ($1,000) for cemetery sales organization and cemetery management organization and an initial filing fee ~~of two hundred dollars ($200.00)~~to be set by the Commission in an amount not to exceed five hundred dollars ($500.00) for a cemetery broker. If ninety percent (90%) or more of the applicant is owned by an existing cemetery company operating under the North Carolina Cemetery Act, then the initial filing fee shall be one half of the sums set out herein. On or before July 1 of each year, each licensed cemetery sales organization, cemetery management organization, or cemetery broker shall pay a license renewal fee ~~of one hundred dollars ($100.00)~~to be set by the Commission in an amount not to exceed six hundred dollars ($600.00) per year."

SECTION 4. G.S. 65-58(c) reads as rewritten:

"(c) The application shall be accompanied by a filing fee ~~of fifteen dollars ($15.00)~~to be set by the Commission in an amount not to exceed one hundred dollars ($100.00) to cover the expenses of processing and investigation. After processing and ~~investigation~~ investigation, the Commission shall grant, or refuse to grant, the license applied for. The ~~annual~~ license fee for a two-year term shall be set by the Commission but shall not exceed ~~ten dollars ($10.00).~~one hundred dollars ($100.00)."

SECTION 5. G.S. 65-59 reads as rewritten:

"§ 65-59. Application for a change of control; filing fee.

A person who proposes to acquire control of an existing cemetery company, whether by purchasing the capital stock of the company, purchasing an owner's interest in the company, or otherwise acting to effectively change the control of the company, shall first make application on a form supplied by the Commission for a certificate of approval of the proposed change of control. The application shall contain the name and address of each proposed new owner. The Commission shall issue a certificate of approval only after it determines that the proposed new owners are qualified by character, experience, and financial responsibility to control and operate the cemetery company in a legal and proper manner, and that the interest of the public generally will

not be jeopardized by the proposed change in control. An application for approval of a change of control must be completed and accompanied by a filing fee ~~of two hundred dollars ($200.00).~~to be set by the Commission in an amount not to exceed one thousand six hundred dollars ($1,600)."

SECTION 6. G.S. 65-63 reads as rewritten:

"**§ 65-63. Requirements for perpetual care fund.**

A cemetery company may not cause or permit advertising of a perpetual care fund in connection with the sale or offer for sale of its property unless the amount deposited in the fund is at least ~~forty dollars ($40.00)~~one hundred dollars ($100.00) or ten percent (10%) of the retail sale price, whichever is greater, per grave space, niche, or mausoleum crypt sold. Nothing may prohibit an individual cemetery from requiring a perpetual care deposit for grave memorial markers to be deposited in the perpetual care fund so long as the same assessment is uniformly applied to all grave memorial markers installed in the cemetery."

SECTION 7. G.S. 65-64(a) reads as rewritten:

"(a) Deposits to the care and maintenance trust fund must be made by the cemetery company holding title to the subject cemetery lands on or before the last day of the calendar month following the calendar month in which final payment is received as provided herein; however the entire amount required to be deposited into the fund shall be paid within four years from the date of any contract requiring such payment regardless of whether all amounts have been received by the cemetery company. If the cemetery company fails to make timely deposit, the Commission may levy and collect ~~a penalty~~a late filing fee of one dollar ($1.00) per day for each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The care and maintenance trust fund shall be invested and reinvested by the trustee in the same manner as provided by law for the investment of other trust funds by the clerk of the superior court except that such investments may be made through means of a common trust fund as described in G.S. 36A-90; provided, further, that cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to G.S. 65-64(e) may be invested and reinvested in accordance with G.S. 36A-2. The fees and other expenses of the trust fund shall be paid by the trustee from the net income thereof and may not be paid from the corpus. To the extent that the said net income is not sufficient to pay such fees and other expenses, the same shall be paid by the cemetery company."

SECTION 8. G.S. 65-64(b) reads as rewritten:

"(b) When a municipal, church-owned or fraternal cemetery converts to a private cemetery as defined in G.S. 65-48, then said cemetery shall establish and maintain a care and maintenance trust fund pursuant to this section; provided, however, the initial deposit for establishment of this trust fund shall be an amount equal to ~~ten dollars ($10.00)~~fifty dollars ($50.00) per space for all spaces either previously sold or contracted for sale in said cemetery at the time of conversion or ~~twenty-five thousand dollars ($25,000),~~fifty thousand dollars ($50,000), whichever sum is greater."

SECTION 9. G.S. 65-66(l) reads as rewritten:

"(l) If any report is not received within the time stipulated by the Commission or herein, the Commission may levy and collect ~~a penalty~~a late filing fee of twenty-five dollars ($25.00) per ~~day for each day~~ month for each month of delinquency."

SECTION 10. This act is effective when it becomes law.

SENATE BILL 1244:
Amend NC Cemetery Act/Increase Fees

BILL ANALYSIS

Committee: House Finance
Date: July 6, 2004
Version: 2nd Edition

Introduced by: Sen Hoyle
Summary by: Cindy Avrette
Committee Counsel

SUMMARY: ***Senate Bill 1244 gives the North Carolina Cemetery Commission the authority to increase several of its fees and it increases the amounts that must be deposited into care and maintenance trust funds.***

BILL ANALYSIS: Senate Bill 1244 the North Carolina Cemetery Commission the authority to increase the following fees:

	Current Fee Authority	Proposed Fee Authority
Annual renewal fee for licensed cemeteries	Up to $300	Up to $600
Inspection fee for each grave space, niche, or mausoleum crypt	Up to $2 for each grave space, niche, or mausoleum crypt when sold	Up to $4 for each grave space, niche, or mausoleum crypt when the certificate of interment right is issued
Inspection fee for each vault, belowground crypt, memorial, or opening and closing of a grave space included in a preneed cemetery contract	Up to $5	Up to $10
Initial application and filing fee for cemetery company	Up to $800	Up to $1,600
Initial application and filing fee for cemetery sales organizations and cemetery management organizations	$400	Up to $1,000
Initial application and filing fee for cemetery brokers	$200	Up to $500
Annual renewal fee for cemetery sales organizations, cemetery management organizations, and cemetery brokers	$100	Up to $600
Initial application and filing fee for persons selling preneed grave space	$15	Up to $100

	Current Fee Authority	Proposed Fee Authority
Biennial renewal fee for persons selling preneed grave space	Up to $10	Up to $100
Application and filing fee for approval of a change of control	Up to $200	Up to $1,600

To increase a current fee amount, the North Carolina Cemetery Commission will have to go through the administrative rules process. In addition to the notice and public comment provided for under the administrative rules process, the Commission will also have to appear before the Joint Legislative Commission on Governmental Operations before an increased fee amount may become effective.

Senate Bill 1244 also increases the amounts that must be deposited into a care and maintenance trust fund:

	Current deposit amount	Proposed deposit amount
Perpetual Care Fund	At least $40 per grave space, niche, or mausoleum crypt sold	At least $100 or 10% of the retail sale price, whichever is greater
Initial deposit amount of a care and maintenance trust fund when a municipal, church-owned, or fraternal cemetery converts to a private cemetery	$10 per space for all spaces previously sold or contracted for sale at the time of conversion or $25,000, whichever is greater	$50 per space for all spaces previously sold or contracted for sale at the time of conversion or $50,000, whichever is greater

Cemetery companies must make timely deposits to the care and maintenance trust fund. Under current law, a cemetery company that fails to make a timely deposit is subject to a penalty of $1.00 per day for each day the deposit is delinquent. Likewise, a cemetery company that fails to file timely annual financial reports of the trust funds with the North Carolina Cemetery Commission is subject to a penalty of $25 per day for each day of delinquency. Under Article IX, Sec. 7 of the North Carolina Constitution, the clear proceeds of all penalties must be credited to the county's school fund.

The Cemetery Commission incurs additional expenses when a person fails to submit deposits and reports in a timely fashion. Currently, this expense is borne by the Commission through the general licensing revenues. Senate Bill 1244 seeks to help the Commission recover its additional expenses from the person who creates the need for the expense by eliminating the current penalty provisions and replacing them with a late filing fee. The bill also changes the late fee for failure to file timely financial reports from $25 a day to $25 a month.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1244 (Second Edition)

SHORT TITLE: Amend NC Cemetery Act/Increase Fees.

SPONSOR(S): Senator Hoyle

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	No General Fund Impact – See Assumptions and Methodology				
EXPENDITURES					
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Cemetery Commission

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY: The proposed legislation authorizes the North Carolina Cemetery Commission to increase the cap on certain fees and makes clarifying changes to the North Carolina Cemetery Act.

ASSUMPTIONS AND METHODOLOGY: The North Carolina Cemetery Commission is one of the boards and commissions given administrative support through the Department of Commerce. The principal purpose of the Commission is to regulate and supervise the activities of the for-profit cemetery industry under the laws of North Carolina. The Commission is receipt-supported and receives no state General Fund appropriation.

The proposed bill affects twelve fees administered by the North Carolina Cemetery Commission. Most of the changes affect the cap associated with a fee, thus the exact amount of additional revenue generated cannot be estimated. Currently, the Commission has a negative fund balance, thus the fee increases are necessary for ongoing operations. The Commission will be monitoring its statutory regulations and associated revenues, and the fee caps should be valid for many years.

The fees will affect licensed cemeteries, cemetery sales organizations, cemetery management organizations, cemetery brokers, and cemetery salespeople. The number of licensed cemeteries has remained constant for the past four to five years, while the number of cemetery salespeople has been trending slightly downward for the past several years. The table below shows the number of these organizations currently in North Carolina.

Cemetery Organization	Number in NC
Licensed cemeteries	175
Cemetery sales organizations	2
Cemetery management organizations	1
Cemetery brokers	1
Cemetery salespeople	~600

The proposed changes in fee caps will be:

Service	Impacted	Current Fee Cap	Proposed Fee Cap
Annual license fee	Licensed cemeteries	$300	$600
Inspection fee when the certificate of interment right is issued	Licensed cemeteries	$2	$4
Inspection fee for a preneed cemetery contract	Licensed cemeteries	$5	$10
Application and filing fee	Licensed cemetery applicants	$800	$1600
Application and filing fee	Licensed cemetery sales and management organization applicants	$400	$1000
Application and filing fee	Licensed cemetery broker applicants	$200	$500
Annual license renewal fee	Licensed cemetery sales or management organizations and cemetery brokers	$100	$600
Application and filing fee	Cemetery salespeople applicants	$15	$100
Annual license fee	Cemetery salespeople	$10 / 1 yr	$100 / 2 yrs
Application and filing fee	Change of control applicants	$200	$1600

The North Carolina Cemetery Commission Board has rule-making authority to set the fees within the caps laid out in state statute. **The Commission does not intend to increase all of the fees associated with the proposed legislation, nor will they increase any of the fees to their new caps.** The table below indicates those fees that may be changed during 2004 as a result of the statutory modifications.

Service	Impacted	Proposed Fee	Additional Revenue Generated
Annual license fee	Licensed cemeteries	$350	$8750
Application and filing fee	Licensed cemetery applicants	max of $1600	max of $1600 (one new cemetery expected)
Application and filing fee	Licensed cemetery sales and management organization applicants	max of $1000	0
Application and filing fee	Licensed cemetery broker applicants	max of $500	0
Annual license renewal fee	Licensed cemetery sales or management organizations and cemetery brokers	max of $600	max of $2000
Application and filing fee	Cemetery salespeople applicants	max of $100	cannot estimate
Annual license fee	Cemetery salespeople	$50 / 2 yrs	$24,000
Application and filing fee	Change of control applicants	max of $1600	0

The proposed legislation also increases the fee for the legal advertisement of a perpetual care fund in connection with the sale of cemetery property. Currently the fund must have $40 per grave space, niche, or mausoleum crypt sold deposited in it, while the proposed change would increase the amount deposited to $100 or 10% of the sale price per grave space, niche, or mausoleum crypt sold, whichever is greater. If a municipal, church-owned or fraternal cemetery converts to a private cemetery they must currently initially deposit $10 per space or $25,000, whichever is greater, for the establishment of a care and maintenance trust fund. The proposed change would increase the amount deposited to $50 per space or $50,000, whichever is greater. The funds in these instances go neither to the Cemetery Commission nor the owner of the cemetery, but rather to a trust fund for the perpetual care of the cemetery.

The proposed legislation also changes two penalties to administrative fees, leaving the amounts unchanged. If a cemetery company is delinquent on deposits to the perpetual care trust fund, the Commission may assess $1 per day for each grave space, niche or mausoleum crypt sold. If a cemetery company is delinquent on providing reports on their business and financial status, the Commission may assess a late filing fee $25 per month. These penalties have not been assessed in the past, thus the local school boards will see no decrease in revenue.

SOURCES OF DATA: North Carolina Cemetery Commission

TECHNICAL CONSIDERATIONS: N/A

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Stephanie Schmitt

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 16, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 1244 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA CEMETERY COMMISSION TO INCREASE CERTAIN FEES AND MAKING CLARIFYING CHANGES UNDER THE NORTH CAROLINA CEMETERY ACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#_____), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

ATTACHMENT 7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1244

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1244-ALCx-107 [v.2]

Date July 7 ,2004

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Holliman

moves to amend the bill on page 1, line 4,
by adding the following immediately before the period:
"AND MODIFYING THE FORMULA USED TO DETERMINE THE ENTERPRISE TIER DESIGNATION OF A COUNTY";

and on page 4, line 4,
by rewriting the line to read:

"**SECTION 10.** G.S. 105-129.3(b) reads as rewritten:

'(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding ~~three years.~~12 months.

(2) The county's rank in a ranking of counties by average per capita income from highest to lowest, for the preceding ~~three years.~~12 months.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to ~~lowest.~~lowest, for the preceding 12 months.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. An enterprise tier designation is effective only for the calendar year following the designation.'

SECTION 11. Section 10 of this act is effective when it becomes law and applies to designations made on or after that date. The remainder of this act is effective

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1244

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1244-ALCx-107 [v.2]

when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 1427*
Committee Substitute Favorable 6/29/04
PROPOSED COMMITTEE SUBSTITUTE H1427-CSSB-57 [v.2]

7/6/2004 12:48:06 PM

Short Title: Amend Shellfish Laws. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-201 reads as rewritten:

"**§ 113-201. ~~Authority~~ Legislative findings and declaration of policy; authority of Marine Fisheries Commission.**

(a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

(b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds.

(c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases. These training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to an applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission."

SECTION 2. G.S. 113-202(d) reads as rewritten:

"(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00)."

SECTION 3. G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of ~~April~~ July following the ~~tenth~~ fifth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~10~~ five years ~~effective~~ from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~fifty dollars ($50.00).~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of ~~April~~ July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after ~~said~~ that date, the rental is ~~five dollars ($5.00)~~ten dollars ($10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of ~~April~~ July must be paid in advance at the rate of one dollar ($1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

SECTION 4. G.S. 113-202(l) reads as rewritten:

"(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.
(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.
(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.
(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.
(8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions ~~of this paragraph~~ of this subsection, his leasehold shall not be terminated under subdivision (5) of ~~this subsection.~~subsection (l) of this section."

SECTION 5. G.S. 113-202.1(d) reads as rewritten:

"(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for ~~an initial~~a new or renewal water column amendment is one hundred dollars ($100.00) an ~~acre for each of the first four years for which the amendment is issued and five hundred dollars ($500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars ($500.00) an~~ acre. If ~~a year for which~~ a water column amendment is issued ~~is~~ for less than a 12-month period, the rental ~~for that year~~ shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202."

SECTION 6. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(l) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a

study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 7. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 8. Sections 1, 4, 6, 7, and 8 of this act are effective when this act becomes law. Sections 2, 3, and 5 of this act become effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 1427*
Committee Substitute Favorable 6/29/04
Third Edition Engrossed 7/1/04

Short Title: Rec. Shellfish License/Amend Shellfish Laws. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A RECREATIONAL SHELLFISH LICENSE, TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH, AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-168 is amended by adding a new subdivision to read:

"(7a) 'RSL' means Recreational Shellfish License."

SECTION 2. G.S. 113-168.1(a) reads as rewritten:

"(a) Duration, Fees. – Except as provided in ~~G.S. 113-173(f),~~G.S. 113-173(f) and G.S. 113-174(e), all licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual fee at the time the applicant applies for the license or endorsement regardless of when application is made."

SECTION 3. G.S. 113-168.1(f) reads as rewritten:

"(f) License Issuance and Renewal. – Except as provided in ~~G.S. 113-173(d),~~G.S. 113-173(d) and G.S. 113-174(c), the Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL."

SECTION 4. G.S. 113-169.2 reads as rewritten:

"**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) ~~License or Endorsement Necessary to Take or Sell Shellfish.~~ Requirement. – It is unlawful for an individual to take shellfish from the public or private grounds of the State ~~by mechanical means or in quantities greater than the personal use limits set forth in subsection (i) of this section by any means~~ as part of a commercial fishing

operation without holding either a shellfish license or a shellfish endorsement of a SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to obtain a shellfish license without holding a SCFL. The shellfish license authorizes the licensee to sell shellfish.

(b) Repealed by Session Laws 1998-225, s. 4.17.

(c) Fees. – Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars ($25.00) upon proof that the license applicant is a North Carolina resident.

~~(d) License Available for Inspection. – It is unlawful for any individual to take shellfish in quantities greater than the personal use limits set forth in subsection (i) of this section from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.~~

(e) Repealed by Session Laws 1998-225, s. 4.17.

(f) Name or Address Change. – In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. – It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. – Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, ~~grandparent's~~ grandparent's, or guardian's shellfish license or a parent's, grandparent's, or guardian's shellfish endorsement of a SCFL.

~~(i) Taking Shellfish Without a License for Personal Use.~~

~~(1) A person may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. One bushel of oysters per day.~~

~~b. One-half bushel of scallops per day.~~

~~c. One hundred clams per day.~~

~~d. Ten conchs per day.~~

~~e. One hundred mussels per day.~~

~~(2) Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:~~

~~a. Two bushels of oysters per day.~~

~~b. One bushel of scallops per day.~~

~~c. Two hundred clams per day.~~
~~d. Twenty conchs per day.~~
~~e. Two hundred mussels per day.~~"

SECTION 5. G.S. 113-173(j)(4) is repealed.

SECTION 6. Article 14A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-174. Recreational Shellfish License.**

(a) License Required. – Except as provided in subsection (i) of this section, it is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without holding a RSL. As used in this section, shellfish are taken for personal use if the shellfish are not taken for the purpose of sale. The RSL entitles the licensee to take shellfish for personal use subject to the following possession limits:

(1) A person holding a RSL may take shellfish for personal use in quantities up to:
a. One bushel of oysters per day.
b. One-half bushel of scallops per day.
c. One hundred clams per day.
d. Ten conchs per day.
e. One hundred mussels per day.

(2) Two or more persons, one of whom holds a RSL, who are using a vessel to take shellfish for personal use may take shellfish for personal use in quantities up to:
a. Two bushels of oysters per day.
b. One bushel of scallops per day.
c. Two hundred clams per day.
d. Twenty conchs per day.
e. Two hundred mussels per day.

(b) Sale of Fish Prohibited. – It is unlawful for the holder of a RSL or for a person who is exempt under subsection (i) of this section to sell fish taken under the RSL or pursuant to the exemption.

(c) Purchase; Renewal. – A RSL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RSL may be renewed by mail.

(d) Replacement RSL. – The provisions of G.S. 113-168.1(h) apply to this section.

(e) Duration; Fees. – The RSL shall be valid from the date of purchase until July 1, 2008. The fee for a RSL shall be ten dollars ($10.00).

(f) RSL Available for Inspection. – It is unlawful for any person to take or attempt to take shellfish for personal use in coastal fishing waters without having ready at hand for inspection a valid RSL. A holder of a RSL shall not refuse to exhibit the RSL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(g) Assignment and Transfer Prohibited. – A RSL is not transferable. Except as provided in subsection (i) of this section, it is unlawful to buy, sell, lend, borrow, assign,

or otherwise transfer a RSL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RSL.

(h) Reporting Requirements. – The holder of a RSL shall comply with the biological data sampling and survey programs of the Commission and the Division.

(i) Exemption. – A person who is under 16 years of age may take shellfish for personal use in coastal fishing waters without holding a RSL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RSL or if the person has in the person's possession a valid RSL issued to the person's parent, grandparent, or guardian."

SECTION 7. G.S. 113-201 reads as rewritten:

"**§ 113-201. ~~Authority~~ Legislative findings and declaration of policy; authority of Marine Fisheries Commission.**

(a) The General Assembly finds that shellfish cultivation provides increased seafood production and long-term economic and employment opportunities. The General Assembly also finds that shellfish cultivation provides increased ecological benefits to the estuarine environment by promoting natural water filtration and increased fishery habitats. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial shellfish cultivation in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

(b) The Marine Fisheries Commission is empowered to make rules and take all steps necessary to develop and improve the cultivation, harvesting, and marketing of shellfish in North Carolina both from public grounds and private beds.

(c) The Marine Fisheries Commission shall adopt rules to establish training requirements for persons applying for new shellfish cultivation leases. These training requirements shall be designed to encourage the productive use of shellfish cultivation leases. Training requirements established pursuant to this subsection shall not apply to an applicant who applies for a new shellfish cultivation lease if, at the time of the application, the applicant holds one or more shellfish cultivation leases and all of the leases meet the shellfish production requirements established by the Marine Fisheries Commission."

SECTION 8. G.S. 113-202(d) reads as rewritten:

"(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d1) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If on the basis of the application information and map or diagram the Secretary deems that granting the lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial lease applications, must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or his authorized agent to determine whether the area proposed to be leased is consistent with the standards in

subsection (a) of this section and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making application for an initial lease, the applicant must pay a filing fee of ~~one hundred dollars ($100.00).~~two hundred dollars ($200.00)."

SECTION 9. G.S. 113-202(j) reads as rewritten:

"(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of ~~April~~ July following the ~~tenth~~ fifth anniversary of the granting of the lease. Renewal leases are issued for a period of ~~10~~ five years ~~effective~~ from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of ~~fifty dollars ($50.00).~~one hundred dollars ($100.00). The rental for initial leases is one dollar ($1.00) per acre for all leases entered into before July 1, 1965, and for all other leases until noon on the first day of ~~April~~ July following the first anniversary of the lease. Thereafter, for initial leases entered into after July 1, 1965, and from the beginning for renewals of leases entered into after ~~said~~ that date, the rental is ~~five dollars ($5.00)~~ten dollars ($10.00) per acre per year. Rental must be paid annually in advance prior to the first day of April each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of ~~April~~ July must be paid in advance at the rate of one dollar ($1.00) per acre per year; then, on or before the first day of April next, the lessee must pay the rental for the next full year."

SECTION 10. G.S. 113-202(l) reads as rewritten:

"(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.

(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.

(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.

(6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.

(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

(8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions ~~of this paragraph~~ of this subsection, his leasehold shall not be terminated under subdivision (5) of ~~this subsection.~~subsection (l) of this section."

SECTION 11. G.S. 113-202.1(d) reads as rewritten:

"(d) Amendments of shellfish cultivation leases to authorize use of the water column are issued for a period of five years or the remainder of the term of the lease, whichever is shorter. The annual rental for ~~an initial~~a new or renewal water column amendment is one hundred dollars ($100.00) an ~~acre for each of the first four years for which the amendment is issued and five hundred dollars ($500.00) an acre for the fifth year for which the amendment is issued. The annual rental for a renewed water column amendment is five hundred dollars ($500.00) an~~ acre. If ~~a year for which~~ a water column amendment is issued ~~is~~ for less than a 12-month period, the rental ~~for that year~~ shall be prorated based on the number of months remaining in the year. The annual rental for an amendment is payable at the beginning of the year. The rental is in addition to that required in G.S. 113-202."

SECTION 12. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(l) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 13. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 14. Sections 7, 10, 12, 13, and 14 of this act are effective when this act becomes law. Sections 8, 9, and 11 of this act become effective July 1, 2005. Sections 1 through 6 of this act become effective July 1, 2005, and expire July 1, 2008.

HOUSE BILL 1427:
Amend Shellfish Laws.

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Representative Wainwright
Date:	July 7, 2004	**Summary by:**	Jeff Hudson
Version:	Proposed Committee Substitute H1427-CSSB-57 [v.2]		Staff Attorney

SUMMARY: ***The Proposed Committee Substitute for H1427 would direct the Marine Fisheries Commission (MFC) to establish training requirements for shellfish cultivation lease holders, amend the fees for shellfish cultivation leases, and authorize the MFC to study issues related to the cultivation of shellfish. The Joint Legislative Commission on Seafood and Aquaculture recommended H1427.***

BACKGROUND:

The Marine Fisheries Commission (MFC) included a number of recommendations related to the State's shellfish cultivation lease program in its Oyster Fishery Management Plan and in its Hard Clam Fishery Management Plan. These Shellfish Plans included recommendations related to the terms of and fees for shellfish cultivation leases, training requirements for holders of shellfish cultivation leases, and issues related to the termination and corporate ownership of shellfish cultivation leases. The fee increases are based on a 1998 Performance Audit of the Division of Marine Fisheries conducted by the State Auditor that found the fees for bottom shellfish cultivation leases inadequate to cover the processing costs. The fee increases related to bottom leases recommended by the MFC are the same as those recommended by the 1998 Performance Audit. The MFC requested that the Joint Legislative Commission on Seafood and Aquaculture recommend legislation to implement the Shellfish Plan recommendations.

CURRENT LAW AND BILL ANALYSIS:

Shellfish Cultivation Lease Terms and Fees

The following table sets out the current law on the terms of and fees for shellfish cultivation leases and the changes that H1427 would make to the law.

Current Law (G.S. 113-202 and G.S. 113-202.1)	H1427 Change
Length of term of bottom shellfish cultivation lease: 10 years	**Section 3** would decrease the length of the term to 5 years
Initial application filing fee for a bottom shellfish cultivation lease: One hundred dollars ($100.00)	**Section 2** would increase the fee to two hundred dollars ($200.00)
Renewal application filing fee for a bottom shellfish cultivation lease: Fifty dollars ($50.00)	**Section 3** would increase the fee to one hundred dollars ($100.00)
Annual rental fee for a bottom shellfish cultivation lease: Five dollars ($5.00) per acre	**Section 3** would increase the annual fee to ten dollars ($10.00) per acre
Annual rental fee for a water column shellfish cultivation lease: One hundred dollars ($100.00) for the first four years and five hundred dollars ($500.00) per year thereafter	**Section 5** would alter the annual fee structure so that the fee would be one hundred dollars ($100.00) per year for all years

Training Requirements

Under current law, there are no training requirements for persons who hold shellfish cultivation leases.

Section 1 of H1427 would direct the MFC to adopt rules to establish training requirements for persons who apply for shellfish cultivation leases. The training requirements would be designed to encourage the productive use of shellfish cultivation leases. The training requirements would not apply to a person who already holds a shellfish cultivation lease that is meeting shellfish production requirements.

Section 4 would add failure to comply with the training requirements to the list of conditions for which a shellfish cultivation lease may be terminated.

Marine Fisheries Commission Studies

Section 6 authorizes the MFC to study whether and how to establish a process by which shellfish cultivation leases that have been terminated may be leased without reverting to public bottom.

Section 7 authorizes the MFC to study issues related to corporate ownership of shellfish cultivation leases.

EFFECTIVE DATE:

The provisions amending the terms of and fees for shellfish cultivation leases become effective July 1, 2005. All other provisions of this act become effective when the act becomes law.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: June 28, 2004

TO: **Representative Wainwright**

FROM: Kelly Huffstetler
Fiscal Research Division

RE: House Bill 1427-CSSB-57 [v.2]

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES	**$0**	**$10,625**	**$10,625**	**$10,625**	**$10,625**
EXPENDITURES			**none**		
POSITIONS:			**none**		

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural, Division of Marine Fisheries.

EFFECTIVE DATE: July 1, 2005

BILL SUMMARY: The Proposed Committee Substitute for H1427 would direct the Marine Fisheries Commission (MFC) to establish training requirements for shellfish cultivation lease holders, amend the fees for shellfish cultivation leases, and authorize the MFC to study issues related to the cultivation of shellfish. The Joint Legislative Commission on Seafood and Aquaculture recommended H1427.

ASSUMPTIONS AND METHODOLOGY:
Revenues

The bill shortens the length of the bottom shellfish cultivation lease from ten years to five years and increases the fees for the initial application for a lease, lease renewals and rental fees for leases. The chart below shows the estimated increase for each lease. The impact on revenue is based on a three-year average of lease purchases.

Current Law (G.S. 113-202 and G.S. 113-202.1)	H1427 Change	Annual Impact on Revenue
Length of term of bottom shellfish cultivation lease: 10 yr.	Section 7 would decrease the length of the term to 5 years	
Initial application filing fee for a bottom shellfish cultivation lease: One hundred dollars ($100.00)	Section 8 would increase the fee to two hundred dollars ($200.00)	$360 (based on a 3-yr. avg. of 3.6 sold)
Renewal application filing fee for a bottom shellfish cultivation lease: Fifty dollars ($50.00)	Section 9 would increase the fee to one hundred dollars ($100.00)	$1,333 (based on a 3-yr. avg. of 26.6 sold)
Annual rental fee for a bottom shellfish cultivation lease: Five dollars ($5.00) per acre	Section 9 would increase the annual fee to ten dollars ($10.00) per acre	$9,683 (based on the number leases currently covered by leases)
Annual rental fee for a water column shellfish cultivation lease: One hundred dollars ($100.00) for the first four years and five hundred dollars ($500.00) per year thereafter	Section 11 would alter the annual fee structure so that the fee would be one hundred dollars ($100.00) per year for all years	-$400 (DMF currently has only one lease that is older than 4 years.)

Expenditures
The costs associated with the bill will be minimal. The bill simply increases the fee amount for three (3) license types and decreases the fee for one (1) license type. The bill also establishes a training requirement for shellfish cultivation leaseholders. The training will be at the leaseholder's expense.

SOURCES OF DATA: The Division of Marine Fisheries
TECHNICAL CONSIDERATIONS: none

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for

H.B. 1427 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A RECREATIONAL SHELLFISH LICENSE, TO AMEND THE STATUTES GOVERNING THE CULTIVATION OF SHELLFISH, AND TO AUTHORIZE THE MARINE FISHERIES COMMISSION TO STUDY ISSUES RELATED TO THE CULTIVATION OF SHELLFISH.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the Committee Substitute Bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ Committee Substitute Bill (# 1). ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1700
PROPOSED COMMITTEE SUBSTITUTE H1700-PCS70492-LB-113

Short Title: Durham Vehicle Tax Sunset Extended/Uses. (Local)

Sponsors:

Referred to:

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE SUNSET ON THE DURHAM CITY ADDITIONAL MUNICIPAL VEHICLE TAX AND CONCERNING THE PURPOSES FOR WHICH THOSE FUNDS MAY BE EXPENDED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2003-329 reads as rewritten:

"**SECTION 4.** Section 1 of this act is effective when it becomes law and expires ~~one year~~ five years after that date. The remainder of this act is effective when it becomes law."

SECTION 2. Section 3 of S.L. 2003-329 reads as rewritten:

"**SECTION 3.** This act applies to the City of Durham only. ~~Any funds generated by a tax of over five dollars ($5.00) under Section 1 of this act shall be placed into a separate fund for public transportation within the City of Durham and the principal shall not be spent. The interest earned on those funds may be expended by the City of Durham solely for the purpose of public transportation.~~"

SECTION 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1700

Short Title:	Durham Vehicle Tax Sunset Repealed/Uses.	(Local)
Sponsors:	Representative Miller.	
Referred to:	Finance.	

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE SUNSET ON THE DURHAM CITY ADDITIONAL MUNICIPAL VEHICLE TAX AND CONCERNING THE PURPOSES FOR WHICH THOSE FUNDS MAY BE EXPENDED.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4 of S.L. 2003-329 reads as rewritten:

"**SECTION 4.** ~~Section 1 of this act is effective when it becomes law and expires one year after that date. The remainder of this~~ This act is effective when it becomes law."

SECTION 2. Section 3 of S.L. 2003-329 reads as rewritten:

"**SECTION 3.** This act applies to the City of Durham only~~. Any funds generated by a tax of over five dollars ($5.00) under Section 1 of this act shall be placed into a separate fund for public transportation within the City of Durham and the principal shall not be spent. The interest earned on those funds may be expended by the City of Durham solely for the purpose of public transportation.~~"

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 1700:
Durham Vehicle Tax Sunset Repealed/Uses

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Rep. Miller
Date:	July 6, 2004	**Analysis by:**	Martha Walston
Version:	1st Edition		Committee Counsel

SUMMARY: House Bill 1700 is a local bill that repeals the sunset on the City of Durham vehicle tax and the purposes for which the funds generated by the tax may be used.

BILL ANALYSIS: In S.L. 2003-329, the City of Durham was authorized to increase its general municipal vehicle tax from $5.00 to $10.00 for one year. Any funds generated by the tax of over $5.00 were to be placed in a separate fund for public transportation in the City. The principal could not be spent, and the interest earned on the funds could be expended solely for the purpose of public transportation.

Currently, all municipalities are allowed to charge a general vehicle tax of up to $5.00 and the proceeds of that tax can be used for any lawful purpose. (G.S. 20-97(a))

House Bill 736 repeals the sunset on the municipal vehicle tax and deletes the language stating the purposes for which the funds, generated by the tax , may be spent.

The bill is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
H.B. 1700 A BILL TO BE ENTITLED AN ACT TO REPEAL THE SUNSET ON THE DURHAM CITY ADDITIONAL MUNICIPAL VEHICLE TAX AND CONCERNING THE PURPOSES FOR WHICH THOSE FUNDS MAY BE EXPENDED.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the committee substitute bill (~~#_____~~), ☒ which changes the title, unfavorable as to the original bill. ~~(Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 1315*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1315-CSLA-72 [v.1]

7/6/2004 12:56:31 PM

Short Title: Cabarrus Board of Equalization and Review. (Local)

Sponsors:

Referred to:

May 25, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

...

(3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

c. In any year of general reappraisal, the chair of the board may divide the board into two or more separate panels with a minimum of three members each. The board members on each panel may be interchanged during the year. A decision by the panel has the same effect as a decision by the entire board.

...

(5) ~~Duty to Change Abstracts and Records~~Powers After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this ~~subsection,~~section, the board may continue to meet to carry out the following duties:

a. To hear and decide all appeals relating to discovered property under G.S. ~~105-312(d) and (k).~~105-312.

b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).

c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.

d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

e. To exercise its authority under G.S. 105-282.1(a1) to accept an application for exemption or exclusion that was filed after the statutory deadline.

f. To make any changes authorized by G.S. 105-325."

SECTION 2. S.L. 2000-92 is repealed.

SECTION 3. This act applies to Cabarrus County only.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1315*

Short Title:	Cabarrus Board of Equalization and Review.	(Local)
Sponsors:	Senator Hartsell.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

May 25, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-322(g) reads as rewritten:

"(g) Powers and Duties. – The board of equalization and review has the following powers and duties:

...

(3) Powers in Carrying Out Duties. – In the performance of its duties under subdivisions (g)(1) and (g)(2), above, the board of equalization and review may exercise the following powers:

a. It may appoint committees composed of its own members or other persons to assist it in making investigations necessary to its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county. The board may, in its discretion, require the taxpayer to reimburse the county for the cost of any appraisal by experts demanded by the taxpayer if the appraisal does not result in material reduction of the valuation of the property appraised and if the appraisal is not subsequently reduced materially by the board or by the Department of Revenue.

b. The board, in its discretion, may examine any witnesses and documents. It may place any witnesses under oath administered by any member of the board. It may subpoena witnesses or documents on its own motion, and it must do so when a request is made under the provisions of subdivision (g)(2)c, above.

A subpoena issued by the board shall be signed by the chair of the board, directed to the witness or to the person having

custody of the document, and served by an officer authorized to serve subpoenas. Any person who willfully fails to appear or to produce documents in response to a subpoena or to testify when appearing in response to a subpoena shall be guilty of a Class 1 misdemeanor.

c. In any year of general reappraisal, the chair of the board may divide the board into two or more separate panels with a minimum of three members each. The board members on each panel may be interchanged during the year. A decision by the panel has the same effect as a decision by the entire board.

...

(5) ~~Duty to Change Abstracts and Records~~Powers After Adjournment. – Following adjournment upon completion of its duties under subdivisions (g)(1) and (g)(2) of this ~~subsection,~~section, the board may continue to meet to carry out the following duties:

a. To hear and decide all appeals relating to discovered property under G.S. ~~105-312(d) and (k).~~105-312.

b. To hear and decide all appeals relating to the appraisal, situs, and taxability of classified motor vehicles under G.S. 105-330.2(b).

c. To hear and decide all appeals relating to audits conducted under G.S. 105-296(j) and relating to audits conducted under G.S. 105-296(j) and (l) of property classified at present-use value and property exempted or excluded from taxation.

d. To hear and decide all appeals relating to personal property under G.S. 105-317.1(c).

e. To exercise its authority under G.S. 105-282.1(a1) to accept an application for exemption or exclusion that was filed after the statutory deadline.

f. To make any changes authorized by G.S. 105-325."

SECTION 2. This act applies to Cabarrus County only.

SECTION 3. This act is effective when it becomes law.

SENATE BILL 1315:
Cabarrus Board of Equalization & Review

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Hartsell
Date:	July 6, 2004	**Summary by:**	R. Erika Churchill
Version:	Proposed Committee Substitute		Committee Counsel

SUMMARY: ***Senate Bill 1315 is a local bill that would authorize the appointment of a special board of equalization and review for Cabarrus County. The proposed committee substitute would also repeal a prior conflicting local act.***

Senate bill 1315 is identical to the 2nd Edition of House Bill 1687. House bill 1687 is in the Senate Committee on State Government, Local Government, and Veterans' Affairs.

CURRENT LAW & BILL ANALYSIS: A board of equalization and review is a committee appointed by the county commissioners to review the county's property tax listings and appraisals and to hear taxpayers' appeals concerning the listing or appraisal of their property. The board of county commissioners performs these functions if it chooses not to appoint a special board of equalization and review. Appeals from a special board of equalization and review are directly to the Property Tax Commission, unless the county provides for an appeal to the board of county commissioners. General law authorizes counties to appoint special boards of equalization and review. G.S. 105-322.

House Bill 1687 would make the following local modifications to the general law for the County of Cabarrus:

1. The board of equalization and review may be divided into two or more separate panels with a minimum membership of three persons. A decision by the panel has the effect of a decision by the entire board of equalization and review.
2. After adjournment of the Board of Equalization and Review, that board may continue to meet to carry out the following duties:
    a. To hear and decide all appeals relating to discovered property. (General law restricts this authority to the discovery and listing of property and the settlement of the county's claim for taxes arising from that discovery.)
    b. Approve an untimely application for exemption or exclusion applicable to only the tax year in which the application was filed if good cause is shown for the untimely filing.
    c. To authorize a change to the tax abstracts as permitted in G.S. 105-325. (General law grants this authority to the Board of County Commissioners once the board of equalization and review has finished its work.)
3. Repeal S.L. 2000-92. S.L. 2000-92 granted the Cabarrus County Board of Equalization and Review the authority to meet after its formal adjournment to perform duties not then authorized by general statute. Those duties were subsequently authorized by general statute for all counties (S.L. 2001-139), and it is that statute that is being amended by Section 1 of the bill.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1315 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE APPOINTMENT OF A SPECIAL BOARD OF EQUALIZATION AND REVIEW FOR CABARRUS COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee Substitute Bill ~~(#), ☐ which changes the title~~, unfavorable as to the original bill. ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 8, 2004

The House Committee on Finance met on Thursday, July 8, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, and Wainwright; Vice-Chairs Daughtridge, Decker, and Hill; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Ellis, Glazier, Hackney, Jones, Lewis, Ross, Setzer, Starnes, Weiss, C. Wilson, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Walter Spell, and Dusty Rhodes. Staff persons present included Richard Bostic, Gerry Cohen, Trina Griffin, Linda Millsaps, Martha Walston, and Bob Weiss. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2**.

Chairman Luebke called the meeting to order at 8:39 am and recognized the five (5) pages present: (1) Andrew Austin of Wake County, sponsored by Representative Ellis; (2) Elie Greige of Mecklenburg County, sponsored by Representative Earle; (3) Jamal Scott of Mecklenburg County, sponsored by Representative Earle; (4) Joshua Scott of Mecklenburg County, sponsored by Representative Earle; and (5) Robert Tomsick of Orange County, sponsored by Representative Hackney.

Prior to consideration of the Committee's agenda, Chairman Luebke announced that **HB 356 – FEES** was removed from the calendar. Chairman Luebke also placed **SB 464 – NRA SPECIAL PLATE** on the calendar for immediate consideration by the Committee.

Representative McComas was then recognized to explain the first bill considered by the Committee: **SB 464 – NRA SPECIAL PLATE** (see **attachment 3**). The Chair recognized Representative Howard who made a motion that the Proposed Committee Substitute (PCS) for Senate Bill 464 be before the Committee for the purposes of discussion and the motion carried. Representative McComas proceeded to explain that the bill would authorize the Department of Motor Vehicles to issue a National Rifle Association special license plate. Chairman Luebke then recognized Representative Womble, who raised a concern of gun violence possibly being depicted on the license plate. The Chair recognized Joe McClees from McClees Consulting, Inc. and representative of the NRA. Mr. McClees explained that the NRA symbol did not advocate gun violence, only the 2nd Amendment rights guaranteed by the U.S. Constitution. The Chair then displaced the bill while Representative Womble and staff prepared on an amendment.

The next bill considered by the Committee was **HB 817 – GUN SALE LEGAL WITH CONCEALED HANDGUN PERMIT** (see **attachment 4**). Chairman Luebke recognized Representative Wainwright who spoke on the bill. Representative Wainwright explained to the

Committee that the bill was the same one that had passed through a few weeks before; it was just back before the Committee for concurrence because the Senate made some minor alterations. He also moved that the Committee offer a recommendation not to concur with House Bill 817 so that the bill sponsors, Representative Hilton and Sexton, could work out the minor differences in a conference committee. Seeing no further debate on the matter, Chairman Luebke brought the motion of non-concurrence to a vote and it carried.

SB 868 – CONSUMER'S RIGHT TO KNOW AND ACT/QBI CREDIT (see **attachment 5**) was the next bill considered by the Committee. Representative Weiss was recognized for a motion to adopt the Proposed Committee Substitute (PCS) for Senate Bill 868 for the purposes of discussion, and the motion carried without objection. Chairman Luebke then recognized Representative Bordsen who explained the bill. The bill requires that a vendor, who contracts with the State to provide telemarketing services or telephone center services, employ only persons who are authorized to work in the U.S. to perform these services. The bill also amends the qualified business investment credit (QBI) by increasing the total amount of all credits allowed during a taxable year and extending the sunset of the credit. The Chair recognized Martha Walston, Fiscal Research, who explained that the QBI tax credit would be increased from $6 million to $7 million, and that the sunset on the credit would be extended to 5 years. Representative Capps was recognized, and he expressed concern that the workers garnering telemarketing information would not be in the U.S., thus not allowing proper governmental control over the dissemination of personal information. The Chair then recognized Representative Ellis who raised the same concern. Chairman Luebke recognized Representative Bordsen who said that the purpose of the bill was to make telemarketing companies operate their services from within the U.S. Representative Weiss was then recognized and she introduced a technical amendment, explained it, and moved for its adoption (see **attachment 6**). Chairman Luebke then brought the motion to a vote and the amendment was adopted without opposition. Representative Weiss then moved for a favorable report for the second Proposed Committee Substitute for Senate Bill 868 incorporating the newly adopted technical amendment, unfavorable as to the first Proposed Committee Substitute. Chairman Luebke brought the motion to a vote, and it carried.

Chairman Luebke recognized Senator Jenkins to explain the next bill considered by the Committee: SB 1083 – STAGGERED PLATES/SAFETY INSPECTION CHANGE (see **attachment 7**). Senator Jenkins explained to the Committee that the bill would stagger the issuance of commercial motor vehicle plates and motor vehicle dealer licenses. It would also exempt historic vehicles from the annual safety inspection requirements. Martha Walston, Fiscal Research, was recognized to explain to the Committee what a historic vehicle is under current North Carolina law (see attached bill summary). The Chair then recognized Representative Decker who asked why the historic cars were exempt from safety requirements. Senator Jenkins explained that the cars were exempt from the safety requirements because they were over 35 years of age, and thus they were mostly used for show rather than for every day transportation requirements. The Chair recognized Representative Lewis next who made a motion for a favorable report on Senate Bill 1083. Representative Daughtridge was then recognized, and he asked if this bill allowed an owner of a large fleet of commercial vehicles to schedule the license renewal of all vehicles for the same day. Senator Jenkins said that the Department of Motor Vehicles could do that to make it easier. The Chair then recognized Representative McComas who said that the North Carolina Trucking Association had favorably endorsed the bill. Seeing no further debate on the bill, Chairman Luebke brought the motion for a favorable report for Senate Bill 1083 to a vote, and it carried.

Chairman Luebke then replaced SB 464 – NRA SPECIAL PLATE (see **attachment 3**) for further discussion by the Committee. Representative Womble was recognized and sent forth an amendment that would curtail the depiction of violence on the NRA license plate by not allowing

the image of firearms to be used (see **attachment 8**). He explained that he did support the ability of the NRA to have a special license plate, but this amendment would halt the promotion of gun violence, which he opposed. The Chair then again recognized Joe McClees who said that in his opinion this amendment could halt the use of the NRA insignia because the insignia had the image of two muskets in it. Representative Jones was recognized, and he said that he opposed the amendment because it restrained free speech. Chairman Luebke then recognized Representative Womble who withdrew his amendment, given the expressed concerns. The Chair then recognized Representative Howard who sent forth a new amendment to change the license plate to require the use of the NRA insignia and thus eliminate the possibility of other gun symbols (see **attachment 9**). Representative Howard moved for adoption of the amendment and Chairman Luebke brought the motion to a vote. The amendment was adopted. Then Representative Howard moved for a favorable report for the Proposed Committee Substitute for Senate Bill 464, incorporating the newly adopted Howard amendment, and an unfavorable report to the bill originally before the Committee. Hearing no further debate, Chairman Luebke brought the motion to a vote and it carried.

Having no further business before the Committee, Chairman Luebke then adjourned the meeting at 9:39 am.

Respectfully submitted,

Representative Paul Luebke
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheet
3. Senate Bill 464 (and related materials)
4. House Bill 817 (and related materials)
5. Senate Bill 868 (and related materials)
6. Amendment for Senate Bull 868 (**Adopted**)
7. Senate Bill 1083 (and related materials)
8. Womble Amendment for Senate Bill 464 (**Withdrawn**)
9. Howard Amendment for Senate Bill 464 (**Adopted**)
10. House Bill 356 (and related materials) (**Removed from the Calendar**)

AGENDA

ATTACHMENT 1

House Finance Committee

July 8, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. Luebke

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 356 **FEES** *Reps. Tolson & LaRoque*
(FOR CONCURRENCE)

HB 817 **GUN SALE LEGAL W/CONCEALED HANDGUN PERMIT**
(FOR CONCURRENCE) *Reps. Hilton & Sexton*

SB 868 **ASSAULT IN THE PRESENCE OF A CHILD** *Sen. Hagan*

SB 1083 **STAGGERED PLATES/SAFETY INSPECTION CHANGE**
Sen. Jenkins

Adjournment

CORRECTED NOTICE:
HB 817 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 8, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 356 – FEES – Reps. Tolson & LaRoque

HB 817 - GUN SALE LEGAL W/CONCEALED HANDGUN PERMIT – Reps. Hilton & Sexton

SB 868 – ASSAULT IN THE PRESENCE OF A CHILD – Sen. Hagan

SB 1083 – STAGGERED PLATES/SAFETY INSPECTION CHANGE – Sen. Jenkins

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **3:45 p.m.** on **July 7, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Thursday, July 8, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 356 – FEES – Reps. Tolson & LaRoque

SB 868 – ASSAULT IN THE PRESENCE OF A CHILD – Sen. Hagan

SB 1083 – STAGGERED PLATES/SAFETY INSPECTION CHANGE – Sen. Jenkins

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **3:25 p.m.** on **July 7, 2004.**

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Angie Hall	Margin Taylor
Ken Melton	D.O.R.
Rich Webb	Intern
Elizabeth Bakanic	NCGA Intern
Barbara Levine	NCIC
Lois Warren	NCDMV
Tony Spence	NCDMV
Andy Lomenit	NCLM
Steve McClees / Joe McClees	McClees Consulting, Inc
Dempsey Benton	NC DENR
Bill Ross	NC DENR

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 8, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mary Gurganus	NC Bar Association
David Barnes	Poyner & Spruill LLP
[signature]	MFOs
[signature]	N.C. State Bar
Kirk Boone	NC Dept of Rev.
[signature]	NCRPS

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S D

SENATE BILL 464
Finance Committee Substitute Adopted 7/15/03
Third Edition Engrossed 7/17/03
House Committee Substitute Favorable 6/16/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S464-CSLAf-73 [v.2]

7/7/2004 5:20:14 PM

Short Title: NRA Special Plate. (Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A NATIONAL RIFLE ASSOCIATION SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

~~(28)~~(27i) National Guard Member. – Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase "National Guard". A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number "1"; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number "1601"; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number "3001". The plate issued to a retired or separated member shall indicate the member's retired status.

(28) National Rifle Association. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase or insignia representing the National Rifle Association of America. The Division shall not use the name and logo of the National Rifle Association of America on the plate unless the National Rifle Association of America licenses, without charge, the State to use the name and logo on the plate. The

Division must receive 300 or more applications for the plate before it may be developed."

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 464
Finance Committee Substitute Adopted 7/15/03
Third Edition Engrossed 7/17/03
House Committee Substitute Favorable 6/16/04

Short Title: Managing Debt Capacity. (Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"**§ 142-100. Purpose.**

The purpose of this Article is to provide a tool for sound debt management by requiring the undertaking of an annual debt affordability study to establish guidelines for maintaining prudent debt levels.

"**§ 142-101. Debt Affordability Advisory Committee.**

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and two appointed members, as follows:

(1) The State Treasurer.

(2) The Secretary of Revenue.

(3) The State Budget Officer.

(4) The State Auditor.

(5) The State Controller.

(6) A member of the public appointed by the President Pro Tempore of the Senate.

(7) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State Treasurer shall provide space for the Committee to meet. The Department shall also

provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(e) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the General Assembly's Fiscal Research Division by February 1 of each year."

SECTION 2. From funds appropriated to the Department of State Treasurer for the 2003-2005 fiscal biennium, the State Treasurer shall allocate the amounts necessary to implement this act.

SECTION 3. This act is effective when it becomes law.

SENATE BILL 464:
NRA Special Plate

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	July 7, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: The proposed committee substitute for Senate Bill 464 would authorize the Division of Motor Vehicles to issue a special license plate bearing the name and logo of the National Rifle Association of America for an additional $10 fee.

BILL ANALYSIS: The proposed committee substitute for Senate bill 464 would authorize the issuance of a special license plate bearing the name and logo of the National Rifle Association of America (NRA). The plates may be issued if the NRA authorizes the use of the name and logo without charge, and 300 or more applications are received. The plate would have an additional $10 fee that would go to the Special Registration Plate Account

Unless otherwise designated by statute, a special plate costs $10 more than the regular motor vehicle registration fee. The funds in the Special Registration Plate Account (after deducting all expenses) are distributed as follows:

- $525,000 annually appropriated to provide operating assistance for seven Visitor Centers.
- The remaining revenue is transferred quarterly: 50% to the Department of Transportation for highway beautification; 33% to the Dept. of Commerce for the out-of-state promotion of travel and industrial development in this State; and 17% to the Dept. of Health and Human Services to promote travel accessibility for disabled persons in this State.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ House Committee Substitute for
S.B. 464 A BILL TO BE ENTITLED AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to the House Committee substitute bill (# 2), ☒ which changes the title, unfavorable as to House Committee Substitute Bill # 1. ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 817
Senate Judiciary I Committee Substitute Adopted 6/15/04

Short Title: Gun Sale Legal w/Concealed Handgun Permit. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PISTOL MAY BE PURCHASED BY A PERSON WHO HAS A CONCEALED HANDGUN PERMIT WITHOUT OBTAINING AN ADDITIONAL PERMIT TO PURCHASE A HANDGUN AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A NATIONAL RIFLE ASSOCIATION SPECIAL REGISTRATION PLATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-402 reads as rewritten:

"**§ 14-402. Sale of certain weapons without permit forbidden.**

(a) It ~~shall be~~ is unlawful for any person, firm, or corporation in this State to sell, give away, or transfer, or to purchase or receive, at any place within this State from any other place within or without the State any pistol or crossbow ~~unless a~~ unless: (i) a license or permit ~~therefor has~~ is first ~~been~~ obtained under this Article by the purchaser or receiver from the sheriff of the county in which ~~that~~ the purchaser or receiver ~~resides.~~ resides; or (ii) a valid North Carolina concealed handgun permit is held under Article 54B of this Chapter by the purchaser or receiver who must be a resident of the State at the time of the purchase.

It ~~shall be~~ is unlawful for any person or persons to receive from any postmaster, postal clerk, employee in the parcel post department, rural mail carrier, express agent or employee, railroad agent or employee within the State of North Carolina any pistol or crossbow without having in his or their possession and without exhibiting at the time of the delivery of the same and to the person delivering the same the permit from the sheriff as provided in G.S. 14-403. Any person violating the provisions of this section ~~shall be~~ is guilty of a Class 2 misdemeanor.

(b) This section does not apply to an antique firearm or an historic edged weapon.

(c) The following definitions apply in this section:

(1) Antique firearm. – Defined in G.S. 14-409.11.

(2) Bolt. – A projectile made to be discharged from a crossbow. The bolt differs from an arrow in that the bolt is heavier and shorter than an arrow.

(3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This devise [device] is mechanically held at full or partial draw and released by a trigger or similar mechanism which is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

(4) Historic edged weapon. – Defined in G.S. 14-409.12."

SECTION 2. G.S. 20-79.4(b) reads as rewritten:

"(b) Types. – The Division shall issue the following types of special registration plates:

...

~~(28)~~(27i) National Guard Member. – Issuable to an active or a retired member of the North Carolina National Guard. The plate shall bear the phrase "National Guard". A plate issued to an active member shall bear a number that reflects the seniority of the member; a plate issued to a commissioned officer shall begin with the number "1"; a plate issued to a noncommissioned officer with a rank of E7, E8, or E9 shall begin with the number "1601"; a plate issued to an enlisted member with a rank of E6 or below shall begin with the number "3001". The plate issued to a retired or separated member shall indicate the member's retired status.

(28) National Rifle Association. – Issuable to the registered owner of a motor vehicle. The plate may bear a phrase or insignia representing the National Rifle Association of America. The Division shall not use the name and logo of the National Rifle Association of America on the plate unless the National Rifle Association of America licenses, without charge, the State to use the name and logo on the plate. The Division must receive 300 or more applications for the plate before it may be developed."

SECTION 3. This act is effective when it becomes law.

HOUSE BILL 817:
Gun Sale Legal w/Concealed Handgun Permit

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Rep. Hilton and Sexton
Date:	July 7, 2004	**Summary by:**	Hal Pell
Version:	Second Edition		Staff Counsel

SUMMARY: ***House Bill 817 would allow a person to purchase a handgun without an additional permit if the person has a valid North Carolina concealed handgun permit. The bill would also authorize the Division of Motor Vehicles to issue a National Rife Association Special Registration Plate. The act is effective when it becomes law.***

House Bill 817 is back for concurrence.

I. Purchase with Concealed Handgun Permit

A. Purchasing a Handgun by Permit under Current Law:

G.S. 14-402 makes it unlawful for any person, firm, or corporation in North Carolina to sell, give away, transfer, purchase or receive a handgun if the purchaser or receiver has not first obtained a permit from the sheriff of the county in which the purchaser or receiver resides. G.S. 14-404 sets forth the requirements for the issuance of a permit to purchase a pistol.

The sheriff must certify on the permit that the sheriff has conducted a criminal background check of the applicant and has received no information to indicate that it would be a violation of federal or State law for the applicant to purchase or possess a handgun, and that the sheriff is satisfied as to the applicant's good moral character.

A permit is required for each handgun purchase, and the sheriff is required to keep records of all permits issued, including the name, date, place of residence, age, and former place of residence of each person, firm, or corporation to whom a permit is issued. Counties currently issue permits to purchase more than one pistol on a single application. Permits are valid for 5 years from the date of issuance.

B. Concealed Handgun Permit:

G.S. 14-415.12 sets the criteria for the issuance of a concealed handgun permit. A person who meets the requirements for obtaining a concealed handgun permit would satisfy the requirements for receiving a permit to purchase a pistol. There is a central registry of persons who have been issued concealed handgun permits, and it is maintained by the Division of Criminal Information branch of the SBI. The information may be accessed by the holder's driver's license information. Concealed handgun permits are valid for 5 years from the date of issuance.

BACKGROUND:

Under federal law, a person may currently purchase a longgun with either a handgun purchase permit or a concealed carry permit without a background check.

BILL ANALYSIS:

House Bill 817 would amend G.S. 14-402 to allow a person, firm, or corporation to legally purchase a handgun without first obtaining a permit from the sheriff if the purchaser or receiver first obtains a valid

North Carolina concealed handgun permit. There would be no limit to the number of handguns that may be purchased with a concealed handgun permit.

II. Special NRA Plate Provision

This bill would authorize the issuance of a special license plate bearing the name and logo of the National Rifle Association of America (NRA). The plates may be issued if the NRA authorizes the use of the name and logo without charge, and 300 or more applications are received. The plate would have an additional $10 fee that would go to the Special Registration Plate Account

Unless otherwise designated by statute, a special plate costs $10 more than the regular motor vehicle registration fee. The funds in the Special Registration Plate Account (after deducting all expenses) are distributed as follows: $525,000 split among 7 State visitor centers; 50% of remaining funds to the NCDOT for highway beautification (non-interstate); 33% to the Dept. of Commerce for the out-of-state promotion of travel and industrial development in this State; and 17% to the Dept. of Health and Human Services to promote travel accessibility for disabled persons in this State.

The bill is effective when it becomes law.

Summary contribution by Wendy Graf Ray, Staff Attorney
H817-smrk-01

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

REVISED

BILL NUMBER: House Bill 817 (Second Edition)

SHORT TITLE: Gun Sale Legal w/Concealed Handgun Permit.

SPONSOR(S): Representatives Sexton and Hilton

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
			($)		
REVENUES					
General Fund					
Department of Justice	* See Assumptions and Methodology *				
Highway Fund - Special Plate Acct.	3,000	3,000	3,000	3,000	3,000
County Governments	* See Assumptions and Methodology *				
EXPENDITURES					
Highway Fund - Special Plate Acct.	4,437				
General Fund					
Department of Justice	* See Assumptions and Methodology *				
County Governments	* See Assumptions and Methodology *				
POSITIONS: (cumulative)					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Transportation, Department of Justice, and County Sheriffs' Offices.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes two separate changes to existing law. First, it allows any person, firm, or corporation to legally purchase a handgun without first obtaining a permit from the sheriff if the purchaser or receiver has a valid North Carolina concealed handgun permit. There would be no limit to the number of handguns that may be purchased with a concealed handgun permit. Second, it authorizes the issuance of a special license plate bearing the name and logo of the National Rifle Association. The plate may be issued if the Department receives 300 applications, and the National Rifle Association authorizes the use of the name and logo without charge.

ASSUMPTIONS AND METHODOLOGY:
Under current law, an individual who wishes to purchase a handgun must apply to the Sheriff's office in his or her county of residence. The Sheriff runs a computerized background check and charges a $5.00 fee for the application. Each permit is good for the purchase of one handgun within the next five years; some Sheriffs limit the number of permits per individual each year.

Residents may also apply to their Sheriff's office for a permit to carry a concealed handgun. For this permit, the Sheriff requests a state and national fingerprint criminal background check from the State Bureau of Investigation (SBI). The fee for the permit is $80, of which $22 is remitted to the Federal Bureau of Investigation, $23 to the State Bureau of Investigation, and $35 is kept by the Sheriff's office. Permits are good for five years; the renewal fee is $75. Since December 1, 1995, there have been approximately 56,000 concealed handgun permits issued; the SBI performed approximately 12,000 background checks for concealed handgun permits in FY 2002-03.

Under Section 1 of this Bill, an individual with a concealed handgun permit would not be required to obtain a permit to purchase a handgun. Therefore, the Sheriffs' offices would not receive the $5 per handgun purchased, and they would not incur the costs of approving the permit to purchase. Overall, the Sheriffs Association does not anticipate a significant fiscal impact from this change.

If this Bill results in an increase in the number of concealed handgun permit applications, both the SBI and the Sheriffs' offices would receive additional revenues and perform additional work. We cannot project whether more individuals would apply for concealed handgun permits as a result of this legislation. However, we do not anticipate a significant increase, and any increase in workload would have a corresponding increase in revenue.

Section 2 of the bill authorizes a new National Rifle Association special plate. This fiscal analysis assumes that the plate applicants already register their vehicles in the state and are paying the current $20 registration fee, thus there is no new revenue for the Highway Fund. The analysis also assumes the issuance of the minimum 300 license plates in FY 2004-05 and renewal of those plates in the following years. There is a one-time cost of $100 to design a new plate and an average programming cost of $3,560 per plate to change the State Titling and Registration System (STARS). There is also a one-time cost to manufacture the special plate. The cost of a DMV recommended two-color plate is $2.59. For 300 new plates in FY 2004-05, the manufacturing cost is $777 (300 plate minimum X $2.59). The total one-time cost for the new plate is $4,437 and is paid from the Special Registration Plate Account.

In addition to the normal $20 registration fee, each special plate is assessed a $10 fee that is deposited into the Special Registration Plate Account. Funds in that account are used to fund the State visitor centers, highway beautification, promote travel and tourism, and promote travel accessibility for the disabled. For the 300-plate minimum, this account will receive $3,000 a year.

SOURCES OF DATA: North Carolina Department of Transportation, Department of Justice, and Sheriffs Association.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps
Chloe Gossage

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 30, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 817 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A PISTOL MAY BE PURCHASED BY A PERSON WHO HAS A CONCEALED HANDGUN PERMIT WITHOUT OBTAINING AN ADDITIONAL PERMIT TO PURCHASE A HANDGUN AND TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A NATIONAL RIFLE ASSOCIATION SPECIAL REGISTRATION PLATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 868

Judiciary II Committee Substitute Adopted 4/24/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S868-CSLA-74 [v.7]

7/7/2004 8:48:37 PM

Short Title: Consumer's Right to Know and Act/QBI Credit. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT STATE GOVERNMENT SHALL REQUIRE IN EVERY CONTRACT FOR THE PERFORMANCE OF TELEMARKETING SERVICES PROVISIONS THAT ONLY CITIZENS OF THE UNITED STATES AND PERSONS AUTHORIZED TO WORK IN THE UNITED STATES MAY BE EMPLOYED, TO PROVIDE FOR DISCLOSURE OF CERTAIN INFORMATION FROM CUSTOMER SALES AND SERVICE CENTERS, AND TO AMEND THE QUALIFIED BUSINESS INVESTMENT CREDIT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that the State regularly awards contracts for services that are vital to North Carolinians, and that a national trend is developing in which contractors and subcontractors under service contracts awarded by state governments employ persons in foreign countries to perform these vital services. The General Assembly further finds that persons performing these service contracts in foreign countries are generally paid wages that are significantly below the minimum wage in this State, and that this trend of awarding service contracts to be performed outside the United States is threatening to the jobs and livelihood of North Carolinians and all Americans.

SECTION 2. Article 3 of Chapter 143 is amended by adding a new section to read:

"**§ 143-59.4. Certain vendors required to use only persons authorized to work in the United States.**

(a) Ineligible Vendors. – The Secretary of Administration and other entities to which this Article applies shall not contract for telemarketing services or telephone center services with any vendor that employs the services of any person not authorized to work in the United States pursuant to federal law in the performance of telemarketing

or telephone center services on behalf of the State and such services shall be performed in the United States.

(b) Vendor Certification. – The Secretary of Administration shall require each vendor submitting a bid or contract to provide services for the State as set forth in subsection (a) of this section to certify that only its employees who are authorized to work in the United States pursuant to federal law will be performing services under the contract. Any person who submits a certification required by this subsection known to be false shall be guilty of a Class I felony.

(c) Void Contracts. – A contract entered into or performed in violation of this section is void. A contract that is void under this section may continue in effect until an alternative contract can be arranged when: (i) immediate termination would result in harm to the public health or welfare, and (ii) the continuation is approved by the Secretary of Administration. Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare."

SECTION 3. Chapter 66 is amended by adding a new Article to read:

"Article 41.

"Customer Sales or Service Call Center Requirements.

"**§ 66-340. Definitions.**

As used in this Article the following terms mean:

(1) Customer sales call center. – An entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purpose of initiating sales, including telephone solicitations as defined in G.S. 66-260(10) and G.S. 75-30.1(a)(2).

(2) Customer service call center. – An entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purposes of providing or receiving services or information necessary in connection with the providing of services or other benefits.

(3) Customer services employee. – A person employed by or working on behalf of a customer sales call center or a customer service call center.

(4) Identifying information. – As the term is used in G.S. 14-113.20(b).

"**§ 66-341. Customers right to customer sales or customer service call center information.**

(a) Any person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center, upon request, has the right to:

(1) Know the identification of the city, state, and country where the customer service employee is located.

(2) Know the name or registered alias of the customer services employee.

(3) Know the name of the employer of the person with whom the person is speaking.

(4) Speak to a qualified employee of the company or government agency the person is doing business with.

(b) No person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center shall have the person's financial, credit, or identifying information sent to any foreign country without express written permission.

"**§ 66-342. Violation.**

A willful violation of this Article shall be an unfair or deceptive trade practice under G.S. 75-1.1"

SECTION 4. G.S. 105-163.012(b) reads as rewritten:

"(b) The total amount of all tax credits allowed to taxpayers under G.S. 105-163.011 for investments made in a calendar year may not exceed ~~six million dollars ($6,000,000).~~seven million dollars ($7,000,000). The Secretary of Revenue shall calculate the total amount of tax credits claimed from the applications filed pursuant to G.S. 105-163.011(c). If the total amount of tax credits claimed for investments made in a calendar year exceeds ~~six million dollars ($6,000,000),~~ this maximum amount, the Secretary shall allow a portion of the credits claimed by allocating ~~a total of six million dollars ($6,000,000)~~the maximum amount in tax credits in proportion to the size of the credit claimed by each taxpayer."

SECTION 5. G.S. 105-163.015 reads as rewritten:

"**§ 105-163.015. Sunset.**

This Part is repealed effective for investments made on or after January 1, ~~2007.~~2008."

SECTION 6. Sections 2 and 3 of this act become effective October 1, 2004. Sections 4 and 5 become effective for investments made on or after January 1, 2004. Section 2 of this act applies to contracts entered into on or after that date. The remainder of the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 868
Judiciary II Committee Substitute Adopted 4/24/03

Short Title: Assault in the Presence of a Child. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE CRIMINAL OFFENSE OF ASSAULT IN THE PRESENCE OF A CHILD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-33(c) is amended by adding a new subdivision to read:

"(c) Unless the conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a Class A1 misdemeanor if, in the course of the assault, assault and battery, or affray, he or she:

...

(7) Commits an assault on a minor by committing, in the presence of the minor, an assault with a deadly weapon or an assault that inflicts serious injury on a person with whom the person committing the assault has a personal relationship. The following definitions shall apply in this subdivision:

a. "In the presence of a minor" means:

1. In the physical presence of the minor; or

2. Having knowledge that a child is present and may see or hear the offense.

b. "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault.

c. "Personal relationship" is as defined in G.S. 50B-1(b)."

SECTION 2. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

SENATE BILL 868:
Consumer's Right to Know and Act/QBI Credit

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	
Date:	July 7, 2004	**Analysis by:**	Martha Walston
Version:	PCS		Committee Counsel

SUMMARY: The proposed committee substitute replaces the original bill with the following:

- **Requires a vendor, who contracts with the State to provide telemarketing services or telephone center services, to employ only persons who are authorized to work in the U.S. to perform these services. This part is effective October 1, 2004.**
- **Provides a person, who receives a call from or places a call to a customer sales call center or a customer service call center, with certain information upon request of the person. This part is effective October 1, 2004.**
- **Forbids sending to a foreign country any financial, credit, or identifying information about a person who has contact with a center unless the person has consented in writing. This part is effective October 1, 2004.**
- **Amends the qualified business investment credit by increasing the total amount of all credits allowed during a taxable year and extending the sunset of the credit. This part is effective for investments made on or after January 1, 2004.**

BILL ANALYSIS: Section 1 of the bill sets out findings of the General Assembly that a trend is developing in which contractors and subcontractors under service contracts awarded by state governments are employing persons in foreign countries, and that this trend is threatening to the jobs of North Carolina citizens and to all Americans.

Section 2 of the bill prohibits the Secretary of Administration and other state entities from contracting for telemarketing services or telephone center services with any vendor that employs persons not authorized to work in the United States under federal law. The services must be performed in the United States. A vendor, who submits a bid or contract to provide these services, must certify to the Secretary of Administration that the vendor's employees performing services under the contract are authorized to work in the U.S. Submitting a certification known to be false is a Class I felony. Contracts that violate this section are void.

Section 3 of the bill adds a new article to Chapter 66 (Commerce and Business) of the General Statutes providing that a person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center has the right to:

1. The name of the city, state, and country where the customer services employee is located.
2. The name or registered alias of the customer services employee.
3. The name of the employer of the person with whom the person is speaking.

4. Speak to a qualified employee of the company or government agency the person is doing business with.

No financial, credit, or identifying information about a person who has contact with a center can be sent to any foreign country without express written permission.

A willful violation of the new article is an unfair or deceptive trade practice, and damages awarded in such a case would be treble the amount fixed by the verdict.

Sections 4 and 5 of the bill make two changes to the qualified business investment tax credit. First, the total amount of all credits allowed during a taxable year would be increased from $6 million to $7 million. This change would be effective for investments made on or after January 1, 2004. Second, the sunset would be extended so that the credit would expire in 2008 rather than 2007.

The qualified business investment tax credit is allowed for an individual taxpayer who purchases the equity securities or subordinated debt of a qualified business venture, a qualified grantee business, or a qualified licensee business directly from that business. The credit is equal to 25% of the amount invested and may not exceed $50,000 per individual in a single taxable year. An individual investor may also claim the allocable share of credits obtained by "pass-through entities" of which the investor is an owner. Pass-through entities include limited partnerships, general partnerships, S corporations, and limited liability companies. The credit may not be taken in the year the investment is made. Instead, the credit is taken in the year following the calendar year in which the investment was made, but only if the taxpayer filed an application with the Secretary of Revenue. Any unused credit may be carried forward for the next five years. The total amount of credits allowed to all taxpayers for investments made in a calendar year may not exceed $6 million. The Secretary of Revenue calculates the total amount of tax credits claimed from applications filed. If the amount exceeds the cap, then the Secretary allows a portion of the tax credits claimed by allocating the total of $6 million in tax credits in proportion to the size of the credit claimed by each taxpayer. In general, a taxpayer forfeits the credit if the taxpayer transfers the securities within one year or the qualified business redeems the securities purchased by the taxpayer within five years after the investment was made. The credit is currently set to expire as of January 1, 2007.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 6

EDITION No. _____

H. B. No. _____ DATE July 8, 2004

S. B. No. 868 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Weiss
Sen.)

moves to amend the bill on page 2, line 25

( ) WHICH CHANGES THE TITLE

by deleting "75-30.1(a)(2)." and substituting "75-101(9)."

ADOPTED ✓ FAILED _____ TABLED _____

SIGNED Jennifer Weiss

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Committee Substitute for
S.B. 868 A BILL TO BE ENTITLED AN ACT TO CREATE THE CRIMINAL OFFENSE OF ASSAULT IN THE PRESENCE OF A CHILD.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 1083*
House Committee Substitute Favorable 6/30/04

Short Title: Staggered Plates/Safety Inspection Change. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STAGGERED ISSUANCE OF COMMERCIAL LICENSE PLATES, DEALER LICENSE PLATES, AND MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSES, AND TO EXEMPT HISTORIC VEHICLES FROM THE REQUIREMENT FOR A SAFETY INSPECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-64(a) reads as rewritten:

"(a) Except as otherwise provided in this Article, registration plates shall be retained by the owner thereof upon disposition of the vehicle to which assigned, and may be assigned to another vehicle, belonging to such owner and of a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon proper application to the Division and payment of a transfer fee and such additional fees as may be due because the vehicle to which the plates are to be assigned requires a greater registration fee than that vehicle to which the license plates were last assigned. In cases where the plate is assigned to another vehicle belonging to such owner, and is not of a like vehicle category within the meaning of G.S. 20-87 and 20-88, the owner shall surrender the plate to the Division and receive therefor a plate of the proper category, and the unexpired portion of the fee originally paid by the owner for the plate so surrendered shall be a credit toward the fee charged for the new plate of the proper category. Provided, that the owner shall not be entitled to a cash refund when the registration fee for the vehicle to which the plates are to be assigned is less than the registration fee for that vehicle to which the license plates were last assigned. ~~Provided, however, registration plates may not be transferred under this section after December 31 of the year for which issued.~~ An owner assigning or transferring plates to another vehicle as provided herein shall be subject to the same assessments and penalties for use of the plates on another vehicle or for improper use of the plates, as he could have been for the use of the plates on the vehicle to which last assigned. Provided, however, that upon compliance with the requirements of this section, the registration plates of vehicles

owned by and registered in the name of a corporation may be transferred and assigned to a like vehicle category within the meaning of G.S. 20-87 and 20-88, upon the showing that the vehicle to which the transfer and assignment is to be made is owned by a corporation which is a wholly owned subsidiary of the corporation applying for such transfer and assignment."

SECTION 2. G.S. 20-66(g) reads as rewritten:

"(g) When Renewal Sticker Expires. – The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker ~~expired if the vehicle is not registered under the International Registration Plan. If the vehicle is registered under the International Registration Plan, it is not lawful to operate the vehicle on a highway after the sticker expires.~~expired.

The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker that expires at the end of any monthly ~~interval beginning at nine months and ending at eighteen months.~~interval."

SECTION 3. G.S. 20-66(h) is repealed.

SECTION 4. G.S. 20-79 reads as rewritten:

"**§ 20-79. Dealer license plates.**

(a) How to Get a Dealer Plate. – A dealer licensed under Article 12 of this Chapter may obtain a dealer license plate by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division. The required fee is the amount set by G.S. 20-87(7).

(b) Number of Plates. – A dealer who was licensed under Article 12 of this Chapter for the previous 12-month period ending ~~April 30~~ December 31 may obtain the number of dealer license plates allowed by the following table; the number allowed is based on the number of motor vehicles the dealer sold during the relevant 12-month period and the average number of qualifying sales representatives the dealer employed during that same 12-month period:

Vehicles Sold In Relevant 12-Month Period	Maximum Number of Plates
Fewer than 12	1
At least 12 but less than 25	4
At least 25 but less than 37	5
At least 37 but less than 49	6
49 or more	At least 6, but no more than 4 times the average number of qualifying sales representatives employed by the dealer during the relevant 12-month period.

A dealer who was not licensed under Article 12 of this Chapter for part or all of the previous 12-month period ending ~~April 30~~ December 31 may obtain the number of

dealer license plates that equals four times the number of qualifying sales representatives employed by the dealer on the date the dealer files the application. A "qualifying sales representative" is a sales representative who works for the dealer at least 25 hours a week on a regular basis and is compensated by the dealer for this work.

A dealer who sold fewer than 49 motor vehicles the previous 12-month period ending ~~April 30~~ December 31 but has sold at least that number since ~~May 1~~ January 1 may apply for additional dealer license plates at any time. The maximum number of dealer license plates the dealer may obtain is the number the dealer could have obtained if the dealer had sold at least 49 motor vehicles in the previous 12-month period ending ~~April 30.~~December 31.

A dealer who applies for a dealer license plate must certify to the Division the number of motor vehicles the dealer sold in the relevant period. Making a material misstatement in an application for a dealer license plate is grounds for the denial, suspension, or revocation of a dealer's license under G.S. 20-294.

A dealer engaged in the alteration and sale of specialty vehicles may apply for up to two dealer plates in addition to the number of dealer plates that the dealer would otherwise be entitled to under this section.

(c) Form and Duration. – A dealer license plate is subject to G.S. 20-63, except for the requirement that the plate display the registration number of a motor vehicle and the requirement that the plate be a "First in Flight" plate. In addition, a dealer license plate must have a distinguishing symbol identifying the plate as a dealer license plate.

A dealer license plate is issued for a ~~fiscal year beginning July 1 and ending June 30.~~ period of one year. ~~During the fiscal year for which it is issued, a dealer may transfer a dealer license plate from one vehicle to another.~~ The Division shall vary the expiration dates of dealer registration renewals so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. A dealer may transfer a dealer license plate from one vehicle to another. When the Division issues a dealer plate, it may issue a registration that expires at the end of any monthly interval. When one of the following occurs, a dealer must surrender to the Division all dealer license plates issued to the dealer:

(1) The dealer surrenders the license issued to the dealer under Article 12 of this Chapter.
(2) The Division suspends or revokes the license issued to the dealer under Article 12 of this Chapter.
(3) The Division rescinds the dealer license plates because of a violation of the restrictions on the use of a dealer license plate.

To obtain a dealer license plate after it has been surrendered, the dealer must file a new application for a dealer license plate and pay the required fee for the plate.

(d) Restrictions on Use. – A dealer license plate may be displayed only on a motor vehicle that meets all of the following requirements:

(1) Is part of the inventory of the dealer.
(2) Is not consigned to the dealer.
(3) Is covered by liability insurance that meets the requirements of Article 9A of this Chapter.

(4) Is not used by the dealer in another business in which the dealer is engaged.

(5) Is driven on a highway by a person who carries a copy of the registration card for the dealer plates issued to the dealer while driving the motor vehicle and who meets one of the following descriptions:

a. Has a demonstration permit to test-drive the motor vehicle and carries the demonstration permit while driving the motor vehicle.

b. Is an officer or sales representative of the dealer and is driving the vehicle for a business purpose of the dealer.

c. Is an employee of the dealer and is driving the vehicle in the course of employment.

A dealer may issue a demonstration permit for a motor vehicle to a person licensed to drive that type of motor vehicle. A demonstration permit authorizes each person named in the permit to drive the motor vehicle described in the permit for up to 96 hours after the time the permit is issued. A dealer may, for good cause, renew a demonstration permit for one additional 96-hour period.

A dealer may not lend, rent, lease, or otherwise place a dealer license plate at the disposal of a person except as authorized by this subsection.

(e) Sanctions. – The following sanctions apply when a motor vehicle displaying a dealer license plate is driven in violation of the restrictions on the use of the plate:

(1) The individual driving the motor vehicle is responsible for an infraction and is subject to a penalty of fifty dollars ($50.00).

(2) The dealer to whom the plate is issued is subject to a civil penalty imposed by the Division of two hundred dollars ($200.00).

(3) The Division may rescind all dealer license plates issued to the dealer whose plate was displayed on the motor vehicle.

A penalty imposed under subdivision (1) of this subsection is payable to the county where the infraction occurred, as required by G.S. 14-3.1. A civil penalty imposed under subdivision (2) of this subsection shall be credited to the Highway Fund as nontax revenue.

(f) Transfer of Dealer Registration. – No change in the name of a firm, partnership or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered a new business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing and the dealers' plates originally issued may continue to be used."

SECTION 5. G.S. 20-87 reads as rewritten:

"**§ 20-87. Passenger vehicle registration fees.**

These fees shall be paid to the Division ~~annually, as of the first day of January,~~ annually for the registration and licensing of passenger vehicles, ~~fees~~ according to the following classifications and schedules:

(1) For-Hire Passenger Vehicles. – The fee for a passenger vehicle that is operated for compensation and has a capacity of 15 passengers or less

is seventy-eight dollars ($78.00). The fee for a passenger vehicle that is operated for compensation and has a capacity of more than 15 passengers is one dollar and forty cents ($1.40) per hundred pounds of empty weight of the vehicle.

(2) U-Drive-It Vehicles. – U-drive-it vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	$18.00
	2-passenger capacity	22.00
	3-passenger capacity	26.00
Automobiles:	15 or fewer passengers	$41.00
Buses:	16 or more passengers	$1.40 per hundred pounds of empty weight
Trucks under 7,000 pounds that do not haul products for hire:	4,000 pounds	$41.50
	5,000 pounds	$51.00
	6,000 pounds	$61.00.

(3) Repealed by Session Laws 1981, c. 976, s. 3.

(4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways, shall be taxed at the same rate as for-hire passenger vehicles under G.S. 20-87(1) but shall be issued appropriate registration plates to distinguish such vehicles from taxicabs.

(5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and licensing of private passenger vehicles, fees according to the following classifications and schedules:

Private passenger vehicles of not more than fifteen passengers.. $20.00
Private passenger vehicles over fifteen passengers 23.00

Provided, that a fee of only one dollar ($1.00) shall be charged for any vehicle given by the federal government to any veteran on account of any disability suffered during war so long as such vehicle is owned by the original donee or other veteran entitled to receive such gift under Title 38, section 252, United States Code Annotated.

(6) Private Motorcycles. – The base fee on private passenger motorcycles shall be nine dollars ($9.00); except that when a motorcycle is equipped with an additional form of device designed to transport persons or property, the base fee shall be sixteen dollars ($16.00). An additional fee of three dollars ($3.00) is imposed on each private motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Motorcycle Safety Instruction Program created in G.S. 115D-72.

(7) Dealer License Plates. – The fee for a dealer license plate is the regular fee for each of the first five plates issued to the same dealer and is one-half the regular fee for each additional dealer license plate issued to the same dealer. The "regular fee" is the fee set in subdivision (5) of this section for a private passenger motor vehicle of not more than 15 passengers.

(8) Driveaway Companies. – Any person engaged in the business of driving new motor vehicles from the place of manufacture to the place of sale in this State for compensation shall pay a fee of one-half of the amount that would otherwise be payable under this section for each set of plates.

(9) House Trailers. – In lieu of other registration and license fees levied on house trailers under this section or G.S. 20-88, the registration and license fee on house trailers shall be seven dollars ($7.00) for the license year or any portion thereof.

(10) Special Mobile Equipment. – The fee for special mobile equipment for the license year or any part of the license year is two times the fee in subdivision (5) for a private passenger motor vehicle of not more than 15 passengers.

(11) Any vehicle fee determined under this section according to the weight of the vehicle shall be increased by the sum of three dollars ($3.00) to arrive at the total fee.

(12) Low-Speed Vehicles. – The fee for a low-speed vehicle is the same as the fee for private passengers vehicles of not more than 15 passengers."

SECTION 6. G.S. 20-88(b)(6) reads as rewritten:

"(6) There shall be paid to the Division annually ~~as of the first of January,~~ the following fees for "wreckers" as defined under G.S. 20-4.01(50): a wrecker fully equipped weighing 7,000 pounds or less, seventy-five dollars ($75.00); wreckers weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars ($148.00). Fees to be prorated ~~quarterly.~~ monthly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer."

SECTION 7. G.S. 20-88(c) reads as rewritten:

"(c) The fee for a semitrailer or trailer is ten dollars ($10.00) for each year or part of a year. The fee is payable ~~on or before January 1 of~~ each year. Upon the application of the owner of a semitrailer or trailer, the Division may issue a multiyear plate and registration card for the semitrailer or trailer for a fee of seventy-five dollars ($75.00). A multiyear plate and registration card for a semitrailer or trailer are valid until the owner transfers the semitrailer or trailer to another person or surrenders the plate and registration card to the Division. A multiyear plate may not be transferred to another vehicle.

The Division shall issue a multiyear semitrailer or trailer plate in a different color than an annual semitrailer or trailer plate and shall include the word "multiyear" on the plate. The Division may not issue a multiyear plate for a house trailer."

SECTION 8. G.S. 20-94 reads as rewritten:

"**§ 20-94. Partial payments.**

In the purchase of licenses, where the gross amount of the license fee to any one owner amounts to more than four hundred dollars ($400.00), half of such payment may, if the Commissioner is satisfied of the financial responsibility of such owner, be deferred until ~~June 1~~ six months from the month of renewal in any calendar year upon the execution to the Commissioner of a draft upon any bank or trust company upon forms to be provided by the Commissioner in an amount equivalent to one half of such fee, plus a carrying charge of three percent (3%) of the deferred portion of the license fee: Provided, that any person using any tag so purchased after the first day of ~~June~~ six months from the month of renewal in any such year without having first provided for the payment of such draft, shall be guilty of a Class 2 misdemeanor. No further license plates shall be issued to any person executing such a draft after the due date of any such draft so long as such draft or any portion thereof remains unpaid. Any such draft being dishonored and not paid shall be subject to the penalties prescribed in G.S. 20-178 and shall be immediately turned over by the Commissioner to his duly authorized agents and/or the State Highway Patrol, to the end that this provision may be enforced. When the owner of the vehicles for which a draft has been given sells or transfers ownership to all vehicles covered by the draft, such draft shall become payable immediately, and such vehicles shall not be transferred by the Division until the draft has been paid. Any one owner whose gross license fee amounts to more than two hundred dollars ($200.00) but not more than four hundred dollars ($400.00) may also be permitted to sign a draft in accordance with the foregoing provisions of this section provided such owner makes application for the draft ~~on or before February 1~~ during the ~~license renewal period.~~ month of renewal."

SECTION 9. G.S. 20-288(c) reads as rewritten:

"(c) All licenses that are granted shall expire one year from the date issued unless ~~sooner~~ revoked or ~~suspended, on June 30 of the year following date of issue.~~ suspended."

SECTION 10. G.S. 20-183.2 is amended by adding a new subsection to read:

"(a1) Safety Inspection Exception. – Historic vehicles, as defined in G.S. 20-79.4(b)(17), shall not be subject to a safety inspection pursuant to this Article."

SECTION 11. This act becomes effective January 1, 2005.

SENATE BILL 1083:
Staggered Plates/Safety Inspection Change

BILL ANALYSIS

Committee:	House Finance	**Sponsor:**	Sen. Jenkins
Date:	July 6, 2004	**Analysis by:**	Martha Walston
Version:	2nd Edition		Committee Counsel

SUMMARY: Senate Bill 1083 would stagger the issuance of commercial motor vehicle plates and motor vehicle dealer licenses.

The 2nd Edition would exempt historic vehicles from the annual safety inspection requirements.

SB 1083 becomes effective January 1, 2005. House Bill 1383, a companion bill sponsored by Rep. Gillespie, is in House Rules.

CURRENT LAW: Under current law, commercial motor vehicle plates expire on December 31 and motor vehicle dealer licenses expire on June 30 of each year.

BILL ANALYSIS:

Section 1 is a conforming change to the statute governing transfer of plates to delete a prohibition on transfer of plates after December 31 of the year of issuance.

Section 2 changes the statutes governing expiration of the registration sticker for a vehicle registered under the International Registration Plan. Under current law, all stickers expire December 31st and are valid through February 15th. This section would make the expiration date the last day of the month of renewal, but remain valid until the 15th of the next month.

Section 3 amends the statute governing renewal of vehicle registrations to repeal a subsection providing for expiration of calendar-year plate expiration at midnight on December 31 of each year. The effect of this change is to authorize staggered expiration of commercial plates.

Section 4 provides for staggered issuance of dealer license plates, and makes a conforming change to the law governing the determination of the number of dealer plates issued to dealers.

Section 5 amends the vehicle registration fee statute to delete a reference to payment of registration fees on the first day of January.

Section 6 amends the wrecker fee statute to delete a reference to payment of fees on the first day of January.

Section 7 amends the semitrailer and trailer fee statute to delete a reference to payment of fees on the first day of January.

Section 8 amends the statute authorizing partial and deferred payments for registration fees over $400 to conform with staggered registration.

Section 9 staggers motor vehicle dealer and manufacturers license registration.

The 2nd Edition of the bill adds Section 10. This section exempts historic vehicles from safety inspections. Under current law, an historic vehicle is defined as a motor vehicle that is at least 35 years old measured from the date of manufacture. Historic vehicles would no longer pay the following fees for performing an inspection and for issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only	$ 8.25	$ .85

The fees for issuance of the sticker are payable to the Division of Motor Vehicles. The amount of each sticker fee listed in the table below is credited to the following recipients:

Recipients	Safety Only Sticker
Highway Fund	.55
Emissions Program Account	.00
Telecommunications Account	.00
Volunteer Rescue/EMS Fund	.18
Rescue Squad Workers' Relief Fund	.12
Division of Air Quality	.00
Highway Trust Fund Repayment Fee	.00

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1083 (Second Edition)

SHORT TITLE: Staggered Issuance/Safety Inspection Changes

SPONSOR(S):

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
Sections 1-9					
EXPENDITURES					
Highway Fund	$1,262,000				
Section 10					
REVENUES					
Highway Fund	($23,360)	($47,654)	($48,607)	(49,579)	($50,571)
Volunteer Rescue/ EMS Fund	($7,645)	($15,596)	($15,908)	($16,226)	($16,550)
Rescue Squad Workers Relief Fund	($5,097)	($10,397)	($10,605)	($10,817)	($11,034)
TOTAL	($36,102)	($73,647)	($75,120)	($76,623)	($78,155)

POSITIONS: (cumulative)

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Division of Motor Vehicles (DMV); Highway Fund; Volunteer Rescue/EMS Fund (G.S. 58-87-5), Rescue Squad Workers' Relief Fund (G.S. 58-88-5).

EFFECTIVE DATE: January 1, 2005

BILL SUMMARY:

Under current law, commercial motor vehicle plates expire on December 31 and motor vehicle dealer licenses expire on June 30 each year. Sections 1-9 of the bill would stagger the issuance of commercial motor vehicle plates and motor vehicle dealer licenses. Section 10 would exempt motor vehicles 35 or more model years old from safety inspection.

ASSUMPTIONS AND METHODOLOGY:

Sections 1-9

According to DMV, implementation of Sections 1-9 of this legislation would require major, complex changes to three large computer systems: State Title and Registration System (STARS), International Registration Plan (IRP) system, and the Dealer system. DMV has outlined the required changes in a Technical Considerations document. A summary of the expected costs is as follows:

Activity	Hours
Analysis	1,500
Design	1,700
Programming/Specification	1,000
Programming/Testing	6,200
System Testing	650
Client Testing	1,500
Training	240
Implementation	550
Post Implementation	1,100
TOTAL	14,440

Each hour costs $80 for a total of ($80 x 14,400) $1,155,200. In addition, there are computer overhead charges of 15% of programming and testing and implementation hours that equal (.15 x $80 x 8,900) $106,800. The total expected cost is $1,262,000, which would come from the Highway Fund.

Section 10

Data from the Division of Motor Vehicles indicate that approximately 84,945 vehicles over 35 model years old would qualify for this safety inspection exemption in the first year. It is assumed that the number of vehicles qualifying would grow by 2% each year. G.S. 20-183.7 sets the fee for the issuance of an inspection sticker. The fee is $0.85 with $0.55 going to the Highway Fund, $0.18 going to the Volunteer Rescue/EMS Fund, and $0.12 going to the Rescue Squad Workers' Relief Fund. The loss of revenue to each of the funds is shown above.

SOURCES OF DATA: Division of Motor Vehicles (DMV)

TECHNICAL CONSIDERATIONS: DMV notes that the complexity of the IT changes required for Sections 1-9 would make it impossible for the agency to complete these changes by January 1, 2005.

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Bob Weiss
APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: July 6, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ House Committee Substitute for
S.B. 1083 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR STAGGERED ISSUANCE OF COMMERCIAL LICENSE PLATES, DEALER LICENSE PLATES, AND MOTOR VEHICLE DEALERS AND MANUFACTURERS LICENSES, AND TO EXEMPT HISTORIC VEHICLES FROM THE REQUIREMENT FOR A SAFETY INSPECTION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 8

EDITION No. _____

H. B. No. _____

S. B. No. 464

COMMITTEE SUBSTITUTE ✓

DATE July 8, 2004

Amendment No. _____
(to be filled in by Principal Clerk)

Rep.) Womble
Sen.)

moves to amend the bill on page 1, line 21 ~~and 24~~

( ) WHICH CHANGES THE TITLE

by adding a ~~sentence~~ phrase ~~after~~ before the period to read

"but shall not depict ~~any~~ violence through the use of a firearm. ~~for or representation of violence.~~"

On page 1, 24 by adding a sentence after the period to read:

"The logo shall not depict ~~any~~ violence through the use of ~~a~~ a firearm. ~~or representation of for violence.~~"

Withdrawn

SIGNED Larry Womble

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

ATTACHMENT 9

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE July 8, 2004

S. B. No. 464 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
) Howard
Sen.)

1 moves to amend the bill on page 1, line 20
2 ( ) WHICH CHANGES THE TITLE
3 by deleting the word "may" and
4 substituting the word "shall".
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SIGNED Julia Howard

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 356*
Senate Finance Committee Substitute Adopted 7/1/04

Short Title: Fees. (Public)

Sponsors:

Referred to:

March 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE BAR CONCERNING PARALEGALS AND FEES RELATING TO CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-23 reads as rewritten:

"**§ 84-23. Powers of Council.**

(a) ~~Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the~~ The Council is ~~hereby~~ vested, as an agency of the State, with the authority to regulate the professional conduct of licensed ~~attorneys.~~ lawyers and State Bar certified paralegals. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of ~~lawyers;~~ lawyers and State Bar certified paralegals; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to membership status; arbitrate disputes concerning legal fees; certify legal ~~specialists;~~ specialists and paralegals and charge fees to applicants and participants necessary to administer these certification programs; determine whether a member is disabled; and formulate and adopt procedures for accomplishing these purposes. The Council may do all things necessary in the furtherance of the purposes of this Article that are not otherwise prohibited by law.

(b) The Council or any committee ~~thereof,~~ of the Council, including the Client Security Fund and the Disciplinary Hearing Commission or any committee ~~thereof,~~ of the Commission, ~~shall have the authority to~~ may subpoena financial records of any licensed ~~attorneys, attorneys~~ lawyers, lawyers whose licenses have been suspended, or disbarred ~~attorneys,~~ lawyers, relating to any account into which client or fiduciary funds have been deposited.

(c) The Council may publish an official journal concerning matters of interest to the legal ~~profession and~~ profession.

(d) The Council may acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council ~~is authorized and empowered in its discretion to~~ may utilize the services of the Purchase and Contract Division of the Department of Administration ~~for the procurement of~~ to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General ~~Statutes; and to do all things necessary in the furtherance of the purposes of this Article as are not prohibited by law.~~ Statutes."

SECTION 2. G.S. 84-37 reads as rewritten:

"**§ 84-37. State Bar may investigate and enjoin unauthorized ~~practice.~~ activities.**

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) unauthorized or unlawful practice of ~~law.~~ law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar. ~~The Council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law.~~ The Council may bring or cause to be brought and ~~maintain~~ maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal ~~service~~ service, holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services ~~which~~ that are unauthorized or prohibited by ~~law or statutes relative thereto.~~law. No bond for cost shall be required in the proceeding.

(b) In an action brought under this ~~section~~section, the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the unauthorized or unlawful act or ~~acts complained of.~~acts. A temporary injunction to restrain the commission or continuance ~~thereof~~ of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the ~~laws or statutes~~ laws applicable to unauthorized or unlawful practice of ~~law.~~ law or the unauthorized use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar. The provisions of ~~statute or rules~~ law relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings ~~thereunder.~~ for temporary injunctions.

(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts ~~constituting unauthorized or unlawful practice of law~~ are alleged to have been committed or in which there appear reasonable grounds that they will be ~~committed~~ committed ~~or~~ in the county where the defendants in the action ~~reside~~ reside, or in Wake County.

(d) The plaintiff in the action shall be entitled to ~~examination of~~ examine the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for ~~the examination of~~ examining parties.

(e) This section shall not repeal or ~~curtail~~ limit any remedy now provided in cases of unauthorized or unlawful practice of ~~law, and nothing~~ law. Nothing contained ~~herein~~ in this section shall be construed as disabling or abridging the inherent powers of the court in these matters.

(f) The Council or its duly appointed committee ~~has the authority to~~ may issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law."

SECTION 3. Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.6C.(e)** The Commission may retain additional fees as authorized by subsection (a) of this section ~~only in the 2003-2005 fiscal biennium and shall not retain any additional fees after the 2003-2005~~ until the 2009-2011 fiscal biennium."

SECTION 4. This act becomes effective October 1, 2004.

HOUSE BILL 356:
Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Tolson & LaRoque
Date:	July 8, 2004	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: The 2nd Edition of House Bill 356 authorizes the North Carolina State Bar to recognize paralegals meeting certain criteria as "State Bar Certified Paralegals" and to charge fees relating to certification. It also extends the sunset of the Industrial Commission fee earmarked for information technology. THIS BILL IS IN THE HOUSE FOR CONCURRENCE.

CURRENT LAW: The North Carolina State Bar, which is an agency of the State, regulates the professional conduct of lawyers in North Carolina. The State Bar is governed by the State Bar Council and its various Boards and Committees. In an effort to better inform the public, the State Bar Council has recognized certain specialties of practice and when lawyers who practice in those specialties meet certain established criteria, they may hold themselves out as being a State Bar Certified Specialist in a particular area such as criminal law, real property law, bankruptcy, or other area approved by the Council.

BILL ANALYSIS:

SECTIONS 1 & 2:

Sections 1 and 2 of House Bill 356 would allow the State Bar to recognize paralegals that meet established criteria to be "State Bar Certified Paralegals" and to charge fees to applicants and participants necessary to administer the certification program. The program is voluntary; paralegals would not be required to participate. However, participation in the program would enable those paralegals to use the designation "North Carolina State Bar Certified Paralegal." The bill would give the State Bar authority to administer the certification program for paralegals in substantially the same manner and with the same authority that it currently administers the certification program for lawyers.

The certified paralegal designation has been requested by the paralegal associations and has been reviewed and studied by the State Bar Council, the North Carolina Bar Association, the Academy of Trial Lawyers, and all of the known paralegal groups.

SECTION 3:

In the 2003 budget bill, the Industrial Commission was authorized to retain the additional revenue generated from raising the fee charged to parties for the filing of compromised settlements from $200 to an amount not exceeding $250 for the purpose of replacing existing computer hardware and software used for the operations of the Commission. The Commission was permitted to retain the additional fees only in the 2003-2005 biennium. Section 3 of the bill would extend the sunset and allow the Industrial Commission to continue retaining these additional fees until the 2009-2011 fiscal biennium.

The bill would become effective October 1, 2004.

BACKGROUND: The content of House Bill 356 has changed since it originally passed the House. When it passed the House, the bill removed a sunset on the law providing that certain secondary suppliers of electric service may furnish service within the corporate limits of a city with written consent from the city and allowing members of an electric membership corporation vote by proxy on decisions to encumber corporate property or to dissolve the corporation.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 7, 2004

TO: Representatives Tolson and LaRoque

FROM: Linda Millsaps, Stephanie Schmitt
Fiscal Research Division

RE: House Bill 356 (Second Edition)

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Council of the NC State Bar	No General Fund Impact				
Industrial Commission	No General Fund Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Bar; North Carolina Industrial Commission

EFFECTIVE DATE: October 1, 2004

BILL SUMMARY:
Section 1 of the bill authorizes the Council of the North Carolina State Bar to regulate the professional conduct of State Bar certified paralegals, take actions to ensure the competence of such paralegals, and to charge fees for certification. It also updates and clarifies the existing language. Section 2 expands the Bar's investigative authority to include inappropriate representation as a Bar certified paralegal and makes other conforming changes. Section 3 of the proposed bill amends subsection (e) of SL 2003-284 sec. 12.6C (Industrial Commission Fees/Computer System Replacement) to provide that the Commission may retain authorized fees until the 2009-2011 fiscal biennium.

ASSUMPTIONS AND METHODOLOGY:

Paralegal Fees

The bill does not specify or cap the fees that can be charged for paralegal certification. State Bar officials indicate that they have yet to set a proposed fee, but hope the fee will cover the cost of the program. They indicate that they plan to use existing staff, so the primary cost will be related to computer programming.

Because certification is currently voluntary, no information is available concerning the number of paralegals and legal assistants that may be impacted by this legislation. However, the National Association of Legal Assistants, which certifies paralegals nationally, indicate that 326 North Carolinians have passed their certification program. The State Bar Association indicates that 628 paralegals have registered as members of this Legal Assistants Division.

Industrial Commission Fees

The 2003-04 budget bill allowed the Industrial Commission to retain additional revenue generated by raising the fee charged to parties for the filing of compromise settlements from $200 to $250 for computer systems replacement. The fees collected up to $200 for each compromise settlement continue to be directed to the state's General Fund. The budget provision allowed the Industrial Commission to retain the additional fees only in the 2003-2005 fiscal biennium. The proposed legislation would allow the Industrial Commission to keep their additional receipts for IT purposes for four more years until the 2009-2011 fiscal biennium.

The additional revenue generated by the Industrial Commission this past year to be used for their IT needs was $483,571. This amount is approximately $100,000 higher than expected for an average year, because a number of asbestos cases were settled via compromise settlements with large companies all at once this year. The Industrial Commission has set aside all the money generated thus far this year and has begun to lay out their technical requirements internally. They were required to have a demonstrated revenue stream before putting out bids for the necessary work in stages, hence the desire to extend the sunset until the 2009-2011 fiscal biennium.

SOURCES OF DATA: North Carolina State Bar; North Carolina Industrial Commission

TECHNICAL CONSIDERATIONS: N/A

North Carolina General Assembly

House Committee on Finance

Minutes

~

July 13, 2004

The House Committee on Finance met on Tuesday, July 13, 2004 at 8:30 am in Room 544 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, and McComas; Vice-Chairs Alexander and Hill; and Representatives Blackwood, Bordsen, Carney, Cole, Glazier, Harrell, Holliman, McGee, Setzer, and Womble. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Dusty Rhodes, Phillip Schreisman, and Walter Spell. Staff persons present included Richard Bostic, Trina Griffin, and Martha Walston. The Agenda and Visitor Registration Sheets are attached and incorporated into these minutes as **attachments 1 and 2.**

Chairman McComas called the meeting to order at 8:34 am and recognized the six (6) pages present: (1) Donald Beal of Lenoir County, sponsored by Representative LaRoque; (2) Douglas Beal of Lenoir County, sponsored by Representative LaRoque; (3) Johnny Brown of Guilford County, sponsored by Representative Jeffus; (4) John Flynt of Guilford County, sponsored by Representative Blust; (5) Kimberly White of Buncombe County, sponsored by Representative Goforth; and (6) Joseph Winslow of Pasquotank County, sponsored by Representative Blust.

Representative Glazier was recognized to explain the first bill considered by the Committee: **HB 356 - FEES** (see **attachment 3**). Representative Glazier explained that the bill authorizes the North Carolina State Bar to recognize paralegals meeting certain criteria as "State Bar Certified Paralegals" and to charge fees relating to this certification. It also extends the sunset of the Industrial Commission fee earmarked for information technology. Chairman McComas recognized Representative Womble who moved that the Committee offer a recommendation that the House concur with the Senate Committee Substitute for House Bill 356. Hearing no further debate, Chairman McComas brought the motion to a vote and it carried without objection.

The next bill considered by the Committee was **SB 1060 – TOWN OF FRANKLIN OCCUPANCY TAX** (see **attachment 4**). Chairman McComas recognized Trina Griffin, Research Staff, (on behalf of Senator Carpenter) who explained the bill to the Committee members. Senate Bill 1060 would authorize the Town of Franklin to levy a 3% room occupancy tax. Two-thirds of the proceeds would be used to promote travel and tourism and one-third would be used for tourism related expenditures. This bill was given a favorable report by the Occupancy Tax Subcommittee. The Chair recognized Representative Alexander who moved for a favorable report for Senate Bill 1060. Hearing no further debate, Chairman McComas brought the motion to a vote and it carried without objection.

SB 1181 – MODIFY ALLEGHANY OCCUPANCY TAX (see **attachment 5**) was the next bill considered by the Committee. Chairman McComas recognized the bill sponsor, Senator Foxx, to explain the bill. Senator Foxx then explained that the bill would modify the administrative provisions of the existing Alleghany County occupancy tax. The bill would not change the rate of the tax, but it would remove the exemption from the tax for a business that offers to rent fewer than five units. Senator Foxx further explained that Senate Bill 1181 would modify the distribution and use of the tax proceeds. Following this explanation, Chairman McComas recognized Representative Alexander, Chair of the Occupancy Tax Subcommittee who commented on the bill. She said that the bill received a favorable report from the Subcommittee, but wanted to note that Section 1 of the bill creates a different procedure than what would normally occur. Alleghany County would not have a Tourism Development Authority (TDA) (which is normally required) until the occupancy tax revenues collected exceed $100,000. (Currently, the tax is producing only $25,000 in revenues.) Until that threshold is surpassed the Chamber of Commerce would collect the occupancy taxes for the county. Representative Alexander concluded her comments by moving for a favorable report for Senate Bill 1181. Hearing no further debate, the Chair brought the motion to a vote and it carried without objection.

Chairman McComas then recognized Representative Hill, on behalf of the bill sponsor Senator Soles, to explain the last bill considered by the Committee: **SB 1343 – WHITEVILLE ANNEXATION** (see **attachment 6**). Representative Hill explained that the bill would allow the Town of Whiteville to annex certain described property into its corporate limits. The primary reason for annexing the property is so that the town could properly maintain newly installed infrastructure. The Chair recognized Representative Howard who moved for a favorable report for Senate Bill 1343. Chairman McComas then recognized Representative Womble who asked the bill sponsor if there was any known opposition to the proposed bill. Representative Hill responded by saying that the annexation was voluntary and that the bill would not alter the taxes of the Town. Hearing no further debate, Chairman McComas called Representative Howard's motion for a favorable report to a vote and it carried without opposition.

Having no further business before the Committee, Chairman McComas adjourned the meeting at 8:43 am.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Agenda
2. Visitor Registration Sheets
3. House Bill 356 (and related materials)
4. Senate Bill 1060 (and related materials)
5. Senate Bill 1181 (and related materials)
6. Senate Bill 1343 (and related materials)

ATTACHMENT 1

AGENDA

House Finance Committee

July 13, 2004
8:30 a.m.
Room 544 LOB
Chaired by: Rep. McComas

Co-Chairs

Representative Gordon Allen
Representative Julia Howard
Representative Paul Luebke

Representative Danny McComas
Representative David Miner
Representative William Wainwright

Call to Order

Introduction of Pages

Bills:

HB 356 **FEES** *Reps. Tolson and LaRoque*
(FOR CONCURRENCE)

SB 1060 **TOWN OF FRANKLIN OCCUPANCY TAX** *Sen. Carpenter*

SB 1181 **MODIFY ALLEGHANY OCCUPANCY TAX** *Sen. Foxx*

SB 1343 **WHITEVILLE ANNEXATION** *Rep. Hill*

Adjournment

CORRECTED NOTICE #2:
SB 1060 & SB 1181 – ADDED

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 13, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 356 – FEES – Reps. Tolson and LaRoque

SB 1060 – TOWN OF FRANKLIN OCCUPANCY TAX – Carpenter

SB 1181 – MODIFY ALLEGHANY OCCUPANCY TAX – Foxx

SB 1343 – WHITEVILLE ANNEXATION – Rep. Hill

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:40 p.m.** on **July 9, 2004**.

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

CORRECTED NOTICE:
SHOULD BE HB 356 (NOT HB 256)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 13, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 356 – FEES – Reps. Tolson and LaRoque

SB 1343 – WHITEVILLE ANNEXATION – Rep. Hill

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **10:05 a.m.** on **July 9, 2004**.

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
AND
BILL SPONSOR NOTIFICATION
2003-2004 SESSION

You are hereby notified that the Committee on **FINANCE** will meet as follows:

DAY & DATE: **Tuesday, July 13, 2004**

TIME: **8:30 a.m.**

LOCATION: **Room 544, LOB**

The following bills will be considered (Bill #, Short Title, and Bill Sponsor):

HB 256 – FEES – Reps. Tolson and LaRoque

SB 1343 – WHITEVILLE ANNEXATION – Rep. Hill

Respectfully,
Representatives G. Allen, Howard, Luebke, McComas, Miner, and Wainwright
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **5:00 p.m.** on **July 8, 2004**.

X Principal Clerk
X Reading Clerk - House Chamber

Jason A. Cannon (Committee Clerk)

ATTACHMENT 2

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 13, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Henry Hutaff	N.C.S.D.A.
Cam Cover	BPMHL
Chip Killian	Nelson Mullins
[illegible] Fogleman	Inform Inc.
Doug Lassiter	NCSTA
JOHN GOODMAN	ALLEY ASSOCIATES
Lisa Piercy	Duke Energy
Kathy Hawkins	Progress Energy
Rick Zechini	NC Assoc. of REALTORS
[illegible]	NCLHW

VISITOR REGISTRATION SHEET

HOUSE COMMITTEE ON FINANCE — July 13, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carole Lawler	EGHS
Michelle Frazier	NC Bar Ass'n
[illegible]	[illegible]
DAVID BARNES	Poyner + Spruill LLP
RICH WEBB	NCGA INTERN
Elizabeth Self	NCGA Intern
Mary Katherine Hackney	NCGA Intern
Elizabeth Bakanic	NCGA Intern
Tom [illegible]	N.C. State Bar
Jim Blackburn	Association of County Commissioners
George Suddath	NCSDA

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 2

HOUSE BILL 356*
Senate Finance Committee Substitute Adopted 7/1/04

Short Title: Fees. (Public)

Sponsors:

Referred to:

March 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE BAR CONCERNING PARALEGALS AND FEES RELATING TO CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 84-23 reads as rewritten:

"**§ 84-23. Powers of Council.**

(a) ~~Subject to the superior authority of the General Assembly to legislate thereon by general law, and except as herein otherwise limited, the~~ The Council is ~~hereby~~ vested, as an agency of the State, with the authority to regulate the professional conduct of licensed ~~attorneys.~~ lawyers and State Bar certified paralegals. Among other powers, the Council shall administer this Article; take actions that are necessary to ensure the competence of ~~lawyers;~~ lawyers and State Bar certified paralegals; formulate and adopt rules of professional ethics and conduct; investigate and prosecute matters of professional misconduct; grant or deny petitions for reinstatement; resolve questions pertaining to membership status; arbitrate disputes concerning legal fees; certify legal ~~specialists;~~ specialists and paralegals and charge fees to applicants and participants necessary to administer these certification programs; determine whether a member is disabled; and formulate and adopt procedures for accomplishing these purposes. The Council may do all things necessary in the furtherance of the purposes of this Article that are not otherwise prohibited by law.

(b) The Council or any committee ~~thereof,~~ of the Council, including the Client Security Fund and the Disciplinary Hearing Commission or any committee ~~thereof,~~ of the Commission, ~~shall have the authority to~~ may subpoena financial records of any licensed ~~attorneys, attorneys~~ lawyers, lawyers whose licenses have been suspended, or disbarred ~~attorneys,~~ lawyers, relating to any account into which client or fiduciary funds have been deposited.

(c) The Council may publish an official journal concerning matters of interest to the legal ~~profession and~~ profession.

(d) The Council may acquire, hold, rent, encumber, alienate, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council ~~is authorized and empowered in its discretion to~~ may utilize the services of the Purchase and Contract Division of the Department of Administration ~~for the procurement of~~ to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General ~~Statutes; and to do all things necessary in the furtherance of the purposes of this Article as are not prohibited by law.~~ Statutes."

SECTION 2. G.S. 84-37 reads as rewritten:

"**§ 84-37. State Bar may investigate and enjoin unauthorized ~~practice.~~ activities.**

(a) The Council or any committee appointed by it for that purpose may inquire into and investigate any charges or complaints of (i) unauthorized or unlawful practice of ~~law.~~ law or (ii) the use of the designations, "North Carolina Certified Paralegal," "North Carolina State Bar Certified Paralegal," or "Paralegal Certified by the North Carolina State Bar Board of Paralegal Certification," by individuals who have not been certified in accordance with the rules adopted by the North Carolina State Bar. ~~The Council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law.~~ The Council may bring or cause to be brought and ~~maintain~~ maintained in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any person or entity against any person or entity that engages in rendering any legal ~~service~~ service, holds himself or herself out as a North Carolina certified paralegal by use of the designations set forth in this subsection, or makes it a practice or business to render legal services ~~which~~ that are unauthorized or prohibited by ~~law or statutes relative thereto.~~law. No bond for cost shall be required in the proceeding.

(b) In an action brought under this ~~section~~section, the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the unauthorized or unlawful act or ~~acts complained of.~~acts. A temporary injunction to restrain the commission or continuance ~~thereof~~ of the act or acts may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the ~~laws or statutes~~ laws applicable to unauthorized or unlawful practice of ~~law.~~ law or the unauthorized use of the designations set forth in subsection (a) of this section or any other designation implying certification by the State Bar. The provisions of ~~statute or rules~~ law relating generally to injunctions as provisional remedies in actions shall apply to a temporary injunction and the proceedings ~~thereunder.~~ for temporary injunctions.

(c) The venue for actions brought under this section shall be the superior court of any county in which the relevant acts ~~constituting unauthorized or unlawful practice of law~~ are alleged to have been committed or in which there appear reasonable grounds that they will be ~~committed~~ committed ~~or~~ in the county where the defendants in the action ~~reside~~ reside, or in Wake County.

(d) The plaintiff in the action shall be entitled to ~~examination of~~ examine the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for ~~the examination of~~ examining parties.

(e) This section shall not repeal or ~~curtail~~ limit any remedy now provided in cases of unauthorized or unlawful practice of ~~law, and nothing~~ law. Nothing contained ~~herein~~ in this section shall be construed as disabling or abridging the inherent powers of the court in these matters.

(f) The Council or its duly appointed committee ~~has the authority to~~ may issue advisory opinions in response to inquiries from members or the public regarding whether contemplated conduct would constitute the unauthorized practice of law."

SECTION 3. Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.6C.(e)** The Commission may retain additional fees as authorized by subsection (a) of this section ~~only in the 2003-2005 fiscal biennium and shall not retain any additional fees after the 2003-2005~~ until the 2009-2011 fiscal biennium."

SECTION 4. This act becomes effective October 1, 2004.

HOUSE BILL 356:
Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Reps. Tolson & LaRoque
Date:	July 8, 2004	**Summary by:**	Trina Griffin
Version:	2nd Edition		Committee Counsel

SUMMARY: ***The 2nd Edition of House Bill 356 authorizes the North Carolina State Bar to recognize paralegals meeting certain criteria as "State Bar Certified Paralegals" and to charge fees relating to certification. It also extends the sunset of the Industrial Commission fee earmarked for information technology. THIS BILL IS IN THE HOUSE FOR CONCURRENCE.***

CURRENT LAW: The North Carolina State Bar, which is an agency of the State, regulates the professional conduct of lawyers in North Carolina. The State Bar is governed by the State Bar Council and its various Boards and Committees. In an effort to better inform the public, the State Bar Council has recognized certain specialties of practice and when lawyers who practice in those specialties meet certain established criteria, they may hold themselves out as being a State Bar Certified Specialist in a particular area such as criminal law, real property law, bankruptcy, or other area approved by the Council.

BILL ANALYSIS:

SECTIONS 1 & 2:

Sections 1 and 2 of House Bill 356 would allow the State Bar to recognize paralegals that meet established criteria to be "State Bar Certified Paralegals" and to charge fees to applicants and participants necessary to administer the certification program. The program is voluntary; paralegals would not be required to participate. However, participation in the program would enable those paralegals to use the designation "North Carolina State Bar Certified Paralegal." The bill would give the State Bar authority to administer the certification program for paralegals in substantially the same manner and with the same authority that it currently administers the certification program for lawyers.

The certified paralegal designation has been requested by the paralegal associations and has been reviewed and studied by the State Bar Council, the North Carolina Bar Association, the Academy of Trial Lawyers, and all of the known paralegal groups.

SECTION 3:

In the 2003 budget bill, the Industrial Commission was authorized to retain the additional revenue generated from raising the fee charged to parties for the filing of compromised settlements from $200 to an amount not exceeding $250 for the purpose of replacing existing computer hardware and software used for the operations of the Commission. The Commission was permitted to retain the additional fees only in the 2003-2005 biennium. Section 3 of the bill would extend the sunset and allow the Industrial Commission to continue retaining these additional fees until the 2009-2011 fiscal biennium.

The bill would become effective October 1, 2004.

BACKGROUND: The content of House Bill 356 has changed since it originally passed the House. When it passed the House, the bill removed a sunset on the law providing that certain secondary suppliers of electric service may furnish service within the corporate limits of a city with written consent from the city and allowing members of an electric membership corporation vote by proxy on decisions to encumber corporate property or to dissolve the corporation.

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 356 (Second Edition)

SHORT TITLE: Remove Sunset/Municipal Electric Service.

SPONSOR(S): Representatives Tolson and LaRoque

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
Council of the NC State Bar	No General Fund Impact				
Industrial Commission	No General Fund Impact				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina State Bar; North Carolina Industrial Commission

EFFECTIVE DATE: October 1, 2004

BILL SUMMARY:
Section 1 of the bill authorizes the Council of the North Carolina State Bar to regulate the professional conduct of State Bar certified paralegals, take actions to ensure the competence of such paralegals, and to charge fees for certification. It also updates and clarifies the existing language. Section 2 expands the Bar's investigative authority to include inappropriate representation as a Bar certified paralegal and makes other conforming changes. Section 3 of the proposed bill amends subsection (e) of SL 2003-284 sec. 12.6C (Industrial Commission Fees/Computer System Replacement) to provide that the Commission may retain authorized fees until the 2009-2011 fiscal biennium.

ASSUMPTIONS AND METHODOLOGY:

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SOURCES OF DATA: North Carolina State Bar; North Carolina Industrial Commission

TECHNICAL CONSIDERATIONS: N/A

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Millsaps, Stephanie Schmitt

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: July 8, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

HB 356

NORTH CAROLINA PARALEGAL ASSOCIATION, INC.

Post Office Box 36264
Charlotte, North Carolina 28236-6264

(800) 479-1905
(704) 535-3363
Fax (704) 372-9882

Web: www.ncparalegal.org
E-mail: info@ncparalegal.org

June 14, 2004

Mr. L. Thomas Lunsford II
Executive Director
The North Carolina State Bar
Post Office Box 25908
Raleigh, North Carolina 27611

RE: North Carolina State Bar's Plan for Paralegal Certification

Dear Mr. Lunsford:

Founded in 1980, the North Carolina Paralegal Association, Inc. ("NCPA") is a professional association with over 500 members statewide. Our primary purpose is to promote, educate, and enhance the paralegal profession in the state of North Carolina.

NCPA initiated the formation of the Alliance for Paralegal Professional Standards ("APPS") and we continue our support to help define and regulate the paralegal profession in North Carolina. We would like to take this opportunity to thank the North Carolina State Bar for the creation and adoption of the Plan for Certification of Paralegals and for working with APPS to elevate the integrity and competency of paralegals in North Carolina by establishing a professional standard.

Very truly yours,

Belinda T. Pruitt, CLAS
President
336-227-8851

Theresa (Terry) Irvin, CLA
Chairman of the Board
704-388-7030

Cc: Yolanda Nicole Smith, NCPA Secretary

HB 354

NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

H. MARTIN LANCASTER
PRESIDENT

ALAMANCE COMMUNITY COLLEGE
ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE
BEAUFORT COUNTY COMMUNITY COLLEGE
BLADEN COMMUNITY COLLEGE
BLUE RIDGE COMMUNITY COLLEGE
BRUNSWICK COMMUNITY COLLEGE
CALDWELL COMMUNITY COLLEGE & TECHNICAL INSTITUTE
CAPE FEAR COMMUNITY COLLEGE
CARTERET COMMUNITY COLLEGE
CATAWBA VALLEY COMMUNITY COLLEGE
CENTRAL CAROLINA COMMUNITY COLLEGE
CENTRAL PIEDMONT COMMUNITY COLLEGE
CLEVELAND COMMUNITY COLLEGE
COASTAL CAROLINA COMMUNITY COLLEGE
COLLEGE OF THE ALBEMARLE
CRAVEN COMMUNITY COLLEGE
DAVIDSON COUNTY COMMUNITY COLLEGE
DURHAM TECHNICAL COMMUNITY COLLEGE
EDGECOMBE COMMUNITY COLLEGE
FAYETTEVILLE TECHNICAL COMMUNITY COLLEGE
FORSYTH TECHNICAL COMMUNITY COLLEGE
GASTON COLLEGE
GUILFORD TECHNICAL COMMUNITY COLLEGE
HALIFAX COMMUNITY COLLEGE
HAYWOOD COMMUNITY COLLEGE
ISOTHERMAL COMMUNITY COLLEGE
JAMES SPRUNT COMMUNITY COLLEGE
JOHNSTON COMMUNITY COLLEGE
LENOIR COMUNITY COLLEGE
MARTIN COMMUNITY COLLEGE
MAYLAND COMMUNITY COLLEGE
MCDOWELL TECHNICAL COMMUNITY COLLEGE
MITCHELL COMMUNITY COLLEGE
MONTGOMERY COMMUNITY COLLEGE
NASH COMMUNITY COLLEGE
PAMLICO COMMUNITY COLLEGE
PIEDMONT COMMUNITY COLLEGE
PITT COMMUNITY COLLEGE
RANDOLPH COMMUNITY COLLEGE
RICHMOND COMMUNITY COLLEGE
ROANOKE-CHOWAN COMMUNITY COLLEGE
ROBESON COMMUNITY COLLEGE
ROCKINGHAM COMMUNITY COLLEGE
ROWAN-CABARRUS COMMUNITY COLLEGE
SAMPSON COMMUNITY COLLEGE
SANDHILLS COMMUNITY COLLEGE
SOUTH PIEDMONT COMMUNITY COLLEGE
SOUTHEASTERN COMMUNITY COLLEGE
SOUTHWESTERN COMMUNITY COLLEGE
STANLY COMMUNITY COLLEGE
SURRY COMMUNITY COLLEGE
TRI-COUNTY COMMUNITY COLLEGE
VANCE-GRANVILLE COMMUNITY COLLEGE
WAKE TECHNICAL COMMUNITY COLLEGE
WAYNE COMMUNITY COLLEGE
WESTERN PIEDMONT COMMUNITY COLLEGE
WILKES COMMUNITY COLLEGE
WILSON TECHNICAL COMMUNITY COLLEGE
NC CENTER FOR APPLIED TEXTILE TECHNOLOGY

April 21, 2004

Mr. Dudley Humphrey
President
North Carolina State Bar
Post Office Box 25908
Raleigh, NC 27611-5908

Dear Mr. Humphrey:

Please accept this letter as an expression of support of the North Carolina Community College System for the plan which has been developed for certifying paralegals by the North Carolina State Bar. The North Carolina Community College System has sixteen paralegal programs across the state. We believe that the certification process would give value to the graduates of our program and would thus enhance them in the eyes of prospective students. Furthermore, as an erstwhile lawyer, I believe that better education and certification will enhance the practice of law.

We have reviewed with the leadership of the Alliance for Paralegal Professional Standards the proposal which has been worked out between the North Carolina State Bar and that Alliance. We believe that this scheme is innovative and will work very well to achieve the purposes of paralegals and lawyers in the state. Thank you for working cooperatively with the Alliance on this initiative.

With kindest regards, I am

Sincerely,

H. Martin Lancaster

HML:phm

c: Ms. Alice Neece Mine
Ms. Alice W. Penny

MAILING ADDRESS: 5001 MAIL SERVICE CENTER ~ RALEIGH, NC 27699-5001
Street Address: 200 West Jones Street ~ Raleigh, NC 27603-1379 ~ 919-733-7051 ~ Fax 919-733-0680

AN EQUAL OPPORTUNITY EMPLOYER

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☒ Senate Committee Substitute for
H.B. 356 A BILL TO BE ENTITLED AN ACT TO AMEND THE AUTHORITY OF THE NORTH CAROLINA STATE BAR CONCERNING PARALEGALS AND FEES RELATING TO CERTIFICATION AND TO EXTEND THE SUNSET OF THE INDUSTRIAL COMMISSION FEE EARMARKED FOR INFORMATION TECHNOLOGY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☒ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 1060

Short Title:	Town of Franklin Occupancy Tax.	(Local)
Sponsors:	Senator Carpenter.	
Referred to:	Finance.	

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF FRANKLIN TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Occupancy tax. – (a) Authorization and Scope. – The Board of Aldermen of the Town of Franklin may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose.

SECTION 1.(b) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

SECTION 1.(c) Distribution and use of tax revenue. – The Town of Franklin shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Franklin Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Franklin and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract

tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the Franklin Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the town or to attract tourists or business travelers to the town. The term includes tourism-related capital expenditures.

SECTION 2. Tourism Development Authority. – (a) Appointment and Membership. – When the Board of Aldermen adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Franklin Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The Board of Aldermen shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for the Town of Franklin shall be the ex officio finance officer of the Authority.

SECTION 2.(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel, tourism, and conventions in the town, sponsor tourist-related events and activities in the town, and finance tourist-related capital projects in the town.

SECTION 2.(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Board of Aldermen on its receipts and expenditures for the preceding quarter and for the year in such detail as the Board of Aldermen may require.

SECTION 3. City administrative provisions. – G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Franklin, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

SECTION 4. This act is effective when it becomes law.

SENATE BILL 1060:
Town of Franklin Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Carpenter
Date:	July 13, 2004	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1060 authorizes the town of Franklin to levy a 3% room occupancy tax. Two-thirds of the proceeds would be used to promote travel and tourism and one-third would be used for tourism-related expenditures. This bill was given a favorable report by the Occupancy Tax Subcommittee.***

CURRENT LAW: Currently, the town of Franklin does not have authority to levy a room occupancy tax. Franklin is located in Macon County, which does has have authority to levy a 3% occupancy tax. The proceeds of the county tax are used to promote travel and tourism in the county.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

BILL ANALYSIS: Senate Bill 1060 authorizes the Town of Franklin to levy a room occupancy tax of up to 3%. The proceeds must be remitted to a town Tourism Development Authority (TDA), which must use two-thirds of the proceeds to promote travel and tourism and one-third for tourism-related expenditures. These administrative and use provisions conform to the uniform guidelines referenced above and detailed in the chart below:

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1060 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE TOWN OF FRANKLIN TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1181
Second Edition Engrossed 6/2/04

Short Title: Modify Alleghany Occupancy Tax. (Local)

Sponsors: Senator Foxx.

Referred to: Finance.

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE ADMINISTRATIVE PROVISIONS OF THE ALLEGHANY OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 162 of the 1991 Session Laws reads as rewritten:

"**Section 1.** Occupancy tax. (a) Authorization and scope. – The Alleghany County Board of Commissioners may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by ~~(i) a business that offers to rent fewer than five units, (ii)~~ a summer camp for minors, or ~~(iii)~~by a nonprofit charitable, educational, or religious organization.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. The county may require a taxpayer to attach to the form a copy of the taxpayer's most recent sales tax report filed with the Secretary of Revenue.~~

(c) Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.~~The county shall~~

~~administer a tax levied under this section. A tax levied under this section is due and payable to the county finance officer in monthly installments on or before the fifteenth day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the fifteenth day of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the county finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars ($10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid. The board of commissioners may, for good cause shown, compromise or forgive the additional tax penalties imposed by this subsection.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars ($1,000), imprisonment not to exceed six months, or both.~~

(e) Distribution and use of tax revenue. – Except as otherwise provided in this act, Alleghany County shall, on a quarterly basis, remit ~~one-half of~~ one hundred percent (100%) of the net proceeds of the occupancy tax to the Alleghany County Chamber of Commerce. The chamber of commerce shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Alleghany County and shall use the remainder for tourism-related expenditures.~~may spend funds remitted to it under this subsection only to further the development of travel, tourism, and conventions in Alleghany County through State, national, and international advertising and promotion. The chamber of commerce may use no more than one percent (1%) of the funds remitted to it under this subsection for administrative expenses.~~ The chamber of commerce shall report quarterly and at the close of the fiscal year to the Alleghany County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

The following definitions apply in this subsection:

(1) Net proceeds. – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars ($500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.

(2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct

market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.

(3) Tourism-related expenditures. – Expenditures that, in the judgment of the entity responsible for expending the net proceeds of the tax, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in a county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

~~The county shall retain the remaining net proceeds of the tax and use them only for tourist-related purposes, which may include construction and maintenance of public facilities and buildings, police protection, and emergency services. As used in this subsection, "net proceeds"means gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer.~~

~~(f) Effective date of levy. A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.~~

~~(g) Repeal. A tax levied under this section may be repealed by a resolution adopted by the Alleghany County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 1.1. Alleghany Tourism Development Authority. – (a) Appointment and Membership. – When the annual net proceeds of the occupancy tax exceed one hundred thousand dollars ($100,000), the Alleghany Board of Commissioners shall adopt a resolution creating a county Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filing of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the county, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to the members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Alleghany County shall be the ex officio finance officer of the Authority.

Sec. 1.2. Duties. – If the board of commissioners establishes a Tourism Development Authority as provided in Section 1.1 of this act, then the Authority shall expend the net proceeds of the tax levied under this Act for the purposes provided in this Act. The Authority shall promote travel, tourism, and conventions in the county,

sponsor tourist-related events and activities in the county, and finance tourist-related capital projects in the county.

Sec. 1.3. Reports. – If the board of commissioners establishes a Tourism Development Authority as provided in Section 1.1 of this act, then the Authority shall report quarterly and at the close of the fiscal year to the Alleghany County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

Sec. 2. This act is effective upon ratification."

SECTION 2. G.S. 153A-155 reads as rewritten:

"**§ 153A-155. Uniform provisions for room occupancy taxes.**

(a) Scope. – This section applies only to counties the General Assembly has authorized to levy room occupancy taxes.

(b) Levy. – A room occupancy tax may be levied only by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto. A room occupancy tax shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the State allows the operator for State sales and use tax.

(d) Administration. – The taxing county shall administer a room occupancy tax it levies. A room occupancy tax is due and payable to the county finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the taxing county. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A room occupancy tax return filed with the county finance officer is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

(e) Penalties. – A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use taxes. The governing board of the taxing county has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

(f) Repeal or Reduction. – A room occupancy tax levied by a county may be repealed or reduced by a resolution adopted by the governing body of the county. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal or reduction.

(g) This section applies only to Alleghany, Anson, Brunswick, Buncombe, Cabarrus, Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison, Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan, Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, and to the Township of Averasboro in Harnett County."

SECTION 3. This act is effective when it becomes law.

SENATE BILL 1181:
Modify Alleghany Occupancy Tax

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Foxx
Date:	July 13, 2004	**Summary by:**	Cindy Avrette
Version:	2nd Edition		Committee Counsel

SUMMARY: ***Senate Bill 1181 modifies the administrative provisions of the Alleghany occupancy tax. It does not change the rate of the tax, but it does remove the exemption from the tax for a business that offers to rent fewer than five units. It also modifies the distribution and use of the tax proceeds. The bill is effective when it becomes law. This bill was given a favorable report by the Occupancy Tax Subcommittee.***

CURRENT LAW: The General Assembly authorized Alleghany County to levy a room occupancy tax of 3% in 1991. One-half of the proceeds are remitted quarterly to the Alleghany County Chamber of Commerce for travel and tourism. The remaining one-half is distributed to the county for tourist-related purposes. The term 'tourist-related purposes' is defined to include the construction and maintenance of public facilities and buildings, police protection, and emergency services. In practice, the county has generally remitted most, if not all, of the net proceeds of the tax to the Alleghany County Chamber of Commerce. The county has recently adopted a resolution stating its intent to give 100% of the net proceeds of the tax to the Chamber of Commerce.

BACKGROUND: Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. In several instances, the General Assembly has authorized both a county and a city within that county to impose an occupancy tax. The rate of tax, the use of the tax proceeds, the administration of the tax, and the body with the authority to determine how the tax proceeds will be spent vary considerably. Over the past several years, there has been a greater effort to make the occupancy taxes uniform. In 1997, the General Assembly enacted uniform municipal and county administrative provisions for occupancy tax legislation – G.S. 153A-155 and G.S. 160A-215. These provisions provide uniformity in the areas of levy, administration, collection, repeal, and penalties.

The North Carolina Travel and Tourism Coalition has a policy statement for legislation authorizing local occupancy taxes. Many of the principles contained in its statement are similar to the ones established by a House Finance subcommittee on Occupancy Taxes in 1993.

BILL ANALYSIS: Senate Bill 1181 does not change the current 3% occupancy tax rate. It does remove the exemption from the tax for a business that offers to rent fewer than five units. It retains the exemption for a summer camp for minors.

The bill also conforms the administrative and use provisions of Alleghany County's occupancy tax to the uniform guidelines referenced above and detailed in the chart below, with the following exception: the net proceeds of the tax will be distributed to the Alleghany County Chamber of Commerce, which will act as its Tourism Development Authority. When the annual net proceeds of the occupancy tax exceed $100,000, then the County Commissioners must adopt a resolution creating a county Tourism Development Authority and the net proceeds of the tax must be distributed to this Authority to expend. Currently, the County collects approximately $28,000 from its occupancy tax.

UNIFORM OCCUPANCY TAX PROVISIONS
Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.
Use – Two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism related expenditures.
Definitions The term "net proceeds", "promote travel and tourism", and "tourism related expenditures" are defined terms.
Administration – The net revenues must be administered by a local tourism development authority that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ¾ of the members must be currently active in the promotion of travel and tourism in the county and 1/3 of the members must be affiliated with organizations that collect the tax.
Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1181 (First Edition)

SHORT TITLE: Modify Alleghany Occupancy Tax.

SPONSOR(S): Senator Foxx

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	($) FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund		**No General Fund Impact**			
Alleghany County/ Chamber	**16,000**	**19,776**	**20,369**	**20,980**	**21,609**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Alleghany County.

EFFECTIVE DATE: When it becomes law.

BILL SUMMARY: The bill makes a series of changes to the Alleghany County occupancy tax laws. First, it eliminates the requirement that the Board of Commissioners pass a resolution, with appropriate public notice, before levying the tax. Second, it expands the tax to include businesses that offer less than five units for rent. Third, it alters the collection procedures and penalties to align with the standard occupancy tax procedures outlined in G.S. 153A-155. Fourth, it increases from 50% to 100% the amount of net tax proceeds allocated to the Alleghany County Chamber of Commerce. Fifth, it directs the Chamber to use at least two-thirds of the funds to promote travel and tourism, with the balance spent on tourism-related expenditures. Next, it requires when the annual net proceeds of the occupancy tax exceed $100,000, the Board of Commissioners must create a county Tourism Development Authority, and outlines the requirements for that committee.

ASSUMPTIONS AND METHODOLOGY: In 2001-02, the most recent year for which data is available, Alleghany County gleaned $28,309 from their 3% occupancy tax. Of this, $4,309 was credited to the county, with the remaining $24,000 being sent to another organization, presumably the Chamber of Commerce.

There are two potential fiscal impacts related to this legislation. First, by expanding the bill to include businesses that offer less than five units for rent, the bill effectively extends the occupancy

tax to bed and breakfasts and mountain cabins. Local Chamber of Commerce officials indicate that this would expand the tax to an additional 64 room units within the county. (There are actually more than 64 room units, in total, in these smaller facilities, but some are already remitting the tax as rental companies that handle more than five units manage them). These same chamber officials estimate that the expansion of the tax base will increase collections by approximately $19,200. A growth rate of 3% is used for future years. The first year amount is discounted to allow time to implement the tax.

Second, the bill potentially changes the distribution of occupancy tax funds between the county, the Chamber of Commerce, and a potential Tourism Development Authority. Under current statute, the funds are split evenly between Alleghany County and their Chamber of Commerce. However, as a matter of practice, the bulk of the funds are already being transferred to the Chamber. As such, this portion of the legislation codifies current practice. In addition, the bill authorizes the county to create a Tourism Development Authority and transfer tourism funds to that unit once room tax proceeds exceed $100,000 annually. This is a change from current law. However, given current collections and expected future collections, it is unlikely occupancy tax revenues will exceed $100,000 in the five-year span of this fiscal note.

SOURCES OF DATA: North Carolina Department of Revenue, Alleghany County Chamber of Commerce.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 1, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1181 A BILL TO BE ENTITLED AN ACT TO MODIFY THE ADMINISTRATIVE PROVISIONS OF THE ALLEGHANY OCCUPANCY TAX.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 1343

Short Title:	Whiteville Annexation.	(Local)
Sponsors:	Senator Soles.	
Referred to:	Finance.	

May 26, 2004

A BILL TO BE ENTITLED

AN ACT TO ANNEX TO THE CITY OF WHITEVILLE THE EXISTING DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY OF US HIGHWAYS 74/76 AND 701 AROUND THE OVERPASS AREA TO HELP ACCOMMODATE THE MAINTENANCE REQUIREMENTS OF THE INTERCHANGE LIGHTING PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. The corporate limits of the City of Whiteville are extended to include the following described area:

Beginning at a point marked by an old iron (Number 221) on the Southern Right-of-Way line of U.S. Highway 74-76 By Pass, said Point of Beginning being the Northwestern corner of "Tract D" as shown on survey map entitled "SURVEY OF ANNEXED AREAS FOR CITY OF WHITEVILLE-AREAS C & D", dated July 09, 1991, and last revised March 30, 1993, by Soles & Walker, P.A., R.L.S. and being duly recorded in Plat Book 56 Page 15, at the Columbus County, N.C. Office of The Register of Deeds, running THENCE FROM SAID POINT OF BEGINNING and along the Southern Right-of-Way line of U.S. Highway 74-76 By Pass in a Westwardly direction to a point marked by a concrete Right-of-Way monument near Station 359+00, as shown on N.C.D.O.T. Highway Plans, Project No.6.4310019, as contained in the State Highway Plan Book at the Columbus County, N.C. Office of The Register of Deeds, said point lying 170.0' South of the center line of said U.S. Highway 74-76 By Pass; thence continuing along said Southern Right-of-Way South 69 degrees 53 minutes 04 seconds West, a distance of 100' to a new point in said Right-of-Way line; thence crossing said U.S. Highway 74-76 By Pass North 20 degrees 06 minutes 56 seconds West, a distance of 340.0' to a point in the Northern Right-of-Way line of said Highway; thence along the Northern Right-of-Way line of U.S. Highway 74-76 By Pass in an Eastwardly direction to a point where said Right-of-Way line intersects the Western Right-of-Way line of U.S. Highway 701 By Pass; thence along the Western Right-of-Way line of U.S. Highway 701 By Pass, North 01 degrees 43 minutes 24 seconds West,

a distance of 200.0' to a point on said Right-of-Way line; thence perpendicular to said U.S. Highway 701 By Pass in an Eastwardly direction crossing said By Pass to a point on the Eastern Right-of-Way line of said U.S. Highway 701 By Pass; thence along the Eastern Right-of-Way line of U.S. Highway 701 By Pass in a Southerly direction to a point where the Eastern Right-of-Way line intersects the Northern Right-of-Way line of U.S. Highway 74-76 By Pass; thence with Northern Right-of-Way line of U.S. Highway 74-76 By Pass in an Eastwardly direction to a point where said Northern Right-of-Way line intersects with the Western Right-of-Way line of U.S. Highway 701 Business; thence along the Western Right-of-Way line of U.S. Highway 701 Business, Northwardly a distance of 75.0' to a point in said Western Right-of-Way line; thence Eastwardly perpendicular to U.S. Highway 701 Business to a point in the Northern Right-of-Way line of U.S. Highway 74-76 By Pass; thence with the Northern Right-of-Way line of said By Pass in an Eastwardly direction approximately a distance of 6,600' where said Right-of-Way line intersects with the center line of an overhead CP&L power line easement; thence with the center line of said power line easement in a Southerly direction crossing U.S. Highway 74-76 By Pass to a point in the Southern Right-of-Way line of said Highway, said point being shown as an old iron (Number 233), the Northeasternmost corner of "Tract C4" as shown on aforementioned plat for the City of Whiteville, as recorded in Plat Book 56 Page 15; thence in a Westwardly direction along the Southern Right-of-Way line of U.S. Highway 74-76 By Pass, also along lines of the existing Corporate Limits of the City of Whiteville, as shown on aforementioned plat for the City of Whiteville, as recorded in Plat Book 56 Page 15, to the Point of Beginning, and being that certain tract lying within the Right-of-Way of U.S. Highway 74-76 By Pass, adjacent to and North of the existing Corporate Limits of Whiteville, N.C.

SECTION 2. This act is effective when it becomes law.

SENATE BILL 1343:
Whiteville Annexation

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Senator Soles
Date:	July 12, 2004	**Summary by:**	R. Erika Churchill
Version:	1st Edition		Committee Counsel

SUMMARY: ***The bill would annex certain described property into the corporate limits of the town of Whiteville.***

CURRENT LAW & BILL ANALYSIS: G.S. 160A-58.1 and 160A-58.7 govern the voluntary annexation by a municipality of noncontiguous property.

G.S. 160A-58.1 provides that all property owners in the satellite area may petition a city for voluntary annexation of the noncontiguous property if the property meets all of the following five standards:

1. The nearest point on the proposed satellite corporate limits must be not more than three miles from the primary corporate limits of the annexing city.
2. No point on the proposed satellite corporate limits may be closer to the primary corporate limits of another city than to the primary corporate limits of the annexing city.
3. The area must be so situated that the annexing city will be able to provide the same services within the proposed satellite corporate limits that it provides within its primary corporate limits.
4. If the area proposed for annexation, or any portion thereof, is a subdivision as defined in G.S. 160A-376, all of the subdivision must be included.
5. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ten percent (10%) of the area within the primary corporate limits of the annexing city.

The bill would annex certain described property into the Town of Whiteville that is beyond the three miles from the existing primary corporate limits. The property owners are in agreement. The act would become effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **G. Allen, Howard, Luebke, McComas, Miner, and Wainwright** (Chairs) for the Committee on **FINANCE.**

☐ Committee Substitute for
S.B. 1343 A BILL TO BE ENTITLED AN ACT TO ANNEX TO THE CITY OF WHITEVILLE THE EXISTING DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY OF US HIGHWAYS 74/76 AND 701 AROUND THE OVERPASS AREA TO HELP ACCOMMODATE THE MAINTENANCE REQUIREMENTS OF THE INTERCHANGE LIGHTING PROJECT.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

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☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

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☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

North Carolina General Assembly

House Committee on Finance

Minutes

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July 16, 2004

The House Committee on Finance met on Friday, July 16, 2004 at 8:30 pm in Room 1228 of the Legislative Building. The following members were present: Chairpersons Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, and Gibson; and Representatives Blackwood, Bordsen, Capps, Carney, Creech, Culpepper, Ellis, Glazier, Hackney, Holliman, Jones, Lewis, McGee, Munford, Rayfield, Ross, Setzer, Starnes, Weiss, C. Wilson, Womble, and Wood. Also present were Sergeant-at-Arms Bob Fowler, Bill Freeman, Frank Prevo, and Dusty Rhodes. Staff persons present included Martha Walston and Cindy Avrette

Chairman McComas called the meeting to order at 8:33 pm and recognized Representative Wainwright to explain the only bill considered by the Committee: **SB 1414 – MEDICAL BOARD FEES** (see **attachment 1**). Representative Wainwright explained that the bill amends GS 90-15 to increase the fee to practice medicine and surgery and to increase the fee for limited license to practice in a medical education and training day program. The bill also amends GS 90-15.1 to increase the annual registration fee for the practice of medicine and the penalty for failure to register. Representative Wainwright further explained that the bill was not controversial and had been requested by the Medical Review Board. The Chair recognized Representative Holliman who made a motion for the Committee to give Senate Bill 1414 a favorable report. Chairman McComas then recognized Representative Decker who asked how many days it would take to get this bill through the House and Representative Wainwright answered that it would take both Saturday and Sunday. Representative Creech was recognized by the Chair and asked how much money this bill would raise and where the money was going. Representative Wainwright informed the Committee that this bill would help to raise approximately $2.8 million and the money would be handled and used by the Medical Review Board. The Chair then recognized Representative Blackwood who inquired as to when the original fees had been instituted. Representative Wainwright replied that he did not have that information at the time but staff would have an answer for him as soon as possible. Chairman McComas then recognized Representative Creech who asked Representative Wainwright why this bill was being brought in at the last minute. Representative Wainwright replied by saying that the bill had been in the House Finance Committee for quite some time and there was no opposition. Representative Creech then stated to the Committee that the middle class would eventually pay the increase proposed by this bill because the fees would just be tacked on to the medical bills they will have to pay. He further said that the Committee should be ashamed of passing a fee increase that would be added to the burden faced by the middle class. The Chair recognized Representative Gibson who stated that it had been awhile since the last fee increase, possibly four or more years. Representative Blackwood was then recognized and informed the committee that some of the increases in the bill were as much as 400 percent. Chairman McComas recognized

Representative Wainwright who said the additional money was needed due to staffing shortages. The Chair then recognized Representative Ross, and she said she saw this as a patient safety bill and further stated that she thought this was the same bill that had been given a favorable report by the Committee a couple weeks ago and was sent to the Rules Committee. The Chair allowed staff to inform the Committee that she was correct in her assertion. Hearing no further debate, Representative McComas called for a vote on the motion by Representative Holliman to give Senate Bill 1414 a favorable report and it passed without objection.

Having no further business before the Committee, Chairman McComas adjourned the meeting at 8:45 pm.

Respectfully submitted,

Representative Danny McComas
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:
1. Senate Bill 1414 (and related materials)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 1414

Short Title:	Medical Board Fees.	(Public)
Sponsors:	Senator Purcell.	
Referred to:	Finance.	

May 28, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN INCREASE IN CERTAIN MEDICAL BOARD FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-15 reads as rewritten:

"**§ 90-15. License fee; salaries, fees, and expenses of Board.**

Each applicant for a license to practice medicine and surgery in this State under either G.S. 90-9, 90-10, or 90-13 ~~by examination~~ shall pay to the North Carolina Medical Board ~~a fee which shall be prescribed by the Board in an amount not exceeding the sum of four hundred dollars ($400.00) plus the cost of test materials before being admitted to the examination. Whenever a license is granted without examination, as authorized in G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by the Board not in excess of two hundred fifty dollars ($250.00).~~ an application fee of three hundred fifty dollars ($350.00). Whenever a limited license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee not to exceed one hundred fifty dollars ($150.00), except where a limited license to practice in a medical education and training program approved by the Board for the purpose of education or training is granted, the applicant shall pay a fee of ~~twenty-five dollars ($25.00),~~ one hundred dollars ($100.00), and where a limited license to practice medicine and surgery only at clinics that specialize in the treatment of indigent patients is granted, the applicant shall not pay a fee. A fee of twenty-five dollars ($25.00) shall be paid for the issuance of a duplicate license. All fees shall be paid in advance to the North Carolina Medical Board, to be held in a fund for the use of the Board. The compensation and expenses of the members and officers of the Board and all expenses proper and necessary in the opinion of the Board to the discharge of its duties under and to enforce the laws regulating the practice of medicine or surgery shall be paid out of the fund, upon the warrant of the Board. The per diem compensation of Board members shall not exceed two hundred dollars ($200.00) per day per member for time spent in the performance and discharge of duties as a member. Any unexpended sum or sums of

money remaining in the treasury of the Board at the expiration of the terms of office of the members of the Board shall be paid over to their successors in office.

For the initial and annual registration of an assistant to a physician, the Board may require the payment of a fee not to exceed a reasonable amount."

SECTION 2. G.S. 90-15.1 reads as rewritten:

"**§ 90-15.1. Registration every year with Board.**

Every person licensed to practice medicine by the North Carolina Medical Board shall register annually with the Board within 30 days of the person's birthday. A person who registers with the Board shall report to the Board the person's name and office and residence address and any other information required by the Board, and shall pay a registration fee of ~~one hundred twenty-five dollars ($125.00).~~ one hundred seventy-five dollars ($175.00). A physician who is not actively engaged in the practice of medicine in North Carolina and who does not wish to register the license may direct the Board to place the license on inactive status. For purposes of annual registration, the Board shall use a simplified registration form which allows registrants to confirm information on file with the Board. A physician who fails to register as required by this section shall pay an additional fee of ~~twenty dollars ($20.00)~~ fifty dollars ($50.00) to the Board. The license of any physician who fails to register and who remains unregistered for a period of 30 days after certified notice of the failure is automatically inactive. Except as provided in G.S. 90-12(d), a person whose license is inactive shall not practice medicine in North Carolina nor be required to pay the annual registration fee. Upon payment of all accumulated fees and penalties, the license of the physician may be reinstated, subject to the Board requiring the physician to appear before the Board for an interview and to comply with other licensing requirements. The penalty may not exceed the maximum fee for a license under G.S. 90-13."

SECTION 3. This act becomes effective November 1, 2004.

SENATE BILL 1414:
Medical Board Fees

BILL ANALYSIS

Committee:	House Finance	**Introduced by:**	Sen. Purcell
Date:	June 25, 2004	**Summary by:**	Cindy Avrette
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 1414 increases various Medical Board licensing fees. The bill becomes effective November 1, 2004.***

BILL ANALYSIS: Senate Bill 1414 increases the following fees imposed by the North Carolina Medical Board, effective November 1, 2004:

	Current Fee Amount	Proposed Fee Amount
License to practice medicine by examination (GS 90-9 and GS 90-10)	Up to $400 plus the cost of the examination materials	$350
License to practice medicine without examination (GS 90-13)	Up to $250	$350
Resident training license (GS 90-12) *(License to practice in a medical education and training program)*	$25	$100
Annual registration fee to practice medicine (GS 90-15.1)	$125	$175
Additional fee for late registration	$20	$50

BACKGROUND: The North Carolina Medical Board issued a report in May 2004 documenting the reasons for its request for fee increases. The Board currently employs 40 people divided among nine different departments. It services a population of 21,462 in-state physicians, 7,766 out-of-state physicians, 2,414 physician assistants, 2,185 nurse practitioners, and 57 clinical pharmacist practitioners.

In its report, the Medical Board notes that its Licensing Department has .28 full time employees (FTE) per 1,000 practicing in-state physicians. The national average is .65 FTEs per 1,000 physicians. The Investigative Department has .85 FTEs per 1,000 physicians; the national average is 1.46. Based on the current workload of the Legal Department, the Board believes it needs one additional attorney and one additional staff person in that department. The Board also believes the Medical Director needs the assistance of a part-time staff physician to assist in its review of complaints, malpractice payment reports, and investigations.

By the year 2005, the expenses of the Board will exceed revenues without any staff increases and with only modest increases for inflation and salaries. The Board believes the fee increases requested in this bill will give it the resources necessary to meet its needs until the year 2010.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1414 (First Edition)

SHORT TITLE: Medical Board Fees.

SPONSOR(S): Senator Purcell

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
REVENUES					
General Fund			No Fiscal Impact		
Medical Board	$1,700,527	$1,738,554	$1,779,555	$1,823,863	$1,871,857
EXPENDITURES	See ASSUMPTIONS AND METHODOLOGY				
POSITIONS: (cumulative)	No Estimate Available				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Medical Board

EFFECTIVE DATE: This act becomes effective November 1, 2004.

BILL SUMMARY: The proposed bill amends GS 90-15 to increase the fee to practice medicine and surgery and to increase the fee for limited license to practice in a medical education and training program. The bill amends GS 90-15.1 to increase the annual registration fee for the practice of medicine and the penalty for failure to register.

ASSUMPTIONS AND METHODOLOGY:

Justification for Fee Increase

According to the NC Medical Board (Board) report issued in May 2004, the main reason for the fee increase is the necessity to meet the Board's growing staffing requirements. In particular, the report indicates that the Board's Licensing Department has .28 full time employees (FTEs) per 1,000 practicing in-state physicians, which is below the national average of .65 FTEs. Similarly, the employees-physicians ratio in the Board's Investigative Department is .85 FTEs per 1,000 physicians that is below the national average of 1.46 FTEs per 1,000 physicians. The report also cites the Board's Legal Department is being understaffed. During the past five years, the number

of cases referred to the Legal department has increased by 60 percent. Furthermore, the Legal Department staff responds to numerous outside inquiries from members of the public, physicians, and attorneys. In addition, the Legal Department advises the Board in connection with internal matters such as investigations, licensing applications, and committee reports. Currently the Legal Department does not have adequate human resources to effectively handle its workload, which leads to increasing number of pending cases. As of May 2004, there were 208 such cases.

To meet its current workload requirement, the Board needs one additional attorney and one additional staff person in that department. The Board's Medical Director also needs a part-time staff physician to assist in complaint review, malpractice payment reports, and investigations.

According to the Board's estimate by the year 2005, its expenses will exceed revenues with only conservative adjustments for inflation and salaries, even if no additional staff is hired. The Board believes the fee increases requested in this bill will give it the resources necessary to meet its needs until the year 2010.

According to the Board, the amount of requested fees increase is reasonable. Thus, North Carolina ranks 10th in physician population but only 38th in annual registration fees. Even with an increase to $175, the state would be ranked 22nd in annual registration fees and its registration fee would be comparable to the national average of $171. The national average application fee for license by endorsement is $317 and for a license by examination is $328. A fee of $350 for both types of licenses, requested by the Board, would more closely mirror the national average and would more closely approximate the actual costs to process these applications, according the Board's estimate.

Proposed Fee Changes

The changes in fees requested by the Board are presented in Table 1.

Table 1. Proposed Fee Changes

Fee	Current Fee	Proposed Fee
License to practice medicine by examination (GS 90-9 and GS 90-10)	Up to $400	$350
License to practice medicine without examination (GS 90-13)	Up to $250	$350
Resident training license (GS 90-12)(License to practice in a medical education and training program)	$25	$100
Annual registration fee to practice medicine (GS 90-15.1)	$125	$175
Additional fee for late registration	$20	$50

Table 2 contains information for the last five years on the number of licenses for each category, the number of physicians who registered late, as well as the average percentage change for each category, based on the five-year data.

Table2. Change in Number and Percentage of Licenses

License type	1999	2000	2001	2002	2003	Average Percent Change
License to practice medicine by examination	352	396	390	420	340	-0.1%
License to practice medicine without examination	1,278	1,213	1,329	1,196	1,168	-2.0%
Resident training license	1,412	1,583	1,667	1,744	2,001	9.2%
Annual registration fee to practice medicine	26,295	28,735	25,963	26,581	27,307	1.2%
Additional fee for late registration	N/A	N/A	N/A	1,444	1,665	15.3%

For this analysis, it is assumed that the number of licenses for each category will continue to change at the same average rate as shown in Table 2. Based on this rate, Table 3 provides estimates of the annual revenue for the next five years generated from issuing the licenses at current rates.

Table3. Estimated Revenue from Licenses at the Current Rate

License type	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
License to practice medicine by examination	$135,874	$135,748	$135,622	$135,497	$135,371
License to practice medicine without examination	$286,254	$280,620	$275,098	$269,684	$264,377
Resident training license	$54,624	$59,645	$65,129	$71,116	$77,654
Annual registration fee to practice medicine	$3,453,859	$3,494,823	$3,536,273	$3,578,214	$3,620,653
Additional fee for late registration	$38,396	$44,273	$51,049	$58,862	$67,870
Total	**$3,969,007**	**$4,015,110**	**$4,063,171**	**$4,113,373**	**$4,165,926**

Finally, Table 4 provides estimates of the annual revenue for the next five years generated from issuing the licenses at proposed rates and annual revenue gain for the Board.

Table4. Estimated Revenue from Licenses at the Current Rate

License type	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09
License to practice medicine by examination	$118,890	$118,780	$118,670	$118,560	$118,450
License to practice medicine without examination	$400,755	$392,869	$385,137	$377,558	$370,128
Resident training license	$218,495	$238,582	$260,515	$284,464	$310,615
Annual registration fee to practice medicine	$4,835,402	$4,892,752	$4,950,782	$5,009,500	$5,068,914
Additional fee for late registration	$95,991	$110,682	$127,622	$147,154	$169,676
Total	**$5,669,534**	**$5,753,664**	**$5,842,725**	**$5,937,236**	**$6,037,783**
Revenue Gain	**$1,700,527**	**$1,738,554**	**$1,779,555**	**$1,823,863**	**$1,871,857**

SOURCES OF DATA: North Carolina Medical Board.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910
PREPARED BY: Richard Bostic and Alexei Pavlichev

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

DATE: June 9, 2004

Signed Copy Located in the NCGA Principal Clerk's Offices

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **Allen, Howard, Luebke, McComas, Miner and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 1414 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE AN INCREASE IN CERTAIN MEDICAL BOARD FEES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

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☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03

2004

HOUSE FINANCE

THIRD EXTRA SESSION

NOVEMBER 4

COMMITTEE MINUTES

North Carolina General Assembly

House Committee on Finance

Minutes

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November 4, 2004

The House Committee on Finance met on Thursday, November 4, 2004 immediately upon recess of the House session in Room 643 of the Legislative Office Building. The following members were present: Chairpersons G. Allen, Howard, Luebke, McComas, Miner, and Wainwright; Vice-Chairs Alexander, Daughtridge, Decker, Gibson, and Hill; Representatives Blackwood, Bordsen, Capps, Carney, Cole, Creech, Ellis, Glazier, Hackney, Harrell, Holliman, Jones, Lewis, McGee, Rayfield, Ross, Setzer, Starnes, Weiss, and Womble; and Ex-Officio Members Representatives Brubaker, Culpepper, Cunningham, and Eddins. Also present were Sergeant-at-Arms Bill Freeman, Dusty Rhodes, Paul Rucho, Walter Spell, and James Womack. Staff persons present included Cindy Avrette, David Crotts, Canaan Huie, Linda Millsaps, and Martha Walston. The Visitor Registration Sheets are included with these minutes as **attachment 1**.

Chairman Miner called the meeting to order at 3:13 pm and recognized Dan Gerlach from Governor Easley's office to explain the sole bill considered by the Committee: **SB 2 – COMPUTER MANUFACTURING TAX INCENTIVES** (see **attachment 2**). Mr. Gerlach explained that the bill was being presented following a negotiated agreement between the North Carolina Department of Commerce and Dell Computer, Inc. to bring some 2,000 jobs to the Piedmont-Triad region of the State. The Chair also recognized Canaan Huie of the General Assembly's Bill Drafting Division who provided a detailed explanation of the bill. He stated that SB 2 provided several income, franchise, sales tax incentives for a computer manufacturing facility that, along with related parties and strategic partners, is expected to invest at least $100 million of private funds in a facility in North Carolina over a five-year period and employ at least 1,200 people within five years after the facility is used as a computer manufacturing and distribution facility. He stated that some of the incentives in the bill were new; others were enhanced credits that were already available to other eligible taxpayers. He explained Section 1 of the bill as a new tax credit based upon the unit output and employment level of a major computer manufacturing facility. This new credit can be used to eliminate 100% of a taxpayer's income and franchise tax liability and any unused portion of a credit could be carried forward for the next succeeding 25 years. He explained that Section 2 of the bill provided enhanced Bill Lee Act tax credits that would entitle a taxpayer to claim the credit amounts allowed for facilities located in a tier-one county regardless of the county in which the facility is located. He noted that the bill also provides that the wage standard would not apply to the activities of a taxpayer at a major computer facility. And finally, he explained that Section 3 of the bill allowed for an expansion of the sales tax refund for building materials purchased to build a computer manufacturing facility. (For further detail, see the bill summary, which is included in these minutes as **attachment 3**). Linda Millsaps, with Fiscal Research, was then recognized to explain the fiscal impacts of the bill (see **attachment 4**). She also provided a

flowchart for the members in explaining how exactly the tax credits in the bill would work over the next 15 years (see **attachment 5**).

Following these in-depth explanations, Chairman Miner once again recognized Dan Gerlach from the Governor's Office for further comment on the proposed legislation. Mr. Gerlach informed the members that the proposal before the Committee was the result of a carefully crafted agreement between the State and Dell Computer, Inc. and that if any changes were made, it would "break the deal". The Chair then recognized the Committee members who posed additional questions to Mr. Gerlach. Representative Rayfield was recognized and asked what the total of the State's investment would be for this project. Mr. Gerlach responded that the total of the incentives package would be approximately $242.5 million, but would be taken out of new taxes that Dell Computer, Inc. would be paying into the State. Representative Luebke stated his concern that the jobs are not the quality that they should be and asked Mr. Gerlach is there were any reporting requirements on the credits proposed. Mr. Gerlach stated that there were no such reporting requirements in the bill as it was currently written. Chairman Miner then recognized Representative Holliman who stated that while the jobs (with an average wage of $28,000 per year) where not the best, he felt there would nonetheless be many people "lined up" to fill the new positions.

Chairman Miner, at the request of Representative Womble, then recognized several speakers from the audience who wished to briefly address the committee. Don Kirkman, President of the Piedmont Triad Partnership, was the first speaker recognized. He stated that the Triad had experienced and continues to experience tremendous job losses in the furniture and textile apparel industries, and that the new jobs being created are much lower paying than those skills positions of the past. He further stated that an annual salary of $28,000 per year equated to approximately $13.50 per hour, far more than the wage paid in food and service jobs that many are being forced to take. In closing, he stated that bringing Dell Computer, Inc. to the Triad area would send a positive signal as to the quality of what the Piedmont area of the State has to offer. The second speaker recognized by the Chair was Max Walser, a Commissioner from Davidson County. He too spoke in support of the legislation, noting how badly it was needed with Davidson County alone having lost some 6,000 since 2000. The Chair recognized Gayle Anderson next. Ms. Anderson, as President of the Winston-Salem Chamber of Commerce, stated that among the 22 chambers and over 6,000 members in the Piedmont-Triad area, everyone single chamber member was in support of this legislation. Bob Leak, President of Winston-Salem Business, was the next speaker recognized. Mr. Leak stated that there was no issue more important than jobs in the Piedmont-Triad at the present time and that opportunities to create this number of jobs with one investment, like the one presented in this bill, are very rare. The Chair also recognized Mr. Keith Holliday, Mayor of the City of Greensboro, as well as Mr. Henry Frye, former member of the House and former member of the State Supreme Court, who both spoke in direct support of the legislation.

Chairman Miner then recognized David Crotts with the Fiscal Research Staff who provided a spreadsheet to the members (see **attachment 6**), which outlined the various incentive packages that the State had offered in the past to companies in exchange for new jobs. There was then some general discussion by the members. Representative Creech was recognized and stated that incentives such as these were "unfair" and "a burden" on the state's existing businesses, "those that have been faithful to North Carolina." He further inquired if the Governor's office had any plans to provide any assistance to these businesses. Dan Gerlach responded that the Governor had recommended an exemption from corporate income tax on the first $25,000 of income for existing businesses. He further stated that the Governor's primary objective, however, was simply to get people back to work and off of government services, which reduces the overall burden on all taxpayers.

Following this discussion, Chairman Miner recognized a number of speakers who were present to express their concerns and/or opposition to the bill. Rob Schofield, Policy Director of the North Carolina Justice Center was the first speaker recognized. He stated his opposition to the bill in the form that it was presented to the Committee. He specifically noted that there is no wage standard required in the bill and that the jobs were not directly targeted at those workers who have been displaced. Amna Cameron with the North Carolina Budget and Tax Center was recognized next and stated her opposition of the proposed legislation in that it breached the standards outlined in the Bill Lee Act. She also noted her concern that the carryforward for the credits was too long (25 years), whereas they should be five years or less. Chairman Miner recognized Bob Orr with the North Institute for Constitutional Law next. He briefly stated that he had constitutional concerns with the language of the proposed legislation. Ros Savitt, representing the North Carolina Childcare Coalition, was the next speaker recognized. She stated that fortunately, at the present time, there was sufficient capacity in the childcare industry in Forsyth and Guilford Counties (the proposed locations for the major computer facility) to accommodate the children of the employees hired by the computer company. She also expressed concern, however, of the already long waiting lists for childcare subsidies that many parents need in order to work full-time and maintain adequate homes. Next recognized was Michelle Kucerak with the North Carolina Public Interest Research Group who stated her organization's concern with the bill was it's weak "clawback" provisions and the lack of reporting required on the proper use of the credits. The last speaker recognized by the Chair was Ms. Perri Morgan with the National Federation of Independent Businesses (NFIB). Ms. Morgan reminded the Committee that 98% of North Carolina's businesses are small businesses, which create jobs everyday, one at a time. She stated that incentives such as the ones proposed in this bill placed small businesses at a distinct disadvantage and created a sense of "corporate entitlement" to all large companies who consider locating in the State. Rather than incentives, Ms. Morgan recommended that the General Assembly reduce the corporate income tax rate for all businesses in North Carolina. She suggested using the funds that are being used on incentives to fund a decrease in the corporate tax rate.

Chairman Miner, having heard from all those in the audience who wanted to comment, then announced that the Committee would consider all amendments placed before it. The first amendment (see **attachment 7**), sponsored by Representative Luebke acted to require that if employment decreases by 10% in any given year (instead of 40% as is currently in the bill), no credits could be claimed for that year and/or the credits would be clawed-back. Representative Brubaker was recognized and asked Dan Gerlach what the effect of this amendment would have on the "deal" arranged with Dell Computers, Inc. Mr. Gerlach stated quite simply that if the legislation was changed from its' current form, "the deal is dead". Secretary Fain also commented that the bill needs to be passed as it was presented to the Committee, or else the arrangement with Dell would be broken. Representative Luebke having requested division on his amendments, Chairman Miner then called the amendment to a vote. By a vote of 7 ayes and 17 nays, the amendment failed.

Representative Luebke's second amendment was considered next (see **attachment 8**). Representative Luebke was recognized by the Chair to explain the amendment and stated that it would act to reduce the carryforward period in the bill from 25 years to 15 years. He stated that the typical carryforward period for tax incentives was 5 years or less. He also noted that being told any change to the legislation would be a "deal breaker" was an insult to the legislature and the legislative process. Following some brief discussion on the amendment, Chairman Miner then called the amendment to a vote. The amendment failed.

The Chair then recognized Representative Weiss to offer her first of two amendments (see **attachment 9**). Representative Weiss stated that her amendment would require Dell (or any eligible company applying for the credits) to provide childcare facilities for its' employees. Representative

Brubaker was recognized and again asked Dan Gerlach want effect this amendment would have on the negotiated arrangement with Dell. Mr. Gerlach again stated that any change to the legislation could potentially cause the deal to be broken. He did state that he would offer it as a recommendation to Dell, however. Representative Cunningham voiced his opposition to the amendment, as did Secretary Fain. Hearing no further discussion, Chairman Miner then called the amendment to a vote. Division being requested, the amendment failed 4 ayes to 18 nays.

Representative Ross sponsored the next amendment considered by the Committee (see **attachment 10**). She explained that the amendment would act to increase the contribution required by the employer toward healthcare premiums from 50% to 75%. She stated that since Dell was already assuming this expense for its' employees, then this amendment would just "lock" them in to this. Canaan Huie, from Bill Drafting, was then recognized and stated that past incentives packages passed into law by the General Assembly have never required more than the 50%, which is outlined in the Bill Lee Act. Following some other brief discussion, Chairman Miner then called the amendment to a vote and it was not adopted.

Chairman Miner next recognized Representative Weiss, who acted to send forth her second and final amendment (see **attachment 11**). She explained that the amendment acted to strengthen the "clawback" provisions in the bill. She stated that the amendment would place the typical "clawback" language that has been used in past legislation into the bill. Representative Luebke noted his support of the bill, stating that Dell should have to meet the same criteria as any other company that receives incentives from the State. Dan Gerlach was again recognized and reinforced his position that changing the legislation could "kill" the deal with Dell. Representatives Cunningham and Glazier were both recognized in turn and both stated that while they believed that amendments were a good thing, they were not worth losing the entire deal with Dell. Seeing no further discussion and division having been requested, Chairman Miner then called the amendment to a vote. It amendment failed by a vote of 7 ayes and 17 nays.

The last amendment considered by the Committee was sponsored by Representative Ellis (see **attachment 12**). Representative Ellis explained that the amendment would act to ensure that the business receiving the tax incentives would continue to do business at the facility in which it constructed to qualify for the incentives initially for the duration of the tax credits. Representative Hill was then recognized and stated his stark opposition to the amendment. Having no further discussion, the amendment was then called to vote and was not adopted.

Having no further amendments to consider and seeing no further discussion on the bill, Chairman Miner then recognized Representative G. Allen for a motion. Representative Allen moved that SB 2 be given a favorable report. The motion was then called to a vote and it carried by a majority of the members.

Then, with no further business being before the Committee, Chairman Miner adjourned the meeting at 6:26 pm.

Respectfully submitted,

Representative David Miner
Presiding Chair

Jason A. Cannon
Clerk, House Committee on Finance

Attachments:

1. Visitor Registration Sheets
2. Senate Bill 2
3. Bill Summary/Analysis of Senate Bill 2
4. Fiscal Note for Senate Bill 2
5. Flow Chart of Tax Credit Use
6. Financial Incentive Packages Spreadsheet
7. First Luebke Amendment (**Failed** – 7 ayes to 17 nays)
8. Second Luebke Amendment (**Failed**)
9. First Weiss Amendment (**Failed** – 4 ayes to 18 nays)
10. Ross Amendment (**Failed**)
11. Second Weiss Amendment (**Failed** – 7 ayes to 17 nays)
12. Ellis Amendment (**Failed**)
13. Committee Report on SB 2 – **Favorable**

ATTACHMENT 1

VISITOR REGISTRATION SHEET

House Finance — 11/4/2004

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Fred C. Smith	Davidson County
Max Walser	Davidson C.
Charlie Melvin	Greensboro Economic Development Partnership
Helen Cauthen	Greensboro Econ. Dev. Partnership
Ben Brown	City of Greensboro
Bill Wilson	NCATL
Anne Winner	Attorney
Dick Taylor	NCATL
Gertrude Funkelhoppa	—
Judy Moore	Charlotte
Michael W. Taylor	Parker, Poe, Adams + Bernstein
WK HALE	ACLI
Linda Mile	City of Greensboro
Peatla Alston	NC Bar Association
Michelle Frazier	NC Bar Association
Frederick L. Bone	Bone & Associates
Barbara Canslu	BSCGR

VISITOR REGISTRATION SHEET

House Finance — 11/04/04
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
[illegible]	Capitol Group
[illegible]	[illegible]
Kathy Hawkins	Progress Energy
[illegible]	DOE
PERRI MORGAN	NFIB
[illegible]	NCLC
Don Kirkman	Piedmont Triad Partnership
Kevin Fitzgerald	UNC
Johanna Reese	DENR
Robert E. Lentz, Jr.	WINSTON-SALEM BUSINESS INC.
GAYLE NUDERSON	WINSTON-SALEM CHAMBER OF COMMERCE
Soren Schmidt	NC Justice Center
AMNA CAMERON	NC Budget & Tax Center
Michelle Kucerak	NCPIRG
John Mattyl	Governor's
Kathy Hartkopf	NC CBE
Doug Miske	Capstrat
[illegible]	NCEDA

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 2004

S 1

SENATE BILL 2

Short Title:	Computer Manufacturing Tax Incentives.	(Public)
Sponsors:	Senators Hoyle, Garrou, Hagan, Dorsett, Purcell; Bingham, Hunt, Jenkins, Kerr, Malone, Moore, Rand, and Weinstein.	
Referred to:	Finance.	

November 4, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE A TAX CREDIT FOR CERTAIN MAJOR COMPUTER MANUFACTURING FACILITIES AND TO ENHANCE CERTAIN EXISTING TAX INCENTIVES FOR THOSE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 3G.

"Tax Incentives for Major Computer Manufacturing Facilities.

"**§ 105-129.60. Legislative findings.**

The General Assembly finds that:

(1) It is the policy of the State to stimulate economic activity and to create and maintain sustainable jobs for the citizens of the State in strategically important industries.

(2) Both short-term and long-term economic trends at the regional, State, national, and international levels have made the successful implementation of the State's economic development policies and programs both more critical and more challenging; in particular, national trade policies and the resulting impact on domestic competitiveness have made the retention of manufacturing jobs more difficult at a time of transition in the national, State, and regional economies.

(3) Manufacturing employment in the State has been disproportionately affected by trade policies and global economic trends, resulting in the loss of jobs by many in the State's capable industrial workforce.

(4) Computer manufacturing and distribution has been an important industry for the State and has prospered in this State due to our strong

and productive workforce, focused worker training programs, research capabilities, tradition of innovation, and concentration of companies.

(5) The computer manufacturing and distribution industry will remain a vital part of the world's, nation's, and State's future economy as society becomes more dependent on advanced computer technology.

(6) It is the intent of the State to encourage the sustainability of this industry cluster in this State and to encourage the maintenance and growth of computer manufacturing and distribution employment in the State through tax policies, investments in training capacity, and other policies and programs.

(7) The State must be an innovative leader in creating policies and programs that encourage the maintenance of manufacturing jobs in this country and State and in the development of efforts to support manufacturers during the transitional period as they adapt to rapidly changing global conditions.

"**§ 105-129.61. Definitions.**

The following definitions apply in this Article:

(1) Computer manufacturing. – Defined in G.S. 105-164.14.

(2) Facility. – A single building or structure or a group of buildings or structures that are located on a single parcel of land or on contiguous parcels of land under common ownership and any other related real property contained on the parcel or parcels.

(3) Full-time job. – A permanent position that requires at least 1,600 hours of work per year and is intended to be held by one employee during the entire year.

(4) Increased employment level. – The total number of new full-time jobs and new permanent part-time jobs converted into full-time equivalences created by the taxpayer at the facility with respect to which the credit is claimed, either directly or indirectly through a related entity or strategic partner, as of December 31 as compared to the employment level of the taxpayer as of December 31 in the year in which the taxpayer begins construction of the facility with respect to which the credit is claimed or as of the date the Secretary makes the written determination required under G.S. 105-129.62, whichever is earlier. Jobs transferred from one area in the State to another area in the State are not considered new jobs for the purposes of this Article and may not be included in the increased employment level.

(5) Related entity. – An entity for which the taxpayer possesses directly or indirectly at least eighty percent (80%) of the control and value.

(6) Strategic partner. – A business that is engaged in activities at the facility that directly contribute to the manufacture and distribution of computers and computer peripherals and with whom the taxpayer has contracted to provide those activities at the facility in direct support of its manufacturing and distribution activities.

(7) Successor in business. – A corporation that through amalgamation, merger, acquisition, consolidation, or other legal succession becomes invested with the rights and assumes the burdens of the predecessor corporation and continues the computer manufacturing and distribution business.

(8) Unit output. – The total number of computers and computer peripherals produced, assembled, or manufactured at the facility during the taxable year.

"**§ 105-129.62. Eligibility.**

(a) Determination by Secretary of Commerce. – A taxpayer is eligible for the credit allowed under this Article with respect to a facility in this State only if the Secretary of Commerce makes a written determination that the taxpayer has or is expected to have an increased employment level at the facility of at least 1,200 within five years after the time that the facility is first used as a computer manufacturing and distribution facility and that the taxpayer, either directly or indirectly through a related entity or strategic partner, has invested or is expected to invest at least one hundred million dollars ($100,000,000) in private funds to construct a computer manufacturing and distribution facility over a five-year period. For the purposes of this Article, costs of construction may include costs of acquiring and improving land for the facility, costs for renovations or repairs to existing buildings, and costs of equipping or reequipping the facility.

(b) Health Insurance. – A taxpayer is eligible for the credit allowed under this Article with respect to a facility in this State only if the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level provide health insurance for all of the full-time jobs at the facility with respect to which the credit is claimed each year it claims a credit or carryforward of a credit. For the purposes of this subsection, an entity provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a taxpayer claims a credit or carryforward of a credit allowed under this Article, the taxpayer must provide with the tax return the taxpayer's certification that the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level continue to provide health insurance for all the full-time jobs at the facility with respect to which the credit is claimed. If the taxpayer, or a related entity or strategic partner of the taxpayer whose employees are included in the increased employment level of the taxpayer, ceases to provide health insurance for the jobs during a taxable year, the credit expires and the taxpayer may not take any remaining carryforward of the credit.

(c) Environmental Impact. – A taxpayer is eligible for the credit allowed under this section with respect to a facility in this State only if as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no pending administrative, civil, or criminal

enforcement actions based on alleged significant violations of any program implemented by an agency of the Department of Environment and Natural Resources, and have had no final determination of responsibility for any significant administrative, civil, or criminal violation of any program implemented by an agency of the Department of Environment and Natural Resources within the last five years. For the taxpayer's related entities and strategic partners, this subsection applies only to the activities of the related entity or strategic partner at the facility with respect to which a credit is claimed. A significant violation is a violation or alleged violation that does not satisfy any of the conditions of G.S. 143-215.6B(d). Upon request, the Secretary of Environment and Natural Resources must notify the Department of Revenue of whether a person currently has any of these pending actions or has had any of these final determinations within the last five years.

(d) Safety and Health Programs. – A taxpayer is eligible for the credit allowed under this section with respect to a facility in this State only if as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no citations under the Occupational Safety and Health Act at the facility with respect to which the credit is claimed that have become a final order within the past three years for willful serious violations or for failing to abate serious violations. For the purposes of this subsection, 'serious violation' has the same meaning as in G.S. 95-127. Upon request, the Secretary of Labor must notify the Department of Revenue of whether a person has had these citations become final orders within the past three years.

(e) Overdue Tax Debts. – A taxpayer is eligible for the credit allowed under this section with respect to a facility only if as of the last day of the taxable year for which a credit or carryforward is claimed the taxpayer and the taxpayer's related entities and strategic partners whose employees are included in the taxpayer's increased employment level have no overdue tax debts that have not been satisfied or otherwise resolved.

(f) Relationship With Related Entities and Strategic Partners. – A taxpayer must obtain the written consent of related entities and strategic partners to include jobs created by those entities in the taxpayer's increased employment level. If a taxpayer fails to obtain this written consent, the taxpayer may not include jobs created by the applicable business in its increased employment level. This consent, once granted, is irrevocable. A job may not be included in the increased employment level of more than one entity. The taxpayer is responsible for providing all information needed to verify eligibility for the credit, including information relating to the related entities or strategic partners of the taxpayer.

"**§ 105-129.63. Determination by the Secretary of Commerce.**

The taxpayer must apply to the Secretary of Commerce for the determination required under G.S. 105-129.62. The application must be made under oath and must provide any information the Secretary requires in order to make the determination. The determination by the Secretary of Commerce is a factual determination. The Secretary must make this determination in any case in which the taxpayer can demonstrate performance or can provide a credible plan for performance.

If the taxpayer fails to create the required number of new jobs or to make the required investment, the information provided by the taxpayer on the application proves to have been false at the time it was given, and the person making the application knew or should have known that the information was false, the taxpayer forfeits any credits claimed under this Article with respect to the facility. A taxpayer that forfeits a credit under this section is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.

"**§ 105-129.64. Credit for major computer manufacturing facilities.**

(a) General Credit. – A taxpayer that meets the eligibility requirements of G.S. 105-129.62 is eligible for a credit against the taxes imposed by Articles 3 and 4 of this Chapter. For taxable years beginning with the 2006 taxable year, the amount of the credit allowable in a year is determined based on the taxable year, the unit output of the facility, the production factor, and the increased employment level at the facility in the current taxable year and previous taxable years.

(b) 2005 Taxable Year. – For taxable years beginning on or after January 1, 2005, but before January 1, 2006, the amount of the credit is equal to ten million dollars ($10,000,000) if the taxpayer, either directly or through a related entity, has invested at least twenty-five million dollars ($25,000,000) in private funds by the end of the taxable year to construct a computer manufacturing and distribution facility in this State.

(c) 2006-2009 Taxable Years. – For taxable years beginning on or after January 1, 2006, but before January 1, 2010, the maximum amount of the credit is ten million dollars ($10,000,000). The amount of the credit that may be claimed is determined by multiplying the employment level adjustment factor by the lesser of ten million dollars ($10,000,000) and the product of the unit output of the facility and the applicable production factor listed in subsection (f) of this section. For the purposes of this subsection, the employment level adjustment factor is the lesser of one and the number derived by dividing the taxpayer's increased employment level for the year by the applicable target increased employment level provided in the table below:

Year	Target Increased Employment Level
2006	600
2007	1,000
2008	1,100
2009	1,500

(d) 2010-2014 Taxable Years. – For taxable years beginning on or after January 1, 2010, but before January 1, 2015, the maximum amount of the credit is fifteen million dollars ($15,000,000) if the taxpayer has in any year attained an increased employment level of 1,500. Otherwise the maximum amount of the credit is ten million dollars ($10,000,000). The amount of the credit is determined as follows:

(1) If the taxpayer has ever attained an increased employment level of at least 1,500, the amount of the credit that may be claimed is the lesser of fifteen million dollars ($15,000,000) and the amount determined by

multiplying the unit output of the facility by the applicable production factor listed in subsection (f) of this section. If the taxpayer's increased employment level has decreased by more than forty percent (40%) from that of the previous taxable year, the amount of the credit that may be claimed must be reduced by multiplying the amount determined under this subdivision by a fraction, the numerator of which is the taxpayer's increased employment level for the taxable year and the denominator of which is 1,500.

(2) If the taxpayer has never attained an increased employment level of at least 1,500, the amount of the credit that may be claimed is equal to the employment level adjustment factor multiplied by the lesser of ten million dollars ($10,000,000) and the product of the unit output of the facility and the applicable production factor listed in subsection (f) of this section. For the purposes of this subdivision, the employment level adjustment factor is the lesser of one and the number derived by dividing the taxpayer's increased employment level for the year by 1,500.

(e) 2015-2019 Taxable Years. – For taxable years beginning on or after January 1, 2015, but before January 1, 2020, the maximum amount of the credit is twenty million dollars ($20,000,000) if the taxpayer has in any year attained an increased employment level of 2,500. If the taxpayer has in any year attained an increased employment level of at least 1,500, but in no year has attained an increased employment level of at least 2,500, the maximum amount of the credit is fifteen million dollars ($15,000,000). Otherwise the maximum amount of the credit is ten million dollars ($10,000,000). The amount of the credit is determined as follows:

(1) If the taxpayer has ever attained an increased employment level of at least 2,500 and the taxpayer's increased employment level for the current year is at least 1,500, the amount of the credit is the lesser of twenty million dollars ($20,000,000) and the amount determined by multiplying the unit output of the facility by the applicable production factor listed in subsection (f) of this section.

(2) If the taxpayer has ever attained an increased employment level of at least 1,500 but has never attained an increased employment level of at least 2,500, or if the taxpayer has ever attained an increased employment level of at least 2,500 and the taxpayer's current increased employment level is less than 1,500, the amount of the credit that may be claimed is the lesser of fifteen million dollars ($15,000,000) and the amount determined by multiplying the unit output of the facility by the applicable production factor listed in subsection (f) of this section. If the taxpayer's increased employment level has decreased by more than forty percent (40%) from that of the previous taxable year and (i) the increased employment level of the previous year was 1,500 or less or (ii) the increased employment level of the current year is 900 or less, the amount of the credit that may be claimed must be reduced by

multiplying the amount determined under this subdivision by a fraction, the numerator of which is the taxpayer's increased employment level for the taxable year and the denominator of which is 1,500.

(3) If the taxpayer has never attained an increased employment level of at least 1,500, the amount of the credit that may be claimed is equal to the employment level adjustment factor multiplied by the lesser of ten million dollars ($10,000,000) and the product of the unit output of the facility and the applicable production factor listed in subsection (f) of this section. For the purposes of this subdivision, the employment level adjustment factor is the lesser of one and the number derived by dividing the taxpayer's employment level for the year by 1,500.

(f) Production Factor. – For taxable years beginning on or after January 1, 2006, but before January 1, 2007, the production factor is fifteen dollars ($15.00). For all other taxable years, the production factor is six dollars and twenty-five cents ($6.25).

(g) Expiration. – If the taxpayer fails to attain an increased employment level of at least 1,200, either directly or in conjunction with its strategic partners and related entities, within five years after beginning construction of the facility with respect to which a credit is claimed or the taxpayer fails to invest at least one hundred million dollars ($100,000,000) in private funds to construct a computer manufacturing and distribution facility over a five-year period, the taxpayer may not take any further credits under this Article with respect to that facility. Failure to attain an increased employment level of 1,200 within the five years or to invest at least one hundred million dollars ($100,000,000) in private funds to construct the facility does not result in forfeiture of credits previously taken under this section unless the provisions of G.S. 105-129.63 apply.

"**§ 105-129.65. Allocation; cap; makeup; and carryforward.**

(a) Allocation. – The credit allowed by this Article may be taken against the franchise taxes levied under Article 3 of this Chapter and the income taxes levied under Article 4 of this Chapter. When the taxpayer claims a credit under this Article, the taxpayer must elect the percentage of the credit to be applied against the taxes levied under Article 3 of this Chapter with any remaining percentage to be applied against the taxes levied under Article 4 of this Chapter. This election is not binding for the year in which it is made or for any carryforwards of that credit. A taxpayer may elect a different allocation for each year in which the taxpayer qualifies for a credit.

(b) Cap. – The amount of credit claimed in a taxable year under this Article may not exceed the lesser of the amount determined under G.S. 105-129.64 and the total amount of tax imposed under Articles 3 and 4 of this Chapter, reduced by the sum of all other credits allowed against those taxes, except tax payments made by or on behalf of the taxpayer. Credits that may eliminate only a portion of the taxpayer's liability must be taken before credits that may eliminate all of a taxpayer's liability, which in turn must be taken before any credits that are refundable. This limitation applies to the cumulative amount of the credit allowed in any tax year, including carryforwards claimed by the taxpayer under this Article for previous tax years.

(c) Makeup. – In any year in which the amount of the credit calculated based on output exceeds the applicable cap under G.S. 105-129.64, the excess credit may be credited to a make up account. Amounts credited to the make up account may remain in the account for seven years or until they are used as provided in this subsection, whichever is earlier. In any year in which the amount of the credit calculated based on output is less than the applicable cap under G.S. 105-129.64, the taxpayer may increase the credit allowed for that taxable year to the cap amount, as adjusted by any applicable employment level adjustment factor, by using excess credit available in the make up account. A successor in business may take the amounts available in a make up account of a predecessor corporation as if they were excess credits available in a make up account of the successor in business.

(d) Carryforward. – Any unused portion of a credit allowed under this Article may be carried forward for the next succeeding 25 years. A successor in business may take the carryforwards of a predecessor corporation as if they were carryforwards of a credit allowed to the successor in business.

"**§ 105-129.66. Sunset.**

This Article is repealed for business activities occurring in taxable years beginning on or after January 1, 2020."

SECTION 2. G.S.105-129.4 is amended by adding a new subsection to read:

"(b7) Major Computer Facilities. – A taxpayer that is otherwise eligible for a tax credit under this Article and who satisfies the conditions of G.S. 105-129.62 is eligible for the major computer facility enhancements provided for credits under this Article. The major computer facility enhancements are the following:

(1) The wage standard requirement does not apply to the activities of the taxpayer at the major computer facility.

(2) For the credit for creating jobs under G.S. 105-129.8, the amount of the credit is increased by four thousand dollars ($4,000) per job for jobs at the major computer facility.

(3) For the credit for investment in machinery and equipment under G.S. 105-129.9, the applicable percentage is seven percent (7%) and the applicable threshold is zero dollars ($0.00) regardless of the enterprise tier designation of the county in which the major computer facility is located.

(4) For the credit for worker training under G.S. 105-129.11, the maximum amount of the credit per worker trained is one thousand dollars ($1,000) regardless of the enterprise tier designation of the county in which the major computer facility is located.

(5) For the credit for substantial investment in other property under G.S. 105-129.12A, the taxpayer is eligible for the credit regardless of the enterprise tier designation of the county in which the major computer facility is located."

SECTION 3. G.S. 105-164.14(j)(2) and (3) read as rewritten:

"(2) Eligibility. – A facility is eligible under this subsection if it meets both of the following conditions:

a. It is primarily engaged in one of the industries listed in this subsection.

b. The Secretary of Commerce has certified that the owner of the facility will invest at least the required amount of private funds to construct the facility in this State. For the purpose of this subsection, costs of construction may include costs of acquiring and improving land for the facility and costs of equipment for the facility. If the facility is located in an enterprise tier one, two, or three area as defined in G.S. 105-129.3, the required amount is fifty million dollars ($50,000,000). For all other facilities, the required amount is one hundred million dollars ($100,000,000). In the case of a computer manufacturing facility, the owner may invest these funds either directly or indirectly through a related entity or strategic partner as those terms are defined in G.S. 105-129.61. In the case of a computer manufacturing facility, the term 'facility' has the same meaning as under G.S. 105-129.61.

(3) Industries. – This subsection applies to the following industries:

a. Aircraft manufacturing. Aircraft manufacturing means manufacturing or assembling complete aircraft.

b. Bioprocessing. Bioprocessing means biomanufacturing or processing that includes the culture of cells to make commercial products, the purification of biomolecules from cells, or the use of these molecules in manufacturing.

d. Computer manufacturing. Computer manufacturing means manufacturing or assembling electronic computers, such as personal computers, workstations, laptops, and computer servers. The term includes the assembly or integration of processors, coprocessors, memory, storage, and input/output devices into a user-programmable final product. The term ~~does not include~~ includes manufacturing or assembling computer peripheral equipment, such as storage devices, printers, monitors, input/output devices, and ~~terminals.~~terminals only if the manufacture or assembly of this peripheral equipment occurs at a facility or campus at which the taxpayer also manufactures or assembles electronic computers.

g. Motor vehicle manufacturing. Motor vehicle manufacturing means any of the following:

1. Manufacturing complete automobiles and light-duty motor vehicles.
2. Manufacturing heavy-duty truck chassis and assembling complete heavy-duty trucks, buses, heavy-duty motor homes, and other special purpose heavy-duty motor vehicles for highway use.

3. Manufacturing complete military armored vehicles, nonarmored military universal carriers, combat tanks, and specialized components for combat tanks.

j. Pharmaceutical and medicine manufacturing and distribution of pharmaceuticals and medicines. Pharmaceutical and medicine manufacturing means any of the following:

1. Manufacturing biological and medicinal products. For the purpose of this sub-subdivision, a biological product is a preparation that is synthesized from living organisms or their products and used medically as a diagnostic, preventive, or therapeutic agent. For the purpose of this sub-subdivision, bacteria, viruses, and their parts are considered living organisms.
2. Processing botanical drugs and herbs by grading, grinding, and milling.
3. Isolating active medicinal principals from botanical drugs and herbs.
4. Manufacturing pharmaceutical products intended for internal and external consumption in forms such as ampoules, tablets, capsules, vials, ointments, powders, solutions, and suspensions.

m. Semiconductor manufacturing. Semiconductor manufacturing means development and production of semiconductor material, devices, or components."

SECTION 4. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(30) To verify with a related entity or strategic partner information relating to that entity provided by a taxpayer claiming a credit under Article 3G of this Chapter."

SECTION 5. Section 3 of this act becomes effective January 1, 2005, and applies to sales made on or after that date. The remainder of this act is effective for business activities occurring on or after November 1, 2004, and for taxable years beginning on or after January 1, 2005.

SENATE BILL 2:
Computer Manufacturing Tax Incentives

BILL ANALYSIS

Committee:		**Introduced by:**	Sen. Hoyle
Date:	November 4, 2004	**Summary by:**	Cindy Avrette & Canaan Huie
Version:	1st Edition		Committee Counsel

SUMMARY: ***Senate Bill 2 provides several income, franchise, and sales tax incentives for a computer manufacturing facility that, along with related parties and strategic partners, is expected to invest at least $100 million of private funds in a facility in North Carolina over a five-year period and employ at least 1,200 people within five years after the facility is used as a computer manufacturing and distribution facility. Some of the incentives are new; others are enhanced credits that are currently available to other eligible taxpayers. The income tax incentives are effective for business activities occurring on or after November 1, 2004, and for taxable years beginning on or after January 1, 2005. The sales tax incentives become effective January 1, 2005. The incentives expire at different times.***

BILL ANALYSIS: Senate Bill 2 offers the following new and enhanced incentives to an eligible computer manufacturing and distribution facility:

- A new tax credit based upon the unit output and employment level of a major computer manufacturing and distribution facility. The credit may be used to eliminate 100% of a taxpayer's income and franchise tax liability. Any unused portion of a credit may be carried forward for the next succeeding 25 years. (Section 1)
- Enhanced Bill Lee tax credits that would entitle a taxpayer to claim the credit amounts allowed for facilities located in a tier one county regardless of the county in which the facility is located. The bill also provides that the wage standard would not apply to the activities of a taxpayer at a major computer facility. (Section 2)
- An expansion of the sales tax refund for building materials purchased to build a computer manufacturing facility. (Section 3)

Tax Credit based upon Unit Output of a Computer Manufacturing & Distribution Facility

Section 1 creates a new tax credit for an eligible computer manufacturing and distribution facility. The amount of the credit is based upon the facility's unit output and employment level. The credit is effective for business activities occurring on or after November 1, 2004, and for taxable years beginning on or after January 1, 2005. It expires for business activities occurring in taxable years beginning on or after January 1, 2020.

The credit may be taken against the taxpayer's franchise tax or income tax. The taxpayer must elect the percentage of the credit to be applied against the franchise tax with any remaining percentage to be applied against the taxpayer's income tax liability. Unlike other incentive tax credits, the election is NOT binding for either the year in which it is taken or for any carryforwards of the credit. A taxpayer may elect a different allocation for each year the taxpayer qualifies for a credit. A taxpayer may not claim a credit that exceeds 100% of the taxpayer's tax liability. Most of the tax incentives under current law allow the taxpayer to offset no more than 50% of its tax liability. Any unused portion of a credit may be carried forward for the next succeeding 25 years.

Credit Eligibility

To be eligible for this credit, the taxpayer must meet the following employment conditions:

- Commerce must make a written determination that the taxpayer has employed or is expected to employ at least 1,200 new full time jobs OR new permanent part-time jobs converted into full-time equivalences within five years after the facility is operational.
- The taxpayer may meet this employment threshold either directly or indirectly through one or more related entities and strategic partners. In order for a taxpayer to include jobs created by related entities and strategic partners in its employment level, the taxpayer must obtain their written consent to do so. Once granted, this consent is irrevocable. A job may not be included in the employment level of more than one entity. This credit is the first one the State has considered that would allow a taxpayer to meet an employment threshold indirectly through related entities and strategic partners.
- The taxpayer and the taxpayer's related entities and strategic partners must provide health insurance[1] for all of the full-time jobs each year it claims a credit or carryforward of a credit. The taxpayer does not have to provide health insurance for its part-time jobs. The taxpayer does not have to meet a wage standard to qualify for this credit. This condition is the same as the health insurance condition under the Bill Lee Act.

To be eligible for this credit, the taxpayer must meet the following investment condition. The Secretary of Commerce must make a written determination that the taxpayer has invested or is expected to invest at least $100 million of private funds in a computer manufacturing and distribution facility over a five-year period. The investments may be made either directly or indirectly through related entities and strategic partners.

To be eligible for the credit, the taxpayer must also meet the following conditions that are typically required under other State tax incentives:

- The taxpayer and the taxpayer's related entities and strategic partners have no pending administrative, civil, or criminal enforcement actions based on alleged significant environmental violations, nor have they had a final determination of responsibility for any significant environmental violation within the past five years.
- The taxpayer and the taxpayer's related entities and strategic partners have no citations under the Occupational Safety and Health Act that have become a final order within the past three years for willful serious violations or for failing to abate serious violations.
- The taxpayer and the taxpayer's related entities and strategic partners have no overdue tax debts that have not been satisfied or otherwise resolved.

The taxpayer must apply to the Secretary of Commerce for the required eligibility determinations. The application must be made under oath. The determination is a question of fact and must be made whenever a taxpayer can demonstrate performance or provide a credible plan for performance. If the taxpayer does

[1] An entity provides health insurance if it pays at least 50% of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125. This provision is the same as the insurance provisions of the Bill Lee Act.

not perform as promised, the taxpayer does not forfeit any of the credits already taken, unless the assertions of the taxpayer can be proved to have been false when made.[2]

Credit Amount

The credit amount and conditions vary from year to year based on complicated formulas. The actual amount of the credit is computed in two steps. First you determine the lesser of the cap and an amount determined by multiplying the number of units produced at the facility times a dollar amount. In some cases, this amount would be adjusted downward based on how much the actual employment level is below certain targets. In other situations, no downward adjustment is made for reductions in employment level.

If the amount of the credit computed in the first step is less than the cap, then the amount can be brought up to the cap by using amounts in a make up account. The make up account includes amounts by which prior year formula calculations exceeded the applicable caps. These amounts must be used within seven years. This credit is the first one the State has considered that would allow a taxpayer to carry forward credit amounts that could not be used because they exceeded the caps; it is also the first time the State has considered allowing a taxpayer to meet a cap by using prior year excesses.

- In 2005, the taxpayer may claim a credit equal to $10 million if the taxpayer has invested at least $25 million by the end of the taxable year to construct a computer manufacturing and distribution facility. The investment may be made either directly by the taxpayer or indirectly through related entities.
- For taxable years 2006 - 2010, the maximum credit allowed is $10 million. The actual amount of the credit is determined by the increased employment level of the taxpayer at the facility and the number of consumer-ready computers and computer peripherals produced by the facility during that taxable year, hereinafter referred to as 'unit output of facility'. The formula is as follows:

  Credit amount = (Employment level adjustment factor)(Production factor)(Unit output of facility)

  The employment level adjustment factor is the lesser of 1 or the increased employment level for the year/applicable target increased employment level. Assuming the taxpayer meets the employment levels stated in the bill, the adjustment factor would be 1. If the taxpayer fails to meet the targeted employment levels, then the factor would be a percentage less than 1, thereby reducing the amount of credit available to the taxpayer for that taxable year. The target increased employment level and the production factor vary for tax years 2006-2010 as follows:

Year	Increased employment level	Production factor
2006	600	$15
2007	1,000	$6.25
2008	1,100	$6.25

[2] One could argue that there is the potential for a court to find that allowing a credit for nothing more than a finding by the Secretary of Commerce violates the constitutional provision prohibiting the General Assembly from delegating the taxing authority because it potentially gives the executive branch the authority to pick and choose which taxpayers will receive credits. Under current law, when a taxpayer receives a tax benefit based on a determination by the Secretary regarding expected future activity, the tax benefits are subject to forfeiture if the taxpayer does not perform as expected. Because there is no forfeiture under the credit proposed by this bill, if the taxpayer does not produce the expected jobs or make the expected investment, one could argue that the General Assembly has delegated its taxing authority to the Secretary.

2009	1,500	$6.25

- For taxable years 2010-2014, the maximum credit amount depends upon the employment level attained by the taxpayer at the facility for which the credit is claimed.
    - If the taxpayer has EVER attained an employment level of at least 1,500 at the facility for which the credit is claimed, then the credit amount for taxable years 2010-2014 is the unit output of the facility multiplied by $6.25 or $15 million, whichever is less. The credit amount would be reduced if the taxpayer's employment level decreased by more than 40% from that of the previous year. The reduction would be a percentage reduction equal to the employment level for the taxable year/1,500.
    - If the taxpayer never attained an employment level of at least 1,500, then the maximum credit amount remains at $10 million and the amount of the credit is reduced for any year the taxpayer does not reach an employment level of 1,500. The formula for determining the credit amount is:

      Credit = (Employment level adjustment factor)(Unit output of facility)($6.25)

      The employment level adjustment factor is the lesser of one and the number derived by dividing the taxpayer's increased employment level for the taxable year by 1,500.
- For taxable years 2015-2019, the maximum credit amount may be increased to $20 million if the taxpayer has in ANY year attained an employment level of 2,500 at the facility for which the credit is claimed. The credit amount continues to vary depending upon the employment level EVER attained and the current employment level.
    - If the taxpayer has EVER attained an employment level of 2,500 AND the taxpayer's employment level for the current year is at least 1,500, then the credit amount is the unit output of the facility multiplied by $6.25 or $20 million, whichever is less.
    - If the taxpayer has EVER attained an employment level of 2,500 BUT the taxpayer's employment level for the current year is less than 1,500, then the credit amount is the unit output of the facility multiplied by $6.25 or $15 million, whichever is less. The credit amount would be reduced if the taxpayer's employment level decreased by more than 40% from that of the previous year AND the employment level of the previous year was 1,500 or less or the employment level for the current year is 900 or less.
    - If the taxpayer has EVER attained an employment level of 1,500, then the credit amount is the unit output of the facility multiplied by $6.25 or $15 million, whichever is less. The credit amount would be reduced if the taxpayer's employment level decreased by more than 40% from that of the previous year AND the employment level of the previous year was 1,500 or less or the employment level for the current year is 900 or less.
    - If the taxpayer has never attained an employment level of at least 1,500, then the maximum credit amount remains at $10 million and the amount of the credit is reduced for any year the taxpayer does not reach an employment level of 1,500.

Constitutional Concerns

The credit proposed in Section 1 of the bill would be vulnerable to attack under the reasoning of the *Cuno* decision because it evinces a clear preference for in-State economic activity at the expense of out-of-state

development. On September 2, 2004, the Sixth Circuit Court of Appeals issued its decision in *Cuno v. DaimlerChrysler*, ___ F.3d ___, 2004 Westlaw 1944019 (6th Cir. (Ohio)). In that decision, the Court found that Ohio's investment tax credit violated the Commerce Clause of the United States Constitution because it (a) encouraged in-state economic development at the expense of out-of-state economic development and (b) allowed the taxpayer to reduce pre-existing income tax liability by investing in-state but not by investing out-of-state.

Although the Sixth Circuit's decision is not binding in North Carolina[3] and is subject to further review[4], a similar case could be brought in this jurisdiction. If the decision applicable in this jurisdiction followed the reasoning of the Sixth Circuit opinion, the credit proposed in Section 1 of this bill would be ruled unconstitutional. If that happened, it is uncertain what the remedy would be. Possible remedies could include ordering the State to provide retroactive credits to otherwise similarly situated taxpayers who had made similar investments in other states.

The credit could also be vulnerable to attack on equal protection grounds because the amount of the credit is based, in part, on the maximum increased employment level EVER attained by the taxpayer and not just on the current increased employment level of the taxpayer. Under this proposal, two companies that have identical output and increased employment levels in the current year could be eligible for substantially different credits based on the increased employment level attained in an earlier year.

For example, consider two companies – CorpA and CorpB. In 2010, CorpA has an increased employment level of 1,500 and CorpB has an increased employment level of 1,200. In that year, CorpA is eligible for a maximum credit of $15 million and CorpB is eligible for a maximum credit of $8 million. Further assume that in 2011, CorpA reduces its increased employment level to 1,200 and CorpB maintains its increased employment level at 1,200. CorpA remains eligible for a maximum credit of $15 million while CorpB remains eligible for a maximum credit of $8 million. Under this example, in 2011, two corporations with identical output and increased employment levels would be eligible for vastly different credits. A court could find that there is no rational basis for awarding CorpA almost double the amount of credit just because it once had an increased employment level of 1,500. In fact, one could argue that the distinction is irrational because the company that has laid off employees is the one that qualifies for the larger credit.

This problem is exacerbated in certain situations. Once a taxpayer has attained an increased employment level of 1,500, it can reduce its labor force by up to 40% a year without a reduction in the maximum amount of credit for which it is eligible. Continuing the example cited above, CorpA could reduce its employment to 900 in 2011 and still be eligible for a maximum credit of $15 million. In that case, CorpA would have less of a positive impact (i.e. 900 new jobs as opposed to 1,200 new jobs) in 2011 than CorpB, but be eligible for a much larger credit.

Other Considerations

1. The method for calculating the amount of a credit for which a taxpayer is eligible is extremely complicated. This may result in additional compliance and auditing burdens.
2. There is no provision regarding expiration of a credit if the increased employment level is not maintained. Generally under current law, when a taxpayer is allowed a credit for a certain activity, the credit expires if the activity is not maintained. For example, in order for a taxpayer to take full

[3] The decision is binding only in the states that compose the Sixth Circuit: Kentucky, Michigan, Ohio, and Tennessee.
[4] Ohio has petitioned the Sixth Circuit Court of Appeals for rehearing *en banc*. The state could also appeal the decision to the United States Supreme Court.

advantage of the credit for creating jobs under the Bill Lee Act, those jobs must be maintained for a number of years.

The credit proposed in this bill is designed in a way that allows the taxpayer, under certain circumstances, to take the full benefit of a credit even if increased employment levels are not maintained. Once a taxpayer has attained an increased employment level of at least 1,500, the taxpayer may reduce its increased employment level by up to 40% each year without being subject to a reduction in the maximum amount of the credit for which it is eligible. For example, if a taxpayer has an increased employment level of 1,500 in 2010, the taxpayer would be eligible for a maximum credit of $15 million per year. In 2011, the taxpayer could reduce its increased employment level to 900 while maintaining eligibility for up to $15 million per year in tax credits. Then, in 2012, the taxpayer could reduce its increased employment level to 540 while still maintaining eligibility for a maximum credit of $15 million.

Taken to the mathematical extreme, it is theoretically possible for a taxpayer to reduce its increased employment level by almost 99% over nine years while maintaining eligibility for the maximum amount of the credit. Continuing the example cited above, a taxpayer that had an increased employment level of 1,500 in 2010 that took the 40% reduction each year would have an increased employment level of just 16 by 2019 and would still be eligible for a maximum credit of $15 million.[5]

3. There is no wage standard associated with this credit. The Bill Lee Act generally requires that jobs at the relevant facility satisfy a wage standard in order for the taxpayer to be eligible for a credit under that Act. A wage standard does not apply in tiers one and two or in development zones. Although there was no wage standard requirement for the alternative credit for cigarette exportation enacted in 2003, it was understood at the time that those jobs would easily satisfy the Bill Lee wage standard.
4. The 25-year carryforward period for credits under this act is extremely long, although not unprecedented.
5. The term 'related entity' is not defined; the term needs to be defined narrowly so as not to have unintended consequences. This credit is the first one the State has considered that would give one entity a credit for activity undertaken by another. North Carolina has struggled for years with companies using related entities as a tax avoidance mechanism. Companies create related Delaware holding companies and use accounting tricks to eliminate their North Carolina taxable income. Companies create complex chains of related companies to shift property into LLCs and avoid franchise tax. Shifting income and expenses between and among various related entities is the essence of tax avoidance. North Carolina is a separate entity filing state; therefore the Department of Revenue cannot view the entire web of inter-related entities to determine the real economic effect of the actions of related entities.

Bill Lee Incentive Enhancements

Section 2 of the bill provides that a taxpayer who is otherwise eligible for one of the tax credits under the Bill Lee Act and who qualifies for the tax credit for major computer manufacturing facilities is eligible for the following major computer facility enhancements under the Bill Lee Act, regardless of the enterprise

[5] The amount of the credit is also based on output at the facility. It is likely that a taxpayer that greatly decreased its employment level at a facility would also decrease output, so the taxpayer may not be able to take advantage of the maximum amount of the credit.

tier designation of the county in which it is located. The taxpayer may include investments made or employees of related entities or strategic partners to meet its Bill Lee eligibility requirements. The Bill Lee Act expires for computer manufacturing facilities in 2009.

- Wage Standard. – The wage standard does not apply to the activities of the taxpayer at the major computer facility. Under current law, the wage standard does not apply in tiers one and two or in development zones. Assuming Dell decides to locate a facility in Forsyth or Guilford County, the anticipated jobs at this facility would not meet the current Bill Lee wage standard unless the facility was located within a development zone. Therefore, the lack of a wage standard is necessary in order to make the project eligible for a credit.
- Credit for Creating Jobs. – The amount of the credit for creating jobs is increased by $4,000 per job for jobs at the major computer facility. The amount of the credit for creating jobs in a tier five county is $400 per job; tier four is $1,000; tier three is $3,000; tier two is $4,000; and tier one is $12,500. Assuming Dell decides to locate a facility in Forsyth or Guilford County, it would be entitled to a credit of $4,400 per job.
- Credit for Investing in Machinery and Equipment. – The threshold investment a taxpayer must meet to qualify for the credit and the amount of credit the taxpayer would be allowed would be the same as allowed under current law for a tier one county: a threshold amount of zero and a credit amount equal to 7% of the eligible investment. Under current law, the threshold for a tier five county is $2 million and the applicable credit percentage is 4%.
- Credit for Worker Training. – The maximum amount of the credit would be $1,000 per worker. This is the same credit amount allowed for jobs in a tier one area. Under current law, the credit for worker training is $500.
- Credit for Substantial Investment in Other Property. – Under current law, this 30% credit is available only for property located in a tier one or two area. The credit would be available to a taxpayer who qualifies as a major computer manufacturing facility regardless of the enterprise tier area in which the property is located.

Sales Tax Incentives

In 2003, the General Assembly provided that the owner of an eligible facility that invests at least $100,000,000 of private funds to acquire, construct, and equip a facility in North Carolina was allowed an annual refund of sales and use taxes paid by it on building materials, building supplies, fixtures, and equipment that become a part of the real property of the eligible facility. An eligible facility includes computer manufacturing. If the owner of an eligible facility does not make the required minimum investment within five years after the first refund is allowed, the facility loses its eligibility and the owner forfeits all refunds already received. Upon forfeiture, the owner is liable for tax equal to the amount of all past taxes refunded plus interest. The tax and interest are due 30 days after the date of the forfeiture.

Section 3 of this bill makes two changes to the sales tax refund statute as it applies to computer manufacturing:

- It provides that the investment may be made directly by the taxpayer or indirectly through a related entity.
- It clarifies that a 'computer facility' may include multiple buildings on a single campus.

- It provides that the term 'computer manufacturing' includes peripheral equipment if the manufacture or assembly of this peripheral equipment occurs at the facility or campus at which the taxpayer also manufactures or assembles electronic computers.

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: November 4, 2004

TO: Senate Finance Committee

FROM: Linda Millsaps, David Crotts
Fiscal Research Division

RE: Computer Manufacturing Tax Incentives

FISCAL IMPACT ($Mil.)

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
REVENUES					
Computer Man. Credit (1)	**(10.0)**	**(10.0)**	**(20.0)**	**(20.0)**	**(20.0)**
Bill Lee Act Changes					
Jobs Credit (2)				**(.6)**	**(1.0)**
Mach./equip. Credit (2)			**(.3)**	**(.5)**	**(.9)**
Worker train. Credit (2)			**(.5)**	**(.4)**	**(.6)**
Real property Credit (2)		**(1.3)**	**(1.3)**	**(2.6)**	**(2.6)**
Bill Lee Act Subtotal		**(1.3)**	**(2.1)**	**(4.1)**	**(5.1)**
Sales Tax		*** See Assumptions and Methodology ***			
Grand Total		**(11.3)**	**(22.1)**	**(24.1)**	**(25.1)**

(1) The amount of the credit expected to be taken between 2005 and 2020 is $450 million.
(2) The amount of the Bill Lee Act credits expected to be taken between 2005 and 2020 is $42.8 million.

PRINCIPAL DEPARTMENTS AFFECTED: Department of Revenue and Department of Commerce. The enactment of the bill should not affect the budget requirements of either agency.

EFFECTIVE DATE: Sales tax provisions become effective January 1, 2005 and apply to sales made on or after that date. The remainder of the act is effective for business activities occurring on or after November 1, 2004 and for taxable years beginning on or after January 1, 2005.

(over)

BILL SUMMARY: The legislation makes several changes to the corporate, franchise, and sales taxes, particularly as they relate to computer manufacturing.

Large Computer Manufacturer Credit

The bill creates a new credit for large computer manufacturers that can be taken against the corporate income or franchise tax. In order to be eligible for this credit, the Secretary of Commerce must determine that the taxpayer will increase its employment level by at least 1,200 new, full-time jobs within five years of when the property is first used as a computer manufacturing and distribution facility. The Secretary must also determine that the taxpayer, directly or indirectly through "strategic partners" and related entities, has or will invest at least $100 million in private funds to construct a computer manufacturing and distribution facility in North Carolina over a five year period. In order to qualify for the credit, the taxpayer, as well as its strategic partners and related entities, must pay at least 50% of the health insurance premiums for its full-time employees, must have no outstanding OSHA citations at the new facility, and must have no overdue tax debts.

Having met these eligibility standards and those additional standards listed below for particular tax years, the taxpayer will qualify for the following maximum amount of tax credit:

Tax Year	Maximum Credit Per Year
2005-2009	$10,000,000
2010-2014	$15,000,000
2015-2019	$20,000,000

The legislation includes some additional requirements linked to particular tax years. In 2005, the taxpayer must invest at least $25 million in constructing the new facility by the end of the taxable year to claim the credit. This investment can be through the primary company, or its related entities and strategic partners as defined in the bill. In taxable years 2006-2010, the actual amount of the credit is determined by the increased employment level of the taxpayer and the number of consumer-ready computers and peripherals produced by the facility. (Note: The amount each computer and peripheral contributes toward the allowed credit amount is higher in 2006 than the remaining years). The credit calculation in 2010-2014 is similar to that used in 2006-2010 with two exceptions. If the taxpayer has ever attained an employment level of at least 1,500 at the facility for which the credit is claimed, the credit can be determined exclusively by output (assuming the employment level has not been reduced by more than 40% over the previous year), thus potentially reducing the employment requirement to claim the maximum credit. If the employer has never reached employment of 1,500, the maximum credit amount is reduced by $5 million (to $10 million).

For taxable years 2015-2019, the calculation becomes more complicated. During these years, the company may draw the maximum credit amount ($20,000,000) if the taxpayer has in any year attained an employment level of 2,500 at the facility for which the credit is claimed. The credit amount continues to vary depending upon the employment level ever attained and the current employment level. Additionally, if the taxpayer has ever attained an employment level of 2,500 and the taxpayer's employment level for the current year is at least 1,500, then the credit amount is determined by production output or is $20,000,000, whichever is less.

However, if the taxpayer has ever attained an employment level of 2,500 **BUT** the taxpayer's employment level for the current year is less than 1,500, then the credit amount is the unit output of the facility multiplied by $6.25 or $15,000,000, whichever is less. The credit amount would be reduced if the taxpayer's employment level decreased by more than 40% from that of the previous year **AND** the employment level of the previous year was 1,500 or less, or the employment level for the current year is 900 or less. Moreover, if the taxpayer has ever attained an employment level of 1,500, then the credit amount is the unit output of the facility multiplied by $6.25 or $15,000,000, whichever is less. The credit amount would be reduced if the taxpayer's employment level decreased by more than 40% from that of the previous year and the employment level of the previous year was 1,500 or less, or the employment level for the current year is 900 or less. Finally, if the taxpayer has never attained an employment level of at least 1,500, then the maximum credit amount remains at $10,000,000 and the amount of the credit is reduced for any year the taxpayer does not reach an employment level of 1,500.

It should be noted that amounts listed above are the maximum credit amounts, creating a total maximum credit amount per eligible company of $225 million. Because there are specific employment and output level requirements, the computed tax credit may be lower. All tax credits can be carried forward for 25 years. If the company fails to create at least 1,200 new, permanent, full-time jobs through itself and its strategic partners and related entities, within five years of the beginning of construction, no further credits may be taken. However, failure to create the required jobs by the end of the five years does not result in the forfeiture of previously taken credits. There is no wage standard associated with the job creation targets. However, the employer must pay at least 50% of the employees' health insurance premium costs for all full-time employees.

Bill Lee Act Changes

The Bill Lee Act is the package of state tax incentives that was first adopted in 1996 and has been modified on numerous occasions. The incentives are primarily in the form of tax credits for investment in machinery and equipment, job creation, worker training, and research/development. The credits apply to activities undertaken by specifically named industrial classifications. For many of the credits, the counties of the State are divided into five economic distress tiers based on the unemployment rate, population growth, and per capita income. The lower the tier of a county, the more favorable the incentive.

The bill determines a taxpayer otherwise eligible for Bill Lee Act credits and who is eligible for the Large Computer Manufacturer Credit may take advantage of the following Bill Lee Act enhancements, regardless of the taxpayer's location:

- No wage standard.
- Jobs credit is increased by $4,000 per eligible job.
- Investment threshold for the machinery and equipment credit of zero in lieu of $2 million for the highest tier.
- Maximum worker training credit of $1,000 maximum per worker instead of $500 in most counties.

- Real property investment tax credit (30%) versus no credit for many higher tier counties.

Sales Tax Refund Changes

The legislation also modifies the existing sales tax refund provision. During the 2003 Special Session (HB 2), the General Assembly authorized refunds of sales taxes paid by owners of a new, major industrial facility in relation to the construction of the facility. At that time, the refund was open only to bioprocessing and pharmaceutical/medicine manufacturers. In 2004, the refund provision was opened to several new classes of manufacturers, including computer manufacturers. This legislation alters the definition of computer manufacturer for purposes of a sales tax refund on construction to include such a company's related entities and strategic partners. It also adds printers to the items that can be manufactured at a facility to qualify as a computer manufacturer and be eligible for the refund.

ASSUMPTIONS AND METHODOLOGY:

Large Computer Manufacturer Credit

As noted above, the credit is capped in each year it is available, with a 25-year carry forward. The fiscal note assumes the maximum amount will be taken by two companies, one beginning in 2005 and a second one in 2007. The cap is assumed for the following reasons: 1) cap maximization has been assumed in prior fiscal notes when quantifying the cost of targeted incentive packages; 2) it is a cautious approach in a situation of uncertain impacts; 3) what is known about the company most likely to take advantage of the credit suggests it will take the maximum credit; and 4) the ability under the legislation to accumulate excess output for purposes of the credit and to carry the output forward to apply to years in which production does not justify the a maximum payout, makes it more likely the cap will be reached each year. Therefore, the **maximum assumed cost to the State of this portion of the bill is $450 million**. Because of the length of the credit, the loss would occur between 2005 and 2020, with potential carry forwards into 2044. Anticipated losses as a result of this credit for the first five years are included in the fiscal impact box.

Bill Lee Act

The legislation allows an eligible computer manufacturer to benefit from five of the Bill Lee benefit enhancements previously available only in Tier 1 counties or development zones. Based on materials furnished by the Department of Commerce, the analysis begins with the assumption of the location of a major computer manufacturer in a Tier 5 county in the Triad region. In addition, the discussions produced the following activity data that is relevant to the Bill Lee Act credits:

	2004	2005	2006	2007	2008	2009	2010
Jobs Created	0	0	500	400	100	300	0
M & E Investment ($Mil.)	$0	$30.0	$15.0	$10.0	$10.0	$5.0	$5.0
Workers Trained	0	0	500	400	100	300	0
Real Property Investment ($Mil.)	$0	$30.0	$0	$0	$0	$0	$0

Another key piece of data is that the expected average salary for the manufacturer is $27,000-$28,000. This is important to the credit impact calculation because the wage standard for the county in which the company is expected to locate is higher than this projected wage level. This means that the taxpayer would not have met the wage test under current law and thus would not be eligible for Bill Lee Act credits. This means that of the legislation, the impact is equal to the full amount of the potential Bill Lee Act credits, not just the incremental changes in this bill.

The jobs credit would be equal to $4,500 per job taken over four years. The credit for the investment in machinery and equipment is 7% of eligible expenditures, taken in equal installments over seven years. The worker training tax credit is equal to $1,000 per worker trained. The real property tax credit is 30% of the investment and is taken over seven years.

All of the credits affected by these changes, except for the worker training credit, are first taken in the year after the activity takes place. The worker training credit may be taken in the year in which the expenditure is incurred.

For the purpose of this analysis, it is assumed that the full amount of the credit for a tax year is taken during the fiscal year in which the tax year ends. Thus, the 2007 credit would be taken during the 2007-2008 fiscal year.

As in the analysis of the Large Computer Manufacturer Credit, it is assumed that another project that would be eligible for the Bill Lee Act changes would begin two years after the original location decision.

Finally, this analysis uses the assumption contained in the Department of Commerce spreadsheet that the taxpayer will be able to use all of the tax credit for the year in which the credit applies.

Sales Tax Refund

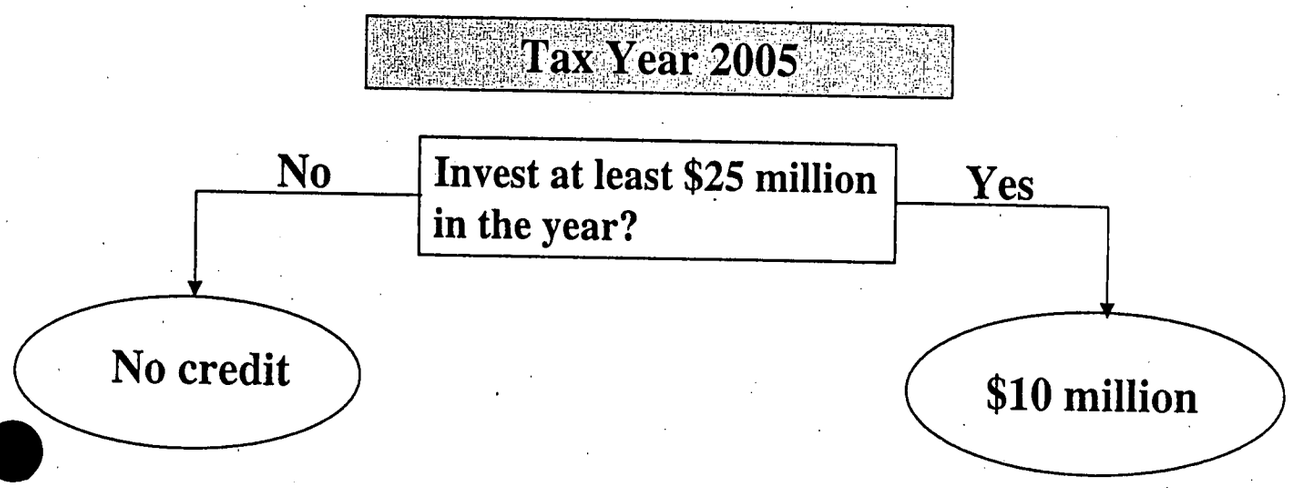
During the 2004 session, the total cost of expanding the group of manufacturers eligible for the refund, including computer manufacturing, was estimated at $2.4 million in FY 2004-2005 and $4.6 million in FY 2005-2006. As such, this cost has already been taken into account in our budgeting process. It is not anticipated that the inclusion of related entities in the definition will expand the scope of the refund provision. Therefore, no additional cost to the State is expected as a result of this provision. The inclusion of the term "printer" in the items considered computers for purposes of the refund could potentially expand the refund if a printer manufacturer develops a new major facility. However, given the nature of the industry, it is unlikely a $100 million or more investment is forthcoming in this area. Therefore, no fiscal impact is expected as a result of this change.

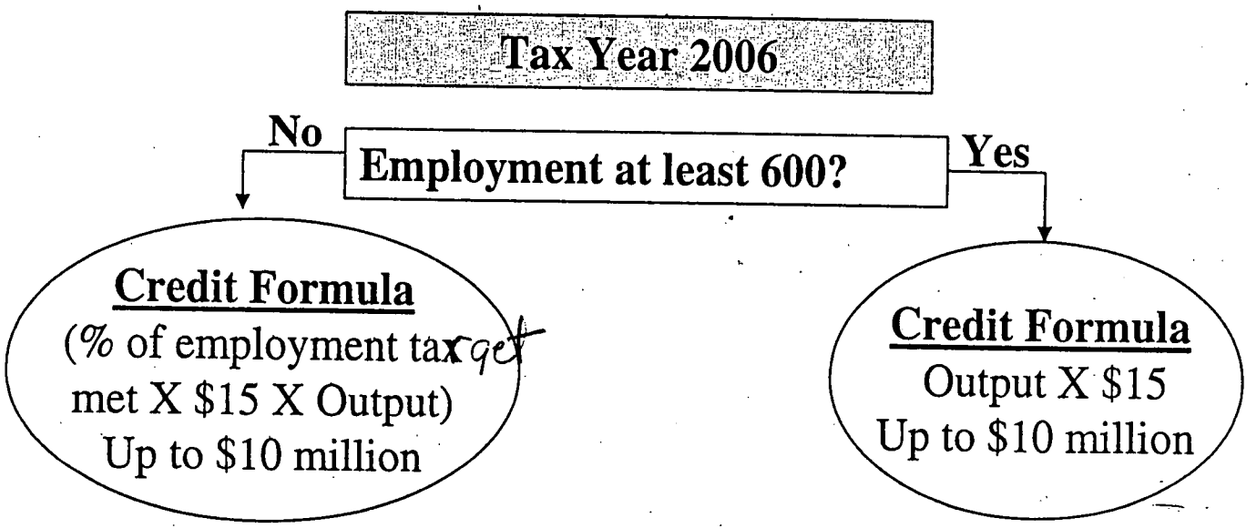
NOTE: For all calculations in the fiscal analysis, we have assumed two (2) such locations will occur in the five years covered by the memo. This assumption is based a consideration of the following information: 1) historical treatment of incentive package calculations by both Fiscal Research and the NC Department of Commerce; 2) the expected growth in the printer

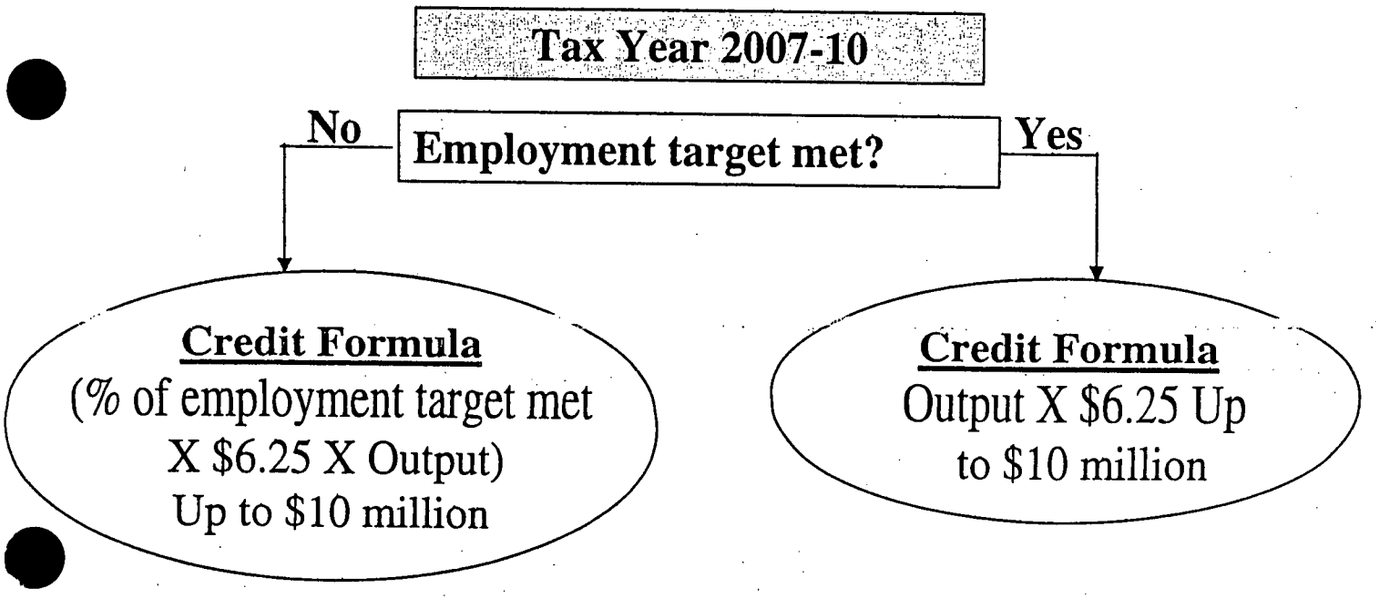
and server markets, the later driven a great deal by anticipated use of voice over Internet protocol (which utilizes servers) for communication; 3) the expected growth of the personal computer market as outlined by industry analysts and the SEC filings of major computer manufacturers; and 4) the continuing trend toward overseas production as a result of global financial and employment conditions. This is to be considered a simulation. Moreover, additional activity is possible, particularly in the out years is possible, but the likelihood is unknown.

SOURCES OF DATA: NC Department of Commerce

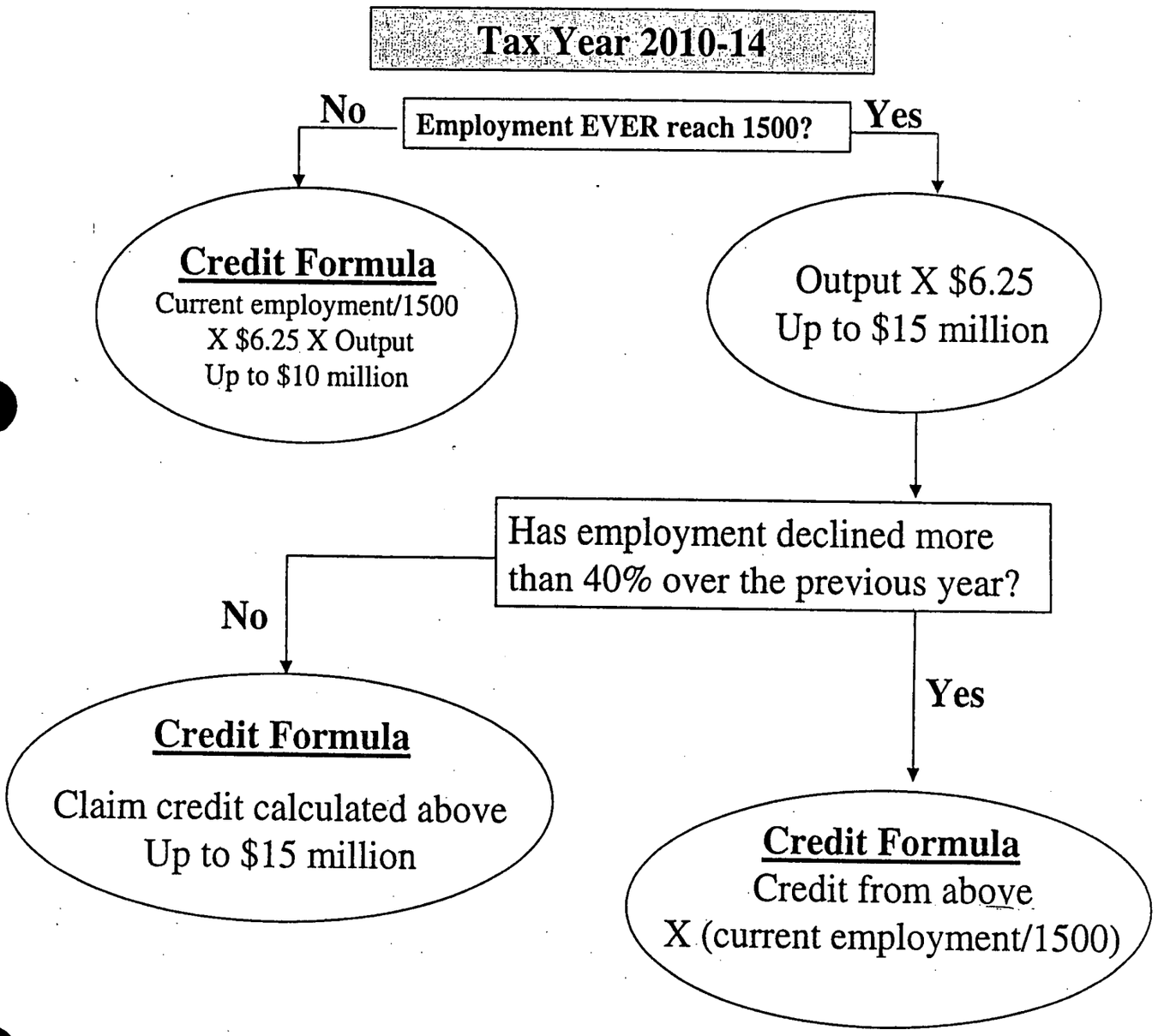
Computer Manufacturing Credit





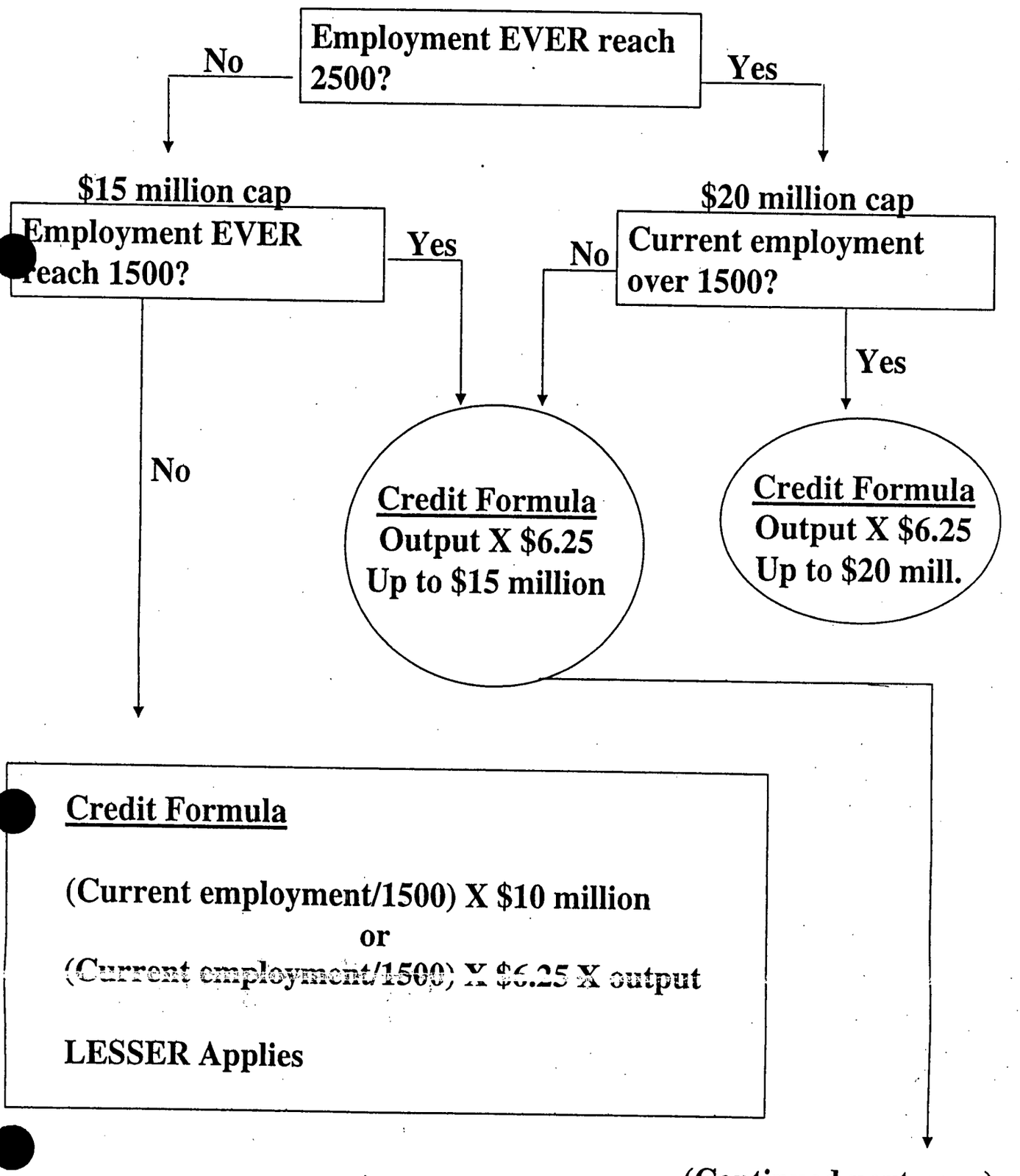


Computer Manufacturing Credit



Computer Manufacturing Credit

Tax Year 2015-19



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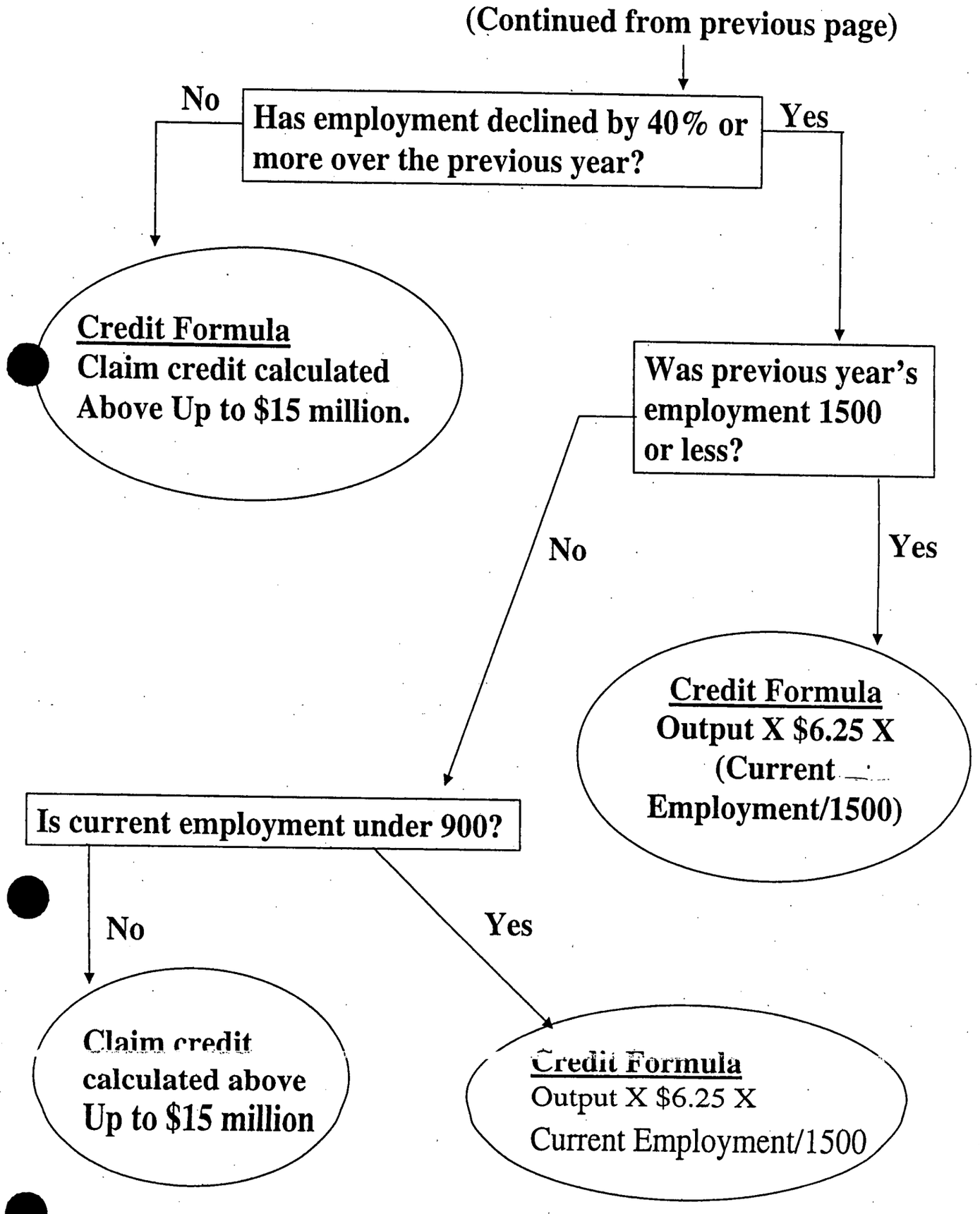
Computer Manufacturing Credit



EXAMPLES OF MAJOR FINANCIAL INCENTIVE PACKAGES

Targeted Tax Incentive Packages							
Project	**Year**	**Location**	**Investment ($Mil)**	**Incentives ($Mil)**	**Jobs**	**Incentives Per Job**	**Average Salary**
Nucor	1998	Hertford	$480.0	$161.0	391	$411,765	$60,000
FedEx	1998	Guilford	$300.0	$115.5	750	$154,000	$34,000
Dupont	1999	Bladen	$275.0	$55.0	125	$440,000	$50,000
Phillip Morris 99	1999	Cabarrus		$30.0	-		
RJR 99	1999	Forsyth		$30.0	-		
Wisconsin Tissue	1999	Halifax	$180.0	$35.1	155	$226,452	
QVC	1999	Edgecombe	$70.0	$14.7	800	$18,430	$21,164
TIAA-CREF	1999	Mecklenburg	$125.0	$3.0	1,000	$3,000	
Blue Ridge	2000	Haywood		$20.0	700	$28,571	
Buckeye	2000	Gaston		$3.0			
Lowe's	2001	Northampton	$90.0	$5.6	200	$27,850	$25,000
Phillip Morris 03	2003	Cabarrus		$78.0	-		
RJR 03	2003	Forsyth		$126.0	800	$157,500	$60,000
Merck	2004	Durham	$300.0	$39.4	200	$197,000	$57,000
Credit Suisse	2004	Wake	$100.0	$18.1	400	$45,250	$72,000
Dell	2004	Triad		$267.0	1300	$205,385	$28,000

Notes: Data furnished by Department of Commerce, reformatted by Fiscal Research Division. Data on investments and jobs based on expected amounts at time incentives were discussed. THE DATA FOR DELL IS BASED ON FISCAL RESEARCH INTERPRETATION OF DEPARTMENT OF COMMERCE DATA

ATTACHMENT 6

EXAMPLES OF MAJOR FINANCIAL INCENTIVE PACKAGES (continued)

Other Packages Involving Job Development Investment Grant Awards							
Project	**Year**	**Location**	**Investment ($Mil)**	**Incentives ($Mil)**	**Jobs**	**Incentives Per Job**	**Average Salary**
Infineon	2003	Wake		$10.783	400	$26,958	$75,000
A.F.G. Wipes, Inc.	2003	Rockingham		$4.006	200	$20,030	$24,500
RH Donnelley	2003	Wake		$4.865	275	$17,691	$60,000
General Dynamics	2003	Mecklenburg		$6.555	405	$16,185	$70,000
Goodrich	2003	Union		$3.644	300	$12,147	$44,889
General Electric	2003	New Hanover		$6.738	200	$33,690	$90,000
TWC	2004	Mecklenburg		$4.607	350	$13,163	$49,000
Cellco Partnership/Verizon	2004	New Hanover		$7.920	1211	$6,540	$28,100
Unilin	2004	Davidson		$3.893	330	$11,797	$32,680
Harris Corp	2004	Durham		$4.114	258	$15,946	$61,000
Citicorp	2004	Guilford		$6.010	900	$6,678	$31,400
Z F Lemforder	2004	Catawba		$3.888	200	$19,440	$37,111
Superior Essex Comm	2004	Edgecombe		$3.315	130	$25,500	$28,846
Getrag Corporation	2004	Catawba		$4.061	302	$13,447	$33,557
Network Appliance	2004	Wake		$8.876	361	$24,587	$115,000
Cree Inc.	2004	Wake		$15.046	300	$50,153	$65,000
Novo Nordisk Pharma. Ind.	2004	Johnston		$9.587	187	$51,267	$53,155
PCB Piezotronics, Inc.	2004	Halifax		$1.887	250	$7,548	$26,000

Notes: Data furnished by Department of Commerce, reformatted by Fiscal Research Division. Data on investments and jobs based on expected amounts at time incentives were discussed.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 7

EDITION No. _____

H. B. No. _____

S. B. No. 2

COMMITTEE SUBSTITUTE _____

DATE 11/4/2004

Amendment No. _____
(to be filled in by Principal Clerk)

(Rep.) Luebke
Sen.)

1 moves to amend the bill on page _____, line _____
2 ( ) WHICH CHANGES THE TITLE
3 by _____
4 moves to amend the bill on
5 page 6, line 3 and on
6 page 6, line 41
7 _____
8 by deleting the phrase "forty percent (40%)
9 _____
10 and by replacing that with "ten percent
11 _____
12 (10%)" _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____
1 yes 17 no

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 8

EDITION No. _____

H. B. No. _____ DATE 11/4/2004

S. B. No. 21 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Luebke
)
Sen.)

1 moves to amend the bill on page 8, line 13
2 ( ) WHICH CHANGES THE TITLE
3 by deleting "25" and substituting "15".
4
5
6
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19

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 2

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S2-ARB-122 [v.2]

Date 11/4/2004 ,2005

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Weiss

moves to amend the bill on page 4, lines 23-24, by inserting the following between those lines:

"(d1) Child Care Facility. – A taxpayer is eligible for the credit allowed under this Article only if the taxpayer provides for an on-site, high-quality child care facility that is available to all full-time employees at the facility who would qualify for a child care subsidy under current State law. To qualify as a high-quality child care facility, the child care facility must be licensed by the State in accordance with Chapter 110 of the General Statutes, must not have had its license revoked for any reason during the taxable year, and must have received and maintained a star rating of four or higher throughout the taxable year. The taxpayer must also provide employees who would qualify for a child care subsidy under current State a law a stipend to purchase child care in the private market at a child care facility of the employee's choice that has received a star rating of four or lower if the employee chooses not to utilize the child care facility provided by the taxpayer. The taxpayer may charge a fee for use of the child care facility provided by the taxpayer based on a percentage of the employee's family's gross family income and may reduce the amount of a stipend by that same measure. The amount of the fee that may be charged for use of the child care facility maintained by the taxpayer and the amount of the reduction of the stipend must be equal to the fee the employee would pay if the employee were participating in the child care subsidy program under current State law. Upon request, the Secretary of Health and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 2

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S2-ARB-122 [v.2]

Human Services must notify the Department of Revenue of the licensure and rating status of the child care facility provided by the taxpayer."

SIGNED Jennifer Weiss
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

4 Yes
18 no

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 2

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S2-ARB-123 [v.2]

Date 11-4-2004 ,2005

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Ross

moves to amend the bill on page 3, lines 28 and 29, by deleting: "pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage" and substituting "pays at least seventy-five percent (75%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the standard health care plan of coverage".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 2

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S2-ARB-124 [v.2]

Date 11-4-2004 ,2004

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Weiss

moves to amend the bill on page page 5, lines 1 through 10, by deleting the lines;

and on page 7, lines 16-26, by rewriting the lines to read:

"(g) Expiration and Forfeiture. – If the taxpayer fails to attain an increased employment level of at least 1,200, either directly or in conjunction with its strategic partners and related entities, within five years after beginning construction of the facility with respect to which a credit is claimed or the taxpayer fails to invest at least one hundred million dollars ($100,000,000) in private funds to construct a computer manufacturing and distribution facility over a five-year period, the taxpayer may not take any further credits under this Article with respect to that facility and forfeits any credits allowed under this Article with respect to that facility.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 2

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S2-ARB-124 [v.2]

allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236.".

SIGNED Jennifer Weiss
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

7 yes
17 no

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

ATTACHMENT 12

H. B. No. _____ DATE 11/4/2004

S. B. No. 2 Amendment No. _____

(to be filled in by Principal Clerk)

(Rep.) Ellis

Sen.)

moves to amend the bill on page 3, line 5,

by rewriting the line to read:

"business at the same facility."

SIGNED _____

ADOPTED _____ FAILED ✓ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representatives **Allen, Howard, Luebke, McComas, Miner and Wainwright** (Chairs) for the Committee on **FINANCE**.

☐ Committee Substitute for
S.B. 2 A BILL TO BE ENTITLED AN ACT TO PROVIDE A TAX CREDIT FOR CERTAIN MAJOR COMPUTER MANUFACTURING FACILITIES AND TO ENHANCE CERTAIN EXISTING TAX INCENTIVES FOR THOSE FACILITIES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

03/19/03